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San Diego Port District
Land Use Planning Department
3165 Pacific Highway
San Diego, CA 92101

RE: DEIR for Bayfront Master Plan

To Whom it May Concern:

The Southwest Chula Vista Civic Association (SWCVCA) was formed to provide a structured association for the residents, property owners, and business owners of the underrepresented Southwestern region of Chula Vista, to participate in the preservation, planning, development and protection of the unique character of the area through community education and group action. We believe the Bayfront Project will have many profound effects upon our community.

After reviewing the document and its Appendices the SWCVCA feels that CEQA demands that the DEIR issued in May 2008 be reissued as a program EIR after certain changes have been made to it.¹ *“It is the state policy in California that ‘long-term protection of the environment ... shall be the guiding criterion in public decisions.’”*² There is very little in this document that promotes the long-term or the short-term protection of the environment or gives sufficient detail to allow decision makers and the public to be assured that anything is being protected. The exception would be the land trade, which would guarantee a lot of protection for the NWR, if more precise information about more sensitive development in the Sweetwater District were included in the FEIR. There are some good ideas mentioned that would be positive for the environment, but a gross lack of detail and very little firm commitment on positive things coupled with many things that would likely have a negative impact upon the environment make the document inadequate at the project level as now written.

The purpose of CEQA is full disclosure of environmental impacts. This requires a detailed and specific project description. The project description still fails to provide a full and detailed description of the project, including planning, construction and operation, each of which will cause its own³

¹ **15088.5. Recirculation of an EIR Prior to Certification** (4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. (*Mountain Lion Coalition v. Fish and Game Com.* (1989) 214 Cal.App.3d 1043)

² *Davidon Homes versus the City of San Jose* (1997)

³ **15124. Project Description Discussion:** This section requires the EIR to describe the proposed project in a way that will be meaningful to the public, to the other reviewing agencies, and to the decision-makers. Although the statute contains no express requirement for an EIR to contain a project description, the statutory points of analysis need to be supplemented with a project description for the analysis to make sense. This section is a codification of the ruling in *County of Inyo v. City of Los Angeles*, cited in the note. There the court noted that an accurate description of the project has been required by case law interpreting the National Environmental Policy Act. The state court of appeal declared that an accurate, stable, finite project description is an essential element of an informative and legally sufficient EIR under CEQA.

environmental impacts requiring mitigation.⁴ In fact there is some doubt that at this stage it is even possible to give such a description, since no one has had an architect draw detailed plans yet for any of the three Phase One projects and some critical decisions have not been made. Several roads are in Phase One and there is inadequate analysis as to their long-term impact upon the environment. Moving Marina Parkway further west will eliminate several thriving businesses and the Yacht Club as well as reducing or eliminating parking for the 700 boat slips. Where is the analysis of the effects of this?

Another glaring omission is the lack of identification of staging areas for the Pacifica Project and the Gaylord Project. Two projects of the size proposed for these certainly require staging areas. Where are they and what are the environmental effects of using these pieces of land for staging? (All that is said about staging areas is that heavy equipment will be kept at the center of staging area to lessen noise effects on habitat.) Commonly Environmental Impact Reports at the project level also analyze the effects upon the chosen staging area and its surroundings.

Due to the size and complexity of the DEIR we reserve the right to submit further comments in the future.

DEIRs are customarily written when detailed architectural designs and site maps, etc. are available for review and study simultaneously with the environmental document. The DEIR does not contain references to or representations of these. What it has are some conceptual architectural sketches. This DEIR has marginally more details than the one in 2006, but no more certainty. It is apparent that the Signature Park, Gaylord and Pacifica Residential are still at the program stage and not ready for project level CEQA review. Why doesn't the Port just acknowledge the whole DEIR is a programmatic, phased EIR and get the amendments to the LCP and PMP and the land swap out of the way? When an architect has been hired and has prepared a detailed plan and funding has been lined up the Port can do a separate EIR for the Signature Park, roads (At the project level a precise drawing to scale of road locations, ROWs and how expansions will be handled should be available.) and buffer zone. Gaylord can be responsible for a project level EIR for their RCC when they have an architect and specific plans ready. Pacifica can start the entitlement process with the city, which normally would include an EIR after they have an architect, specific plans and a decision about the L Ditch. To try to throw all these things together now without any certainty as to exactly what is being proposed is a foolish waste of all of our time.

Even at the programmatic level some things need changing:

1. The ecological buffer has to be Phase I and has to have a sturdy fence for the entire west and north sides of Sweetwater. It is described as a design feature, but there is an implication of a mitigation bank. This is not acceptable. The buffer, including the restored habitat in the no-touch 200 feet clearly is mitigation for this project, some of the adjacency issues created by the park and the over-all intensity and mass of the total master plan.
2. The seasonal wetland has to be reunited with the F&G Street marsh (a bridge could replace Lagoon Road for pedestrians and bicycles) by improving the tidal channel to both areas. This could be mitigation for some of the adjacency issues of the Gaylord project as well as the removal of the illegal fill from the F/G Street Marsh.
3. Telegraph Canyon needs to be naturalized, no concrete. Considering the price of concrete this option would probably have a comparable cost. The channel needs to be enlarged because it is inadequate to handle future run-off from the city and the site.

⁴ **15161. Project EIR** The most common type of EIR examines the environmental impacts of a specific development project. This type of EIR should focus primarily on the changes in the environment that would result from the development project. The EIR shall examine all phases of the project including planning, construction, and operation. **Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21061, 21100, and 21151, Public Resources Code.

4. The height and size of the hotel in the Sweetwater District have to be reduced to at least what they are in the Harbor Park Alternative. The office building needs to be moved away from the refuge and its height reduced to below 100 feet. The buffer needs to continue all the way to the freeway.
5. All the Roads, bike paths and promenades need to be shielded in some way to prevent the flushing of birds and noise and/or light penetration to the bay or other sensitive habitats.
6. A better shading study (after the actual buildings to be built and their exact locations are known) needs to be done to insure that buildings do not shade habitat. There also needs to be a temperature/wind study of the effects of the increased paving and building masses on the microclimates of the habitats, particularly wetlands S-2A and the F&G Marsh. These are potentially very negative impacts, not dealt with at all in this DEIR.
7. Funding has to be identified for Predator Management Program, Natural Resources Management Plan and Implementation, Ranger Services for enforcement and education of the public, and a training program for construction workers and operational employees about the sensitivity of surrounding habitats.
8. The Green Car line must be funded. This is crucial to a major goal of the project -linking the bay front with the CV downtown area. Without it the goal is not met by this project. There also needs to be a shuttle linking the southwestern area of the city to the bay front. Environmental Justice requires providing this access to all classes and racial/ethnic groups in the city not just an envisioned future elite group living around north Third Avenue. No area of the city is entitled to preferential treatment by the government. A much greater emphasis in general must be given to cheap, efficient transit options for tourists and residents. (Having policies simply is not sufficient. Plans and financing are needed.)
9. Impacts to habitat from Global Warming and Sea Level Rise must also be evaluated and dealt with.
10. An Integrated Pest Management Program needs to be committed to to eliminate toxic pesticides. The PMP has this, but it is not guaranteed within the EIR for Pacifica and city property or Gaylord for that matter, just for the parks. Fireworks, jet-skis, laser and other light shows must be prohibited or allowed only by permit at rare times during the year and with careful restrictions.
11. There must be mitigation for the loss of the actively used raptor foraging in non-native grasslands in Sweetwater and Otay Districts. The buffer zone in Otay also must be described as a design feature with mitigation only being for project components.
12. There has to be active protection of the important mud flats in the Sweetwater District.
13. There needs to be secure fencing to prevent entry to the J Street marsh.
14. There needs to be clarification that the six foot fence will go all the way around the Otay District to keep people and animals out of the J street marsh, the bay, and the NWR to the south.

Sweetwater District

Park

The current DEIR still lacks sufficient detail for a project level analysis of the Signature Park. This park is clearly a development project. Just the amount of cut and fill would verify that, but the

TABLE 3-6
Proposed Project Grading Quantities
(cubic yards)

District	Cut	Fill	Import/Export
Sweetwater	203,000	115,000	88,000 export

description is clearly of a developed park-tot lots, picnic areas, parking lot etc., not passive open space. 3-40: *The park could also include cultural uses; small food and beverage vending; specialty retail involving gifts, novelties, clothing, and jewelry; group activities of nearby businesses; and other minor park-activating uses.* The key word here is “could,” which deprives the public of the clarity needed to judge impacts. It is imperative that the exact number and size as well as specific location of these cultural, food and beverage, and other commercial uses be specified as well as rules established for what types of business group activities will be allowed. Each one of these uses has potential negative impacts that have not been analyzed. This is totally unacceptable for project level review. There also needs to be a trash management plan, since these uses will increase the amount of trash. The parking lot and all these stores will take up a fair amount of the 18 acres of this park. Just how much picnic and free play area will be left, if any? There needs to be more specificity about this park or it is impossible for the public to judge the amount of mitigation required. “Park-activating uses” is the opposite of a “passive park.”

3-40: *The aforementioned park improvements will be phased in as funding becomes available.* Why is the park Phase I if nothing is to be built until later? Exactly what part of the park besides the grading will be available to the public in Phase I? This park supposedly is compensation to the public for unmitigatable negative traffic, air quality, visual/aesthetic and energy impacts, but the Port isn’t going to build it until “funding becomes available?” Isn’t that likely to be never, considering that the Port will make nothing off of Gaylord for the 20 years it takes to pay off bonds?

The location of this park between two parts of a Wildlife Refuge makes very significant negative impacts to that refuge a great likelihood. These issues are not dealt with at all. Indeed the 400- foot buffer zone with 200 feet of no touch habitat is not planned until Phase two! By Phase II “as funding becomes available (from where? There is no income from Gaylord for 20 years)” the refuge could well be highly degraded by the impacts from this park. The funding for this buffer needs to be part of the infrastructure bond because it needs to be in place **before** construction starts. A park of this size will attract many people and their pets. The buffer is a design feature meant to minimize negative impacts, but without clarity it is impossible to judge how much additional mitigation is needed in the form of ranger time, etc.

The Port says the trash cans will be emptied every day. This does not happen now at the existing parks. Exactly how much extra staff is the port committing to this park? The park needs to be described in detail with detailed drawings in order for there to be a project level analysis and the signature park needs to be part of the bond.

Clearly this park must be closed at night, lighting must be close to the ground and limited, and there need to be posted and enforced rules about treatment of wildlife, plants, trash, habitat areas, pets, etc. This needs to be an organic low-water use park (a model) without fertilizers and pesticides. There is a DVD available on how to do this:

<http://www.ctclimatechange.com/documents/InterestinOrganicLandCareisGrowing.pdf> . The City and Port’s IPM policies are not nearly strict enough for this site and focus entirely on run-off. There must also be a predator control program and a ranger who patrols regularly and educates the public about proper behavior to insure that the rules are enforced. A list of rules as well as a specific design for the park needs to be part of the project description. These details need to be in the DEIR as assurance that they will be enforced.

The vague 18- acre park makes it impossible to determine all the impacts. USFW and the CAC preferred the Harbor Park alternative because of the greater impacts to be expected from a public park in this area. If, to please Gaylord, the port refuses to use common sense then this park must be fully mitigated as well as exceptionally well designed with the protection of the surroundings the key feature.

The buffer needs to be in place before construction even starts in order to protect against intrusion by the 9,000 estimated (by Gaylord) construction crew. As it is now described this buffer is totally inadequate to protect the refuge against negative impacts from the park and intrusion. There has

to be a real fence (wood and cable is useless, as is cactus and signs) the entire length of the buffer on all sides, including the mud flats in the bay.

As grading is being done the buffer needs to be created and in place before the other components of Phase I are constructed. It is a design feature, which along with the predator control, educational ranger and rules for water, fertilizer and pesticide use could HELP mitigate for the impacts of the park, unless it is low-water use and organic and all the uses mentioned after “could” were banned. Since this is supposed to be project level either design guidelines and numbers, locations and sizes of buildings need to be included for all these other uses that “could” be included or they all need to be banned.

National Parks and this National Wildlife Refuge are already being threatened by climate change impacts. Nowhere in the DEIR are these impacts for habitats and open space areas acknowledged. The added stress of this park and the other development planned for Sweetwater **MUST** be mitigated completely. There has to be an analysis of the effects of sea level rise upon habitats and parks as well as businesses and homes.

<http://www.epa.gov/climatechange/effects/publiclands.html>: The National wildlife Refuge is already threatened by climate change. National parks and other protected areas are currently susceptible to events influenced by climatic variability, such as drought, wild fires, impaired air quality, and severe storms. Climate change may change the frequency and severity of these kinds of events. In some regions, the risk for drought and wildfire, for example, may increase with climate change ([IPCC, 2007](#)). Along coastal regions, sea level rise could erode and inundate the beaches of the National Seashores and the wetlands of various National Wildlife Refuges and National Parks, precipitating loss of beaches, loss of habitat in estuarine ecosystems, and damage to property and natural resources from storm surges ([IPCC, 2007](#)).

In 2001 the National Park Service (NPS), the U.S. Fish and Wildlife Service and the U.S. Environmental Protection Agency (EPA) formed a partnership to create the [Climate Change, Wildlife and Wildlands Toolkit for Teachers and Interpreters](#) to help educators teach their students about the potential effects of climate change in parks, refuges and other protected areas. In 2003, the NPS and the EPA created a new program called [Climate Friendly Parks \(CFP\)](#). Through the CFP program, the two partner agencies are finding ways to reduce emissions from park activities. They are also educating the public about potential impacts in the parks and what the agencies are doing to address them.

Nature Center Parking Lot

The Nature Center Parking lot needs to have a much better and more secure fence than exists now at the isolated site where it now is. This will be a much more active area and a substantial fence needs to be across the road, activated as now by the driver of the shuttle. Again this is project level so this fence should be described in detail as well as any amenities or educational kiosks in the parking area. A 100- car lot is substantial. The DEIR is vague as to the exact location or is it the circle on the

drawing? This should be paved with **permeable** materials, as should the other parking lots in this District, since 2,196 spaces are planned all together. Permeable surface for parking lots is mentioned in the DEIR, but nowhere is it guaranteed for all the lots in Sweetwater and/or the other two Districts.

E Street Extension

In the existing LCP there are lengthy requirements to insure that car headlights will not intrude upon the Refuge or the mud flats. Vegetation along the road is required to block the light from headlights. This DEIR needs to deal with this issue. Lighting of the road needs to be low (below vegetation and focused on road). There needs to be vegetation high enough to block the light of headlights along both sides of the road. The parking lots need to be physically closed at night or they need to be designed in such a way as to contain all light from car headlights to within the parking lot. These are important details that are missing from the DEIR, as are the exact locations of the parking lots. As we said previously we need this information to be able to evaluate if more mitigation is needed for this increased use and exactly what kind would be appropriate. The DEIR seems to have E Street only go to the Nature Center Parking lot in Phase I and extend it to H-3 in a latter stage. This makes the park which is Phase One fairly isolated and hard to get to. In one place it is stated that even though it is not needed for mitigation all of E would be built in Phase One, but the diagram for streets does not show this. Please clarify this point.

Harbor District

Signature Park

Again HP-8 and H-8 sections of the Signature Park have the same vague description as S-2 and are also not acceptable as a Project Level analysis. There simply has to be an actual design for this park with specifications as to size and appearance of buildings and activities to be allowed. There need to be rules for use such as a prohibition of fireworks, light shows, laser shows, rental of motorized watercraft or jet skis, etc. It again is not acceptable that nothing will be built or provided but the existing park will be destroyed until "*funds become available.*" The entire park needs to be part of the infrastructure paid for by the initial bonds in order to compensate the residents for the loss of their existing amenities and views. The existing BayView Park is used by thousands during festivals and on the Fourth of July. People love the sandy beach. SWCVCA does not think the paved promenade should be along the edge of the water. The sandy beach should be maintained.

There is also the issue of the RV Park. This is a very important lower cost visitor serving use that will be lost for a minimum of 10-15 years, if not forever. Low cost visitor uses are very important according to the Coastal Act. There are unresolved wetlands issues with the site that is being promised for future relocation of this park and a power plant whose future fate is far from decided. The park also has a long-term lease. There are negative environmental effects of closing this park that have been completely ignored. Minimally there needs to be an analysis of the effects of the park closure upon use of the area, including the financial costs of breaking the lease, the financial costs to the lessee, and more importantly the loss to the users of the RV Park of this very special visitor serving use. Has there been a survey of who uses this park? There are Chula Vistans who like to spend weekends there, boaters stay there and there are many people who regularly spend vacations there. What do these people add to our economy, and how do they help the Port provide the required coastal access at low cost? Replacing the RV Park with a park and a super expensive hotel has negative consequences that need to be analyzed and mitigated for.

In summary it is a probable violation of the Coastal Act that the RV Park will be destroyed during Phase I. It makes no sense to destroy the current businesses. The Galley and the Fish and Grill are favorite restaurants for many. It does not make sense to eliminate them. Is Gaylord afraid of the competition? Couldn't the businesses stay instead of having interim landscaping on H-9? The demolition of all the existing uses is rather extensive. There needs to be an analysis of the negative impacts this will cause. Some that come to mind are the lack of public access for an extended period of time and the financial costs of buying out existing leases as well as the impacts of noise and loss of feeding opportunities at Bay View park for the wildlife.

Project Design Features Have To Be Part Of The Project Description

Gaylord

Since neither Gaylord or Pacifica have been planned at the design level neither description is adequate for project level review. The DEIR does not contain sufficient detail about either of these projects to resolve uncertainties about some very important potential negative impacts. Frequently PDFs are supposed to avoid negative impacts. If this is so, it is critical that these Project Design Features be part of the EIR. The public has no way of judging the adequacy of this document without this information. The entire DEIR should be program level and each individual project should be required to do a project level EIR when there is a specific architectural design and detailed landscape, recycling, trash management, lighting, etc. plans. At the program level a fully funded Natural Resources Management Plan with adequate funding to carry it out needs to be added. The Southern area of the San Diego Bay is the most sensitive and contains the last remnants of the valuable environmental resources of the bay. The intensity of development being suggested herein demands much more attention to resource management as well as sustainable building design

<http://www.nps.gov/dsc/dsgncnstr/gpsd/ch6.html>,

http://www.rodney.govt.nz/services/Urban_Design_Guide_Rodney_District/Urban-Design-Pages-5-12.pdf and http://sd-metroinfo.org/Sustainable_Skyscrapers.htm.

3-45: *Subject to pertinent leases and other agreements, the existing uses and streets (Sandpiper Way, Bayside Parkway, Quay Avenue, and G Street) and infrastructure within the H-3 footprint would be demolished in Phase I prior to construction of the RCC.* Bayside Parkway is not in H-3. Should this read Marina Parkway? This statement adds even more uncertainty to the project description. It would seem that before a project level EIR was attempted these issues should have been resolved. The public is now left wondering what exactly will actually take place. It is also unclear how many hotel rooms there will be since the text says 1500, but the table says 2,000 and parking is to be provided for 1500.

This comment on 3-69 again increases the uncertainty about the project and makes it difficult for the public to evaluate the impacts: *Ultimately **depending on the configuration of the site**, this zone would attempt to be a visual extension of the marsh and refuge by using noninvasive and/or native species. This buffer zone would bring the local character of the wetlands onto the RCC property, integrating the site into the surrounding landscape.* If the configuration of the site still is not known how can this be a project level analysis? Remarks such as this really cast doubt on whether there is even a basic understanding about the importance of using native species and drought tolerant plants. The writer also seems confused about the concept of invasive.

Figure 3-9j is totally inadequate as a landscape plan. There are no species of plants shown just various shades of green. This is meaningless and where landscaping is so important to project impacts totally unacceptable at a project level. The species of plants for each area need to be known at the project level or at the very least a collection of acceptable plant species. 3-73 zone *may include* and *may also be used for sustainability and conservation education* is another example of the lack of specificity that is expected at the project level. Although it is stated that Goodrich **will** be screened from view.

Other things only **may** happen. (At least one thing is certain. Gaylord doesn't want guests to see Goodrich.) There should have been decisions made before the DEIR was circulated allowing for a specific description. Now the public is left to wonder what is going to happen when an architect actually draws plans and someone decides upon a mode of operation.

Integrated Pest Management is only mentioned in the DEIR as a requirement for Parks. Gaylord must also eliminate pesticides and fertilizers.

The incredible mass of the buildings are so totally out of scale with the surroundings that it is hard to see how the RCC has made any real attempt to meet its architectural goal of 3-57:• *Embrace the project context in order to infuse the project with Southern California culture resulting in a site-specific solution. These features include street retail, dining terraces, accessible restaurants, nature trails, water features, and bird-friendly transparent facades.* Exactly what is a bird friendly transparent façade? Anything transparent, especially if there is vegetation near it is the opposite of bird friendly. The street features described hardly seem inviting to pedestrians who will have 120 feet or more of building towering over them. There does not appear to be any step-backs at all.

The 300-foot tower, 140- foot atrium and 120- foot wings are directly in the flight path of birds, which go back and forth from the salt ponds to the Sweetwater Refuge. No matter what kind of glass is used it has to be non-reflective and or marked clearly in some way. (Making an exception for e-glass 4.4-85 is eliminating a number one- way to reduce bird strikes, especially since e-glass is required elsewhere in the DEIR.) The balconies and using small panes of framed glass, if such things were guaranteed anywhere in the description, would help, but something the birds can see needs to be in place in front of every window. Saying the building will use measures to prevent bird strikes is not adequate, there have to be **specific** measures and specific design features committed to in advance.

The atrium is another problem. Plants cannot be within 10 feet of the glass. The glass has to be glazed to be seen as an obstacle; instead it is stated: *Special attention to the exterior glazing of the atrium during the design period.* This does not guarantee that anything will actually be part of the design to *help minimize the potential for bird strikes.* This goal is actually inadequate. The design must prevent bird strikes to the highest degree possible, not just minimize them. In fact there needs to be a monitoring program keeping track of bird strikes and if there is a problem a commitment to design changes must be in the document. This monitoring program and specific design features need to be in the DEIR as guaranteed design features and mitigation. This is supposed to be the project level. It does not appear that there is a specific project yet. This is confusing to the public and deprives us of the opportunity to evaluate the impacts. Exactly what is to be done needs to be clearly stated and illustrated.

If the atrium will sometimes be open to the outdoors, as we have been told informally, it is critical that no invasive non-natives be in the atrium. The DEIR now only excludes them from exterior landscape "plans," but the atrium, as we understand it, is an enclosed garden. At various meetings Gaylord employees have indicated, because of the weather conditions here, this atrium would be open to the outside many days. This is another critical design feature that must be clarified. If people will be moving in and out of the atrium precautions must be taken to prevent the contamination of the adjoining habitats with non-native plant material.

The mass and height of the buildings is not only a visual and aesthetic negative impact but a biological one as well. These buildings could shade the F&G Street marsh at various times of the day and year as well as alter the microclimate somewhat. (The exact design and location of the buildings has to be known before a shading study has any validity.) This requires mitigation. The logical mitigation is the removal of Lagoon Road, replacing it with a bridge for bikes, pedestrians and, if necessary, emergency vehicles, and the restoration of the degraded marsh to the north. Improving the tidal inlet is only the start of the project, extending the tidal inlet to the historical marsh (seasonal wetlands) is needed. Making the marsh larger would probably lessen the impact of the shading and altering the breezes, because it would allow the animals other areas to forage. This mitigation should precede the

negative impacts. It would also allow some species of birds to forage further away from the construction noise.

Exterior lighting is mentioned in the summary of Impacts and Mitigation, but **interior** lighting is also a significant problem. Light and glare from this 24- hour facility is another huge problem requiring additional mitigation. Providing drapes is not going to insure that people use them or turn off the lights. Will all the nightclubs be required to pull the drapes at night? If birds cannot sleep at night they will die. <http://www.learner.org/jnorth/tm/NightLights.html>, http://www.nationalwind.org/events/wildlife/2004-2/presentations/Kerlinger_Migration.pdf . This is part of the Pacific Flyway and an extremely important stop over point for thousands of birds each year. 4.4-6 needs to specify specific design features that **will** be required or it is inadequate as a mitigation measure. The added light will not only be a disturbance to the wildlife, but to the many residents who have bay views and cherish the quiet and natural light at night.

Page 3-69 states that Gaylord will not use invasive non-natives ‘where adjacent to sensitive areas.’ This is totally inadequate. No invasive non-native plants should be used anywhere on the bayfront. These plants are invasive because their seeds spread easily by wind and or animal (human) transport. There can be **NO** invasive plants anywhere on the Bayfront, and this would include palm trees unless they are regularly trimmed of seeds before they ripen, and this can not be guaranteed into the future. Evaluating landscape plans may be a good first step, but someone has to actually verify which plants are planted and make sure that plants that die are not replaced with invasive non-natives. Also the landscaping plans should be available at the project level for public review. There has to be some ongoing landscape monitoring program as well as the predator control program and a program to insure integrated pest control. There also needs to be an education program for construction and operational workers to ensure that they are aware of the sensitivity of the area and their responsibility to protect the natural resources near by and educate the public. All of these need to be a part of a Natural Resources Management Plan, which must be funded and started before construction on any of this project starts. There must also be an identification of ongoing funding for carrying out the management program.

This is a very special place and just saying this often does not protect it from harm. This huge building and all its activity should be back where the CAC said it should be, not here. If it is going to be here then a whole lot more must be done to protect the sensitive habitats in the area.

15% over Title 24 is inadequate. 20% is a minimum. There needs to be a stronger commitment to producing most, if not all, of the buildings’ needed energy. The state says a goal of 40% is more appropriate: <http://www.ciwmb.ca.gov/GreenBuilding/Basics.htm>. Gaylord needs to actually commit to doing more in way of sustainable green building. 50% construction debris recycling is inadequate. “City of CV : Construction and Demolition Ordinance is now in effect. Developers **are** required **to divert 90% of inerts and 50% of all other debris with in their** recycling plan and to place a deposit (percentage of project cost).” This should be required by the Port on the bayfront as well. Actually the use of recycled materials in the buildings whenever possible needs to be a commitment in order to help close the loop. If Gaylord really wants to build in this very sensitive area they should build a model green sustainable building. Anything less is an affront to the community and does not fully mitigate there huge negative impacts to the environment.

The Green line shuttle is not funded so likely it will not be built. This is not acceptable since again this was to be an amenity for the residents by providing free access without driving. This would also help the traffic situation. Supposedly a goal of this project is to connect Chula Vista with its Bayfront. Without this shuttle the project traffic will likely keep people away from the bayfront more than attract them. This is something else that should be funded with the initial infrastructure bonds.

H-17 Bayfront Fire Station

Pacifica will pay the normal PFDIF but it is likely this will not be enough to pay for the station and the equipment by itself. The city has a yearly obligation of the PFDIF (equivalent to around 500 developments) to pay debt service on the civic center and police station bonds. Considering the economy it is likely the city will not have all the funds needed to pay for this station. There is also doubt considering the city's financial difficulties that they will be able to pay the salaries of these new firepersons. (The General Fund will receive no money from the Pacifica project except maybe some sales tax from the retail. Firemen are a General Fund expense that cannot be paid with Tax Increment.) There is also the question of how the city will afford to acquire the land. If it is a land trade, it is not clear from the LCP or the PMP what was traded for this site? Does the CIP fund have money for curbs, gutters and sidewalks here? It certainly does not have for the Southwestern part of the city. This will be a very expensive station with 7 crew 24/7 and equipment for fighting high-rise fires. This will require around 20 new firepersons. How much will the Port pay? This will be a large impact on the city's shaky finances. The funding needs to be clarified or the station cannot be project level.

Pacifica

There are many commitments to sustainable building practices, and it is clear that the buildings would incorporate design concepts and/or fenestration designs to eliminate bird strikes from the J Street marsh, although the exact ones are not yet known. Why birds flying to the marsh from the north are not included in the consideration is unclear? The amount of detail on the project other than maximum heights and many detailed artist conceptions does seem sparse for a project level EIR. The two alternatives for the L Ditch still have not been decided upon. Again it seems a project level DEIR is, perhaps, premature. This should be program level. Once a decision on the L ditch has been made Pacifica as part of the normal permit application procedure should submit a project level EIR to the city. We have been told that a program level EIR would be adequate for the land trade and the LCP and General Plan amendments.

The massing and height of the buildings even though the setbacks will make it more acceptable to pedestrians is totally out of scale with the location and the rest of the city and will likely always be. This violates the goal of making the bayfront part of the city, since it sets it apart. It is really not acceptable to have unmitigatable impacts such as visual/aesthetics, air quality and traffic.

The residential is not analyzed to the level of a project EIR. There are no architectural, landscape, storm water, energy conservation, water conservation, trash management, fire evacuation, etc. plans for any of these buildings nor are there CCR's requiring residents to control night lights and have only one pet which never leaves the confines of their unit unless leashed or under the complete control of the owner. Without plans there is insufficient detail to evaluate the potential negative environmental effects of the project and to suggest specific ways in which these effects can be mitigated or avoided.

The noise analysis is completely inadequate since it only deals with traffic noise. There is a freight train that comes through Chula Vista around 3AM daily on the near-by trolley tracks. The engineer blows his horn as he approaches and passes E, F, and H Streets. This is a significant noise well above the noise threshold. Particularly on nights when the east wind blows this has the potential to interrupt people's sleep and violate Chula Vista's nuisance noise ordinance. This would make noise a significant unmitigated impact.



The emphasis needs to be more on the avoidance of significant negative effects instead of mitigation, which is never as good as avoidance. The simulation included in the document appears to show a wall of high buildings discouraging

access to the marina and completely hiding it from the view of residents of Chula Vista. Many homes in Chula Vista now have views of the marina and the bay from their second floors or their yards. There are also pleasing views from a number of roads and 805. All these views will be hidden by excessively tall buildings. The diagram in Appendix G makes it clear that these buildings will replace the views of a significant number of Chula Vistans. The document acknowledges that this is a Significant Unmitigatable Negative Impact. One of the main purposes of the Coastal Act is to maintain public access to the coast. Robbing the citizens of Chula Vista of their precious views is a denial of the most basic access. It also will most likely affect property values negatively. It is not acceptable to the SWCVCA that this negative effect is not significantly lessened or completely avoided.

Integrated Pest Management is mentioned in the DEIR only for parks. Pacifica must eliminate pesticides and fertilizers as well.

It is unfortunate that affordable housing will only be for low/moderate and low. In this economy many of these people, if they are still employed, can actually afford homes. The real need is for housing for the very low income, which could be provided off site. 235 “affordable” homes here would not remain affordable. Considering the yearly HOA and the assessment district fees on these condominiums it would be difficult for low and low/moderate income people to afford to live here for the long term, when all of these fees are added to mortgage, insurance and taxes.

Bridge Over Inlet and Promenade

It is unclear if the pedestrian and vehicle bridge is program or project level, because it is unclear whether it is Phase I or Phase II, but if it is Phase I there needs to be a great deal more detail. Mitigation for shading was mentioned, but nothing is mentioned about how flushing will be prevented. Will the 72-foot ROW be adequate to protect bicyclists and pedestrians from cars? (Actually the text says 72 feet but the diagram says it is 100 feet.) The 16-foot multi-purpose lane probably needs to be divided physically between bicycles and pedestrians for safety reasons. The diagram has one hand rail but actually there needs to be a barrier between pedestrians and cars and between pedestrians and bicycles.

Another concern again is headlights and bicycle lights if this bridge is to be open at night. What will prevent the spilling of headlight light into the water areas below? This is an area now heavily used by birds.

There is a great danger of flushing. Flushing is a huge negative that can result in the death of birds. (“Avoid flushing birds or disturbing animals. Expenditure of energy can be critical to their health.” http://seattlepi.nwsourc.com/getaways/141096_urbanwildlife25.html) There has to be adequate means along these trails to keep people out of sight of the birds. The bridge will be a mere 10 feet above the water, even the noise of the cars going over will likely disturb the birds. Another negative impact will be excessive noise (cars, pedestrians, bicycles, talking, shouting, screaming, music, etc.). There also has to be some means of preventing trash from entering habitats and water. Some of these (trash) could be prevented by exceptional bridge design. All of these are educational in nature, which comes to the



logical mitigation measure of providing funding for staff to provide the education and protection needed to make this work. These are pictures from 2004 of the tidal flats north of boatyard with feeding birds on the left and what happened when walkers passed by on the right. These



kinds of occurrences must be minimized. This has to be part of any future project level EIR for a promenade and/or trails in areas near habitats and should be mentioned in the program EIR. (Also if this bridge is to be shared with bicyclists there has to be some evaluation of safety issues.)

Phase II

Buffer Zone

It is great that the port finally gets the no use zone, but there has to be a fence in a ditch to keep people and animals out. Signs, wood and cable fence and cactus do not work. If there was a guard on duty 24/7 there might be effective enforcement without a fence, but otherwise there must be a fence or the buffer is useless. The entire buffer is a project feature. The entire buffer is needed because of development in the Sweetwater area, which will bring more people and pets close to the Wildlife Refuge. The buffer is to prevent the intrusion of humans and their pets into the wildlife refuge. The berms help keep down the noise. The additional habitat replaces the open land the animals were using before. The development being planned for Phase I requires this buffer as a design feature to prevent negative impacts from human and pet incursion, trash, predators, light, and noise. (All of which will be increased by the Phase I projects tremendously.) There also has to be a guaranteed ongoing funding source for the maintenance of these buffer lands.

Phase II is too late for a buffer. This buffer **MUST** be built in Phase I simultaneous with the start of construction. When the land is being graded is the logical time to build the berms, water quality swale and restore the habitat. The funds need to be provided in the bond. This is too important to wait “*until funds (magically) become available.*”

A major goal of the PMP is: *IV. The Port will protect, preserve, and enhance natural resources, including natural plant and animal life in the Bay as a desirable amenity, an ecological necessity, and a valuable and usable resource.* The buffer zone, phase I, with a fence is necessary, if the port is serious about this goal.

Seasonal Wetland

Lagoon Road should not remain in place. The marsh must be restored and its tidal connection through F/G Street Marsh must be restored at the same time. This should be mitigation assigned to Gaylord because of its excessive mass and height and its shading/climate and other impacts upon the F&G Street Marsh.

Bay Front and Marina View Parks

It is unclear exactly what is planned and when with these parks, but there is mention of an “interpretive railing” to deter human and animal entry to the J Street marsh. This “railing” needs to be constructed in such a way that animals and people cannot fit through its vertical parts, and it is high enough to deter jumping over. Again it is not acceptable to install in park improvements “as funding becomes available.” The fence along the marsh needs to be more certain. There is no fence now and the

rocks are somewhat of a deterrent, but if there will be increased use there needs to be a fence of some kind along this north edge of the J Street Marsh.

HP-11 Existing Wetlands

This wetlands appears to be just north of Gaylord's truck driveway and adjacent to the secondary entrance of Gaylord. It is also next to the E Street extension. It is connected to the F&G Street marsh so it needs protection of its water quality and to be guarded from human and animal intrusion in some way.

HP-28 H Street Pier—First Half

Does the statement "as funding becomes available" apply to the first half of this pier as well or will it be part of the bond?

Phase III

H-21 Retail/Commercial Recreation and Marina Support

Again the railing needs to be at the top of an adequate fence to protect the marsh. Will the Chula Vista Marina and California Yacht Marina leaseholds (with leases that expire in 2021 and 2029, respectively) be allowed to remain until the end of their leases?

HP-14 and HP-15 Boat Launch/Bayfront Park/Harbor Police Building/Parking

It is good that Bay Front Park and the Boat Launch Ramp will remain mostly the same, but the reduction in trailer parking from 125 to 100 could be a problem. If the goal is to have a busier, more active harbor why would the trailer spaces be cut? People who launch boats on a daily basis are an important part of a busy harbor. This is also a way to meet the Coastal Act requirement to provide low cost access. Is it not? People who use this launch ramp regularly say the existing 125- space parking lot is inadequate on the weekends. A study needs to be done on the impacts of reducing this parking at the project level.

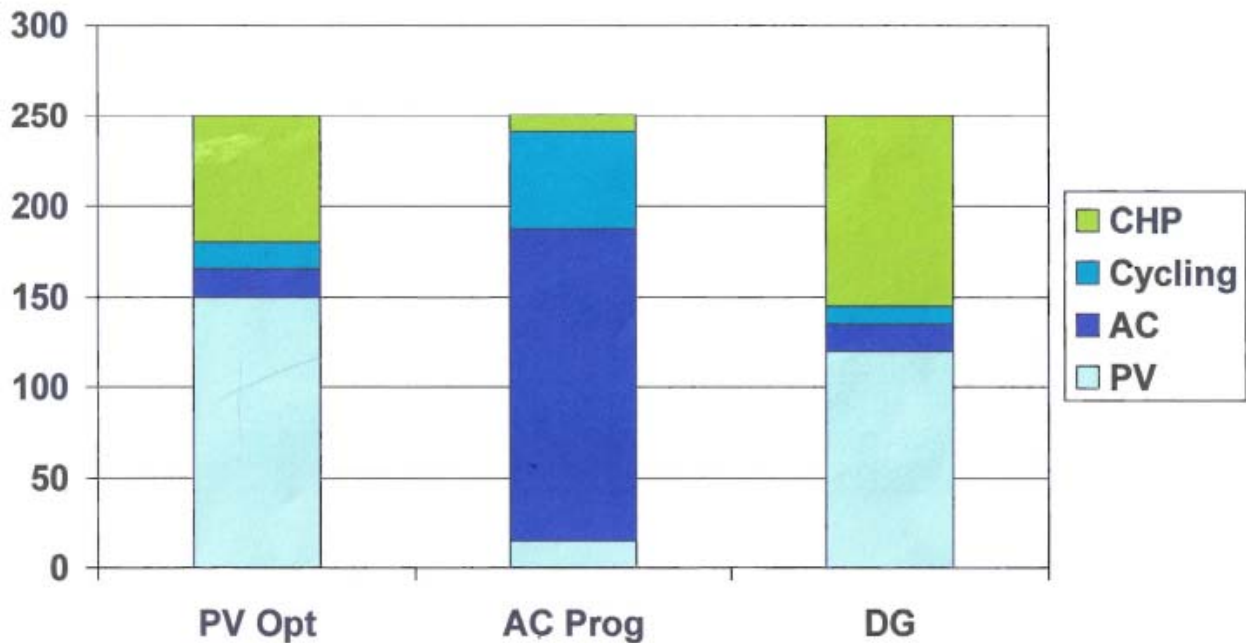
Otay District

The port could help with the removal of the RMR from the SBPP by requiring its lessees to improve their energy efficiency and produce a portion of their own energy. If all of the port's lessees cycled their air conditioning a substantial amount of energy could be saved. If all of them serviced their AC units more could be saved. Distributed generation would also produce more energy. These are all easy and very cost effective means of replacing the energy generated by the SBPP. This is a link to a [letter written by the ISO to Mayor Cox](#). They are already building Otay Mesa. The Port and its lessees could help produce the 250 additional megawatts needed to remove the RMR from the SBPP fairly easily and inexpensively.

This graph shows three alternative ways of replacing the 250MW, in addition to Otay Mesa, needed to remove the RMR from SBPP. PV is photovoltaic collectors. AC is an air conditioning program involving installing high efficiency air conditioners in new buildings, repairing mal-functioning air conditioners, and retrofitting older air conditioners to increase their efficiency. Cycling is cycling the use of air conditioners among near-by users. All the air conditioner options reduce the load considerably. DG (CHP) is new Distributed Generation.

Green Energy Hybrid Options to replace 250 MW

Rooftop PV, air conditioning upgrade and cycling program, and new distributed generation easily replaces 250MW of peaker plant generation.



There are a number of wetlands and potential wetlands on this property that will require detailed environmental analysis in the future. The current intake and output channels are adjacent to the Southbay National Wildlife Refuge as is a large portion of the west shore of this area. Great care will have to be taken to protect this refuge from human and animal intrusion. No public access to the bay in this area should ever be allowed.

The ecological buffer and six-foot fence are great but it is not clear if they extend the entire length of the Otay District as they must do. Since it is not only the J Street Marsh that must be protected but also the Wildlife Island and the Wildlife Refuge. To prevent people from going around the fence the south end needs to be fenced as well. It has to be insured that humans and Animals will never be able to access the Chula Vista Wildlife Preserve island (except for authorized maintenance), which was created as mitigation for the marina and must be protected, if and when, the public is able to access the Otay area.

There has to be secure fencing all along the edge to keep people and animals out of the J Street Marsh. Again it is imperative that there be a buffer with berms along the western edge with vegetation to prevent bird flushing and to keep lights, noise, trash out of the marsh, the wildlife refuge in the salt ponds and from the wildlife island. The management and protection of the J Street Marsh should be turned over to USFWS. The Port needs a Resource Management Plan with funded enforcement and maintenance or does the Port intend to hire its own rangers to protect all this irreplaceable habitat?

The RV Park and camping uses need to be supervised. Now a large number of dogs are walked at Bay View Park. The dogs must be leashed and under the control of the owners at all times. An alternative would be a fenced dog park, but under no circumstances should dogs or other pets be allowed in the water here. All lighting will need to be subdued and close to the ground. The road must have vegetation along the sides in order to keep headlights from shining on the bay and disturbing birds that may be spending the night. The RV Park and campgrounds must also have a means of shielding all

lighting from the bay and sensitive habitat areas. There will probably need to be rules about noise as well, if there aren't already. The Industrial Parks to the south and north also need an opaque fence or fence with vegetation to shield the adjoining area from light.

It is disgraceful that it is being suggested that more concrete be put in the Telegraph Canyon Channel. This channel needs to be naturalized (as the PMP amendment suggests). The bay suffers now from too much pollution. Naturalized channels are an important way to help improve the quality of the water, especially in an area as sensitive as the south part of the bay. There needs to be a riparian corridor with a naturalized River flowing into the J Street Marsh. This would be a huge amenity for the community and wildlife as well as an important water quality feature.

https://www.airquality.nh.gov/Rivers/guidelines_naturaldesign.htm The walk along the San Diego River is attractive and wildlife friendly. This same feeling could be created along the shore of Telegraph Canyon Creek, if it was made wider, deeper and appropriately vegetated to prevent erosion with a fenced bridge for Road A cars, bicycles and pedestrians. Riparian plants should be planted along both sides. When we had a tour of the area back in 2006 the channel was full of ducks.

The Port has a trust obligation that should inspire it to be part of the solution instead of the problem. It is irrelevant whether naturalizing is required or not. Considering the huge amount of mitigation that should be required for the cumulative negative impacts of this project upon the flora and fauna and ambience of the area this should be required, but required or not, the right thing to do is to naturalize the channel. This is also the only option consistent with the Port's trust goal to *protect, preserve, and enhance natural resources*.

Litter:

There is also the significant issue of litter that is now quite evident in Telegraph Canyon Creek and the J Street channel. There must be a specific plan for preventing this litter from entering the Bay. Whatever the city and port are now doing is clearly inadequate, and the Bayfront project will only increase the amount of litter that must be dealt with. There have to be specific plans for trash traps, solar operated compactors, employees to regularly inspect and empty trash cans and traps (and clear funding to pay them), specific designs on pier and bridges to prevent trash from entering the water, and fences or other obstructions to capture wind-blown trash before it enters habitats or water- at a minimum.

Phase IV

Sweetwater

Sweetwater is supposed to be less impacted by this alternative than by the Harbor Park alternative, but the resort hotel is actually more of an impact than the same hotel in the Harbor Park alternative because it is taller and more massive with more rooms. The signature park included in the Sweetwater Park Alternative adds a whole other set of impacts.

The hotel in S-1 at 100 feet high is also too high and too close to the Refuge. The hotel discussed by the CAC was compatible with "low- density" development and the near-by Wildlife Refuge. Previous discussions were about an Asilimar like complex of three stories or less

http://www.visitasilomar.com/Activities_OnProperty.aspx). Asilimar is located at a State Park and very successfully integrates the natural beauty of the site into its marketing plan. The current description casts doubt on the statement: "*Port development seeks to minimize substantial adverse environmental Impacts.*" (In the Harbor Alternative a maximum 400-room conference hotel with a maximum height of 60 feet would be constructed on S-2 in Phase II, instead of a Signature Park in the Sweetwater District in Phase I. Mixed-use office/commercial/recreation/cultural uses with a maximum height of 60 feet would replace the 750-room resort hotel with a maximum height of 100 feet on S-1 in the Sweetwater District. Specifically, up to 300,000 square feet of mixed-use office/commercial recreation and 50,000 square feet of cultural would be built on S-1. These uses would likely have a

much lower impact upon the Wildlife Refuge, because the people would be contained within the buildings and not likely to bring pets. 300,000 square feet according to the document would cause unmitigatable problems, so it should be cut in half. Why were these same heights and descriptions not kept for the hotel and commercial in the Sweetwater District when the Sweetwater Park alternative became the preferred alternative?

This hotel will need its own EIR when and if someone comes forward wanting to build it, in which the specific building can be evaluated from its plans and adequate mitigations can be required or better yet negative effects can be avoided. [Low Impact Development](http://www.lowimpactdevelopment.org/) (<http://www.lowimpactdevelopment.org/>) Design Techniques must be required in all the Bayfront Districts, but most especially in the Sweetwater and Otay Districts due to the sensitive biological resources adjacent to the planned developments. The height of the buildings and the number of rooms need to be reduced even at the programmatic level, because they will be part of the amended PMP and the LCP.

S-4 adjoins the refuge. Why does the 400- foot ecological buffer not extend onto this parcel as well? 100 feet is not adequate since people will be walking the entire length one would assume. The buffer fence needs to go right to the freeway fence. The building is way too close to the refuge. At 125 feet it is over the height that encourages bird strikes. The building needs to be lowered and moved to the southern part of the lot. Since it is landlocked when getting permission to cross the tracks for a driveway the entire parking lot should be fenced including the northern part which should abut the buffer fence and keep people and animals from entering the refuge in this way. Vegetation and/or a solid fence at the north end of the lot must ensure no light or persons will enter the refuge from the parking lot.

When all of the parking in the Sweetwater District is added up it comes to 2,196 spaces. This is an awful lot of asphalt in an area that is, supposedly, meant to be kept as natural as possible (750 for the resort hotel, 480 for the commercial/recreation, 350 office, 216 park, 100 Nature Center).

Coronado Railroad ROW

This 40 foot ROW is mentioned in every phase as a greenbelt. In discussions about the future of the Salt Works the running of a train of some sort from National City to the Salt Works along this ROW has frequently been brought up. **It needs to be clarified that the tracks will not be disturbed.** The tracks will need to be fixed in some places in order to allow the train to start up again but the ones that are there need to be left alone. This could be a good mode of alternative transportation to the bayfront as well if a stop was allowed on E or H.

H-1 Community Boating Center

The Southbay Boat Yard is a source of good paying jobs and a profitable maritime industry, which is supposed to be a focus of the tidelands. If no suitable relocation site is found, will they be allowed to extend their lease here? Hopefully, by 2020 when their lease expires the port has found an alternative location for them, but if not will they be allowed to stay or will the Port totally ignore its trust obligation to maritime industry? Is the expense of moving them worthwhile? The area adjacent to their current in water facility is a sensitive habitat and great care would need to be taken in opening this area to the public as an aquatic center. Only supervised activities could be allowed, strict rules would need to be enforced and no motorized boats or jet skis could be available for rent. There needs to be an educational program for and/or clear contract with people leasing slips here to guarantee the protection of the near by areas.

H-1A Signature Park

This is very close to the inlet for the F/G Street Marsh. Great care has to be taken to prevent flushing of birds such as a bird blind of some kind along the entire shoreline. The 70 parking spaces

really will not leave much space for a park, but the buffer must be installed as mentioned in the DEIR, and the promenade must be designed to prevent bird flushing along the area adjoining the tidal inlet.

H-18 Mixed Use Office/Commercial Recreation and Collector Parking Garage

In one place it is 5-7 stories and in another 6-10 stories, which is the case? It will be interesting to see how the Port can provide free parking for visitors and marina use and assess fees for use by other businesses. This obviously is a good location for a parking garage. There already is a huge amount of surface parking in the bayfront plan, which is a poor use of the land.

Reconfiguration of the Existing Harbor

Boat Rentals are again mentioned. These boats must not be motorized, and jet skis must not be allowed, since the 5- mile per hour speed limit to the south precludes their use as well as the abundance of sensitive habitat. Will the new business Chula Vista Kayak be included in this plan, since kayaks and small sailboats are a natural? The space at HW3 would pretty much be filled with rental boats one would think. There would also need to be room for a ferry to park and the other uses mentioned. Will this space be adequate? Is there a possibility that to accommodate all this there may be fewer than 700 slips for rent? Wouldn't there be more room for a restaurant and ferry, etc. at HW6? Wouldn't it be cheaper and more user friendly to leave the existing marina alone and focus all active uses (ferry, rental, dining) within HW6, if a new home can be found for the Southbay Boatyard? Alternatives to the marina reconfiguration must be analyzed.

HW-7 Navigation Channel

It is important that this new channel not be any deeper than 12 feet to help keep speeds down and to insure that it will not be used for mega-Yachts.

HW-2 Marina, Boat Navigation/Open Water Area

How will decreasing the amount of open water make the harbor more active? One would think it would have to decrease activity since there will simply not be enough room for as many boats to move around at the same time?

Roadway System and Infrastructure

This piece-mealing of the needed infrastructure is not good policy and will end up costing considerably more since improvements-landscaping- in previous stages will need to be eliminated before succeeding ones can be built. 3-121: *Roadway demolition, road improvements, roadway realignments, and construction of new roads, as well as utility infrastructure improvements, transit, as well as pedestrian walkways, and bike paths, would be implemented throughout the Proposed Project area over the course of approximately 24 years to support the intensity of Proposed Project development and to connect the uses within the Bayfront, as well as to connect the City to the Bayfront.*

3-125: *For purposes of this Draft EIR, all of the roadway improvements are evaluated at a project level, and subsequent phase roadway improvements are analyzed at a program level.* This statement does not make any sense. Are they analyzed at project or program level? Was Phase I left out of the sentence? Actually there is mention of roads but very little actual analysis of impacts. What is missing is a drawing showing all the phase One roads exactly where they will be to scale and an evaluation of possible impacts of the chosen alignment and size.

3-125 *all proposed on-site roadways within the Proposed Project area are proposed to be within the Port's ownership and jurisdiction* Does this mean that the Port will be responsible for building and maintaining ALL the roads including those around the residential development and the Gaylord Truck road?

The design for E Street is rather amazing going from 5 lanes, to 4, to 3, to two. What is going to prevent a huge traffic tie up if most of the traffic is actually going through Sweetwater to the Harbor District and not to the Nature Center Parking Lot?

What is the purpose of the 4-foot high berm on H-1A? If it is to keep people out then it is inadequate.

Figure 3-13b

Apparently, J Street will retain its name until Marina Way. This is extremely confusing since all the diagrams have the street called Marina Parkway, but all the text call it J Street. It makes it difficult for the public to understand exactly what is being suggested. The traffic east of the freeway is already extremely congested and bumper to bumper most of the day. The underpass is dangerous for bicycles and pedestrians now. Changing the classification of the road to Major Road in order to allow more traffic before the LOS degrades is a clever little trick but it only works on paper, not in real life. 1500 residents are going to create 12,000 ADA at least that will mostly use this road to get to and from home. If there was not already a traffic problem on the road this might work, but this is not the case. 6 lanes for a short distance between A and the freeway may not be adequate.

Marina Way Realignment

3-140 *The intersection of Marina Way and Marina Parkway would be reconfigured so that J Street/Marina Parkway would meet almost at a right angle; this would require modifications to the entrance to Marina Way as it transitions from the new intersection, as well as modifications to the existing Marina View Park.* If this is project level then more details are needed as to how exactly Marina View Park will be changed. Will some of the park be lost? This is an extremely popular park.

Pedestrian Paths

This description is totally inadequate for project level: 3-143 *Design of the pedestrian paths in the Sweetwater District would be sensitive to the paths' adjacency to sensitive resources at the F & G Street Marsh and the Sweetwater Marsh NWR. and mud flats.* The mud flats on the west side need to be added to the sensitive habitat to be protected from the users of these paths. Indeed it is acknowledged that these paths have potential negative impacts, but there is no information allowing the public to judge how these impacts will be avoided!! There needs to be specific detail as to how these paths will be constructed and what precautions, rules, features will be incorporated in order to protect the sensitive habitat near-by. Pets must be leashed at all times. Owners must clean up after pets. No shouting, screaming or loud noises-boom boxes or I-pods without earphones- no flashlights or fireworks or sparklers, etc. There need be features to block the view of users on the paths from animals using habitat areas to prevent frightening animals and/or flushing birds. There needs to be ranger time included to supervise these paths, educate people and enforce the rules. It says unspecified rules will be strictly enforced, but without specific design features and/or 24/7 supervision this will not be possible.

Bayfront Shuttle

3-147 *Implementation of the Green Car Line is unknown at this time, and this feature of the Proposed Project will not occur until operational and funding responsibilities are established.* This is not acceptable. These responsibilities need to be established before anything is built. The shuttle needs to be made available to people simultaneously with Phase One development. This is an important mitigation for unmitigatable traffic impacts. It is also the only way to insure a connection between the bayfront and downtown Chula Vista. It should be extended to include southwest Chula Vista or an environmental justice issue is created by unequal treatment.

3-155 & 3-156 & 3-161 It is RWQRB not C as written.

Water Quality

The water quality analysis has some very good suggestions, but because of the lack of specific detail for Gaylord, Pacifica and the Park it lacks the specificity required for the public to be able to ascertain if adequate measures are being taken to protect the quality of the water. The same can be said for drainage, which is inconsistent about using street gutters, water quality treatment basins or swales and under ground pipes. It is confusing to have it stated that all the run-off from the bayfront will be in the bay before the runoff from the city reaches the Bayfront in one place, and in another place stating that all run-off will be treated before it enters the bay. Both scenarios cannot occur at the same time.

Land/Water Use Compatibility

Under existing Public access there should be mention of the many opportunities that the community now has, treasures and values. The Public has access to the Marina, walking along the marina and the parks, the Galley, Southbay Fish Grill, BayView Park, Bayside Park, Marina View Park, the park on Bay and F, the boat launching facility, and The Chula Vista Nature Center and trails. The midbayfront is not fenced and many people access this property as well. The BoatYard and Goodrich are major employers and hopefully always will be unless the port is able to relocate the Boat Yard, which does not seem likely. CVRV Park also has access for the public if they have RV's and wish to camp as many people regularly do.

Many of the 900 boat slips have residents who live on board their boats. They are a close-knit community that needs to be considered in this plan.

This significance Criteria should be of great concern to the Port and the city:

3. It creates a substantial land/water use incompatibility with adjacent or nearby existing and proposed land uses, resulting in significant incompatibility or nuisance impacts.

There are many instances in this poorly written DEIR where the lack of specificity makes vague projects potentially significantly incompatible with the Sweetwater National Wildlife Refuge, the F&G Street Marsh, the J Street Marsh and/or the mud flats along the shore. The potential for severe nuisance impacts by Gaylord, the Signature Park, roads and pedestrian trails is huge and there are no specific design guidelines guaranteed and adequately described to prevent them.

The guidelines for allowing a private entity such as Gaylord to lease 39 acres of public trust lands are:

1. The structure must directly promote uses authorized by the statutory trust grant and trust law generally.
2. The structure must be incidental to the promotion of such uses.
3. The structure must accommodate or enhance the public's enjoyment of the trust lands.

The Gaylord RCC will cause the destruction of the CVRV Park, which is a source of relatively low cost enjoyment of the tidal lands for many residents and visitors in Chula Vista. The structure of Gaylord's RCC is not incidental to the promotion of the RCC uses, just the opposite it is the source of all the uses. The structure may enhance the enjoyment of the people who can afford to stay at the resort, but it definitely degrades and inhibits the enjoyment of the many people whose views will be marred by the massive size of the buildings. It also negatively impacts the numerous people who will be stuck in traffic jams on I-5 due to the construction and operation of the buildings. The operation will also result in negative air quality impacts which will cause an increase in diseases in a large number of people, which will inhibit greatly their enjoyment in the future of the state tidelands.

Actually if number of people are counted, most likely more people over greater periods of time will be negatively affected by the Gaylord structures than will have their enjoyment enhanced. The DEIR says Visual, Air Quality and Traffic are unmitigatable negative impacts of the phase I projects. These projects need to be redesigned to reduce the impacts in all these areas. It is a violation of the public trust doctrine for the port to take over-riding considerations for impacts as severe as those mentioned in the DEIR.

There are other impacts as well that may possibly be mitigatable but the lack of detailed description for these projects leaves the matter in grave doubt.

The land trade does meet the conditions of the public trust described on page 4.1-37, but the statement: *the transfer of up to 97 acres of land (Parcels S-1, S-3, SP-2, SP-3, and most of SP-1 and S-2) in the Sweetwater District from a private developer to the Port, in exchange for up to 33 acres of land (Parcels H-13, H-14, H-15, and HP-5) in the Harbor from the Port to a private developer.* leaves the reader wondering just how much land is involved in this trade. Shouldn't this have been agreed upon by now? How can the Port expect a decision from SLC when the language in the DEIR is so vague?

1. The Proposed Project would have a significant impact if it conflicts with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including but not limited to the general plan, specific plan, local coastal program, master plan, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.

There are a number of Coastal Act Sections and Chula Vista General Plan Sections that the project as described in the DEIR does not appear to conform with. The lack of specific detail in the DEIR could be part of the problem, but at the project level there needs to be sufficient detail to resolve these issues, and there clearly is not.

The Coastal Act

The Coastal Act clearly requires: 30213 *Lower-cost visitor and recreational facilities shall be protected, encouraged, and provided where feasible, and public recreational opportunities are proposed. And Sections 30210-30212 of the Coastal Act require that public and recreational opportunities be provided for all the people, that development not interfere with the public's right of access, and that new development provide public access to the shoreline.*

There is no question that more park and open space land is being *proposed* (without any means identified for paying for their construction, much less maintenance) but existing low-cost visitor and recreational facilities have not been protected and will be destroyed or at the very least modified.

There is no guarantee or set timeline for the elimination of the SBPP, but it is proposed that the CVRV Park be destroyed upon approval of the project. This means all the people who would have used this park will not be able to for many years, if ever again.

Also 200 slips will be eliminated to provide a tiny space that likely will be inadequate for the number of uses proposed in the marina and many boaters will have to find other places for their boats for long periods of time during construction and redesigning of the marina. Many of these people live on their boats. Others park their boats here so that they can participate in low cost marine recreational activities. They will be displaced for an uncertain amount of time. The Southbay Boat Yard is a maritime use that has the highest priority for preservation. A replacement location has not yet been found and may never be (or does the Port plan on kicking them out at the end of their lease?).

Unspecified changes are proposed for the existing heavily used parks on the bayfront. There are unspecified impacts to them that will prevent their use for various periods of time.

The DEIR makes clear that the new park facilities will only be provided "as funds become available," which could easily be never. Low cost recreational and visitor facilities will be lost definitely but will be replaced "as funds become available." This is not the intention of the Coastal Act. The two existing restaurants will be demolished, but other than the very expensive restaurants within Gaylord's RCC it will be some time before new lower cost restaurants for visitors and residents will be available, if ever.

Gaylord will be on 39 acres. While they certainly will allow the public to walk through their plazas and spend money at their nightclubs, restaurants and stores, it is doubtful the public will get to use the pools and fitness club and spa. Most likely, if they have a full house, priority for seating in all

venues will be for guests at the hotel. Will the public have greater access or less? Their prices will probably be restrictive as well.

30222 Private lands suitable for visitor-serving commercial recreational facilities designed to enhance public coastal recreation shall have priority over all other development, except agriculture and coastal dependent development or uses. There will be a land exchange and the private land will be used for 1500 condominiums. There is a possibility enough land will be included in the trade for a hotel, but this is not something that is definitely stated in the DEIR. Port lands are designated for commercial recreational facilities of an unspecified nature, private lands are not. 14 acres of them are to be private condominiums. Other acres are for a grocery store and retail to serve the residents. This is not coastal dependent development.

30224 Encourages the increased recreational boating use of coastal waters and specifies methods to increase such usage. If the Southbay boatyard moves there will be the same number of slips that there now are, but in reality the current plan reduces the number of slips by 200 for at least the short term, if not permanently. The parking for the boat launch ramp is to be reduced by 25 spaces, which could mean fewer people will be able to use it. The amount of open water space at HW-2 is being reduced. The navigation Channel is being straightened which may benefit some boaters. The boating center is a big IF, if somewhere is found to relocate the SouthBay Boat Yard and if someone comes along willing to pay for it. The word "could" is used in the description, which cannot be counted on.

30230 Provides that marine resources shall be maintained, enhanced, and, where feasible, restored.

No where in the DEIR is there a commitment to enhancing or restoring marine resources unless they have been damaged in some way by the project, in which case only the minimum amount is restored to mitigate at a minimal level. The long range consequences to the sea turtles, benthic organisms, eel-grass, the bay and resources of the Wildlife Refuge of the massive amount of intense development planned, but poorly described, are pretty much ignored. There is no interest expressed in restoring the seasonal wetland to a marsh by restoring its connection to the F&G Street Marsh, and the 400- foot ecological buffer is delayed until phase II with no fence and a plan to build "as funds become available." This project as poorly described in the DEIR is not maintaining, enhancing or restoring marine resources. The building of a pier and the dredging of a new channel also involve more destruction of habitat, which is only replaced at minimal levels and do alternatives are analyzed.

30231 Specifies that biological productivity and the quality of coastal marine and wetland habitat needed to sustain optimum populations of marine organisms, and to protect human health, shall be maintained and, where feasible, restored.

There are many impacts to marine organisms and coastal marine and wetland habitat as well as acknowledgement of on-going impacts during operation, but there is no specificity and clear commitment to prevent these impacts through specific improved design features, enforced rules and regulations or restoration of increased habitat to allow animal migration further from area of impact. Water Quality BMP's are standard, but IPM everywhere, specific anti-bird strike design features, specific noise and light impact avoidance practices, etc. are missing from the DEIR. There are way to many could, may and possibles to provide certainty of protection of anything and the opportunity to restore the Telegraph Channel is specifically rejected.

30240 Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values. *Section 30240 of the Coastal Act provides for the protection of environmentally sensitive habitat areas by restricting uses within, or adjacent, to such areas.*

The land trade does remove the residential from the Sweetwater District, which would have been very detrimental to habitat values, but the development planned for this district is still too intense. An 18 acre park with absolutely no design guidelines, over 2,000 parking spaces, and numerous possible unspecified uses has the potential to attract many people and their pets and attract predators and excessive trash.

There is no Resource Management Plan, no predator control plan, no ranger to patrol, no rules, no specific design, no limits on hours or activities, the possibility of numerous buildings, etc. The park is not described at a project level so it is impossible for the public or the coastal commission to determine what the impacts will be to the numerous sensitive habitats in the area. ([**232] VI. *Prejudice*

(27) "[HN28] When the informational requirements of CEQA are not complied with, an agency has failed to proceed in 'a manner required by law.'" (*Peninsula, supra*, 87 Cal.App.4th at p. 118.) If the deficiencies in an EIR "preclude[] informed decisionmaking and public participation, the goals of CEQA are thwarted and a prejudicial abuse of discretion has occurred." (*Id.* at p.128.)⁵

There are also four other uses: a 100-space parking lot for the Nature Center, a 100 foot high 750 room resort hotel with 750 parking spaces very close to the refuge and the F&G Street marsh, a 125 foot high office building with 480 parking spaces adjacent to the Refuge and a mixed use office and commercial recreation building with another 350 parking spaces.

2,196 parking spaces is a huge increase in impermeable surfaces and a likely producer of additional heat. There is no mention of using permeable surfaces or specific vegetation plans for reducing heat from pavement.

The buffer will be built without a fence in Phase II when “funds become available,” but the park with its parking lot and the Nature Center Parking lot will be in phase I.

There are no specifications as to how bird flushing will be prevented. The F&G Street marsh may be shaded by the RCC. The two- day study was based upon the current plan, which is not finalized. The final location of the buildings needs to be determined by building plans before the shading situation can be resolved. There is also the issue of the cutting off of breezes by these massive buildings, which will likely affect the temperature of the F&G Street marsh. This was not analyzed in the DEIR. There are no specific design features committed to to prevent bird strikes.

The marsh will also be subjected to light from the 24- hour uses in the hotel. There are no specific restrictions on fireworks, light or laser shows.

Noise and light are not specifically controlled by any specific restrictions on operation. It is unclear what protection is provided if any for the mud flats.

The seasonal wetland is not being enhanced and joined to the F&G Street marsh. Lagoon Road has not been removed and replaced by some kind of a bridge to allow tidal flushing of the seasonal wetland.

Telegraph Channel is not being restored to a more natural state. There is a fence in the Otay District to protect the J Street marsh, but it is not specified it will go around the entire District to protect the sensitive habitats on the north, south and west sides. There is no fence on the north side of the marsh now or apparently in the future, even though many more people will be using this area. The incredibly massive development in Phase I is only the start, but the long term consequences to the multiple sensitive habitats has not been adequately addressed by the DEIR.

30250 New residential, commercial, or industrial development shall be located in close proximity to an area with adequate public services that will not significantly affect coastal resources.

It is not true that all impacts to public services will be mitigated below the level of significance. Libraries are out of compliance now with threshold standards. There is a deficit and will be until another library is built. Over 3,000 new residents will make this worse.

The police are out of compliance for level 2 calls and have been for years. Over 3,000 new residents will make this worse. The project requires between 7 and 10 police officers more, but the city will receive no new General Fund money to pay for them.

The DEIR says that Cumulative Energy will be an unmitigatable negative impact of this project. There are not adequate public services. Bad Air Quality will negatively impact people’s health requiring more health services. There will be a need for more sewer capacity, water and streets. Some of these will be paid for by fees from the residential development, but is unclear who will pay for the rest.

⁵ BAKERSFIELD CITIZENS FOR LOCAL CONTROL, Plaintiff and Appellant, v. CITY OF BAKERSFIELD, Defendant and Respondent; PANAMA 99 PROPERTIES LLC, Real Party in Interest and Respondent. BAKERSFIELD CITIZENS FOR LOCAL CONTROL, Plaintiff and Appellant, v. CITY OF BAKERSFIELD, Defendant and Respondent; CASTLE & COOKE COMMERCIAL-CA, INC., Real Party in Interest and Appellant. F044943, F045035 COURT OF APPEAL OF CALIFORNIA, FIFTH APPELLATE DISTRICT 124 Cal. App. 4th 1184; 22 Cal. Rptr. 3d 203; 2004 Cal. App. LEXIS 2121; 2004 Cal. Daily Op. Service 10918; 2004 Daily Journal DAR 14768; 34 ELR 20153

The DEIR says a fire station will be built and staffed by 7 fire persons 24/7, but the funding for this station and the staff is in great doubt. A very large bond issue may pay for some of this, but cannot pay for salaries.

30251 Scenic and visual qualities of coastal areas shall be considered and protected. To protect such resources, development shall minimize the alteration of natural landforms, be visually compatible with the character of surrounding areas, and, where feasible, restore and enhance visual quality in visually degraded areas

The DEIR states that Visual/Aesthetic is an unmitigatable negative impact of this project. This is because of the loss of bay views from large areas of the city of Chula Vista, parts of Imperial Beach, Silver Strand, the Nature Center and the freeway coming into Chula Vista as well as from J Street to L on the freeway. The mass and height of the buildings are to blame. A redesign is possible but a choice was made to maximize profit and ignore the scenic and visual qualities the ordinary people cherish. The Mass and height of the residential and RCC are totally out of scale with the character of the surrounding areas.

30252 Provides that the location and amount of new development should maintain and enhance public access to the coast by:

- 1) Facilitating public access to the coast by the provision or extension of transit
- 2) Minimizing the use of coastal access roads for commercial facilities
- 3) Providing non-automobile circulation
- 4) Providing adequate parking or alternative public transportation; auto internal circulation
- 5) Ensuring the potential for public transit for high intensity uses
- 6) Ensuring that new development will not overload nearby coastal recreation areas.

The DEIR says that there will be an unmitigatable negative impact on freeway traffic caused by this project. This in and of itself violates this provision of the Coastal Act. The majority of the internal road use is for commercial purposes (hotels, commercial recreation, retail, offices, business industrial). The RCC is not a water dependent use nor is the signature park with its expected retail nor is the residential with its resident serving retail. There is pedestrian and bicycle circulation, but the Green Line Shuttle is not going to be provided until "funding becomes available," which may be never. There is no **assurance** of additional public transit.

30253 3) Be consistent with San Diego Air Pollution Control District (APCD) requirements The DEIR says that the project will create unmitigatable Air Quality impacts for construction and operation. 4) Minimize energy consumption and vehicle miles traveled The DEIR says that the project will have an unmitigatable cumulative negative effect upon energy.

30260 Coastal-dependent industrial facilities shall be encouraged to locate or expand within existing sites and shall be permitted reasonable long-term growth where consistent with this division. This project proposes to relocate, if possible, the Southbay Boat Yard and implies it will not renew their lease in 2020.

30708 Provides environmental standards for the siting, design, and construction criteria of all port-related developments. Requires that all port-related developments be located, designed, and constructed so as to:

- a) Minimize substantial adverse environmental impacts. b) Minimize potential traffic conflicts between vessels. It would seem that in caving into Gaylord the Port chose to ignore the environmentally less adverse alternative H-23 for their site and allowed them to locate at R-3 much closer to sensitive environmental resources with no specific project design features guaranteed to reduce the negative impacts to be expected. The analysis of the Harbor Park alternative is totally inadequate and inaccurate. In reality the development in the Sweetwater District in the Harbor Park alternative would be less potentially damaging to the Wildlife Refuge (if the commercial recreation was reduced to 120,000 square feet as in the Sweetwater Park alternative) than the development planned for the Sweetwater District under the Sweetwater Park Plan. The fire station is needed by the residential and the RCC and would need to be built whether the Sweetwater or the Harbor park Alternative were adopted. (It is new, not having been discussed by the CAC.) The 400 foot Ecological Buffer in the Sweetwater District is scheduled for Phase II as funds become available. b) Why does the port think that with less space to maneuver with the new configuration of the slips in the marina there will be less and not more conflicts between vessels?

Inconsistency with City's General Plan

E2, E2.2 Pursue safe alternatives to traditional pest management methods in order to reduce toxics in urban runoff and large open uses of land (e.g., golf courses, parks, and agricultural lands). **There is nothing in the DEIR stating that IPM techniques will be used, except for parks. This policy is very specific to pest control.**

E3.3 Where safe and feasible, promote and facilitate the continued use of recycled water in new developments, and explore opportunities for the use of recycled water in redevelopment projects. **No where in the DEIR is it specifically stated that rain cisterns or any other means of collecting water for reuse will be used in the residential development under the city's jurisdiction or in the building to be built on city land in the Sweetwater District. There are re-watering systems that can be installed during construction that would be very feasible especially for the non-residential buildings.**

ED 7.1 Improve traffic flow and transportation linkages between the downtown, Bayfront, southwestern, and eastern areas of the City. Add additional travel lanes where warranted, revise signal timing to improve traffic flow, and consider additional freeway crossovers, where necessary. **The DEIR says that there is a significant unmitigatable negative affect from this project on Freeway Traffic. The project obviously will make traffic flow linkages worse, not better. With one exception all changes to lights, signs and traffic lanes occur on the Bayfront and will not improve traffic flow or linkages between the rest of the city and the Bayfront.**

LUT 13.1 Identify and protect important public viewpoints and viewsheds throughout the Planning Area, including features within and outside the planning area, such as mountain, native habitat areas, San Diego Bay, and historic resources. **The massing and height of the proposed residential buildings in the city's jurisdiction cause unmitigatable negative impacts to visual/aesthetics according to the DEIR. The freeway view of the Bay from J Street overpass to L Street will be obliterated by these buildings. The view from homes that now have a Bayview will be changed to one of tall buildings. The SBPP at 187 feet is visible from a great distance. These residential buildings will go as high as 220 feet. They will be visible from numerous places in the city. The proposed hotel on H-23 will also be 300 feet as will Gaylord's tower. From many places on the ground in the project area only buildings will be visible.**

LUT 14.3 Plan for high-capacity regional freeway and Transit First! facilities to adequately serve the regional travel demand resulting from the land uses associated with adjacent areas. LUT 15.5 Develop a convenient, destination-oriented shuttle system within the City that links activity centers, recreation opportunities, and other appropriate important destinations. **Ensure** that such a system is environmentally friendly, affordable, and accessible and connects Downtown Third Avenue, the Civic Center, H Street, and the Bayfront. **There is no funding to provide a shuttle service for these homes or for improved opportunities for public transit. Guessing that vanpools etc. might be investigated does not implement this policy or "ensure" anything. The Green Line Shuttle is mentioned as an unfunded possible future amenity. The freeway Traffic is found to be an unmitigatable negative impact. No funding has yet been identified for freeway improvements, trolley crossing improvements or increased transit.**

LUT 18.5 Implement Transportation Demand Management (TDM) strategies, such as carpooling, vanpooling, and flexible work hours that encourage alternatives to driving alone during peak periods. 18 LUT 18.6 Encourage employer-based TDM strategies, such as employee transportation allowances, preferential parking for rideshare vehicles, workplace-based carpool programs, and shuttle services.

This has not been implemented in Chula Vista. Nowhere in the DEIR does it say this will be implemented as part of the residential development. The city has no ordinance or written policy to encourage these things at this time nor are they being discussed.

LUT 20.2 Protect rights-of-way where possible to facilitate future transit service and support the development of secure park-and-ride lots within walking distance of transit stations. **The DEIR does not include bus turnouts in the ROWs for the new roads, only pedestrian and bicycle trails.**

LUT 5.13 Higher-density residential and mixed-use residential/commercial development should be designed to: 1) Create a pleasant walking environment to encourage pedestrian activity; 2) Maximize transit usage; 3) Provide opportunities for residents to conduct routine errands close to their residence; 4) Integrate with surrounding uses to become a part of the neighborhood rather than an isolated project; 5) Use architectural elements or themes from the surrounding neighborhood; and 6) Provide appropriate transition between land use designations to minimize neighbor compatibility conflicts.

There is insufficient detail and no architectural plans in order to be able to evaluate whether these statements are true. There are currently no architectural elements known. It is impossible for the public to know whether or not the project will conform to this LUT without the addition of detailed

architectural plans, which are required in a project level EIR. Also it appears the project will be isolated on the bay front, having its own grocery and other retail stores. The exception will be schools.

PFS 5.4 Provide adequate law enforcement staff and equipment pursuant to Police Department strategic plans to meet established service standards. The police department has not met its Priority 2 threshold for many years, adding another district to police is likely to worsen not improve response times. It is uncertain how the city will pay the salaries of additional officers.

Page 4.1-111

First note of specific interest: This is an extremely unclear paragraph. What “service road” is being referred to? The road to the Nature Center? This does not extend from the “end of E to the D” as stated.

Second bullet “a minimum of” should say “at least.”

Fourth bullet. Hopefully this does not mean the elimination of the sandy beach and replacing it with a paved promenade. The promenade belongs along the east side of the existing park, leaving the beach for people wishing to walk or lie on the sand. This is the only beach in Chula Vista, ruining it with a paved promenade is not acceptable. On the south side there already is a paved promenade that is very pleasant and should remain, but paving the sand is not acceptable. This beach area is now used by wading birds as well as people, but is a popular spot for not only the residents of the RV Park but the residents of Chula Vista as well.

The private shuttle has nothing to do with the city and is not an amenity to anyone except the private employees of the private Gaylord. Why it is emphasized is unclear.

Finally the Green Line Shuttle should not be proposed but actually funded. It is not a part of the project until funding responsibilities are determined and it is provided to the public.

MSCP

Overall development within the Project Area including public facilities and circulation shall be located to minimize impacts to Sensitive Biological Resources in accordance with this chapter of the Chula Vista MSCP Subarea Plan and the MSCP Implementation Guidelines.

The closeness of the Gaylord RCC to the F&G Street marsh seems to be in conflict with this provision, especially since H-23 is an option that would minimize the impacts and has been ignored. The location of a 100- foot tall hotel in S-1 and a 125 foot office building in S-4 also do not conform to this provision. The hotel is 40 feet higher and has 400 more rooms than the one proposed in the Harbor Park alternative. The land trade does meet this objective.

3. The Proposed Project would have a significant impact if it creates a substantial land/water use incompatibility with adjacent or nearby existing and proposed land uses, resulting in significant incompatibility or nuisance impacts.

This section does not discuss the proposed resort hotel on S-1 and the office building on S-4 or the commercial/recreational use on S-3. These uses all, due to their proposed bulk and height, have great potential for significant incompatibility and/or nuisance impacts with the NWR and the seasonal wetland S-3 from noise, light, bird strikes, raptor perching, etc. The buffer unfortunately is useless as described because 1. It is not in place before construction starts, 2. There is no funding identified for it and it is stated that it will be implemented “as funding becomes available” and 3. There is no fence to effectively prevent human and animal intrusion upon sensitive habitat. The park as stated elsewhere has a huge potential for negative impacts. The 2,196 parking spaces in the Sweetwater District could also have a significant negative impact.

PMP Goals

Doesn't simply taking over-riding conditions violate these goals of the PMP?:

Goal VIII The Port will enhance and maintain the Bay and tidelands as an attractive physical and biological entity.

Maintaining a 100- foot ROW for H Street simply does not maintain sufficient view corridors, nor does it maintain panoramic views or vistas, just the opposite. There is the question of the function of the RCC buildings as well: function should be integrated with and related to the site and surroundings of that activity. We don't know the actual final design of the buildings but what has been shown does not come close to integrating with the wetlands and marsh adjoining it. It also does not integrate at all with the marina. Instead it towers over these features and in the case of the wetlands could cause long-term negative impacts without more specific design features.

General Plan Objectives, LCP

Objective LUT 9 Create enhanced gateway features for City entry points and important other entries, such as to special districts. This specifically requires a Gateway Master Plan with specific design guidelines and public amenities. The city has not written such a plan or any specific design guidelines; so this project could not possibly conform to this goal.

Ensure that buildings and related site improvements for public and private development are well-designed and compatible with surrounding properties and districts. Since the DEIR has no specific designs for these buildings it is impossible to know if they will be "well-designed." Also since there are no design guidelines it is impossible to define "well-designed." As far as compatibility goes the mass and height of the Phase I projects are clearly not compatible with their surroundings, which is the criteria being used to declare the unmitigatable negative impact in this area. This means they are inconsistent with this GP principle as well.

Objective LUT 13 Preserve scenic resources in Chula Vista, maintain the City's open space network, and promote beautification of the City. There is inadequate protection in the current DEIR to preserve the scenic resources of the Wildlife Refuge and no funding or protections to maintain the important open space areas on the bayfront. Areas are declared open space, but there is no plan to fund management and lack of a specific management plan.

LCP, **Objective VW.1:** Plan and develop the Bayfront to ensure provision of important views to, from, and within the project area.

The proposed finding of unmitigatable negative visual impacts essential declares this is not being done.

Chula Vista Bayfront Specific Plan, Chula Vista Municipal Code 19.85.006

View Points: Development of the Bayfront shall ensure provision of three types of views:

1. Views from the Freeway and Major Entry: Ensure a pleasant view onto the site and establish a visual relationship with the Bay, marshes, and Bay-related development.
2. Views from Roadway within the Site (particularly from Marina Parkway, to the marshlands, Bay, parks, and other Bay-related development): Locations shall preserve a sense of proximity to the Bay and marshlands.
3. View from the Perimeters of the Bayfront Outward: Views which are primarily pedestrian-oriented, stationary, and more sustained should be experience from parts of the open space and pathway system and enable viewers to renew visual contact at close range with the Bay and marshlands. The Pacifica skyscrapers and the resort hotels' towers will destroy a visual relationship with the bay and marshes from the freeways and major entry points. Pedestrians will be over-whelmed by the size of many of the buildings and not able to see beyond the buildings. There will be no views of the bay from the east perimeters. The view from the Nature Center will no longer include the San Ysidro Mountains.

4.4-84 It says a gateway plan will be developed for E and H Street but it does not say the applicant will do it, so exactly what entity is responsible for this and exactly what funds are to be used to pay for it and clearly it won't happen before construction takes place?

4.4 Aesthetics/Visual Quality

Actually the bay is now visible from the freeway from J Street to L Street exit until the power plant blocks the view. It is also visible coming from National City to 54 and as mentioned from the 54 on ramp. What have been ignored are the spectacular views from several schools, streets and many homes in Chula Vista. People are quite fond of these views and replacing them with buildings is an extreme negative. It also will depress the value of the homes, which now have Bay views but with these high buildings will only have views of buildings. The DEIR admits this is an unmitigatable negative

effect of the project. Redesigning the buildings to be less massive and more compatible with their environment is an option, but it would cut into profits.

Air Quality

The impacts will be significant and unmitigatable even after mitigation. This is not acceptable to those of us who must bear the increased negative health effects of this poor Air Quality. This is a good indicator that excessive development is planned for this area. It would be interesting to analyze how much development would need to be cut in order to get Air Quality below the level of significance.

There is a failure to correlate adverse Air Quality impacts to resulting adverse health impacts. *The DEIR has omitted relevant information when it concludes that there is no available mitigation for the projects adverse Air Quality impacts but fails to correlate the identified adverse air quality impacts to resultant adverse health effects.*⁶

This is particularly troubling considering that the two local hospitals have been losing millions of dollars per year from the treatment of under-insured and uninsured people, and the high number of retail and hotel uses in the project will result in thousands of low wage employees who, if they will have insurance, probably will not have adequate coverage. [MediCare reimbursement in San Diego County](http://www.signonsandiego.com/news/northcounty/20060108-9999-1n8cuts.html) (<http://www.signonsandiego.com/news/northcounty/20060108-9999-1n8cuts.html>) is one of the lowest in the state and not adequate to cover the cost of treatment.

[UCSD plan to consolidate hospitals draws fire | ER would stay in Hillcrest; acute care to go to La Jolla; \[7,1,2,6 Edition\]](http://www.signonsandiego.com/news/metro/20050203-9999-2n3ucsd.html)(<http://www.signonsandiego.com/news/metro/20050203-9999-2n3ucsd.html>)

Cheryl Clark. The San Diego Union - Tribune. San Diego, Calif.: Feb 3, 2005. pg. A.1

This has the potential of being a huge significant negative impact, which is not even mentioned in the DEIR, and case law indicates must be fully analyzed.

Protecting the Aquifer:

There is so much contamination in the soil⁷, and our potable water aquifer is only 200 feet down in the ground. It says often that there will be no permanent dewatering anywhere on the Bayfront. This is good. What is not clear is how footings deep enough to support these high buildings in earthquakes, that can cause liquefaction of the fill land even if a layer above is compacted can be dug without contaminating the deeper aquifer. Since the level of the highest aquifer is 5 feet or even less, how exactly is permanent dewatering going to be prevented? These issues are mentioned but they are certainly not analyzed in any depth. The public has the right to know this information, because it is our future potential water supply that is being threatened, and the quality of our bay water.

Green House Gas

TABLE 4.6-27 This table deals with Gaylord. It is commendable that a gray water system shall be incorporated. It is unfortunate the commitment is only to 20% reduction in water use, but at least there is a real commitment. *The Project shall be designed with sustainable design features within the building that will result in energy efficiency to the extent possible. This shall be incorporated into the building design phase.* It is unfortunate language such as “to the extent possible” is used instead of to some measurable level. This sentence clearly indicates that the building has not yet been designed. This would indicate it is not a project level EIR. It is inadequate that the commitment is for only 15% over Title 24 instead of at least 20%. It is unclear why

⁶ [***67] *V. Failure to Correlate Adverse Air Quality Impacts to Resulting Adverse Health Impacts* BAKERSFIELD CITIZENS FOR LOCAL CONTROL, Plaintiff and Appellant, v. CITY OF BAKERSFIELD, Defendant and Respondent; PANAMA 99 PROPERTIES LLC, Real Party in Interest and Respondent. BAKERSFIELD CITIZENS FOR LOCAL CONTROL, Plaintiff and Appellant, v. CITY OF BAKERSFIELD, Defendant and Respondent; CASTLE & COOKE COMMERCIAL-CA, INC., Real Party in Interest and Appellant. F044943, F045035 COURT OF APPEAL OF CALIFORNIA, FIFTH APPELLATE DISTRICT 124 Cal. App. 4th 1184; 22 Cal. Rptr. 3d 203; 2004 Cal. App. LEXIS 2121; 2004 Cal. Daily Op. Service 10918; 2004 Daily Journal DAR 14768; 34 ELR 20153

⁷ Fact Sheet #1 for Goodrich Aerostructures Group 850 Lagoon Drive Chula Vista, California; 11/06, RWQRB

the commitment is only 15%, but “the applicant’s duty” is stated as to reduce by 20%. **TABLE 4.6-31** This table deals with Pacifica. Where is the access to mass transit? There is no Green Line shuttle bus, and J Street is rather far from the H Street trolley as is C Street.

“shall strive for 50 percent reduction” is not a commitment to actually achieve a 50% reduction in water use, and 50% is still a lot of extra water, requiring a lot of energy..

LEED certification and over Title 24 commitments are good starts, but both projects need to commit to much more in this area, such as the production of a significant amount of the energy required by the projects.

This entire analysis is totally inadequate, because it ignores the largest source of Green House Gas-idling cars in traffic jams. The DEIR acknowledges that the traffic on I-5 will be F or highly congested. It reclassifies roads to level D (minimal to substantial congestion). This source of Green House gas is an unmitigatable result of this project and the GPU. Therefore Green House Gas is also an unmitigatable impact.

Diesel-powered construction equipment used in the project as well as operational use of water and energy can be sources of emissions and must be included in the analysis. This has not been adequately analyzed in the section on Green House Gas emissions. The city of Chula Vista has a threshold of returning to 1990 emissions. They are currently 35% above this. Merely reducing emissions in operation below “business as usual” does not get emissions down to 1990 standards. [The amount of traffic generated by the project must be considered in the analysis as well.](http://www.northbaybusinessjournal.com/article/20080714/BUSINESSJOURNAL/588823600/1209) (<http://www.northbaybusinessjournal.com/article/20080714/BUSINESSJOURNAL/588823600/1209>)

Noise

The biggest problem with the noise analysis is that it mostly analyzes traffic noise. The operational/housekeeping functions of Gaylord appear to be relatively close to the F/G Marsh and HP-11. Certainly figures must be available from an existing Gaylord of approximately this size, which could be used to estimate the noise to be expected from the trash handling, loading and unloading and other activities that will take place here. There also appears to be a surface parking lot adjacent to HP-11. Another source of noise not dealt with could be the nightclubs, entertainment, activities for guests, etc. This is particularly important since nowhere does it state that outdoor music concerts, fireworks, laser and light shows, jet-skis, etc. will be prohibited. Exactly what is to be allowed and what is not to be allowed needs to be committed to and the impacts fully analyzed at the project level. Will the nightclubs be sound proofed and will the doors and windows be closed or will the noise spill out into the plazas? Will there be musicians in the plazas? What activities exactly will be allowed in the plazas? These things must be known and possible impacts (especially light and noise) must be analyzed. Even exactly where the nightclubs will be is not known at this time.

The noise impact of the nightly freight train needs to be analyzed as well both for hotel guests and residents. It will blow its horn almost continuously from before E until after H. This will likely be heard at 3 AM nightly by hotel guests and residents. Effects on sleep:

<http://www.nonoise.org/library/whonoise/whoresponse.htm>

4.7-33 A noise level of 84 dB Leq at 50 feet would be at the F&G Street marsh. This is for construction noise and is very significant. Why the report is measuring it 800 feet away at the rest of the Wildlife Refuge is uncertain. Also the inlet is being ignored, which is a significant habitat that must be protected from excessive noise as well as wetlands HP-11.

Terrestrial Biological Resources

The surveys show that there are many habitats in the project area that are inhabited by a variety of species. Many of the habitats are quite degraded, but the reality is that these animals do not have readily available alternatives. The non-native grasslands in the Harbor, Otay and Sweetwater Districts

that will be destroyed by this project must all be mitigated for. This does not appear to be the case from the text.

Buffers

Figure 4.8-11 shows the extension of F will impact the jurisdictional wetlands in two places. This is totally unacceptable. There is supposed to be a 50- foot minimum buffer around this wetlands. The road does not need to be straight it could easily avoid these impacts, which is required by CEQA.

Page 4.8-107 *The City MSCP Subarea Plan addresses Adjacency Management Issues in order to reduce indirect impacts associated with development adjacent to the Preserve areas. As described in Chapter 3.0, Project Description, a 400-foot-wide ecological buffer would be established within the Sweetwater District, and a 170- to 200-foot-wide ecological buffer would be established in the Otay District as part of the Proposed Project design. In the eastern portion of the buffers, a foot path would be provided for pedestrian use. A series of staggered berms within the Sweetwater District would serve as a barrier between the human users of recreation facilities and the sensitive wildlife in the nearby marsh habitat. The berms within the ecological buffers would also serve to reduce the amount of noise that may be disruptive to the sensitive species within the marshes.* This passage makes clear the buffers are Project Design Features to address adjacency issues. Their design, including the restoration of habitat, fencing, blocking light, shielding the presence of humans, keeping out domestic animals, etc., is intended only to help avoid adjacency issues. They must include sturdy fencing and they must be installed before construction starts or they will not serve their intended purpose at all.

It is also inaccurate to call the buffer zone an “ecological buffer” when so little habitat is to be restored and human access is allowed in half of it. Saying that trespassing laws will be strictly enforced will not make it so. Funding must be included as development mitigation to pay for enough full-time equivalent ranger/guide/security positions to provide seven day a week full daytime enforcement. After hours when parks are closed would be responsibility of the Chula Vista Police Department or a nighttime ranger? The buffer zones need to be worked out in detail with the USFWS before a project level EIR can be done for them, and they must be in effect before Phase I construction starts or they will not be able to serve their purpose.

The Port also needs to finally implement the policy it agreed to as a condition of its last PMP amendment and transfer the tidal flat west of Gun Powder Point to a responsible agency. (*“As part of the environmental review for the proposed land and water use change, the Port has agreed to enter into a cooperative agreement to protect and/or enhance, where appropriate, this sensitive biological wetland habitat.”* (Staff Recommendation on the San Diego Unified Port District Port Master Plan Amendment No. 32 (South Bay Boat Yard) CCC staff report, p. 1, Nov. 16, 2001)) The mud flats along the Sweetwater and the Harbor Districts (near Bay Front Park) should also be transferred at the same time.

Building Shading: Port and City Jurisdiction

Shading studies were conducted during Summer and Winter solstices. This is probably not adequate. It is not conclusive as regards the RCC because a final design still has not been reached. It is still unknown exactly where these buildings will be located on the R3 site. This will not be known until an architect finally draws building plans. This is another reason why there is inadequate information for a project level DEIR. H3 directly abuts HP-11, which flows into the F&G Street marsh. Shading cannot be ruled out at this point.

Pacifica still does not even know the height of its buildings, because no decision has been made about the L Street ditch. The fact that shading was shown by the study indicates an impact. Any impact should be mitigated. Why was it dismissed as insignificant? Insignificant is when a mobile source passes by occasionally, not when a building shades for several hours a day. Also what is the impact on this wetlands of all the traffic on A and C Streets day and night with headlights?

4.8-128

There is an impact to a jurisdictional wetland that has not been minimized and avoided. SP-2 is still separated from the F&G Street Marsh. Lagoon Road needs to be removed and replaced with a bridge. The tidal connection between the two marshes needs to be restored.

Telegraph Canyon Channel must be naturalized. Adding more cement even with 10 feet of vegetation in the bottom does not protect or enhance this wetland in anyway, just further degrades it.

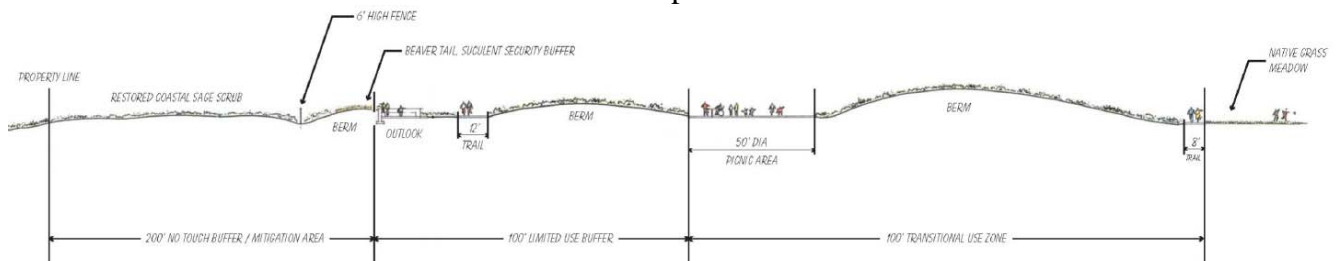
4.8-132: The Proposed Project would have a significant impact if it interferes substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impedes the use of native wildlife nursery sites.

It is incorrectly stated that there are no migratory wildlife corridors. The entire undeveloped area in Otay and in the Midbayfront area have been being used by small mammals, reptiles and insects for years. The migratory birds that are in this area in Fall and Spring all use the entire project area to move from one feeding area to another. It is on the Pacific Flyway, a migratory wildlife corridor).

The online monitoring programs show the Sea Turtles use the entire bay including especially the south bay for feeding. They are grazing animals that move through these waters frequently. Fish obviously also use the bay as well as other aquatic organisms. The burrowing owl nesting on the property leased to the SBPP obviously uses the Otay area for foraging. This entire project will have a significant impact upon all these creatures. This must be acknowledged and sufficient time taken in making any changes maximized to assure that impacts are minimized. Where did four phases and 24 years come from anyway? Is it possible that this is not the appropriate amount of phases and years?

4.9-149 buffers

It says the buffers will be created and maintained by the city and Port, but again no funding source is identified. The entire 200 foot western part of the buffer needs to be restored and enhanced habitat. This is a project feature. The habitat outside of the preserve would afford the public a great educational opportunity as well as provide additional habitat to compensate partially for the numerous direct and indirect impacts of the rest of the project. As stated elsewhere this is a design feature providing mitigation for some of the adjacency issues of the projects in Sweetwater District. This restoration and the construction of the buffers must precede the construction of other features in order to



have maximum value as a buffer. This buffer must include a fence, and once the fence is in place access will not be possible. Restoration must be done during construction. This design could work as long as the fence was chain link or something similar that would keep out domestic animals and humans. Prickly Pear Cactus, Fish Hook and Coastal Cholla would be better choices for cactus, since Beaver Tail often does not have obvious spines. The drawing obviously is way out of scale, but the 6' fence is in the wrong place. It is clearly stated in the DEIR that the fence will be outside of the no-touch zone not inside it. Please correct the drawing.

Hopefully Native Grass Meadow does indeed mean that native grass will be used in the Signature Park. There is a native Fescue (Native to northern California) that appears very similar to lawn grass. Salt Grass would ecologically be more appropriate for this area. The bike trail and the picnic area cars and more convenient for people. Who is going to pay for the daily trash pick-up?

The Port may not have any ordinances protecting biological resources; however, policies in the Port Master Plan, such as Goals 4, 8, and 11, identify protection as a trust duty.

Bird Strikes:

There is inadequate attention given to requiring mitigations to minimize or prevent these deaths. This is the Pacific Flyway. There needs to be an attempt to map bird flight paths and assure their safety. Any building over two stories needs to take significant precautions to prevent bird strikes.⁸ It is only recently that research has been started nationwide on this topic. This is because only recently have high-rise buildings become so common everywhere. Predators have learned which buildings kill birds and they hang out around these buildings in order to pick up the bodies super-quickly. (Another reason a Predator Management Plan must be developed, adopted and funded as a condition of any construction) Maintenance people also dispose of bodies quickly to prevent the luring of rats to the area by the abundant food. It has been estimated that a billion birds⁹ a year die from striking windows and buildings.¹⁰ It is also estimated there are 20 billion birds in the USA. This makes this an extremely significant problem not adequately addressed in the DEIR. Lights are a big problem as well, luring birds at night into windows.¹¹ There must be mitigations in terms of building design and restrictions on night lighting, especially, during peak migration times. Just providing drapes does not assure anything will happen, especially without an educational training program for staff and visitors. “Possible” features are not adequate at the Project level. There has to be definite features and procedures agreed to in advance.

The Migratory Bird Treaty protects these birds from harassment. It must also protect them from night lighting and windows. There are a few mitigations mentioned here and there, but nowhere does it require specific design features for all buildings higher than two stories.¹² First of all reflective glass must be banned from all buildings.¹³ The higher the building the more mitigations must be required. Building placement is also a concern, and bird flight paths, feeding and resting areas must be considered when buildings are sited. This does not appear to have been considered, nor is it mentioned in the DEIR, but it is a significant “operational” impact that can be helped with design guidelines and height restrictions.

Another absolutely essential mitigation is providing funding and a location for rehabilitation and treatment of injured birds, as well as keeping track of the situation and reverting to more stringent regulations to further reduce the problem, if necessary. The RCC is the Phase One project that must be designed to minimize and avoid impacts as a model. What works here must be mandated for all other buildings to come in later phases, or the **cumulative effect** with all these buildings will be overwhelming negative. There must be mandatory regulation of design and avoidance through sensitive building placement as well as design features and monitoring.

4.8-135 The Proposed Project includes provision of an ecological buffer 400 feet wide that will avoid impacts of local movements of birds striking buildings. Some impacts may occur especially with the taller buildings and with respect to the migration of bird species. These impacts are potentially significant due to the numbers that may be involved and the composition, which may include special-status species migrating at the altitude of the taller buildings.

This statement is misleading:

1. The Ecological buffer is Phase II after impacts are likely to begin.
2. The buffer does not include a secure fence along its entire length.

⁸ http://www.eartheasy.com/article_birds_windows0704.htm; <http://www.fws.gov/birds/mortality-fact-sheet.pdf>

⁹ <http://www.birdsandbuildings.org/faqs.html#1>

¹⁰ <http://georgiawildlife.dnr.state.ga.us/content/displaycontent.asp?txtDocument=468&txtPage=2>

¹¹ <http://www.toronto.ca/lightsout/challenge.htm>

¹² <http://www.birdmonitors.net/intro.html>

¹³ http://www.economist.com/displayStory.cfm?story_id=2647668

3. It will be in force as funding becomes available, which could be never-it is not guaranteed at this time. **This makes it totally dysfunctional until these serious flaws are corrected.**
4. The Ecological Buffer has nothing to do with local travel of birds from the Sweetwater unit of the NWR to the F&G Street Marsh and to the Southbay unit of the NWR and the Tijuana Estuary. This travel is frequent. Feeding is better at different times of the day at these different locations.

The buffer is a design feature in the Sweetwater District designed to minimize the impacts of the increased number of people and pets in the area. There is no way it can, will or should be associated with bird strikes!! Bird strikes are a significant problem as stated and only mandated design features of buildings are likely to reduce them. Only a more sensitive placement of buildings and height restrictions is likely to avoid a significant number of bird strikes. This reference to the buffer in regard to bird strikes needs to be removed, not repeated lamely several times! The whole passage implying this is not significant because neither the Port trust nor the MSCP specifically mention bird strikes is shameful and documents a lack of concern for the precious irreplaceable biological resources barely eking out an existence here, which this project threatens tremendously. The Port and the City must start taking their responsibility to protect the natural environment for future generations much more seriously than this document indicates! They have already through their actions contributed to the destruction of over 90% of the salt marsh habitat in the bay and even over 80% of the natural floor of the bay itself.

It is noted that there is a passage where the city and port supposedly bind themselves to not issue any building permits until the designs of Pacifica's, Gaylord's and future developers' buildings utilize a number of specific design features to prevent bird strikes. There is also a monitoring program indicated.

There are a few problems with this passage:

1. It makes it clear there are no design guidelines now, which again reinforces the fact that there is insufficient clarity for a project EIR.
2. It deprives the public of their right under CEQA to judge for themselves whether the measures are adequate mitigation and relies upon a vague written list, which has been held to be inadequate for mitigation purposes.
3. It is in contrast to what is written in the project description where both applicants refuse to commit to specific measures. This is rather troubling, since both the Port and the city are far too willing to give away everything to have a project-any project.
4. There is no indication that Environmental groups will be given the opportunity to oversee the monitoring.
5. The word "may" before one of the lists is totally unacceptable. It needs to say **will**.
6. There is not a guaranteed minimum amount of design features required, which could be construed as differing specific mitigation measures to some time in the future (when building permits are issued.) Formulation of mitigation measures "*should not be deferred until some future time.*" Courts have held EIRs to be inadequate when the mitigation measure "*does no more than require a report be prepared and followed, or allow approval by a county department without setting any standards.*"¹⁴
7. e-glass should not be exempted from requirement to not use reflective glass.

Marine Biological Resources

Sea Turtles

The eel grass beds through out the bay are used by the green sea turtles. Since 1850 Sea Turtles have been noted to use the San Diego Bay. As stated in the DEIR it is unknown whether the 60 to 80 who live here year-round were here before the power plant or whether they will stay when and if the power plant stops operating, but Green Sea Turtles likely will always come here to feed. If they may go

¹⁴ *Endangered Habitats League, Inc. v. County of Orange*, 131 Cal.App.4th 777, 794 (2005).

dormant in the winter, it will become even more important to make sure speed limits are enforced in this area and boaters are confined to the channel.

<http://www.coastalconservancy.ca.gov/coast&ocean/winter2002-03/pages/one.htm>

<http://137.110.142.7/textblock.aspx?Division=PRD&ParentMenuId=212&id=4378>. Satellite tracking has recorded their daily movements and like other grazing animals they are on the move eating most of the day. **Several have been killed by boats**, so it is important to enforce the 5 mph limit. Disturbing the eelgrass they feed on could have a significant impact on them. Precautions must be taken to protect them from construction and dredging activity.

Importance of marine resources in South Bay

The only salt marshes left in San Diego Bay are in the southern part. This has been declared a prime breeding grounds for numerous fish species. All this as well as being an important stop-over on the Pacific Fly Way. The Port has a huge responsibility to safe guard this region, which should far exceed its quest for developing property to raise money, especially when it will likely diminish biological resources somewhat , if not hugely. The language of protection needs to be much stronger in this DEIR and quibbling about paltry mitigation amounts needs to be replaced by more extensive plans for restoration and enhancement. The primary value of the South Bay is for the protection of fisheries and other wildlife.

Pandering to Gaylord is unseemly behavior. When we see the final lease arrangement we sincerely hope Gaylord will not have all the development rights for everything around it. When it says that the developer will pay for the mitigation/restoration, etc., this should include Gaylord. Why are the city and Port financing all this Infrastructure? Why isn't Gaylord? Pacifica is being asked to finance all its infrastructure.

Will a survey of numbers and biodiversity of benthic organisms prior to and after dredging be done? The biodiversity is at least as important as the number of organisms. Assuming that the communities will rapidly regenerate is not very reassuring. Will research be done to confirm that this occurs and noting the amount of time required?

Pier

Shading is mentioned as an impact, but the pilings will also alter the water flow and temperature of the water. Will the impacts of all the results be studied after Phase II is completed before a decision is made about Phase IV?

The EIR acknowledges that the proposed pier and channel realignment will have significant impacts on both water quality and marine biology. Under CEQA an EIR must discuss a range of potential alternatives to the proposed project that “*shall include those that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects.*” There are no alternatives presented in the DEIR to the pier or the channel realignment.

There also appears to be inadequate mitigation for the significant negative impacts to be caused. The temporary turbidity and lack of eel grass, etc. may not seem significant to a land based mammal, but will likely be significant to the green sea turtles, fish, migrating birds and especially the larva and benthic organisms to be destroyed. Is there a guarantee or even a monitoring procedure that will assure that there is no effect upon species diversity- both those which feed upon the displaced organisms and the organisms themselves? Not having an expected food source for any period of time is a huge negative effect upon a grazer or predator. The DEIR keeps saying the organisms will have no problem re-colonizing the area, but will it be the same species of organisms with the same diversity? Will the other species dependent upon these species survive the interval?

How is harassment of the federally protected sea turtles and listed shore and marine birds to be prevented? The various tracking devices put on various turtles show that they wander all through the

Bay feeding in different areas. There is also the possibility that these actions may damage the larva of fish that are produced in this important fisheries nursery area. The first half of the pier is Phase II, so this is program level, but some attention should be given to alternatives and potential mitigations for adverse impacts.

This site recounts the many negative impacts of piers, mostly not mentioned in the DEIR. Since this is such an important fish nursery site, all of these impacts need to be considered before building this pier: <http://dnr.wi.gov/fish/documents/effectsofpiershadingonfish.pdf>. This site shows that there are actually less fish around piers than elsewhere. Were any studies done to determine if this actually is an acceptable location for a pier? What will the pilings be made out of? Will they leach copper into the water? This could have a significant negative impact. Does the Port have guidelines for the siting of piers? Has a survey of sensitive sites been done? Does the Port have standards for siting and construction as well as management rules? This is an excerpt of a summary of impacts of piers from this website: <http://www.mass.gov/czm/dockpierssummary.htm>

Key Points from Panel on Ecological Impacts from Dock and Pier Construction

- Shading from dock/pier construction reduces the density of submerged aquatic vegetation (SAV) growth directly under structure. Height is the most important variable, with docks of 10 feet and higher significantly reducing impacts. Spacing between planks does not noticeably affect plant growth. Orientation is also a factor, with north/south orientation being optimal.
- While it is clear that docks affect SAV growth, it is likely that other factors such as vessel propellers and land-based nutrient inputs also contribute to SAV loss.
- Shading has similar impacts on salt marsh vegetation. For a four-foot wide walkway, heights of 4 ½ feet over *Spartina patens* and 4 feet over *Spartina alterniflora* seem to minimize impacts, but additional research is necessary. It is not currently known what the threshold is for shading impacts for vegetation, nor is there an easily implemented means of calculating shading based on the various parameters such as height, width and orientation.
- Chromated copper arsenate (CCA) is commonly used to pretreat wood for placement in the marine environment. CCA treated piles and bulkheads can leach copper in both controlled lab experiments and in the marine environment. The effect of copper on marine organisms in the field is localized, with impacts detected only within 3 meters. While evidence exists that bulkheads of CCA material have impacts on water and sediment quality, particularly in poorly flushed areas, similar evidence has not been developed for pilings either in salt marsh sediments or in tidal waters.
- Floats on the bottom of docks should not be flat. Flat floats cause hydraulic pumping that can cause erosion under the float and can alter sediment size effectively changing habitat.

Key Points from Panel on Practical Approaches to Managing Docks & Piers

- Developing local dock and pier siting plans based on demand data and the identification of sensitive resources is a good approach. Such local plans can be used to strengthen state authorities.
- It is important for management programs to establish standards for evaluating dock and pier siting and construction. In addition to ecological thresholds, aesthetic, recreational, and navigational standards are also important.
- Pleasant Bay Resource Alliance divided the Bay into 26 geographic subsections and surveyed each area for biological, environmental, and human use factors. A sensitivity scale was developed for each subarea. The sensitivity scale was used to determine where additional docks and piers would be allowable subject to performance standards.

Key Points from Panel on Best Management Practices of Docks and Piers

- The primary material used today for docks and piers is CCA, but new innovations include steel-reinforced plastic and recycled plastic.
- Docks and piers should be designed based on specifics of each site (natural resources, wind, waves, water depth, boat wakes, current, ice, and soil).
- Fewer piles generally cause fewer impacts.
- Designers of public facilities need to design to Americans with Disabilities Act (ADA) standards (includes slope, turnarounds, and width).

Have any of the points above been taken into consideration? What were the results of the studies?

Something needs to be done about “the increased lighting from operation of the commercial marinas (new and reconfigured) and pier proposed as part of the project, which has the potential to result in increased algal blooms, detrimental to the health of the ecology of the Bay. This particularly could effect the health of the Sea Turtles and migratory birds, since these blooms can be poisonous. What is going to be done to prevent this?

Hazardous Materials and Safety

Some of these materials and ground water are being remediated, but it is not acceptable that other ones are being ignored such as arsenic, because they meet industrial standards. The standard needs to be raised, since children will be using these areas. A park will have children playing in it. The new uses are not industrial and people could come into contact with these soils. The groundwater now has a beneficial use, if it is the groundwater in the deeper-San Diego Foundation aquifer, since Sweetwater plans to desalinate it and use it for drinking water. Further remediation appears to be needed in a number of cases sited due to current non-industrial plans for this site.

Sweetwater

What is to happen to the well, which has been fixed on this site? Even if the level of pesticides is below industrial levels what is to happen with this soil, since children will be playing in S-2? Will the soil be removed and disposed of at a licensed site? Finding one could take a while and be quite an expense, but even a low risk when children are involved is serious.

Harbor

Obviously the contamination of the L-ditch is a major concern and the amount of time it will take to clean it up. We assume that nothing will be built until the issue of the ditch is resolved and entirely cleaned-up to the satisfaction of the RWQRB.

Otay

It appears that the SBPP and surrounding sites have a large amount of contamination, which will take a long time to clean up once the site is vacated by the SBPP. This will further delay an RV Park.

Public Facilities

Fire Station

The SWCVCA has grave concerns about the fire station. Please clarify how the city will be able to afford to obtain this 1.8 acres of land from the Port. How will they be able to build the fire station? It will certainly cost more than the normal amount of PFDIF that Pacifica will pay. The city needs to spend the PFDIF from about 500 developments a year to service the debt on the Police Station and the Civic Center. In this economy it does not seem likely it will be able to afford an expensive station such as this. Only two stations now have both a truck and an engine. These are very expensive vehicles. If 7 people are required 24/7 this means around 20 new fire-persons will need to be hired. This is a large on-going expense that the city also cannot afford, since it will receive 0 property tax money from the Pacifica

Development and nothing from Gaylord for 20 years. Where is the city going to get the money from for this station?

Police

The police are saying that 8 additional officers and equipment will be required by Phase I projects to create a Bayfront Beat plus a two person walking beat!! The city cannot afford these new officers. The DEIR says the projects will fund them, **but this is not true.** No income from Gaylord from TOT or sales tax will go to the city for 20 years while the bond is being paid off. The Pacifica project is in a redevelopment area. By state law redevelopment tax increment funds cannot be spent on any General Fund expense. Police are a General Fund expense. Therefore, the city will get no income from this project that can pay the new police officers' salaries. The various existing DIF fees go to parks, traffic, etc. By law the DIF fees can only be spent on what they are collected for. How will the city pay for these new police officers? They are having trouble paying for the existing ones. This is a significant impact.

This impact is significant, because there is **no** funding provided by the projects in Phase One for at least 20 years. ALL of the revenues from Gaylord project, we have been told, will go to pay for the 300 or more million- dollar bond for 20 years, leaving nothing to fund police services. The Pacifica Project is within a Redevelopment area and will provide no income to the General Fund. Police Services are a General Fund expense and cannot be paid for with tax increment money. This passage indicates a need for 10 more police officers: *According to the Department, up to six additional police officers, along with related equipment, would be required to serve the project area. These six officers would be allocated to different shifts/days to provide 24-hour-a-day coverage for the Bayfront beat. Additionally, depending on the final configuration and use of the Phase I developments, the Department will require a two-person officer team be assigned to patrol the Bayfront beat on foot during peak hours, similar to the way the Gaslamp District in San Diego is patrolled. A foot patrol assignment may require an additional four officers for a full week's coverage.* **The additional staffing required will be provided by the City and will be funded by revenues generated by the Proposed Project. Impacts to police protection services would therefore be less than significant.** Where exactly will the city get the money to pay these officers? How much will the Port contribute through the re-negotiation of the current agreement with the city? The proposed Phase One project provides no money to the city's General Fund.

Water

Indeed SWA may have water to provide for these projects now, assuming they conserve as promised. The DEIR says until 2030. What happens after 2030? SWA is doing a great job of developing local resources, but this is to provide for current customers. The city of CV's General Plan predicts a 46% growth in population by 2030. At some point SWA has to stop increasing users. It is being forced to rely more and more upon uncertain imported water. There is currently a drought and we are all being asked to conserve this year, but will probably be required to cut back next year if the drought continues. This project is a huge additional water obligation, which will require a lot more conservation from existing residents.

In 2009 residential users may be on water rationing. There needs to be restrictions on further growth. It is unfortunate the legislature did not pass the bill requiring all new users to find the water they would need from existing uses, so there would be no net increase in use. This is article from North County Times that is more up to date than DEIR: REGION: Drought declaration sets stage for rationing Area residents could face fines for wasting water
<http://www.nctimes.com/articles/2008/06/06/news/sandiego/za8ef95448a43541e8825745f00599b1f.txt>

By DAVE DOWNEY - Staff Writer | Friday, June 6, 2008 8:25 PM PDT ∞

Southern California's primary drinking-water supplier, reacting to the governor's declaration this week that California is locked in a drought, said Friday it will declare a "water supply alert" and urge the region's cities to crack down on water-wasters.

Officials with **Metropolitan Water District**, which supplies river water imported from the Rockies and Sierra Nevada to 19 million people in six counties, including San Diego and Riverside, also **said in a conference call with reporters that residential customers could face rationing in 2009.** If such a restriction is invoked, it would be the first time since rationing was ordered in 1991 following six years of drought. Metropolitan's board of directors is scheduled to take up the "water supply alert" resolution on Tuesday. The resolution calls on the region's cities and water retailers to dust off drought ordinances that lay out how rationing should occur if required, to establish tiered rates that promote conservation, to fine people who let water run down the street and to set up hotlines for residents to report waste. Metropolitan distributes water to 26 agencies, among them the San Diego County Water Authority and the Western and Eastern municipal water districts of Riverside County, which in turn provide water to area cities and, in some cases, sell directly to homes and businesses.

John Liarakos, a spokesman for the San Diego County Water Authority, said most of the San Diego-area cities are in the process of updating drought ordinances written the last time rationing was threatened in 1991 or drafting new ones, and setting the stage for fining people who waste water.

For example, the Vallecitos Water District, which provides water to more than 20,000 homes and businesses in San Marcos, Vista and Escondido, has an ordinance that would fine people \$100 the first time, \$200 for a second violation and \$500 for every other time they let water run down the street, said Dale Mason, assistant general manager. Mason said the penalty probably won't be put into effect unless the regional water authority calls for rationing.

In Riverside County, one agency is already gearing up to fine people. Eastern Municipal Water District, which serves the Interstate 215 corridor between Murrieta and Moreno Valley, just passed an ordinance that put residents on notice they could be in trouble if they let sprinklers water the street or let the hose run down the driveway while they are lathering soap on their cars. "After Sept. 1, if we see that you are wasting water, we can, after two warnings, fine you \$100," said Peter Odencrans, an Eastern spokesman.

And in some places, rationing is possible this year. Tedi Jackson, a spokeswoman for Western Municipal Water District, which provides water to parts of Lake Elsinore, Murrieta and Temecula, said watering restrictions could come into play as early as August or September, depending on conditions at that point.

"The immediate impact to us right here is probably not going to be felt by your average consumer," Liarakos said. "But the specter of a mandatory water restriction ... is right out in front of us and it could hit us as early as the beginning of 2009." The problem is, in the wake of years of drought in the Sierra Nevada and Rockies and court-ordered reductions in water deliveries aimed at protecting an endangered fish, Metropolitan will be able to deliver only about three-quarters of the water that it normally delivers.

Typically, said General Manager Jeffrey Kightlinger, Metropolitan sells 2.2 million acre-feet of water a year, but in 2008, deliveries are expected to total 1.7 million acre-feet ---- about the same as last year. Because of the cutback, Metropolitan has had to draw down its emergency supplies in area reservoirs, such as Diamond Valley Lake near Temecula.

It could take six months, he said, to repair aqueducts that deliver water from the Colorado River or Northern California, and the region must have a way to continue supplying water in the meantime.

Such emergency storage exceeded 3 million acre-feet a couple years ago. But it is down to 2.2 million ---- and it continues to decline, Kightlinger said. Consequently, they said, the region may simply have to learn to live with less, permanently.

"Conservation isn't needed just in dry years," said Metropolitan Vice Chairman Anthony Fellow of the San Gabriel Valley, in the conference call. "We're coming to the point in Southern California life where there's no room for water waste, whether today, tomorrow or in the coming years. Conservation is going to have to become the new norm. ... We're running out of water, period."

"Yes, we did have some rain," said Kristen Crane, water conservation manager for Poway, which has been out front calling for a 10 percent reduction since the first of the year. "But all things considered, we are in a critically dry year."

Contact staff writer Dave Downey at (760) 745-6611, Ext. 2623,

http://www.signonsandiego.com/uniontrib/20080605/news_1n5drought.html: “Rationing is highly unlikely for 2008, Steiner said, but added, “We'll have to take 2009 as it comes.” ... “It is a very safe assumption that rates will continue to go up,” she said. ... “I think everybody in San Diego hopes that it won't come to mandatory water conservation,” Mercer said. ... Marney Cox, chief economist for the San Diego Association of Governments, said that if it comes to that, it “could push the region over the edge into a recession. We already are in a slowdown, and it looks like we will have to cut back even more on water, and in turn that will mean a slower economy.”

The water report is based upon out of date information. The update from Sweetwater is from 2006. Things have changed since then. Their report is based upon a report from Metropolitan issued in 2005. The figures in the report are not at all reassuring since the projected demand is exactly equal to the supply. There is no room for error here. [On 2/3/08 Sweetwater representative](http://www.youtube.com/watch?v=EUrk5YSEAAk) (<http://www.youtube.com/watch?v=EUrk5YSEAAk>) gave a report on the water situation to the Chula Vista council. Even this report is a little out of date, but it clearly shows that much less water must be used by this project. This is not the time to add more water users. Many San Diego businesses and agriculture simply cannot cut back any more.

The analysis is woefully inadequate for the long-term. An old letter from Sweetwater for the very short –term does not do it. Saying permeable surfaces will be used everywhere in one spot but not being specific in all places is not enough. Trying to cut back 15-20% is not enough. Existing residents should not have to do draconian amounts of conservation and pay 20% more for water to support excessive new development. The situation has changed. The Colorado is at 45%. The Delta is at 50%. There is talk of mandatory conservation, because voluntary is way too low.

From the L.A. Times:

Is growth over?

California's continuing water crisis may mean the end of the state as we have known it.

By Cary Lowe

July 20, 2008

Gov. Arnold Schwarzenegger's recent executive order certifying that California is in a drought and directing state agencies to start thinking about what to do about it is only the latest sign that a way of life built on cheap and readily available water is coming to a close. For much of the state, June was the driest month on record, according to the National Climatic Data Center. The continuing water crisis raises the question of whether we are approaching the limits of growth in California.

For the last century, it seemed there was no limit. More than any other state, California's economy and population exploded, a growth spurt fueled in large part by abundant water supplies. Now we may be at a turning point, especially in Southern California.

The most obvious indicators certainly point in that direction. Snowmelt in the Sierras, which historically has filled the state's major reservoirs and aqueducts, has been shrinking steadily. California's rights to Colorado River water have been gradually scaled back by regional agreements and mounting claims by other states. Court orders in response to environmental lawsuits aimed at protecting endangered fish species have slashed water deliveries from the San Joaquin-Sacramento River Delta. And reduced rainfall throughout the region has made it increasingly difficult to replenish groundwater basins.

Initially, the public agencies responsible for ensuring water supplies were cautious in their response to the signs of a growing water crisis, perhaps fearing a political backlash from Californians who expect to be able to open a tap and let it flow, without limits, any time, anywhere, for any purpose. Adding a reservoir, drilling a few more wells or cutting deals with farmers to transfer some of their water to nearby cities helped soften, if not avoid, the effects of the state's growing water shortage. Now, however, the situation is becoming sufficiently dire that the water agencies are beginning to give the public a taste of what lies ahead.

Earlier this year, the Metropolitan Water District of Southern California, the largest water agency in the region and the principal supplier to the cities of Los Angeles, San Diego and numerous others in between, announced a

30% reduction in deliveries to agricultural customers, which means that farmers will have less water for their crops and to give to cities. And things could get worse. The agency also adopted a contingency plan that could result in similar cutbacks to urban consumers and rate hikes of up to 20%. Local water agencies, including the Los Angeles Department of Water and Power, followed suit, beginning with voluntary conservation programs but warning of mandatory ones to come.

Such steps alone will probably not make enough of a difference to avert a water-supply crisis. There is a finite amount of water available in Southern California, and it has not increased since 1990. The MWD annually imports 2.1 million gallons of water to the region. Without a plan of action by state and local governments, coupled with across-the-board changes in how we consume, major sectors of the state's economy such as agriculture and real estate development will soon face previously unimagined restrictions.

Meanwhile, environmental groups such as the California Water Impact Network are contending that many of our water-use practices violate the state's constitutional mandate that water be put to beneficial use to the maximum possible extent and that waste or unreasonable use be prevented. They particularly object to pumping water from the San Joaquin-Sacramento River Delta to irrigate thirsty crops like cotton and alfalfa, as well as lawns. These environmentalists plan to petition the state Department of Water Resources to permanently reduce Delta pumping. If state officials or the courts agree, it would affect virtually every aspect of water use.

Real estate development already is feeling the pinch. State laws that took effect six years ago require water agencies to document sufficient long-term water supplies to support large developments. If they can't, they must block the developments, and these agencies are increasingly doing just that. The Eastern Municipal Water District, the largest water agency in Riverside County, recently delayed approval of a huge industrial development because it couldn't guarantee water supplies to the facility. The agency also indicated that it may withhold certifications of water availability for other projects if conditions do not improve.

Courts are increasingly weighing in on the issue. Last year, the state Supreme Court overturned approval of a major new planned community in the Sacramento area because the project's environmental impact report did not adequately address long-term water supplies. Earlier this year, a court in Riverside County reversed the go-ahead for a large residential project in Banning, in part on similar grounds. All told, dozens of planned developments throughout Southern California already have been delayed or abandoned because of uncertainty about long-term water supplies. And that number will soar once the recession in real estate eases.

Scaled-down developments that clear the water-supply hurdle must still meet tough new water-use standards. For instance, don't expect new homes to be built along the fairways of a new golf course or the shores of a man-made lake. The appliances in the new homes will be low-flow, and the pavement outside permeable to help replenish groundwater. State legislation that would have required developers to utilize all feasible water-efficiency measures in new construction and carry out other conservation measures in the surrounding community didn't pass earlier this year, but it undoubtedly will be back. Meanwhile, the Legislature is considering a requirement that all urban water agencies reduce their consumption by 20% within 12 years.

Agriculture, which consumes two-thirds of the delivered water in the state and remains a huge component of the California economy, is also feeling the sting of dwindling water supplies. Beginning with the MWD's reduction in water supplies, agencies throughout the state are pressing farmers to cut their water consumption by not growing water-intensive crops, investing in more efficient irrigation systems and even taking land out of agricultural use altogether. Pending state legislation would establish agricultural water conservation requirements.

The entire state economy ultimately will be affected by the water crisis. Yet it is unrealistic to expect that California's population and economy will stop growing. Accommodating that growth will require major commitments to reducing water consumption and increasing supply.

Unlike previous droughts, the current shortage of water is largely the product of long-term climate change because of global warming. This means that the shortage will not abate without major changes in how we consume water. The cheapest and easiest way to increase water supplies is conservation. Even small increases in the efficiency of agriculture's use of water can produce huge savings. Cutting back landscape irrigation, which accounts for more than half of urban and suburban consumption, is another option, as is treating and recycling water. Finally, rain and snowmelt can be collected and stored for future use.

As things stand now, California is rapidly approaching the limits of growth. Those areas of the state with limited local water supplies already are off-limits for development, and those sectors of the economy that are big users of water, such as agriculture, are cutting back. We can extend the period of growth and prosperity by pursuing the measures mentioned above. What remains to be seen is whether that will just postpone the day of reckoning -- when we have done all we can do to cut consumption but demand still exceeds supply. At the point, California

will have reached the limit of its growth.
Cary Lowe is a land-use lawyer and urban planning consultant.

Solid Waste

The city has an excellent contract with Allied Waste. It has a mandatory recycling program as well. Unfortunately the city is filling the landfill faster than necessary, because it is using construction debris and green waste as landfill cover instead of diverting them entirely from the landfill by insisting that Allied compost the green waste and make mulch available to residents. The city recently passed a mandatory construction recycling ordinance, which went into effect on July 1, 2008. Projects on the Bayfront should be required to include compactors to reduce trash volume significantly. There should be a continuous education campaign about recycling to optimize it on the Bayfront.

Energy

Since there is a cumulative negative impact on Energy use caused by these projects they need to produce a significant part of their own energy using renewable resources such as PV and energy cells.

Tables 4.16-7 and –8 do not give the total amount of natural gas use, because they do not factor in the amount of natural gas needed to produce the amount of electricity required by the Gaylord and Pacifica projects. This is important because of the scarcity of natural gas, even with the LNG shipments recently started. This is also important in showing that these projects and the others on the Bayfront will have a significant negative effect on Energy availability. A cumulative effect was acknowledged, but it is more than cumulative when it is considered that the CVBMP was not fully developed in 2004 when SDGE filed their resource plan referred to on page 4.16-13.

It is imperative that Gaylord and Pacifica being the largest potential users of electricity and gas not only conserve to the highest degree possible but also produce as much of their own energy as possible.

TABLE 4.16-9 Proposed Project VMT This may show the total estimated vehicle miles traveled based upon the ADTs but it may be a gross under estimate. Also when deciding about “*wasteful use of energy*” the congestion caused on area roads and particularly I-5 needs to be considered. There is no more wasteful use of gasoline than idling in traffic jams, which the project acknowledges will be typical on I-5 if this project goes forward as planned. This is a significance criteria which is clearly exceeded by this project.

“Implementation of the policies and objectives contained in the General Plan would aid in reducing adverse energy impacts.” This is untrue for two reasons. First of all if that plan is implemented it will put over 400,000 more cars on I-5, which will increase the waste of energy considerably. Second of all after almost three years even the implementation plans that were supposed to have been written within 180 days have not been written or implemented. Therefore, it is unlikely much of the GPU will ever be implemented and certainly not enough to have any positive effect since over-riding considerations were taken for energy availability, water availability, traffic, and air quality when the plan was adopted. Actually, if the GPU will cause unmitigatable negative effects to traffic, obviously this project will as well, which will cause a significant impact to energy.

Considering that this project is west of I-5 and the trolley station is east of I-5 not many people will walk to the trolley station, except the workers at Gaylord, who will probably mostly live in TJ, since they certainly will not be able to afford to live in Chula Vista without doubling and tripling up. It is clearly the expressed intent that people will shop, recreate and, if possible, work on the bayfront. This will essentially keep them out of the city of Chula Vista-both residents and visitors. If they do get in their cars, getting on the freeway would make it most convenient to go to San Diego or parts south. If someone were walking or on a bicycle it would be a long ride or walk along J or H through residential

neighborhoods before reaching a business District on Broadway. The exception is the businesses actually on H Street between the freeway and Broadway.

The idea seems to be to keep everyone on the Bayfront in order to reduce energy use and traffic. This is contrary to one of the major goals of the project to unite Chula Vista with its Bayfront. Clearly the two goals are contradictory. If a free Green Line trolley were funded as part of Phase I, there might be a possibility of some people riding it to see the rest of the city or to get to the trolley station at least. The DEIR makes clear that this is not funded.

“Although this impact is considered less than significant, there are opportunities to incorporate several energy conservation measures into the Proposed Project in order to further reduce the electricity demand of the project, which equates to lower energy bills and assisting the state in meeting its short-term and long-term Renewable Portfolio Standard Goals.” Opportunities have nothing to do with reducing significant impacts. There must be clear commitments to these things or they don't count. This is not project level and it certainly does nothing to reduce the significant energy problem.

The mitigations are inadequate. Tank-less water heaters, and/or solar water heaters should be required. All air conditioners should not only be the highest efficiency models available but they should be hooked up to be on a cycle with near-by air conditioners to save additional energy at virtually no additional cost. Has any research been done to see if triple paned windows might produce more energy efficiency? How about requiring shading of some kind-awnings/over-hangs- on the south and west sides of buildings? What about programmable thermostats? None of these specifics are in the DEIR.

Traffic

Page 4.7-6 states that the existing traffic for J Street is: J Street has an existing ADT volume of 8,617 vehicles, but the table 4.7-8 shows 4,091 from J to B. The traffic is not going to decrease with this project!! One also wonders how one could drive from J to B, since B starts in the middle of Otay District and J is only in Harbor District.

The peak hour traffic volumes should be more than 10% of the ADA. These people will need to work to pay for these units or they will employ others.

The first page in the traffic study has the SANDAG map dated 2004. This is totally invalid, since Chula Vista's GPU exceeded these estimates. In fact SANDAG wrote a comment on the EIR expressing concern about the city's traffic projections.

The grade separation of the trolley at E and H Streets would clearly improve an already congested and projected to be worse crossing. This will be extremely expensive to put the trolley crossing below the streets. One wonders also whether this will be possible because of the water table in this area. It is unfortunate that the traffic counts were done in 2004. This information is extremely out of date.

Almost all of the studies in the Traffic Appendix are dated 2004, except for 4 from 2005 and 5 from 2006. The Traffic Volume report is from 7/23/2003. The CALTRANS study is from 2002 and 2003. There is absolutely no reason why anyone should trust a report written in February of 2008 using such outdated material.

The 1500 condominiums in Pacifica's project are given a trip generation of 6 per unit- the apartment generation rate. 8 is generally used for condominiums, although due to the very high density SANDAG allows the use of 6. This totally ignores the data that shows higher income (higher price) homes generate more traffic than lower income. These are extremely high priced homes. It is unusual to have such high density in such high priced homes. The figure of 8 per unit would probably be more accurate. 6 is woefully too low. SANDAG uses the figure 6 for high density housing because they are thinking of affordable housing units. *The Metropolitan Transportation Commission found in 1990s that low-income households make an average of 3.6 trips per day, compared to 6.8 trips per day for*

medium- and 9.9 per day for high-income households.

(http://www.wplwloo.lib.ia.us/HousingAuthority/Services_files/Myths1Web.htm) Density is not the determining factor of trips per unit. High-income homes have more deliveries and hire more outside help. They also own more cars.

4.2-1 The Bayfront was not considered in the Urban Core Specific Plan. The only development in the existing LCP is on the Mid Bayfront. This is less than the 550 or so acres in the current Bayfront Master Plan. The GPU and the UCSP did not do an analysis of the Bayfront. They deferred such a study to a future time. It is extremely confusing when the consultants try to make a case for all traffic being mitigated based upon differences with the UCSP and the GPU when they did not deal with the Bayfront.

4.2-11 Verifies the age of the traffic data used. Considering how fast Chula Vista has been growing and that it is expected to grow 46% more by 2030, using old traffic data is simply not acceptable.

Table 4.2-8 shows there are a whole lot of plans for future transit, but because there is no funding identified, no timetable for implementation and no specifics these plans can not be considered mitigation for traffic.

The figures for the Bayfront in general are way too low, if the estimates had been computed correctly it is likely traffic on Bayfront Streets would be unmitigatably negative as well as freeway and trolley crossings.

4.2.4.2 Project Trip Generation *The Proposed Project assumes a total development of 1,500 residential units, 640,000 square feet of mixed-use office/commercial, 580,000 square feet of restaurant/retail, 100,000 square feet of civic/cultural uses, 3,500 hotel rooms, an industrial business park generating up to 1,200 daily trips; 139 acres of public space, and a 236-space RV Park.*

In order to determine the traffic generation for the Proposed Project, trip generation rates published by the SANDAG (Not So) Brief Guide of Vehicular Traffic Generation Rates for the San Diego Region, April 2002, were applied to the land uses associated with the Proposed Project, with the exception of the Civic/Cultural land uses. In this case, the library rate outline in the City of San Diego Trip Generation Manual revised in May 2003 was used since it most accurately reflected this type of land use. Using the library rate from San Diego City for the Civic/Cultural uses is not the appropriate trip generation. When these cultural uses were discussed, no one envisioned libraries. Performance buildings and museums were what people had in mind, which generate much higher use. The only Civic building besides the existing Harbor Patrol Office would be the fire station.

The figures used to project traffic do not reflect all the traffic. 1,500 residential, high-end should have a trip generation rate of at least 8 per unit. The 415,000sf conference center does not have any trip rate generation. There is no trip generation for the 900 boat slips. There is no trip generation for the 125 parking spaces over at the boat launching ramp. There are 47 acres of industrial business park, which would likely generate more than 1200 trips. There is nothing for the pier. There is nothing for the Nature Center with a 100- car parking lot. There are 2,196 parking spaces in the Sweetwater District. This would imply a large number of car trips per day. It is not clear how many if any car trips were computed for the unspecified number of cultural/retail uses in the parks and along the edge of the marina.

It is projected that 819 students will be generated by the residential. There are no schools on the BayFront and no plan to build any. These children will need to be transported to and from school, since walking across the freeway and trolley tracks would likely not be allowed by any parents and the children below 6th grade (525) probably would not be able to negotiate what could be very complex public transportation even if available. The older students would likely not be able to get to school on time if they had to use public transportation, if it was even available. Unless students were disabled it is unlikely there would be school bus transportation available. This traffic needs to be included in the traffic generation figures.

Another reason to doubt the traffic figures and indeed many of the reports is that the same firm did them all. This means the same handful of people. There were no new set of eyes checking the work of the people who did the earlier reports, which means mistakes could have been easily missed or even magnified. This is not an acceptable practice-cheaper maybe, but not the way to ensure accuracy.

Some questions:

1. 4.2-12 Has South Corridor Group ever come to any decisions? (WIDIF is inadequate to cover freeway upgrades, since it will only have funding in small quantities spread over a large period of time, probably not starting until the economy improves.)
2. 4.2-14 How will traffic signal solve problem of too much traffic at J and Bay Blvd.?
3. 4.2-23 Who (which tenant) will be responsible for widening H, J, A, and C? How are these roads going to be widened in future phases? Will there be large enough ROW's without vegetation? What will happen to bike and pedestrian paths, when roads are widened?
4. If idea is to integrate the bay front with the rest of Chula Vista why is almost all of the focus of mitigation on west of I-5 except for one at Woodlawn and one to Broadway? The reality is there needs to be a major east west road (freeway?) all the way east past I-805.
5. 4.2-31 Does not state adequacy of mitigation.
6. 4.2-42 How can you justify assuming that all traffic before phase IV on H will start at I-5? A 6 lane major road (H) 25 years into project would seem to be too little too late? How will this be accomplished when numerous businesses including Gateway east of I-5 are virtually on the street?
- 7.4.4-3 How can 100- foot setbacks be maintained when all these roads are to be widened in each phase?
8. MMP 4.2-6 how will widening H St. to 4 lanes help E Street at I-5?
9. 4.2-31 Does not state adequacy of mitigation.
10. How will 4.2-41 2 left turn lanes along street A help traffic on F and E?
11. How will stop light where there is now a stop sign help J and Bay Blvd.?
12. 4.2-11 How will widening H help J and Marina Blvd.?

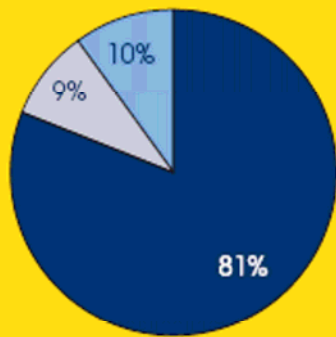
Housing and Population

Gaylord will have a profound negative effect upon the housing situation in Chula Vista. In western Chula Vista 55% of the people are renters. There are numerous families living in overcrowded conditions with two or more families sharing accommodations. There is a 3% vacancy rate. Rents are currently going up due to the foreclosure situation. Hotels and retail even at the prevailing wage have the lowest wages of all businesses. Gaylord says it will employ 2-5,000 people. The overwhelming majority of these workers will not earn enough to rent adequate living space in Chula Vista without doubling or tripling up, which is already the situation in Chula Vista for many families.

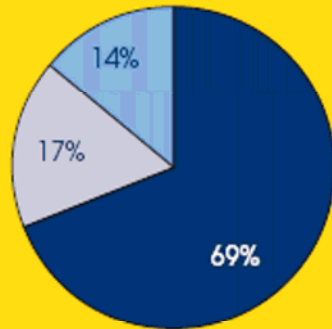
<http://www.onlinecpi.org/article.php?list=type&type=264>. Gaylord has to help provide housing for its workers. 20% of its tax increment will not even equal one million dollars for a number of years. This will not be nearly enough to provide the needed housing. The city of Chula Vista is behind already with required affordable housing for existing low-wage workers.

Household Income Levels By Industry

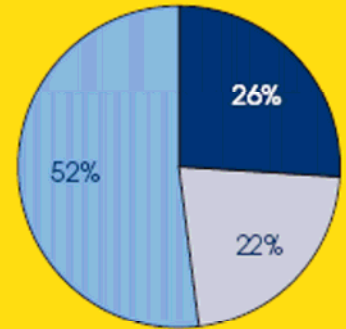
Hotel Employee Households



Retail Employee Households



Office Employee Households



■ Low Income Level and Below ■ Moderate Income Level ■ High Income Level

Source: Keyser Marston Associates, 2005 Job Housing Balance report projecting downtown employment through 2025 presented to the Jobs Housing Balance Subcommittee of the Steering Committee for the Downtown Community Plan Update. This report was based on land-use projections from OCDC and Dwyll & Bhatia.

Gaylord will be required to pay prevailing wages, but this does not necessarily include health benefits, which are a huge expense for a family. Also the prevailing wage for hotel workers is not adequate to rent an adequate sized market-rate space for a family, even if both parents work. Chula Vista does not have an adequate number of subsidized units for this many workers.

The Pacifica project will provide affordable housing, but it is a waste to provide for sale homes to moderate and low- income people when there is a desperate need now for low- income housing and this need will increase tremendously with the kinds of businesses-hotel and retail planned for the bayfront. Chula Vista cannot absorb more low- income workers without help. Pacifica should provide off site affordable rental housing for the very low income. Many of the low and moderate income, if they have jobs, may be able to buy foreclosed homes.

Without housing for the workers this project becomes another example of irresponsible development: <http://www.onlinecpi.org/article.php?list=type&type=25> Making Ends Meet in San Diego discusses the true costs of living in San Diego. If Gaylord really thinks so much of its employees it needs to help them find a place to live and provide health insurance:

<http://www.onlinecpi.org/article.php?list=type&type=305> This is not Tennessee the cost of living here is extremely high and rising.

It is not just that the rich become richer from projects like this while life becomes harder for the poor. Some of these jobs may go to our existing working poor, but many of these employees will have to live in Tijuana to make ends meet. This many new renters will probably drive rents up even more, forcing families out of existing housing. This could increase our homeless population as well. The largest homeless population now in Chula Vista is families. If the H street Corridor is bought up by developers and filled with businesses hoping to feed upon the success of Gaylord this could eliminate more affordable housing. The homes along the freeway, including several mobile home parks, which provide affordable housing could become more valuable to their owners as investment property. This could further exasperate the housing problems for existing residents as well as new employees. Local businesses a bit further from the bayfront could find themselves out of business. This could increase urban decay.

There are now 19 empty stores in a 2- block area of Third Ave. in downtown Chula Vista. If this project drew more people from the city to the bayfront this number could increase, increasing urban decay. Possible gentrification of areas near the bay front could also contribute to urban decay by displacing lower income families, making them homeless or commuters from a distance and drawing more business from long-term businesses not conveniently located near the Bay Front. There needs to be an analysis of this possibility. Any time one or more large corporations comes to town it is difficult for existing small businesses to survive. This has been shown across the nation. A business such as Gaylord with centralized merchandising would likely not patronize local businesses. Their business would go to businesses patronized by the home office.

The influx of low wage jobs could easily also contribute to Urban Decay. If the lack of adequate affordable housing caused more over-crowding of housing and increased homelessness this could contribute to urban decay within the western part of the city where the median wage now is lower than in the east.

If indeed the freeway acted as a barrier to keep visitors out of the city, but city resources went toward providing services on the bayfront, this would leave less funds to provide services for the working poor and others in the city itself. If many people were forced to live in Tijuana this would reduce the multiplier effect considerably of any stores on the Bay Front. Strained city resources contribute to Urban Decay, and this has not been analyzed in the DEIR and must be. *19) When there is evidence suggesting that the economic and social effects caused by the proposed project ultimately could result in urban decay or deterioration, then the lead agency is obligated to assess this [***38] indirect impact. ... The lead agency cannot divest itself of its analytical and informational obligations by summarily dismissing the possibility of urban decay or deterioration as a "social or economic effect" of the project.*¹⁵

Alternatives

Harbor Park Alternative

The description of the Harbor Park Alternative does not reflect changes that have come about since it was first drafted. This is not an acceptable description or analysis since obviously many details have been worked out in the Sweetwater Park alternative since the last CAC meeting. There is absolutely no reason why the hotel rooms for H-23 could not be built in phase I instead of phases II & III. H-9 could be added to H-23 to provide more space, eliminating that section of Marina Parkway. This would put the RCC right on the Marina.



¹⁵ Page 19, BAKERSFIELD CITIZENS FOR LOCAL CONTROL, Plaintiff and Appellant, v. CITY OF BAKERSFIELD, Defendant and Respondent; PANAMA 99 PROPERTIES LLC, Real Party in Interest and Respondent. BAKERSFIELD CITIZENS FOR LOCAL CONTROL, Plaintiff and Appellant, v. CITY OF BAKERSFIELD, Defendant and Respondent; CASTLE & COOKE COMMERCIAL-CA, INC., Real Party in Interest and Appellant. F044943, F045035 COURT OF APPEAL OF CALIFORNIA, FIFTH APPELLATE DISTRICT 124 Cal. App. 4th 1184; 22 Cal. Rptr. 3d 203; 2004 Cal. App. LEXIS 2121; 2004 Cal. Daily Op. Service 10918; 2004 Daily Journal DAR 14768; 34 ELR 20153

Differences

The Conference Hotel on S-2 would actually have less of an impact than the park or the hotel planned for S-1 in the preferred plan, due to its lower height and smaller size. Again whether this was built in Phase I or II would depend upon when someone was willing to build it.

Mixed-use office/commercial/recreation/cultural uses with a maximum height of 60 feet would replace the 750-room resort hotel with a maximum height of 100 feet on S-1 in the Sweetwater District. Specifically, up to 300,000 square feet of mixed-use office/commercial recreation and 50,000 square feet of cultural would be built on S-1. This is an excessive amount of square footage that would need to be reduced.

A 500-room resort hotel with a maximum height of 65 feet and a 200-slip marina would replace the community boating center on H-1 in the Harbor District. This is what the PMP calls for and this is a beautiful location for a resort hotel. This is just as uncertain as the buildings in the preferred plan, because the Southbay shipyard is an important maritime use.

Up to 100,000 square feet of retail would be built around the northern portion of the harbor on H-8/H-9, instead of up to 50,000 square feet of retail as with the Proposed Project. Again one or both of these parcels could be part of the RCC to increase its acreage and the retail would likely be similar to what is planned now for the RCC, probably more like 50,000 than 100,000. It makes no sense to increase the amount of retail here because the amount of space is the same.

The E Street Extension/Marina Parkway alignment within Sweetwater would be modified to direct traffic easterly as the road enters the Harbor District. The Marina Parkway segment between Goodrich and H-3 would be a primary public access road. Under the Proposed Project, this road traverses west as it enters the Harbor District connecting to the end of H Street. If the RCC was on H-23 it would help the circulation to keep the road west of the cultural buildings. It would also maintain the views from the road. Parking could be in back of the buildings, out of site, and there would be views of the bay from the road. At one point this was discussed as a possibility, I believe.

Fire Station

“No fire station would be proposed on H-17, as is proposed under the Proposed Project. This parcel would remain in the Port’s jurisdiction and would be designated for Industrial Business Park use.”

This is not true and needs to be changed a fire station would still be needed, and this is a good spot for it. The fire station was not originally in the Sweetwater Park Alternative either. It was not in the 2006 EIR. Only after more analysis was it found to be needed. There is no reason for it not to be included in this Alternative also.

□ SP-3 would be constructed in Phase IV, instead of in Phase I as proposed under the Proposed Project. Why? Why couldn’t it be built in Phase I if that is when it is needed. In 2006 it was in Phase III. It is important that Bay Blvd. be left as it was decided for Sweetwater Park alternative.

The RCC is a key anchor and needs to be in Phase I. Gaylord has no architectural plans. A good architect could design a building with spectacular views using H-23 and H-9.

Intensity of Development

The intensity of development in the Sweetwater District would be greater for the Harbor Park Alternative as compared to the Proposed Project. The Harbor Park Alternative provides an additional 128 acres of parkland as compared to the Proposed Project, which is consistent with the Port’s public amenities objectives. We strongly disagree with this statement. The Harbor Park alternative has less intensity for the Sweetwater District than the Sweetwater Park alternative. We believe that in conjunction with the decreased density and height alternative this would be the least environmentally

damaging alternative. By itself it would be better than the current preferred alternative. USFWS has made this clear as well.

The traffic analysis ignores that we are now talking about four phases, not three. It is hard to see why 5,000 more trips are being projected for this alternative over the other? The advantage of this alternative is fewer trips in Phase I, which is probably the only phase sure to be built, considering all the uncertainties.

Visual/Aesthetics

However, this beneficial aesthetic impact is counteracted via the development of S-2, which would bring development in the Sweetwater District closer to the Sweetwater Marsh and Chula Vista Nature Center compared to the Proposed Project. This is not true because the park in S-2 for the current alternative is development and would have an undetermined number of buildings. Also the types of buildings proposed for the parkland would be uninteresting and less aesthetically pleasing than a unified attractive theme that would be used for the hotel.

In summary, the Harbor Park Alternative would result in a significant impact to adjacent/on-site Bay views from Marina Parkway, the E Street Corridor, and the I-5 overpass and would require mitigation. This finding is different from that of the Proposed Project, which identified a low impact to on-site Bay views, which is considered less than significant. This comment proves that the statement that on-site-Bay views would be less than significant for the proposed project is wrong. Obviously they will be as great or greater than the Harbor park alternative. The view would actually improve in the H3 area because there will be a park instead of 120 foot plus buildings.

Views to the Bay across the Sweetwater District would be more obstructed as compared to the Proposed Project due to development on both S-1 and S-2. This development would contribute to blockage of views from the freeway flyover from SR-54 at I-5. Regardless, this partial loss of Bay views would be considered a significant impact and would require mitigation. This impact would not result from the Proposed Project. Again we disagree with this statement. The 120- foot office building and 100 foot hotel would block more of the view than the low rise buildings in the Harbor Alternative. Since the buildings in the Harbor Alternative would be lower than those in the current alternative the view would actually improve. Also the RCC would not be part of the view at all. This statement is quite odd since the RCC will be as high or higher than the freeway, but the buildings in the Harbor alternative will be much lower and not block the view from the freeway.

Bay Views from Marina Parkway: See adjacent/on-site Bay views above. Impact would be greater as compared to the Proposed Project since the roadway would be located further east, obstructing views along the portion of Marina Parkway east of Parcel H-3. Putting the road further east is a choice that makes H a dead end road. This alignment should be reconsidered. The height number and size of the cultural buildings has not been determined. Marina Parkway should be west of the cultural buildings.

Bay Views from E Street: See adjacent/on site Bay views above. Views looking west from the portion of E Street adjacent to S-2 would be obstructed via development of this parcel, which is part of the signature park. Considering the number and size of all the retail/cultural, etc. buildings in the park has not been described or analyzed for proposed alternative in is quiet possible they will be less obstructed in this alternative. The berms likely will block the view beyond S-2 in both alternatives, unless one is in a bus or other high vehicle.

Impacts to this already urban area would not adversely impact the character of the site. The existing bay front is hardly an “urban area.” What people love about it is the peacefulness and openness of the land with views of wildlife habitats.

Harbor Park Alternative *Would the project have a substantially adverse effect on a scenic vista, public view, or public resources (such as a symbol or landmark)? Yes: **Significant Impacts 4.4-1 through 4.4-5 Greater** (Same as Proposed Project, as well as significant impacts from Marina Parkway, the E Street Corridor, the I-5 overpass at J Street Corridor, and impacts due to loss of bay view at SR-54/I-5) This is not true. The view from*

the J Street corridor of the residential will be exactly the same for both alternatives! H-23 was to have a 300- foot hotel in both alternatives. Marina Parkway will not appreciably change. The E street extension if it is moved west will have bay views to the west and the cultural buildings to the east, but will still have views of the mountains beyond Goodrich to the east, which would vanish with Gaylord there. Nothing on S-2, H-3 or S-1 will be high enough to impact views from SR54/I-5 unlike with the current project. Page 6 in Appendix 11, upon which these comments supposedly are based says: “*Harbor Park Alternative – Visually prominent elements are as described above and do not differ from Sweetwater Park Alternatives.*”

Noise

*Would the project result in substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? Yes: **Significant Impacts 4.7-1, 4.75, 4.7-9, 4.7-10, and 4.7-11** Greater (Same as Proposed Project, but construction noise impact is more severe due to construction on S-1 and S-2.)* This is ridiculous. The proposed project has construction on both S-1 and S-2 as well as a huge amount on H-3 (that this project does not have). These are similar not greater!

Biological Resources Summary and Mitigation

This analysis ignores the greater likelihood of intrusions, noise, flushing, domestic pets, and trash from the proposed project because of the closeness of a park. Granted all these problems go with the first 200 feet of the buffer and its trails, which are the same for both projects, but the hotel will have staff and supervised activities, which should cut down on this behavior somewhat.

Paleontological Resources

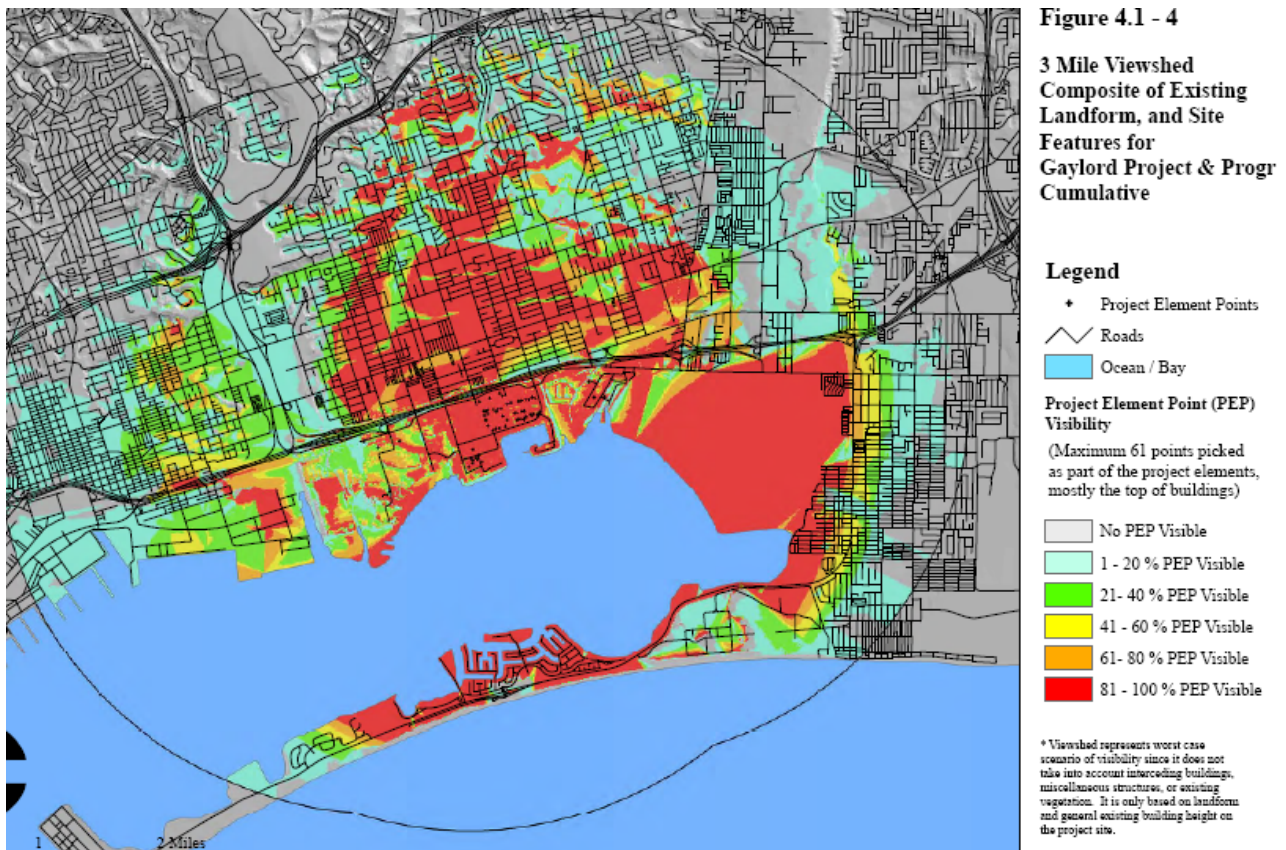
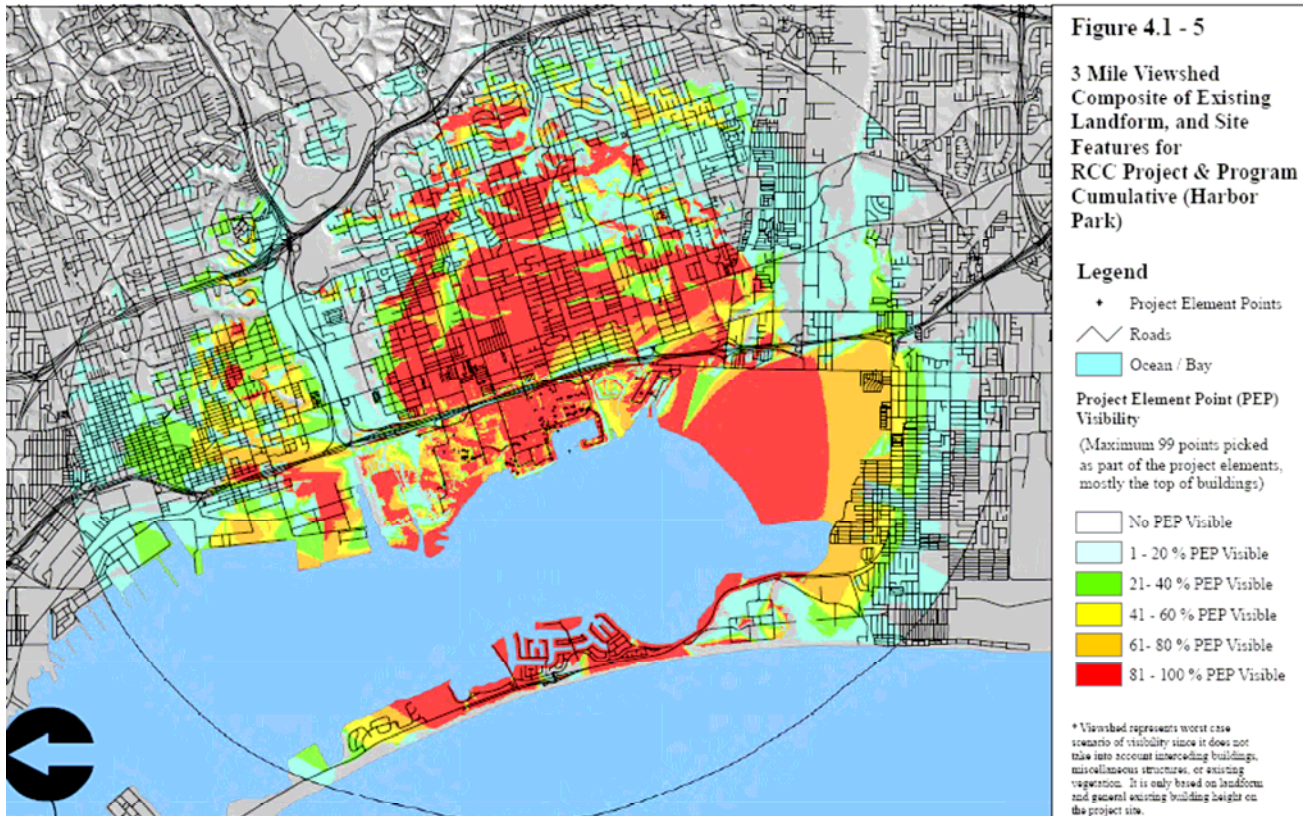
The Harbor Park Alternative would therefore involve a greater grading and excavation area in the Sweetwater District. This comment ignores the fact that the entire Sweetwater District will be graded in both alternatives for the water quality swale, buffer and numerous buildings (unspecified in size and location). The low- rise hotel on S-1 will be built on the surface just as the buildings planned for the park would be. This is no greater threat to **Paleontological** resources. This statement needs to be changed. Besides if the current mitigation is used neither project would destroy anything. The monitor would make sure of this.

Since a fire station is found to be needed in this alternative it should be built on H-17 just like the current alternative requires.

Sewer

This alternative would generate approximately 0.06 MGD more sewage on average than the Proposed Project. The City currently has a capacity of 20.87 MGD and a current flow of 17.00. The City anticipates a future sewage generation rate of 26.20, which would require an additional needed capacity of 5.33 MGD. The City does not have capacity for future generation and would not have adequate capacity to serve the additional sewer generated from the Harbor Park Alternative. This makes absolutely no sense. If this is true then for the exact same reasons the Sweetwater Park alternative also is a significant unmitigatable impact. For both alternatives additional sewage facilities need to be built. There is functionally absolutely no difference. The city needs more sewer capacity. The Sweetwater Park Alternative also contributes to this problem. This tiny bit more could be eliminated by the port insisting upon gray water systems for all future lessees, which the Port ought to do anyway. This needs to be added as an unmitigatable negative impact of the Sweetwater Park Alternative.

The analysis of the Harbor Park Alternative shown in Figure 4.1-5 includes all of the known buildings associated with the Broader Chula Vista Bayfront project. There are very little differences between 4.1-4 and 4.1-5.



No Land Trade Alternative

The no land trade alternative has to show the Signature Park in the harbor area. It also needs to show the 400- foot buffer in Sweetwater.

Why is the RCC shown in H-3 instead of H-23 for the no land trade alternative? Doesn't it belong in H-23 and the park in H-1 and H-3? The Signature Park was a very important feature of the CAC meeting agreements.

Alternative Placement of the RCC

Besides the Harbor Park Alternative with its placement of the RCC south of Goodrich other alternatives need to be considered. Gaylord originally was looking at locations in eastern Chula Vista. Village 13 just east of Upper Otay Lakes is the ideal place for a large conference center like this. There are 200 acres designated as Preserve/Resort. The views from a tall building there would be incredible. There is space for a more sensitive design, a golf course, tennis courts, hiking trails, worker housing, etc. 125 has opened to provide transportation to the site. There is a small airport near-by only used now by gliders, but it could accomodate an air ferry, perhaps, helicopters. Gaylord should be encouraged to consider other locations, including H-23 (as recommended by the CAC) in order to minimize its impacts.

PMP

The Wetlands designation may include identified buffers and/or setbacks from delineated wetland areas. Development within wetland buffers is limited to passive uses, such as outlooks, picnic areas, and/or spur-trails. Such improvements should include interpretive and educational opportunities while allowing coastal access in a manner that will ensure the protection and preservation of these sensitive habitat areas. It is totally inappropriate to allow outlooks, picnic areas, and/or spur-trails in wetlands, which in paragraph above are described as: *Wetlands are to be preserved, protected and, where feasible, restored. Development shall be limited to restoration, nature study or similar resource-dependent activities.* Picnic areas and spur trails or outlooks are not passive uses and are not appropriate in wetlands, which can be damaged by foot traffic and are by definition wet. The only development appropriate is restoration as the PMP now says. This new paragraph needs to be changed to delete everything after limited to and replace with restoration to be consistent with existing policy. Nature Study is not development, is resource dependent and emphasizes observing without disturbing.

If the PMP on page 107 specifies the trade of 97 acres for 33 acres why is the DEIR so unclear about these amounts of land?

03108-A2 It says there are Three Phases over 24 Years. It was our understanding that there are four stages. D-Street Habitat Replacement and Marine Sales and Services are totally contradictory uses for this area. Marine Sales and Services need to be eliminated. This is an important breeding area and has been maintained for this use for a number of years. It is not accessible to the public. (The D Street Fill area adjacent to the Sweetwater Flood Control Channel, designated as Estuary, mitigates the loss of intertidal and shallow sub-tidal habitat resulting from the National City Marine Terminal Wharf Extension project.) The marine sales and services use must be dropped. This is land already used as mitigation and classified as Estuary!!

Sweetwater District

The Limited Use zone will contain some wetland and upland habitat mitigation, and outlook stations and vegetated berms with appropriate fencing or other barrier surrounding the berms, as well as open space areas with trails. Mitigation land is restored habitat. The DEIR shows no restored habitat in this limited use zone. The restored habitat is in the no-touch zone. This states that the fence will be in the limited use zone. This is more appropriate than the diagram in the DEIR showing the fence inside of the no-use zone. Page 7 shows why putting ecological buffer in phase II would violate the amended PMP: Such

mitigation would be implemented in conjunction with development projects, The plan also includes ecological buffers adjacent to environmentally sensitive resources in order to ensure such habitat areas are protected and preserved. Another reason there must be a secure fence.

100 feet is too high in this area. At 100 feet bird strikes become a problem. 60 feet is the height limit previously discussed in the Harbor Park alternative. The “trail” at the terminus of F Street needs to be a bridge so that the connection of this wetland with the bay can be enhanced. The existing culvert is inadequate.

Otay District

The existing concrete Telegraph Canyon Creek channel is proposed to be replaced with a more natural vegetated channel. This is what should be in the DEIR instead of an expanded concrete channel with 10 feet of vegetation in the center. A natural channel is much more appropriate. An ecological buffer will be provided along the western boundary of the district between J Street and the RV park. This is insufficient. The buffer also needs to be around the entire north, west and south sides of this area, since it is surrounded by sensitive habitat. Stopping at the RV Park makes no sense. The marsh is also on the north and there is a salt pond on the south.

LCP

Page 1-9 probably *south end of Faivre Street*, should say west instead of south.

4.8-139 *The project as a whole preserves the most sensitive biological resources that are present in the Sweetwater District (adjacent to the Sweetwater Marsh NWR) by relocating the approved residential development to the Harbor District*, This is only partially true, because some of the development in the Sweetwater District has the potential still to cause significant negative impacts. Not as great and as certain as residential development but still needing avoidance and protection strategies to protect sensitive habitat. In addition, the Proposed Project has avoided the sensitive biological resources through the establishment of the ecological buffers along the perimeter of the Sweetwater District.

As explained above the Ecological Buffers have not been guaranteed and have not been designed in a satisfactory manner. They also do not avoid all sensitive biological resources in the area and they are planned in phase II after the negative impacts.

Goals for Development

“Create an economically sustainable community that generates revenues to support the ability to achieve other Bayfront objectives and encourages private sector participation.” Phase I is clearly not economically sustainable and future phases may be wishful thinking. The city will get no income from Gaylord for 20 years it takes to pay off the bonds. Pacifica is in a Redevelopment area so only sales tax from retail will go to the city’s General Fund, but many services will be required. The project will entail immediate General Fund expenses:

1. 1.8 acres of land for a fire station.
2. Whatever amount in excess of Pacifica’s PFDIF it takes to build a new fire station and equip it with a truck and an engine.
3. The salaries and benefits of 20 full time fire persons to staff the station 24/7 minus whatever can be negotiated as a Port contribution.
4. At least 7 (possibly 10) full-time police officers and staff, minus the Port’s contribution.

Considering the city’s current financial status this is hardly sustainable. There is the matter of the state law that does not allow a city to undertake more debt in a year than what its income is. It remains to be seen if this will be a problem or not because the total size of the bond apparently has not been determined yet.

“Provide a strong east-west connection between the Bayfront and western Chula Vista by eliminating or reducing barriers to connectivity.” Since the Green Line Shuttle has not been funded nor guaranteed, it is likely the bayfront will develop as a self-contained small city with everything the

visitors and residents need provided west of I-5. In fact in the energy and traffic sections of the DEIR this is the intention in order to reduce the use of cars and save energy it is assumed people will recreate and meet their needs close to home and hotel by walking or biking. The situation in Chula Vista is dramatically different than with the Convention Center downtown. The freeway is an effective barrier to keep people on the west side of I-5. Also the area immediately to the east is residential for a number of blocks until Broadway, except for the businesses along H Street-not conducive to strolling as in San Diego. Also Gaylord's entire business plan will entertain people as well as house them and provide retail outlets for purchases as well as recreational facilities and trails. There will be three more hotels that will provide another 1500 rooms for over-flow and numerous more restaurants and retail establishments along the marina and elsewhere on the bayfront. Eventually there will be offices that may actual provide jobs for some of the residents. This plan will create a separate community that will likely be visited by the other residents of Chula Vista, but considering the added traffic burden will likely be more disconnected than now.

Provide good regional access to encourage visitors to the Bayfront." The DEIR states that traffic on I-5 will be unmitigatable negative impact of F, which is virtual grid-lock. This hardly will provide good regional access or encourage visitors. The ferry in Phase 4 may bring a few.

"Provide for the long-term protection of important natural resources, including those within the National Wildlife Refuge." Putting the 400-foot Ecological buffer in Phase 2 does just the opposite of this. It also says in the DEIR that it will be finished "as funds become available." This is totally unacceptable and a violation of this goal. There is no specific protection for the mud flats west of the Sweetwater District. The DEIR makes no mention of bird flushing and has no means of counteracting this. There are no rules or specific details about the park insuring that users will not damage the Refuge. There are no mandated training programs for construction workers and operational workers insuring that they will be educated about sensitive habitats and the need to protect them. There are no funded rangers for important patrolling and protecting resources. There is no funded predator management plan, natural resources plan, wildlife rehabilitation program or anything else to meet this goal.

Page 2-6 The buffer is said to be a minimum of 200 feet. This should say 400 feet with the 200 feet closest to the Refuge restored habitat and a no-touch zone.

As now written the current DEIR's description of the project does not conform to the Coastal Act.

Parcel area 2G (H-17).

It is stated herein that this is owned by the city of Chula Vista, but nowhere is it indicated how the city managed to purchase this lot. If there was a land trade with the Port it is not described in the DEIR and the city appears to still own the 16 acres it has always owned in the Sweetwater District, so what was traded to get this parcel?

Objective *Ample opportunities should be provided for public open space and areas adjacent to the natural resources of the Chula Vista Coastal Zone to increase public access to the waterfront. A balanced and well-defined mix of land uses should be provided that will be responsive to the development and conservation goals of the Chula Vista LCP. Sensitive natural resources, including but not limited to saltwater marshes, submerged aquatic habitat and mudflats, should be preserved and enhanced to protect the many natural resources values of the habitat and contribute to the visual quality of the Bayfront.*

This objective is not being met, because there is no commitment to restoring the seasonal wetland in Sweetwater District by improving its tidal flushing by removing Lagoon Drive and creating a channel where there now is an inadequate culvert. Having the Ecological buffer in Phase 2 and not providing for a sturdy fence will not meet any habitat protection goals. There is also the problem that this buffer is to be established only "as funds become available." This is not in compliance with the preservation and protection goals of the LCP.

Objective *Allow development intensity that provides for the economic development of the Bayfront within the capacity of public service and infrastructure systems.*

In the DEIR the Fire Department states that the new station must have a truck and an engine and be staffed by 7 firepersons 24/7. This means the city must have General Fund income to pay 20 more firepersons. The city does not have this income nor any projection of this much more income from the projects in Phase 1 since ALL income from Gaylord for 20 years will pay off bonded debt and Pacifica is in a Redevelopment area. Tax increment cannot be used for General Fund expenses. The city will collect a PFDIF from Pacifica, but there is no way this amount alone will pay for the land, building and equipment for this fire station. The city already owes its residents a library from this fund, which the treasurer does not believe will be built before 2013. The 1500 residential put an added strain on the existing library deficit. The housing market has slowed down significantly and the city borrowed to pay for its new Police Station and Civic Center. These bonds are being paid off by future PFDIF funds at the rate of approximately 500 typical payments per year until 2033-36. Due to these debt payments we are missing a library and very little is likely to be available for a fire station for a number of years.

There is also the matter of the 7-10 additional police officers, their equipment, and support personnel that the Police Chief believes will be needed to provide for the Bayfront project as it develops. This is a significant amount of money with no income to the General Fund until the retail and hotels of Phase 2 are built and operating.

There is also a drought, which makes the availability of potable water in doubt, a lack of sewer capacity and an uncertainty about sufficient energy.

General Circulation and Public Access Objective/Policies

The DEIR states that traffic on I-5 will be an unmitigatable negative impact of the CVBMP. This will hardly make this a desirable place to come nor does this plan minimize traffic congestion. It actually creates or worsens traffic congestion. Exhibit 9A shows the "Green Line Trolley," but the DEIR indicates no plans for funding it and makes it clear that it will only be funded when "funds become available." This much uncertainty makes this as well as "private jitneys" seem extremely uncertain, if not unlikely.

Policy A.C2 Making roads on the bayfront "Urban Core Roads" so that D level traffic is now allowed does nothing to prevent traffic congestion, merely justifies it. Not including the signalized intersections at freeway ramps allows development to take place that will cause congestion.

Policy A.C7 *The land use mix identified in this Land Use Plan has been selected to avoid congestion of the freeways and connection arterials. All development within the LCP Planning Area shall be consistent with the land use policies of this Plan.* The DEIR in declaring the impact to the freeway and H and E trolley crossings as unmitigatable makes clear that this is not true.

Policy A.R11, Policy A.R12, Policy A.R15, Policy A.R19 It is difficult to understand how changing roads from 4 to two lanes or two to three lanes or 5 to 4 to 3 or 6 to 4 will help traffic in anyway. What seems more likely to happen is the creation of numerous bottlenecks that will slow traffic considerably.

If Policy A.R13 actually means F Street will be completely removed (which is not what the DEIR and the PMP say this is a very good action for the enhancement of the 'seasonal wetlands.')

Policy A.R14 The 100- car parking lot in the DEIR is not small.

Policy A.PT1 Some means must be found for funding these "convenient shuttle stops" or they should not be included in this document as a means of mitigating or preventing traffic or meeting the goal to get people to use the trolley. There is a totally different kind of situation in Chula Vista than at the San Diego Convention Center. In San Diego people need only to cross the street to be at a trolley station and in a commercial district. The bayfront in Chula Vista is cut off from the rest of the city by I-5. People are not likely to cross I-5 to walk some distance to the trolley station. Convenient shuttles are a necessity to meet this objective. People are not likely to often get in a car and drive through blocks of residential to arrive at a commercial center on Broadway or access stores along H. They are more likely to get on the freeway and go to the Zoo or Sea World or the beach in Imperial Beach.

Exhibit 10

This exhibit shows E Street and Marina Parkway where it now is both still in existence as major roadways. This is contrary to the PMP and the DEIR, which have a private roadway—"Gaylord Drive in the back of the building and no public road.

Objective *Plan and develop the Bayfront to ensure provision of important views to, from, and within the project area.*

The views from freeways and major entry points are totally or largely obscured by high rises according to the visual simulations in the DEIR. This objective to protect views from freeways has not been met. If indeed everything is setback 100 feet from the edge of H, E, and J there may be a narrow view as one drives along and past these roads. E Street and Marina Parkway will be the only internal roads with a view. Bay Blvd., C, A are likely to only have views of High Rise buildings.

Landscape

Evergreens 40-60 foot high on Bay Blvd would really make any views impossible from the freeway. The City Park is awfully close to the marshes. 80- foot high trees don't seem appropriate and would be much loved by hawks to hunt from. It does not seem to make sense to put spikes on buildings to keep raptors from perching and then plant 80- foot tall trees even closer to the marshes. 40-60 foot high formal planting along marina, E, etc. will obscure the views of the bay that the previous objective was insisting upon. This seems extremely inconsistent. Drought tolerate native or naturalizing plant materials shall be used to the maximum extent feasible. Many naturalizing plants are invasive so caution needs to be used with these plants.

Drainage

Grading and drainage concepts incorporated into the street plans use the streets with a curb and gutter system as the primary storm water collection system. This contradicts what is in the DEIR for both Gaylord and Pacifica where after treatment water goes into an in street storm drainage pipe.

Environmental Management

Objective *Long-term protection and enhancement of critical natural habitat areas should be provided by cooperating in a multi-jurisdictional planning and implementation plan with adequate safeguards and guarantees.* The land exchange is an extremely important way of meeting this objective, but without the Ecological Buffer with an adequate fence in place before any thing in Phase I is open to the public there are not adequate safeguards and guarantees to protect natural habitat areas. If the L-Street ditch is to remain there must be more extensive policies and plans for its protection than simply a 50- foot buffer.

Mitigation for all disturbance of wetland areas shall be provided at a ratio of 4:1 with an approved combination of creation and enhancement. The DEIR does not use this ratio.

Objective *Protect, maintain, and enhance wildlife habitat within the Sweetwater Marsh National Wildlife Refuge while allowing public enjoyment of coastal resources.*

This objective is not met unless funding for the buffer is identified and it is built with an adequate fence in Phase One. Also the 100- foot office building on city property is too high and too close to the SNWR. This height needs to be lowered. The parking needs to be in back of the building and the building moved further south. This is a landlocked lot so building anything here seems questionable, but the LCP should have a lower building. The hotel at 125 feet is also too high.

Policy SA2.FA4 The entry to the Bayfront from "F" Street shall emphasize the view down "F" Street to the bay as this shall be a major pedestrian access point to the "F&G" Street Marsh. This needs to be reworded. People do not have access to the F&G Street marsh and access would be inconsistent with objectives of LCP to protect and enhance natural habitats. Perhaps, substituting to the Bayfront or to the Nature Center shuttle stop or simply leave it as pedestrian access point would be appropriate.

Harbor Area

The USFWS is mentioned as a major landowner in the Harbor District. Is this correct?

Discrepancies in tables 4.8-3A, 4.8-3B, 4.8-3C,

If all of city and port project level impacts are added up from totals on Table 4.8-3A the sum comes to 160.03 acres, but Table 4.8-3B shows a sum of only 131.51. This gives the public another reason to doubt the accuracy of the mitigation figures.

There is also an error in the total on Table 4.8-4A since obviously the Port's total of 592.38 and city's total of 50.32 do not equal the total given on the Table of 463.60.

Page 30, Heights

125 and 100 feet are too high for Sweetwater District parcel.

Park Land

Obviously number of acres will meet level required but will they meet this requirement? *The PMP emphasizes marine-oriented activities, and also states that public recreation uses operated by the Port "must be of the appropriate type and size to be efficiently developed, administered, and maintained" at a reasonable cost.* Since there is no specific description of the parkland provided, it is impossible for the public to ascertain if the cost of maintenance of all this acreage will be reasonable or not. It is also stated in the document that amenities will be provided as funds become available, which leaves the public wondering if ever.

Conclusion

In this document we have many references to various web sites. We wish to make clear that the information on these sites is also intended to be part of the public record.

In summary the current DEIR does not meet minimal disclosure requirements for a project level EIR for any of the projects in Phase I. The project description is totally inadequate to provide the public with the information needed to fully evaluate the probable adverse negative environmental effects of the project and suggest specific mitigations or ways of avoiding impacts. It is suggested that the entire DEIR be considered programmatic and the Reduction in Density & Height alternative be adopted with the inclusion of the buffer, parks and shuttle service, as well as the fire station in the bond.

http://www.ceres.ca.gov/topic/env_law/ceqa/guidelines/index.html

a) *Basic Purposes of CEQA.*

The basic purposes of CEQA are to:

(1) Inform governmental decision-makers and the public about the potential, significant environmental effects of proposed activities.

The lack of specific descriptions of projects has denied the SWCVCA the information needed to fully determine the potential, significant environmental effects, because the proposed activities are not precisely described.

(2) Identify the ways that environmental damage can be avoided or significantly reduced.

The DEIR does not specifically identify ways of avoiding or significantly reducing specific environmental damage. In fact it begins by declaring a great deal of environmental damage to air quality, energy availability, aesthetics, and traffic to be unavoidable if the project is implemented as planned.

(3) Prevent significant, avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigation measures when the governmental agency finds the changes to be feasible.

(4) Choosing an alternative way of meeting the same need;

It is clearly feasible and possible to adopt specific mitigation measures and change the project by adopting the Reduced Density & Height Alternative. The vagueness of the project descriptions actually makes it impossible to determine exactly what the effects are that need to be mitigated and, therefore,

impossible to determine exactly what appropriate strategies for avoidance or mitigation would help reduce them below the level of significance.

5) Disapproving the project;

(6) Finding that changing or altering the project is not feasible;

(7) Finding that the unavoidable significant environmental damage is acceptable as provided in Section 15093.

The citizens of Chula Vista should not be expected to have to tolerate the declaration of overriding circumstances for so much environmental damage that could be largely avoided and/or mitigated by changing the project and adopting appropriate mitigation measures suggested during various meetings prior to the issuance of this and the former document. It is also questionable whether considering the Port's trust requirements and goals that the Port could ever legally make such a finding without violating its obligation to protect the lands it manages in trust for the people of California.

There is also the issue of environmental justice. These unmitigatable negative effects will most affect the people living in western Chula Vista. We have a lower median income and are much more ethnically diverse than in the east. The negative burdens of this project as now written will fall disproportionately upon us.

15021. Duty to Minimize Environmental Damage and Balance Competing Public Objectives

(a) CEQA establishes a duty for public agencies to avoid or minimize environmental damage where feasible.

(1) In regulating public or private activities, agencies are required to give major consideration to preventing environmental damage.

(2) A public agency should not approve a project as proposed if there are feasible alternatives or mitigation measures available that would substantially lessen any significant effects that the project would have on the environment.

There are feasible alternatives to this project and there are mitigation measures that in conjunction with these alternatives would substantially lessen any significant effects. Even assuming the Port is right that the entire project depends on Gaylord, which is very questionable, their RCC could be located at H-23 and H-9 instead of H3. Also the buffer zone could be functional before construction starts and the projects could describe detailed and specific ways they would avoid environmental damage. Since the governor declared California would reduce its carbon footprint by 80% by 2030, all projects must be held to a much higher standard.

b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.

(c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

15091. Findings

(a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:

(1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

(2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

(3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

Actually there are specific economic, legal, social considerations of this Master Plan that require mitigation measures not mentioned in the DEIR. Instead of providing employment opportunities for highly trained workers as certain research, industrial and educational uses would the Port Master Plan largely provides employment opportunities in hotels and retail that are largely low and very low paying. The city of Chula Vista already has an obligation to provide 6,500 more housing units for existing low and very low- income workers. If as many as 3,000 or more workers in this category are going to need housing in Chula Vista as a result of this master plan this would have significant negative economic and social impacts upon the city, which are not analyzed. (If people instead lived in Tijuana the city would lose multiplier effect of many dollars.)

The reduced Air Quality would have severe adverse health affects on existing and future residents that have not been analyzed. The Traffic Congestion would increase the Green House Gas production in the area at a time when the city and the state are trying to lower it. The increased water use would exasperate the current drought conditions. Even though the increased bond debt might be paid over time by Gaylord in the mean time the Port and the city will need money to provide all the extra services required by this project-without the income from Gaylord. What affect will this have on other services they are obligated by law to provide? The theory that Gaylord will bring other low wage businesses to the area only exasperates the existing socio-economic problems caused by the RCC. Gaylord's per room profits estimates have been declining, which would make repayment of the bond much longer.

Gaylord shares jump after billionaire boosts stake

Gaylord Entertainment shares surge on speculation that Robert Rowling may pursue a deal July 18, 2008: 03:52 PM EST

NEW YORK (Associated Press) - Shares of Gaylord Entertainment Co. surged on Friday afternoon after an analyst speculated that Texas billionaire Robert Rowling may pursue an acquisition or joint venture with the hotel operators.

Gaylord shares jumped \$1.99, or 7.6 percent, to \$28.05 in afternoon trading after climbing as high as \$29.10. During the past 52 weeks, the stock has dropped from a high of \$59.89 in August 2007 to touch a low of \$19.30 on Monday.

On Wednesday and Thursday, Rowling's TRT Holdings Inc. reported buying roughly 1.2 million Gaylord shares earlier in the week. The purchases boosted Rowling's stake in the company to 5.3 million shares, or roughly 13 percent, according to the Securities and Exchange Commission filings.

Citigroup analyst Joshua Attie listed four potential outcomes for the investment. He noted that the stake may be for investment purposes and TRT may not take action. On the other hand, he said TRT may pursue a strategic alliance or joint venture with the company or push Gaylord to explore strategic alternatives, including a sale. The analyst said TRT may also seek to acquire the company itself, possibly through a tender offer.

"We would have very mixed feelings about (management) selling the company at a premium to the current share price, but at a time when valuation is depressed," Attie wrote. The analyst said a strategic alliance would be the best outcome, potentially allowing Gaylord to accelerate unit growth and improve its balance sheet.

A representative of TRT Holdings, which owns the Omni Hotel chain and Gold's Gym, was not immediately available to comment.

Gaylord's vice president of corporate communications, Brian Abrahamson, said in a phone interview that the Nashville, Tenn.-based company has not engaged in talks with TRT at this point.

"We welcome long-term investors in Gaylord stock, especially those who know and understand the hotel business and share our enthusiasm for the growth prospects of the company," Abrahamson said.

*Earlier Friday, Morgan Keegan & Co. analyst Napoleon Overton **lowered his estimates for Gaylord's revenue per available room, citing "persistent deterioration in economic trends impacting lodging demand."***

Revpar, or revenue per available room, is considered a key gauge of a hospitality company's performance. <http://money.cnn.com/news/newsfeeds/articles/apwire/128fc020dd0dd10c59cf82f1f97e06f2.htm>

The state has another law guaranteeing Environmental Justice. The imposition of grid-locked traffic on I-5, delays at trolley crossings, and the congestion to be tolerated by changing the classification of city roads to classifications making D LOS acceptable could be considered an environmental justice issue because it will unfairly burden the lower income minority communities of Chula Vista while not affecting the higher income eastern portion of the city with lower percentages of minority residents, which will still have the same thresholds requiring roads to operate without this congestion. Considering the negative health affects documented to be caused by the lower air quality caused by congested roads this would be significant. A few references:

<http://www.sdearthtimes.com/et0603/et0603s21.html>; <http://www.sdearthtimes.com/et1002/et1002s21.htm>;
http://www.hc-sc.gc.ca/ewh-semt/air/out-ext/effe/health_effects-effets_sante-eng.php;
<http://familydoctor.org/online/famdocen/home/common/asthma/triggers/085.html>;
http://www.mnforsustain.org/climate_health_effects_of_air_pollution_mishra_pern.htm

(b) *The findings required by subdivision (a) shall be supported by substantial evidence in the record.*

(c) *The finding in subdivision (a)(2) shall not be made if the agency making the finding has concurrent jurisdiction with another agency to deal with identified feasible mitigation measures or alternatives. The finding in subsection (a)(3) shall describe the specific reasons for rejecting identified mitigation measures and project alternatives.*

The Port and the city have concurrent jurisdiction to deal with feasible mitigation measures and alternatives. The differences between the proposed LCP and the proposed PMP could be construed as an attempt to avoid responsibility by confusing the issues and deferring responsibility to another agency.

(d) *When making the findings required in subdivision (a)(1), the agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures.*

(e) *The public agency shall specify the location and custodian of the documents or other material which constitute the record of the proceedings upon which its decision is based.*

(f) *A statement made pursuant to Section 15093 does not substitute for the findings required by this section.*

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21002, 21002.1, 21081, and 21081.6, Public Resources Code; *Laurel Hills Homeowners Association v. City Council* (1978) 83 Cal.App.3d 515; *Cleary v. County of Stanislaus* (1981) 118 Cal.App.3d 348; *Sierra Club v. Contra Costa County* (1992) 10 Cal.App.4th 1212; *Citizens for Quality Growth v. City of Mount Shasta* (1988) 198 Cal.App.3d 433.

Discussion: *This section brings together statutory, regulatory, and case law requirements dealing with findings which an agency must make before approving a project for which an EIR was prepared. The statute in Section 21081 provides that a separate finding must be made for each significant effect.¹⁶ This section avoids the problem of agencies deferring to each other, with the result that no agency deals with the problem. This result would be contrary to the strong policy declared in Sections 21002 and 21002.1 of the statute.*

Substantial evidence to support the findings¹⁷ *appears to be required to implement the legislative intent of this section. The Legislature wanted agencies to deal directly with the facts presented in the EIR. Although the courts have often drawn the distinction between quasi-adjudicatory findings which must be supported by substantial evidence and quasi-legislative findings which need not be supported by substantial evidence, the Legislature has blurred this distinction by requiring all agencies to make these findings in response to specific facts in an EIR without regard to whether the decision could be classified as legislative or adjudicatory. In requiring this finding, the Legislature appears to have removed the partition between the two pigeon holes and required agencies to grapple with the facts as presented in the EIR.*

¹⁶ Emphasis added

¹⁷ Emphasis added

Clearly there is a need for much more detail and specific facts in the DEIR so that the public and decision makers will have adequate information to base any decision about this project.

Where the courts have required agencies to make findings, they have required three elements. First, the agency must make the ultimate finding called for in the statute. Second, the finding must be supported by substantial evidence in the record. Third, the agency must present some explanation to supply the logical step between the ultimate finding and the facts in the record. Section 15091 requires that all three elements must be addressed. This section implements many court decisions interpreting the findings requirement. The decisions include City of Rancho Palos Verdes v. City Council of the City of Rolling Hills Estates, (1976) 59 Cal. App. 3d 869; Mountain Defense League v. Board of Supervisors, (1977) 65 Cal. App. 3d 723; Village Laguna of Laguna Beach, Inc. v. Board of Supervisors, (1982) 134 Cal. App. 3d 1022.

The court in Citizens For Quality Growth v. Mount Shasta (1988) 198 Cal. App. 3d 433, found that passing reference to mitigation measures are insufficient to constitute a finding, as nothing in the lead agency's resolutions binds it to follow [those] measures. In this case, there was nothing in the lead agency findings which obligated the project proponent to implement the necessary measures to effectuate the mitigation.

Other than the ratio replacement of habitat, a fire station, traffic lights and road enlargements there is little to no commitment to mitigation and avoidance measures in the DEIR. None of these passing references constitute adequate mitigation according to case cited above. Gaylord is not specifically bound to do anything. The Port or the city must take up the slack and bind themselves as well as demonstrate a clear means of financing adopted measures into the future or specific mitigations must be assigned to specific parties to mitigate specific adverse environmental effects prior to anything being built. The existing DEIR is too vague to do this.

Sincerely,

Theresa Acerro
President
Southwest Chula Vista Civic Association

Miscellaneous Questions

1. 4.4-5 Mitigation 4.4-1 is irrelevant to the Silverstrand.
2. 4.4-7, 4.4-8 How does 4.4-1 mitigate “disparity of scale” and its moderate significant impact?
3. If Nature Center Road is in Phase I why is extension of F street to it left to Phase IV?
4. Specifically what will be done to prevent bird strikes on the Atrium, since its description appears to have every one of the danger signs?
5. How can it be said the population and housing is not a significant impact when this project plans on adding 3,000 to 5,000 low wage jobs and we already have working poor living two, three or more families to a home in Chula Vista?
6. 6.5-26, etc. How can some of these be evaluated as less than significant and others as unmitigatable?
7. How can Air Quality be significant and Unmitigatable but green house gas be less than significant?

8. How can 4.16-1 say energy impact is less than significant, but cumulative energy impact is significant and unmitigatable?
9. Considering governor's recent declaration and all the "water features" how can water impact of Gaylord and 1500 condominiums as well as all this landscaping, especially cumulatively be considered less than significant? Reclaimed water needs to be used outside through out. Considering volume of water to be used a re-watering system needs to be included in both the residential and the hotel.
22. Why is there only a fence where there are look-outs? Cacti have been proven to not be a deterrent. Wood and steel cable can not keep dogs, cats, rats and other predators out.
23. Why is buffer reduced to 100 feet at S-4?
24. S-4 is extremely close to sensitive habitat, 125' is way too high for a building here. Development in Sweetwater is supposed to be low-rise only.
25. Why are there no simulations of visual impact from I-5 approaching chula Vista from National City?
26. Why are there no simulations of visual impact from homes and streets in the city of Chula Vista, which now have Bay views?
27. How will it be possible to landscape along roads, allow on street parking (p302, section 3) on E, J, and H, and do all the street widening proposed at different phases?
28. If the portion of Marina parkway between G and H is to be part of the RCC leasehold does that mean Gaylord will be responsible for maintenance and any and all problems occurring on said stretch of road?(p 316 (3-109))
29. Why does the proposed amendment to the PMP still show the area on the south side of the Sweetwater Channel as "marine sales and services"? (Fig. 4.1-6) This was and is Inad dedicated to habitat for mitigation purposes.
30. (Page 468, 4.2-5) How did consultants arrive at conclusion that the traffic volume would be as stated? What does this number being more than half of UCSP estimate have to do with anything? Since the UCSP traffic study did not include the project how can assumption be made that if an intersection had an acceptable LOS under that study it would still have after adding this project?
31. Page 480 4.2-17 says acceptable intersection LOS is D. This is not exactly true. Intersections can have a LOS D for up to 2 hours during rush hour otherwise acceptable is LOS C.
32. Will any part of the Gaylord buildings shade the F/G Street marsh at any time of the year? Is it possible to know this now, since there are no final architectural plans?
33. Will the financial analysis of this plan be a worse case scenario?
34. Will all the negative financial impacts to the city be part of the analysis?-City can not afford to pay 20 new firemen or 7 new police officers out of its General Fund when it will receive no income from

Gaylord or Pacifica (except a little sales tax from Pacifica's retail) for 20 years. There will be increased need for social services and affordable housing due to large number of low wage employees.

35. It is unclear as to whether HP-5 includes the J Street channel.

36. Will there be mitigation for the lost grasslands on H-13, H-14, H-15? Why is there a need for a HLIT? If the L ditch stays it will be protected by the 50 foot buffer and other measures. If it is destroyed it must be mitigated 4:1.

37. Why is H Street west of Marina Pkwy constructed as 2 lane Class II Collector (4.2-1) and then widen to a 3 lane class II collector (4.2-3& 4.2-13) and prior to certificates of occupancy? Isn't this using the same mitigation for two conditions? Shouldn't the road just be constructed as 3-lanes and save the money?

38. What exactly is the difference between a two lane Class III and a 2-lane Class II road other than more cars can travel on it before the LOS degrades?

39. Doesn't 4.2-15 use the same mitigation for a Phase II condition as used for a phase I condition previously (4.2-1)-a traffic light at H and Gaylord Driveway? Isn't an additional mitigation required for the additional impact?

40. Mitigation 4.2-16 Does J now have 8 lanes?

41, 4.2-19 Where are all these extra lanes coming from? Marina Park?

42. 4.2-20 Is street A renamed B when it crosses the bridge?

43. Is E Street going to be construct all the way to H-3 from the beginning or not?

44. 4.5-1 This mitigation is inadequate, because it assume people will use trash cans and that they will be emptied daily. Some kind of barriers to prevent trash from entering habitats must be used.

45. 4.7-7 This barrier along E Street will be permanent?

46. 4.7-9 When 54 was constructed it chased the Clapper Rails away from the Refuge. More care must be taken this time.