

March 1, 2023

Transmitted via Electronic Mail

John Funderburg, Assistant Director of Planning
65 Civic Avenue
Pittsburg, California 94565
Email: JFunderburg@pittsburgca.gov

Subject: Scoping comments by San Francisco Baykeeper on the proposed Bay Walk Mixed Use Project NOP EIR.

Dear Mr. Funderburg,

San Francisco Baykeeper (Baykeeper) submits the following comments on the Notice of Preparation (NOP) for the upcoming Environmental Impact Report (EIR) for the proposed Bay Walk Mixed Use Project (Project).

Baykeeper is a California non-profit organization and submits these comments on behalf of its approximately 5,000 members and supporters who live and/or recreate in and around the San Francisco Bay Area. Baykeeper's mission is to defend San Francisco Bay from the biggest threats and hold polluters and government agencies accountable to create healthier communities and help wildlife thrive.

Our primary concern regarding the proposed Project is best captured by this image:



Jan. 22, 2023. The proposed Bay Walk Project OU-A is outlined, which is already a significant flood zone and will only be exacerbated by local sea level and groundwater rise in future.

As is evident by this image, the Project is slated for development in a flood zone. As a former PGE site, this area is also known to be contaminated. Baykeeper recognizes that more housing and more pro-housing policies are urgently needed in our region. But clean-ups and development must be thoughtful, responsible, and protective of people and the environment. Building housing on a contaminated site made up of existing wetlands and the allegedly dry areas adjacent to them – areas that are *already regularly inundated by tidal fluctuations* as seen in the image above – is a recipe for disaster in the future, both for people and the Bay's ecosystem.

Given these concerns and problems, a thorough, accurate, and complete environmental review is especially important in this context. As drafted, the NOP lacks substantive components that are necessary to completing an accurate and complete assessment of the environmental impacts of the Project, especially under the conditions identified above. Each of the Hydrology and Water Quality, Hazards & Hazardous Materials (including Wildfire), Biological Resources, Land Use and Planning/Population and Housing, and Alternatives to the Proposed Project sections of the NOP lack necessary information, details, and demands related to the development of the Project in a known flood zone that contains contaminated soils.

Hydrology and Water Quality

The NOP states there will be a discussion of potential impacts related to sea level rise (SLR). In addition, groundwater and flooding are also mentioned in this section. Specific focus and a significant investment of attention and analysis are required to adequately assess the impacts of the Project on SLR, groundwater rise, flooding, and related water quality impacts.

First, the EIR should include an assessment of the groundwater rise that will also occur at the Project site, not just SLR. We encourage the City to use the most recent research available when assessing primary and secondary impacts of SLR on this site. UC Berkeley researchers Plane, Hill and May have documented the relationship between SLR and emergent groundwater. Emergent groundwater is a SLR-induced threat; therefore, evaluating both risks together, will produce a more accurate and comprehensive assessment of risk at the site as well as the site's impact on surrounding areas given future groundwater and sea level rise. Research demonstrates that as much as twice the amount of urban land may be at risk of flooding when SLR-induced rise of groundwater is included in coastal flooding projections.

To accurately portray flooding, groundwater emergence, and the impacts of SLR, we suggest predicted modeling studies of shallow groundwater aquifers on this site. Used on this scale, the risk of flooding will be known, and adequate planning measures can be taken to ensure the safety of this community and the environment.

Hazards & Hazardous Materials (including Wildfire)

The NOP says the EIR will rely on studies and reports furnished by PG&E and reviewed by DTSC to determine the environmental impacts of this proposed project. Baykeeper recognizes the role PG&E and DTSC will play in creating, approving, and implementing a clean-up of the site, but this division of responsibility does not relieve the City of its obligation to conduct a complete

environmental review. Any EIR, in order to properly evaluate the environmental impacts and risks of the Project, as well as the safety of future residents or users at the site, must analyze the site *as it will be used in the future by the developer, the City, and the public.*

Done properly, the EIR's analysis of hazards and hazardous materials requires that the Remedial Action Plan (RAP) be completed and approved by DTSC before the EIR is issued. Without the RAP, the EIR cannot adequately evaluate the conditions at the site. And any assumption by the City that a third-party prepared RAP will be adequate abdicates the City's responsibility to ensure its residents are safe. Given the magnitude of the potential impact, the City has a legal and moral obligation to evaluate the impacts itself prior to approving this Project, rather than rely on speculations and assumptions about DTSC's future actions.

Furthermore, given the recent history of fires at the site, it is imperative that the City include peatland fires and their impacts on air quality, greenhouse gas emissions, valuable ecosystems and environmental services, and human health. Since 2018, this site and the adjacent wetlands have experienced three severe fires. Remediation plans that include dewatering this site, as mentioned in this NOP, will potentially exacerbate incidents of peatland fires. A significant part of prior fire response efforts was to inundate the site with Bay water. Therefore, the analysis must also include the impacts of plans to put out peatland fires that may occur in the future, as the ability to flood the site will be limited if the Project moves forward as planned.

Biological Resources

The NOP states it will address the Project's environmental effects on the existing on-site wetlands. However, the information within the NOP is inadequate to fully evaluate the location and extent of the wetlands, and the Project description is also vague as to whether or what wetlands will be filled as part of the Project. A complete and specific analysis of the current and proposed future wetlands at the site is necessary to understand the impacts on biological resources, including the plants and wildlife that rely on wetlands for survival.

Additionally, analysis is required as to how and whether the Project will impact the future retreat of those existing wetlands in the face of SLR. If not restricted or inhibited, wetlands will naturally move inland as sea levels rise. This allows the ecosystems they support to thrive and continue to exist despite SLR and provides for significant natural benefits and protections from the impacts of SLR. The Project's impact on the ability of the existing wetlands to migrate in response to SLR, as well as the impact that lost migration will have on the environment and flood risks must be analyzed in the EIR.

More fundamentally, understanding the existing wetlands is necessary to meaningfully evaluate the environmental and broader utility and appropriateness of the Project.

Land Use and Planning / Population and Housing

The EIR will need to assess the Land Use and Planning/Population and Housing section. The current land use is deemed as Industrial, Utility/Right of Way, and Open Space with a protective land

covenant to prohibit residential use at the site. Any residential development at the site, as contemplated by the Project, would require removal of this land use covenant (LUC) prior to the remediation at this site being completed. The NOP states:

Development activities in each development phase area would commence after remediation in the phase area is completed. Construction and occupancy of one development phase area may take place prior to the completion of remediation in other development phase areas and prior to completion of remediation in the Undeveloped Area and the Former Cooling Water Canal. (p.14)

In other words, as soon as the completion of OU-A and OU-B are done, residents will be allowed to live there, despite the remainder of the site still being contaminated, including portions of the site or contaminants of concern that specifically led to the LUC.

This site already is inundated with surface water from high tides and stormwater runoff; therefore, the assessment must evaluate mobilization of contaminants in the soil, vapor and groundwater, which can pose a public health threat to future residents if the entire site is not remediated prior to allowing residential use of this site.

Alternatives to the Proposed Project

Lastly, the EIR must consider alternatives to this Project that include leaving this site as buffer lands. As previously mentioned, this area provides onsite capture of water from tidal exchange and runoff. Without this buffer land in place, it places established residents, businesses and infrastructure at risk especially as climate change impacts, most notably sea level rise and groundwater surge, increase. Taking a long-term view of this site, it may be that the best development plan is one that cleans up the toxic contamination and restores the wetlands onsite to buffer our communities and support the Bay's ecosystem.

We understand the Bay Area is in a housing crisis. But building residential complexes on land that currently floods, catches fire, and has a contaminated load is a short-sided approach that will not solve the crisis and will needlessly place people and the Bay at risk.

Thank you for the opportunity to comment on this NOP EIR. We appreciate your consideration of our comments that a more thorough assessment is needed at this site to allow for an informed evaluation of the impacts to the environment and the community. Please reach out to Eric Buescher at Eric@baykeeper.org with any questions.

Sincerely,



Eric Buescher
Managing Attorney



Aundi Mevoli
Field Investigator and Policy Advocate