



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**REGION 9**  
**75 Hawthorne Street**  
**San Francisco, CA 94105**

October 8, 2004

Clyde Morris  
Refuge Manager  
Don Edwards San Francisco Bay NWR  
P.O. Box 524  
Newark, California 94560

Subject: Draft Environmental Impact Statement (DEIS) for the Bair Island Restoration and Management Plan, San Mateo County, California (CEQ #040397)

Dear Mr. Morris:

The U.S. Environmental Protection Agency (EPA) has reviewed the above-referenced document pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508) and Section 309 of the Clean Air Act.

The DEIS analyzes the proposal to restore to tidal action 1,400 acres of former salt ponds on Bair Island in South San Francisco Bay. The document analyzes five alternatives, including the proposed action of tidal marsh restoration with moderate public access. EPA supports this project and the environmental benefits that will be achieved by restoring the island complex to its natural state.

Based on our review, we have rated the DEIS as Environmental Concerns - Insufficient Information (EC-2). We have concerns about the lack of an environmental justice analysis, and incomplete information pertaining to impaired waters, Clean Air Act standards, and local land use planning. Our detailed comments and a *Summary of EPA Rating Definitions* are enclosed.

We appreciate the opportunity to review this DEIS. When the Final EIS is released for public review, please send one copy to the address above (mail code: CMD-2). If you have any questions, please contact me or David P. Schmidt, the lead reviewer for this project. David can be reached at 415-972-3792 or [schmidt.davidp@epa.gov](mailto:schmidt.davidp@epa.gov).

Sincerely,

/S/

Lisa B. Hanf, Manager  
Federal Activities Office  
Cross Media Division

Enclosures:

EPA's Detailed Comments

Summary of EPA Rating Definitions

**EPA DETAILED COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS)  
FOR THE BAIR ISLAND RESTORATION AND MANAGEMENT PLAN, OCTOBER 8, 2004**

**Environmental Justice Analysis**

The DEIS states that Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority and Low-Income Populations, February 11, 1994) requires Federal agencies to address disproportionately high and adverse human health or environmental effects of their activities on minority and low-income populations (Section 3.5). Another component of this Executive Order is to assure the meaningful involvement of minority and low-income populations in the federal decision-making process. This is not discussed in the document.

Both of the goals stated above are dependent on the Federal agency performing an analysis of the proposed project's planning area to determine the existence of an environmental justice community. The DEIS does not perform this analysis and does not disclose the presence of minority or low-income populations in the area.

The DEIS reaches the conclusion that none of the Action Alternatives would result in any significant environmental justice impacts (p. 85), but does not support this conclusion. The document does indicate that sensitive land uses (i.e., locations where sensitive receptor populations may exist) adjacent to the Bair Island site include residential developments to the northwest and south (p.82). It also states that, if not properly mitigated, construction from the implementation of the Preferred Alternative could result in significant air quality impacts associated with dust generation (p. 106). Although those impacts may be reduced to less than significant with mitigation, the potential impacts to an environmental justice community, if one exists, should be discussed in the document.

**Recommendation:** The Final Environmental Impact Statement (FEIS) should provide an analysis of low-income and minority populations within the surrounding neighborhoods. If the determination is made that an environmental justice community exists in the area, the FEIS should document the public involvement methods used to communicate with that community. The assessment of the project's impact on those minority and low-income populations should be clearly described and reflect coordination with the affected populations.

**Designation of Impaired Waters**

The DEIS discusses the regional water quality of San Francisco Bay (Section 3.2.1). However, portions of the Bay designated as impaired waters in the State of California's 2002 Clean Water Act Section 303(d) List of Water Quality Limited Segments are not identified.

**Recommendation:** The FEIS should provide information on the State's designation, including the specific water quality standards that are not being met in the Bay at the Bair Island complex, and the status of efforts by the State to develop Total Maximum Daily Loads (TMDLs).

### **Compliance with the Clean Air Act**

The DEIS describes Federal and California Clean Air Act mandates (Section 3.4.1). Table 6 (p. 82) provides a listing of State standards for those criteria pollutants monitored at the Redwood City monitoring station, but does not reference the appropriate National Ambient Air Quality Standards (NAAQS). There is also no discussion of general conformity requirements, which is warranted due to construction activity that will occur and the area's non-attainment status.

**Recommendation:** In addition to the California standards, the FEIS should reference the NAAQS and address conformity with the applicable State Implementation Plan.

The NAAQS for ozone was revised on July 18, 1997 (62 Federal Register 38856) when EPA promulgated an ozone standard of 0.08 ppm as measured over an 8-hour period. EPA's final rule designating non-attainment areas under the 8-hour NAAQS was published in the Federal Register on April 30, 2004. On that date, EPA announced the designation of San Mateo County, California, as a Subpart 2 "Marginal" non-attainment area for the new ozone standard, effective June 15, 2004. EPA intends to revoke the 1-hour ozone standard on June 15, 2005. If the project is approved before June 15, 2005, and the action commences before that date, then the project will need to meet the conformity requirements for the 1-hour ozone standard at 40 CFR Part 93.150-160.

**Recommendation:** Section 3.4.1 of the FEIS should discuss this regulatory change and provide information on the availability of monitoring data for 8-hour ozone concentrations. Section 3.4.3 should be revised to address the potential impacts to air quality of implementing the project in this non-attainment area.

### **Conformance with Relevant Plans, Goals, and Policies**

The DEIS describes how the restoration and management plan relates to several other land management plans for the area (Section 2.5). It does not reference the Goals Project (San Francisco Bay Area Wetlands Ecosystem Goals Project, 1999), which provided the following recommendations for the Redwood City area:

- Restore large areas of tidal marsh, providing a continuous band along the bayfront for the entire length of the segment.
- Restore most of Bair Island to tidal marsh and enhance oyster shell ridges in the intertidal zone.

- Restore tidal marsh along Westpoint Slough and Redwood Creek, but modify the salt crystallizers adjacent to Redwood Creek as salt pan habitat managed for shorebirds and waterfowl.
- Retain a complex of salt ponds near Ravenwood Slough, while assuring a wide band of tidal marsh around Ravenwood Point to the Dumbarton Bridge.
- Reintroduce rare and uncommon high marsh plant species at sheltered shell ridges.
- Restore dredged material disposal sites on outer Bair Island and at Deepwater Slough on marsh/upland ecotones, including seasonal ponds for plants and shorebirds.
- Restore egret and heron nesting habitat on Bair Island by removing red fox.

**Recommendation:** The FEIS should provide information on the Goals Project and describe the degree to which the alternatives of the FEIS are consistent with the recommendations of that report.