

SUPPLEMENT TO
Comments and Responses for
Draft Supplemental Environmental Impact Report

Albany Beach Restoration and
Public Access Project

for the East Bay Regional Park District

SCH # 2012032072

May 27, 2015

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I INTRODUCTION AND BACKGROUND

A. Purpose of this Supplement

This document is a Supplement to the Comments and Responses for Draft Supplemental Environmental Impact Report for the Albany Beach Restoration and Public Access Project, SCH #2012032072, dated May 21, 2015. Due to an administrative error, the Comments and Responses document omitted one comment letter that was received during the public review period on the Draft Supplemental EIR. The omitted comment letter was received from Mary Barnsdale, Co-founder, Albany Landfill Dog Owners Group & Friends. This Supplement provides responses to that comment letter.

B. Background

The Comments and Responses for Draft Supplemental Environmental Impact Report for the Albany Beach Restoration and Public Access Project responds to comments received during the public review period on the Draft Supplemental EIR dated December 22, 2014 (with the exception of the omitted letter discussed above). The Draft Supplemental Environmental Impact Report (DSEIR) was prepared to assess the potential environmental consequences of on- and off-leash dog use as result of the proposed Albany Beach Restoration and Public Access Project (also referred to as “the Proposed Project” or “Project”) at the Albany Peninsula and the bay shoreline between Buchanan and Gilman Streets, in the cities of Albany and Berkeley, California.

As discussed in more detail in the Comments and Responses for Draft Supplemental Environmental Impact Report, the Supplemental EIR was prepared to comply with the Alameda County Superior Court’s May 14, 2014 Final Statement of Decision on litigation challenging the original EIR for the project, the Final Environmental Impact Report for the Albany Beach Restoration and Public Access Project that was certified in November 2012. As required by the Court’s decision, the Supplemental EIR further addresses the existing dog use and enforcement of leash requirements at the Project site and the potential environmental impacts dogs might have on the Project site post Project implementation.

This Supplement to Comments and Responses for Draft Supplemental Environmental Impact Report for the Albany Beach Restoration and Public Access Project, along with the Comments and Responses for Draft Supplemental Environmental Impact Report, and the Draft Supplemental Environmental Impact Report (DSEIR), together comprise the Final Supplemental EIR for the Albany Beach Restoration and Public Access Project. This document, together with the Comments and Responses for Draft Supplemental Environmental Impact Report and the Draft SEIR, will be presented to the East Bay Regional Park District Board of Directors at a public meeting to certify as a complete and adequate analysis of the environmental effects of the Project related to dogs, under the California Environmental Quality Act (CEQA).

C. Document Organization

This document is organized into the following chapters:

- ◆ **Chapter 1: Introduction and Background.** This chapter discusses the purpose and background of this Supplement to Comments and Responses for Draft Supplemental Environmental Impact Report.
- ◆ **Chapter 2: Comments and Responses.** This chapter contains a reproduction of the letter received from Mary Barnsdale, Albany Landfill Dog Owners Group & Friends, on the Draft Supplemental EIR, and responses to the comments.

2 COMMENTS AND RESPONSES

The comment letter from Mary Barnsdale, Albany Landfill Dog Owners Group & Friends (ALDOG) is reproduced on the following pages, with individual comments identified by number. Responses follow the comment letter, with each response identified by number.

11 February 2015

Mr. Chris Barton
Acting Environmental Programs Manager
East Bay Regional Park District
2950 Peralta Oaks Court
Oakland, CA 94605

Re: Supplemental EIR for Albany Beach Restoration and Public Access Project

Thank you for gathering the first real data about who uses the Albany waterfront area.

ALDOG-1

The Supplemental Environmental Impact Report (SEIR) makes clear that the projected increase in the number of people with dogs to the waterfront when the Albany Beach Restoration and Public Access Project is complete will not have a significant impact. It also notes that most people with dogs are diligent about cleaning up after them and that the overall cleanliness of the beach may be due, in part, to the presence of Albany Landfill Dog Owners Group & Friends (ALDOG), which conducts regular cleanups.

The SEIR resolves all environmental concerns. We urge the Board to accept it.

The Problem Is Plastics, Not Dogs

ALDOG-2



Albany Beach Cleanup...
Sunday, 2/15, 1-3

 **and** **FREE** sand globe workshop with "Earth in Your Hands" founder Zach Pine! (www.naturesculpture.com)

 **and** **FREE** cookies and beverages from Whole Foods on Gilman St!

 **and** **FREE** parking from Golden Gate Fields (enter at foot of Buchanan St., Albany)!

 **No RSVP, just show up!**

Sponsored by Albany Landfill Dog Owners Group, in collaboration with the East Bay Regional Park District. A Samavesha Community Program event.

ALDOG (aldog.org) is a project of PIDO, a 501(c)(3) nonprofit, and is a California Coastal Commission adopter of Albany Beach

ALDOG is part of a network of environmental activists working to remove plastics and microplastics from beaches (to protect wildlife and prevent toxins from getting into the oceans as the plastics break down). We are a California Coastal Commission adopter of Albany Beach. By the end of our upcoming Albany Beach cleanup this Sunday, we will have removed some 3,000 pounds of plastics and other debris from the beach and surrounding areas since 2013.

Albany Beach, in contrast to nearby South Beach, is very contaminated with plastics. Recently, ALDOG brought the park district together with The Clean Oceans Project and marine experts from the Monterey Bay Aquarium and Cabrillo College to discuss a comprehensive cleanup.

ALDOG-2
(cont.)

The proposed cleanup would go beyond National Oceanic and Atmospheric Administration standards by sifting out microplastics with patented Static Charge Filtration Screens pioneered by Sea Turtles Forever (STF). STF has been mentoring ALDOG's cleanup efforts with our own screen, purchased from them two years ago.

Albany Beach Is (Not) for the Birds

So while some beaches are good habitat, Albany Beach is not one of them. It is tiny, busy, and contaminated with creosote, microplastics, sharps, and more.



Twelve bags of plastics, including nurdles, collected from one square meter of sand, three inches deep, at Albany Beach by researchers from the Monterey Bay Aquarium and The Clean Oceans Project.

SPRAWLDEF, Sierra Club, Citizens for East Shore Parks, and Audubon Society have not provided evidence that dogs harm birds on Albany Beach. Occasionally a bird is flushed by a dog or a child; that is all.

Also, the proposed project will add more parking, picnic areas, restrooms, accessible walkways, and a watercraft launch area for kayaks and windsurfers. All of that is at odds with enhancing bird habitat. Whether people with dogs are there or not is irrelevant.

ALDOG-3

That does not mean any bird species is at risk. The McLaughlin Eastshore State Park (MESSP) area has large expanses of rich habitat set aside for wildlife and habitat. That includes the 160-acre Albany Mudflats Ecological Preserve (three times the size of Point Isabel), the protected areas along the Bay Trail, the large Hoffman Marsh, the extensive mudflats and beach at the Brickyard, and the 72-acre Berkeley Meadow.

A Policy Debate, Not an Environmental Issue

Whether people with dogs should continue to enjoy Albany Beach, as they have for 50 years, is at heart a **policy debate**. It is curious that several large environmental organizations are so focused on what is clearly **not an environmental issue**.

ALDOG-4

The recent expensive legal battle (SPRAWLDEF vs. EBRPD) is fundamentally a struggle over which park users may or may not use Albany Beach. Some old-guard environmentalists have even referred to people with dogs as a "special interest group."

Actually, **people with dogs are a park user group**.

ALDOG-4
(cont.)

People with dogs have been using the Albany waterfront for recreation **for 50 years, sharing it successfully with many other user groups** – and long before Sierra Club and others formed Citizens for East Shore Parks (CESP) and worked to knit the disparate pieces of open space along the shoreline into a single park. The upside was that MESSP preserved open space and created a unique urban shoreline park. The downside is that existing, longtime open space users have too often received little respect.

CESP, Sierra Club, and SPRAWLDEF and have claimed that the beach is overrun with off-leash dogs and that other park users have been driven away or denied access therefore.

However, the **data** shows a very different picture. The data gathered by the park district shows that 59 percent of park visitors are **not** people with dogs. (Interestingly, the number of park visitors with dogs – 41 percent – maps exactly to the estimated percentage of East Bay households with dogs.)



ALDOG-5

Extrapolating from the user data gathered by the park district during the summer of 2014, there may be as many as 216,804 visitors every year to the Albany waterfront. Even after adjusting for seasonal differences, the Albany waterfront is already as popular as Point Pinole (which typically draws around 175,000 visitors a year).¹

With little planning or management, the Albany waterfront has attracted a strong, unique, and diverse user base, and provides much-needed recreation for residents along the crowded, urban shoreline.

We would welcome further studies to better understand how historically underserved populations use shoreline parks versus inland parks. We believe that **the diversity at the Albany waterfront mirrors the population** along the urban shoreline.

This is especially pertinent because, for historical and geographical reasons, the park district's Recreation Areas² are disproportionately located far from the urban shoreline between Oakland and Richmond (where the bulk of the population of Alameda County and Contra Costa County lives). **Robust recreation near where residents live supports "Healthy Parks, Healthy People," serves underserved populations, and helps reduce the district's carbon footprint.**

¹ EBRPD park user estimates for Point Pinole in 2013 were 173,250.

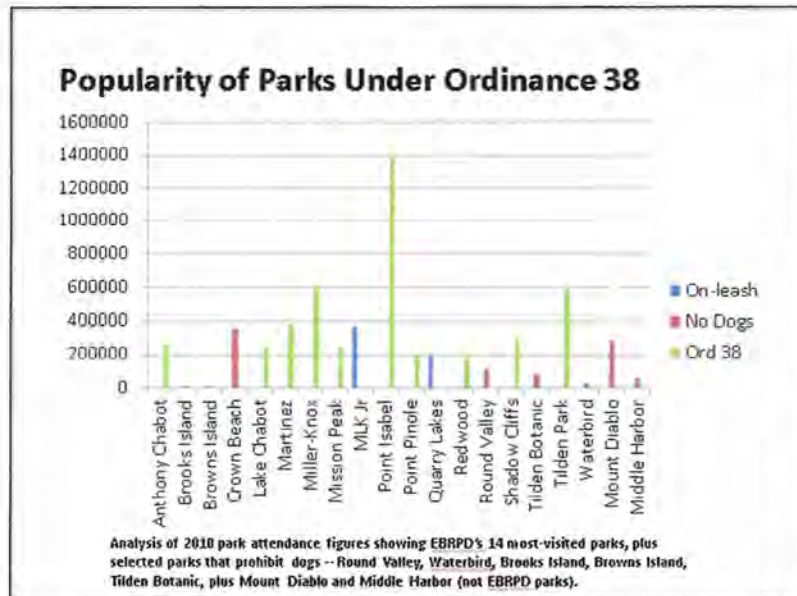
² Roberts, Kennedy Grove, Diablo Foothills/Castle Rock, Little Hills, Cull Canyon, Temescal, Don Castro, Sobrante Ridge, Contra Loma.

Most EBRPD Visitors Choose Parks Where Dogs Can Go

On August 12, 2012, Sierra Club and SPRAWLDEF submitted comments on the Draft Environmental Impact Report which, oddly for environmental organizations, focused almost exclusively on the fear of dogs.

A small minority of people in the general population is afraid of dogs. Without an unbiased, scientific study, it is hard to know how this problem manifests at the Albany waterfront.

The SEIR also notes that it is some staff members' understanding that some people avoid the waterfront out of fear of dogs. This is anecdotal, not scientific – and, regrettably, even EBRPD staff is not always immune to prejudice against park users with dogs.



At a meeting with Albany Waterfront Committee members, for example, one EBRPD staff member stated that Point Isabel works 80 percent of the time, that 20 percent do not respect the rules and do not pick up after themselves, and that the Albany waterfront attracts that 20 percent.³

No data supports that. Compliance at Point Isabel is high and the

focus of constant education and cleanup efforts by Point Isabel Dog Owners & Friends (PIDO). Until recently the park district had little information about park usage at the Albany waterfront. The data collected in 2014 flatly contradicts the assertion above.

Putting aside prejudice, and absent actual data, all we can say is that most EBRPD visitors do actually **choose** to go where dogs can go.

If fear of dogs were a huge issue, one might expect that parks that prohibit them would be heavily utilized. The opposite is true. The most popular parks in the district are those that allow dogs off-leash in undeveloped areas.

³Francesco Papaglia's notes on the discussions between City of Albany staff and Waterfront Subcommittee members and East Bay Regional Park District (EBRPD) Staff at 979 San Pablo Avenue, Albany, CA on December 4, 2009 (9:30 AM – 12 PM)"

An East Bay Regional Park by Any Other Name

Yes, we know: MESSP is a state park, and state law prohibits dogs off-leash or on beaches.

The State Archivist was not able to tell us how that law came about. We can say that the lawmakers probably never imagined that half a dozen old landfills along a crowded, urban shoreline would become a state park.

They might also have had a hard time imagining that by 2015, a one-bathroom cottage along the East Bay shoreline could cost more than half a million dollars and require two fulltime wage-earners to work long hours to pay for it. They might be surprised at the lack of leisure time available to many people, the heavy traffic on the way to distant parks, and the urgency of not increasing our carbon footprint.

This is a different world – and one that calls for robust recreation close to where shoreline residents live.

Any reasonable person must also agree that MESSP is not like any other state park. It is cobbled together from several landfills, with very little natural area left. It is highly urban. And it came complete with thousands of active, longtime users.

ALDOG-7

The official description of the creation of Eastshore State Park (now MESSP) states that, "Over 4,000 major stakeholders and interested parties reached substantial consensus on the future uses and improvements for the park."

That's half the story. It never mentions that 3,000 people did **not** agree, and presented a petition asking that recreational uses at the Albany waterfront be grandfathered in. In 2011, ALDOG and other groups presented another 10,000 signatures to the EBRPD Board of Directors asking the same thing.

We feel that MESSP is more EBRPD than state. It co-owned by the EBRPD; East Bay taxpayer monies were used to buy the land; and it is managed entirely by the EBRPD, at East Bay taxpayer expense.



Given that the district has a 30-year operating agreement with the state, quite a few of us will be paying for the upkeep of MESSP for the rest of our lives. And we're happy to pay for it. But we believe it should be managed under our own park district rules.

Need to Balance Recreation and Conservation

ALDOG-8

The position of CESP, Sierra Club, and SPRAWLDEF seems to be that people are welcome to go wherever they want in the park – as long as they leave their dogs at home. That creates a level playing field for everyone, right?

Not so much. The **data** suggests that only a tiny minority of people want dogs banned from the Albany waterfront. A few years ago, the City of Albany conducted a series of workshops as part of its Voices to Vision community process. Heavy participation by the organizations above skewed the results, but they still came out firmly in support of allowing people with dogs at the waterfront. The very smallest group – eight percent – wanted to ban dogs entirely.

Let's be really clear here: Banning dogs would displace a large, diverse, active, daily user group **in favor of a tiny minority of infrequent users**. It would also virtually eliminate this **valid form of recreation** in the park district. People have many options – Lake Anza, Crown Beach, Del Valle, and other swimming areas – but people with dogs do not.

Can't Teach an Old Guard New Tricks

Some of the antipathy towards people with dogs may be attributable to entrenched beliefs about dogs and outmoded thinking about urban parks. The parties most opposed to people with dogs in the parks have no expertise in managing recreation, let alone **balancing**

recreation and conservation. That is not what they care about.



We hear frequently that numerous peer-reviewed studies have shown that dogs devastate the environment. **Feral dogs** in Mongolia and **free-ranging dogs** in Hawaii maybe... but that is not what we're talking about in the East Bay. Here, **off-leash companion dogs** spend an average of 90 minutes out, under the constant supervision of their people.

ALDOG-9

The **relevant** studies of dogs in urban areas validate the low impact of off-leash dogs. The Boulder study⁴ shows that when people are walking with their dogs, the dogs don't stray far and have low impact on the surrounding areas. The Edmonton study⁵ of multiple urban parks in Canada found that birds were actually more plentiful in the off-leash areas than in places where dogs were leashed or absent. Numerous studies have

⁴ "Interactions Among Dogs, People, and the Environment in Boulder, Colorado: A Case Study," Anthrozoos, 1997, Marc Bekoff and Carron A. Meaney, University of Colorado, Boulder, and Denver Museum of Natural History

⁵ "Effect of dog leash laws and habitat type on avian and small mammal communities in urban parks," Urban Ecosyst, April 2006, Andrew Forrest and Colleen Cassaday St. Clair

ALDOG-9
(cont.)

shown that the presence of **people** disrupts wildlife, but that people with dogs are no more disruptive.

One CESP board member who is adamant that people with dogs must be banned from the beach has said on more than one occasion that she and her children were driven away from Albany Beach back in the 1960s, even before the dump was closed, by dogs and dog feces. This is unfortunate.

However, in the 50 years since then, **many thousands of people**, including families with dogs, have had a wonderful experience on Albany Beach that has brought them closer to the parks and closer to Nature. One would hope that CESP could appreciate that **those park users' experiences also have value.**

An Audubon activist noted at a recent public hearing in Albany that 145 species of birds have been observed at the waterfront and that it is much too rich a habitat to continue to allow dogs on Albany Beach.

There are not 145 species of birds on Albany Beach, of course. Presumably these sightings include the Bulb, Plateau, Albany Mudflats Ecological Preserve, and along the Bay Trail.

But, putting the two comments above together, it is inescapable that dogs have been present at the waterfront for 50 years **and** 145 species of birds have been observed.

And the problem here is what?

ALDOG-10

The aforementioned Audubon activist also complained that, "Birds get flushed at Point Isabel and they go to Albany Beach, and they get flushed at Albany Beach and then where can they go?"



This is compelling but, again, has no basis in reality. Hypothetical birds flushed at Point Isabel would head to the other side of Hoffman Bay, or into Hoffman Marsh, or along the Bay Trail, or maybe to the Albany mudflats. They would not flee to Albany Beach and then be out of options.

Albany Beach is not the last stand for anything – not even people with dogs.

They Still Can't Get Over Point Isabel

ALDOG-11

The prejudice against people with dogs seems to far outstrip any actual problems with dogs in the parks. Take the lingering bitterness about Point Isabel.

ALDOG-11
(cont.)

Antagonists sometimes paint Point Isabel as a lost paradise that was once full of meadowlarks and is now barren. They inevitably fail to mention that North Point Isabel was one of the most toxic landfills along the shoreline or that 55-acre Point Isabel is the single-most visited spot in the entire park district – with twice as many visitors every year as all of Tilden Park (which is about 38 times the size of Point Isabel).

Forget the dogs; more than 1.3 million human visitors a year to a small park has an impact. Given its extraordinary usage, Point Isabel looks remarkably good. Part of that is due to PIDO, its active user group, which has conducted cleanups and weed pulls, educated park users, and contributed in other ways to the park for 30 years.

But this is what some old-guard conservationists apparently cannot look past their own biases to see: If one small park can draw such huge numbers out for exercise, to enjoy the outdoors, and to build a relationship with the park district, isn't that a *good* thing? Isn't that an exceptional use of formerly underutilized landfill?

It is deeply ironic that some of these same people, while lamenting the loss of habitat along the shoreline where the Tom Bates Regional Sports Complex sits, point to the large number of users served by those sports fields as a public good that was, ultimately, worth the cost. Then they point to Point Isabel, which has exponentially more park users and serves multiple user groups rather than just one, as something that should never have been allowed to happen.

Toward a Kinder, Gentler Park District

The campaign against people with dogs is unkind. It is also unnecessary, out of-date, and out-of-step with today's needs and demographics. We need practical, commonsense solutions that deliver the best for wildlife, the environment, and the urban residents along the crowded East Bay shoreline.

Some of us had childhoods where we were encouraged to play outdoors and to learn about dogs, and we feel the better for it. We wish this for other children, too, particularly in this increasingly electronic age. It may not work for everyone, but playing at the water's edge with a dog is a simple but great pleasure for adults and children alike.

That is hard for some to understand. We get that. But a wealth of experiences and options is what life should be all about. The park district has almost a dozen freshwater and saltwater swimming areas for people who prefer to avoid dogs. It has only this one, small, not very clean beach – which is not even a designated swimming beach – where people with dogs can be a natural part of the park user mix.



ALDOG-12

ALDOG Comments on SEIR

ALDOG-12
(cont.)

We know that the park district has to balance the interests of many groups. We ask you to engage with all parties, going forward, for collaborative, real-world solutions.

Thank you again for all that you do for park users, wildlife, and the environment. We are all extremely proud of our fabulous East Bay Regional Park District.

Sincerely,



Mary Barnsdale
Co-founder
Albany Landfill Dog Owners Group & Friends



Albany Landfill Dog Owners Group & Friends is a project of PIDO, a 501(c)3 nonprofit
aldog.org albanycadogs@gmail.com

Response to Comments ALDOG-1 through ALDOG-12

Response ALDOG-1

As discussed in the SEIR and noted by the comment, all impacts of the Proposed Project, including potential impacts of dogs on biological and geological resources (see pages 24-30 and 32-33), would be reduced to a less-than-significant level by mitigation measures identified in the SEIR.

Response ALDOG-2

The comment is noted.

Response ALDOG-3

Existing wildlife, including birds, and impacts on biological resources, including effects of unleashed dogs on wildlife, are described in the 2012 Albany Beach Restoration and Public Access Project Final EIR and 2014 Draft Supplemental EIR. The comment is consistent with the findings in the SEIR.

Response ALDOG-4

The original 2012 EIR and the Draft SEIR evaluate the Project as proposed, as required by CEQA. Thus, in evaluating the environmental impacts of the Project, it assumes off-leash dogs will continue to visit the Project. The comments on the design of the Proposed Project and District policy regarding dogs will be forwarded to the Park District Board.

Response ALDOG-5

As noted by the comment, the Draft SEIR describes current use at the Project site. Dogs at the site may deter some users from using the site; however, this is an existing condition, not an impact of the Proposed Project, which would not change current policy and enforcement regarding dogs, as discussed in Response SPRAWLDEF-11.

The comments on park usage, and recreational needs and policy, will be forwarded to the Park District Board.

Response ALDOG-6

Dogs at the site may deter some users from using the site; however, this is an existing condition, not an impact of the Proposed Project, which would not change current policy and enforcement regarding dogs, as discussed in Response SPRAWLDEF-11.

Response ALDOG-7

The comment, which does not pertain to the environmental review but rather concerns the McLaughlin Eastshore State Park and policies related to off-leash dogs, will be forwarded to

the District Board. Section 3.4, Land Use and Planning, p. 42-43, discussed the Project's consistency with the McLaughlin Eastshore State Park General Plan, including OPER-5 and its restrictions on dog use at the Project site. Page 39 of Section 3.4, Land Use and Planning established the following standard of significance for land use and planning impacts related to conflicts with applicable planning documents: Land use and planning impacts associated with dogs would be considered significant if the aspects of the Project pertaining to dogs would

“conflict with any applicable land use plan, policy or regulation . . . adopted for the purpose of avoiding or mitigating an environmental effect. In the event a conflict with an applicable land use plan, policy or regulations already exists, the land use and planning impacts associated with the Project would be considered significant if the Project would increase that conflict by substantially increasing the environmental impact that the policy, plan or regulation was meant to avoid or mitigate.”

The SEIR acknowledged the Project conflicts with OPER-5 but concluded the conflict does not result in a significant environmental impact because the conflict already exists and implementation of the Project will not increase that conflict by substantially increasing the environmental impact that the policy, plan or regulation was meant to avoid or mitigate.

Response ALDOG-8

The comment, which does not pertain to the environmental review but rather to policies related to off-leash dogs, will be forwarded to the Park District Board.

Response ALDOG-9

As discussed in the SEIR, consistent with this comment and the studies cited, all impacts of the Proposed Project, including potential impacts of both people and dogs on biological and geological resources (see pages 24-30 and 32-33), would be reduced to a less-than-significant level by mitigation measures identified in the SEIR.

The comments on policies related to off-leash dogs at the Project site will be forwarded to the Park District Board.

Response ALDOG-10

The additional information about birds at and near the Project site is noted. Existing wildlife including birds, and impacts on biological resources including effects of unleashed dogs on wildlife, are described in the 2012 Albany Beach Restoration and Public Access Project Final EIR and 2014 Draft Supplemental EIR. As discussed in the SEIR, all impacts on biological resources would be reduced to a less-than-significant level by mitigation measures identified in the SEIR.

Response ALDOG-11

The comments regarding Pt. Isabel Regional Shoreline do not pertain to the environmental impacts of the Proposed Project, and do not require a response under CEQA. These comments will be forwarded to the Park District Board.

Response ALDOG-12

The comments on dog use at the Proposed Project will be forwarded to the Park District Board.