

San Francisco Bay Conservation and Development Commission

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October 16, 2023

Port of Oakland
Environmental Programs and Planning Division
530 Water Street
Oakland, CA 94607
Via email: cliang@portoakland.com
ATTN: Colleen Liang



SUBJECT: Notice of Availability of the Draft Environmental Impact Report for the Oakland International Airport Terminal Modernization and Development Project (SCH# 2021050164); BCDC Inquiry File No. MC.MC.7415.26

Dear Ms. Liang:

Thank you for the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the Oakland International Airport Terminal Modernization and Development Project received by our office on July 17, 2023.

The San Francisco Bay Conservation and Development Commission (BCDC) is a responsible agency for this project and will rely on the certified EIR when considering approvals related to the project. While the description of the project in the DEIR is not specific enough for BCDC staff to comment on every potential issue that could be raised with respect to BCDC's laws and policies, staff has prepared the following comments outlining issues under BCDC's authority that should be addressed as part of the EIR or through the BCDC permitting process. The Commission itself has not reviewed the DEIR; the following comments are based on BCDC staff review of the DEIR, the McAteer-Petris Act (Title 7.2 of the California Government Code), and the *San Francisco Bay Plan* (Bay Plan),¹ as well as staff's comments on the project's Notice of Preparation (NOP), dated June 9, 2021.

Based on the DEIR, we understand that the Proposed Project will include the following components:

- **Demolition or Removal of Existing Facilities.** Demolish or remove the catering building and associated parking; a portion of employee parking in the Neil Armstrong Lot; the Terminal 1 ticketing and baggage claim building; office and storage buildings north and west of Terminal 1; the fuel rack and below-grade fuel systems west of Terminal 1;

¹ The most recent version of the Bay Plan (2020) can be found at <https://www.bcdc.ca.gov/publications/index.html>.

remote and cargo aircraft parking positions and taxi lanes west of Terminal 1; employee parking north of Terminal 1; the multi-tenant cargo/support building and associated parking; economy parking lot; the provisioning building and associated parking; the OMC hangar and related structures and nearby storage building; the park and call lot; and a portion of the main parking lot inside the Airport Drive loop.

- **New Passenger Terminal.** Construct a new approximately 830,000-square-foot terminal north of Terminal 1, with a connector building joining the new terminal and Terminal 1. The new terminal would be located in the area currently occupied by the multi-tenant cargo building, fuel rack and below-grade fuel systems, offices and storage buildings, remote and cargo aircraft parking and taxilanes, employee parking, and economy parking, to be demolished or removed. The new terminal would include up to 25 aircraft gates.
- **Terminal 1 and 2 Modernization.** Renovate and expand concourses in Terminal 1 and Terminal 2; expand the existing international arrivals facilities in Terminal 1; expand the ticketing/check-in area in Terminal 2; develop a new outbound baggage makeup area, remote screening room, and additional passenger airline baggage service support offices in Terminal 2; and extend and reconfigure the inbound baggage area in Terminal 2.
- **Airfield Improvements.** Construct an aircraft apron at the new terminal. Develop new taxilanes and/or taxiways on all sides of the new terminal apron, new or relocated connections to existing taxiways, and reconfiguration of existing taxilanes. Develop new taxilanes adjacent to the replacement remote and cargo aircraft parking positions.
- **Landside Improvements.** Develop new employee parking facilities at the North Field Lot, the Golf Course Lot, the Neil Armstrong Lot, the Terminal Approach Lot, and the Terminal Infill Lot. Develop new public parking facilities at the Ron Cowan Lot and the Maitland Lot. Extend portions of the terminal curbside to provide new passenger loading and unloading curbs in front of the new terminal. Construct a new covered walkway between the existing BART Connector station and the new terminal. Construct a second terminal return roadway to access the new terminal curbside.
- **Airport Support Facilities.** Construct a replacement cargo building and associated parking, replacement remote and cargo aircraft parking positions, replacement airline and airport support building and associated parking, and replacement belly cargo building and associated parking.
- **Utility Improvements.** Expand the existing central utility plant adjacent to Terminal 1. Construct a replacement fuel rack and below-grade fuel systems. Expand, relocate, and upgrade the existing fuel system along the Bay. Relocate, expand, and upgrade existing utility systems, including electrical, sewer, stormwater, and telecommunications.

BCDC Jurisdiction

Per the McAteer-Petris Act, BCDC is responsible for granting or denying permits for any proposed fill; extraction of materials; or substantial change in use of any water, land, or structure within the Commission's jurisdiction (Government Code Section 66632). Our June 9, 2021, comments on the NOP noted that a portion of the Proposed Project may be located within BCDC permitting jurisdiction, and stated that the EIR should clearly identify BCDC's jurisdiction through mapping, and describe the project components taking place within BCDC jurisdiction. The DEIR appears to include only a brief definition of BCDC's jurisdiction on page 3.4-5 and generally notes that the pump house, fuel farm, and North Field Lot would be located within the 100-foot shoreline band, but does not appear to include any mapping of BCDC's jurisdiction in relation to the Proposed Project. Thus, it is difficult to clearly identify the policies or regulations which may be relevant to the project. Please include mapping and a description of BCDC's jurisdiction in the Final EIR such that it is clear what project components will be subject to BCDC's laws and policies. The mapping should include the extent of the Commission's Bay jurisdiction, typically defined as Mean High Water or, in areas of tidal marsh, the landward extent of marsh vegetation up to 5 feet above Mean Sea Level, as well as the extent of the Commission's shoreline band jurisdiction, defined as all territory located between the shoreline of the Bay and 100 feet landward of and parallel with the shoreline (Government Code Section 66610).

Note that per California Code of Regulations Section 10710, any "areas once subject to Commission jurisdiction remain subject to that same jurisdiction," including areas that may have been "filled or otherwise artificially altered." Thus, the EIR should state whether any portion of the Proposed Project would be located on Bay fill that was placed since 1965.

Land Use and Planning

As noted in our June 9, 2021, comments on the NOP, the EIR should include information on the Bay Plan and the McAteer-Petris Act, and assess the Proposed Project's consistency with both as part of the impact analysis for land use plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect. The Bay Plan is BCDC's primary policy instrument and establishes policies for development and resource conservation within the Commission's jurisdiction.

The DEIR includes a description of the Bay Plan and Airport Priority Use Area in Section 3.10 (Land Use and Planning). Please note that the summary of Airport policies on Page 3.10-3 should include the numbers of the relevant policies. Staff also requests that, generally, the EIR quote policies in the settings rather than paraphrasing them in order to avoid possible misinterpretations and to allow readers to review the policy text directly.

The DEIR also discusses the project's compatibility with the Bay Plan in relation to Impact Analysis 3.10.3.2, whether the project would cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. Note that the discussion on page 3.10-17 is quite brief and, while it states that "the Proposed Project would not affect coastal resources," there is no detailed analysis provided that leads to that conclusion. As noted in our NOP comments, the Bay Plan includes a number of policies that address Bay resources, including, but not limited to, water quality; airports; safety of fills; appearance, design, and scenic views; public access; and others. Simply because a project does not include a fill component does not mean that it would not have the potential to conflict with the Bay Plan in other ways. Whether in Section 3.10, or in other sections of the EIR and referenced, the analysis should establish that the Proposed Project would be consistent with the Bay Plan as a whole.

Additionally, it is important to note that identifying the extents of BCDC's jurisdictional areas is a critical step in determining whether or not a project includes Bay fill, as any work below Mean High Water (or the shoreline in areas of tidal marsh) or on previously filled areas may be considered Bay fill.

Biological Resources

Section 3.4 (Biological Resources) includes a brief discussion of the McAteer-Petris Act and the Bay Plan. However, while the only Bay Plan policy section noted on page 3.4-5 is the section on airports, there are a number of other Bay Plan policy sections that are relevant to biological resources, including Fish, Other Aquatic Organisms and Wildlife; Water Quality; Tidal Marshes and Tidal Flats; and Mitigation. Please review the Bay Plan in its entirety and include the relevant policies in the regulatory setting for this chapter, as well as make any necessary revisions to the impact analyses to ensure consistency of the analysis with the updated settings.

Transportation

Section 3.13 (Transportation) includes references to the Bay Plan's Transportation and Public Access policies in the regulatory setting and in Impact Analysis 3.13.4.1. Note that there are public access routes in the vicinity of the Proposed Project Area that are required as conditions of approval for existing BCDC permits, including the bike lanes along Doolittle Drive, and along Ron Cowan Parkway, Airport Drive, and the golf course. While Impact Analysis 3.13.4.3 concludes that the circulation improvements would not create a conflict for motorists, pedestrians, or bicyclists traveling within or around the project site, there is not yet adequate detail in the analysis to support that conclusion. In either Impact Analysis 3.13.4.1 or 3.13.4.3, there should be a more detailed analysis of how the relocation of the parking lots to the Ron Cowan Parkway/Airport Drive intersection and Doolittle Drive and the associated changes in circulation patterns would affect traffic and the potential for motorist/bicycle/pedestrian

conflicts along those routes. This assessment should cite how siting and the projected influx of new employees and customers to the airport could impact traffic in the area, any changes to road design and traffic patterns, and any areas expected to experience congestion or high speeds.

Other Sections of the DEIR

As noted in our NOP comments, there are a number of other policy areas within the Bay Plan that should be considered as part of the EIR settings and analysis, as referenced below.

AESTHETICS

The EIR should cite the Bay Plan's Appearance, Design, and Scenic Views policies in the regulatory settings of the Aesthetics analysis. Policies that may be relevant to the analysis include, but are not limited to the following:

- **Policy 2.** All bayfront development should be designed to enhance the pleasure of the user or viewer of the Bay. Maximum efforts should be made to provide, enhance, or preserve views of the Bay and shoreline, especially from public areas, from the Bay itself, and from the opposite shore....
- **Policy 4.** Structures and facilities that do not take advantage of or visually complement the Bay should be located and designed so as not to impact visually on the Bay and shoreline. In particular, parking areas should be located away from the shoreline....
- **Policy 8.** Shoreline developments should be built in clusters, leaving areas open around them to permit more frequent views of the Bay. Developments along the shores of tributary waterways should be Bay-related and should be designed to preserve and enhance views along the waterway, so as to provide maximum visual contact with the Bay.

HYDROLOGY AND WATER QUALITY/HAZARDS AND HAZARDOUS MATERIALS

The EIR should consider the following policy issues as part of its Hydrology and Water Quality and Hazardous Materials analyses.

Water Quality

The Bay Plan includes the following policies in its Water Quality section, which should be included in the regulatory setting for this chapter of the EIR.

- **Policy 1.** Bay water pollution should be prevented to the greatest extent feasible...
- **Policy 2.** Water quality in all parts of the Bay should be maintained at a level that will support and promote the beneficial uses of the Bay as identified in the San Francisco Bay Regional Water Quality Control Board's Water Quality Control Plan, San Francisco Bay Basin and should be protected from all harmful or potentially harmful pollutants....

- **Policy 3.** New projects should be sited, designed, constructed and maintained to prevent or, if prevention is infeasible, to minimize the discharge of pollutants into the Bay by: (a) controlling pollutant sources at the project site; (b) using construction materials that contain non-polluting materials; and (c) applying appropriate, accepted and effective best management practices, especially where water dispersion is poor and near shellfish beds and other significant biotic resources.
- **Policy 6.** To protect the Bay and its tributaries from the water quality impacts of nonpoint source pollution, new development should be sited and designed consistent with standards in municipal stormwater permits and state and regional stormwater management guidelines, where applicable, and with the protection of Bay resources. To offset impacts from increased impervious areas and land disturbances, vegetated swales, permeable pavement materials, preservation of existing trees and vegetation, planting native vegetation and other appropriate measures should be evaluated and implemented where appropriate.
- **Policy 7.** Whenever practicable, native vegetation buffer areas should be provided as part of a project to control pollutants from entering the Bay, and vegetation should be substituted for rock riprap, concrete, or other hard surface shoreline and bank erosion control methods where appropriate and practicable.

The analysis should discuss any potential for demolition, construction, or operation associated with the Proposed Project to disturb and/or mobilize contaminants into the Bay. As noted above, changes in sea and groundwater levels may have the potential to mobilize contaminants in and above ground.

Flood Hazards and Climate Change

The Bay Plan includes a Climate Change section, which recognizes the various ways climate change and related rises in sea level could affect the communities in BCDC's jurisdiction, particularly through sea level rise and flooding. Policies in this section establish a basis for evaluating projects based on their resiliency to projected rises in sea level. BCDC highly recommends that the EIR investigate the probability and impact of sea level rise as a matter of hydrology and water quality and to consider how sea level rise may affect the significance of impacts in other topic areas, such as those related to geological hazards and hazards and hazardous materials. Sea level rise threatens water quality not only through the release of contaminants into shoreline developments by overland flooding, but also through groundwater contamination caused by saltwater incursions into fresh groundwater reservoirs.

The Climate Change policies include the following:

- **Policy 2.** When planning shoreline areas or designing larger shoreline projects, a risk assessment should be prepared by a qualified engineer and should be based on the estimated 100-year flood elevation that takes into account the best estimates of future

sea level rise and current flood protection and planned flood protection that will be funded and constructed when needed to provide protection for the proposed project or shoreline area. A range of sea level rise projections for mid-century and end of century based on the best scientific data available should be used in the risk assessment...

Policy 3. ...[W]ithin areas that a risk assessment determines are vulnerable to future shoreline flooding that threatens public safety, all projects—other than repairs of existing facilities, small projects that do not increase risks to public safety, interim projects and infill projects within existing urbanized areas—should be designed to be resilient to a mid-century sea level rise projection. If it is likely the project will remain in place longer than mid-century, an adaptive management plan should be developed to address the long-term impacts that will arise based on a risk assessment using the best available science-based projection for sea level rise at the end of the century.

As part of the flood hazard analysis, BCDC urges the Port to include mapping of potential sea level rise scenarios using the best available science for projected water levels. The analysis should reference the mapping in discussing potential impacts related to flood hazards over the life of the Proposed Project, including the potential for the Proposed Project to affect flood flows. As of October 2023, the best available science-based projections for sea level rise can be found in the State of California’s 2018 Sea-Level Rise Guidance.² Resources available to assist the preparers of the EIR in the above assessments include BCDC’s Adapting to Rising Tides (ART) maps and data products, including the Bay Shoreline Flood Explorer.³

A comprehensive analysis would also determine the locations of possible groundwater incursions, and analyze the impact of saline groundwater rise on the level and quality of fresh groundwater and the efficacy of possible prevention and mitigation methods (e.g., groundwater barriers). The analysis should also consider whether potential groundwater rise could affect underground utility systems, and whether potential impacts could result in contamination.

In addition, the Bay Plan’s Shoreline Protection section contains BCDC’s policies for the design and implementation of shoreline protection. The EIR should state whether shoreline protection would be necessary to avoid or mitigate flooding impacts over time and assess how such protection would be consistent with policies of this section.

² Available at: http://www.opc.ca.gov/webmaster/ftp/pdf/agenda_items/20180314/Item3_Exhibit-A_OPC_SLR_Guidance-rd3.pdf.

³ Access resources and the Flood Explorer at <http://www.adaptingtorisingtides.org/maps-and-dataproducts>.

GEOLOGY AND SOILS

Section 66632 of the McAteer-Petris Act defines fill as “earth or any other substance or material, including pilings or structures placed on pilings, and structures floating at some or all times and moored for extended periods, such as houseboats and floating docks.” The DEIR stated that the Proposed Project does not include Bay fill. Please confirm this statement by providing a description and depiction of BCDC’s jurisdiction and any work taking place within its jurisdiction.

If new fill is proposed as part of the project or if portions of the project will be sited on existing fill, the EIR should include a description and consistency assessment for the Bay Plan’s Safety of Fills policies, which include the following:

- **Policy 2.** Even if the Bay Plan indicates that a fill may be permissible, no fill or building should be constructed if hazards cannot be overcome adequately for the intended use in accordance with the criteria prescribed by the Engineering Criteria Review Board.
- **Policy 3.** To provide vitally needed information on the effects of earthquakes on all kinds of soils, installation of strong-motion seismographs should be required on all future major land fills....
- **Policy 4.** Adequate measures should be provided to prevent damage from sea level rise and storm activity that may occur on fill or near the shoreline over the expected life of a project....

ENVIRONMENTAL JUSTICE

The Bay Plan includes a section on Environmental Justice and Social Equity. While environmental justice is not necessarily identified as a distinct resource area in and of itself to be analyzed under Appendix G of the CEQA Guidelines, many of the DEIR’s topic areas touch on issues of environmental justice. Environmental Justice and Social Equity Policy 4 states: “If a project is proposed within an underrepresented and/or identified vulnerable and/or disadvantaged community, potential disproportionate impacts should be identified in collaboration with the potentially impacted communities. Local governments and the Commission should take measures through environmental review and permitting processes, within the scope of their respective authorities, to require mitigation for disproportionate adverse project impacts on the identified vulnerable or disadvantaged communities in which the project is proposed.”

In considering impacts related to resource topics such as air quality, hazards and hazardous materials, noise, and transportation, which could affect quality of life for the surrounding community, the EIR should consider whether impacts may be borne disproportionately in vulnerable or disadvantaged communities. The EIR should base this determination on input gathered from meaningful engagement with potentially affected communities.

Colleen Liang, Port of Oakland
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(DEIR) for the Oakland International Airport Terminal
Modernization and Development Project

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We appreciate your attention to the topics discussed above and for the opportunity to make the above comments on the DEIR. Note that any analyses related to BCDC laws or policies not completed as part of the environmental review process will ultimately need to be completed as part of the BCDC permitting process. If you have any questions or concerns regarding this matter, please do not hesitate to contact me at (415)-352-3650 or by email at katharine.pan@bcdc.ca.gov.

Sincerely,

DocuSigned by:

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KATHARINE PAN
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