Chapter 5

HISTORY OF THE MARATHON PROPERTY, HAYWARD, CALIFORNIA

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Introduction

San Francisco Bay today is vastly different from the first time it was seen by man. When European man first came to the Bay it was still fairly unchanged. At that time the tidal marshes of San Francisco Bay and Sacramento-San Joaquin Delta combined covered over 2200 square kilometers (Josselyn, 1983). Today 95 percent of this habitat has been destroyed, leaving only 125 square kilometers of tidal marsh. This loss was due mainly to development. Tidal marshes and seasonal wetlands are essential habitats for migrating and overwintering birds, among other species. Seasonal wetlands serve as a buffer to tidal marshes, collecting runoff from the freshwater streams of the hills. They can filter and absorb pollutants in the runoff and thus function as a pollutant control. The runoff from the winter rains creates ponds that dry up in the summer, thus giving the lands the name 'seasonal' wetland. Winter is the time when such a habitat is needed by overwintering and migrating birds to rest and feed on. It is these areas that are under development pressure, yet it is also these areas that are vital to the present bird population. To save the birds, their habitat must also be saved. This means protecting seasonal wetlands. Without protection they will be filled in for development as much of this land already has been.

Every privately-owned seasonal wetland in the southern Bay has been proposed for development (Kelly, 1986, pers. comm.). One such wetland, covering 90 acres of the Hayward shoreline, is owned by Marathon U.S. Realties, hereafter referred to as "Marathon," which wants to build an industrial park on its property. The proposed project, the agencies involved and the historical background of this property are discussed here. A bird census at the property is detailed in Rebecca Dowdakin's paper, in this report. By looking at the situation with the Maraghon development proposal, one can gain an understanding of the trend of filling wetlands due to development pressures.

Marathon's Project Proposal and DEIR of Project

After purchasing 182 acres on the Hayward shoreline, Marathon began the process for development. In September of 1982 the Draft Environmental Impact Report (DEIR) of the project was completed (Liskamm, 1982). This report revealed that 90 acres on the northern portion of the site were seasonal wetlands. Because of this the property was divided into two pieces, Phase I and Phase II. Phase I, on the southern portion of Marathon's property, is a 48-acre parcel with only two-to-three acres of seasonal wetlands.

Phase II is 134 acres, of which 90 acres are considered seasonal wetlands. In December of 1982 the Final Environmental Impact Report (EIR) for Phase I was completed. This application was approved by the City of Hayward and development began.

The seasonal wetlands of Phase II are the focus of the present report because they are vital to migrating and overwintering birds. In October 1985 the DEIR was completed for Phase II of the project (TRS, 1985). This report is the leading comprehensive study of this site. It includes an analysis of the land use, vegetation and wildlife, soils, topography, geology and seismology, water quality, and storm runoff. Nevertheless, the Phase II DEIR is far from being complete. In fact, the City of Hayward is currently searching for another consulting firm to prepare a supplement to the DEIR. The following section will discuss the limitations of the DEIR.

The supplemental DEIR will focus on a vegetation and wildlife analysis, because the original did not address these issues completely. Problems with the DEIR include how the bird census was done and where the mitigation was proposed and the current use of the mitigation site. The problems with the bird census, explained in Rebecca Dowdakin's paper in this report, was the reason for doing another one. Our bird census will also add information about the wildlife on the property.

Mitigation is a requirement for this property if the project is built to replace the loss of the 90 acres of seasonal wetland. Appropriate land for mitigation has been sought by TRS in order for Marathon to be able to develop where they want to. The DEIR focused on two parcels next to Marathon's land. However, these neighboring parcels cannot replace the habitat that will be lost due to the Marathon development proposal. The environment that Marathon hopes to create through a mitigation process on adjacent parcels of land will not substitute for the wetlands on their property. What they propose to do is to make the already functioning wetlands on the adjacent parcels deeper, but the wetlands they want to mitigate for on the Marathon property are shallow. The proposed mitigation does not replace the wetlands that would be lost, a common problem with mitigation.

Alternatives presented in the DEIR include full development with no mitigation; full development with the proposed mitigation or donation to a Land Bank; partial development, leaving 30 acres of wetland undeveloped; and no development at all. Ultimately, when the City of Hayward feels that it has complete documentation of Marathon property, it and the Army Corps of Engineers will decide on the fate of the land.

Site Description

The Hayward shoreline is part of the marshes and seasonal wetlands along the south Bay. It is vital in maintaining enough suitable habitat for wetland birds. The Marathon property constitutes 100 percent of the meadow wetlands of the Hayward shoreline and thus is a scarce natural resource (Kelly, 1986, pers. comm.). The Hayward shoreline now contains industrial uses, parks and reserves, and agricultural uses.

The Marathon property is at the end of West Winton Avenue in Hayward (Figure 1). This 182-acre site is divided into two parcels, Phase I and Phase II. Phase II is bordered by Southern Pacific Railroad on the east, Bockman Canal on the north, the proposed Alameda County Transportation Corridor (ATC), a four-lane road and East Bay Regional Park District (EBRPD) lands on the west and by Sulphur Creek on the south.

Given the four alternative development options for the property, it is possible to predict the impact of each on the physical environment. If the property were to be fully developed, land fill would

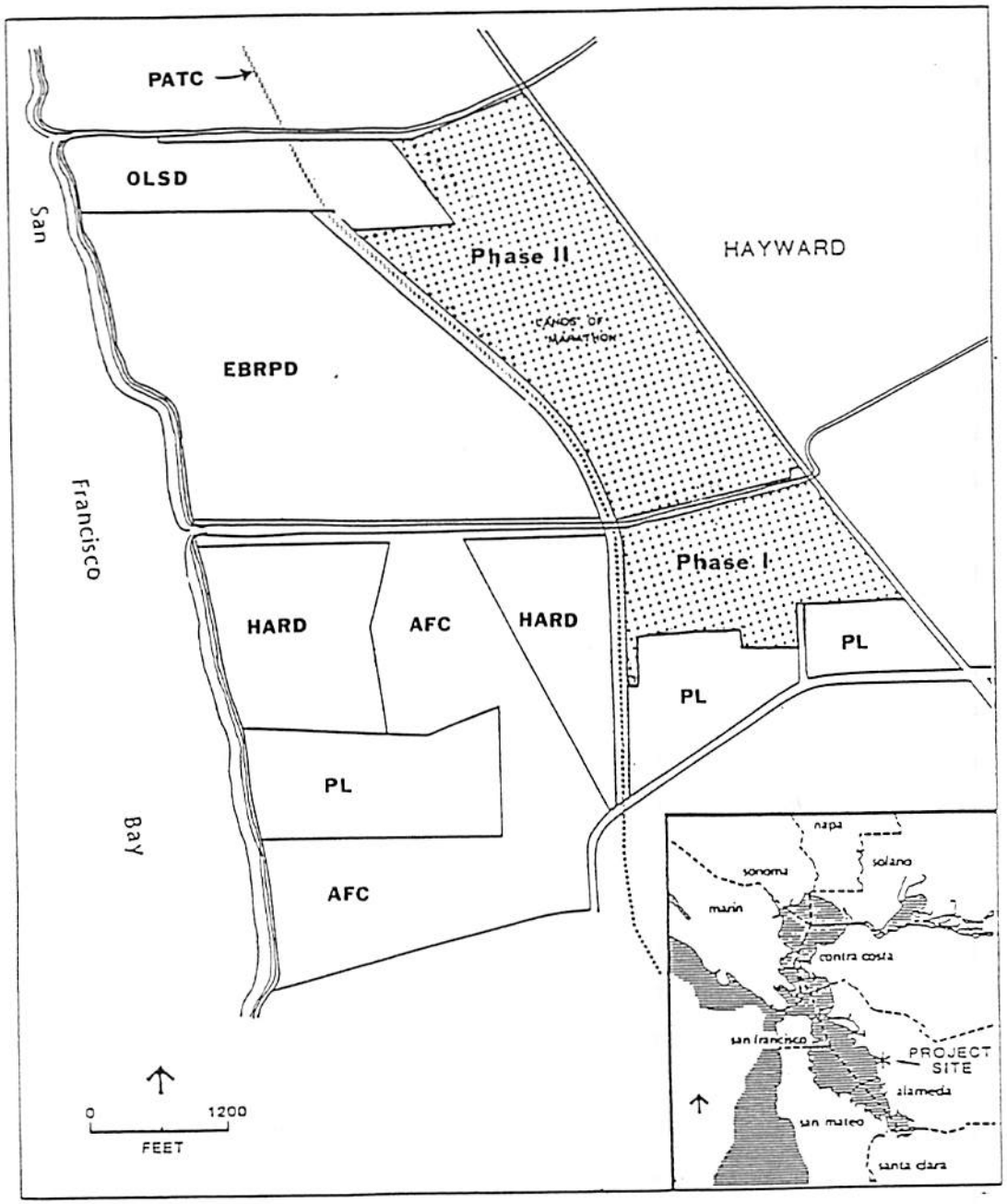

Figure 1. Location of Marathon Property. AFC = Alameda County Flood Control; EBRPD = East Bay Regional Parks District; HARD = Hayward Area Recreation and Park District; OLSD = Oro Loma Sanitation District; PATC = Proposed Alameda County Transportation Corridor; PL = Private Lands.

Source: After TRS, 1985.

cover the 90 acres of the site that are now seasonal wetlands. The objectives of Marathon would be accomplished, but not those of the various wildlife agencies involved, who are interested in saving the few remaining seasonal wetlands in the Bay Area. If 30 acres of wetland were left undeveloped, some habitat would be saved. This habitat probably wouldn't be as valuable as it is now to the wildlife using it because of disturbances that would be created by the industrial park. The proposed Alameda Transportation Corridor (ATC) would have to be moved eastward along with the development because it runs along the western border of Phase II. This would maintain a continuous path to the shoreline from the present wetland. This compromise destroys valuable wetland habitat for the birds and creates a profitable industrial park for Marathon. Martin Storme of the City of Hayward planning department believes the land will probably be developed to some extent (Storme, 1986, pers. comm.).

Agencies Involved

The legislature of California says the state should save the remaining salt marshes and wetlands for the public's use. Therefore these lands must be regulated to assure the public interest. Various agencies are involved with the issue but there isn't one agency that specifically saves seasonal wetlands from being filled. The regulations for saving this habitat are not maintaining the same amount of habitat. Mitigation does not always create the habitat it proposes to create (Race, 1986, pers. comm.). Sometimes the Corps has jurisdiction over a property and sometimes both the Bay Conservation and Development Commission (BCDC) and the Corps have jurisdiction. In the case of Marathon the Corps had jurisdiction over Phase II but not over Phase I, because Phase I did not contain any former navigable waters on it.

The various agencies involved in regulation of the Marathon development proposal at the federal level are the U.S. Army Corps of Engineers (Corps), U.S. Fish and Wildlife Service (FWS), and U.S. Environmental Protection Agency (EPA). The Corps has final permit authority over the Marathon project under the federal Rivers and Harbors Act of 1899. The FWS has the authority to review the Corps permit. The EPA evaluated Marathon's application to the Corps to determine possible impacts on water quality, air quality, and the impact of toxic substances. They decided that Marathon's proposal does not meet the guidelines of the Clean Water Act for discharge of dredged or fill material (TRS, 1985). The EPA recommended that the permit be denied. The Corps responsibility is to evaluate a permit to see if the activity is in the public interest. They must also coordinate and consult with some state and federal agencies so that permit decisions reflect both the national and state opinions of public interest. Since this application is not for non-water-dependent activities, Marathon must show that there is no practical alternative.

At the state level the Department of Fish and Game (DFG), State Lands Commission, and the Regional Water Quality Control Board are concerned with the project. The DFG advises the Corps on the biological aspects of the DEIR as part of the Corps' decision-making process. They are interested in protecting the few remaining wetlands of the Bay and do not approve of the proposed project (TRS, 1985).

The San Francisco Bay Conservation and Development Commission, a regional agency, is not involved with this development because the proposal does not fall within its jurisdiction. The Marathon property is farther than 100 feet from the shoreline, which is as far inland as BCDC has jurisdiction. The East Bay Regional Parks District (EBRPD) is involved because it owns and maintains the property adjacent to Marathon's property as an undeveloped seasonal salt marsh (TRS, 1985). The District is concerned about the impact on water quality from the site.

The City of Hayward has zoned the area of the Marathon property for industrial development. Most of it was zoned for industrial uses in 1967, according to an historical zoning map of the City of Hayward. The zoning for two portions of Marathon's property were changed from tidelands to industrial uses in 1976 when the ATC was proposed. The City would benefit from the increased tax revenues of the proposed project, but on the other hand there are the added costs of water, energy, sewage, fire, police, and the permanent loss of a valuable natural resource. The City Council must consider what is in its citizens' best interest when deciding on whether to allow development or not.

The Hayward Area Shoreline Planning Agency (HASPA), another local agency that is involved, was formed in 1971 to plan the Hayward shoreline. It includes representatives from EBRPD, Hayward Area Recreation and Park District (HARD), Hayward Unified School District, San Lorenzo Unified School District, and the City of Hayward. This agency wants to protect the 90-acre wetland from development and has been included in the DEIR review process. It would like to see this property incorporated into the adjacent public lands. HARD owns the parcels that Marathon wants to use for mitigation (TRS, 1985), and has agreed to allow this improvement. According to HASPA's general plan, the Marathon property is slated for development. These guidelines were set in 1976, and they are now to be updated. The updated version would change Marathon's property from industrial uses to parks and recreational uses.

If the Marathon application is granted, it will set a precedent for other such properties (Kelly, 1986, pers. comm.). The Corps will define its position on the question of jurisdiction of wetlands more clearly if it grants this permit. As it stands now, the Corps has not really enforced the saving of seasonal wetlands and thus their position is not sharply defined. If the Corps does not approve this permit, then there may still be a chance of saving some of the few remaining privately-owned wetlands that have similar fill proposals as Marathon does.

History of the Site

Throughout historical time the Hayward shoreline has been used by humans for food and salt production. This productive area has been valuable to its settlers. The Marathon property in Hayward was originally part of the Costanoan (or Ohlone) Indian territory (Liskamm, 1982). They used the shoreline area for collecting a variety of food material. The shoreline at this time was east of the present shoreline and included extensive marshes (Figure 2). In 1769 Spanish explorers 'opened' the land for mission settlement; thus the lands of present-day Hayward became part of San Jose Mission's lands.

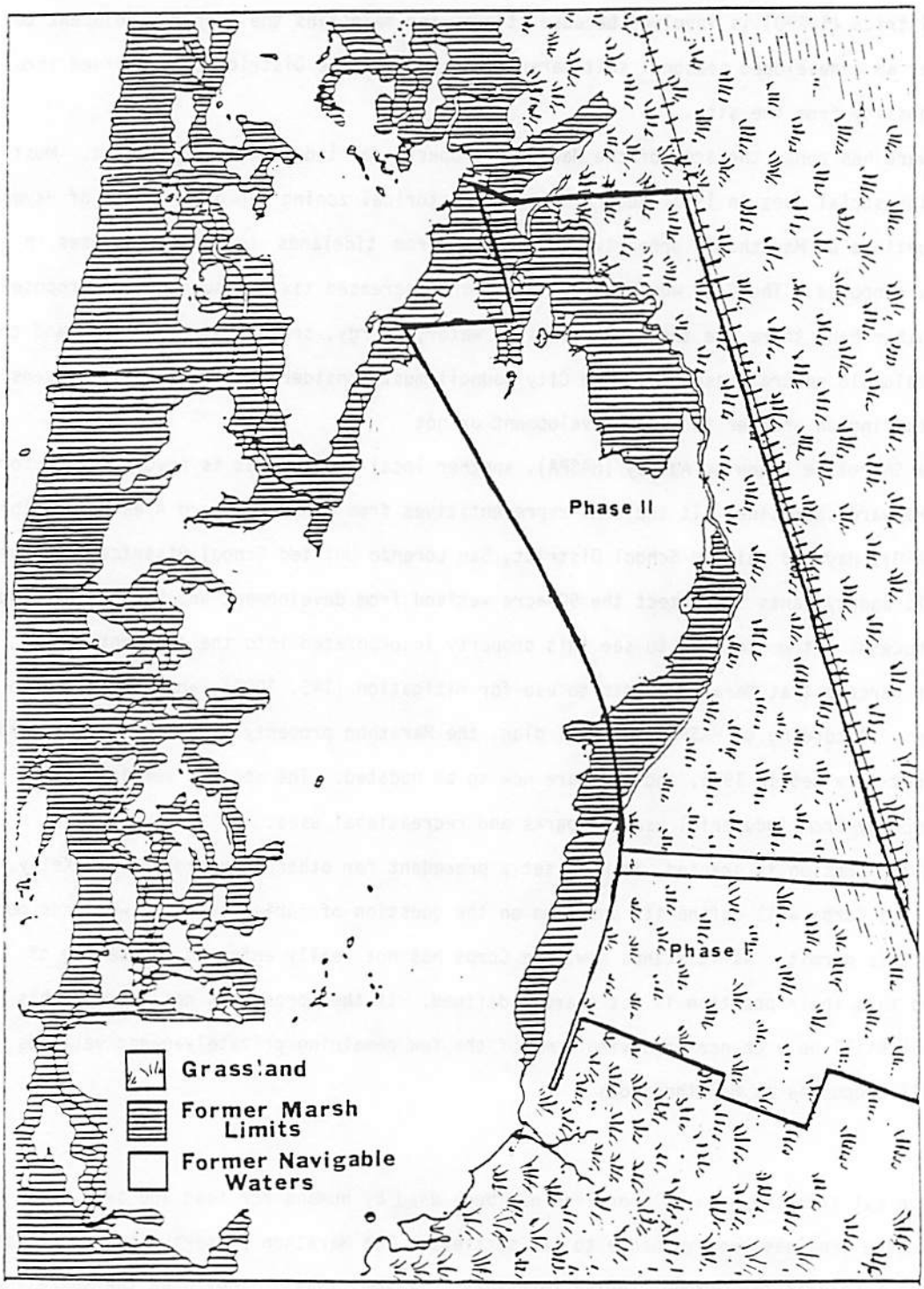

Figure 2. Historical Shoreline of the Marathon Property.
Source: After TRS, 1985.

They were used as grazing grounds for the Mission's cattle during the late 1700s. The area was then settled under grants from the Mexican government in 1843. Jose Joaquin Estudillo, Francisco Soto, and Jose Jesus Vallejo were the first property owners in the Hayward area (Thompson and West, 1878). The prospectors and adventurers of the Gold Rush invaded the area in 1849.

The first settlers in the Hayward area were squatters on the Mexicans' land. They were drawn to the area because of the fertile land. The abundance of game in the marshes and sloughs were an additional draw to settlers in the Hayward area. The settlers hunted the indigenous geese, ducks and curlew and sold them for three to five dollars per dozen in San Francisco (Thompson and West, 1878). In 1853, John Johnson purchased land in the vicinity of what is today the Hayward Regional Shoreline. There he constructed levees and sold his first salt harvest for $50.00 per ton (Holtgrieve, 1986).

One of the settlers, John Madsen from Denmark, lived on the property that Marathon now owns. He took advantage of the natural crystal lake that formed on the Bay side of the property to collect salt as the Spanish and Mexican families living in the interior valley had done along the entire shoreline. The highest high tides in June floods low areas of the shoreline. As the water evaporates from these natural ponds, salt crystallizes out. Salt could then be collected from them. Dikes and flood gates were built to enhance and control this process. A scraper pulled by horse was used to maintain the bottom of the salt ponds. A windmill used to pump water in and out of the pond was on the south side of Sulphur Creek. The farm house and other buildings were also here. Hay was grown, and horses grazed on the uphill side of the property.

Madsen always maintained duck ponds with decoys on the property. The ducks he killed were sold in San Francisco for a profit (market hunting). Market hunting raised the necessary capital needed to start salt production for farmers in the area. This gives a hint to the abundance of water birds in the area and also shows what the land was used for. According to Joe Horat, a neighbor of 60 years, Madsen made quite a bit of money from the salt ponds (Feeney, 1986, pers. comm.).

The American Salt Comapny operated the salt ponds on the Marathon property in the early 1900s. This company was started in 1865 by Patrizio Marisicano and by the early 1900s it was one of the largest salt producers in Alameda County. The large cement blocks on the property today are remnants of the previous salt production. These blocks were used in controlling the water flow to the salt ponds and had terra-cotta pipes underneath them. The salt ponds on the Marathon property extended all the way back to the railroad tracks.

During the late 1950s some people at Oro Loma sanitation plant tried to maintain a duck club on the property with decoys. However, after two years they gave up because their decoys got stolen. Apparently they were too close to the railroad tracks which allow easy access to the property. During the early 1950s, rotten peaches from Hunt's cannery nearby were dumped on the property for the ducks. This indicates there was hunting during this time.

The Fluor Corporation owned all the property in this area, including the Marathon property, from approximately the late 1950s or early 1960s until 1981 when it sold its last holding to Marathon Development California, Inc., for $2.6 million (Alameda County Recorder's Office Document). Bob Fluor, a horse racing buff, bought the property in order to build a race track (Storme, 1986, pers. comm.). The proposed San Mateo bridge was to be right next to his property, providing easy access. When the bridge was built farther south, he dropped his plans for the race track. In 1976 Fluor Corporation sold 450 acres of its land to HARD, 148 acres to Alameda County Flood Control District, 21 acres to Alameda County for the transportation corridor, and some to EBRPD. The 182-acre industrial land owned by Fluor Corporation was sold to Marathon in October of 1981.

Discussion

Marathon's project is an example of the type of development proposed for all the privately-owned seasonal wetlands of the south Bay. Each project must be looked at as part of the whole and not just as an individual project. If each were considered separately, then losing 90 acres of seasonal wetlands wouldn't be that much in the context of the whole Bay or even the south Bay. Looking at the whole picture shows that if this one property isn't protected, then other similar proposals could be developed by using the same arguments.

The development of a seasonal wetland is against the public interst of saving this natural resource. Even the alternatives presented in the DEIR destroy seasonal wetland, except the no project alternative. The idea that there is an equal exchange when mitigation is used is undocumented. The City should consider that this site is 100 percent of the meadow wetland of the Hayward shoreline when deciding whether to destroy it or not. Throughout the history of this site it has been a valuable natural resource, which would be lost with the proposed development. The bird census conducted on this property tried to document the importance of this site to the wildlife using it.

Conclusion

The purpose of this paper was to look at the problems of the DEIR and the history of the land use to highlight the impact development will have on this property and on the southern Bay shoreline in general. Through this example one can gain a better understanding of the process involved in developing wetlands. If this trend continues and the governing agencies don't take responsibility for saving wetlands, they will be destroyed. Indeed, if the Marathon development happens, 90 acres of wetland will be permanently lost.

The profits of a corporation should not take precedent over preservation of the few remaining wetlands of San Francisco Bay. With development the wildlife will suffer and Marathon will only become richer. I certainly don't feel the gains of a few people earning more money outweigh the losses. The Bay area has lost too much valuable habitat for this reason, and I feel it should be stopped immediately.

This proposed development must be looked at in the overall picture of what is happening in the Bay and not just what is happening at the end of Winton Avenue. This is an important part of the San Francisco Bay ecosystem and must remain so.

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