

Bahia's clapper rails must be saved

NOW THAT the Marin Audubon Society has purchased the 632-acre Bahia property, which had been slated for development, Marin Audubon is focusing on planning to restore the on-site wetlands and protecting the endangered California clapper rail population that inhabits the adjacent tidal marshes.

In accord with its long-standing wetlands protection policy, Marin Audubon has advocated protecting the marshes at Bahia for the past 20-plus years — even before the discovery of the clapper rails. Now that clapper rails inhabit the channel and tidal lagoon marshes, Marin Audubon's resolve to protect the marshes has strengthened.

Marin Audubon hired biologist Jules Evens of Avocet Research Associates to survey California clapper rails during the 2004 breeding season in the North Bay. The results of this survey emphasized the vital need to protect the tidal marshes that provide clapper rail habitat, including property owned by the Bahia Homeowners Association.

The Bahia lagoon and channel support 10 to 18 pairs of nesting clapper rails, or 42 percent of the Petaluma River population. Except for Gallinas Creek, the Bahia lagoon and channel have the greatest number of clapper rails of all North Bay sites surveyed. The site is even more important in light of the dramatic declines clapper rails have suffered in other North Bay drainages.

The existing Bahia development was built before the California Environmental Quality Act, which means the very high siltation rate in this area was never disclosed or considered prior to approval of the existing Bahia housing. Frequent and unanticipated dredging was needed to remove sediments and keep the channel open.

Increasing public concern about the disposal of dredged material in the bay, regulatory requirements for testing and disposal of dredged material further hampered the homeowners association dredging.

Finally, some of the residents sued to force the homeowners board to move ahead with dredging. A Marin judge agreed and appointed a receiver charged

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with pursuing a project that would provide boating access to the Petaluma River.

In an attempt to save the clapper rail (tidal) lagoon and channel marsh habitat, Marin Audubon offered alternatives: (1) purchasing the lagoon and channel, and (2) allowing access over Marin Audubon property to reach the homeowners association's non-tidal lagoon so that the Bahia Homeowners Association could construct boat docks within its non-tidal lagoon, or simply launch their boats into the lagoon. Marin Audubon's alternatives were of interest to some residents, but they were rejected by others and have not been pursued by the homeowners association.

The homeowners association is now considering other alternatives: a phased project that would begin with dredging a 60-foot channel behind houses in the tidal lagoon, building part of the mitigation marsh on state property across the Petaluma River and, the latest version, first constructing the entire mitigation on lands across the river.

For both alternatives, the lock/dredge project would be built after certain criteria are met on the mitigation marsh.

A major question has been what criteria the U.S. Fish and Wildlife Service, the agency that administers the federal Endangered Species Act, would require of the project. Its preliminary criteria includes a requirement that rails be nesting in the mitigation marsh for a period of two years before construction of the lock project.

The lock/dredge project faces many obstacles, in addition to permitting.

For example, with Marin Audubon's

purchase of the Bahia property, which included the upland peninsulas surrounding the homeowners association's non-tidal lagoon, the homeowners association has no legal access to construct, operate and maintain the lock they want to construct at the end of peninsulas.

So after more than 20 years of effort, the Bahia Homeowners Association is not much closer to a resolution to the lock/dredge dilemma. The primary reason is that the project would be an environmental tragedy. To continue to pursue a lock/dredge project, the homeowners have to be ready to assume substantial risks without assurances that they could ever build a project.

An optimistic estimate is that the homeowners association can expect to wait close to 20 years before being able to build any part of their lock/dredge project, if they are able to build it at all. During that period, the homeowners will be looking at major costs to construct and maintain the mitigation site.

Marin Audubon has offered to work with the homeowners association to find a way that would allow boat access to the Petaluma River, and is ready to continue discussion. Marin Audubon's goal, however, must be protection of already functioning endangered species habitat. Marin Audubon will not be persuaded to accept loss of existing habitat with promises of habitat, sometime in the future, that may never materialize.

In Marin Audubon's experience, most mitigation projects prove unsuccessful.

Another alternative exists for the homeowners association. Residents could go back to the judge to ask to be relieved of the responsibility of pursuing such an environmentally destructive project.

The significant environmental impacts to wetlands, the conflicts with the federal and state endangered species laws, the conflicts with regulatory policies and regulations, and the burdensome costs, would all be adequate reasons for any judge to take another look at the rationality of pursuing a project that would provide boat access for a very limited number of people and that would have extensive monetary and environmental costs for the larger population.