



June 21, 2023

VIA EMAIL ONLY

Dennis Waespi, President &
Directors Colin Coffey, Ellen Corbett, Elizabeth Echols, John Mercurio, Dee Rosario, Olivia Sanwong
East Bay Regional Park District
2950 Peralta Oaks Court
Oakland, CA 94605

Re: Bias in planning Wildcat Flow Trail & Loss of Trust in Park District Process

Dear President Waespi and Directors Coffey, Corbett, Echols, Mercurio, Rosario, and Sanwong:

Environmental groups have expressed concerns over the proposed [Wildcat Park Bike Flow Trail](#). After receiving documents in response to a Public Records Act request, our concerns have increased and so should yours.

The evidence shows that the park district intentionally engaged in proceeding with this flow trail in secret and bypassed the very open public process it claimed was supposed to deal with issues concerning expanding mountain bike use in our parks. Trails have impacts on wildlife as well as park experience for all users, and the public process to hear from stakeholders is key to maintaining the public trust. Instead, the documentation shows that the park district is planning trails for a special interest, mountain bikes, to the exclusion of other users and to the harm that such special interest planning causes to habitat and wildlife.

Park Board and staff meetings with constituents and organizations with particular interests and projects is a normal and necessary part of governance to help in guiding the direction of our parks in ways that coincide with the park district's mission. However, there is a big difference between park stakeholders communicating their particular interests to board members and staff, and district staff planning and advocating for the interest of one stakeholder at the exclusion of all others.

The documents reveal how the park district staff have been pretending to be inclusive and equitable in creating its trail policy but have actually been planning this new trail in secret with only one user group, mountain bikers, for two years.

Most disturbing is that during the same time period the park district created a process for *all* users to come together to work out in a publicly open process how to identify and propose solutions to the very real user conflicts and habitat and wildlife impacts from mountain bike access in the parks. The process was the formation of the [Trail Users Working Group](#) (TUWG). But park district staff ignored

this open, transparent process and the park district's very own legally mandated requirements of enacting a land use plan amendment for this park in order to establish a new trail. Instead, park staff began meeting privately with and sharing internal staff discussions and analyses with mountain bike advocates, while telling the other park users that this same information cannot be made public.

Thus, park district staff have worked in secret with a special interest group to promote a major recreational change to the Wildcat Canyon Regional Park Land Use Plan without prior board authorization at a publicly noticed meeting and demonstrated clear bias in favor of one interest group over the public at large.

If credibility on this issue is to be re-established, then the board of directors and the general manager must initiate a land use plan amendment for any new trail in Wildcat Canyon Regional Park.

Sincerely yours,
/s/Norman La Force
Chair, East Bay Public Lands Committee
President, SPRAWLDEF

/s/ Glenn Phillips
Glenn Phillips
Executive Director, Golden Gate Audubon

See timeline below.

THE KEY DOCUMENTS

BACKGROUND

2020

August 20, 2020 – [Trail User Working Group](#) (TUWG) was convened by park district staff at the first meeting.

December 21, 2020 - Cortis Cooper, Scott Bartlebaugh, and Austin McNerny representing mountain bike interests met with Director Elizabeth Echols to discuss trail usage issues in Tilden/Wildcat Parks.¹

NOTE: This meeting is one that is not objectionable. Park directors can meet with any person or organization who is lobbying for action by the park district.

2021

January 25, 2021 - Director Echols sent an email to Cooper, Bartlebaugh and McNerny that she has talked with former Assistant General Manager Kristina Kelchner and that Kelchner has recommended that they meet with Park District Trails Program Manager Sean Dougan. They meet on February 25, 2021.

April 12, 2021 - Bartlebaugh, in what is described as a “Follow up on Wildcat Canyon trail addition discussion,” provides Dougan with letters from BTCEB (Bicycle Trails Council of the East Bay) stating that they would provide trail maintenance, and that they can provide information on funding that other mountain bicycle groups have provided for trail maintenance for mountain bike trails in parks.

NOTE: While this information is, on its own, not collusive, it does show that *a special interest is seeking to purchase special access and use with promises of money.*

April 13, 2021 - Dougan emails Bartlebaugh and Cooper telling them that it is too early to determine what the park district’s approach will be but will keep them in the loop. Bartlebaugh responds the same day asking to be informed of future field visits and to learn more about the evaluation process and timeline for future discussions.

NOTE: Up to this point, the discussions among directors, staff, and mountain bike advocates are legitimate lobbying. But it is important to keep in mind that Dougan makes no effort to reach out to the Sierra Club, California Native Plant Society (CNPS), or Golden Gate Audubon Society (GGAS) to keep

¹ Cooper identifies himself as the head coach for student Nor-Cal Mountain Bike Team. Bartlebaugh is identified as the Advocacy Director for the BTCEB, Bicycle Trails Council of the East Bay. McNerny is former President of the National Interscholastic Cycling Association.

them “in the loop.” Nor is the TUWG informed about this proposed trail. Next are communications that are done privately without public knowledge.

PREFERENTIAL AND BIASED STAFF BEHAVIOR BEGINS

What follows shows how park district staff then released insider information to the bicycle advocates, but not other stakeholders, and actively worked with only the mountain bike advocates on setting up meetings and providing them with insider information.

May 19, 2021 - Cooper emails Dougan, copying Bartlebaugh, Echols and two others, noting that Dougan has made progress on the proposed Wildcat Bike Flow Trail. Cooper also tells Dougan that he has talked with private donors who offered to provide \$1 million to construct the Wildcat Bike Flow Trail, and that they are getting impatient and may look for other opportunities for those funds. He asks if there is anything he can do to move the flow trail investigation up on the priority list.

NOTE: Even though Dougan had previously informed Cooper and Bartlebaugh that it is too early to determine what the park district will do, he has gone forward with work on the Wildcat Bike Flow Trail. Moreover, Cooper now privately promises \$1 million to actually build the trail.

May 21, 2021 - Dougan responds that he is looking at various alignments in Wildcat Canyon, and that they were “recently assessed by our biologists and botanists and grazing team” in Stewardship. He further states, “I would actively pursue everything I could to analyze this area and consider this proposal.”

NOTE: At this juncture, Dougan has not made any attempt to contact other stakeholder user groups to discuss with them this proposal or inform them that staff is analyzing the alignments for environmental impacts. Nor is there any authorization from the board of directors at a publicly agendized meeting to pursue the Wildcat Bike Flow Trail as an option, or to specifically authorize staff time or funding for the work that Dougan has already had done.

July 27, 2021 - Meanwhile, Juliana Schirmer with the Regional Parks Foundation sends over to Cooper a draft gift agreement for the Wildcat Canyon Bike Flow Trail. Dougan had previously put her in contact with Cooper in response to Cooper’s promise for donors giving the park district a restricted sum of \$1 million for the construction of the Wildcat Bike Flow Trail.

July 28, 2021 - Dougan emails Cooper asking for information on bike-group-usage statistics, saying, “I could really use that as an intro to my sales pitch with the GM.” He then provides a detailed outline of the steps that would need to be taken. He makes reference to, “Gain support from the TUWG [Trail User Working Group] and other communities to move forward (Fall 2021).”

NOTE: No insider knowledge is provided to other stakeholders. There is some information at this time that some kind of bike trail is being discussed for Wildcat Canyon, but we are told there is nothing to present in public. Moreover, despite the fact that Sierra Club and other organizations have stated this bike trail would be a good subject for discussion at the TUWG, the proposal is consistently *rejected by the park district staff as not within the purview of the TUWG*, in contradiction to what Dougan stated to Cooper.

October 28, 2021 - Dougan tells Cooper that he will send a Zoom invite for November 2, if that works for Cooper. He copies Barbara Smith, also a bike advocate, and Juliana Schirmer.

NOTE: Neither Dougan nor any other park district staff make any effort to create a Zoom invite for other stakeholders or user groups.

HIDDEN PREFERENTIAL TREATMENT INTENSIFIES

November 2, 2021 - Dougan emails Cooper copying Schirmer under the subject line Trail Advocacy and attaches a Wildcat Canyon Flow Trail proposal document. Dougan tells Cooper, "I created this proposal that I thought I'd share with you." Dougan continues, "here are a few important contacts for you..." Dougan provides names and contact information, stating, "I am not sure how big you want this, so just throwing ideas out." He also tells Cooper that will get photos and other graphics to help him.

NOTE: We have Dougan, the park district's Trails Program Manager, actively providing information on how to organize and lobby for the flow trail while keeping other user groups in the dark. Dougan's bias is obvious. It is astounding that even though there is no park district approval for this trail, Dougan is telling one special user group how to organize to influence the park district.

November 5, 2021 - Cooper emails Dougan, sending him the draft of a one-page petition and asks Dougan for "improvements you think are needed." Cooper tells Dougan that he is meeting with Scott Bartlebaugh, Austin McInerney and Joel Shrock to discuss a campaign strategy.

November 9, 2021 - Dougan makes reference to "my other comments apply to both the one page and the petition along with Juliana's [Schirmer]."

NOTE: We do not have those comments. Nothing was produced, but it is clear that Dougan has provided comments for a petition for one user group showing clear bias and clear disregard for other user groups.

December 13, 2021 - Dougan emails Cooper telling him what the park district is going to study, and that they will get some plant and biological surveys going. He tells Cooper, "We'll need to hold a public engagement campaign outside of the CEQA process, which I am advised is the best. I'll let you know if I hear anything that changes the course for the better or worse, if it comes up. Stay tuned!"

NOTE: This is clear bias and improper action on the part of the park staff over a trail and an issue that is controversial. Moreover, it is clear that Dougan is determined to make this particular bike trail happen, despite the fact that the board has yet to publicly agendize an action approving all that has gone on internally.

2022

January 13, 2022 - Becky Tuden, Ecological Services Manager in the park district's Stewardship Department, emails Dougan and others in regard to an upcoming site visit by park district staff and Directors Echols and Rosario. "I talked about this site visit with Matt [Graul - head of Stewardship]. We decided it is not a good practice to provide pre-decisional comments on a proposed project to individual Board members (*and outside members of the public.*)" (Emphasis added.)

NOTE: This is important because in an April 21 email below Dougan disregards this admonition and specifically provides mountain bike advocates with just such comments.

January 19, 2022 - Dougan confirms in an email that Directors Echols and Rosario and he will meet with Cooper and others at the proposed trail.

NOTE: Again, no attempt was made to include the environmental community and other user groups in this trail meeting.

February 2022 - Trail User Working Group comes to an end.

NOTE: At no time while the Trail User Working Group (TUWG) was convened did the park district inform members of the TUWG that the staff was working on a bicycle flow trail in Wildcat Canyon Regional Park or seek input from the TUWG about it. This would have been an excellent proposal for the TUWG to discuss.

February 3, 2022 - Dougan emails Cooper, Schirmer, Smith, Bartlebaugh, and McNerny giving them insider information about studies of the proposed bike flow trail, including plant surveys and "any fatal flaws in this location." He then writes, "Basically the wheels are in motion, and we now need to let this period run its course."

NOTE: During this same time period, Dougan makes no effort to discuss these issues with other user groups. In fact, the park district's response to those of us from Sierra Club, CNPS and GGAS is that we **cannot** have access to this information because it is **not public**.

April 21, 2022 - In an email on this date to Cooper and Smith, Dougan responds to Cooper's email to him about any update on the environmental studies. Dougan writes, "So far so good." He then provides additional information that *Tuden had told him was not to be made public as noted above*, stating, "I don't want to get ahead of our Board or other management, *so if you don't mind please keep this additional information between you and I [sic].*" (Emphasis added.) The additional information is that: (1) no rare plants were found; (2) there are some stands of native grasslands; (3) there are no wetlands in the study area, and that Nomad (the consultant), will be "saying there are no wetlands."

NOTE: Dougan admits that he is providing the mountain bike advocates with information that Tuden told him was not to be disclosed outside of the staff at the park district and then tells bike advocates Cooper and Smith that they are to keep this information to themselves! When the Sierra Club and other environmental groups asked about the status of the environmental findings, **we** are told that no such information can be made public and that this information will be made public at a later date. The

email shows that the mountain bike advocates are getting special insider information and even told not to disclose it, an admission that it was information that should not have been given to any outside user group.

June 2, 2022 - Cooper emails the park district's Chief of Planning Brian Holt and tells him how he should respond to a question from a member of the Park Advisory Committee about the bike flow trail. Dougan asks the mountain bike community to show up for photos with the subject line, "Volunteers Needed for EBRPD Trails are for Everyone Photoshoot." Dougan emails McInerny and Cooper and asks them to get him bikers who will show up in a special photo shoot.

NOTE: The staff-orchestrated advocacy is further demonstrated in emails on:

November 30, 2022 - Dougan gives insider knowledge of the park board's December 2, 2022 study session on trails to Cooper, Bartlebaugh, and McInerny and tells them about the stewardship review and how funds are approved for the trail, *all prior to the December 2 study session*.

Dougan further tells the mountain bikers that they need to get advocates to this meeting, stating, "I will only say having a large crowd is overwhelming for our Board (specifically Director Coffey)." He further states that other **"groups are not following the same rule book as we've seen."** (Emphasis added.)

NOTE: Just what is meant by the reference to a different "rule book" is unclear. It appears to be a statement that the Sierra Club and other organizations want the park district to follow proper planning processes, which the staff does not want to do.

December 1, 2022 - Dougan sends Cooper, Bartlebaugh, Smith, and McInerny the November 30, 2022 Sierra Club letter to the board in regard to the board's December 2 study session. This letter outlined concerns Sierra Club had regarding the bike trail.

NOTE: So biased is Dougan that he apparently sent the bike advocates the letter so that they can be ready to counter and address the issues that were raised in that letter. There was no Public Records Act request from any of those bike advocates to produce this letter to them, yet Dougan took it upon himself to give them the document. In sharp contrast, Dougan did not bother to send to Sierra Club, CNPS, GGAS, or other stakeholder groups the communications he has had over the years with the mountain bike community.

December 2, 2022 - The board holds a study session on trails. By law the board cannot take any action at a study session.

December 7, 2022 - The board holds a full board meeting. At public comment on matters not on the agenda, mountain bike advocates ask for board support for a Wildcat Canyon bike trail. The mountain bike advocates submitted a petition in support of that trail. This is the same petition that Dougan earlier provided comments on to the mountain bike advocates as to what to put in it.

NOTE: Since this is a matter not on the agenda, other user groups would not have known about this presentation (which is legal because one can make comments on matters not on the agenda without notice). Equally important to note is that a governmental body like the park district by law cannot take

action on a matter presented during the non-agenda-item public comment period. For any action to take place, it must be agendized at a subsequent meeting. The board has yet to agendize approval for even studying a bike trail in Wildcat Canyon Regional Park.

2023

March 9, 2023 - Park District Senior Planner Suzanne Wilson emails the mountain bike advocates identified above, and Dougan, about the date for what became the April 25, 2023 public meeting, so that the date was convenient for the mountain bike community.

NOTE: The emails show preferential treatment by specifically asking the mountain bike advocates for the Wildcat Bike Flow Trail for dates that are convenient for them and their organizations for this public meeting. But no such special concern is provided to Sierra Club, CNPS, or GGAS. We were simply informed of the date, regardless of whether that was convenient or not for our groups.

March 10, 2023 - Bike advocate Cooper tells park staff Wilson and Dougan that he will make sure that the high school student teams show up because, “So far 3 of the 4 teams will ‘require’ that their students attend. I’m working on a similar commitment with the other teams. Of course ‘require’ probably means we might get 80% attendance.”

NOTE: This is an incredibly damning statement because at that meeting, Sean Dougan talked about how many young people showed up to support this bike trail. This level of attendance is not surprising, considering they are high school students who were told that attendance is “required.” Nor does park staff make public that they know that the students were “required” to attend. Moreover, the fact that Dougan failed to disclose this email publicly is even more troublesome and shows that he and others in the park district are not transparent on trails issues.

April 18, 2023 - Senior Planner Wilson thanks Dougan and bicycle advocates Barbara Smith, Scott Bartlebaugh, Cortis Cooper, and Austin McNerny for all their great ideas for a poll that will show support for the bike trail.

April 23, 2023 - Bicycle advocate Bartlebaugh warns park staff Holt and Dougan that, “Norman [La Force, Chair of the Sierra Club’s East Bay Public Lands Committee] and other stakeholders are stating that the Wildcat Flow Trail is a ‘recreation unit’ and not a trail. Can you provide some information on the definition of a ‘recreation unit....’” The same day, about two hours later, Brian Holt responds as follows: “Scott—thanks for the questions, and I will be prepared to address this in my introductory comments on Wednesday. Feel free to let me know a time to discuss by phone if you would like to talk more.”

NOTE: This email shows the depth of the coordination that has occurred.

April 25, 2023 – The park district holds a [public informational meeting](#) on the Wildcat Flow Trail.

NOTE: The [summary of this meeting](#) misrepresents the genesis of this project by implying that it came from the Trail User Working Group, when in fact the staff would not allow the Wildcat Flow

Trail to be discussed at TUWG meetings. The summary goes on to state that the park district has “Consulted with Stewardship staff to identify an appropriate corridor,” and “Consulted with Park Operations,” but fails to disclose the long-running exclusive consultation and coordination with only one user group, mountain bikers, detailed above. The summary also fails to disclose that the entire planning process was never authorized by the board of directors.

At the April 25, 2023 meeting Dougan does not disclose that high school student team members were “required” to attend. The orchestrated high attendance of high school mountain bike riders produced predictable lopsided results in the poll taken during the meeting. For example, 162 attendees said that “bike” was their preferred mode of travel within the regional parks, while only 45 said “walk and run.” The meeting is not listed on the park district’s website for public meetings, but is buried in a section referred to as “Projects” and very difficult to find.

The Public Records Act Request production ends at around this time.



CALIFORNIA NATIVE PLANT SOCIETY

East Bay Chapter

P.O. Box 5597, Elmwood Station, Berkeley, CA 94705 • www.ebcnps.org

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John Mercurio, Dee Rosario, Olivia Sanwong
East Bay Regional Park District
2950 Peralta Oaks Court
Oakland, CA 94605

VIA EMAIL

Re: Public Excluded in Planning of Mountain Bike Challenge Trail in Wildcat Canyon Regional Park

Dear President Waespi and Directors Coffey, Corbett, Echols, Mercurio, Rosario, and Sanwong:

This letter concerns a Public Records Act request by the Sierra Club that produced a disturbing stream of email exchanges revealing how East Bay Regional Park District (EBRPD) staff and mountain bike (MTB) advocates quietly devised a plan and engaged in a campaign over two years to construct a new mountain bike challenge (or “flow”) trail in Wildcat Canyon Regional Park without the participation of other park users.

We read from the email exchanges that the location of the mountain bike challenge trail was quietly settled upon in early 2021 by park district staff and MTB advocates. Park staff then proceeded to further advance a downhill challenge trail that staff and MTB advocates selected in the center of Wildcat Canyon Regional Park without any other public involvement. We were also surprised to learn that park staff regularly shared internal information with MTB advocates that was not made available to environmental organizations and the public, including advance information for an April, 2023 Park District public meeting on the proposed project.

Certainly, park staff meetings with constituents and organizations with particular interests and projects are a normal and appropriate part of public agency governance. While park users should communicate their particular interests to board members and staff, when staff devote time and resources to the interests of one trail user group to the exclusion of all others we believe that it does not serve the district or the parks well.

For instance, between August, 2020 and February, 2022, CNPS was one of twenty-nine trail stakeholder representatives the park district convened for a "Trail User Working Group." The group was tasked with working on increased trail use and trail conflicts faced by all park trail users. It met during the same period that park district staff were also quietly proceeding with mountain bike advocates on a new downhill challenge trail. The district's trail working group members brought with them a wealth of trail, age, and background experience, yet park staff never put the development and introduction of this significant new trail project on the trail user group's agenda.

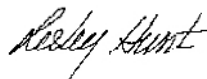
As you know, millions of park users rely on trails to find relief from hectic urban lives and enjoy the natural landscapes, flora, and wildlife in our regional parks. Providing park staff support and advance information to one trail user group to the exclusion of others raises questions about our and the wider public's ability to have a say in the planning and direction of our park trails.

CNPS East Bay and the larger Bay Area public visit and support the regional parks in many ways. To be assured that all park users, including hikers, runners, bikers, people with dogs, equestrians, and people with disabilities, can know about and influence major decisions on our park trails, we support the Sierra Club and Golden Gate Audubon with the request that:

Your Board start afresh and authorize an updated Wildcat Canyon Regional Park land use plan that focusses on safe and desirable trails for all trail users and the health and stewardship of the park's flora and fauna.

Thank you for your attention to resolving this matter with a transparent trail planning process that engages all trail users. We look forward to further conversations with the park district about the direction of our trails and the care and stewardship of our native flora.

Sincerely,



Lesley Hunt
President



Jim Hanson
Conservation Chair