

ADA-compliant dirt and gravel paths vs. CR's false claim to avoid complying with BOS' path order

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County Road's (CR's) new claim, that they are legally required to use "asphalt or concrete" when creating paths, is false. This claim is used to violate the County Board of Supervisor's (BOS's) path creation order [Quote #1, [BOS policies page](#)]. While there are no funds to complete sidewalks, there are plenty of approved funds to complete paths along "the entire expressway system" [Quote #2] because they cost so little. Most labor is provided free by the "jail crew." For the cost of one mile of sidewalk (about \$1 million), more than 100 miles of ADA (American Disabilities Act) compliant paths can be constructed, thus completing paths along "the entire expressway system," which is 62 miles in total.

County Roads (Dan Collen) recently stated it would take "70 years" to build pedestrian facilities, which he assumes to be paved, along the expressways. In contradiction to that, the staff report from 1991 stated it would take "several years" to create paths with the \$75,000 annual budget, which calculates to about \$3000 per mile. County Roads should have completed dirt paths over ten years ago, but never complied.

Quote from County Roads:

"... dirt pathways [are] not consistent with requirements of ADA, ... that pathway surfaces be ... asphalt or concrete." [Michael Murdter's memo to BOS, 6/19/07 agenda #96: [statement #11.](#)]

Contradicting that is this quote from FHWA's *Designing Sidewalks and Trails for Access* [page 83, [obtain from Federal Highway Administration web site](#)]:

"High-use trails passing through developed areas and fragile environments are commonly surfaced with pavement, crushed rock, or soils mixed with stabilizing agents to minimize the impact of human traffic on the path."

County Roads' claim, that there is an "asphalt or concrete" requirement as part of ADA law, is further shown to be false for at least three more reasons. (Continued, page 4)



Photos: Pavilion entrance (left) is a dirt, ADA-compliant path (center) from the handicapped parking (right). Location is the nearby *Don Edwards National Wildlife Refuge*, east of Alviso.

Photos from the *Don Edwards National Wildlife Refuge*, near the Dumbarton bridge.



Gravel trail (left) starts from the trailhead parking (right).



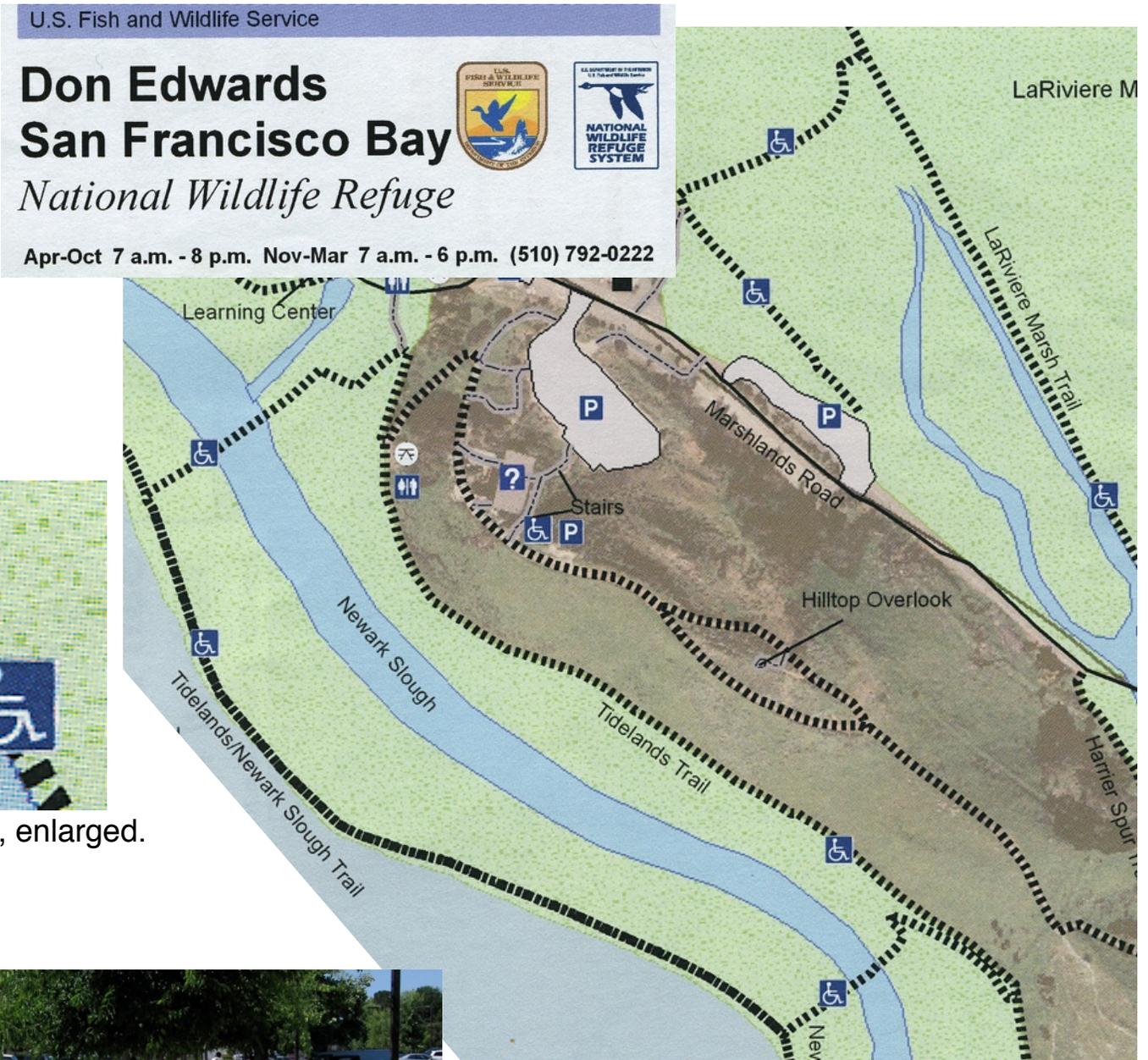
Above: Baby stroller can also easily be used on the gravel trails.

Left: Some ADA trails are 4 feet wide. Minimum ADA width is 3 feet.

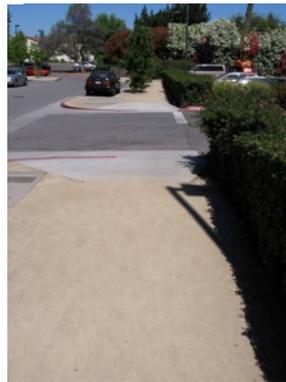


These trails are marked as ADA on the trail map (next page).

Official trail map (excerpt below) contains handicapped-accessible symbols (7 total) on these ADA trails (photos on previous page).



Symbol, enlarged.



Photos (above): Santana Row shopping center (San Jose) has many dirt sidewalks with ADA ramps. This recent construction must have complied with ADA law.

Photos: Dirt path along Mathilda Avenue in Sunnyvale (left) has ADA-compliant ramp (right, corner of *California Avenue*). Mathilda Avenue has exactly the same speed limit, 45 mph, as the two “expressway” arterial roads that still have pedestrian prohibitions: San Tomas and Foothill.



More reasons why County Roads’ claim, that there is an “asphalt or concrete” requirement of ADA law, is false:

- **No “asphalt or concrete” requirement** exists in law. The law merely requires that surfaces be “**stable, firm and slip-resistant.**”
- A nearby **federal area** (prior photos and map excerpt) shows what is acceptable for trails and paths that are wheelchair accessible. This area is the *Don Edwards National Wildlife Refuge*, located near the east end of the Dumbarton bridge (photos, page 2) and east of Alviso (photos, page 1). All paths and trails that are labeled handicapped-accessible on the map (page 3) are gravel or dirt. None are asphalt or concrete.
- The Board (BOS) also **requires bike-lane standards on expressways** to be met. These **shoulders or bike lanes can legally be used by handicapped people** as well as pedestrians, bicyclists pulling trailers, pedestrians pushing shopping carts or pushing baby strollers, if and where the road lacks “an adjacent adequate pedestrian facility.” (Quote from CVC 21966.)

In short, County Roads can — and must — comply with both the Board order and ADA law by either:

- 1) Complying with the Board order by creating 3-foot (minimum) dirt or gravel, ADA compliant, paths along the entire expressway system, or
- 2) Creating a non-ADA compliant path because ADA people can use the adjacent paved 5-foot or wider shoulder which is already required by Board policy.

Note that at intersection areas, where there are often no shoulders, Board policy explicitly requires paths for pedestrian safety. [Quote #7, [BOS policies page](#)]

Conclusion

There is no excuse for non-compliance with the Board (BOS) order to create pedestrian paths along “expressway” arterial roads.