

# San Francisco Bay Conservation and Development Commission

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August 3, 2020

**TO:** Commissioners and Alternates

**FROM:** Larry Goldzband, Executive Director (415-352-3653; larry.goldzband@bcdc.ca.gov)  
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**SUBJECT: Staff Report and Preliminary Recommendation Concerning Proposed *San Francisco Bay Plan Amendment No. 1-20 to Allow Mooring the Ferryboat Klamath at Pier 9, San Francisco***  
(For Commission consideration on September 3, 2020)

## Preliminary Staff Recommendation

The staff preliminarily recommends that the Commission amend the *San Francisco Waterfront Special Area Plan* by:

1. Modifying General Policy 10 regarding the mooring of historic ships;
2. Modifying Geographic-specific Policies for the Northeastern Waterfront:
  - a. Open Water Basin Policy 3, part (c) regarding berthing facilities and part (g) regarding historic ships;
  - b. Open Water Areas Policy 2, part (d) regarding historic ships; and
3. Making necessary findings regarding environmental impacts outlined in the Environmental Assessment.

## Background

### Plan Amendment Application

Bay Area Council (BAC), a non-profit at the intersection of business and civic leadership, has applied to amend the *San Francisco Waterfront Special Area Plan (SAP)* to allow for the permanent mooring of an historic ship. BAC is in the pre-application review process for a major permit from the Commission to moor the Ferryboat *Klamath* at Pier 9, located in and owned by the Port of San Francisco (Port). The SAP currently restricts the mooring of historic ships in Open Water Basins in the Northeastern Waterfront to those that were permitted as of July 20, 2000 and allows up to four additional historic ships in Open Water Areas. The applicant proposes to amend SAP General Policies and Geographic-specific Policies for the Northeastern Waterfront regarding Open Water Basins to allow for the mooring of one historic ship at Pier 9 within the Broadway Open Water Basin. BAC submitted an application to amend the SAP on March 6, 2020. The Commission voted to initiate Bay Plan Amendment (BPA) 1-20 on May 7, 2020 and the Descriptive Notice, including a public hearing date of July 16, was mailed on May 12, 2020. On June 12, 2020, a notice of revised public hearing date was published, moving the hearing date to August 20, 2020. On July 17, 2020, another notice of revised public hearing date was published, moving the hearing date for the proposed SAP amendment to September 3, 2020. The project itself would require further review and approval by the Commission through the BCDc permit application process.



## Applicant's Reason for the Proposed Amendment

BAC is proposing to relocate its office from its current site in downtown San Francisco to the Ferryboat *Klamath*, which would be moored at Pier 9 on the San Francisco waterfront. The proposed project, which includes renovating the *Klamath*, providing public access, and creating a museum onboard that highlights Bay history, cannot be accommodated at Pier 9 unless the SAP is amended.

On September 19, 2019, the Commission voted to initiate a comprehensive amendment to the SAP (BPA 3-17) at the request of the Port, in order to align the policies of the SAP with a concurrent update to the Port's *Waterfront Land Use Plan* (WLUP). A public hearing on BPA 3-17 is currently scheduled for December 3, 2020. Due to the urgent nature of BAC's request to relocate its office, BPA 1-20 is being handled separately from BPA 3-17.

## Background on the SAP

The McAteer-Petris Act of 1965 provides for the *San Francisco Bay Plan* (Bay Plan) to contain or incorporate by reference "special area plans" with more specific findings and policies for portions of the Bay and its shoreline. The SAP was developed in partnership with the Port and articulates an attainable vision of the future San Francisco Waterfront. The SAP applies the requirements of the McAteer-Petris Act and the provisions of the Bay Plan to the San Francisco waterfront in greater detail and should be read in conjunction with both the McAteer-Petris Act and the Bay Plan. BCDC first adopted the SAP in 1975, and it allowed, among other policies, for the mooring of historic vessels, provided that they did not require substantial alteration to the adjacent pier structures or new parking over water, and that the mooring improve public access and shoreline appearance.

In 1978, BCDC permit 17-78 was approved to moor the historic Ferryboat *Santa Rosa* at Pier 3, and in 1980, BCDC permit 2-80 was approved to moor the historic Ferryboat *Fresno* at Pier 3 as well, but the boat was never renovated or berthed. Later that year, BCDC permit 6-80 was approved to moor *Delta King*, another historic ferryboat, at Pier 3, but the project was also abandoned.

The SAP policy regarding the mooring of historic vessels was amended in 1984 via BPA 4-84 to allow for a small amount of fill created by the mooring of an historic ship to be authorized for the purposes of improving shoreline appearance or improving public access to the Bay. In 1987, BCDC Regulations were amended to add a definition of historic ships<sup>1</sup> and to add Special Rules for Non-Water-Oriented Fills, including sections regarding minor fill for shoreline appearance<sup>2</sup> and minor fill for public access<sup>3</sup> to allow for minor fill resulting from the mooring of historic ships.<sup>4</sup>

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<sup>1</sup> See BCDC Regulations Section 10703

<sup>2</sup> See BCDC Regulations Section 10700

<sup>3</sup> See BCDC Regulations Section 10701

<sup>4</sup> See the Historic Ships Background Report (1975) for more information:

[https://www.bcdc.ca.gov/planning/reports/HistoricShips\\_Jul1975.pdf](https://www.bcdc.ca.gov/planning/reports/HistoricShips_Jul1975.pdf)

On July 20, 2000, at a joint meeting with the San Francisco Port Commission, BCDC adopted BPA 7-99, which significantly amended the SAP and allowed for the approval of uses on renovated piers that were not water-oriented, but were consistent with the Public Trust Doctrine and the Port's legislative trust grant. In exchange, the amendment required public benefits, including fill removal, and the creation of open water basins, open water areas, and new public plazas, that the Commission determined would be greater than those that would be achieved on a permit-by-permit basis.

In order to make the finding that BPA 7-99 was consistent with the McAteer-Petris Act, the Commission determined that the amendment was necessary to the health, safety or welfare of the public in the entire Bay Area, pursuant to McAteer-Petris Act Section 66632(f). The Commission determined that the public benefits required through BPA 7-99, in conjunction with findings regarding the public trust needs on San Francisco's Northeastern Waterfront, warranted the exercise of this authority to allow uses consistent with the Public Trust Doctrine and the Port's legislative trust grant for non-water-oriented uses on Bay fill. Moreover, the Commission found that the public benefits that were required by the amendment would create a vibrant, exciting waterfront that would serve to connect San Francisco with the Bay for the betterment of the public in the entire Bay Area.

Among the many public benefits identified in BPA 7-99 was the creation of four "open water basins" as focal points of public use and enjoyment of the Northeastern Waterfront, which are located at: (1) Brannan Street Open Water Basin, adjacent to Brannan Street Wharf; (2) Rincon Open Water Basin, adjacent to Rincon Plaza; (3) Broadway Open Water Basin, between Piers 3 and 9; and, (4) Northeast Wharf Open Water Basin, adjacent to Pier 27, which has not yet been constructed. These open water basins were intended to provide opportunities for physical access between the Bay and piers and provide substantial Bay views from the boundary piers framing open water basins. Fill within any of the four designated water basins can only be permitted if it is minor and for a limited range of specified water-oriented uses. These limitations were intended to ensure that public views to the Bay are maximized and that the finger pier configuration of the waterfront is maintained as the waterfront is redeveloped.

The restrictions on new fill in the Broadway Open Water Basin are the subject of BPA 1-20, proposed by BAC. This is the fifth amendment that has been proposed to the SAP since the adoption of BPA 7-99 in 2000. The other four addressed the Exploratorium at Piers 15-17 (BPA 1-09); the SAP implementation requirements related to Pier 27 and the partial removal of the Pier 23 (BPA 3-11); the 34<sup>th</sup> America's Cup event that occurred on the San Francisco waterfront in 2013 (BPA 4-11); and, on September 19, 2019, BCDC voted to initiate a comprehensive amendment to the SAP to provide alignment with the Port's draft WLUP (BPA 3-17), for which a public hearing is tentatively scheduled for December 3, 2020.

SAP Plan Implementation Requirements part (n) for the Northeastern Waterfront state that "Future amendments of the SAP, as adopted on July 20, 2000, affecting the Northeastern Waterfront Area (Pier 35 to China Basin), may only be approved if the Commission finds that the revised public benefits and revised development entitlement would be in balance and the public benefits would be sufficient to warrant the Commission finding that the revised balance of public and private benefits would be necessary to the health, safety and welfare of the public in the entire Bay Area."

### Preliminary Recommendation

The staff preliminarily recommends that the Commission amend the SAP to modify General Policy 10, Open Water Basin Policy 3 and Open Water Area Policy 2 under the Geographic-specific Policies for the Northeastern Waterfront.

#### Proposed Specific Changes to the San Francisco Waterfront Special Area Plan

The SAP sections on General Policies and Geographic-specific policies for the Northeastern Waterfront regarding Open Water Basins and Open Water Areas would be modified by the proposed amendment. Proposed additions in language are shown as underlined, while proposed language deletions are shown as struck through.

PROPOSED POLICY: GENERAL POLICY 10	STAFF ANALYSIS
<p><b>Add underlined and delete struck-through language as follows:</b></p> <p>A minor amount of fill created by the mooring of an historic ship may be authorized pursuant to Commission Regulations <del>Section 10704</del>. <u>Up to four new historic ships in addition to historic ships authorized as of July 20, 2000</u> may be permitted in <u>Open Water Areas and Open Water Basins</u> on the Northeastern Waterfront.</p>	<p>First, a minor amount of fill created by the mooring of an historic ship may be authorized pursuant to several sections of the BCDC Regulations, including Sections 10700, 10701 or 10704. The authorization of fill associated with any given proposal to moor an historic ship on the San Francisco Waterfront would be determined on a case-by-case basis. Also, a general reference to Commission Regulations is consistent with other SAP General Policies that include general references to the provisions of the McAteer-Petris Act, Bay Plan, and the other policies in the SAP (see General Policies 1, 5, 6(a)).</p> <p>Second, by removing the first half of the second sentence, the proposed amendment to General Policy 10 would reduce the redundancy of this policy with the policies that follow regarding Open Water Basins and Open Water Areas.</p>

<p><b>PROPOSED POLICY: NORTHEASTERN WATERFRONT - OPEN WATER BASIN POLICY 3</b></p>	<p><b>STAFF ANALYSIS</b></p>
<p><b>Add underlined and delete struck-through language as follows:</b></p> <p>c) Berthing facilities...:</p> <p style="padding-left: 40px;">i) In the Broadway Open Water Basin, existing berthing facilities for the historic Ferry Boat Santa Rosa and Bar Pilots should continue to be allowed. <u>One additional historic ship at Pier 9 should be allowed.</u> Limited lay berthing of public transportation and excursion vessels, up to about 300 feet in length, and temporary berthing of ceremonial and visiting ships should be allowed as long as the berthing of moored vessels is balanced with the preservation of views and the need to provide pier frontage for transient berthing;</p> <p>g) Historic ships:</p> <p style="padding-left: 40px;">i) <del>permitted</del> as of July 20, 2000; <u>and</u></p> <p style="padding-left: 40px;">ii) <u>one additional historic ship at Pier 9.</u></p>	<p>As described in further detail below, the proposed mooring of <i>Klamath</i> at Pier 9 would provide public benefits including improved public access along Pier 9 and improved public views of the Bay in the Broadway Open Water Basin. The proposed amendment would not alter the finger pier configuration nor would it significantly diminish public views to the Bay from The Embarcadero. Finally, there has been no documented need for pier frontage for transient berthing at Pier 9.</p>
<p><b>PROPOSED POLICY: NORTHEASTERN WATERFRONT - OPEN WATER AREA POLICY 2</b></p>	<p><b>STAFF ANALYSIS</b></p>
<p><b>Add underlined and delete struck-through language as follows:</b></p> <p>Within Open Water Areas, new fill should be limited only to the following:</p> <p>d. Up to <del>four (4)</del> <u>three (3)</u> new historic ships in addition to any authorized as of July 20, 2000;</p>	<p>By reducing the number of new historic ships that may be permitted in Open Water Areas from four to three, this amendment would not allow a net increase in allowable historic ships but would change the location where one of the four new historic ships may be located.</p>

## Staff Analysis

As described above, BPA 7-99 required the creation, enhancement and protection of four open water basins with public open space and development focused on them. The basins were intended to serve as vibrant waterfront destinations that would attract large numbers of residents and visitors. The proposal to amend the SAP to allow the mooring of an historic ship at Pier 9 in the Broadway Open Water Basin would advance those original goals by improving public access along Pier 9, creating new public access to the Bay, by not diminishing views to the Bay, and by potentially attracting additional residents and visitors to the waterfront, as described in more detail below.

### **SAP General Policy 10 and BCDC Regulations**

Prior to BPA 7-99, SAP General Policy 10 regarding the mooring of historic ships stated that “A small amount of fill created by the mooring of an historic ship may be authorized for the purposes of improving shoreline appearance or improving public access to the Bay... An historic ship is: (a) a ship or boat that had a specific role in the maritime history of San Francisco Bay, was originally built before 1925, has not been modified so as to substantially change its historic character, was designed and built to navigate under its own power, and floats in its berth at all stages of the tide.” The policy went on to state that “Historic ships should be permitted in the area of Piers 9 through 24 at existing piers provided that the use on the historic ship and mooring location is: (a) consistent with the *San Francisco Waterfront Total Design Plan: Pier 7 through 21*; (b) does not require substantial alteration to any pier structure; (c) does not require new parking facilities over water; and (d) improves public access and shoreline appearance.”

BCDC Regulations Section 10700 states that the Commission may approve the placement of minor fill to improve shoreline appearance, including the mooring of an historic ship. BCDC Regulations Section 10701 states that the Commission may approve the placement of minor fill to improve public access, including the mooring of an historic ship. As discussed further below, BCDC Regulations Section 10703 provides two definitions for an “historic ship,” as used in Sections 10700 and 10701. For example, the fill associated with the Ferryboat *Santa Rosa*, moored at Pier 3, which qualifies as an historic ship as defined in BCDC Regulations Section 10703, was authorized pursuant to BCDC Regulations Sections 10700 and 10701. Thus, depending on the details of the proposal, minor fill for an historic ship, as defined under BCDC Regulations 10703, may be authorized pursuant to BCDC Regulations Section 10700 and/or 10701.

Prior to the adoption of BPA 7-99, which allowed uses on existing piers in the Northeastern Waterfront of San Francisco that are consistent with the Public Trust Doctrine, Section 10704 was added to BCDC Regulations to address local governments’ concern that obtaining a permit to authorize the repair, maintenance or rehabilitation of historic structures, such as the Ferry Building, Agricultural Building, and Richmond’s Ford Building, that were used in part for non-water-oriented purposes such as offices and that were situated on pilings over the Bay, would not have been possible. Fill required to protect such structures that contained non-water-oriented uses would not have complied with McAteer-Petris Act Section 66605(a), which requires that further filling of the Bay should be limited to water-oriented uses. In amending BCDC Regulations to add Section 10704 in 1992, the Commission concluded that although

preservation could involve relatively large amounts of fill, without a means to authorize this fill, the historical maritime significance could be lost forever and that the preservation of historic waterfront structures is necessary to the health, safety or welfare of the public of the entire Bay Area. For example, the fill associated with renovations to the Ferry Building was authorized pursuant to BCDC Regulations Section 10704. Thus, Section 10704 was not added to address fill associated with historic ships, and staff recommends that SAP General Policy 10 regarding historic ships be amended to remove the specific reference to BCDC Regulations Section 10704.

### **BCDC Regulations Section 10703 – Historic Ship**

BCDC Regulations Section 10703 provides two definitions for an “historic ship,” as used in Sections 10700 and 10701. Under both definitions, an historic ship is a ship or boat, other than a replica, that was designed and built to move in the water under its own power and is berthed to float at all stages of the tide. In addition, under Section 10703(a), an historic ship: (1) was originally built before 1932 and has had no restorative or other modifications that substantially altered its historic character; and (2) had a specific role in a significant event or events in the maritime history of San Francisco Bay. In contrast, under Section 10703(b), an historic ship: (1) had a specific role in a significant even or period of maritime history; (2) is displayed for its historic significance with any fees for public admittance charged only at a level to maintain and enhance the historic qualities of the ship or exhibits of similar maritime historic significance; and (3) includes no commercial activities other than those that are minor in nature and designed to enhance a visitor’s enjoyment of the historical significance of the ship.

While the proposed BPA would not specifically approve the mooring of the *Klamath*, the ferryboat meets the criteria outlined in Section 10703(a) because it (1) was powered by a steam engine and serviced the Southern Pacific auto routes between the San Francisco Ferry Building and Oakland/Alameda, carrying as many as 1,000 people and 78 cars per trip; (2) is proposed to be berthed at Pier 9 and would float at all stages of the tide; (3) was built in San Francisco by the Bethlehem Shipbuilding Corporation in 1924 and has had no restorative or other modifications that substantially altered its historic character, as described in more detail below; and (4) had a specific role as a participant in significant events in the maritime history of San Francisco Bay as an historic ferryboat, as described in more detail farther below.

First, although the interior of the *Klamath* would be substantially altered under BAC’s proposal, the exterior of the *Klamath* would be rehabilitated to be similar to the appearance of the vessel in 1924, including restoring the façade to its original color. Second, regarding its role in the maritime history of San Francisco Bay, from 1925 to 1929, the Ferryboat *Klamath* ran the route between the Oakland Pier and the San Francisco Ferry Building. In 1929, the *Klamath* joined the fleet of Southern Pacific Golden Gate Ferries, Ltd., and serviced the San Francisco Hyde Street Pier - Sausalito route for nine years. In 1938, the *Klamath* was sold to the Richmond-San Rafael Ferry Company. For the next 18 years, it operated between Point Molate in Richmond and San Quentin. The *Klamath* made its last ferry run on September 1, 1956, the day before the Richmond-San Rafael Bridge opened. Thus, *Klamath* had a specific role as a participant in significant events in the maritime history of San Francisco Bay.

## SAP Geographic-Specific Policies for the Northeastern Waterfront regarding Open Water Basins

The SAP allows for the mooring of up to four new historic ships (in addition to any authorized as of July 20, 2000) in Open Water Areas, which are differentiated from Open Water Basins. After an extensive search in coordination with the Port, BAC determined that the south side of Pier 9 is the only viable space for permanent mooring of the *Klamath*. Other locations were subject to extensive wave action and storm exposure, were reserved for pending redevelopment proposals, were already leased, would interfere with current or expanded ferry service, would interfere with deep water berths required for deep draft vessels, would require extensive “landside” infrastructure improvements that were economically infeasible for BAC, or were too far from regional public transit to operate as BAC’s convening center. Table 1 outlines the potential mooring locations for the Ferryboat *Klamath* on the Northeastern Waterfront of San Francisco from Pier 35 to Pier 40 and briefly describes why BAC and the Port determined that those locations were not viable.

**Table 1. Potential locations for the Ferryboat *Klamath* on the Northeast Waterfront**

Pier 35	Lack of proximity to downtown limits viability of conference center
Pier 33 (north)	Lack of proximity to downtown limits viability of conference center
Between Piers 33 – 29	Northeastern Wharf Open Water Basin
Pier 27-29	Cruise Ship Terminal
Pier 23	Lack of proximity to downtown limits viability of conference center; conflict with cruise ship terminal operations
Pier 19	Lack of proximity to downtown limits viability of conference center
Pier 17 (north)	Already leased
Pier 17-15	Already leased to Exploratorium
Pier 15 (south)	Already leased; potential interference with water taxi service
Pier 9 (north)	Already leased to the Water Emergency Transportation Authority (WETA)
Between Pier 9 and 3	Broadway Open Water Basin (proposed location)
Pier 3 (south)	Already leased to <i>Santa Rosa</i>
Pier 1	Marine activity; <i>Klamath</i> would have obstructed views for existing tenants
Ferry Building	Ferry activity
Between Agriculture Building and Pier 22 ½	Rincon Point Open Water Basin
Pier 24	Currently used by Fire Boats; no space available
Pier 26	Currently used by Fire Boats; expensive upgrades required; exposed to winter storms and waves
Pier 28	Bridge noise and structural concerns
Pier 30 (north)	Potential structural concerns; expensive upgrades required; exposed to winter storms
Between Piers 32 and 38	Brannan Street Wharf Open Water Basin
Pier 38 (south)	Expensive upgrades required
Pier 40 (north)	Expensive upgrades required

SAP findings regarding open water basins state that “The 2000 amendment required four open water basins for the purpose of preserving or opening up views of the Bay, connecting public access and public plazas with the Bay, providing areas for temporary and transient berthing and mooring along the San Francisco Waterfront and creating opportunities to develop recreational access to the water. To maintain the balance of public benefits with public and private development, it is necessary that the area from China Basin to Pier 35 still contain four open water basins, without other permanent uses, such as marinas or cruise ship berthing being sited in these open water basins. Proposals for non-conforming uses that prevent achieving the open water basin purposes in any of the designated open water basins can only be approved if a new, alternative open water basin within the area between China Basin and Pier 35 is identified and established through a future amendment of the SAP...”

The proposed amendment to allow mooring an historic ship, such as the *Klamath*, at Pier 9 in the Broadway Open Water Basin would not diminish public views to the Bay from The Embarcadero nor would it impact public access. The *Klamath* would not block views from The Embarcadero or inland streets. On the contrary, BAC’s permit proposal would provide new views to the Bay and back to the City from the roof deck of the *Klamath*, which would be open to the public during business hours, and the permit proposal would provide for improved public access along Pier 9, to which access is currently not allowed. Although the mooring of an historic ship would reduce the area available for temporary or transient berthing and mooring along the San Francisco Waterfront, Port staff have stated that there has been no demand nor have there been any berthing agreements for the south side of Pier 9, where the *Klamath* is proposed to be moored.

As described in Open Water Basin Policy 1, “Open Water Basins should be focal points of public use and enjoyment of the Northeastern Waterfront. Open Water Basins should provide opportunities for physical access between the Bay and piers and should provide new and substantial Bay views from the boundary piers framing the Open Water Basins.” The proposed SAP amendment and associated project would not prevent the achievement of open water basin purposes and would provide for additional public use and enjoyment of the Northeastern Waterfront, as well as new and substantial Bay views from the boundary piers framing the Broadway Open Water Basin. Thus, the proposed placement of the *Klamath* at Pier 9 would potentially enhance visual enjoyment of the waterfront. However, the allowance for the mooring of an historic ship in the Broadway Open Water Basin would be offset by suggested amendment to Open Water Areas Policy 2, which would reduce the number of new historic ships that can be authorized in Open Water Areas from four to three.

Finally, historic ships provide visual and placemaking value and mooring an historic ship would complement the Embarcadero Historic District, a nationally registered historic district. While ships were not listed as contributing to the district, the Statement of Significance study described the historic significance of water-borne transportation.<sup>5</sup> The proposed mooring of the *Klamath* at Pier 9 would enhance public views by adding a distinct new maritime feature within the Embarcadero Historic District, as described in more detail below in the Environmental Assessment and its analysis of potential impacts to historic and scenic resources.

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<sup>5</sup>See: [https://sfport.com/ftp/uploadedfiles/about\\_us/divisions/planning\\_development/EmbarcaderoRegisterNominationSec8.pdf](https://sfport.com/ftp/uploadedfiles/about_us/divisions/planning_development/EmbarcaderoRegisterNominationSec8.pdf)

## **Environmental Justice and Social Equity Analysis**

On October 17, 2019, the Commission adopted BPA 2-17, which added new policies and findings regarding environmental justice and social equity. Staff has prepared the following analysis of the adjacent community's vulnerability, the proposed project's community engagement efforts and outcomes, and potential disproportionate impacts that could result from the proposed project.

*Assessment of Community Vulnerability.* The Embarcadero is one of the most popular tourist destinations in the Bay Area. Pier 9 is adjacent to the Exploratorium and the Waterfront Restaurant at Pier 7.5 and the terminus of Broadway Street. The Commission's community vulnerability index ranks this larger area (two adjacent census block groups) within the moderate social vulnerability category. The moderate level of social vulnerability was assigned because more than 70% of the population fit within the following categories: Renters, Not U.S. citizens, Without a vehicle, 65 and over living alone, Under 5 years of age, and Low income.

*Community Engagement and Outcomes.* BAC states that they have met with hundreds of individuals to discuss the proposed project to solicit and incorporate their feedback. This outreach has included neighbors, neighborhood groups, elected officials, ferry industry leaders, and commercial groups, as well as academic and research leaders. BAC has conducted outreach to most of the tenants in Pier 9, including the Bar Pilots, WETA, and Autodesk, as well as neighbors such as the owners of the Waterfront restaurant. BAC has presented about the proposed project to the Port's Maritime Commerce Advisory Committee and the Northern Advisory Committee, as well as BCDC's Design Review Board. Responses to the proposal have been largely favorable. Community input influenced the proposed design of the exhibition space, including the content, that is proposed as the roof deck museum. BAC shared that they have also spoken with leaders from non-profit organizations serving at-risk populations and how the *Klamath* might serve them, including:

- Npower, which creates pathways to economic prosperity by launching digital careers for military veterans and young adults from underserved communities;
- LeadersUp, which connects young men of color and the business community's need to find and keep the best talent;
- Upwardly Global, which eliminates employment barriers for skilled recent immigrants and refugees and integrates them into the professional Bay Area workforce;
- Eckerd Connects, which connects out-of-school youth to career readiness, guidance, counseling, education, community resources, support services, paid internship experiences, and employment and training opportunities; and
- Achieve Academy-Education for Change, which provides superior public education to Oakland's most underserved children by creating a system of schools that relentlessly focuses on our student's academic achievement.

These meetings have shaped what is proposed to be displayed in the museum, how the public would be able to access the *Klamath*, how visits and tours would be arranged, and how the community would be able to use the proposed conference center and other gathering spaces on the *Klamath*.

*Disproportionate Impacts.* Staff did not identify any disproportionate impacts from amending the SAP to allow mooring of an historic ship at Pier 9. As described above, the proposed project would result in benefits to the public, including improved public access along Pier 9, views of the Bay and The Embarcadero, and new museum spaces. Based on the information provided and as analyzed further in the Environmental Assessment below, staff concludes that the proposed SAP amendment would not negatively disproportionately impact vulnerable communities.

### Consistency with the McAteer-Petris Act

As described above, the Commission relied upon its authority pursuant to section 66632(f) of the McAteer-Petris Act to protect the “health, safety or welfare of the entire Bay Area” to approve BPA 7-99, which was otherwise inconsistent with certain provisions of McAteer-Petris Act. Geographic-specific policies for the Northeastern Waterfront include Plan Implementation Requirement 4(n), which requires that future amendments of the SAP, as adopted on July 20, 2000, may only be approved if the Commission finds that the revised public benefits and the revised development entitlement would be in balance and the public benefits would be sufficient to warrant the Commission finding that the revised balance of public and private benefits would be necessary to the health, safety and welfare of the Bay Area. Thus, the Commission must find that the public benefits provided by the proposal to amend the SAP to allow permanently mooring an historic ship at Pier 9 would be in balance with the revised development entitlement and that the revised balance of public and private benefits would be necessary to the health, safety and welfare of the Bay Area.

As described above, the proposed amendment and the associated proposed project would result in new public access where none currently exists along the apron of Pier 9, new Bay views from the roof deck of the *Klamath*, which would be open to the public during business hours, and the development of a use that would potentially enhance and enliven public enjoyment of the waterfront. The package of benefits included in this amendment allows for the Commission to make the finding that the revised public benefits and revised development entitlement would be in balance and the public benefits required by this amendment would be sufficient to provide that the revised balance of public and private benefits would be necessary to the health, safety and welfare of the public in the entire Bay Area. Furthermore, the proposed amendment would reduce the total number of new historic ships that could be authorized in Open Water Areas from four to three.

*Public Trust.* The Bay Plan contains policies that provide that when the Commission takes any action affecting lands subject to the public trust, including authorizing fill on land granted in trust by the Legislature to a public agency, the Commission should ensure that its action is consistent with the public trust needs for the area and the Public Trust Doctrine. The proposed BPA is necessary to allow the *Klamath* to be moored at Pier 9 but would not in and of itself authorize the ship to be moored at that location (or at any location within the Commission’s jurisdiction). Rather, if the Commission adopts the proposed amendment, BAC would be required to obtain a permit from the Commission to authorize the proposed project to moor the *Klamath* at Pier 9. In considering BAC’s permit application, staff would analyze, and the Commission would determine, whether mooring the *Klamath* at Pier 9 would be consistent with all applicable Bay Plan policies, including those concerning the public trust.

## Environmental Assessment

BCDC's planning and permitting programs under the McAteer-Petris Act are, as a result of having been certified as a Certified State Regulatory Program pursuant to section 21080.5 of the California Environmental Quality Act (CEQA) and CEQA Guidelines section 15251(h) (14 CCR § 15251(h)), exempt from the CEQA requirements to prepare an environmental impact report (EIR), mitigated negative declaration, negative declaration, or initial study. Instead, BCDC's Regulations provide for preparation of an Environmental Assessment (EA) (14 CCR §11521). An EA is required to be part of the staff planning report prepared and distributed prior to amending the Bay Plan. The EA must either: (1) state that the proposed amendment would have no significant adverse environmental impacts; or (2) describe the public benefits of the proposed amendments, the significant adverse environmental effects, any feasible mitigation measures that would lessen the significant adverse environmental impacts, and any feasible alternatives (*Id.* § 11003(b)(6)).

### Project Description

The proposed project for purposes of this environmental assessment is the specific amendments to certain policies of the SAP as described above. Amending the SAP as requested by BAC in and of itself would not result in any direct adverse effects on the environment. The requested SAP amendments are necessary for BAC to implement its proposal to moor *Klamath* at Pier 9 but would not authorize the ship to be moored at that location (or at any location within the Commission's jurisdiction). Rather, as noted above, BAC would be required to obtain a permit from the Commission to authorize mooring the *Klamath* at Pier 9. Thus, the potential environmental effects of BAC's underlying proposed project, described in this EA, would be indirect effects of the proposed amendments the SAP.

### Environmental Review Background

On December 15, 2011, the San Francisco Planning Commission certified the Final Environmental Impact Report (FEIR) for the proposed 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza Projects (Planning Department Case No. 2010.0493E; State Clearing House Number 2000091043) under Planning Commission Motion No. 18514 in fulfillment of the requirements of CEQA, which informed the EA for BPAs 3-11 and 4-11. On December 16, 2011, the Port approved both the 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza projects and adopted CEQA Findings and a Mitigation Monitoring and Reporting Program (MMRP) for both projects. The City and County of San Francisco (CCSF) is analyzing the potential environmental impacts of permanently mooring the Ferryboat *Klamath* at Pier 9 via an addendum to the above-referenced FEIR. CCSF provided an administrative draft of the FEIR addendum to BCDC on July 23, 2020. CCSF expects the FEIR addendum to be finalized on August 20, 2020.

The FEIR analyzed four alternatives to the 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza Projects including a No Project Alternative, an Open Ocean Alternative, a Reduced Intensity and Long-Term Development Alternative, and Reduced Spectator Berthing Alternative. The Reduced Spectator Berthing Alternative analyzed the impacts of temporarily berthing private spectator boats at Pier 9 in the Broadway Open Water Basin for the duration of the America's Cup event. The FEIR analysis of this alternative provided the basis for the draft FEIR addendum, which analyzed the impacts of the proposed permanent mooring of the *Klamath* at Pier 9.

### **BAC's Project Description**

BAC proposes that the *Klamath* would provide office space for BAC on the upper deck and subtenant office space and a conference center/event space with a capacity for 300 people on the main deck. The conference center would be available to host meetings for public agencies, conferences on Bay and ferry-related issues, visiting international delegations and dignitaries, speakers series, committee meetings on public policy issues facing the Bay Area, including water transportation, resilience and sea level rise adaptation. An elevator would reach the roof deck, where there would be an outdoor event space, museum space, and an enclosed multipurpose room, which would be part of BAC's office space.

The *Klamath* would not have an operating engine. Ingress and egress would occur via a ramp boarding access system at the vessel's bow and stern. The two access ramps would conform to the Americans with Disabilities Act (ADA) building standards. A third ADA-accessible exit-only ramp would be provided for egress near the midpoint of the ship. Utilities for the ship would include electric and water service provided to the boat, as well as sewage discharge service. Utilities would be extended under the pier deck from the north to the south apron. The *Klamath* currently has a non-contact cooling system, which may be utilized when relocated to Pier 9, subject to discharge requirements from the Regional Water Quality Control Board.

### **Public Benefits of the Proposed Amendment and Associated Project**

As described above, the majority of the Pier 9 aprons on the north and south sides are currently gated and closed to the public. Under BAC's proposed project, members of the public would be able to passively or actively visit the *Klamath*. On the first level of the ship, BAC proposes to install murals and photos of the Bay and ferries circa 1920-1950. On the second level, visitors would learn about BAC. On the third level, a museum dedicated to the history of the *Klamath*, both as a ferry, and as an historic office and cultural gathering spot, would be open to the public. The roof deck would be accessible to the public by stair and elevator. The roof deck would consist of walkways, designated viewing areas, benches, congregating areas, and landscaped areas.

In addition to the public access on the *Klamath*, BAC's proposed project would provide approximately 6,000 square feet of new public access space on the south side of the Pier 9 apron, approximately 275 feet in length from the existing gate. This area is currently fenced off and inaccessible to the public. The gate would be open during business hours, i.e., from 9 a.m. to 5 p.m., and the portion of the apron up to the second gate, separating space rented to the Bar Pilots, would be accessible to the public. BAC's proposed project would clean the existing guardrail. A new guardrail that matches the existing guardrail would be extended 275 feet along the portion of the apron being leased by Bay Area Council. Light fixtures similar in style to those at Pier 7 would also be installed along the portion of the apron proposed to be leased to BAC. The new public access from the apron and access ramps would connect to other public access areas, including the Bayside History Walk, around Pier 9. Public access signage would be displayed at the gate to the apron and the ramps to the *Klamath*. A diagram would also be provided to illustrate those portions of the ship that are accessible to the public. BAC would also add three historical display cases to the wall of Pier 9. BAC's proposed project would also provide benches and bike racks along the apron if these improvements do not impact emergency access along the apron.

## Impacts of the Proposed Bay Plan Amendment

This EA as informed by the draft FEIR addendum prepared by the CCSF finds that no substantial environmental impacts would be directly created by the policy change in the proposed BPA. As for the potential indirect effects of the proposed amendments that may result if BAC obtains all necessary approvals to moor the *Klamath* at Pier 9, the draft FEIR addendum concludes that the analyses conducted and the conclusions reached in the FEIR certified by the planning commission on December 15, 2011 remain valid and that no supplemental environmental review is required. The permanent mooring of the *Klamath* would not cause new significant impacts not identified in the FEIR, nor would it substantially increase the severity of the previously identified environmental impacts, and no new mitigation measures would be necessary to reduce significant impacts.

This EA summarizes the draft FEIR addendum as it relates to the indirect effects of the proposed BPA, and where necessary, supplements that analysis to describe the related environmental effects not anticipated in the draft FEIR addendum, including visual and scenic resource impacts and impacts related to climate change and sea level rise. Potential impacts and mitigation measures that would be required by CCSF are summarized below.

*Land Use Implications.* The open water area adjacent to Pier 9 where the *Klamath* is proposed to be moored is submerged and not zoned by CCSF. Pier 9, however, is under the Port's jurisdiction, and the applicable planning document is the WLUP, which was adopted in 1997. The WLUP's "Northeast Waterfront Acceptable Land Use Table" does not currently designate Pier 9 for mooring of historic ships. Pier 9 is zoned M-1 (Light Industrial) and is currently used as office space for a law firm in the bulkhead; for offices and berthing space for WETA and the San Francisco Bar Pilots; and as a workshop for AutoDesk, all as tenants of the Port. In addition to the WLUP, the Port Commission adopted its *Historic Vessel Policy* in 2005, which provides additional criteria for the berthing of historic vessels at the Port, including business and financial requirements, and provisions for museums and public enjoyment of the historic vessels, such as those included in the *Klamath* proposal.

The Port is in the process of updating the WLUP based on its experience over twenty years since the WLUP was adopted. The update is the result of a three-year public planning process, and a public draft was released in June of 2019 as the Port's *Waterfront Plan*. The Draft *Waterfront Plan* was refined in December 2019 to address public comments and is undergoing the environmental review process required pursuant to CEQA. The Draft *Waterfront Plan* preserves the goal of maintaining and enhancing the Port's diverse portfolio of maritime industries and operations, including historic ships. For example, the draft revised "Northeast Waterfront Acceptable Land Use Table" shows that historic ships are acceptable uses at Pier 9, which is not allowable under the current SAP. Thus, the proposed amendment to the SAP and BAC's associated project align with the Port's draft *Waterfront Plan*.

*Construction Impacts.* The Open Water Basin adjacent to the south side of Pier 9 includes eight existing piles. BAC's proposed project would involve the removal of the existing piles and the installation of four steel pipe piles to lock the *Klamath* in place. Installation of the four piles would involve a waterside barge-mounted crane and would primarily use a vibratory hammer. If resistance is encountered, the piles would be finished with an impact hammer.

The basin in the area where the *Klamath* is proposed to be berthed is currently between 8-17 feet deep. As part of BAC's proposed project, dredging of approximately 3,500-5,000 cubic yards to an approximate depth of 20 feet (MLLW) would be necessary to berth the ship. Sediment testing has indicated that the sediment in this area is not contaminated and is therefore suitable for unconfined Bay disposal.

According to the FEIR addendum, the construction contractor would be required by CCSF to develop and submit a Construction Management Plan and Storm Water Pollution Prevention Plan for review and approval prior to issuance of a Port building permit. All in-water construction would be conducted in compliance with regulatory and resource agency permits, including scheduling of construction work during seasonal work windows or, with resource agency approval, under the supervision of a biological monitor to minimize or avoid effects on sensitive species.

*Noise impacts.* The FEIR determined that construction activities associated with construction of the America's Cup facilities would result in substantial temporary increases in ambient noise levels. To reduce the severity of the noise and vibration impact associated with pile driving activities, the FEIR identified Mitigation Measure M-NO-1b (Pile Driving Noise-Reducing Techniques and Muffling Devices), which would decrease construction noise levels by requiring construction contractors to implement noise reduction measures for pile-driving activities. Noise reduction strategies identified in the mitigation measure would reduce noise levels for pile driving because vibratory pile drivers are quieter than impact drivers. The FEIR also identified Mitigation Measure M-BI-11a (Impact Hammer Pile Driving Noise Reduction for Protection of Fish), which would require use of cushion blocks for impact pile driving. In addition, the FEIR determined that construction activities, specifically pile driving or other impact activities, could result in potentially significant vibration impacts. To reduce the impact to a less than significant level, the FEIR identified Mitigation Measure M-NO-3 (Pre-Construction Assessment to Minimize Structural Pile-Driving Vibration Impacts on Adjacent Historic Buildings and Structures and Vibration Monitoring).

BAC's proposed project includes the removal of eight piles and the installation of four new guide pipe piles for the mooring of the *Klamath*. The steel pipe piles would be installed by a waterside barge-mounted crane primarily using a vibratory hammer. If resistance is encountered, the piles would be finished with an impact hammer as needed. The removal and installation of the piles are anticipated to take up to two weeks. FEIR Mitigation Measure M-NO-1b (Pile Driving Noise-Reducing Techniques and Muffling Devices) would apply to BAC's proposed project. Implementation of this measure would be required to be coordinated with Mitigation Measure M-BI-11a (Impact Hammer Pile Driving Noise Reduction for Protection of Fish), which requires BAC to develop a sound attenuation monitoring plan to reduce noise impacts to aquatic wildlife. This plan shall incorporate best management practices to reduce noise, such as use of cushion blocks between the hammerhead and concrete piles to reduce vibration, use of vibratory drivers for the installation and removal of all steel pilings, and employment of a "soft start" technique to all pile driving to give fish and marine mammals an opportunity to leave the project area before noise increases. Because the proposed project would involve in-water pile driving in close proximity to the Pier 9 bulkhead and shed, FEIR Mitigation Measure M-NO-3 (Pre-Construction Assessment to Minimize Structural Pile-Driving Vibration Impacts on Adjacent Historic Buildings and Structures and Vibration Monitoring) would also apply.

*Impacts to Fish, Other Aquatic Organisms and Wildlife.* The FEIR found a less than significant impact with mitigation on biological resources. The FEIR determined that the proposed project would potentially affect sensitive marine species in their general use of Central Bay waters for foraging and resting. Sensitive fish species that could be affected included Chinook salmon, Green sturgeon, Steelhead trout, and Longfin smelt as well as numerous Magnuson-Stevens Act-managed fish species and Pacific herring. Marine mammals that could be affected include Pacific harbor seal, California sea lion, Humpback whale, and Harbor porpoise. Noise from pile driving activities during construction would result in noise levels that could cause potentially significant impacts to fish and marine mammals. The FEIR identified Mitigation Measures M-BI-11a (Impact Hammer Pile Driving Noise Reduction for Protection of Fish) and M-BI-11b (Pile Driving Noise Reduction for Protection of Marine Mammals) to reduce these construction impacts to less than significant.

The proposed mooring of the *Klamath* would require in-water construction activities that includes pile driving. Therefore, FEIR Mitigation Measures M-BI-11a (Impact Hammer Pile Driving Noise Reduction Protection for Fish and M-BI-11b (Pile Driving Noise Reduction for Protection for Marine Mammals) would apply to the proposed project. With implementation of these mitigation measures and compliance with the required federal and state approvals, the potential impacts of the proposed project on biological resources would be less than significant.

*Water Quality and Dredging impacts.* The FEIR impact assessment included an evaluation of water quality issues related to construction activities within or over the Bay and on land, including construction and demolition activities as well as dredging; pile/pier removal rehabilitation and installation; installation of anchoring systems; installation of floating docks and wave attenuators; and increased usage by private boaters and on-land spectators. The FEIR determined that construction and operation of the America's Cup facilities and events could violate water quality standards or waste discharge requirements or otherwise substantially degrade water quality. The FEIR identified Mitigation Measure M-HY-1 (Water Quality Best Management Practices) to ensure that water quality was not degraded by construction activities.

Because BAC's proposed project would require in-water construction activities to moor the *Klamath*, those activities could violate water quality standards or waste discharge requirements or otherwise substantially degrade water quality. Therefore, FEIR Mitigation Measure M-HY-1 regarding Water Quality Best Management Practices would apply to BAC's proposed project. The mitigation measure would require BAC to implement water quality best management practices to protect water quality as well as protected species and their habitat(s) from pollution resulting from spills, such as fuels, oils, lubricants, and other harmful materials, into the Bay. A Materials Management Disposal Plan (MMDP) would also be required to prevent any debris from falling into the Bay during construction to the maximum extent practicable.

The dredging activities under the proposed project would be subject to a Clean Water Act Section 404 permit conditions and would require a Dredged Material Management Office (DMMO) Consolidated Dredging Permit. Consistent with permit requirements, BAC would implement best management practices to minimize impacts on water quality during dredging. These practices may include turbidity monitoring, use of floating debris booms or silt curtains to contain turbidity and suspended sediments in shallow waters, and use of clamshell bucket

types that minimize turbidity to be further specified through the U.S. Army Corps of Engineers consultation with the National Marine Fisheries Service in accordance with the federal Endangered Species Act and the Magnuson-Stevens Fishery Conservation and Management Act. As part of these practices, all floating debris would be removed and disposed at an approved upland location. According to BAC, sediment analysis has been conducted for the proposed project, and all analytical results indicate that the shoaled sediments are suitable for unconfined aquatic disposal at the Alcatraz disposal site.

*Climate Change and Sea Level Rise.* Although a lease with BAC has not yet been approved, the Port of San Francisco has preliminarily offered a 15-year lease for the proposed project, with two possible five-year extensions. Therefore, the design life of BAC's project is considered to be 25 years, i.e., until 2045. According to the Federal Emergency Management Agency (FEMA), the current 100-year base flood elevation (BFE) for the project site is +9.6' NAVD88. For site planning purposes, BAC has used the following sea level rise (SLR) estimate: 1.9 feet by 2050, which is consistent with the medium- to high-risk aversion category in the State of California's 2018 *Sea Level Rise Guidance* document and assumes the high emissions scenarios. As proposed, the *Klamath* is intended to accommodate projected sea level rise through its floating design with the piles extending to +10.62' NAVD88 (BFE+1.9"SLR=+10.62' NAVD88). The top of the boat would rise and fall with the tides on the guide piles. The existing fixed pier and Embarcadero Promenade are situated at elevation +11.60' NAVD88. The boat would not be inundated by SLR projections for 2050 because it would rise with increased water levels.

Flooding of the pier would begin with water levels projected beyond the term of the lease. Based on the projections in the 2018 State Guidance, Pier 9 is anticipated to flood with 3 inches of water during a 50-year storm at 2060. By 2100, with a projected 6.9 feet of SLR, Pier 9 could experience almost a foot of flooding at mean high water. The piles are projected to experience two inches of flooding during a 25-year storm at 2050. By 2100, the piles could experience almost two feet of flooding at mean high water. The design of the access ramp connections is intended to accommodate disconnection and reinstallation in the future due to potential sea level rise.

As noted above, the consistency of BAC's proposed project with the Commission's laws and applicable Bay Plan policies, including those related to Climate Change, would be analyzed as a part of the permit application process for its proposed project.

*Transportation and Circulation.* The FEIR found a significant and unavoidable transportation impact and identified several mitigation measures related to traffic, transit, and parking. BAC's proposed project includes office uses that would primarily serve BAC, which is headquartered nearby in downtown San Francisco. The proposed office and conference uses onboard would serve employees and event attendees who use the downtown office location. As BAC would be moving locations, existing trips to the downtown San Francisco location would shift to Pier 9, and these would not be new trips in the area. The proposed museum use would also not generate a substantial number of vehicle trips, including during the p.m. peak hour. Implementation of BAC's proposed project would not result in significant project-level or cumulative impacts related to transportation and circulation. Additionally, none of the FEIR transportation and circulation mitigation measures would apply to the proposed project.

*Appearance, Design and Scenic Views and Historic Resource Impacts.* The National Park Service and the California State Office of Historic Preservation approved the eligibility of the Embarcadero National Register Historic District and placement on the National and State registers of Historic Places in 2006. The District includes approximately three miles of San Francisco's Northeastern Waterfront from Pier 45 at Fisherman's Wharf, south to Pier 48 at China Basin. The seawall forms the spine of the District and is the unifying element, which establishes the basis to meet the legal significance criteria for Register eligibility and listing. The District is comprised of contributing and non-contributing historic resources, which include the bulkhead wharf segments, bulkhead buildings, piers, pier sheds, and other waterfront structures as further detailed in the Historic District nomination report. Pier 9 is a contributing resource to the District.

Although the bolts connecting the proposed access ramps for the *Klamath* to Pier 9 would likely be considered a permanent and potentially adverse effect on the District, the minimal intrusion into the pier face for establishing an essential connection for a maritime vessel would not be considered significant. According to BAC's draft Historic Resources Evaluation Report (HRER), the method employed to attach the ramps would be the least cosmetically and physically intrusive to the historic integrity of the pier face as possible. BAC would be required by CCSF to retain a qualified historic preservation architect to collaborate on the design of the proposed ramp connections, as well as the utilities, to avoid potential impacts on the historic materials of the pier and apron.

The HRER concludes that the mooring of the *Klamath* at Pier 9 would be beneficial to the District as it would continue to retain the integrity of Pier 9 for maritime, industrial, commercial and public recreational use. The *Klamath's* historic look and feel would be complementary with the other ferryboats, *La Belle* and *Santa Rosa*, moored in the District at Pier 3. The proposed mooring of the *Klamath* would enhance the public's experience of the historic resource and District and is also completely reversible.

The Port's draft *Waterfront Plan*<sup>6</sup> includes a discussion and map of significant views on the Northeast Waterfront, one of which is located at Pier 9. However, because of the orientation of Pier 9 and the proposed mooring location, the *Klamath* would not significantly block views of the Broadway Open Water Basin from The Embarcadero. On the contrary, the *Klamath* would provide the public with a new vantage point from which to view the Broadway Open Water Basin from the roof deck of the ferryboat and from along Pier 9, which is currently closed to the public.

The draft FEIR addendum does not include an analysis of the potential visual and historic resource impacts associated with the proposed project. However, based on staff's analysis, as summarized above, the proposed SAP amendment and BAC's associated project as currently proposed would not result in significant adverse effects on the Embarcadero Historic District or on scenic and visual resources.

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<sup>6</sup> For more information, see pages 154 and 165: [https://sfport.com/sites/default/files/Waterfront%20Plan\\_1.pdf](https://sfport.com/sites/default/files/Waterfront%20Plan_1.pdf)

*Air Quality.* The FEIR determined that construction of the America's Cup facilities and Cruise Terminal projects would expose sensitive receptors to substantial concentrations of toxic air contaminants or respirable particulate matter (PM2.5). The FEIR found this impact to be significant and unavoidable with mitigation. The primary construction emissions of concern, Diesel Particulate Matter and PM2.5, would be emitted by diesel-powered construction equipment, including pile drivers, cranes, tug-boats, service boats, and dredging equipment.

Construction activities associated with BAC's proposed project would require the use diesel-powered construction equipment. While the construction activities would be limited in scope and duration (approximately four weeks), San Francisco's air pollutant exposure zone was recently expanded to include Pier 9. Because Pier 9 is in the air pollutant exposure zone, the ambient health risk to sensitive receptors from air pollutants is considered substantial and would impact the adjacent community that is in the moderate social vulnerability category as discussed above in staff's analysis of environmental justice and social equity. FEIR Mitigation Measure M-AQ-2b (Off-Road Construction Equipment) would apply to BAC's proposed project.

### **Alternatives Analysis as it Relates to Proposed BPA**

BCDC Regulations require, in part, that an EA describe alternatives to the proposed action that would avoid or substantially lessen one or more of the substantial effects. In this case, the only reasonably identifiable alternative is the "no project" alternative, under which the Commission would not approve the requested amendments to the SAP. Under this alternative, Pier 9 and the Broadway Open Water Basin would remain in its current condition and the indirect environmental effects associated with BAC's proposed project to moor the *Klamath* at Pier 9, as described above, would not occur.

### **Summary of Comments Received**

The public hearing and vote to initiate BPA 1-20 occurred on May 7, 2020. The proposed amendment was initiated by a Descriptive Notice, mailed on May 12, 2020. There were no written comments received prior to the public hearing to initiate BPA 1-20. One oral public comment was provided at the public hearing by Peter Romanowsky, who identified himself as a representative of the anchor-out community in Richardson Bay. Commissioner Pemberton provided comments regarding public trust consistency, which, as discussed above, would be addressed through the BCDC permit application process for the proposed project. As of July 31, 2020, no written comments on the descriptive notice have been received at the Commission office.