

Assemblymember Ammiano appreciates the efforts that the group is putting into this project. Based on the conversations that his staff has had with proponents, the group is well aware of the pitfalls entailed in a project of this sort.

Nevertheless, "a project of this sort" is going to have many questions that need to be answered, and he still has some questions that haven't been completely answered.

- First, although the project is located near some public transportation hubs, there is no question that it will bring extensive auto traffic. How that will be handled is a key issue?
- How, in particular, will private and public transportation capacity be handled in the "perfect storm" event, where there is a large draw to the arena at the same time as a large event at the nearby stadium, not to mention other potential conventions, parades or celebrations?
- What will the impacts be on those who live in the neighborhood?
- He is concerned about the design's visual impact on a section of the waterfront that has been carefully opened up to the public.
- He is concerned about waterfront access. Any development should make some dramatic improvements in how San Franciscans and tourists can access a bay coastal area that belongs to the people of California.
- Construction is a big environmental question mark. Clearly, there will be environmental issues involved in demolition if the area is left undeveloped, but that is not a reason to overlook any potential environmental disruption for a project as big as this.
- Apart from construction, he thinks it is imperative that we consider potential ramifications of the environment. That is, not only do we have to consider earthquakes, as we always must in San Francisco, but we must consider the potential effects of the global climate change of which we are increasingly aware. If a high tide can lap at the Embarcadero now, what can we expect from rising sea levels that accompany polar warming and melting ice caps? How will this project accommodate those potential issues?
- Is this really the best place for this project?

The San Francisco Bay Conservation and Development Commission is responsible for protecting and overseeing the use of our bay front. The Assemblymember hopes all these questions will be asked – and answered adequately – before the project proceeds.



RUDOLF NOTHENBERG  
P.O. BOX 567  
MONTE RIO, CA. 95462  
[margorudv@comcast.net](mailto:margorudv@comcast.net)

April 29, 2013

Commissioners,  
Bay Conservation and Development Commission

Re: Opposition to Pier 30/32 Project, Opposition to AB 1273

I am writing to you as a long time San Francisco public official, serving among other things as Chief Administrative Officer for some nine years and later as Economic Development head for Mayor Willie Brown in the early years of his first term. As CAO, I was responsible for the reconstruction of the entire Embarcadero from Fisherman's Wharf to 4<sup>th</sup> & King after the demolition of the Embarcadero Freeway. I later headed the City's negotiating team that brought this City the Giants ballpark and the Mission Bay/UCSF development.

Over the course of those years I have had extremely good relationships with the Port of San Francisco, its various Directors and, where applicable with BCDC staff. I have never, until now, felt the need to oppose a major Port initiative. The Pier 30-32 proposal is however a very bad proposal. It is bad for both procedural and substantive reasons. BCDC should be very skeptical about the process and should find it difficult to reconcile its responsibilities under the McAteer-Petris Act with the substance of what is proposed for the pier.

You will not have an action proposal on the project before you for some time yet. Since, however, you are being given a briefing by the proponents; I would, like many others, like to raise some issues with regard to the process and the substance of the Pier 30-32 project. You will have an action item regarding AB 1273 before you on May 16. AB 1273 inappropriately facilitates regulatory approval of the project. There are objections to this bill which will be addressed separately at a later time.

The process issues that bedevil this project stem entirely from the overly aggressive schedule that the Warriors have demanded of the Port/City. It is this schedule that is the cause of the pressure tactics and of the short cuts (including AB 1273) that are being employed by the proponents.

The initial schedule proposed by the City/Port was unrealistic, calling for Port and Board of Supervisors approval of a term sheet by January or February of this year. After an outcry from the public, that schedule was revised. Even that revised schedule has now slipped by several months. Yet, the Warriors still insist on the immutable date of fall 2017 for the occupancy of their proposed arena. The slippage at the front end of the schedule combined with the Warrior's unwillingness to move the end date, result in a significant compression of time remaining (after the publication of the DEIR) for the various regulatory bodies to do their jobs.

With BCDC's permitting process coming as late in the schedule as it does, and given the compression of time at the end, there will be tremendous pressure on your staff and on you to hurry your process. It is pressure that we hope that you will resist and I urge that the proponents be advised now that there will be no short cuts at BCDC.

To emphasize the schedule problem, there are as of today:

- no detailed designs,

- no programming,
- no sectionals,
- no massing studies,
- no project models.

As of today there is not enough data for the Department of City Planning to even begin the Environmental review. The long promised "Term-Sheet" has yet to become public. One must rely on the diaphanous "conceptual" drawings provided in the November 12 NOP to try to understand what the project will look like and on the developer funded "Financial Feasibility Study" for a "conceptual framework" to understand the financing.

Proponents excuse their decision for hiding the design from public view on the ground that it is being altered in response to much criticism. It is highly unlikely that any amount of tweaking of design elements will make it any easier for the BCDC Design Review Board and later BCDC as a whole to reconcile this proposed pier development with the spirit and intent of McAteer-Petris.

The claim that this development will somehow "enhance" access to the Bay waters or improve the ability of people to visually enjoy the Bay is preposterous on its face. It is not credible to assert that public access to Bay waters and Bay views will be improved via a narrow walkway around the periphery of this behemoth building – especially since the quiet enjoyment of the space will be impacted by 200 entertainment events in the arena annually.

To allege that open water views will be enhanced or protected notwithstanding the massive arena on the Pier is at best disingenuous. The proponents fail to acknowledge that for pedestrians on the Embarcadero, for bikers and for those passing through on transit, the 135 foot high building between the roadway and the water will significantly block public views of Yerba Buena Island, Treasure Island, much of the East Bay shoreline and hills and a good portion of the Bay Bridge. These public amenities are irreplaceable. A peripheral walkway, oppressed by the looming presence of a 135 foot high building overhead, is not an acceptable alternative to what exists there now or would be offered by a different project.

The project is made even more questionable when considering the fact that for slightly more than one-third of the \$120 million subsidy the Port proposes to provide to the Warriors, the deteriorating piers could be removed and the site restored to the public. For a little more than one-half of the public subsidy to the Warriors, the Pier could be fully rehabilitated and offered to the market for a project that would truly meet Public Trust and McAteer- Petris requirements and, importantly, generate badly needed rental revenues to the Port.

Finally, I believe that the financial arrangements, particularly the depth of the subsidy (\$120 million) offered by the Port to the Warriors should be a matter of BCDC concern. The Port intends to borrow this \$120 million from the Warriors (at 13% interest) and pay back about a third of that debt by way of rent credits over the next some 35 years. Thus, for a period longer than the useful life of the building, the Port will not realize a penny of rental revenue from the project. The sacrifice of that rent, along with what might be left on the table by the sale of Seawall Lot 330 for a negotiated price rather than in an open competitive bidding process, diminish – in one case for decades – potential Port revenues that could be applied to implement other Port projects – now underfunded - that are of abiding interest to BCDC.

Thank you for your attention.

Rudy Nothenberg

On 4/30/13 12:14 PM, "lynn grano" <[lynngrano@sbcglobal.net](mailto:lynngrano@sbcglobal.net)> wrote:

Dear Ms. Michaels,

Please submit the herein comments to the public record at the May 2, 2013 Hearing regarding the proposed basketball - other use stadium / arena in San Francisco.

First, the structure's proposed height in excess of approximately thirteen stories is ridiculous at this location. It would be higher than all other structures at the San Francisco Bay's edge, excepting the Golden Gate and Bay Bridges. It would tower over the old Embarcadero Freeway, which twenty or so years after removal, most everyone agrees was an abomination. The proposed arena would be a stark and pathetic admission that we have learned / remembered absolutely nothing concerning the horrible visual, aesthetic and community impacts caused by the 1950's highway engineers giving us their idiocy of encircling San Francisco at the Bay's waters edge with elevated freeways. Like the structure we finally had the sense to tear down, the proposed sports facility will similarly block the public's view of, and access to, the Bay. Why wait until after it's built to have most people regret the proposed arena's construction at water's edge?

Second, the proposed arena's attempts to provide mandated public access<sup>1</sup> is woefully deficient as much of it will not be at ground level, but rather at significant elevations. How this might comply with ADA and other public access mandates no one can quite explain. Such altered public access violates both the spirit and the law that it should be near "ground level" elevations.

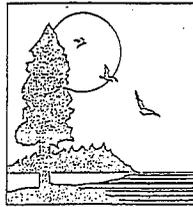
Third, the present design, at least as depicted in the press, is, in essence, a large cylindrical hat box turd of enormous proportions. If the exterior of this monstrosity is faced with (or has large components of) either reflective or opaque materials, it could have devastating effects on bird life. We are within the Pacific Flyway and there's fantastic bird life around the Bay. Has anyone bothered to include this potentially huge impact within whatever environmental review is taking place?

Fourth, all the parts of this proposed project along Herb Caen Way are to be retail. This seems an entirely inappropriate private / business usurpation of publically owned space on the Bay. Why not just start selling large neon signage or huge HD screen billboard advertising across the span of the Bay Bridge? Who wants to look at the beautiful Bay when we can instead see the lit up facades of the new in-arena Apple Store or Cheese Çake Factory?

Fifth, and finally, can anyone meaningfully answer the question as to why a better location for a huge sports arena would not be inland and not on the Bay or its edge? Since when are the greed and hubris of a developer, an affluent sports franchise, and their political minions sufficient to trump the clear public interest in not using public space (for private gain) to block access and view of the Bay? This stadium doesn't belong at the proposed location.

Sincerely,

Lynn Grano

**CALIFORNIA STATE  
LANDS COMMISSION**

EXECUTIVE OFFICE  
100 Howe Avenue, Suite 100-South  
Sacramento, CA 95825-8202

JENNIFER LUCCHESI, *Executive Officer*  
(916) 574-1800 Fax (916) 574-1810  
California Relay Service TDD Phone 1-800-735-2929  
Voice Phone 1-800-735-2922

April 26, 2013

The Honorable Philip Ting  
Assemblymember, 19<sup>th</sup> Assembly District  
State Capitol, Room 3173  
Sacramento, CA 95814

Re: AB 1273 (Ting): Tidelands and Submerged Lands: City and County of  
San Francisco

Dear Assemblymember Ting:

At the April 1, 2013 Assembly Natural Resources Committee hearing on AB 1273, several statements were made about the State Lands Commission's (Commission) role in the proposed mixed use development project on the San Francisco Waterfront at Piers 30-32 on land that is held in trust by the City and County of San Francisco and managed by the Port of San Francisco.

While the Commission has not taken a formal position on AB 1273 at this time and staff remains neutral on the bill, the purpose of this letter is to provide context concerning the Commission's jurisdiction relating to sovereign land granted in trust to local jurisdictions, and in particular, the proposed development at Piers 30-32 addressed in AB 1273.

In 1938, the Legislature delegated the state's jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways to the Commission (Public Resources Code (PRC) § 6301). The Legislature also delegated the state's residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions to the Commission (PRC §§ 6301, 6306). All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the common law Public Trust Doctrine. The Legislature, however, as the representative, and on behalf, of the people, remains the trustor of statutorily granted public trust lands.

As background, commencing in 1851 and continuing to the present, the Legislature has periodically transferred portions of the state's prime waterfront lands to local governmental entities to manage in trust for the benefit of the people of California. In 1968, the Legislature granted the tidelands and submerged lands along the San Francisco waterfront to the City and County of San Francisco, to be controlled and managed by the San Francisco Port Commission (Chapter 1333, Statutes of 1968, known as the Burton Act).

The terms and conditions of statutory trust grants vary and are governed by the specific granting statute(s), the Public Trust Doctrine, the California Constitution, and case law. The usual granting language by the Legislature has the effect of conveying the State's legal title to the applicable lands in trust to the grantee. Grantees have a fiduciary duty, as trustees for the people of the State, to manage their trust lands and assets in a manner that is consistent with their statutory grant, the Public Trust Doctrine and the California Constitution. The state remains the trustor of the grant and the people of the state are the beneficiaries.

Except for specific statutory provisions involving certain statutory trust grants, the Commission is not typically involved in day-to-day management operations for granted public trust lands. The grantee is responsible for administering the trust within the parameters of its trust grant and applicable law. Unless otherwise provided for in a particular trust grant, proposed projects on granted public trust lands are not required to obtain Commission approval.

Although obtaining the Commission's approval of a particular project on granted public trust lands is generally not required, there are various mechanisms by which the Commission or staff can weigh in on a project. Specifically, the Commission has the following two options: 1) issue a staff letter commenting on the consistency of a project or use with the provisions of the trust grant and the Public Trust Doctrine; or 2) at the request of the grantee, make findings of trust consistency pursuant to its residual authority (PRC § 6301 or pursuant to PRC § 6702 (b)). The Legislature always has the authority to exercise its retained power as the ultimate trustee of public trust lands and trustor of the statutory trust to authorize a particular use or project on public trust lands. Furthermore, because the Public Trust Doctrine is a product of common law, the courts retain a role in interpreting and espousing its principles.

Under the Burton Act, the Port of San Francisco is not generally statutorily required to obtain Commission approval for a project proposed on granted public trust lands under the Port's jurisdiction, including the proposed development at Piers 30-32 addressed in AB 1273. Only on rare occasions has specific Commission approval been required for activities undertaken by the Port. However, the City and Port of San Francisco and Commission staff have a long history of working together in a cooperative and collaborative manner to further and enhance public trust purposes along the San Francisco waterfront. Examples include the Giants Ballpark, the Ferry Building, Pier 1, Piers 1 ½, 3 & 5, the Exploratorium at Piers 15-17, and the developments at Candlestick/Hunters Point and Treasure Island.

Consistent with this past history, City and Port staff initiated discussions with Commission staff early on in the development of the proposed project addressed in AB 1273. Given the Legislature's previous involvement on Piers 30-32 through Chapter 489, Statutes of 2001, as amended in 2003, as well as its involvement in Seawall Lot

The Honorable Philip Ting  
April 26, 2013  
Page 3

330 across the Embarcadero from Piers 30-32, and the significant complexities of the proposed mixed use development, Commission staff believes it is appropriate for the City to seek legislative authorization for the development of Piers 30-32, which includes a multipurpose public assembly venue. Your office and City and Port staff have worked closely with Commission staff on drafting language for AB 1273 to ensure that the bill promotes public trust purposes. While there are still some outstanding issues to be resolved, given our past history with the City and Port, as well as assurances by your office and City and Port staff, I am confident that we will continue to work closely on future amendments to AB 1273 to ensure that the bill furthers public trust needs and purposes at Piers 30-32 and is in the best interests of the people of California.

Should you have any questions or if you would like additional information, please do not hesitate to contact me or Sheri Pemberton of our staff at (916) 574-1800.

Sincerely,



JENNIFER LUCCHESI  
Executive Officer





April 9, 2013

The Honorable Wesley Chesbro, Chair  
Assembly Natural Resources Committee  
State Capitol  
Sacramento, CA 95814

Re: **AB 1273 (Ting) – OPPOSE**

Dear Assemblymember Chesbro:

On behalf of Save The Bay and our 40,000 members and supporters throughout the Bay Area, we are writing in opposition to AB 1273. San Francisco Pier 30-32 is not a legal or appropriate place to build a 13-story private facility that would negatively impact San Francisco Bay, public access and views. The California legislature should not pursue the encouragement of that facility with AB 1273.

A) AB 1273 is absolutely premature.

Legislative action is premature at this time, when even the most basic facts about project components, costs and choices are untested assertions from a project proponent. No detailed project or rationale has yet been examined and vetted through any public process. The Port of San Francisco has not yet indicated whether even a draft Environmental Impact Report for a project will be completed in 2013, let alone a final EIR. The normal process of public review, including through the State Lands Commission and other agencies with jurisdiction, should be followed.

B) AB 1273 shifts priority use of a deep-water pier away from maritime and public trust uses, to a private indoor use that should be on land.

The bill would amend a statute that was designed to ensure a maritime use as the foundational activity at Piers 30-32, to allow construction of a cruise ship terminal. The legislature should not dictate a new use that is not consistent with the public's interest, state laws and regulations for this site.

C) AB 1273 would degrade an adjacent public resource.

The Brannan Street Wharf next to Piers 30-32 is a recently-completed public park built at significant public expense to "provide an essential recreational element to serve the public trust as provided in the Special Area Plan." This bill would facilitate construction of a very large, impermissible structure directly adjacent to that park, blocking views of

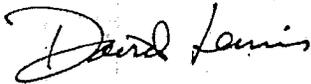
the Bay and the Oakland-San Francisco Bay Bridge. (Section 5, deleting Chap 489 Sec. 4(g) and amending new Sec. 4(i)).

D) AB 1273 does not protect public access on Piers 30-32 and public enjoyment of the Bay.

San Francisco's remaining piers are reserved by law for maritime activity and public uses that provide a connection to the Bay. The bill encourages uses of the site that "may include" fire boats or cruise ships, which would severely impact available public access (Section 6, amending Chap 489 Sec. 5(d)(2)). Instead of requiring public access and benefits, the bill limits those to what is "necessary to accommodate use" (Section 6, amending Chap 489 Sec. 5(b)).

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "David Lewis". The signature is written in a cursive, flowing style.

David Lewis  
Executive Director



April 3, 2013

The Honorable Philip Ting  
California Assembly  
State Capitol  
Sacramento, CA 95814

**RE: AB 1273—Warriors Arena—Oppose.**

Dear Assembly Member Ting:

The Sierra Club respectfully opposes your Assembly Bill 1273 for a number of reasons. Specifically, it is our view that:

- **This bill is very premature.** No detailed project has yet been presented to the public or vetted through any public process. The Citizen Advisory Committee appointed by the Port has been hampered by lack of information. We do not know that a draft Environmental Impact Report will be released this year. The normal process of public review, including the State Lands Commission, the Bay Conservation and Development Commission as well as other agencies with jurisdiction, should be followed.
- **AB1273 inappropriately shifts use priorities.** The bill shifts the priority use of a deep-water pier away from maritime and public trust uses to a private indoor use that should more appropriately be located elsewhere—on land.
- **The bill would amend a statute designed to ensure a maritime use (cruise ship terminal) as the primary activity at Piers 30-32.** The state legislature should not dictate a new use that is inconsistent with the public's interest, state and local laws and regulations for this site.
- **There are conflicts with existing waterfront plans, height limits and the City's Transit First policy.** Press reports have shown a large pillbox-shaped building which will block views of San Francisco Bay and the San Francisco-Oakland Bay Bridge from the Embarcadero Roadway and a newly completed public park.
- **The legislation would result in new, high costs to the City.** The City will incur costs from necessary upgrades to transit infrastructure and may require a taxpayer subsidy of \$40,000,000.

We believe this legislation is not in the interests of the state, the City of San Francisco, its residents, and the local environment.

Sincerely,

Kathryn Phillips  
Director

Cc: Assembly Natural Resources Committee Members and Staff  
Becky Evans, Chair, S.F. Bay Chapter, Sierra Club



SAN FRANCISCO  
**BAYKEEPER®**

April 10, 2013

Assemblymember Wesley Chesbro  
Chair, Natural Resource Committee  
California State Assembly  
State Capitol, Room 2141  
Sacramento, CA 94249

**RE: OPPOSE - Assembly Bill 1273**

Dear Chair Chesbro and members of the Natural Resource committee:

San Francisco Baykeeper respectfully requests your “No” on **AB 1273**.

**Background**

San Francisco Baykeeper was founded as a nonprofit organization dedicated to protecting San Francisco Bay for the benefit of its ecosystems and communities. For two decades, Baykeeper has been the premiere watchdog of the water quality of San Francisco Bay. Using the many tools at our disposal – advocacy, water quality monitoring and science, on-the-water patrols, public education and, when necessary, legal action – Baykeeper compels polluters to stop contaminating our waterways and holds government agencies accountable for safeguarding and restoring the waters and shorelines that belong to all of us.

San Francisco Baykeeper represents thousands of Bay Area residents who enjoy the Bay’s shorelines or who recreate in Bay waters by swimming, kiteboarding, kayaking and sailing. I write on their behalf today in strong opposition to AB 1273 for its violation of the public trust and its exemption of the San Francisco shoreline from numerous long-held local and state protections.

**Why San Francisco Baykeeper Opposes AB 1273**

The McAteer-Petris Act created the Bay Conservation and Development Commission to ensure the continued maritime use of San Francisco Bay shorelines and to protect public trust uses. However, AB 1273 allows the Port of San Francisco to unilaterally approve any development of Pier 30-32, even if a project fails to meet public trust requirements under the Bay Plan, the Special Area Plan and “any other applicable statute.” This guts BCDC and State Lands Commission oversight jurisdiction and eliminates the public’s right to participate in local land use decisions.

This bill intends to grease the way for the proposed Warrior Stadium despite its conflicts with many existing waterfront plans, transit policies, height limits, and the public trust doctrine. Therefore, this legislation is not in the interests of the State of California, the City of San Francisco, its residents, recreational users of the San Francisco Bay, and the Bay’s ecosystem.

Sincerely,

Deb Self  
Executive Director



April 12, 2013

Chair Wesley Chesbro  
Assembly Natural Resources Committee  
1020 N Street, Room 164  
Sacramento, California 95814

Dear Chair Chesbro:

As Mayors of East Bay cities on the Bay, we are writing to express our opposition to AB 1273.

As elected officials, we believe in good governance and maintaining a public process that is transparent and consistent. AB 1273 diminishes the authority of both the State Lands Commission and the Bay Conservation and Development Commission in the project approval process.

Removing from BCDC or the State Lands Commission any real role in scrutinizing a massive commercial development on the Bay would run directly contrary to the very purposes of these two bodies, each of which has decades of experience balancing the sometimes competing interests of developing and preserving the waters, tidelands and submerged lands under their jurisdictions.

As Mayors, we all want to see economic development in our Cities and to create jobs. However, we believe that all developments must meet our state, federal and local environmental standards and that no project should be allowed to bypass BCDC and the State Lands Commission.

We thank you for considering our concerns.

Sincerely,

A handwritten signature in cursive script that reads "Tom Bates".

Tom Bates  
Mayor of Berkeley

A handwritten signature in cursive script that reads "Stephen H. Cassidy".

Stephen Cassidy  
Mayor of San Leandro

A handwritten signature in cursive script that reads "Gayle McLaughlin".

Gayle McLaughlin  
Mayor of Richmond

A handwritten signature in cursive script that reads "Jean Quan".

Jean Quan  
Mayor of Oakland

Cc: Assembly Member Shannon L. Grove (Vice Chair)  
Assembly Member Franklin E. Bigelow  
Assembly Member Cristina Garcia  
Assembly Member Al Muratsuchi  
Assembly Member Jim Patterson  
Assembly Member Nancy Skinner  
Assembly Member Mark Stone  
Assembly Member Das Williams