



EJ Bay Plan Amendment

Mitigation



San Francisco Bay Conservation
and Development Commission



Environmental Justice and Social Equity Bay Plan Amendment

Goal:

Amend the San Francisco Bay Plan to incorporate principles of environmental justice and social equity into the planning, design, and permitting of shoreline projects in and along the San Francisco Bay

Overview

- Basics
- BCDC's Mitigation policies
- Mitigation and EJ
- Questions



What does mitigation mean for BCDC?

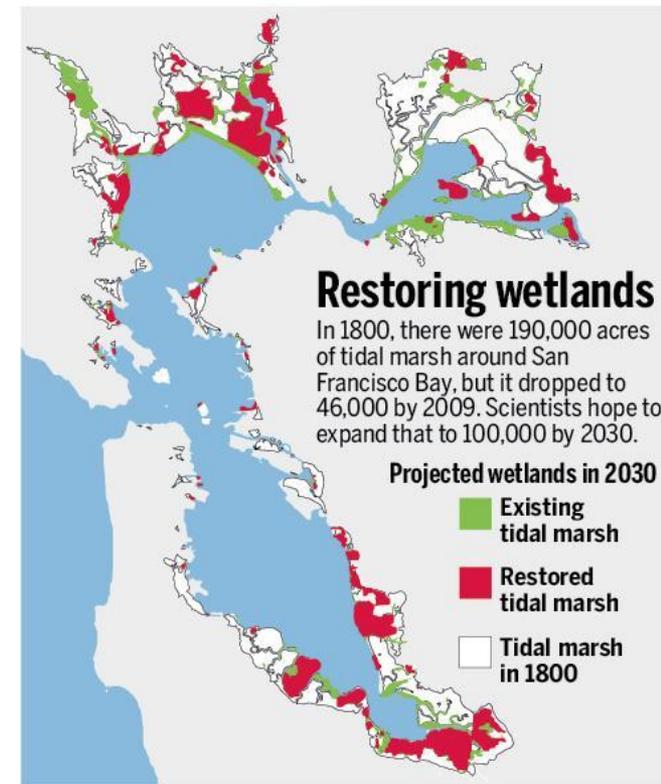
- Regulatory requirements to lessen or eliminate adverse environmental impacts
- Avoid → minimize → compensate
- For natural resource agencies:
 - Creation
 - Restoration
 - Enhancement
 - Preservation



Source: Save the Bay

BCDC's Authority to Require Mitigation

- Requiring mitigation since the 1970s
- 1985 – first Bay Plan policies on mitigation (amended in 2002)
- Legal authority derived from the McAteer-Petris Act, Bay Plan, Suisun Marsh Act, and Suisun Marsh Protection Plan, and informed by CEQA



Source: San Francisco Estuary Institute

BAY AREA NEWS GROUP

BCDC's Authority to Require Mitigation



“The Commission may grant a permit subject to reasonable terms and conditions including the uses of land or structures, intensity of uses, construction methods and methods for dredging or placing of fill.”

BCDC's Authority to Require Mitigation



- “... the nature, location and extent of any fill should be such that it will minimize harmful effects to the bay area, such as, the reduction or impairment of the volume, surface area, or circulation of water, water quality, fertility of marshes or fish and wildlife resources, or other conditions impacting the environment, as defined in Section 21060.5 of the Public Resources Code.”
- Section 21060.5 of the Public Resources Code defines "environment" as "the physical conditions which exist within the area which will be affected by a proposed project, including land, air, water, minerals, flora, fauna, noise, objects of historic or aesthetic significance."

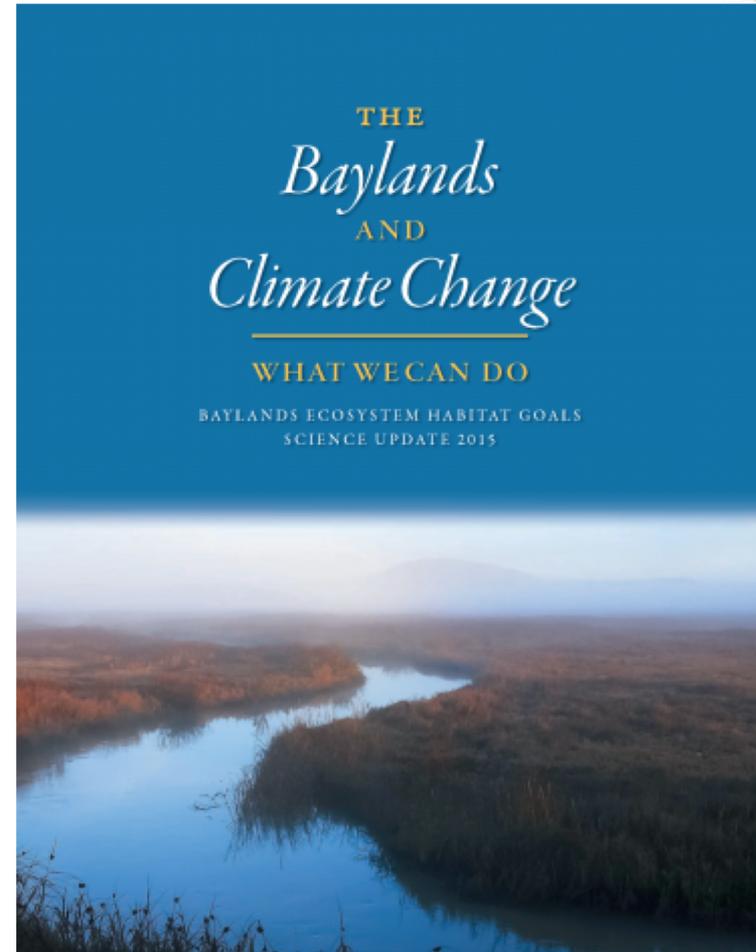
Bay Plan Mitigation Policies



- P1 – Projects should be designed to avoid adverse environmental impacts to Bay natural resources. Whenever adverse impacts cannot be avoided, they should be minimized to the greatest extent practicable. Finally, measures to compensate for unavoidable adverse impacts to the natural resources of the Bay should be required.

Bay Plan Mitigation Policies

- P2 – mitigation projects should be sited and designed within a Baywide ecological context, as close to the impact site as practicable and guided by info in the Baylands Ecosystem Habitat Goals report



Source: SFEI

Bay Plan Mitigation Policies



- P4 – the amount and type of mitigation should be based on a clear rationale that includes:
 - Probability of success
 - Expected time delay between impact and mitigation project functioning
 - Type and quality of ecological functions

Bay Plan Mitigation Policies



- P5 – to ensure long-term sustainability:
 - resource restoration should be selected over creation
 - transition zones and buffers should be included
 - Consideration of site-specific factors (hydrology, soil type, adjacent land uses, etc.)
- P6 - should occur prior to or concurrently to the adverse project impacts

Bay Plan Mitigation Policies

- P7 – the commission should review and approve mitigation programs and should include:
 - Project goals
 - Performance standards
 - Monitoring plan
 - Contingency plan
 - Long-term maintenance, management, and protection



Source: Save the Bay

Bay Plan Mitigation Policies



- P8 – Coordination with all affected local, state, and federal agencies
- P9 – If more than one mitigation program is proposed, the Commission should consider the cost of the alternatives in determining the appropriate program

Bay Plan Mitigation Policies



- P10 – For small projects, the Commission may extend credit and allow mitigation banking (banking should only be considered if no mitigation is practicable on or proximate to the project site)
- P11 – the commission may allow fee-based mitigation when other measures are infeasible

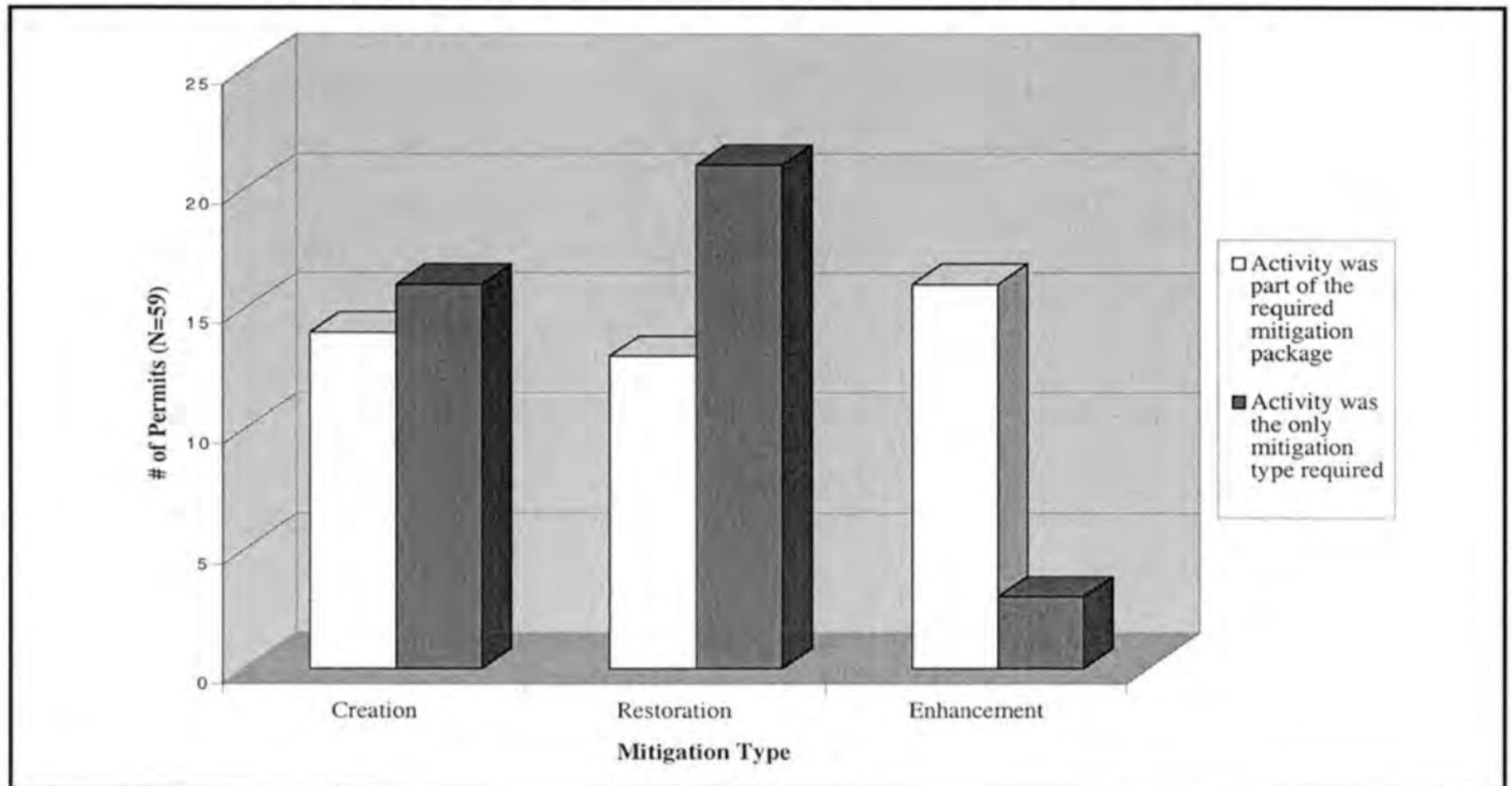
Examples of Past Permits



- Treasure Island (2016) – at site, \$ in Coastal Trust Fund at site in Richmond or Tiburon
- Carquinez Bridge (1998) – at site, Martinez Regional Shoreline, \$ in Bay Fill Removal account
- Oakland International Airport Runway 11-29 (2002) – Damon Slough

BCDC Mitigation 1985-2000

Figure 3
Breakdown of Types of Permitted Compensatory Mitigation Projects



Source: BCDC Staff Report on Mitigation, 2002

BCDC Mitigation 1985-2000

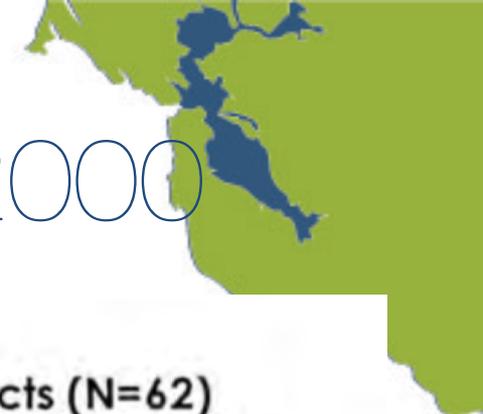
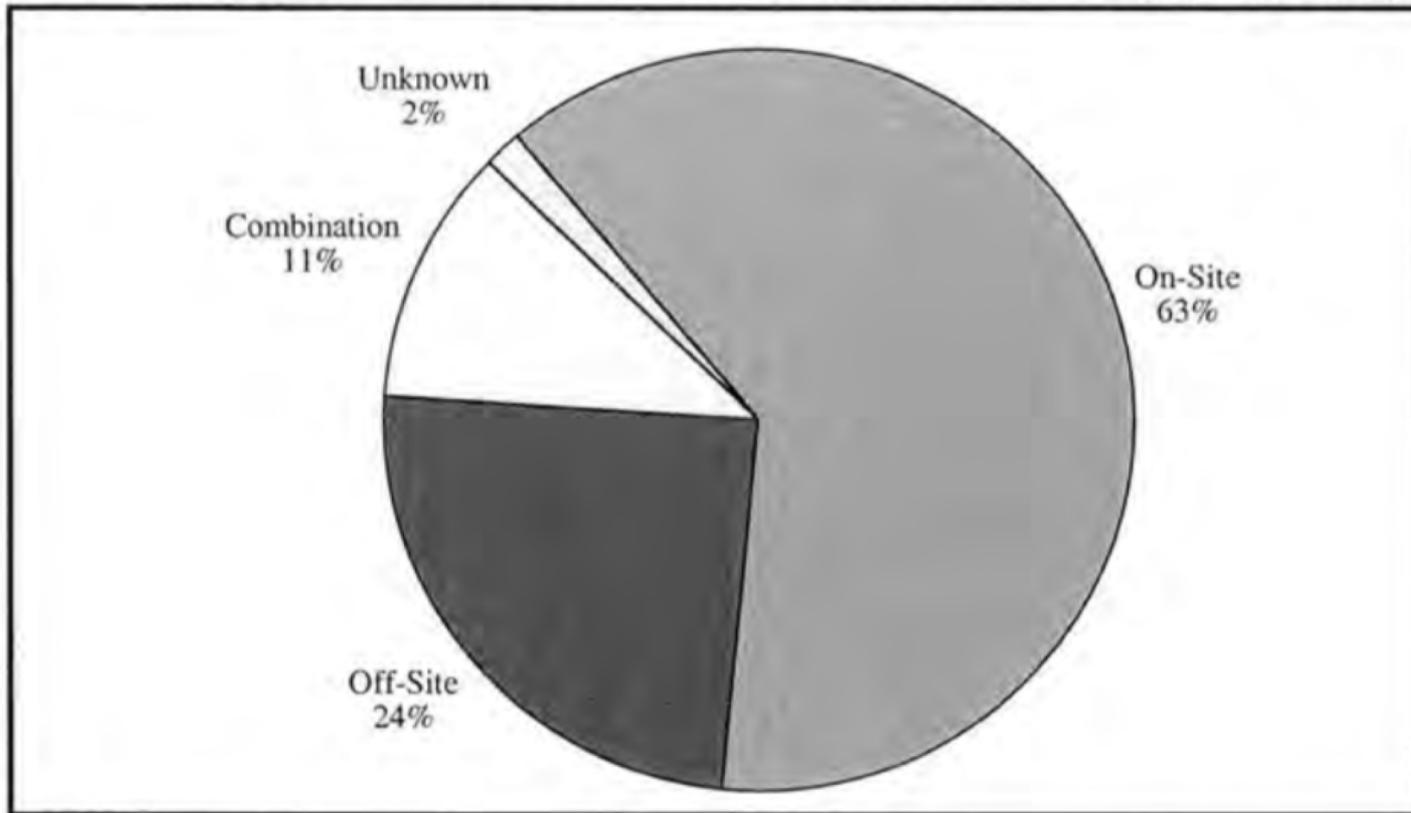


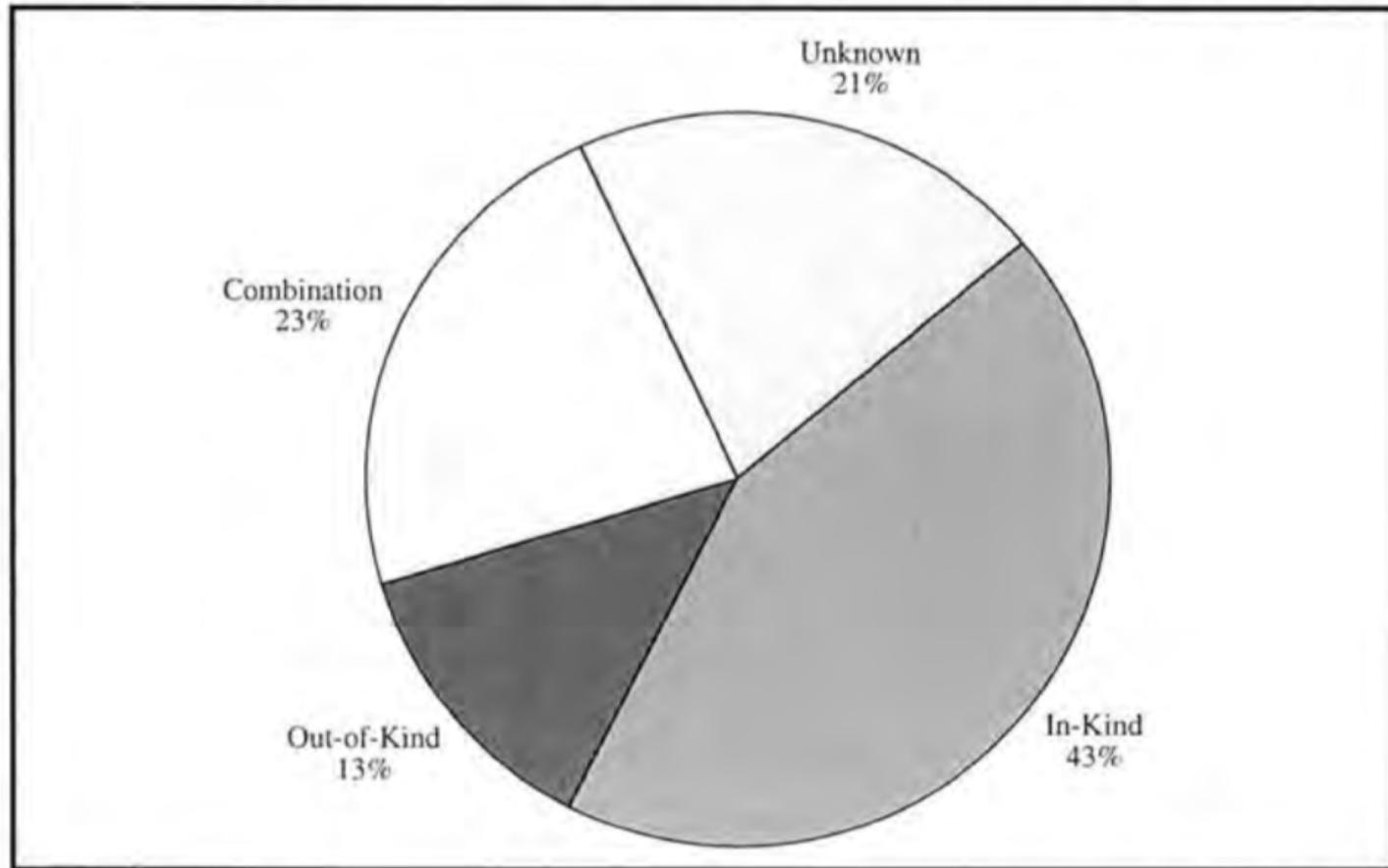
Figure 4
Location of Permitted Compensatory Mitigation Projects (N=62)



Source: BCDC Staff Report on Mitigation, 2002

BCDC Mitigation 1985-2000

Figure 5
Breakdown of Required Compensatory Mitigation Types (N=62)

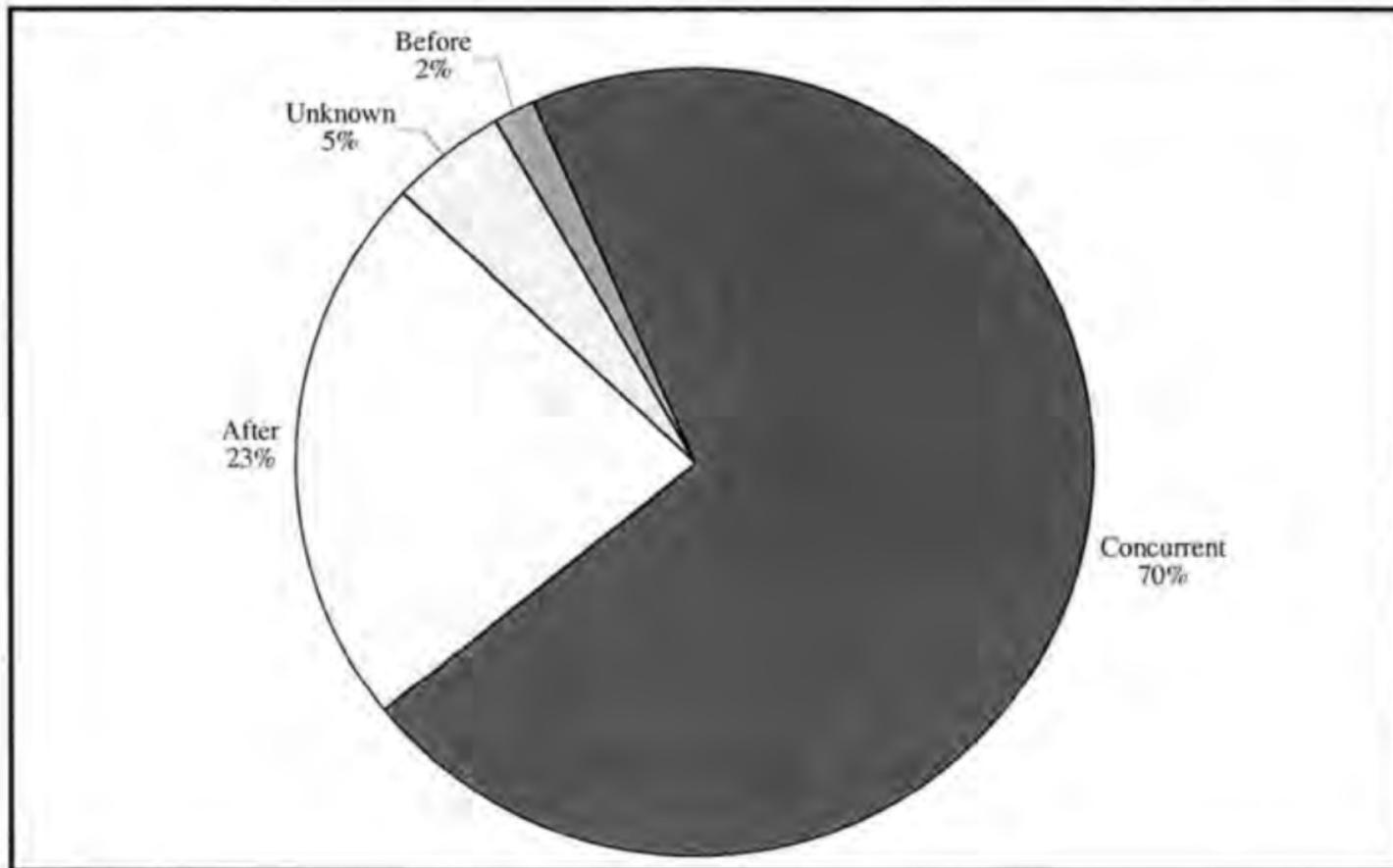


Source: BCDC Staff Report on Mitigation, 2002

BCDC Mitigation 1985-2000

Figure 6

Timing of Mitigation as Compared to Timing of Permitted Project (N=62)



Source: BCDC Staff Report on Mitigation, 2002

Mitigation and EJ Issues

- Mitigation location adjacent to impact
- Community involvement in all stages of mitigation proposal
- Consideration of social or community impacts (current and historical)
 - Cumulative impacts, social vulnerability, pollution, displacement
 - Ex: Impact fees / community benefits agreements



Examples – DTSC and SB673

- Mitigation of cumulative impacts
- Taking community vulnerability into consideration
- Monitoring of pollutants
- Develop, through a public process, a clearinghouse of approved community mitigation projects to reduce the cumulative environmental and health impacts on the community or to enhance community resiliency for facilities



Examples – Central SoMa Plan



Table 1

SOURCES OF PUBLIC BENEFITS FUNDING

SOURCE	AMOUNT	PERCENT OF TOTAL	PUBLIC BENEFIT CATEGORY	MECHANISM
Below-Market Rate Housing Program ¹	\$600M	29%	Affordable Housing	Direct provision or one-time fee
Mello-Roos Community Facilities District Tax ²	\$350M	17%	Transit, Complete Streets, Parks and Recreation Environmental Sustainability, and Cultural Preservation	Annual tax
Eastern Neighborhoods Infrastructure Impact Fee ³	\$250M	12%	Transit, Complete Streets, Parks and Recreation, and Schools and Child Care	One-time fee
Jobs-Housing Linkage Fee ⁴	\$210M	10%	Affordable Housing	One-time fee
Transportation Sustainability Fee ⁵	\$210M	10%	Transit and Complete Streets	One-time fee
PDR Requirement	\$180M	9%	PDR	Direct provision
Central SoMa Fee ⁶	\$90M	4%	Affordable Housing	One-time fee
POPOS Requirement	\$80M	4%	Parks and Recreation	Direct provision
School Fee ⁷	\$20M	1%	Schools and Childcare	One-time fee
Community Services Fee ⁸	\$20M	1%	Community Services	One-time fee
Transferable Development Rights ⁹	\$20M	1%	Cultural Preservation	One-time transaction
Childcare Fee ¹⁰	\$10M	1%	Schools and Child care	One-time fee
Sustainability Requirements	\$10M	1%	Environmental Sustainability and Resilience	Direct provision
Total	\$2,050M	100%		

Examples - City of Richmond & Chevron

- \$75 million over 10 yrs
 - Community programs
 - Scholarship program
 - Job training, readiness, and skills
 - Public safety programs
 - Free internet access
 - Competitive grant program
 - Community-based GHG reduction programs



Source: SF Gate

Potential Next Steps

- Amend existing Mitigation policies
- Add Mitigation policies regarding EJ
- Improved coordination with local governments and other appropriate agencies



Questions

- Do you know of any other intersections of EJ and mitigation?
- What can BCDC learn from other policy examples or recommendations? How could BCDC's existing policies be amended? Or are there new policies that could be created?
- Can or should BCDC require mitigation for social impacts?
- How can BCDC ensure more community involvement in all stages of mitigation projects?

