

# San Francisco Bay Conservation and Development Commission

455 Golden Gate Avenue, Suite 10600, San Francisco, California 94102 tel 415 352 3600 fax 415 352 3606

## **General Fact Sheet - 2019**

### ***BCDC's Mission***

BCDC's mission is to protect and enhance San Francisco Bay and to encourage its responsible and productive use for this and future generations.

### ***History***

BCDC was created by the McAteer-Petris Act in 1965 because the Bay was being increasingly polluted and rapidly filled. One plan from this era would have filled almost 2/3 of the Bay and transformed it into little more than a river. Led by advocates Kay Kerr, Sylvia McLaughlin, and Esther Gulick, passage of the "Mac Act" created balance among the competing environmental and economic demands on the Bay's unique and beautiful resources.

### ***What does BCDC do?***

- The Commission is composed of 27 individuals who represent counties and cities, various state and federal agencies as diverse as the State Transportation Agency and the federal Environmental Protection Agency, and five Commissioners who are appointed by the Governor (including the Chair and Vice-Chair). BCDC's jurisdiction includes nine counties, 46 cities, and scores of special districts and agencies. BCDC has only about 50 employees, a vast majority of whom work in the regulatory, planning, and legal fields. Its budget is less than \$10 million annually.
- BCDC is a state agency with regulatory and planning authority over the San Francisco Bay, the Bay's shoreline band (defined as 100' inland from the mean high tide), and the Suisun Marsh.
  - State law requires a permit for any project that proposes to fill the Bay, extract materials from the Bay (including dredging and mining), and/or build or make a substantial change to any water, land, or structure within the Bay or shoreline band. State law requires the amount of fill be limited to only what is necessary to complete a project, and that projects within the shoreline band either serve a water-oriented use or provide a level of public access that is the maximum amount feasible.
  - BCDC and its stakeholders collaborate to develop regional and local plans that guide resource protection and development in the Bay and along the shoreline.
- The Commission's permitting decisions are informed by two volunteer-led advisory boards that opine on the safety of newly proposed structures and how best to maximize public access as part of new shoreline development projects.

### ***What has BCDC accomplished?***

- While BCDC has approved permits for billions of dollars of projects in and around the Bay including ports, marinas, ballparks, buildings, and wetlands, the Bay is now larger than when BCDC was established. At 580 square miles, the Bay is larger than the City of Los Angeles and its shoreline runs for at least 450 miles. Only a few acres are filled annually for critical water-oriented needs, but even this small loss of water area is offset by opening diked areas and removing debris.
- Indiscriminate filling of the Bay has been stopped. Any new fill is carefully targeted toward water-oriented uses, and is limited to the minimum amount necessary.

- Over 350 miles of the Bay shoreline are open to the public as part of the Bay Trail, much of which was required by BCDC as part of its permitting program.
- BCDC is producing cutting-edge research on the future impacts of rising sea level, and is leading the strong, multi-agency regional efforts to make the Bay shoreline and its diverse communities and assets more resilient to rising sea level caused by climate change.

### ***Jurisdiction***

- BCDC is governed by two state laws: the McAteer-Petris Act (MPA) and the Suisun Marsh Preservation Act (SMPA), and its policy and regulatory program – the *San Francisco Bay Plan*:
  - The MPA includes requirements that must be met to allow fill in the Bay, including requiring that public benefits from the proposed fill clearly exceed the public detriment from the loss of water areas, that fill be limited to water-oriented uses, and that fill should be allowed only when no alternative upland location is available for a project that is being proposed;
  - The Suisun Marsh is the largest brackish marsh on the west coast and, with the Bay, is a critical part of the Pacific Flyway and home to several endangered species. The SMPA requires that Solano County and the cities and districts in the Marsh receive BCDC’s certification that their Local Protection Programs protect the Marsh. BCDC requires a marsh development permit for development projects anywhere in the marsh.
- BCDC is an approved federal Coastal Zone Management Act (CZMA) agency. Therefore, the agency has authority over various federal, and federally-sponsored, projects in its jurisdiction. Those activities must be conducted “consistent to the maximum extent practicable” with BCDC policies.

### ***Enforcement***

BCDC has the authority to ensure that anyone required to obtain a permit does so, and that anyone who has obtained a BCDC permit complies with all of its terms and conditions. Unfortunately, irregular funding and a lack of prioritization during the past twenty years has resulted in an enforcement program that has been inconsistent and lacks a systematic compliance component. It was the subject of a state audit in 2019:

- BCDC’s current leadership has reinvigorated its enforcement program by:
  - Re-establishing the Enforcement Committee to conduct hearings on major cases and provide policy guidance to staff;
  - Ensuring that enforcement personnel are not subject to layoffs despite limited funding for the Commission overall;
  - Establishing priorities for its backlog of enforcement cases for the first time to resolve the most serious infractions first; and,
  - Requesting and receiving legislative approval to fund two new positions in 2019 – an enforcement attorney and an enforcement manager to lead the program and help reduce the backlog of cases.
- To resolve cases more efficiently at the staff level, BCDC can impose standardized fines for violations not resulting in significant harm. BCDC also can issue cease and desist orders, and orders that impose administrative civil liability penalties. If permittees fail to comply with BCDC orders, the agency can request the California Attorney General to seek judicial enforcement of the order and additional penalties.

***Planning and Rising Sea Levels (RSL)***

As with any natural system, the Bay and the communities that rely on it have changed over time. BCDC must amend the *San Francisco Bay Plan* based on such changing circumstances. In some cases, BCDC and local government agencies jointly adopt special plans with specific local findings, along with plans that address special needs, e.g., *San Francisco Special Area Plan*, *Richardson Bay Special Area Plan*, and the *San Francisco Bay Area Seaport Plan*.

- The State of California estimates that climate change will cause the Bay to rise by two feet by 2050 and up to seven feet by 2100, with an outside chance that it will rise by ten feet by 2100.
- In 2011, the Commission approved the nation's first regulatory framework requiring developers to use the best available science to perform RSL vulnerability analyses and to create RSL adaptation plans if a project's lifetime lasts through the 21<sup>st</sup> century.
- Since 2011, BCDC has led the "Adapting to Rising Tides" Program (ART), a nationally-recognized, on-the-ground, neighborhood-by-neighborhood program that helps local and regional communities prepare for flooding and other risks associated with rising sea level.
- BCDC is currently amending the *Bay Plan* to better enable natural areas such as wetlands to adapt to rising sea level and to include environmental justice and social equity considerations in *Bay Plan* findings and policies.
- Starting in summer/fall 2019, in collaboration with various public agencies, community-based organizations, and business leaders, BCDC will launch the development of the Bay Area's first regional shoreline adaptation strategy to help protect the Bay's shoreline communities and assets.