

San Francisco Bay Conservation and Development Commission

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November 9, 2018

TO: Bay Fill Policies Working Group Members

FROM: Steve Goldbeck, Deputy Director (415/352-3611; steve.goldbeck@bcdc.ca.gov)
Brenda Goeden, Sediment Program Manager (415/352-3623; brenda.goeden@bcdc.ca.gov)
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SUBJECT: June 21, 2018 Commission Bay Fill Policies Working Group Meeting Summary

1. Roll Call, Introductions, and Approval of Agenda. Steve Goldbeck, BCDC Chief Deputy Director, called the meeting to order at the Bay Area Metro Center, 375 Beale Street, Ohlone Room, First Floor, San Francisco, California, at 11:14 a.m., and asked everyone to introduce themselves. Bay Fill Policies Working Group (Working Group) members in attendance included Commissioners Katerina Galacatos and Patricia Showalter. BCDC staff in attendance included Shannon Fiala, Steve Goldbeck, Brenda Goeden, Aviva Wolf-Jacobs, and Anniken Lydon. Also, in attendance was Anne Morkill, Refuge Manager of the San Francisco Bay National Wildlife Refuges, U.S. Fish and Wildlife.

2. Approval of April 19, 2018 Minute Minutes. The Working Group members approved the meeting summary for April 19, 2018.

3. Review Bay Plan Amendment Project Schedule. Chief Deputy Director Goldbeck stated that the person that had been staffing the Working Group was no longer employed by BCDC and that staff was working to find a replacement for the position. The Draft Public Hearing for this working group was scheduled for the November 15th Commission meeting. This will likely be delayed and a revised schedule will be created.

Restoration projects approved for funding by the Restoration Authority will be examined for policy issues and will be presented at the next meeting.

Commissioner Showalter brought up the subject of conflicts between the Bay Plan and the McAteer-Petris Act. The potential policy changes suggest some very positive things about the use of fill. Ms. Goeden stated that the McAteer-Petris Act talks about the minimum amount of fill necessary for a project, which many shorten to the McAteer-Petris Act does not allow fill. In fact, the law included a number of things that fill can be authorized for. The Bay Plan further restricts use of fill for habitat projects. The staff believes at this time, we can work within the existing law, and focus on policy changes within it. Mr. Goldbeck added that the amendment discussion is not just limited to a discussion of the Bay Plan policies, and may include another consideration of the McAteer Petris Act, but that would require careful consideration. The current activity is going to lead to proposed policy language changes in the Bay Plan. The

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proposed changes would definitely include revision to policies associated with habitat and fill. We will also consider the Commission's regulations and whether they need amending on this issue as well. We will also look at the Suisun Marsh Preservation Act and whether that has some things that need to be addressed.

Ms. Goeden stated that in the Bay Plan there were a couple of policies that take the fill question even further than in the Bay Plan. It states that only a minor amount of Bay fill will be used in habitat projects. We also want to look at the policies to make sure we are using the best available science.

Ms. Morkill stated that the discussion and explanation pertaining to minimum fill versus minor fill and how that impacts the scope of projects was helpful. She was very interested in how it is linked to the public-access component. Mr. Goldbeck stated that this aspect was to be determined. Ms. Goeden noted that public-access policies had been included in the Commission's Brief Descriptive Notice of the Bay Plan Amendment, and that the Working Group had not discussed public access much. For the last two years the Bay Fill Working Group had concentrated on fill in habitat-based projects and fill in developed projects, but decided to focus the first Bay Plan amendment on habitat projects as the group felt that the science was sufficient to move forward on policies. The group was not ready to go into development policies because the question of sea level rise adaptation measures really needs a lot of thought and consideration before we get into the policy development for the built environment. She stated that Commissioner McGrath was particularly interested in regional mitigation. When we talked about that, the idea arose that some areas that were appropriate for large scale mitigation, concentrating the region's efforts and providing a better habitat if the mitigation was combined rather than a lot of small projects.

Ms. Morkill emphasized that the focus should be in areas that provide better public access for adjacent communities. There should be a way to look at dense-use areas versus non-dense-use areas. The other area under consideration is where is the shoreline going to be in the future, and the idea that in pushing trails and public access out to today's edge of the Bay, we may not be able to maintain a trail in that location as sea level rises, or one that is out to the open Bay. Ms. Goeden mentioned that the Bruener Marsh Project dealt with a number of these issues. There was flexibility in the project because of the uncertainty of future events. Mr. Goldbeck stated that some of the issues being raised are not limited to habitat projects. It is something that BCDC has to grapple with, and that maybe the aspects of the public-access we should be addressing needs further clarification.

Ms. Morkill informed the group that the Service looks at recreational access in different categories. It seems that public access in the Bay Plan is about trails and getting people out to the shoreline but there are other ways to provide access to areas that aren't necessarily measured in miles of trails, benches or interpretive signs. Commissioner Showalter stated that there was a lot of potential for expanded, recreational access in the South Bay. Mr. Goldbeck mentioned that public access might be more useful to a particular community if the needs and desires of that community were taken into consideration prior to constructing public-access amenities.

BCDC is looking at the temporal aspects of different projects and it is a challenge. Traditional measures of success may need to be expanded because of the evolution over time of different areas in a particular project. The monitoring issues will definitely need to be looked at. How and why we monitor a project will need further vetting in future projects. Addressing this aspect of permitting will be important. Ms. Morkill stated that permitting authorities having the same toolbox will be advantageous instead of having different permits addressing different aspects. A comprehensive, monitoring program that is consistent across projects will be needed. There is a value in long-term monitoring. Commissioner Galacatos noted that the Corps has had other initiatives for having consistency across the board for monitoring. We must be cognizant of the fact that we really cannot require more monitoring than the purview of our regulations. A lot of the monitoring is extremely expensive over time, so a balance has to be obtained regarding what type of information we will find most useful. Commissioner Showalter opined that we want to be able to assess using the same technologies, so it matches from place to place. This must be a regional effort on the part of the authorizing agencies.

The idea of living shorelines pertaining to shoreline protection fits fairly well into fill for habitat. We will be looking at using a green-type of shoreline versus a hardened shoreline. The science is pretty new here in the region. We can learn from what the East Coast has done in this area even though they have significantly, different factors. Ms. Morkill stated to the group that the Service does want to keep a certain component of muted, tidal systems or managed ponds for water birds. The balance between these two aspects is part of the adaptive management for the South Bay Salt Ponds Project. The jury is still out on what the right balance should be. Commissioner Showalter informed the group that muted, tidal ponds also have an important flood-protection benefit. Mr. Goldbeck stated that what might make sense over the short-term might be mal-adaptation over the long-term.

4. Future Working Group Activities. This item was not discussed.

5. Adjournment. There being no further business, Deputy Director Goldbeck adjourned the meeting at 12:08 p.m.