

# San Francisco Bay Conservation and Development Commission

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**TO:** Commissioners and Alternates

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**SUBJECT: Public Hearing and Possible Vote to Initiate Bay Plan Amendment 3-19 to add a Bay Plan Policy to Plan Map 4**  
(For Commission consideration on June 6, 2019)

## Staff Recommendation

The staff recommends that the Commission adopt the attached Brief Descriptive Notice to initiate Bay Plan Amendment 3-19 to amend “The Plan Maps” section of the *San Francisco Bay Plan* (Bay Plan) to add a Bay Plan Policy to Plan Map 4 to address the Middle Harbor Enhancement Project.

## Staff Report

To enhance coastal habitats’ ability to keep up with rising seas, the Commission initiated a Bay Plan amendment (BPA 1-17) on July 20, 2017 to consider allowing Bay fill for habitat-based projects on a scale beyond what may be allowable under the current Bay Plan policies. In light of the change in environment, advances in science and technology, and uncertainties about the future of Bay ecosystems, the Commission recognized the need to examine (1) whether, and how, several Bay Plan policies associated with natural resources, fill, and dredging may need to be amended to reflect updated scientific knowledge; (2) the potential need for fill in habitat projects, including living shorelines and nature-based infrastructure, to adapt to climate change impacts; and (3) the ability to use dredged sediment in habitat projects. The Brief Descriptive Notice identified the following sections of the Bay Plan for potential amendment: Fish, Other Aquatic Organisms and Wildlife; Tidal Marshes and Tidal Flats; Subtidal Areas; Dredging; and Shoreline Protection. The Brief Description Notice was revised on March 7, 2019 to include the Major Conclusions and Policies section of the Bay Plan for potential amendment.

While drafting staff’s preliminary recommendation for the proposed amendment, the Commission’s Bay Fill Policies Working Group and Commission staff have determined that “The Plan Maps” section of the Bay Plan—which was not initially included in the scope of the Bay Plan Amendment 1-17—should also be updated to support the approval of Bay fill for habitat projects.

Specifically, in order to balance revisions to Bay Plan Dredging policies, which would remove restrictions on the use of more than a minor amount of dredged material in habitat creation, enhancement or restoration projects until the Oakland Middle Harbor enhancement project is successfully completed, a new Bay Plan policy associated with Bay Plan Map 4 could be added to provide enforceable policies for the Oakland Middle Harbor enhancement project:

21. Middle Harbor Enhancement Area – The US Army Corps of Engineers and the Port of Oakland should provide habitat benefits described in the performance criteria of the MHEA Construction Period and Long-Term Monitoring, Maintenance, and Adaptive Management Program, and provide habitat benefits to sufficiently account for the delay in project completion. Complete work as quickly as possible to provide habitat benefits that have been long-delayed.

### Commission Procedure

Circulating a descriptive notice to the public is the first step in the process of amending the Bay Plan. A notice of the proposed amendment is required by the McAteer-Petris Act (Government Code Section 66652) and Section 11000 of the Commission's regulations (California Administrative Code, Title 14, Division 5). A public hearing will be held to discuss the scope and contents of the amendment on July 18, 2019. The staff will distribute a report on its preliminary recommendation for specific changes to the Bay Plan to all Commissioners, Alternates, and interested parties by June 28, 2019, as required by the Commission's regulations (California Administrative Code, Title 14, Division 5, Section 11003). The Commission can vote upon proposed plan changes after concluding the public hearing(s) and after the Executive Director submits his final recommendation. The descriptive notice detailing the proposed plan changes must be mailed at least 30 days prior to a public hearing on those changes and the vote cannot take place earlier than 90 days from mailing the descriptive notice (Government Code Section 66652).

## *Descriptive Notice*

June 7, 2019

### **Proposed San Francisco Bay Plan Amendment No. 3-19 to Review and Possibly Revise Bay Plan Map 4**

**Notice** is hereby given that the San Francisco Bay Conservation and Development Commission will consider an amendment to the *San Francisco Bay Plan* (Bay Plan). The proposed amendment would supplement Bay Plan Amendment 1-17 by adding a map policy note to Bay Plan Map 4, regarding completion of the Middle Harbor Enhancement Project at the Port of Oakland. Bay Plan Amendment 1-17 addresses the ramifications of climate change by updating several sections of the Bay Plan, including Fish, Other Aquatic Organisms and Wildlife, Tidal Marshes and Tidal Flats, Subtidal Areas, Dredging, Protection of Shorelines with new findings and policies.

**A Public Hearing on the possible amendment is scheduled to be held July 18, 2019 at 375 Beale Street in San Francisco, California, starting at 1:00 P.M.** At least thirty days prior to the initial public hearing, the staff will prepare and mail a staff report and preliminary recommendation on the proposed amendment. Interested persons may request the staff report and present written comments on or before **July 18, 2019**. Oral comments may be presented at the Commission meeting or thereafter as directed by the Commission.

This **Notice** is prepared in conformance with Section 66652 of the California Government Code, Section 11001 of Title 14, Division 5 of the California Code of Regulations, and Section 312 of the federal Coastal Zone Management Act of 1980. If, after the public hearing, the Commission adopts an amendment to the San Francisco Bay Plan described in this notice and subsequent staff report, such amendment will be processed as a routine program change of the Commission's federally-approved coastal management program for San Francisco Bay. Any federal agency interested, therefore, should provide comment to the Commission. Any written comment received subsequent to the close of the public hearing and public comment period will be distributed to the Commission; however, the staff will not provide a response to the comment in its staff recommendation but will advise the Commission whether it believes the comment raises a new, substantial issue. If the Commission determines that the comment raises a new, substantial issue, the Commission may reopen the public hearing, and the staff would prepare and distribute a new planning report.

Whether the Bay Plan should be amended as described above, and in what manner, will be the subject of the public hearing and Commission deliberations.

Further information concerning the proposed amendment can be obtained by contacting Megan Hall, Coastal Scientist, at the Commission's office located at 455 Golden Gate Avenue, Suite 10600, San Francisco, California 94102, by telephone at (415) 352-3626, or by email at [megan.hall@bcdc.ca.gov](mailto:megan.hall@bcdc.ca.gov).