

San Francisco Bay Conservation and Development Commission

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TO: Commissioners and Alternates

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SUBJECT: Staff Report and Recommendation for Proposed Bay Plan Amendment No. 2-17 Concerning Social Equity and Environmental Justice (For Commission consideration on October 17, 2019)

Staff Recommendation Summary

In order to incorporate principles of environmental justice and social equity into the planning, design, and permitting of shoreline projects in and along San Francisco Bay, staff recommends that the Commission adopt the attached Resolution No. 2019-07 (Attachment A) to uphold BCDC's Environmental Justice and Social Equity Guiding Principles and adopt the attached Resolution No. 2019-08 (Attachment B) that would:

1. Add a new Environmental Justice and Social Equity findings and policies section to the Bay Plan (pages 5-14);
2. Amend the Bay Plan Public Access findings and policies (pages 14-23);
3. Amend the Bay Plan Shoreline Protection findings and policies (pages 23-29); and
4. Amend the Bay Plan Mitigation findings and policies (pages 29-35).

An affirmative vote of two-thirds of the Commission (18 members) is required to amend the Bay Plan.

Background

When the San Francisco Bay Conservation and Development Commission ("BCDC" or "the Commission") amended the *San Francisco Bay Plan* ("Bay Plan") in 2011 to add policies related to climate change, BCDC acknowledged that shoreline flooding will affect communities differently depending on their location, resources, and adaptive capacity. In particular, low-income communities and those underrepresented or marginalized may have more difficulty preparing for, responding to, or recovering from a flood. Additionally, BCDC's *Policies for a Rising Bay* Report noted in 2016 that many of these communities are disproportionately exposed to hazardous or toxic substances, which may be exacerbated if contaminants are



mobilized by flood waters.¹ The development of environmental justice and social equity policies for the Bay Plan was identified as a high priority both in the *Policies for a Rising Bay* Report and as part of the Commission's public workshops on rising sea level (2016-2017).

BCDC's mission is to protect and enhance San Francisco Bay and encourage the Bay's responsible and productive use for this and future generations. In many ways, the Commission has been remarkably successful in achieving its mission. However, not all have benefitted from these developments. In some cases, these developments may have placed burdens upon certain communities, such as increased pollution or displacement of residents. In order for the Commission to carry out its mission equitably and fairly, it is necessary to examine how its policies and practices may be contributing to or exacerbating environmental injustice and social inequity and identify opportunities for change. The Bay is a resource that is meant to be shared and enjoyed by all, not only by those who live adjacent to it or have the means to recreate on or near it. Historic inequalities—along with socioeconomic forces, public policies and demographic changes—widen the disparity gap, impact development patterns and cause physical or cultural displacement. Rising sea levels caused by climate change will impact various areas differently, and adaptation to rising seas poses additional challenges to those with fewer financial, social, and political resources. BCDC views these issues, which are integral to fulfilling its mission, as ones of environmental justice and social equity.

On July 20, 2017, the Commission voted to begin the process of considering an amendment to the Bay Plan for social equity and environmental justice (BPA No. 2-17). A brief descriptive notice was published on July 21, 2017, which set a hearing date for May 3, 2018 and subsequently revised to July 18, 2019. The goal of this amendment is to revise existing policies and add new policies to the 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. Although environmental justice could be considered in nearly every policy section of the Bay Plan, this amendment focuses on Public Access, Shoreline Protection, and Mitigation, and creates a new Environmental Justice and Social Equity policy section.

On May 31, 2019, staff published a [preliminary recommendation](#) with proposed policy changes, and on June 7, 2019, staff published a background report, titled [Toward Equitable Shorelines: Environmental Justice and Social Equity at the San Francisco Bay](#), to support these proposed changes. This marked the start of a nine-week public comment period. During this time, staff received several calls and inquiries on the proposed policies. A public hearing for this amendment was held on July 18th, 2019. The Commission received ten written comments from 20 organizations or individuals, and heard eleven oral comments at the hearing. These comments were followed by a discussion among Commissioners.

¹ Policies for a Rising Bay Project Final Report (BCDC Rep.) 2016. Retrieved <http://www.bcdc.ca.gov/prb/Policiesfor-a-Rising-Bay.pdf>

Throughout the preparation of this Bay Plan amendment, BCDC has worked closely with the Environmental Justice Review Team (EJRT), which received funding to participate in the amendment process from the Resources Legacy Fund. The EJRT's goal was to develop community recommendations regarding environmental justice, social equity principles and practices for consideration in BCDC's staff planning report regarding the Environmental Justice Bay Plan amendment. The EJRT consists of Sheridan Noelani Enomoto of Greenaction for Health and Environmental Justice, Terrie Green of Shore Up Marin City, Carl Anthony and Paloma Pavel of Breakthrough Communities, Julio Garcia of Nuestra Casa, and Nahal Ghoghaie Ipakchi of EcoEquity. The EJRT developed a set of recommendations for this Bay Plan amendment.

BCDC staff has been guided in this work by a Commissioner Working Group on Environmental Justice (EJCWG). The EJCWG meets monthly and thus far has met 17 times, with one meeting led by the EJRT. BCDC's Environmental Justice Commissioner Working Group consists of Commissioner Eddie Ahn of Brightline Defense, Commissioner Jesse Arreguín of the City of Berkeley, Commissioner Sheri Pemberton of the California State Lands Commission, Commissioner Pat Showalter formally of the City of Mountain View City Council, and Commissioner John Vasquez of the Solano County Board of Supervisors. Former Commissioner Teresa Alvarado of SPUR-San Jose was also on the working group during her tenure on the Commission. These meetings were open to the public and were often attended by a diverse set of stakeholders.

Staff also looks forward to the continued involvement of the EJCWG and EJRT in the implementation of this Bay Plan amendment. The implementation of this amendment will include in-person and online training on the policy changes; the creation of guidance, including best practices, examples, and case studies; relationship-building among stakeholders in BCDC's regulatory processes; making the Adapting to Rising Tides (ART) vulnerable community data publicly available in a user-friendly format; and holding a speaker series on topics related to the new policies for staff, commissioners, and Design Review Board. Following the direction of its Strategic Plan, the Commission will work to actively engage environmental justice communities in its permitting and planning processes, including the implementation of this amendment.

Additionally, while many of the issues raised about environmental justice and social equity are incorporated into the final staff recommendations listed below, the amendment process also revealed a series of other activities that BCDC should undertake to address this topic more holistically beyond the Bay Plan policies. This includes activities such as improving BCDC's meeting accessibility, updating BCDC's Public Access Design Guidelines, updating BCDC's regulations, addressing tribal issues, expanding issues related to environmental justice and social equity in BCDC's strategic planning, more explicitly including environmental justice and social equity in regional shoreline adaptation, and more explicitly including social equity in BCDC's day-to-day operations. Staff will prepare a workplan and timeline for developing these complementary activities.



Staff Recommendation

Drawing on expertise of environmental justice and community-based organizations, BCDC staff has developed the following guiding principles in the process of this Bay Plan amendment. These guiding principles are intended to guide the Commissions' actions through a commitment to integrating environmental justice and social equity into its mission. Staff recommends that the Commission:

1. Adopt the attached Resolution No. 2019-07 to uphold BCDC's Environmental Justice and Social Equity Guiding Principles, which are as follows.

The Commission will:

- Recognize and acknowledge the California Native American communities who first inhabited the Bay Area and their cultural connection to the natural resources of the region.
 - Maintain its commitment to ensuring that the Bay remains a public resource, free and safe for all to access and use regardless of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, genetic information, or disability.
 - Continually strive to build trust and partnerships with underrepresented communities and community-based organizations.
 - Endeavor to eliminate disproportionate adverse economic, environmental, and social project impacts caused by Commission actions and activities, particularly in disadvantaged and vulnerable communities.
 - Ensure that the needs of vulnerable shoreline communities are addressed as the Commission assists all stakeholders plan for current and future climate hazards.
 - Work collaboratively and coordinate with all stakeholders to address issues of environmental justice and social equity.
 - Continually build accountability, transparency, and accessibility into its programs and processes.
2. Staff recommends that the Commission adopt the attached Resolution No. 2019-08 that would amend the Bay Plan as follows:
 - a. Add a new Environmental Justice and Social Equity findings and policies section that addresses the following:
 - (1) History and context
 - (2) Definitions and guiding principles
 - (3) Meaningful community involvement
 - (4) Disproportionate impacts
 - (5) Collaboration and coordination

- b. Proposed Changes to Existing Bay Plan Findings and Policies
 - (1) Amend the Bay Plan Public Access findings and policies to address the following:
 - (a) Distribution and quality of public access
 - (b) Meaningful community involvement
 - (c) Public access barriers
 - (d) Incorporation of environmental justice and social equity into design review process
 - (2) Amend the Bay Plan Shoreline Protection findings and policies to address the following:
 - (a) Adverse adjacent impacts
 - (b) Meaningful community involvement
 - (c) Water access and shoreline protection
 - (d) Contamination remediation
 - (3) Amend the Bay Plan Mitigation findings and policies to address the following:
 - (a) Meaningful community involvement
 - (b) Distribution of mitigation benefits

Proposed Additions and Deletions to Bay Plan Findings and Policies

The table below summarizes staff’s revised recommendations for amending the Bay Plan.

Proposed additions in language are shown as underlined, while proposed deletions are shown as ~~struck through~~ in the land-hand column. Any changes from the initial preliminary staff recommendation to the revised staff recommendation as reflected in **bold**. Staff analyses of the changes proposed in the [preliminary staff recommendation](#) are found in the middle column. An explanation for any revisions to the preliminary staff recommendation are included in the right-hand column.

Environmental Justice and Social Equity. Staff recommends the Commission add the following findings and policies in a new section titled “Environmental Justice and Social Equity.” This section should be added to the beginning of Part IV of the Bay Plan, titled “Development of the Bay and Shoreline: Findings and Policies”. Draft language for this new section is shown below.

Environmental Justice and Social Equity		
Draft Findings Changes	Staff Analysis for Preliminary Staff Recommendation	Staff Analysis for Final Staff Recommendation
<p><u>Finding a:</u> Throughout the 1990s, federal and state governments began including environmental justice in law and policy to ensure that people regardless of race, culture, and income were treated fairly. This came in response to the environmental justice movement that protested discriminatory and unfair policies implemented at all levels of government resulting in generations of communities of color facing: persistent poverty; poor public health; inadequate public services and infrastructure; disproportionate exposure to polluted air, water, and soil; and underrepresentation in policymaking. The co-location of incompatible land uses, aggregation of industrial development, lack of enforcement over polluting land uses, and prioritization of business interests over public health have resulted in disproportionate environmental burdens and adverse health issues for many low-income communities of color. The San Francisco Bay Area is no exception to these development patterns as many land uses with noxious impacts are co-located with low-income communities of color.</p>	<p>This finding provides historical context on the environmental justice movement and subsequent policies in the U.S. It is included to frame this new Bay Plan section in the national narrative on environmental justice. Further information on the history of the environmental justice movement and institutionalization by the federal and state government can be found in Chapter 2 of the Background Report.</p>	<p>No further changes were made.</p>
<p><u>Finding b:</u> The Commission, as one of the agencies involved in the entitlement process, has played a role in approving development and any consequential injustices. Many industrial land uses around the Bay were established prior to the Commission's existence. Although the Commission neither initiates projects nor has any authority over municipal zoning or siting authority, through its permitting authority, the Commission has approved additional development projects to existing ports, oil and gas operations, sewage and wastewater treatment plants, and heavy industry in or near low-income communities of color around the Bay Area. Moreover, the Commission's Priority Use Areas, intended to minimize the necessity for future Bay fill, has also facilitated the aggregation of pollution sources within areas designated for Port and Water-Related Industry Priority Use Areas.</p>	<p>This finding situates issues of environmental justice and social equity within BCDC's history and mandate. In order to address environmental justice and social equity, the Commission must begin with understanding and acknowledging the role it, along with all agencies involved in the entitlement process, has played in perpetuating such injustices and inequities. Further information on the Commission's history on issues related to environmental justice and social equity can be found in Chapter 3 of the Background Report.</p>	<p>No further changes were made.</p>

Environmental Justice and Social Equity		
Draft Findings Changes	Staff Analysis for Preliminary Staff Recommendation	Staff Analysis for Final Staff Recommendation
<p><u>Part of the Commission’s founding mandate is to encourage the development of the Bay and its shoreline to their highest potential with a minimum of Bay fill, as expressed in the McAteer-Petris Act and San Francisco Bay Plan. Without explicitly addressing and accounting for potential negative impacts to low-income communities of color, the Commission’s encouragement of such development patterns may have inadvertently contributed to the physical and cultural displacement of these Bay Area communities.</u></p>		
<p><u>Finding c:</u> <u>The Commission recognizes that California Native American communities have also faced many environmental injustices and social inequities. However, the Commission has not dedicated institutional resources to tribal issues and cultivating relationships with California Native American communities. As a result, these issues have not been addressed in the Bay Plan. The Commission acknowledges the need to build these relationships and address tribal issues going forward.</u></p>	<p>Native American issues are related but distinct from environmental justice issues, given these communities’ cultural connections to the Bay’s natural resources. Thus, the Commission has decided not to explicitly include environmental justice issues affecting tribal entities in this amendment. Additionally, the Commission does not currently have relationships with any California Native American communities. As a result, the Commission has decided to address these issues in a separate project and policy amendment. For further information, see Chapter 2 of the Background Report.</p>	<p>No further changes were made.</p>
<p><u>Finding d:</u> <u>Under Title VI of the Civil Rights Act of 1964 and California Government Code §11135, the Commission’s actions when considering and acting on proposed projects and requiring public access to the Bay and its shoreline should be non-discriminatory for all people regardless of race, national origin, ethnic group identification religion, age, sex, sexual orientation, color, genetic information, or disability.</u></p>	<p>This finding explains federal and state civil rights standards that the Commission is held to in its regulatory work. It is important to include this statement as civil rights underpin the environmental justice movement.</p>	<p>No further changes were made.</p>

Environmental Justice and Social Equity		
Draft Findings Changes	Staff Analysis for Preliminary Staff Recommendation	Staff Analysis for Final Staff Recommendation
<p><u>Finding e:</u> The State of California defines <i>environmental justice</i> as “the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.” (California Government Code §65040.12(e)).</p>	<p>This definition is included to provide clarity and context to the findings and policies which use this term. Given that BCDC is a state agency and in order to better coordinate with other state agencies, the definition of environmental justice included is the one included in the state government code. For further information on key concepts, see Chapter 2 of the Background Report.</p>	<p>No further changes were made.</p>
<p><u>Finding f:</u> According to the U.S. Environmental Protection Agency “<i>fair treatment means no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies.</i>” (Guidance on Considering Environmental Justice During the Development of a Regulatory Action).</p>	<p>This definition is included to provide clarity and context to the concept of “fair treatment” included in the definition of environmental justice. For further information on key concepts, see Chapter 2 of the Background Report.</p>	<p>No further changes were made.</p>
<p><u>Finding g:</u> Addressing social equity in policy is essential for the economy, health of a population, and community well-being. Additionally, addressing social equity in climate policies is vital to building resilience. In its 2017 General Plan Guidelines, the Governor’s Office of Planning and Research includes the following definition for <i>social equity</i>: “The fair, just, and equitable management of all institutions serving the public directly or by contract; the fair, just and equitable distribution of public services and implementation of public policy; and the commitment to promote fairness, justice, and equity in the formation of public policy.” (Governor’s Office of Planning and Research 2017 General Plan Guidelines).</p>	<p>This definition is included to provide clarity and context to the findings and policies which use this term. This definition of social equity was chosen to further increase collaboration and coordination between the Commission and local governments who utilize the OPR’s General Plan Guidelines to guide the creation of their general plans and zoning. Local government general plans and zoning are the primary land use planning tools in the state. For further information on key concepts, see Chapter 2 of the Background Report.</p>	<p>No further changes were made.</p>
<p><u>Finding h:</u> The Commission recognizes the importance of <u>low-income communities of color as invaluable stakeholders and is committed to uplifting the voices of communities who have been historically excluded from decision-making</u></p>	<p>These definitions are included to provide clarity and context to the findings and policies which use these terms. Several government agencies have created community screening and identification tools to</p>	<p>Changes were made to clarify the finding. This change was made in response to staff analysis.</p>

Environmental Justice and Social Equity		
Draft Findings Changes	Staff Analysis for Preliminary Staff Recommendation	Staff Analysis for Final Staff Recommendation
<p><u>processes. While there is no widespread agreement on terminology to describe communities with certain attributes, for the purposes of the Bay Plan, the following definitions are used:</u></p> <p><u>The State of California defines <i>disadvantaged communities</i> as including, but not limited to “[...] (a) Areas disproportionately affected by environmental pollution and other hazards that can lead to negative public health effects, exposure, or environmental degradation; and (b) Areas with concentrations of people that are of low-income, high unemployment, low levels of home ownership, high rent burden, sensitive populations, or low levels of educational attainment.” (California Health and Safety Code §39711)</u></p> <p><u>The Commission recognizes that due to historic and ongoing marginalization, social and economic structures influence a person or community’s ability to prepare for, respond to, or recover from a flood event. In the context of environmental justice, very low-income communities and/or communities of color are particularly important, as these demographic factors compound other relevant indicators. Through geographic analysis, areas with The co-location of areas with current and future flood risk and high concentrations of households exhibiting factors that can reduce access to or capacity for preparedness and recovery are therefore considered vulnerable.</u></p> <p><u>Additionally, contamination indicators are included in measuring vulnerability. These indicators represent degradation or threats to communities and the natural environment from pollution. The presence of contaminated lands and water raises health and environmental justice concerns, which may worsen with flooding from storm surge and sea level rise, as well as associated groundwater level changes.</u></p>	<p>alleviate the burden on communities to demonstrate cumulative burdens and social and economic impacts in order to receive additional funding or protection. The state health and safety code includes the term “disadvantaged communities” and requires CalEPA to identify such disadvantaged communities. In order to identify these communities, CalEPA created the screening tool, CalEnviroScreen. BCDC’s Adapting to Rising Tides (ART) Program has similarly created a screening tool to understand community vulnerability by assessing socioeconomic factors, contamination presence, and future flooding impacts. Finally, the term “underrepresented communities” is defined here to support policies and findings related to outreach and engagement. For further information on key concepts, see Chapter 2 of the Background Report. Additionally, see Appendix C for a detailed methodology of BCDC’s vulnerable community analysis.</p>	

Environmental Justice and Social Equity		
Draft Findings Changes	Staff Analysis for Preliminary Staff Recommendation	Staff Analysis for Final Staff Recommendation
<p><u>Underrepresented community is used to describe those who have been historically and are still systematically excluded from political and policy-making processes, which includes many disadvantaged and vulnerable communities.</u></p>		
<p><u>Finding i: Meaningfully involving impacted communities is essential to addressing environmental justice. According to the U.S. Environmental Protection Agency, meaningful involvement means “(1) people have an opportunity to participate in decisions about activities that may affect their environment and/or health; (2) the public’s contribution can influence the regulatory agency’s decision; (3) community concerns will be considered in the decision-making process; and (4) decision makers will seek out and facilitate the involvement of those potentially affected.” (Guidance on Considering Environmental Justice During the Development of a Regulatory Action).</u></p>	<p>This definition is included to provide clarity and context to the findings and policies which use this term. For further information on key concepts, see Chapter 2 of the Background Report.</p>	<p>A hyphen was removed for consistency.</p>
<p><u>Finding j: Drawing on the expertise of environmental justice and community-based organizations, the Commission has committed to the following guiding principles to integrate environmental justice and social equity into its mission. The Commission will:</u></p> <ul style="list-style-type: none"> • <u>Recognize and acknowledge the California Native American communities who first inhabited the Bay Area and their cultural connection to the natural resources of the region.</u> • <u>Maintain its commitment to ensuring that the Bay remains a public resource, free and safe for all to access and use regardless of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, genetic information, or disability.</u> • <u>Continuously Continually strive to build trust and partnerships with underrepresented communities and community-based organizations.</u> 	<p>As a part of this amendment, the Commission has created guiding principles to help integrate environmental justice and social equity into all its actions and activities to better carry out its mission. Addressing environmental justice and social equity often entails a fundamental shift in how an organization operates. These principles are meant to guide the Commission in navigating such a shift. Rationale for each principle is included in Chapter 2 of the Background Report.</p>	<p>Changes were made to improve sentence structure clarity based on staff analysis.</p>

Environmental Justice and Social Equity		
Draft Findings Changes	Staff Analysis for Preliminary Staff Recommendation	Staff Analysis for Final Staff Recommendation
<ul style="list-style-type: none"> • <u>Endeavor to eliminate disproportionate adverse economic, environmental, and social project impacts caused by Commission actions and activities, particularly in disadvantaged and vulnerable communities.</u> • <u>Ensure that the needs of vulnerable shoreline communities are addressed as the Commission assists all stakeholders plan for current and future climate hazards.</u> • <u>Work collaboratively and coordinate with all stakeholders to address issues of environmental justice and social equity.</u> • <u>Continually build accountability, transparency, and accessibility into its programs and processes.</u> 		
<p><u>Finding k: Equitable and culturally-relevant community outreach and engagement is at the heart of environmental justice and necessary for meaningful involvement. Many public processes are currently not accessible to all, as there are barriers to participation for low-income people, working people, parents and guardians, people of color, people that have limited English language skills, people with disabilities, people with limited transportation options, and others. Meaningfully involving underrepresented communities may require additional and more targeted efforts, such as equitable and culturally-relevant outreach and engagement. Consistent community outreach and engagement from the start of a project and throughout project design, permitting, and construction are necessary for addressing environmental justice and social equity. If outreach and engagement are indeed conducted from the onset of the project, much of this would, and should, occur during the local government’s discretionary approval process prior to the Commission’s involvement.</u></p>	<p>This finding is included to explain the need for outreach and engagement and enumerates various barriers that may exist. Further, this finding acknowledges that additional or more targeted outreach and engagement may be necessary to meaningfully involve all impacted communities, such as language-specific or culturally-specific outreach and engagement tactics. Lastly, this finding explains the need for such engagement to occur from the onset of the project. However, given that the Commission’s law requires that local discretionary approvals be obtained prior to a BCDC permit, and additional information is required by the BCDC permit application filing requirements, BCDC’s permitting process is often at the end of a project’s entitlement process. Specifically, the environmental review and documentation, the local government discretionary approval, the Regional Water Board’s Water</p>	<p>No further changes were made.</p>

Environmental Justice and Social Equity		
Draft Findings Changes	Staff Analysis for Preliminary Staff Recommendation	Staff Analysis for Final Staff Recommendation
	<p>Quality Certification/Waiver (if applicable), the Department of Toxic Substances Control’s approval (if applicable), and the U.S Fish and Wildlife Service, the California Department of Fish and Wildlife, and the National Marine Fisheries Service’s Biological Opinion or Take Authorization (if applicable) are included in BCDC’s filing requirements to consider an application completed and filed. As a result, most outreach and engagement would and should take place prior to BCDC’s permitting process. Support for this finding can be found in Chapter 4 of the Background Report.</p>	
<p><u>Finding l:</u> <u>Identifying whether a community would be disproportionately burdened impacted by a project is an initial step in addressing environmental justice. Taking steps to reduce such disproportionality can help ensure people are being treated fairly regardless of race, culture, and income.</u></p>	<p>This finding describes that addressing environmental justice is a two-step process of first identifying potential disproportionate burdens and then taking steps to reduce them. Support for this finding can be found in Chapter 4 of the Background Report.</p>	<p>Changes were made for consistency with the corresponding policy.</p>
<p><u>Finding m:</u> <u>As local governments retain most land use authority in California, collaborating and coordinating with local governments in the development of their general plans and zoning ordinances can aid in creating an environmentally just and socially equitable Bay Area. Many issues related to environmental justice and social equity may fall outside the Commission’s authority or jurisdiction but may be within the purview of another federal, state, or regional agency. Collaborating and working across sectors and authorities can help to address environmental justice and social equity.</u></p>	<p>This finding is included to provide a way for the Commission to address environmental justice and social equity concerns that may be partially outside of the Commission’s jurisdiction and/or authority. Support for this finding can be found in Chapter 4 of the Background Report.</p>	<p>No further changes were made.</p>

<u>Environmental Justice and Social Equity</u>		
Draft Policy Changes	Staff Analysis for Preliminary Staff Recommendation	Staff Analysis for Final Staff Recommendation
<p><u>Policy 1:</u> The Commission’s guiding principles on environmental justice and social equity should shape all of its actions and activities.</p>	<p>This policy is included to provide an overarching framework to guide the Commission in ensuring environmental justice and social equity are adequately addressed. This policy is supported by Finding j.</p>	<p>No further changes were made.</p>
<p><u>Policy 2:</u> Since addressing issues of environmental justice and social equity should begin as early as possible in the project planning process, the Commission should support, encourage, and expect request local governments to include environmental justice and social equity in their general plans, zoning ordinances, and in their discretionary approval processes. Additionally, the Commission should be a leader provide leadership in collaborating transparently with other agencies on issues related to environmental justice and social equity that fall outside of may affect the Commission’s authority or jurisdiction.</p>	<p>Often times, environmental justice and social equity concerns arise in land-use decisions, which are typically deliberated in the context of local government general plans, zoning, and/or discretionary approvals. In other cases, specific environmental justice and social equity issues may fall outside of the Commission’s jurisdiction and authority. This policy commits the Commission to addressing such issues through leadership and collaboration. This policy is supported by Finding m.</p>	<p>“Expect” was changed to “request” due to BCDC’s inability to carry out “expect”. “Provide leadership” replaced “be a leader” and “may affect” replaced “that fall outside of” to clarify the intent of the policy. These changes were made in response to public comment and Environmental Justice Commissioner Working Group public meeting discussions.</p>
<p><u>Policy 3:</u> Local governments and project applicants should be encouraged and expected to conduct equitable, culturally relevant community outreach and engagement to meaningfully involve potentially impacted communities for major projects and appropriate minor projects in- Equitable, culturally-relevant community outreach and engagement should be conducted by local governments and project applicants to meaningfully involve potentially impacted communities for major projects and appropriate minor projects in underrepresented and/or identified vulnerable and/or disadvantaged communities, and such outreach and engagement should continue throughout the Commission review and permitting processes. Evidence of how community concerns were addressed should be provided. If such previous outreach and engagement were insufficient did not occur, further outreach and engagement should be conducted prior to Commission action.</p>	<p>Meaningful community involvement is a major tenet of environmental justice. Local governments and project applicants should undertake outreach and engagement as they are involved from the earliest stages of the project in certain circumstances. This requirement would apply for projects requiring a major permit and certain administrative (minor) projects at the Commission’s discretion in identified vulnerable or disadvantaged communities, as determined through CalEnviroScreen or BCDC’s vulnerable community mapping. To ensure that community involvement is meaningful, evidence of how input was addressed should be provided to the Commission. If the Commission finds previous outreach and</p>	<p>This policy was reworded to increase clarity and to remove “expected” as BCDC is unable to carry our “expect”. “Underrepresented” was added because screening tools may not indicate very small disadvantaged or vulnerable communities or those not captured by residential data, such as those experiencing homelessness or transient populations. The revisions were made to provide clarity and in response to public comment and Environmental Justice Commissioner Working Group public meeting discussions.</p>

Environmental Justice and Social Equity		
Draft Policy Changes	Staff Analysis for Preliminary Staff Recommendation	Staff Analysis for Final Staff Recommendation
	engagement to be insufficient, further outreach and engagement to ensure meaningful involvement will need to be conducted prior to Commission action on the project. This policy is supported by Finding k.	
<p><u>Policy 4:</u> If a project is proposed within an underrepresented and/or identified vulnerable and/or disadvantaged community, potential disproportionate burdens impacts from projects should be identified in collaboration with the potentially impacted communities. Local governments and the Commission should take measures through environmental review and permitting processes, within the scope of their respective authorities, to avoid, minimize, and/or compensate require mitigation for disproportionate adverse project impacts on the identified vulnerable or disadvantaged communities in which the project is proposed.</p>	First, this policy requires project applicants to identify disproportionate project impacts (with the involvement of the impacted community) if the project is in an identified vulnerable or disadvantaged community. This is the initial step in addressing environmental justice. Additionally, this policy requires local governments and the Commission to address disproportionate project outcomes through their permitting and environmental review processes, within the bounds of their respective authorities and jurisdictions. This policy is supported by Finding l.	“Underrepresented” was added because screening tools may not indicate very small disadvantaged or vulnerable communities or those not captured by residential data, such as those experiencing homelessness or transient populations. Other changes were made to further clarify this policy and in response to public comment and Environmental Justice Commissioner Working Group public meeting discussions.

Public Access. Staff recommends the Commission revise the findings and policies in the “Public Access” section as shown in the draft language below.

Public Access		
Draft Findings Changes	Staff Analysis for Preliminary Staff Recommendation	Staff Analysis for Final Staff Recommendation
<p>Finding b: Access to the Bay allows the public to discover, experience and appreciate the Bay’s natural resources and can foster public support for Bay resource protection, including habitat acquisition and restoration. Public access can provide for recreational activities, educational and interpretive opportunities, <u>subsistence fishing</u>, and means for alternative transportation. <u>The Bay</u></p>	This addition expands upon the benefits of public access to the San Francisco Bay. Subsistence fishing is common among some vulnerable and/or disadvantaged communities. It is important to recognize the role that public access plays in providing safe, convenient areas for these	No further changes were made.



Public Access		
Draft Findings Changes	Staff Analysis for Preliminary Staff Recommendation	Staff Analysis for Final Staff Recommendation
<p><u>and its shoreline can also be refuges from heat and noise and can offer relief from crowded, often stressful, urban areas, thereby contributing to well-being.</u></p>	<p>communities to fish. As the population in the Bay Area increases, it is important to recognize the role the Bay can play in mitigating public health impacts related to crowded, hot urban areas. The idea reinforces sentiments echoed in the Appearance, Design, and Scenic Views section of the Bay Plan.</p>	
<p>Finding c: Public access required by the Commission is an integral component of development and usually consists of pedestrian and other nonmotorized access to and along the shoreline of San Francisco Bay. <u>By its nature in general, public access to the Bay is free and available to all users.</u> It may include certain improvements, such as paving, landscaping, street furniture, <u>restrooms, and drinking fountains;</u> and it may allow for additional uses, such as bicycling, fishing, picnicking, nature education, public programming that activates the shoreline, etc. Visual access to the Bay is a critical part of public access. <u>Public access spaces can promote local cultural identity through non-physical aspects of Bay access programming, such as which may include educational, cultural, civic, and health and wellness, or other activities.</u> In projects that cannot provide onsite public access due to safety or use conflicts, including significant adverse effects on wildlife, in lieu public access may be appropriate.</p>	<p>This addition clearly reaffirms that public access is free and available to all. It also expounds upon the list of potential public access improvements that can help create more equitable public spaces. Lastly, this finding includes an addition to clarify the benefits of non-physical public access such as public programming. Specifically, these aspects of public access could serve as another mechanism to promote inclusivity. Further information on this finding can be found in Chapter 4 of the Background Report.</p>	<p>Changes were made to ensure there is no conflict with public access as a public trust use and BCDC’s ability to allow limited ticketed events pursuant to permit conditions. Additionally, events will be addressed when the Commission updates its Public Access Design Guidelines as is included in BCDC’s current Strategic Plan. Other edits were made to clarify the policy. Changes were made in response to Commissioner discussion at the July 18, 2019 public hearing and Environmental Justice Commissioner Working Group public meeting discussions.</p>
<p>Finding e: Although public access to the approximately 1,000-mile Bay shoreline has increased significantly since the adoption of the Bay Plan in 1968, demand for additional public access to the Bay continues due to a growing Bay Area population and the desirability of shoreline access areas. Diverse public access experiences are in great demand, both along urban waterfronts and in more natural areas. The full potential for access to the Bay has by no means yet been reached. <u>Additionally, certain communities may be physically and/or culturally disconnected from</u></p>	<p>This additional language explains the environmental justice considerations of how the full potential of public access at the Bay has not yet been achieved. Although the Commission has worked since its inception to improve the public’s access to the San Francisco Bay and its shoreline, some communities have not received as many of these benefits, as they may be cut off physically from the Bay by</p>	<p>No further changes were made.</p>

Public Access		
Draft Findings Changes	Staff Analysis for Preliminary Staff Recommendation	Staff Analysis for Final Staff Recommendation
<p><u>public access areas due to land use patterns, poor public transit, lack of safe bicycle and walking paths, language barriers, economic barriers, and/or culturally inaccessible designs.</u></p>	<p>busy roadways or industrial development. For these residents, accessing the shoreline may even be unsafe. Additionally, certain communities may be cut off figuratively from public access areas if way-finding and interpretative signage are not accessible or if activities at the public access areas require owning or renting various watersport equipment, which can be expensive. Further, not all public access designs may have included the recreational preferences of a diversity of people, which can create a cultural disconnect where certain communities do not feel welcome at public access areas. Further information on this finding can be found in Chapter 4 of the Background Report.</p>	
<p>Finding h: <u>Public access is not equally or evenly distributed around the Bay, nor are all public access areas of the same quality, due to varying levels of resources for improvements, maintenance, and amenities. Often public access areas near identified vulnerable or disadvantaged communities are difficult to access, poorly maintained, and infrequently improved, and/or do not serve the needs of the local community. This can perpetuate cycles of avoidance, underuse, neglect, and in extreme cases, loss of public access to the Bay. However, there remains a need to better understand where these gaps and inconsistencies are located regionally in order to address them and provide more equitable and convenient public access that reflects the culture(s) of the local community and meets the needs of its residents.</u></p>	<p>This finding explains the issue that public access is not equally distributed, maintained, or improved around the Bay. Through site visits and community involvement in the amendment process, the Commission has learned that public access areas near many disadvantaged or vulnerable communities are difficult to access, poorly maintained, and infrequently improved. Although this is known anecdotally, there is not region-wide comprehensive and comparative information on this topic and thus, there remains a need to better understand this issue to provide more equitable and convenient public access. Further information on this finding can be found in Chapter 4 of the Background Report.</p>	<p>Additions were added to further ensure that public access is inclusive of local communities where the public access is located. These changes were made in response to Environmental Justice Commissioner Working Group public meeting discussions.</p>

Public Access		
Draft Findings Changes	Staff Analysis for Preliminary Staff Recommendation	Staff Analysis for Final Staff Recommendation
<p>Finding i: <u>Designing and programming public access in a manner that is welcoming to all creates public spaces that are well-loved and cared for by their users and can help account for unintended consequences, such as low usage or a sense of exclusion by specific communities. Meaningful involvement of underrepresented communities in the project planning, design, and ongoing maintenance phases can help address this, as well as cultivate community empowerment, lifelong stewardship, a sense of ownership, and connections to public access areas and the Bay. The design and programming of public access can also engender a welcoming atmosphere for all by embracing the multicultural and indigenous histories and presence of the surrounding area.</u></p>	<p>This finding shows the importance of meaningfully involving underrepresented communities in the designing and programming of public access areas. In order for BCDC to reach its full potential in providing inclusive public access at the Bay, designs and programming should take equity into consideration to avoid excluding certain public access users. Another way to create welcoming spaces for all, especially those that may have been excluded from the shoreline, is to create public access spaces that embrace the project area’s multifaceted histories. Further information on this finding can be found in Chapter 4 of the Background Report.</p>	<p>No further changes were made.</p>
<p>Finding h j: Although opportunities for views of the Bay from public access areas have increased since the Bay Plan was adopted in 1968, there are still a significant number of shoreline areas where there exists little or no visual access to the Bay.</p>	<p>The finding has been re-lettered from h to j.</p>	<p>No further changes were made.</p>
<p>Finding i k: Public access areas obtained through the permit process are most utilized if they provide physical access, provide connections to public rights-of-way, are related to adjacent uses, are designed, improved and maintained clearly to indicate their public character, and provide visual access to the Bay. Flooding from sea level rise and storm activity increases the difficulty of designing public access areas (e.g., connecting new public access that is set at a higher elevation or located farther inland than existing public access areas).</p>	<p>The finding has been re-lettered from i to k.</p>	<p>No further changes were made.</p>

Public Access		
Draft Findings Changes	Staff Analysis for Preliminary Staff Recommendation	Staff Analysis for Final Staff Recommendation
<p>Finding <u>j</u> <u>l</u>:</p> <p>In some cases, certain uses may unduly conflict with accompanying public access. For example, unmanaged or inappropriately located public access may adversely affect wildlife or some port or water-related industrial activities may pose a substantial hazard to public access users.</p>	<p>The finding has been re-lettered from j to l.</p>	<p>No further changes were made.</p>
<p>Finding <u>k</u> <u>m</u>:</p> <p>Insufficient knowledge on the specific type and severity of effects of human activities on wildlife creates a need for more scientific studies, both in the San Francisco Bay Area and elsewhere in similar habitats with similar human activities. More baseline data are needed for comparison purposes and to help isolate disturbance factors (e.g., disturbances caused by human activities versus other factors such as poor water quality or natural variability).</p>	<p>The finding has been re-lettered from k to m.</p>	<p>No further changes were made.</p>
<p>Finding <u>l</u> <u>n</u>:</p> <p>Studies indicate that public access may have immediate effects on wildlife (including flushing, increased stress, interrupted foraging, or nest abandonment) and may result in adverse long-term population and species effects. Although some wildlife may adapt to human presence, not all species or individuals may adapt equally, and adaptation may leave some wildlife more vulnerable to harmful human interactions such as harassment or poaching. The type and severity of effects, if any, on wildlife depend on many factors, including physical site configuration, species present, and the nature of the human activity. Accurate characterization of current and future site, habitat and wildlife conditions, and of likely human activities, would provide information critical to understanding potential effects on wildlife.</p>	<p>The finding has been re-lettered from l to n.</p>	<p>No further changes were made.</p>
<p>Finding <u>m</u> <u>o</u>:</p> <p>Potential adverse effects on wildlife from public access may be avoided or minimized by siting, designing and managing public access to reduce or prevent adverse human and wildlife interactions. Managing human use of the area may include adequately maintaining improvements, periodic closure of access areas,</p>	<p>The finding has been re-lettered from m to o.</p>	<p>No further changes were made.</p>

Public Access		
Draft Findings Changes	Staff Analysis for Preliminary Staff Recommendation	Staff Analysis for Final Staff Recommendation
<p>pet restrictions such as leash requirements, and prohibition of public access in areas where other strategies are insufficient to avoid adverse effects. Properly sited and/or designed public access can avoid habitat fragmentation and limit predator access routes to wildlife areas. In some cases, public access adjacent to sensitive wildlife areas may be set back from the shoreline a greater distance because buffers may be needed to avoid or minimize human disturbance of wildlife. Appropriate siting, design and management strategies depend on the environmental characteristics of the site, the likely human uses of the site, and the potential impacts of future climate change.</p>		
<p>Finding n <u>p</u>: Providing diverse and satisfying public access opportunities can reduce the creation of informal access routes to decrease interaction between humans and wildlife, habitat fragmentation, and vegetation trampling and erosion. Formal public access also provides for more predictable human actions, which may increase the ability of wildlife to adjust to human use.</p>	<p>The finding has been re-lettered from n to p.</p>	<p>No further changes were made.</p>

Public Access		
Draft Policy Changes	Staff Analysis for Preliminary Staff Recommendation	Staff Analysis for Final Staff Recommendation
<p>Policy 2: In addition to the public access to the Bay provided by waterfront parks, beaches, marinas, and fishing piers, maximum feasible access to and along the waterfront and on any permitted fills should be provided in and through every new development in the Bay or on the shoreline, whether it be for housing, industry, port, airport, public facility, wildlife area, or other use, except in cases where public access would be clearly inconsistent with the project because of public safety considerations or significant use conflicts, including unavoidable, significant adverse</p>	<p>This policy would require project applicants to provide public access preferably near identified disadvantaged or vulnerable communities in applicable situations, as these communities are often near public access that is physically inaccessible, poorly maintained, or infrequently improved. This policy would only be used in instances where in lieu public access is required and it is not feasible near the project site. This policy is supported by Finding h.</p>	<p>No further changes were made.</p>

Public Access		
Draft Policy Changes	Staff Analysis for Preliminary Staff Recommendation	Staff Analysis for Final Staff Recommendation
effects on Bay natural resources. In these cases, in lieu access at another location preferably near the project should be provided. <u>If in lieu public access is required and cannot be provided near the project site, the required access should be located preferably near identified vulnerable or disadvantaged communities lacking well-maintained and convenient public access in order to foster more equitable public access around the Bay Area.</u>		
Policy 5: <u>Public access that substantially changes the use or character of the site should be sited, designed, and managed based on meaningful community involvement to create public access that is inclusive and welcoming to all and embraces local multicultural and indigenous history and presence. In particular, vulnerable, disadvantaged, and/or underrepresented communities should be involved. If such previous outreach and engagement was insufficient did not occur, further outreach and engagement should be conducted prior to Commission action.</u>	This policy requires meaningful community involvement and, in particular, of underrepresented communities. This may require a variety of language-specific or culturally-specific outreach and engagement tactics. Involving underrepresented communities in the design and programming of public access areas will create a more inclusive and equitable public access experience and can help celebrate the areas' multicultural and indigenous identities. If the Commission finds previous outreach and engagement to be insufficient, further outreach and engagement to ensure meaningful involvement will need to be conducted prior to Commission action on the project. This policy is supported by Finding i.	Changes were made to clarify the policy and ensure consistency with other similar policies. These changes were made in response to public comment and Environmental Justice Commissioner Working Group public meeting discussions.
Policy 5 <u>6</u> : Public access should be sited, designed, managed and maintained to avoid significant adverse impacts from sea level rise and shoreline flooding.	The policy has been re-numbered from 5 to 6.	No further changes were made.
Policy 6 <u>7</u> : Whenever public access to the Bay is provided as a condition of development, on fill or on the shoreline, the access should be permanently guaranteed. This should be done wherever appropriate by requiring dedication of fee title or easements at no cost to the public, in the same manner that streets, park sites, and school sites are	The policy has been re-numbered from 6 to 7.	No further changes were made.

Public Access		
Draft Policy Changes	Staff Analysis for Preliminary Staff Recommendation	Staff Analysis for Final Staff Recommendation
dedicated to the public as part of the subdivision process in cities and counties. Any public access provided as a condition of development should either be required to remain viable in the event of future sea level rise or flooding, or equivalent access consistent with the project should be provided nearby.		
<p>Policy 7 8:</p> <p>Public access improvements provided as a condition of any approval should be consistent with the project, <u>the culture(s) of the local community</u>, and the physical environment, including protection of Bay natural resources, such as aquatic life, wildlife and plant communities, and provide for the public's safety and convenience. The improvements should be designed and built to encourage diverse Bay-related activities and movement to and along the shoreline, should permit provide barrier free access for persons with disabilities, <u>economic constraints for people of all income levels, and/or cultural (including language) barriers for people of all cultures</u> to the maximum feasible extent, should include an ongoing maintenance program, and should be identified with appropriate signs, <u>including using appropriate languages or culturally-relevant icon-based signage.</u></p>	<p>The first addition to this policy explains the need to create barrier-free access, beyond physical access. While physical access for all is important, there are also a number of figurative barriers, such as economic and cultural barriers. The second addition to this policy is a requirement to post public access signs in the appropriate language and/or with culturally-relevant icons. These icons should be universally recognized and easy to understand. In order for public access to be inclusive of those who have limited English language skills or who cannot read, signs need to include appropriate languages for the surrounding communities and/or culturally-relevant icons. BCDC's Shoreline Signs guide should be updated to reflect this. These additions are supported by Finding e. This policy has been re-numbered from 7 to 8.</p>	<p>The phrase, "the culture(s) of the local community" was added to ensure public access improvements are inclusive of the local community's culture(s). "Provide" replaced "permit" to ensure project proponents and the Commission are more proactive in creating and requiring barrier-free access. The final changes were made to improve the sentence structure. These changes were made in response to Environmental Justice Commissioner Working Group public meeting discussions.</p>
<p>Policy 8 9:</p> <p>In some areas, a small amount of fill may be allowed if the fill is necessary and is the minimum absolutely required to develop the project in accordance with the Commission's public access requirements.</p>	<p>The policy has been re-numbered from 8 to 9.</p>	<p>No further changes were made.</p>
<p>Policy 9 10:</p> <p>Access to and along the waterfront should be provided by walkways, trails, or other appropriate means and connect to the nearest public thoroughfare where convenient parking or public transportation may be available. Diverse and interesting</p>	<p>The policy has been re-numbered from 9 to 10.</p>	<p>No further changes were made.</p>

Public Access		
Draft Policy Changes	Staff Analysis for Preliminary Staff Recommendation	Staff Analysis for Final Staff Recommendation
public access experiences should be provided which would encourage users to remain in the designated access areas to avoid or minimize potential adverse effects on wildlife and their habitat.		
Policy 10 <u>11</u> : Roads near the edge of the water should be designed as scenic parkways for slow-moving, principally recreational traffic. The roadway and right-of-way design should maintain and enhance visual access for the traveler, discourage through traffic, and provide for safe, separated, and improved physical access to and along the shore. Public transit use and connections to the shoreline should be encouraged where appropriate.	The policy has been re-numbered from 10 to 11.	No further changes were made.
Policy 11 <u>12</u> : Federal, state, regional, and local jurisdictions, special districts, and the Commission should cooperate to provide appropriately sited, designed and managed public access, especially to link the entire series of shoreline parks, regional trail systems (such as the San Francisco Bay Trail) and existing public access areas to the extent feasible without additional Bay filling and without significant adverse effects on Bay natural resources. State, regional, and local agencies that approve projects should assure that provisions for public access to and along the shoreline are included as conditions of approval and that the access is consistent with the Commission's requirements and guidelines.	The policy has been re-numbered from 11 to 12.	No further changes were made.
Policy 12 <u>13</u> : The Public Access Design Guidelines should be used as a guide to siting and designing public access consistent with a proposed project. The Design Review Board should advise the Commission regarding the adequacy of the public access proposed. <u>The Design Review Board should encourage diverse public access to meet the needs of a growing and diversifying population. Public access should be well distributed around the</u>	Until the <i>Public Access Design Guidelines</i> can be updated to include principles of environmental justice and social equity, this sentence serves to ensure the Design Review Board takes inclusivity into consideration when reviewing public access designs. The policy has been renumbered from 12 to 13.	No further changes were made.

Public Access		
Draft Policy Changes	Staff Analysis for Preliminary Staff Recommendation	Staff Analysis for Final Staff Recommendation
<u>Bay and designed or improved to accommodate a broad range of activities for people of all races, cultures, ages, income levels, and abilities.</u>		
Policy 13 <u>14</u> : Public access should be integrated early in the planning and design of Bay habitat restoration projects to maximize public access opportunities and to avoid significant adverse effects on wildlife.	The policy has been re-numbered from 13 to 14	No further changes were made.
Policy 14 <u>15</u> : The Commission should continue to support and encourage expansion of scientific information on the effects of public access on wildlife and the potential of siting, design and management to avoid or minimize impacts. Furthermore, the Commission should, in cooperation with other appropriate agencies and organizations, determine the location of sensitive habitats in San Francisco Bay and use this information in the siting, design and management of public access along the shoreline of San Francisco Bay.	The policy has been re-numbered from 14 to 15.	No further changes were made.

Shoreline Protection. Staff recommends the Commission revise the findings and policies in the “Shoreline Protection” section as shown in the draft language below.

Shoreline Protection		
Draft Findings Changes	Staff Analysis for Preliminary Staff Recommendation	Staff Analysis for Final Staff Recommendation
Finding c: Most structural shoreline protection projects involve some fill, which can adversely affect natural resources, such as water surface area and volume, tidal circulation, and wildlife use. Structural shoreline protection can further cause erosion of tidal wetlands and tidal flats, prevent wetland migration to accommodate sea level rise, create a barrier to physical	This finding explains the importance of retaining safe and accessible water access when using riprap or other hardened structures as shoreline protection, especially in communities who lack access to the Bay’s waters. Riprap is an easy and low-cost shoreline protection method; however, it can reduce the public’s ability to safely and easily	No further changes were made.



Shoreline Protection		
Draft Findings Changes	Staff Analysis for Preliminary Staff Recommendation	Staff Analysis for Final Staff Recommendation
<p>and visual public access to the Bay, create a false sense of security and may have cumulative impacts. Physical and visual public access can be provided on levees and other protection structures. As the rate of sea level rise accelerates and the potential for shoreline flooding increases, the demand for new shoreline protection projects will likely increase. Some projects may involve extensive amounts of fill. <u>Occasionally, riprap and other structural protection can reduce the public's ability to safely access the waters of the Bay. In these cases, the shoreline protection structure can conflict with the Commission's commitment to providing safe public water access.</u></p>	<p>access the water, especially to swim, fish, or boat. The Commission should remain steadfast in its commitment to provide water access, especially in vulnerable or disadvantaged communities who may already have physical or cultural barriers to reaching the Bay. These communities need to be protected from current and future flooding but should not have to sacrifice access to the water for protection. Further information on this finding can be found in Chapter 4 of the Background Report.</p>	
<p>Finding g: <u>Some hardened shoreline protection structures may intensify wave reflection and contribute to shoreline erosion and overtopping at adjacent or nearby vulnerable areas. At all sites, but particularly at sites in or adjacent to lower income communities that may lack resources to adequately protect their shoreline, it is important to design projects to minimize such impacts. Given the appropriate site conditions, natural and nature-based shoreline protection methods can dissipate wave energy more effectively than certain types of hardened shoreline protection structures, diminishing wave reflection impacts such as accelerated erosion and flooding in adjacent or nearby areas.</u></p>	<p>This finding explains the potential adverse impacts from shoreline protection structures, as well as the potential socio-economic impacts of protecting the shoreline. Certain shoreline protection structures, namely those that cause significant wave reflection, can have adverse impacts to adjacent or nearby areas. Because wellengineered and well-constructed shoreline protection can be costly, these adverse impacts can be an issue for communities that are unable to afford adequate protection structures. Further information on this finding can be found in Chapter 4 of the Background Report.</p>	<p>No further changes were made.</p>
<p>Finding g h: Loose dirt, concrete slabs, asphalt, bricks, scrap wood and other kinds of debris, are generally ineffective in halting shoreline erosion or preventing flooding and may lead to increased fill or release of pollutants. Although providing some short-term shoreline protection, protective structures constructed of such debris materials</p>	<p>The finding has been re-lettered from g to h.</p>	<p>No further changes were made.</p>

Shoreline Protection		
Draft Findings Changes	Staff Analysis for Preliminary Staff Recommendation	Staff Analysis for Final Staff Recommendation
typically fail rapidly in storm conditions because the material slides bayward or is washed offshore. Repairing these ineffective structures requires additional material to be placed along the shoreline, leading to unnecessary fill and disturbance of natural resources.		
<p><u>Finding i:</u> The impacts of historic and ongoing social and economic marginalization may compound risks posed by flooding to communities by reducing a community’s or individual’s ability to prepare for, respond to, or recover from a flood event. Meaningfully involving these vulnerable communities can help ensure successful shoreline protection structures, regional adaptation strategies, and resilience measures. Without including the needs of the region’s most vulnerable and underrepresented communities, construction of shoreline protection could result in unintended consequences, such as exacerbating the vulnerability of these communities.</p>	<p>This finding demonstrates the importance of meaningfully involving vulnerable communities in shoreline protection project planning, and creating regional strategies and resilience measures. This finding echoes sentiments found throughout BCDC’s work on climate change vulnerability and adaptation in BCDC’s ART Program. Given certain communities’ levels of vulnerability to flooding due to socioeconomic factors and contamination presence, it is important to adapt in an equitable manner. Further information on this finding can be found in Chapter 4 and Appendix C of the Background Report.</p>	<p>No further changes were made.</p>
<p><u>Finding j:</u> There are many contaminated sites on San Francisco Bay’s shoreline and in adjacent subtidal areas. Current and future flooding of these sites could potentially mobilize contaminants into the environment of surrounding communities. These contaminants are associated with a number of adverse public health impacts. Many of these sites are located in or near low-income communities of color facing various other adverse environmental impacts, creating compound negative health impacts. These impacts can be minimized if measures are taken to remove contaminants (if deemed safe for human and environmental health) and if remediation projects are designed using the best available science on sea level rise, storm surge, and associated</p>	<p>This finding touches on the potential health consequences of contaminated site remediation projects that do not use the best available science on sea level rise, storm surge, and associated groundwater impacts in project design. Discriminatory planning practices, the co-location of incompatible land uses, aggregation of industrial development, inadequate enforcement of polluting land uses, and prioritization of business interests over public health has culminated in disproportionate environmental burdens and adverse health issues for many low-income, communities of color. This has left a legacy of contaminated lands around the Bay Area in or near low-income</p>	<p>No further changes were made.</p>

Shoreline Protection		
Draft Findings Changes	Staff Analysis for Preliminary Staff Recommendation	Staff Analysis for Final Staff Recommendation
<u>groundwater level changes to prevent contaminant mobilization.</u>	communities of color. If these communities face an extreme flooding event, they will have a more difficult time preparing for, responding to, and recovering from such an event due to their vulnerability. If contaminants are mobilized by flood waters, these already burdened communities could face more adverse health and environmental impacts. Further information on this finding can be found in Chapter 4 and Appendix C of the Background Report.	

Shoreline Protection		
Draft Policy Changes	Staff Analysis for Preliminary Staff Recommendation	Staff Analysis for Final Staff Recommendation
<p>Policy 1: New shoreline protection projects and the maintenance or reconstruction of existing projects and uses should be authorized if: (a) the project is necessary to provide flood or erosion protection for (i) existing development, use or infrastructure, or (ii) proposed development, use or infrastructure that is consistent with other Bay Plan policies; (b) the type of the protective structure is appropriate for the project site, the uses to be protected, and the erosion and flooding conditions at the site; (c) the project is properly engineered to provide erosion control and flood protection for the expected life of the project based on a 100-year flood event that takes future sea level rise into account; (d) the project is properly designed and constructed to prevent significant impediments to physical and visual public access; and (e) the protection is integrated with current or planned adjacent shoreline protection measures; <u>and (f) adverse impacts to adjacent or nearby areas, such</u></p>	<p>This policy requires project applicants to evaluate and address adverse impacts caused by shoreline protection projects to adjacent or nearby areas. Ideally, adverse impacts will be avoided by using shoreline protection that dissipates wave energy. If the site does not allow for this type of protection, adjacent impacts should be mitigated. This policy is supported by Finding g.</p>	<p>No further changes were made.</p>

Shoreline Protection		
Draft Policy Changes	Staff Analysis for Preliminary Staff Recommendation	Staff Analysis for Final Staff Recommendation
<p><u>as increased flooding or accelerated erosion, are avoided or minimized. If such impacts cannot be avoided or minimized, measures to compensate should be required.</u> Professionals knowledgeable of the Commission's concerns, such as civil engineers experienced in coastal processes, should participate in the design.</p>		
<p>Policy 2: <u>Equitable and culturally-relevant community outreach and engagement should be conducted to meaningfully involve nearby communities for all shoreline protection project planning and design processes – other than maintenance and in-kind repairs to existing protection structures or small shoreline protection projects – in order to supplement technical analysis with local expertise and traditional knowledge and reduce unintended consequences. In particular, vulnerable, disadvantaged, and/or underrepresented communities should be involved. If such previous outreach and engagement was insufficient did not occur, further outreach and engagement should be conducted prior to Commission action.</u></p>	<p>Communities should be meaningfully involved in certain shoreline protection planning projects in order to avoid unintended consequences. Underrepresented communities in particular need to be involved, which may require a variety of language-specific or culturally-specific outreach and engagement tactics. If the Commission finds previous outreach and engagement to be insufficient, further outreach and engagement will need to be conducted prior to Commission action on the project to ensure meaningful involvement. This policy is supported by Finding i.</p>	<p>Changes were made to clarify the policy and ensure consistency with other similar policies. These changes were made in response to public comment and Environmental Justice Commissioner Working Group public meeting discussions.</p>
<p>Policy 2 3: Riprap revetments, the most common shoreline protective structure, should be constructed of properly sized and placed material that meet sound engineering criteria for durability, density, and porosity. Armor materials used in the revetment should be placed according to accepted engineering practice, and be free of extraneous material, such as debris and reinforcing steel. Generally, only engineered quarrystone or concrete pieces that have either been specially cast, are free of extraneous materials from demolition debris, and are carefully selected for size, density, and durability will meet these requirements. Riprap revetments constructed out of other debris materials should not be authorized. Riprap</p>	<p>The policy has been re-numbered from 2 to 3.</p>	<p>No further changes were made.</p>

Shoreline Protection		
Draft Policy Changes	Staff Analysis for Preliminary Staff Recommendation	Staff Analysis for Final Staff Recommendation
<p>revetments, the most common shoreline protective structure, should be constructed of properly sized and placed material that meet sound engineering criteria for durability, density, and porosity. Armor materials used in the revetment should be placed according to accepted engineering practice, and be free of extraneous material, such as debris and reinforcing steel. Generally, only engineered quarrystone or concrete pieces that have either been specially cast, are free of extraneous materials from demolition debris, and are carefully selected for size, density, and durability will meet these requirements. Riprap revetments constructed out of other debris materials should not be authorized.</p>		
<p>Policy 3 <u>4</u>: Authorized protective projects should be regularly maintained according to a long-term maintenance program to assure that the shoreline will be protected from tidal erosion and flooding and that the effects of the shoreline protection project on natural resources during the life of the project will be the minimum necessary.</p>	<p>The policy has been re-numbered from 3 to 4.</p>	<p>No further changes were made.</p>
<p>Policy 4 <u>5</u>: Whenever feasible and appropriate, shoreline protection projects should include provisions for nonstructural methods such as marsh vegetation and integrate shoreline protection and Bay ecosystem enhancement, using adaptive management. Along shorelines that support marsh vegetation, or where marsh establishment has a reasonable chance of success, the Commission should require that the design of authorized protection projects include provisions for establishing marsh and transitional upland vegetation as part of the protective structure, wherever feasible.</p>	<p>The policy has been re-numbered from 4 to 5</p>	<p>No further changes were made.</p>

Shoreline Protection		
Draft Policy Changes	Staff Analysis for Preliminary Staff Recommendation	Staff Analysis for Final Staff Recommendation
<p>Policy 5 6:</p> <p>Adverse impacts to natural resources and public access from new shoreline protection should be avoided. <u>When feasible, shoreline protection projects should include components to retain safe and convenient water access, for activities such as fishing, swimming, and boating, especially in communities lacking such access.</u> Where significant impacts cannot be avoided, mitigation or alternative public access should be provided.</p>	<p>This policy commits project applicants to ensuring safe and convenient water access within their shoreline protection projects whenever feasible, especially in communities who may be already lacking water access. This policy is supported by Finding c. The policy has been renumbered from 5 to 6.</p>	<p>No further changes were made.</p>
<p>Policy 7:</p> <p><u>All contamination remediation projects in the Bay or along the Bay shoreline should integrate the best available science on sea level rise, storm surge, and associated groundwater level changes into the project design in order to protect human and ecological health by preventing the mobilization of contaminants into the environment and preventing harm to the surrounding communities.</u></p>	<p>This policy requires that contamination remediation projects use the best available science on sea level rise, storm surge, and associated groundwater impacts to prevent the mobilization of contaminants. This policy is supported by finding j.</p>	<p>No further changes were made.</p>

Mitigation. Staff recommends the Commission revise the findings and policies in the “Mitigation” section as shown in the draft language below

Mitigation		
Draft Findings Changes	Staff Analysis for Preliminary Staff Recommendation	Staff Analysis for Final Staff Recommendation
<p>Finding f:</p> <p>Natural resource areas provide various benefits to human welfare, including climate regulation, flood protection, erosion control, and recreational and aesthetic benefits. Therefore, there may</p>	<p>This finding expands upon the economic and social effects of impacts to natural resources by adding in a geographic and distributional element. Further information on this finding can be</p>	<p>No further changes were made.</p>

Mitigation		
Draft Findings Changes	Staff Analysis for Preliminary Staff Recommendation	Staff Analysis for Final Staff Recommendation
<p>be social and economic effects on nearby communities as a result of impacts on existing resource areas and the siting and design of compensatory mitigation projects. <u>Further, these effects may not be evenly distributed among nearby communities.</u></p>	<p>found in Chapter 4 of the Background Report.</p>	
<p>Finding h: <u>There are a multitude of benefits created by meaningfully involving underrepresented communities in mitigation projects including new approaches and perspectives, fostering new stewardship, community empowerment, and the creation of new cross-cultural partnerships. Specifically, there may be opportunities to involve communities in project planning, implementation, monitoring, on-site education programs, and other public programming at the site.</u></p>	<p>This finding lists a few benefits of meaningfully involving underrepresented communities in mitigation projects. Further information on this finding can be found in Chapter 4 of the Background Report.</p>	<p>Changes were incorporated to add specificity and clarification to this finding. Communities may be involved in several phases of mitigation projects, such as the planning of projects, the construction of projects (e.g., volunteer events), the monitoring of projects (e.g., citizen science), on-site educational opportunities, and the programming of public access at the site. These changes were made in response to public comment and Environmental Justice Commissioner Working Group public meeting discussions.</p>
<p>Finding h i: Mitigation banking involves restoring or creating natural resources to produce mitigation "credits" which can be used to offset unavoidable adverse impacts to existing resources. A mitigation bank is a site where resources are restored, created, or enhanced expressly for the purpose of providing compensatory mitigation in advance of impacts associated with authorized projects. Mitigation banks may be established by individuals who anticipate needing to mitigate for future impacts, or by third parties who develop banks as a commercial venture to sell credits to permittees needing to provide compensatory mitigation. Among other benefits, mitigation banks provide the unique opportunity to address the</p>	<p>The finding has been re-lettered from h to i.</p>	<p>No further changes were made.</p>

Mitigation		
Draft Findings Changes	Staff Analysis for Preliminary Staff Recommendation	Staff Analysis for Final Staff Recommendation
cumulative effects of small fill projects that are too small to be mitigated individually. Provided mechanisms are in place to assure success, mitigation banking can provide a timely, convenient, cost effective and ecologically successful mitigation option.		
Finding i j: Fee-based mitigation involves the submittal of a fee by the permittee in-lieu of requiring the permittee to undertake the creation, restoration, or enhancement of a specific mitigation site, or purchasing credits from a mitigation bank. The fee is generally submitted to a third party for implementation of an ongoing or future restoration-creation project. Provided mechanisms are in place to assure success, fee-based mitigation can also provide a timely, convenient, cost effective and ecologically successful mitigation option.	The finding has been re-lettered from i to j.	No further changes were made.

Mitigation		
Draft Policy Changes	Staff Analysis for Preliminary Staff Recommendation	Staff Analysis for Final Staff Recommendation
Policy 3: <u>For major projects that require mitigation and appropriate minor projects that require compensatory mitigation, nearby communities surrounding both the project and the compensatory mitigation site should be <u>meaningfully involved in an equitable and culturally-relevant manner. In particular, vulnerable, disadvantaged, and/or underrepresented communities should be involved. This should include consultation with the community in the identification and prioritization of potential projects, and in the monitoring and programming of a mitigation site. If such previous outreach and engagement</u> </u>	This policy requires meaningful involvement of nearby communities in certain mitigation project processes. Underrepresented communities in particular need to be involved, which may require a variety of language-specific or culturally-specific outreach and engagement tactics. If the Commission finds previous outreach and engagement to be insufficient, further outreach and engagement to ensure meaningful involvement will need to be conducted prior to Commission action on the project. This policy is supported by Finding h.	“Projects that require mitigation” was deleted to improve sentence structure. The term “mitigation” is defined in the Bay Plan to include (1) avoiding the impact; (2) minimizing the impact; (3) repairing, rehabilitating, or restoring the impacted environment, and finally; (4) compensating for the impact by replacing or providing substitute resources, thus providing compensatory mitigation. “Compensatory” was added to clarify that this policy comes into play when compensatory mitigation is required. Further

Mitigation		
Draft Policy Changes	Staff Analysis for Preliminary Staff Recommendation	Staff Analysis for Final Staff Recommendation
<p>was insufficient did not occur, further outreach and engagement should be conducted prior to Commission action.</p>		<p>changes were made to clarify the policy, to improve sentence structure, and to ensure consistency with other similar policies. These changes were made in response to public comment and Environmental Justice Commissioner Working Group public meeting discussions.</p>
<p>Policy 3 <u>4</u>: When determining the appropriate location and design of compensatory mitigation, the Commission should also consider potential effects on benefits provided to humans from Bay natural resources, including economic (e.g., flood protection, erosion control) and social (e.g., aesthetic benefits, recreational opportunities) <u>benefits and whether the distribution of such benefits is equitable.</u></p>	<p>This addition expands upon the requirement of considering additional benefits of mitigation beyond environmental benefits to include equity. This policy is supporting by Finding f. The policy has been re-numbered from 3 to 4.</p>	<p>No further changes were made.</p>
<p>Policy 4 <u>5</u>: The amount and type of compensatory mitigation should be determined for each mitigation project based on a clearly identified rationale that includes an analysis of: the probability of success of the mitigation project; the expected time delay between the impact and the functioning of the mitigation site; and the type and quality of the ecological functions of the proposed mitigation site as compared to the impacted site.</p>	<p>The policy has been re-numbered from 4 to 5.</p>	<p>No further changes were made.</p>
<p>Policy 5 <u>6</u>: To increase the potential for the ecological success and long-term sustainability of compensatory mitigation projects, resource restoration should be selected over creation where practicable, and transition zones and buffers should be included in mitigation projects where feasible and appropriate. In addition, mitigation site selection should consider site specific factors that will increase the likelihood of long-term ecological</p>	<p>The policy has been re-numbered from 5 to 6.</p>	<p>No further changes were made.</p>

Mitigation		
Draft Policy Changes	Staff Analysis for Preliminary Staff Recommendation	Staff Analysis for Final Staff Recommendation
success, such as existing hydrological conditions, soil type, adjacent land uses, and connections to other habitats.		
<p>Policy 6 <u>7</u>:</p> <p>Mitigation should, to the extent practicable, be provided prior to, or concurrently with those parts of the project causing adverse impacts.</p>	The policy has been re-numbered from 6 to 7.	No further changes were made.
<p>Policy 7 <u>8</u>:</p> <p>When compensatory mitigation is necessary, a mitigation program should be reviewed and approved by or on behalf of the Commission as part of the project. Where appropriate, the mitigation program should describe the proposed design, construction and management of mitigation areas and include:</p> <ul style="list-style-type: none"> a. Clear mitigation project goals; b. Clear and measurable performance standards for evaluating the success of the mitigation project, based on measures of both composition and function, and including the use of reference sites; c. A monitoring plan designed to identify potential problems early and determine appropriate remedial actions. Monitoring and reporting should be of adequate frequency and duration to measure specific performance standards and to assure long-term success of the stated goals of the mitigation project; d. A contingency plan to ensure the success of the mitigation project, or provide means to ensure alternative appropriate measures are implemented if the identified mitigation cannot be modified to achieve success. 	The policy has been re-numbered from 7 to 8.	No further changes were made.

Mitigation		
Draft Policy Changes	Staff Analysis for Preliminary Staff Recommendation	Staff Analysis for Final Staff Recommendation
<p>The Commission may require financial assurances, such as</p> <p>performance bonds or letters of credit, to cover the cost of mitigation actions based on the nature, extent and duration of the impact and/or the risk of the mitigation plan not achieving the mitigation goals; and</p> <p>Provisions for the long-term maintenance, management and protection of the mitigation site, such as a conservation easement, cash endowment, and transfer of title.</p>		
<p>Policy 8 <u>9</u>: Mitigation programs should be coordinated with all affected local, state, and federal agencies having jurisdiction or mitigation expertise to ensure, to the maximum practicable extent, a single mitigation program that satisfies the policies of all the affected agencies.</p>	<p>The policy has been re-numbered from 8 to 9.</p>	<p>No further changes were made.</p>
<p>Policy 9 <u>10</u>: If more than one mitigation program is proposed, the Commission should consider the cost of the alternatives in determining the appropriate program, <u>as well as equitably consider the priorities and concerns of surrounding communities.</u></p>	<p>This addition expands upon what the Commission should consider when weighing multiple mitigation alternatives, to include community priorities and concerns. This can help reduce any unintended consequences and potentially cultivate stewardship among the surrounding communities. This policy is supported by Finding h. The policy has been re-numbered from 9 to 10.</p>	<p>No further changes were made.</p>
<p>Policy 10 <u>11</u>: To encourage cost effective compensatory mitigation programs, especially to provide mitigation for small fill projects, the Commission may extend credit for certain fill removal and allow mitigation banking provided that any credit or resource bank is recognized pursuant to written agreement executed by the Commission. Mitigation bank</p>	<p>The policy has been re-numbered from 10 to 11.</p>	<p>No further changes were made.</p>

Mitigation		
Draft Policy Changes	Staff Analysis for Preliminary Staff Recommendation	Staff Analysis for Final Staff Recommendation
<p>agreements should include: (a) financial mechanisms to ensure success of the bank; (b) assignment of responsibility for the ecological success of the bank; (c) scientifically defensible methods for determining the timing and amount of credit withdrawals; and (d) provisions for long-term maintenance, management and protection of the bank site. Mitigation banking should only be considered when no mitigation is practicable on or proximate to the project site.</p>		
<p>Policy 11 <u>12</u>: The Commission may allow fee-based mitigation when other compensatory mitigation measures are infeasible. Fee-based mitigation agreements should include: (a) identification of a specific project that the fees will be used for within a specified time frame; (b) provisions for accurate tracking of the use of funds; (c) assignment of responsibility for the ecological success of the mitigation project; (d) determination of fair and adequate fee rates that account for all financial aspects of the mitigation project, including costs of securing sites, construction costs, maintenance costs, and administrative costs; (e) compensation for time lags between the adverse impact and the mitigation; and (f) provisions for long-term maintenance, management and protection of the mitigation site.</p>	<p>The policy has been re-numbered from 11 to 12.</p>	<p>No further changes were made.</p>

Environmental Assessment

As staff concluded in the preliminary recommendation, the projects that could be permitted through the proposed amended policies may have some environmental impacts, which would be assessed, and if necessary, mitigated through the permitting process. However, the Bay Plan amendment will not have any significant environmental effects. For these reasons, which are detailed in the Environmental Assessment of the preliminary staff recommendation, the Commission’s adoption of the proposed amendments to the Bay Plan will have no clearly identifiable significant adverse effects on the environment.



Response to Comments

All public comments received during the public comment period (May 31, 2019 through August 2, 2019) and at the July 18, 2019 public hearing were numbered and attached to this document (Attachment C).

Lenny Siegel

1. BCDC agrees that agencies should offer technical assistance to disadvantaged communities, but recognizes that not all agencies have these resources. BCDC's planning division has been and will continue working to identify potential resources that will allow disadvantaged communities to participate in BCDC's processes and influence decisions in their interests, as well as aid community-based organizations in finding such resources.

Richardson's Bay Regional Agency

1. For clarity and context, BCDC defines live-aboard boats as follows: a live-aboard boat is a boat used or capable of being used for active self-propelled navigation, moored for an extended period of time, and used during that time as a private principal place of residence. According to Bay Plan Recreation Policy 3(c), "live-aboard boats should be allowed only in marinas and only if: (1) The number would not exceed ten percent of the total authorized boat berths unless the applicant can demonstrate clearly that a greater number of live-aboard boats is necessary to provide security or other use incidental to the marina use; (2) The boats would promote and further the recreational boating use of the marina (for example, providing a degree of security), and are located within the marina consistent with such purpose; (3) The marina would provide, on land, sufficient and conveniently located restrooms, showers, garbage disposal facilities, and parking adequate to serve live-aboard boat occupants and guests; (4) The marina would provide and maintain an adequate number of vessel sewage pumpout facilities in locations that are convenient in location and time of operation to all boats in the marina, particularly live-aboard boats, and would provide the service free of charge or at a reasonable fee; and (5) There would be adequate tidal circulation in the marina to mix, dilute, and carry away any possible wastewater discharge."

Although there may be vulnerable individuals and communities among the anchor-outs in Richardson's Bay, there are a number of reasons why this amendment cannot address this situation. Any proposed findings and policies must be consistent with the McAteer-Petris Act. The McAteer-Petris Act does not allow for residential use of the Bay, other than a small number of live-aboard vessels in existing marinas and a small number of house-boats in existing house-boat marinas. Specifically, Government Code Section 66632(a) defines "fill" as, "...earth or any other substance or material, including pilings or structures placed on pilings, and structures floating at some or all times and moored for extended periods, such as houseboats and floating docks." This includes vessels that are moored for extended periods. The Commission can only authorize fill in the San Francisco Bay and certain waterways when the conditions of Government Code Section 66605 have been met. These

conditions include that “...public benefits from fill clearly exceed public detriment from the loss of the water areas and should be limited to water-oriented uses... or minor fill for improving shoreline appearance or public access to the bay...” and “...that fill in the bay and certain waterways specified in subdivision (e) of Section 66610 for any purpose should be authorized only when no alternative upland location is available for such purpose...”. Residential uses are not considered a water-oriented use. These can also be located upland of the Bay and do not need to be located on the water. The two exceptions are the small number of live-aboard vessels in marinas as described above and houseboats moored in existing houseboat marinas if they meet the conditions laid out in Bay Plan Other Uses of the Shoreline and Bay Policy 4. Further, any proposed policies in the environmental justice and social equity Bay Plan amendment need to be applicable on a regionwide scale and not crafted for a specific location.

Notably, the Commission does not prohibit local agencies or marinas from considering social equity in determining who obtains an authorized live-aboard slip. In fact, proposed Bay Plan Environmental Justice and Social Equity Policy 2 supports, encourages, and requests local jurisdictions to include environmental justice and social equity in their planning processes and decision-making.

2. Improved outreach, engagement, and communications with communities around the region are envisioned for the implementation of this amendment, as well as included in BCDC’s strategic plan. This outreach and engagement could include members of the live-aboard community. Additionally, BCDC is hiring its first environmental justice and community outreach specialist who will work specifically on community outreach and engagement.
3. BCDC understands that access to the shore from the water can be difficult, especially in popular areas. BCDC works to improve access to the shore from the water through implementation of its Bay Plan Recreation policies on marinas and waterfront parks. Throughout its history, BCDC has helped facilitate the creation of public access around the region. At the Commission’s inception, only four miles of shoreline were open to the public. Now, over 350 miles of shoreline are open to the public.

Committee for Green Foothills

1. Bay Plan Public Access Finding c currently states that “Visual access to the Bay is a critical part of public access.” BCDC works to ensure visual access is protected or enhanced in each of its authorizations by implementing the seven public access objectives stipulated in the Commission’s Public Access Design Guidelines. Objective number four is “Provide, maintain and enhance visual access to the Bay and shoreline.”
2. BCDC currently works to minimize conflicts between public access and wildlife through Bay Plan Public Access Policy 4, which states: “Public access should be sited, designed and managed to prevent significant adverse effects on wildlife. To the extent necessary to understand the potential effects of public access on wildlife, information on the species and habitats of a proposed project site should be provided, and the likely human use of the access area analyzed. In determining the potential for significant adverse effects (such as

impacts on endangered species, impacts on breeding and foraging areas, or fragmentation of wildlife corridors), site specific information provided by the project applicant, the best available scientific evidence, and expert advice should be used. In addition, the determination of significant adverse effects may also be considered within a regional context. Siting, design and management strategies should be employed to avoid or minimize adverse effects on wildlife, informed by the advisory principles in the Public Access Design Guidelines. If significant adverse effects cannot be avoided or reduced to a level below significance through siting, design and management strategies, then in lieu public access should be provided, consistent with the project and providing public access benefits equivalent to those that would have been achieved from on-site access. Where appropriate, effects of public access on wildlife should be monitored over time to determine whether revisions of management strategies are needed.” Additionally, BCDC works to ensure compatibility with wildlife in each of its authorizations by implementing the seven public access objectives contained in the Commission’s Public Access Design Guidelines. Objective number seven is “Ensure that public access is compatible with wildlife through siting, design and management strategies.”

Port of San Francisco

1. BCDC plans to create guidance on meaningful engagement as a part of the implementation of the amendment.
2. BCDC plans to provide training to local governments, applicants, and other interested parties on the adopted Bay Plan policies. BCDC also plans to create guidance, which will be informed by input from applicants and community-based organizations/community members.
3. Bay Plan Public Access policies are meant to address public access around the region broadly. Thus, adding language about the uniqueness of the urban waterfronts would also require adding language about the uniqueness of all other shoreline types. Special Area Plans include more specific findings and policies for sub-regional sections of the bay and its shoreline. The unique characteristics of the San Francisco waterfront are addressed in the San Francisco Waterfront Special Area Plan.
4. The Port of San Francisco’s proposal for “plan-based” public access will be analyzed for consistency with BCDC’s law and policies through the San Francisco Waterfront Special Area Plan amendment process, currently underway.
5. Please see the response to comment 1.
6. Please see the response to comment 1.
7. Guidance on Mitigation Policy 4 will be provided in the implementation phase following the adoption of this amendment.

San Francisco Estuary Partnership

1. The proposed findings and policies in the mitigation section have been further clarified since originally drafted and in response to the San Francisco Estuary Partnership's comments.
2. Environmental justice and social equity are issues that cut across all facets of BCDC's work and could have been considered for every section of the Bay Plan. Based on the findings of the *Policies for a Rising Bay* process and BCDC's Commission workshops on rising sea level in 2016, three key sections of the Bay Plan were included in the initial Brief Descriptive Notice for this amendment along with the creation of a new Environmental Justice and Social Equity section. Additionally, there are future Bay Plan amendments planned that will be able to further integrate principles of environmental justice and social equity where appropriate. These include Mitigation, Beneficial Reuse of Dredged Sediment, Adaptive Management, and Fill for Shoreline Protection.

Environmental Justice Review Team

1. BCDC thanks the members of the Environmental Justice Review Team (EJRT) for their invaluable guidance and input on these policies. Staff attempted to incorporate the EJRT's policy recommendations laid out in its April 22, 2019 comment letter. Staff has retained many of the findings and policies proposed in the May 31, 2019 preliminary recommendation. Some small changes have been proposed in the revised recommendation for clarification and feasibility in the implementation of the amendment.
2. BCDC agrees that protecting the region's most vulnerable communities from the impacts of climate change is of utmost importance. The realization that many low-income communities or color and other marginalized communities are least able to prepare for, respond to, and recover from a flood event was a catalyzing moment for the Commission in undertaking this Bay Plan amendment. This fact will also be addressed through BCDC's work on regional shoreline adaptation.
3. Some small changes have been proposed in the revised recommendation for clarification and feasibility in the implementation of the amendment. BCDC recognizes that these amendments are the first step in addressing issues of environmental justice and social equity. The amendment process revealed a series of other activities that BCDC should undertake to address this topic more holistically beyond the Bay Plan. This includes activities such as improving BCDC's meeting accessibility, updating BCDC's Public Access Design Guidelines, updating BCDC's regulations, addressing tribal issues, expanding issues related to environmental justice and social equity in BCDC's strategic planning, more explicitly including environmental justice and social equity in regional shoreline adaptation, and more explicitly including social equity in BCDC's day-to-day operations.

Bay Area Council, Bay Planning Coalition, Building Industry Association, East Bay Leadership Council, North Bay Leadership Council, San Mateo County Economic Development Association, Silicon Valley Leadership Group

1. BCDC acknowledges that it lacks jurisdiction over local planning processes but otherwise disagrees with this comment. Because addressing issues of environmental justice and social equity should begin as early as possible in the project planning process, local governments are in the best position and have primary responsibility to address environmental justice and social equity in their discretionary approval process. Nevertheless, BCDC is in an appropriate position to provide leadership, from the State perspective, in collaborating with local government agencies on issues related to environmental justice and social equity.

As discussed in the [Staff Report and Preliminary Recommendation for the Proposed Bay Plan Amendment](#), a number of sections of the McAteer-Petris Act support and provide legal authority for adopting the proposed environmental justice and social equity policies.² Among those provisions, Government Code Section 66600 finds and declares the public interest in the Bay and further declares that it is in the public interest to create a politically-responsible, democratic process for analyzing, planning for, and regulating the Bay as a unit. Section 66600 provides authority for adopting proposed Environmental Justice and Social Equity Policy 2 regarding Commission leadership to encourage and contribute to a more inclusive, democratic process for analyzing, planning for, and regulating the Bay by requiring community outreach and engagement in typically underrepresented communities, and increasing the diversity of voices participating in and contributing to BCDC's processes.

2. This policy has been revised to no longer include the word "expect". BCDC believes that community engagement should occur during the Commission's process as significant changes to proposed public access design and climate change adaptation and resilience measures can occur during BCDC's review. Both of these issues can have environmental justice and/or social equity implications. The last sentence of this proposed policy has been modified for clarity.
3. The California Environmental Quality Act (CEQA) distinguishes between a lead agency and a responsible agency. The lead agency is the public agency that has principal responsibility for carrying out or approving a project, decides whether an environmental impact report (EIR) or a negative declaration will be required for a project, and is responsible for the preparation of the required CEQA document. Pub. Res. Code § 21067; 14 C.C.R. § 15367. The term "responsible agency" includes all public agencies other than the lead agency that have discretionary approval power over a project for which a lead agency is preparing or has prepared an EIR or negative declaration. Pub. Res. Code § 21069; 14 C.C.R. § 15381.

² Staff Report and Preliminary Recommendation for the Proposed Bay Plan Amendment No. 2-17 Concerning Social Equity and Environmental Justice (May 31, 2019), at 42-42.

For most proposed projects requiring a BCDC permit, a local government agency, such as a county or city, is the CEQA lead agency and prepares the required CEQA document to identify and analyze potential adverse impacts associated with the project, as well as feasible alternatives and mitigation measures. As a responsible agency, the Commission and its staff will consider the environmental effects of a proposed project as described in the EIR or negative declaration prepared by the lead agency. However, as a responsible agency, the Commission also has independent obligations under CEQA to consult with the lead agency regarding the scope and content of the environmental information which is germane to the Commission's statutory responsibilities and should be included in the CEQA document, and to require any feasible alternative and any feasible mitigation measures within its powers that would substantially lessen or avoid any significant adverse environmental effects of the project. Pub. Res. Code §§ 21002.1(b), 21080.4(a); 14 C.C.R. §§ 15041(b), 15096(b)(2), 15096(g)(2). Moreover, in addition to its CEQA responsibilities, BCDC has independent authority and the responsibility pursuant to the McAteer-Petris Act to analyze a proposed project's consistency with all applicable requirements and policies of the McAteer-Petris Act, the San Francisco Bay Plan, and the Commission's regulations, and to impose reasonable permit terms and conditions to ensure consistency with its laws and policies. Gov't. Code § 66632(f).

The proposed environmental justice and social equity policies have a direct nexus to subjects that are within BCDC's purview under the McAteer-Petris Act. As discussed in the [Staff Report and Preliminary Recommendation for the Proposed Bay Plan Amendment](#), a number of sections of the McAteer-Petris Act support and provide legal authority for adopting the proposed environmental justice and social equity policies.³ Those provisions include Government Code sections 66601, 66602, and 66605.

Government Code section 66601 finds and declares that uncoordinated, haphazard filling of the Bay threatens the Bay itself and is therefore inimical to the welfare of both present and future residents of the area surrounding the Bay, and also declares that further piecemeal filling of the Bay may adversely affect the quality of Bay waters and even the quality of air in the Bay Area, and would therefore be harmful to the needs of the present and future population of the Bay region. Section 66601 provides authority for adopting proposed Environmental Justice and Social Equity Policy 4 to ensure that the needs of all Bay Area populations, current and future, are considered when analyzing, planning, and regulating projects in the Bay and along its shoreline, and to require analyzing a project's impacts on all residents to ensure that adverse project impacts are not disproportionately affecting certain populations.

³ Staff Report and Preliminary Recommendation for the Proposed Bay Plan Amendment No. 2-17 Concerning Social Equity and Environmental Justice (May 31, 2019), at 42-42.



Government Code section 66602 finds and declares, among other things, that existing public access to the shoreline and waters of the San Francisco Bay is inadequate and that maximum feasible public access, consistent with a proposed project, should be provided. Section 66602 provides authority for adopting proposed Environmental Justice and Social Equity Policy 4 to promote the creation of public access that is more equitable and inclusive, encouraging a wider diversity of users to utilize Bay public access and become stewards of the San Francisco Bay.

Government Code section 66605 finds and declares, among other things, that further filling of the Bay should be authorized only when the public benefits from the fill clearly exceed the public detriment from the loss of water areas, and that fill should be limited to water-oriented uses or minor fill for improving shoreline appearance or public access to the Bay. Environmental justice and social equity are public benefits and environmental injustice and social inequity are public detriments. Section 66605 provides authority for adopting proposed Environmental Justice and Social Equity Policy 4 to identify and analyze the environmental justice and social equity aspects of a fill project and fully consider the full range of public benefits and detriments from the fill.

Outside the boundaries of water-oriented priority use areas, the Commission may deny a permit for a project in the shoreline band only on the grounds that the project fails to provide maximum feasible public access, consistent with the proposed project. Gov't. Code § 66632.4. However, the Commission's authority to evaluate a project's impacts and require appropriate mitigation is not limited to impacts on shoreline public access. As noted above, BCDC has the authority and responsibility pursuant to the McAteer-Petris Act to analyze a proposed project's consistency with all applicable requirements and policies of the McAteer-Petris Act, the San Francisco Bay Plan, and the Commission's regulations, and to impose reasonable permit terms and conditions to ensure consistency with its laws and policies. Gov't. Code § 66632(f).

BCDC disagrees with the commenter's suggestion to delete the reference to local governments and the Commission potentially taking measures to compensate for disproportionate adverse project impacts on identified vulnerable or disadvantaged communities. The San Francisco Bay Plan's mitigation policies recognize that appropriate mitigation includes avoidance of adverse impacts, minimization of such impacts, and compensation for unavoidable adverse impacts. Specifically, Bay Plan Mitigation Policy 1 provides that projects should be designed to avoid adverse impacts, that whenever adverse impacts cannot be avoided, they should be minimized to the greatest extent feasible, and that measures to compensate for unavoidable adverse impacts should be required. There is no basis to treat mitigation of potential adverse project impacts on identified vulnerable or disadvantaged communities differently than other types of potential projects impacts by categorically excluding the potential for compensatory mitigation when appropriate.

The commenter states that “the language contains no mechanism for weighing a project’s benefits against potential adverse impacts.” However, proposed Environmental Justice and Social Equity Policy 4 does not require the Commission to weigh or otherwise compare a project’s benefits and potential adverse impacts. More generally, in acting on an application for a proposed project, the Commission considers a project’s benefits and potential impacts with respect to those matters within the scope of its jurisdiction and authority.

4. The proposed policies have a direct nexus to subjects that are within BCDC’s purview under the McAteer-Petris Act. As discussed in the [Staff Report and Preliminary Recommendation for the Proposed Bay Plan Amendment](#), a number of sections of the McAteer-Petris Act support and provide legal authority for adopting the proposed findings and policies regarding environmental justice and social equity.⁴ Those provisions include Government Code sections 66601, 66602, and 66605. More detailed explanations of how these sections support and provide legal authority for adopting the proposed policy can be found in response to comment 3 above.

Outside the boundaries of water-oriented priority use areas, the Commission may deny a permit for a project in the shoreline band only on the grounds that the project fails to provide maximum feasible public access, consistent with the proposed project. Gov’t. Code § 66632.4. However, the Commission’s authority to evaluate a project’s impacts and require appropriate mitigation is not limited to impacts on shoreline public access. BCDC has the authority and responsibility pursuant to the McAteer-Petris Act to analyze a proposed project’s consistency with all applicable requirements and policies of the McAteer-Petris Act, the San Francisco Bay Plan, and the Commission’s regulations. In particular, a project that would involve the placement of fill in the Bay, which is the case for many shoreline protection projects, must be consistent with the fill policies and limitations established by Government Code section 66605, among other McAteer-Petris Act provisions and Bay Plan policies. Moreover, the Commission is authorized, pursuant to Government Code section 66632(f), to require feasible mitigation for adverse project impacts in any situation where a proposed project would be inconsistent with one or more McAteer-Petris Act provisions or Bay Plan policies and can be made consistent only through the imposition of a reasonable permit term or condition.

BCDC disagrees with the commenter’s suggestion to delete the reference to the Commission potentially taking measures to compensate for adverse project impacts. The San Francisco Bay Plan’s mitigation policies recognize that appropriate mitigation includes avoidance of adverse impacts, minimization of such impacts, and compensation for unavoidable adverse impacts. Specifically, Bay Plan Mitigation Policy 1 provides that projects should be designed to avoid adverse impacts, that whenever adverse impacts cannot be avoided, they should be minimized to the greatest extent feasible, and that

⁴ Staff Report and Preliminary Recommendation for the Proposed Bay Plan Amendment No. 2-17 Concerning Social Equity and Environmental Justice (May 31, 2019), at 42-42.

measures to compensate for unavoidable adverse impacts should be required. There is no basis to treat mitigation of potential adverse project impacts differently than other types of project impacts by categorically excluding from Shoreline Protection Policy 1 the potential for compensatory mitigation when appropriate.

5. “Meaningful involvement” is defined in proposed Environmental Justice and Social Equity Finding i. “Insufficient” has been removed and the sentence has been revised to clarify Mitigation Policy 3. “Appropriate minor projects” are projects that require a minor (or administrative) permit that could be determined by staff and/or the Commission to be appropriate for meaningful community involvement. This discretion is necessary as the Commission reviews a large array of project types and sizes in administering minor (or administrative) permits. For example, a private boat dock over eelgrass or a new single-family home in the shoreline band could require a minor permit, as well as a new ferry terminal or a Bay Trail gap closure. A more prescriptive policy, either requiring meaningful involvement or eliminating the requirement for all minor projects, could hinder the Commission, as well as burden applicants and communities. It is likely that certain projects with public access components and/or public health and safety concerns could require meaningful public involvement.

Sarah Church

1. To staff’s knowledge, there is no single set of guidelines or toolkit for local governments to guide considerations of equity in shoreline development processes. This is an item that could be created in the implementation phase of the amendment with the involvement of local governments, community-based organizations, and community members.
2. BCDC agrees that this spectrum is a useful tool and included it in the background report to this amendment, [*Toward Equitable Shorelines: Environmental Justice and Social Equity at the San Francisco Bay*](#). Staff do not feel it is appropriate to include it because Bay Plan policies are meant to stand the test of time and if this spectrum were to become outdated or superseded, the policy would become obsolete. However, staff feel this spectrum could be included as a resource in the implementation materials for this amendment.

Chris Choo

1. BCDC agrees that this would be a great resource and something that can be explored during the implementation phase of this amendment or in other aspects of BCDC’s work.
2. The proposed policies are flexible enough to be applied to a range of project sizes and types. BCDC intends to further describe expectations in the implementation phase of the amendment through the creation of guidance, and trainings.
3. Although BCDC recognizes that applicants can have varying financial resources, the Commission cannot set different standards for public projects as opposed to private projects, as this could be construed as discrimination against private projects.

Claire Griffing

1. BCDC does not agree that there is a grammatical issue.
2. After the adoption of the amendment, BCDC plans to provide trainings and guidance for local governments, applicants, and communities. BCDC will also draw on resources for integrating social equity, community outreach and engagement, and environmental justice into local governments' planning processes provided by the Governor's Office of Planning and Research (OPR) and others.
3. There is no single way to define impacted communities, as projects have different scopes and scales with varying impacts. Project applicants can determine the impacted communities by overlaying spatial socioeconomic data while conducting environmental review under CEQA and/or NEPA. This should also be ground-truthed with the communities identified.

July 18, 2019 Public Hearing Oral Public Comments

Carl Anthony

1. Pursuant to its strategic plan, BCDC plans to actively work to improve its outreach and engagement to our region's most vulnerable and underrepresented residents. Specifically, staff will start by assessing the ways that the Commission currently engages these communities and understanding the manners in which community-based organizations and community members would like to be engaged. BCDC will soon hire an environmental justice and community outreach specialist who will work on this issue.

Paloma Pavel

2. BCDC agrees that collaboration and coordination among other public agencies is key to addressing environmental justice in the Bay Area. As such, staff is proposing that collaboration is captured in the findings and policies of the environmental justice and social equity section (see finding m and policy 2), as well as in the guiding principles.

Julio Garcia

3. BCDC agrees that meaningful engagement means going to the communities and speaking the language that they will understand. These ideas will be further explored in the implementation of this amendment.

Iliana Garcia

4. BCDC agrees that trust is essential to addressing environmental justice and social equity. As such, it is included in the proposed guiding principles.

Roxana Franco

5. BCDC hopes to work with established and community-respected and trusted community-based organizations in conducting outreach and engagement to communities. This will also be included in the implementation of this amendment. BCDC also recognizes that being the “middleman” requires resources and is committed to helping community-based organizations acquire such resources.

Terrie Green

6. Some small changes are proposed for clarification and feasibility.

Paul Campos

7. Please see above for the response to Bay Area Council, Bay Planning Coalition, Building Industry Association, East Bay Leadership Council, North Bay Leadership Council, San Mateo County Economic Development Association, and Silicon Valley Leadership Group’s written comments.

Sumi Selvaraj

8. BCDC agrees that the benefits of coastal resource management have not been equitably distributed, as is explored in the [May 31, 2019 preliminary staff recommendation](#) and [June 7, 2019 background report](#). The Commission also agrees that there is urgency to address environmental justice in the context of climate change.

Roman Berenshyteyn

9. Please see above for the response to Bay Area Council, Bay Planning Coalition, Building Industry Association, East Bay Leadership Council, North Bay Leadership Council, San Mateo County Economic Development Association, and Silicon Valley Leadership Group’s written comments.

Nahal Ghoghaie Ipakchi

10. BCDC agrees that we cannot continue with business as usual, and this is one of the reasons for undertaking this amendment. Additionally, BCDC is exploring the cost-effectiveness of community engagement.

Sheridan Noelani Enomoto

11. BCDC agrees that there is a need to address and be a leader in environmental justice and social equity, and this is one of the reasons for undertaking this amendment.

Attachment A: Resolution No. 2019-07

**Adoption of a Resolution by the San Francisco Bay
Conservation and Development Commission Committing to
Environmental Justice Guiding Principles**

San Francisco Bay Conservation and Development Commission

375 Beale Street, Suite 510, San Francisco, California 94105 tel 415 352 3600 fax 415 352 3606

State of California | Gavin Newsom – Governor | info@bcdc.ca.gov | www.bcdc.ca.gov

Resolution No. 2019-07

Adoption of a Resolution by the San Francisco Bay Conservation and Development Commission Committing to Environmental Justice Guiding Principles

Whereas, in 1965, the McAteer-Petris Act established the San Francisco Bay Conservation and Development Commission (“BCDC” or “the Commission”) as a temporary State agency, designated the San Francisco Bay as a State-protected resource, and charged the Commission with preparing a plan for the long-term use of the Bay and regulating development in and around the Bay while the plan was being prepared; and,

Whereas, the initial *San Francisco Bay Plan* (“Bay Plan”) was approved in 1968, BCDC was made permanent one year later, and BCDC updates the Bay Plan regularly to ensure that the Bay and its shoreline are developed and conserved responsibly and to address new issues as the Bay Area changes; and,

Whereas, the Commission’s mission is to protect and enhance San Francisco Bay and encourage the Bay’s responsible and productive use for this and future generations; and,

Whereas, in many ways, the Commission has been remarkably successful in achieving this mission. Before 1965, when BCDC was established, an average of about 2,300 acres of the Bay were being filled each year. Now, only a few acres are filled annually and projects placing fill must mitigate project impacts, typically by restoring additional baylands. As a result, the Bay is now larger than it was when the Commission was established. Likewise, when the Commission was established, only four miles of the Bay shoreline were open to the public. Now, over 350 miles of the Bay shoreline are open to the public as part of the San Francisco Bay Trail, much of which was required by the Commission as part of its permitting program. BCDC has also approved hundreds of projects that enliven, enhance and protect the shoreline, such as ports and marinas, residential and commercial development, parks and wetlands, bridges, and flood protection; and,

Whereas, not all have benefitted from these developments. In some cases, these developments may have placed burdens upon certain communities, such as increased pollution or displacement of residents. In order for the Commission to carry out its mission equitably and fairly, it is necessary to examine how its policies and practices may be contributing to or exacerbating environmental injustice and social inequity and identify opportunities for changes. The Bay is a resource that is meant to be shared and enjoyed by all, not only by those who live adjacent to it or have the means to recreate on or near it. Historic inequalities, along with socioeconomic forces, public policies, and demographic changes widen the disparity gap, impact development patterns, and cause physical or cultural displacement. Rising sea levels



caused by climate change will impact various areas differently, and adaptation to rising seas poses additional challenges to those with fewer financial, social, and political resources. BCDC views these issues, which are integral to fulfilling its mission, as ones of environmental justice and social equity; and,

Whereas, two years ago, the Commission decided to address the issues of environmental justice and social equity. To accomplish this, on July 20, 2017, the Commission initiated the process of considering Bay Plan Amendment No. 2-17 by authorizing the staff to propose amendments to the findings and policies in three sections of the Bay Plan—Public Access, Shoreline Protection, and Mitigation—and to develop additional findings and policies in an entirely new section of the Plan entitled Environmental Justice and Social Equity. The goal of this amendment was 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; and,

Whereas, the Commission’s 2017 Strategic Plan Update includes an objective to pay special attention to environmental justice issues across the region as part of the Commission’s goal of increasing the Bay’s natural and built communities’ resilience to rising sea level; and,

Whereas, in the creation of Bay Plan Amendment No. 2-17, staff drafted seven guiding principles to be included in the findings of the new Environmental Justice and Social Equity Bay Plan section; and,

Whereas, guiding principles are a helpful tool to guide and commit an organization to a set of overarching precepts over time, regardless of change in strategies, priorities, or leadership; and,

Whereas, there are many guiding principles and best practices of environmental justice. The Principles of Environmental Justice drafted by the delegates to the First People of Color Environmental Leadership Summit in 1991 are heralded as the founding principles of the environmental justice movement. Since then, many additional principles have emerged including the Principles of the Youth Environmental Justice Movement drafted by the delegates to the Second National People of Color Environmental Leadership Summit in 2002, the Environmental Justice Leadership Forum on Climate Change’s Principles of Climate Justice, and the California Environmental Justice Alliance (CEJA)’s Environmental Justice Principles for Policy Implementation at Regulatory Agencies; and,

Whereas, these newly drafted principles were drawn from the expertise of environmental justice and community-based organizations and reflect what other state agencies have undertaken in attempting to address environmental justice programmatically; and,

Whereas, these guiding principles are intended to guide the Commissions’ actions through a commitment to integrating environmental justice and social equity into its mission; and,

Whereas, the guiding principles are as follows:

The Commission will:

- Recognize and acknowledge the California Native American communities who first inhabited the Bay Area and their cultural connection to the natural resources of the region.

- Maintain its commitment to ensuring that the Bay remains a public resource, free and safe for all to access and use regardless of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, genetic information, or disability.
- Continually strive to build trust and partnerships with underrepresented communities and community-based organizations.
- Endeavor to eliminate disproportionate adverse economic, environmental, and social project impacts caused by Commission actions and activities, particularly in disadvantaged and vulnerable communities.
- Ensure that the needs of vulnerable shoreline communities are addressed as the Commission assists all stakeholders plan for current and future climate hazards.
- Work collaboratively and coordinate with all stakeholders to address issues of environmental justice and social equity.
- Continually build accountability, transparency, and accessibility into its programs and processes.

Whereas, the rationale for each principle can be found in the supporting background report for Bay Plan Amendment No. 2-17, titled, *Toward Equitable Shorelines: Environmental Justice and Social Equity at the San Francisco Bay*; and,

Now, Therefore, Be it Resolved that the Commission commits to apply and uphold these guiding principles in all its decisions, strategies, and plans in order to more effectively and successfully carry out its mission.

We certify that this resolution was adopted by a vote of _____ “yes” votes, _____ “no” votes and _____ abstentions at the Commission meeting held October 17, 2019 in San Francisco, California.

Executed on this _____ day of _____, 2019 in San Francisco, California.

R. ZACHARY WASSERMAN
Chair

Executed on this _____ day of _____, 2019 in San Francisco, California.

LAWRENCE J. GOLDZBAND
Executive Director



Attachment B: Resolution No. 2019-08

Adoption of Bay Plan Amendment No. 2-17 Adding New Environmental Justice and Social Equity Findings and Policies to the Bay Plan; And Revising the Bay Plan Public Access, Shoreline Protection, and Mitigation Findings and Policies

San Francisco Bay Conservation and Development Commission

375 Beale Street, Suite 510, San Francisco, California 94105 tel 415 352 3600 fax 415 352 3606

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Resolution No. 2019-08

Adoption of Bay Plan Amendment No. 2-17 Adding New Environmental Justice and Social Equity Findings and Policies to the Bay Plan; And Revising the Bay Plan Public Access, Shoreline Protection, and Mitigation Findings and Policies

Whereas, in 1965, the McAteer-Petris Act established the San Francisco Bay Conservation and Development Commission (“BCDC” or “the Commission”) as a temporary State agency, designated the San Francisco Bay as a State-protected resource, and charged the Commission with preparing a plan for the long-term use of the Bay and regulating development in and around the Bay while the plan was being prepared; and,

Whereas, the initial *San Francisco Bay Plan* (“Bay Plan”) was approved in 1968, BCDC was made permanent one year later, and BCDC updates the Bay Plan regularly to ensure that the Bay and its shoreline are developed and conserved responsibly and to address new issues as the Bay Area changes; and,

Whereas, Government Code Section 66652 states that “the Commission at any time may amend, or repeal and adopt a new form of, all or any part of the San Francisco Bay Plan but such changes shall be consistent with the findings and declaration of policy” contained in the McAteer-Petris Act; and,

Whereas, the Legislature directed the Commission to keep the Plan up-to-date so that it reflects the latest scientific research on the Bay and addresses emerging issues that could impact the Bay in the future. To accomplish this, the Legislature empowered the Commission to amend the Bay Plan if two thirds (18) of the 27 members of the Commission vote for the amendment, after providing an opportunity for public review of the proposed amendment and after holding a public hearing on the amendment. Over its history, the Commission has made numerous amendments to the Bay Plan, some of which dealt with simple matters, such as changing a boundary of a Bay Plan map designation, and some of which have addressed major issues, such as climate change; and,

Whereas, the initial step in revising the Bay Plan is a policy decision by the Commission whether to consider an amendment dealing with a specified issue. Thereafter, the staff prepares a report containing the results of research and policy analysis on the issue, preliminary recommended findings and policies and an environmental assessment of the proposed amendment; and,



Whereas, the current Bay Plan policies pertaining to environmental justice and social equity are not comprehensive, nor do they allow the Commission to adequately consider these topics; and,

Whereas, governments, at all levels, have played a role in creating a society where environmental injustice and social inequity have persisted and continue to exist today. Discriminatory and unfair policies implemented at all levels of government intentionally and unintentionally caused generations of communities of color to face persistent poverty; poor public health; inadequate public services and infrastructure; disproportionate exposure to polluted air, water, and soil; and underrepresentation in policy-making.^{1 2} Zoning, in particular, played a significant role in creating environmental injustices around the U.S. For example, in some cases, industrial land uses, including facilities that emit toxic substances, were zoned and sited in or near neighborhoods of color to avoid impacts to white neighborhoods. In other cases, industrial land uses were already in existence when people of color moved in, as they had limited housing options due to low wages, discriminatory lending practices, and restrictive zoning.³ The co-location of incompatible land uses, aggregation of industrial development, limited enforcement over polluting land uses, and prioritization of business interests over public health, culminated in disproportionate environmental burdens and adverse health issues for many low-income, communities of color. The San Francisco Bay Area is no exception to these development patterns as many industrial land uses are co-located with low-income communities of color;⁴ and,

Whereas, in the 1990s, the U.S. government took the first steps to address these issues by developing federal environmental justice policy. Following the federal government's lead in recognizing the importance of environmental justice, California enacted Senate Bill (SB) 115 (Solis, 1999) in 1999, signifying the State's commitment to environmental justice. This legislation defined environmental justice as "...the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies" (Government Code §65040.12(e)); and,

¹ *Guide to Equitable, Community-Driven Climate Preparedness Planning* (pp. 1-67, Rep.). (2017, May). Retrieved https://www.usdn.org/uploads/cms/documents/usdn_guide_to_equitable_community-driven_climate_preparedness_high_res.pdf.

² *SB1000 Implementation Toolkit: Planning for Healthy Communities* (pp. 1-157, Rep.). (2017, October). Retrieved <https://caleja.org/2017/09/sb-1000-toolkit-release/>.

³ Rothstein, R. (2017). *The Color of Law*. New York City, NY: Liveright Publishing Company.

⁴ *SB1000 Implementation Toolkit: Planning for Healthy Communities* (pp. 1-157, Rep.). (2017, October). Retrieved <https://caleja.org/2017/09/sb-1000-toolkit-release/>.



Whereas, the Commission’s mission is to protect and enhance San Francisco Bay and encourage the Bay’s responsible and productive use for this and future generations. In many ways, the Commission has been remarkably successful in achieving its mission. Before 1965, when BCDC was established, an average of about 2,300 acres of the Bay were being filled each year. Now, only a few acres are filled annually, and projects placing fill must mitigate project impacts, typically by restoring additional baylands. As a result, the Bay is now larger than it was when the Commission was established. Likewise, when the Commission was established, only four miles of the Bay shoreline were open to the public. Now over 350 miles of the Bay shoreline are open to the public as part of the San Francisco Bay Trail, much of which has been required by the Commission as part of its permitting program. BCDC has also approved hundreds of projects that enliven, enhance, and protect the shoreline, such as ports and marinas, residential and commercial development, parks and wetlands, bridges, and flood protection; and,

Whereas, not all have benefitted from these developments. In some cases, these developments may have placed burdens upon certain communities, such as increased pollution or displacement of residents. In order for the Commission to ensure that its mission is applied equitably and fairly, it is necessary to examine how its policies and practices may be contributing to or exacerbating environmental injustice and social inequity and identify opportunities for change. The Bay is a resource that is meant to be shared and enjoyed by all, not only by those who live adjacent to it or have the means to recreate near it. Historic inequalities—along with socioeconomic forces, public policies, and demographic changes—widen the disparity gap, impact development patterns, and cause physical or cultural displacement. Rising sea levels caused by climate change will impact various areas differently, and adaptation to rising seas poses additional challenges to those with fewer financial, social, and political resources. BCDC views these issues, which are integral to fulfilling its mission, as ones of environmental justice and social equity; and,

Whereas, the *Policies for a Rising Bay* report issued in 2016 identified BCDC’s need for environmental justice and social equity policies in order to better address rising sea levels;⁵ and,

Whereas, the Commission held a series of public workshops in 2016 and 2017 on the Bay Plan’s climate change policies and rising sea level and identified amending the Bay Plan to include environmental justice and social equity as a key priority; and,

Whereas, the Commission’s 2017 Strategic Plan Update includes an objective to pay special attention to environmental justice issues across the region as part of the Commission’s goal of increasing the Bay’s natural and built communities’ resilience to rising sea level; and,

⁵ *Policies for a Rising Bay Project Final Report* (BCDC Rep.) (2016). Retrieved <http://www.bcdc.ca.gov/prb/Policiesfor-a-Rising-Bay.pdf>.



Whereas, the Commission: (1) on July 20, 2017 approved a Descriptive Notice to initiate Bay Plan Amendment No. 2-17 to address environmental justice and social equity and set the public hearing date for May 3, 2018, which authorized staff to propose amendments to the findings and policies in three sections of the Bay Plan—Public Access, Shoreline Protection, and Mitigation—and to develop additional findings and policies in an entirely new section of the Plan entitled Environmental Justice and Social Equity; (2) on July 21, 2017, the Commission distributed the adopted Descriptive Notice and notice of the public hearing to all agencies, organizations and individuals interested in the proposed amendment; (3) rescheduled the public hearing to November 15, 2018 with a public notice mailed on March 30, 2018; and (4) rescheduled the public hearing to July 18, 2019 with a public notice mailed on November 2, 2018; and,

Whereas, the phases of the project process for this Bay Plan amendment completed to date include a scoping and organizing phase, a background research phase, a public workshop phase, a drafting policy changes phase, and a public comment and hearing phase. In all phases, Commissioners and staff had considerable contact with other State agencies, regional agencies, local governments, environmental justice advocacy and community groups, and other non-profits, private-sector firms, and academia; and,

Whereas, throughout the preparation of this Bay Plan amendment, the Commission worked closely with the Environmental Justice Review Team (EJRT), which received funding to participate in the amendment process from the Resources Legacy Fund to develop robust community recommendations regarding environmental justice, social equity principles and practices for consideration in BCDC's Environmental Justice Bay Plan amendment. The EJRT consists of Sheridan Noelani Enomoto of Greenaction for Health and Environmental Justice, Terrie Green of Shore Up Marin City, Carl Anthony and Paloma Pavel of Breakthrough Communities, Julio Garcia of Nuestra Casa, and Nahal Ghoghaie Ipakchi of EcoEquity; and,

Whereas, staff has been guided in this work by a Commissioner Working Group on Environmental Justice (EJCWG), which has met monthly starting in April 2018. BCDC's EJCWG consists of Commissioner Teresa Alvarado acting as chair (formerly), Commissioner Eddie Ahn (current chair), Commissioner Sheri Pemberton, Commissioner Pat Showalter, Commissioner John Vasquez, and Commissioner Jesse Arreguín; and,

Whereas, on May 31, 2019, staff released the staff planning report including a preliminary recommendation and environmental assessment. Along with the preliminary staff recommendation, staff released a background report titled, *Toward Equitable Shorelines: Environmental Justice and Social Equity at the San Francisco Bay* on June 7, 2019. In addition to providing extensive background information on the history of environmental justice, the report contained policy intersections explaining where the Commission's work converged with issues of environmental justice and social equity; and,

Whereas, the Commission held its first public hearing on the preliminary staff recommendation on July 18, 2019 and kept the public comment period open until August 2, 2019. During the public comment period, ten letters were received from 20 interested organizations or individuals and eleven oral comments were given at the July 18, 2019 public hearing; and,

Whereas, on October 4, 2019, staff distributed a final staff planning recommendation and response to comments to all agencies, organizations, and individuals interested in the proposed amendment; and on October 17, 2019, the Commission voted on the staff's final recommendation; all in accord with the requirements and procedures set out in Government Code Section 66652 and Title 14 of the California Code of Regulations (C.C.R.), Sections 11001, 11003, 11004, and 11005; and,

Whereas, the Commission has evaluated the environmental impact of revising the San Francisco Bay Plan by adding a new Environmental Justice and Social Equity finding and policy section and modifying the Public Access, Shoreline Protection, and Mitigation findings and policies, as analyzed in the environmental assessment prepared by staff in accordance with the Commission's regulations, which have been certified as a Certified State Regulatory Program pursuant to Public Resources Code section 21080.5 and California Environmental Quality Act (CEQA) Guidelines section 15251(h) (14 C.C.R. § 15251(h)). Because the proposed Bay Plan amendments would establish overarching Bay-wide policies, but would not authorize any particular project or physical alteration, or commit the Commission to approve any particular project or physical alteration in the future, the Commission finds that the proposed amendments to the Bay Plan will have no significant environmental impacts; and,

Whereas, the proposed Bay Plan amendments would not affect the Commission's authority and ability to require site-specific environmental review of projects proposed in its jurisdiction under CEQA, the McAttee-Petris Act, the Bay Plan, and the Commission's federally approved coastal zone management program for the San Francisco Bay. However, at this time, it is not known what projects will be undertaken under the Bay Plan amendments, where they will be located, or what impacts they may have. Therefore, any discussion of whether a particular future project would result in different impacts under the proposed amendments as compared to existing Bay Plan policies would be highly speculative. Because each project that could be permitted in a manner consistent with the amended Bay Plan policies in the future will require further environmental review prior to consideration by the Commission, any potential adverse environmental impacts of such a project will be identified and, if necessary, mitigated, at that time through the permitting process; and,

Whereas, the amendment to the Bay Plan, including the addition of a new Environmental Justice and Social Equity finding and policy section and amendments to Public Access, Shoreline Protection, and Mitigation findings and policies, enacted by this resolution is intended to be a revision of the Commission's coastal zone management program for the San Francisco Bay segment of the California coastal zone as approved by the U.S. Department of Commerce under the federal Coastal Zone Management Act of 1972, as amended; and,

Whereas, these amendments are adopted pursuant to the McAteer-Petris Act (Gov. Code §§66600 et seq.) and the Suisun Marsh Preservation Act of 1977 (Pub. Res. Code §§29000 et seq.), and they are not intended to, and do not, increase or decrease BCDC's jurisdiction or authority under either act.

Now, Therefore, Be it Resolved that the San Francisco Bay Conservation and Development Commission hereby adopts Bay Plan Amendment No. 2-17, which amends the Bay Plan as follows:

1. Add a section on Environmental Justice and Social Equity at the beginning of Part IV of the Bay Plan, titled "Development of the Bay and Shoreline: Findings and Policies".

Environmental Justice and Social Equity Findings

FINDING A:

Throughout the 1990s, federal and state governments began including environmental justice in law and policy to ensure that people regardless of race, culture, and income were treated fairly. This came in response to the environmental justice movement that protested discriminatory and unfair policies implemented at all levels of government resulting in generations of communities of color facing: persistent poverty; poor public health; inadequate public services and infrastructure; disproportionate exposure to polluted air, water, and soil; and underrepresentation in policymaking. The co-location of incompatible land uses, aggregation of industrial development, lack of enforcement over polluting land uses, and prioritization of business interests over public health have resulted in disproportionate environmental burdens and adverse health issues for many low-income communities of color. The San Francisco Bay Area is no exception to these development patterns as many land uses with noxious impacts are co-located with low-income communities of color.

FINDING B:

The Commission, as one of the agencies involved in the entitlement process, has played a role in approving development and any consequential injustices. Many industrial land uses around the Bay were established prior to the Commission's existence. Although the Commission neither initiates projects nor has any authority over municipal zoning or siting authority, through its permitting authority, the Commission has approved additional development projects to existing ports, oil and gas operations, sewage and wastewater treatment plants, and heavy industry in or near low-income communities of color around the Bay Area. Moreover, the Commission's Priority Use Areas, intended to minimize the necessity for future Bay fill, has also facilitated the aggregation of pollution sources within areas designated for Port and Water-Related Industry Priority Use Areas.

Part of the Commission's founding mandate is to encourage the development of the Bay and its shoreline to their highest potential with a minimum of Bay fill, as expressed in the McAteer-Petris Act and San Francisco Bay Plan. Without explicitly addressing and accounting for potential negative impacts to low-income communities of color, the Commission's encouragement of such development patterns may have inadvertently contributed to the physical and cultural displacement of these Bay Area communities.

FINDING C:

The Commission recognizes that California Native American communities have also faced many environmental injustices and social inequities. However, the Commission has not dedicated institutional resources to tribal issues and cultivating relationships with California Native American communities. As a result, these issues have not been addressed in the Bay Plan. The Commission acknowledges the need to build these relationships and address tribal issues going forward.

FINDING D:

Under Title VI of the Civil Rights Act of 1964 and California Government Code §11135, the Commission's actions when considering and acting on proposed projects and requiring public access to the Bay and its shoreline should be non-discriminatory for all people regardless of race, national origin, ethnic group identification religion, age, sex, sexual orientation, color, genetic information, or disability.

FINDING E:

The State of California defines *environmental justice* as "the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies." (California Government Code §65040.12(e)).

FINDING F:

According to the U.S. Environmental Protection Agency "*fair treatment* means no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies." (Guidance on Considering Environmental Justice During the Development of a Regulatory Action).

FINDING G:

Addressing social equity in policy is essential for the economy, health of a population, and community well-being. Additionally, addressing social equity in climate policies is vital to building resilience. In its 2017 General Plan Guidelines, the Governor's Office of Planning and Research includes the following definition for *social equity*: "The fair, just, and equitable management of all institutions serving the public directly or by contract; the fair, just and equitable distribution of public services and implementation of public policy; and the commitment to promote fairness, justice, and equity in the formation of public policy." (Governor's Office of Planning and Research 2017 General Plan Guidelines).

FINDING H:

The Commission recognizes the importance of low-income communities of color as invaluable stakeholders and is committed to uplifting the voices of communities who have been historically excluded from decision-making processes. While there is no widespread agreement on terminology to describe communities with certain attributes, for the purposes of the Bay Plan, the following definitions are used:

The State of California defines *disadvantaged communities* as including, but not limited to “[...] (a) Areas disproportionately affected by environmental pollution and other hazards that can lead to negative public health effects, exposure, or environmental degradation; and (b) Areas with concentrations of people that are of low-income, high unemployment, low levels of home ownership, high rent burden, sensitive populations, or low levels of educational attainment.” (California Health and Safety Code §39711).

The Commission recognizes that due to historic and ongoing marginalization, social and economic structures influence a person or community’s ability to prepare for, respond to, or recover from a flood event. In the context of environmental justice, very low-income communities and/or communities of color are particularly important, as these demographic factors compound other relevant indicators. The co-location of areas with current and future flood risk and high concentrations of households exhibiting factors that can reduce access to or capacity for preparedness and recovery are therefore considered *vulnerable*.

Additionally, contamination indicators are included in measuring vulnerability. These indicators represent degradation or threats to communities and the natural environment from pollution. The presence of contaminated lands and water raises health and environmental justice concerns, which may worsen with flooding from storm surge and sea level rise, as well as associated groundwater level changes. When a regionally agreed upon definition of vulnerable communities is in place, that definition shall supersede the definition here.

Underrepresented community is used to describe those who have been historically and are still systematically excluded from political and policy-making processes, which includes many disadvantaged and vulnerable communities.

FINDING I:

Meaningfully involving impacted communities is essential to addressing environmental justice. According to the U.S. Environmental Protection Agency, *meaningful involvement* means “(1) people have an opportunity to participate in decisions about activities that may affect their environment and/or health; (2) the public's contribution can influence the regulatory agency's decision; (3) community concerns will be considered in the decision making process; and (4) decision makers will seek out and facilitate the involvement of those potentially affected.” (Guidance on Considering Environmental Justice During the Development of a Regulatory Action).

FINDING J:

Drawing on the expertise of environmental justice and community-based organizations, the Commission has committed to the following guiding principles to integrate environmental justice and social equity into its mission.

The Commission will:

- Recognize and acknowledge the California Native American communities who first inhabited the Bay Area and their cultural connection to the natural resources of the region.

- Maintain its commitment to ensuring that the Bay remains a public resource, free and safe for all to access and use regardless of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, genetic information, or disability.
- Continually strive to build trust and partnerships with underrepresented communities and community-based organizations.
- Endeavor to eliminate disproportionate adverse economic, environmental, and social project impacts caused by Commission actions and activities, particularly in disadvantaged and vulnerable communities.
- Ensure that the needs of vulnerable shoreline communities are addressed as the Commission assists all stakeholders plan for current and future climate hazards.
- Work collaboratively and coordinate with all stakeholders to address issues of environmental justice and social equity.
- Continually build accountability, transparency, and accessibility into its programs and processes.

FINDING K:

Equitable and culturally-relevant community outreach and engagement is at the heart of environmental justice and necessary for meaningful involvement. Many public processes are currently not accessible to all, as there are barriers to participation for low-income people, working people, parents and guardians, people of color, people that have limited English language skills, people with disabilities, people with limited transportation options, and others. Meaningfully involving underrepresented communities may require additional and more targeted efforts, such as equitable and culturally-relevant outreach and engagement. Consistent community outreach and engagement from the start of a project and throughout project design, permitting, and construction are necessary for addressing environmental justice and social equity. If outreach and engagement are indeed conducted from the onset of the project, much of this would, and should, occur during the local government's discretionary approval process prior to the Commission's involvement.

FINDING L:

Identifying whether a community would be disproportionately impacted by a project is an initial step in addressing environmental justice. Taking steps to reduce such disproportionality can help ensure people are being treated fairly regardless of race, culture, and income.

FINDING M:

As local governments retain most land use authority in California, collaborating and coordinating with local governments in the development of their general plans and zoning ordinances can aid in creating an environmentally just and socially equitable Bay Area. Many issues related to environmental justice and social equity may fall outside the Commission's authority or jurisdiction but may be within the purview of another federal, state, or regional agency. Collaborating and working across sectors and authorities can help to address environmental justice and social equity.

Environmental Justice and Social Equity Policies

POLICY 1:

The Commission's guiding principles on environmental justice and social equity should shape all of its actions and activities.

POLICY 2:

Since addressing issues of environmental justice and social equity should begin as early as possible in the project planning process, the Commission should support, encourage, and request local governments to include environmental justice and social equity in their general plans, zoning ordinances, and in their discretionary approval processes. Additionally, the Commission should provide leadership in collaborating transparently with other agencies on issues related to environmental justice and social equity may affect the Commission's authority or jurisdiction.

POLICY 3:

Equitable, culturally-relevant community outreach and engagement should be conducted by local governments and project applicants to meaningfully involve potentially impacted communities for major projects and appropriate minor projects in underrepresented and/or identified vulnerable and/or disadvantaged communities, and such outreach and engagement should continue throughout the Commission review and permitting processes. Evidence of how community concerns were addressed should be provided. If such previous outreach and engagement did not occur, further outreach and engagement should be conducted prior to Commission action.

POLICY 4:

If a project is proposed within an underrepresented and/or identified vulnerable and/or disadvantaged community, potential disproportionate impacts should be identified in collaboration with the potentially impacted communities. Local governments and the Commission should take measures through environmental review and permitting processes, within the scope of their respective authorities, to require mitigation for disproportionate adverse project impacts on the identified vulnerable or disadvantaged communities in which the project is proposed.

2. Amend the Public Access findings and policies.

Public Access Findings

FINDING B:

Access to the Bay allows the public to discover, experience and appreciate the Bay's natural resources and can foster public support for Bay resource protection, including habitat acquisition and restoration. Public access can provide for recreational activities, educational and interpretive opportunities, subsistence fishing, and means for alternative transportation. The Bay and its shoreline can also be refuges from heat and noise and can offer relief from crowded, often stressful, urban areas, thereby contributing to well-being.

FINDING C:

Public access required by the Commission is an integral component of development and usually consists of pedestrian and other nonmotorized access to and along the shoreline of San Francisco Bay. In general, public access to the Bay is free and available to all users. It may include certain improvements, such as paving, landscaping, street furniture, restrooms, and drinking fountains; and it may allow for ~~additional~~ uses, such as bicycling, fishing, picnicking, nature education, public programming that activates the shoreline, etc. Visual access to the Bay is a critical part of public access. Public access spaces can promote local identity through programming, which may include educational, cultural, civic, health and wellness, or other activities. In projects that cannot provide onsite public access due to safety or use conflicts, including significant adverse effects on wildlife, in lieu public access may be appropriate.

FINDING E:

Although public access to the approximately 1,000-mile Bay shoreline has increased significantly since the adoption of the Bay Plan in 1968, demand for additional public access to the Bay continues due to a growing Bay Area population and the desirability of shoreline access areas. Diverse public access experiences are in great demand, both along urban waterfronts and in more natural areas. The full potential for access to the Bay has by no means yet been reached. Additionally, certain communities may be physically and/or culturally disconnected from public access areas due to land use patterns, poor public transit, lack of safe bicycle and walking paths, language barriers, economic barriers, and/or culturally inaccessible designs.

FINDING H:

Public access is not equally or evenly distributed around the Bay, nor are all public access areas of the same quality, due to varying levels of resources for improvements, maintenance, and amenities. Often public access areas near identified vulnerable or disadvantaged communities are difficult to access, poorly maintained, infrequently improved, and/or do not serve the needs of the local community. This can perpetuate cycles of avoidance, underuse, neglect, and in extreme cases, loss of public access to the Bay. However, there remains a need to better understand where these gaps and inconsistencies are located regionally in order to address them and provide more equitable and convenient public access that reflects the culture(s) of the local community and meets the needs of its residents.

FINDING I:

Designing and programming public access in a manner that is welcoming to all creates public spaces that are well-loved and cared for by their users and can help account for unintended consequences, such as low usage or a sense of exclusion by specific communities. Meaningful involvement of underrepresented communities in the project planning, design, and ongoing maintenance phases can help address this, as well as cultivate community empowerment, lifelong stewardship, a sense of ownership, and connections to public access areas and the Bay. The design and programming of public access can also engender a welcoming atmosphere for all by embracing the multicultural and indigenous histories and presence of the surrounding area.

FINDING H J:

Although opportunities for views of the Bay from public access areas have increased since the Bay Plan was adopted in 1968, there are still a significant number of shoreline areas where there exists little or no visual access to the Bay.

FINDING I K:

Public access areas obtained through the permit process are most utilized if they provide physical access, provide connections to public rights-of-way, are related to adjacent uses, are designed, improved and maintained clearly to indicate their public character, and provide visual access to the Bay. Flooding from sea level rise and storm activity increases the difficulty of designing public access areas (e.g., connecting new public access that is set at a higher elevation or located farther inland than existing public access areas).

FINDING J L:

In some cases, certain uses may unduly conflict with accompanying public access. For example, unmanaged or inappropriately located public access may adversely affect wildlife or some port or water-related industrial activities may pose a substantial hazard to public access users.

FINDING K M:

Insufficient knowledge on the specific type and severity of effects of human activities on wildlife creates a need for more scientific studies, both in the San Francisco Bay Area and elsewhere in similar habitats with similar human activities. More baseline data are needed for comparison purposes and to help isolate disturbance factors (e.g., disturbances caused by human activities versus other factors such as poor water quality or natural variability).

FINDING L N:

Studies indicate that public access may have immediate effects on wildlife (including flushing, increased stress, interrupted foraging, or nest abandonment) and may result in adverse long-term population and species effects. Although some wildlife may adapt to human presence, not all species or individuals may adapt equally, and adaptation may leave some wildlife more vulnerable to harmful human interactions such as harassment or poaching. The type and

severity of effects, if any, on wildlife depend on many factors, including physical site configuration, species present, and the nature of the human activity. Accurate characterization of current and future site, habitat and wildlife conditions, and of likely human activities, would provide information critical to understanding potential effects on wildlife.

FINDING M Q:

Potential adverse effects on wildlife from public access may be avoided or minimized by siting, designing and managing public access to reduce or prevent adverse human and wildlife interactions. Managing human use of the area may include adequately maintaining improvements, periodic closure of access areas, pet restrictions such as leash requirements, and prohibition of public access in areas where other strategies are insufficient to avoid adverse effects. Properly sited and/or designed public access can avoid habitat fragmentation and limit predator access routes to wildlife areas. In some cases, public access adjacent to sensitive wildlife areas may be set back from the shoreline a greater distance because buffers may be needed to avoid or minimize human disturbance of wildlife. Appropriate siting, design and management strategies depend on the environmental characteristics of the site, the likely human uses of the site, and the potential impacts of future climate change.

FINDING N P:

Providing diverse and satisfying public access opportunities can reduce the creation of informal access routes to decrease interaction between humans and wildlife, habitat fragmentation, and vegetation trampling and erosion. Formal public access also provides for more predictable human actions, which may increase the ability of wildlife to adjust to human use.

Public Access Policies

POLICY 2:

In addition to the public access to the Bay provided by waterfront parks, beaches, marinas, and fishing piers, maximum feasible access to and along the waterfront and on any permitted fills should be provided in and through every new development in the Bay or on the shoreline, whether it be for housing, industry, port, airport, public facility, wildlife area, or other use, except in cases where public access would be clearly inconsistent with the project because of public safety considerations or significant use conflicts, including unavoidable, significant adverse effects on Bay natural resources. In these cases, in lieu access at another location preferably near the project should be provided. If in lieu public access is required and cannot be provided near the project site, the required access should be located preferably near identified vulnerable or disadvantaged communities lacking well-maintained and convenient public access in order to foster more equitable public access around the Bay Area.

POLICY 5:

Public access that substantially changes the use or character of the site should be sited, designed, and managed based on meaningful community involvement to create public access that is inclusive and welcoming to all and embraces local multicultural and indigenous history and presence. In particular, vulnerable, disadvantaged, and/or underrepresented communities should be involved. If such previous outreach and engagement did not occur, further outreach and engagement should be conducted prior to Commission action.

POLICY ~~5~~ 6:

Public access should be sited, designed, managed and maintained to avoid significant adverse impacts from sea level rise and shoreline flooding.

POLICY ~~6~~ 7:

Whenever public access to the Bay is provided as a condition of development, on fill or on the shoreline, the access should be permanently guaranteed. This should be done wherever appropriate by requiring dedication of fee title or easements at no cost to the public, in the same manner that streets, park sites, and school sites are dedicated to the public as part of the subdivision process in cities and counties. Any public access provided as a condition of development should either be required to remain viable in the event of future sea level rise or flooding, or equivalent access consistent with the project should be provided nearby.

POLICY ~~7~~ 8:

Public access improvements provided as a condition of any approval should be consistent with the project, the culture(s) of the local community, and the physical environment, including protection of Bay natural resources, such as aquatic life, wildlife and plant communities, and provide for the public's safety and convenience. The improvements should be designed and built to encourage diverse Bay-related activities and movement to and along the shoreline, should ~~permit~~ provide barrier free access for persons with disabilities, for people of all income levels, and for people of all cultures to the maximum feasible extent, should include an ongoing maintenance program, and should be identified with appropriate signs, including using appropriate languages or culturally-relevant icon-based signage.

POLICY ~~8~~ 9:

In some areas, a small amount of fill may be allowed if the fill is necessary and is the minimum absolutely required to develop the project in accordance with the Commission's public access requirements.

POLICY ~~9~~ 10:

Access to and along the waterfront should be provided by walkways, trails, or other appropriate means and connect to the nearest public thoroughfare where convenient parking or public transportation may be available. Diverse and interesting public access experiences should be provided which would encourage users to remain in the designated access areas to avoid or minimize potential adverse effects on wildlife and their habitat.

POLICY ~~10~~ 11:

Roads near the edge of the water should be designed as scenic parkways for slow-moving, principally recreational traffic. The roadway and right-of-way design should maintain and enhance visual access for the traveler, discourage through traffic, and provide for safe, separated, and improved physical access to and along the shore. Public transit use and connections to the shoreline should be encouraged where appropriate.

POLICY ~~11~~ 12:

Federal, state, regional, and local jurisdictions, special districts, and the Commission should cooperate to provide appropriately sited, designed and managed public access, especially to link the entire series of shoreline parks, regional trail systems (such as the San Francisco Bay Trail) and existing public access areas to the extent feasible without additional Bay filling and without significant adverse effects on Bay natural resources. State, regional, and local agencies that approve projects should assure that provisions for public access to and along the shoreline are included as conditions of approval and that the access is consistent with the Commission's requirements and guidelines.

POLICY ~~12-13~~:

The Public Access Design Guidelines should be used as a guide to siting and designing public access consistent with a proposed project. The Design Review Board should advise the Commission regarding the adequacy of the public access proposed. The Design Review Board should encourage diverse public access to meet the needs of a growing and diversifying population. Public access should be well distributed around the Bay and designed or improved to accommodate a broad range of activities for people of all races, cultures, ages, income levels, and abilities.

POLICY ~~13~~ 14:

Public access should be integrated early in the planning and design of Bay habitat restoration projects to maximize public access opportunities and to avoid significant adverse effects on wildlife.

POLICY ~~14~~ 15:

The Commission should continue to support and encourage expansion of scientific information on the effects of public access on wildlife and the potential of siting, design and management to avoid or minimize impacts. Furthermore, the Commission should, in cooperation with other appropriate agencies and organizations, determine the location of sensitive habitats in San Francisco Bay and use this information in the siting, design and management of public access along the shoreline of San Francisco Bay.

3. Amend the Shoreline Protection findings and policies.

Shoreline Protection Findings

FINDING C:

Most structural shoreline protection projects involve some fill, which can adversely affect natural resources, such as water surface area and volume, tidal circulation, and wildlife use. Structural shoreline protection can further cause erosion of tidal wetlands and tidal flats, prevent wetland migration to accommodate sea level rise, create a barrier to physical and visual public access to the Bay, create a false sense of security and may have cumulative impacts. Physical and visual public access can be provided on levees and other protection structures. As the rate of sea level rise accelerates and the potential for shoreline flooding increases, the

demand for new shoreline protection projects will likely increase. Some projects may involve extensive amounts of fill. Occasionally, riprap and other structural protection can reduce the public's ability to safely access the waters of the Bay. In these cases, the shoreline protection structure can conflict with the Commission's commitment to providing safe public water access.

FINDING G:

Some hardened shoreline protection structures may intensify wave reflection and contribute to shoreline erosion and overtopping at adjacent or nearby vulnerable areas. At all sites, but particularly at sites in or adjacent to lower income communities that may lack resources to adequately protect their shoreline, it is important to design projects to minimize such impacts. Given the appropriate site conditions, natural and nature-based shoreline protection methods

can dissipate wave energy more effectively than certain types of hardened shoreline protection structures, diminishing wave reflection impacts such as accelerated erosion and flooding in adjacent or nearby areas.

FINDING G H:

Loose dirt, concrete slabs, asphalt, bricks, scrap wood and other kinds of debris, are generally ineffective in halting shoreline erosion or preventing flooding and may lead to increased fill or release of pollutants. Although providing some short-term shoreline protection, protective structures constructed of such debris materials typically fail rapidly in storm conditions because the material slides bayward or is washed offshore. Repairing these ineffective structures requires additional material to be placed along the shoreline, leading to unnecessary fill and disturbance of natural resources.

FINDING I:

The impacts of historic and ongoing social and economic marginalization may compound risks posed by flooding to communities by reducing a community's or individual's ability to prepare for, respond to, or recover from a flood event. Meaningfully involving these vulnerable communities can help ensure successful shoreline protection structures, regional adaptation strategies, and resilience measures. Without including the needs of the region's most vulnerable and underrepresented communities, construction of shoreline protection could result in unintended consequences, such as exacerbating the vulnerability of these communities.

FINDING J:

There are many contaminated sites on San Francisco Bay's shoreline and in adjacent subtidal areas. Current and future flooding of these sites could potentially mobilize contaminants into the environment of surrounding communities. These contaminants are associated with a number of adverse public health impacts. Many of these sites are located in or near low-income communities of color facing various other adverse environmental impacts, creating compound negative health impacts. These impacts can be minimized if measures are taken to remove contaminants (if deemed safe for human and environmental health) and if remediation projects are designed using the best available science on sea level rise, storm surge, and associated groundwater level changes to prevent contaminant mobilization.

Shoreline Protection Policies

POLICY 1:

New shoreline protection projects and the maintenance or reconstruction of existing projects and uses should be authorized if: (a) the project is necessary to provide flood or erosion protection for (i) existing development, use or infrastructure, or (ii) proposed development, use or infrastructure that is consistent with other Bay Plan policies; (b) the type of the protective structure is appropriate for the project site, the uses to be protected, and the erosion and flooding conditions at the site; (c) the project is properly engineered to provide erosion control and flood protection for the expected life of the project based on a 100-year flood event that takes future sea level rise into account; (d) the project is properly designed and constructed to prevent significant impediments to physical and visual public access; ~~and~~ (e) the protection is integrated with current or planned adjacent shoreline protection measures; and (f) adverse impacts to adjacent or nearby areas, such as increased flooding or accelerated erosion, are avoided or minimized. If such impacts cannot be avoided or minimized, measures to compensate should be required. Professionals knowledgeable of the Commission's concerns, such as civil engineers experienced in coastal processes, should participate in the design.

POLICY 2:

Equitable and culturally-relevant community outreach and engagement should be conducted to meaningfully involve nearby communities for all shoreline protection project planning and design processes – other than maintenance and in-kind repairs to existing protection structures or small shoreline protection projects – in order to supplement technical analysis with local expertise and traditional knowledge and reduce unintended consequences. In particular, vulnerable, disadvantaged, and/or underrepresented communities should be involved. If such previous outreach and engagement efforts did not occur, further outreach and engagement should be conducted prior to Commission action.

~~POLICY 2~~ 3:

Riprap revetments, the most common shoreline protective structure, should be constructed of properly sized and placed material that meet sound engineering criteria for durability, density, and porosity. Armor materials used in the revetment should be placed according to accepted engineering practice, and be free of extraneous material, such as debris and reinforcing steel. Generally, only engineered quarrystone or concrete pieces that have either been specially cast, are free of extraneous materials from demolition debris, and are carefully selected for size, density, and durability will meet these requirements. Riprap revetments constructed out of other debris materials should not be authorized. Riprap revetments, the most common shoreline protective structure, should be constructed of properly sized and placed material that meet sound engineering criteria for durability, density, and porosity. Armor materials used in the revetment should be placed according to accepted engineering practice, and be free of extraneous material, such as debris and reinforcing steel. Generally, only engineered quarrystone or concrete pieces that have either been specially cast, are free of extraneous materials from demolition debris, and are carefully selected for size, density, and durability will meet these requirements. Riprap revetments constructed out of other debris materials should not be authorized.

POLICY 4:

Authorized protective projects should be regularly maintained according to a long-term maintenance program to assure that the shoreline will be protected from tidal erosion and flooding and that the effects of the shoreline protection project on natural resources during the life of the project will be the minimum necessary.

POLICY 5:

Whenever feasible and appropriate, shoreline protection projects should include provisions for nonstructural methods such as marsh vegetation and integrate shoreline protection and Bay ecosystem enhancement, using adaptive management. Along shorelines that support marsh vegetation, or where marsh establishment has a reasonable chance of success, the Commission should require that the design of authorized protection projects include provisions for establishing marsh and transitional upland vegetation as part of the protective structure, wherever feasible.

POLICY 6:

Adverse impacts to natural resources and public access from new shoreline protection should be avoided. When feasible, shoreline protection projects should include components to retain safe and convenient water access, for activities such as fishing, swimming, and boating, especially in communities lacking such access. Where significant impacts cannot be avoided, mitigation or alternative public access should be provided.

POLICY 7:

All contamination remediation projects in the Bay or along the Bay shoreline should integrate the best available science on sea level rise, storm surge, and associated groundwater level changes into the project design in order to protect human and ecological health by preventing the mobilization of contaminants into the environment and preventing harm to the surrounding communities.

4. Amend the Mitigation findings and policies.

Mitigation Findings

FINDING F:

Natural resource areas provide various benefits to human welfare, including climate regulation, flood protection, erosion control, and recreational and aesthetic benefits. Therefore, there may be social and economic effects on nearby communities as a result of impacts on existing resource areas and the siting and design of compensatory mitigation projects. Further, these effects may not be evenly distributed among nearby communities.

FINDING H:

There are a multitude of benefits created by meaningfully involving underrepresented communities in mitigation projects including new approaches and perspectives, fostering new stewardship, community empowerment, and the creation of new cross-cultural partnerships. Specifically, there may be opportunities to involve communities in project planning, implementation, monitoring, on-site education programs, and other public programming at the site.

FINDING H I:

Mitigation banking involves restoring or creating natural resources to produce mitigation "credits" which can be used to offset unavoidable adverse impacts to existing resources. A mitigation bank is a site where resources are restored, created, or enhanced expressly for the purpose of providing compensatory mitigation in advance of impacts associated with authorized projects. Mitigation banks may be established by individuals who anticipate needing to mitigate for future impacts, or by third parties who develop banks as a commercial venture to sell credits to permittees needing to provide compensatory mitigation. Among other benefits, mitigation banks provide the unique opportunity to address the cumulative effects of small fill projects that are too small to be mitigated individually. Provided mechanisms are in place to assure success, mitigation banking can provide a timely, convenient, cost effective and ecologically successful mitigation option.

FINDING I J:

Fee-based mitigation involves the submittal of a fee by the permittee in-lieu of requiring the permittee to undertake the creation, restoration, or enhancement of a specific mitigation site, or purchasing credits from a mitigation bank. The fee is generally submitted to a third party for implementation of an ongoing or future restoration-creation project. Provided mechanisms are in place to assure success, fee-based mitigation can also provide a timely, convenient, cost effective and ecologically successful mitigation option.

Mitigation Policies

POLICY 3:

For major and appropriate minor projects that require compensatory mitigation, communities surrounding both the project and the compensatory mitigation site should be meaningfully involved in an equitable and culturally-relevant manner. In particular, vulnerable, disadvantaged, and/or underrepresented communities should be involved. This should include consultation with the community in the identification and prioritization of potential projects, and in the monitoring and programming of a mitigation site. If such previous outreach and engagement did not occur, further outreach and engagement should be conducted prior to Commission action.

POLICY 4:

When determining the appropriate location and design of compensatory mitigation, the Commission should also consider potential effects on benefits provided to humans from Bay natural resources, including economic (e.g., flood protection, erosion control) and social (e.g., aesthetic benefits, recreational opportunities) benefits and whether the distribution of such benefits is equitable.

POLICY 5:

The amount and type of compensatory mitigation should be determined for each mitigation project based on a clearly identified rationale that includes an analysis of: the probability of success of the mitigation project; the expected time delay between the impact and the functioning of the mitigation site; and the type and quality of the ecological functions of the proposed mitigation site as compared to the impacted site.

POLICY 5 6:

To increase the potential for the ecological success and long-term sustainability of compensatory mitigation projects, resource restoration should be selected over creation where practicable, and transition zones and buffers should be included in mitigation projects where feasible and appropriate. In addition, mitigation site selection should consider site specific factors that will increase the likelihood of long-term ecological success, such as existing hydrological conditions, soil type, adjacent land uses, and connections to other habitats.

POLICY 6 7:

Mitigation should, to the extent practicable, be provided prior to, or concurrently with those parts of the project causing adverse impacts.

POLICY 7 8:

When compensatory mitigation is necessary, a mitigation program should be reviewed and approved by or on behalf of the Commission as part of the project. Where appropriate, the mitigation program should describe the proposed design, construction and management of mitigation areas and include:

- a. Clear mitigation project goals;
- b. Clear and measurable performance standards for evaluating the success of the mitigation project, based on measures of both composition and function, and including the use of reference sites;
- c. A monitoring plan designed to identify potential problems early and determine appropriate remedial actions. Monitoring and reporting should be of adequate frequency and duration to measure specific performance standards and to assure long-term success of the stated goals of the mitigation project;
- d. A contingency plan to ensure the success of the mitigation project, or provide means to ensure alternative appropriate measures are implemented if the identified mitigation cannot be modified to achieve success. The Commission may require financial assurances, such as performance bonds or letters of credit, to cover the cost of mitigation actions based on the nature, extent and duration of the impact and/or the risk of the mitigation plan not achieving the mitigation goals; and

Provisions for the long-term maintenance, management and protection of the mitigation site, such as a conservation easement, cash endowment, and transfer of title.

POLICY 8 9:

Mitigation programs should be coordinated with all affected local, state, and federal agencies having jurisdiction or mitigation expertise to ensure, to the maximum practicable extent, a single mitigation program that satisfies the policies of all the affected agencies.

POLICY 9 10:

If more than one mitigation program is proposed, the Commission should consider the cost of the alternatives in determining the appropriate program, as well as equitably consider the priorities and concerns of surrounding communities.

POLICY ~~10~~ 11:

To encourage cost effective compensatory mitigation programs, especially to provide mitigation for small fill projects, the Commission may extend credit for certain fill removal and allow mitigation banking provided that any credit or resource bank is recognized pursuant to written agreement executed by the Commission. Mitigation bank agreements should include: (a) financial mechanisms to ensure success of the bank; (b) assignment of responsibility for the ecological success of the bank; (c) scientifically defensible methods for determining the timing and amount of credit withdrawals; and (d) provisions for long-term maintenance, management and protection of the bank site. Mitigation banking should only be considered when no mitigation is practicable on or proximate to the project site.

POLICY ~~11~~ 12:

The Commission may allow fee-based mitigation when other compensatory mitigation measures are infeasible. Fee-based mitigation agreements should include: (a) identification of a specific project that the fees will be used for within a specified time frame; (b) provisions for accurate tracking of the use of funds; (c) assignment of responsibility for the ecological success of the mitigation project; (d) determination of fair and adequate fee rates that account for all financial aspects of the mitigation project, including costs of securing sites, construction costs, maintenance costs, and administrative costs; (e) compensation for time lags between the adverse impact and the mitigation; and (f) provisions for long-term maintenance, management and protection of the mitigation site.

Be it Further Resolved that the San Francisco Bay Conservation and Development Commission authorizes the Executive Director to make minor, non-substantive editorial changes to this Resolution, in particular to comply with the determinations of the Office of Administrative Law in its review of the Resolution under the California Administrative Procedures Act.

We certify that this resolution was adopted by a vote of _____ “yes” votes, _____ “no” votes and _____ abstentions at the Commission meeting held October 17, 2019 in San Francisco, California.

Executed on this _____ day of _____, 2019 in San Francisco, California.

R. ZACHARY WASSERMAN
Chair

Executed on this _____ day of _____, 2019 in San Francisco, California

LAWRENCE J. GOLDZBAND
Executive Director



Attachment C

**Numbered Public Comment Letters and Oral Public Comments
Given at the July 18, 2019 Public Hearing Regarding BPA 2-17, the
Environmental Justice and Social Equity Bay Plan Amendment**

From: **Lenny Siegel** <lennysiegel@sonic.net>
Date: Fri, Aug 2, 2019 at 2:23 PM
Subject: EJ document
To: Pat Showalter <patshow4mv@gmail.com>

Pat,

I've finally had a chance to (quickly) review the BCDC document on Social Equity and Environmental Justice. I realize that the Commission may have already taken action, but I do have one comment.

In general, the document is very good. But environmental injustice is about more than disproportionate impact. EJ communities usually lack the empowerment, endowment, expertise, and education that many other communities have. Community members near Moffett Field have always been able to influence environmental programs there, while at Hunters Point Shipyard the were always at a disadvantage. In addition to “outreach and engagement,” agencies should offer support for independent technical assistance, so disadvantaged community have the opportunity to influence decisions in their interests.

1

Lenny

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RICHARDSON'S BAY REGIONAL AGENCY

July 31, 2019

Clesi Bennett
San Francisco Bay Conservation and Development Commission (BCDC)
455 Golden Gate Avenue, Suite 10600
San Francisco, CA 94102-7019
Email: clesi.bennett@bcdc.ca.gov

Dear Clesi:

BCDC has embarked upon a laudable mission to rectify patterns of environmental injustice and social inequity by developing new approaches through a bay plan amendment. On behalf of the Richardson's Bay Regional Agency, we thank you for this opportunity to comment, and urge you specifically to modify plans policies, regulations and processes to address social inequities experienced by individuals who inhabit vessels.

Residential use of the bay in BCDC's jurisdiction is allowed for persons with greater economic means in the form of floating homes, houseboats, and marina slips. As access to these options, and to housing in general, become decreasingly accessible to lower income persons, we have seen an increasing number of vessel owners and tenants seeking to anchor or moor as their only alternative. Current provisions do not allocate equitable treatment to persons seeking to live on the bay when considering income and other social inequities. Moreover, many persons living on vessels share characteristics with people identified as disadvantaged by rising sea levels.

Individuals inhabiting vessels also have been historically disenfranchised from governmental processes. In the case of Richardson's Bay, they meet the definition of economically disadvantaged due to low income and underrepresentation in environmental policymaking – as well as having increasing risk of displacement.

Public access to shore goods and services is also challenging for persons who inhabit vessels, due to privatization of shoreline properties and docks, and fees or other limitations imposed on tie up spaces that are publicly available. Policies to promote private development have not adequately considered providing sufficient and affordable-to-all public access for vessels on the bay.

As BCDC pursues improving environmental justice and social equity, we encourage amendments to your plans, policies, regulations, and processes that:

- 1) Contain provisions for a local agency to permit liveaboard vessels to address the social inequity currently contained in permitted residential uses of the bay. Such provisions would help ameliorate the negative impacts from the high cost of other options on the economically disadvantaged members of the community. It would also help provide maritime workers to shoreline communities. We recognize that appropriate provisions relating to vessel conditions, locations, equipment, and behavior would, and should, be required by the agency. **1**

- 2) Include members of the liveaboard community in plans and regulations that affect their future. For example, the Richardson's Bay Special Anchorage Association (anchoredout.org) is a non-profit organization established to represent such interests. **2**

- 3) Provide access to the shore from the water. The focus of BCDC shore access requirements has been for people on land to access the water, rather than people on the water accessing the shore. **3**

Thank you for the opportunity to comment. Please feel free to contact us if additional information or conversation would be helpful.

Sincerely,



Jim Wickham
Chair, Board of Directors



Beth Pollard
Executive Director

cc: RBRA Board of Directors



COMMITTEE FOR
GREEN FOOTHILLS

July 17, 2019

The Honorable BCDC Commissioners
San Francisco Bay Conservation and Development Commission
455 Golden Gate Avenue, Suite 10600
San Francisco, CA 94102-7019
Via email: larry.goldzband@bcdc.ca.gov

RE: Preliminary Recommendations for Proposed Bay Plan Amendment No. 2-17 Concerning Social Equity and Environmental Justice

Dear Commissioners:

Thank you for your thoughtful consideration of the Preliminary Recommendations for Social Equity and Environmental Justice around the San Francisco Bay. Committee for Green Foothills represents over 1,000 households and advocates on their behalf for the protection of open space, farmlands, and natural resources throughout the region. We recognize the importance of keeping the San Francisco Bay accessible to all, while protecting this resource as designated by the California Constitution. We appreciate the opportunity to comment on these proposals.

We are writing today concerning the public access portion of the Preliminary Recommendations. We fully believe the public access to the San Francisco Bay needs to be inclusive and welcoming to all regardless of one's social economic status, racial, or ethnic background.

To ensure that access is fully available to all comers, we fully support maintaining visual access to the water. Often the Bay is visually blocked by new development thereby creating an exclusionary situation which is not in keeping with the Public Trust Doctrine of maintaining access for all for the public's well-being. **1**

We also fully support maintaining public access for all income levels and people of all ethnic and racial backgrounds while ensuring that ecologically sensitive areas are protected. We respectfully ask that any new proposals minimize adverse effects on wildlife by siting, designing, and managing public access in a thoughtful manner that minimizes adverse human and wildlife interactions, while creating access that is safe, convenient and well maintained. **2**

In closing, we urge BCDC to adopt the recommendations to maintain access for all to the crown jewel of our region. The San Francisco Bay is a public asset whose access must be celebrated and thoughtfully managed so that everyone feels welcome and included.

We appreciate keeping Green Foothills via Helen Wolter at helen@greenfoothills.org apprised of any and all matters relating to these proposals.

Again, thank you for your consideration of our comments.

Respectfully,

Helen Wolter
Legislative Advocate, Committee for Green Foothills

COMMITTEE FOR
GREEN FOOTHILLS

3921 E. Bayshore Road 650.968.7243 PHONE info@GreenFoothills.org
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July 12, 2019

Clesi Bennett
San Francisco Bay Conservation and Development Commission
455 Golden Gate Avenue, Suite 10600
San Francisco, CA 94102-7019
Phone: 415-352-3613
Fax: 415.352.3606
E-mail: clesi.bennett@bcdc.ca.gov

Re: Proposed Bay Plan Amendment No. 2-17 Concerning Social Equity and Environmental Justice

Dear Clesi,

Thank you for the opportunity to comment on BCDC's proposed Bay Plan Amendment No. 2-17. We are very impressed by the depth and breadth of the work and analysis leading up to BCDC staff recommendations.

Like BCDC, the Port of San Francisco is focusing on how best to ensure that principles of social equity and environmental justice are deeply embedded in Port policies and carried out in Port programs and projects. These principles are reflected throughout the June 2019 Draft Port of San Francisco Waterfront Plan, now in circulation for public review and comment, as well as in the Port's 2019-2023 Strategic Plan.

In addition to these planning documents, the City of San Francisco (including the Port as a participating department) participates in the Government Alliance on Race and Equity (GARE) network of municipal, regional, and state governments working to achieve racial equity and advance opportunities for all in department decision-making, resource allocation, and policies. The Port also is developing a Port-wide Economic Benefit Framework, with community input and for Port Commission review in the coming year, to help advance the equity goal of the Port's Strategic Plan: Ensure Port activities advance equity and public benefit, and attract a diversity of people to the waterfront.

During these Port efforts, and as part of our on-going work with BCDC staff to align Port Waterfront Plan and BCDC Special Area Plan policies, we look forward to aligning efforts to achieve social equity and environmental goals along the San Francisco waterfront. In the meantime, we have the following

comments and questions regarding BCDC staff's preliminary recommendations for amending the Bay Plan:

1. Environmental Justice and Social Equity

Policy 3 (Staff Report p. 17) Are there any criteria that will be proposed to describe how the Commission would determine whether equitable, culturally relevant outreach has been provided in identified vulnerable or disadvantaged communities? **1**

Policy 4 (Staff Report p. 18) requires project applicants to identify disproportionate project impacts if a project is in an identified vulnerable or disadvantaged community and requires local governments or the Commission to address them through their permitting or environmental processes, within bounds of their respective authorities and jurisdictions. It would be helpful to provide proposed criteria or guidance to develop a shared understanding of how local governments and community stakeholders can discuss and determine disproportionate impacts and, hopefully build stronger, collaborative relationships. **2**

2. Public Access

Finding c and Policy 8 (Staff Report p.19, 26) We would like BCDC's findings and public access policies to include a clearer recognition of the unique characteristics of urban waterfront public access areas. Please consider adding language acknowledging that there are times and places where public spaces can invite and foster diverse social interactions and strengthen community bonds through active gatherings and group activities (e.g., art fairs, outdoor concerts, recreational uses and concessions) that enliven public access areas. Waterfront areas in urban settings like San Francisco are available to a broader diversity of populations than natural and shoreline areas located more remotely from population centers. Public access policies for urban parks and public access areas should include some provision for active uses and designs, flexible spaces that can support a variety of programs and recreational uses, including accessory commercial activities (e.g., food service, pop-up uses), and interactive designs with adjacent developments. Allowing design flexibility in urban public access areas is consistent with the proposed social equity policies, and Public Access Policy 5 to promote inclusive, meaningful community engagement and influence in developing public open spaces that are embraced by the community. Parks and public access areas that are active and well-used also contribute to the safety and security of urban waterfronts. **3**

Finding h and Policy 2 (Staff Report p.20; 24) Please consider the extent to which the uneven distribution of public access around the Bay may be a result of requiring on-site project-based public access instead of plan-based public access. Policy 2 allows consideration of in-lieu public access near identified disadvantaged or vulnerable communities, but only if it isn't feasible near the project site. Could Finding h be broadened to state that Special Area Plans provide opportunities to consider how a plan-based approach to providing public access could result in a more equitable distribution of public access resources throughout a plan area by, for example redirecting public access obtained through project permits to underserved locations? And could Policy 2 be broadened accordingly? **4**

Policy 5 (Staff Report p. 25) requires meaningful community involvement in siting, design, programming, and management. It would be helpful to provide proposed criteria or guidance to develop a shared understanding of how local governments and residents can work together to develop stronger, collaborative community relationships. **5**

3. Mitigation

Policy 3 (Staff Report p. 37) calls for meaningful involvement of nearby communities in certain mitigation project processes (identification and prioritization of potential projects, monitoring and programming of a mitigation site). It would be helpful to provide proposed criteria or guidance to develop a shared understanding of how local governments and residents can work together to develop stronger, collaborative community relationships that would satisfy BCDC's standard. **6**

Policy 4 (Staff Report p.38) adds equity to considerations of appropriate location and design of compensatory mitigation. It would be helpful to provide proposed criteria or guidance for these determinations. **7**

Thank you for this opportunity to comment. We look forward to continuing to work with BCDC towards equitable access and safe enjoyment of the Port of San Francisco waterfront. Given our respective efforts to update our planning policies and actively address the pressing issues of social and economic equity, we welcome the opportunity to exchange information in the interest of developing shared concepts and strategies that align and strengthen our collective efforts. Please do not hesitate to contact me at diane.oshima@sfport.com if I can answer any questions about these comments.

Sincerely,



Diane Oshima
Deputy Director, Planning & Environment

cc: Anne Cook
Kari Kilstrom
Lindy Lowe

SFEP

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July 12, 2019

Zachary Wasserman

Chair

SF Bay Conservation and Development Commission

455 Golden Gate Avenue, Suite 10600

San Francisco, CA 94102-7019

ATTN: Clesi Bennett

**RE: Bay Plan Amendment No. 2-17 Concerning Social Equity and
Environmental Justice**

Dear Chair Wasserman:

Thank you for the opportunity to comment on the proposed Bay Plan Amendment No. 2-17. The San Francisco Estuary Partnership (Partnership) commends BCDC's effort to incorporate environmental justice and social equity into the planning, design and permitting of shoreline projects. The Staff Report and Preliminary Recommendation for Proposed Bay Plan Amendment No. 2-17 acknowledges the contribution of government agencies in the legacy of underrepresentation and injustice for California Native Americans and low-income communities of color, and recognizes that addressing environmental justice and social equity is essential for the health and resilience of the entire San Francisco Bay Area.

The Partnership recently led more than 70 organizations to collaborative agreement on long term goals and a suite of actions to be taken over the next five years to protect, restore, and sustain the San Francisco Estuary. The resulting 2016 Estuary Blueprint reflects the changing context of Estuary management over the last few decades, focusing on the need to plan and adapt to climate change. The Blueprint acknowledges that some communities are more vulnerable to the impacts of climate change than others and that using resiliency planning to address issues related to environmental justice and social equity is critical. The Blueprint further recognizes that the health of the Estuary and the health of our communities are interdependent, and that social-ecological resilience is an area that should be further addressed in the next version.

Since the release of the 2016 Estuary Blueprint, the Partnership has worked to build capacity to address racial and environmental justice more fully in our work and incorporate it into our projects and initiatives. We have participated with BCDC in this learning process through the Government Alliance on Race and Equity as well as through the Bay Area Regional Collaborative, and have seen exciting shifts in our program as we have moved to put racial and environmental justice toward the heart of our work.

Although there are areas of the proposed Bay Plan Amendment No. 2-17 that could benefit from some further attention and refinement (in particular the mitigation section includes some confusing language), and there may be

additional Bay Plan sections that could or should be revised (the climate change section for example), proposed Bay Plan Amendment No. 2-17 is an important step in addressing disproportionate impacts and equitable distribution of benefits, and we commend BCDC for putting forth the amendment. These actions and others provide an important starting point for greater equity, inclusion and justice. We encourage the Commission to see this as a beginning to a long-term conversation with community leaders, equity advocates and disproportionately impacted communities about their concerns and vision for the future of the Bay shoreline. There is much work to do, and we applaud the Commission for taking this exciting step.

Sincerely,



Caitlin Sweeney, Director

July 12, 2019

San Francisco Bay Conservation and Development Commission
455 Golden Gate Avenue, Suite 10600
San Francisco, CA 94102

Dear BCDC Commissioners,

Thank you for considering the recommendations we the members of the Environmental Justice Review Team submitted on April 22, 2019 in response to BCDC's proposed Environmental Justice and Social Equity Amendment (EJ Amendment) for the San Francisco Bay Plan (Bay Plan). Based on the extensive adoption of our recommendations into the May 31st Staff Planning Report, we commend BCDC for genuinely recognizing community input as a supportive and worthwhile priority in this amendment process.

The Staff Planning Report includes proposed findings, justifications, and policy amendments that we feel adequately address previously lacking environmental justice considerations in the Bay Plan. BCDC Staff excelled at accurately and thoroughly capturing in the May 31st Staff Planning Report the intentions and explanations raised by the EJ Review team, which aimed to address and rectify historic discriminatory and unfair policies that have caused disproportionate exposure to pollution, as well as underrepresentation in policy-making for low-income and communities of color.

The proposed recommendations to the EJ Amendment not only bolster BCDC's commitment to prioritize EJ and Social Equity values and principles in the agency's work and processes, but the *complete* adoption of these recommendations into the Bay Plan will also communicate to marginalized communities that they are invaluable stakeholders in the Commission's decision-making process. Groups who have a long history of racial and socio-economic discrimination will acknowledge and memorialize this historic decision by a government agency to take accountability for the full range of environmental and societal consequences associated with its decisions. Thus, communities will be more receptive to partnership opportunities, which are critical to ensuring the sustainability of BCDC's permitted programs, as well as to the overall resilience of the region.

This collaborative effort in which the EJ Review Team has participated has already presented a shining example of what can be accomplished when previously disparate perspectives can unite as equals for a shared cause; "To protect and enhance San Francisco Bay and to encourage the Bay's responsible and productive use for this and future generations." By retaining all of the recommendations set forth in the Staff Planning Report, BCDC will emerge as a government leader that has realized genuine community trust. The Commission will also continue to serve as a role-model to other regional, state and national government agencies undergoing restructuring efforts around Environmental Justice, Social Equity, Diversity and Inclusion, especially those agencies entrusted with permitting authority.

In this critical moment in history when over 700 cities around the world, including six Bay Area cities, have declared a state of climate emergency, time is of the essence. The United Nations recently published a report underscoring that Climate Change will have the greatest impact on the most vulnerable communities; “Climate change carries immense implications for human rights, including to life, food, housing and water. It will also impact democracy, as governments struggle to cope with climate consequences and persuade constituents to accept the major social and economic transformations required – rendering civil and political rights vulnerable.”¹

We can no longer afford to advance with business as usual, at the mercy of industry and development interests. BCDC cannot both declare a commitment to protecting our region from current and impending health, safety, and climate impacts while also continuing to allow budgets and project timelines alone to dictate permitting procedures. Like “canaries in the coalmine,” low-income communities of color, and other marginalized and vulnerable groups are at the most risk now, but the reality will reach all communities throughout the Bay much sooner than we think.

2

Therefore, we the Environmental Justice Review Team, and the communities we serve, strongly urge BCDC to commit to the full adoption of all of the amendments set forth in the Staff Planning Report. We presented these recommendations as mandatory, yet preliminary, steps in the right direction if we want to truly protect environmental and social health and justice in the Bay Area.

3

Again, we appreciate your consideration of these issues, and look forward to BCDC’s publication of the final EJ Amendment to the San Francisco Bay Plan.

Sincerely,

Members of The Environmental Justice Review Team

Nahal Ghoghaie Ipakchi

Sheridan Noelani Enomoto

Julio Garcia

Terrie Green

Carl Anthony

Paloma Pavel

¹ World faces ‘climate apartheid’ risk, 120 more million in poverty: UN expert
<https://news.un.org/en/story/2019/06/1041261>



July 10, 2019

Zachary Wasserman
Chair, Bay Conservation and Development Commission
455 Golden Gate Avenue, Suite 10600
San Francisco, CA 94102

RE: Bay Plan Amendment No. 2-17

Dear Chair Wasserman and Commissioners,

The undersigned organizations are writing to recommend changes to the proposed Bay Plan Amendment No. 2-17, “Environmental Justice and Social Equity.”

According to estimates from the Bay Area Council Economic Institute, the Bay Area could suffer \$10.5 billion in damages from an extreme storm event under current sea levels. Furthermore, the Ocean Protection Council estimates sea levels at the Golden Gate will likely witness as much as 13 inches of sea level rise by 2050, and as much as 41 inches by 2100. Restored wetland habitat can help adaptation efforts in parts of the Bay, yet the San Francisco Estuary Institute estimates these projects will become increasingly cost-prohibitive beyond 2030 on account of sea level rise.

In short, the Bay Area has an exceedingly small window to defend shoreline communities and infrastructure of all types from rising sea levels, and the exigencies of climate change require any action taken by BCDC—or any other agency with jurisdiction over the Bay shoreline—to be in the service of speeding projects and reducing costs. That’s why many of our organizations were early participants and supporters of the Bay Regional Regulatory Integration Team.

We are concerned that several of the policy changes under the proposed Amendment 2-17 would hinder efforts to protect coastal communities and infrastructure from rising sea levels, and detail those concerns in the below comments and suggestions.

Environmental Justice and Social Equity, Draft Policy Change 2

BCDC lacks legal jurisdiction over local planning processes, and a recent audit concluded that limited staff resources “is hindering [BCDC’s] ability to fully achieve” several of its primary objectives. As such, we recommend the following changes:

Since addressing issues of environmental justice and social equity should begin as early as possible in the project planning process, the Commission should support, and encourage, ~~and expect~~ local governments to include environmental justice and social equity in their general plans, zoning ordinances, and in their discretionary approval processes. Additionally, ~~the Commission should be a leader in collaborating~~

~~transparently with other agencies on issues related to environmental justice and social equity that fall outside of the Commission's authority or jurisdiction.~~

Environmental Justice and Social Equity, Draft Policy Change 3

This proposed policy change establishes a vague and subjective standard for community engagement and outreach which could be abused to indefinitely delay critical shoreline protection projects. It is unclear who will determine if a project's outreach and engagement was sufficient, and by what standards this outreach will be judged. BCDC should provide clear guidelines as to the amount and types of public engagement a project sponsor is expected to provide. In lieu of such clarity, we recommend the following changes:

~~Local governments and project applicants are should be encouraged and expected to conduct equitable, culturally-relevant community outreach and engagement to meaningfully involve potentially impacted communities for major projects and appropriate minor projects in identified vulnerable or disadvantaged communities, and such outreach and engagement should continue throughout the Commission review and permitting processes. Evidence of how community concerns were addressed should be provided. If previous outreach and engagement were insufficient, further outreach and engagement should be conducted prior to Commission action.~~

2

Environmental Justice and Social Equity, Draft Policy Change 4

As written, this proposed change could delay and add costs to critical shoreline flood protection projects. This requirement to assess project impacts is redundant as it already falls within the purview of a CEQA analysis which is conducted by the local lead agency. Also, BCDC policies must have a direct nexus to the subjects that are within its legal purview under the McAteer-Petris Act. Furthermore, the language contains no mechanism for weighing a project's benefits against potential adverse impacts. Finally, BCDC policies must have a direct nexus to subjects that are within its legal purview under McAteer-Petris. We recommend the following changes:

~~If a project is proposed within an identified vulnerable or disadvantaged community, potential disproportionate burdens from project s-impacts on shoreline public access should be identified with the potentially impacted communities. Local governments and the Commission should take measures through environmental review and permitting processes, within the scope of their respective authorities, to avoid, and/or minimize, and/or compensate for disproportionate adverse project-such impacts on the identified vulnerable or disadvantaged communities in which the project is proposed.~~

3

Shoreline protection, Draft Policy Change 1

Modifications to the bay shoreline produce ripple effects that impact other areas of shoreline, particularly at the Operational Landscape Unit scale. While in certain instances requiring project applicants to analyze these impacts may be reasonable, we're concerned that a broad interpretation of this policy change could be used to unduly halt critical shoreline protection projects, or to render such projects financially infeasible through compensatory requirements. Ultimately, protecting the bay shoreline will require approving shoreline protection projects and accepting some risk. Also, BCDC policies must have a direct nexus to subjects that are within its legal purview under McAteer-Petris. We recommend making the following changes.

~~New shoreline protection projects and the maintenance or reconstruction of existing projects and uses should be authorized if...(f) adverse impacts on shoreline public access at ~~to~~ adjacent or nearby areas, such as increased flooding or accelerated erosion, are avoided or minimized. If such impacts cannot be avoided or minimized, measures to compensate should be required.~~

4

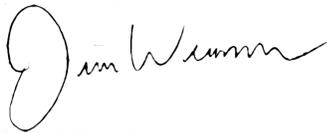
Mitigation, Draft Policy Change 3

As written, this proposed change could delay and add costs to critical shoreline flood protection projects. Terms like “meaningful involvement”, “insufficient”, and “appropriate minor projects” should either be clearly defined or deleted.

For major projects that require mitigation and appropriate minor projects that require mitigation, nearby communities should be meaningfully involved in an equitable and culturally-relevant manner. In particular, underrepresented communities should be involved. This should include consultation with the community in the identification and prioritization of potential projects, and in the monitoring and programming of a mitigation site. If previous outreach and engagement was insufficient, further outreach and engagement should be conducted prior to the Commission action.

Thank you for your leadership, and for considering our views.

Sincerely,



Jim Wunderman
President & CEO
Bay Area Council



John Coleman
President & CEO
Bay Planning Coalition



Bob Glover
Executive Officer
Building Industry Association



Kristin Connelly
President & CEO
East Bay Leadership Council



Cynthia Murray
President & CEO
North Bay Leadership Council



Rosanne Foust
President & CEO
San Mateo County Economic Development Assn.



Mike Mielke
Senior Vice President
Silicon Valley Leadership Group

From: "Church, Sarah GSA - Sustainability" <Sarah.Church@acgov.org>
Date: Monday, July 15, 2019 at 12:44 PM
To: "Bennett, Clesi@BCDC" <clesi.bennett@bcdc.ca.gov>
Subject: RE: Questions on BCDC's proposed EJ policies

Hi Clesi,

Here are my comments on the draft:

- One item covered in the proposed policies is the limited role that BCDC plays in the entitlement process, and the role of local governments which can set a process on the right track (or not), mentioned on page 15. I would be curious to know if clear guidelines or toolkits exist for local governments to guide practical consideration of equity in a bay development process. I appreciated the very basic but delineated practical policy measures that can be undertaken on page 4. I envision a guide with case studies and parameters for implementing equity in a permit approval process, when submitting an application for a permit (on the part of a local government), and other relevant processes. If this guidance is already available, it could be linked or referenced in these policies. If it is not, ideally it would be co-created with community members and community-based organizations to ensure its relevance and effectiveness. **1**
- Many jurisdictions in the Bay Area are increasingly using the “public participation spectrum” as a reference point for engaging community. The spectrum describes public participation efforts that passively “inform” to ones that “empower” through community-led decision-making. It may be useful to reference this spectrum and denote the relationship between the approaches outlined in BCDC policies and this spectrum framework. Some of the language in the proposed policies reflects a “consult” approach and other sections reflect “collaborate.” This may be intentional, but it might be useful to calibrate the approach across different sections of the policy. For example, the reference to Native American communities is described as acknowledgement, which is even more passive engagement than “inform,” but other sections reflect input into decision-making. It would be useful to give reasoning for the different levels of community impact on decision-making recommended in these policies, if possible, so that these distinctions can be made transparent and well-understood. If the spectrum were referenced, the role of community in decision-making could be maximized, and public participation efforts designed to, for example, “inform,” could be presented as such, to increase transparency and foster trust over time. **2**

Thank you for the opportunity to participate (and your follow-up!).

Best,
Sarah

Sarah Church | Sustainability Project Manager
Office of Sustainability | Alameda County GSA
(510) 208-9654 | www.acsustain.org



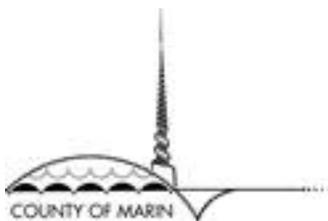
From: "Choo, Chris" <CChoo@marincounty.org>
Date: Tuesday, July 9, 2019 at 5:54 PM
To: "Bennett, Clesi@BCDC" <clesi.bennett@bcdca.gov>
Subject: RE: Questions on BCDC's proposed EJ policies?

Hi Clesi,

Great job pulling this work together. I commend your time researching and compiling this information. The resulting staff report on the issues is comprehensive and very well done. Overall, I think this outlines the history, impacts, and issues well, but would encourage more resources like maps to demonstrate areas of concern and areas of existing coastal resources for recreation and access. I realize this can be a large undertaking, so it could be quickly done using existing resources like local, regional, state, and federal parks websites, the [Bay Area Water Trail](#) or the [San Francisco privately-owned public space website](#). These sites show where access and public spaces exist and give example of designs that could be used to develop an engagement effort with communities. **1**

I think it would also be beneficial to identify a process for project proponents to follow to address the public access, shoreline protection, and mitigation policies. The language is somewhat open-ended and could add years and substantial cost to a project. I realize the scale of some of the projects that come before BCDC are backed by those who have the resources to make communities significantly better, but I also know that it can be challenging to reach consensus on any project. Policies should also recognize private vs. public-funded efforts differently regarding the level of mitigation required. For public projects, money would have to be identified up front and the design would require steps towards meeting the goals of these policies during project development and not once the permits are submitted. Maintenance or repair projects could be left undone, threatening other aspects of community wellbeing if compensatory mitigation is required. It would certainly be a challenge for public agencies' budgets. It would be good to identify a stepwise process as part of the adoption of these policies to help guide expectations for everyone involved. **2**
3

I hope my comments are helpful. Please feel free to reach out with any questions and congratulations again!



Chris Choo
PRINCIPAL WATERSHED PLANNER

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From: Claire Griffing <cgriffing@albanyca.org>
Sent: Friday, June 28, 2019 4:14 PM
To: Bennett, Clesi@BCDC
Subject: RE: Questions on BCDC's proposed EJ policies?

Hi Clesi,

Thanks for sending this along! Overall, this looks like a fantastic document, and we're excited to see BCDC take this on as an important priority for the region. A few minor comments:

1. This sentence on page 7 and page 15 seems to be missing a word – it doesn't read quite right: "Ensure that the needs of vulnerable shoreline communities are addressed as the Commission assists all stakeholders plan for current and future climate hazards."
 - a. Suggestions:
 - i. Top choice: **When** the Commission assists all stakeholders **in planning** for current and future climate hazards, ensure that the needs of vulnerable shoreline communities are addressed.
 - ii. Ensure that the needs of vulnerable shoreline communities are addressed as the Commission assists all stakeholders **in planning** for current and future climate hazards. **1**
 - iii. Ensure that the needs of vulnerable shoreline communities are addressed as the Commission assists all stakeholders **to** plan for current and future climate hazards.
2. Policy 1 on page 17: Since addressing issues of environmental justice and social equity should begin as early as possible in the project planning process, the Commission should support, encourage, and expect local governments to include environmental justice and social equity in their general plans, zoning ordinances, and in their discretionary approval processes. Additionally, the Commission should be a leader in collaborating transparently with other agencies on issues related to environmental justice and social equity that fall outside of the Commission's authority or jurisdiction.
 - a. How is the Commission going to "support, encourage, and expect local governments" to do this? This needs more specificity. Are there requirements for amendments to these planning documents? Will the Commission provide template language? If so, that should be stated. It should also be clarified that the Commission does not have jurisdictional authority over local governments, and that the Commission hopes to support/encourage (perhaps not expect) that local governments do this through outreach, template language, etc. **2**
3. Local governments and project applicants should be encouraged and expected to conduct equitable, culturally-relevant community outreach and engagement to meaningfully involve potentially impacted communities for major projects and appropriate minor projects in identified vulnerable or disadvantaged communities, and such outreach and engagement should continue throughout the Commission review and permitting processes. Evidence of how community concerns were addressed should be provided. If previous outreach and engagement were insufficient, further outreach and engagement should be conducted prior to Commission action.

- a. Is there a way to define impacted communities? Is there a distance from a project site, perhaps? How does a jurisdiction determine this early on in the process? I ask because we're very small and I am curious whether this would include populations outside of our jurisdiction (which would be a bit unprecedented for in-jurisdiction planning processes).

3

Thanks for sharing!

Thanks,

Claire Griffing

Sustainability & Resilience Manager | PIO

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I also want to address how these amendments will impact project timelines and costs.

The proposed policies encourage and expect communities to be meaningfully involved from the earliest project stages prior to the Commission's review. As you know, the Commission's review is often toward the end of the entitlement process and projects are nearly done with the process by the time the Commission reviews them. This is due to the fact that most other processes and permits needed, such as environmental review and local discretionary approval, are required to consider a BCDC permit application filed.

If projects meaningfully involved communities prior to BCDC's review, they will not need to conduct additional outreach and engagement for BCDC's permit process as this could create burdens on all involved. Some projects are already implementing this outreach and engagement as part of their normal course of business and it is a trend that is increasing.

With impending climate change, the time to act on environmental justice and social equity is now. If meaningful community involvement is ensured, projects are more likely to be inclusive and positively address issues of health, racial, and economic disparity that will only widen and increase with climate change.

We received several public comment letters from the entities you see on this slide. The ones grouped together indicate they submitted a single letter together. We sent these to you all on Monday and one of the letters came in late, so you have a printed copy of that in your packets. And the letter that came in late was from the Committee for the Green Foothills.

Thank you for your time. And with that, I will turn it back over to Chair Wasserman.

Chair Wasserman continued the meeting: If I understand the procedure correctly, we will now hear from the public speakers but first we need to open the public hearing. The public hearing is opened.

Now we will start with the public speakers. Speakers will be limited to three minutes except for one at the end where there has been a ceding of time. Mr. Carl Anthony is our first public speaker.

Mr. Anthony addressed the Commission: Good afternoon members of the BCDC Commission, staff members, and members of the public. I am required to acknowledge the real support of BCDC and its staff and particularly the participation of Clesi Bennett in working with many of our community organizations to familiarize ourselves with the operations of BCDC.

We want to celebrate the work that has been done so far by BCDC staff and the community-based organizations to get us to this point.

I want to also acknowledge the importance of the completion of this stage by introducing the legislation that is proposed as a way of formalizing the participation of communities of color and their advocates and partners in the BCDC process.

The issue of sea level rise has created awareness on people throughout the whole globe of the importance of global climate change.

We understand from these comments that it is anticipated that around the globe, sea level rise by the end of the century, will be at least two feet but many more feet in many other locations. And so, the urgency is upon us to be able to make those changes. And BCDC has been preparing our neighborhoods and communities for addressing these changes.

We are pleased with the progress which has been made, but we have to acknowledge the fact that the progress facing new challenges as we emerge.

In particular, the importance of climate justice requires us to recognize that communities that are affected by climate change have the least opportunities to participate in creating the challenges of climate change and yet are responsible for responding to most of the burdens that have been placed upon neighborhoods and communities and therefore the issues of justice arises in two dimensions; we have to participate in creating the foundation for advanced participation of many of these communities of color in the process, as well as mitigating the impacts.

So I want to say that, we urge the Commission to work with our neighborhoods and communities much more aggressively in the period ahead after the decisions have been made about the environmental justice portion, but also acknowledging the importance of BCDC collaborating with emerging processes in the state and federal government for a Green New Deal to be implemented throughout the nation.

A Green New Deal for engaging the communities that have been suffering the most to be able to participate in the organization of this process as we go forward in the decades ahead. Thank you very much.

Chair Wasserman continued: Thank you Mr. Anthony. I was a little gentler in time with Mr. Anthony in respect for the fact that he has been toiling in these fields for a lot longer than most of us. I may not be as gentle with others.

Ms. Paloma Pavel commented: We are living in an unprecedented, historical moment. And this is an historical meeting that is occurring. And we would like to acknowledge some of those from our community who are here especially the inter-generational representation that we have here. **2**

We are dedicating our remarks to you today because you are carrying the burden of this going forward. We also want to acknowledge the Ohlone People whose land this meeting takes place on.

BCDC is leading the pack. You are setting an unprecedented role not only for the region but also for the state; not only for the state but also the nation.

We are thrilled to be part of this collaboration which has been deep and longstanding over several years. And we are living in a moment that things like the Green New Deal are coming forward and this is an important moment to join with and link with other agencies locally; so building more collaboration not only with community groups but also with other agencies. The people are looking to you from the community side but also from the agency side – locally, statewide, and nationally.

So, we want to thank you for your leadership today and I want to encourage you to listen deeply to what is being said today because it really is – we are the canaries in the mine, the vulnerable communities.

And what goes unheeded here is at the peril of all of our communities. Thank you.

Mr. Julio Garcia from Nuestra Casa gave public comment: I am part of Nuestra Casa in East Palo Alto. I want to thank you for being here and looking at the public comments. **3**

First of all, a lot of environmental justice groups that we see right here – we are ready to meet you in the middle. We are educating our communities about environmental health, language access; changing the conversation about what is going on in our communities in exchange for what is going on at a scientific level. So we are there. We live there in our communities every day. We see what is going on in our communities especially the communities in the South Bay like East Palo Alto.

We are supporting BCDC and definitely want to support the enforcement of these regulations that are going to be moving.

I think relationships with local jurisdictions are very important. That will be the key of the success of BCDC and all of this that we are doing.

Don't forget that local governments need to involve community members – counties, cities, and others that need to provide the outreach to community members because if I don't live there, I cannot say what is going to happen in my city. And the only ones who can represent our cities are people who live there and those are the community members that we are not reaching.

In conclusion, I want to say that we need to plan together on climate change. We need to look for ways to engage the community in a more meaningful way. A meaningful way for me is to go where the communities are. A meaningful way for me is to talk in a language that the community will understand, what is not only environmental justice but social justice.

I want to thank you and I want to encourage you to work with local jurisdictions, but local jurisdictions need to work with communities. Thank you.

Ms. Iliana Garcia from Nuestra Casa was recognized: I work for Nuestra Casa in East Palo Alto. I have been doing community work for a long period of time but at Nuestra Casa it has been about four years. The one thing that I have learned is that no matter what kind of work you do trust is a big piece.

4

And the trust that community members and the people that live in our communities, if they trust you as a community organization, they will take part in civic engagement. They will take part in listening to you and taking part in all of these plans.

So, with that being said we are all here and we are talking as individuals, but we have communities that we represent. And we are here to let you know that trust is a big factor and if you earn the trust as BCDC Commissioners and you go through these procedures and approve these policies in a manner of respect and considering that trust, you will get community members to trust you in future planning.

Communities will trust you when they learn that BCDC didn't give into industry pressure in order to forcefully protect the health and safety of the Bay and the Bay Area communities. Thank you very much.

Ms. Roxana Franco commented: I also work with Nuestra Casa of East Palo Alto and I want to thank you for listening to us and a huge shoutout to the BCDC team for supporting us and really taking the time to listen to our community needs and wants versus them coming in and telling our community what they need.

5

One thing that we should keep in mind is that community-based organizations already have the staff and capacity to come in and conduct engagement. And if you are only focused on building your staff capacity, it is already creating a barrier between government agencies and community.

Nuestra Casa has been around for 17 years, so building trust within a community is hard. It takes years to build that community, but we know that most of the time if we come in and bring you something, it is because we know it is going to help our community. We know what the needs are. We live in the community. We look just like the community. We know what those are.

It is a big point to make – let’s work on enhancing the trust within the community and not just pushing them aside but also to keep in mind that we already have the experience to come in and help out agencies.

We can be the middle men and we can negotiate with you and also explain to the community. Let’s just work together versus separate. Keep us in the loop as CBOs and make sure that we are working together.

Ms. Terrie Green, Shore Up Marin City addressed the Commission: I am from Shore Up Marin City along with all of our young environmentalists and it feels to us in Marin City that the Bay is right there in our laps because it is. Marin City is at the base and at the entrance of Marin. Many times, the 101 Freeway floods and we can’t get in or out.

There are times when we can’t get in and out of Marin City because of the flooding.

We are urging you to retain every last amendment that was included in the May 31st report that you received.

Please don’t make a change in those amendments. We ask that you really take a look at the fact that climate change is upon us. People are worried about what is going on.

The decisions that you make today are going to affect so many people in the future.

Why are we here? Why are you here? Why are we all here? You especially are here to put protections in place for those coming after us, especially our young people. You are here to make the planet better, to make it safer, and to make it healthier for everyone.

As leaders you are here because you a beacon of hope for those of us who are looking for someone to stand up and be bold as you talked about earlier – to be courageous, to make those hard decisions that are going to protect us, protect these young people.

Your leadership will incite these young people to become leaders and to carry on what you all are doing today. I would like to say thank you so much for sitting in these seats. It is hard to sit in seats like this. It is hard to make the decisions for those who need your help the most. Thank you so much.

Mr. Paul Campos addressed the Commission: I represent the Building Industry Association. We participated and signed on to a letter that you have in your materials indicating support for the overall direction that the Commission is taking with these proposed amendments but requesting some changes to the proposal in the area of clarifying in particular areas of what is BCDC’s authority versus local government especially in the CEQA process.

So, the language we are suggesting to be changed would clarify what policies BCDC expects to be mandatory versus what it is going to be suggesting or recommending to local governments. We would like to have that clarified.

And then second on the issue of the CEQA process in identifying impacts – clarify where BCDC is going to be submitting comments as a responsible agency as opposed to acting in a lead agency capacity and seeking to mitigate impacts beyond public access which we think there needs to be that nexus and tie as far as conditions that BCDC is going to try to impose itself on permits. We think those need to be tied to public access under the McAteer-Petris Act. Thank you for considering our comments.

Ms. Sumi Selvaraj of the California Coastal Commission was recognized: I am here today on behalf of the California Coastal Commission staff. In my role at the Coastal Commission, I work on implementing the Coastal Commission’s recently adopted environmental policy and co-lead our government alliance and race and equity staff team in our racial equity work.

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While the Coastal Commission and BCDC have different jurisdictions and responsibilities, our agencies comprise the federally-approved California Coastal Management Program along with the California State Coastal Conservancy.

Both of our agencies share similar goals of managing coastal development in California’s coastal zone and protecting the state’s coastal resources for current and future generations.

For decades, our Commissions have approved permits and plans that have led to various successes in protecting coastal resources, increasing public access, restoring habitat, and minimizing environmental impacts of coastal development.

However, the benefits of coastal resource management and the burdens of coastal development have not been equitably distributed.

Either agencies move forward in managing coastal resources in the present and in the future, facing various challenges including planning for sea level rise and there is increased urgency for equitable coastal management.

Both agencies embarked on different processes to integrate environmental justice and social equity into our programs, which also reflects the unique administrative and regulatory processes of our different mandates.

BCDC is amending the San Francisco Bay Plan, while earlier this year, the Coastal Commission adopted its first environmental justice policy.

Coastal Commission staff has partnered with BCDC staff and State Lands Commission to convene the Oakland Environmental Justice Round Table last year. Additionally, our staff continued to meet regularly to learn from one another about unique environmental justice concerns and regulatory challenges that intersect with managing coastal resources.

BCDC’s proposed Bay Plan Amendment includes findings and policies that outline the steps towards meaningful community engagement, equitable public access, building partnerships with local governments to implement and achieve environmental justice outcomes, and identifying opportunities for equitable mitigation.

On behalf of the Coastal Commission staff, I support BCDC staff on its work to develop findings and policies that will inform and lead the way for equitable coastal management. Thank you.

Mr. Roman Berenshyteyn of the Bay Planning Coalition presented the following: I am here on behalf of the Bay Planning Coalition. We very much appreciate BCDC's work to integrate environmental justice and social equity principles into the Bay Plan. However, we do have some concerns that some of the language as currently proposed may lead to costly or lengthy delays in a time where we want to be working expeditiously to address sea level rise, which will cost the region 50 to 100 billion dollars just to replace shoreline infrastructure around the Bay. **9**

In particular, we are concerned because, on one hand it is unclear what would satisfy the criteria for community outreach and moreover, some of the proposed requirements for assessing project impacts may be redundant because such an assessment already falls within the purview of a CEQA analysis.

So, to address this, we made a number of language suggestions in our public comment letter with some partner organizations that we believe will remedy our concerns but without compromising the value of this amendment.

Again, we just want to make sure that projects are able to move forward quickly to protect against sea level rise. And we look forward to continuing a productive dialogue with BCDC on this issue as it moves forward. Thank you.

Ms. Nahal G. Ipakchi was recognized: Thanks for having us this afternoon. I am happy to speak about the work we have been doing with the Commission staff on the Environmental Justice Review Team. **10**

I want to drive the point home that we can't continue with business as usual regarding timelines and budgets. I want to emphasize that gradual, incremental development that includes community buy-in and participation in the planning process will ensure successful and sustainable projects. And that community pride and common resource protection will increase as you hire your workforce directly from the surrounding neighborhoods. And the culture will shift to one of respecting and protecting the commons, rather than seeing it as another project just dropped in by government to be destroyed or to be neglected in the future.

I also want to emphasize that while the economic impacts might not be clear as far as environmental justice and community engagement goes, this small near-term investment in environmental justice and community outreach and engagement will lead to immeasurable long-term economic, health, and social welfare benefits downstream.

I encourage BCDC staff to research studies about the cost effectiveness of community engagement to make an economic argument for why it is important. Thank you.

Sheridan Noelani Enomoto, Greenaction for Health and Environmental Justice addressed the Commission: Chloe is donating her time to me. **11**

Chair Wasserman acknowledged: Thank you. So you have six minutes.

Ms. Enomoto continued: Aloha Nui Kakou, my name is Sheridan Noelani Enomoto. I am with Greenaction for Health and Environmental Justice. I am grateful to be here with this organization, with the group of those representatives that spoke earlier, and all of the communities that we bring with us.

Often there is a question of who are we? I want to bring into the room Hawaii right now. There is this small island in the middle of the Pacific and there are people standing to protect their land, but not only just their land or a mountain, but the tallest mountain in the world from the summit to the bottom of the sea floor that has also proven to help with climate change.

But what is an island in the middle of the Pacific? Who is an island in the middle of the Pacific? Who is the Bay in the big country that we live in? And who is BCDC amidst all of the different government agencies especially in the permitting process and policy world?

People in government agencies, other than yourselves come up to me often in my work and they say, Sheridan, what can we do? What kinds of things can we look for? Where is our guide in this?

And for me it is easy – BCDC. So, you are going to be hearing a lot from others besides the Coastal Commission, besides the Lands Commission. You are a star right now. You are a beacon in this conversation.

And I had the honor of being in this room in July 2017 when social equity and environmental justice was voted on. I remember saying, water is a language, and this is what water has taught me. Water is a “we”, it is not an “I”.

The water is rising, we know this. So that means we have to rise also – together. Clesi was right in her presentation when she said, the time is now. The time is now. The question is who are you going to be in this story when the waters come or are coming? Who do we want to be?

Never underestimate the power of tiny, small things or people coming together because I can tell you, as I speak right now, it is the only thing that will change the world and it continues to be so.

There are choices and there are consequences. Such a simple, simple thing to say. But we can't afford to negate any piece of all the hours of hard work that we have put into this process.

We are making history right now. But again, who do you want to be in that story? I know where I stand, and I know who comes with me in the “we”. And I am grateful that I can be here again, two years later to see how far we have come. And I know we can only do better and rise to the occasion. Thank you.

Chair Wasserman announced: That concludes our speakers. May I have a motion to close the hearing?

MOTION: Commissioner Vasquez moved to close the public hearing, seconded by Commissioner Gorin, the motion carried by a voice vote with no abstentions or objections.