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DRAFT MINUTES

TO: All Commissioners and Alternates

FROM: Lawrence J. Goldzband, Executive Director (415-352-3653; larry.goldzband@bcdc.ca.gov)
Sierra Peterson, Executive & Commissioner Liaison (415-352-3608; sierra.peterson@bcdc.ca.gov)

SUBJECT: Draft Minutes of October 15, 2026 Hybrid Commission Meeting

1. Call to Order. The hybrid meeting was called to order by Chair Wasserman at 1:04 p.m. The meeting was held with a principal physical location of 375 Beale Street, San Francisco, California, and online via Zoom and teleconference.

Chair Wasserman announced: Good afternoon, everyone, and welcome to our BCDC commission meeting. My name is Zack Wasserman, and I am the Chair of the Commission. I want to thank the Commissioners who are here at Metro Center, being in person is always better, as well as those who are participating virtually.

Chair Wasserman asked Ms. Peterson to proceed with Agenda Item 2, Roll Call.

2. Roll Call. Present were Chair Wasserman, Vice Chair Eisen, Commissioners Ahn, Dorsey (represented by Alternate M. Tam), Dumlao (represented by Alternate Pemberton), Eckerle (represented by Alternate Kimball), Eklund, Gauthier, Gioia, Gonzalez, Gunther, Janoff, Lee, Moulton-Peters (joined after Roll Call), Ramos, Randolph, Showalter, L. Tam (represented by Alternate Gilmore), Taylor, and VACANT (Nelson).

Legislative Appointee Catherine Stefani, appointee of the Speaker of the Assembly (represented by Alternate Falzon) was also present.

Chair Wasserman announced that a quorum was present.

Not present were Commissioners: Association of Bay Area Governments (Addiego), Department of Finance (Benson), U.S. Environmental Protection Agency (Blake), Governor (Hasz), Sonoma County (Hermosillo), Solano County (Mashburn) , Business, Transportation & Housing (Nguyen).

3. Public Comment Period. Chair Wasserman called for public comment on subjects that were not on the agenda.

Bill Clark commented: Good afternoon, Commissioners. Bill Clark here again. This time to impart additional undisclosed issues facing the Marina Improvement Project.

One major source affecting the origins of the MIRP was an independent study performed for the Board of Supervisors by the BLA to determine the fiscal viability of SF Marina after their ordinance prevented the original design of the MIRP from moving forward. With figures supplied by RPD, the results of the BLA analysis were skewed in RPD's favor, unwittingly providing cover for a less-is-more RPD agenda for SF Marina.

By illuminating one section of the BLA analysis, an opportunity was missed to disclose a major factor affecting the sustainability of SF Marina. The harbormaster supplied the BLA with a detailed accounting of SF Marina berth inventory by boat length to compare to that of other Bay Area marinas.

The figures supplied by the harbormaster included the annual revenue for each boat length. I realized that by doing the math I could determine the potential annual revenue of SF Marina's inventory.

The harbormaster's berth count could have produced 4,214,000 for fiscal year '23-24 in West Harbor, yet RPD projected only 2,600,000, indicating a variance of 1,614,000. If this discrepancy had been uncovered by the BLA, additional inquiry would have disclosed that West Harbor was short the revenue it should be generating and empty berths were the cause; 75 empty berths, to be exact.

The MIRP would have had much different contours if RPD had been required to address its empty berth problem before MIRP design decisions were made. But no authority has questioned or scrutinized SF Marina's revenue figures against RPD claims of robust demand for berths, 90 to 95 percent occupancy, and approved berth rate increases that should have generated greater income.

The RPD narrative of a thriving marina is simply false. The MIRP is forging ahead with a growing number of empty berths, up to 95 or more now in West Harbor, an area where 28 are vacant. If RPD is unable to find tenants for 95 berths in 2026, then how will they be able to find tenants for the 200 new berths slated for East Harbor?

If neglecting to dredge Inner West Harbor since the early 1990s is preventing the tenancies of keeled sailboats, then the dredging of berth inventory needs to be resolved.

If the design decision to optimize revenue in 2010 by choosing 14-foot-wide berths over a wider industry standard, yet are unpopular today due to wider boat designs, then berth reconfiguration needs to be part of the project design plan.

Dan Clark was recognized: Thank you, Commissioners. Same subject, Gashouse Cove. Three weeks from today you will vote on the project application. It is called the Marina Improvement and Remediation Project. It is a partnership between PG&E who is doing the remediation and Rec and Park who is improving the Gashouse Cove.

I am going to give you some of the terminology that you will hear and cue you as to what it really means.

So, you will hear about a settlement agreement between PG&E and Rec and Park. You will hear about a shallow water basin and natural sediment. And if you look at what is on the screen, they are talking about the right-hand column there, the four feet of beneficial use water and the contested block of sand. The terms are shallow water basin and natural sediment.

And then the use for it, what they are talking about is non-motorized watercraft to be used in the four feet of water. The eight feet of water on the left; that is going to be boat harbor. What they mean by that is paddle boards, surfboards, kayaks, rowing machines, canoes with outriggers, that kind of thing.

And the last term that is very important is when the rationale for converting from what was boat harbor to this other kind of water recreation, they will use the term greater public access.

So, I am going to now tell you my language for those.

The settlement agreement between PG&E and Rec and Park is really a bribe. They could not get, Rec and Park could not force PG&E to do what they should do, which is what the bar on the left there is, to dredge it to at least eight feet for beneficial use. So, they ended up with this where they are dredging half of it and they are leaving half of it go fallow. The bribe is that PG&E will pay roughly $95 million of Rec and Park's otherwise expenses.

The shallow water basin and the natural sediment is really a silted-up harbor. That is what happened. It was a marina. It silted up over time because they could not do anything about it. The nonmotorized watercraft, kayaks, rowboats, that sort of thing. That is really the lipstick on a pig. The pig is what is below there. The pig is the fact that there's so much chemicals down there and that they do not want to clean that up because it is very costly, so they want you to approve this idea here.

And the last one, greater public access. That is a really good one because that is a goal. That is actually something that is in the Bay Plan and it is a viable objective that you should have. But in this case, it is really the candy, it is a sugar high. They want you to just not think any further to say, okay, fine, we are going to go ahead and do this and not see what is really going on here. What is really going on here is you are getting lipstick on a pig; and you do not have to buy the pig to get the lipstick. Thank you, and I am sorry for going over.

Chair Wasserman thanked the speakers and continued to the Report of the Chair.

4. Report of the Chair. Chair Wasserman reported on the following:

a. Rising Sea Level Working Group Meeting: We had an interesting, spirited, and I think productive meeting of the Rising Sea Level Working Group this morning. We had presentations from Professor Mark Lubell on an update to his survey about governance issues regarding the Bay. It is still a work in progress, and we will hear more from him.

It does show that public awareness of and support for the kinds of issues that we are discussing and grappling with is significantly increasing. The fact that there were, I think at one point, 80 participants in this morning's session demonstrates that as well.

We heard a presentation from staff on some financing approaches and a new project that we are undertaking to evaluate and help direct and make more productive our efforts regarding financing of the very challenging measures we are going to have to take to adapt to rising sea level.

And we heard a report on how we are looking at governance issues overall. These will continue to evolve, and we will present them.

There was also some significant discussion about the need for us to move from incremental efforts to transformational efforts. We are at a point, in the belief of a number of the participants, Commissioner Gioia and I certainly echoing this, but there were other supportive voices that if we in fact are going to successfully adapt to rising sea level we need to start acting in a bolder way, and that addresses both the Commission, staff, and our partners.

As we embark upon a new strategic planning effort in the coming year, that is going to be particularly important. One of the challenges I will set out for that strategic planning is that as always, it needs to be based on our existing strategic plans and what we have done. It needs to focus a lot more on what we need to do and how we are going to overcome the challenges that we face in order to accomplish that; to save and preserve both our Bay, our wonderful Bay, as well as our people and development around the Bay.

Stay tuned, keep focused. But you are going to certainly hear and I hope support a set of more aggressive, bolder actions as we move into the future.

The need for that was illustrated last Sunday when we had in parts of the Bay Area sea level rise of 21 inches above the mean high tide, or the normal. And that is without a number of the significant factors that can drive sea level even higher. So, the danger that we have described in the past as a slow-moving emergency is not moving so slowly; it is moving much more rapidly.

b. Commission Meeting Schedule: On a related but slightly more mundane level, last Friday Sierra sent to all of us the Commission's 2027 meeting schedule.

As we have done this year, staff has reserved two meetings, the first meeting in May and the first meeting in October, to start provisionally at 10:00 a.m. to be longer sessions to deal on a more full way with some of the significant issues that we are facing. We will provide you with as much pre-meeting notice as to those times and subjects to ensure that we keep you updated.

I also want to let you know that we plan to have the final meeting of the Commission this year on December 17. We do not plan to have a meeting on January 7.

c. Design Review Board Alternate Appointments: I am pleased to announce that the Design Review Board has appointed the following four individuals to become alternates, and at least a couple more applicants will be selected next year.

Justin Vandever is a coastal and estuarine engineer recently of ESA and has been a member of the Commission's Engineering Criteria Review Board since 2021.

Alma du Solier is the landscape architect and studio director at Hood Design Studio and a lecturer at UC Berkeley's College of Environmental Design.

James Lord is founding principal of Surfacedesign, a landscape architecture and urban design firm, studio instructor at Harvard Graduate School of Design, and frequent academic and jury critic.

Richard Kennedy is a landscape architect and director of Field Operation's San Francisco office.

We very much appreciate their efforts and that we are continuing to attract a very high level of expertise in supporting our efforts. I am confident that these very well-practiced experts in their field will serve us well.

d. Next Meeting: At our next meeting in two weeks will likely be a lengthy meeting, despite the fact that there will only be two issues on our agenda.

- First, we will hold a public hearing and likely vote on the San Francisco Marina Improvement and Remediation Project, which we have heard a little bit about already, commonly known as Gashouse Cove, the issue on which the Commission has received numerous public comments for some time; and,
- A timely briefing on the Commission's Enforcement and Compliance Program, including issues surrounding the Oakland Estuary and other locations.

e. Rising Together Summit: I do not know if I am preempting the Executive Director. I do want to remind you that we are having our Rising Summit on November 9. I hope as many of you as possible can join us. It is going to be a very important one I think this year. We are focusing a significant part of it on how important regionalism writ large is to both our efforts and the overall health and sustainability of the Bay Area.

Executive Director Goldzband commented: I just want to say that in case you do not know, the great *Los Angeles Times* reporter Rosanna Xia is going to be the keynote speaker, who wrote *California Against the Sea*. I am trying to remember the name of the book. I hope that is it, *California Against the Sea*. And wrote a tremendous article in this morning's Los Angeles Times very much explaining the layer cake of that which Chair Wasserman described on Sunday. That is base level, El Niño, King Tides, and the like. It is a great read.

Chair Wasserman acknowledged: Thank you.

f. Ex Parte Disclosures: That brings us to the always exciting ex parte disclosures. If you have had communications about matters that are adjudicatory outside of Commission meetings now is the time to report it. You are obligated to report it in writing under any circumstances. Your written report should be fairly detailed so that the public can understand the content and nature of the information you have received outside of public hearings. But you may certainly make an oral report that should be brief.

Does anybody have an ex parte disclosure to make? I see no hands.

(No ex parte communications were disclosed.)

5. Report of the Executive Director. Executive Director Goldzband reported the following: Thank you, Chair Wasserman.

Sometimes I am really surprised by the confluence of events on a single date in history. For example, on October 15, 1520, King Henry VIII ordered that bowling lanes be installed in his palace, thus becoming an obvious role model for Ralph Kramden and Homer Simpson.

If ballet is more your speed, exactly 61 years later the first formal ballet was staged in Paris, which was commissioned by Catherine de Medici.

And, for those of you who like listening to the late, great Dolly Parton while bowling, her first number one country song, "Jolene," was released on this day in 1973. And she, meaning Jolene, and Dolly, are now part of a memorial ballet project called "Dolly in the Park: A Ballet to the Music of Dolly Parton." It all sort of comes together.

I am pleased to report that we will be hiring Paige Dolce to fill an empty staff position on the RSAP team. Paige is a Terrier, having earned her undergraduate degree in environmental science at Boston University. She then earned her master's degree at the University of Copenhagen. Paige managed Boston University's Initiative on Cities after being the Climate Resilience Coordinator at Massachusetts Audubon and a leading local stewardship project coordinator in Massachusetts. I should note that Paige is a ceramicist and likes cats.

A quick request here – you will remember that BCDC is updating our Shoreline Plants Landscape Guide. Please consider completing the public survey, whose link will be in my Commission meeting summary email this afternoon.

California's Fifth Climate Assessment will be released on Monday. We hope that the document includes on that day a significant section on the San Francisco Bay Area to which our staff contributed mightily; and if not on that day we can expect it soon. Louise Bedsworth, who heads U.C. Berkeley's Center for Law, Energy, and the Environment, led the development of the regional report, and we will be asking her to give you a briefing on the report before year's end.

Over the weekend the local CBS television affiliate showcased in 3D BCDC's Adapting to Rising Tides Bay Area Report to help outline where to anticipate flooding due to El Niño. It was very exciting to see BCDC's rising sea level report used in a weather forecast.

Finally, speaking of that Super El Niño, I want to let you know that BCDC has developed a set of procedures that we will post on our website and distribute regarding how our permitting procedures are aligned with the Governor's recent El Niño Emergency proclamation. That proclamation does not mention BCDC, but it does include a paragraph detailing the existing authorities and procedures to be used by the Coastal Commission in approving both pre- and post-incident emergency permit applications on an expedited basis. I am happy to report that our developed approach facilitates the goals of the Governor's Order.

Essentially, and we will send you a copy of the final document, for the duration of Super El Niño conditions BCDC will not require that homeowners and businesses apply for permits to place temporary flood prevention measures that pose minimal risk to Bay resources such as sandbags or movable barriers to protect their property from flooding. But we will require that they do their best not to affect public access and to provide detours should public access be affected. And we expect such interventions to be removed by April 30, 2027, assuming that the meteorology forecasts demonstrate they would no longer be necessary. Any proposals to retain such temporary measures beyond the Super El Niño would require a BCDC permit.

Our emergency permit procedures for large-scale interventions that may pose significant risk to Bay resources such as revetments and levee strengthening will continue as we currently implement them. Simply put, our permitting team recognizes that we need to act quickly on these kinds of requests and, with few exceptions, BCDC approves emergency permit applications requests within 24 hours.

Two issues stand out to me here.

First, for such large-scale interventions that require an emergency permit, following abatement of the Super El Niño conditions BCDC requires deliberate and comprehensive post-storm consideration to determine whether and how the emergency interventions may fully comply with BCDC's laws and policies and how the applicant should move through the normal BCDC permit application if it is determined that retention of the emergency work does not comply with BCDC's laws and policies.

Second, emergency permits are not a substitute for successful long-term planning.

To these ends, any issued emergency permit may contain terms and conditions to protect the Bay resources, including potential expiration of the emergency authorization, and potential requirement for the permittee to obtain a new BCDC permit under regular permitting procedures. Which may require that the work previously authorized on an emergency basis be modified or even removed to fully comply with BCDC's laws and policies.

So, now I want to let you know that yesterday Chair Wasserman and I approved staff to issue this fall's first pre-storm emergency permit. It is for the Carneros Ranch in Sonoma County to repair the levee between the Petaluma River and the Ranch. This levee repair is necessary because the January 2026 King Tides caused significant erosion and water over-topped the levee. The combination of the strong El Niño, upcoming winter storms and King Tides is expected to cause further overtopping, which likely would cause catastrophic flooding of both the Ranch and the adjacent low-lying portion of Highway 37.

In addition, the ranch is an access point for the PG&E towers, and flooding of this Ranch would prevent access to those towers for emergency or other necessary repairs during winter storms. I will continue to keep you up to date as staff and Chair Wasserman consider emergency permit applications.

That completes my report, Chair Wasserman, and I am happy to answer any questions.

(No questions were posed to the Executive Director.)

6. Consent Calendar

a. Approval of Minutes for October 1, 2026 Meeting

Chair Wasserman reviewed the items on the Consent Calendar and called for public comment.

(No members of the public addressed the Commission.)

Chair Wasserman asked for a motion and a second to adopt the Consent Calendar.

MOTION: Commissioner Eklund moved approval of the Consent Calendar, seconded by Commissioner Randolph.

VOTE: The motion carried with a vote of 20-0-0 with Commissioners Ahn, Eklund, Gauthier, Gilmore, Gioia, Gonzalez, Gunther, Janoff, Kimball, Lee, Moulton-Peters, Nelson, Pemberton, Ramos, Randolph, Showalter, M. Tam, Taylor, Vice Chair Eisen and Chair Wasserman voting, "YES", no "NO" votes, and no "ABSTAIN" votes.

7. Commission Considerations of Administrative Matters.

Chair Wasserman asked if there were any questions for Assistant Regulatory Director for Climate Adaptation Ethan Lavine regarding the Administrative Listing.

(No members of the public addressed the Commission.)

(No questions were posed to Mr. Lavine.)

8. Public Hearing on Bay Plan Amendment 1-26. Chair Wasserman announced: That brings us to the substance of the day, a public hearing on Bay Plan Amendment Number 1-26. This proposal would remove, amend, and add Findings and Policies in the San Francisco Bay Plan to address the need for beneficial reuse of sediment and soil to restore wetlands and adapt to rising sea levels.

I want to remind the Commission about two important factors.

One, we will not vote on the Bay Plan Amendment today. We have provisionally scheduled a vote on the Amendment during our December 3 meeting.

Second, please remember that passage of Bay Plan Amendments require 18 affirmative votes, so we will be canvassing to make sure that we have substantial attendance at the December 3 meeting.

With that said, the first action is we are opening the public hearing. Erik Buehmann, our Long-Range Planning Manager, will start the discussion and then will hand it off to Rachel Cohen. A word of warning. The presentation is a bit lengthy. This is a thick subject.

Long-Range Planning Manager Buehmann addressed the Commission: Thank you, Chair Wasserman and Commissioners. Yes, thank you. Brace yourselves because we have a lot to go over.

We are excited. This Bay Plan Amendment, part of the SWAP, the Sediment for Wetland Adaptation Project, is the result of three years of stakeholder collaboration. I want to thank everyone who took the time to help us with figuring out how BCDC can support the reuse of dredged sediment for wetland restoration, which is beneficial reuse.

Our policy proposals are an expression of everything that we have learned through both the process of creating the regional Beneficial Reuse Action Plan which we shared with you last year, and the Bay Plan Amendment outreach we have done.

We did not start this process with an end result in mind. Rather, we listened and translated feedback, research, and our own experience with existing processes into new policies.

This can only happen because of a closely connected group of collaborators, the dredging and flood protection communities, resource agencies, the dirt market and restoration community are increasingly connected and cooperative with each other. And in this project, we have created spaces for everyone to learn from each other and drive the regional conversation forward.

The engagement with this process was remarkable. These policies are not the result of just three people in the room. Our Commissioner Working Group meetings sometimes had up to 70 people in attendance, which is pretty great. Our workshop in June had 50 attendees in person. Again, I want to thank and celebrate everyone who contributed to this project.

It is clear through this feedback that the region wants to increase beneficial reuse. There is little to no opposition to that principle. The region recognizes the need to address rising seas in wetland restoration projects, and there is broad consensus that we need to change the way the region works on beneficial reuse.

The Action Plan, which I referred to before, calls for changes not just at BCDC but across multiple sectors in the region. This Bay Plan Amendment is only one action identified in the Beneficial Reuse Action Plan, but it is important that BCDC lead by making the changes it can within its purview.

But even though we have heard this strong call for change, we are working within a delicate, balanced ecosystem of dredgers, soil providers, restoration practitioners, and resource agencies. We need to be conscientious about how we make changes, so we are not so disruptive that we disincentivize dredging and restoration. Even incremental change is going to be hard, so our proposals are intended to be reasonable. It is important that they be implementable and achievable, and importantly enforceable.

New policies and requirements can sound scary, but I do not really believe that they have to be. Rather, we can codify some existing practices and create new tools within that framework for incremental change. We can increase clarity, make rules more transparent, we can reduce ambiguity.

It is also important to note that the dredging and beneficiary use system in the Bay Area is subject to the Long Term Management Strategy for the Placement of Dredged Material in the Bay Area or LTMS, which provides goals for regional beneficial reuse. And the Dredged Material Management Office, or DMMO, which coordinates testing and permitting for the region. These are connected multi-agency partnerships that began in the 1990s to guide dredging, dredged material disposal, and the beneficial reuse of sediment.

The DMMO is the model, an original inspiration for the Bay Restoration Regulatory Integration Team, or the BRRIT. Which everyone turns to when they talk about permitting improvements in the region.

We are making these policies within that context, so we expect that these policies will be implemented consistently with that culture of amity and shared goals.

BCDC helped create the LTMS and the DMMO and they will not go away. BCDC strongly supports the LTMS, and we will always work with the DMMO. In fact, Commission staff worked with LTMS partner agencies, the Water Board and the EPA, as part of the project's core team. We met with the Army Corps of Engineers specifically to discuss the proposed policies with them.

Most important, we are coming to you today because of rising sea level. The LTMS is a plan. For all the good it has done, its goals are not required. A lot of great practice has grown up around it, but it is not an enforceable policy or law for BCDC. It did not include sea level rise, and we need to do more than the status quo to meet the region's goals for restoration.

What we are proposing today is to make beneficial reuse a function of dredging, that is assumed to be required, unless certain requirements cannot be met. We are asking you to reconsider how we think about beneficial reuse and move it from something we want to do that is not required to something that dredgers need to do unless it is found that they cannot do it.

These proposals work with and support the LTMS. Beneficial reuse and dredging are not in opposition to one another. Dredging is critical to the economy of the region and explicitly supported by the McAteer-Petris Act. The region has a powerful interest in supporting wetland restoration through beneficial reuse to protect us from sea level rise and provide thriving habitat. We are used to talking about trade-offs and transactions, but we believe that these policies promote both uses to support the many public benefits from dredging and restoration together.

So hopefully I have inspired you. Now I am going to pass it to my colleague Rachel Cohen who will give the presentation.

Project Manager Cohen addressed attendees: Thank you, Erik. Good afternoon, Chair Wasserman and Commissioners and everyone in attendance.

We are looking forward to discussing Bay Plan Amendment 1-26 with you today. I want to start out by reminding everyone once again that this agenda item is a public hearing only and there is no vote today.

The purpose of my presentation is to inform Commissioners and the public about the Proposed Amendment, and then for us to hear feedback from attendees.

As Erik mentioned, Bay Plan Amendment 1-26 is the result of about three years of robust engagement with interested parties. Our proposal would establish the urgent need to beneficially reuse sediment and soil for wetland restoration and sea level rise adaptation; and make beneficial reuse the Commission's clear priority for dredged sediment and soil, rather than disposal of these valuable materials.

Our collaborative process has shown that there is broad consensus that change is needed to increase beneficial reuse, and our proposal represents a step forward for achieving the region's goals for restoration and adaptation.

In advance of today's meeting, Commissioners and interested parties have received a Staff Report that contains policy analysis, staff's preliminary recommendation in favor of the amendment, and a draft environmental assessment.

We have also circulated four appendices to support the Staff Report.

In Appendix 1 you will find the proposed policy changes.

Appendix 2 is a memo on beneficial reuse factors.

Appendix 3 is a memo on public trust findings.

And Appendix 4 is a CEQA analysis supporting the environmental assessment.

We have also circulated the public comments that were received as of 10:00 a.m. yesterday. Any written comments received between 10:00 a.m. yesterday and the close of public comment will be circulated after the hearing.

Before diving into the policies, I am going to first review the process and timeline that the Commission will use to make its decision, and also give some background on the Proposed Amendment. And then I will present the policy proposal and next steps. And yes, heads-up that the presentation is probably about 40 minutes, maybe, from here so get comfortable.

The Commission voted to initiate Bay Plan Amendment 1-26 in May of this year.

In the next few weeks after today's public hearing, staff will make any needed revisions to the proposal.

And then we will circulate our final recommendation, which will contain a final environmental assessment and response to public comments two weeks before the Commission holds a vote.

As Chair Wasserman mentioned, the vote is currently scheduled for December 3, and 18 favorable votes or two-thirds of the Commission, is required to approve a Bay Plan Amendment, so please mark your calendars.

After the vote, the amendment will be reviewed by the Office of Administrative Law, and they will assess whether we followed the proper processes. Upon their approval, the changes will be effective as a matter of state law for reviewing non-federal dredging projects.

We will also submit a program change request to NOAA, and upon their approval, the amendments will be incorporated into the Commission's Coastal Zone Management Program for purposes of reviewing federal projects under the Coastal Zone Management Act.

Next up, moving on to why we are proposing this amendment and some more background on the Sediment for Wetland Adaptation Project.

We have lost around 90 percent of the region's wetlands in the last 200 years. Large areas of wetlands were diked off from the Bay, which caused the land behind the berms to dry out and subside from 2 to 15 feet below sea level.

Wetlands do an awful lot for us. Of course, they are beautiful, and they clean the air and water, and they support the area's diverse wildlife. But they also physically protect communities and infrastructure from flooding, especially in the face of rising sea levels.

When waves reach wetlands, they have to pass over a higher elevation and through plants, and that friction makes waves smaller and slows them down before they reach the shoreline. Wetlands also absorb water and trap sediment, which reduces flooding and erosion.

Underlying those wetlands is a foundation of sediment, shown here being scooped from a shallow area of the Bay for safe navigation by boats. Sediment is also where wetland plants root themselves. Sediment supports the critters and microbes that form the basis of the food web and promote biodiversity. Importantly, without enough sediment, wetland habitats cannot survive.

Sea levels are rising in the Bay, and at the same time the sediment supply to the Bay is decreasing. The sooner we act to address our needs, fill the areas behind berms and restore wetlands, the better off the region will be.

Scientists predict that to survive sea level rise through 2100 the region's existing and planned tidal wetlands and mud flats will need a lot more sediment and soil than can be supplied by nature and current management practices. The amount of material needed by the end of the century, which is 450 to 650 million metric tons, would fill almost 700 Salesforce Towers.

As you know, BCDC regulates dredging, which is the removal of sediment from the bottom of the Bay. Significant amounts of sediment are removed from the Bay and its tributaries every year so that vessels can get around safely and so that flood control channels and marinas can keep functioning.

Beneficial reuse, as shown on the right here, is the use of dredged sediment to raise wetland elevations to the right height where they can survive sea level rise.

Most dredged sediment is treated as a waste product. In a typical year between 2013 to 2024, nearly 60% of dredged sediment that was dredged for navigation purposes was dumped in deep water. About 37% of that was dumped at one of four in-Bay disposal sites, which are marked here with little purple stars. The in-Bay disposal sites are dispersive, meaning they were designed to move disposed sediment into deep water channels and out of the Bay.

And then about 22% was dumped at the deep-ocean disposal site, which is 55 miles west of San Francisco, illustrated with the yellow star.

And 41% of the sediment that was dredged from navigation channels in this time frame was beneficially reused. But 41% beneficial reuse will not be enough to meet the region's adaptation needs. Between 2 to 3 million cubic yards of sediment are dredged from the Bay each year, and beneficially reusing 41% of that amount each year until 2100 would still leave us far below the predicted amount needed.

You might wonder, like I did, how much of the sediment that was disposed of in the Bay and the ocean was actually clean enough to be reused? We ran the numbers and over 95% of that wasted sediment was clean enough to be beneficially reused. So, we know that of the sediment that is dredged from the Bay for navigation there is a lot more available for beneficial reuse.

Here is a side-by-side comparison showing what the Sonoma Baylands looked like before and after restoration. This area was once home to a vast wetland in the North Bay. But in the late 1800s it was diked off from the Bay and turned into farmland, which you can see in the left half of the screen.

The land behind the berm had fallen several feet below the elevation of Bay waters, so to restore it, sediment that had been dredged from the nearby Petaluma River navigation channel as well as the Oakland Harbor, was used to raise the site elevation. In 1996, once the elevation was high enough, the site was reopened to the Bay. And within 15 years, 350 acres of healthy tidal wetland developed. So, this is just one example of the wetland restoration that we are trying to do more of through Bay Plan Amendment 1-26.

This Bay Plan Amendment is part of a larger effort called the Sediment for Wetland Adaptation Project, or SWAP. The SWAP is focused on restoring and adapting wetlands now and in the future to address rising seas through beneficial reuse of sediment and soil. The SWAP was generously funded by the EPA and the Ocean Protection Council, and we have been working since 2023 to increase collaboration within the sediment management community. We have created a Regional Action Plan and we are also currently working on a funding strategy that will include ideas for financing and incentivizing beneficial reuse.

We have met 14 times since 2023 with the Sediment and Beneficial Reuse Commissioner Working Group, and we have also been guided along the way by 18 meetings with a core team of representatives from the San Francisco Estuary Institute, the Water Board, the San Francisco Bay Joint Venture, the California Coastal Conservancy, and the EPA.

Here is some marsh gum plant to help us transition and to remind me to take a sip of water.

Next up we are going to talk about how we developed the policies in front of you today.

This Bay Plan Amendment actually has some pretty deep roots.

In 2016, there were Commissioner workshops that focused on future Bay Plan Amendments needed to address climate change, and the Commission identified at that time that strengthening the Bay's beneficial reuse requirements was a priority.

That priority has been reflected in the Commission's Strategic Plan since 2017.

There was also a federal court decision in 2021 that found that some of the Bay Plan policies on dredging are unenforceable under the Coastal Zone Management Act. I am going to put a pin in that topic and return to it later.

Next up, at collaborative SWAP workshops in early 2024 we brought the sediment management community together to discuss the challenges of increasing beneficial reuse in a two-day workshop, which resulted in our Action Plan with 70 actions that the region should take.

One of the actions that was identified is the need to assess Bay Plan findings and policies regarding sediment supply and beneficial reuse to identify necessary improvements and propose amendments.

After the Action Plan was released last spring, we began scoping the Bay Plan Amendment. And we have been developing policies with the help of our core team and the Commissioner Working Group.

And we held an in-person Commissioner workshop in June, where we shared our policy direction and received feedback from Commissioners and interested parties.

That feedback helped shape the draft policies in front of you today. To save time, instead of reviewing all of the ways that we integrated that feedback I will instead point you to four pages in the Staff Report beginning on page 35 where you can find all of the details.

Like Erik said, we did not enter this process with a specific outcome in mind. Rather, we are proud to say that our proposal is the result of extensive engagement with many interested parties.

As you know, staff, the Commission, and the Commissioner Working Group are on that list.

We also have our core team members who guided us along the way.

We conferred with all levels of government. In addition to those on the core team, we also engaged with the Army Corps of Engineers, the LTMS agencies, the State Lands Commission, local governments, and flood protection managers.

We have met with the Commission's Environmental Justice Advisors as well. We did outreach to over 100 community-based organizations and over 50 local tribes, which resulted in a public EJ Advisors meeting and consultations with five local tribes.

And of course, we worked alongside the development community including dredgers, dirt brokers, construction folks, ports, and the Bay Planning Coalition.

We heard from people what they thought was needed based on the challenges they experienced in the way of increasing beneficial reuse.

Next up is an overview of the regulatory framework for this project, which includes the McAteer-Petris Act, the San Francisco Bay Plan, and the Coastal Zone Management Act.

McAteer-Petris Act provides BCDC with authority to permit dredging activities as well as how dredged material is placed. The McAteer-Petris Act was amended in the 1990s to promote beneficial reuse for restoration, and it directs the Commission to establish policies in the Bay Plan for reviewing and acting on projects. BCDC issues permits for projects that are consistent with the policies in the Bay Plan.

The Bay Plan has the force of law, and the findings in the Bay Plan are statements of fact to support the policies.

Under the McAteer-Petris Act, BCDC can amend the Bay Plan over time to address regional needs, which is really important because in 1965 the region needed to address unregulated filling of the Bay, and now the region needs to address rising sea levels.

So, while the McAteer-Petris Act gives BCDC its state authority to regulate projects, BCDC also administers a Coastal Management Program under the Federal Coastal Zone Management Act, which allows BCDC to review federal activities for consistency with our Coastal Management Program. NOAA's Office for Coastal Management approves the enforceable Bay Plan policies, which apply to federal dredging projects in BCDC's jurisdiction.

While we were reviewing the Bay Plan, we found a few gaps when it comes to maximizing beneficial reuse.

First, the Bay Plan has many findings regarding the benefits of important Bay resources like wildlife and shell deposits, for example. But it does not have findings explaining the importance of sediment.

The Bay Plan's policies on dredging were last updated in 2000, and so they also do not accurately reflect how rising sea levels have increased the Bay's sediment needs.

Also, the current policies simply state that beneficial reuse should be maximized, but it is not clear what factors should guide that analysis.

And the policies focus on sediment from navigation dredging, but not from flood control channels and streams, which are also in the Commission's jurisdiction, which makes the policies challenging to use in those situations.

And the last gap we found is that the Bay plan does not include findings and policies regarding the use of upland soil and stockpiles in local restoration projects, whereas the Commission supports appropriate upland soil use for wetland restoration.

After we identified these gaps, we were able to begin developing policies, and we will get into them soon, but first there were a few important principles that were guiding our policy development.

First, it was important that we come up with reasonable policies that allow flexibility. It is expensive and challenging to do beneficial reuse and dredging and restoration, and policies should not prevent any of these activities.

Second, new requirements do not need to be burdensome. They can actually be easier to use and they can improve transparency.

And then here is that pin from a few slides ago. In order to be enforceable under the Coastal Zone Management Act and apply to BCDC's review of federal dredging projects, policies must apply universally to all dredging project types. For example, to public and private dredgers and to dredging projects of all sizes.

We have reviewed the project and its timeline, the needs for this amendment, our policy development approach, and now we will get into the policy proposal.

One of the goals for this Bay Plan Amendment was to give credit to the crucial roles of sediment and beneficial reuse.

We are proposing to replace the existing dredging section of the Bay Plan with a new sediment management section. Proposed findings and policies describe how activities have trapped sediment upstream, decreased sediment supply to the Bay, caused the loss of wetlands, and created the region's urgent need for beneficial reuse.

The Proposed Amendment not only describes the value of sediment and beneficial reuse, but also recognizes dredging, dredged sediment, and beneficial reuse within the context of the public trust. BCDC staff attorneys did extensive research on public trust case law that supports the findings and policies that we have proposed, and you can read more about that in Appendix 3.

The Public Trust Doctrine, if you are not familiar, is a legal rule which states that the government holds certain natural resources like navigable waters, shores, and parks, in trust for the free use of all citizens. Existing Bay Plan policies require that when the Commission takes any action that affects public trust lands it should ensure that that action is consistent with the public trust needs for that area.

The proposal establishes that dredging sediment from public trust lands is necessary to meet public trust needs. That sediment dredged from those public trust lands is a public trust resource. And that the and that beneficial reuse of dredged sediment protects public trust uses and meets public trust needs.

Under our proposal, aquatic disposal would still be allowed when it is justified, but beneficial reuse would have to be the Commission's priority.

As a result, one of the main policy changes proposed is to prioritize beneficial reuse over aquatic disposal. To be clear, in saying aquatic disposal I am referring to disposal in the ocean or at those four in-Bay disposal sites with the little purple stars from earlier in my presentation. Aquatic disposal does not refer to pilot projects such as strategic placement, which place sediment strategically in parts of the Bay where the tides will bring it onto wetlands. That is a form of beneficial reuse.

Under our proposal, dredging projects that are proposing aquatic disposal would be required to evaluate the suitability or quality of dredged sediment for beneficial reuse, availability of beneficial reuse sites, alternatives to aquatic disposal including a comparison of costs of beneficial reuse and aquatic disposal, as well as the benefits of the dredging project and any associated landside improvements, both economic and otherwise.

Based on this analysis, beneficial reuse would be required if a site is available, the sediment is suitable, and the reuse is reasonably capable of being done. This standard is an improvement on existing policy because it provides clearer requirements and a flexible approach. It would not require beneficial reuse of all projects. Rather, the Commission would make a determination for each project based on a clear set of objective information.

Importantly, the standard incorporates costs. Beneficial reuse is typically more expensive than disposal, so cost is an important part of determining whether a project can accomplish beneficial reuse.

Beneficial reuse being more expensive than disposal would not automatically make it not reasonably capable of being done, but rather these factors would allow the Commission to look at the overall benefits of the dredging project and any associated landside improvements compared to the cost of beneficial reuse in making their determination.

These new factors come from our engagement with interested parties. Our lawyers also looked at the factors for evaluating alternatives under the Clean Water Act and the California Environmental Quality Act to come up with appropriate factors for considering alternatives for the disposition of dredged sediment. Those new factors are discussed in more detail in Appendix 2.

Here are some very basic hypothetical examples to illustrate how the policies would work. We have two hypothetical projects, which are extremely simplified for this illustration.

In the first scenario, we have a large dredging project at a port. The dredging project has a high cost. And it does cost more to beneficially reuse the sediment they dredge, but that additional cost is proportionally low in comparison to the high total project cost. In addition, the project proponent will benefit significantly from the dredging project and so could the region. So, in return for those benefits, and to add to those benefits, and due to the proportionally low cost of beneficial reuse, the Commission could determine that it is not unreasonable to require the project proponent to pay for beneficial reuse and therefore decide to require it.

For a smaller dredging project like a marina, for example, the dredging project is less costly. The costs of beneficial reuse are very high in proportion to the low project cost and the limited benefits of the project. As a result, beneficial reuse may not be required because the Commission could determine that it is not reasonably capable of being done.

These hypotheticals are meant to illustrate how the policies would be applied, and it is not the case that every large port dredging project will be required to do beneficial reuse, and that every small marina will not be. Of course, real dredging projects will have much more nuance to consider.

But an advantage of this new framework is that it would enable the Commission and the region to build a transparent set of decisions over time by collecting objective facts about beneficial reuse costs and the costs and benefits of dredging projects. We could end up seeing that what is reasonably capable of being done changes over time, especially in connection with future strides in beneficial reuse, site availability, as well as financing.

In large part this is codifying existing practice in the Bay Area for navigation dredging projects. Dredging project applications already include a lot of this information, but the policies would go further by ensuring that all projects have the same set of requirements. The proposed policy changes would still work to meet the LTMS goals but could go further to maximize beneficial reuse. And if project proponents are proposing aquatic disposal, the policies set out a pathway for demonstrating by assessing these new factors why beneficial reuse is not reasonably capable of being done.

You might be wondering, would new requirements apply to all dredging projects?

Sediment Management Policies 6 and 7 would apply to all dredging project types, including marinas, flood control channels, and streambed maintenance projects in the Commission's jurisdiction if the project proponent is proposing any aquatic disposal. If a dredging project proposes to beneficially reuse all of the sediment that they dredge, we would not require them to submit this new information.

Would beneficial reuse be required of every project? No. Beneficial reuse would only be required when the Commission determines, after reviewing the analysis and recommendation, that it is reasonably capable of being done. In all likelihood, not every dredging project is reasonably capable of doing beneficial reuse. There may not be a site available to accept the dredged material, the material may not be suitable for reuse, and the cost of beneficial reuse could be too disproportionate to the costs and benefits of the dredging project. This proposal provides a pathway to ensure that the projects that cannot reasonably do beneficial reuse have a justification, and it also enables the Commission to push applicants that are capable of doing beneficial reuse to do it.

We are also frequently asked about sediment quality. All dredged sediment is tested for various pollutants and reviewed by the Dredged Material Management Office, or the DMMO, which includes BCDC, the Water Board, the EPA, the Army Corps, and other resource agencies. We want to be clear, if the sediment is too contaminated for beneficial reuse, BCDC would conclude that beneficial reuse is not reasonably capable of being done. But I will use this moment to remind everyone that the large majority of sediment that is disposed of aquatically is actually clean enough for beneficial reuse.

And what about pilot projects?

Pilot projects like nearshore placement, which I described earlier, are already supported under existing policies. But nonetheless, we heard very much widespread interest in having a policy that supports pilot projects. So, proposed Sediment Management Policy 8 supports them explicitly.

You might also be wondering how this new framework would impact the LTMS.

The Long Term Management Strategy, or LTMS, is a collaboration between the Army Corps, Water Board, EPA, and BCDC to streamline review of navigation dredging projects and encourage beneficial reuse.

Our proposed framework would not change the LTMS's process of reviewing projects. It would only give the LTMS more information about projects with which to make their decisions about requiring beneficial reuse. We have shared this proposal with each of the LTMS agencies and we have received support.

Additionally, the proposal supports BCDC's continued work with the LTMS agencies, especially on periodic update of the program as necessary.

Next up, sediment dredged from navigation channels is not the only material that can help make wetlands more resilient to sea level rise.

Sediment that is dredged from the region's flood control channels is another significant sediment source, especially locally. Most of this material ends up disposed of as waste, but most of the dredging of flood control channels actually happens within BCDC's jurisdiction.

Under the proposal, beneficial reuse would be required of these projects if it is reasonably capable of being done. In other words, the proposed Sediment Management Policy 7 would apply to these projects.

In addition, proposed policies would require flood protection and streambed maintenance projects to consider reconnecting tidal creeks to wetlands, as we know that these connections are vital for ecosystem health.

The region also produces excess upland soil and roughly half the annual volume of dredged sediment. Most excess soil is brought to landfills, but it is great for adding stability to restoration projects with features like levees, berms, and ecotones. Because upland soil is generated outside of BCDC's jurisdiction, proposed policies are advisory. They encourage the use of upland soil in wetland restoration and the creation of a regional stockpile system to align the readiness of material and restoration sites. And because trucking material can create noise, pollution, and traffic, proposed policies also encourage an assessment of potential trucking impacts on socially vulnerable communities. These projects would also go through their own environmental review.

We do not have time to review every single policy change that is proposed in this presentation, but I will highlight a few other key proposals in this Bay Plan Amendment.

First, the proposal encourages local jurisdictions that are preparing subregional shoreline adaptation plans pursuant to the RSAP to identify opportunities for beneficial reuse in nature-based sea level rise adaptation projects. This is because shorter hauls cost less, so material is more likely to be reused at a nearby site rather than at a distant restoration site.

The proposal also directs BCDC to maintain a list of available beneficial reuse sites, including their permitting status and estimated capacity to accept sediment and upland soil, to help facilitate increased connections between the sites and potential sources of sediment and soil.

Second, throughout engagement with interested parties we have repeatedly heard that we should not propose new requirements for restoration sites, but rather that policies should encourage restoration sites to consider beneficial reuse. So, in that light there are no new requirements proposed for restoration sites.

We are proposing to remove existing Dredging Policy 11 to remove duplicative requirements that could get in the way of restoration.

Lastly, there are minor changes proposed throughout the Bay Plan to update science and aligned Bay Plan language with the Amendment.

One example of that is in our proposed revisions to the Fresh Water Inflow section of the Bay Plan. The existing section is focused on how fresh water that flows to the Bay is really important for supporting Bay health, which it absolutely is, but it does not recognize the importance of the sediment that fresh water carries with it.

So, we are proposing to rename the section from Fresh Water Inflow to Fresh Water and Sediment Flows, and in it recognize that the Delta and tributaries are the Bay's upland sources of sediment, with the tributaries being the primary source of sediment to the Bay. That upland structures that block water flow to the Bay also block sediment and nutrients and some other changes.

BCDC staff conducted an environmental assessment in accordance with our regulations and assessed possible direct and reasonably foreseeable indirect environmental impacts, which is included in the Environmental Assessment within the Staff Report and supported by Appendix 4.

The draft assessment concludes that Bay Plan Amendment 1-26 would not result in any significant adverse environmental impacts. This is because we are amending a planning document, not authorizing any specific projects, so it would be speculative to assess location-specific environmental impacts at this time.

Dredging and restoration projects will conduct their own environmental review and would be required to comply with any necessary mitigation requirements when they are developed, which is usually prior to coming to BCDC for a permit.

In summary, this Bay Plan Amendment would acknowledge the important public trust value of dredged sediment and beneficial reuse.

It would establish beneficial reuse as the Commission's priority.

It would create a clear framework to consider whether beneficial reuse should be required.

It would allow the Commission to have flexibility and discretion to review individual projects' ability to do beneficial reuse.

It would also create transparency with the Commission reviewing facts that every dredging project proposing aquatic disposal would submit.

But we need to recognize that a Bay Plan Amendment cannot fix everything. So, what won't this Bay Plan Amendment do?

Well, it won't create new restoration sites that are willing to take sediment, which is the region's biggest challenge.

Also, BCDC is not a funding agency, so we cannot provide funding for beneficial reuse projects. For this reason, we are currently working on a funding strategy with input from the region's partners. And it is worth mentioning that Congress has appropriated $28 million for beneficial reuse by the Army Corps. And the EPA and State Coastal Conservancy have worked together to provide another $13 million for beneficial reuse by the Army Corps, making more beneficial reuse possible for a period of time.

The policies also will not require soil reuse, but we are proposing aspirational policy language to do what we can to acknowledge it as an important resource.

The Amendment is not proposing a specific threshold or formula for when beneficial reuse is required, but rather the flexibility would meet each project's unique capability.

And importantly, this project and our grant are focused on beneficial reuse for restoration and adaptation of wetlands. The characteristics of sediment that is dredged from the Bay make it unusable for raising upland development. While the proposal supports beneficial reuse for wetland restoration rather than for upland development, wetlands that will be tall enough to survive sea level rise will protect upland development.

We need to remember that this amendment is one action that is in the Commission's hands and the region has accomplished over 70% beneficial reuse, including in 2023 when funding was available. So, we know that we can accomplish increased beneficial reuse and we believe that our proposal will help lead the region toward increased beneficial reuse in the long term.

Wrapping up here. After the public hearing closes, staff will revise the proposal based on the feedback that we receive.

We will circulate a final recommendation, a response to public comments, both written and the ones that are made at this hearing, and that will also include a final Environmental Assessment. That will be mailed two weeks before the Commission votes.

Again, the vote is tentatively scheduled for December 3, so it is my last reminder to put it in your calendar because there will need to be 18 votes or two-thirds of the Commission to approve the Amendment.

Thank you. We are looking forward to the discussion and happy to answer any questions.

Chair Wasserman continued: Thank you very much.

We will start with clarifying questions. And again, just to review the process because it is still moderately new. If you have questions about the presentation now is the time to ask them. We will then go to public speakers, and we will then go to our comments. This is not quite yet the time for opinions, it is the time for questions.

Commissioner Nelson chimed in: Terrific presentation, Rachel, thank you. Two questions for you, Rachel.

You said that because of the size and cost effectiveness of small and large projects, that one large project might lead to reuse, and one small project might not. My question is a little bit related to that and that is the process. What is going to be required in terms of the process for large and small dredgers. I want to make sure that when we think about dredging, we often think about big channel deepening and maintenance projects. I want to make sure that complying with the new requirements in this amendment are not too onerous for those small dredgers to comply with. So that is the first question.

Ms. Cohen answered: The policies would provide that dredgers of all different sizes have the same project application requirements. They currently submit information about the dredging area and the suitability of sediment, and the equipment that they are going to use. That is all regularly included in applications.

And then for small and large dredgers who are proposing aquatic disposal they would submit that new information as well, working with our staff to ensure that they understand the requirements. Staff would analyze that application information and present a recommendation to the Commission.

Mr. Buehmann asked: Would it be helpful to talk a little bit about that there is a set system for how these dredging projects roll through the regulatory process. Would it be helpful for Brenda to talk about the DMMO and how that works?

Commissioner Nelson stated: I just want to make sure that in terms of investigating alternative disposal sites and so forth that we are not asking those small dredgers to simply do too much, so absolutely.

Ms. Goeden commented: Thank you, Commissioner Nelson. Right now, we have for medium and large dredgers what is known as an Integrated Alternatives Analysis. As Rachel mentioned, they do provide a lot of that information currently to us. We also have a Small Dredger Programmatic Alternatives Analysis.

The interesting thing is over the last few years we have seen even some small dredgers go to beneficial reuse depending on the need. That tends to be when they want to dredge outside of the work windows.

What we have started to see is some capability for even small dredgers to go to beneficial reuse when it suits their project purpose need. So, that does tell us that even our Programmatic Alternatives Analysis may need an update. So, over time as we are moving through this amendment, if you guys choose to approve it, we will likely work again with the small dredgers on our Programmatic Analysis and then add additional pieces as the system has changed.

Mr. Buehmann added: When you say we, we are talking about the DMMO, right? The coordinated body of different resource agencies that work together to evaluate these things, sort of what I talked about earlier with the BRRIT. It is a coordinated system that has created a lot of really great practice to streamline the process.

Ms. Goeden agreed: That is correct.

Commissioner Nelson continued: And second question. What you are saying is that these requirements, should we choose to approve them, could lead to different outcomes, and that the process small and large dredgers go through is tailored somewhat to reflect their capacity and so forth.

So, the follow-up question is to make sure that the difference in outcomes and the modest process differences are not going to run counter to the CZMA requirement that, Rachel, your presentation outlined that policies apply equally to all projects. I do not know if that is a question for you or for Greg, but I just want to make sure that you feel confident that nothing here in terms of how we handle large and small dredgers is going to run counter to that CZMA requirement.

Ms. Cohen replied: Actually, the reason that the requirement would apply equally to all dredgers of different sizes and different project types is so that it will be enforceable under CZMA.

Commissioner Eklund chimed in: I just wanted to clarify a couple of things. You said that aquatic disposal is still allowed.

Ms. Cohen replied: Yes. About 22% of the sediment that has been dredged from navigation channels since 2013 to 2024 was disposed of in the ocean, and I think it was 37% in the Bay at those in-Bay disposal sites.

Commissioner Eklund asked: But why are we still allowing aquatic disposal?

Ms. Goeden explained: Currently, we are operating under the Long Term Management Strategy for the placement of dredged material in the Bay Region, the LTMS. Through that program the region, the EPA, the Army Corps, BCDC, and the Water Board, all work together to meet those goals. We allow 20% in-Bay disposal each year and up to 40% ocean disposal.

And that is part of the reason why we are looking to improve our policies. Because the LTMS is outside of our policies and we believe we can do more than the LTMS currently allows or it focuses on. It talks about maximizing beneficial reuse, but effectively, it has only got us to 40% beneficial reuse. A lot of that has been cost, but sometimes also equipment availability or site availability. This is an effort to push that forward and move us more towards beneficial reuse and away from that aquatic disposal as a waste product.

Mr. Buehmann stated: It would not be practicable to require 100% beneficial reuse of every project.

Commissioner Eklund asked: Why?

Mr. Buehmann explained: There are only two sites currently that accept dredged material. One is Cullinan Ranch, and it is almost full, and the other one is Montezuma. One of the issues that Rachel raised is we need to have more sites as a region available to provide for beneficial reuse, so that is one issue.

Another issue is cost. It costs a lot to do beneficial reuse because if you have to transport the material, you have to find a way to get it to the marsh wherever the site is. There are probably other factors that Brenda could talk about.

Through our stakeholder process that was not really like something that seemed feasible to folks.

Ms. Goeden added: I think part of the issue is the small dredgers have been allowed to go in-Bay disposal, so that accounts for about 250,000 cubic yards annually. So that is one issue. But for a small dredger, they have the difficulty of using small equipment and traveling long distances to take material to a beneficial reuse site, which may make their marina have a project that goes on for many, many, many months instead of an effectively dredged project to get it done while we are protecting things like listed fish species through the dredging.

In addition, what we have seen over time is actually more beneficial reuse. The numbers Rachel quoted were over 11 years. In the last few years, we have seen groups like Chevron do 80% beneficial reuse, we have seen the Army Corps do 70% beneficial reuse. We have seen different projects do more, but what we are looking at is an average over time.

So, we have seen as the region gets more familiar with beneficial reuse, the sites are open, the equipment is available, the dredging contractors realize that the region is focusing on beneficial reuse. I have been told many times over the years from a Manson Dredging Vice President that when we get a clear signal that we need to go to beneficial reuse, we will start doing that. Until then we like to go to the ocean. We are trying to send this clear signal, and that is part of this whole position to move it forward.

Over time we have seen the region not only accept that direction but also recognize the need for restoration. That has also been a lot on the restoration side saying we really want to take this material.

Mr. Buehmann added: So, going back to the policies. The policies are intended to maximize beneficial reuse by creating a process where you can justify whether you cannot do it. And the Commission can determine whether it is reasonably capable of being done based on those sort of factors. And we wanted it to be flexible because sometimes what is going to happen is that people are going to do a little bit of in-Bay disposal, which will make it more cost-effective for them to take it to beneficial reuse.

Which is exactly what happened with the Army Corps. A very simplified way of saying, the Army Corps' RDMMP, the Regional Dredged Material Management Plan, which you reviewed under a Consistency Determination back in January; that was really influential for how we thought about this. Because we wanted to be flexible and cost effective for people to do beneficial reuse more. And then to also say, sometimes sediment is contaminated and it cannot go to beneficial reuse because it is too contaminated.

Commissioner Eklund continued: So, question two on the contaminated dredged material. Where is that taken?

Ms. Goeden replied: The answer is a variety of places. In some cases, it is taken to the deep-ocean disposal site 50 miles out to sea. In some cases, material that is slightly elevated goes to Montezuma Wetlands as foundation quality material and then is covered with three feet of clean material so it is not biologically available. And in the most contaminated situations it is trucked to a landfill.

Commissioner Eklund asked: Have we done a study on what the long-term impacts are of disposing of contaminated material way out in the ocean?

Ms. Goeden stated: In fact, there is regular monitoring. Commissioner Janoff was just out to sea monitoring the deep- ocean disposal site, and he can speak to that very directly. However, I do know from looking at the reports over the years that they have not found significant issues associated with the materials. It is not highly contaminated. The material that is highly contaminated goes to a landfill. When we are doing remediation projects those are dried and trucked to a landfill. It is mildly elevated contamination that is allowed to go the ocean or foundation.

Commissioner Eklund continued: Can you use that dried material for the daily cover on a landfill?

Ms. Goeden answered: I cannot speak to landfill requirements, I am sorry.

Commissioner Eklund continued: Okay. I would be curious to find out whether or not if highly contaminated soil could be used as a daily cover. Because if that is true, then it may be beneficial long term not to take it out into the ocean. Just looking at globally and what we are experiencing in other realms I think we might want to be just a little bit more careful.

I guess I am still a little concerned and confused about what percentage of the dredge material would be allowed for aquatic disposal. I know that the federal government does do benefit/cost analysis and maybe the Corps representative can talk about this a little bit. Isn't there an approach we can take to say that at least the Army Corps of Engineers dredged material, it is a public benefit for it to be reused instead of dumping into the ocean?

Mr. Buehmann answered: This is a great question. We cannot discriminate against the Army Corps of Engineers in a policy or specifically set them apart from all the other dredging projects. The policies are set up for all projects to evaluate them on their own merits.

Commissioner Eklund asked: So, could the Corps actually say that it is a beneficial reuse and so at least the Army Corps is going to take a policy. I am just curious as to whether or not you have that ability as an organization?

Commissioner Janoff fielded this inquiry: In the maintenance dredging realm we are very limited. We cannot do a benefit/cost analysis. We can do a cost analysis. Because the federal standard is determined by least cost, environmental acceptability, and technical feasibility, meaning engineering. We cannot incorporate benefits for something like our base plan, which was part of the RDMMP that we had discussed coming up on a year ago.

But in addition to that we have an authority that allows us to do a benefit analysis. We have to quantify the benefits in order to take any material above the federal standard to a beneficial use site, and we have the ability now to cost share that. But that is not part of our maintenance dredging program, that is in addition to.

Commissioner Showalter chimed in: I just wanted to clarify about the discussion of strategic placement. When I read through the Staff Report and the Appendices I did not find much about strategic placement, if anything. There is quite a bit about aquatic disposal. I think it is very important that we explicitly state the differences, and we do it throughout the document, not just in one place. It may very well be in one or two places, but it is not everywhere that we talk about aquatic disposal. I think that when we do talk about aquatic disposal, just for clarity I would hope we could talk about strategic placement.

Or are we planning to put in, based on comments you have so far, are you planning to put in a little more about strategic placement? I did not see that when I read the Staff Report but obviously it was a big part of your presentation.

Mr. Buehmann responded: I will just say yes. We have already noted a number of modifications that we will make to the policies and the findings, and that is one that we have heard really resoundingly. To clarify, pilot projects, strategic placement, things like that, were incorporated in the Bay Plan in 2019 when we did the Fill for Habitat Amendment, so that is really great. And then we heard really clearly in the stakeholder process to strengthen that. We have heard even clearer that it needs to even be more strengthened, so we are going to do that.

Commissioner Showalter acknowledged: Okay. Well, that is my only clarifying question. I will have some comments later on. This is really an excellent presentation and Staff Report, thank you.

Commissioner Gonzalez had questions: Three quick questions.

The first one just to confirm language terminology. When you say we have a framework, we are proposing a framework, that is what you have listed out in Appendix 2, correct?

Ms. Goeden responded: I believe what you are probably referring to is the analysis, which is in Policy 7. There's a number of items listed specifically in Policy 7 that a project proponent would need to make, and I believe that is the framework we are pointing out.

Commissioner Gonzalez continued: Okay, so Policy 7 is the framework. What is Appendix 2?

Mr. Buehmann explained: Sorry, I was mixing up my appendices. Appendix 2 is the memorandum regarding beneficial reuse considerations. That is the legal background for the sediment management policies, specifically Sediment Management Policy 7. The framework that we are talking about is the regulatory, the new policies that we propose, which are in Appendix 1.

Commissioner Gonzalez acknowledged: Perfect. Thank you. Number two, I just want to make sure I understand what we think is happening in the Bay. What I think I have heard at this meeting and at the meeting that we had in June, the big work session, was that sediment supply is slowing down substantially. Am I understanding that correctly?

Ms. Goeden explained: Since 1998 we have seen a decrease in suspended sediment supply to the Bay from the Delta and in fact the supply that we used to see is no longer present. We are now more dependent on the tributaries' supply to the Bay. Overall, we have lost sediment supply from the Delta and we have less in the Bay itself, so we are experiencing a period of what they call Bay clearing, where the water is clearer due to lack of sediment.

Commissioner Gonzalez continued: And we believe this is a state change. The world is just different now because of what is happening upstream in the mountains and the farms?

Ms. Goeden replied: Yes, and all the human interventions to keep the water from coming into flood areas.

Commissioner Gonzalez asked: Is the implication for that that we will need to be dredging materially less over the next 20 years?

Ms. Cohen answered: The Gold Rush actually brought a lot of sediment to the Bay that made the Bay significantly more shallow, and we are also seeing ships getting larger and larger and needing more clearance space.

Brenda, have you seen any changes in trends of dredging frequency or volume over time?

Ms. Goeden replied: Historically, we have gone from about 6 million down to 2-3 million annually. That has happened over the last 40 to 50 years.

But it is an interesting thing. As Rachel mentioned, we are getting ships that are coming in deeper. And so, when we need deeper channels, the Bay is constantly trying to put itself back in equilibrium. When you make the Bay bottom deeper the Bay tries to fill that area in faster. For example, the Port of Oakland Federal Navigation Channel was deepened to 50 feet. We have actually seen more dredging volume coming out of the Oakland Channel now than we did before the deepening, and in fact, it is now the largest loss of sediment in the region according to the science. That one channel is taking out nearly a million cubic yards annually, which is why it is so important to beneficially reuse that material.

Commissioner Gonzalez stated: I guess when I think of siltation I just think about suspended material, and if there is just less suspended material through time, the equilibration will mean that we do not have to do as much dredging. Setting aside the change in the ship type. Obviously, the ships get deeper than we need to go deeper. But just in a steady-state sense, we will not need as much as what I am hearing.

Ms. Goeden replied: Time will tell.

Commissioner Gonzalez continued: Okay. And then the last question with respect to the shorelines and wetlands and all that kind of stuff. When I think about what I see in nature over many, many, many years I use the expression that nature heals itself. Nature reaches an equilibrium.

Let me frame it this way: As we prioritize these factors would it be beneficial to essentially encourage very near-shore placement of these materials to create wetlands adjacent to the existing shorelines so that nature as it works to heal itself and through natural tidal action eventually fills spaces into the wetlands. Is that a preferred use, a high rank, and is it already there?

Mr. Buehmann fielded this question: When you hear people refer to strategic placement or water column seeding, in a lot of respect that is one aspect of what you are referring to. This is something that we have supported in the policies and as we just discussed we will be strengthening that.

Ms. Cohen added: In our proposal in Appendix 1 you will find the draft changes. We have a proposed change to Fish, Other Aquatic Organisms and Wildlife, Finding L, where we talk about prioritizing placement of large volumes of sediment in subsided Baylands because they will need the most sediment, and that will help them reach marsh plain elevation and support wildlife habitat sooner.

And Sediment Management Policy 8 is the one that Erik was talking about that supports pilot projects as well.

Commissioner Moulton-Peters was recognized: Rachel, thank you for the presentation and to everyone who worked on this. I have just a practical application question for all the small flood channels and creeks that drain into the Bay. We had an example in Marin of McInnis Creek that needed some dredging, and the application was to put those dredged materials on McInnis Marsh, which is directly adjacent to it. Can you say a little about what the process might look like for getting permits to do that or going through this process?

Ms. Cohen replied: Yes. If in that project the dredging project was proposing to beneficially reuse all of that sediment for marsh restoration, then they would go through the same process that they do now. They would have no additional information that they would need to submit to us, and we would just follow the permitting process as it is currently laid out.

Ms. Goeden chimed in: Rachel is correct on the dredging side. We actually just looked at the sediment quality for that project Wednesday. However, I think for that project it is a little bit more complicated in that McInnis Marsh, as I understand it, currently has salt marsh harvest mouse, which is an endangered species habitat. So, while on the dredging side these policies are very supportive of doing that work, there is still concern with working on how you place material in such a way that it minimizes impacts to that habitat. And I know you are really familiar with the project. We have to work definitely very closely with U.S. Fish and Wildlife and Cal Fish and Wildlife who are protecting those species and are part of our permitting process.

With a project such as McInnis Marsh, it can either be the permitting for the marsh could handle all of the beneficial reuse as part of that permit process, or the dredging project could come in with a proposal to beneficially reuse but it could be essentially one or two permit processes that would need to look at both the dredging side and the placement. These policies help the movement of the dredged material in that direction, but we still have the challenge of the existing habitat in that space. But our BRRIT team is working on that particular project.

Commissioner Gunther was recognized: If I was a dredger I think I would read the proposed policy that you have got to tell us why you cannot beneficially reuse, it might make me a little nervous compared to the status quo. However, I would read the idea that strategic placement is beneficial reuse, as a very positive development for me. I could see a shorter run of my barges to a certain place.

The question I have for you is, we talk about strategic placement like it is an established feature of our regulatory system, but it is my impression it is not and it has really only been done pretty rarely. And so, is there a way that if we are going to now want to encourage strategic placement, is there a way that we can standardize or somehow encourage the identification of strategic placement locations? In particular I would like us to be very bold about this. And if a couple of these do not work out, well, okay. I mean, as scientists say, 9 of 10 experiments do not work, and that is how you learn how to do the one that works. So, what can you tell me about the process right now for strategic placement? I assume this is a Brenda question, the oracle of sediment.

Ms. Goeden answered: You are correct in that it has been done very rarely in the Bay Area. So far, we have had one project that has actually piloted strategic placement and that was the Eden Landing Strategic Placement Project conducted by the Army Corps of Engineers as an experiment. We have not yet seen the results other than a slide presentation here and there, so we are still waiting to actually see the science on how that sediment moved and where it disposed.

That information should be coming any day now from our colleagues as a requirement of their Letter of Agreement that you all issued.

There is a current project that is currently underway that we understand is happening, but we have not yet had an application, or more than people telling us they are looking at the Emeryville Crescent. The Commission staff is extremely interested in pursuing and supporting this work through collaborative discussions and permitting but we just have not been involved at this point.

We definitely could see the region doing some significant modeling at what areas around the Bay might be supported, because definitely there are some places that would work well, we think, based on what we know of sediment modeling. But it is something that needs to be evaluated for more specific sites to see how the tides and currents move.

Commissioner Gunther added: At the workshop I remember this discussion of the gyre in San Pablo Bay. I would be real interested in hearing once we have more information about this, what we can do to make it more effective. What are the criteria we use to say that was strategic, or that was stupid, or whatever the reverse is? I can see characterizing all of Bay disposal as either shallow water or deep water, and I can see that it all has a beneficial use compared to taking the sediment and dumping it off the edge of the outer continental shelf.

So, I think that as we go forward here, I feel a little bit like we are trying to turn the oil tanker a little bit. I hope that we can convince the dredging community that we are not going to just put pedal to the metal when there is nowhere to go. But in the same way, I think we need to be actively seeding the process so that we can make it easier for people to do what we are saying we want them to do.

Chair Wasserman noted: I do not see any other Commissioner clarifying questions. Public comment.

Ms. Laura Tam commented: Hi, everyone. I am Laura Tam with Bay Planning Coalition (BPC). I sent you a much longer letter. I will do my best to summarize our primary concerns in these three minutes here. And thank you for the opportunity to comment.

BPC strongly supports increasing beneficial reuse of dredged sediment. We have been engaged in SWAP for many years. We supported the RDMMP recently here. We have advocated over a long time for additional funding and infrastructure to make more beneficial reuse possible and I attended the workshop in June.

Our concern with this amendment is that it moves from that shared goal to a new project-level regulatory mandate without resolving some basic questions about how the mandate would work.

First, the relationship to the LTMS. As it was shared, for more than two decades BCDC has been part of a coordinated regional system for managing dredged material and sediment placement. That system already requires alternatives analysis and already establishes beneficial reuse obligations, which can be changed. We think changes of this magnitude should build on that framework rather than create a separate BCDC standard that could produce a different result for the same project.

Second, Policy 7 needs much more objective criteria. Reasonably capable of being done is doing a great deal of work in this amendment, but it is not clear what that means. What constitutes an available site? There is one right now. How much of a project's sediment must be reused? When does incremental cost become unreasonable? And how should those questions be answered consistently from one permit to the next?

We think those answers should be established in policy, not developed permit by permit.

Third, the amendment places substantially stronger obligations on dredgers without a commitment to other issues that determine whether beneficial reuse can actually happen, such as receiving site capacity, infrastructure, and funding. These are not peripheral issues. And importantly, beneficial reuse provides a regional public benefit. We do not think that the maritime community should be expected to finance an increasing share of that regional benefit simply because it happens to move the sediment.

Finally, we have concerns with the public trust language. Navigation, commerce, habitat, and recreation are all public trust interests. The Commission should preserve its ability to balance those interests based on the facts of an individual project. We do not think the Bay Plan should predetermine that balancing by establishing one public trust use as preferred in every case.

So, BPC is asking the Commission to do more work on this amendment before adopting it, integrate it clearly with the LTMS, develop objective standards for Policy 7, and we have suggested language for your consideration, and address the capacity and funding necessary to make stronger beneficial reuse requirements workable. Thank you, and I hope we will be in dialog with you as we want to move the region forward in a collaborative spirit. Thanks.

Ellen Johnck spoke: Good afternoon, Mr. Chairman, Executive Director Goldzband, Commissioners, and staff. My name is Ellen Johnck, and I am here today to bring you a airplane level view of this topic, because that is what I love to do at this stage in life.

This is a milestone hearing. It is amazing. As I look back on just the recent process, when I say recent, the discussion on a Bay Plan policy was started over 10, 15, what, 20 years ago, by Brenda and team and the group of Commissioners that has been meeting as a working group. It is just amazing that we are at this stage to talk about beneficial reuse and sediment.

Because when I started my career back in the ‘60s, my team were a few gentlepeople. Names were Gene McAteer, Nick Petris, Milton Marks, John Knox, Bill Porter, Gordon Cologne, and a few other similar people and other worker bees like me who were writing the legislation to save the Bay. And we are still in the process of saving the Bay, but we have come a long way, baby. Mud at that time was dirty. Yes, throw it away. And okay, we put it. Some of it we were, yes, putting it in the little disposal site hoping that the ebb tide would take it out.

The Water Quality Act was parallel to saving the Bay because we had to clean up the water quality as well. Even Barbara Lee, not too long after creation of Save the Bay and BCDC Commission and then when I went on to work on saving the coast, Barbara Lee said, Ellen, what can I do for the ports? I said, could we have a piece of legislation that says sediment dredged from the navigation channels and flood control channels is not a waste. She did that. We had a bill. Seven hundred pages later, had so many amendments, never went anywhere.

So here we are finally with the LTMS talking about beneficial use.

The other thing, we are fresh from Restore America’s Estuaries. We are all fresh. Fifteen hundred people from all over the U.S. and international came to that conference, and there was so much talk about beneficial use, living shorelines, nature-based solutions, and so many discussions about how other states, which I have been involved in.

I encourage you to continue working with the community on the language to make sure we get it right because we have to maximize beneficial use. You said it, Erik. Yes, we have to keep doing it. This is wonderful.

Lorianna Kastrop commented: Thank you. Good afternoon, Commissioners. My name is Lorianna Kastrop. I have participated regularly in the SWAP meetings as a member of the public, and as a longtime former member of the Redwood City Port Commission. I would like to thank the Commissioner Working Group, BCDC staff, and SWAP Committee participants for all the work to bring this Bay Plan Amendment forward.

The Port of Redwood City is far from the deep-ocean disposal site, and the annual dredge cycle cost is high to barge the material out to throw away in aquatic disposal. We have sometimes been able to obtain funds for beneficial reuse of dredged material. However, the Bay Plan Amendment being considered will assist this effort. I hope that the Amendment will lead to more authorized sites by the Army Corps of Engineers for beneficial reuse, particularly within the Bay and south of the Bay Bridge.

I also hope that this process will lead to changes in state and federal policies so that the methodology used to calculate least-cost environmentally-acceptable alternatives will, for example, beneficial reuse typically costs more than aquatic disposal over a one-year dredge cycle. But if beneficial reuse bids could spread costs over multiple years of annual dredging, the expense of specialized equipment as well as increased mobilization and demobilization costs, could be amortized over a multi-year period, giving beneficial reuse projects a chance to overcome the financial math disadvantage.

I believe we need to monetize the long-term environmental benefits and the long-term cost avoidance of sea level rise damage, neither of which is currently part of the annual dredge cycle financial comparison. I strongly encourage the Commission to vote yes on the Bay Plan Amendment 1-26. Thank you so much for your consideration.

Renee Spenst commented: Thank you so much to the Commission, Chair Wasserman, Director Goldzband, and staff. I work for Ducks Unlimited. This is Renee Spenst; I'm a regional biologist overseeing San Francisco Bay and coastal California. Ducks Unlimited is supportive of seeing increased beneficial use in San Francisco Bay.

San Francisco Bay Joint Venture, the Bayland Habitat Goals Report, and the Science Update set very ambitious goals to restore over 100,000 acres of wetlands around San Francisco Bay. These lands are subsided many feet relative to surrounding marshes.

While we are supportive of increasing beneficial use, we are curious about how this is going to be funded so that it is sustainable for people and for our natural habitats. Thank you.

Chair Wasserman continued: Commissioner comments.

Commissioner Gunther chimed in: It has been really my honor to be the Chair of the Working Group and be able to get credit for all the great work the staff has done and all the participation by all the stakeholders. I really want to reiterate, we have all heard this story before, but there have been a lot of people who have put a lot of time into thinking this through. I appreciate the comments that I have heard today and the written comments that I have only just been able to get to peek at.

I know we all understand this, but we always have to say this, I think. Sea level rise is inevitable. We have crossed a tipping point on the planet, and the sea level is going to rise for at least a couple centuries. We do not know how fast, but in the past, in the paleo record, sea level has risen very fast.

We do not know how ice sheets break apart, but our kids are going to find out. So, we have got to respond.

I think that what we have here today is a wonderful start to creating what I think will go down in history as an extraordinary public works project in our region, and that we will be able to change the face of, or change the edge of the Bay Area if we are diligent.

But there are challenges that we definitely face, and we have heard these today. Beneficial reuse is more expensive than aquatic disposal and there are a limited number of beneficial reuse sites.

We have been working on these questions, these issues for a while, and they are a little recalcitrant. It is hard to do. Though I think, as the staff pointed out, we have shown that if there is more money available, voila, we get more beneficial reuse, and that is part of why we are having ongoing discussions about financing.

I am very, very excited about the idea of strategic placement as beneficial reuse. I understand that at Restoring America's Estuaries there was a presentation that identified potential strategic placement sites in the Estuary, and I hope that we are going to be able to move forward on these proposals boldly, as I said before.

And then lastly, I just want to note that the San Francisco Estuary Institute and its work over the last two decades really has been fundamental to us reaching this point. We are blessed to have this nonprofit scientific entity in our community, and we really need to make sure that we find ways for SFEI to be supported so that it can continue to do the great work that it has done, which has allowed us to argue about what we should do, but not about what is true and what is not true. Thank you.

Commissioner Showalter added: I would like to add a little bit to what Commissioner Gunther said. I was the Vice Chair of this process. I have to say that when I worked at Santa Clara Valley Water District on the South Bay Salt Pond projects one of the things that really troubled me was the lack of sediment that there was for restoration, and how the policies that we had were kind of at odds with getting the sediment in the right place. It is one of the reasons I wanted to join BCDC in the first place, and I have been really glad to be able to be part of this conversation.

Also, I was frankly just kind of blown away by the ongoing participation of the dredgers and the regulators and interested parties throughout this. You seldom get a process where 30 to 70 people will keep coming through three years of meetings. That signifies a great deal of interest. I do not think we can say that enough.

All of us who have been involved in political processes, you kind of know that people get meeting-ed out, right? You get a lot of people in the first meeting and then it kind of peters off. That has not been the case at all in this, and I think that it is demonstrative of how important this is.

I also want to talk a little bit more about strategic placement. It is sort of the concept of the day it seems like.

Long ago I was a geology major and so I learned a little bit about how sediment moves around.

One of the things I think everybody should think of when they think about strategic placement is you should think about how many mud flats there are that come out and get submerged in the Bay. Those mud flats are places that we would probably want to do strategic placement, or some of them are. Those mud flats during storms, that mud will be washed in and out of our streams. If those streams have restoration sites on them, then they will pick up the sediment from those mud flats.

They do it now with the natural amount, and they will take it in there. It goes in fast when it goes in on the tide cycle. And when it goes into that slow, slow water of a salt pond where the water is very, very quiet, it does not stay suspended, and so it falls out. So that is the process that we are talking about is we want to augment that. I think talking about what actually physically happens and making sure we all understand it so we can share that with people is important. So that is one thing I want to say.

The other thing, just a comment about there is a section in here, a little section in here about aquifers under the Bay. I would like to have the staff take a look at whether we really need that. It seems to me that that would be a very, very rare instance. I do not know why it is in there and I would be interested in hearing if we have ever had to use it over time. And if not, we should not have things in here that we do not need to have.

But I would like to say a couple of things about how this is going to work, the long-term versus the short-term.

I think in the long run these policy changes are going to make it a lot easier for dredgers. The reason I say that is because this is going to flip the coin and make it so that everybody sees dredging as something that leads to beneficial reuse, which leads to the restoration of wetlands, which are good for so many habitat reasons and for sea level rise protection. So, I think the flip of that policy coin in the long run is going to be very positive for dredgers and hopefully for all of us.

In the short run, however, we do not have a very long list. In fact, we have a very short list of places you can beneficially reuse sediment. We need to fix that. I think that is something we need to work on very seriously. I know people are working on it, but it is important.

Then the other thing I think is, as one of the one of the commenters said, this is a benefit for all of us. And when you think of it as a Public Trust Doctrine, sediment is a public trust resource, then the idea that maybe every dredger should pay all of the costs for beneficial reuse, maybe that is something we have to consider, particularly with the expense of getting sediments to shallow areas. Maybe we need to take a broader view of providing equipment that can be collectively used to move sediments into these areas. I know there has been some talk about purchasing some of the dredging equipment that could be used more, particularly to help beneficial reuse. But I think it is something that we should consider more seriously and perhaps advocate for.

Another thing that has come up repeatedly in the discussions is storage facilities for sediment that does not have an immediate use. That is mentioned in the policies, but I do think it is it is something that we really will need to get our arms around in the next 10 years. There may be sites in the Bay, not the current ones, but there may be some strategic placement sites that can also store material for a while. It is something to be considered. And certainly, the use of dredged materials from flood channels could be put to much more use. Having storage places for where we could handle this material could be very valuable for us as a region.

I wanted to share those things with you, and also just give a shout-out to the staff for the very, very high quality of work we have here. I really appreciate it. Thank you.

Chair Wasserman commented: I have a couple of comments, and I may not be brief.

I too want to start by thanking staff and all of the partners who have worked on this. This has been in process for a long time, and it certainly is not over yet. Nor will it be over if and when we approve this, it will be a work in progress.

I want to thank Ellen Johnck for her many years of service to the Bay and the people who enjoy the Bay, but particularly for her comments today. I am going to touch on a couple of them, I thought they were particularly apt.

I am not an elected official, as a number of you on this board are. I have a constituency essentially of one, the Governor.

I have always viewed the two primary representatives of our Commission's constituencies as Bay Planning Coalition and Save the Bay, and that they often balance each other out. They have overlapping interests, but they come from different perspectives appropriately. I am a little disappointed that Save the Bay has not weighed in on this. I am not saying they have not participated at all, but they are certainly not here speaking, and they have not participated much. I want to thank Bay Planning Coalition for its thorough and thoughtful piece. But I am also a little disappointed in it I have to say.

Ellen Johnck said this is a milestone meeting, this is a milestone event, this is a milestone action. You heard me start off the meeting today saying we need bolder action, and this is one of those actions that I believe we need. It won't be perfect. It will cause some problems.

It is part of the sea change in perspective that we have been about for some time, going back to the beginning of the review of how we adapt to rising sea level, and the ultimate gestalt shift that recognizing where saving the Bay and our mission started with stopping the filling of it. That in order to preserve and protect it in the light of rising sea level we were going to have to fill some of it.

And there is also beginning to be, I do not know if it is a sea change in fact, but some significant shift in the view of what public trust means in light of rising sea level. As you all know and may or may not remember, we along with the State Lands Commission, are engaged in a study of what that means in some contexts. That largely has to do with what kinds of development, if it is producing funds that can adapt to rising sea level, should be or should not be considered a public trust purpose.

I think this amendment represents recognition, and again I go back to Ellen Johnck's comments that the mud coming out of the Bay is no longer something that just needs to be thrown away. In fact, it is a public trust asset. The sediment that is being pulled out of the Bay in order to keep our channels clear, and for some other purposes, is a public trust asset, and that gives us the jurisdiction to be more direct about what is done with it. And we should not, if we can possibly and reasonably avoid it, be wasting that public trust asset by letting it flow away in the deep ocean. There is a cost to that, and we need to recognize the cost, and we need to balance things. We are not ignoring the cost.

I do want to point out, it is a somewhat minor, in certain respects a minor point, in other ways not, that when we talk about the cost to dredgers, this is not the cost to the dredging company. Their cost gets paid, get transferred to whoever has to dredge. Very significantly the ports, not exclusively by any means. And they in a variety of ways pass on that cost to their customers. It is the way commerce works in our wonderful capitalist society.

One of the points which the Bay Planning Coalition's letter points out, and the Staff Report certainly recognizes, is we need to do something to create more storage spaces, both for dredged materials and for upland fill. And while we do not have jurisdiction over upland fill, in this effort we need to recognize that we need to deal with that as well.

One of the things I would like us to explore, I do not know whether it needs to be expressly addressed in the Bay Plan Amendment itself, is whether we could devise a project to be funded by Measure AA to create some storage spaces. Obviously to be used primarily for wetlands preservation, which is their purpose. But I think that is one of the things that we need to do.

And at least some of the Staff Report, if not the language of the Amendment itself, I think may need to be strengthened a bit as we are doing the final revisions on the need to be more aggressive in identifying, encouraging, creating storage sites. Recognizing their location is important because it needs to minimize the cost of transportation.

But there will be increased costs, and the increased cost is justified because of the public trust purpose. And the public trust purpose comes back to the fact that we need this fill to protect our natural habitat, the mud flats, as well as wetlands throughout the Bay, as well as in some instances the built environment.

So, this is a milestone. It is a sea change. It is bold. And it is absolutely necessary. We are not voting today. The Executive Director looked like he wished to make a comment.

Executive Director Goldzband replied: I will wait until they are done.

Commissioner Nelson chimed in: As many of you know, many years ago I worked at Save the Bay, where Ellen and I frequently appeared jointly at hearings. As Ellen I am sure would confirm, when I was at Save the Bay, we did not always agree with the Bay Planning Coalition. But I really appreciated Ellen. I appreciated your comments today, they were clear and helpful.

Like the Chair, I was frankly a little confused and troubled by the Coalition's letter which I read yesterday and on comments today. Would it be appropriate to ask Laura Tam to come up? I have three questions I was hoping I could ask in order to better understand their perspectives.

Chair Wasserman stated: Assuming she is willing to do so, sure, but it is purely voluntary.

Commissioner Nelson continued: One of your comments was about ensuring that there is capacity for beneficial reuse, with which we could not agree more. We are trying to walk a line here. The Chair has called for bold action, which I think the Commission strongly supports, and Rachel's presentation emphasized the need for flexibility. You expressed concern about the amount of judgment that was built into the criteria for determining the feasibility of reuse for individual dredging projects, and it sounded as though you were calling for a more prescriptive, a more formulaic approach, I am not sure exactly. I saw the language you suggested.

I just wanted to note that the use of judgment is kind of hardwired into BCDC. We do not have a highly prescriptive formulaic approach to determining maximum feasible public access. The staff has had decades of experience. We do not have a machine, you turn it in and turn a crank, and it tells you how much is an appropriate amount of access for a particular project. That kind of judgment seems to be similarly appropriate here in determining feasibility of beneficial reuse for individual projects.

I just wanted to ask you to explain your concern a little more because it sounds as though you were asking for a more formulaic, a more prescriptive approach. I am just trying to understand more about why you found the judgment inherent in the current language troubling.

Ms. Laura Tam replied: So, first of all, I totally agree. Every project has a permit and there's a permitting process per episode. And there is a process for doing that today and there is judgment applied in how projects get advanced, right.

I think that the phrase, reasonably capable of being done, leaves too much open from an interpretation perspective for a person who is advancing a project. And so, the language that we offer, and we are totally happy to talk about this going forward, what other words might suffice to be a little bit more objective about when these criteria to reuse 100% of your materials would apply.

There are also a couple things in there that seem like they are pretty extraneous to the judgment, including whether there are co-applicants to a project, the economic benefit of the project, which may or may not be something that a dredger would be able to quantify or have quantified in advance.

There is a lot of extra work I think that is going into a process where it is not clear how the how the information is going to be taken in and then used as decisional. The suggestions that we have around firming up Policy 7 a little more clearly would hew to those sort of criteria. Like under what conditions the Commission would decide that this needs to happen.

Commissioner Nelson acknowledged and continued: Appreciate that. I am sure staff will consider that as they consider possible tweaks to the language.

Second question. You expressed a concern that this approach was prioritizing one trust use over another, potentially wildlife habitat in comparison with maritime uses. That puzzles me. As the Coalition has acknowledged, we are trying to prevent a legitimate disaster from sea level rise. The benefits of beneficial reuse are not merely habitat and wildlife benefits, as important as those as those are, but also helping with sea level rise adaptation and preventing damage to the Bay Area community.

The meeting we had this morning was about finding ways to finance adaptation. And we are eager to find ways to finance beneficial reuse. We are not seeing this as something that is simply on the backs of the dredging community.

And then of course finally, there is no mandate for reuse in this language. There is no prohibition against continued in-Bay or ocean disposal. We are clearly trying to push strongly in one direction but there is not a mandate. Can you help us understand why this approach is prioritizing one trust use over another?

Ms. Laura Tam explained: Yes. Some of the lawyers within our ranks added some citations and legal matter to the letter that you might want to review for a little bit more of a thick description of what our concerns are related to the public trust language here. But I think that one of the concerns that we have is that the policy's declaration that beneficial reuse is the preferred alternative in all cases is not always, like it is not always the case in every project that beneficial reuse should be required.

And we do think that Policy 7 basically puts a mandate out there; and that was also shared by the staff in the presentation that this is mandating beneficial reuse when the Commission decides that it can be done. We do not think that that should necessarily be.

We think that the process that has already been created - there is a very good process that multiple agencies have participated in and that have advanced beneficial reuse successfully for decades. There is an opportunity to strengthen that process by changing the limits that are part of the LTMS. That is why we still send material to aquatic disposal. That is why there is not more in-Bay placement and sediment disposed because we have certain standards that we have set up through the LTMS that require where certain types, you know, what the percentages are, the 40/40/20. Those numbers can be changed. And that would be an effective way to come up with a multiagency process of agreeing on how much we want to see beneficial reuse occur rather than create a different more 100% scope for BCDC that is not necessarily part of a shared agreement.

Commissioner Nelson stated: That actually sets up my third question and that is about the LTMS. I was around and very much involved in the creation of the LTMS process.

Ms. Laura Tam added: I think Ellen was too.

Commissioner Nelson acknowledged: Yes, absolutely. And I think that process has been a real success.

We are clearly trying to move in a bolder direction. And I am just going to be blunt. The Corps in California and Sacramento has been enormously helpful. But an administration that will not acknowledge that sea level rise is happening or that climate change is real is not going to provide bold leadership to dramatically advance reuse.

And it makes me feel that hoping for incremental changes, especially in the next couple of years in the LTMS is kind of a status quo approach. Very difficult to achieve bold action through that approach it seems to me. Maybe you have a different perspective, and I would be happy to hear that. But my real question there is whether you have a different model for achieving the kind of dramatic progress that the Chair mentioned as an alternative to the approach we are pursuing here?

Ms. Laura Tam answered: Yes, I mean, well, first of all, I think allowing more in-Bay disposal to make beneficial reuse more cost-effective would be one way to work through all the agencies to agree on similar shared goals for where we want dredge material to go.

Second of all, there is only one place you can take dredge material right now. I realize that that is not the scope of this amendment and that is not something that BCDC has the ability to fund. But that is a real problem. Right now, the South Bay Salt Pond Restoration Project, a great, amazing restoration project that is doing all kinds of adaptive management, addressing sea level rise, habitat, and all that stuff - they are trucking in truckloads of dirt from upland soils for years to meet the sort of needs of those managed ponds and wetlands. Which is there is no stockpiling site in the South Bay. There is no place to take dredge material and leave it ready for the South Bay Salt pond to access from water, partly because the Bay is so shallow on the south side.

But I guess I am agreeing with you that we need more sites. We need more staging areas. We need it to be easier to do. Everybody loves strategic placement, we do too. Want to see more of that happen. If dredgers could take, to Commissioner Gunther's point earlier, if they could take sediment to an aquatic transfer site or somehow leave it near the Bay so that it can be accessible when the window is open to do strategic placement-like projects, we think that is great.

I have been working on advancing the region's sea level rise policies for 15 years, and I definitely want to see more sediment reused. I think the idea of having local governments in their RSAP process consider how they might be able to reuse sediment and where they might get sediment from, like a scoping look at where there are upland soils.

But I think that the language in this amendment is problematic for the reasons we describe in the letter and the criteria for the Commission. I think that a lot of small dredgers are going to feel some pain from this Amendment, and I do not think that is our goal or should be our goal when we are trying to balance multiple uses of the Bay from navigation to small marinas and recreation and access to the water and everything else.

So, I think we have some suggested language that you could take into consideration to make it clearer what the standard would be. But I also think working through the LTMS process to allow more in-Bay disposal, working with, as Chair Wasserman suggested, with state agencies to find funding to pay down the cost of beneficial reuse making it easier to fast track sites to stockpile and to put sediment placement or allow sediment to be put in a place that can be saved for the right time rather than putting it in the ocean would be a great idea. But more in-Bay disposal, more keeping the sediment in the system, we really support that.

Commissioner Nelson stated: We certainly have common ground about finding more in-Bay disposal sites. And on that common ground I will stop and hand it back to the Chair.

Commissioner Eklund chimed in: First of all, Ellen, I do not know if you remember me or not, I think I met you when I was 17 years old and I was working for the Army Corps of Engineers. Gene Huggins was my first boss and he was incredible. He said to me, it was the day after high school graduation, my first day of employment. He said, Pat, you need to get out to the Farallon Islands where they are dumping all the dredged material. So, at 17 years old I rode on the hopper dredge out there and I watched them dump the dredge material or the sediment out there. And I will never forget my words on the way back was, what a waste. Going all the way out there, dumping it, and then coming back all the way. That almost took the full day by the time you are going out there. So, I have personal experience dating a long time ago and I am not going to count the years.

I first of all want to thank the staff for doing such a great job on this topic. It is not an easy topic at all. It generates a lot of emotions on different sides of the issue.

But dredged material is an incredible resource, and I have always felt that it was a waste to dump it into the ocean, and I still do. Now that I get to serve in this position, I really am looking for minimizing the deep-ocean dumping of this material and really maximizing the beneficial reuse, even if that requires the concept of let's store some of the dredge material and use it when it becomes available. That is a concept I do not know if we have had that discussion or not, but I think that is something we need to look at.

Minimizing ocean disposal is, in my opinion, going to achieve a lot more public objectives. One is the cost of money. It would reduce the cost of dredging considerably, which is something that we need in the San Francisco Bay Area. We need more dredging so we can get those deep-ocean vessels coming into our ports, and probably even go further up into like Sacramento or the Delta.

I think that we need to really focus on reusing this material. I think at one point we had a bank where there was trading of dredged material, and so maybe we need to increase that, or maybe we need to put some money into that so that we could reuse the material. That, in my opinion, should be the first thing.

I think dredged material is a public asset. And I do not think that with this proposal of still allowing a majority of the material going out into the ocean is using the public asset in the correct manner. I really hope that we can make some changes in order to help maybe put the emphasis a little bit differently.

I recognize that it is going to take time if we only have two sites where we need the dredged material now. That is not good. And so, what can we do as an agency? What else can we do in the Bay Area? What can we do with the Army Corps of Engineers as they do more wetland restoration projects?

What can we do together to help maximize a fundamental change in how we create wetlands, how we manage them; and working with other public agencies, city, counties, and private developers that are trying to maximize the establishment of wetlands.

I do not know. I was really a little disappointed, frankly because I wrote, why are we still considering disposal in the ocean? Why is that still a primary thing? Maybe if we could just take a second look at it. If not, I mean, you guys have done a lot of great work on this.

It is just that I will not tell you how many years it is been since I was 17 years old when I started working for the Army Corps of Engineers, but it is a long time. And when I look at it, it really has not changed that much from the first day I started working for the Army Corps. We are still taking that stuff out by the hopper dredges. I mean, I was there, I watched it at 17 years old and I was just going, wow. And I did not even really know about reuse then.

So anyway, comments from the heart, comments from my experience, and the dream that someday we can reuse material first rather than disposing of it. I do not care what it is, paper, plastic, dredge material. We should be so far ahead, and we are not there yet and I really worry about the next generation. So, anyway, comments from the peanut gallery. Thank you.

Commissioner Janoff chimed in: I have been very silent. I was advised not to weigh in. But I speak as a USACE staff member, not as a BCDC Commissioner.

Specifically, because I think it is a good question that Commissioner Nelson pointed out or raised, which is, what other ideas are there about increasing beneficial use beyond regulatory measures or requiring beneficial use and requiring analyses?

I think that in the robust workshops that were put on there were a lot of really good ideas that were discussed. Some of them might be outside the purview of BCDC or outside the jurisdiction. But I am just going to throw a few out there that from my own perspective into the public sphere.

I think strategic placement, the fact that it is gaining so much momentum, is great. I agree with Commissioner Gunther that this is about experimentation. I think scaling up from pilot projects is really important, and I think that finding a way to permit at a regional scale for strategic placement will be really critical for increasing beneficial use and addressing the fact that there are limited wetland restoration sites in the Bay.

And to other points that I have heard made previously, especially in the workshops, we cannot focus beneficial use only in Suisun Bay or only in San Pablo Bay. one of the public commenters also mentioned South Bay. That is an important area that we need to focus on as well.

The way that I see it is that you could have a regional permit that rings the Bay in an area of interest where you know needs sediment and then you could have different zones. And you could say to the dredgers you can place in Zone 1 in Year 27 and Zone 2 in year 28, and go around the Bay. And the way that my former colleague Julie Beagle put it, it is like a sprinkler going around the Bay or a hose, and you move the hose and you are you are watering the whole grass, the whole yard. So, I think that that is one way to increase beneficial use.

And maybe this is a harebrained idea, but I think Commissioner Ecklund was touching on this: the idea of a credit trading system. So, a market-based incentive, a positive incentive where you assign credits to beneficial use, some positive value, you assign negative value to deep-ocean disposal, and in the middle is in-Bay placement. It is not as good as beneficial use, but it is not as bad as deep-ocean disposal.

The Corps submitted public comments, including a research study, analyzing in-Bay placement and where the sediment goes, and a lot of it in fact, stays in the Bay. It does not go to wetlands necessarily, but it gets re-entrained over time. So that would allow potentially the trading of credits, positive and negative credits between dredgers. Dredgers that could afford beneficial use versus dredgers that might not be able to afford beneficial use. Maybe that is a way to achieve economies of scale and use a market-based approach. Again, I do not know if it is within BCDC's jurisdiction but maybe that is an idea.

And then the other idea that has been talked about is a transfer facility or stockpiling. We are already kind of doing aquatic stockpiling in certain places. There are mounds at SF11 off of Alcatraz. There are mounds at SF9 in eastern San Pablo Bay. Perhaps we should find a way to incentivize re-dredging those areas that have already been benthically disturbed. Especially, I am thinking SF9 is close to other potential beneficial use projects in those areas, or it is a stepping stone to Montezuma, which is the main beneficial use site now.

So the dredging projects reduce the cost to the dredging projects and then maybe create some type of an incentive structure to, in the same way that there is an industry around sand mining, there could be an industry around restoration scavenging. I do not know. I mean, it is not mining, but it is taking sediment from that existing site and then taking it to a beneficial use site. So, while originally the intended purpose was not beneficial use of that sediment, we could say, hey, let's get it there.

So those are just some of my own personal comments, and I appreciate this discussion and all of the hard work the staff has put in. Thank you.

Executive Director Goldzband chimed in: Chair Wasserman, before you ask for a motion and a second to close the public hearing, I might recommend that you actually ask for a motion to extend the public hearing until Monday at 5:00 o'clock and be closed then to enable people to respond to what they have heard today.

Chair Wasserman replied: That was my intent. But a couple of quick comments before that.

To some extent we are in a chicken and an egg problem. I think one of Brenda's remarks about the dredger who said to her that when there is a clear signal, we will follow it. I think we need to give that clear signal. And I think reasonably capable is equivalent to maximum feasible. It is maybe worth a relook. But I actually think in this particular instance the word capable, which refers a little bit more to capacity, is an appropriate one.

Staff will take a look at all of the comments. And I think to Larry's point, we have had a very good dialog this afternoon. If there are people who want to submit comments between now and Monday, I think that would be appropriate. So, I would entertain a motion to close the public hearing as of end of business day on Monday. Yes, 5:00 p.m. Monday. If I could have a motion to that.

MOTION: Commissioner Nelson moved to close the public hearing as of 5:00 p.m. Monday, October 19, 2026, seconded by Commissioner Moulton-Peters. The motion carried by a voice vote with no abstentions or opposition.

Chair Wasserman continued: That concludes this matter for this moment in time. Thank you, including for some very creative thoughts.

9. Closed Session Conference with Legal Counsel - Anticipated Litigation. Chair Wasserman stated: We are going to adjourn into a closed session with legal counsel to discuss anticipated legislation.

Before adjourning to closed session, is there any public comment on this item?

(No members of the public addressed the Commission.)

(The Commission was in closed session from 3:47 p.m. to 4:18 p.m.)

After reconvening Chair Wasserman announced: We have returned from the closed session and there is no reportable action.

10. Adjournment. There being no further business, the Commission meeting was adjourned at 4:18 p.m.