San Francisco Bay Conservation and Development Commission
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TO: Commissioners and Alternates

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SUBJECT: **2026 Re-Evaluation of Staff Jurisdictional Determinations Staff Report and Briefing**
(For Commission briefing on October 1, 2026)

Summary

In the Spring/Summer of 2026, BCDC staff began a process to re-evaluate Staff Jurisdictional Determinations along various streams that staff have observed in the field to appear to be within BCDC jurisdiction. The jurisdictional status in these streams as Bay jurisdiction was confirmed by new data and tools created by regional partners. Catalyzed by the release of new bayland habitat data developed by the San Francisco Estuary Institute (SFEI) and the Wetlands Regional Monitoring Program (WRMP), a comprehensive map of BCDC's jurisdiction, called the Jurisdiction Screening Map, was created for the first time. This data provides high-resolution information about shoreline conditions around the Bay at a scale previously unavailable without a site visit by a surveyor and an ecologist. (As explained further below, the Jurisdiction Screening Map is intended to be a first-step screening tool to help determine the likelihood of an area being in BCDC jurisdiction but is not intended on its own to be determinative for any purpose.)

The development of BCDC's Jurisdiction Screening Map confirmed some areas as within BCDC's Bay jurisdiction and revealed a number of locations where previous Staff Jurisdictional Determinations may be outdated or inconsistent, especially around streams and tributaries. Staff began to develop a prioritized list of streams where BCDC records and current "on the ground" conditions appear to diverge, collect field data to inform updated Staff Jurisdictional Determinations, and draft materials for stakeholders to inform jurisdictions and property owners. An example location of where this process

has begun is in the City of San Rafael's San Rafael Creek. As the extent of jurisdiction in this and other tidal creeks and channels are re-evaluated and confirmed, BCDC will integrate this information and publish the Jurisdiction Screening Map as a public-facing resource in 2027.

BCDC staff are briefing the Commission and informing the public about this effort and will continue to provide updates as additional Staff Jurisdictional Determinations are completed and coordination with local governments advances.

Staff Report

Background

BCDC's jurisdiction types are set forth and legally defined in Government Code section 66610 of the McAteer-Petris Act. For present purposes, the relevant jurisdiction types are "Bay" and "shoreline band":

> (a) San Francisco Bay, being all areas that are subject to tidal action from the south end of the bay to the Golden Gate (Point Bonita-Point Lobos) and to the Sacramento River line (a line between Stake Point and Simmons Point, extended northeasterly to the mouth of Marshall Cut), including all sloughs, and specifically, the marshlands lying between mean high tide and five feet above mean sea level; tidelands (land lying between mean high tide and mean low tide); and submerged lands (land lying below mean low tide).
>
> (b) A shoreline band consisting of all territory located between the shoreline of San Francisco Bay as defined in subdivision (a) of this section and a line 100 feet landward of and parallel with that line, but excluding any portions of such territory which are included in subdivisions (a), (c) and (d) of this section; provided that the commission may, by resolution, exclude from its area of jurisdiction any area within the shoreline band that it finds and declares is of no regional importance to the bay.

Historically, it has been difficult to communicate jurisdiction clearly at a regional yet site-specific scale. Per 14 CCR section 10133 of the Commission's regulations (Determination of Commission Jurisdiction), upon written request Commission staff are required to describe BCDC jurisdiction in written words or on a map. (Subdivision (a).) These maps or written descriptions may be based on any reliable sources available. (Subdivision (c).) These descriptions are referenced by agency staff as "Staff

Jurisdictional Determinations" (Staff JDs). A Staff JD is an evaluation of a location by staff at a specific point in time as to whether the location is within BCDC's jurisdiction, based upon the applicable legal definitions. With respect to locations subject to a Staff JD for determining Bay jurisdiction, staff then document the "head of tide" – the furthest point upstream that is tidally influenced - which limits BCDC Bay jurisdiction in a specific location based on the conditions at the time. Staff JDs can be prepared for any type of jurisdiction but are most commonly prepared for Bay jurisdiction and accompanying shoreline band jurisdiction. Consistent with the definition of "San Francisco Bay" set forth in Government Code section 66610(a), Bay jurisdiction is based on tidal elevation and land cover and includes all areas subject to tidal action using Mean High Water and marshlands up to 5 feet above Mean Sea Level. Jurisdictional Determinations can be difficult to assess because the head of tide is a zone that must be reviewed based on elevation, habitat type, and other factors. The San Francisco Estuary Institute (SFEI) prepared a study in 2014 to help BCDC staff and project proponents identify the head of tide zone.

Without consistent regional elevation and habitat data, and with limited resources, Commission staff typically have conducted Staff JDs on a project-by-project basis as project proponents inquired about jurisdiction. These are time-consuming to determine and difficult to document. As is typical for water resources management agencies, staff typically leveraged the expertise from biologists and GIS staff from project proponents to estimate BCDC jurisdiction and then reviewed their findings to make a determination. Consequently, the quality of field evaluation and map findings depended on the resources available to the project proponent. Because of the difficulty of identifying head of tide, the fact that Staff JDs only represent a snapshot in time, and the fact that hundreds of streams and flood control channels are tidal in the Bay, the task of maintaining all Staff JDs regionally has been historically difficult.

Being able to determine the head of tide zone on a regionally consistent, site-level scale would allow BCDC staff to more efficiently and consistently conduct Staff JDs. New regional data from SFEI's Baylands Habitat Map filled a critical information gap by mapping tidal habitats and elevation relevant to BCDC's legal jurisdictional criteria. Using this data, BCDC partnered with SFEI to model the agency's full jurisdiction for the first time in GIS and developed the Jurisdiction Screening Map - the first visual tool designed to communicate BCDC's jurisdiction. This data provides high-resolution information about shoreline conditions around the Bay at a scale previously unavailable.

Development of this tool also advances Strategic Plan Strategy 2.2 in BCDC's 2023-2025 Strategic Plan —*Update existing regulatory and planning operations to implement laws and policies more consistently, transparently, and efficiently*. Over the past several years, staff have developed a series of initiatives to improve BCDC's public-facing data and mapping tools in support of both the public and internal operations.

Jurisdiction Screening Map

The Jurisdiction Screening Map is intended to be a first-step screening tool to help determine the likelihood of an area being in BCDC jurisdiction but is not intended on its own to be determinative for any purpose. It relies on best available spatial resources for characterizing the landscape and BCDC records for mapping the extent of possible jurisdiction types, but both resources have limitations. Therefore, this tool is intended to be used in addition to site visits and/or additional information to ensure a Staff JD is based on current, on-the-ground conditions. Physical conditions in the Bay are constantly changing (e.g. levee breaches, sea level rise) and this tool was designed to change alongside these conditions; however, this will not occur in real time. The attachment to this report provides more detailed information about the development of the new Jurisdiction Screening Map and how staff use it. The ultimate justification for a given Staff JD for a project is the responsibility of the permit analyst/staff, but the Jurisdiction Screening Map helps identify the zone where staff may need to direct their focused review.

Staff use the Jurisdiction Screening Map to identify areas with significant discrepancies between where BCDC's jurisdiction ended as historically determined by previous staff, and where it appears to end today taking into consideration existing conditions. This new process enables BCDC staff to generate a list of places where Staff JDs need to be ground-truthed. Some problematic locations were already known to staff, but being able to estimate the head of tide zone made this project more feasible at scale. Alongside the development of the Jurisdiction Screening Map, staff are performing quality control of the map, reviewing past Staff JDs to see how the map may need to be improved to be more accurate, and determining how the Staff JD process can be further refined to be more efficient.

Lastly, the timing is opportune because, as Subregional Adaptation Plans are being developed under the Regional Shoreline Adaptation Plan (RSAP), BCDC seeks transparency about where jurisdiction currently ends along creeks so local planners are clear on where BCDC's permitting requirements, under the McAteer-Petris Act and

relevant Bay Plan Policies, will apply when considering adaptation strategies for rising sea levels. This will help ensure that adaptation concepts presented in RSAP Subregional Plans align with BCDC laws and policies to the extent that they fall within BCDC's jurisdiction.

Initial List of Streams to be Re-Evaluated

There are hundreds of tidal streams and flood control channels in the Bay, and BCDC staff has determined that there are about 85 sites in need of review at this time. With the recently available resources, staff have developed an initial list of streams where existing Staff JDs and staff observations in the updated maps and on-site diverge, in addition to a number of other criteria. Through this process, BCDC staff identified 25 sites to start for re-evaluation at this time, while future development pressures and permit inquiries may re-position sites on the list. BCDC staff will work through this review in coordination and with the help of local governments. This list was arranged to start with sites based on areas:

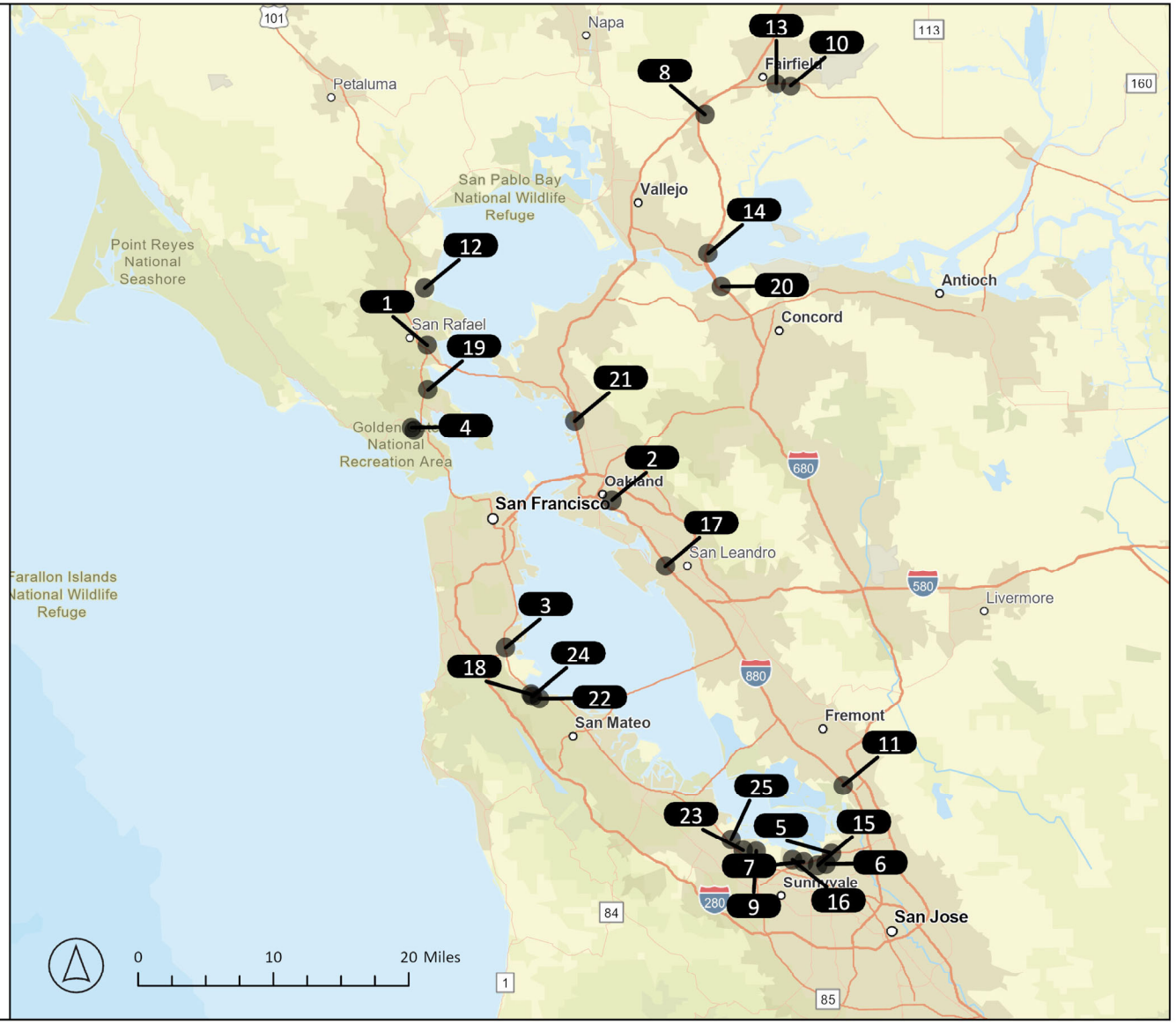
- where permit applications or inquiries are submitted to staff,
- where there is a material difference in area between existing Staff JD records and what current staff know about existing site conditions,
- under more significant development pressures,
- with advanced stages of RSAP planning underway,
- with known or recurring issues that affect the Bay and its resources negatively, and
- within a socially disadvantaged community.

The initial list of sites for staff to review BCDC's jurisdiction along streams/flood control channels is shown below:

Top 25 Creeks for BCDC Jurisdiction Review

September 2026

	Location	City	County
1	San Rafael Creek	San Rafael	Marin
2	Lake Merritt Channel	Oakland	Alameda
3	Colma Creek	South San Francisco	San Mateo
4	Coyote Creek South	Mill Valley	Marin
4	Coyote Creek North	Mill Valley	Marin
5	Guadalupe River, Alviso Slough	Alviso	Santa Clara
6	San Tomas Aquino Creek	Santa Clara	Santa Clara
7	Calabazas Retention Basin	Sunnyvale	Santa Clara
8	Green Valley Creek, Dan Wilson Creek, Cordelia Slough Branch	Fairfield	Solano
9	Stevens Creek	Mountain View	Santa Clara
10	McCoy Creek	Suisun City	Solano
11	Alameda Flood Control District, Channel E	Hayward	Alameda
12	Miller Creek	San Rafael	Marin
13	Suisun Slough	Suisun City	Solano
14	Sulphur Springs Creek	Benicia	Solano
15	Calabazas Creek	Sunnyvale	Santa Clara
16	Sunnyvale West Channel	Sunnyvale	Santa Clara
17	San Leandro Creek	San Leandro	Alameda
18	Mills Creek	Burlingame	San Mateo
19	San Clemente Creek	Corte Madera	Marin
20	Peyton Slough	Martinez	Contra Costa
21	Codornices Creek	Albany	Alameda
22	Sanchez Creek	Burlingame	San Mateo
23	Permanente Creek	Mountain View	Santa Clara
24	Easton Creek	Burlingame	San Mateo
25	Charleston Slough	Mountain View	Santa Clara



San Francisco Bay Conservation and Development Commission

Communicating the Changes

Communicating the first 25 out of 85 sites of re-evaluated BCDC jurisdiction to the local jurisdictions and the corresponding community is a significant undertaking. As Staff JDs are updated, staff will reach out to local governments. BCDC has created a draft Outreach Plan that includes creation of handouts, meetings with local city/county staff, and updates to the BCDC website on these changes in BCDC jurisdiction, where stakeholders can access more information and locate appropriate contacts. Outreach to these jurisdictions may vary depending on local government needs, if there are active application inquiries, proximity to socially vulnerable communities, and staff capacity. It is anticipated that outreach will be done in coordination with RSAP planning if the timing is right and where other outreach opportunities exist.

Moving Forward

Staff is working internally to determine how to move forward with implementing the agency's regulatory authority in re-evaluated areas in a transparent and orderly manner, and this briefing of the Commission is the first step. It is important to note that local governments will continue to review development proposals in the first instance in these re-evaluated areas. Staff's present posture is that existing development not proposing any changes to their properties will not "retroactively" need a BCDC permit. For new proposed changes for structures built before 1965, property owners should contact BCDC so that staff can evaluate the appropriate permitting process, much like anywhere else in BCDC's presently known jurisdiction. BCDC staff are exploring approaches on how to address new proposed changes to structures built in 1965 or later that are unpermitted. For new proposed changes for structures built after 1965, property owners should contact BCDC so that staff can evaluate what options may exist for legitimizing the work. Simply put, this is a work in progress, and the purpose of this briefing is to provide the Commission with a discussion point from which to move forward.

The Jurisdiction Screening Map accuracy will be improved in 2027 by integrating updated data from site visits and new regional spatial data (e.g. Lidar data from 2025). Following the final Jurisdiction Screening Map development, there are plans to create an interactive map available for the public to use in late 2027.

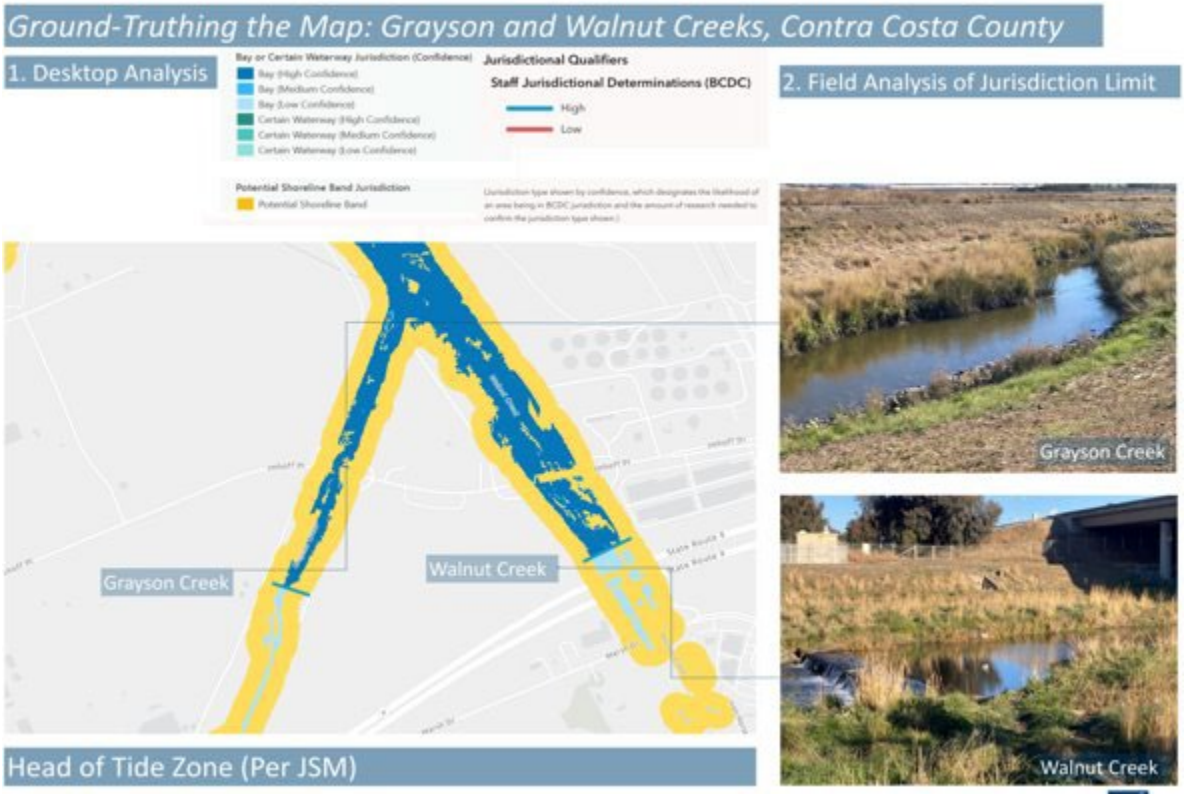
ATTACHMENT: **Methods and Detailed Information about the Jurisdiction Screening Map**

The following is further information about the Jurisdiction Screening Map and how it was developed and will continue to be refined as BCDC works towards making a publicly available version of this tool.

Background:

BCDC's jurisdiction is defined in Government Code section 66610, and staff assesses jurisdiction using historic land cover, current land cover, and policy-based location descriptions. Therefore, historically it has been difficult to communicate jurisdiction clearly at a regional, yet site-specific scale. New regional data from the San Francisco Estuary Institute's (SFEI) Baylands Habitat Map, which was developed through support from the Wetlands Regional Monitoring Program, filled a critical information gap by mapping tidal habitats relevant to BCDC's legal jurisdictional descriptions. BCDC partnered with SFEI to model the agency's full jurisdiction for the first time as a geospatial dataset. This dataset integrates automated GIS scripting, tidal relative elevation data, and high-resolution aquatic habitat mapping.

Using this dataset, BCDC developed the Jurisdiction Screening Map, the first visual tool designed to communicate the estimated extent of BCDC jurisdiction types described in the McAteer-Petris Act and Suisun Marsh Preservation Act, BCDC's regulations, as well as the Bay Plan and Suisun Marsh Protection Plan. The Jurisdiction Screening Map offers an innovative approach to coastal zone communication by helping users identify where conditions defined by BCDC's laws and policies may apply. At this time, the draft Jurisdiction Screening Map is being used by staff to assist with estimating, visualizing and researching the zone where BCDC Jurisdictional Determinations or other BCDC jurisdiction inquiries may need to be evaluated. It is designed as a "screening" tool because it estimates the zone in which BCDC's jurisdiction may apply, which is always intended to be followed up with additional site-specific assessment (which may include project plans showing BCDC jurisdiction prepared by a certified surveyor) for a final Staff Jurisdictional Determination (Staff JD). For this reason, the tool is designed to over-estimate some boundaries to encourage sufficient staff review and collaboration with the public. This can be seen in the example below where desktop analysis helped identify the head of tide zone followed by a site visit that allowed staff to finalize the Staff JD based on field conditions.



Methods Details:

This model was developed using ArcGIS/Jupyter Notebook with vector input layers that include BCDC's jurisdiction types, SFEI's Baylands Habitat Map, and various bounding areas. This in combination with water surface elevations and topographic digital elevation model (DEM) to represent tidal datums and shoreline elevation were the building blocks of this model. These data represent the region's best available sources at the time of model development – this draft output currently shows Baylands Habitat Map conditions from 2020 and BCDC jurisdiction records from 2024. The following table summarizes the data sources used along with planned update cycles:

Type	Data	Source	Planned Update
Elevation/Tidal Data	SF Bay elevations (DEM)	SFEI (various years)	New DEM to 2025 conditions
Elevation/Tidal Data	Tidal Datum	NOAA/AECOM (2014)	Planned update based on NOAA National Tidal Datum Epoch revision (2029)
SFEI Layers	Baylands Habitat Map (BHM)	SFEI (2020 conditions)	BHM updated to 2025 conditions
SFEI Layers	BAARI (Streams)	SFEI	None
BCDC Layers	Certain Waterways Boundary	BCDC (2024)	None
BCDC Layers	BCDC Jurisdiction Boundary	BCDC (2024)	None
BCDC Layers	Managed Wetlands	BCDC (2024)	None
BCDC Layers	Staff Jurisdictional Determinations	BCDC (February 2025)	Annually
BCDC Layers	Special Jurisdictions (Settlements, Exclusions, Exemptions)	BCDC	None
BCDC Layers	Bay Fill	BCDC (February 2025)	Annually
BCDC Layers	*Site Notes Overlay*	*BCDC (forthcoming)*	

There are 13 fields in the data schema, and these allow review of the map with pop-up information at a site-scale with some key fields:

- Jurisdiction: the type of BCDC jurisdiction that applies (e.g. Bay, Certain Waterway, Shoreline Band, Salt Pond, Managed Wetlands)
- Jurisdiction Source: The condition that qualifies the site within BCDC jurisdiction (e.g., Mean High Water)

- Data Source: The place where the data came from (e.g. Baylands Habitat Map/tidal and elevation data)
- Reference: The location where the underlying definition came from (e.g. General Code 66610(a) with link)
- Baylands Habitat Map: Information on hydrogeomorphic setting, habitat type, and detailed habitat classification (e.g. Estuarine, Full Tidal Connection)
- Date Updated: The date of the latest data update

The data schema was thoughtfully developed so that key attributes that dictate the jurisdiction displayed for a location are apparent to the user, and to point the user in the right direction for further research and preparations for a potential site visit. This was done by adding a confidence field (low, medium, high) that indicates how much additional research is needed to move from the zone where BCDC jurisdiction may be limited to a single line. The following table shows what contributing factors resulted in high or low confidence by jurisdiction type.

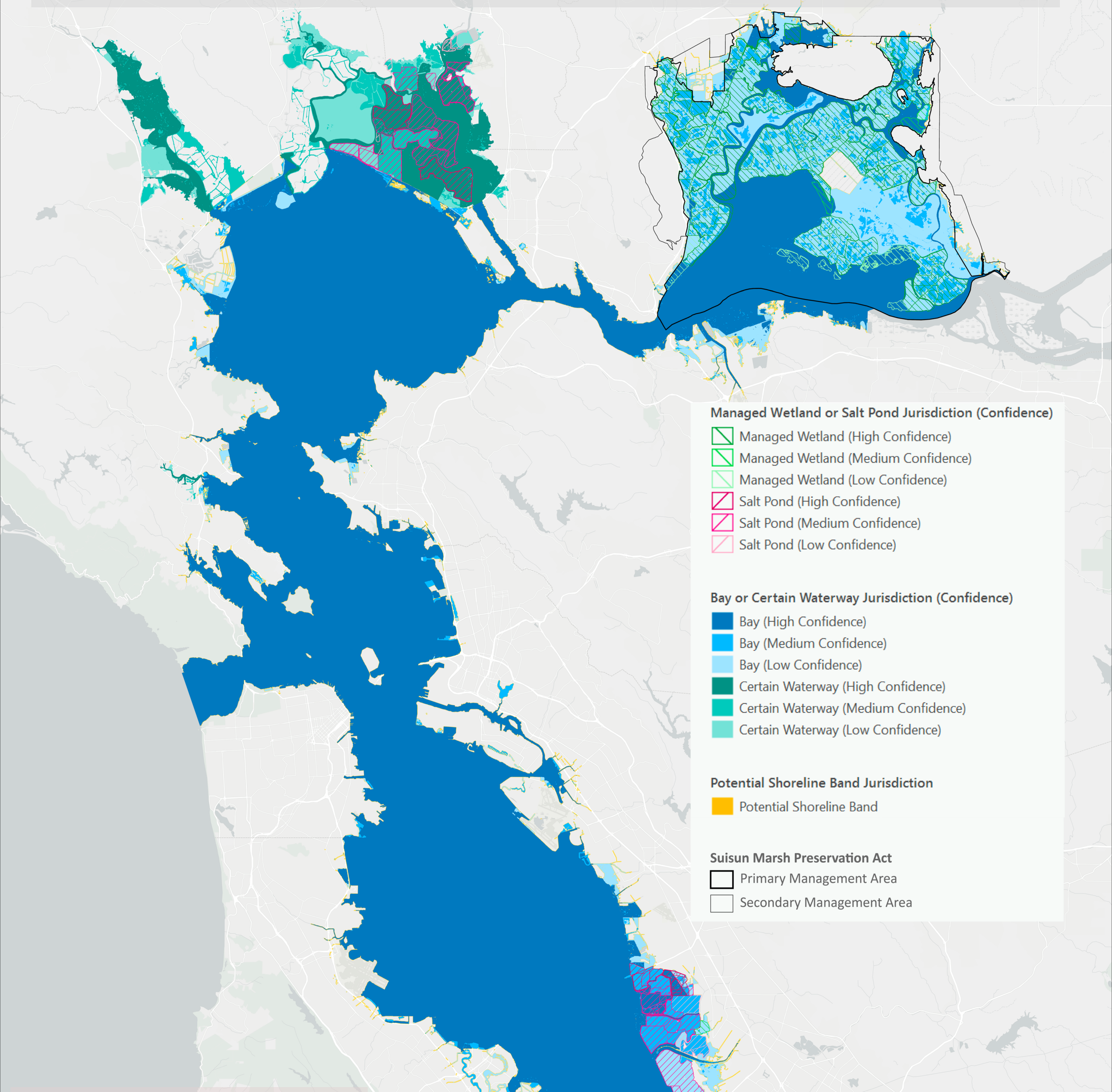
Jurisdiction Type	Contributing Factors	Example high confidence	Example low confidence
Bay/Certain Waterway	• Tidal condition (hydrogeomorphic setting from BHM) • Elevation uncertainty • Legal description of Certain Waterway	Open water bay where elevation is below Mean High Water and hydrogeomorphic setting has "full tidal connection"	Open water where elevation is below Mean High Water and the hydrogeomorphic setting has "limited to no tidal connection" *(often behind levees where tide gates vs culvert connections haven't been identified)*
Bay/Certain Waterway *(with recent Staff Jurisdictional Determination)*	• Staff Jurisdictional Determination completed post-2015 • Confirmed pre-BCDC tide control structure	Open water in creek where elevation is below Mean High Water and a high confidence Staff Jurisdictional Determination has been done upstream	Open water in a creek where elevation is below Mean High Water and a high confidence Staff Jurisdictional Determination has been done further downstream indicating past BCDC limit
Bay/Certain Waterway *(with jurisdictional bay fill)*	• Observed bay fill in historic aerial • imagery permit records	Observed bay fill in aerial imagery and permit records confirm fill authorization via exhibit	Observed bay fill in aerial imagery from early 60s *without records clarifying fill year or authorization*

Salt Ponds	• Mapped in staff report (1982) • Mapped in staff report (2005) • Permit referencing Salt Pond	Salt pond mapped in both staff reports and a permit was found referencing Salt Pond in that location	Salt Pond only referenced in one staff report and no affiliated permits were found at a high-level search
Managed Wetlands	• Mapped in staff report (1982) • Geomarsh private managed wetlands • Permit referencing Managed Wetlands	Managed wetland was mapped in staff report and Geomarsh and has permit referencing Managed Wetland	Managed wetland was only referenced in staff report
Shoreline Band	• Buffered from Bay jurisdiction where no other jurisdiction exists	*N/A – look at confidence of adjacent Bay jurisdiction to determine if Shoreline Band applies in that spot or might be located further bayward*	

Below is a regional snapshot of the internal Jurisdiction Screening Map currently used by staff.

All planning and regulatory staff have been trained to use the Jurisdiction Screening Map, and permit analysts use it on a weekly basis. Other applications of this model thus far include developing the list of sites for jurisdiction re-evaluation shared in this staff report, as basemap-type features in the newly published Bay Plan Maps, and producing the Jurisdiction Overview Map on the BCDC Jurisdictions page on the website.

BCDC Jurisdiction Screening Map



Disclaimer: The SF Bay Conservation and Development Commission (BCDC) staff created this screening tool to map the potential extent of the various BCDC jurisdiction types described in the McAteer-Petris and Suisun Marsh Preservation Acts, the regulations, and the Bay Plan and Suisun Marsh Preservation Plan relying on best available information. The map does not guarantee the accuracy of the information for any application and the information presented in this reference tool is not intended to be determinative of BCDC's jurisdiction for any given location. Jurisdictional determinations are based on on-the-ground conditions. The Commission's staff should be consulted to determine the actual extent of the agency's jurisdiction (if any) for any location. For the purposes of BCDC's permitting process, this information may be useful as a first-step screening tool in conjunction with a certified site survey to produce proposed project plans that depict BCDC's jurisdiction. This effort doesn't attempt to map all areas that affect the coastal zone.

Next Steps:

The model design creates an avenue for integrating the latest and best available science for the region. The model was drafted in a way that allows new data to be integrated regularly to reflect the latest on the ground conditions. BCDC staff plan to work with SFEI to improve the model so that:

- it runs more seamlessly with data updates,
- the output file size can be optimized for web display, and
- to fix some mapping errors that have been identified during internal testing of the JSM.

Part of the update will include the new LIDAR and BHM made available by the Wetlands Regional Monitoring Program which will allow the JSM to map estimated jurisdiction based on 2025 site conditions rather than 2020 conditions currently used. This work will be underway in 2027 along with efforts to develop a public-facing version of the JSM.