

San Francisco Bay Conservation and Development Commission

455 Golden Gate Avenue, Suite 10600, San Francisco, California 94102 tel 415 352 3600 fax 415 352 3606

July 7, 2017

TO: Commissioners and Alternates

FROM: Lawrence J. Goldzband, Executive Director (415/352-3653; larry.goldzband@bcdc.ca.gov)
Lindy Lowe, Planning Director (415/352-3642; lindy.lowe@bcdc.ca.gov)
Brenda Goeden, Sediment Program Manager (415/352-3623; brenda.goeden@bcdc.ca.gov)

SUBJECT: **Public Hearing and Vote to Initiate a Possible Amendment of the *San Francisco Bay Plan* to Address Bay Fill in Habitat Projects, Associated Natural Resource and Dredging Policies, Protection of Shorelines and, Potentially, the Public Access Policies**
(For Commission consideration on July 20, 2017)

Staff Recommendation

The staff recommends that the Commission: (1) adopt the attached “Descriptive Notice” to initiate the process to consider a possible amendment to the *San Francisco Bay Plan* (Bay Plan) that would address issues related to rising sea level adaptation in habitat projects by updating the findings and policies in several sections of the Bay Plan, including the Fish, Other Aquatic Organisms and Wildlife, Tidal Marshes and Tidal Flats, Subtidal Areas, Dredging, Protection of the Shoreline, and potentially the Public Access policies; and (2) schedule a public hearing in the future to consider any proposed amendment.

Staff Report

BCDC first initiated research about the impacts of climate change on the San Francisco Bay in 1987. That year, the Commission undertook a pioneering study on accelerated sea level rise and in 1989 adopted findings and policies to include sea level rise planning in all fill projects in the Bay or near the shoreline. In October 2011, the Commission adopted new Climate Change policies that clarify the projects and jurisdictions that are subject to the new policies, and require such projects to undergo risk assessments, be designed to be resilient to sea level rise to mid-century, develop an adaptive management plan if the duration of the project is expected to span beyond mid-century, and require the Commission to work with regional partners to develop a regional sea level rise adaptation strategy. Since that time, the Commission has actively led and participated in regional sea level rise planning through the Bay Area Regional Collaborative (BARC) and the Adapting to Rising Tides Program, among other efforts.

As climate science has improved and advanced, and as adaptation measures have been discussed and developed, the Commission has recognized that some of its current policies may unnecessarily restrict or delay actions needed to address rising Bay waters. As noted in the 2015 Baylands Habitat Ecological Goals Project Update, the region faces many challenges to restoring bayland habitat to tidal marsh in light of climate change. While sedimentation and vegetation in existing and some restored marshes currently are keeping pace with rising seas, this ability likely will decline over time and result in an increasing loss of wetland habitat by approximately 2030, depending on the rate of sea level rise. These marshes provide several benefits, including wave dampening during storms, reduced flooding, and necessary habitat for listed species, migratory waterbirds, and commercially and recreationally important fish species – maintaining and increasing marshes makes the region more sustainable.

The reduction in benefits over time caused by rising seas may require regional action to augment the marshes' natural ability to accrete sediment and, in many areas, to build transitional habitat and high tide refugia, both features that are limited in current marsh topography. To enhance the marshes' ability to keep up with rising seas, the Commission may need to consider allowing fill for habitat-based projects on a regular basis beyond what may be allowable under the current Bay Plan policies. Further, adaptation measures are being developed and proposed, such as living shorelines and various types of nature-based infrastructure that could substitute for hard infrastructure such as sea walls. These newer techniques can provide wave and flood protection while providing biological benefits that improve the Bay ecosystem, but have not been widely used or vetted in the Bay, which will affect the manner in which the Commission will be able to permit such fill. For example, these types of projects may necessitate increased monitoring to determine both their potential effects and benefits.

During the Commission workshops on Bay Fill, the issue of improving and maintaining public access near the Bay, as sea level rises, in areas of wildlife habitat was raised as a particular concern. In response, Staff will examine the Commission's public access policies to determine whether it is necessary to amend these policies to better address how public access features can be adapted to rising sea levels.

In light of the change in environment, advances in science and technologies, and uncertainties about the future of the systems, the Commission needs to examine: whether, and how, several Bay Plan policies associated with natural resources, fill, dredging, and potentially public access may need to be amended to reflect updated scientific knowledge; the potential need for fill in habitat projects, including living shorelines and nature-based infrastructure to adapt to climate change impacts; the ability to use dredged sediment in habitat projects; and consider the effects of rising seas on public access and the ability to maintain it in place in the future.

Initiating the proposed amendment would carry out Goal 1, Objective 1.3 in the Commission's recently adopted 2017-2020 Strategic Plan Update: "Update key statutes, policies, regulations, and practices." The proposed Bay Plan amendment would consist of: (1) amending the natural resource and dredging findings and policies to address the potential need for fill in habitat-based projects; (2) updating shoreline protection policies to address living shorelines and nature-based infrastructure; and (3) potentially updating public access policy language.

Commission Procedure

Circulating a descriptive notice to the public is the first step in the process of amending the Bay Plan. A notice of the proposed amendment is required by the McAteer-Petris Act (Government Code Section 66652) and Section 11000 of the Commission's regulations (California Administrative Code, Title 14, Division 5). If the attached proposed descriptive notice is approved by the Commission on July 20, 2017, at least one public hearing will be held to discuss the scope and contents of the potential amendment. The staff will distribute a report on its preliminary recommendation for specific changes to the Bay Plan to all Commissioners, Alternates, and interested parties and hold at least one public workshop on the proposal at least 30 days prior to that initial public hearing, which is required by the Commission's regulations (California Administrative Code, Title 14, Division 5, Section 11001). The Commission can vote upon proposed plan changes after concluding the public hearing(s) and after the Executive Director submits his final recommendation. The descriptive notice detailing the proposed plan changes must be mailed at least 30 days prior to a public hearing on those changes and the vote cannot take place earlier than 90 days from mailing the descriptive notice (Government Code Section 66652).

Descriptive Notice

July 20, 2017

**Proposed San Francisco Bay Plan Amendment No. 1-17
Concerning Amendment of Various Sections of the Bay Plan to
Address Bay Fill in Habitat Projects, Associated Natural Resource
and Dredging Policies, Protection of Shorelines and, Potentially,
the Public Access Policies**

Notice is hereby given that the San Francisco Bay Conservation and Development Commission will consider an amendment to the *San Francisco Bay Plan*. The proposed amendment would address the ramifications of climate change by updating several sections of the Bay Plan, including Fish, Other Aquatic Organisms and Wildlife, Tidal Marshes and Tidal Flats, Subtidal Areas, Dredging, Protection of Shorelines, and, potentially, Public Access with new findings and policies. A Public Workshop will be held to discuss staff findings and the proposed amendment prior to the Commission's public hearing. At least thirty days prior to the initial public hearing, the staff will prepare and mail a staff report and preliminary recommendation on the proposed amendment. Interested persons may request the staff report and present written comments. Oral comments may be presented at the Commission meeting or thereafter as directed by the Commission.

This **Notice** is prepared in conformance with Section 66652 of the California Government Code, Section 11001 of Title 14, Division 5 of the California Code of Regulations, and Section 312 of the federal Coastal Zone Management Act of 1980. If, after the public hearing, the Commission adopts an amendment to the *San Francisco Bay Plan* described in this notice and subsequent staff report, such amendment will be processed as a routine program change of the Commission's federally approved coastal management program for San Francisco Bay. Any federal agency interested, therefore, should provide comment to the Commission.

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

Further information concerning the proposed amendment can be obtained by contacting Lindy Lowe, Planning Director, at the Commission's office located at 455 Golden Gate Avenue, Suite 10600, San Francisco, California 94102, by telephone at (415) 352-3642, or by email at lindy.lowe@bcdc.ca.gov, or Brenda Goeden, Sediment Program Manager, at the same address, or at (415) 352-3623, or by email at brenda.goeden@bcdc.ca.gov.