

San Francisco Bay Conservation and Development Commission

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June 9, 2023

TO: Design Review Board Members

FROM: Lawrence J. Goldzband, Executive Director (415/352-3653; larry.goldzband@bcdc.ca.gov)
Reylina Ruiz, Director, Administrative & Technology Services (415/352-3638; reylina.ruiz@bcdc.ca.gov)

SUBJECT: Approved Minutes of June 1, 2023 Hybrid Commission Meeting

1. **Call to Order.** The hybrid meeting was called to order by Chair Wasserman at 1:06 p.m. The meeting was held with a principal physical location of 375 Beale Street, San Francisco, California, and online via Zoom and teleconference. Instructions for public participation were played.

Chair Wasserman stated: My name is Zack Wasserman, and I am the Chair of BCDC. Before we get started, I want to note that Item 11 on today's agenda, a closed session regarding pending litigation, has been cancelled, so you will not have a recess in our proceedings.

Chair Wasserman gave instructions to all attendees on procedures for participating in the meeting.

He asked Ms. Ruiz to proceed with Agenda Item 2, Roll Call.

2. **Roll Call.** Present were: Chair Wasserman, Vice Chair Eisen, Commissioners Addiego, Ahn, Arreguin, Beach, Burt, Eckerle, Eklund, El-Tawansy (represented by Alternate Ambuehl), Gioia, Gorin, Gunther (represented by Alternate Belin), Hasz, Lee (represented by Alternate Kishimoto), Lucchesi (represented by Alternate Pemberton), Mashburn (represented by Alternate Vasquez), Moulton-Peters, Ramos, Ranchod, Showalter, and Tam (represented by Alternate Gilmore).

Chair Wasserman announced that a quorum was present.

Not present were Commissioners: Department of Finance (Almy), U.S. Environmental Protection Agency (Blake), City and County of San Francisco (Peskin), San Mateo County (Pine), Governor (Randolph)

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

Chair Wasserman gave instructions for participating in the hybrid meeting. He emphasized the following: Commissioners must have their cameras on, instruction for public attendees was given, those in attendance at 375 Beale Street were socially distanced, comments must be focused and respectful and emails received were noted.

No members of the public addressed the Commission. Chair Wasserman moved to Approval of the Minutes.

**BCDC COMMISSION MEETING MINUTES
JUNE 1, 2023**

4. **Approval of Minutes for the May 18, 2023 Meeting.** Chair Wasserman asked for a motion and a second to adopt the minutes of May 18, 2023.

MOTION: Commissioner Eklund moved approval of the Minutes, seconded by Commissioner Ramos.

The motion carried by a voice vote with Commissioner Ahn voting “ABSTAIN.”

5. **Report of the Chair.** Chair Wasserman began by asking Commissioner Showalter to provide a brief report from the Sediment and Beneficial Reuse Commissioner Working Group held on May 19.

a. **Sediment and Beneficial Reuse Working Group.** Commissioner Showalter reported the following: Basically, we had a very interesting meeting again. There were over 30 participants. I think one of the things that is going to make this process so valuable is that we have a very broad range of people taking part who are from just the whole ecosystem that deals with sediment in the Bay Area.

Our new director, Maya, has put together a list of topics that she is going to make sure that we get lectures on. The idea behind this is to bring everybody up to speed, technically, who is on the Commission about these topics. We are getting the fun of taking a geomorphology course along with this in a very painless way. There are no papers or exams.

This time, the subject matter was given to us by Brenda Goeden and Jessie Lacy of the USGS. We got a presentation on the changing Bay sediment system and how the sediment in the Bay has changed, particularly over the last 150 years, since the Gold Rush.

Then Jessie Lacy of USGS gave us a talk about her research around the Bay and what the value of marshes and marsh restoration was and how it was working, and how sediment moving into these marshes kind of make, actually more the mechanics of sediment moving into the marshes led to the restoration. So, it was really interesting.

Then we also had a brief discussion about what would be appropriate stakeholder engagement in this process. We were shown a very long list of community organizations and agencies that will be invited to take part and we added a few and that was pretty much the meeting.

We are going to be having these meetings every other month, the third Friday of the month, over Zoom, from 10:00 to noon. Anybody is welcome to attend. The information is on the Commission's website under Public Meetings, Sediment Working Group, thank you.

Chair Wasserman acknowledged: Thank you. Any questions for Commissioner Showalter? (No questions were voiced)

Moving on, we will now hear from Commissioner Ahn providing a brief report on the Environmental Justice Commissioner Working Group that was held this morning.

b. **Environmental Justice Working Group.** Commissioner Ahn presented the following: Thank you, Chair Wasserman. The Environmental Justice Working Group met this morning. We received a presentation from EJ Advisor, Selena Feliciano about their plan to create a toxic tour for BCDC staff and Commissioners. They outlined the concept of the toxic tours and what the EJ advisors are expecting from the tour. So far, an exact location is pending. They are working to pursue funding for these tours, which will take a considerable amount of time and effort.

Commissioners present offered their support of these efforts, and we spent some time brainstorming ideas for logistics.

BCDC's Senior Manager for Climate Equity and Community Engagement, Phoenix Armenta presented an update as well on the search for an Organizational Development consultant that included review of the draft qualifications and scope of work for an RFP. BCDC intends to send out the RFP this summer.

One other quick report-out, is that on May 6, 2023, there was a ribbon-cutting of the South Gate Realignment Project. This is over at Yerba Buena Island, which is a roughly \$60 million project. In my roles as MTC and BCDC I represented both Commissions in celebrating the opening of that pedestrian bike lane. It was with, of course, our electeds from SFCTA, Supervisors Melgar and Dorsey as well as Senator Wiener. It was overall a really good event organized by SFCTA.

Chair Wasserman acknowledged: Thank you. Any questions for Commissioner Ahn? (No questions were voiced)

c. **Peggy Atwell's Retirement.** Chair Wasserman moved on: We now have a quite special presentation. Our very hardworking head of Administration and Technology Services, Peggy Atwell, as I think everyone knows, is about to enjoy a well-deserved retirement and she would like to make a few remarks to the Commission. I think it is an appropriate time to do so. Fasten your seat belts.

Ms. Atwell addressed the Commission: First of all, thank you, Chair and Commissioners. I wanted to thank everybody for their support. It's going to be hard.

I started August of 2018 and I have been here almost five years, which is hard to believe, and that's a good thing. So, we have had five years of change. So, if you will indulge me, I made some bullets of those five years, how it relates to the Commission.

My first Commission meeting was on September 20, 2018. We were all in-person. We all had paper expense reports, if you remember, you had to sign. Reggie would put them out. I don't know where Reggie went but he better get back here. We had paper agendas, and everybody was here.

We actually drove, Reggie and I, to this location from 455 Golden Gate and we had suitcases of agendas and papers and all the equipment. We had to get back to Golden Gate by 5:30, otherwise, everything had to go through like TSA. So basically, we were stressed to get back there in time.

August of 2019, we moved here. No more driving to Golden Gate. But we still had paper expense reports. We still had manual checks and paper agendas. Remember, we used to send you all your checks to your homes or wherever.

Then came March 16, 2020, when we left the building in a real big hurry because of COVID.

The first meeting after COVID was April 16, 2020, which is one month after we all left, which is amazing, absolutely amazing. I think we were one of the first, if not the first, agencies/departments to actually have a public meeting.

Remember, those of you who were here, it was virtual on Zoom with a closed session. I looked it up. I can't believe we had a closed session. Is Peskin here today? I hope he is here. We had to dial in the conference line. We had to leave our Zoom on and then we had to go dial in to the conference room if you all remember that.

Anyway, we had DocuSign expense reports. So, we went from paper to DocuSign the morning of the meeting.

I want to say that was the most stressful meeting ever.

I am not much of a drinker. Larry knows, I would rather have a malt than an alcoholic beverage. If I was a drinker, I guarantee I would have drunk a bottle of wine that day because Reggie and I were so stressed. We were sweating. And we were back and forth to each other. Reggie has been with me the whole five years and I would not do it without him.

Anyway, in August 2020 we implemented online Form 700 and FX training and tracking, so we are moving right along.

April 7, 2022, beginning of hybrid meetings. So, we have been doing this about a year now. We had a workaround. I am not going to give you the name that we use but if you all remember you had to bring your laptops in, we had to set you all up. I am seeing Commissioner Addiego is going, yes, Commissioner Ahn. I know Tessa, Commissioner Beach remembers all of this. We had extra laptops. We had this horrible workaround, but we did it.

April 21, we had to post your locations on our notices. Remember that? That was fun.

June 30, 2022. Our special meeting that went from 9:00 to 5:00 over Howard Terminal and we had over 1,000 attendees that day. We had I think at the peak 800 people on Zoom, and we had almost 300 people in this building during COVID; and it went off without a hitch.

August 18, you are no longer required to post notices on our agenda.

September 2022, we began to eliminate paper stipends and that awesome packet of paper that you had to fill out. But it automatically gets deposited now into your account.

So, we have moved from no agenda, no paper TECs, no paper FPPC, to where we are today. Reggie is a big part of that, just so you know. And I want to give a shout out to Anu, who handled all the paperwork for your stipends.

Then on September 15 we got support, which is where we are right now, from those guys in the back, Phillipe, Alex and Yuri, thank you very much. They have been with me all five years, too.

You are no longer required to bring your laptops or sign in, it was awesome.

And I am not going to tell you what the future holds because Larry is going to do that. But what I wanted to say is, it has been an abundance of change and you have all been super. I have never once had one Commissioner ever say anything cross or raise their voice. You have all been super respectful and I appreciate it. I will miss you. Thank you. (Applause)

Executive Director Goldzband added: In the spirit of transparency, the audio-visual system we are using now was commonly referred to at the beginning as the Neiman-Marcus system because it is gorgeous, and it works and all that. We labeled it that but really decided we wouldn't call it that much anymore. And we labeled it that because the system that we did

use before we could use the Neiman Marcus system, I'll say it out loud, we simply called it the Walmart system. Because you will remember that it was very much jerry-rigged, you had to bring your own stuff, and it simply didn't work very well.

We have already asked Peggy to stay, and she has already said no. That is why we hired Reylina who is doing a superb job and she has big shoes to fill.

But I just want to say that it is a team effort, as Peggy rightfully points out. I very much remember that during the month prior to the first meeting during the pandemic, and I do believe we were the first commission or body to use Zoom in the CNRA system - indeed, Peggy and I ended up teaching other commissions how to use Zoom for their meetings.

If I remember correctly, Chair Wasserman, we had three rehearsals the week before the first Zoom meeting to get rid of all the bugs. And it worked and we have been flying ever since.

So, I just want to say once again thank you to Peggy and we wish her, of course, the best. We certainly assume that when you do leave us, and today is your last day, that maybe even in two weeks you actually will Zoom in and become a regular observer of BCDC. God forbid you should ever do that. Thank you.

Commissioner Addiego commented: Chair Wasserman, I would just like to share that it was really a delight to watch Peggy in action for these five years and I can only imagine what she might have accomplished if she stayed for another five.

But I think what I most delighted in was her interactions with the Chairman, how she kept him in line. That's one of the reasons why I would never tangle with you, no cross words, nothing like that, because I know that you would take care of me.

Commissioner Ahn chimed in: Peggy, just again, appreciation for you. I think you in many ways represent the labor in government that often goes unrecognized. In a typical sense where if a member of the public or an advocate comes to us and speaks before the Commission, they are in and out of the door, usually maybe a half hour or an hour, but they are not here for the entirety of the meeting, plus the preparation prior, plus the closeout after.

You have done it all, the labors you have described, with unflappable cheer, I think speaks loud about you and I am going to miss you a lot. If anybody is cross with you in the future, please let me know, I will be very angry with them for you. But I have never seen you cross, and I think that speaks volumes about you.

Vice Chair Eisen was recognized: I just wanted to say, Peggy, as I was a new Commissioner during your five-year term, and I am sure all of the people who have become Commissioners during your term, recognize that without you we would never have filled out our Form 700s. We would never have filled out any forms and we would never be getting that big stipend that we get every month. You have been so helpful to us, guiding us through all the processes, I am not going to say bureaucracy, processes, and we really appreciate it and we are going to miss you.

Commissioner Pemberton stated: I just wanted to echo what the Commissioners have said so far. I have adored Peggy. She has been so wonderful at BCDC, and I am going to really miss her but I am really happy for her embarking on this next chapter. It has just been delightful, and you are wonderful so thank you so much.

Commissioner Eklund added: As a newbie on BCDC, Peggy, you really helped me to assimilate and be able to be very effective from day one. I really appreciate your guidance. Everything that you helped to do to make sure that I was signed up for the checks and how to do the Zooms. So, I just really appreciate it. You made my introduction to BCDC a great experience and I am going to miss you.

But I have to tell you that retirement is great. After 43 years of federal service, I retired. That was 10 years ago, and I have not looked back at all. It is just a wonderful opportunity to pursue what you really want to get done and accomplish and see. So good luck, have a great retirement and hopefully one of these days you'll come back and give us an update on some of your events. Miss you.

Commissioner Gorin chimed in: Peggy, it is such a pleasure to add my thank you, huge thank you, to those of my colleagues. It is always so comforting to hear your voice at the beginning of the meeting taking the roll call. And oh, when I am late you will remember that I am here at the end of the roll call. I am here now. I was late today.

So, Peggy, thank you so much. I will be retiring in a year and a half so send me a note, what are you doing, what should I be doing in retirement. Thank you, Peggy.

Commissioner Beach commented: Yes, I just wanted to echo everyone else. Thank you, Peggy. Your smiling face and your humor is one of the reasons I really enjoyed coming back to these meetings in person. I hope you enjoy your retirement. Thanks for all your help and I really enjoyed working with you.

Commissioner Showalter commented: Yes, I would like to echo what everybody has said. Also, I thought it was so funny that you said we had never been cross with you because I felt like I ask you so many dumb questions and you were never across with me, and I just really appreciated that. Thank you.

Commissioner Moulton-Peters spoke: I am going to make it unanimous, Peggy. Your warm welcome to the Board and making it really easy to get up to speed on everything was just wonderful. And from everything I have heard there is no job too big or too small for you, Peggy, and you did them all really well. Thank you.

Chair Wasserman continued: Thank you, Peggy, for all your work. Thank you for your efforts, mostly successful, to keep me in line. Thank you for all of the work that I know you did to make this a better agency and a better operating agency that we do not see, and we really do appreciate it. We absolutely welcome Reylina, but you will be missed.

All right. That brings us to a couple of other remarks I want to make.

First, I want to thank the Commissioners representing Contra Costa, Alameda, San Francisco, and Marin Counties who have started to work with their colleagues on their Boards of Supervisors to endorse SB 272, Senator Laird's legislation, to authorize the Regional Shoreline Adaptation Plan. The importance of this, again, is not so much in the legislature, it has passed the Senate, it will pass the Assembly as it did last time, but aimed at the governor, to urge the governor to sign it this time.

I will ask our Executive Director to contact the other Commissioners to request their jurisdictions do the same. And as I said last time, to reach out to any other organizations they may be part of who are relevant and concerned about protecting our natural and built environment and the people who live around the Bay from rising sea levels.

d. **Rising Sea Levels Working Group.** Which brings us to the Rising Sea Levels Working Group. We will hold another meeting of that group on the morning of July 20 before our regularly scheduled Commission meeting. We do not have this specific agenda yet, but we do expect to have a discussion on how our regulatory program can become better aligned with our planning and Bay Adapt programs, among other issues, as we continue to try and figure out how, in fact, we are going to adapt to rising sea level.

e. **Next BCDC Meeting.** Our next Commission meeting will be held on June 15, two weeks from today. It will be a regular hybrid meeting, and as I have been doing, encourage Commissioners to attend in person. At that meeting we expect that we may consider the following matters:

- (1) Legislative positions and possible votes on those positions.
- (2) Consideration of a permit application for a project at 777 Airport Boulevard in Burlingame.
- (3) Consideration of a permit application for a project at Oyster Point in South San Francisco.
- (4) A briefing on BCDC recent staffing and hiring and how it is affecting our organizational structure.

f. **Ex Parte Communications.** That brings us to the exciting point in the agenda when if you have ex parte communications to report you should do so now. Again, you need to do so in writing, the verbal report does not suffice, and these are required for adjudicatory matters, public hearings, not for policy, but you may make any that you wish to do so. Are there any commissioners who wish to report an ex parte communication?

I don't see any. All right.

That brings us to the Report of the Executive Director.

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

In August 1972, a month before I started high school, the late Jim Croce released a song titled "Operator." The song was about a sad young man who initially wants to connect with his former girlfriend who has shacked up with his former best friend, but then decides not to do so. The sad tale ends wistfully – Croce tells the pay phone operator that she can "keep the dime" despite the fact that the call never went through.

Many of us remember when pay phones were ubiquitous on city streets and cost only a dime for a local call. Now, I gather, only a few thousand remain of the 2.6 million that were installed. And one that no longer exists is the first pay phone, which was installed on this date in 1889 in Hartford, CT. The phone call's base price was five cents, payable after the call ended. I couldn't determine if it was cheaper to call after 7:00 P.M.

I am sure that you have read about the State's projected multibillion dollar Fiscal Year 2023-24 deficit. BCDC is fortunate that none of the Governor's proposed reductions directly affect our operations. However, the reduction in climate change spending has the potential to affect the Bay Area's ability to prepare for rising sea levels compared to the spending levels of the past couple of years – but even with those reductions in spending for adapting to rising sea levels, state support will remain far higher than in the years prior to our large-scale budget surpluses. We'll provide you with information in July about how budget negotiations conclude.

Of course, summer is also the time that we'll be hosting an abundance of interns. Our regular complement of interns from diverse backgrounds this summer will be working with our records manager, our GIS team, and with our EJ program – and that third intern will be complemented by a second intern who will also work for our EJ program. Our program will be rounded out by an intern who will be working with our science team. We'll introduce them in a couple of weeks.

As many of you know, the U.S. Supreme Court issued a decision last week that significantly reduces the scope of the Clean Water Act and diminishes the federal government's ability to protect thousands of miles of rivers, streams, creeks, and adjacent wetlands throughout the Western U.S.

It is not clear whether or how the decision will significantly affect California's authority in this regard due to the strength of the State's Porter-Cologne Act. We have asked the Regional Water Quality Control Board to provide a briefing for the Commission in July with its most recent analysis of the decision.

I am very pleased to let you know that BCDC regulatory managers had a very successful meeting with the Department of Finance Mission Based Review team that will conduct its analysis of our permitting function. Our next steps are to refine the scope of the project, set up a more detailed timeline, and actually start digging in. We expect that this will be a 6–9-month project, and we'll keep you informed throughout.

Our Environmental Justice team, Phoenix Armenta and Lita Brydie, attended a Tribal Liaison training in Lake Tahoe hosted by the Natural Resources Agency last month. There they met with members of the Washoe Tribe and toured the Tribe's Marsh Restoration Project. Phoenix and Lita received training on how to develop a Tribal Engagement Policy specifically for BCDC and have started to work on a BCDC Tribal Engagement Policy that will first be discussed at a future meeting of the Commission's Environmental Justice Commissioner Working Group.

As we have mentioned, the fiscal year ends on June 30, 29 days from today. The Governor's Pandemic Executive Orders are no longer in force. Therefore, BCDC will revert back to the pre-pandemic Bagley-Keene meeting requirements for all Commission and our various advisory groups starting next month.

Our internal team is creating a memo for distribution to our Commissioners, Alternates, and Advisory Board Members that will explain how we will comply with Bagley-Keene requirements moving forward. I'll preview that explanation during my ED Report at our next meeting.

In addition, Reylina will collaborate with our colleagues at MTC/ABAG and the Air District as we explore opportunities together to create publicly accessible meeting spaces around the Bay Area for all of our meetings. More to come!

Finally, I am absolutely delighted to let you know that the Bay Planning Coalition's Frank C. Boerger Award, BPC's version of a lifetime achievement award, was presented to BCDC's very own Brad McCrea last week at the BPC Spring Summit! BPC President John Coleman put it best; he said that he and Brad didn't always agree, but that Brad was always someone with whom he could discuss issues and look for solutions.

Brad flew out from his retirement home in Boulder, CO to receive the award, and then stiffed the BCDC staff by not stopping by our office to receive our best wishes... ah, the life of an award winner. Seriously, the award is so well-deserved, and Brad always helped make BCDC shine, and we miss him.

That concludes my Report, Chair Wasserman, and I am happy to answer any questions.

Chair Wasserman asked: Any questions for the Executive Director? (No questions were voiced).

7. **Consideration of Administrative Matters.** Chair Wasserman stated: That brings us to Item 7, Consideration of Administrative Matters. We have received a report on them and Deputy Executive Director Steve Goldbeck is here if you have any questions.

(No questions were posed by Commissioners.)

Chair Wasserman asked if there was any public comment.

(No members of the public addressed the Commission.)

8. **Public Hearing and Possible Vote on 557 East Bayshore, in the City of Redwood City, San Mateo County; BCDC Permit Application No. 2023.004.00.** Chair Wasserman stated: That will bring us to Item 8, Consideration of a Permit Application for a Project at 557 East Bayshore in Redwood City. Katharine Pan, our Shoreline Development Program Manager, will introduce the item.

Shoreline Development Program Manager Pan introduced this item: Thank you, Chair Wasserman; and good afternoon, Commissioners. I am Katharine Pan, the Shoreline Development Program Manager here at BCDC and I will be providing a brief summary of the application before you, No. 2023.004, for a mixed-use development at 557 East Bayshore Road in Redwood City in San Mateo County. Following that, I will introduce the applicants who will share further details of their project with you. The Application Summary for this project was mailed to you on May 19, 2023 and the Staff Recommendation followed on May 26.

Just to orient you, the project is located in Redwood City in San Mateo County and nearby landmarks include Bair Island and Smith Slough to the north and the Port of Redwood City and Cargill's Redwood City Salt Plant to the east.

The project site is approximately 14.4 acres in size, situated between Highway 101 and the Bair Island Ecological Reserve. Many people remember this location as the site of a drive-in movie theater, one of the first on the West Coast. It was redeveloped as a movie theater complex in the 1980s, which today sits vacant, although the parking lot is being used for car storage by the neighboring automobile dealerships.

The Bair Island Reserve is part of a San Francisco Bay Plan-designated Wildlife Refuge Priority Use Area up to the northern edge of this existing levee trail up here, but the project site itself is not in any designated priority use areas.

Other useful landmarks mentioned in the Staff Recommendation include the unnamed slough, which connects Smith Slough, and the tidally influenced ditch between the project site and the trail.

Other existing uses near the site include car dealerships and personal storage to the east, and commercial uses and a steel supplier to the west. There are some commercial and office uses to the south of the freeway and there are a few residential and marina developments east of Bair Island Road.

The site is covered by an existing BCDC administrative permit, 1988.016.02, originally issued in 1988 and amended through 1990. The permit authorized development for the movie theater complex now on the site, including a 5,000-square-foot portion of the theater located in the shoreline band, riprap, and storm drainage, as well as the 41,000-square-foot dedicated public access area, 88-foot-long gravel pathway, and 4 public parking spaces required by the permit conditions.

The public access area is shown here in the exhibit for the permit, along with photos of the existing public parking and gravel path.

Note that at the time, the shoreline was understood to be at the southern boundary of the public access area. However, as part of this application process, we determined that the ditch along the north side of the property is tidally influenced and so now this shoreline is drawn roughly 50 feet upland from the line in the existing permit. The permit before you would redevelop all upland portions of the site covered by the existing permit.

Redwood Crossing LLC is proposing to redevelop the property with a new mixed-use project consisting of two residential apartment buildings with 480 units, including 85 affordable units, an athletic club and spa called VillaSport, and a shoreline public access area. Approximately two acres of the development would take place within the Commission's shoreline band jurisdiction.

Within the shoreline band, the project would demolish all existing site features and develop an approximately 71,400-square-foot dedicated public access area, portions of at-grade parking lots on the east and west ends of the site, a portion of a five-story residential building on a roughly 400-square-foot footprint, and about 25,000 square feet of landscaped buffer for the residential buildings.

There are currently 41,000 square feet of public access at this project site that was dedicated as a requirement of permit number M1988.016.

The project will improve that existing area and add 30,380 new square feet of dedicated public access within the shoreline band.

In addition, it will dedicate another 4,418 square feet of public access outside the shoreline band along the eastern edge of the site as a sidewalk to connect East Bayshore Road to the shoreline. In total, the project would provide approximately 75,798 square feet, or 1.74 acres, of dedicated public access area.

Within the shoreline public access area, the project will provide a variety of recreational opportunities, including a 12-foot-wide multi-use trail, three lawn areas, two decomposed granite plazas (one with a pétanque court), wooden decks overlooking the slough, walkways, seating areas, and part of the project's central paseo. It will also provide seven public shore parking spaces, including an ADA-accessible space, in the eastern parking lot.

In the case of future development on neighboring sites, the applicants plan to work with those project proponents to connect the multi-use trail to any new trail facilities.

Outside of the public access area, the project would provide a central access corridor through the middle of the site, including the paseo, as an inviting pedestrian connection between the roadway and the shoreline.

The project will also designate a 26-foot-wide view corridor through the center of the site to provide a visual connection between East Bayshore Road and the shoreline.

The project site is subject to coastal flood hazards. The current FEMA base flood elevation is 10 feet NAVD88.

At 2050, the base flood elevation is projected to rise 1.9 feet to a total of 11.9 feet in the high emissions, medium-high risk scenario provided by the Ocean Protection Council's 2018 State Sea Level Rise Guidance.

The figure on this slide, from BCDC's Bay Area Flood Explorer, shows what 24 inches of sea level rise, which roughly corresponds to that 2050 projection, would look like at the project site if it remains as it is today.

Existing elevations along the northern edge of the site range from 4.8 to 9.1 feet. The project will elevate the entire site, with most of the public access area raised to an elevation of around 12.4 feet, except a portion of the walkway in the northwest portion of the site, which would be at about 10.9 feet.

At the proposed elevations, most of the project and public access areas will be resilient through 2050, though that northwest portion may be vulnerable to flooding from a 100-year storm at projected sea levels.

At end of century, with a projected 6.9 feet of sea level rise, the site would be inundated at mean high water and require adaptation to remain viable.

The project had contemplated adaptation strategies during the design phase, including a seawall and elevating the multi-use trail, but has not committed to a single adaptation strategy at this time.

Instead, the permittees would monitor the site and engage in an adaptation planning process that will begin by 2050 or at any early stages or any early signs of flooding to reassess site conditions using the best available science at the time and develop and implement appropriate adaptation measures to avoid impacts on the public access area.

According to the Commission's community vulnerability mapping tool, the project site is located within a census block group identified as having moderate social vulnerability. It is across East Bayshore Road from a block group identified as having high social vulnerability.

Social vulnerability in the area is associated with indicators for households with very low income, a single parent, renter occupancy, individuals over 65 living alone, or no vehicle, as well as indicators for non-US citizens, limited-English proficiency, and individuals without a high school degree.

During the development of the project design, the applicant conducted outreach to a number of community groups to identify any environmental or social equity concerns.

Issues identified through outreach included a desire for more affordable housing in the community, jobs, and improved and more active shoreline access. The applicant is proposing public shoreline access with a variety of different uses and activity areas. And for the Commission's information, the larger project also includes a proportion of affordable rental units and a plan to host job fairs in the project's buildings.

Relevant policy issues raised by the project include whether proposed public access is the maximum feasible consistent with the project and whether it is otherwise consistent with the McAteer-Petris Act and the Bay Plan in terms of the Commission's laws and policies on appearance, design and scenic views; climate change; and environmental justice and social equity.

Now I would like to introduce Glen Ceridono, Senior Vice President of SyRES Properties, to present the proposal in greater detail.

Mr. Ceridono addressed the Commission: Thank you, Katharine. I am not sure if in greater detail is accurate, but I will give a little more sales pitch to it, how is that? All right, Katharine, thank you so much. I just want to say thank you to the full BCDC staff. We have worked with them for five or six years now. A lot of different faces but Katharine was really instrumental in getting all of this, kind of jumping in midstream and getting this all coordinated and packaged and across the finish line. So, we are really excited to be here.

Again, I am Glen Ceridono with SyRES Properties, the project sponsor. I have been involved with this project for eight years. It has had a lot of input from members of the community, stakeholders, city planners, all sorts of experts, the Design Review Board at Redwood City as well as the Design Review Board at BCDC. It is a culmination of a lot of great ideas, and we have made some changes over the timeline.

We were last in front of BCDC in August of 2019. That was our presentation with this current plan. Originally, we had come in with 550 units; that was deemed too big. We retooled it to 330 units; that was deemed too small. So, this is kind of named the Goldilocks Project and so it feels like a good moment today to finally be here.

So, 2019 we got a lot of great comments from the DRB at BCDC. We had five architectural review meetings at the city of Redwood City. Our EIR was completed in August of 2022. And finally went through planning commission approval last December. So, June 2023 is eight years in the making and without further ado I will take you through the slides here.

We are all very familiar with the vicinity map here.

Katharine alluded to us speaking to stakeholders in the area. We had several meetings with the Redwood City Education Fund, an organization called Casa Circulo, a community-based organization in the north Fair Oaks area of Redwood City, as well as the Redwood City Police Activities League and the San Mateo County Sheriff's Activities League, Housing Leadership Group, the Silicon Valley Leadership Group, and the Redwood City Chamber of Commerce.

This is the site. As Katharine said, it is a changing landscape out there. We are the first mover in this area in terms of a large development and so we wanted to make sure that our project sets a standard for the rest of the community. What we wanted to do was draw residents and the community through our project. Not just have a big building on the end of

East Bayshore but allocate the building in such a manner that people can really be drawn through the site and with the hope for future connections from our site to our neighboring property.

The neighbor on the left is 505 East Bayshore. I believe that that is in front of the BCDC currently with a housing program and we anticipate at some point the property on the right would be redeveloped as well. So, thinking in advance of what this neighborhood could and should be.

The existing site, I will not go through that other than there is the existing Bay Trail off to the right. That is on PG&E property. That is not on our property. But our proposal is to mimic that same scale trail and build one that is kind of future-proofed for sea level rise on our site.

Here is the overall site plan. We have got two residential buildings, Building A and Building B, 480 units between the two of them. And an approximately 100,000 square VillaSport Athletic Club, along with associated outdoor pools and indoor pools.

The idea here was a 360-degree design. There is no front, there is no back to our project. East Bayshore obviously is the entry point, we have got two entry points to get you through the site, one on the bottom of the sheet which takes you past VillaSport, which is the main entry into the Residential Building B, and then takes you on back to the exclusive BCDC parking there on the bottom right. And then the central corridor that takes you through to VillaSport, some at-grade parking, and then the Residential Building A.

Most of the area that you see that is brown and green is 100-percent pedestrian or bicycle access, it is not auto access. Just the areas that are in gray are the auto access. The idea is really to make this a shining star for the community that people could walk around and really enjoy and get to the shoreline as well as enjoy the stops along the way.

This is a quick photo showing the BCDC area of influence in the back, the 71,000 square feet that is dedicated to public access and also a dedicated easement, a 26-foot-wide driving easement as well as a pedestrian sidewalk that takes you all the way from East Bayshore, again, to those seven parking spaces that are dedicated on the back. So really easy and long-term access for BCDC.

It did not turn out too good here, but the middle access area is shaded as well. That is the view corridor and, of course, that is open to pedestrian access through our site as well to get to the amenities at the back of the site.

The plan view switched a little bit, but this is showing the future connections from our site to the left to 505 East Bayshore and hopefully the future connection there, so really planning ahead. A variety in the use of different materials out there to try and keep it architecturally pleasing and interesting.

So more in depth, this area. I will show you three slides that take you left to right. This is a parking area and turnaround and the concrete walk that connects to the adjacency. Then it turns into a larger community trail that stretches along the frontage of our property. You can see it is a variety of plantings, raised wooden decks with seat benches for people to take a pause or to walk on through, lawn areas where people can congregate and have a picnic, put

out a blanket, something like that. And obviously, walking or biking along the path. You can see at the bottom of the sheet, that is the pool. It is a private pool that Building A surrounds, kind of a C-shape. It has got a fence between the two to keep the private area and the public realm separated. But it is a see-through fence, so it is connected visually, not physically.

This is a section through that same area so you can see the pool just barely there on the left and the private pool deck with a short fence and then you have got some planting, a palm tree, and then you have got the community trail and the recreational lawn.

And I am showing this because some of the comments that we got from the BCDC and other people was how do we make this feel private for people that live there, and also inviting for the public to come and use. Not making it distinct spaces but still feeling like you have the ability to enjoy both. So that is how we blended these together to have some natural buffers between the two. Other than a large, impersonal wall defining spaces we wanted to make sure that they were still visually connected.

This is a rendered view of that same area, again showing the building in the background. Again, a 360-degree design. We did not skimp on the building architecture or the landscape on the back. We felt that this was just as important if maybe even more important frontage for our project than East Bayshore.

This is the middle section of the BCDC area in the back. You can see the bottom left. This is a paseo that comes through Building A and Building B and spills out into the BCDC shoreline band. Again, you can see the seating, a variety of pathways and the wooden decks that take you out as far as you can before our site sloughs down into the drainage ditch.

And this is a section through that area as well. It is quite a wide area so it really will be an impactful place for people to enjoy.

This is a rendered view of that same area. You can see the paseo that spills right out into that public realm in the back.

This is the final section of the back. This shows the easement on the right and the parking area and the drive aisle taking you to the seven BCDC parking stalls there. So very easy access to get to the amenities in the rear. There is a pétanque court there on the bottom left. And typical of the other images that we saw, just a nicely detailed and elegant and I think very inviting space for people to be that are visitors as well as residents and patrons of VillaSport to come out there and enjoy a quick jog or some fresh air as well.

Again, moving to the porousness of our project. There's no fences or anything like that. People are welcome to walk around and encouraged to walk around and enjoy all aspects of it.

Signage is very important. This is just a concept plan. But to make sure people know where they can park, where they can get access to the amenities in the rear. Also, what we are looking at is having a more interpretive sign program through the middle of the paseo. We will have things that are stamped into the concrete pavers themselves. And then an interpretive center where you see the big blue dot at the very end talking about Bair Island and some of the natural wonders about it.

This is a more detailed version of the paseo plan. Again, really nice, high-quality materials. At the bottom left-hand side there is a cafe that is open to the public, it is a part of the VillaSport. So, anyone can go in there and grab a sandwich or a drink and sit out there in the patio or continue to take their food on down through the paseo and sit outside on the shoreline band with maybe a little bit nicer view.

Again, incorporating comments from the BCDC staff review and also from the design review, how to make this area feel very public and inviting. You can go on through. This is a 26-foot-wide view corridor but the width between the buildings is closer to 55 feet, so it is a really, really generously sized area.

The courtyard in Building B is fenced off, but again, visually connected. And then the patios off of Building A were modified through input from the DRB so that they are privatized and have a buffer between themselves and the public area down the paseo. So, they can still sit out there and have people passing by.

And this is a section of that paseo. So again, showing the width between the people sitting to the left on their patio, but still having that planting buffer between them and pedestrians walking down the middle of the paseo.

This is an image from the entry of the site. VillaSport on your right, residential Building A on your left, and the grand paseo down the middle, and then Building B, again with the cafe outside. So really a very inviting entry point for the community at large.

This is a view about in the middle of the paseo taking you through down to the shoreline band.

This is our idea of the interpretive sign concept at the end of the paseo. Some signage there again talking about all the interesting facts about Bair Island.

Of course, we would not be complete without a wonderful planting plan. We have spent a lot of time picking out the plants that are conducive, native planting all along the area in orange. And then what we call more of a promenade planting design closer to the buildings and of course a lawn. So very cognizant of the type of plants and wanting to make sure that things are as drought resistant as possible and would do well in this climate.

Here are some planting imagery if you are interested in that as well.

So just to quickly take you through just the slides one more time. This is the shoreline view, a bird's eye view back of our property and the BCDC shoreline, paseo there.

This is a seawall exhibit for the future. Right now, we have designed to a 2080 flood level where our buildings are at 13 feet. And we project that, I think in 2080, the flood zone will be around 12.4, so we have got even a little bit extra above that. The blue line is where we anticipate we could do some type of seawall or a raised levee. We have got a lot of real estate to play with between our buildings and the shoreline.

So quickly just going through, there is the paseo corridor.

On through.

To the back of the shoreline improvements at Building A.

Looking at Building B and the paseo spilling out.

Back down the paseo towards the main entrance.

And finally setting at the end of Building B.

That is it for my presentation. Appreciate your time.

Chair Wasserman acknowledged: Thank you.

Now with the applicant's presentation complete we will open the public hearing.

Do we have any public speakers in the room or on our virtual connection?

Ms. Ruiz stated: I have no cards and there are no public comments online.

Chair Wasserman asked for a motion: Thank you. I would entertain a motion to close the public hearing.

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

Chair Wasserman announced: The public hearing is closed.

Questions or comments by Commissioners?

Commissioner Addiego chimed in: This is really a spectacular part of the southern part of San Mateo County, and I think it is going to be quite a draw for people to come out there and enjoy the Bay front. I know that further north I am more intimately involved with the Bay front along South San Francisco and I have been trying to do a lot more walking as I age.

So oftentimes when I go out to the Bay front the parking is really modest and insufficient, even during the week. And I am wondering, I think I heard seven parking places. Does the BCDC have some minimums or something we are looking forward to help guide that and what happens if people overflow into the SyRES development?

Chair Wasserman replied: I will let Katharine start.

Ms. Pan explained: So, we do not have any standard parking minimums. It is all based on what seems reasonable for the development. For this project, I should point out, in addition to the seven dedicated public shore parking spaces, the two parking areas on the east and west, the portions that are in the shoreline band also have a number of unassigned spaces, so they are neither devoted to the private use or the public use. So there is potential for spillover parking if that is needed. But otherwise, we do not necessarily have a standard for parking, it is just what appears to be reasonable.

Commissioner Addiego asked: With those unassigned spaces, what number are we talking about in total?

Ms. Pan stated: Was it 28?

Commissioner Addiego acknowledged: All right. That's a better number.

Ms. Pan corrected her initial response: Twenty-nine, sorry.

Commissioner Kishimoto was recognized: Yes, the paseo looks beautiful. I do have a couple of questions. One is a follow-up on that last question. Those unassigned parking spaces, are they quite clearly marked as available to the public? That is my first question.

Mr. Ceridono responded to this inquiry: This is Glen responding. They are unassigned parking spaces. The spaces for parking for the residences are actually above-grade garages in each of the buildings. They are wrapped with the residential unit so you cannot see them. So that is where you would park as a resident and this is spillover parking, unassigned, not reserved. We anticipate there should be ample additional parking for anyone that is coming here from the public.

Commissioner Kishimoto continued: Okay, yes. I mean, near a development like this, as a member of the public I might hesitate whether I could park there, but obviously it does not say No Parking. I would be curious to see if other staff or other Commissioners might think about whether there should be clearer parking that it is open to everyone.

Chair Wasserman chimed in: Will these unassigned spots appear as street parking if someone is driving along?

Mr. Ceridono answered: Yes. They will be uninhibited parking spaces so that you would naturally be comfortable parking there, in addition to the ones that specifically assigned to BCDC.

Chair Wasserman continued: And will the BCDC ones be signed?

Mr. Ceridono affirmed: Yes.

Commissioner Kishimoto additionally asked: Okay, thank you. Can you remind me, who maintains this public area? Is it the developer or some other?

Mr. Ceridono explained: Yes, the project sponsor/developer. And then our management company, once this is built, would continue to maintain that.

Commissioner Kishimoto had a final question: Okay, thank you. I guess my last question is just a very broad one, I suppose, which would pertain to projects of this type as we start doing them. But as these new developments are on these raised areas, what is the impact on the surrounding areas? I guess the question is, will it cause more flooding? But I am sure staff and others have considered all this.

Mr. Ceridono stated: That has been studied and that has been answered by our engineering team previously and I will make a quick summary. If you look at the initial flood maps that Katharine brought up, the flooding actually does not come, is not anticipated to be coming from the slough but rather around the side. So, as we are raising our site we are continuing to keep ours out of it but we are not displacing water onto our neighboring properties by raising ours, we are just simply not allowing it to flow onto ours.

Commissioner Kishimoto acknowledged: Okay.

Mr. Ceridono added: There is no displacement of water from ours.

Vice Chair Eisen commented: Thank you for these renderings here, it is very helpful to envision the project. On one of the slides that you gave us, the BCDC-dedicated area and access easement slide, you show how you could get a car down into these seven dedicated spaces; and I noticed, as others have, that there are a couple of other spaces in there as well. But I did not see anything in your presentation about showing what the signage will look like.

As Commissioner Wasserman pointed out, you can see the parking spaces off of Bayshore but the ones that are tucked down near the water's edge, what will that signage say to direct people down into those public parking spaces?

Mr. Ceridono explained: Right. I went through that slide very quickly. It had a few blue dots on it. It is just conceptual at this point. But the idea is that we would have a series of signs from East Bayshore, as you can see, that would say, Bayshore access, parking, pedestrian access, and in the end a series of signs that take you along that easement. And then you have arrived, with BCDC parking signage all around there.

Ms. Pan chimed in: I can add that within the special conditions in the draft permit we give enough parameters for our plan review staff to continue working with the applicant on the design and placement of the actual signage to ensure that people can clearly and conveniently find their way to that parking area.

Vice Chair Eisen continued her inquiry: Okay, great. And another question I had, I think Katharine mentioned in her presentation that the shoreline band has changed since the last permit and has moved, what did you say, 50 feet upwards. I am wondering, the public access area used to be 40,000-something square feet and there is now going to be an extra 30,000 added to that. How much of that 30,000 is added simply because the shoreline band has moved, if you know what I mean?

Mr. Ceridono answered: Right. The vast majority of that additional area is within that changed shoreline band. But what we are doing is making the improvements to that area, not just leaving it, grassland.

Vice Chair Eisen acknowledged: Yes, thank you so much.

Commissioner Burt asked for clarification: I wondered if we could get just a clarification on the landscaping. It was noted that they would be native plants and I was not clear if that was meant to mean that they would be indigenous to the Bayland as opposed to regional or California natives?

Mr. Ceridono stated: I am going to defer to make sure I answer that correctly to our landscape architect.

Mr. Salmuelson fielded this question: I am Nick Samuelson from the Guzzardo Partnership, landscape architects. On that diagram they are showing the orange area that was in the embankment as it goes down. Those would be native plants that are regionally found in this area. So, in that orange area we would be looking for plants that are native to that area or the general area for using along that slope bank. Then as you get up in the green area would be more general, native, low-water-use plants and adapted plants.

Commissioner Burt continued: So, when you say regionally to this area, do you mean specifically that they are indigenous to the Baylands?

Mr. Samuelson affirmed: Yes, that is right.

Commissioner Burt stated: Okay. And then just a comment. I would really be interested in whether colleagues would support that the plants in the green area also be indigenous to the region, where we are really using new landscaping development to reestablish natural ecosystems in the urban environment and not to pass up opportunities of relandscaping to allow just plants that are drought tolerant, but instead to plants that would rebuild the ecosystem. Thanks.

Chair Wasserman mentioned a caveat: I think it is certainly legitimate to encourage that. I am a little concerned that starting to specify types of plants gets us out of our track under the McAteer-Petris Act in terms of control over developments, even if it is within the shoreline band.

Executive Director Goldzband added: Chair Wasserman, if I can, we will make sure that the plan review team, et cetera, have these notes. They are more than happy to work with the landscape architect to see what can happen without there being a requirement, because we do not know enough to have a requirement at this point, from staff's perspective.

Commissioner Burt continued: Okay. And if I might just follow-up on a more broad BCDC policy standpoint, I would be interested in whether that latitude on prescribing indigenous vegetation is within our purview.

I will just note that, for instance, in Palo Alto, we, a number of years ago, have adopted policy that all new landscaping in commercial areas would have a similar requirement and it has really begun to have a positive impact on reestablishing a natural environment within the urban area, so thanks.

Chair Wasserman stated: I think we can certainly ask staff to address that. I think that it is absolutely within the jurisdictions, in my opinion, of local jurisdictions to adopt policies about indigenous plantings. It is just watching the guidelines between our responsibility and the local planning agencies' responsibility.

Commissioner Eklund had questions: Thank you very much, Chair. I had a couple of questions and comments on the public parking area. It is going to be posted that it is only going to be the non-residents that can park there. I do not know how that is going to be posted. But anyway, if it is for the public only, who is going to enforce that to make sure that the residents, because they are never going to have enough parking, to make sure that the residents do not park there long-term? So, who is going to enforce that?

Mr. Ceridono stated: Right. Our property management would be in charge of enforcing that and it is similar to other mixed-use projects in our portfolios. Managing the parking is paramount to make sure everyone has equal access. So, it is something they just do on a daily basis.

Ms. Pan added: Commissioner Eklund, I was going to add, BCDC actually has a standard sign design for public shore parking. So, we will be providing that graphic for use and so that will be part of the plan review process.

In addition just in general for our public shore parking areas around the Bay Area we also rely on public reports for any potential violation, so that would go through our compliance and enforcement teams as well.

Commissioner Eklund asked: Okay, great, thank you. And then who is going to maintain the walking trails there and maintain the whole public access area, including the landscaping?

Mr. Ceridono chimed in: Again, that that would be on us as a developer and our management company that would be responsible for that on a daily basis.

Commissioner Eklund also asked: Great. And then does BCDC actually do like spot checks over the years to make sure that that is happening, to manage the permits that are issued?

Chair Wasserman noted: Our General Counsel volunteered to answer that one.

Mr. Scharff commented: Yes, I will volunteer to answer that one. The answer is yes, we actually do do spot checks. Not necessarily that particular area but we do sometimes go out to different projects and take a look at them. We also rely heavily on the public making complaints, which is probably the primary thing, but we actually do site visits once in a while; usually based on somebody complaining on something.

Commissioner Eklund continued: Okay, great. I want to make some comments on the concept that was brought up by Commissioner Burt earlier about indigenous landscaping or vegetation. I would encourage that, and I do believe that it is also within the BCDC's jurisdiction, not being an attorney and not having looked up the statutes.

But at Hamilton, for an example, we actually built a nursery out there with the Army Corps of Engineers and they actually collected seeds from the existing marshland and then cultivated those plants and actually grew the plants in that garden area and then planted it for that whole wetland restoration of the entire runway area and it has been incredibly successful.

There has been very little loss of vegetation and it is it is thriving marsh and someday I would love to have the Commission come out and take a look at what Hamilton has become out there because it has really been incredible and I have been engaged in it for almost three decades now since the base was closed.

I think it also increases the survival and it will actually create more of a thriving landscaping area. You typically have less maintenance requirements so I really would encourage that, for the Commission to consider that as well.

Mr. Scharff stated: Well, I think I need to step in. I do not think it is within BCDC's jurisdiction.

Commissioner Eklund acknowledged: Okay.

Mr. Scharff explained: In the shoreline band we have Bay fill and public access is really our jurisdiction. I think there is nothing wrong with encouraging it, staff working towards positive outcomes. That is different than saying it is our jurisdiction to demand that. That is primarily a local jurisdiction. Just because it is the right thing to do, just because it has positive outcomes, does not mean that it is our jurisdiction.

Commissioner Eklund replied: Right.

Mr. Scharff noted: A lot of this is local jurisdiction and I think we need to respect that.

Commissioner Eklund explained: Yes, I do not say we demand it, but I would definitely highly consider us to consider that. And we might even want to mention it to the local government that is managing this project.

Commissioner Showalter commented: This may also be something that we cannot really demand but I just wanted to ask you about, it says the vulnerability assessment used the 2080 low-risk aversion scenario projected sea level rise of 2.4 feet. Used the low-risk assessment. That bothers me, to come up with your base floor elevation.

I would just urge you to reconsider that. You have not built this yet. You could conceivably bring it up a little bit. But with every additional report we hear, we hear that sea level rise will be faster and perhaps more than we expected. Particularly, if you are going to remain the owners and operators of this structure, building it up another foot will save you a lot of headaches over the years. So, I would just urge you to consider that.

Chair Wasserman commented: Any other Commissioner comments? (No further questions were voiced)

I have a question and a comment. I looked for it in the reports, it may be there and I missed it. What is the Goldilocks number for the number of units?

Mr. Ceridono answered: It is 480 residential units, of which 85 are affordable within that.

Chair Wasserman continued: Thank you. I would encourage staff when we are considering these kinds of residential projects, recognizing housing is also not within our jurisdiction in terms of requirements. Nonetheless, given that the shortage of housing throughout the Bay Area is such a major concern, we denote in our reports what the residential units are being proposed.

That actually bridges to my comment which is, I think this is an excellent example of what our former executive director used to say, the most important word in our title is *and*, Conservation *and* Development. I think, from what I have seen here, this is just a really excellent balance of the issues of adaptability and conservation and public access and development. So, I thank you.

Executive Director Goldzband chimed in: Chair Wasserman, if I may, and I really do not want to get much into planning because my horticultural bona fides are nil. But I do want to say two things. First of all, BCDC does have guidance that is available to all applicants with regard to landscaping and planting, et cetera. I know it is used. It is a number of years old but I think it is still very much used by our Bay Design Analysts, et cetera, as they deal with plan review and the like and we are more than happy to take a look at it and provide an answer to Commissioner Burt's questions about how that happens.

And I would be remiss if I did not say, and this is one of the lovely things about telecommunications in 2023, Erik Buehmann sent me a note and I think he said something that I really basically want to quote, which he says that native vegetation is something that we consider as part of maximum feasible public access. That is, it is really the entire experience that one has as you walk along as you experience public access, which is why it is important to

BCDC and it will be important to BCDC. And that is why as the project moves forward through plan review that no doubt, we will end up dealing with this. I also have no doubt that the landscape architects who envision these things also want to do that type of planting as much as possible.

Ms. Pan stated: I might just add one more note to that last comment which is that the Bay Plan policies do request that we encourage the use of native plantings, so that is something that our plan review team and compliance team will be keeping in mind as well when they are working with the applicants.

Chair Wasserman asked for the Staff Recommendation: If there are no other questions or comments, I would ask staff to make its recommendation.

Ms. Pan read the following into the record: The Staff Recommendation was mailed to you on May 26, 2023.

Staff would like to make one minor correction to the Staff Recommendation which was reflected in the errata sheet that was shared with you earlier today. That is, in Authorization Section I.C, Deadlines for Commencing and Completing Authorized Work, it should read that:

“Once commenced, all work authorized or required by this permit must be diligently pursued to completion and must be completed within seven years of commencement...”

Rather than six years. So, with this correction staff recommends that the Commission approve the permit application with several conditions. Among them are:

Requirements that the permittee dedicate and improve a total of 75,798 square feet of the site as public access, including 34,798 square feet of new public access;

Provide future trail connections to future public access on neighboring sites;

Ensure that a central access corridor between East Bayshore Road and the shoreline is available to the public at all times;

Provide seven public shore parking spaces, including one ADA accessible space;

Maintain a 26-foot-wide view corridor through the center of the site;

And prepare a sea level rise adaptation plan.

As conditioned, staff believes that the project is consistent with the Commission’s laws and policies and recommends that you adopt the recommendation for approval.

Chair Wasserman asked: Has the applicant heard and agreed with the staff recommendations? Or reviewed and agree with, I suppose.

Mr. Ceridono replied: Yes, we have.

Chair Wasserman asked for a motion: Thank you very much. I would entertain a motion in favor of the staff recommendations.

MOTION: Commissioner Showalter moved approval of the Staff Recommendation, seconded by Commissioner Eklund.

VOTE: The motion carried with a vote of 20-0-0 with Commissioners Addiego, Ahn, Arreguin, Burt, Eklund, Ambuehl, Gioia, Gorin, Hasz, Moulton-Peters, Ramos, Ranchod, Showalter, Belin, Kishimoto, Pemberton, Vasquez, Gilmore, Vice Chair Eisen and Chair Wasserman voting, “YES”, no “NO” votes, and no “ABSTAIN” votes.

Chair Wasserman announced: The motion passes, congratulations, thank you very much.

9. A Discussion of, and Possible Votes Concerning, Legislative Activity in Sacramento, Including SB 273. Chair Wasserman stated: That brings us to Item 9, which is Discussion and Possible Vote on Legislative Action in Sacramento, specifically, Senate Bill 273. I will make the introduction here.

Since our last meeting, there have continued to be very productive discussions amongst the Port of San Francisco, the private sponsor, the State Lands Commission, Senator Weiner’s staff and BCDC staff that are all summarized in the Staff Report.

The San Francisco Port and the sponsors have all agreed on the three basic amendments that BCDC has requested, specifically that there be language in the bill making it clear that BCDC continues to have its permit discretion other than the specific items that are covered in the bill, to wit, that this is deemed by the legislature a public trust use and that the McAteer-Petris requirements of no upland alternative and maritime-oriented uses are required, and that we are not bound by the State Lands Commission findings that are required as part of the bill.

Second, that there be a study conducted by BCDC staff and State Lands Commission staff on public trust guidelines for the kind of issues presented by this project so that as we move forward we are not doing this on a one-off basis; and hopefully the legislature will not have to act in a one-off basis, which may require some overall legislative changes, may not, we will see what comes out of the study.

And third, that there be no residential use as part of the project.

The fourth element that we have considered in our previous discussions and have been working on concerns the status of the San Francisco Special Area Waterfront Plan. BCDC staff and the Port staff with assistance from others, including State Lands staff, have worked out a cooperative proposal. They are developing a memorandum of understanding that will call for relatively quick action. Note, I say relatively because these things require amendment of the Special Area Plans. This is a somewhat extensive bureaucratic process, not truly of our making.

I say all that because it frustrates me a lot in terms of timing. But two specific areas involving modifying the 50 percent fill requirement for Fisherman's Wharf, which there is really no controversy over, and exchanging an existing requirement in the Exploratorium permit that a certain amount of fill be taken out of the Bay, to replace that with a requirement that funds be raised for and an educational program on rising sea levels be developed.

We have discussed those before. That action is not before us today. We have not made that a requirement in the bill because all things being equal, the legislature should not get into those matters. But we have reached cooperation and are making, I think, very good progress and I think it is a good model for work between BCDC and the Port.

The two other aspects I would address are that this bill was never going to provide the funding for the state study on the guidance on public trust because it is not an appropriations bill, it is a policy bill. However, the senator's office is working very hard with representatives of the administration, the Port, the sponsor, to identify the funding for that study and I am at least optimistic that we are going to get that in relatively quick order.

The other issue is there have been some suggestions that we attempt to tie SB 273 to passage and approval of SB 272, the Laird bill. As ideal as that might seem, tying the two bills together was going to be very problematic. However, again, the sponsors of the bill and others are working hard to generate support aimed not so much at the legislature where we do not expect any difficulty with 272, the Laird Bill which has already passed the senate, we expect will pass the assembly, but rather having the governor sign it. You heard me talk about that in the beginning of my remarks, thanking those who have done that and encouraging others to do that. We think that will be a successful effort.

I think this is a practical result. I think it is understood that this Commission is not wonderfully comfortable when the legislature steps in and makes decisions that we believe are within our purview. Nonetheless they have the legal ability to do that. They have done it twice before on this particular location. Under the circumstances I think that what we have gotten in terms of agreement on what we have requested gives us some very significant benefits, both for this project but on a broader scale.

We expect that these amendments will be urged by Senator Wiener's office in the Assembly and that it will then be approved by the Assembly with those and then approved by the Senate when it comes back.

The specific recommendation is that this Commission take a neutral position on the bill if it is as amended, as described in the Staff Report; and I think that is, under the circumstances, a good result. I do not know whether staff wants to add anything. Happy to answer questions. Well, I am sorry, before I get to that, any public speakers?

(No members of the public addressed the Commission.)

Chair Wasserman asked: Any questions from Commissioners?

Commissioner Gilmore was recognized: This is not a question as much as it is a comment. A deep appreciation for our Chair, and I think it was also Commissioner Peskin who led the negotiations on this bill. I would imagine it was in some ways like trying to herd cats. I think this is a very practical and reasonable result given the concerns that various members of this Commission aired when we last discussed this. I just want to give my deep appreciation for our lead negotiators and say that I think this is a really good result for BCDC, not only in terms of this project, but I think as the Chair pointed out, larger issues that we are going to have to deal with, so thank you.

Chair Wasserman acknowledged: Thank you. And before I recognize Commissioner Eklund, something I forgot to say. Commissioner Peskin is not here today because he is investigating a different body of water. He is rafting on the Green River. I am jealous, not because I do not want to be here with you. But he did want me to convey that he supports this position and supports the recommendation we have presented to you.

Commissioner Eklund spoke: Thank you very much, Chair, really appreciate that. I want to ditto Commissioner Gilmore's comments of complimenting both yourself as well as Commissioner Peskin about getting to this proposal. I know it is not easy, but I think this will hopefully result in a win-win.

The only question I have is on Number 2, the Public Trust Guidance Study and BCDC's active participation in it. Why couldn't we say that BCDC would be the lead agency or organization along with the other state agencies that would help to develop a public trust guidance study and achieve these things?

I am a little concerned about we are just leaving it open, and it is not really as directive as I would like to see it.

Because public trust is a real difficult subject, we all know that, having tried to even define it sometimes. I would like to see it a little bit more definitive to make sure that this does happen and that the other agencies like the Coastal Commission and BCDC and all the others that have jurisdiction have an opportunity to participate in the Study and to help lead it. So, I do not know, Chair, if you have any thoughts on that subject or not?

Chair Wasserman responded: I do have some thoughts on that, thank you for the question. Number one, the thrust of the Study is very specifically and intentionally aimed at the Bay, because we believe there are some different issues affecting the Bay than affect the rest of the coastline.

We also specifically and intentionally made it effectively a joint project with State Lands because each of us, State Lands and BCDC, have public trust obligations regarding development in the Bay, in and around the Bay; and that doing it together made the most sense.

Indeed, staff of the State Lands Commission, including Commissioner Pemberton and the Executive Director Jennifer Lucchesi have been active in the negotiations we have been having. So, we think that the two working together is indeed the right way to do it.

The primary agency we talk about in the bill's language of consulting with is the Department of Natural Resources representing the state overall. So, we thought that that was the appropriate balance.

There is a difference between the State Lands Commission and the BCDC. We are much larger. We are much more diverse. We are, frankly, less political. But nonetheless, we have the same fundamental mission and have been cooperating and we think cooperation makes sense.

Commissioner Eklund acknowledged: Okay, great. Thank you, that helps to explain a little bit more about that bullet, appreciate it.

Chair Wasserman asked: Any other comments or questions?

Commissioner Ranchod commented: I just wanted to add my appreciation for all the work that you have done, Chair, and the Ad Hoc Committee on this.

As the Staff Report notes, as a practical matter, given the hand we have been dealt, we have pretty limited choices. And so, it is important to try to improve the legislation if it is going to pass.

In an ideal world, as I think a number of us have expressed, we would not have this one-off legislation for a specific site. At the same time, I think it is worth noting, if it was not in the previous discussion, that it is a site for which the legislature has previously intervened a couple of times.

Those projects were not built but I think that was 2013 for the Warriors Arena and 2001 for a cruise ship terminal. So, the site is somewhat unique, has unique history.

I think it is also worth noting that there are other stakeholders who have concerns about this. I saw in the legislative bill analysis in the Senate that I think both Save the Bay and Sierra Club of California are opposed to the legislation. So, there are different views on this.

I do think that it is not unrelated to SB 272 and so I hope that bill does pass again and is signed by the governor. I appreciate all the work that folks are doing to persuade the governor's office that it should be signed if it is passed. And I hear you that contingent enactment language is not feasible for these bills to connect them formally.

I think we should take advantage of the opportunity to improve the bill and will support the Staff Recommendation.

I do think, though, that if similar legislation for a different site was to be introduced and come before us for BCDC to take a position before the Public Trust Study is completed, that we should not support such legislation if it were to be introduced.

Chair Wasserman agreed: Thank you for that comment. I 110 percent agree. It is my hope that the legislature would not consider another one-off until this Study is done.

I think both in dealing with any developer who moves in that direction, or public agency, that that is a strong defense.

I also think that in the legislation as drafted, having nothing to do directly with our amendments, they lay out why this is a close-to-unique situation given the deterioration of the piers themselves, the long time that has been spent on trying to address it, figuring out how to address it, and really not having the funds to do it.

It is not to say that somebody could not try and come close, but I think it would be a very difficult hill to climb.

Do we want someone to make a Staff Recommendation and who is going to do that, sir?

Executive Director Goldzband stated: Only if you want something to pass.

Chair Wasserman reiterated: Yes. I would like a Staff Recommendation because then I am going to ask for a motion. Despite appearances, I am not actually staff.

Executive Director Goldzband read the following into the record: The Staff Recommendation is that the Commission take a neutral position on SB 273, subject to the three amendments being accepted by Senator Wiener and the assembly sponsors who we believe are Assembly Members Ting and Haney and becoming part of the legislation.

Chair Wasserman asked: Any questions on it? (No questions were voiced)

I would entertain a motion.

Vice Chair Eisen announced: So moved.

Chair Wasserman stated: Vice Chair Eisen and Commissioner Ranchod seconds. Please call the roll, Reylina.

Commissioner Eklund chimed in: Before we call the roll, Chair?

Chair Wasserman acknowledged: Go ahead, Pat.

Commissioner Eklund asked: What about the three points underneath it? Is that automatically assumed that that is part of the motion?

Chair Wasserman answered: Yes.

Commissioner Eklund acknowledged: Okay, great. Thank you for that clarification.

MOTION: Vice Chair Eisen moved approval of the Staff Recommendation, seconded by Commissioner Ranchod.

VOTE: The motion carried with a vote of 19-0-3 with Commissioners Addiego, Ahn, Arreguin, Burt, Eklund, Gioia, Gorin, Hasz, Moulton-Peters, Ramos, Ranchod, Showalter, Ambuehl, Belin, Kishimoto, Vasquez, Gilmore, Vice Chair Eisen and Chair Wasserman voting, "YES", no "NO" votes, and Commissioners Eckerle, Beach and Pemberton voting, "ABSTAIN".

Chair Wasserman continued: Thank you all very much for your support and your kind comments. Thank everybody for the hard work on this. There is a lot of work left to be done.

10. Briefing on Cargill, Inc. Maintenance and Operations Project, in Portions of Alameda, Santa Clara and San Mateo Counties; BCDC Permit Application No. 2021.003.00. Chair Wasserman stated: That brings us to Item 10, a Briefing on Cargill's Maintenance Permit Application. Before we welcome our new Senior Engineer Jennifer Hyman, we are going to have the Executive Director make a brief comment.

Executive Director Goldzband commented: Thank you, Chair Wasserman. So about, I was going to say a couple of years ago but Steve may think it is a little bit longer, when we started talking about Cargill, and the history of doing annual extensions, we decided as a staff that it was very, very important to step back and take a look at the entirety of the operations and maintenance and actually do a full-on review and a full-on permit. I do not remember when that decision was made. Steve, I just remember where exactly you and I were at the time, and I know exactly where we were.

We started this prior to the time that Jenn joined us just six weeks ago. I am looking at Jenn. It was two months, so eight weeks ago. She has taken on this duty with alacrity and with just a tremendous amount of marvelous enthusiasm.

I just want to let you all know that we do not usually give you a briefing on how we are working on a permit and its associated things while we are working on it, but this is important enough that we thought that you all should hear it and understand how we are working with such a large and important constituent and stakeholder in the Bay. So, with that, I will leave it to Jenn.

Senior Engineer Hyman addressed the Commission: Good afternoon, Chair Wasserman, and Commissioners. My name is Jenn Hyman, and I am the new Senior Engineer at BCDC. This is my first presentation to the Commission, and I am honored to be here.

Today I will be presenting to you a briefing on the application for the Cargill Solar Salt Ponds Operation and Maintenance Permit.

I will present a brief overview of where the project is located and provide background on salt production and history, followed by a description of the process and timeline for bringing the permit application to the Commission for consideration.

Following this, both BCDC staff and Cargill representatives are here for questions and discussion. Today we are joined by Cargill representatives Don Brown, Land Resources Manager, and Connie Lee, Senior Land Management Engineer.

Salt pans formed naturally on the Bay shore and native tribes collected the salt to preserve food and trade with other tribes.

The processed salt industry began in the mid-1850s with numerous small salt producers shipping Bay salt to Nevada for the processing of silver ore.

In 1936 the Leslie Salt Company arose from the consolidation of 19 small operations.

Cargill purchased Leslie Salt in 1978, which included operations in Napa as well as the South Bay.

This image shows a historical photograph of the turn-of-the-century salt works along the Bay.

Cargill is a global company who provides food, agricultural, industrial and financial products and services.

The Cargill solar salt facilities in San Francisco Bay are only one of a handful of solar salt facilities in the United States. Others are in San Diego and the Great Salt Lake in Utah.

As shown in this map, Cargill has a plant in Redwood City, which currently is not producing salt. The Newark Plant 1 is generally north of the Dumbarton Bridge and Newark Plant 2 is south of the Bridge. There is also a pipeline under the Bay connecting the Redwood City Plant with Newark Plant 2.

The salt ponds are constructed with 123 miles of earthen berms, of which 62 miles are external or outboard berms facing the Bay or sloughs.

This slide shows an overview of the solar salt production process in the Newark ponds. Salty Bay water is initially pumped from the Bay at the mouth of Alameda Creek at the top end of the ponds, into the Newark concentrator ponds shown here in magenta, where the water is evaporated and moves by gravity and pumping from one pond to the next from north to south, concentrating the salt.

As the density of salt reaches saturation it is moved to the pickle ponds in light green, where it awaits crystallizing.

The brine is then moved to the crystallizer ponds in orange where the sodium chloride salt crystallizes to 95 percent purity and is harvested.

The solid sodium chloride salt is washed in mechanical equipment where it gets even purer and then is sold in numerous forms of salt products.

Brine leftover from crystallizing is put in desalting ponds in purple, where it may be recycled back into the process. Brine with low levels of sodium chloride but rich in other salts such as magnesium and potassium salts is put into the mixed sea salts or MSS ponds shown here in light blue, more like an aqua.

Mixed sea salts are primarily a solid matrix of salts. Liquid magnesium salts are removed from the MSS and stored in the FMC ponds, which are the small, yellow-colored ponds, for processing into deicing and dust control products. The solar salt process takes about two years.

It is the contents of the MSS and FMC ponds in aqua and yellow that are a concern since the brine is so concentrated and has a salt composition different from seawater.

Salt ponds are recognized in BCDC's salt pond findings of the Bay Plan as providing numerous benefits including helping to moderate the Bay Area's climate and contributing to the open space character of the Bay.

The salt ponds are a major stopover for winter migratory wild waterfowl and provide habitat for numerous endangered species such as the California least tern and salt marsh harvest mouse. The South Bay salt palm complex in general supports the largest breeding populations of snowy plovers in North America.

The solar salt ponds are set on the shore of the Bay and much of the land was sold to and is owned now by the US Fish and Wildlife Service as the Don Edwards Wildlife Refuge, shown in this figure in green, surrounding Cargill's salt ponds, which are shown here in pink, purple and orange.

Over the last 40 years, Cargill has conveyed more than 40,000 acres of salt ponds to public wildlife agencies, greatly reducing the footprint of their operations.

Today, Cargill has an agreement with the US Fish and Wildlife Service to operate their current salt processing on these lands in perpetuity. Some portions of the salt ponds, approximately a third of their operations, are on land owned by Cargill.

Cargill must perform continual maintenance on the salt pond berms and infrastructure. These maintenance activities include replacing and repairing riprap on berms, adding material to berms to counteract settlement and improve drivability, maintaining and replacing infrastructure such as pumps, tide gates and platforms, and removing sediment at their intakes.

Maintenance activities are performed following biological monitoring and in compliance with best management practices per wildlife agency conditions for listed species.

For example, if snowy plover nests are observed in the biological surveys, maintenance activities are kept 600 feet away from these nests.

As described in the McAteer-Petris Act, codified at Government Code Section 66610(c), BCDC has jurisdiction over the salt ponds consisting of all areas which have been diked off from the Bay and have been used during the three years immediately preceding November 11, 1969, for the solar evaporation of Bay water in the course of salt production.

There are some facilities considered in the Bay such as intake pumps and platforms, dredge locks and submerged pipelines, and some small, outlying facilities are in the 100-foot shoreline band.

Cargill's current permit was issued by BCDC in 1995 and has been extended numerous times.

The permit calls for Cargill to provide work plans for BCDC review annually in advance of the summer maintenance season with annual reports provided at the end of the yearly maintenance season for BCDC review.

Cargill has applied for a new 10-year permit.

An Engineering Criteria Review Board meeting was held on November 16, 2022, focusing on the seismic stability risk and sea level rise resilience of the berms that isolate the mixed sea salt ponds from the Bay. Cargill has agreed to perform studies to examine these issues and a second meeting is planned for later this year.

BCDC staff have visited the site several times and a tour for new staff is planned for June 7. This tour was planned for earlier in the year but delayed by rain.

This figure displays the Commission's community vulnerability mapping tool with community vulnerability and 2020 Census data surrounding the Cargill salt ponds shown in purple. In this map, the darker the gray color the higher social vulnerability for that census block.

Some of the surrounding areas of both Redwood City and Newark plants are identified as areas that have moderate to high social vulnerability. BCDC staff, including the Environmental Justice Team, are working with Cargill to ensure compliance with the Bay Plan Environmental Justice and Social Equity policies as part of this permitting process. This will likely include at a minimum community outreach and engagement as required by Policy 3.

Maps shown in this slide are produced by AECOM for Cargill in their 2021 Sea Level Rise Assessment Memo and they show current modelled flooding in the blue-green color in a 1-in-100-year probability extreme high-tide event including storm surge.

One of the mixed sea salt ponds is projected to flood from berm overtopping. Where berms are overtopped at low spots, berms are highlighted here with red lines. Berm overtopping is a concern since it increases the risk of a berm breach or failure.

These results do not take into account sea level rise, but those were also modeled and show more areas of overtopping.

Flooding of most of their ponds just means that concentrated Bay salts will be diluted back into Bay water. But Cargill is performing studies to better understand what this would mean for the mixed sea salt ponds now and in the future.

In considering safety issues, we are focusing on the ponds that have the potential for the highest risk to the environment if there were a release of concentrated product. These are the mixed sea salt or MSS ponds and the small FMC ponds at Newark Plant 2.

According to the AECOM Study from 2021, because these brine ponds are hypersaline, which means they are much saltier than Bay water and contain salts that are the most different from Bay water, they are risks to the environment. The two MSS ponds are shown here in this photo. They are the large ponds with solid white contents surrounded by tidal wetlands.

Government Code Sections 66605(d) and (e) require that authorization for fill minimize harmful effects on human health and the environment and so Cargill is carrying out additional studies on the MSS ponds regarding berm, seismic integrity, sea level rise planning, human health and environmental risks, and we are reviewing their Emergency Response Plan. These studies will be presented to the Engineering Criteria Review Board in a future meeting.

Other key environmental issues of the O&M permit include that Cargill's main water intakes on Alameda Creek are anticipated to be fitted with fish screens to reduce impacts to endangered steelhead and Chinook salmon.

In January of this year, new fish ladders went into service upstream of the Cargill pumps on Alameda Creek and will hopefully increase numbers of these endangered fish in the Alameda Creek watershed.

BCDC is examining estimated quantities of new riprap fill on the outboard sides of berms while being mindful of safety issues.

And with all the special status species in the ponds, particularly shorebirds, we will be examining potential impacts to special status species in the salt ponds.

BCDC staff has organized interagency meetings to coordinate on these issues with the wildlife and resource agencies.

BCDC is acting as the CEQA lead agency for this project because the project requires no local discretionary approvals.

BCDC rarely acts as a CEQA lead agency. The last time it did so it was for Cargill's 1995 O&M Permit.

BCDC's permitting program constitutes a CEQA-certified regulatory program.

For CEQA compliance, BCDC prepares an environmental assessment, also known as an EA.

BCDC will comply with its CEQA regulations so that the other responsible agencies issuing permits, such as the California Department of Fish and Wildlife and the Regional Water Quality Control Board, can rely on the EA for CEQA compliance.

Preparation of the environmental assessment or EA was initiated in 2020. A responsible agency scoping workshop was held and a draft EA was publicly released in 2021.

Comments were received from a local individual stakeholder, a nonprofit organization, the State Lands Commission, and the San Francisco Regional Water Quality Control Board.

Outstanding resource concerns warranting project changes and clarification of the project scope resulted in a pause of the EA in 2021.

The EA process has been restarted and the EA is being prepared by GAIA Consultants and BCDC staff are managing their work.

BCDC staff are working with our Environmental Justice Lead to develop a community outreach plan. We expect to conduct virtual presentations to community groups in mid-July.

The project description and an assessment of impacts in the EA is being updated and BCDC staff intends to recirculate the updated draft EA for comment in the fall for at least 30 days.

The permit application and final EA will go to the Commission for action hopefully in early 2024.

So here is a summary of the schedule for Next Steps.

The draft EA will be recirculated for public comment in the fall of 2023.

The EA will be finalized to include responses to those comments, to any comments received.

And then the final EA and O&M permit will go before the Commission in early 2024.

For my final slide I wanted to let you know about a separate project proposed by Cargill called the Cargill Mixed Sea Salts Processing and Brine Discharge Project. The purpose of the project is to reduce the risk of a release of mixed sea salts to the Bay by processing and removal of the mixed sea salts stored at the Newark plant.

In this project, the mixed sea salts currently stored in ponds P2-12 and P2-13 would be transported through a new 16.5-mile-long pipeline to the East Bay Dischargers Authority's existing permitted facilities just north of Hayward.

The orange line in this figure shows the alignment of the proposed pipeline. At the north end of the pipeline the mixed sea salts would be blended and diluted with treated wastewater prior to disposal in the Bay through an existing, permitted, deep wastewater outfall.

This is a joint project with the East Bay Dischargers Authority and Cargill. This project will require its own BCDC permit for portions of the facilities in BCDC jurisdiction.

BCDC staff had a preapplication meeting with Cargill on May 1 of this year. A draft EIR for this project was circulated in January of this year, which BCDC commented on, and a final EIR is in preparation.

Construction of portions of the pipeline outside BCDC jurisdiction are planned to begin this summer.

That concludes my presentation, and we are open now to take any questions or comments.

Chair Wasserman announced: I invite anyone from the public to speak.

(No members of the public addressed the Commission.)

Chair Wasserman continued: Questions and comments from the Commission?

Commissioner Eklund chimed in: Just a question. Is BCDC the lead agency for the Environmental Impact Report?

Ms. Hyman replied: Yes, they are. It is not exactly an environmental impact report. It is called environmental assessment, which is somewhere between an EIR and a negative declaration in size.

Commissioner Eklund asked: So then why did we have to do comments on the assessment when we are the lead agency?

Ms. Hyman explained: Part of the process is the EA is first released as a draft and then comments are addressed to finalize it, just like in the same process for an EIR. That is my understanding, unless Michael is online and has additional comments.

Executive Director Goldzband interjected: Can I? Maybe this is because I misunderstood the question. There are two different environmental documents here in question, Commissioner Eklund.

The first is that BCDC is in charge of, which is the EA for the operations and maintenance permit. The second is Cargill's project that would move the salt, the almost solid salt from Ponds 12 and 13 to the East Bay Dischargers Authority. That is their project, not our project, and so we commented on that EIR.

Commissioner Eklund acknowledged: Okay, right.

Executive Director Goldzband surmised: So maybe that was what was confusing you.

Commissioner Eklund replied: Thank you. That clarifies my question, thank you.

Chair Wasserman asked: Any others?

Commissioner Addiego commented: I am interested in what is happening with the Ponds 12 and 13 that will move some of the product in a pipeline some 16 miles up to Hayward and then be mixed with effluent from a sewage treatment plant. We are worried about these ponds in their current location overtopping and entering the Bay because of the environmental impacts. How is that better?

Ms. Hyman explained: The issues with it being released from the ponds have to do with the fact that it is very concentrated at that location. Where it will be discharged from the existing deepwater outfall in the Bay, it will be blended and diluted; and once it is diluted then it does not have environmental impacts. But there is more to say about that in the EIR.

Mr. Goldbeck chimed in: Steve Goldbeck back here, if I might add. Also, in addition to it being diluted in the East Bay Dischargers Authority pipeline to the deep waters where it has greater mixing, the concern is that if there was some kind of flooding or earthquake that caused mixing of water, there would be a direct movement of much more concentrated brine, which could have environmental impacts locally.

Ms. Hyman added: It is my understanding there is also an existing NPDES permit for that discharge. Adding the diluted mixed sea salts to that, it would still be in compliance with the NPDES permit.

Chair Wasserman stated: I find myself in a slightly uncomfortable position of asking a question that I imagine David Lewis might ask if he were participating. But he has asked a question like this or questions like this in several appearances before us.

Both of these projects that you describe are important and are forward looking. It has been suggested, and in part of your presentation it is touched upon, that there appears to be a potential danger of overtopping now. You can see my discomfort in these shoes that do not fit. What, if anything, can be done about that now?

Ms. Hyman replied: Maintenance activities that Cargill currently perform are raising the berms to counteract settlement. We are working with them to make sure that the elevations that they raise their berms to during their O&M activities will adequately address these risks now and for the next ten years of the permit.

Chair Wasserman acknowledged and asked: Thank you. Steve, do you want to add?

Mr. Goldbeck stated: That was exactly what I was going to say. I will just add that Cargill has a permit right now because we have extended the prior permit so that they can continue to do maintenance while we work through issuing a new maintenance permit, so it is not like everybody is just holding their breath there. They are out there. They are working to deal with it. And they have an existing emergency plan.

Chair Wasserman acknowledged: Thank you.

Mr. Goldbeck added: And Cargill may want to add some additional comments if they would like.

Chair Wasserman noted: Cargill does.

Ms. Lee addressed the Commission: This is Connie Lee, Senior Land Management Engineer with Cargill. I think the main concern we have on Cargill's side is that water could get into our pond and dilute our brine, but water would not come out into the Bay.

Chair Wasserman stated: You have got your view inside, we have got our view outside, okay.

Ms. Lee continued: I am saying that when overtopping occurs due to floods and from sea level rise, the water would come into our side of the pond and dilute the product, but it would not be sloshing back out into the Bay if that makes sense.

Commissioner Kishimoto chimed in: Thank you, Chair Wasserman, for stepping into those uncomfortable shoes. That was exactly what I was going to ask, and I am quite comfortable getting into those shoes, actually.

So yes, just to follow-up on that just a little bit. During this last winter of very heavy rain, we did not come close to overtopping; is that right?

Ms. Hyman stated: It is my understanding there were some areas of erosion but there was no overtopping.

Commissioner Kishimoto continued: Okay. Well, thank you to staff and to Cargill for keeping an eye on it then, thank you.

Chair Wasserman acknowledged: Thank you for your answer to my question.

Commissioner Showalter commented: I have not really worked with Cargill but I have worked with the South Bay Salt Ponds and they were berms that Cargill made.

I can tell you that the maintenance activities that they do are absolutely crucial. The agencies that now own the South Bay Salt Ponds struggle to maintain them because it requires a great deal of expertise and money.

Cargill really does have a very, very long history of maintaining these berms just to make salt manufacturing. That is their idea. Our desires in the South Bay Salt Pond Program are obviously quite different. But we are very concerned with overtopping and erosion. It is something that requires continuous diligence on the part of whoever owns one of these facilities.

Chair Wasserman noted: I see no other questions or comments.

There is no action required on this matter. I thank you very much for the presentation and for your diligence.

11. Closed Session on Pending Litigation: Greenberg v. Goldzband et.al. (Super. Ct Solano County, 2022, No. FC058917), Commission Cease and Desist and Civil Penalty Order CCD2022002.00. Item 11 was cancelled.

12. Adjournment. Upon motion by Commissioner Eklund, seconded by Commissioner Moulton-Peters, the Commission meeting was adjourned at 3:25 p.m.

Respectfully submitted,

LAWRENCE J. GOLDZBAND
Executive Director

Approved, with no corrections, at the
San Francisco Bay Conservation and
Development Commission Meeting
of June 15, 2023.

REBECCA EISEN, Acting Chair