




2020

ANNUAL REPORT



SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

< Socially distanced recreation at Eden Landing Ecological Reserve, Union City, Alameda County. Cover photograph courtesy BCDC.



*To protect and enhance  
the San Francisco Bay,  
and encourage the responsible  
and productive use of its resources  
for this and future generations.*

**SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION**

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2020

# ANNUAL REPORT

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# INTRODUCTION

AUGUST 19, 2021

THE HONORABLE GAVIN NEWSOM, GOVERNOR

HONORABLE MEMBERS OF THE CALIFORNIA LEGISLATURE:

**SUBJECT: 2020 BCDC ANNUAL REPORT**

*I am pleased to provide you with the 2020 annual report of the San Francisco Bay Conservation and Development Commission (BCDC), which summarizes the activities BCDC carried out during 2020 to implement the McAteer-Petris Act, the Suisun Marsh Preservation Act, the federal Coastal Zone Management Act, and the California Oil Spill Prevention and Response Act.*

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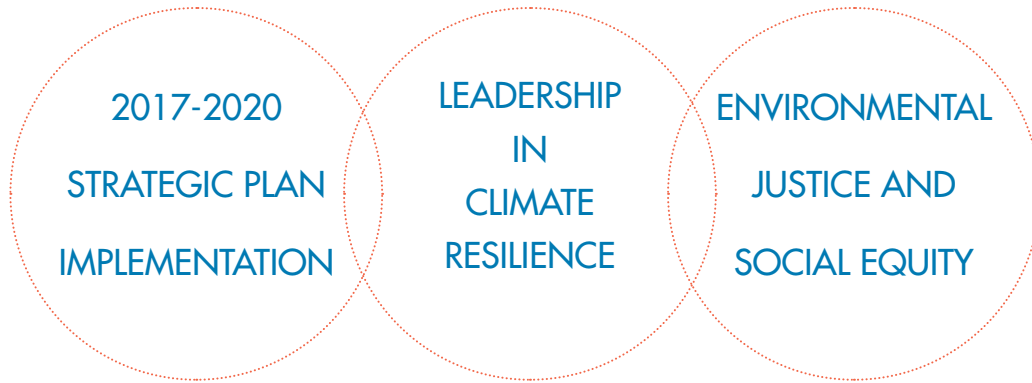
Shari Posner

BCDC was created in 1965, as a result of the Save the Bay movement in the Bay Area to address uncontrolled Bay filling, in order to prevent the Bay from shrinking due to local policies that encouraged unneeded landfill projects. Under the Commission's stewardship, the century-long uncontrolled diking, draining and filling that had reduced the Bay's size by one-third has ended. Over the past 55 years, almost 43 square miles of Bay habitat have been restored, public trails and parks have opened along 174 miles of the Bay shoreline, and over \$6.2 billion in productive waterfront development has been built. Last year alone the Commission approved \$364 million in new development, which will make 1.5 more miles of the Bay's waterfront available for public use and enjoyment. The projects approved in 2020 will enlarge the Bay by 3.8 acres.

In March of 2020, when the Commission's office was closed and staff sent home to shelter in place due to the COVID-19 pandemic, BCDC immediately pivoted to its staff working remotely and holding BCDC meetings online. We are proud that staff rose to the occasion and hardly missed a beat in continuing to support BCDC's mission. The administrative staff immediately provided needed hardware to work remotely and deployed supporting software including a virtual personal network, digital signature capability, and video conferencing. Only two Commission meetings needed to be cancelled, and the April 16th, 2020 meeting was successfully held online, as were all BCDC meetings for the rest of the year. Not only did BCDC rapidly and smoothly transition to online work, but staff then provided help and guidance to other agencies as they went online as well. While BCDC approved some closures of shoreline areas and expansion of outdoor dining in shoreline areas, most required public access areas remained open to provide the public much needed respite from sheltering in place rules.

Global warming continues to present a new challenge for the Commission: accelerated sea level rise that threatens waterfront communities, infrastructure, businesses, and natural resources. In 2020, BCDC continued to work on the issue using a variety of approaches, including addressing the vulnerability of proposed projects to rising sea level and requiring adaptation measures as part of the Commission's permit process, leading projects and providing assistance through the Commission's Adapting to Rising Tides Program. BCDC successfully completed the ART Bay Area project in partnership with the Metropolitan Transportation Commission and the Bay Area Regional Collaborative, which assessed the vulnerability of the region's transportation, housing, community and natural areas and developed adaptation strategies to respond to those vulnerabilities. Additionally, BCDC gathered regional partners in Bay Adapt to collaboratively work towards a joint platform of actions to address rising sea level.

*In addition to the attached statistical summary of our work in 2020, the following are some of BCDC's most important accomplishments in 2020.*



- In the absence of a Public Information Officer, BCDC's all-volunteer Social Media team has developed a robust foundational social media strategy and established a social media presence for BCDC on Twitter, Facebook, and LinkedIn. The team has made over 130 posts so far, with an emphasis on keeping the public informed about upcoming meetings and agendas. They have also shared timely content from affiliated agencies and developed original content related to BCDC's mission.
- In 2020, the BCDC GIS (Geographic Information System) Program greatly expanded the way it efficiently shares data and information resources with the launch of the [BCDC Open Data Portal](#). This public resource includes interactive and downloadable data related to

▼ Waves at Fort Point during 2020 King Tide. Photograph courtesy of Kevin McLin.



community vulnerability, flood hazards, and BCDC jurisdictional boundaries. This website also gives BCDC the ability to directly share and raise the visibility of its data with the CA Natural Resources Agency (CNRA) and the State of CA through their Open Data Portals.

### *As part of implementing BCDC's 2017-2020 Strategic Plan, in 2020 BCDC accomplished the following:*

- The Commission staff made substantial progress in 2020 on the nine “priority A” objectives in the Commission’s 2017-2020 Strategic Plan. The Strategic Plan focuses on three specific issues (1) continually improving our daily work; (2) leading the Bay Area’s efforts to increase its resilience in the face of rising sea level; and (3) improving our organizational health and expanding our staff to meet these challenges head on. The staff’s implementation plan addresses each of these important issues and the progress made in 2020 includes working with regional leaders on the Bay Adapt initiative for addressing rising sea level; working with agency partners as part of the Bay Restoration Regulatory Implementation Team (BRRIT); increasing inter-agency coordination, and collaboration; and continuing staff work on racial equity.

### *As part of the rising sea level initiative, in 2020 BCDC accomplished the following:*

- The Adapting to Rising Tides (ART) Program, in partnership with MTC/ABAG and BARC, released the 700+ page ART Bay Area report just 1 week after the state’s shelter-in-place order went into effect. Despite the unprecedented global conditions surrounding its release, it still received several media mentions and staff presented its findings (virtually) over 50 times around the region.

▼ Waves at Fort Point during 2020 King Tide. Photograph courtesy of Kevin McLin.



- [Bay Adapt](#), a new BCDC-led initiative to develop a regional, consensus-driven strategy to address a rising Bay, kicked off publicly in April 2020 at a virtual Public Forum attended by over 200 participants. A Leadership Advisory Group (LAG) of 30 executive leaders representing communities, advocates, and public agencies across the Bay Area met five times. Over 100 stakeholders came together in working groups to collaboratively develop guiding principles and a draft Joint Platform with a set of preliminary priority actions.
- BCDC's online mapping and educational tool for rising sea level—the [Adapting To Rising Tides Bay Shoreline Flood Explorer](#)—continues to be a widely used resource, with over ten thousand unique views in 2020. It was featured in several news articles by SF Chronicle and NBC News, bringing more members of the general public to the website and strengthening its role in supporting awareness of and planning for rising sea levels in the Bay Area. Coinciding with the release of ART Bay Area, BCDC staff worked with the San Francisco Estuary Institute to integrate the key data and findings from the report into the Flood Explorer. By highlighting key regional impacts to transportation, housing and jobs, natural systems, and vulnerable communities, BCDC's premier flood mapping tool now also provides the public with information about the potential real-world consequences if we do not act to address flooding from sea level rise and storms.
- Staff, in consultation with external reviewers, developed draft Climate Change Policy Guidance. Drawing on over ten years of experience permitting projects consistent with the Bay Plan's Climate Change policies, this new resource provides permit applicants and the public with concise and transparent guidance on the Commission's policies, examples of permit language, and technical guidance on using the best available science to select sea level rise projections and assess flooding impacts.
- The Commissioner Financing the Future Working Group collaborated with ART staff to develop a *Funding and Financing Adaptation White Paper*. This paper begins to identify the costs, funding sources, and major funding gaps for adapting to rising sea level in the Bay Area. The paper will be completed and released in 2021.
- BCDC partnered with the Exploratorium and Mycelium Youth Network to bring sea level rise education into several Title 1 schools through Mycelium's Water is Life program.

### *As part of implementing its Environmental Justice and Social Equity policies and advancing Racial Equity, BCDC accomplished the following:*

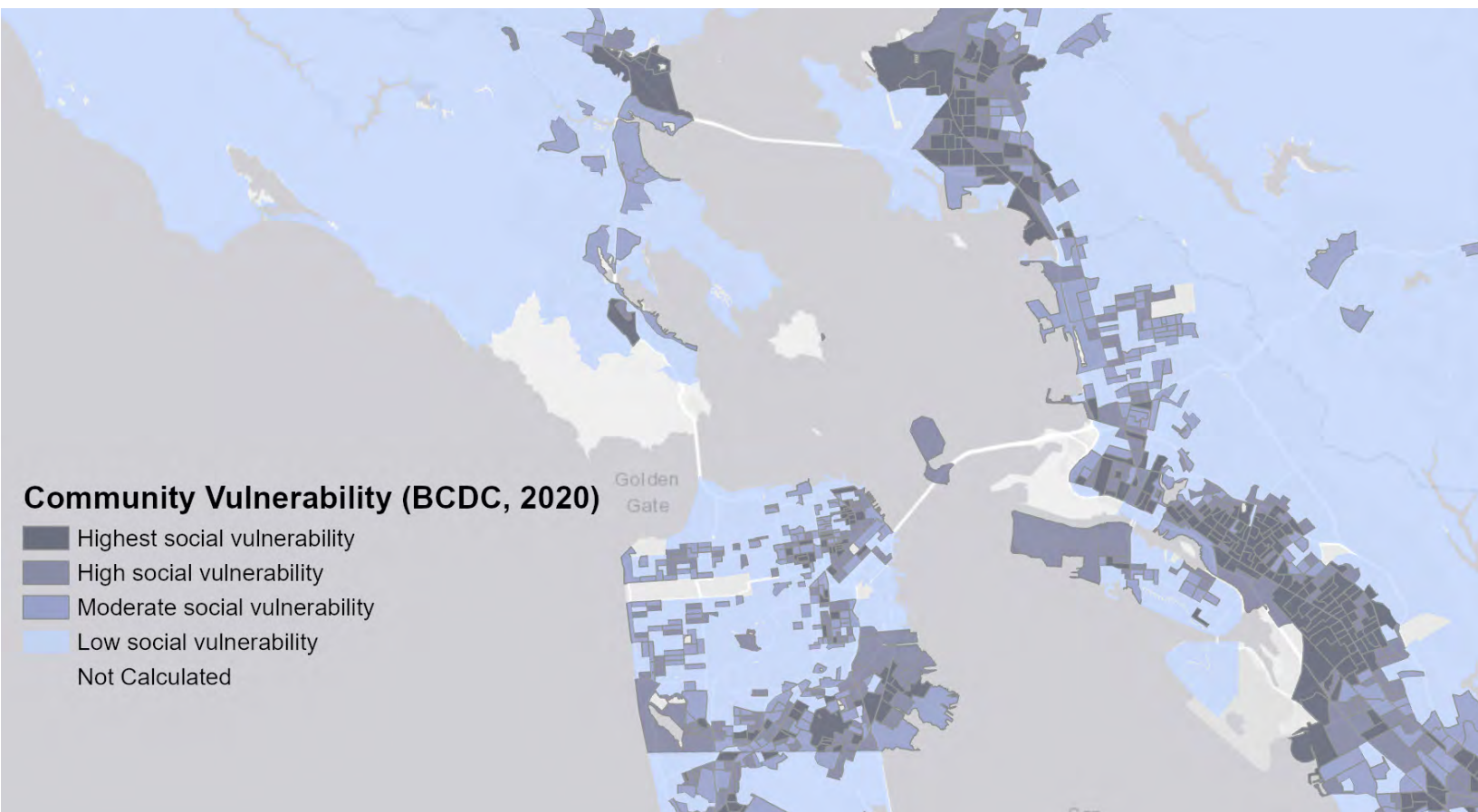
- BCDC established an internal Racial Equity Team charged with developing a Racial Equity Action Plan for BCDC. This staff-led group kicked off in early 2020, and since then has conducted background research, surveyed and interviewed staff, met periodically with the Commission's Environmental Justice Working Group, and hosted a staff visioning workshop, among other activities. The team has also served as a sounding board and resource. For example, they helped design a new internship program focused on introducing students of color to coastal management.
- To make BCDC's processes more accessible to all, BCDC launched its social media presence on Twitter, Facebook, and LinkedIn, thanks to a staff-led volunteer group. In addition, in direct response to public requests, the Enforcement Committee began streaming its meetings



on Facebook live. An unexpected outcome of the pandemic has been an increase in public participation thanks to virtual meetings and workshops that make attending meetings easier for many.

- In early 2020, BCDC released a new online Community Vulnerability Mapping Tool. This new educational resource and interactive map supports the implementation of the Bay Plan’s Environmental Justice and Social Equity policies. The goal is to help project applicants, communities, and BCDC staff better identify how and where meaningful community engagement with disadvantaged or vulnerable residents should occur. It leverages earlier work conducted by the ART program to map community vulnerability based on socioeconomic and contamination indicators that reduce a community’s ability to plan for, respond to, or recover from a disaster.
- Promoting more equitable, community-driven adaptation to rising sea levels is a key principle in the Bay Adapt initiative. The guidance of an “Environmental Justice (EJ) Caucus” of LAG members from frontline Community-Based Organizations has deepened equity and inclusion in the Bay Adapt process. The EJ Caucus helped lead a session with the LAG on frontline community perspectives, co-chaired Working Groups, met with staff, and co-hosted Community Focus Group sessions. EJ Caucus members are compensated for their participation, with generous support from Friends of BCDC.
- BCDC put out a call for applications and selected an inaugural group of six Environmental Justice Advisors. The program will formally launch in 2021. The EJ Advisors will provide guidance and recommendations on issues related to EJ and Social Equity, bringing unique perspectives from community-based organizations serving socially vulnerable,

✓ Community Vulnerability mapping data and tools. Map courtesy of BCDC.



underrepresented, indigenous and EJ populations throughout the nine-county Bay Area. This program is made possible through direct participation grants from the Resources Legacy Fund (RLF).

- Regulatory staff have incorporated the EJ/SE policies into the Commission's design review process for permit applications. To aid BCDC's Design Review Board (DRB), staff added an EJ section to DRB staff reports based on the community vulnerability mapping tool information. Staff also updated the policy and question sections of the staff reports, which fostered novel DRB discussions on Environmental Justice and Social Equity.
- The Shoreline Development and Bay Resources teams wrote permits for waterfront park and development projects in San Francisco and Alameda which included permit conditions and findings that support the EJ policies for meaningful community engagement (700 Innes and India Basin Open Space, and Alameda Point Waterfront Park Phase 1). The Commission approved these permits in January 2021. Potrero Power Station was the first project to be permitted with the EJ policies in July 2020.



# PLANNING

*BCDC addressed the following significant planning issues in 2020:*

## LONG-RANGE PLANNING

- The Bay Area Seaport Plan update made significant progress with the approval of a regional cargo forecast approved by the Seaport Planning Advisory Committee in Summer 2020 after extensive research, interviews, and peer reviews. Staff also initiated alternatives analysis for the plan update.
- Staff conducted background research around a possible Bay Plan amendment of its mitigation policies, including past permit review, interviews with agency partners and project proponents and engagement with the Commissioner Bay Fill Policies Working Group.
- As part of a comprehensive review of the Suisun Marsh Protection Plan, BCDC held a stakeholder workshop in partnership with Solano County, with 35 participants representing 17 state and local agencies and other stakeholders. Staff briefed the Commission and conducted background research and interviews to identify policy gaps and opportunities.
- Two applicant-requested amendments to the Bay Plan were approved by the Commission in 2020, including:
  - Amending the Bay Plan to delete a site from the water-related industry priority use area designation west of Pacheco Creek near Martinez in Contra Costa County, to facilitate the Lower Walnut Creek Restoration Project (BPA 5-19); and
  - Amending the San Francisco Waterfront Special Area Plan to allow the mooring of a historic ship, the ferryboat Klamath at Pier 9 (BPA 1-20).
- In September 2020, the Commission voted to approve the San Francisco Bay Coastal Management Program Assessment and Strategy (Assessment and Strategy) for the NOAA 2021-2025 Enhancement Cycle. To receive funding through NOAA's Coastal Zone Enhancement Program, coastal management programs conduct self-assessments every five years to determine issues to be addressed and enhancement opportunities. To develop the new strategy, staff reviewed accomplishments over the previous five-year cycle, conducted a regional stakeholder survey to identify priority needs, held a public hearing on the draft plan, and incorporated comments prior to Commission approval.
- BCDC remains a member of the Harbor Safety Committee and the Area Contingency Planning Committee in partnership with the California Fish and Wildlife's Oil Spill Response program to implement the interagency Spill Prevention and Response

Program.

## BAY ADAPT: REGIONAL STRATEGY FOR A RISING BAY

- Bay Adapt ([www.bayadapt.org](http://www.bayadapt.org)) is a BCDC-led initiative to develop a regional, consensus-driven strategy to address a rising Bay. It kicked off publicly in April 2020 with a well-attended virtual Public Forum, just weeks after shelter-in-place began. Over the course of 2020, the Bay Adapt Leadership Advisory Group – a group of approximately 30 executive leaders from various public, non-profit and private sectors – met four times. In addition, nearly 100 stakeholders participated in Working Groups, developing an initial draft of a Joint Platform with 15 actions touching on funding, community engagement, environmental justice, permitting, planning and governance. This draft was presented to the Leadership Advisory Group in October 2020, when the LAG advised staff to discuss the draft with a wide variety of stakeholders, including community members, elected officials, and local staff.

## ADAPTING TO RISING TIDES (ART) PROGRAM

- Adapting to Rising Tides Bay Area (<http://www.adaptingtorisingtides.org/project/art-bay-area/>) was released in March 2020. ART Bay Area is the first ever regional comparison of the impacts of rising sea level on people, the environment, and the regional systems we rely on. This report provides a better understanding of where we are vulnerable and lays out a pathway to plan for the future. It illuminates potential impacts of flooding to four critical region-wide systems: transportation, future growth areas, natural lands, and vulnerable communities.
- Adapting to Rising Tides East Contra Costa was released in April 2020. Building on the previous work in western and central Contra Costa County, existing county and local plans, and other ART projects around the Bay, ART staff worked collaboratively with local jurisdictions, communities and organizations in East Contra Costa County to understand the vulnerabilities and consequences they may face, including the disproportionate impact to certain community members, the disruption of transportation and utility infrastructure, the loss of employment sites, and limitations of access to goods and services. This project was completed in partnership with the Delta Stewardship Council and Contra Costa County.

## OTHER ART PROJECTS UNDERWAY INCLUDE:

- Adaptation Funding Paper - This project will assess the estimated costs of sea level rise protection, anticipate revenues that could pay for those costs, and expose the resulting gap the region will need to fill. Anticipated release in 2021.
- Adaptation Planning Guidance – The ART team is developing guidance to aid local governments and other users who have completed a vulnerability assessment but are not sure how to get to actual projects. They will use their assessment to engage the community, identify options, develop and evaluate future scenarios, and develop adaptive pathways that can adjust as conditions change. Anticipated release in 2021.
- Shoreline Vulnerability Index – This data provides a quantitative measure of shoreline

vulnerability that uses factors including shoreline type, elevation, secondary protection, and erosion to determine the vulnerability of segments of the Bay shoreline to sea level rise. It will be released in the form of a StoryMap, interactive map, and data download in 2021.

- State of Adaptation Survey – This research scans the state of local adaptation planning via desktop research and a local survey to determine where we are, what our barriers are, and what we need to increase the number of adaptation plans and projects in the Bay Area. Anticipated release in 2021.
- The ART team served on Project Management Teams or advisory teams for the Dumbarton Bridge SB1 vulnerability study, Richmond Horizontal Levee project, and Suisun City Resilient Neighborhoods Program project.
- The ART team updated the Bay Shoreline Flood Explorer to include the ART Bay Area data and maps, helping to visualize consequences of exposure to regional transportation, housing and jobs, vulnerable communities, and ecosystem services.
- The ART team developed a pilot program to map and track adaptation projects to better identify gaps, understand regional funding needs, and help communicate the region’s progress toward resilience goals. This program was developed in partnership with San Francisco Estuary Institute (SFEI), San Francisco Estuary Partnership (SFEP), SF Bay Joint Venture (SFBJV), Bay Area Regional Collaborative (BARC), and MTC/ABAG and built on the project tracking and mapping capabilities of the EcoAtlas online tool.



# BAY ADAPT

REGIONAL STRATEGY FOR A RISING BAY

## REGULATORY

*The Commission issued the following significant regulatory permits, permit amendments, and federal consistency determinations in 2020:*

- To Terminal One Development LLC and the City of Richmond, for a residential neighborhood and waterfront park, including reuse of an historic wharf, at 1500 Dornan Drive, in the City of Richmond, Contra Costa County (BCDC Permit No. 2018.006.00).
- To the San Francisco Recreation and Parks Department to remediate the 900 Innes property located in India Basin, in the City and County of San Francisco, including removal of contaminated soils and structures, backfilling, capping, and related work to prepare the area for future development as a public park (BCDC Permit No. 2019.003.00).
- To the California Department of Transportation, to modify the original mitigation requirements for the San Francisco-Oakland Bay Bridge East Span Seismic Safety Project to require offsite, fee-based mitigation to provide for shorebird roosting habitat, in lieu of the existing requirement to construct a rock island in the Bay (BCDC Permit No. 2001.008.46).
- To Alameda Marina, LLC and the City of Alameda to redevelop a 44-acre site for mixed uses, including maritime and commercial buildings, residential development, waterfront parks, and reconfiguration of an existing marina in the City and County of Alameda (BCDC Permit No. 2018.003.00).
- To Contra Costa County Flood Control and Water Conservation District to restore approximately 303 acres of coastal habitats along the Lower Walnut Creek and Pacheco Creeks in an unincorporated area of Contra Costa County near the City of Martinez. The project would also grade the site for public access pathways and other amenities that would be constructed in the future by another entity (BCDC Permit No. 2019.005.00).



- To California Barrel Company, LLC and the Port of San Francisco to develop a mixed-use neighborhood at the site of the former Potrero Power Station in the City and County of San Francisco. Within the Commission's jurisdiction, the project would consist of open spaces including a waterfront park, Bay Trail access, and over-water observation areas (BCDC Permit No. 2019.006.00).

### *Commission achievements accomplished through Enforcement in 2020:*

Even as BCDC's enforcement staff worked remotely during the COVID-19 pandemic and weathered the assignment of a staff member to the State's COVID-19 Contact Tracing Program, the enforcement staff continued to strengthen the Enforcement Program. On the ground, BCDC's various enforcement efforts for 2020 resulted in protecting more than 11 acres of public access along several miles of Bay shoreline. This work was particularly significant in 2020 because outdoor recreation has been widely cited for supporting mental health and respite during the COVID-19 pandemic.

In 2020, the staff closed 167 enforcement cases, opened 101 cases, issued six enforcement-related permits and/or permit amendments, and issued one cease and desist orders. The Commission collected \$18,500 in civil penalties from Salt River Construction Corporation pursuant to a 2019 Civil Penalty Order and \$2,000 in standardized fines from the Rodeo Sanitary District.

Most importantly, BCDC's Enforcement Committee worked with the enforcement staff throughout the year to make major policy and process improvements to BCDC's Enforcement Program. This work addressed: case management, case review, case prioritization, a proposed administrative civil penalty policy, proposed amendments to BCDC's enforcement regulations, restoration of subtidal eelgrass habitat in the San Francisco Bay region, and periodic updates on the progress toward resolution of the oldest enforcement cases.

Unfortunately, due to the COVID-19 pandemic, the Department of Finance was unable to complete its mission-based workforce budget analysis of BCDC's Enforcement Program. However, its results likely will be paired with a 2021 Mission Based Review of BCDC's permitting program.

Throughout 2020, BCDC's Enforcement Program accomplished significant case resolution and enforcement program improvement targets, such that the recommendations made by the State Auditor in its May 2019 audit are now being almost fully implemented. A summary of those changes is attached to this Annual Report.

Other significant milestones included:

- In April 2020, the Enforcement Committee began holding virtual meetings following the Stay at Home Orders issued in response to the COVID-19 pandemic in March 2020, and clarified that BCDC would not be ordering enforcement actions by staff or responsible parties that would violate the pandemic-related health orders. The Commission also collected \$2,000 in standardized fines from the Rodeo Sanitary District for work completed prior to the issuance of a permit.

- In May 2020, the Commission provided a one-year update to the California State Auditor in response to its May 2019 enforcement audit report recommendations that included program improvements, including Case Management Procedures with specific timelines for the resolution of enforcement cases using defined milestones, and Case Review Procedures that prevent the stagnation of enforcement cases.
- In June of 2020, the Enforcement Committee received a briefing on eelgrass restoration from Dr. Kathryn Boyer, a Professor of Biology at the San Francisco State University Estuary & Ocean Science Center in Marin County.
- In July 2020, the Enforcement Committee held a workshop to discuss proposed amendments to the Commission's enforcement regulations, as well as a proposed Administrative Civil Penalty Policy.
- In October 2020, the Commission issued a cease and desist order against the City of Oakland to resolve the enforcement matter involving an encampment at Union Point Park, which will enable the local community to enjoy the full use of the park once the encampment is relocated, the necessary repairs have been completed and the required maintenance is effectively undertaken and sustained.





## LITIGATION

- *San Francisco Bay Conservation and Development Commission v. United States Army Corps of Engineers*, N.D. Cal. Case No. 3:16-cv-05420-RS. In September 2016, the California Attorney General filed a lawsuit on behalf of the Commission in federal district court to compel the United States Army Corps of Engineers (Corps) to implement its San Francisco Bay operation and maintenance dredging program in accordance with the Coastal Zone Management Act (CZMA). The CZMA requires the Corps' dredging program to be consistent to the maximum extent practicable with BCDC's federally-approved coastal management program for the San Francisco Bay, of which the Commission's San Francisco Bay Plan is a part. The lawsuit concerns the Corps' refusal to comply with four conditions of the Commission's concurrence with the Corps' consistency determination for its dredging program, that promote the beneficial reuse of dredged material to create and bolster marshes and wetlands, and that protect the Bay's fish resources and water quality. In April 2017, the court granted the motion of San Francisco Baykeeper to intervene in the case as a plaintiff. On November 4, 2019, the court ruled on the parties' cross-motions for summary judgment by issuing an order denying the Commission's and Baykeeper's motion and granting the Corps' motion. On February 19, 2020, the court entered judgment in favor of the Corps and against BCDC and Baykeeper. On April 1, 2020, BCDC and Baykeeper filed a joint Notice of Appeal. On September 8, 2020, BCDC and Baykeeper filed their opening brief in the Ninth Circuit Court of Appeals. The Corps' opposition brief is due to be filed on January 19, 2021, after which BCDC and Baykeeper will file their reply brief. The Ninth Circuit has not yet scheduled oral argument.
- *John Sweeney, et al., v. San Francisco Bay Conservation and Development Commission, et. al.*, Solano County Superior Court Case No. FCS048136. On November 18, 2016, the Commission issued Cease and Desist and Civil Penalty Order No. CDO 2016.02 (Order) to John Sweeney and Point Buckler Club, LLC (collectively Sweeney) for violations of the McAteer-Petris Act and the Suisun Marsh Preservation Act at Point Buckler Island in Solano County. Sweeney constructed a new 4,700-foot levee around the Island and engaged in other unpermitted fill and development activities, all of which significantly damaged and altered the hydrology, vegetation, and ecology of the island's 39-acres of tidal marsh. On December 16, 2016, Sweeney filed a Petition for Writ of Mandate and Complaint for Injunctive and Declaratory Relief against the Commission, challenging its Order and against the San Francisco Bay Regional Water Quality Control Board (Regional Board), challenging a Cleanup and Abatement Order the Regional Board had issued to Sweeney. On December 28, 2017, the Solano County Superior Court issued a writ of administrative mandamus directing the Commission to set aside its Order and remanded the proceedings to the Commission for further action. The court also set aside the Regional Board's Cleanup and Abatement Order. The Commission and the Regional Board appealed. On December 23, 2020, the Court of Appeal issued an order scheduling oral argument in the Commission and Regional Board cases for January 13, 2021; the Court of Appeal subsequently rescheduled the oral argument for February 11, 2021.

- *The Alliance 1849, LLC v. San Francisco Bay Conservation and Development Commission*, San Francisco Superior Court Case No. CPF-18-516291. On July 25, 2018, counsel for The Alliance 1849, LLC (Alliance) submitted a Public Records Act (PRA) request to Commission staff for six categories of writings. On August 6, 2018, Commission staff provided a written response to the PRA request. On August 13, 2018, counsel for the Alliance filed an action against the Commission in San Francisco Superior Court alleging that the Commission had failed to comply fully with its obligation under the PRA. On September 19, 2018, the Commission filed its Answer, denying liability. Following discovery and settlement discussions, the parties stipulated to a proposed judgment which the court entered on May 1, 2019. Under the judgment, BCDC agreed to conduct searches on its server, using agreed-upon search terms, for potentially responsive records, after which the parties agreed to meet and confer about a reasonable set of modified search terms and work together to reduce the volume of potentially responsive records. The judgment further provided that, as the prevailing party, the Alliance may file a motion for reasonable attorneys' fees and costs. On December 27, 2019, the Alliance filed a motion for attorneys' fees and costs requesting: (1) that the court fix the lodestar amount of claimed attorneys' fees of \$363,993.45; (2) apply a multiplier of 1.2 to 2.0 to the lodestar amount; and (3) award costs in the total amount of \$7,344.14. On February 19, 2020, following oral argument, the court entered an order awarding the Alliance \$334,810.77 in fees and \$7,344.14 in costs. On August 7th, the State Controller's Office issued on warrant on behalf of BCDC paying the award of fees and costs.

## COORDINATION, COLLABORATION, AND PARTNERSHIPS

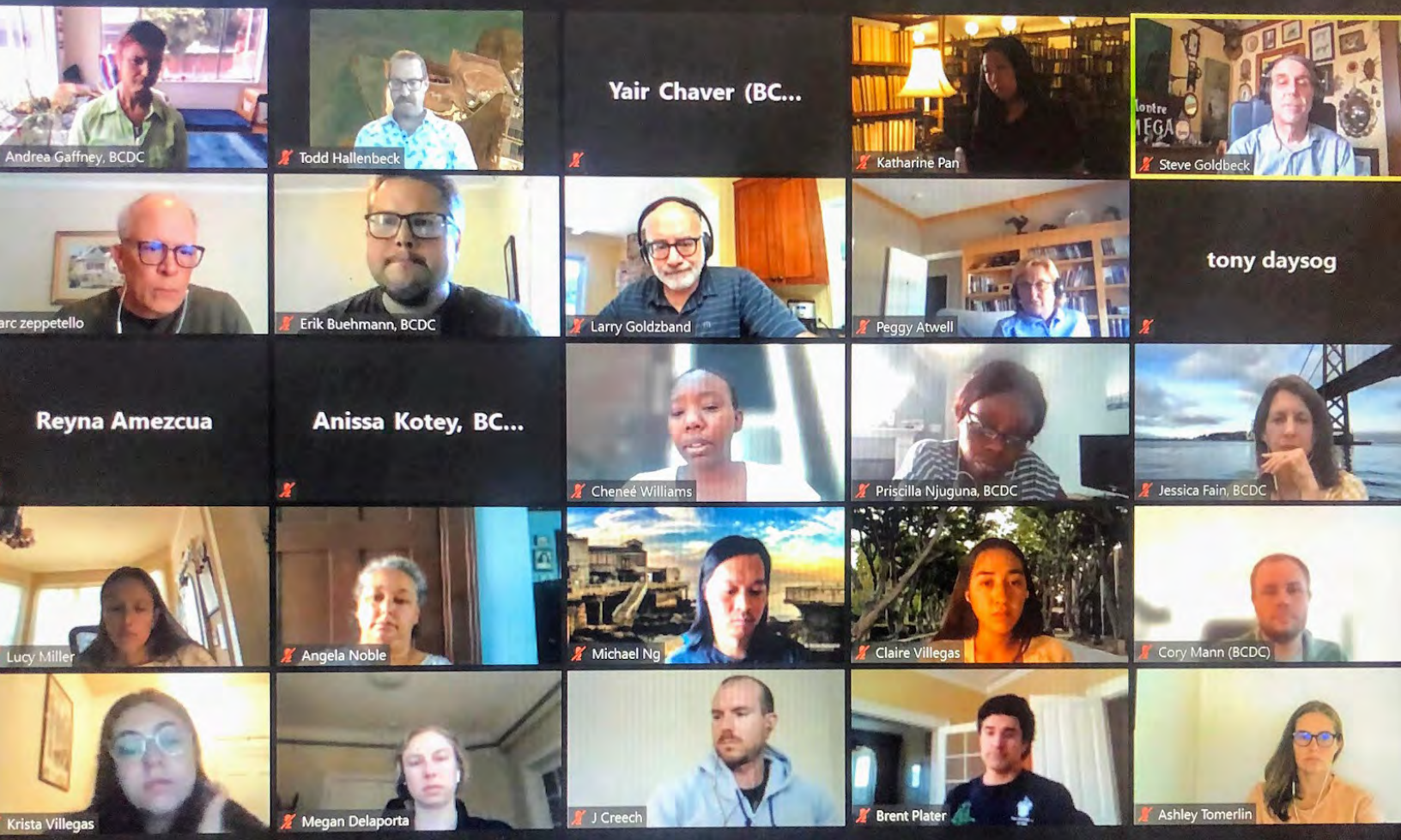
*BCDC continues to participate in important partnerships that leverage regional capacity to address important Bay issues:*

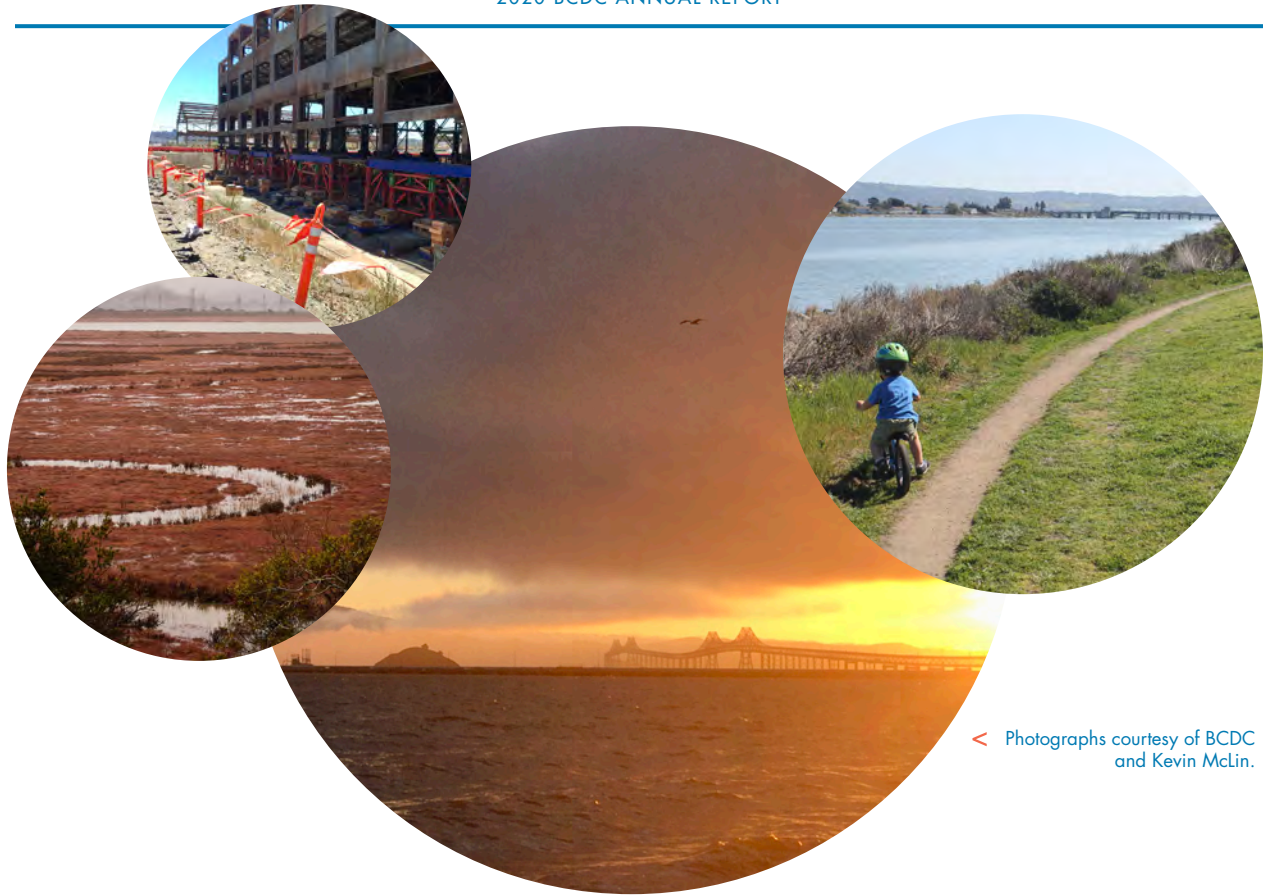
- Continued our partnership as part of the Bay Area Regional Collaborative (BARC) (Metropolitan Transportation Agency (MTC), Association of Bay Area Governments (ABAG), the Bay Area Air Quality Management District, Water Board, Coastal Conservancy, and BCDC).
- Worked with MTC/ABAG staff to address resilience planning in Plan Bay Area 2050 by providing technical expertise on rising sea level.
- Participated in training and meetings hosted by the California Office of Planning and Research's Integrated Climate Adaptation and Resiliency Program to ensure that tools and projects conducted by BCDC and partners are well coordinated with State efforts.
- Participated in the State Sea Level Rise Leadership Team Working Group, led by the California Natural Resources Agency, to develop a set of statewide Sea Level Rise Guiding Principles and coordinate on their implementation.

- Continued its active partnership with the USGS, which uses funding provided by the U.S. Army Corps of Engineers to study sediment transport in the Bay, a key process affecting how wetlands adapt to a rising Bay.
- Collaborated and provided guidance and critical comments on Sediment for Survival, Healthy Bay, Resilient Shorelines, and Coarse Grain Sediment Strategy reports authored by SFEI.
- Collaborated with the State Coastal Conservancy and US Army Corps of Engineers to develop the project management plan Water Infrastructure Improvement for the awarded Nation Act (WIIN) Section 1122 pilot project to test near shore placement of dredged sediment ability to support tidal marshes in the face of rising seas.
- Served on the Management Boards of, and provided briefings to the San Francisco Bay Joint Venture, the San Francisco Bay National Estuarine Research Reserve (NERR), and the Implementation Committee of the San Francisco Estuary Partnership.
- Partnered with the San Francisco Bay NERR in a successful grant application to provide technical information regarding sediment transport and deposition on marshes, via workshops to ensure the best available science is used in restoration and adaptation projects.
- Provided continued support and guidance to the Wetland Regional Monitoring Project development as a steering committee member.
- Continued collaboration on legislation, particularly WRDA 2020 language development with the Bay Area Delegation and supported regional organizations in their efforts to seek passage of the legislation and appropriation of funding.
- Collaborated with stakeholders and the US Army Corps of Engineers on their proposed Regional Dredged Material Management Plan, which will guide future use or disposal of its dredged sediment.
- Designated four water trail sites—Belden’s Landing in the Suisun Marsh, Candlestick Point State Recreation Area, China Camp State Park, and Crane Cove Park, Port of San Francisco—as part of BCDC’s partnership with ABAG and the Coastal Conservancy to implement the San Francisco Bay Water Trail program.
- Continued to serve on the Bay Restoration Regulatory Integration Team (BRRIT) and the BRRIT Policy Management Committee (PMC), to improve permitting for restoration projects, and engaged with coordinated permitting team for projects selected for review by the BRRIT.
- Served on Bay Area Climate Adaptation Network (BayCAN) Work Groups, and shared project updates at quarterly regional BayCAN meetings.
- Partnered with the San Francisco Regional Water Quality Control Board to co-host a virtual workshop on Financing Adaptation projects.
- Participated as a member of the Suisun Marsh Adaptive Management Advisory Team.

- Participated as a steering committee member in the SF Estuary Geospatial Working Group, a diverse multidisciplinary partnership emphasizing integration of geospatial technology in coastal management and restoration. Two biannual meetings focused on Open Data Portal Technology and coordination with the Delta Remote Imagery Consortium.
- Regularly coordinated with the Delta Stewardship Council on projects related to the Suisun Marsh, including the Council's Delta Adapts project and the Suisun Marsh Protection Plan update process. BCDC's Executive Director is also an active member of the Delta Plan Interagency Implementation Committee (DPIIC).
- Worked with Community Based Organizations, such as Nuestra Casa's EJ Parent Academy in East Palo Alto, to provide training and resources to local residents around rising sea level.
- Engaged with Caltrans and MTC in the multi-agency stakeholder planning process related to resiliency and congestion issues at State Route 37.
- Participated in an Environmental Justice and Equity cross-agency group between NOAA, the CA Coastal Agencies, and the State Lands Commission.

✓ Collaboration during the pandemic. Photograph courtesy of BCDC.





< Photographs courtesy of BCDC and Kevin McLin.

*BCDC welcomes the challenges and opportunities ahead, and BCDC's Commissioners and staff are proud to fulfill BCDC's mission statement, embedded in its Strategic Plan, that reflects its two primary responsibilities: to protect and enhance San Francisco Bay and to encourage the Bay's responsible and productive use for this and future generations.*

Sincerely,

R. ZACHARY WASSERMAN, Chair

## SUMMARY OF PERMITS, FILL, AND MITIGATION

Year	Major Permits <sup>1</sup>		Minor Permits <sup>2</sup>		Permit amendments	Net change in Bay surface <sup>3</sup> (acres)	Total Project cost <sup>4</sup> (x \$100,000)	Public access (acres)	Public access (miles)
	granted	denied	granted	denied					
1970	12	1	66	0		-72			
1971	26	4	61	0		-25.1			
1972	12	3	80	0		-7			
1973	17	1	71	0		-4.4			
1974	20	0	107	1		274			
1975	10	0	87	0		5	100		
1976	14	0	110	0		-2.2	43		
1977	20	0	116	0	104	16.8	100	21.4	
1978	23	1	104	4	90	-1.9	152	46.1	9.6
1979	34	0	120	2	103	3.4	93	25.1	
1980	19	1	105	1	101	30	470	134	
1981	23	0	134	0	125	44.5	130	42.2	
1982	26	0	104	0	115	262	379	27	5
1983	23	0	105	0	131	5	395	26	6
1984	15	3	135	0	130	12	97	12	7
1985	15	1	98	0	104	60	200	35	6.3
1986	20	0	108	0	112	11	639	35	5.1
1987	16	2	108	0	104	-2	68	6	1.1
1988	17	1	119	2	137	152.2	125	3.3	0.9
1989	17	0	114	1	144	1.7	107	12.7	1.5
1990	17	1	112	0	151	-1.5	127	12.7	2
1991	8	1	61	0	163	-0.7	400	4	5.6
1992	10	1	84	0	140	-1.6	97	10.4	1.9
1993	8	1	89	0	122	50.1	26	0.2	0.3
1994	11	1	114	0	96	1.6	383	264	6.9
1995	15	0	72	0	107	549.6	136	2.8	0.9
1996	7	0	93	0	97	-1	60	3.1	2.2
1997	14	2	109	0	94	75	733	14.1	2.9
1998	15	1	109	0	130	38.5	518	16.4	3.3
1999	10	0	103	0	124	258	828	67.2	8.4
2000	21	0	85	0	141	112.4	4,640	40	1.9
2001	14	0	67	0	67	5,649.3	2,770	34.8	11.1
2002	6	0	75	0	103	1.1	118	2.5	0.5
2003	11	0	59	0	79	118.7	471	28.8	3.8
2004	7	0	74	0	95	493	408	11.2	1.5
2005	8	0	57	0	93	3,807	382	3.4	4.5
2006	1	0	35	0	114	70	169	0.7	0.4
2007	8	0	52	0	71	2,560	459	3.5	9.7
2008	5	0	39	0	73	961	552	12.7	6.5
2009	4	0	40	0	74	174	500	1.5	0.2
2010	8	0	65	0	95	1,562	251	11.5	4.8
2011	3	0	20	0	121	74	1,700	77.8	3.9
2012	5	0	38	0	74	201	362	6.7	3
2013	6	0	38	0	105	968	112	0.3	6
2014	6	0	48	0	135	13.8	935	11	4.5
2015	7	0	42	0	121	-0.1	407	4	7.4
2016	7	1	19	0	80	419.7	18,811	63.6	5.3
2017	5	1	24	0	89	603.1	1,839	14	2.15
2018	5	0	24	0	88	2,672	4,945	13.1	6.67
2019	11	0	23	0	72	2.6	11,772	43.8	8.4
2020	15	0	19	0	73	3.8	3,640	15.2	1.5
<b>TOTAL</b>	<b>656</b>	<b>28</b>	<b>3,941</b>	<b>11</b>	<b>4,687</b>	<b>22,197</b>	<b>61,719</b>	<b>1,221</b>	<b>174</b>

<sup>1</sup> Projects authorized by major permits, material amendments, and major federal consistency concurrences. Some authorized projects have not been built, and some projects may have been changed pursuant to subsequent permit amendments.

<sup>2</sup> Smaller projects including minor permits and consistency concurrences approved administratively or under regionwide permits.

<sup>3</sup> The area of the Bay created or restored, including salt ponds converted to tidal action, less the area of the Bay authorized to be filled pursuant to major permits and major consistency determinations through 1987. Thereafter, significant administrative permits and amendments are included in the data.

<sup>4</sup> Major and minor permits only.

**SUMMARY OF ENFORCEMENT ACTIVITIES**

Caseload at the end of 2019:  
**284**

New cases opened in 2020:  
**101**

Cases closed in 2020:  
**167**

Caseload at the end of 2020:  
**211**

Cease and Desist Orders issued:  
**1**

Settlement Agreements issued:  
**0**

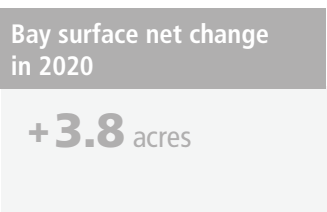
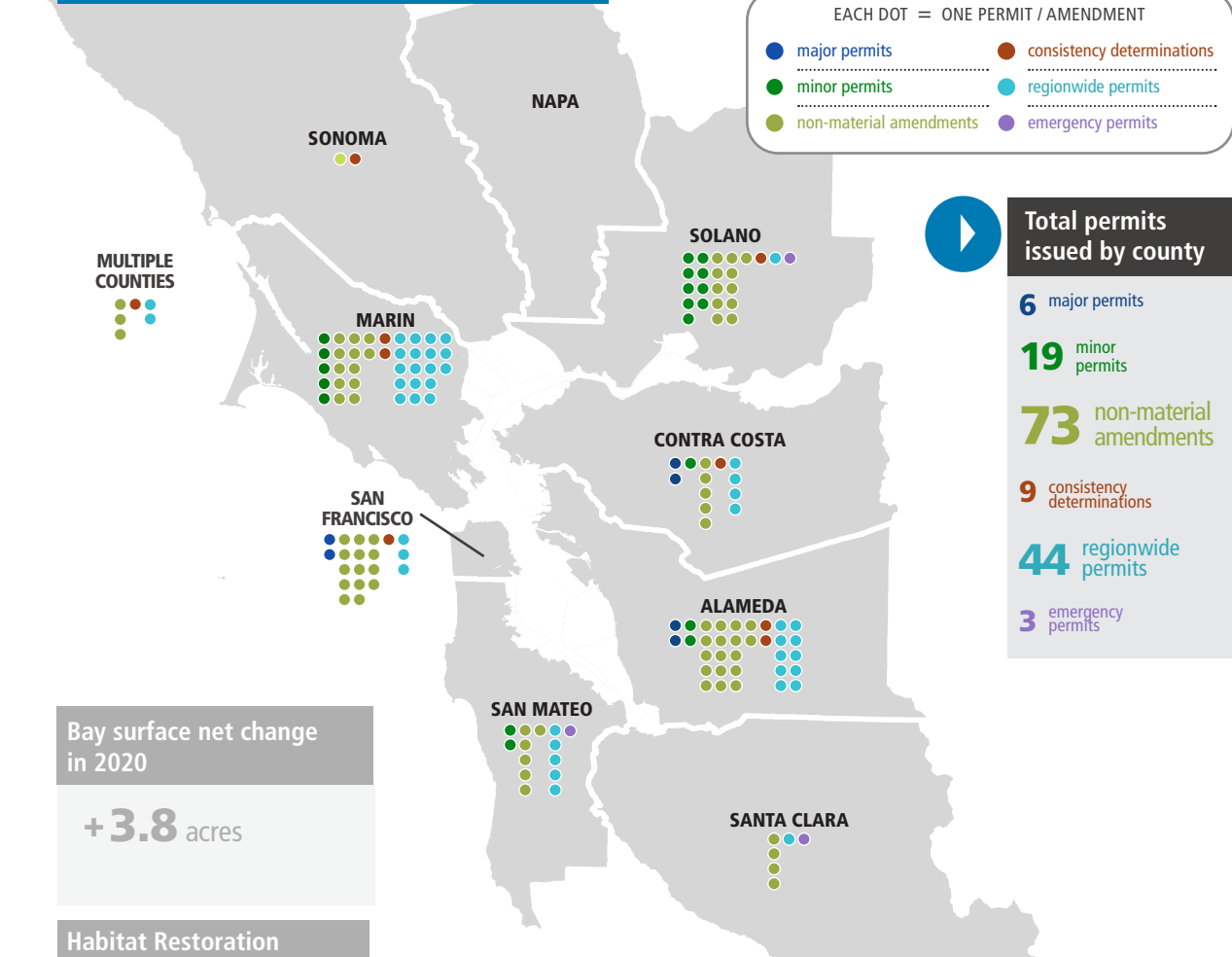
Enforcement related permits or amendments issued:  
**6**

Civil penalties received:  
**\$20,500**

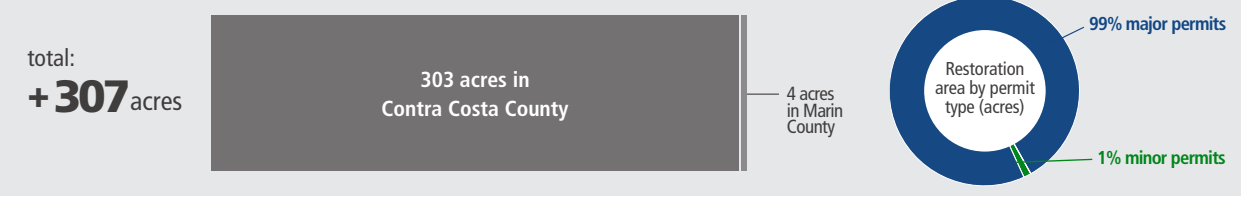
**INCOME BUDGET AND EXPENDITURES SUMMARY**

	FY 19-20	FY 20-21
<b>TOTAL FUNDING INCOME</b>	<b>\$13.18M</b>	<b>\$10.05M</b>
<b>General Fund</b>	<b>9.39M</b>	<b>6.86M</b>
General Fund total includes one time relocation cost to Bay Area Metro Center		
<b>Special Dedicated Funds</b>	<b>2.47M</b>	<b>1.82M</b>
Bay Fill Clean-Up and Abatement Fund Authority	293K	352K
Funds added from FY18-19 fines	248K	
Plans to expend \$352K from fund in FY20-21 for Enforcement Attorney, Enforcement Program Manager, and Coastal Program Analyst III		
Greenhouse Gas Reduction Fund (Cap and Trade)	2.12M	1.62M
Per DOF, BCDC was able to expend GGRF on Labor Only for FY20-21		
<b>Reimbursements</b>	<b>1.32M</b>	<b>1.37M</b>
Grants: NOAA (Regulatory and Planning)	351K	390K
Contracts: MTC, High Speed Rail, OSPR, etc...	974K	980K
<b>TOTAL SPENDING</b>	<b>\$12.26M</b>	<b>\$9.47M</b>
<b>Total Salaries, Wages, and Benefits</b>	<b>6.86M</b>	<b>6.81M</b>
40.1 baseline positions + 7 staff 'in blanket' (seeking to make permanent)		
<b>Anticipated Expenses</b>	<b>590K</b>	<b>487K</b>
Includes: Utilities, Subcontracts, etc...		
<b>OE&amp;E</b>	<b>4.43M</b>	<b>2.18M</b>
Rent	1.20M	1.20M
<b>California Military Department IT Risk Assessment</b>	<b>38K</b>	<b>NA</b>

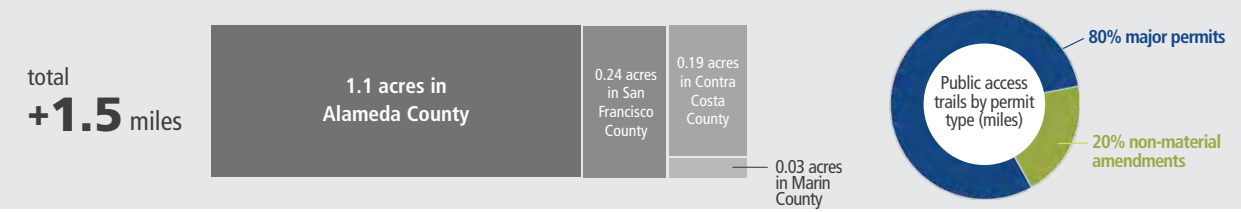
# 2020 IN REVIEW



### Habitat Restoration



### Public access: Trails



### Public access: Open Space



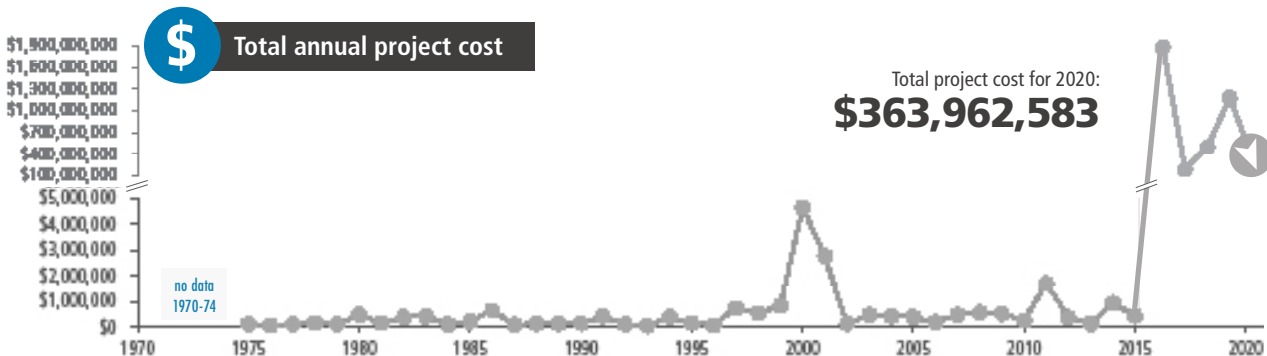
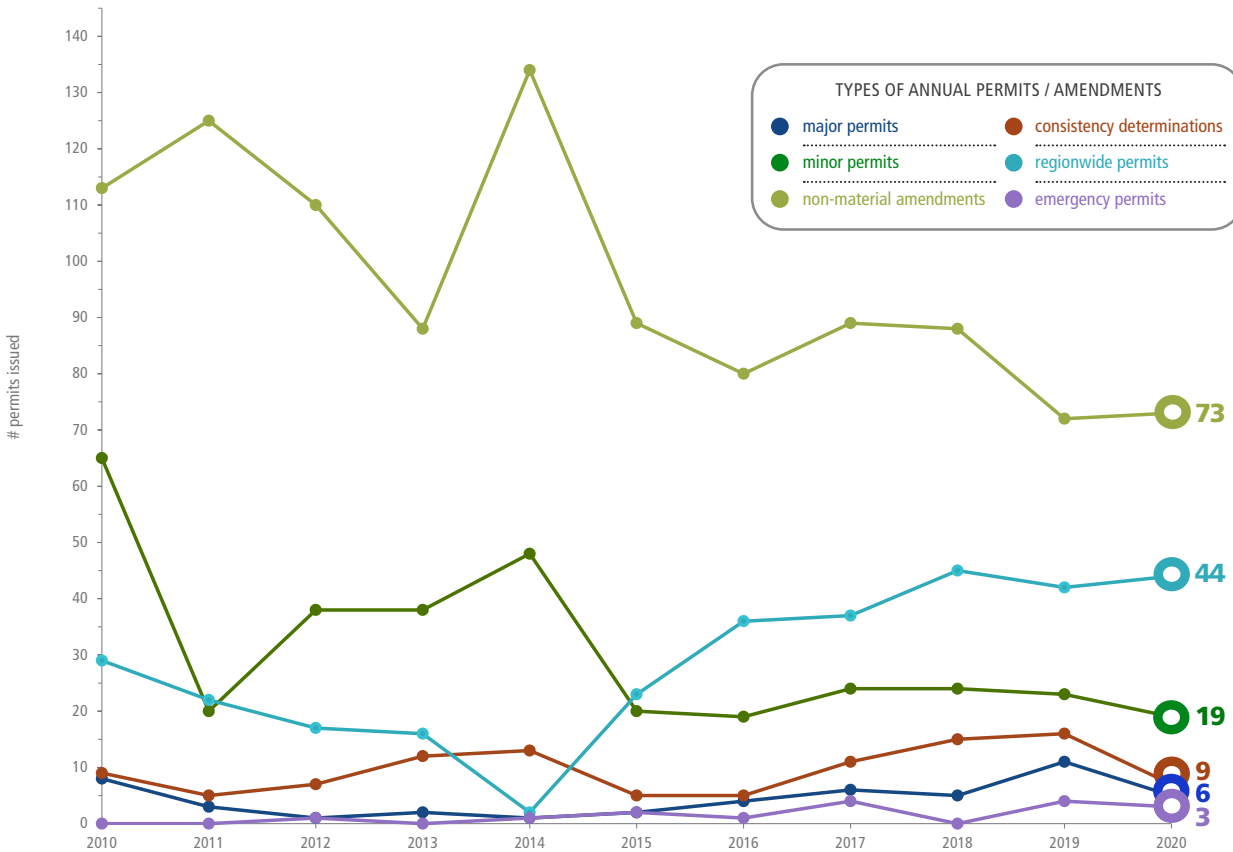
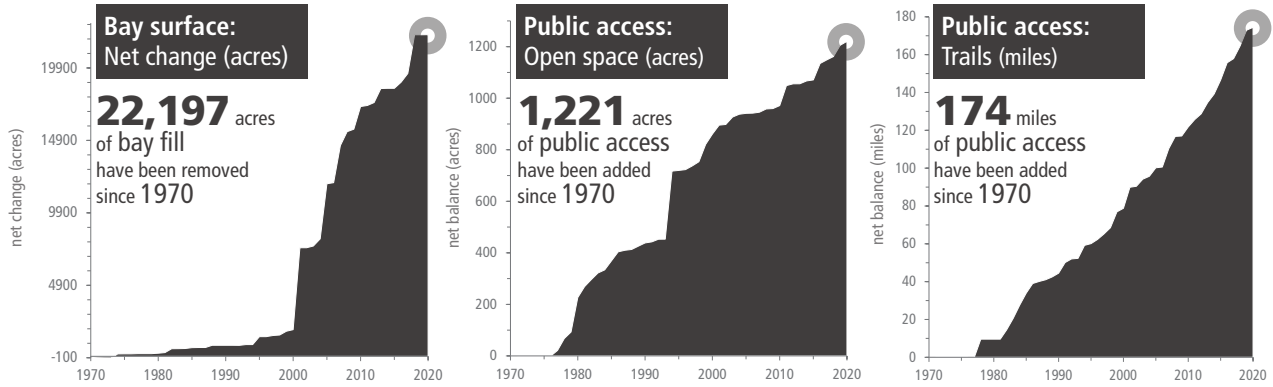


# HISTORICAL TRENDS

1970-2020

Totals (1970-2020)

**647** major permits **4,014** minor permits **238** consistency determinations





# Adapting to Rising Tides **BAY AREA**

## Regional Sea Level Rise Vulnerability and Adaptation Study







### ART BAY AREA SETS THE STAGE FOR REGIONAL SEA LEVEL RISE ADAPTATION

*The San Francisco Bay Area is the fourth largest metropolitan area in the country, home to over 7 million people. A significant proportion of the region's communities, job centers and transportation infrastructure, among other critical assets, are located along the San Francisco Bay shoreline.*

The Adapting to Rising Tides (ART) program is part of the San Francisco Bay Conservation and Development Commission (BCDC) – a state agency tasked with protecting the San Francisco Bay resources now and for future generations.

ART Bay Area is the first ever regional comparison of the impacts of sea level rise on people, the environment, and the regional systems we rely on. It presents a story of what consequences the Bay Area may face as sea levels rise in the absence of coordinated, prioritized adaptation.

**With four feet of flooding over the next 40 to 100 years, we could see nationwide impacts to:**

- 104,000** Existing jobs
-  **+ 85,000** New, planned jobs in future growth areas
- 13,000** Existing housing units
- +70,000** New, planned housing units in future growth areas
-  **28,000** Socially vulnerable residents
-  **5 million** Daily vehicle trips
- 60,000** Daily rail commuters
-  **20,000** Acres of wetlands, lagoon and tidal habitats



METROPOLITAN  
TRANSPORTATION  
COMMISSION



Bay Area  
Regional  
Collaborative

## THESE IMPACTS CAN BE PREVENTED - PLANNING FOR ADAPTATION NOW CAN ADDRESS CURRENT ISSUES AND FUTURE THREATS

*Critical to effective adaptation planning is the identification of areas where many regionally significant assets from each regional system are located – and flood – together.*

*This study identified regional “hot spots” where high-consequence assets are clustered.*

- High-consequence transportation asset;
- Community facing social vulnerability and/or contamination;
- Priority Development Area slated for high growth or a Priority Conservation Area facing significant impacts.

These “hot spots” will benefit from regional support through technical assistance, resources, or incentives to ensure that these communities are prioritized. They may be areas where a single adaptive approach – such as a single green or gray flood control project or zoning change – could protect many assets at once.

## THE REGION NEEDS TO DECIDE ON SHARED PRIORITIES AND ACTIONS TOGETHER

*The decisions we make today will determine our options and opportunities ahead. This collective challenge requires collective action, visionary leadership, and a strong foundation upon which to act.*

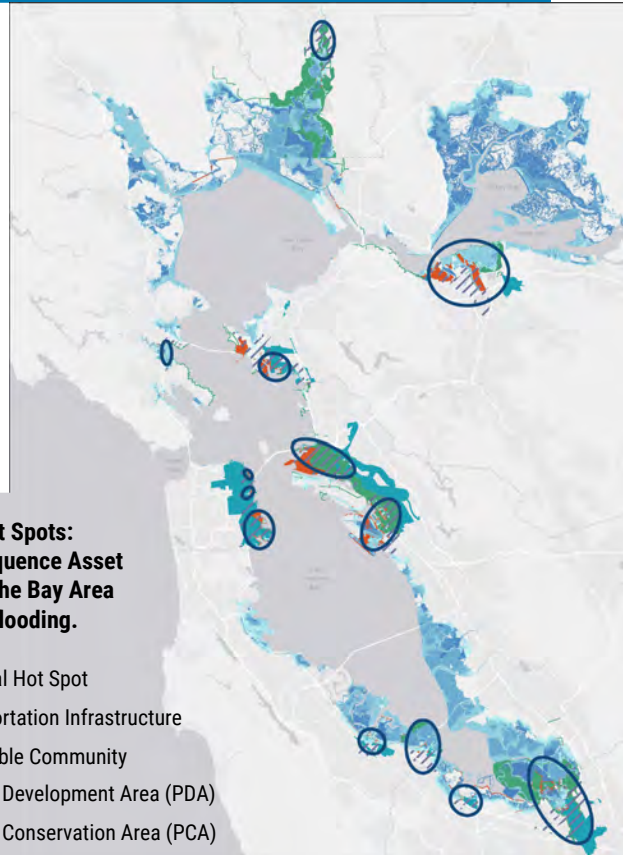
ART Bay Area laid the foundation for regional planning by working with and engaging over 600 individuals during the course of this project and expanding partnerships with community-based organizations to build capacity on the frontlines that will help shape the future of our Bay.

### EXPLORE MAPPED CONSEQUENCES OF FLOODING:

<https://explorer.adaptingtorisingtides.org/home>

### DOWNLOAD THE FULL ART BAY AREA REPORT:

<http://www.adaptingtorisingtides.org/project/art-bay-area/>



**FUTURE GROWTH AREAS**



**VULNERABLE COMMUNITIES**



**TRANSPORTATION NETWORKS**



**NATURAL LANDS**

# ENFORCEMENT PROGRAM IMPROVEMENT PROGRESS REPORT

## PROJECT SUMMARY

REPORT DATE	PROJECT NAME	PREPARED BY
February 4, 2021	Enforcement Program Improvements	Priscilla Njuguna, Enforcement Policy Manager

## OVERVIEW

This document summarizes the efforts of BCDC's Enforcement Committee and staff to improve the Commission's Enforcement Program over the past three years. These efforts were substantially increased when, in 2019, BCDC added an Enforcement Attorney and an Enforcement Policy Manager to the enforcement staff to assist in the program improvements that were initiated in 2017. Adding a dedicated manager and an attorney to BCDC's small three-person enforcement team created an opportunity for real advancements in resolving violations of existing BCDC permits and BCDC's laws.

Recent program improvements rely on a structural framework built on achieving four defined program goals: Deterrence, Consistency, Transparency, and Fairness. How enforcement cases are reviewed and managed by the BCDC staff, as well as the enforcement policies that are applied to those cases, determine whether cases are successfully resolved as described in the procedures referenced below. When used appropriately, BCDC's procedures serve to **deter** non-compliant behavior, enhance **transparency** in the enforcement process, promote **fairness** in the application of BCDC laws, policies, and regulations; and define a **consistent** process to set expectations for the regulated community as well as define internal guidelines.

**Case Management.** The Case Management Procedure defines individual staff roles and responsibilities and sets case resolution milestones, namely: *Assignment* within 45 days of the enforcement case report; *Investigation* within 100 days of assignment; *Negotiation* within 240 days of assignment; and *Resolution* within 90 days of negotiation completion. This procedure also uses an Aged Case Status Report and a Closed Case Report to prevent case stagnation and promote timely

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resolution by verifying that the milestone requirements are timely and that cases are being closed as promptly as possible. This procedure is responsive to the requirement in AB2809 for timelines in resolving enforcement cases.

**Case Review.** Similarly, the Case Review Procedure defines individual staff roles and responsibilities, provides step-by-step instructions on the staff-level resolution process and the Commission-level resolution process, and defines how cases are prioritized based on relative potential or actual harm to the Bay and/or restrictions on shoreline public access. In addition, the Case Review Procedure defines when cases are escalated to the Regulatory Division Director, the Executive Director, the Enforcement Committee, and the Commission. Cases are escalated when the case management milestones are not being met because of lack of good faith efforts by the violator or because the violator opts to go to the Commission instead of pursuing a negotiated resolution at the staff level. This procedure is distinguishable from the previously discussed procedure in that it includes case status codes that track the progress of a case through phases including: *New Report*; *Active Case*; *Pending Case*; *Investigation*; *Resolution Imminent*; and *Closed Case*. Cases that are resolved using an order or agreement are managed using the *Compliance Monitoring* status code. Closed cases are either simply in a *Closed* status or a *Closed-No Violation* status when staff determines that another federal, state, or local government agency is better suited to resolve the case and/or the reported conduct does not violate BCDC laws, regulations, or policies.

The case review procedure also includes a Grouped Case Report and a Paired Case Report, both of which enable staff to build efficiency by combining cases, when possible, for group resolution when the types of violations are similar and/or related. The distinction between the Grouped Case Report and the Paired Case Report is that the former combines 10 or more cases whereas the latter combines two or more cases. In simplifying case prioritization, Staff used Enforcement Committee guidance to determine that cases that represent significant harm to the Bay take precedence followed by cases that represent most harm to the Bay then cases that represent limits on maximum feasible public access, then violations that are unpermitted but permissible while integrating ethical considerations including but not limited to changes in site conditions. To consistently assess administrative civil penalties, the procedure integrates the newly developed administrative civil penalty policy which includes specific guidance of assessing penalties when multiple violations are involved. This procedure is responsive to the requirements in AB2809 including a procedure to ensure that managers perform a documented review of staff decisions in enforcement cases, a penalty matrix for assessing fines and civil penalties including how penalties are assessed when multiple violations are involved.

**Enforcement Policies and Guidelines.** Work has been initiated in developing the following policies and guidelines: The Administrative Civil Penalty Policy, Criteria for Aggregating Violations, and Supplemental Environmental Project Guidelines. The concepts that are included in these policies and guidelines have been presented to the Enforcement Committee and based on the Committee's input, staff has developed draft policies for inclusion in a proposed rulemaking package that the Commission agreed to commence in October 2020. The amendment to the regulations, will, in part, address the concerns that were raised in the Audit. Among the recommendations that will be addressed is the recommendation that that BCDC develop a definition of "significant harm," a term that appears in

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section 11386 of the regulations, and that BCDC develop a penalty calculation worksheet. Draft regulatory language was presented to the Committee on September 10, 2020, for discussion following a public workshop on July 29, 2020, to enable the public to provide initial input on changes including potentially raising the amount of standardized fines collected consistent with the procedure set forth in the existing regulation in section 11386. Following a Commission meeting October 15, 2020, rulemaking was initiated, and public comment will be solicited for draft regulation amendment language in the first quarter of 2021.

## STATUS OF PROGRAM IMPROVEMENTS

TASK	% ACCOMPLISHED	DUE DATE	DRIVER	NOTES
Case Management and Case Review procedures	100%	09/30/2020	Audit recommendations; internal need to build efficiency, promote prompt case resolution, and reduce unresolved case numbers. Updated to integrate Administrative Civil Penalty Policy and Supplemental Environmental Project guidelines.	Enforcement Committee meetings 7/1/19, 9/25/19, 11/14/19, 12/12/19, 4/9/20, 4/22/20, 6/24/20. Discussed prioritizing cases, resolving the oldest cases, and preventing case stagnation. Presented to Commission 2/6/20, 5/7/20, 8/20/20, 9/17/20.
Guidance on aggregating violations	100%	9/30/2020	Audit recommendation; achieving goals of fairness, consistency, and transparency.	Enforcement Committee meetings 10/1/19, 3/12/20, 5/14/20. Presented to Commission 5/7/20.
New staff position dedicated to permit compliance	25%	TBD	Audit recommendation; internal understanding that 50% of caseload is attributable to failure to fully implement and comply with permit requirements.	Because funding shortfalls limit ability to implement the Audit recommendation to hire one or more compliance officers, staff have been working on process improvements to further compliance. An internal tracker for permit status was initiated in 2014, is in use, and is being updated. When

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TASK	% ACCOMPLISHED	DUE DATE	DRIVER	NOTES
				<p>enforcement cases are closed respondents sign a Certification of Terms and Conditions Compliance Form and a responsible contact person is designated to enable prompt resolution of future concerns.</p>
Oldest case resolution	75%	6/30/2021	Audit recommendation; need to deter violators by swiftly resolving most cases.	<p>Enforcement Committee briefing on the progress being made to resolve cases opened before 2000. Eight cases reported 8/14/19, reduced to 6 unresolved cases for 3/12/20 report, and reduced to 5 cases for 7/9/20 and 10/28/20 updates. Monthly meetings to track progress when cases have multi-agency involvement.</p>
Administrative Civil Penalty Policy development	100%	9/30/2020	Audit recommendation; regulation update; will advance transparency in process.	<p>Enforcement Committee meetings 8/8/19, 8/14/19, 9/25/19, 6/11/20, 7/29/20. Presented to the Commission 10/15/20 where Commission voted to initiate rulemaking.</p>
Supplemental Environmental Projects Policy development	100%	9/30/2020	To enhance transparency and consistency in process, articulate principles for use of SEPs in negotiating the resolution of cases. Related guidelines presented to Commission October 15, 2020, that approved initiation of the rule making process.	<p>Enforcement Committee first discussion 11/14/19 with direction to limit use to specific cases that warrant the potential use of SEPs. Subsequent discussions 6/24/20 and 7/29/20. Presented to the Commission 10/15/20.</p>

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TASK	% ACCOMPLISHED	DUE DATE	DRIVER	NOTES
Standardized fine process improvements	100%	12/31/2020	Audit recommendation; examination of the existing regulation for opportunities to improve the effectiveness of the regulation as applied and to pursue regulatory changes. Rulemaking process initiated with clarifying amendments to Chapter 13 regulation.	Enforcement Committee briefing on 7/24/19. Templates for 35-day letter and Case Management Procedures have timelines for case resolution. Presented to the Commission 10/15/20 where the Commission voted to initiate rulemaking.
Significant harm definition	75%	12/31/2020	Audit recommendation; rulemaking process initiated by unanimous Commission vote October 15, 2020.	Enforcement Committee discussion on 8/8/2019 and approval of proposed definition 10/10/2019. Subsequent discussion 7/29/20 as part of proposed Chapter 13 amendments. Commission voted to initiate rulemaking on 10/15/2020. Update on rulemaking process to Commission first quarter 2021.
Timely case resolution	ongoing	ongoing	Audit recommendation; achieving goals of deterrence, fairness, consistency.	Case discussions at Enforcement Committee: Union Point Park cease and desist order (4/22/20, 8/13/20, 10/1/20); Richardson's Bay periodic progress updates to track defined transition plan for vessel removal and eelgrass habitat restoration (11/20/19, 4/9/20, 7/9/20, 10/28/20); case resolution updates during enforcement reports.



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TASK	% ACCOMPLISHED	DUE DATE	DRIVER	NOTES
Workforce study	TBD	ongoing	Audit recommendation; internal goal of adequate enforcement personnel and software resources to help improve program efficiency.	Periodic updates to the Commission and presentation of cease-and-desist orders and settlement agreements.  Began 10/2019; the anticipated completion is to be determined given COVID-19 related delays which may be impacted by 2021 Mission Based Review of permitting process.

## ONGOING AND PENDING IMPROVEMENTS

ISSUE	ASSIGNED TO	DATE
Bay Fill Cleanup and Abatement Fund spending. Depends on alternative source of state funding for enforcement staff	Larry Goldzband, Executive Director	TBD
Policy developments for Enforcement Committee approval then Commission adoption Administrative Civil Penalty Policy with SEP provision integrated Criteria for Aggregating Violations	Karen Donovan, Staff Attorney	9/10/2020 presentation to Enforcement Committee. Additional developments on Civil Penalty Policy and SEPs as stated above. Presentation to the Commission on October 15, 2020.
ISSUE	ASSIGNED TO	DATE
Documented progress in the resolution of the old cases with detailed quarterly enforcement reports	Priscilla Njuguna, Enforcement Policy Manager	Ongoing until all the cases opened 2016 or earlier are closed.
Proposed regulation change discussions beginning July 2020 for subsequent rulemaking process	Marc Zeppetello, General Counsel	Rulemaking process initiated by unanimous Commission vote October 15, 2020. Update to Commission first quarter 2021 and meeting for public comment scheduled for February 2021.

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Workforce study outcome	Department of Finance	TBD final report delayed by COVID-19 and state budget cuts.
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## CONCLUSIONS

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Over the past year, BCDC has strategically and systematically improved its enforcement program evidenced by the 167 cases closed in calendar year 2020 compared to the 48 cases closed in calendar year 2019 when there were fewer enforcement Staff.

The total enforcement caseload as of December 31, 2020, was 211 cases which is a substantial improvement from the 284 caseload at the end of 2019. This decrease is significant given that the reported cases in 2020 numbered 101 compared to 71 cases reported in 2019 which did not result in an increase in the caseload in a year year comparison. The main difference in cases opened was assigning case numbers to 16 duplicative reports in 2020 which was a departure from the practice in previous years including 2019 when case numbers were not assigned to duplicative reports of existing alleged violations.

Future work, including completion of the process to amend BCDC's enforcement regulations, will further strengthen the program. The Commission approved the initiation of the process to amend the regulations on October 15, 2020. In addition, procedures have been developed to address reports of violations in a timely manner by focusing on the violations that represent most harm to the Bay and/or public access, as well as through consistent outreach to the alleged violators. Work is ongoing to resolve the old cases that were opened in 2016 or earlier with 37 of those cases having been closed in 2020.



[www.bcdc.ca.gov](http://www.bcdc.ca.gov)

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