



2021

ANNUAL REPORT

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

< Albany mudflats, Contra Costa County. Cover photograph courtesy Daniel Hossfeld, BCDC Staff.

*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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ANNUAL REPORT

4 INTRODUCTION

CROSS AGENCY 7

8 PLANNING

REGULATORY 13

18 LITIGATION

COORDINATION, COLLABORATION, AND PARTNERSHIPS 19

22 TABLE: SUMMARY OF PERMITS, FILL, AND MITIGATION

SUMMARY OF ENFORCEMENT ACTIVITIES

TABLE: WORK PROGRAM AND BUDGET 23

24 GRAPHIC: 2021 IN REVIEW

GRAPHIC: HISTORICAL TRENDS 25

APPENDIX A: BAY ADAPT TWO PAGER

APPENDIX B: INAUGURAL ENVIRONMENTAL JUSTICE ADVISORS

INTRODUCTION

MAY 18, 2023

THE HONORABLE GAVIN NEWSOM, GOVERNOR

HONORABLE MEMBERS OF THE CALIFORNIA LEGISLATURE:

SUBJECT: 2021 ANNUAL REPORT

I am pleased to provide you with the 2021 annual report of the San Francisco Bay Conservation and Development Commission (BCDC), which summarizes the activities BCDC carried out during 2021 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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DEPUTY ATTORNEY GENERAL

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 was brought to an end. Over the past 56 years, 685 square miles of Bay habitat have been restored, public trails and parks have opened along 177 miles of the Bay shoreline, and over \$5.4 billion in productive waterfront development has been built. In 2021 alone, the Commission approved \$1.3 billion in new development, which will make three more miles of the Bay's waterfront available for public use and enjoyment. The projects approved in 2021 will restore 642 acres of tidal marsh habitat.

Global warming continues to present a new challenge for the Commission: accelerated sea level rise that threatens waterfront communities, natural resources, businesses, and infrastructure. In 2021, 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, and gathering regional partners to collaboratively work towards a joint platform of actions to address rising sea level in Bay Adapt.

✓ Family enjoying the Bay. Image courtesy of BCDC.



In addition to the attached statistical summary of our work in 2021, the following are some of BCDC's most important accomplishments in 2021.



As part of implementing BCDC's 2017-2020 Strategic Plan and other cross-agency initiatives, in 2021 BCDC accomplished the following:

During the second year of the COVID crisis the Commission performed its key functions and pursued regional adaptation to rising sea level while operating completely remotely, including: adoption of the Bay Adapt Joint Platform by the Commission in October 2021; major public outreach for Bay Adapt, culminating in a Public Forum in partnership with SPUR with 100+ participants and a public comment period with 120 public comments; and garnering dozens of external endorsements for the Bay Adapt Joint Platform.

 Ferry Wake. Photograph courtesy of BCDC.



CROSS-AGENCY

ENVIRONMENTAL JUSTICE AND SOCIAL EQUITY

- **EJ Advisor Program Launches.** In Spring 2021, BCDC launched its Environmental Justice (EJ) Advisors Program. Following a selection process, BCDC welcomed six inaugural advisors from around the Bay Area (Appendix B). The EJ Advisors bring extensive expertise and unique perspectives from community based organizations (CBO) serving socially vulnerable, underrepresented, indigenous, and EJ populations. EJ Advisors work with BCDC staff to help the agency best implement the Environmental Justice and Social Equity policies, adopted by BCDC in October 2019 as part of a Bay Plan Amendment. The program kicked off with trainings about BCDC and meetings with various staff as well as Senior staff. The EJ Advisors developed a charter and workplan to guide their efforts moving forward. The EJ Advisors receive stipends for their participation thanks to generous support by the Resources Legacy Fund.
- **New directory of Bay-wide community groups supports early and meaningful community engagement.** One initiative to support early and meaningful community engagement during shoreline project development is to better connect community-based organizations with project proponents and other partners around the Bay. During 2021, staff, in collaboration with the EJ Advisors, began to develop a CBO Directory Map. This began by meeting with community leaders to understand the needs for the CBO Directory Map and the development of a survey to collect information about community priorities and values directly from the organizations. With this information, staff began pilot a web tool which will be launched publicly in 2022.

Views from the East Bay. Photograph courtesy of Daniel Hossfeld.



COMMUNICATIONS

- BCDC's Social Media team continued to use Twitter as a platform to share information about BCDC's public meetings, ongoing updates about participating in BCDC's Bay Adapt initiative, including two public workshops and major announcements on the publication of the Bay Adapt Joint Platform, Environmental Justice projects, job postings, sister agency news on coastal and environmental issues, fun facts about BCDC's work, and unique public access locations around the Bay. In total, a team of eight BCDC staff posted 71 tweets on Twitter and continued to build out our social media program in its second year.

OPERATIONS

- BCDC participated in several work sessions hosted by the Coastal Commission to provide the Coastal Program Analyst (CPA) classification exam online. Skills, knowledge, and abilities were reviewed for CPA I/II/III and the Coastal Program Manager classifications, and exam questions were developed for each position through a collaborative process. Work sessions occurred during October/November and the CPA online exam was implemented in December 2021.

PLANNING

BCDC addressed the following significant planning issues in 2021:

BAY ADAPT: REGIONAL STRATEGY FOR A RISING BAY

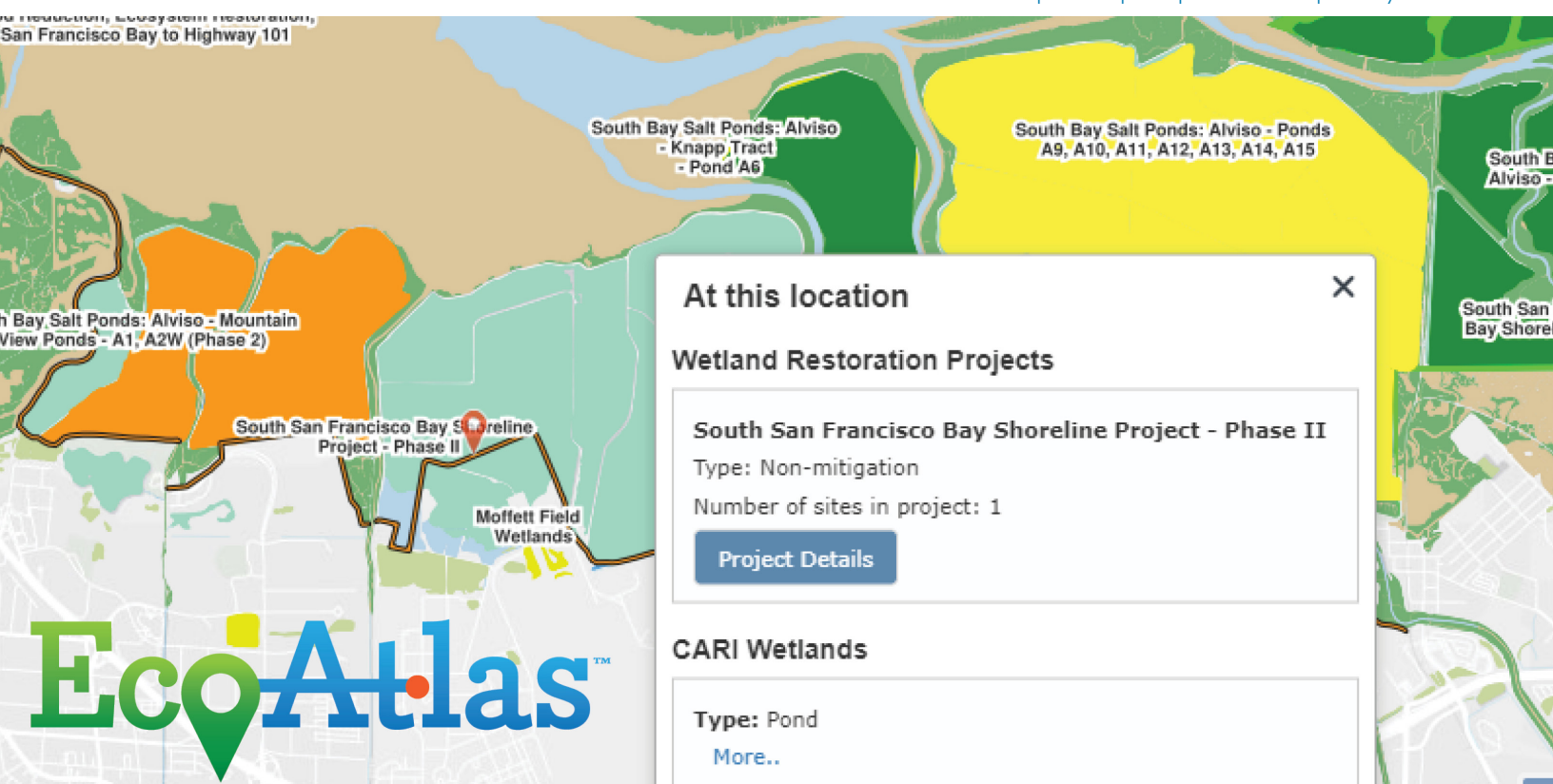
- **Approved! The Bay Adapt Joint Platform, a regional shoreline adaptation strategy, receives widespread support.** In October 2021, the Commission voted to adopt the Bay Adapt Joint Platform. The Bay Adapt Joint Platform is the result of a consensus-based regional strategy comprised of 9 actions and 21 tasks that will protect people and the natural and built environment from rising sea levels. Rather than specifying individual projects, the Bay Adapt Joint Platform lays out regional strategies that focus on overcoming barriers and identifying factors for successful adaptation outcomes we want throughout the region. BCDC will play a significant role in implementing many of the tasks in the Joint Platform, but many other stakeholders will also lead, support, or advise on the tasks as well. The Joint Platform can be found at: <https://www.bayadapt.org/jointplatform/>.

ADAPTING TO RISING TIDES (ART) PROGRAM



- Adaptation Funding white paper released.** Rising sea levels will have widespread impacts on the Bay Area, and adapting to this hazard will cost tens of billions of dollars over the next several decades. BCDC published the white paper “Bridging the Gap: Funding Sea Level Rise Adaptation in the Bay Area”, an initial exploration of forecasted estimated damages in the absence of adaptation, as well as the funding needs, funding supplies, and funding gaps that the region could face as it adapts to rising sea levels during this century. The white paper is available at <https://www.adaptingtorisingtides.org/project/bridging-the-gap-funding-sea-level-rise-adaptation-in-the-bay-area/>.
- Major headway on tracking adaptation projects around the Bay.** The Shoreline Adaptation Project Map (SAPMap) is a regional effort to map and track shoreline adaptation and habitat restoration projects to inform regional planning and help communicate progress towards regional resilience goals. BCDC has served as a coordinator of regional partners to advance SAPMap goals including recommending and funding technical enhancements to EcoAtlas Project Tracker to better track climate adaptation details of priority projects. BCDC also led an internal effort to research the policy basis for formalizing data entry conditions in our regulatory process to help ensure long term sustainability of data collection efforts. BCDC and MTC are working together to explore how this data can inform future updates to Plan Bay Area. You can learn more at <https://www.adaptingtorisingtides.org/project/shoreline-adaptation-project-mapping-program/>.

✓ Screenshot of Shoreline Adaptation Project Map in EcoAtlas. Map courtesy of SFEI.



- **Tracking the region’s progress, gaps, and needs for sea level rise planning.** The Adapting to Rising Tides Program conducted a survey in the summer of 2021 to get a sense for the sea level rise adaptation planning that has occurred thus far by Bay Area cities and counties. The goal of this collaboratively developed survey was to assess how much sea level rise (SLR) adaptation planning has occurred in the region, the challenges that local jurisdictions are facing, and how the region can support ongoing, coordinated, and interconnected planning that leads to real, on-the-ground planning. We heard from 42% of the 65 Bay shoreline jurisdictions invited to participate including nine counties, 54 cities and two special districts. The results show a snapshot of sea level rise adaptation planning progress around the Bay, with special focus on barriers to effective sea level rise planning and adaptation at local jurisdictions. You can read the results at <https://www.adaptingtorisingtides.org/project/sea-level-rise-adaptation-progress-gaps-needs/>.
- **New map on shoreline vulnerability helps identify the right strategy for the right place.** The Adapting to Rising Tides program published the Shoreline Vulnerability Index (SVI), a new regional dataset and mapping tool to help inform adaptation planning. The SVI helps communicate how different shoreline types around the Bay may be vulnerable to erosion and flooding. Shoreline adaptation projects will involve both maintaining and strengthening existing shorelines, as well as realigning and redesigning areas of the Bay shoreline. Understanding where stretches of the Bay’s shoreline are highly vulnerable to flooding and sea level rise can inform the prioritization, planning, and construction of shoreline adaptation projects. The map is available at <https://www.adaptingtorisingtides.org/project/shoreline-vulnerability-index/>.



- **Ongoing development of the Adaptation Roadmap, a practitioner’s Guide for Sea Level Rise Adaptation.** The Adaptation Roadmap brings together key resources, concepts, and topics that guide local practitioners – such as local government staff, community-based organizations, non-governmental organizations, special districts, and more – on how to move beyond vulnerability assessments and make decisions on sea level rise adaptation strategies. Throughout the year, ART staff conducted background research, worked closely with the Bay Area Climate Adaptation Network (BayCAN) Assessment to Adaptation Working Group, conducted interviews with local practitioners, and wrote a draft of the document. Additionally, two Advisory Committee meetings were held to review, refine, and guide the final development of the Adaptation Roadmap. Set to be published in early 2022, the Adaptation Roadmap is a solutions-oriented practitioner’s resource for moving beyond sea level rise vulnerability to develop collaboratively built and equitable outcomes to reduce flood risks and prepare communities to make future decisions.

LONG-RANGE PLANNING

- **Bay Plan Climate Change Policy Guidance released.** Bay Plan Climate Change Policy Guidance (CCPG) provides information for applicants and interested parties looking to learn more about permitting projects with sea level rise and climate change considerations. The CCPG illustrates how BCDC climate change policies have been interpreted and applied over the past 10 years and provides other resources to assist with climate change policy work. The draft CCPG was presented at a Commission public hearing on April 15, 2021 and the final document was adopted by the Commission on July 15, 2021.
- **Progress on Seaport Plan update and Howard Terminal priority use area amendment.** The Seaport Plan is an element of the San Francisco Bay Plan and is used by BCDC to help guide its regulatory decisions on port-related matters. In 2021, staff worked on an update to the Seaport Plan, coordinating with the five Bay Area seaports to analyze requests by each port to add or remove designated port priority use areas through Bay Plan amendment (BPA) 1-19. In March, the Seaport Planning Advisory Committee (SPAC) held a public meeting to advise staff on technical analysis about the proposed changes and discuss policy revisions about a range of port issues. This work included collaboration with the City of Oakland, Port of Oakland, and the Oakland Athletics on the Oakland Athletics application to remove the port priority use area from Howard Terminal in order to move forward with a proposal to develop a ballpark at that location (BPA 2-19).
- **The future of San Francisco’s Piers 30-32.** In May and June 2021, BCDC staff provided Commission briefings regarding a mixed-use development proposal for Piers 30-32 at the Port of San Francisco. Staff identified significant policy issues raised by the proposal that would require an amendment to the San Francisco Waterfront Special Area Plan, a long-range planning document that guides the development along the entire 7.5 mile waterfront. Staff responded to the proposal by daylighting these policy issues with a comprehensive presentation illustrating BCDC’s role in the development history of the San Francisco Waterfront. The presentation also highlighted concerns related to public trust conflicts created by the project’s proposed placement of general office use in the San Francisco Bay.

- **Suisun Marsh Plan updates**
 - » In September, BCDC staff gave a presentation to the Suisun Resource Conservation District (SRCD) bi-annual landowners meeting to provide an overview of BCDC and the Suisun Marsh Preservation Act and Suisun Marsh Plan and provide stakeholders with an update on the process to review the Suisun Marsh Plan.
 - » Staff coordinated with the Suisun Resource Conservation District (SRCD) to assist the District to amend its component of the Suisun Marsh Local Protection Program. The amendment updated the Individual Water Management Program element of SRCD's component, consisting of 124 new Individual Ownership Adaptive Habitat Management Plans which contain water management programs for each managed wetland in private ownership within the boundaries of the Commission's Suisun Marsh Primary Management Area Jurisdiction. SRCD ultimately approved the amendment, and submitted the amendment for certification by the Commission in December for consideration in 2022.
- **Priority use area review and digitization.** Staff began a comprehensive review to update and digitize priority use area (PUA) boundaries in the Bay Plan and edits to associated descriptive boundaries identified in Resolution 16.
- **San Francisco Waterfront Special Area Plan updates.** Throughout 2021, the Long Range Planning team continued to partner with the Port of San Francisco to draft an update to the San Francisco Waterfront Special Area plan, including the review of supporting documents such as the draft Waterfront Plan and environmental review.

GEOGRAPHIC INFORMATION SYSTEMS (GIS) PROGRAM

- **More data made publicly available.** The BCDC Open Data Portal continues to be a valuable resource to our stakeholders and an important way that BCDC shares its public data with our partners. Usage metrics for the Open Data Portal indicate over 1.4k users visited the site during 1.9k sessions over 2021.
- **Eelgrass Impact Assessment Tool helps protect eelgrass.** In a partnership with BCDC's Sediment Management Program, BCDC launched the SF Bay Eelgrass Impact Assessment Tool. This web-based application supports the Long Term Management Strategy (LTMS) program and the National Marine Fisheries Service's 2011 LTMS Programmatic Essential Fish Habitat consultation. The web application can assist project planners in identifying potential impacts of dredging projects in San Francisco Bay to eelgrass.
- **Training the next generation of GIS professionals.** BCDC's GIS Program supported two GIS interns in 2021. BCDC's summer intern worked on developing a GIS layer representing BCDC's special jurisdiction areas, including those excluded or exempted from our regulations. A San Francisco State University RIPTIDE Fellow supported BCDC's review of our existing priority use area boundary descriptions and GIS data to recommend updates to both that will come before the Commission in 2023. The goal of this project is to improve the accuracy of our boundary data so that it can be shared directly with stakeholders through an online web application.

REGULATORY

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

- **Heron's Head Shoreline Resilience Project (BCDC Permit No. M1998.003.05 (Material Amendment))**
 - » Project Sponsor(s): Port of San Francisco
 - » Project Location: India Basin, City and County of San Francisco
 - » Project Description: The project stabilizes the southern shoreline of the Heron's Head Park. The project involves adding Bay fill to construct a beach in front of the existing tidal marsh and installing oyster reef balls on the mudflats near the beach. The project also includes the installation of new public access signage and amenities, including new/updated interpretive signs, wayfinding signs, and two improved seating areas.

▼ Herons Head Shoreline, San Francisco. Photograph courtesy of BCDC.



- **Alameda Point Site A, Phase 1 Development Project (BCDC Permit No. 2017.001.00)**
 - » Project Sponsor(s): Alameda Point Partners, LLC and the City of Alameda
 - » Project Location: Seaplane Lagoon, City of Alameda, Alameda County
 - » Project Description: The project develops a 30-acre mixed-use neighborhood and waterfront park. The project provides approximately 2.48 acres of new public access areas in the form of a waterfront park, behind an existing historic bulkhead wall. The park is designated as a segment of the San Francisco Bay Trail and includes pedestrian promenades, terraces with plantings and seating, a multi-use lawn area, picnic areas, amphitheater steps, an overlook deck, a plaza area, a restroom, and other improvements.

- **India Basin Open Space and 700 Innes Mixed-Use Development Project (BCDC Permit 2020.001.00)**
 - » Project Sponsor(s): India Basin Investments, LLC, the Port of San Francisco, and San Francisco Recreation and Parks Department
 - » Project Location: India Basin, City and County of San Francisco
 - » Project Description: The project redevelops a 29-acre site for a mixed-use project, including a waterfront park and open space, as well as residential, commercial, and retail uses. The project involves the creation of waterfront park areas, building a public boat launch, creating and enhancing wetland and other habitat areas, building and repairing infrastructure, constructing commercial recreational facilities, and other improvements.

- **Bradmoor Island and Arnold Slough Tidal Restoration Project (BCDC Permit No. 2020.005.00md)**
 - » Project Sponsor(s): California Department of Water Resources
 - » Project Location: Within the Primary Management Area of the Suisun Marsh, at Bradmoor Island, Arnold Slough, and the Blacklock Restoration Site, in unincorporated Solano County
 - » Project Description: The project restores approximately 608 acres of managed wetlands and approximately nine acres of uplands to tidal marsh and open water habitats, and conducts monitoring and adaptive management activities. The project is expected to result in enhanced water quality and provide valuable habitat and food web benefits for native and listed fish species and wildlife. The project will result in the creation of two newly accessible tidal channels for small watercraft, including an approximately 5,300 foot-long channel at Bradmoor Island and an approximately 4,600-foot-long channel at Arnold Slough. In addition, the project includes the development of an online recreation and public access guide for the Suisun Marsh, and the contribution of \$150,000 in funding for public access improvements at the nearby Belden's Landing boat launch site in Solano County.

- **Point Emery Shoreline Protection Project (BCDC Permit No. 2019.002.00)**
 - » Project Sponsor(s): City of Emeryville,
 - » Project Location: Point Emery, City of Emeryville, Alameda County
 - » Project Description: The project constructs a rock riprap revetment along approximately 800 feet of shoreline, placing approximately 15,000 square feet (500 cubic yards) of fill in the Bay, and approximately 25,300 square feet (2,800 cubic yards) of fill within the 100-foot shoreline band for the revetment. As mitigation for fill, the project involves the removal of approximately 1,218 cubic yards (48,800 square feet) of shoreline debris from the Bay jurisdiction, over an approximately 118,000-square-foot area. In addition, the project involves improving an existing required public access area, including trail improvements, seating, signage, and related amenities.
- **Klamath Historic Ferry Project (BCDC Permit No. 2021.001.00)**
 - » Project Sponsor(s): Bay Area Council and the Port of San Francisco
 - » Project Location: Pier 9, City and County of San Francisco
 - » Project Description: The project conducts dredging and permanently moors the historic ferryboat Klamath at Pier 9 along the Embarcadero, where it is reused for office space, event space, and public access. The project also involves new public access along the southern Pier 9 apron.

▼ Tidal Marsh Vegetation. Photograph courtesy of BCDC.

Bay Restoration Regulatory Integration Team

BCDC continued participation in the Bay Restoration Regulatory Integration Team (BRRIT), which was established by the San Francisco Bay Restoration Authority with the involvement of the Coastal Conservancy, to improve the permitting process for multi-benefit habitat restoration projects and associated flood management and public access infrastructure in and along the shoreline of the Bay. The BRRIT is composed of representatives of the regulatory and resource agencies and conducts pre-project coordination and collaborative permit processing for restoration and public access projects eligible for San Francisco Bay Restoration Authority funding. As part of this effort, BCDC issued the Heron's Head Shoreline Resilience Project permit in 2021 and coordinated with project proponents and other regulatory agency staff during pre-application reviews for a number of other Measure AA projects.



Commission achievements accomplished through Enforcement in 2021:

Even as BCDC's Enforcement staff worked remotely during the COVID-19 pandemic and benefited from the return of one staff member from 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 resulted in protecting more than 15 acres of public access along over two miles of Bay shoreline. This work was particularly significant in 2021 because outdoor recreation has been widely cited for supporting mental health during the COVID-19 pandemic.

In 2021, the staff closed 247 enforcement cases, opened 139 cases, issued twelve enforcement-related permits and/or permit amendments, and issued one Executive Director order. The Commission issued two cease and desist orders. The Commission collected \$182,979 in civil penalties with \$10,000 from Salt River Construction Corporation pursuant to a 2019 Civil Penalty Order, \$132,279 from Lind Tug & Barge Inc., in a settlement agreement, \$2,000 from Chevron Corporation in a settlement agreement, \$1,000 from Lind Marine Inc., in a settlement agreement, \$200 from Steve and Leigh Allocca in a settlement agreement and \$1,000 in standardized fines from Landry's Inc., \$1,000 in standardized fines from BW RRI II LLC (Red Roof Inn), \$30,000 in standardized fines from City of South San Francisco and Robert Simms of Park SFO, and \$5,500 in standardized fines from Richard Atwood.

BCDC's Enforcement team's full implementation of major policy and process improvements to support the comprehensive, albeit small, Enforcement Program resulted in the closure of 228 cases, a substantial increase from the approximately 40 per year when the program had less staff and supporting resources.

Throughout the year, BCDC's Enforcement Committee worked with the Enforcement staff to analyze cases, approve settlement agreements, and receive updates on compliance with cease and desist orders, in addition to receiving periodic updates on the progress toward resolution of the oldest enforcement cases. The Commission authorized a cease and desist order in the East Lagoon White Slough-Dhillon case and unanimously approved settlement agreements in the City of Sausalito and Richardson's Bay Regional Agency matters in Richardson Bay, both of which were the result of five years of work to reach workable compromises rather than searching for an unattainable ideal resolution. Also, in December 2021, the Commission unanimously voted to approve an uncontested cease and desist order to the Koppl Family Trust to address unauthorized in-water work at vacant site at a single-family residence.

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 are expected to be paired with a 2022 mission-based review of BCDC's permitting program.

Throughout 2021, BCDC's Enforcement Program accomplished significant case resolution and Enforcement Program improvement targets. In sum, BCDC's Enforcement Committee analyzed, debated, amended, and ultimately approved changes to the program to the extent 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:

1. In January 2021, the Commission approved a settlement agreement with the City of Sausalito to address non-compliance with the Richardson Bay Special Area Plan.
2. In February 2021, the Commission unanimously voted to approve a contested cease and desist order against Param Dhillon to resolve unauthorized activities in East Lagoon White Slough in Vallejo, Solano County.
3. In March 2021, Enforcement staff entered into an agreement with Lind Tug and Barge Inc to settle a 2013 enforcement case for unauthorized oyster shell mining and collected a \$132,279 civil penalty.
4. In April 2021, the Executive Director issued a cease and desist order to Param and Amandeep Dhillon to resolve unauthorized activities in East Lagoon, White Slough in Vallejo, Solano County. The order was subsequently re-issued in July and again in October.
5. In May 2021, the Commission authorized the submission of proposed amendments to the enforcement regulation to the Office of Administrative Law for consideration and approval.
6. In July 2021, Matthew Trujillo, the senior member of the Enforcement unit's line staff, returned from a 12-month reassignment as a COVID-19 contact tracer for the California State Department of Public Health. Matthew's return to the unit greatly accelerated the Enforcement unit's ability to investigate and resolve cases during the second half of the year.
7. In September 2021, the Commission approved a settlement agreement with the Richardson's Bay Regional Agency to address non-compliance with the Richardson Bay Special Area Plan enabling the resolution of a 2010 enforcement case.
8. The Enforcement Committee receives quarterly updates on the progress being made in the resolution of the oldest enforcement cases as well as quarterly reports on all cases opened, closed and the progress being made toward resolving cases.
9. In December 2021 the Commission unanimously voted to approve an uncontested cease and desist order to the Koppl Family Trust to address unauthorized in-water work at vacant site where a single-family residence is under construction in Belvedere, Marin County. The order imposes a civil penalty of \$45,000 and requires owners to restore 102 square meters of eelgrass habitat to offset subtidal impacts from the in-water construction.

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 SF 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' filed their opposition brief on January 19, 2021, after which BCDC and Baykeeper filed their reply brief. The Ninth Circuit Court of Appeals heard oral argument on June 14, 2021 and the matter was submitted. On August 6, 2021 the Ninth Circuit Court of Appeals affirmed the district court's summary judgment in favor of the U.S. Army Corps of Engineers. The Court found that the condition about where to dispose of dredged material was not itself an enforceable policy under the CZMA and its implementing regulations, nor was it tied to any enforceable policy as contemplated by those regulations. The Corps was therefore not obligated to comply with that regulation. The Corps' final 2017 plan complied with the express terms of the condition limiting the Corps' hydraulic dredging in two particular channels.

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

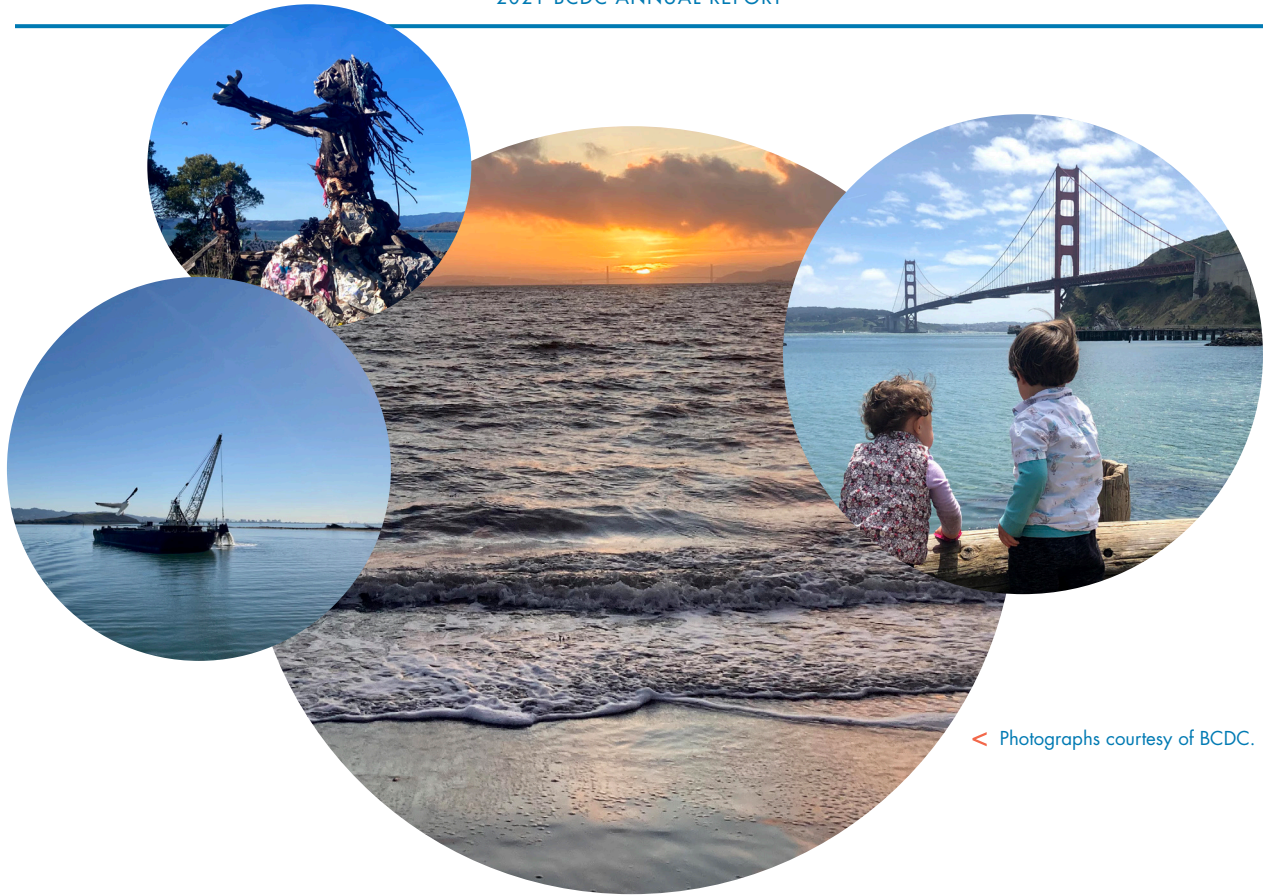
action. The court also set aside the Regional Board's Cleanup and Abatement Order. The Commission and the Regional Board appealed. The Court of Appeal issued an order in the Commission and Regional Board cases in favor of the Commission and the Regional Board overturning the District Court decision and affirming the Commission and Regional Boards orders.

COORDINATION, COLLABORATION, AND PARTNERSHIPS

BCDC continues to participate in important partnerships that leverage regional capacity to address climate change:

- Continued our partnership as part of the Bay Area Regional Collaborative (BARC) (Metropolitan Transportation Agency, Association of Bay Area Governments, the Bay Area Air Quality Management District, Water Board, Coastal Conservancy, and BCDC) to shape tasks in the Bay Adapt Joint Platform and identify how BARC can help support implementation.
- Worked with MTC/ABAG staff to address resilience planning in Plan Bay Area 2050, which was adopted in October 2021, 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 (ICARP) 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 implement a set of statewide Sea Level Rise Guiding Principles.
- Continued its active partnership with the US Geological Survey (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 with the Bay Planning Coalition, Save the Bay, The Bay Institute, and the State Coastal Conservancy to develop a proposal for a pilot project to increase beneficial reuse of dredged sediment while setting aside Corps restrictions on such projects, to be included in the federal Water Infrastructure Improvement for the Nation Act.
- Partnered with and provided technical support to SF Baykeeper and Coastkeeper in seeking state legislation and funding to support beneficial reuse of dredged sediment in wetland restoration projects.
- Served on the steering committee and technical working groups of the Wetland Regional Monitoring Program, providing information about how BCDC could learn from and benefit from a regional approach to wetlands monitoring.

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- Served on the Management Boards of, and provided briefings to, the San Francisco Bay Joint Venture, the San Francisco Bay National Estuarine Research Reserve, and the Implementation Committee of the San Francisco Estuary Partnership.
 - Designated four water trail sites, including Belden's Landing in the Suisun Marsh Primary Management Area, 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 the coordinated permitting team for projects selected for review by the BRRIT.
 - Participated in Bay Area Climate Adaptation Network (BayCAN) Work Groups, and share project updates at quarterly regional BayCAN meetings.
 - Participated in the Suisun Marsh Adaptive Management Advisory Team
 - Participated as a steering committee member in the San Francisco Estuary Geospatial Working Group, a diverse multidisciplinary partnership emphasizing integration of geospatial technology in coastal management and restoration. Two biannual meetings focused on NOAA resources and partnerships 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).
 - 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.
 - Partnered with the Corps and Santa Clara Valley Water to present agency-led equity initiatives for the Flood Plain Management Association.
 - Coordinated with hundreds of stakeholders through working groups, public forums, focus groups, including extensive outreach to CBOs, and gave over 50 presentations to boards, committees, and external working groups on the Bay Adapt Joint Platform to ensure that the tasks and actions represented a wide variety of needs and ideas.
 - Participated in the Suisun City Climate & Environmental Festival Educational Talks, including providing a presentation on results from the Adapting to Rising Tides Bay Area report on sea level rise vulnerability in Suisun, and engaged with community members during tabling events.



< Photographs courtesy of BCDC.

BCDC welcomes the challenges and opportunities ahead, and 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. We will continue to provide leadership with our many regional partners as we determine how we can adapt to the reality of rising sea levels.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Zachary Wasserman".

R. ZACHARY WASSERMAN, Chair

SUMMARY OF PERMITS, FILL, AND MITIGATION⁵

Year	Major Permits ¹ granted	Major Permits ¹ denied	Minor Permits ² granted	Minor Permits ² denied	Permit amendments	Net change in Bay surface ³ (acres)	Total Project cost ⁴ (x \$100,000)	Public access (acres)	Public access (miles)
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	9	0	106	0	140	3,807	382	3.4	4.5
2006	2	0	74	0	141	70	169	0.7	0.4
2007	9	0	90	0	109	2,560	459	3.5	9.7
2008	9	0	81	0	139	961	552	12.7	6.5
2009	12	0	81	0	128	174	500	1.5	0.2
2010	11	0	114	0	113	1,562	251	11.5	4.8
2011	5	0	57	0	125	74	1,700	77.8	3.9
2012	2	0	73	0	110	201	362	6.7	3
2013	4	0	78	0	88	968	112	0.3	6
2014	2	0	75	0	134	13.8	935	11	4.5
2015	4	0	55	0	89	-0.1	407	4	7.4
2016	7	1	71	0	81	419.7	18,811	63.58	5.3
2017	5	1	69	0	90	603.1	1,839	14	2.15
2018	8	0	80	0	89	2,672	4,945	13.1	6.67
2019	11	0	75	0	76	2.6	11,772	43.8	8.4
2020	6	0	70	0	72	3.8	3,640	15.2	1.5
2021	6	0	71	0	75	640	12,519	12.15	2.97
TOTAL	665	28	4,678	11	5,008	23,151	74,238	1,233	177

¹ 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.

² Smaller projects including new minor permits, consistency concurrences approved administratively, and regionwide permits

³ 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.

⁴ Major and minor permits only.

⁵ Permit counts from 2005 onward have been updated based on improved accounting methods in Summary of Permits Tables for Annual Reports starting in 2021.

INCOME BUDGET AND EXPENDITURES SUMMARY

SUMMARY OF ENFORCEMENT ACTIVITIES

Caseload at the beginning of 2021:
207

New cases opened in 2021:
139

Cases closed in 2021:
247

Caseload at the end of 2021:
99

Cease and Desist Orders issued:
5

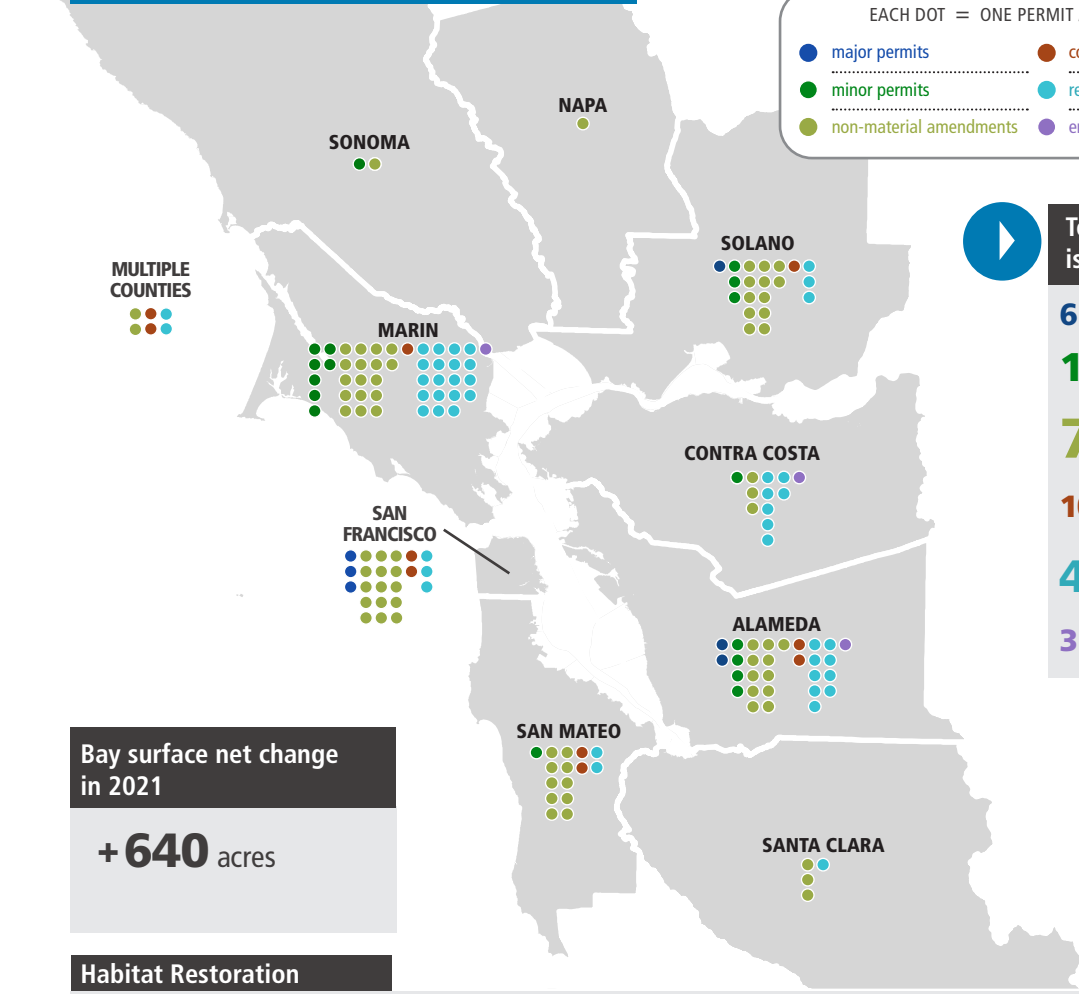
Settlement Agreements issued:
7

Enforcement related permits or amendments issued:
12

Civil penalties received:
\$182,979

	FY 19-20	FY 20-21
TOTAL FUNDING INCOME	\$10.32M	\$10.76M
General Fund (General Tax Revenues)	6.82M	7.59M
Special Dedicated Funds	2.26M	1.97M
Bay Fill Clean-Up and Abatement Fund Authority	493K	95K
Greenhouse Gas Reduction Fund (Cap and Trade)	1.77M	1.87M
Reimbursements (Actual Recoveries)	1.24M	1.21M
TOTAL SPENDING	\$9.54M	\$10.51M
Total Salaries, Wages, and Benefits	4.66M	6.14M
OE&E	4.88M	4.37M
Rent (Included in OE&E)	1.19M	1.25M

2021 IN REVIEW



EACH DOT = ONE PERMIT / AMENDMENT

- major permits
- minor permits
- non-material amendments
- consistency determinations
- regionwide permits
- emergency permits

Total permits issued by county

- 6 major permits
- 17 minor permits
- 75 non-material amendments
- 10 consistency determinations
- 46 regionwide permits
- 3 emergency permits

Bay surface net change in 2021

+ 640 acres

Habitat Restoration

total **+ 642** acres

- 616 acres in Solano County
- 25.4 acres in Alameda County

Restoration area by permit type (acres)

- 96% major permits
- 4% consistency determinations

Public access: Trails

total **+ 3** miles

- 1.86 miles in Solano County
- 0.86 miles in San Francisco County
- 0.18 miles in Alameda County
- 0.07 miles in Contra Costa County

Public access trails by permit type (miles)

- 98% major permits
- 2% non-material amendments

Public access: Open Space

total **+ 12.2** acres

- 8.08 acres in San Francisco County
- 4.02 acres in Alameda County
- 0.05 acres in Contra Costa County

Public access open space by permit type (acres)

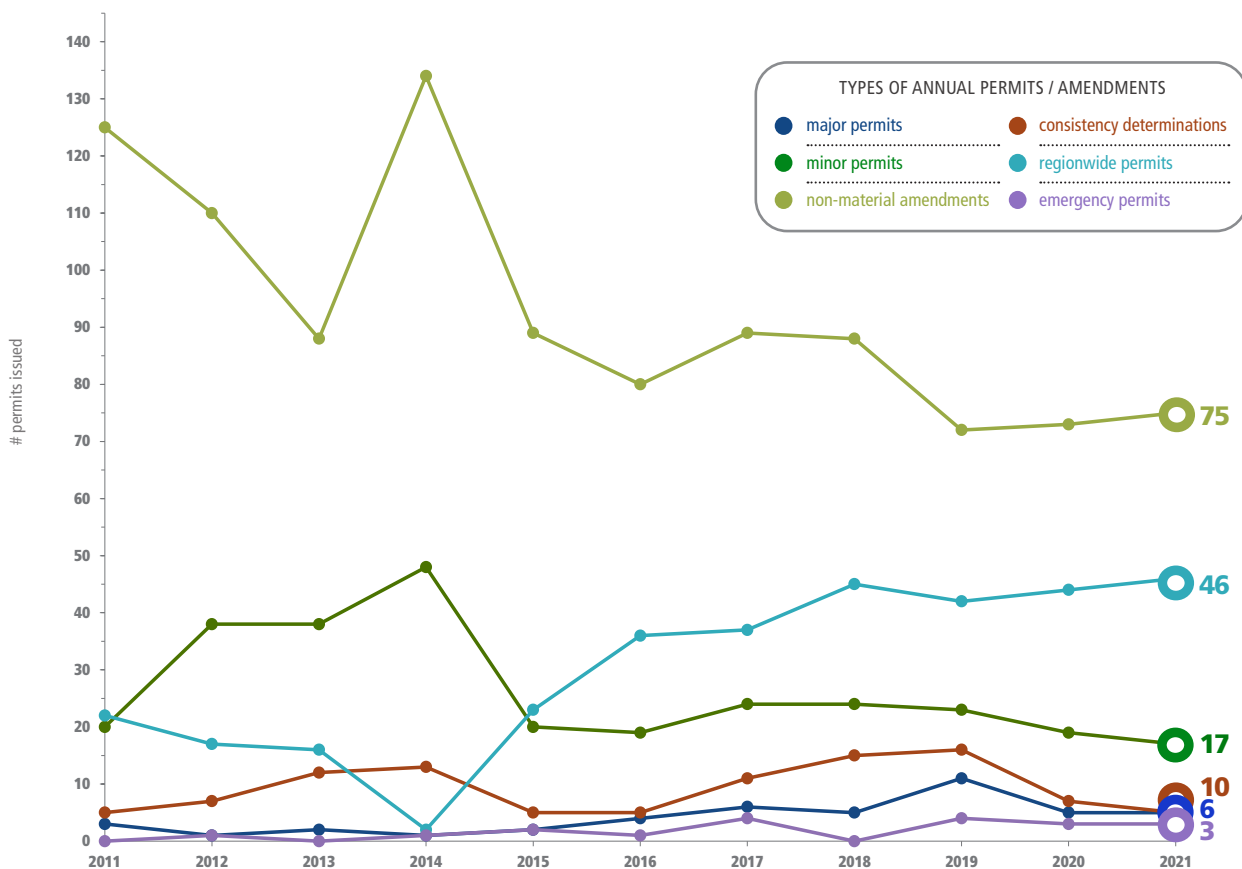
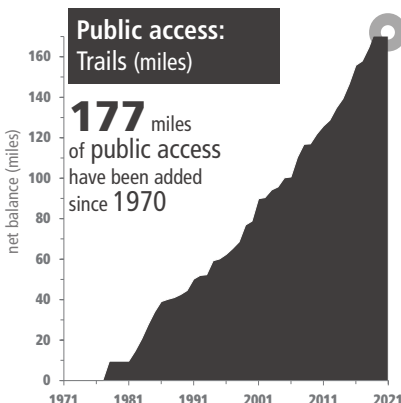
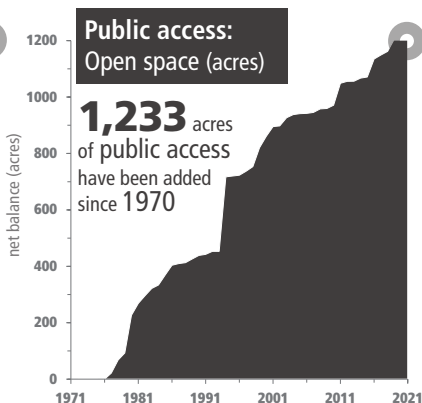
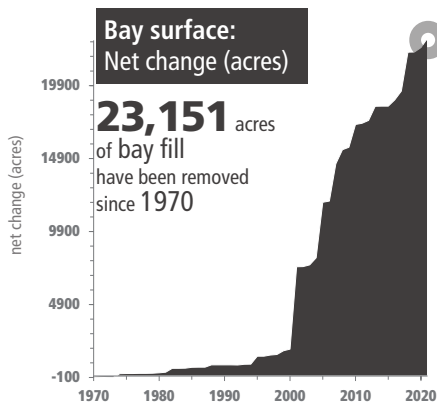
- 87% major permits
- 13% non-material amendments

HISTORICAL TRENDS

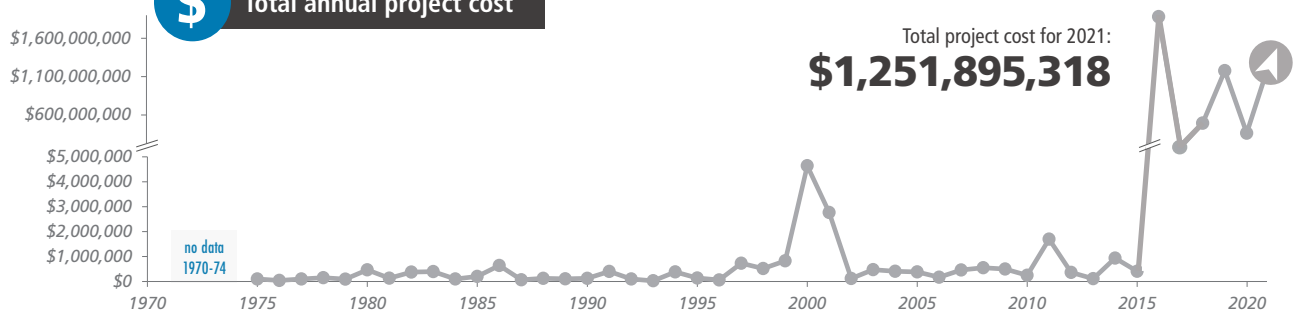
1970-2021

Totals (1970-2021)

665 major permits 4,678 minor permits 5,008 permit amendments



Total annual project cost





The time to come together to act is now.

Sea level rise is no longer a distant threat and the San Francisco Bay Area stands to be one of the hardest hit places in North America. It's past time for us to get ready.

Bay Adapt: **A regional strategy for a rising Bay**

Convened by the Bay Conservation and Development Commission, *Bay Adapt* brings together hundreds of people from community groups, environmental organizations, universities, businesses, governments, and more to find shared solutions to protect people and natural and built environments from sea level rise.

Through dozens of expert working groups, public forums, ten community and stakeholder focus groups, over 50 presentations, an environmental justice caucus, and led by a Leadership Advisory Group - the Bay Adapt Joint Platform presents nine key actions to achieve faster, better, and more equitable adaptation to a rising Bay.



“Preparing for the flooding, erosion, disruption and losses to come - whether our home, business or favorite picnic area - is something we all have to do together.”

- Bay Adapt participant

Where do we start? By preserving what we care about.

The Bay Area’s cultural and environmental diversity is what makes it an incredible place to live. The impacts of sea level rise, and the resources necessary to address them, are unequal across the Bay Area. Communities of color and other marginalized populations face disproportionate burdens from climate change.

Healthy Bay ecosystems are inextricably linked to our quality of life — and are also our first line of defense from rising seas. Flooding in one part of the Bay will have ripple effects on others, threatening our homes, jobs, habitats and daily commutes.

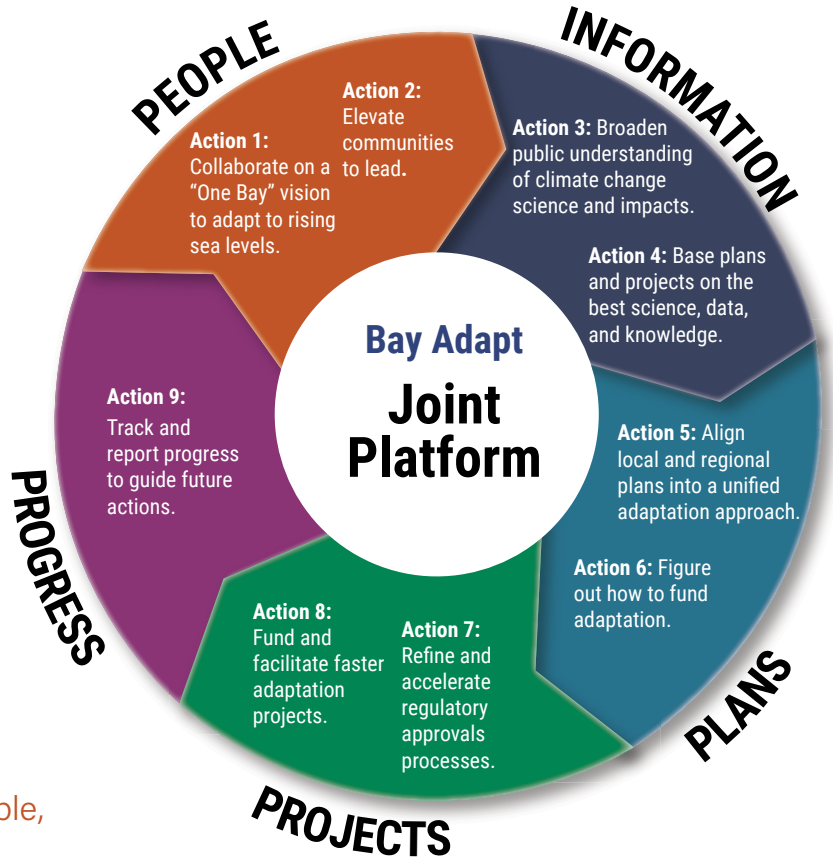
This is why all nine actions in the Bay Adapt Joint Platform emphasize the importance of achieving equitable outcomes to improve the lives of people, the quality of our environment, and a thriving economy for all.

There is no one-size-fits-all solution for how communities should adapt. Deciding what to do and how to do it can be complex and counter-productive. No one can or should go it alone. **By harnessing the collective power of the region, we can rise up together.**

What you can do next

- ☑ Learn more and provide feedback on the **40-page, easy-to-read Joint Platform**. Where can the Joint Platform help you and your communities?
- ☑ **Understand your community’s vulnerability** by using online tools such as the [ART Shoreline Flood Explorer](http://www.Explorer.AdaptingToRisingTides.org) (www.Explorer.AdaptingToRisingTides.org) to learn about flood risk in your area
- ☑ **Talk to your community** about resilience and preparing for climate change.

www.BayAdapt.org



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Appendix B

2021 BCDC ANNUAL REPORT

BCDC Announces Inaugural Environmental Justice Advisors

BCDC is pleased to announce the selection of six community leaders as inaugural Environmental Justice (EJ) Advisors to the Commission. The EJ Advisors bring extensive expertise and unique perspectives from community-based organizations (CBOs) serving socially vulnerable, underrepresented, indigenous, and EJ populations from around the nine-county Bay Area. The six individuals are: Selena Feliciano, Julio Garcia, Anthony Khalil, Violet Saena, Marybelle Tobias and LaDonna Williams. BCDC is grateful for the partnership and support of Resources Legacy Fund, which is providing generous participation grants.

In Fall 2020, BCDC conducted a public process to identify individuals with relevant interests and expertise. Thirty applications were received. A seven-person selection committee, including Commissioner Ahn and Commissioner Showalter.

EJ Advisors will work with BCDC staff and the EJ Commissioner Working Group to help the agency best implement the Environmental Justice and Social Equity Bay Plan policies. Topics may include guidance on how potential projects on the Bay shoreline should best engage with CBOs to have “meaningful community engagement,” how to assess “disproportionate adverse impacts” within the scope of BCDC’s regulatory authority for Bay Area shoreline communities, how to increase community awareness about and involvement in shoreline adaptation planning and projects, and more. More broadly, the EJ Advisors will help BCDC build relationships with community leaders and to bring community leaders’ expert insights and perspectives to the agency’s EJ-related conversations.

ENVIRONMENTAL JUSTICE ADVISOR BIOS

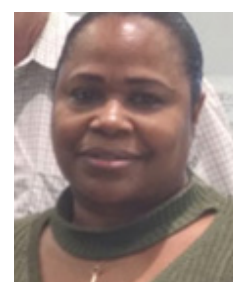
- **Selena Feliciano** is a community-member and founder of SF Consulting Co., a local outreach firm with a commitment to amplify efforts that facilitate a just transition of local economies by engaging BIPOC communities around food security, sustainable energy, transportation and social justice. She is the Worker Director of People Power Solar Cooperative, Board Director of Berkeley Student Cooperative Alumni Association, and a contributing artist of bicycle environmental troupe Agile Rascale Theater. Selena is an avid bee steward, cyclist, and surfer, and is passionate about BIPOC connections to ancestry and the land.
- **Julio Garcia** is program manager at Nuestra Casa in East Palo Alto. As the Commissioners might recall, Julio has been deeply involved with other BCDC efforts, such as the EJ review team that helped develop the agency’s Bay Plan Environmental Justice policies, and is a member of Bay Adapt’s Leadership Advisory Group. At Nuestra Casa, he develops, manages, implements, and evaluates Nuestra Casa’s programs and community outreach efforts with a focus on the growing Environmental Justice program. His work in East Palo Alto goes back 25 years when he was part of Comité de Base at St. Francis.



Appendix B

2021 BCDC ANNUAL REPORT

- **Anthony G. Khalil** is an independent consultant at the Bayview Hunters Point Community Advocates, serving as the organization's community engagement and ecological restoration specialist. He has a Bachelor's Degree in Environmental Studies with a concentration in social justice from San Francisco State University. Over the past two decades, Anthony has worked with Literacy for Environmental Justice and other organizations' environmental education and restoration programs for youth of color. Early on in the Covid pandemic, Khalil launched a free food distribution program "Bayview Bounty Boxes" with the Bayview Hunters Point Community Advocates, which is the first phase in establishing a Community Co-op Grocery Store. Anthony is also a spouse, father, brother, uncle, Mentor, Ecologist, Outdoorsman, Waterman, and Culture Bearer.
- **Violet Saena** is a community advocate in San Mateo County with a deep understanding of sea level rise and climate change. She spent four years as the Principal Climate Change Officer for the government of her home island nation of Samoa, supporting climate change policy improvements and liaising between Pacific Islands and Caribbean nations to ensure regional coordination and support for small island states in international climate policies. Violet is the founding Director of Climate Resilient Communities, a project of Acterra. Before joining Acterra, Violet served as a lead researcher for Sustainable Silicon Valley and Project Manager for the East Palo Alto Net Positive Project.
- **Marybelle Tobias** is an environmental justice lawyer who advocates on behalf of marginalized and overburdened communities across the state and the country. She helped shape the California Climate Investment Program and is the Founder and Principal of E / J Solutions, where she brings extensive experience in environmental and civil rights litigation, community-driven planning, leadership of climate justice coalitions, and equitable climate, housing, and transportation policy. Marybelle co-facilitated West Oakland's community plan to improve air quality and co-lead equitable community engagement and policy development for the City of Oakland's 2030 Equitable Climate Action Plan (ECAP). She authored the Racial Equity Impact Assessment and Implementation Guide for the ECAP. Marybelle graduated from UC San Diego with a BA in Political Science and received her JD from UC Hastings.
- **LaDonna Williams** is a highly experienced frontline community leader from South Vallejo, advocating for environmental justice and African American disadvantaged communities throughout the Bay Area. She became an activist when she discovered that her community in Daly City was built on top of more than 350 superfund carcinogens left behind by PG&E. She has traveled throughout the country highlighting environmental racism since. LaDonna is the Programs Director of All Positives Possible, a non-profit grassroots community-based organization serving low-income disadvantaged communities right to clean quality air, water, land and soil locally, regionally and nationally, supporting their right to self-determination.





www.bcdc.ca.gov

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

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