

San Francisco Bay Conservation and Development Commission

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April 11, 2024

TO: Enforcement Committee Members

FROM: Matthew Trujillo, Enforcement Policy Manager (415-352-3633;
matthew.trujillo@bcdc.ca.gov)

SUBJECT: Darft Minutes of April 11, 2024 Enforcement Committee Meeting

1. Call to Order. The hybrid meeting was called to order by Chair Gilmore at 9:39 a.m. The meeting was held with a primary physical location of 375 Beale Street, San Francisco, California, and online via Zoom and Teleconference.

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

2. Roll Call. Mr. Trujillo called the roll. Commissioners Belin, Eisen, Vasquez and Chair Gilmore were present. A quorum was achieved.

Staff in attendance included Principal Enforcement Analyst Adrienne Klein, Legal Secretary Margie Malan, Senior Staff Attorney Michael Ng, and Enforcement Policy Manager Matthew Trujillo.

Chair Gilmore stated a quorum was present and the Committee was duly constituted to conduct business.

3. Public Comment. Chair Gilmore invited the general public to comment on items not on the day's Agenda.

Chair Gilmore stated no general comments were received in advance of the meeting.

Chair Gilmore then gave instructions for members of the public to offer public comment.

Mr. Ng stated a letter was submitted as public comment this morning. Because it pertained to the enforcement matter agendaized for today as Item 6, he did not believe it was appropriate to discuss under Item 3, Public Comment. He added he would discuss the submittal during Item 6.

No members of the public addressed the Committee.

4. Approval of Draft Minutes from the March 27, 2024, Enforcement Committee Meeting.

MOTION: Commissioner Vasquez moved approval of the March 27, 2024, Meeting Minutes; Commissioner Eisen seconded the motion.

The minutes were approved 3-0-1 by affirmation with Commissioner Belin

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voting “ABSTAIN.”

5. Enforcement Report. Chair Gilmore called on Enforcement Policy Manager Matthew Trujillo to provide the Enforcement Report.

Mr. Trujillo reported that as of April 11, 2024 there are 75 unresolved cases in the queue. This includes 3 new reports received since the March 27, 2024 report and 2 cases were resolved.

Mr. Trujillo then updated the Committee on the hiring process. Two open positions will now be advertised as “permanent” positions as opposed to “limited term.” Applicants would not be on a limited term track. Once hired they would be on probation for a year and then become permanent employees.

Mr. Trujillo announced Rachel Cohen would be leaving the Enforcement team, transferring to Planning. With the openings the Enforcement team will be short-staffed and may experience a productivity drop in the near future.

Chair Gilmore offered congratulations to Ms. Cohen and asked Mr. Trujillo how long the two open positions have been vacant.

Mr. Trujillo stated one position had been vacant since November 2022 and the Enforcement Attorney position has been open since last summer.

Commissioner Eisen asked Mr. Trujillo if he is still concerned that even with reclassification as a permanent position that there would still be trouble filling these positions?

Mr. Trujillo stated the reclassification had been received in the past week so he believes the Class III permanent position would be more appealing than the previous entry-level limited term position. He added he is optimistic.

Commissioner Eisen then asked if it was possible to use the Instagram account to help with recruiting efforts.

Mr. Trujillo replied he would take the recommendation back and make sure we are using every channel possible to advertise these positions.

6. Public Hearing and Vote on Recommended Enforcement Decision to Resolve Enforcement Case ER2017.004.

After a public hearing, Principal Enforcement Analyst Adrienne Klein offered the Recommended Enforcement Decision:

1. Cease and desist from violating Section 66632(a) of the McAteer-Petris Act by ceasing operations at the plant until and unless BCDC authorization is obtained, after-the-fact.
2. By June 30, 2024, submit a filed, BCDC permit application with a feasible public access plan to install and operate the portion of the unauthorized two-megawatt, photovoltaic solar power plant and any other fill located within BCDC’s jurisdiction.

3. If a permit application is not filed as complete by June 30, 2024, and/or if Respondents fail to obtain after-the-fact BCDC authorization within ninety (90) days of completing their permit application, then Respondents shall entirely remove all unauthorized fill from the Commission's jurisdiction within sixty (60) days of written notice to that effect by or on behalf of the Executive Director.
4. Pay an administrative civil penalty of \$30,000 within 30 days of order issuance.

MOTION: Commissioner Vasquez moved approval of the staff recommendation, seconded by Commissioner Belin.

VOTE: The motion carried with a vote of 4-0-0 with Commissioners Belin, Eisen, Vasquez and Chair Gilmore voting, "YES", no "NO" votes, and no "ABSTAIN" votes.

(A verbatim transcript is available for this Agenda Item.)

7. Adjournment. There being no further business, upon motion by Commissioner Eisen, seconded by Commissioner Vasquez, the Enforcement Committee meeting was adjourned at 11:10 a.m.