

# San Francisco Bay Conservation and Development Commission

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August 28, 2024

**TO:** Enforcement Committee Members

**FROM:** Matthew Trujillo, Enforcement Policy Manager (415-352-3633;  
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**SUBJECT:** Draft Minutes of August 28, 2024 Enforcement Committee Meeting

**1. Call to Order.** The hybrid meeting was called to order by Chair Gilmore at 9:30 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, Vasquez and Chair Gilmore were present. Commissioner Ranchod joined after Roll Call. A quorum was achieved.

Staff in attendance included Enforcement Attorney Bella Castrodale, Compliance Officers Tony Daysog and John Creech, Legal Secretary Margie Malan, 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 was informed that one written general comment had been received and it would be posted on the website. She then gave instructions for members of the public to offer public comment.

No members of the public addressed the Committee.

**4. Approval of Draft Minutes from the April 24, 2024, Enforcement Committee Meeting.**

**MOTION:** Commissioner Eisen moved approval of the April 24, 2024, Meeting Minutes; Commissioner Ranchod seconded the motion.

The minutes were approved by affirmation.

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

Mr. Trujillo reported that as of August 24, 2024, that 23 new cases have

been opened and 23 cases have been closed. The total number of cases in the queue is 63. There are 75 unresolved cases in the queue.

Mr. Trujillo then updated the Committee on staffing. Between May 1 and August 1, the Enforcement Program became critically understaffed with three vacancies in existence with Adrienne Klein taking an extended personal leave until early October.

On August 1 there were two new enforcement analysts starting, Anne Usher and Isabel Chamberlin. Our new Enforcement Attorney Bella Castrodale is here with us today.

Two interns have been brought onboard, Monica Appiano and Erich Miller, to help with program development and modernization projects.

August has been a very productive month, and everyone is adjusting well.

In response to Commissioner Eisen's questions I will state we do not have any further vacancies at this time and the total number of staff is three analysts, myself, and then Margie and our Enforcement Attorney.

**6. Briefing on Oakland Alameda Estuary and Encampment Issue.** Chair Gilmore called for Item 6.

Compliance Officer John Creech noted the following:

- The issues of shoreline encampments and abandoned and derelict vessels (ADVs) and anchor-outs in and around the Oakland Alameda Estuary was introduced at the February 2022 Enforcement meeting.
- The cities of Oakland and Alameda agreed to provide regular progress reports to the Enforcement Committee monthly.
- These meetings have been very beneficial.
- In January 2024 it was reported that the Estuary was successfully cleaned up of illegal vessels and anchor-outs.
- BCDC staff is pleased with the progress to date.
- Prevention must remain a point of focus for everyone.

Oakland Deputy City Administrator Joe DeVries highlighted the following:

- The Department has been using SAVE Grant dollars.
- We are waiting for potential NOAA Marine Debris Removal Grant monies this September 5.
- If we are awarded these monies, it will allow us to remove approximately 16 sunken vessels from the Estuary and perform four annual clean-ups.
- With this grant we are also looking to implement a proactive boat

buyback program.

- We are also looking to do public education on prevention along the Estuary.

Officer Kaleo Albino with the Oakland Police Department spoke:

- We have expended approximately 95 percent of our SAVE Grant monies.
- We are now partnering with Lind Marine using a barge instead of using the Jack London parking lot as a crushing site.
- We have close to 55 vessels that we have either abated, they have left on their own, or we have removed them.
- We have applied for another SAVE Grant and are awaiting being a successful grantee.
- There are another 25 vessels in marinas that must be dealt with.
- There are currently eight anchor-out vessels that need to be abated.
- We are anticipating no anchor-out vessels in the Estuary by November 1.

Chair Gilmore thanked the presenters for their efforts and partnership with BCDC.

Officer Albino noted that the three officers assigned to him for 180 days made a tremendous difference in ongoing efforts. Hopefully, future loans will facilitate the use of extra officers to help in Estuary activities.

Mr. DeVries stated that the city of Oakland has budgeted for continued monies through the NOAA Grant to help Officer Albino.

Commissioner Vasquez thanked the city of Oakland and complimented them on the results of their efforts. This sentiment was echoed by Commissioner Belin.

Mr. Tyson Siebert with the city of Alameda Police Department highlighted the following:

- We recently closed out our SAVE 2022 Grant by spending \$56,000 removing four sunken vessels.
- We have been awarded \$200,000 on our SAVE 2023 Grant to remove derelict vessels from marinas.

We have removed four vessels from marinas to date and there are currently no anchor-outs.

Chair Gilmore gave kudos to the cities for their level of funding for these efforts and noted the Olympic Rowing Team from the Estuary that did so well in

competition.

### **Public Comment**

Rebecca Schwartz Lesberg gave public comment and asked about a general sense of how many boats have been removed and how many are still on the Estuary. Will the buy-back program be similar to what RBRA has done and how will this be funded?

Mr. Brock de Lappe complimented Lind Marine for their help in the clean-up efforts and commended the cities for being proactive about removing abandoned boats from marinas.

The Estuary is cleaner and better than it has ever been. I thank everyone for their efforts.

Commissioner Vasquez talked about abandoned boats being cheaply sold and becoming an anchor-out problem. He wondered if this situation might be a legislative issue. If we know the problem, why hasn't someone come up with a solution? This same problem is also found in the Delta.

Mr. Brock de Lappe stated that it was an end-of-life matter. The state of California does not really have any kind of regional program to deal with this. There has been talk about adding fees to annual registrations for this but raising taxes is very unpopular.

The problem of end-of-life vessels being efficiently disposed of is significant and it is not going to get any better. Without the state of California adding fees to registrations, it is not going to get any better.

Chair Gilmore closed the public hearing and moved to Item 7.

### **7. Briefing on Richardson Bay Regional Agency Settlement Agreement.**

Chair Gilmore called for Item 7.

Mr. Creech highlighted the following:

- The main objectives of the agreement are to enforce compliance with the Richardson Bay Special Area Plan, to ensure the removal of anchor-out vessels, to restore damaged eelgrass beds, and to establish a long-term protection and management plan for the eelgrass habitats.
- This Enforcement Case (ER2010.038) was opened August 31, 2010.
- A Settlement Agreement was signed on September 8, 2021.
- Per the terms of the Agreement all vessels and live-aboards are to be removed from Richardson Bay by October 15, 2026.
- RBRA has successfully met the reporting requirements of the Settlement.

Brad Gross, Executive Director RBRA noted the following:

- A number of milestones and their status were discussed.
- Ongoing activities inherent in the Buyback Program were presented.
- Codes and Ordinances are being updated to more efficiently address the RBRA situation.

Rebecca Schwartz Lesberg, President Coastal Policy Solutions emphasized the following:

- RBRA was granted \$2.8 million from the US EPA's SF Bay Water Quality Improvement Fund on 5/5/23.
- These funds supported the development of the Restoration and Adaptive Management Plan dealing with eelgrass restoration.
- Anticipated milestones and objectives were discussed.
- All subcontracts and subawards utilizing EPA Restoration Grant funds have been executed.
- Eelgrass areas and activities therein were highlighted via a map.
- Upcoming and anticipated activities through summer 2025 were listed and discussed.

Jim Malcolm, Harbormaster RBRA emphasized the following:

- We have no more floating homes in Richardson Bay.
- Our current vessel census is 31.
- Past and current Agreement Milestones and concomitant status were discussed.
- Enforcement measures and tools are being upgraded and implemented.
- Anticipated enforcement activities and planning were discussed.

Brad Gross presented the Housing Update:

- The four Housing Components are – Funding, Temporary Housing Support, Case Management, and Marinas.
- The Components were elaborated on in the presentation.
- Vessels have been tracked and results were discussed.
- Past and current activities involved with the Temporary Housing Voucher Program were listed and discussed.
- Vessels versus Housing conditions are trending in the right direction.

Chair Gilmore thanked the presenters and acknowledged the good progress made to date.

In reply to Commissioner Eisen's questions, Mr. Gross stated that the timeline for number of vessels removed is holding at approximately 31 every two years and that the incentive for recipients of notices to act quickly is that the approved zone is filling up quickly and Mr. Malcolm noted that the sooner a person complies the closer they will be moored to the public dock which is seen as advantageous by the boaters.

Chair Gilmore called for Public Comment and there were no commentors wishing to speak. She thanked the RBRA representatives for giving a very comprehensive update and congratulated them on their progress.

Chair Gilmore closed the Public Comment part of the agenda.

**8. Briefing on Implementation of BCDC's Compliance Program.** Chair Gilmore called for Item 8.

John Creech highlighted the following:

- Discussion will center around High-Level Themes, Program Background, and Compliance Program at Work.
- A definition of High-Level Themes was discussed.
- The Compliance Team acts proactively to lessen the probability of a situation becoming an enforcement violation.

Tony Daysog covered the following:

- Background discussions included – Audit of 2019, 2022 New Hires, 2024 Web-site, and 2024 Internal Procedures.
- The Audit noted that possibly 50 percent of violations were actually related to non-compliance with permit conditions.

Mr. Creech made the following points:

- Examples of compliance work include – Settlements, New Permit Compliance, Processing Annual Monitoring and Technical Reports, and Returning Non-Compliant Permittees to Compliance.
- Case samples pertaining to these areas were given and discussed.
- Programmatic improvements are ongoing.

Chair Gilmore thanked the presenters and acknowledged a better understanding of the Compliance Program due to the excellent presentation.

The understanding is that the purpose of the Compliance Program is to reduce the number of cases that become enforcement actions. How is the success of the Compliance Program measured?

Mr. Trujillo stated that he gives referrals to the Compliance Team. Salient points were given:

- Preventing enforcement issues is one of the main goals but

Compliance also works very closely with Permits to ensure compliance of conditions.

- Public process and BCDC activity in response was summarized.
- Metrics of categorization and associated actions were explained.

Chair Gilmore acknowledged the clarifications and noted that the Compliance Program was meant to handle settlement agreements and how beneficial this is to Enforcement staff.

Mr. Daysog expanded upon and explained further the categorization process that determines whether a case will go to Enforcement or Compliance.

Commissioner Eisen noted that many old cases never came to the Commission's attention because the mechanisms were thin for bringing the situation to light.

At the end of an enforcement matter a debriefing of lessons learned would be beneficial. A permittee self-certification of compliance at some interval would be very helpful.

Commissioner Vasquez acknowledged the progress made to date and noted that the Audit determined that Enforcement matters were behind because of the lack of staff.

Chair Gilmore added that the Audit was very beneficial to BCDC and helped expedite the hiring of more staff. Staff has responded very well and in a relatively short time a remarkable improvement has happened.

No Public Comment was given, and Chair Gilmore closed Public Comment.

**9. Adjournment.** There being no further business, upon motion by Commissioner Eisen, seconded by Commissioner Vasquez, the Enforcement Committee meeting was adjourned at 11:28 a.m.