San Francisco Bay Conservation and Development Commission
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April 14, 2023

TO: All Commissioners and Alternates

FROM: Lawrence J. Goldzband, Executive Director (415/352-3653; larry.goldzband@bcdc.ca.gov)
Peggy Atwell, Director, Administrative & Technology Services (415/352-3638; peggy.atwell@bcdc.ca.gov)

SUBJECT: Approved Minutes of April 6, 2023 Hybrid Commission Meeting

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

Chair Wasserman stated: I am the Chair of BCDC. Several of us are here at the Metro Center, our headquarters building at 375 Beale Street. Other Commissioners are participating from other locations.

Chair Wasserman gave instructions to all attendees on procedures for participating in the meeting. He asked Ms. Atwell to proceed with Agenda Item 2, Roll Call.

2. Roll Call. Present were: Chair Wasserman, Vice Chair Eisen, Commissioners Addiego, Ahn, Arreguin, Burt, Eklund, El-Tawansy (represented by Alternate Ambuehl), Gioia, Gorin, Gunther, Hasz, Lee (represented by Alternate Kishimoto), Lucchesi (represented by Alternate Pemberton), Mashburn (represented by Alternate Vasquez), Moulton-Peters, Peskin, Pine, Ramos (represented by Alternate Gallagher, joined at 1:25 p.m.), Ranchod, Randolph (represented by Alternate Mendonca), Showalter and Tam (represented by Alternate Gilmore).

Chair Wasserman announced that a quorum was present.

Not present were Commissioners: Department of Finance (Almy), USACE (Beach), U.S. Environmental Protection Agency (Blake), Department of Natural Resources (Eckerle)

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

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

Barbara Tasa addressed the Commission: I live in Bayview and I live close to Candlestick Point Recreation Area. I love the state park. I regularly take my dog there for walks and my two kids. The Park is an important asset for my family and the nearby community.

The Park has been plagued by years of disinvestment. The public bathrooms have been replaced by Porta Potties. There is no running water. The parking lots are closed because of flooding on the road outside the Park has effectively shut down the access to the Park since December.

People have difficulty getting to the Park. I am here to ask BCDC to help re-establish access to this Park and get it funded properly.

Since 2015 the area has fallen by the wayside. It seems that the Park and the surrounding community have been forgotten.

Please put this issue on your priority list. Please fund it to the standards that we see in more affluent parts of San Francisco. Take the time to go see for yourselves what we are asking for. Both the lack of access and disinvestment are there and this area should be a priority.

John Coleman of the Bay Planning Coalition spoke: It is great to see so many of you in person. I want to introduce the team at the Bay Planning Coalition. Cameron Carr and Sophie Douglas are here with me. I wanted to put a face with a name of who they are and know that we enjoy working with you and have a very collaborative approach to problem solving.

We have our Spring Summit on May 24 at the David Brower Center in Berkeley that is going to be on Emergency Planning and Funding. Thank you very much.

David Lewis of Save the Bay commented: I am the Executive Director at Save the Bay. I have two issues that deserve your urgent attention.

One is an issue we have been raising with you for the last six months or more. We have the ongoing concerns about the six million tons of toxic bittern material at Cargill Salt Company being stored in open ponds within the National Wildlife Refuge just south of the Dumbarton Bridge.

Despite this winter's storms adding record precipitation to the ponds and the issues that BCDC's Engineering Criteria Review Board addressed back in November around seismic stability of the berm's holding this material from the Bay; BCDC and the Regional Water Board have still not directly inspected these ponds or the shallow mud berms that are separating this bittern from San Francisco Bay.

And a toxic spill there could be catastrophic to endangered Bay wildlife. Recently ABC 7 News documented this problem. I do not believe that there has been any Commission consideration or any information shared with the public from BCDC since your Engineering Criteria Review Board met last November.

So it is definitely time for action and at a minimum, an update, to the Commission.

I secondly wanted to alert you to a very dangerous piece of legislation that has been introduced and was amended this week to specifically target BCDC. This is bill that Senator Scott Weiner has introduced. It is SB 273.

This is specifically to ram through the legislature approval for a proposed development on Piers 30/32. This is the third or fourth time that the legislature would have directly mandated a development and the previous three times it did not occur.

The specific danger to BCDC is a provision that has been added that basically exempts this project from BCDC's review under the McAteer-Petris Act for fill considerations.

And the project is proposing to put hundreds of thousands of square feet of office space not on the existing pier but to actually rip out the entire existing pier and replace it with a new pier which certainly constitutes fill that BCDC should be able to review under your statutes.

We would urge the Commission to take a look at this legislation and express its opposition as soon as possible.

Alison Madden commented: I am an advocate for people being able to live on their boats and for houseboats and houseboat communities.

In September of last year you approved a safe harbor to allow people leaving Oyster Cove to go over to Oyster Point Marina. At the time it seemed like there was some openness to considering raising the 10 percent cap on live-aboards.

I would like to advocate that you have a public process that involves at least two public hearings where people can speak. Everyone appreciates the safe harbor.

I am advocating that you make this a public process and that you prioritize it. Redwood City closed many marinas and it is very difficult. I cannot even find a spot for a non-live-aboard slip.

I am advocating to raise the percent to harbor master discretion not to exceed 25 percent, but even if you do 15 or 20 percent that would be great.

The roll out of the Oyster Point after you approved it was quite bumpy and really confusing. Compliance is not staying on it for more than three nights a week. People wind up living in alternative scenarios and they need a safe spot for their boat.

Dean Stanford addressed the Commission: I am going to read the comments I mailed to you. I submitted a park proposal during the San Jose, Santa Clara Regional Wastewater Facility Master Plan process in 2010.

The proposed park includes miles of paved multi-use trails and dirt trails for dirt bikes, mountain bikes, e-bikes and zero-emission recreational vehicles and a new home for displaced Santa Clara BMX track.

There is up to $31 million in funding for these parks in SB 155. Included in this a 3.5-mile Bay Loop Trail around a former salt pond owned by the cities of San Jose and Santa Clara.

The Shoreline Plan intends to remove the levee berms surrounding Pond A18 thus negating the option of the 3.5-mile Bay Loop Park Trail.

Under my proposal the Park Trail can be preserved. I support the option of breaching and bridging the levee berm to restore tidal flow as desired.

As mitigation for public access habitat islands can be constructed within Pond A18. I ask that the levee berm be breached in a manner that can later be bridged.

Under the McAteer-Petris Act BCDC is obliged to maximize public access to the Bay and the shoreline to the fullest extent possible.

I am in favor of the environmental restoration efforts of the Shoreline Plan but I believe the Plan is unbalanced and lacking in the maximum, feasible, public access and recreation.

I am disappointed that parts of the Shoreline Plan are specifically meant to discourage access to the Bay and limit public linkage to the Bay.

Chair Wasserman moved to Approval of the Minutes.

4. Approval of Minutes for the March 2, 2023 Meeting. Chair Wasserman asked for a motion and a second to adopt the Minutes of March 2, 2023.

MOTION: Commissioner Gilmore moved approval of the March 2, 2023 Minutes, seconded by Commissioner Eklund.

The motion carried by a voice vote with Commissioners Mendonca and Moulton-Peters abstaining and no opposition votes.

5. Report of the Chair. Chair Wasserman reported on the following:

In late January, two members of BCDC's Environmental Justice Advisors program and an Alternate EJ Advisor sent an email to the Commission and various members of the public in which they announced their resignations from BCDC's EJ Advisors program and accused BCDC staff of racism against Black women.

We took that very seriously and in response our Executive Director and I asked BCDC's General Counsel, Greg Scharff, to perform a fact-finding review to determine whether any actions by BCDC staff working with the EJ Advisors program warrant a formal independent Human Resources investigation.

Greg and Peggy Atwell, BCDC's Administrative Director, interviewed BCDC staff members, the four remaining EJ Advisors, and representatives of the Resources Legacy Fund, the philanthropic organization that has provided funding for the EJ Advisors program.

After making several requests to interview the three former EJ Advisors who had made the complaint, Greg was able to interview them and they were joined in that interview by an attorney of their choice who was present but did not formally represent them.

The Executive Director and I have carefully reviewed Greg's report of this review. Greg and Peggy found that the former EJ Advisors' charges that BCDC staff committed acts of racism against Black women are unfounded and are not substantiated by any evidence.

That conclusion is supported by statements made to Greg and Peggy by the remaining EJ Advisors. The report is confidential because it discusses Human Relations matters and it is subject to attorney/client privilege. Therefore, under state law it cannot be shared.

While I am certainly reassured by the findings of the report that our staff did not act in a racist manner and did act professionally with the EJ Advisors, it is also important to keep in mind that we live in a world in which people of color face discrimination in a variety of forms, that there is institutional racism in our country, our state, and our region; and that, as a government organization, we need to understand that certain actions made by an institution or its representatives can be perceived as discrimination by people accustomed to experiencing racial oppression from institutions.

We are carefully reflecting on these accusations and examining ways that our Agency might have behaved differently and learn from what occurred as we move forward.

It is also important to understand that our EJ Advisors program is new and that there are very few models of state agencies working proactively to involve the voices of historically and currently underrepresented and socially and environmentally vulnerable communities.

To help us in this regard, the Executive Director and I believe very strongly that BCDC needs to strengthen our EJ Advisors program in a number of ways, including:

- We need to better align the expectations of this Commission and BCDC staff and the expectations of the EJ Advisors. As an example, our EJ Advisors should not be expected to act as professional consultants but, instead, as advisors who are paid a stipend for their participation and advice to selected BCDC activities. Their meetings should be managed in ways to ensure that their experience and recommendations are provided and considered in a serious, professional and collaborative manner. And, BCDC staff need to adjust their expectations as does the EJ Advisors about the balance of work involved as the representatives of these communities.

- BCDC staff also needs to work with the EJ Advisors to enable them to better understand how California state policy and administrative procedures work, and staff need to communicate with the EJ advisors more clearly in ways that engender respect and are more culturally sensitive. As an example, as much as BCDC wishes to and is trying to increase the EJ Advisors' stipends given the work that they are eager to perform, doing so requires approval of a contract by State control agencies whose policies and processes are out of our control. There is a contract on today's Agenda that does provide for some increase in those stipends, but it still needs to be approved by the Department of General Services. With regard to policy, I want to note that BCDC staff are developing ways to provide the EJ Advisors with more real-time information about work that is being done at BCDC to enable communications with their community to become more robust, effective, and efficient.

- BCDC staff and the EJ Advisors should continue to learn from other California state organizations that are using community members to assist in policy development. As an example, the Natural Resources Agency has just published a very comprehensive inventory of ways in which state organizations can "embed equity" in their systems.

- Staff are hard at work on developing a Racial Equity Plan for BCDC, which will lay out specific actions and metrics for how BCDC can continue to address institutional barriers to equity across the Agency not limited to the EJ Advisors program at all. We expect the staff will expeditiously complete that effort and the Commission will adopt such a plan.

As part of this effort, the Executive Director and I believe that BCDC and the EJ Advisors and the interests they represent would benefit from our hiring an experienced Organizational Development consultant and facilitator with relevant experience in the environmental justice field to help our staff and the EJ Advisors learn ways to move our shared goals forward. While we had planned to start this process in the summer, we actually want to move the date forward and begin the process before the end of April. We will involve the EJ Advisors in the process of selecting such a consultant.

We will agendize this issue as soon as possible so the Commission can fully discuss the EJ Advisors program going forward.

This morning we held an interesting, robust and thought-provoking combined meeting of our Financing the Future and Rising Sea Level Commissioner Working Groups.

The first part of it was on financing. We expected the second part to be on the rising sea level piece. The first part was so robust that we did not get to the second part.

So we will have another joint meeting of this group next month and continue to report to you what we have done. The slide presentation - you will see later in this meeting will give you some sense of our discussion and it will be posted on our site.

This morning's effort marked a significant milestone in our efforts to understand what we need to do, how we need to do it and how we are going to pay for it. As you will see in some of the slides, that is a very great challenge. But is a challenge we can meet as we all work together, not only us but our partners in this, other elected officials and ultimately the public.

We have a big challenge to educate the public on what we need to do to address rising sea level so that we do not become inundated by the waters that are inevitably going to rise.

Last month our Commissioner Working Group on Sediment and Beneficial Reuse held its second meeting. I am going to ask Commissioner Showalter to give us a brief report on that meeting.

Commissioner Showalter reported the following: It was my pleasure to Chair this meeting on Saint Patrick's Day which is always a great time to talk about green things.

What we are trying to do is to, "green", the policy of sediment and beneficial reuse.

The first meeting we had about 34 participants and this meeting we had 34 participants. They spanned upwards of 15 organizations or agencies. I am really impressed by the caliber and the breadth and the quantity of participation we are having in this. It is a testament to how important this subject really is.

The first thing we did was to welcome Maya McEnerny who is new BCDC staff who will be leading the Beneficial Reuse Project. She shared the Bay Plan Amendment process, the Work Plan and the Project goals with us.

Then Eric went over the second phase of the Work Plan which is the Bay Plan Amendment. The presentation given to us by Brenda Goeden gave us a good background of what this project is supposed to be and what is the meat of the issue.

We did have a robust discussion about the Project. We decided that it would be a good idea to vote on the goals and accepting the proposed goals of the Reuse Working Group. We had a decision on that via the vote.

This is a situation where, "the more the merrier". If you are interested in taking part please tune in. Our next meeting will be May 19 and typically our meetings are the third Friday of odd-numbered months. It is going to take us about two years to get to the end of this process. It is a very meaty topic and we have a really, well thought out way to get there.

We will be having a workshop later this year. I think it is in October. Next meeting in May 19 and we would like as many people as possible to join us.

Chair Wasserman continued: The Sediment and Beneficial Reuse is one of the many important and challenging issues that we need to address. It is also a very significant part of how we are going to adapt to rising sea level.

Our next meeting will be held on April 20, two weeks from today. It will be a regular hybrid meeting but I do encourage Commissioners to attend in person. At that meeting we expect:

A public hearing and vote to update the resolution that sets the Priority Use Areas in the Bay Plan;

Consideration of legislative matters in Sacramento;

A briefing on compliance at Oyster Point Marina in San Mateo County; and,

A briefing on implementation Strategic Plan.

Ex Parte Communications

That brings us to the time in our Agenda where if anybody has had ex parte communications concerning a matter of hearing not simply policy that you have not previously reported in writing you may report. You do need to report it in writing under any circumstances. But again, this is on adjudicatory or hearing matters not simply constituent discussions. Any ex parte communication reports? (No reports were voiced).

Seeing none, that brings us to the Report of the Executive Director.

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

Let me first say how delighted we all are to see so many of our Commissioners sitting here at Metro Center. For those of us who have been sparsely populating this board room for the past year or so, we welcome you with open arms.

On an even more personal note, you all know that I firmly believe that tomorrow, baseball's Opening Day at Oracle Park, should be declared a Bay Area holiday at the least.

In addition, I also believe that today, April 6th, should be declared a national holiday every year throughout America, if not the world. You see, on April 6, 1772, Catherine the Great – Empress of Russia – ended Russia's tax imposed on men with beards that was enacted 74 years earlier by Peter the Great for defensive and military reasons.

Having worn my beard since I was a junior in college, I now realize that the subject of one of my senior theses at Pomona College should have been on the policy discussions surrounding Catherine's selfless and noble act.

On behalf of our overworked Human Resources team I am pleased to announce that we have no personnel hiring announcements today. But, I want to introduce you to Reylina Ruiz, who is sitting next to Peggy Atwell. Reylina is transitioning into our Director of Administration as we have but two months before Peggy retires.

And, I want to assure you that just as you have recognized that it is Peggy who is in charge of organizing these meetings and all that go with it, Reylina has experience in doing the same with the state's Medical Board. We all will be in great hands.

I also want to note that we are very, very sorry to lose Anniken Lydon, our Bay Resources Permit Manager. Anniken, whom you will see later this afternoon has been an outstanding staff member at BCDC for a decade. We wish her well down in San Diego as she enters the private sector and uses all of that wisdom she gained here to further her career.

For those of you who keep track of the Bay Trail's progress I want to let you know that we have updated BCDC's representation on the Bay Trail Board and the Bay Trail Steering Committee. You'll remember that Ethan Lavine has taken on the new role of Assistant Regulatory Director for Climate Change. So, we're replacing Ethan, who has represented BCDC so well for so long, with Ashley Tomerlin, our Senior Bay Development Design Analyst.

Given her work as our technical advisor on public access for both regulatory and planning staff, including offering design guidance and plan review for Bay Trail sections required by BCDC permits, it's a natural fit.

And, we've asked Katharine Pan, our Shoreline Development Program Manager who has succeeded Ethan, to become Ashley's Alternate.

I had the good fortune before our family vacation to attend Secretary Wade Crowfoot's second Resources Agency Directors Meeting down in Los Angeles. We were all very pleased to finally meet in person many of the CNRA staff, department directors, and board and commission executive directors for the first time.

The Executive Officers of the Coastal Commission, Coastal Conservancy, and State Lands Commission, and I sat at one corner of the large conference table set-up in a show of coastal solidarity, which was remarked upon by Secretary Crowfoot.

Indeed, last week the Secretary hosted a panel discussion featuring those three awesome leaders to showcase how women are now leading just about all of our coastal and shoreline state activities. As Wade commented at the meeting, I am the outlier.

This week I was pleased to distribute to our staff two slide decks from that meeting that will definitely assist BCDC Commissioners and staff as we move forward with our new Strategic Plan and our in-process Racial Equity Action Plan.

I'll distribute the CNRA strategic planning presentation to you next week. It is clearly aligned with our Strategic Plan as you will see during our next Commission meeting when we present our Strategic Plan's implementation scheme.

And, I expect that we'll update you on the BCDC Racial Equity Action Plan later this spring or in the early summer and we'll use the Resources Agency's "Operationalizing Equity" Plan as one of the guideposts.

During the last couple of meetings you have heard about public access issues relating to the Klamath – the former ferry now being used as headquarters for the Bay Area Council that the Commission permitted a while ago. The good news is that the Klamath's elevator is now working and the vessel is finally open to the public. However, we continue to receive reports that there are serious continuing public-access issues at the Klamath. So staff will conduct a formal site visit and be prepared to initiate an enforcement action within the next 30 days based upon what they find.

Finally, Chair Wasserman, because it is that time of year, I have in my hand the list of Commissioners, Alternates, DRB and ECRB Members who have not yet filed their FPPC Financial Disclosure Form 700. I believe that you all know who you are. As usual, I will hand this list to Chair Wasserman for a formal reading at our next meeting.

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

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

I forgot something - I want to announce the appointment of Commissioner Carl Hasz to the Seaport Planning Advisory Committee. Thank you for agreeing to serve. That Committee is going to be fairly active over the next six to nine months.

7. Consideration of Administrative Matters. Chair Wasserman stated that Anniken Lydon was present to answer any questions on Administrative Matters. I note again that this is Anniken's last meeting and I join in the Executive Director's thank you for your service here and wish you well in your future career. Any questions on Administrative Matters? (No questions were voiced)

8. Closed Session on Possible Litigation. Chair Wasserman stated:

The Commissioners entered closed session at 1:50 p.m.

The Commissioners returned from closed session at 2:58 p.m.

Chair Wasserman stated: We are back in open session. The Commission held the closed session and took no reportable action so there is no further action on this matter today.

9. Commission Consideration of a Contract with Resources Legacy Fund for Environmental Justice Advisors. Chair Wasserman stated: That brings us to Item 9 on the Commission Agenda, Consideration of a Contract for Environmental Justice Advisors with Resources Legacy Fund. Phoenix Armenta, our Senior Manager for Climate Equity and Community Engagement will present the staff Report and Recommendation.

Senior Manager for Climate Equity and Community Engagement Armenta presented the following: Thank you, Chair Wasserman. Good afternoon, Commissioners. My name is Phoenix Armenta and I am the Senior Manager for Climate Equity and Community Engagement for BCDC. Today I am coming to you with a Staff Report and Recommendation to approve a contract with the Resources Legacy Fund in order to fund our EJ Advisors Program.

But before I get into the presentation I would like to introduce our new Environmental Justice Specialist, Lita Brydie.

Chair Wasserman stated: Welcome.

Ms. Armenta continued: Lita joins us from the Delta Stewardship Council and has over 12 years of community outreach experience in Northern California. They have been with us just over a month and have already shown incredible leadership on a variety of EJ projects. We are excited by this expansion of our EJ Program. Thank you, Lita.

Our EJ Advisors Program was launched in 2021 with generous funding from the Resources Legacy Fund, a leading philanthropic nonprofit organization. The EJ Advisors Program was created to help BCDC implement its environmental justice and equity policies which the Commission adopted as a Bay Plan Amendment in 2019.

The Resources Legacy Fund originally provided six EJ Advisors with annual stipends of $6,000 per year. RLF committed to funding for three years of the program with the understanding that BCDC would gradually take over funding from them.

In 2022 they provided stipends for five advisors. And in 2023 they plan to provide stipends for three EJ advisors, with BCDC making up the remainder of the funding.

We currently have four EJ Advisors with two open seats. They are Julio Garcia of Rise Up South City, Violet Saena of Climate Resilient Communities, Selena Feliciano of SF Consulting Company, and Anthony Khalil of the Bayview Hunters Point Advocates. Each of these EJ Advisors have been with the program from the beginning and they are about to start their third year with BCDC.

Early in the project the EJ Advisors collectively created the foundational values of the program. They include:

Respect and protect communities whose voices have not been and still are not included in policy conversations.

Ensure that BCDC's decision-making processes are robust, meaningful and equitable.

Prevent harm before it starts.

And honor the work that has been accomplished and learn from previous mistakes.

We have worked to follow these values throughout our activities and even utilize them as part of our Racial Equity Action Plan process.

On this slide we have the overarching goals of the EJ Advisors Program created with the EJ Advisors. They include:

Advance and recommend to the Commission how best to embed equity and environmental justice principles throughout BCDC’s programs, policies and processes.

Work with the BCDC staff and Commission to develop metrics to track the implementation of such changes.

Encourage Commission appointing authorities to select Commissioners and Alternates who reflect the diversity of the Bay shoreline and inland communities.

Increase strategies for a more diverse workplace at BCDC.

And develop a permitting and planning model that better incorporates meaningful and robust community engagement during development and permitting processes, especially in areas most vulnerable to rising sea levels.

These goals are also aligned with our EJ and social equity principles, our Racial Equity Plan and our Strategic Plan.

Over the past two years The EJ Advisors have advised us on a variety of topics to achieve the aforementioned goals. They hold monthly meetings and regularly participate in the Commissioner EJ Working Group meeting.

They participated in a workshop on environmental justice concerns in the permitting process. Their advice on the permitting process continues as we are working to implement some of their suggestions.

They also participated in drafting some of the original objectives in the Racial Equity Plan, participated in our October Racial Equity Workshop, and are expected to review the updated draft when it comes out.

Their activities included commenting on and making recommendations for the CBO mapping tool.

And their most recent project has focused on planning a series of toxic tours for BCDC staff and Commissioners, the plans for which we will be bringing to the next Commissioner EJ Working Group meeting.

These projects are just a few examples of the work that they have done since the program's inception.

This contract allows us to pay our part of the contribution for the EJ Advisor Program from the grant that we received from the State Coastal Conservancy for Bay Adapt work.

As I mentioned before, the Resources Legacy Fund is paying for three EJ Advisors this year at a rate of $6,000 per Advisor. BCDC is contributing an additional $74,000 which will allow us to pay for the additional Advisors as well as raise the Advisors stipend to $10,000 per year.

We decided to raise their stipend to acknowledge that the amount and rate that they were compensated the first year was not adequate for their time and expertise. With this contract they will be paid $125 an hour for 80 hours per year. In addition, there is an opportunity for them to be compensated to participate on various Bay Adapt committees and host community events.

As I mentioned before, the contract helps us to align the EJ Advisor Program with Governor Newsom’s Executive Order to embed equity into state government operations, our Strategic Plan and the forthcoming Racial Equity Action Plan.

As Chair Wasserman noted in his Chair Report, we will be contracting with a facilitator to continue the development of the EJ Advisor Program.

In conclusion, the staff recommends that the Commission authorize its Executive Director to enter into a contract of up to $74,000 with the Resources Legacy Fund to administer stipends to BCDC's EJ Advisors, pending approval from the Department of General Services.

Thank you and I will take any questions.

Chair Wasserman acknowledged: Any questions from Commissioners? (No questions were voiced)

Peggy, do we have any public comment?

Ms. Atwell stated: No, I see no hands raised, Chair.

Chair Wasserman continued: With no questions and comments I would entertain a motion and a second to approve.

MOTION: Commissioner Moulton-Peters moved approval of the Staff Recommendation, seconded by Commissioner Kishimoto.

VOTE: The motion carried with a vote of 21-0-0 with Commissioners Addiego, Ahn, Arreguin, Burt, Eklund, Gioia, Gorin, Gunther, Hasz, Moulton-Peters, Pine, Showalter, Ambuehl, Kishimoto, Pemberton, Vasquez, Gallagher, Mendonca, Gilmore, Vice Chair Eisen and Chair Wasserman voting, "YES", no "NO" votes, and no "ABSTAIN" votes.

Chair Wasserman acknowledged: Thank you very much. Thank you for that.

Ms. Armenta replied: Thank you.

10. Public Hearing and Possible Vote on the U.S. Army Corps of Engineers Strategic Shallow-Water Placement Pilot Project, in the City of Hayward, Alameda County, BCDC Federal Consistency Determination No. C2022.011.00. Chair Wasserman stated: That brings us to Item 10, which is a public hearing and vote on the US Army Corps of Engineers Strategic Shallow-Water placement Pilot Project that will place dredged material in the Bay to feed a marsh. Brenda Goeden our Sediment Program Manager will introduce the item.

Sediment Program Manager Goeden addressed the Commission: Good afternoon, Chair Wasserman and Commissioners. I am pleased to be here today to present to you the Staff Recommendation for Federal Consistency Determination C2022.011.00 to pilot the placement of dredged sediment in the Bay to support tidal marshes and mudflats.

As described in the Staff Summary and Recommendation, the pilot includes placing 100,000 cubic yards of dredged sediment in 138 acres of subtidal habitat with the purpose of testing the ability of tides and currents to move the sediment up-shore onto the Whale's Tail Marsh and mudflats. The technique is considered a potential tool in sea level rise adaptation over time.

The US Army Corps of Engineers will present the project in further detail, but I also wanted to mention that this project has been several years in the making. It began with SFEI and the US Army Corps of Engineers, along with the LTMS program managers, working together on a Strategic Placement Framework, a document which outlined several techniques for supporting existing and restored tidal marshes with dredged sediment. This first technique was supported by the 2016 Section 1122 WRDA Resources and Development Act Beneficial Reuse

Pilot Project Proposal submitted by the State Coastal Conservancy and BCDC. The US Army Corps of Engineers accepted the proposal as one of ten in the United States and the project team has moved it forward since then. I have had the honor of working with the Army Corps of Engineers' team over the last year to make this project a reality.

The Commission's mission today is to consider whether or not this pilot project is the minimum amount of fill necessary for the project under the McAteer-Petris Act. Whether the project is consistent to the maximum extent practical with its Fish, Other Aquatic Organisms and Wildlife, Marshes and Mudflats, Water Quality, Subtidal Areas and Dredging policies regarding pilot projects and sufficient monitoring activities. In addition, whether or not the impact to the subtidal habitat and wildlife is justified by the need to understand this technique. And lastly, whether the project is consistent with the climate change policies regarding adaptation of natural areas. So with that, I am going to introduce Arye Janoff with the Army Corps of Engineers and he is going to present the project further.

Dr. Janoff presented the following: Hello, everyone. My name is Arye Janoff, I am with the Army Corps. I am a Planner and Environmental Manager with the Corps with the San Francisco District and I am the Planner on our Strategic Placement Project. As Brenda mentioned, we worked closely with BCDC, Coastal Conservancy, Water Board on developing and designing this project. This is our project team. Thanks to our project team at USACE, at the Water Board for our CEQA lead, our non-federal sponsor the Coastal Conservancy as well as technical support at BCDC, Brenda, and contracting support from AnchorQEA.

So what is the problem that we are trying to address? We have a sediment deficit. We have too little sediment in the Bay currently in order to help supply ecosystems with needed sediment to maintain pace with sea level rise. Compounded with that, climate change is worsening sea level change and sea level rise so we have a number of marshes and mudflats that are drowning and eroding and we need to supply those marshes with sediment. So that's a great opportunity. We, the Corps, we dredge a number of federal navigation channels. We have a large quantity of sediment that we can supply to help with sea level rise and climate change adaptation across the Bay.

So this is a graphic to show how much sediment is needed moving forward over the course of the next 70 or so years. And how much sediment in the dark green in the pie chart we can supply based on current practices versus how much sediment would be needed and how much we can supply with changing management practices in trying to maximize our beneficial use of dredged sediment. So taking that sediment and trying to adapt to climate change. How much sediment is required to move forward?

So as Brenda mentioned, this pilot project was authorized under Section 1122 of the Water Resources Development Act of 2016. The original proposal was put forward $51 million for both direct and strategic placement; and we have been funded to do both of those things. So this particular pilot project that I am presenting on right now is the strategic placement portion but we also have money available for the direct placement to directly reconstruct ecosystems and wetlands across the Bay. The idea in a natural system is that we have a subtidal and intertidal environment where waves and currents can suspend and transport sediment up onto mudflats and onto marshes. In a natural system that can maintain pace with sea level rise, given that there is enough sediment that is being supplied to the Bay.

But as I had mentioned, the problem is that we are facing a lack of sediment supply. So what we are proposing to do in this project is because we have the sediment supply limitation, we are going to be taking material from a navigation channel dredged nearby and placing it in the nearshore environment, the subtidal environment, and timing it with the tides to take advantage of those waves and tidal currents, so it is an engineering-with-nature approach. The idea is that that sediment will be able to make its way up onto the mudflats and marshes and help augment those mudflats and marshes that are currently eroding or drowning as a result of sea level rise, increased wave action, erosion.

So this can help us build resilience in terms of climate change resilience for these vital ecosystems to the Bay and also strategic placement, where we are hoping to test this as a pilot, to be a tool in the toolbox to complement direct placement, to complement marsh spraying, to complement sediment column seeding. Those are other types of engineering-with-nature techniques that we are hoping to employ in the future to try to maximize beneficial use to the extent possible. So since this is a pilot project, we need to be able to determine how successful it is, so it is a proof of concept, it is a science experiment. We are trying to see if we can deliver material from a navigation channel to a nearshore site and ultimately, as I had mentioned, up onto those mudflats and marshes. If we can do so while minimizing environmental impacts, minimizing impacts to biological resources and critical ecosystems, endangered species, and so on and so forth. We also consider this to be successful if we avoid taking sediment out of the Bay system, this Bay that requires sediment in order to maintain pace with sea level rise. Rather than take it into the ocean if we can keep that sediment in San Francisco Bay and be able to reuse it and leverage natural processes. Also, a big challenge that we are currently working through is, but successfully so far, is being able to contract this; so to build this into a contract and have it actually be executed. It has been a really exciting process. I will say I have been with the Corps for a year, and it has been really exciting to see this moving forward. And ultimately if this is a successful project then it can be, as I mentioned, a tool that we can use moving forward as we are planning out for sea level rise adaptation, for climate change adaptation, that hopefully this can help augment those ecosystems that need that sediment as a resource.

The project phases - some of the things that we have done. We started out with an initial site selection screening phase. Based on that I will run through how we screened out about a dozen sites around the Bay. We had a sediment modeling exercise where we analyzed two different locations to determine what would be the most successful location for this pilot project. We have undergone all of our environmental compliance and permitting requirements and worked closely with the regulatory agencies. We have also had a number of different outreach meetings, meetings with stakeholders, the dredging community, with resource agencies, also with tribes as well as community groups. We have gone out into the community and discussed this project as well and gathered feedback. We have a monitoring plan that was developed alongside USGS as well as a contractor. I will get into that in a bit. And then ultimately looking forward we are going to be contracting. The contracting process, the solicitation and the bid will be this summer. And the implementation and the actual placement of material we are hoping for this fall. So this dredging season, September to November.

So we started out with these 12 sites around the Bay. We used this list of criteria in order to screen down to two sites, Emeryville Crescent Marsh and Whale's Tail Marsh at Eden Landing Ecological Reserve. Our proposed action is the Whale's Tail near-shore placement, offshore at Eden Landing. So we looked at whether there were marshes, there were existing marshes, whether those marshes were eroding and drowning and lacked sediment supply, lacked the sediment necessary to keep pace. If it was open to tidal exchange. If it had waves that were sufficient to transport material up onto those mudflats and marshes. If it was near a Federal Navigation Channel. So getting to the point of beneficially using that dredged material. If we could actually get those scows that were transporting the dredged material close enough to the mudflat and marsh for it to be successful. If we can avoid any impacts to critical species, endangered species, biological resources, including eelgrass beds and nearshore reefs. Also, to provide protection for disadvantaged communities and environmental justice considerations.

So when we narrowed down based on those screening criteria, was Emeryville Crescent Marsh and Eden Landing, Whale's Tail, then we employed a modeling framework. AnchorQEA, our contractor, employed a modeling framework where we were looking Bay-wide at sediment transport processes. We tested 100,000 cubic yard placement at different locations in these placement grids that we are showing here. So a shallow location, a medium depth location and a deeper location. The idea of the first round of modeling was to determine whether Emeryville Crescent or Eden Landing was the more potentially successful pilot for implementation. We determined that Eden Landing was going to have a higher chance of success so then we got into the details even further at Eden Landing and we looked at what if we have different volumes, if we tested 50,000 and 75,000 cubic yards, 100,000, 125,000. We looked at seasonal differences. What if we placed material in the winter versus in the summer based on differences in wind waves. We also looked at different sizes of the placement footprint and also different source channels, which affects the grain size, determines how the sediment is transported. So we looked at taking from Oakland Harbor versus Redwood City Harbor.

This is a sense of behind-the-scenes of the modeling. So we had different bins on the left figure. I am not going to go through all of the different bins. But we were tracking where is the sediment going from these placements Is it going onto the tidal flats? Is it going into the marsh areas? Is it going into flood control channels? Is it going back into the federal navigation channels that we are dredging? So we are trying to maximize certain metrics and then try to minimize other metrics here. And then on the right you can see this as an output after two months of the model. It is showing the thickness of deposition, the thickness of that sediment that is depositing on the Bay bottom. What we are seeing is that a lot of the material is spreading out from the placement footprint and some of that material is going, this is after a two month simulation. So if you extend it out even more material would make its way up onto those tidal mudflats and the salt marshes. Importantly, the scale here is millimeter to centimeter scale, which sounds small, but it is on the order of magnitude of the natural process. So we are not going to be entirely blanketing these ecosystems. The idea is that we are mimicking nature here. It is an engineering-with-nature approach.

So ultimately, the proposed action is placing in the near-shore environment, as Brenda had mentioned, between 9 and 12 feet in depth, tidally timed, coming from Redwood City Federal Harbor Navigation Channel, placing here at the shallowest site possible in the summertime, and 100,000 cubic yards. That was determined to be the most successful based on these different criteria. So we have here, we are tracking what percentage relative to the actual placement volume is making its way onto our target mudflats and marshes. So those are our maximizing metrics. Then reducing how much sediment is making its way into flood control channels, making its way back into the source channels. Ultimately, as I had mentioned, the 100,000 cubic yards shallow Eden Landing site showed the best chance of success for this pilot project to be implemented.

So of course as part of this, as I had mentioned, we have gone through all the environmental compliance and the permitting. We wanted to minimize impacts to endangered species and critical habitats. This figure on the left here shows the area over which we expect from the modeling that there would be more than a millimeter of deposition. So we used that to help determine effects to physical resources and biological resources and so on and so forth across the board for all of our different compliance pieces. One of those, just to zoom in, eelgrass is very important. Our placement footprint relative to where the eelgrass resources are off of Whale's Tail Marsh, surrounded by those 45-meter buffers in green there. The placement footprint is approximately two miles west of the Marsh. The water depth, it is super shallow there, again, between 9 and 12 feet, when we are at our highest high tides. As you can see here, the placement footprint is pretty far away from those eelgrass resources. But we will be doing pre- and post-placement eelgrass surveys in order to ensure that we don't affect these eelgrass resources.

And that is part of a broader monitoring effort. Our monitoring plan, we do not anticipate having significant substantial environmental impacts as a result of this project, but in order to ensure that we do not, we are going to be monitoring for eelgrass. We are going to be monitoring with USGS a number of different metrics in order to also help determine whether this project is successful. So we will be looking at how much suspended sediment, what are the wave conditions, what are the existing mudflats and marshes, what is the background erosion or deposition rate? Then ultimately, what is this project helping to do? Is it helping these mudflats and marshes to gain elevation or is there no impact? Then we also will have a Magnetic Particle Tracking Study in order to determine, because we are trying to find a millimeter to centimeter scale deposition here, which is obviously going to be challenging. We have a Magnetic Particle Tracking Study that will determine where that sediment is going to see if we are actually getting it to our target mudflats and marshes where we would like it to go.

In terms of our some of the coordination that we have done: We have had stakeholder meetings with the dredgers. We have had resource agency meetings. We have had public meetings as part of our CEQA scoping process and NEPA. We have worked with CDFW, South Bay Salt Ponds, State Lands Commission, flood control districts, city of Hayward. I was fortunate enough to go out to the City of Hayward Street Fair back in August of last year and talked to community members. There was a lot of excitement and it was really awesome to get feedback from the local communities as well. And we tabled with South Bay Salt Ponds. We have also conducted tribal consultations, and we had a site visit in October of last year, and they are very excited about the project.

In terms of where we are in the environmental compliance timeline, we have most of our environmental permits in hand and we are moving forward and targeting mid-April to have all of our environmental compliance and look forward to your vote. Where that fits in the broader scheme of things. We had gone out for public comment on our NEPA, our National Environmental Policy Act, and CEQA documents last fall, September, October. The consistency determination request was submitted earlier this year and now we are here for a vote. Our final approvals will be needed by April/May in order to fit into the contracting timeline and actually executing this project. So as I had mentioned, solicitation and bid for this contract will be this summer, June, July, and ultimately implementations in September, October and November. Monitoring, as part of that monitoring plan, they will start this summer in August. They will be doing pre-surveys and then post-placement surveys after the project is implemented. And then Technical Report and post-data analysis reports will be produced as a result to determine how successful this project is and whether we can use this as a tool in adapting to climate change and sea level rise moving forward. So with that I will take any questions and thank you so much for your time, really appreciate it.

Chair Wasserman asked: Questions from Commissioners?

Commissioner Showalter chimed in: Yes. Well, first a comment. I am just really delighted that this has gotten to this point. I served on the project management team maybe 10 years ago and I know we talked about this then. So, seeing it come to almost fruition this September, that is pretty exciting.

One of the questions I wanted to ask you, though, is about the shallowness that this equipment can work in because we also have a lot of salt ponds that are south of the Dumbarton Bridge where the Bay is considerably less deep. I do not know if there is anything 10 feet deep below Dumbarton Bridge but most of it is more like 4 to 6, isn't it, I think? Dr. Janoff responded: Yes, it is quite shallow. Commissioner Showalter continued: Yes. So would this methodology, if we are successful here, how would you adapt it to using further south in the Bay where we have a lot of salt ponds that need to be restored to marshes? Dr. Janoff explained: Yes. I think that is where if it is too shallow and we are unable to get scows in that close, then that is where we start thinking about other techniques. That is where we start thinking about maybe marsh spraying or water column seeding or other engineering-with-nature techniques that are being developed. I would also say, just because I am also working on our Regional Dredged Material Management Plan looking Bay-wide, the further south you go there is also less of a capacity for wind and waves to transport that material, so it is also challenging on that front. So I think that we have to look at like the whole portfolio of options. Maybe strategic placement is not for every location in the Bay, right? It is strategic in terms of where we want to locate it. We have to adapt our methods based on the different sites. I do think south of Dumbarton Bridge will probably be challenging. I wouldn't rule it out. I think it becomes more costly if we are operating in very shallow water because we have to have enough draft for the tugs as well as the scows. Or maybe we have to consider a different way of getting material over, maybe by pipeline. But then we also have to look at the environmental impacts of those different alternatives, right? Commissioner Showalter also mentioned: Right. Well, the other thing I would like to say is this is really augmenting a natural geologic process, which is what you mentioned.

I just want to share the story of observing the tidal flow in and out of Pond A8, which is the pond that is pretty much at the bottom of the Bay, the furthest south one. It was breached maybe 10 years ago, 8 years ago, I am not sure, but anyway, it was breached. The thing that I was so struck from, all measurements aside are, the water that goes through that breach when the tide comes in and pushes it into that pond, it is kind of the color of cafe au lait. Then the water that goes out is pretty much crystal clear. So that process is bringing in a lot of sediment. If you ever get a chance to go down to Alviso County Park you can go and see that. It is just remarkable how you can really watch Mother Nature filling in those ponds. But we know that there has been a lot of subsidence. Mother Nature is not necessarily going to fill them in as fast as we need them to be filled in so these methodologies to augment are really important. Thanks for that answer. Dr. Janoff acknowledged: Thank you.

Commissioner Gunther commented: Thank you, Mr. Chairman. Thanks for this presentation, I am very excited this project is going to go forward. Just two questions. First, did I understand you correctly to say that the implementation of this project, which I assume means the actual deposition of sediment, will begin this this fall if everything goes on schedule? Dr. Janoff answered: That is correct. Commissioner Gunther continued: The wind and wave environment is fundamental to the distribution of the material, right? That is where you get the erosion, when you have the strong winds and waves. And so I am wondering about deposition. If you deposit it during what is really one of the most quiescent periods in the Bay, then are you counting on winter and spring winds to be then moving the material and you will be monitoring all the way through like next summer to see what happens? Dr. Janoff replied: I believe that at USGS, the monitoring efforts here are pre and post. I don't recall off the top of my head how many months post, but I know that it is part of a broader monitoring effort around Eden Landing for USGS. Also, like I had mentioned, for our Regional Dredge Material Management Plan, USGS monitoring will also help to determine how the sediment is moving, especially at strategic placement locations here, and potentially around the Bay. But in terms of your comment on the wind and wave action, that is true. It was a challenge. This goes to the challenge of the contracting process. The DMMO sediment suitability determination will be coming in toward the end of May. We needed to make sure that the testing schedule, which was delayed as a result of the atmospheric rivers, some of these things had pushed the project back that were not exactly what we had planned. Because the windiest time of the year, as you had mentioned, in that part of the Bay, summertime, has sufficient wind and wave action. Our modeling effort was built around summertime. And it was summer versus winter, as you recall, one of the sensitivity analyses that we did in the second round of modeling. It is starting in early September so I think we can still catch some of the windiness of summertime to transport the material but the modeling effort only looked two months out. The transport of material does not stop after two months so the material will continue to be reworked, especially into the winter months. The ideal, obviously, would have been earlier in the summer but as a result of the dredging and contracting schedule it pushed it out a little bit.

Commissioner Gunther acknowledged: Yes, yes. I recognize you are dealing with multiple factors. The reason I asked is that it is important, I think, for you to help as we see the results, help as we interpret the results. There is a possibility, given the fact that wind and waves and therefore our weather is really what is going to be very important. If we just have one year of monitoring there will be; it will reflect whatever the weather was. I think that when

we evaluate this, I want us to be as bold as we can in terms of understanding what has happened so that we do not make a decision about strategic placement simply based on a single year's weather when really a much more robust program over several years will help us understand the role that this technique can play in adaptation going forward. And I know that you have got one year and you have got all these other constraints. I am not trying to say that you should do something different. But I just want you guys to anticipate this and I want all of us to understand there is likely still to be some uncertainty when we hear back about the results of the project.

Commissioner Eklund was recognized: Thank you very much, Chair Wasserman. First of all, Novato at Hamilton. I watched and participated in the process all the way through the planning as well as the actual breaching of the levee. We got a lot of dredged material from the Port of Oakland that we used to make a wetland out of the runway out at Hamilton, and very successful, very successful. And they used pipes because San Pablo Bay is pretty shallow. My question here, though is, have you engaged the San Francisco Estuary Partnership in this experiment? Dr. Janoff replied: Yes, we have met with San Francisco Estuary Partnership in this. I would say, again, I wear a few different hats, because I am on a few different projects, probably on the regional project that I had mentioned, the Dredge Material Management Plan, which I think this is like a subset project of that broader effort. We have engaged with SFEP and also a number of other nonprofit organizations. Commissioner Eklund asked further: And you are going to keep them involved in the project as this moves along? Dr. Janoff answered: Yes, I think that is a great idea and I will certainly take note and take it back to the Corps. Commissioner Eklund emphasized: I really would encourage that because this is going to be a good experiment to see how much of the material does actually help create some wetlands. I think it could be implemented other ways as well in the Bay if it is successful. Thank you. Great project, I am looking forward to seeing it completed and brought back to us, thanks. Dr. Janoff acknowledged: Thanks.

Vice Chair Eisen spoke: Thank you. Thank you for the clarity of your presentation for the laypersons among us, that was really helpful. You mentioned direct placement as sort of an alternate technique to this shallow water placement project. Can you just sort of describe, maybe it is obvious to everyone else, but what is the benefit of shallow water placement over direct placement? Or is it just a matter of direct placement will work some places, shallow water placement will work better other places? Dr. Janoff explained: Yes, that is a great question. Direct placement, that is very efficient and it is great, especially for areas that are subsided or below sea level that we need to rebuild the marsh plain. In those cases strategic placement would not be a viable option. If you have an open-water lagoon and you are trying to supply sediment to a "marsh," if the marsh does not exist. The way that I see it, I like to think in analogies, it is like a garden and a hose. Direct placement is building and planting your garden and then you have strategic placement to help it along the way to help supply it with sediment and maintain pace with sea level rise in areas specifically where there is not natural sediment supply, right. It is a both approach in certain places, in some places direct placement is the necessary option. In some places where marshes already exist, in that case, maybe like a thin layer placement is another approach that we could take if the marsh is having trouble maintaining pace with sea level rise. Or you can do a strategic placement approach so as not to bury the existing marsh plane or marsh plants. So in that case if there is a marsh that already

exists, that is kind of where strategic placement comes into play, is now you are watering your garden. Because if you do not have enough sediment and sea level is rising and there is wave action, you could ultimately lose that that marsh. Vice Chair Eisen acknowledged: I see. Dr. Janoff added: But then the direct placement is important.

Vice Chair Eisen continued: I don't know what percentage of our Bay coastline is mudflats and marshes. But it sounds like, to the extent that we have them and they are drowning as you described it, there is still a lot of where the eelgrass is, other things that would stand in the way of using this shallow water placement technique even if we have the proof of concept that we are trying to look for, right? Is there a lot? If this turns out to be a good technique - is there a lot of edges to the Bay where this is going to be beneficial? Dr. Janoff opined: I think that there will be. But we would certainly avoid places where there are large eelgrass beds. That would not be a viable option. Actually, in the screening of those 12 sites there was one, I forget the name off the top of my head, but in North Bay that had a large eelgrass bed; and that was not considered as a strategic placement location moving forward for this particular pilot project. Vice Chair Eisen asked: And then what techniques would we use in those places? Dr. Janoff answered: I will admit, so coming from New Jersey, I don't know that part of the Bay as well. So I don't know. I can't speak intelligibly to that particular location. I think if you give me five years I might be able to. Vice Chair Eisen asked about proof of concept applicability: But you think that if we can establish this proof of concept, there is enough edges to the Bay where you could use it successfully to improve the drowning situation? Dr. Janoff responded: Yes, we do believe that. Vice Chair Eisen acknowledged: Okay. Thank you so much.

Commissioner Hasz was recognized: This is following along on Commissioner Gunther's seasonal question. Did I hear you correct, there is a dredging season, September through November? Dr. Janoff replied: Our work window ends at the end of November. June to November. Commissioner Hasz asked: June to November, okay. Is that just because of water flow out of the Delta or is it contractual? Dr. Janoff explained: It is impacts to species and when species are migrating or spawning. Commissioner Hasz continued: Okay. Because it does it does make sense to place it during your window of dredging, right, because you have already got it loaded. But going forward, next year let's say, I would agree with Commissioner Gunther like the earlier the better. As a wind surfer, right, it is the constant wind every day. It would seem like June, July placement you are going to get a lot more out of. Dr. Janoff replied: Right. Commissioner Hasz ended his inquiry: Okay, thank you. Dr. Janoff added: As a surfer I can say, yes. We like to avoid the summer season because of the wind. I guess you could take up kitesurfing or windsurfing.

Commissioner Moulton-Peters chimed in: You may have included this in your remarks and I missed it. When might we hear back from you with results? Are we talking about a year, two years or what? Just what is the timeframe to hear back? Dr. Janoff replied: I believe that the Staff Recommendation has a year and a half. Yes, there is a timeline built into the Staff Recommendation about reporting requirements. Commissioner Moulton-Peters stated: Great. I am very supportive of these kinds of innovative ways to reuse sediment and to reduce dredging costs and I hope that we help with speeding permits along for you too. Dr. Janoff acknowledged: Thank you.

Chair Wasserman commented: I just have a couple of quick questions. Did I hear correctly that included in this is one year of monitoring? Dr. Janoff answered: There is pre- and post-monitoring. Chair Wasserman explained: Yes, but I am talking about post, with all due respect. Dr. Janoff replied: Yes. Chair Wasserman asked for clarification: Post is one year? Dr. Janoff clarified: I do not think that it is one year later. Chair Wasserman continued clarifying: So it is one year of monitoring. Ms. Goeden chimed in: The monitoring plan, which is currently in draft, yet to be finalized, has three months for certain portions of it and up to a year for one portion. There are different periods of time. It is not longer than a year, though, for any portion. Chair Wasserman continued: In the same context of Commissioner Eisen, I am certainly a layman at this. Is that really sufficient given what you are talking about, about the course of wave and wind movement? This is an experiment. We, in the past, have seen some experiments where monitoring, A, was not paid for. I will get to that in a moment. And B certainly did not go on long enough so that we could get sufficient data to say, how replicable is this experiment? I guess I could phrase it another way. Why was this range from three months to a year chosen for monitoring? Dr. Janoff explained: Yes. The modeling showed that most of the sediment moves in the first two months, which is why the sediment modeling was within the first two months. We worked closely with USGS and they have been working in that part of the Bay for years now so they have a sense of how the sediment moves in that part of the Bay.

Chair Wasserman replied: Excellent answer, thank you. I assume the cost of that monitoring is included in the budget? Dr. Janoff stated: Yes.

Commissioner Gilmore voiced her confusion: Now I am confused. I thought I heard you say that the modeling occurred for placement during the summer months when the wind and the wave action was the strongest. And then for reasons beyond everyone's control, it is going to be placed in September when the wind and wave action is not quite as strong. So how do we know at that later date that it is going to move within two months and not four months because the wind and wave action is not as great? Dr. Janoff acknowledged: Yes, it is a fair question. We did summer versus winter modeling. So in the wintertime, I mean, winter is obviously different than fall, but we did have at least a range of different modeling scenarios in terms of seasonality. I think that most of the material that is placed at a location, first of all, it is very fine grain material so when it comes out of the scow, it will drop out and it will kind of pancake out. But that bump that is on the Bay bed which will be centimeters to a foot high will, the scientific term, diffuse. It will spread out most when the gradient is highest. So the two months, the assumption that most of the material would move in the two months, it will be affected by season, but some of those things are just related to the nature of placing material in a diffusive system. That it wants to disperse the sediment and get it back to an equilibrium state. Does that make sense or did I get too technical there?

Commissioner Gilmore answered: No, it makes sense. But I guess my overall question is, shouldn't the monitoring be longer, which is what I think a lot of people are trying to get at. Yes, we know that whenever you place it, for the reasons you stated, it is going to try to get to equilibrium. But if you are talking about when it is going to spread the most to get to where we hope it is going to get, shouldn't we be monitoring it a little bit longer? Ms. Goeden fielded this question: So I am going to just jump in here for a minute; I think there's a couple of things. So one, the prevailing conditions in that area are landward, even if it is not the high season.

Later in the year is not necessarily better but it is not absolutely a failure for the project. And then as far as the monitoring period, I think what you [USACE] worked on was how much funding you had. So overall the project got $3.6 million from the federal government for the development, for planning, the permitting and the execution, including the monitoring. I am sure that the Army Corps worked out what needed to go where as far as funding, but I think part of it, the limitation is how much funding was allotted for the project overall. So I think that is probably where the end of monitoring goes. I am sure longer monitoring would be better for sure, because we do not know exactly when all the sediment will move. But there is a limitation on the funding. Dr. Janoff stated: That's a good point. Commissioner Gilmore acknowledged: No, that's fine, thank you. Thanks for answering my question. Dr. Janoff added: Thank you, Brenda.

Commissioner Hasz inquired: Just a follow-up. Is there timing on spending the funding? And the question would be, why not just do it next June? Just push it right forward and be at the absolute height, probability of success. Dr. Janoff answered: Yes. The project manager would be the person to answer about whether the funding will expire. But what I would say is, I know that it is been delayed a year already. This was before I was at the Corps, but I think that if we do not expend the funds and we have gone through spending all this money to go through environmental compliance, environmental permitting, coordination with resource agencies, the modeling and all of these components, and then also building it into a contract. It is not that the money would be wasted because we are learning things along the way and this is a pilot program and it is really challenging, it is a challenging environment to work in and to actually execute. This type of thing has been done on the outer coast. Coming from New Jersey, they have done this. We have done this in the nearshore environment in the ocean. But in the Bay it is still challenging. I think in an ideal world it would be great to delay it. But I think that it would be challenging to justify having spent all of the money that we have spent on it, which has been a not insignificant amount. Which is part of the reason why as Brenda was saying, with the monitoring we were constrained and we had to fit it in. Actually, I think with the monitoring we are getting a great product for the amount of money that we are paying and a great time span. But to answer your question, I think in an ideal world it would be great to postpone it, but I do not think that we can do that at this stage.

The project manager, I know that he had meant to come to the meeting. If there is any limitation on when we can expend the money then I can certainly check with him and that would be a reevaluation. But I know that also, the attitude is, if you are trying out something new, if you can't do it even once, you can't execute it, get it into a contract and do it once, then it is it is very likely that it won't be able to be, it won't be as an option on the table in the future. Whereas if we do it once and then we learn from it and we say actually we should do this instead, we should improve in this way, then that makes it easier to improve on our setbacks in the future. Commissioner Hasz added: Yes. I would say, doing it at the height of probability of success so that you do get funded again. Dr. Janoff acknowledged: Right. Commissioner Hasz stated: Right? That seems like a way to go. Dr. Janoff agreed: Yes. Commissioner Hasz ended his commentary: Okay. That is my comment, thank you. Dr. Janoff noted: Brenda also just mentioned an important note, is that Redwood City currently is getting dredged biannually so we might have to wait two years. But I know that the Corps, we are going to be transitioning to annual at some point.

Chair Wasserman announced: I am going to entertain a short question from Commissioner Showalter, a short question, then I am going to open the public hearing.

Commissioner Showalter spoke: Okay. It is just a short comment; and my comment is that if for some reason you see that the monitoring needs to be extended please let us know and we will work on that. I do not think anybody is suggesting, well, maybe they are. I certainly am not suggesting that you put this off. I know how much trouble you have gone to, to go through this laundry list of permits. It is a huge task. So get going as soon as you can. But if you get to a point and you realize that the monitoring needs to go on longer, do not be silent on that. Please share it with us. And that is what I would like you to take back as a comment from this Commission. I hope that there are other people who feel that way is that, if scientifically you see that you need to monitor for another six months, let us know. Dr. Janoff acknowledged: Thank you.

Chair Wasserman recognized Commissioner Kishimoto: Commissioner Kishimoto.

Commissioner Kishimoto asked: Yes, thank you. I was just asking about the purpose of this. I guess there was some discussion of it. So one is it is working with nature-based, but is it also to save money as well? That it would be, it is less expensive to deposit it, rather than doing a direct deposit. Dr. Janoff answered: I think that is part of what is going to come out of this pilot project is how expensive will it actually be to place the material, and would we be able to realize a cost savings? So I think that would be a lesson learned and potentially be able to reduce costs in the future or not and we need to wait for the data to come back on that.

Chair Wasserman announced: I am going to open the public hearing. I have two public speaker cards. One is from John Coleman who appears to be ready, if not eager.

Mr. John Coleman spoke from the podium: Thank you, Chair Wasserman and Commissioners. I am excited about this and I hope that you do pass it today. Back in 2016 when we were working on the Water Resources Development Act, it was a coalition of BPC, BCDC, the Coastal Conservancy, the Pacific Institute and Save the Bay that helped write the language for Section 1122, which you are going to be voting on right now. Yes, it is a test. But it is a test that we need to look at doing things differently. I applaud the staff from BCDC and the agencies such as the Corps of Engineers to be willing to look at doing something a little different. Hopefully it is successful and something that we can do more of in the San Francisco Bay so I encourage your support for this. Thank you very much.

Chair Wasserman welcomed the second speaker: Former Commissioner James McGrath.

Mr. Jim McGrath addressed the Commission: The only time I get called James is when I'm in trouble and I don't think I'm in trouble today. Chair Wasserman stated: So, Jim, okay. Mr. McGrath continued: Good afternoon. I am here in support of this project. I am not representing anybody but myself. I no longer spend my days thinking about sediment and dredging. But some of you know that I had something to do with Sonoma Baylands and the Hamilton Project. Before I started working on that I had hair, and it was much darker. This is a good day. This morning at the Coastal Conservancy they gave a grant to Valley Transportation to take the excavation material from the digging of the tunnel and putting it on the bottom of the salt ponds. So it is kind of like we are trying everything. I was here at the beginning and

I want to remind you just a little bit about the history of this. Back at the State of the Estuary Conference about 30 years ago, I don't remember exactly when. Phil Williams came and he said we are running out of sediment. You know, that was kind of a gob smack to me. I am a sediment guy, sediment transport, civil engineer. If we are running out of sediment, we need to use it. His observations were followed up by really fine work by USGS by Bruce Jaffe and David Schoellhamer that showed indeed Phil was right.

That was my mental outlook for 16 years at the Port of Oakland. How can we use the sediment? How can we not throw it away in the ocean? How can we make it ultimately not just a one-off that depends on federal funding, but something that could be done more routinely? But it wasn't just them. I had been in the job about two years when Jeremy Lowe, and I think that was before he was at the Estuary Institute, and Michelle Orr suggested something not entirely different from this. If you recall, the leading edge of the Whale's Tail is erosion. And so what they suggest is placing nearshore, about the same area, sandier sediment that would move towards the shore and form a beach and slow down the erosion. So, it is time. It is really time to try this and work on it. To the point of figuring out a way to do this so it can be done routinely rather than requiring special authorization by Congress, which was required for the 42 Foot Project and the 50 Foot Project. And then the final point I want to make. Well, I want to give kudos to the Corps. When we did Sonoma Baylands I worked with Laurel Marcus and Lee Halterman of Dellums' office, and the Corps was so difficult. It was like that old joke about golfing. Hit the ball, drag Joe who died on the fourth hole. It was hit the ball and drag the Corps. They are so different today. The presentation was stunning. They hired Julie Beagle. We did not have to get anybody replaced at the division office, which is what it required to make Sonoma Baylands work. So, they have come across and they are truly your partner. And then the final point I want to make is we know the physics. I remember my old professor talking at a beach nourishment conference about waves. Certainly the waves are more significant in the summer, but they are always there. And as Joe said, they just peck. Joe Johnson. They just peck, peck, peck away at you. So the movement of the sediment is not going to stop. By the kind of monitoring with magnetic you are going to find whether or not the sediment moved. Not precisely how much. It is hard to do that. But you are going to find proof of concept. We really know the physics, that is how they can model it. We know that the waves drag the sediment towards the shore, that's how it works. So I hope you approve this and I hope it works really well. And that is why I'm here, thank you.

Chair Wasserman acknowledged and asked: Thank you, sir.

Peggy, do we have any speakers remotely?

Mr. Dean Stanford spoke: Thank you. Like Jim, I also wanted to bring up the plan of dumping something like three million cubic yards of the BART Tunnel soil into the Bay. And I would also like to know what - is the timeline on that? Is that going to be delayed until this pilot study is done? And I would also like to suggest that the proposed park on the Bay in San Jose could also use the beneficial use of the sediment. They are going to be restoring something like 800 acres of sludge drying ponds and could use the sediment or the VTA Tunnel dirt to cap the sludge ponds and create some kind of terrain for the park to be used to raise the levee berm around Pond 18 for the park trail and also create habitat islands within the pond. Also, the park is located in an official disadvantaged community. Thanks.

Ms. Atwell noted: We have four more now.

Ms. Carin High commented: Good afternoon. My name is Carin High with Citizens Committee to Complete the Refuge. I just want to say in light of the sediment deficit that exists for San Francisco Bay and with the threat of sea level rise to tidal wetlands, Citizens Committee is happy to support the proposed project. We are encouraged to see a reuse of suitable dredge material for the benefit of the Bay ecosystem. We also feel that it is vitally important that there is a robust monitoring program. We think that that would be crucial to our understanding of the impacts of the proposed project on the benthic community, fisheries and adjacent eel grass beds as well as determining the fate of the sediment that is deposited. And with respect to the biotic component, we are wondering if that could be extended to more than a few months. We also are very happy to see the use of tracer studies when you are talking about a one millimeter increase in elevation that is very hard to track. It is important that we have something like a tracer study to track the efficacy of onshore sediment transfer. We are looking forward to tracking the progress of the proposed project. We recognize the results of this project will be specific to the conditions of this site but they may help refine questions for future projects, so encouraged to see beneficial reuse. Thank you very much.

Mr. Charles Schafer was recognized: Hi, my name is Charles Schafer, I am with the Sierra Club's Bay Alive Project. We absolutely support the experiment. Well, for one thing, we need to build up the marshes to the best extent we can because if we don't do something to build them up they are going to drown as the sea level starts rising more quickly. Especially that is the case given that we don't have much room around the Bay for the marshes to migrate. And it is absolutely critical that we extend the amount of marshland that we have around the Bay. Without doing anything like this we are actually going to lose that marsh and that is not a good thing at all. One other thing to consider is that we do not have a lot of time to be doing this and experimenting with this. If we put this off it is going to delay anything that we could possibly do with finality and we don't have that time. Thank you.

Ms. Pat Ravasio spoke: Hi, thanks so much. Just a quick endorsement of this from the town of Corte Madera. I am on the Town Council there. We have a climate adaptation group that is looking seriously at how to protect our many, many homes along certain roads from sea level rise and also many of our businesses. This project seems really right on point for us. And if there are other people who want to do experiments, you want to come and see what we are dealing with, we would love to hear from you. If there is a "chat"chat I will put my email address in. But bravo. I actually came on to listen for something else but I am so glad to hear that this is going on.

Ms. Atwell announced: Thank you, Pat. Chair, no more public comment.

Chair Wasserman acknowledged and asked to move closing the public hearing: Thank you. Can I have a motion to close the public hearing?

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

Chair Wasserman noted: There were a couple of questions. If you want to address them briefly I am happy to have you do so.

Ms. Goeden spoke: Well, the questions regarding Pond 18 and the tunnel muck. The Tunnel Muck Project, that is actually an official term, we are not being derogatory about it, muck is an official technical term. The VTA Tunnel is going to be connecting the BART system in lower South Bay and there is approximately three million cubic yards of sediment coming out of that tunnel. We are currently, along with the Water Board, looking at the additives that will be added to that sediment to help make it flow nicely and also hold together, and whether or not they would have any biological impacts when being put in the salt pond restoration. We are currently looking at, along with the South Bay Salt Ponds and the US Fish and Wildlife Service, Ponds A12, A13, A8 and potentially A14. A14 is a Valley Water project, A12 and 13 are part of the South Bay Shoreline Project and Pond A8 is part of the South Bay Salt Pond Project. The current look is those four ponds and the feasibility of its use, and a CEQA document will be coming out later this year.

Chair Wasserman continued: Thank you. Any other questions or comments from Commissioners before I ask for the Recommendation and potentially a vote?

Does the Army Corps accept the Recommendation? Mr. Paniccia replied: Good afternoon, Commissioners. My name is Al Paniccia, I am with the US Army Corps of Engineers, San Francisco District, Chief of the Navigation Branch. On behalf of the US Army Corps of Engineers, we do accept the conditions found in the Consistency Determination. Thank you.

Chair Wasserman acknowledged: Thank you very much. Recommendation.

Ms. Goeden read the Staff Recommendation into the record: Thank you, Chair Wasserman and Commissioners. Staff recommends that the Commission concur with the Consistency Determination by the Army Corps of Engineers that the Strategic Aquatic Placement Project is consistent to the maximum extent practicable with the Commission's San Francisco Bay Coastal Zone Management Program. Conditions include: Working within the environmental work windows protective of species. Monitoring the site placement and the target sites for success criteria and for impacts to the system. As well as removal of sediment should the project prove to be ineffective or cause more harm than the removal itself. And with that we recommend your approval and concurrence. Thank you.

Chair Wasserman announced: I would entertain a motion.

MOTION: Commissioner Moulton-Peters moved approval of the Staff Recommendation, seconded by Commissioner Showalter.

VOTE: The motion carried with a vote of 21-0-0 with Commissioners Addiego, Ahn, Arreguin, Eklund, Gioia, Gorin, Gunther, Hasz, Moulton-Peters, Peskin, Pine, Showalter, Ambuehl, Kishimoto, Pemberton, Vasquez, Gallagher, Mendonca, Gilmore, Vice Chair Eisen and Chair Wasserman voting, "YES", no "NO" votes, and no "ABSTAIN" votes.

Chair Wasserman announced: The motion has passed. Thank you for your work. Godspeed and may the project go well.

Ms. Goeden acknowledged: Thank you, Commissioners. We will report back with progress.

11. Public Hearing and Possible Vote on the Flow Equalization and Resource Recovery Facility (FERRF) Levee Improvement Project by West Bay Sanitary District in the City of Menlo Park, San Mateo County; Application for BCDC Permit 2022.001.00. Chair Wasserman stated: Item 11 is a Public Hearing and Possible Vote on the Flow Equalization and Resource Recovery Facility Levee Improvements Project by West Bay Sanitary District in Menlo Park. Anniken Lydon, our Bay Resources Manager, will introduce the item.

Bay Resources Manager Lydon addressed the Commission: Good afternoon, Chair Wasserman and Commissioners. Today I will be presenting to you the application for the West Bay Sanitary District's Flow Equalization and Resource Recovery Facility Levee Improvement Project. I will present a brief overview of where the project is located and set the stage for the Commission's consideration of the application. Following this I will turn the presentation over to the West Bay Sanitary District and their consulting team to present the details of the project. Today we are joined by multiple staff from the West Bay Sanitary District including Sergio Ramirez, the General Manager of the West Bay Sanitary District, as well as Fairborz Heydari and Jed Beyer. Then from their consulting team, we have SWCA, which includes Lauren Huff and Ben Snyder; and the team from Freyer & Laureta includes Lorraine Htoo and Fernando Monroy.

As mentioned, today we will be discussing the Flow Equalization and Resource Recovery Facility Levee Improvement Project. The project site is located in the southern part of San Mateo County off of Bayshore Freeway and Marsh Road in the City of Menlo Park. The map on the right shows the project location, which is directly adjacent to Bedwell Bayfront Park in Menlo Park. The map to the right shows the current Bay Plan designated Priority Use Areas that are around the project site which is shown by the red outline. Priority use areas include the adjacent Bedwell Bayfront Park that is in a designated Waterfront Park Beach Priority Use Area, as well as Greco Island, which is in in a designated Wildlife Priority Use Area and part of the Don Edwards National Wildlife Refuge. However, the project site itself, again, shown in the red, is not located within a Bay Plan designated Priority Use Area. And I will also just quickly point out on this map that it also shows the existing and planned Bay Trail near the project site.

BCDC's current jurisdiction within the project area is shown on the figure to the right. The site is approximately 30 acres in size with about a little over 5.5 acres of the site within the Commission's Bay jurisdiction which is shown by the pink dashed line; and approximately a little over 6 acres within the 100-foot shoreline band, and that is shown in the hatched area, 100 feet inland from the Bay. Westpoint Slough is located to the north of the project site and Flood Slough is located to the west. Additionally, there are three open-air overflow basins that are used for overflow capacity for the wastewater conveyance system and also shown in this figure. There also are many existing habitats on the site that should be noted. There's tidal sloughs, tidal mudflats, tidal marshes and upland ruderal habitats present.

The specific details of the project will be described by the project team, but generally the project involves levee improvements along the western and northern perimeter levees, which include the installation of sheet pile walls into the existing berms and raising the elevation of the perimeter levees to 15 feet NAVD88, constructing an ecotone levee slope on the outboard side of a portion of the existing northern perimeter levee, setting back a portion of the northern perimeter levee to create new tidal marsh habitat, and installing oyster reef elements along the northern point of the project site along Westpoint Slough. This project is an

interesting one for the Commission's consideration today. It is the first one of its kind that is coming before the Commission where the specific goal of the project is to provide shoreline protection and flood protection as well as sea level rises in the future, specifically with including habitat elements that will actually be constructed out into the Bay.

The Commission has in the past authorized the construction of ecotone levees and habitat transition slopes, but typically these have been authorized in areas of diked Baylands or in former ponds that are not subject to tidal action but that were opened up to the Bay at a later time. So this project is different in that regard. I will also quickly note that the project has been approved by all other regulatory and resource agencies except for BCDC and the US Army Corps of Engineers.

This shoreline protection project for this facility could have been accomplished simply by using traditional sheet pile walls and raising the levees. However, when the applicant began talking with agency staff there was a request that the applicant assess whether nature-based options were feasible to use for shoreline protection. After receiving this feedback, the applicant reassessed the project design and determined that construction of an ecotone levee was feasible, and in addition proposed to place some oyster reef habitat structures around the site. The applicant then presented the project design to the agencies and the ecotone levee had a more gradual slope and covered a larger area of the outboard tidal marsh. The agency staff had concerns about such a large area of impact on the outboard marsh and requested that the applicants look at whether it was feasible to step back any portions of the levee further into the project site to minimize the impacts on the existing marsh. The applicants responded and identified that a portion of their levee near Basin 3 could be set back into the basin to allow the creation of new marsh habitat and that the slope of the ecotone levee could be made to be 20-to-1 to further reduce the near-term habitat impacts and provide long-term benefits while still maintaining required capacity for the overflow facility. This is the project that you will hear about from the applicant shortly.

This panel on the left of this slide shows the modeled habitats and what they will look like in 2070 and it compares those various options that I talked about. So, on the top is the sheet pile wall-only option. In the middle there is the larger ecotone levee that was originally shown to the agencies. And the lower panel shows the project that you will hear about today, at 2070, with the habitat provided. I also want to mention that the Commission did previously approve construction of a habitat transition zone slope out onto existing marsh and against the Vallejo Sanitary District facility as part of the US Fish and Wildlife Service project to improve a portion of marsh habitat along the mouth of Sonoma Creek. The transition zone levee for that project covered approximately 10 acres of marsh and it was reduced. That was actually a reduced footprint from the original project design after discussions with staff. That project was, again, specifically done for marsh restoration and enhancement and had a different purpose than the project before you today, which is shoreline protection with natural nature-based options.

So to set a little bit of the site context before the applicants present. The project site is located about 0.8 miles away from the nearest residences. According to the Commission's community vulnerability mapping tool and the 2020 Census data, the project site itself is not located within an area that has any sort of score for social or contamination vulnerability.

However, many of the surrounding areas and areas serviced by the facility are identified as areas that have moderate to high social vulnerability and also a low to high contamination vulnerability depending upon the location. So in this map, the darker areas or the darker gray colors actually show higher areas of social vulnerability. The applicant will also briefly discuss environmental justice in their presentation.

The facility itself is currently located within the 100- year flood zone and the existing berms around the perimeter of the facility do not meet current FEMA standards. The current berm elevations range from 10 to 12 feet NAVD88 and will be raised to about 15 feet and NAVD88 as I mentioned previously. The table on the left of this slide is the flood elevations that staff often use to understand the potential for coastal events and projected sea level rise to lead to overtopping and inundation of a site. This table compares the current lowest elevation on the site at around 10 feet NAVD88 to the proposed levee height of 15 feet NAVD88. Overtopping in this table is actually shown by the blue shading in the cells; the darker the blue the greater the water depth over the infrastructure. As shown, you can see the current levee berm system is susceptible to overtopping even today at a 50-year storm event. The project itself is designed to meet FEMA accreditation requirements and would be resilient to extreme tides, sea level rise and wave conditions through 2050, which you can see is indicated by there being no blue cells present at the year 2050 for the proposed project elevation. And then at 2070, the stillwater elevations indicate that there is not likely to be overtopping on a daily basis or even during a 100-year extreme tide event. However, local wave effects may lead to some overtopping.

The relevant Bay Plan policies for the Commission's consideration when evaluating this permit application today include the policy sections highlighted on this slide which include Tidal Marshes and Tidal Flats; Subtidal Areas; Fish, Oher Aquatic Organisms and Wildlife; Water Quality; Environmental Justice and Social Equity; Climate Change; Shoreline Protection; Safety of Fills; and Public Access. The primary issues raised by the application and by the project are whether the project is consistent with the McAteer-Petris Act and the relevant Bay Plan policies by including the minimum fill necessary for the project. Whether the design of the nature-based shoreline protection is appropriate for the site. Whether the near-term impacts of the project are outweighed by the long-term benefits of the project. Whether the project includes appropriate protections for Bay resources. And is appropriately designed to be resilient to future extreme tides and sea level rise. And whether the project provides maximum feasible public access consistent with the project. And that concludes the staff presentation and here to present the details of the project is Sergio Ramirez from the West Bay Sanitary District, Lauren Huff from SWCA and Lorraine Htoo from Freyer & Laureta.

Mr. Ramirez presented the following: Good evening, Commission. My name is Sergio Ramirez. I am the general manager with West Bay Sanitary District. Born and raised in the Bay Area, so a Bay Area native. Born in Stanford Hospital and raised in North Fair Oaks, Redwood City, pretty much the project area that we are talking about today. This is an exciting project that West Bay has undertaken. I will mention that West Bay Sanitary District was established in 1902 as the Menlo Park Sanitary District. And as our Sanitary District expanded to cover and provide more sanitation needs for the community we changed our names in the 1980s or so to West Bay Sanitary District. But we have been around since 1902 serving in an environmental

capacity in one way or another. Today's agenda, we will be discussing the project needs and purpose and then the project design. Overview of the project impacts and then select project measures. Monitoring, which is very important that we have heard here all day today, which we have a plan for, and funding, and then adaptive management. And then we will open it up to questions and answers.

At the beginning, I should just start in 1902, wastewater, just like in many other communities, would go down to the nearest creek or the stream and actually flow right into the Bay. That was common practice all over the Bay. So in the 1930s or so, the 1940s, we started building treatment plants to serve as a treatment before we released wastewater into the Bay. So that was a huge undertaking, and we did it in the 1940s.

We acquired this property here, this 20-acre parcel. We built the publicly-owned treatment plant where we treated wastewater so it would no longer flow up or down the Flood Slough, there on the left of the screen and into the Bay. We would actually capture it in pipes and then treat it. That started in the 1940s, which caused us to build the original levee. And then I will go on to some more history. But this is the project site which was covered nicely by staff. These are areas of underserved communities, there in the Redwood City area and then East Palo Alto and others, in East Menlo Park. So we are sensitive to those areas. One being a local and then another having my parents live adjacent to this park in the Menlo Park District.

In the 1980s we converted, we actually invested in a regional treatment plant called the Silicon Valley Clean Water Plant which you may be familiar with. We helped build that facility. And then at the same time we converted this facility from a treatment plant to a flow equalization facility where we are able to hold roughly 18 million gallons, or so, of raw wastewater whenever the treatment plant is overcome by stormwater. So we will actually divert flow into the site, again, protecting the Bay from exposure to wastewater. We have been doing this since the 1980s. Through these storms, as you can imagine, the Silicon Valley Clean Water Treatment Plant folks had to divert wastewater to these ponds several times throughout this year's storms.

So to just briefly describe the current conditions: Pond 1 holds about 10 million gallons of raw wastewater. Pond 2 is an emergency facility that is there just in case Pond 1 is full. We hadn't had to use that in about 10 years, but this year we actually, on the New Year's Eve storm, as it has been mentioned, we actually had to overflow into Pond 2. Luckily we had Pond 2 there to hold this wastewater back during New Year's Day. Within a couple of days, we diverted it back to the treatment plant and processed it properly. Right now, we have a warehouse, there in the middle of the picture, where we store equipment, construction equipment and things to do pipeline replacement projects and things. We also have a portion of it as the decommissioned plant. We still use the operations room of the treatment plant as our field, or secondary corporation yard. We have about 12 members of the crew that report to that facility. And then, also down at the bottom left of that picture, is the native plant nursery run by Save the Bay. So we have partnered with them and they are actually, we let them borrow a piece of property there. I think we leased it for $1, or something like that. But they are using it, and they have been able to grow plants in this nursery and then use them in

other areas of the Bay, which is a really, we think it is a nice partnership. We have a stockpile in those green areas of some fresh soil that we plan to use for this project to raise our levee and protect the site.

In the 2010s or so we noticed that during King Tides the water started getting closer and closer to the top of our levee. As you can see just in the basic nature of this facility, protecting the site is a matter of public health. We want to protect the Bay and we also want to protect the facility, of course, so we are doing both.

Ms. Htoo presented the following: Thank you, Sergio, for that. Hello, everyone. My name is Lorraine Htoo and I am with Freyer & Laureta. We are a consultant for West Bay Sanitary District. To demonstrate the purpose of this project, we share this photo taken by West Bay Sanitary District in 2017 where it shows Flood Slough starting to come and overtop the levee into Pond 2. To add to that, raising the levee is a priority for West Bay, in particular, as you have heard from Sergio, and we have come up with a valuable way to protect the site and create shoreline resiliency. In this slide here you can see that we have prepared an animation model of the inundation of the site during 100-year events in the year 2073 without this project at all. So our project itself, the design is described in this graphic here. The goal of the project itself is to protect the area from flooding and to provide nature-based design and shoreline protection. The project attempts to balance near-term impacts with long-term gains associated with sea level rise resilience. The design includes both grey engineering as well as the nature-based design, including a sheet pile system to the west and the north. We also have raising the grades at the entrance of the west-face facility to the south at Marsh Road and also to the northeast at Bedwell Bayfront Park. The site also includes, as mentioned before, coming into the site for about 739 feet of shoreline, which helps create more tidal marsh, and we are also featuring creation of more marsh area to the north. And then towards the point there you will see that we also have oyster reefs as living shoreline.

Speaking of the oyster reefs. As mentioned earlier, the project proposes these to not be the type that I think most people are familiar with seeing these oyster reefs that are like more of a ball formation. These are prefabricated substructures that are biodegradable. They are comprised of locally sourced Bay mud as well as fabric material and concrete. They are meant to stay lower to the ground but above the Bay mud to allow for vegetation to still grow. And as they degrade over time the hope is that the oyster shells will remain and start to create that structure and substrate for future oysters. This slide also shows a rendering of what happens with the project. So very different from the earlier slide where you saw the entire site inundated. This project is doing what we want it to do and that is protecting the facility and protecting the park to an extent. So these graphics are somewhat familiar, but just to point out, on this slide the top figure shows what the project is with just the sheet pile system and the image below shows it with the sheet pile system and the ecotone slope. The colors themselves, the purplish color is open water the brown is mudflat. The green is the salt marsh and there is yellow for upland. And so, in comparison, you could see without the ecotone slope, actually the biggest impact is you will see less of the tidal marsh.

As Sergio had mentioned, the site is a very active site with the daily operations from day to day. Because of that and to keep it safe, it [public access to the site] is restricted. But as part of this process and working with BCDC we recognize that there should be some elements of

that. And so, in working with the City of Menlo Park, West Bay is going to include here a viewing platform of sorts, a viewing site off the northeast side so that the ecotone slope can be viewed. It will include a bench and interpretive signage. And with that I am going to turn it over to Lauren to talk about impacts.

Ms. Huff spoke: Hi, good afternoon. I am Lauren Huff with SWCA. Just repeating some of what has already been said. Really, this project aims to really balance the near-term impacts with long-term resiliency. The slide you saw just previously with the habitat migration, the other option was really to just install the sheet pile walls and raise the levees, which could have been the project. The agencies showed some interest in having this nature-based solution and in fact they were the ones who originally suggested it. West Bay Sanitary District took that to heart and really tried to come up with a project that would provide that nature-based solution and, also allow them to have their site protected from flooding. So, I think at this point we have arrived at a pretty good balance of those near-term impacts and long-term resiliency.

The ecotone slope. So on this slide I am really just focusing on Bay impacts. So I just want to point that out because there will be impacts to uplands as well, but I am really focusing on those Bay impacts. And the ecotone slope really only impacts permanently approximately .11 acres of habitat. We have avoided impacting any of Westpoint Slough, so this is really just in dendritic channels and mudflats, as well as salt marsh. And then temporary impacts are approximately 1.01 acres. And then there will be a cofferdam right at the limit of that disturbance to isolate the work area from waters and also exclude wildlife species while construction is going on. That should not really add any additional impacts, but it will, the sheet piles will be driven in at low tide right at that limit of disturbance. And then there will also be approximately .18 acres of oyster reef habitat that you saw at that northern point. In order to offset those permanent impacts we will be creating approximately .65 acres of salt marsh habitat in the uplands. And I also just wanted to point out that we are still leaving point 2.66 acres of habitat in place and will not be disturbing that existing habitat.

The project is subject to numerous permits and these are obviously not all of the measures associated with those permits. During implementation there is going to be a list of permit measures that will have to be implemented from BCDC, US Army Corps of Engineers, Regional Water Quality Control Board, US Fish and Wildlife Service, NOAA Fisheries, State Lands Commission and City of Menlo Park as well. And these are just some of the select measures just to show that loss of habitat and species are being considered and will be protected during construction. So obviously, creating that wetland and upland habitat is to offset those near-term impacts. Conducting pre construction surveys, biological monitoring, environmental trainings. Ensuring the site is excluded during construction so no species can enter the work area. And then adhering to seasonal restrictions.

Then finally, the project does have a very robust adaptive management and monitoring strategy. It will look at vegetation, elevation, shoreline position, water level and quality, dendritic channel evolution and erosion of both onsite habitat as well as nearby habitats and then also the oyster reefs. These will be monitored consistently throughout construction in order to track any changes and address any issues immediately. There are also triggers that will create a point in time when we would have to look at what is going to happen, whether or not we are on track, and whether to implement adaptive management. And the monitoring plan

has some adaptive management recommendations but also includes a lot of agency coordination during that time in order to assure we are really adapting the project appropriately. The monitoring will go on for 10 years for most elements. I believe the oyster reef monitoring may go on a little bit longer. The regulatory agencies will be involved during that entire time. And with that I will hand it back to staff. Ms. Lydon announced: Thank you. That concludes our presentation on the project.

Chair Wasserman continued: Thank you very much. I will now open the public hearing on this matter. Any member of the public who would like to speak? I do not have any cards from people in the audience. Peggy, do we have anybody raising their hand on Zoom?

Mr. Dean Stanford spoke: Thank you. First of all, congratulations on being the first to try the ecotone slope levee. I know that is also planned for Pond 18. I would like to know more about why you cannot have a trail around the perimeter. There was a safety issue. I know there is or was a trail around Sunnyvale's Water Treatment Plant ponds. The loss of the nine-mile Bailey Trail out of Alviso County Park was a huge loss, will this mitigate that? Thank you.

Ms. Carin High commented: Good afternoon, Carin High, Citizens Committee to Complete the Refuge. Thank you for the opportunity to provide comments. Let me start by stating we have actively supported ecotone levees and the use of nature-based solutions instead of gray infrastructure wherever possible to provide resilience for the Bay ecosystem and our communities. This project is neither of these and we strenuously object to the project being identified as an ecotone levee. We urge BCDC to remove this phrase from any permit authorization issued. Continuing to describe this flood control levee as an ecotone levee sets a dangerous and negative precedent of authorizing the disturbance of high- value tidal wetlands under the guise of implementing nature-based solutions. The proposed project violates the intent and foundational definition of an ecotone levee which is that the toe of such a levee begins at the high tide line and moves landward from there. The intent is to provide existing tidal wetlands space to migrate as sea levels rise. By contrast, this project begins well below the high tide line, damaging existing wetlands. The proposed project will introduce physical disturbance to over an acre of high-value wetlands by being constructed on top of and amid an area of mature, stable, tidal wetlands that support state and federal listed species. The Staff Report acknowledges that the norm for construction of ecotone levees is within diked Baylands, salt ponds or in areas not directly exposed to tidal action. In contrast, this project will be exposed to tidal action and subject to wind and storm-driven waves. Our concerns are nominally focused on the risks associated with erosion of the constructed slope, but as important the potential for significant adverse impacts to the adjacent wetlands including Greco Island, part of the Refuge. For these reasons we expect BCDC to commit to closely following the progress of the project during and post-construction. It will be imperative that any adverse impacts to the extent of tidal wetlands adjacent to the project be quickly identified and remedied. In an era where scientists and the environmental community are advocating for the use of nature-based solutions instead of gray infrastructure to provide sea level rise resilience, authorization of the proposed project as an ecotone levee sets a dangerous precedent.

Ms. Gita Dev addressed the Commission: Thank you, Chairman Wasserman and Commission. I am Gita Dev and I am speaking on behalf of the Sierra Club Loma Prieta Chapter as well as the three-chapter Sea Level Rise Committee. I would like to note, as Carin High did, that we very much support nature-based adaptation in every project. However, in this project we were encouraged to see that nature-based adaptation was being considered. However, we want to point out that it is not what we expect when the ecotone levee is actually placed on top of existing tidal wetlands, which are very valuable, which are important for habitat. It is right adjacent to Greco Island which is part of the wildlife refuge. This will be very, very disruptive. We see no reason why the levee and the ecotone could not be placed within the property line of the project. If they said that it was not possible earlier, however, later on we found that they were moving part of it backwards into the property as the agencies protested. But we do notice that the EIR did not even include the possibility, and that may be one reason why they are not looking into it more closely. But there should be no reason why the capacity of the existing ponds could not be increased by raising the height of the levee, for example. So we are very concerned that this which is being presented as nature-based adaptation, is really destroying habitat which is very mature and adjacent to a very sensitive area. We also wanted to point out for BCDC that the trail, the trail is not very well being considered. The signage that is considered does not really provide for the people using the trails to know that they will be reaching a dead end and they will have to turn back. These are fairly long trails. So we do expect that the whole issue of signage and the trail need to be examined further, including parking for all the construction workers, which would take up the very limited parking that is there now. And finally, I would like to point out that a heliport, right next to Greco Island is not an ideal location for a heliport. And simultaneously, the oyster reefs don't seem to have any scientific basis. Thank you.

Ms. Atwell announced: Chair Wasserman, that is all of the public comment. Chair Wasserman continued: Thank you. We have no more public comments. I would welcome a motion and a second to close the public hearing.

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

Chair Wasserman addressed the Commission: Now, comments or questions from Commissioners? I am going to go to the screen first, uncharacteristically, but I have Commissioner Gallagher, who is a new voice so we will honor her. Commissioner Gallagher commented: Thank you. Thank you so much for the presentation. I think I just want to come around in terms of some of the things that were mentioned in public comment and see if we could get a little bit more of an understanding of how this project is ecotone, nature-based. We did hear some comments around that and whether this actually meets those definitions. I personally need some help around that if someone could do a little bit more explaining there. Ms. Lydon fielded this question: Yes, maybe I can start and then I can turn it over to the project team. I actually do have a slide if you would prefer to see it written but the San Francisco Estuary Institute's *Adaptation Atlas* does have definitions for what is considered an ecotone levee and so I will just read that really quick. "Ecotone levees are gentle slopes or ramps (with a length and height ratio of 20:1 or gentler) Bayward of the flood risk management levees and

landward of a tidal marsh. They stretch from the levee crest to the marsh surface, and can provide wetland-upland transition zone habitat when properly vegetated with native clonal grasses, rushes and sedges. They can attenuate waves, provide high-tide refuge for marsh wildlife, and allow room for marshes to migrate upslope with sea level rise." So that is the definition. I can certainly pull it up if you would like to see it as we have the discussion. But I will also just point out, in the same section of the *Adaptation Atlas* where they describe ecotone levees they do recognize that these are transition zone habitat areas. They can provide additional flood risk management. They say that they are largely untested in terms of them actually being constructed and built out into the Bay. And that potentially they would require considerable volumes of material to construct with high costs and that in many places their construction could require filling the Baylands, which is highly regulated. That is kind of the discussion on that particular type of adaptation strategy. So I think the SFEI *Adaptation Atlas* does at least envision that some of these structures would be built out into the Bay on potentially existing Bayland habitats. Commissioner Gallagher acknowledged: Thank you.

Commissioner Moulton-Peters chimed in: Following along on Commissioner Gallagher's question. I guess I would like to understand a little more the response to the question about the ecotone levee for this project and whether it is impacting the existing wetland or just how it fits into the strategy and the long-term strategies? Ms. Lydon explained: Yes, I can certainly start and then turn it to the project team. So the project could have accomplished their goal of flood protection without including nature-based options or habitat elements. That was something our shoreline protection policies in the Bay Plan do advise that people and projects should first look at nature-based options and see if they are feasible. When they first came to the agencies to discuss the project, they had not done that and so naturally the agencies say, consider nature-based options first, please take a look. So they did and they went and designed an ecotone levee slope that was much larger in terms of the area of impact and extended pretty closely, I think, out to Westpoint Slough so it would impact almost the entire area of marsh that is outboard of the levee or a pretty significant portion of it. All of the agencies kind of had a pause with that and had some concerns, and so did ask about setting the levee back, reducing impacts further. And so that is kind of when they went and reassessed - do we still even include these habitat elements? They decided to still include them but also have habitat benefits of setting one portion back and allowing tidal marsh to be created in that area to kind of offset that near-term temporary impact for the next few years because it is going to take some time before the ecotone fully vegetates and can provide the same habitat functionality.

Commissioner Gunther had a number of questions: Thank you, Mr. Chairman. Two questions. One is about the oyster reefs. I have been under the impression that in the South Bay it was very challenging to establish oyster reefs because of the presence of oyster drills, parasites on the oysters. I wondered if there was any information about that, whether they had planned for the eventuality of not being able to establish the oysters? Ms. Lydon answered: There will be a monitoring plan that requires, like we said, 10 years of annual monitoring for these structures. They have not currently done any testing to see about like the recruitment or levels of recruitment that they might achieve at the site. It does look like from some of the literature and guidance documents that have been provided that there are oysters that could be present in the South Bay in terms of recruits and that they might recruit to the structures.

But how long they actually might stay or if there's other issues such as the oyster drill that you mentioned, is not known at this time. It would be something that would have to be closely monitored, I think, annually. Commissioner Gunther noted: So this is proposed, really, as a test of using this kind of nature-based wave attenuation structure? This has never been done before in this part of the Bay? Ms. Lydon agreed: Yes, to my knowledge I do not think it has been done in this part of the Bay. Ms. Huff chimed in: I can just add that really, this came about because we have NFWF (National Fish and Wildlife Foundation) funding for this project and NFWF really wanted to see this living shoreline component added to the project. And we do actually think it would really add some value to the structure over there if it works. So I think that is really where it came about. It is not actually necessary for the engineering of the project based on the modeling. Commissioner Gunther continued: Okay. But this will, in essence, give us a test of utilizing this kind of structure in this part of the Bay? Ms. Huff affirmed: Yes.

Commissioner Gunther continued his inquiry: Okay. My second question has to do with the sediment. In the presentation you mentioned that there is sediment already onsite that can be used to construct the slope for the levee. Is that all the sediment you need or you are going to be needing to find sediment from other locations as well? Ms. Huff responded: For the Bay for the ecotone slope portion of it, we would only need onsite sources. We would be using the Bay mud that has been over-excavated to create the ecotone slope and then there is a stockpile onsite that would also be used. Commissioner Gunther acknowledged: Okay, thank you. Ms. Lydon added: Maybe I will just add too, there is going to be a thin layer of the Bay sediment that is native sediment that is going to be placed on top along with some marsh sod to try and make the revegetation effort happen much more quickly.

Commissioner Kishimoto commented: Well, first of all, thank you for being some pioneers in this nature-based solution. I did read the extensive comments that came from the Committee to Complete the Refuge. I think I got some of my questions answered but to me maybe some of it might boil down to, I am looking at like pages 11 or so where they kind of looked at the wording of the mitigation, et cetera. Some of it comes down to "may" versus "shall." So for those of you who do not have it in front of you, for example, they talk about if adverse impacts to the Bay are identified during the monitoring period then compensatory mitigation "may be required." And would it be possible to change that to "shall" to reassure during the monitoring period. Because it is kind of an experiment and the first time that we are really doing this on this scale. That it is not just monitored, but the public can be reassured that there will be steps taken. I will let staff think about that or if you have a response right now. Ms. Lydon responded: Yes, we can certainly add that, I think that is kind of the intent of the language. And I think the project team would agree to that as well but it is kind of up to them to say. Are you talking about the Special Conditions H.1 and then kind of the subsequent? Commissioner Kishimoto stated: Right, there's several conditions. I mean, several places on those same pages, 10, 11 and 12 there's a number of. Executive Director Goldzband chimed in: Let's be very clear about the exact condition and the exact language, given that this is being done on the fly. Commissioner Kishimoto continued: I see, okay, all right. Well, I am depending on the homework that was done by the Committee to Complete the Refuge. So I am looking at page, it says "Additional comments" it starts on page 9 but I do not think there is anything there. The first one might be on page 10. So Special Conditions H.1. Mitigation Areas. So additional compensatory mitigations "shall" be required, instead of the "may."

Executive Director Goldzband sought specificity: Again, which Special Condition? Commissioner Kishimoto replied: Okay. Let me see. It must be kind of an introductory paragraph. Executive Director Goldzband continued: If you are reading the same letter I am reading then there are bold headings above each paragraph. Commissioner Kishimoto agreed: Yes. Executive Director Goldzband stated: That is what we need to know. Commissioner Kishimoto replied: Okay. Well, the first one doesn't have a letter after it. It says "H.1. Mitigation Areas and Habitat Creation" at the bottom of page 10. And then it goes on to more specific "Special Conditions H.1.c." Executive Director Goldzband counseled: Let's hold at H.1. and make sure that the staff and the applicant know what you are talking about. It is the redline there that says "shall" be required "to offset temporal losses of high-value tidal wetlands and tidal flats habitat." Is that what you are talking about? Commissioner Kishimoto stated: Yes. Executive Director Goldzband acknowledged: Okay. Commissioner Kishimoto continued: Well, to me I think the more important thing is "shall" rather than "may." The second is adding the phase about offsetting temporal losses.

hair Wasserman observed: So you are restricting your suggestion to changing "may" to "shall" in that section? Commissioner Kishimoto answered: Well, yes. If we can add that second part it is a second priority, but I think the most important to me is this. Chair Wasserman explained: There are times when this happens. But we need to be very careful when we are doing this from the dais in the hearing. So I am just asking what you are proposing. Commissioner Kishimoto replied: Okay. To keep it simple than I would, yes, just change "may" to "shall." Chair Wasserman stated: Let's take that one. Executive Director Goldzband repeated: From "may" to "shall." Chair Wasserman reiterated: From "may" to "shall." Commissioner Kishimoto also repeated: From "may" to "shall." Ms. Lydon asked: And that is for just Special Condition H.1? Commissioner Kishimoto responded: Well, that is where I am starting. Chair Wasserman stated: We are on H.1 at the moment then we will go to others. We are going to take them one by one for the moment.

Executive Director Goldzband asked for a pause: Hold on, before we get to the second one let's deal with the first. Chair Wasserman advised: Consult amongst yourselves and give us an answer. Mr. Ramirez stated: We were looking at the same thing and we agree, we will change "may" to "shall." Executive Director Goldzband repeated: From "may" to "shall" Special Condition H.1, the third line in the letter, page 10. The "may" will be struck, the "shall" is in red and that is the change. Is that correct for everybody? Commissioner Kishimoto agreed: Yes. Executive Director Goldzband acknowledged: Thank you.

Chair Wasserman observed: One down, go to your next one. Commissioner Kishimoto continued: Okay. Well, the next one would be H.1.e for Oyster Reefs. If the approved success criteria are not met by the end of the monitoring period, permittee "shall" be required. Executive Director Goldzband again sought specificity: So let's just make sure. You are only talking about the "shall" you are not talking about the phrase after that goes to agencies? Commissioner Kishimoto agreed: Yes. Other board members may suggest it but I am trying to just keep it as simple as possible. Executive Director Goldzband repeated: So just to make sure that I understand and that our staff understands and the Commission understands; your proposal is to change the word "may" to "shall." That is the only change to H.2.e Oyster Reefs.

Commissioner Kishimoto agreed: That is correct. Executive Director Goldzband acknowledged: Thank you. Mr. Ramirez stated: And we agree with that. Chair Wasserman: Thank you. Executive Director Goldzband acknowledged: Thank you.

Commissioner Kishimoto continued: Okay. The next one would be the next paragraph. If the success criteria in the final AMMP are not met, then adaptive management actions "shall" be required. Executive Director Goldzband asked: So do I take it that it is the same as the one above it, that you would change "may" to "shall" and that would be the only change in that paragraph, Special Conditions H.1.f Geomorphology? Commissioner Kishimoto concurred: That is correct. Mr. Ramirez stated: We agree with that.

Commissioner Kishimoto continued: Okay, thank you. And then next paragraph is Special Conditions H.5 Adaptive Management. If any adverse impacts to the Bay are identified during the monitoring period, then compensatory mitigations "shall" be required. Executive Director Goldzband stated: Commissioner, we will do the same thing again. Commissioner Kishimoto agreed: Yes. Executive Director Goldzband continued: The only change you are recommending is from "may" to "shall" in that paragraph, nothing else. Commissioner Kishimoto agreed: Yes. Executive Director Goldzband responded: Okay, just to be clear. Mr. Ramirez stated: Yes, and we can agree to that. Thank you. Commissioner Kishimoto concluded: I think that is it. Chair Wasserman acknowledged: Thank you very much. Executive Director Goldzband replied: Thank you, Chair Wasserman.

Chair Wasserman asked: Any other comments, questions, suggestions? Commissioner Ranchod chimed in: I just want to say I agree with those suggested changes and wanted to ask, do any corresponding changes need to be made in the Findings section or anywhere else in the document to track that? Ms. Lydon replied: I think staff would have to go through and look at the Findings, but we can make those changes to reflect that. Executive Director Goldzband chimed in: May I make a recommendation? Chair Wasserman replied: You may. Executive Director Goldzband noted: Which is that when the recommendation is made by staff, that the recommendation include reference to the, I believe that were four changes that were made, and direct staff to make parallel changes as required in the Findings of the permit to align the Findings with those changes. Chair Wasserman stated: So be it. I see no other hands. We will now take the Staff Recommendation with the amendments as articulated by the Executive Director on the basis of Commissioner Kishimoto's suggestions.

Ms. Lydon read the following into the Record: On March 30 you were mailed the Staff Recommendation for the Flow Equalization and Resource Recovery Facility Levee Improvement Project. The staff recommends that the Commission approve BCDC Permit Application 2022.001.00 with conditions to authorize the project. In addition, staff are requesting to make revisions that were mailed to you this morning to the Staff Recommendation and the permit which includes a change to the area of coverage for the oyster reef habitat from 0.11 acres to 0.18 acres which was discussed during the presentation today and to clarify that the temporary cofferdam for the project covers the same footprint as the ecotone levee. These changes would require updates to the permit to specify that the total temporary fill for the project is 1.3 acres rather than 1.22 due to that increase in the oyster reefs which we did talk about today.

The staff also requests that the Commission allow the staff to make minor typographical, grammatical and non-substantive corrections to the permit. And we will also be sure to include the changes to those Special Conditions which were to H.1, H.1.e, H.1.f and H.5. As conditioned, the staff believes that the project is consistent with your law and Bay Plan Policies and with that we would recommend that you adopt the Staff Recommendation.

Chair Wasserman chimed in: I would recognize Commissioner Kishimoto. Commissioner Kishimoto responded: Thank you. I would be happy to make the motion to adopt that Staff Recommendation as amended. Chair Wasserman asked for a second: Thank you. Do I have a second? Commissioner Showalter seconds. I do not see any other hands. Peggy, will you call the roll, please.

MOTION: Commissioner Kishimoto Peters moved approval of the Staff Recommendation as amended, seconded by Commissioner Showalter.

VOTE: The motion carried with a vote of 18-0-1 with Commissioners Addiego, Arreguin, Eklund, Gioia, Gorin, Gunther, Hasz, Moulton-Peters, Pine, Ranchod, Showalter, Ambuehl, Kishimoto, Vasquez, Mendonca, Gilmore, Vice Chair Eisen and Chair Wasserman voting, "YES", no "NO" votes, and Commissioner Pemberton voting "ABSTAIN".

Chair Wasserman acknowledged: Thank you very much. Congratulations to the applicant. At this stage there is a lot of work to do. We are going to recognize the Executive Director. Executive Director Goldzband noted: I just want to say that it is not often that the last time somebody makes a presentation as a staff member to BCDC that you have to go through a process like we just did. I just want to say on behalf of all staff that we are going to miss Anniken terribly and we look forward to your deciding to become a BCDC staff member again at some point in the future. Ms. Lydon replied: Thank you. Chair Wasserman added: And on that line, or extending that line if you would like, I have thanked the Commissioners who are here for being here. I want to thank the staff for being here in terms of making the presentations. That makes a big difference as well so we thank you very much for doing that.

12. Briefing on Funding and Investment Framework.

Item 12 was postponed to a future meeting.

13. Briefing on Enforcement Program.

Item 13 was postponed to a future meeting.

14. Adjournment. Upon motion by Commissioner Hasz, seconded by Commissioner Ranchod, the Commission meeting was adjourned at 5:10 p.m.