



BAY PLANNING COALITION

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Complete audiotapes of BPC's October 22, 2002 Decisionmakers Conference are available from the BPC office for \$25.00.

DECISIONMAKERS CONFERENCE 2003: Call for Chair! BPC members – I am looking for volunteers for chair and committee members to plan our 2003 Decisionmakers Conference. This is your opportunity to influence the content and format for our 20th year anniversary.

BCDC MONITORING:

During 2002 the Bay Planning Coalition carefully monitored and advised the San Francisco Bay Conservation and Development Commission (BCDC) on proposed amendments to the Bay Plan findings and policies in the areas of mitigation, recreation and water quality. Following testimony and written comments by BPC and others, the Commission adopted revisions to its mitigation policies and recreation policies. BCDC generally adhered to its flexible and commonsense policy that was written with the assistance of BPC in the mid-80's. For more on water quality, see report below under Water Quality Committee.

In the area of Enforcement Regulations BCDC held hearings and is now preparing proposed legislation for the 2003 session that would implement changes to state law to "improve the Commission's enforcement capability by... increasing maximum administrative and court-ordered penalties for violations..." BPC's Ellen Joslin Johnck testified before the Commission and succeeded in securing endorsement of the concept of a user-friendly enforcement system. The grace period for inadvertent violations is retained and the Commission agreed that it is not their intent to penalize people who are just trying to improve the Bay's marine facilities for the safety of the public.

DREDGING & NAVIGATION COMMITTEE REPORT:

Environmental Windows & Dredging: Environmental windows are time periods when dredging and disposal are allowed and believed not to adversely affect endangered species and fisheries. These windows are based on the biological opinions of federal resource agencies and were adopted in the Long Term Management Strategy's (LTMS) Record of Decision and the LTMS Management Plan.

The LTMS Environmental Windows Work Group was established by the LTMS agencies to include all interested parties and affected stakeholders in a consensus-based process to determine how dredging can be accomplished in a timely manner while protecting endangered species and fisheries. We were successful in securing a facilitator, Harry Seraydarian, who is being funded under the LTMS program. Our goal is to increase the flexibility of the windows – "opening up" the windows, so to speak, and developing a standardized consultation process if we need to request approval to dredge during a restricted period (which is 75% of the year).

The Work Group has met about twice a month to work on short- and long-term objectives. The short-term group has proved a successful forum to iron out permit issues so that 2002 dredging projects could be completed within the windows and prior to the seasonal restrictions for herring. By January 15, 2003 the long-term group intends to complete a Work Plan Outline defining the tasks to accomplish our goal. The tasks involve three categories of activities: (1) formation of a science subgroup to define necessary fish and water science research; (2) formation of an engineering subgroup to define dredging operations and equipment solutions; and (3) a category of tasks defined as "other factors" which include streamlining dredging permitting and the Corps budgeting and contracting process. The next steps in the process involve completing the Work Plan and securing the necessary funding for Plan implementation. Our process has already attracted the attention of the National Oceanic and Atmospheric Administration (NOAA) national and state offices. NOAA, together with the American Association of Port Authorities (AAPA) and the Coastal States Organization (CSO), is launching the Marine Transportation Partnership Project to address environmental management practices for port maintenance, development and expansion, and has identified two regions for demonstration projects: San Francisco Bay and St. Charles, La. Through the Partnership Project we look forward to support and collaboration with both the National Marine Fisheries Service's Habitat Protection unit as well as the National Ocean Service.

For more information about the Environmental Windows Work Group contact the BPC office. Work Group meeting agendas are generally posted on the DMMO website at <http://www.spn.usace.army.mil/conops/dmmo.htm>.

We are preparing the list of 2003 BAY DREDGING PROJECTS to review in the short term Work Group. If you have scheduled or plan to schedule a Bay dredging project in 2003, please let us know. Have you received all permits? Please attend the Environmental Windows Work Group meeting on February 18, 2003 to ensure your project is on our list. Contact BPC for more information.

Federal Civil Works Appropriations: Adoption of the 2003 federal budget for dredging projects is delayed until February 1, 2003. The majority of Bay projects requested by BPC and C-MANC have been earmarked for increased funding, although there are different versions between the House and Senate to be resolved by conference committee prior to February 1. BPC continues to advocate for funding for San Francisco Bay-Delta dredging, disposal and beneficial reuse projects, including the Port of Oakland's -50' channel deepening project.

TRANSPORTATION COMMITTEE REPORT:

Marine Transportation System: In 2003 the 107th Congress will establish successor legislation (TEA-3) to the Intermodal Surface Transportation Act of 1991 (ISTEA) and the Transportation Equity Act for the 21st Century (TEA-21). The new legislation is intended to be the Federal Government's definitive statement of national transportation policies, programs and projects to meet the transportation needs of the United States. To ensure that California will be heard, a California Marine Transportation System Advisory Council (CALMTSAC) was formed. As subsidiaries to CALMTSAC, Southern and Northern California groups were formed under the Council (SOCAL/NORCAL MTSAC).

Ellen Johnck and Tom Marnane have represented the Bay Planning Coalition to NORCAL-MTSAC in this effort, Ellen as a principal and initiating advisor and Tom as Chairman of the Infrastructure Subcommittee. This Northern California group has completed its report with input from many BPC members and others including all ports, terminal and shipping operators, the S.F. Bar Pilots, Marine Exchange, C-MANC, PMSA, ILWU, truck operators, Conoco-Phillips and MTC. The report includes a list of needed Bay intermodal freight transportation plans and projects. The report was presented to CALMTSAC and work has begun to combine SOCAL and NORCAL inputs for submission to the Congress and the Department of Transportation.

Work is already underway in Congress to mark up TEA-3. The greatest problem is not establishing the needs but rather getting funding and making a public case for significant, well planned, efficient and visionary improvements to the current Marine Transportation System and documenting projected failures and inefficiencies in the current System.

For more information on the MTS, we recommend you review the U.S. Maritime Administration's Fall 2002 Newsletter (http://www.marad.dot.gov/Headlines/newsletters/fall_02_web.pdf) and a November 21, 2002 press release from the National Academy of Sciences Transportation Research Board regarding its new report, "Freight Capacity for the 21st Century," TRB 271 (<http://books.nap.edu/html/SR271/SR271.pdf>). Also available is the recent document in BCDC's 5 year review of the Seaport Plan: the "Seaport Cargo Forecast."

Ferries: In 1999, the California State Legislature created the San Francisco Bay Area Water Transit Authority (WTA) to study whether adding more ferry routes and boats would be a cost-effective way to increase Bay Area mobility. Two years and numerous technical studies and analyses later, the WTA has delivered to the California State Legislature its report - "A Strategy to Improve Public Transit with an Environmentally Friendly Ferry Service" - which illustrates how ferries can effectively supplement the Bay Area's commute options.

The WTA benefited from abundant public input given during Board meetings, participation of its two advisory committees, and hundreds of presentations and meetings with stakeholders throughout the region. Starting in the fall of 2002, the WTA provided an extensive comment period complete with public hearings on its plan and environmental document.

The Bay Planning Coalition, through its contract with the WTA, has participated as a member of the Technical Advisory Committee and BPC Executive Director Johnck chaired the Ad Hoc Work Group facilitating state and federal agency comments on the EIR. There is significant support from the community and the agencies for the expanded system of eight (8) new routes. In 2003 Senator Don Perata, who authored the WTA's enabling legislature, plans to introduce follow-up legislation approving the WTA's plan. Also in 2003, Senator Perata plans to introduce legislation that will raise state-owned bridge tolls by \$1.00 to fund transit projects, including ferries, buses and BART; Bay Area voters would decide on this proposal in 2004. Complete reports are available at the WTA website <http://www.watertransit.org/>

WATER QUALITY & WATER SUPPLY COMMITTEE REPORT:

Total Maximum Daily Load (TMDL) program: The S.F. Bay Regional Water Quality Control Board (RWQCB) is developing over 30 TMDL projects to address more than 160 listings for water bodies within the San Francisco Bay watershed impaired by specific pollutants. TMDLs identify sources of a pollutant including current and past discharges and projected growth, define how much of a pollutant a water body can tolerate, and proceed to define who is responsible for improvements such as cleanup and discharge restrictions. The future of NPDES permits hinges on TMDLs. In an effort to agree on a methodology for a balanced and valid TMDL program, the BPC Water Committee has formed a TMDL Subcommittee (led by Scott Ogle, Ph.D., aquatic ecotoxicology specialist and principal of BPC member Pacific EcoRisk) to advise the RWQCB on this program, and specifically its current PCB and mercury TMDL reports. The BPC TMDL Subcommittee recently presented its concepts regarding the relationship between TMDLs and dredged materials to Fred Hetzel, staff engineer to the RWQCB. The PCB draft staff report will be available on Jan. 15; the next PCB stakeholder meeting will be in late January.

Public participation through stakeholder workgroups is vital to the program. The Clean Estuary Partnership (CEP) was created as a cooperative partnership through a Memorandum of Understanding between the RWQCB and discharger entities including the Bay

Area Stormwater Management Agencies (BASMA) and the Bay Area Clean Water Agencies (BACWA). The Western States Petroleum Association (WSPA) has recently joined the Partnership. The CEP, which is still in its early formative stages, is providing funds and oversight to develop practicable and cost-effective TMDLs. BPC has been invited to attend meetings by the Partnership on an ad hoc basis. The BPC Board of Directors has recommended that BPC request membership in the Clean Estuary Partnership team. Contact the BPC office for information and meeting schedules.

ACZA-treated wood: BPC has learned that the S. F. District of the U. S. Army Corps of Engineers is denying the use of the wood preservative, ACZA (chemonite), for pilings in the marine environment based on the recommendation of NOAA Fisheries. There is no scientific basis for this decision, and there has been no public notice and/or involvement in this ad hoc decision. BPC has sent an urgent letter to the S.F. District requesting a public workshop and hearing on this issue in early January. More information is available on this subject from the BPC office. All BPC members will receive notice of the workshop/forum once it has been scheduled.

BCDC issued a *Report on Water Quality Protection and Nonpoint Source Pollution* in September 2002. The Report proposed several amendments to the Bay Plan that appeared to be both new and also duplicative of regulations and programs currently administered by other federal, state and local agencies. BPC along with several of its port and local government members were successful in convincing BCDC to delay further consideration of the proposed Bay Plan amendments until a public workshop was held to air this issue. BCDC deferred further consideration and adoption of changes to its Water Quality Policies pending the culmination of a public workshop process to discuss BCDC's jurisdiction vis a vis the RWQCB and local government. The first workshop (Dec. 17) concluded that a case study approach to review specific permit actions was needed. We will proceed with further workshops in January to identify problems of duplication and unnecessary overstepping. BPC members will receive notice of the next workshop.

WETLANDS & WILDLIFE COMMITTEE REPORT:

Negotiations between **Cargill Salt** and the state and federal government to transfer up to 16,500 acres of salt ponds to wetland restoration are moving forward. A "phase-out" agreement spelling out Cargill's responsibilities following the sale should be released in January. The purchase contract is scheduled to be signed February 11, 2003 and could close as early as March 6, 2003. Cargill will continue making salt on a smaller area in the East Bay, headquartered in Newark. Over the next five years, the California Coastal Conservancy will oversee public meetings and studies to determine which ponds to convert to tidal marsh and which to leave saline.

New state-federal Wetland Restoration Executive Council formed. Mike Monroe of EPA has advanced a concept for implementing the Habitat Goals Project through the formation of the Wetland Restoration Executive Council. The Council hopes to provide better coordination for such projects as the Cargill salt ponds restoration. BPC Executive Director Ellen Joslin Johnck was invited to participate in the meetings of the Council and thinks the process looks promising.

BPC'S NEW OFFICERS FOR 2003:

At its regularly scheduled meeting on December 12, 2002, the BPC Board of Directors elected officers for the 2003 calendar year as follows: Cynthia Murray, Chair; John Briscoe, Vice Chair; Roberta Goulart, Secretary-Treasurer. Congratulations to our new officers.

BPC'S 2003 CALENDAR IS ATTACHED.