

San Francisco Bay Restoration Authority Independent Citizens Oversight Committee

Committee Members

*Cindy Darling, Chair, East Bay
Representative, Contra Costa County*

*Andy Rodgers, North Bay Representative,
Sonoma County*

*Brian Steen, Vice Chair, South Bay
Representative, Santa Clara County*

*Paul Jones, At-Large Representative, San
Mateo County*

*Nancy Cave, West Bay Representative, San
Francisco County*

*Barry Nelson, At-Large Representative,
Alameda County*

May 30, 2019

*Governing Board
San Francisco Bay Restoration Authority
1515 Clay Street, 10th Floor
Oakland, CA 94612*

Dear Governing Board Members,

This letter constitutes the Independent Citizens Oversight Committee's first annual review of San Francisco Bay Restoration Authority's Conformance with Measure AA and covers the period of July 1, 2017 to June 30, 2018.

Summary Conclusions

We, the Independent Citizens Oversight Committee, have completed our annual independent analysis of the work of the San Francisco Bay Restoration Authority. We find that:

- The Authority staff have been open and receptive to Independent Citizens Oversight Committee inquiry and recommendations.*
- The Authority is establishing a solid selection and implementation process for restoration projects as envisioned by the Bay Area voters when they approved this historic measure to increase the health and resilience of the Bay.*
- The Authority has authorized nine high quality restoration projects, as summarized in the Annual Report that will provide important environmental and climate adaptation benefits for the Bay Area.*
- The Authority has received a clean audit report from an independent auditing firm and is using sound fiscal management.*

- *The Authority is spending the funds raised by Measure AA in conformance with the law.*

These conclusions are based on our combined decades of experience with restoration in and around the Bay, our careful review of the Authority's Annual Report and supporting documents described below, and our questioning of the Authority staff. We developed these findings through an open, collaborative, and public process.

We also have several recommendations we would like forward on to the Authority for their consideration as they move forward.

What is the Independent Citizens Oversight Committee and how do we operate?

The Committee consists of six members chosen by the Authority from around the Bay. The Committee has a combined 180 plus years of experience tackling the challenges of aquatic resource restoration and enhancement of the Bay's recreational resources. Individual committee members have a range of expertise in wetlands, restoration, water, flood control, trail projects, and how best to select and implement projects. We have experience with projects large and small, successful and not. We also have a breadth of experience managing government funding programs and interpreting science and law.

Our work has been conducted independent of the Authority and is based on the language and history of Measure AA itself, the first two Annual Reports, the Advisory Committee report on performance measures, the financial statements and the auditors report. We have also interviewed the Authority staff to better understand their recommendations on several financial and program decisions. Based on this information, we have come to the conclusions highlighted above and the recommendations included below.

Conclusions and Recommendations

Building for the Future and Managing Expectations

The Authority's program represents an important opportunity to repair past environmental damage and to prepare for the anticipated impacts of climate change on the natural and human environments in the Bay Area.

The restoration of San Francisco Bay will fundamentally improve the Bay Area for decades to come. When the voters from nine Bay Area counties agreed to each pay \$12 a year per property parcel owned, they were agreeing with a large vision for the Bay and its shoreline. That vision, the strategic goals for Measure AA, are bold, ambitious and will take time and will-power to achieve.

As with any large endeavor, measures put in place now will make the process more efficient in long run. The Committee has been very impressed with the work the Authority, their staff, the Advisory Committee and applicants have completed to date. In our recommendations, we've included some aimed at continuing to build the implementation infrastructure as well as some aimed at managing expectations. Restoration on the scale envisioned for the Bay Area is a marathon, not a sprint.

Geographic Distribution

The current draft of the Performance Measures for Geographic Distribution of Funds includes measures to look at funding at the regional and at the county level. The first round of funding produced a robust distribution of funds at the regional level. However, the Annual Report 2017-18 didn't include the distribution by county, and it appeared that no funds were allocated to projects in Contra Costa County. As we followed up with staff on this, we found that this was because no applications were submitted for projects in Contra Costa. We would recommend that both measures of geographic distribution be included in the report along with the explanation. There may be ways to enhance outreach to maximize geographic distribution in the next grant round.

Bay Restoration Regulatory Integration Team

The Committee is very supportive of the Regulatory Integration Team being funded as one of the nine projects. This will accelerate decision-making, reduce duplicative requirements, and cut project costs. It is an excellent example of the kind of early investment that will reduce barriers to implementation by providing a bridge between the regulatory permitting structure at the local, state, and federal level and the approvals needed for projects funded by the Authority.

Staff Work Plan and Operating Budget

The Committee reviewed the staff work plan and funding through the operating budget. The Authority operations are very lean (under 5%) and staff should be recognized for their efficiency. They have already designed and implemented a grant process, authorized nine projects, developed performance measures, set up financial systems and policies, and received a clean audit.

The item "*Task 5: Grant Program*" in the Staff Work Plan is currently allocated approximately 40% of the operating budget. This Task includes the annual RFP as well as managing contracts for past year's projects. As new projects are selected in subsequent rounds of funding, the Committee believes that additional resources will need to be added to this task to ensure that staffing is adequate to oversee the increasing number of projects. Adequate management oversight can help keep projects on track and head off problems. At about year 6, this should level out as past projects are completed before new ones come on line.

Going forward, we anticipate the work of the Authority will evolve in scale and complexity. Consequently, the Committee's efforts to oversee and evaluate will also expand.

Overall Financial Tracking

As more projects are selected and move into implementation, the financial picture will get more complicated. The current Project Based Budget for FY 18-19 includes a line item for each of the projects currently underway. However, those projects are multi-year projects and so a significant portion of the funding for each of these projects will remain unspent at the end of each fiscal year. Table 4 in the Annual Report illustrates this dilemma. The Total Expended for SFBRA Projects is budgeted as \$21,565,810.00

and the actual is \$0.00. Over the next 5 years of ramp up, this line item is likely to continue to show significant funds as “budgeted” and not as “actual”. This type of discrepancy can be confusing and create perception problems.

The Committee recommends that the Authority and staff consider using a more detailed financial tracking tool that shows each project’s funds as authorized by the Authority, encumbered by a contract, and expended over time. There will be significant funds encumbered by a contract but not expended in future years. It will be important to have a robust tracking system that will allow transparency, careful reporting, and oversight. It can also be used to show which projects, if any, received contingency funds (see below).

Interest Income

As mentioned under the discussion of Operating Budget and staffing needs, the Authority has done an admirable job with a lean budget. The Committee supports allocating the revenue from interest income to the FY 18-19 Operating Budget. We also encourage the Authority and staff, as they improve financial tracking as recommended above, to also improve their future estimates of interest income and allocate it in future budgets to best meet the needs of the overall program. It may become a significant source of revenue in future budgets.

Contingency Fund

Currently, the Authority is budgeting a 15% contingency fund for all projects. Construction projects, especially work in wetland areas or work that requires excavation and water management, have inherent unknowns that can result in increased costs or cost overruns. However, other projects, such as advance planning carry a lower risk of overrun if properly managed. The Committee supports the 15% contingency fund in the FY 18-19 budget. We also encourage the Authority and the staff to refine contingency over time so that it moves away from a flat rate and towards an amount necessary for the risks associated with the higher-risk types of projects.

Adaptive Management and Performance Measures

The historic nature of the Authority program and its available consistent long-term funding is an excellent opportunity to use adaptive management to successfully achieve the strategic outcomes for the Bay.

Adaptive management through iterative decision-making, where results are evaluated and actions adjusted based on lessons learned, will improve outcomes overall. It also allows restoration activities to proceed in the face of uncertainty and risk. To be successful, performance measures will need to be identified, results collected, analyzed, and then used to guide future decisions.

The Committee has reviewed the Report from the Ad Hoc Subcommittee on Performance Measures dated 8/22/18 as well as the staff response dated 9/12/18. As both reports recognize, although performance measures are not explicitly required by Measure AA, they are a key tool to communicate progress and to implement using adaptive management.

The Committee would recommend that staff use the current set of performance measures to track progress and continue to focus on not driving up project costs with unduly complex monitoring requirements at the project level. While we recommend that the measures described under “3.0 Measures and Metrics Requiring Further Development” be pursued by staff, we note that information derived from the regulatory permit process (imposed by the local, state and federal resource and regulatory agencies) should be adequate to answer most questions related to project performance for

the Authority. Additional extensive requirements placed on Authority-funded projects would only add to the burden of an already heavily burdened regulatory monitoring process. To facilitate this integration of monitoring needs, we encourage the Authority to work closely with other regional monitoring programs and not try to replicate their work, but rather to guide it so it can fill the Authority's program needs. The Authority should also ensure that project-specific monitoring is integrated into regional monitoring programs.

Outreach and Communication

As we mentioned at the beginning of these comments, restoration on the scale envisioned for the Bay is a marathon. Ensuring continued public support over the long haul will require increased public outreach and engagement. The Annual Report is one great tool to communicate what the Authority is doing. Including the projects in the EcoAtlas is another. While these tools are important, they are likely too detailed to engage the general public who care about the health of the Bay but need a more easily digested snap shot. We encourage the Authority and staff to find ways to show the general public how tax dollars are being spent. The KQED coverage is great. Other recommendations include the production of a one pager, presentations to local groups and bodies (such as city and county government offices), use of social media, and other cost-effective outreach techniques so that the general public is readily informed of the valuable work being conducted by the Authority and its partners.

We urge the Authority's outreach and communication efforts to annually review and report on progress in achieving the six strategic outcomes emphasized in the Measure AA campaign.

This report was approved by the Independent Citizens Oversight Committee at its meeting held on May 30, 2019.

Respectfully Submitted,

Cindy Darling
Independent Citizens Oversight Committee, Chair