

SAN FRANCISCO BAY COORDINATED PERMITTING APPROACH
Policy and Management Team

Permit and Policy Improvement List
January 7, 2019

The Policy and Management Team (PMT) was established by the coordinated permitting approach agreement. The PMT is tasked with creating a system to identify and resolve policy issues and conflicts, and to identify a process for elevating issues that require agency policy shifts. A first step as described in the agreement is to develop a prioritized permit and policy improvement list, and to subsequently implement at least one initiative annually. The following list includes all the issues identified in the “Sand in the Gears” document and is organized into three prioritization categories:

1. Issues that may be addressed by December 2019 (initiatives currently underway)
2. Issues that may be addressed after 2019 (initiatives currently underway)
3. Issues and initiatives requiring further development (no identified initiatives underway)

The prioritization categories are primarily based on the timeframes for which resolution of the issues could be achieved, consistent with the agreement. As the PMT begins to work, achieves some success, and faces anticipated challenges (e.g., collaborative decision making among agencies), this list and prioritization will be revised. New issues will be considered as they are brought to the PMT by the BRRIT and stakeholders, and the list will be revised at least annually.

POLICY ISSUES	INITIATIVES
1. Issues that may be addressed by December 2019 (initiatives currently underway).	
<p><u>a. Type Conversion</u> To accomplish regional wetland restoration goals, it is necessary to convert one type of wetland habitat to another. For example, currently diked baylands or seasonal wetlands may be converted to tidal baylands. When wetland-to-wetland conversion occurs in the process of restoring a site, some permitting agencies require compensatory mitigation while other agencies do not. Additionally, there are inconsistent approaches as regulators analyze projects and make mitigation decisions. Regulatory decisions need to be supported by robust technical frameworks to avoid additional project costs, lack of regulatory certainty, conflicting requirements, and project delays.</p>	<p>A multi-agency project is underway to develop a science-based framework for assessing habitat type conversion actions in the SF Bay Region and elsewhere. This framework would facilitate consistent and more transparent decision making. EPA is leading the effort with funding and staff while the other agencies are providing staff time. The PMT’s goal is to use this effort to agree on a common decision-making approach by the end of 2019.</p>

POLICY ISSUES	INITIATIVES
1. Issues that may be addressed by December 2019 (initiatives currently underway), CONTINUED	
<p><u>b. Fill for Habitat</u> Habitat transition zones (e.g., ecotone slope levees, high tide refugia) and other habitat features, (e.g., nesting bird islands) are important features that provide sea level rise resilience. Creating these features requires fill in wetlands or open water, an activity that is limited by some agencies and that often triggers mitigation. Filling areas of existing habitat is linked to habitat conversion issue described above as it converts habitat from one type to another.</p>	<p>The PMT will consider multiple efforts that address this policy issue. Currently, the initiatives described here are underway and the PMT should coordinate with the agencies leading those efforts.</p> <p>The Water Board recently completed grant-funded work to look at policies that may lead to Basin Plan amendments. Those efforts are likely to extend beyond 2019. In the meantime, the Water Board is evaluating its ability to address the issue using existing policies.</p> <p>On July 20, 2017, BCDC approved consideration of an amendment to the San Francisco Bay Plan to allow additional fill policies for habitat projects. The amendment process is now underway, supported by the Commission’s Bay Fill Policies Working Group, a committee of 5 Commissioners, including Water Board, EPA, and USACE representatives. Water Board, EPA, and USACE representative participation is intended to facilitate crosswalk policy discussions between BCDC and these agencies, specifically Clean Water Act Section 401 and 404 permitting. Coordination with the PMT would assist in creating permit consistency. The Bay Plan amendment process is scheduled for completion in late 2019.</p>
<p><u>c. Elevation and Resolution of Issues</u> While the PMT has begun to develop process for both the BRRIT and itself, it has not yet discussed or created an agreed-upon process for resolving issues elevated to the PMT from the BRRIT. This process will necessitate consideration of each agency’s law, policies, and authority. A decision-making process must be identified and agreed upon by the PMT prior to elevating issues.</p>	<p>The PMT has initiated this discussion and will likely have framework in place by the second quarter of 2019.</p>

POLICY ISSUES	INITIATIVES
2. Issues that may be addressed after 2019 (initiatives currently underway).	
<p>a. Wetland Monitoring Regulatory agencies include monitoring requirements in their permits to evaluate project success. However, there can be a lack of consistency between these monitoring requirements. The cost of monitoring requirements can be burdensome and associated funding is difficult to obtain. Large scale, long-range restoration projects have greater levels of uncertainty related to timing and successful habitat outcomes, especially in light of climate change and sediment availability. Uncertainty is difficult to address in the currently regulatory framework. Project proponents and agencies need the ability to experiment and tolerate risk consistently to address the dynamic, systemic changes that are occurring.</p>	<ol style="list-style-type: none"> 1. The Wetlands Regional Monitoring Project (WRMP). The San Francisco Estuary Partnership is working with stakeholders through an EPA grant to develop a tidal wetland regional monitoring plan for the Bay Area. The plan will include recommendations for funding and data management. The plan is expected to be completed in late 2019. 2. Fisheries Monitoring Framework. NMFS is working with UC Santa Cruz to develop wetland monitoring framework for fisheries in the greater SF Bay region. The framework would identify and provide monitoring components for inclusion in project-specific monitoring plans. It would provide standardized monitoring methods to determine the effectiveness of restoration projects for fish. 3. Wetland Habitat Assessment Team (WHAT). BCDC’s internal habitat and restoration science and policy working group educates new staff, discusses and evaluates projects and monitoring reports, identifies BCDC permit compliance issues, and seeks regulatory program improvements. 4. RIPTIDES Internship Program. RIPTIDES is a partnership between BCDC, SFSU, and the San Francisco Bay National Ecological Estuarine Research Reserve working with master’s students to analyze the success of San Francisco Bay wetland restoration and mitigation projects and the outcomes of wetland monitoring that is required in BCDC permits.
<p>b. Public Access and Wildlife Compatibility BCDC is the only regulatory resource agency that includes public access requirements in its permits. Other agencies require minimization of public access to protect habitat value. These potentially conflicting mandates create uncertainty for project applicants in designing a permissible restoration project and can result in project design delays.</p>	<p>In 2012, BCDC amended the Bay Plan Public Access policies to address potential conflict between protecting wildlife and encouraging public access in habitat areas. The PMT should revisit these policies and the associated report, review the current science and recreation trends, and discuss their findings in order to address this concern.</p> <p>BCDC will be undertaking a Bay Plan amendment process to address the larger issue of public access and rising sea level, and this issue likely within the next 3 years.</p>

3. Issues and initiatives requiring further development (no identified initiatives underway).

- a. Lack of collaborative decision-making among agencies.
- b. Upland alternatives to fill for habitat.
- c. Protecting single species in the context of larger, holistic restoration goals.
- d. Permitting inconsistencies related to State and Federal Endangered Species Acts, and Fully Protected Species (e.g., salt marsh harvest mouse, Ridgway's rail, peregrine falcon, brown pelican).
- e. Short-term impacts of wetland restoration activities vs. long-term benefits of the overall wetland restoration.
- f. Restoring watershed to Bay connection to improve sediment supply to baylands.