



CITIZENS COMMITTEE TO COMPLETE THE REFUGE

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17 December 2010

Re: December 10, 2010 Staff Report on Policy Alternatives for Bay Plan Amendment No. 1-08
Concerning Climate Change

Dear Mr. LaClair,

Thank you for the opportunity to provide comments regarding the proposed climate change amendments to the Bay Plan – again. We support (for the most part) the proposed amendments and urge BCDC to adopt the amendments – soon. We fear the glacial pace of this process will soon be outstripped by on-the-ground ramifications of sea level rise. To quote the 2009 California Climate Change Adaptation Strategy (CAS) (<http://www.energy.ca.gov/2009publications/CNRA-1000-2009-027/CNRA-1000-2009-027-F.PDF>), “Climate change is already affecting California.” Sea levels have risen as much as seven inches along the California coast over the last century, increasing erosion and pressure on the state’s infrastructure, water supplies, and natural resources.” And “If the state *were to take no action* to reduce or minimize expected impacts from future climate change, *the costs could be severe.*” [emphasis added] Lastly, “All state agencies responsible for the management and regulation of public health, infrastructure or habitat subject to climate change should prepare as appropriate agency-specific adaptation plans, guidance or criteria *by September 2010.*” [emphasis added]. It is incumbent upon BCDC to adopt a sea-level rise adaptation strategy to ensure the long-term sustainability of our communities and to preserve and protect the biodiversity of our bay ecosystems.

Staff is well aware of the extent of BCDC’s legal authority and the amendments that have been proposed are consistent with BCDC’s mandate under the McAteer-Petris Act, existing Bay Plan policies, the Federal Coastal Zone Management Act, and the afore-mentioned CAS.

The CAS provided specific recommendations/strategies:

- *use the best available science* to identify risks resulting from climate change as well as adaptation strategies,
- consider project alternatives that avoid significant new development in areas that cannot be adequately protected from adverse effects (e.g. flooding, erosion, wildfires, etc.) due to climate change
- state agencies should generally *not plan, develop, or build any new significant structure* in a place where that structure will require significant protection from sea level rise, storm surges, or

coastal erosion during the life of the structure...state agencies should incorporate this policy into their decisions and other levels of government also encouraged to do so.

- pursue activities that can increase natural resiliency, such as restoring tidal wetlands, living shoreline, and related habitats; managing sediment for marsh accretion and natural flood protection, and maintaining upland buffer areas around tidal wetlands.
- prohibit projects that would place development in undeveloped areas already containing critical habitat, and those containing opportunities for tidal wetland restoration, habitat migration, or buffer zones.

BPA 1-08 must be consistent with existing State guidance including the recommendations and strategies outlined in the California Climate Change Adaptation Strategy.

Comments re Policy 1 alternatives:

The policy direction in language must be retained and is consistent with the guidance provided in the CAS. It is crucial that any risk assessment include consideration of future sea level rise when analyzing 100-year flood elevations. The range of sea level rise projections should not only include at least one high estimate, the entire range must reflect elevations based upon up-to-date sea level rise predictions that reflect the best science available at the time of the assessment.

Comments re alternatives for Policy 5:

The policy direction in language must be retained with the following modifications. We concur with the statements submitted by the California Coastkeeper Alliance (CCKA) in their October 6, 2010 letter that BPA 1-08 disproportionately focuses on “infill” development and that the emphasis along with a failure to carefully define what constitutes infill” could undermine the intent and spirit of the proposed climate change amendments. We ask that as suggested by CCKA, BCDC “revisit and reevaluate all references in BPA Amendment 1-08 to infill development to determine whether they are necessary to meet the overarching climate adaptation goals of the amendments.”

Additionally, the use of the term “infill” must be consistent with existing State guidance and law. The CEQA Guidelines at §15192 (Thresholds requirements for exemptions for agricultural housing, affordable housing, and residential infill projects) introduces environmental restrictions on what can be considered an “infill” project, specifically, that the project site:

- (1) Does not contain wetlands, as defined in Section 328.3 of Title 33 of the Code of Federal Regulations.
- (2) Does not have any value as an ecological community upon which wild animals, birds, plants, fish, amphibians, and invertebrates depend for their conservation and protection.
- (3) Does not harm any species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq) or by the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code).
- (4) Does not cause the destruction or removal of any species protected by a local ordinance in effect at the time the application for the project was deemed complete.

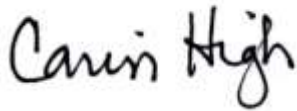
Incorporation of existing State guidance on what constitutes “infill” is not only consistent with but also promotes the CAS goals and strategies of to protect biodiversity and pursuit of activities that “increase natural resiliency.”

Comments re alternatives to Policy 6:

The policy direction in the language should be retained with modifications. Item (c) – The use of the term “infill” must be restricted as described above. Also, who determines what “high value” means? Is this economic value to the developer or the local agency? That type of value analysis does not always take into consideration the long-term burden new development will place on communities. Item (d) – the term “redevelopment” as it pertains to development projects should be restricted to sites that are in urban areas and predominantly covered by existing hardscape. Also, areas in need of redevelopment could potentially provide opportunities for natural resource restoration.

As the California Coastkeeper Alliance stated in its October 6, 2010 letter (and Baykeeper stated in its October 7, 2010 letter), “BCDC’s amendment of the Bay Plan to address sea level rise is a reasonable exercise of its legal duties and responsibilities.” We thank staff for many opportunities to provide comment. We urge BCDC to quickly adopt staff’s recommended climate change amendments as modified above.

Sincerely,

A handwritten signature in black ink that reads "Carin High". The signature is written in a cursive, slightly slanted style.

Carin High,
Vice-Chair