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San Francisco Bay Conservation & Development Commission

1983 Annual Report — San Francisco Bay Conservation & Development Commission

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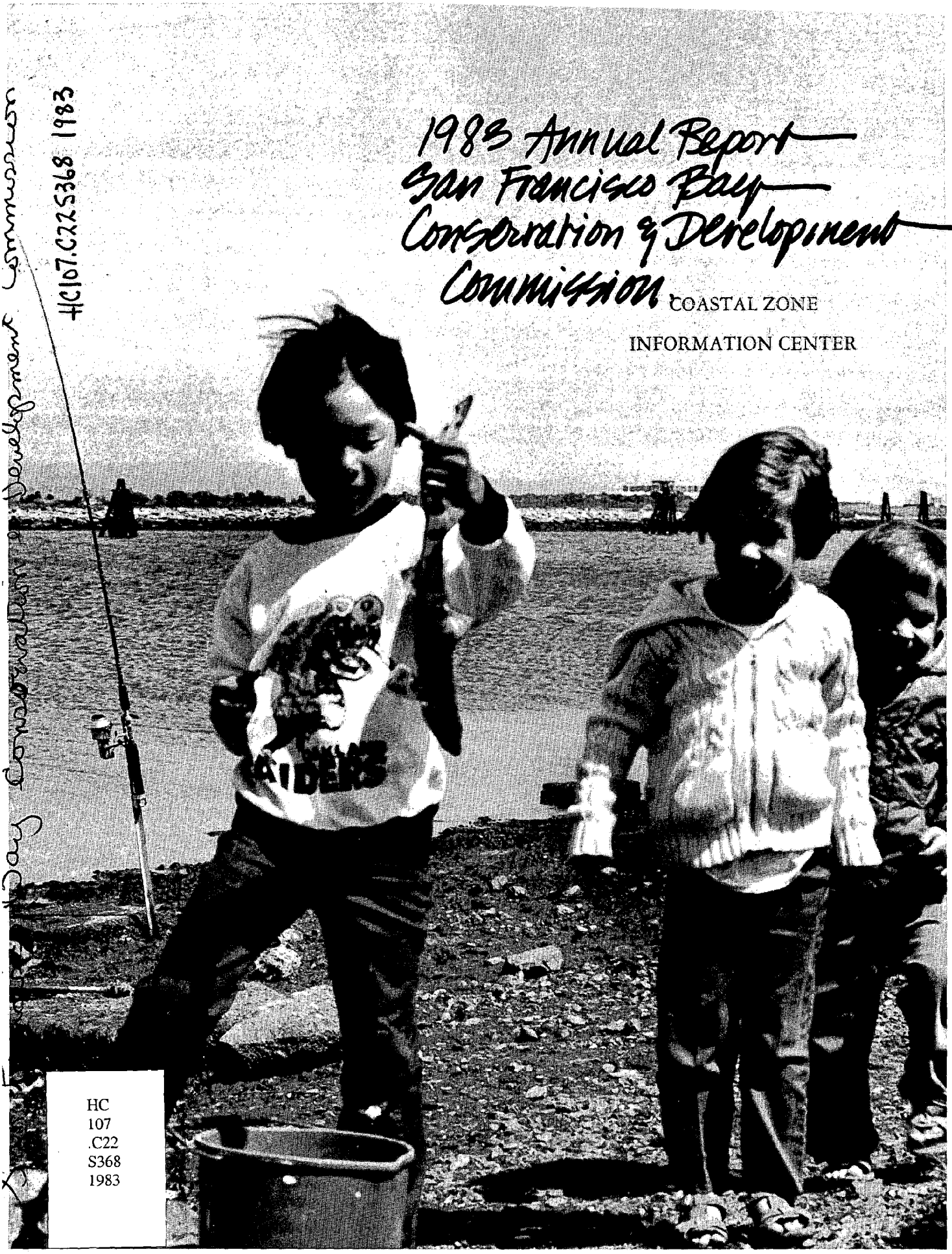

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STATE OF CALIFORNIA GEORGE DEUKMEJIAN, *Governor*

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December 29, 1983

Governor Deukmejian and
Members of the California Legislature:

The Commission is pleased to submit its 1983 Annual Report of activities under the McAteer-Petris Act, the Suisun Marsh Protection Act, and the Federal Coastal Zone Management Act.

During the year, the Commission issued 23 major and 105 administrative permits that involved $395,000,000 of development. About 26 acres of new public access along about six miles of shoreline will be provided once these projects are completed. The projects will also result in 9 acres of additional Bay surface. In addition, the Commission certified numerous Federal projects under the Federal Coastal Act.

The Executive Director and the Commission had to issue a total of five cease and desist orders, and 38 formal enforcement investigations were begun. Nevertheless, over 75 percent of the incidences of permit violations and illegal Bay fill have been corrected short of litigation or the issuance of formal cease and desist orders.

The Commission continued its planning program to resolve major issues affecting the Bay Plan. The Commission adopted five Bay Plan Amendments and began work on a sixth; completed the final draft of its Water Quality Study and Richardson Bay Special Area Plan; and began the public hearing process on the Houseboat/Live-aboard Study. The Commisson's staff also began work on a Transportation Element Update of the Bay Plan, a study of General Permits for certain types of work to eliminate the need for individual permit applications, and a study of the Commission's control over fill in the Bay. These three latter projects are expected to be completed in 1984.

In December, 1982, Chairman Joseph C. Houghteling submitted his resignation; he had been a member of the Commission since March, 1971, and served as Chairman since August, 1975. Chairman Houghteling also served as Vice-Chairman of the San Francisco Bay Conservation Study Commisson; whose recommendations led to the creation of the Commission by the California Legislature in 1965. The achievements of the Commission are due in large part to the dedicated leadership he gave to all who served with him on the Commission.

In mid-year, Michael B. Wilmar, Executive Director since July, 1979, resigned desiring to return to private practice of the law. He left with the Commission's appreciation for his outstanding service. His Deputy, Alan R. Pendleton, was appointed by unanimous Commission vote to be the new Executive Director.

Also in mid-year, Vice-Chairman Hans Schiller submitted his resignation; he served on the Commission since February, 1978, and he was Acting Chairman from January through August, 1983.

The Commission is most appreciative of the continued public interest and participation in its activities; the valuable contributions of the Design Review Board, Engineering Criteria Review Board, and Citizens Advisory Committee whose members contribute their time and knowledge; to the Attorney General's Office for their continued fine advice and support; and especially to its staff, whose numbers are less than the Commission itself, but who manage to produce work remarkable for both quantity and quality. The continued cooperation of permit applicants has also been important to assuring a balance of conservation and development around the Bay, and as a consequence, litigation by third parties has been negligible.

Very truly yours,

JOHN READING
Chairman

JHR/gg

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

The 27-member Commission was created in 1965 by the California Legislature in response to broad Bay Area concern over the future of San Francisco Bay. The McAteer-Petris Act, the Commission's enabling legislation, gave the Commission the responsibility of preparing "a comprehensive and enforceable plan for the conservation of the water of San Francisco Bay and the development of its shoreline." In 1969, the Commission submitted the completed San Francisco Bay Plan to the Governor and the Legislature. The McAteer-Petris Act was subsequently amended to make the Commission permanent and to give the Bay Plan the force of law.

The two objectives of the Bay Plan are: 1) to protect the Bay as a great natural resource for the benefit of present and future generations; and 2) to develop the Bay and its shoreline to their highest potential with a minimum of Bay filling. To implement the Bay Plan, the Commission:

* Regulates all filling and dredging in San Francisco Bay (which includes San Pablo and Suisun Bays, sloughs and certain creeks and tributaries that are part of the Bay system, salt ponds and certain other diked off areas);

* Provides, within a 100-foot-wide strip inland from the Bay, public access to the Bay to the maximum extent feasible, consistent with the nature of new shoreline development; and

* Minimizes pressures to fill the Bay by ensuring that the limited amount of shoreline property suitable for regional high priority water-oriented uses is reserved for these purposes. Such priority uses include: ports, water-related industry, water-oriented recreation, airports, and wildlife areas.

In 1977 the California Legislature gave the Commission the added responsibility of implementing the Suisun Marsh Preservation Act in cooperation with local government and the Department of Fish and Game. This legislation enacted into law most of the recommendations of the Suisun Marsh Protection Plan prepared by the Commission during 1976. The Act requires local governments and special districts within the Marsh to prepare a local protection program consistent with the Protection Plan and the Preservation Act. The local protection program includes controls designed to protect the wetlands, riparian habitats, and agricultural lands within the Marsh. The Commission certified the components of the Plan for Solano County, Suisun City, Solano County Local Agency Formation Commission, Solano County Mosquito Abatement District, and the Suisun Resource Conservation District. With the exception of the City of Benicia, which has jurisdiction over only a very small strip of the Marsh, the local protection program certification process for the entire Marsh is complete.

The Commission's regulatory activities fall within three broad, overlapping areas: pre-application coordination with project proponents; permit review and formal action by the Commission or Executive Director; and project monitoring and enforcement activities.

PRE-APPLICATION WORK

The Commission encourages project proponents to discuss with its staff at the earliest possible time proposals that may either fall within the Commission's permit jurisdiction, or that may affect the Bay. The staff works with the proponents, local governments, and the public prior to the actual filing and formal processing of permit applications to assure that the project is in conformity with the Commission's laws. This pre-application work varies from simple inquiries concerning jurisdiction or the proper use of fill to extensive meetings over many months with architects, designers, and the Design Review Board. Because project design has not been completed at this stage, project sponsors find it easier to comply with Commission policy; any changes can be incorporated far more easily than at later stages in the development process. Occasionally it is found that a proposed project cannot be constructed at a given site; such early detection reduces frustration and costs for applicants.

PERMITS

The placement of fill, dredging, or any substantial change in use of the Bay or shoreline requires a permit. Under the BCDC law, the Commission must complete action on a permit application within 90 days after a completed application has been filed or the permit is automatically granted. As a result, the Commission has one of the most expeditious regulatory processes in state government.

Permits are classified as either "major" or "administrative." Administrative permits are issued by the Executive Director for "minor repairs and improvements," as defined in the Commission's laws and regulations. All other permits are major permits and require a public hearing and action by the Commission. Permits are issued only if the project is consistent with the policies of the San Francisco Bay Plan and the McAteer-Petris Act, or the Suisun Marsh Preservation Act of 1977 and Suisun Marsh Protection Plan, as they apply.

The approved projects during 1983 total approximately $395,000,000 in new development expenditures (plus material amendments to previously approved projects totalling over $200,000,000 in construction costs) and will result in a total of 4 acres of new Bay fill. The projects will also provide approximately 9 acres of new Bay surface area; thus the net increase in new Bay Area will be 5 acres. In addition, the projects will provide approximately 26 acres of new public access along about six miles of Bay shoreline.

For the five-year period of 1979 through 1983, the Commission approved a total of 125 applications for major permits, and denied only one. According to figures supplied by the applicants at the time they submitted their applications to the Commission, these projects total almost one and one half billion dollars in construction costs. Although these projects required 76 acres of new Bay fill, mitigation measures resulted in 421 acres of new Bay surface, or a net gain of approximately 345 acres of Bay surface. Conditions for approval of the permits also provide for an increase of 254 acres of new public access.

Permit Summary For 1983:

Major Permits Granted: 23
Administrative and Emergency Permits Granted: 105
Applications Denied: 0

Major Permits

To Marina Bay Development Corporation for a 252-berth marina, parking, and related improvements at the Richmond Inner Harbor Basin, Contra Costa County. Public access includes a 900-foot pathway, viewing areas, landscaping, and related improvements.

To Burlingame Office Center, Ltd. for three office buildings and parking on a 12.7-acre parcel in the Anza Airport Park subdivision, Burlingame, San Mateo County. Public access includes landscaping and pathway along 1,800 feet of shoreline, a fishing plaza, and a small park.

To Lucky Acres Associates to fill and grade an upland site, and make drainage and roadway improvements along the shoreline in East Palo Alto, San Mateo County. Public access includes a 1,050-foot pathway and landscaping, and a 180-foot boardwalk connecting with the Mid-Peninsula Open Space levee system. After completing the improvements, the site will be subdivided into 10, one-acre parcels and sold for development by others.

To the Campeau Corporation of California to construct 1.5 million square feet of office space and associated facilities in five to eight buildings at the site of the existing Marine World, Africa U.S.A. Amusement Park in Redwood City, San Mateo County. Extensive public access improvements are planned, including a one-mile pathway around the shoreline of the project, a 1/2-mile walkway around an internal, man-made lagoon, parking, and picnicking facilities.

To Alameda Marina Village Associates, an amendment to a previously approved permit for the development of a marina/commercial/residential and public access project near the Encinal Yacht Club in Alameda, Alameda County. The site is a 156-acre former ship building facility that has deteriorated and fallen into disuse. Extensive public access will be provided throughout the project, including parking and a landscaped pathway around the entire perimeter of the project.

To Walter Carter for the construction of a single-family residence on the Carquinez Straits in Benicia, Solano County. No public access will be provided; however, an open space easement will be established on the portion of the lot subject to tidal action.

To the City of Martinez to expand the existing Martinez Marina in Contra Costa County. An existing 1,600-foot-long levee now subject to tidal action will be raised and a public access pathway constructed on it.

To William and Gail Skarich and Joseph and Spronsa Garske to construct a marine construction yard at the Mare Island Strait in Vallejo, Solano County. Public access will not be provided at the site; however, the applicant will contribute funds for improvements at the nearby River Park in Vallejo.

To Suisun Shores Development to construct a 165-unit residential condominium and recreational facilities at the north end of Suisun Slough in Suisun City, Solano County. A public access pathway will be constructed along the entire 970-foot side of the project facing the tidal channel.

To Hometel Development Corporation to construct a 360-room, hotel, a restaurant and public services building, parking, a fishing pier, and over 4 acres of landscaped public access. The project is located on a 14.5-acre peninsula on the Anza Lagoon in Burlingame, San Mateo County.

To Chevron U.S.A. Inc. to create a 1/2-acre drilling pad and improve an existing levee for exploratory drilling for natural gas. The project is located at the convergence of Hunter Cut and Suisun Slough in the primary management area of the Suisun Marsh, Solano County. If drilling is unsuccessful, the pad will be removed and the site returned to its natural condition. If successful, the pad will be reduced in size significantly and only the pump will remain at the site. No public access is proposed for the project.

To Chevron U.S.A. to cover boat berths at the Chevron Rod and Gun Club in Richmond, Contra Costa County. The public will be allowed to use a now private road giving access to the East Brothers Lighthouse.

To Pier 39 and the Port of San Francisco for the removal of a floating tire breakwater and construction of a new concrete sheetpile breakwater, expansion of the existing marina from 335 to 365 berths, relocation of the carousel to replace the diving pool, construction of a 0.9-acre park, and other related improvements. Pier 39 is located on the northern waterfront near Fisherman's Wharf in San Francisco. In addition to extensive public access on Pier 39, the project includes construction of a public park on the Embarcadero between Piers 35 and 39, at a site now used as a storage yard. This project is unusual in that the proponents will sell long-term leases for the berths in the marina and use the capital to fund construction of the breakwater. At least 18 percent of the berths will continue to be short-term rentals.

To the Port of Oakland to demolish the Goodman's Convention Hall and KTVU television studio, and construct a 12-story office building, four-level parking garage, and a two-story building for retail shops, and a restaurant. The 2.8-acre site is located on the Oakland-Alameda Estuary in Jack London Square, City of Oakland, Alameda County. Public access improvements include two plazas adjacent to the shoreline, a boardwalk, landscaping, and picnicking facilities.

To the United States Geological Survey and the Port of Redwood City to construct a new berth for ocean-going USGS ships at Berth 4 on Redwood Creek, Port of Redwood City, San Mateo County. The project requires approximately 0.3 acres of new fill which will be off-set by excavation of a similar area creating new bay surface. Public access includes parking and a landscaped picnic area at the site.

To the City of Emeryville for a revision to the previously approved Public Benefits Plan provided under Commission permit 1-70. The permit authorized the Emeryville Marina complex, just north of the Bay Bridge in Alameda County. This amendment authorizes the City to delete a pedestrian and bicycle crossing at the Southern Pacific railroad tracks near Powell Street. In its place, the City will purchase and improve a parcel of land near the Emery Cove Marina and improve a portion of the Albany Spit, both for public access purposes.

To Robert Klemmedson and Clarence Richard to redevelop a 3.5-acre site adjacent to Suisun Slough in Suisun City, Solano County. The project includes expansion of the existing marina from 33 to 75 berths, construction of boat sales and repair facilities, four retail/office buildings, and relocation and restoration of an old railroad station to be used as a restaurant. In additon to extensive public access throughout the project, a 750-foot pathway along the shoreline will be constructed.

To the Ashton Company and American Savings and Loan to develop the southerly 27 acres of Strawberry Spit near Strawberry Peninsula in Marin County. The site will be subdivided into 62 single family residential lots. Construction of the homes, estimated to be in the 1/2 to 1 1/2 million dollar range, is allowed by the permit, and will begin as plans for the individual homes are approved by the Commission's staff. Public access includes a 3,340-foot pathway along the perimeter shoreline of the project, parking, and three small viewing plazas. The applicant will also dredge a 100-foot wide navigable channel, creating a 10-acre "island" at the northern end of the peninsula. This area will be set aside for wildlife purposes, and contains one of the last remaining harbor seal haul-out areas in the Bay.

To Emery Bay Cove, Ltd. to amend their existing permit for the construction of the 430-berth Emery Cove Marina, located just north of the Bay Bridge in Emeryville, Alameda County. The amendment authorizes the applicant to subdivide the marina and sell the berths. At least 10 percent of the berths will continue to be rented. The applicant will deposit $100,000 with the East Bay Regional Park District for public access improvements.

To Encinal Industries, Inc. and H.P. Anderson and Co. to renovate and enlarge an existing marine terminal from one container berth to three container berths, and to expand an existing marina by the addition of 228 berths. The project is located at Encinal Terminal on the Oakland-Alameda Estuary in the City of Alameda, Alameda County. The project includes approximately 1.4 acres of improved public access at the site. The applicant will convey $44,800 to the East Bay Regional Park District for use in a tidal restoration project to mitigate the 3.5 acres of new fill for this project.

To the California Department of Transportation (Caltrans) to widen and improve Route I-180, and build a new interchange at Bay View Avenue in the City of Richmond, Contra Costa County. This is the first segment of proposed improvements to the Hoffman Transportation Corridor. Public access includes an approximately 1/2- mile pathway from the interchange to the shoreline and a bike lane on the Bayview Interchange.

To the Port of San Francisco and Fresno Partners, an amendment to a previously approved permit allowing the historic ferryboat Fresno to be moored at Pier 3, near the Ferry Building in San Francisco. The ferryboat will be completely renovated and used for offices. Ten thousand square feet of public access, including an historic display, will be provided on the ferryboat, plus another 12,000 square feet of open space on Pier 3.

To the Burlingame Group to construct a 300-room hotel, two restaurants, parking, and public access on an 8.8 acre site on the Anza Lagoon in Burlingame, San Mateo County. Extensive public access and landscaping will be provided throughout the project, including a 1,115-foot pathway system around the shoreline of the project.

Administrative Permits

The Executive Director is authorized to issue permits for proposals meeting certain criteria in order to reduce the time required to process applications. The Executive Director issued 105 "administrative" permits in 1983. The permits ranged from the simple, shore maintenance and small dock construction, to the more complex:

To Las Gallinas Valley Sanitary District for various facilities to dispose of wastewater effluent from the District's plant. A 20-acre wildlife marsh pond and about 3 miles of trails were provided along existing levees near McInnis Park, Marin County.

To JDO Company for 6,000 square feet of parking. One hundred and forty feet of pathway was provided along Belmont Slough, San Mateo County.

To East Bay Regional Park District for a 200-foot wooden bridge across San Lorenzo Creek to allow continuous public access along the shoreline, and, as part of a State Coastal Conservancy grant for the enhancement of Hayward Marsh, a 1,000-foot public access pathway along existing levees.

To Santa Clara Valley Water District to raise and strengthen levees along Alviso Slough, Santa Clara County. About 3,400 feet of public access pathway is included along the levees.

To the City of Sunnyvale, to restore and improve about 4.2 miles of existing levees along Sunnyvale and Guadalupe Sloughs in Santa Clara County. Public access pathways along the entire levee system and a 15-car parking lot at the entrance to the levee trail were included.

To the Port of San Francisco for construction of a container gantry crane at Pier 80. This application was processed as an administrative permit because no new fill in the Bay was required and the increase in capacity was already incorporated in the recently adopted Seaport Plan.

To Frank P. Greene for the construction of a small portion of a 66,000-square-foot office park adjacent to the Corte Madera Ecological Reserve, Marin County. The project includes development of a 40,000 square foot public access and wildlife area, and a 1,600-foot public access pathway along the reserve.

To the California Department of Fish and Game for dredging and construction to protect and enhance wildlife habitat in an abandoned salt pond and existing tidal marsh on Bair Island, San Mateo County. A nesting area of the endangered least tern has been identified in the area.

To the Suisun Marsh Natural History Association for construction of approximately 3/4 miles of trails atop levees in the Peytonia Slough Ecological Reserve, Solano County.

To the City of Sausalito for a marsh resortation project in Dunphy Park, Marin County. The project is funded by a State Coastal Conservancy grant.

To Sea and Meteorology, Inc. to install telemetering data stations at various locations around the Bay to record and transmit tide and wind readings. Data collected will be transmitted directly to the ports to allow them to schedule arrivals and departures of ships.

Suisun Marsh Permits

Under the Suisun Marsh Preservation Act of 1977, local governments and special districts with jurisdiction in the 100-square-mile Suisun Marsh in southern Solano County have prepared components of a local protection program for their areas of the Marsh. A marsh development permit is required for any development in the Marsh: The Commission issues the permit within the "primary management area," which includes the wetlands within the Marsh; local governments issue the permit within the "secondary management area," which surrounds the primary management area and consists mainly of agricultural land that is part of the Marsh ecological system. Both types of permits must be consistent with the local protection program, the McAteer-Petris Act, and the Suisun Marsh Preservation Act.

Marsh development permits issued by local governments in the secondary management area are appealable to the Commission. However in 1983, no permits were appealed to the Commission. This was due in part to close coordination between applicants, local governments, and the Commission.

Although the Commission granted only one significant permit in the primary management area of the Marsh in 1983, considerable staff time was devoted to pre-application discussions on a wide variety of projects within the primary and secondary management areas, including construction of piers and docks, nature trails, corrosion protection for existing pipelines, reconstruction and raising of levees, improvement of land fill and levees in duck clubs, extensive dredging of sand to be sold for commercial purposes, construction of a trailer manufacturing facility, development of a cemetary for the burial of small pets, and construction of commercial wind turbine generators.

Consistency Determinations

Under the terms of the Federal Coastal Zone Management Act, the Commission reviews proposals involving federal activities within or directly affecting the Bay segment of the California Coastal Zone for consistency with the Commission's federally approved Management Program. During 1983, the Commission acted on several federal projects, including:

The National Park Service's removal of a landslide and reconstruction and replacement of roadway, seawall, and other repairs at Fort Point, Golden Gate National Recreation Area, San Francisco.

The Department of the Navy's dredging and construction of various improvements at Mare Island in Solano County and Treasure Island in San Francisco County.

The United States Army Corps of Engineers' regional permit authorizing certain minor repair and improvement projects within San Francisco Bay. The Commission granted consistency certification for all activities covered by the permit and thereby eliminated the need for each project to be certified individually.
The Commission also determined that 27 existing and two proposed nation-wide Corps permits were consistent with the Management Program if the Corps amends the permits so that the Corps permit for a specific project would not take affect until the Commission had first issued a permit for the project. The Corps is reviewing the proposal.

The Department of the Army's placement of riprap and other shoreline improvements on the Emeryville Peninsula, Alameda County.

ENFORCEMENT PROGRAM

In 1977, the Commission began a much needed enforcement program. Under the program, the Commission investigates reports of unauthorized fill and construction within its jurisdiction and reviews all permits issued since September 1965 for compliance with various permit conditions.

During 1983, the enforcement staff initiated 38 formal investigations, continued its investigation into 62 previously initiated cases and investigated numerous other reports of possible violations. In most cases, after the staff identified the problem and contacted the responsible party, satisfactory solutions were reached. Since the program began, approximately 75 percent of the cases have been resolved by voluntary compliance or by permit amendment.

Although most enforcement matters involve minor infractions with the parties willing to cooperate to resolve them quickly, some cases require stronger enforcement measures. In 1983, the Commission and the Executive Director issued a total of five cease and desist orders:

A cease and desist order was issued because of construction of boat docks and other shoreline improvements in unapproved locations and without the required plan approval, and for failing to provide public access improvements in the City of Oakland, Alameda County. The public access and remainder of the project are now in conformance with the permit and stipulated order.

The Commission issued a stipulated order for non-compliance with a permit for construction of a restaurant behind the historic Ferry Building in San Francisco. The permittee had not completed required public access and landscaping prior to operation of the restaurant and was using portions of the public access area for parking. The permittee has since brought the operation into compliance with the permit and order.

In December of 1982, the Commission issued two permits for adjacent automobile processing and storage yards that had already been constructed along the Carquinez Strait in the City of Benicia, Solano County. The applicant refused to execute the two permits because of disagreement with several permit conditions. Therefore, the Executive Director issued two cease and desist orders that prohibited use of the facilities within the Commission's jurisdiction. The applicant sued the Commission challenging the disputed permit conditions and has agreed not to use the areas in question until litigation is resolved.

An aggregate recycling facility located in South San Francisco, San Mateo County, was found to be operating after their permit had expired and required public access had never been constructed. The staff is working with the permittee to develop a schedule for removing the facility and for providing the public access for inclusion into a stipulated order.

● PLANNING ACTIVITIES

Houseboats and Live-aboards

In July, 1983, the Commission began public hearings on its study of houseboats and live-aboards in the Bay. The report was prepared in tandem with a staff report on Recreational Boating Facilities adopted by the Commission in December 1982 in response to Commission concerns about marinas in general. Houseboat marinas have been authorized by the Commission only in limited circumstances primarily to cleanup situations which pre-existed the Commission. There has been a significant increase in the numbers of such vessels, causing marina operators and developers and local governments to seek guidiance from the Commission for their authorization.

The study reviewed trends and forecasts, impacts and benefits, and existing governmental authority, and concluded with proposed amendments to the Bay Plan policies. Several hundred people attended the public hearings held in San Francisco and Suasalito. Because of the great interest, the Commission extended the comment period until February 29, 1984.

The report found that many live-aboards and houseboats exist around the Bay Area; that some vessels provide a service to recreational marinas and boaters in general by improving security and protecting boats in severe storms; "limited numbers" of boats can be authorized in marinas for the purpose of supporting the recreational boating uses; and that in some areas water quality problems may be exacerbated by release of wastewater from houseboats and live-aboards. New information and comments on the report will be incorporated into a revised staff report next spring. Public hearings would preceed any Commission action on the proposed Bay Plan policy amendments.

Fill Controls

Although the Bay Plan policies on fill in the Bay were partially amended in 1971, no comprehensive review has taken place since they were adopted despite many intervening court cases, new legislation and Commission experience with permits. This study, begun in 1982 and being coordinated with the Houseboat and Live-aboard Study, will cover legislation and court decisions affecting the Commisson's authority, the adequacy of existing Bay Plan policies, mitigation for authorized Bay fill, and the implications of the public trust on the actions of the Commission. The study is conducted in cooperation with the Office of the Attorney General and other legal consultants, and with the participation of other interested parties around the Bay. It is expected to be presented to the Commission in the Spring of 1984.

California Coastal Conservancy

Since 1981, the Commission began working closely with the Conservancy, planning and analyzing grant applications for projects under the public access, wetlands enhancement, and urban waterfront programs. Proposals are reviewed also to assure that they are consistent with the Bay Plan.

In 1983, the Commission approved the City of Sausalito's proposal to enhance a wetland in Dunphy Park, Marin County. The $29,000 project will improve wildlife habitat and serve as a model for non-structural erosion control. Although there was no other funding for Bay Area projects in 1983, the Conservancy expects a new round of funding in 1984.

In addition, the Commission's staff reviewed and commented on several planning reports prepared by the Conservancy staff, including possible mitigation land bank criteria and possible funding programs for storm damaged recreational facilities.

East Bay Regional Park District

The Commission adopted a memorandum of understanding with the District for a mitigation program that would allow project sponsors to contribute to a fund for the restoration and maintenance of a 200-acre site along the Hayward shoreline in Alameda County. Because of the scarcity of suitable land, sponsors find it difficult and costly to provide adequate mitigation for many construction projects proposed along the shoreline. The program, already utilized by two applicants in 1983, will eventually see the return of the area to a tidal marsh.

Energy Facilities

The Commission coordinates with the California Energy Commission in reviewing potential power plant sites within the Bay and conducts ongoing review of sites proposed for the construction and transportation of off-shore oil drilling and off-shore mining equipment, natural gas exploration in the Suisun Marsh, and review of wind powered electricity generators in the vicinity of the Suisun Marsh.

Water Pollution Study

Although the Commission does not exercise extensive water pollution control authority under the McAteer-Petris Act, the Commission does attempt to minimize or reduce the water quality impacts of the projects it authorizes. Begun in early 1983, the water pollution study reviews changes made since the late sixties in water pollution control regulations and the current state of water quality in the Bay to determine if the Bay Plan findings and policies on water pollution should be amended, and what requirements may be appropriate for the Commission to impose in permits to control pollution. The Commission will consider the staff report in early 1984.

Richardson Bay Special Area Plan

Special Area Plans apply the general Bay Plan policies in greater detail to specific shoreline areas. The Commission has adopted three Special Area Plans: in San Francisco, Benicia, and Richmond. In 1983, the Commission, in cooperation with the County of Marin and the cities of Sausalito, Mill Valley, Tiburon, and Belvedere began the process for preparing a Special Area Plan for Richardson Bay in southern Marin County. The study is partially funded by a grant from the San Francisco Foundation. A Steering Committee composed of a representative of the Marin County Board of Supervisors, one member each from the city councils, and three representatives of the Commission are guiding preparation of a recommended plan. The Commission representatives are Commissioner Barbara Kondylis, Hans Schiller, and Barbara Eastman. Commissioner Albert Aramburu is Marin County's representative and Chairman of the Steering Committee. Alternate Commissioner Carol Singer-Peltz represents Sausalito on the Committee. A 50-member Advisory Committee assists the Steering Committee in the planning process.

During the past year the Steering Committee has taken action on the five planning background reports which have been prepared by the Commission's staff and consultants. The draft Richardson Bay Special Area Plan, based on the background reports, will be ready for consideration by the Steering Committee in January, 1984. It is anticipated that the recommended Plan will be adopted by the Steering Committee in early 1984 and forwarded to each agency for adoption.

Bay Plan Amendments

In order to keep the Bay Plan up-to-date, the Commission continually reviews the Plan's findings, policies and map designations, and often reviews specific policies or map designations at the request of local governments. After an extensive public hearing process, a proposed amendment can be adopted only after a two-thirds vote of the entire Commission. In 1983, the Commission considered six amendments:

No. 1-83. At the request of Contra Costa County, the Commission reviewed various sites that had been mischaracterized as upland, when in fact, they were marsh. The adopted amendment corrects the mischaracterization and also brings the affected Bay Plan maps into conformance with the County's planning and zoning for the areas.

No. 2-83. The City of South San Francisco requested that an area designated in the Bay Plan as Waterfront Park, Beach be relocated to another area near the Oyster Point Buisness Park, San Mateo County. The Commission found that the relocation would not change the quantity nor the quality of public access in the area and adopted the proposed amendment.

No. 3-83. This proposed amendment would change the Plan findings and policies concerning houseboats and would add new findings and policies concerning live-aboards based on the staff's Houseboat and Live-aboard Study described above. Because of extensive public and press interest in the study, Commission action has been postponed until early 1984 to allow additional comment and study.

No. 4-83. The Port of San Francisco requested the Commission to amend the San Francisco Total Design Plan to allow three, rather than two, historic ships to be moored permanently near Pier 3; and to make other changes to nearby historic bulkhead buildings adjacent to the Ferry Building. The Commission adopted the amendment.

No. 5-83. Since the Bay Plan was reprinted in 1979, several changes in the Bay have occurred as a result of marsh restoration projects authorized by the Commisson. The Commission's staff reviewed these changes and also found that certain salt ponds and other shoreline areas were incorrectly designated on various Bay Plan maps. The Commission adopted the amendment correcting the Bay Plan maps.

No. 6-83. At the request of the City of San Leandro, the Commission began a review of the proposed deletion of waterfront Park Beach priority use designation at a 5.5-acre site east of the Oyster Bay Regional Shoreline in Alameda County. The Commission will begin public hearings on the proposal in early 1984.

Highway 101 Study

In late 1982, the Commission completed a joint study with the Metropolitan Transportation Commission (MTC) to assess the traffic impacts along Highway 101 on the peninsula and its potential to create pressure for Bay fill to accomodate new or expanded highways. Newly completed and proposed projects in the area involve over 20,000,000 square feet of retail, office, and industrial space; over 6,000 new hotel rooms, and approximately 7,500 new residential units. The study found that there was substantial potential impact on the regional transportation system and a potential for Bay fill for roadways to accomodate the increased traffic. As a result, the Commission in 1983, encouraged local governments, the Department of Transportation, MTC, transit districts, and other agencies to develop cooperatively a strategy for coordinating transportation along the corridor. The Commission authorized its staff to participate in such studies and advised local agencies that comments on any project or environmental document involved with new development along Highway 101 should consider future pressure for Bay fill needed to accomodate traffic resulting from the development.

Following up on the initial Highway 101 study, MTC initiated a comprehensive study of Highway 101 and its future traffic demands, traffic management strategies, and traffic mitigation alternatives. Commissioner Earl Mills, representing the Commission on MTC, and the Commission's staff participated in the study. Final action on the study by MTC is expected in 1984.

● LEGISLATION

The Commission reviewed and took positions on several bills affecting the Bay or the Commission's policies. Of these, the most important were:

SB 834. Along with several other agencies and public interest groups, the Commission opposed this bill which would have terminated the public trust on certain tidelands and submerged lands in the Delta and Suisun Marsh. The bill became a two-year bill and will be considered again in 1984.

AB 215. The Commission opposed this bill which would have transferred certain tidelands and submerged lands to a private party without the corresponding benefit to the public as required by existing law. The bill was eventually amended to maintain public ownership of the tide and submerged lands while transferring previously filled lands to the private party.

SB 1258. The Commission opposed this bill, which would have altered the composition of the Commission and the qualifications for Chairman and Vice-Chairman and could have affected the balance of locally elected officials, state and federal representatives, and public members. The bill was not passed.

● LEGAL ACTIVITIES

In 1983, the Commission was involved in several important law suits that raised major land use issues affecting the Commission. Three major suits were continued from prior years:

State of California ex rel. San Francisco Bay Conservation and Development Commission v. United States, et al. In June 1980, the United States General Services Administration (GSA) announced its final disposition of Hamilton Air Force Base in Marin County. The Commission believed the proposed disposition was not consistent with the BCDC law or the Bay Plan, which designated Hamilton for airport priority use to reduce pressures for airport fill at other bayfront airports. The Commission filed suit against GSA to require submission and Commission approval of a consistency determination under the federal Coastal Zone Management Act.

The Metropolitan Transportation Commission intervened in the lawsuit, joining the Commission in its complaint and raising other objections as well. In addition, the Pacific Legal Foundation filed a separate lawsuit objecting to the disposal decision on behalf of the Marin Coalition, a local business interest group. The County of Marin and City of Navato intervened in both lawsuits on the side of GSA.

At the beginning of 1983, the parties to the lawsuits began to explore the possibility of settlement. Out of these discussions evolved the Hamilton Air Force Base "Roundtable", which includes representatives of each of the litigants. The roundtable provides a forum in which the parties can develop a factual basis for settlement discussions and then attempt to reach a settlement. Meeting monthly, the roundtable has made significant progress toward a settlement agreement. It has developed controls to assure that any civil aviation at Hamilton will be limited to general aviation aircraft, and the parties represented on the roundtable have accepted the controls as part of a possible settlement. It has also undertaken studies of the economic feasibility of a general aviation airport at Hamilton and of the institutional arrangements necessary to finance and operate such an airport. The roundtable discussions are expected to continue into 1984.

State of California v. Gianulias, et al.

Prior to 1982, the State of California sued to stop George Gianulias from filling his property located near the White Slough area of Vallejo without a Commission permit. The court issued a preliminary injunction, and during 1983, the court held Mr. Gianulias in contempt for his continued filling in violation of the court order. The Court also determined that the regulations on which the Commission had based its jurisdiction were lawful and upheld the Commission's jurisdiction over the area at issue. The Court reserved until early 1984 a determination of what relief should grant regarding the illegal fill; the court also reserved a determination of how to punish Mr. Gianulias for the contempt of court. The court will review these matters in early 1984.

Leslie Salt Company v. BCDC

In 1980, the Commission issued a cease and desist order to the Leslie Salt Company to require the removal of fill and a barge-like structure placed illegally by unknown persons on Leslie's property in and around Alviso Slough. Leslie sued the Commission to invalidate the order, arguing that the Commission lacked the authority to order a landowner to remove fill that unknown persons had placed illegally on the landowner's property. In 1981, the trial court agreed with Leslie and issued a writ of mandate ordering the Commission to set aside the cease and desist order. The Commission appealed this decision. In December 1983 the Court of Appeal heard oral argument on the case, and is expected to issue an opinion early in 1984.

The Commission was also involved in other significant legal matters first raised in 1983:

Benicia Industries v. BCDC

In December 1982, the Commission issued permits to Benicia Industries, Inc. to authorize two existing automobile processing and storage yards located on Suisun Bay in Benicia, Solano County. Special conditions required public access along a levee separating the yards from the Bay, mitigation for filling approximately 5 acres of wetlands, and the permanent dedication of the remaining part of Benicia Industries' property that is under water as open space to create a permanent public shoreline. Benicia Industries sued the Commission to challenge the conditions, and the case is being pursued.

Corps Permit Regulation Changes

The Corps of Engineers has regulatory authority over San Francisco Bay, its tributaries, and its surrounding wetlands under Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. The Corps' jurisdiction includes most of the areas over which the Commission has jurisdiction and extends to other important areas, such as the diked historic baylands, over which the Commission does not have jurisdiction. Thus, the Commission has a continuing interest in the implementation of the Corps' regulatory program.

On May 12, 1983, the Corps issued a notice that it was proposing changes to its regulations. The Commission commented on those proposed changes commending the San Francisco District on the fine job it was doing with its existing regulatory program and supported generally the goals of simplifying the permit process, reducing unnecessary delays, and preventing possible abuses. However, the Commission objected that the proposed amendments would not meet these goals and would weaken substantially the existing protection for wetlands.

The Corps subsequently held a public hearing on the proposed changes and appointed an in-house task force to review all comments on the changes. The Corps has not yet issued any final regulations based on the proposed changes.

Review of Commission Regulations

In December 1983, the Commission's staff concluded a review of all the Commission's regulations as required by AB 1111 and the Governor's program. This two-year effort considered compliance with five criteria: authority, necessity, clarity, consistency, and reference. Public Hearings on the existing regulations and proposed changes are scheduled for January and February 1984. After receiving public comment, the staff will determine what changes to present to the Commission for action in the Spring of 1984.

THE COMMISSION

The San Francisco Bay Conservation and Development Commission (BCDC) is composed of 27 members who represent federal, state, and local governments, and the general public. The Commission members (Alternates shown in parentheses) during 1983 were:

PUBLIC REPRESENTATIVES

Appointed by the Governor:

John H. Reading, Chairman
Oakland
(Robert E. Mortensen)

John C. Dustin, Vice-Chairman
Redwood City
Hans J. Schiller,* Vice-Chairman
Mill Valley
(Richard C. Wilde)
(Alice Graham*)

Donald C. DeLutis, San Francisco
Denis T. Rice,* Tiburon
(Kirsten Olsen*)

Angelo J. Siracusa, Mill Valley
Cynthia Kay,* Vallejo
(Nicholas Arguimbau*)

Robert R. Tufts, San Francisco
Paul Chignell,* San Anselmo
(David A. Thompson)

Appointed by the Speaker of the Assembly:

Earl P. Mills, San Francisco
(David Jenkins)

Appointed by the Senate Rules Committee:

Elizabeth Osborn, Fremont
(Patricia Shelton)

FEDERAL REPRESENTATIVES

United States Army Corps of Engineers
Colonel Edward Lee
(Calvin Fong)

Environmental Protection Agency
Vacant

STATE REPRESENTATIVES

Regional Water Quality Control Board
Barbara B. Eastman*
(Polly Smith*)

Resources Agency
Michael D. McCollum
Donald L. Lollock*
(Mark Timmerman)
(Brian Hunter*)

Department of Finance
Chon Gutierrez
(Thomas Dithridge)
(S. Calvin Smith*)

State Lands Commission
Claire T. Dedrick
(Diane R. Jones)

Business and Transportation Agency
Burch Bachtold
Norman Kelley*
(William J. Dowd)

LOCAL REPRESENTATIVES

Appointed by the County Board of Supervisors:

Alameda County
Supervisor John T. George
(William H. Fraley)

Contra Costa County
Supervisor Tom Powers
(Supervisor Nancy Fahden)

Marin County
Supervisor Albert Aramburu
(Supervisor Harold C. Brown, Jr.)

Napa County
Supervisor Robert E. White
(Supervisor Mel Varrelman)

San Francisco County
Supervisor Carol Ruth Silver
Supervisor John L. Molinari*
(Dian Blomquist*)

Santa Clara County
Supervisor Rebecca Q. Morgan
(Supervisor Thomas L. Legan)

San Mateo County
Supervisor Anna Eshoo
Supervisor K. Jacqueline Speier*
(Mayor Roberta Teglia)

Solano County
Supervisor Richard Brann
(Supervisor Osby Davis)

Sonoma County
Supervisor Bob Adams
(Donald Head)

Appointed by the Association of Bay Area Governments (ABAG):

Councilman Arthur Lepore
City of Millbrae
(Supervisor Louise Renne,* San Francisco)

Councilwoman Barbara Kondylis
City of Vallejo
(Mayor Carol Singer-Peltz, City of Sausalito)

Mayor Dianne McKenna
City of Sunnyvale
(Councilman Robert Bury, City of Redwood City)

Councilman Frank H. Ogawa
City of Oakland
(Mayor Valance Gill, City of San Leandro)

REPRESENTATIVES OF THE LEGISLATURE

Senate:

Senator Dan McCorquodale
Senator Jim Nielsen*

Assembly:

Assemblyman Dominic Cortese

* Commission Members or Alternates who no longer serve on the Commission after 1983

● DESIGN REVIEW BOARD

Members of the volunteer Design Review Board advise the Commission on the appearance, design, and public access of proposed projects. Because the Commission may only approve a project if it provides maximum feasible public access consistent with the project, the advice of the Board regarding such projects is a critical part of the permit application process.

Jacob Robbins, Chairman
Architect/Planner
Robbins and Ream
San Francisco

Mai Arbegast, Landscape Architect
Berkeley

Eldon Beck, Landscape Architect
Mill Valley

Eric Elsesser, Civil and Structural Engineer
Forell/Elsesser/Chan, Structural Engineers
San Francisco

John Field, Architect
Field/Gruzen, Associated Architects
San Francisco

Stanley Gould, Architect
Design Professionals, Inc.
San Jose

Hideo Sasaki, Landscape Architect/Site Planner
Berkeley

Kenneth Simmons, Architect
Community Design Collaborative
Oakland

* Board Member who resigned during 1983

● ENGINEERING CRITERIA REVIEW BOARD

Members of this Board are specialists in the fields of structural engineering, soils engineering, geology, engineering geology, and architecture. They advise the Commission on the safety of proposed Bay fill projects. Board members volunteer their time for multidisciplinary review of projects proposed in earthquake-prone areas with problematic soil conditions.

Dr. Robert E. Wallace, Geologist
U.S. Geological Survey
Menlo Park
Chairman

Joseph P. Nicoletti, Structural Engineer
John A. Blume and Associates
Vice-Chairman
San Francisco

Prof. James M. Duncan, Soils Engineer
University of California
Berkeley

Donald Harms, Architect
Friedman, Sagar, McCarthy and Miller
San Francisco

Dr. Richard H. Jahns, Geologist
Stanford University
Palo Alto

Eugene A. Miller, Soils Engineer
Harlan, Miller, Tait Associates
San Francisco

Alan L. O'Neill, Engineering Geologist
Lafayette

Dr. Egor P. Popov, Structural Engineer
University of California
Berkeley

John E. Rinne, Structural Engineer
Kensington

A. E. Wanket, Civil Engineer
U. S. Army Corps of Engineers
San Francisco

Dr. T. Leslie Youd, Soils Engineer
U.S. Geological Survey
Menlo Park

Raymond Lundgren, Soils Engineer*
Woodward-Clyde Consultant
San Francisco

● CITIZENS ADVISORY COMMITTEE

The legislatively mandated Citizens Advisory Committee assists and advises the Commission in carrying out its responsibilities. The 20-member Committee is representative of a broad cross-section of interests concerned with the future of San Francisco Bay and its shoreline.

Walter A. Abernathy
Port of Oakland

Rose Beatty
Los Altos

Henry Bostwick, Jr.
San Mateo County Development Association
San Mateo

Richard M. Boswell
Pacific Inter-Club Yacht Association
El Cerito

Robert D. Brown, Jr.
U. S. Geological Survey
Menlo Park

Mrs. Ward Duffy
Portola Valley

Sylvia Gregory
San Bruno

Esther Gulick
Berkeley

Dr. Michael Herz
Oceanic Society
San Francisco

Shiraz Kaderali
Pacific Gas and Electric Company
San Francisco

William Newton
Landscape Architect
Berkeley

Burton Rockwell
American Institute of Architects
San Francisco

Henry W. Simonsen
IT Corporation
Martinez

Dwight Steele
Attorney
Walnut Creek

Richard Trudeau
East Bay Regional Park District
Oakland

(Five Vacancies)

● Other Commissions, Committees and Boards (Commission and Staff Representatives):

Metropolitan Transportation Commission

Commissioner Earl P. Mills

Regional Airport Planning Committee

Vice Chairman John C. Dustin
Vice Chairman Hans J. Schiller*
(Alternate: Phillip Kern)

Seaport Planning Advisory Committee

Commissioner Tom Powers
Commissioner Robert Tufts
(Alternate: Michael B. Wilmar*)

San Francisco Bay Shellfish Program

Hans J. Schiller*

Association of Bay Area Governments, Regional Planning Committee

Vice-Chairman John Dustin
Commissioner Cynthia Kay*
(Alternate: Jeffry S. Blanchfield)

Richardson Bay Special Area Plan Steering Committee

Commissioner Barbara Eastman
Commissioner Barbara Kondylis
Hans J. Schiller

* Commissioners and Staff members who resigned during 1983

● COMMISSION STAFF

Alan R. Pendleton
Michael B. Wilmar*
Executive Director

Frank R. Broadhead
Acting Deputy Director

Russell A. Abramson
Assistant Executive Director

Permits

Nancy A. Wakeman
Acting Chief of Permits

Robert J. Batha
Permit Analyst

Linda M. Pirola
Permit Analyst

Myrna F. Carter
Senior Permit Secretary

Enforcement

Robert B. Hickman
Enforcement Investigator

Robert S. Merrill
Enforcement/Permit Analyst

Randa Phillips
Enforcement/Permit Analyst

Lorez A. Patton*
Enforcement/Permit Secretary

Technical

Norris H. Millikin
Senior Engineer

Jonathan T. Smith
Staff Counsel

Tan D. Chang
Bay Design Analyst

Planning

Jeffry S. Blanchfield
Chief Planner

Phillip E. Kern
Senior Planner

Margit Hind
Coastal Program Analyst

Linda H. Giannini
Senior Planning Secretary

Glenn R. Kistner
Jennifer R. Cherniss*
Graduate Student Assistants

Legislation

Steven A. McAdam
Assistant Executive Director for Governmental Affairs

Administration

Sharon T. Louie
Administrative Assistant

Stephanie L. Tucker
Executive Secretary

Montano P. Dionisio
Management Services Technician

Grace Gomez
Vivien Wright*
Receptionist

Attorney General's Office

Kathy Mikkelson
Deputy Attorney General

Linus Masouredis
Deputy Attorney General

Joseph Rusconi
Deputy Attorney General

Court Reporter

Paul Schiller
Jackie Baldwin*

* Staff members who resigned from the Commission during 1983

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