

San Francisco Bay Conservation and Development Commission

2015 SLAA REPORT

January 5, 2016

John Laird, Secretary
California Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

Dear Mr. Laird,

In accordance with the State Leadership Accountability Act (SLAA), the San Francisco Bay Conservation and Development Commission submits this report on the review of our systems of internal control and monitoring processes for the biennial period ended December 31, 2015.

Should you have any questions please contact Steven Goldbeck, Chief Deputy Director, at (415) 352-3611, steve.goldbeck@bcdcc.ca.gov.

BACKGROUND

The San Francisco Bay is a State-protected resource. BCDC was created in 1965 and is the Nation's first coastal zone management agency. BCDC was charged to comprehensively manage the conservation and development of San Francisco Bay and its shoreline, and to protect and preserve the Suisun Marsh. The Commission carries out this responsibility under the provisions of the McAteer-Petris Act (California Government Code 66600 et seq) (MPA), the policies of the San Francisco Bay Plan (Bay Plan), the Suisun Marsh Preservation Act (California Public Resources Code Section 29000 et seq) (SMPA), the Suisun Marsh Protection Plan (Marsh Plan), and the Suisun Marsh Local Protection Program. BCDC has regulatory and planning authority to conserve and develop Bay resources both in the Bay and up to 100 feet inland. State law (McAteer-Petris Act, 1965) requires BCDC to determine whether locally approved development projects within its jurisdiction comply with State laws and policies that protect the Bay. The McAteer-Petris Act also mandates that BCDC's headquarters be located in San Francisco. BCDC completed its most recent Strategic Plan in Spring 2013, and actively implements its goals and objectives.

State law further requires the Commission to ensure that the Bay Plan reflects the latest scientific research on the Bay and addresses emerging issues. As such, the Commission amended the Bay Plan in 2011 to address climate change and rising sea level. It included a policy exhorting the region to "formulate a regional sea level rise adaptation strategy for protecting critical developed shoreline areas and natural ecosystems, enhancing the resilience of Bay and shoreline systems and increasing their adaptive capacity." The policy recommends, in part, that: "...the strategy incorporate an adaptive management approach... be consistent with the goals of SB 375 and the principles of the California Climate Adaptation Strategy... be updated regularly to reflect changing conditions and scientific information and include maps of shoreline areas that are vulnerable to flooding based on projections of future sea level rise and shoreline flooding... particular attention be given to identifying and encouraging the development of long-term regional flood protection strategies..." and "[I]deally, the regional strategy will determine where and how existing development should be protected and infill development encouraged, where new development should be permitted, and where existing development should eventually be removed to allow the Bay to migrate inland."

BCDC is the State agency responsible for leading the development of Bay Area preparedness for, and resilience to, rising sea level and storm surge (AB 2094, 2008). BCDC is required by the Governor's Executive Order B-30-15 to implement its climate change adaptation planning efforts. BCDC is leading a collaboration of State, regional, special district, and local government agencies that is preparing the Bay Area Regional Shoreline Resilience Strategy, which will be incorporated into BCDC's laws and policies and the Bay Area's 2017 Sustainable Communities Strategy (SB 375, 2008). As BCDC is mandated to

develop and implement state policies on the regional level, BCDC must be an effective regional agency coordinator, collaborator, and partner. Developing and fulfilling relationships with local and regional governments and agencies are just as important for BCDC as working closely with its State partners. AB 2094 provides that BCDC be a member of BARC (formerly known as the Joint Policy Committee) along with MTC, ABAG, and AQMD, and is authorized by state law to successfully promote and fulfill government functions regionally. BARC has directed BCDC to lead the development of the Bay Area's shoreline resilience strategy in collaboration with its BARC partners. The regional agencies collaborating with BCDC most directly are those that will be housed in the new MTC building located at 375 Beale Street in San Francisco.

As part of the FY2016 budget, the State Legislature directed BCDC to analyze the policy ramifications of BCDC relocating with the three other member agencies of BARC at the regional agencies' new office building located at 375 Beale Street in San Francisco.

RISK ASSESSMENT PROCESS

BCDC is a very small agency, with 42 employees and no fiscal ability to have an outside party undertake an independent risk assessment for the agency. Therefore, BCDC's Executive Director, Chief Deputy Director and Director of Administrative and Technology Services met both among themselves and with various staff to discuss risk-related topics. Each of the senior managers listed the top risks based upon level of threat to the agency and potential of occurrence. The Executive Director, Chief Deputy and Director of Administration then reviewed the lists and quickly came to agreement on the listed risks.

EVALUATION OF RISKS AND CONTROLS

Operations- Internal- Workplace Environment

BCDC will be far less efficient and will be less able to fulfill its mandate to protect billions of dollars of state-owned and operated assets that are at risk due to rising sea level without moving to the new regional headquarters building that it will share with the Bay Area's regional agencies, which are BCDC's coordinators, collaborators, and partners in this monumental effort.

Under state law, BCDC and its partners (Metropolitan Transportation Commission, Association of Bay Area Governments, the Bay Area Air Quality Management District, and the Bay Area Regional Collaborative) "coordinate and improve the quality of land use, transportation, and air quality planning for the Bay Area" by "coordinating the development and drafting of major planning documents prepared by" member agencies. BCDC leads the region's efforts to adapt to climate change, is in charge of preparing the resiliency and sustainability section of the Bay Area's next state-mandated Sustainable Communities Strategy, and works closely with its partners to harmonize important regional plans and strategies. Co-locating these efforts in one building in which all agency staffs can work together seamlessly – both physically and figuratively – to significantly increase regional integration uses state resources far more wisely than wasting them on unproductive travel, communication logistics, wasted time, etc. Indeed, not moving into the building will leave BCDC literally on the sidelines by being the only one of the partner agencies not located at the single site.

Co-locating will enable BCDC to fulfill its state-legislated mandate of leading the Bay Area's planning for rising sea level, which will protect state and other assets located in the Bay Area, and implement its climate change adaptation planning efforts as required by the Governor's Executive Order B 30-15. Not co-locating will complicate, hinder, and lessen collaboration required to fulfill BCDC's mandate and would delay or otherwise diminish regional state policies - particularly addressing the challenge of regional climate resilience.

The new regional center will be an efficient and collaborative site in which the region's policy

makers will together address the critical issues confronting the Bay Area, including the threats of rising sea level to state assets. Creative and groundbreaking policy solutions will flourish in this collaborative environment. There will be many more opportunities to have full discussions and make quicker informed policy decisions.

Operations- External- Fi\$Cal Conversion

Fi\$CAL is unable to provide necessary accounting and budgeting services to BCDC, thus putting the agency at risk of a deficiency in FY2016 due to BCDC's participation in Wave 1.

As Fi\$CAL is still not functional, BCDC has not been able to close budget year 2014-15 and has been unable to "open" FY2016. BCDC management does not have any estimate close to a reliable fiscal position and has no data to use for invoicing grants or for managing and costing our staff allocations.

As mentioned in Risk 3, Staff—Key Person Dependence, Succession Planning, BCDC has only single staff members assigned to the accounting, procurement, contracting and budgeting units. Staff attempting to work with Fi\$CAL are both overwhelmed with learning the new system (which, itself, is neither thriving nor complete) and lack basic information to conduct their required duties. BCDC's IT staff has created, and soon will help other staff implement, supplemental BCDC-specific database applications to prepare work that cannot yet be accomplished with Fiscal. BCDC management's understanding is that only one agency in Wave 1 (in addition to DoF) has closed last year's budget, and there are no additional staff resources within the Natural Resources Agency to assist BCDC in this regard.

The three major sub-risks associated with Fi\$CAL's implementation are: (A) the inefficiencies caused by the increase in staff workload due to Fi\$CAL without comparable benefits, as Fi\$CAL reports are neither accessible nor complete; (B) BCDC's own "workarounds" leave the agency at risk for greater mistakes; and (C) staff working with Fi\$CAL are incredibly stressed and less productive. Indeed, BCDC's chief budget officer left the agency for a lower-accounting position, in great part because she no longer wanted to be responsible for a budget that was not manageable.

BCDC is preparing its own new supplemental spreadsheets and database applications to provide required budget and accounting information that is not available from Fi\$CAL.

We are discussing with DOF the need for new additional staff to cover the additional workload created by the Fiscal migration process.

Operations- Internal- Staff—Key Person Dependence, Succession Planning

Key staff turnover will increase dramatically during the next 5-10 years without suitable replacements, thus placing at risk the performance of key agency functions. The administrative functions are particularly at risk.

BCDC's small size (less than 50 staff) severely limits its ability to create staff redundancies and back-ups, which places key tasks at risk as there are inadequate staff whenever a staffer takes leave, is sick or leaves the agency. Administrative tasks (e.g., IT, accounting, budgeting, business services, contracting) are especially at great risk should a staff member retire or take extended leave, as there is only one staff in each Admin unit. This risk is compounded because BCDC's tremendous success as a state agency (both externally as the agency that has "saved San Francisco Bay" and internally as a great place to work) has limited turnover during the past 15-20 years. This combination places a great deal of knowledge within few staff members. Now, some key staff are nearing retirement age without suitable replacements.

This causes several types of sub-risk: (A) there is no chance for the experienced retiring staff to train new staff because BCDC does not have the budget required to hire replacements prior to another's retirement, thus increasing the chances of mistakes; (B) major gaps in time between retirement and replacement will be the norm because accounting for accrued leave severely affects BCDC's budget and

there is no slack in BCDC's small budget; (C) BCDC does not have sufficient funds to create a full-scale training program for any of its staff — training is handled on an ad hoc basis by current staff; and, (D) it will become even more difficult to hire any experienced staff in the Bay Area due to the State's low pay scale.

Sub-risks (A-C) put administrative functions at far greater risk than policy-related functions because the Admin units have no backup at all and the talent pool for policy staff from which to draw new staff is far larger than that of administrative functions. However, sub-risk (D) affects both talent pools equally.

BCDC is reviewing and bolstering its training program for new staff using available resources. The BCDC Management Team is working on an internal training curriculum.

Operations- External- Staff—Recruitment, Retention, Staffing Levels

It is now almost impossible, and soon it will be impossible, to recruit and/or retain competent and adequate staff, especially staff at the middle- and senior management levels, in the Bay Area due to the State's inadequate pay scales.

BCDC's experience recruiting new staff in 2015 demonstrate the difficulties posed by the agency's current and upcoming staff turnover (see Risk 3, Staff—Key Person Dependence, Succession Planning), BCDC's senior permit analyst and Chief Planner each left BCDC after 15-20 years of service to take comparable positions with much higher-paying local governments. BCDC was able to hire a new chief counsel only because he wanted to retire from the private sector after 20+ years as a partner in law firms; he could not have afforded the position at an earlier age. And, incredibly, the entering pay scale offered to office assistants by the State next fiscal year will be below the minimum wage required by the City and County of San Francisco (and likely by other municipalities in the Bay Area).

Simply put, BCDC will not be able to hire competent staff, much less retain them, during the next few years (and perhaps longer) because they can't afford to live and work in the Bay Area at the pay scale BCDC can offer. Given BCDC's small staff, this exacerbates Risk 3, Staff—Key Person Dependence, Succession Planning; the staff turnover undermines BCDC's efforts to meet its state mandates because a large percentage of the staff is undertrained and does not have the experience to prepare work expeditiously at a high level of skill.

BCDC and the Coastal Commission are preparing an employee compensation survey as a basis to justify an increase in the salary range for the Coastal Program Analyst series that BCDC uses for many of its policy positions.

Operations- Internal- Technology—Outdated, Incompatible

Lack of IT funding and capability put BCDC's current permits and planning documents at risk.

BCDC has been issuing permits and amendments and conducting groundbreaking planning and natural resource studies for fifty years. Yet, BCDC does not have a data management system to store and access most of this information beyond Excel spreadsheets, and much critical information is stored in BCDC's office on paper in files that can be retrieved only by using paper index cards. The relatively small amount of information that has been digitized resides on individual PDF files without any software program to relate, search, or access the data.

Sub-risks include: (A) the paper index cards or the paper files, per se, could be damaged or destroyed by accident, by fire, or by vandalism, resulting in a substantial and permanent loss of documentation of state permitting requirements and approvals; (B) access to the information at risk is becoming increasingly difficult due to increased staff turnover and a lack of methodical and institutionalized training (see Risk 4); and (C) as planning and permitting decisions become more difficult due to the pressures of rising sea level, it is likely that BCDC's decisions will be increasingly scrutinized, yet most all of the information that

resides at BCDC is not at all easily accessible to the staff, public or other government agencies.

BCDC has used some very limited grant funds to digitize some of the most critical permit files, but they are still not searchable.

BCDC is discussing with the Natural Resources Data Center and with DOF potential tools to address BCDC's need for a robust data management system.

ONGOING MONITORING

Through our ongoing monitoring processes, the San Francisco Bay Conservation and Development Commission reviews, evaluates, and improves our systems of internal controls and monitoring processes. As such, we have determined we comply with California Government Code sections 13400-13407.

Roles and Responsibilities

As the head of San Francisco Bay Conservation and Development Commission, Lawrence Goldzband, Executive Director, is responsible for the overall establishment and maintenance of the internal control system. We have identified Sharon Louie, Director Administrative and Technology Services, as our designated agency monitor(s).

Frequency of Monitoring Activities

Monitoring is a continuous process with bi-monthly senior staff meetings and monthly management team meetings. We are able to discuss current or potential areas of risk, concerns or other issues that need to be addressed, including those issues raised in the risks identified above.

Reporting and Documenting Monitoring Activities

BCDC is a small agency with less than 50 employees. All BCDC staff are able to raise issues of concern to their immediate supervisor or managers. Often concerns are raised informally at weekly division meetings, where the issue(s) may be brought up at senior staff or management team meetings to be discussed and decision to be made on how to proceed.

Procedure for Addressing Identified Internal Control Deficiencies

Internal control deficiencies reports are provided by the management team or may come directly from individual divisions to senior staff. During the senior staff meetings, the identified deficiencies are reviewed and discussions regarding the deficiencies to be remedied occur. With senior staff concurrence, staff are assigned to undertake and mitigate the risks and report back on the progress or completion. The timeframe for addressing the deficiency will vary depending on what is involved to correct it.

CONCLUSION

The San Francisco Bay Conservation and Development Commission strives to reduce the risks inherent in our work through ongoing monitoring. The San Francisco Bay Conservation and Development Commission accepts the responsibility to continuously improve by addressing newly recognized risks and revising risk mitigation strategies. I certify our systems of internal control and monitoring processes are adequate to identify and address material inadequacies or material weaknesses facing the organization.

Lawrence Goldzband, Executive Director

cc: Department of Finance
Legislature
State Auditor
State Library
State Controller
Secretary of Government Operations