



## MEMORANDUM

**DATE:** November 19, 2013

**TO:** Governing Board  
San Francisco Bay Restoration Authority

**FROM:** Amy Hutzel, Manager  
San Francisco Bay Area Conservancy Program  
State Coastal Conservancy

**SUBJECT:** Report on Draft Expenditure Plan

**ATTACHMENTS:**

- November 19, 2013 Draft Expenditure Plan
- Draft Examples of Bay Restoration Projects Needing Funding and Anticipated to be Eligible for Restoration Authority Grants

At its last two meetings, the Governing Board has discussed the need for an expenditure plan that outlines potential uses of parcel tax revenue and identified specific provisions in the expenditure plan. (The attached September 20 memo provides additional background for your reference.) The Governing Board also appointed John Sutter, Dave Pine, and Sam Schuchat to serve as a committee on the expenditure plan. During the period since the Governing Board's September 25 meeting, the committee provided further guidance about provisions in the expenditure plan and staff circulated a revised draft expenditure plan (DEP) to the Advisory Committee for comment.

The Governing Board meeting on November 20 will provide a second opportunity for discussion of the DEP among the full Governing Board. To help focus your discussion, comments received Advisory Committee members and others since September 25 are summarized below.

Comments on the DEP were provided by the following Advisory Committee members:

- Mitch Avalon, Founding Chair, Bay Area Flood Protection Agencies Association
- Adrian Covert, Policy Manager, Bay Area Council (representing Jim Wunderman)
- Mike Mielke, Silicon Valley Leadership Group
- Bob Spencer, Economic Consultant
- Bruce Wolfe, Executive Officer, Regional Water Quality Control Board

In addition to comments from the Advisory Committee members, a comment letter was received from Arthur Feinstein on behalf of the Loma Prieta, Redwood and San Francisco Bay Chapters of the Sierra Club.

Comments covered a variety of areas of the DEP, and generally fell in to one of five categories: project eligibility, allocation criteria, specificity of the plan, Authority administration, and general comments. All of the comments are represented in the list below.

Staff has reflected many of the relatively minor comments in the attached DEP. However, staff recommends that the Governing Board discuss those comments that raise more fundamental concepts before those concepts are considered for reflection in the DEP. *Comments raising fundamental concepts are shown in italics in the list below.*

## A. Project Eligibility

### 1. General

a. "I added 'one or more of the following' [to Section C.3.] to indicate that the items on the list are not necessarily in priority order." – Avalon

b. [Re: Section B.3.a.]: "'Beneficial use' is the term used in the Water Code and the Basin Plan – all waters, including wetlands, have existing and potential beneficial uses spelled out for them, so use of this term would help us make a tie that their restoration/enhancement is legally necessary. Suggested language: "Have the greatest positive impacts on the Bay as a whole, in terms of clean water, wildlife habitat and ~~benefits~~ beneficial use to Bay Area residents." – Wolfe

c. "We believe that because capitol bond measures cannot fund [monitoring, maintenance and operations]...the RA parcel tax provides a unique and essential opportunity to fund these necessary activities...Each restoration project should include an ongoing monitoring and operations component." – Feinstein

### 2. Public Access

a. "I think that it is wise to allow the flexibility to use Authority funds to maintain access facilities where, I assume, there is no other entity that will maintain the facility. However, taxpayers associations in particular will focus on whether or not Authority funds are used on activities that should be the responsibility of others." – Avalon

b. [Addition proposed to Section B.2.a.]: "...as part of and compatible with wildlife restoration projects in and around San Francisco Bay." – Wolfe

### 3. Flood Protection

a. "I added flood protection [in Section A] as a tie-in to the rest of the expenditure plan program areas. I think flood protection will be a big selling point for this funding measure and the tie in to sea level rise. It gives people comfort that we are planning ahead for eventual sea level rise with this program, both from a habitat and flood protection perspective. One of the memorable moments at the State of the Estuary conference was Howard Shellhammer's remarks about endangered salt harvest mice being picked off in a feeding frenzy by raptors

during very high tides because there is no refuge for the mice above their tidal marsh habitat. I think this would be a good visual to promote in our eventual campaign.” – Avalon

b. “I’m still a little unclear about the following statement [in Section B.3.]: ‘Build, repair and improve levees that are a necessary part of wetland restoration activities.’ Does this mean that levee improvement will only occur to benefit wetlands? Does this mean levee improvements/development will only occur to benefit wetlands under this measure, even if there [are] significant assets under flood risk? If so, that should be made more clear.” – Mielke

#### 4. Restoration

a. “I added ‘creek outlets’ [in Section B.3.a.] to allow projects the flexibility to “wrap around” from the shoreline into the creek mouth. This would give shoreline communities comfort that our restoration projects will tie into any flood protection levees they may have along their creek channels, or the ability to construct the appropriate transition from the shoreline restoration project to the creek channel embankments. This will underscore that we are looking at these projects as a system rather than just a simple restoration of wetlands.” - Avalon

#### B. Allocation Criteria

1. “Revisions [to Section C.3.a.iii.] made to make the criteria more inclusive, e.g. leveraging other local public resources that would not have been recognized under the original text.” Suggested language; “Increase impact value by leveraging other public and private resources.” – Spencer

2. [Re: Section C.3.a.vii]: If the Measure has no sunset date then this provision seems overly specific. For example, the organization, programs, and strategies cited in this clause may change in the future or new organizations, programs, and strategies may arise with which the measure should align. If the measure has a sunset date then this provision is fine as written because it could be amended upon reauthorization.” – Spencer

#### C. Specificity of the Plan

##### 1. Allocation of funds among program areas

a. [Re: Section B]: “Has it been considered to specify what percentage of all revenues are to be appropriated to each program?” – Covert

*b. “Your revised language ties money for levees to wetland restoration projects, but it would allow all the funds of the RA to be used for levees. We urge you to set a percentage limit of RA funds allowable for levees in any specific project the RA helps to fund (for example no more than 20% of RA funds for any project can be used for levee construction). In a similar fashion, the Expenditure Plan envisions RA money being spent on public access as well as water quality control measures. Without any specific allocation levels it would allow all of the RA funds to be spent on these functions and not on wetland restoration. Thus, we think it is necessary that the expenditure plan specify what percentage of its total funds can go to each of those potential fund uses.” - Feinstein*

2. Programmatic Approach vs. Project List

a. *“While making geographic diversity a part of the revised Expenditure Plan, we continue to believe that the Plan needs to provide a list of the specific projects that would be eligible for funding under the Plan...People are more likely to vote for projects they can visualize.” - Feinstein*

D. Authority Administration

1. “I added [to Section C.3.] that funding would be distributed through a grant type program to emphasize and give the public assurance the funds will be distributed in a fair manner. A grant program is typified by a solicitation and outreach for projects rather than just gathering project input through a public meeting.” – Avalon

2. “These questions may be more appropriate to address outside of this document, but the Advisory Cmte. should nonetheless be informed): How many meetings do you expect the Advisory Committee to participate in every year? How many FTEs and what level of budget do you expect will be required to adequately staff the Authority?” – Mielke

E. General Comments

1. “I changed “board” to “board of directors” [in Section C.1.and subsequent sections] because I think the public understands what a board of directors is more clearly than simply a board.” – Avalon

2. “Need reference [in Section A] to coastal flooding [due] to slr and extreme weather as a purpose of this measure.” – Covert

3. *[Re: Section C.3.a.iii] “Critically important. Considering the size of need vs. the reality of this measure, I’m wondering if this principle [public/private partnerships] should be enshrined in its own higher tier consideration. – Covert*

4. “Suggest tweaking the opening sentence [in Section A] to read (new word inserted in italics): ‘Over the last century, we have had a massive impact on the Bay with *development/infill* (choose one vs. landfill) and toxic pollution.’” – Mielke

5. *“I still don’t see anything here [in Section C.3.] about flood risk and economic impact as a factor. We strongly urge you to include this.” – Mielke*

6. *[Re: Section C.3.c.]: “Why not give the authority the ability to use revenues for debt service, even if for a short term? Does the authority have the power to issue debt under its enabling statute?” – Spencer*

7. *“...I wanted to make sure you got the perspective of both the Water Board/Water Code and the wastewater community. Much as Mitch points out the ties to the flood management community (which I heartily agree with), there are also significant ties to the wastewater community. Most of the region’s wastewater treatment plants and much of its significant sewage collection infrastructure is in the Baylands. Not only are these facilities at risk of sea level rise, most are aging and will need an upgrade in the [next] few years. Many of the cities and sanitary districts that own the facilities own adjacent lands that could be restored or enhanced for their wetland value...” – Wolfe*

8. [Re: Section B.1.a.]: “I think we need to build the public health benefit into this, since that’s a connection both to our water quality goals and the public’s use of all the region’s waters for recreation.” – Wolfe

9. “[Re: Section B.1.c] “If ‘restore’ is considered quite broadly, this addition [‘Restore and create wetlands’] may not be needed, but there are many areas around the Bay where wetlands could be ‘created’ even though they may not have existed there in the last 100 years or so. This also would more clearly allow ‘treatment wetlands’ as part of the measure.” - Wolfe

Additional follow-up communications with the majority of respondents yielded further substance to feedback. Members are generally supportive and understanding of the challenges inherent in the process of drafting such a document, and look forward to seeing a revised Draft Expenditure Plan and accompanying materials over the coming weeks.

#### Next Steps:

- Staff is seeking Governing Board approval of the attached track changes version of the DEP, which reflects many of the comments above. *In regards to more fundamental changes to the DEP to address comments shown in italics, staff is looking for Governing Board guidance on whether or not to make changes to the DEP. If needed, staff can make suggested revisions and bring the revised DEP to the ad-hoc committee (John Sutter, John Gioia, and Sam Schuchat).*
- One suggestion made was for a document outlining example projects in each county which would be eligible for funding under the criteria set forth in authorizing legislation and the DEP. Attached is a revised project list, now titled “Examples of Bay Restoration Projects Needing Funding and Anticipated to be Eligible for Restoration Authority Grants.” A map is being created now to show these projects as well as a larger set of sites that could potentially be the location of future restoration projects (this longer list of sites was presented to the SFBRA board in 2011). The list of example projects and map can be used in outreach materials and posted on the web site.
- Final approval of the DEP is not recommended until the entire ballot measure and the associated resolution or ordinance is enacted by the Governing Board in late spring 2014.

Note: This draft document reflects discussions to-date among stakeholders regarding potential expenditure priorities for a regional Restoration Authority revenue measure. It is intended to serve as a focus for continuing discussions leading up to formulation of a ballot measure and expenditure plan by the Restoration Authority. Nothing in this draft document should be construed to signify language that may or may not appear on a ballot measure or supporting campaign materials.

## **SAN FRANCISCO BAY SAFE, CLEAN WATER, POLLUTION PREVENTION, HABITAT RESTORATION, FLOOD PROTECTION AND SHORELINE ACCESS EXPENDITURE PLAN**

### **A. Summary**

Over the last century, we have had a massive impact on the Bay with landfill and toxic pollution. It is not too late to reverse what we've done and restore the Bay for future generations. The San Francisco Bay Safe, Clean Water, Pollution Prevention, Habitat Restoration, Flood Protection and Shoreline Access parcel tax ("Measure") is estimated to generate approximately \$15,000,000 per year to support these goals.

The purpose of this measure is to help reverse the damage that has been done to the Bay by removing pollution, restoring wildlife habitat, enhancing creek outlets and wetlands, preserving clean water, protecting shoreline communities, and increasing trails and public access to San Francisco Bay. These efforts will help protect the Bay's wildlife and shoreline communities from the impacts of storms, high tides, and sea level rise.

Part B of this Expenditure Plan ("Plan") outlines four programs for cleaning up, enhancing and restoring the San Francisco Bay. Part C of the Plan contains provisions for community oversight, accountability and public involvement.

### **B. Program Descriptions**

This Measure will fund Bay restoration across the nine-county Bay Area. The restoration work accomplished by this Measure will achieve the goals laid out in the program areas described below.

#### **1. Safe, Clean Water and Pollution Prevention Program**

The purpose of this Program is to remove pollution, trash and harmful toxins from the Bay to provide clean water for fish, birds, wildlife, and people.

- a. Improve water quality by reducing pollution and engaging in restoration activities, protecting public health and making fish and wildlife healthier.

- b. Reduce pollution levels through shoreline cleanup and trash removal from San Francisco Bay.
- c. Restore wetlands that provide natural filters and remove pollution from the Bay's water.
- d. Clean and enhance creek outlets where they flow into San Francisco Bay.

## **2. Vital Fish, Bird and Wildlife Habitat Program**

The purpose of this Program is to significantly improve wildlife habitat that will support and increase vital populations of fish, birds, and other wildlife in and around San Francisco Bay.

- a. Enhance the San Francisco Bay National Wildlife Refuge, shoreline parks and open space preserves, and other protected lands in and around the Bay, providing expanded and improved habitat for fish, birds and mammals.
- b. Protect and restore wetlands and other Bay and shoreline habitats to benefit wildlife, including shorebirds, waterfowl and fish.
- c. Provide for stewardship, maintenance and monitoring of habitat restoration projects in and around the Bay, to ensure their ongoing benefits to wildlife and people.

## **3. Natural Flood Protection Program**

The purpose of this Program is to use natural habitats to help protect communities along the Bay's shoreline from the risks of severe coastal flooding caused by storms and high water levels in the Bay.

- a. Provide nature-based flood protection through wetland and habitat restoration along the Bay's edge and at creek outlets that flow to the Bay.
- b. Build and improve flood protection levees that are a necessary part of wetland restoration activities, in order to protect shoreline communities.

## **4. Shoreline Public Access and Education Program**

The purpose of this Program is to enhance the quality of life of Bay Area residents, including those with disabilities, through safer and improved

public access and educational opportunities, as part of and compatible with wildlife habitat restoration projects in and around San Francisco Bay.

- a. Construct new, repair existing and/or replace deteriorating public access trails, signs, and related facilities along the shoreline and manage these public access facilities.
- b. Provide education about the health of the Bay in order to protect natural resources and encourage community engagement.

### C. Administrative Provisions

#### 1. Funds will be administered by the San Francisco Bay Restoration Authority

The revenue raised by the Measure for the purposes described in this Plan will be administered by the San Francisco Bay Restoration Authority (“Authority”) and an interest-bearing account shall be created to hold funds. The Authority is a regional entity created by the California legislature in 2008 to “raise and allocate resources for the restoration, enhancement, protection, and enjoyment of wetlands and wildlife habitats in San Francisco Bay and along its shoreline” (Government Code Sections 66700 *et seq.*). The Authority can undertake projects along the shorelines of the nine counties touching the Bay (Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma Counties), including the shorelines of San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, and most of the Eastern-Northern Contra Costa County Shoreline. The Restoration Authority Governing Board is made up primarily of local elected officials from each region of the Bay Area.

#### 2. Accountability and Public Oversight

The Authority shall make every effort to ensure accountability, transparency, and public involvement in its operations.

- a. The Authority will commission an independent annual audit of its revenue and expenditures and will also prepare an annual report on past and upcoming activities and publish an annual financial statement.
- b. The Authority has appointed a community-based Advisory Committee to provide advice on all aspects of its activities, to ensure maximum benefit, value and transparency for safe, clean water, pollution reduction, habitat restoration, flood protection and public access in



and around the Bay. Advisory Committee meetings will be announced in advance and will be open to the public. The responsibilities of this committee include:

- Advising the Restoration Authority Governing Board.
  - Making recommendations regarding expenditure priorities.
  - Reviewing Plan expenditures on an annual basis to ensure they conform to the Plan.
  - Reviewing the annual audit and report prepared by the Governing Board, describing how funds were spent.
- c. All actions, including decisions about selecting projects for funding, will be made by the Authority in public meetings with proper advance notice and with meeting materials made available in advance to the public.

### 3. Additional Allocation Criteria and Community Benefits

The Authority shall ensure that the revenue generated by the Measure is spent in the most efficient and effective manner possible, consistent with serving the public interest and in accordance with existing law and this Plan.

- a. The Authority shall give priority to projects that meet, to the extent feasible, the following criteria:
- i. Have the greatest positive impact on the Bay as a whole, in terms of clean water, wildlife habitat and ~~benefits~~ beneficial use to Bay Area residents.
  - ii. Provide for geographic distribution across the region.
  - iii. Increase impact value by leveraging state and federal resources as well as public/private partnerships.
  - iv. Serve economically disadvantaged communities.
  - v. Benefit the economy of the region, including local workforce development, ~~and~~ employment opportunities for Bay Area residents, and nature-based flood protection for critical infrastructure and shoreline communities.
  - vi. Work with local organizations and businesses to engage youth and young adults and assist them in gaining skills related to natural resource protection.

- vii. Meet the selection criteria of the Coastal Conservancy's San Francisco Bay Area Conservancy Program and are consistent with the San Francisco Bay Conservation and Development Commission's coastal management program and with the San Francisco Bay Joint Venture's implementation strategy.
- b. The Restoration Authority Governing Board shall conduct one or more public meetings annually to gain public input on selection of project grants to expend revenues generated by the Measure.
- c. The Authority may accumulate revenue over multiple years so that sufficient funding is available for larger and long-term projects. All interest income shall be used for the purposes identified in this Plan.
- d. No more than 5% of the revenue generated by this measure and provided to the Authority may be used by the Authority to administer the projects funded under this Plan.
- e. Examples of potential projects eligible for funding may be found at [www.sfbayrestore.org](http://www.sfbayrestore.org).



**EXAMPLES OF BAY RESTORATION PROJECTS NEEDING  
FUNDING AND ANTICIPATED TO BE ELIGIBLE FOR  
RESTORATION AUTHORITY GRANTS**

<b>PROJECT</b>	<b>COUNTY</b>	<b>PROJECT DESCRIPTION</b>	<b>LEAD ORGANIZATIONS</b>
Mclaughlin Eastshore State Park	Alameda, Contra Costa	Creation or restoration of beach, dune, wetland and creek habitats and improvement of shoreline access	East Bay Regional Park District
Coyote Hills	Alameda	Restoration of marsh, seasonal wetlands, and endangered wildlife and infrastructure, and improvement of public access, including Bay Trail segments	East Bay Regional Park District
South Bay Salt Pond Restoration Project: Eden Landing	Alameda	Restoration, enhancement and monitoring of former salt ponds, construction of associated flood management levees and infrastructure, and improvement of public access, including Bay Trail segments	Calif. Dept. of Fish and Wildlife,
Dutch Slough	Contra Costa	Tidal restoration in the southwestern Delta, using fill material to raise elevations and associated levees to provide flood protection, and construction of public trails	Calif. Dept. of Water Resources, Calif. Dept. of Fish and Wildlife
Breuner Marsh	Contra Costa	Restoration of tidal marsh and seasonal wetlands by removing and recontouring fill, construction of 1.5-miles of Bay Trail and an interpretive center, and restoration at the mouth of Rheem Creek	East Bay Regional Park District
Bel Marin Keys	Marin	Design and implementation of tidal restoration, using dredged sediment to raise elevations prior to breaching, construction of an adjacent levee to protect neighboring communities, and completion of Bay Trail segments	State Coastal Conservancy
Lower Napa River Wetlands	Napa	Enhancement of tidal marshes and managed wetlands, improvement of public access, creation of bird islands, installation of water control structures, and monitoring and operation	Calif. Dept. of Fish and Wildlife
Yosemite Slough	San Francisco	Completion of park improvements (entry, parking, signs, trails, visitor center, etc.), monitoring of restored wetlands, and operation and maintenance of wetlands and visitor amenities	California State Parks Foundation
Crissy Field Educational Programs	San Francisco	Programs to engage youth in the protection and restoration of San Francisco Bay	Golden Gate National Recreation Area, Golden Gate National Parks Conservancy
South Bay Salt Pond Restoration Project: Ravenswood	San Mateo	Restoration, enhancement and monitoring of former salt ponds, construction of associated flood management levees and infrastructure, and improvement of public access, including Bay Trail segments	U.S. Fish and Wildlife Service
Coyote Point	San Mateo	Enhancement of sandy beach habitat and public access facilities	County of San Mateo
East Palo Alto Shoreline	San Mateo	Restoration and maintenance of shoreline habitat and construction, management and operation of public access facilities	Midpeninsula Regional Open Space District, City of East Palo Alto
South Bay Salt Pond Restoration Project: Alviso	Santa Clara	Restoration, enhancement and monitoring of former salt ponds, construction of associated flood management levees and infrastructure, and improvement of public access, including Bay Trail segments	U.S. Fish and Wildlife Service
Cullinan Ranch	Solano	Monitoring and management of restored wetlands	U.S. Fish and Wildlife Service, Ducks Unlimited
Suisun Marsh	Solano	Enhancement of marshes within Suisun Marsh to benefit waterfowl and shorebirds	Calif. Department of Fish and Wildlife, Suisun Resource Conservation District, Solano Land Trust
Sears Point	Sonoma	Completion of restoration, monitoring and management of wetlands, and construction of public access improvements	Sonoma Land Trust, Ducks Unlimited
Petaluma River	Sonoma	Enhancement of wetlands to provide habitat for fish and wildlife, completion of trail segments, and provision of water access for non-motorized boats	Friends of the Petaluma River, City of Petaluma, Calif. Dept. of Fish and Wildlife
Living Shorelines: Oyster and Eelgrass Restoration	Marin, Alameda, Contra Costa	Restoration of eelgrass and oyster beds to provide shoreline protection from waves and erosion while providing habitat for wildlife and improving water quality	State Coastal Conservancy, San Francisco State University, U.C. Davis, NOAA Fisheries
Bay Shoreline Clean-Up Activities	Baywide	Support for Coastal Clean-up Day at sites around the Bay shoreline	Coastal Commission, Save The Bay, cities and counties, others