

1975

## Annual Report 1974-75

San Francisco Bay Conservation and Development Commission

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# San Francisco Bay Conservation and Development Commission

## Annual Report 1974-75

"The port of San Francisco is a marvel of nature and might well be called the harbor of harbors because of its great capacity, and of several small bays which it enfolds in its margins or beach and in its islands."

From the Journal of Father Pedro Font, a member of the Expedition of Juan Bautista de Anza 1776 (Bolton's "Anza's California Expedition" Volume 4, Berkeley 1930.)

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The BCDC consists of 27 members who represent Federal, State, and local governments and the general public. Names of Commissioners' alternates are shown in parentheses. The Commission membership, as of December, 1975, is as follows:

#### PUBLIC REPRESENTATIVES

**Joseph C. Houghteling**, Chairman—appointed by the Governor

**Mrs. Dean A. Watkins**, Vice Chairman, Portola Valley, civic leader—appointed by the Governor (Mrs. John A. Gast, Belmont, civic leader)

**Harry A. Bruno**, Oakland architect—appointed by the Governor (Frank E. McClure, Oakland, structural engineer)

**Clarence Heller**, Atherton, investments—appointed by the Speaker of the Assembly (Edward R. Becks, East Palo Alto, Executive Director, Economic Opportunity Commission, Redwood City)

**Mrs. Ralph N. Jacobson**, Hillsborough, civic leader—appointed by the Governor (Mrs. Michael E. Stickney, San Mateo, civic leader)

**Ms. Elizabeth Osborn**, Fremont, civic leader—appointed by the Senate Rules Committee (Patricia Shelton, Cupertino, leader)

#### FEDERAL REPRESENTATIVES

**Paul DeFalco, Jr.**, Regional Administrator, U.S. Environmental Protection Agency (L. R. Freeman, Deputy Regional Administrator, Region IX, Environmental Protection Agency)

**Col. Henry A. Flertzheim**, Chief, Construction-Operation Division, U.S. Army Corps of Engineers (James C. Wolfe, Construction-Operation Division)

#### STATE REPRESENTATIVES

**Mrs. Joseph D. Cuneo**, representing the San Francisco Bay Regional Water Quality Control Board (Penn D. Keller)

**Charles C. Harper**, representing the State Department of Finance (John W. Robbins)

**Donald L. Lollock**, representing the State Resources Agency (Theodore W. Wooster)

**William F. Northrop**, representing the State Lands Commission (Richard S. Golden)

**Ruel A. Speck**, representing the State Business and Transportation Agency (William J. Dowd, Jr.)

#### LOCAL REPRESENTATIVES

**COUNTY** (appointed by County Board of Supervisors)

**Supervisor Warren N. Boggess** of Contra Costa County (Vernon L. Cline, Chief Deputy Director of Contra Costa County)

**Supervisor Quentin L. Kepp** of San Francisco (Dr. Amancio G. Ergina, Commissioner, San Francisco Housing Authority)

**Supervisor William Kortum** of Sonoma County (Supervisor Ignazio Vella)

**Supervisor Thomas S. Price** of Marin County (Supervisor Gary Giacomini)

**Supervisor Geraldine F. Steinberg** of Santa Clara County (Walter E. Carruthers, Jr. Principal Planner)

**Supervisor John M. Ward** of San Mateo County (William F. Powers, Assistant Planning Director)

**CITIES** (Appointed by the Association of Bay Area Governments)

**Councilman Albert Aramburu** of Tiburon (Councilman John F. Cunningham, Jr. of Vallejo)

**Supervisor Dianne Feinstein** of San Francisco (Councilman Arthur Lepore of Millbrae)

**Vice Mayor Mary W. Henderson** of Redwood City (Councilman Lawrence E. Stone of Sunnyvale)

**Councilman Frank H. Ogawa** of Oakland (Mayor Ilene Weinreb of Hayward)

In addition, two Legislators are appointed to meet with the Commission and take part in its work to the extent allowed by their position as Legislators. The Legislators appointed to the Commission are:

**Senator Peter Behr**

**Assemblyman John J. Miller**



## SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

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 SAN FRANCISCO, CALIFORNIA 94102  
 PHONE: 557-3686



March 22, 1976

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TO GOVERNOR EDMUND G. BROWN, JR., AND  
 MEMBERS OF THE CALIFORNIA LEGISLATURE

We are pleased to submit this report covering the activities of the Commission in 1974 and 1975. On September 17, 1975, BCDC completed its tenth year under its authorizing legislation, the McAteer-Petris Act.

This anniversary was an appropriate occasion to learn of an independent assessment of BCDC's record. This assessment included the observation that, "as a case study of the prospects for successfully balancing growth with conservation, the experiences of BCDC are highly instructive to all those interested in rationally balancing our coastal resources."\*

This balance is shown by the results of BCDC's permit process in 1974-1975. When the 32 major projects approved during this period are completed and through the mitigation conditions in the permits, the surface of the Bay will be increased by 279 acres, and there will be more than four miles of new public access to the Bay. Yet at the same time, these projects total nearly \$100 million of development, according to cost estimates at the time of permit issuance.

As an appendix to this report, there is, for the first time, a listing of shoreline public access and recreation areas. This will be of value to all those who enjoy this "marvel of nature," as Father Pedro Font so well described the Bay two centuries ago.

In July, 1975, Chairman William D. Evers submitted his resignation; he had been a Commission member since July, 1967, and Chairman from December, 1972. The achievements of BCDC, especially the activities recorded in this report, are largely due to the dedicated leadership he gave to all of us who served with him.

In 1975, BCDC has undertaken two additional assignments from the Legislature: with the Resources Agency, a study and report on dredging permit processes; and with the Department of Fish and Game, the development of a Suisun Marsh Protection Plan.

Respectfully submitted,

JOSEPH C. HOUGHTELING  
 Chairman

JCH/mc

\*Study by Gerald C. Swanson, Professor of Political Science, Texas A&M University, published in "Coastal Zone Management Journal," 1975.

# The San Francisco Bay Conservation and Development Commission Challenge and Accomplishment

The 27-member Commission was created by the California Legislature in 1965 in response to citizen concern for the future of San Francisco Bay. The Commission originally was given a four-year life span and assigned the task of preparing a plan for the Bay by 1969. In 1969, the Commission submitted the completed San Francisco Bay Plan to the Governor and the Legislature, who subsequently decided that the Commission become a permanent agency to carry out the Plan. The McAteer-Petris Act (the Commission's enabling legislation) was accordingly amended in 1969, giving the Commission three major duties and responsibilities:

1. In accordance with the law and the Bay Plan, to regulate all filling and dredging in San Francisco Bay (including San Pablo and Suisun Bays, all sloughs that are part of the Bay system, and certain creeks and tributaries);

2. To have limited jurisdiction within a 100-foot strip inland from the bay. Within this shoreline band, the Commission's responsibility is two fold: (a) to require public access to the Bay to the maximum extent feasible, consistent with the nature of new shoreline developments, and (b) to ensure that the limited amount of existing shoreline property suitable for high-priority purposes is reserved for these purposes, thus minimizing pressures to fill the Bay. (The six-high-priority uses of shoreline land specified in the law and the Bay Plan are ports, water-related industry, water-related recreation, airports, wildlife areas, and desalinization and power plants.);

3. To have limited jurisdiction over any proposed filling of salt ponds or managed wetlands (areas diked off from the Bay and used for salt production, duck-hunting preserves, etc.). These areas, although not subject to the tides of the Bay, provide wildlife habitat and water surface important to the climate of the Bay Area. If filling of these areas is proposed, the Commission is to encourage dedication or public purchase to retain water surface area. And if development is authorized, the Commission is to ensure that the development provides public access to the bay and retains the maximum amount of water surface consistent with the development.

## Summary of 1974-75

**1. Permit Activity.** When all the projects approved under 1974 BCDC permits are completed, there will be a net increase of 274 acres in the water area of San Francisco Bay. Although the Commission authorized a total of 83 acres of Bay fill during the year, three of the twenty major permits approved provide for the return of 357 acres of land to tidal action.

When all the projects approved under 1975 BCDC permits are completed, there will be a net increase of approximately five more acres of Bay water surface area.

These figures represent a turnaround in the history of the bay. Before BCDC was created ten years ago, there was widespread concern that filling and diking projects would reduce the Bay to a channel in less than 100 years. The trend was apparent: between 1850 and 1940 Bay filling and diking was shrinking the Bay at a rate of about 1,500 acres per year; from 1940 to 1965 this rate increased to about 2,300 acres per year. In 1965, with the creation of BCDC as a temporary regulatory agency, this rate was slowed to about 94 acres per year; and in 1969, after BCDC became a permanent agency with increased regulatory powers and with its Bay Plan to guide the conservation and development of the Bay, the rate dropped further to about 29 acres per year.

Furthermore, whereas most filling in the past was for private uses, most of the fill since 1965 has been for regional public uses, principally for the priority uses of seaports and airports. Based on cost estimates at the time of these major permit issuances, the total amount of development allowed will be \$96-97 million.



Belvedere, Tiburon Shore

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## 2. The Suisun Marsh.

Responding to widespread public concern over development pressures adjacent to the 85,000 acre Suisun Marsh—a vital resting and feeding ground for waterfowl of the Pacific Flyway—the Legislature in 1974 enacted the Nejedly-Bagley-Z'berg Suisun Marsh Preservation Act. The Act directs the Commission and the Department of Fish and Game to develop the "Suisun Marsh Protection Plan" for submission to the Legislature by December 1, 1976. The major provisions are that BCDC and the Department make recommendations concerning (a) the appropriate agency to administer the plan; (b) the acquisition of additional lands in the Marsh by state or federal agencies; and (c) policies and programs to assure retention of the existing large tracts of private land in the Marsh for waterfowl and wildlife use. During the planning period (from September 27, 1974 to November 30, 1976), and while the Legislature is considering the plan recommendations (until January 1, 1978), all development in the wetland areas of the Marsh and in an upland "buffer zone" around the Marsh must be consistent with the Resource Conservation and Open Space Plan of Solano County, local ordinances, and the continued use of the Marsh as a wildlife and waterfowl habitat. During the planning period and while the Legislature is considering the plan recommendations, the Wildlife Conservation Board may purchase key parcels in and adjacent to the buffer zone that require immediate acquisition because of their importance to the Marsh. Legislation appropriating \$2,000,000 from the Bagley Conservation Fund to the Board for acquisition was enacted into law in 1975.

**3. Dredging.** Senate Bill 2418, introduced by Senator Marks, directed the Resources Agency to establish temporary procedures for coordinating the applications for permits within BCDC jurisdiction for maintenance dredging and for new dredging in amounts less than 100,000 cubic yards. The legislation also calls for recommendations to the Legislature on permanent changes in existing procedures and

for an evaluation of the experience with the coordination effort. The purpose of the law and the temporary procedures are to test ways to simplify and expedite the regulatory process for Bay dredging—a process which now involves a number of agencies in addition to BCDC and the Regional Water Quality Control Board—without sacrificing essential environmental safeguards. There is no change in the existing authority of an agency to approve or disapprove dredging projects, but the law allows deadlines to be established within which approving agencies must act. The Secretary for Resources delegated to BCDC the responsibility for carrying out the law. (The final report will be presented to the Legislature in February, 1976.)

**4. Per Diem.** In 1975, Assembly Bill 1601 (Wornum) was enacted authorizing each member of the Commission who is not a state or federal employee to receive a per diem of \$50.00 per meeting in lieu of travel expenses. This brings Commission reimbursement into line with that of the Coastal Commission and other state and regional agencies.

**5. Litigation.** During 1974, the California Court of Appeal, in Blumenfeld et al v. BCDC, ruled that BCDC had jurisdiction over a marsh which, though once contiguous to the Bay and still subject to tidal action, was connected to the Bay only through a culvert beneath a road built before BCDC came into existence. In 1972, the Commission had denied a permit to fill the marsh for unspecified uses. In sustaining BCDC's position, the Court stressed the importance of liberally construing the McAteer-Petris Act (the BCDC law) and similar statutes designed to protect irreplaceable natural resources like the Bay.

One of the two inverse condemnation cases filed against the Commission in 1973 had been resolved at the end of 1975; the other is still pending. Navajo Trucking Company v. BCDC arose out of a 1972 denial of a permit application for a shoreline truck terminal that failed to provide public

access as defined in the BCDC law. During 1975, the California District Court of Appeal upheld a Superior Court ruling completely sustaining the Commission's position. Heerdt v. BCDC arose out of the Commission's denial of a permit to fill the last large marsh in southern Marin County. This litigation is still pending.

In 1974, the Commission, acting in conjunction with the Regional Water Quality Control Board, was also granted a preliminary injunction by the Contra Costa County Superior Court, restraining F.E. Crites, Inc., from further non-permitted filling and diking in a tidal marsh in Contra Costa County east of Port Chicago. The Corps of Engineers also obtained an injunction against this work in federal court. The California Superior Court, however, permitted further dredging of 80,000 cubic yards of material to be deposited on the site and has not yet acted upon a request for a mandatory injunction requiring removal of the fill and dikes which have disrupted nearly fifty acres of Bay marshland. The Commission appealed the portion of the preliminary injunction allowing the additional non-permitted dredging. In 1975, the California District Court of Appeal reversed the Superior Court and prohibited all further dredging. The trial on the mandatory injunction is expected to take place in 1976.

**6. Planning.** During 1974, the Commission completed the Bay Plan Evaluation Program and adopted a planning priority program based in large part on the results of the evaluation. Another major project, a special area plan for the San Francisco waterfront, was completed by an advisory committee in 1974 and adopted by the Commission in 1975 following public hearings. A second special area plan is currently being developed for the south Richmond waterfront, with the assistance of a joint advisory committee appointed by the City of Richmond and BCDC. In December, 1974, the Commission approved a Bay Plan amendment to the park priority designation at the Oyster Point area in South San Francisco, one of the few Plan changes since 1971.



Goodman Marsh, Marin County

## 1974-1975 BCDC Planning Activities

**San Francisco Bay Plan Evaluation.** The McAteer-Petris Act requires a periodic review and updating of the Bay Plan by the Commission. In November, 1973, the Commission adopted a work program for an evaluation of the Plan, the first such review since the Plan's adoption in 1969. The work program led to a series of staff reports that examined the impact of the Plan on local, regional, state, and federal agencies; the experience of BCDC in carrying out its regulatory function since the Commission's creation in 1965; the Plan's policies as they apply to design, public access, and the safety of fills; and public participation in Bay planning. The Commission also held four public forums to solicit ideas from the public on the Plan and on future directions for Bay planning. The evaluation indicated that in general the Plan was sound and enjoyed widespread public support.

**The Priority Planning Program.** Following the evaluation, the Commission adopted a planning

program in November, 1974, which lists the high priority planning matters to be taken up by the Commission and staff during the next few years. Included are study and analysis of regional ports and airports (in cooperation with the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC)), regional water-related industry, shoreline access and recreation areas, and marshes. Also included are the dredging coordination study and the preparation of the Suisun Marsh Protection Plan mentioned earlier. All studies are expected to result in refinement of Bay Plan policies and map descriptions to enable other public agencies and the public to have a clearer understanding of the Bay Plan.

During 1975, work was begun on the study of marshes, public access, and water-related industry. As part of the public access study, the first comprehensive listing and description of present public access to the bay shoreline is published as a supplement to this report.

During 1974 and 1975, BCDC participated in the work of the

MTC's Seaport Policy Committee which is charged with developing a regional seaport plan. The Commission continued its participation in the joint ABAG-MTC Regional Airport Planning Committee. This committee is currently studying revisions to the Airport Element of the Regional Transportation Plan. Airport planning is of great concern to the Commission because of future airport expansion that may involve Bay fill.

**Special Area Planning.** In an effort to resolve the conflicts that have prevented non-maritime development along the San Francisco waterfront, the San Francisco Waterfront Advisory Committee was appointed by BCDC in 1973. This group, with representatives from the many interests concerned with the waterfront, met regularly for over eighteen months to develop a recommended "special area plan." This plan would apply the San Francisco Bay Plan policies in more specific detail along the San Francisco waterfront between the Hyde Street Pier at the north to India Basin at the south. The committee presented its recommended plan to the Commission in December, 1974, and public hearings on the plan and the Draft Environmental Impact Report were held during January and February of 1975. The committee's work culminated in the adoption by the Commission of Special Area Plan No. 1: San Francisco Waterfront in April, 1975, as an amendment to the Bay Plan.

During the latter part of 1975, a second special area planning effort was initiated for the south shoreline of the City of Richmond. The City requested BCDC participation in this project because of inconsistencies between the Richmond Coastline Plan and the Bay Plan. The initial work on this plan is also being done by a specially appointed advisory committee that includes BCDC representation and the recommended plan is expected to come before the Commission by the middle of 1976.

**Bay Plan Amendments.** In August, 1974, the City of South San Francisco requested that the Bay

Plan park priority area at Oyster Point be changed. The City requested the change after a study of its marina and the proposed park in the area indicated that areas near an adjacent freeway would be better used for industrial purposes while the shoreline areas should include more parkland. After several public hearings, the Commission voted, in December, 1974, to change the park designated areas to increase the shoreline area to be used for park purposes and to allow industrial use of the areas near the freeway. At the Commission's request, and to make sure the redesignated park would be realized, the City also obtained easements for park purposes across all privately-owned lands within the new park priority area.

## Permit Summary of 1974-1975

During 1974, both the number of permit matters studied by the staff and the number of permit applications actually filed and processed increased substantially over the previous year. The Commission processed 27 major permit applications, of which 20 were approved, none was denied, 4 were withdrawn, and 3 were still being processed as of December 31, 1974. In 1975, 13 major permit applications were submitted with 10 being approved, none denied, and 3 were still being processed by the Commission as of December 31, 1975. The Commission also entered into 5 memoranda of understanding in 1974, and 8 in 1975 with various federal agencies to ensure that federal projects, which under federal law are not subject to state or local permit requirements, are in conformity with the McAteer-Petris Act and the Bay Plan. In 1974, 116 applications were filed for administrative permits authorizing minor repairs or improvements, of which 107 were approved by the Executive Director in accordance with the Commission's Regulations, 1 was denied, 1 was withdrawn, and 2 were returned to the applicants unfiled. In 1975, 113 administrative permits were submitted and 87 were approved, 2 withdrawn, and 2 returned to the

applicants since these projects did not fall within BCDC jurisdiction. The remaining applications for administrative permits were still in various stages of processing at the end of 1975.

Although the permits issued in 1974 authorized a total of 83.13 acres of fill (78 acres for the replacement of the Dumbarton Bridge in the South Bay alone), for the first time since the Commission came into existence, there will be a net increase in the surface area of the Bay of about 274 acres through mitigation conditions. Two permits (the Dumbarton Bridge replacement and a new ferry terminal for the Golden Gate Bridge, Highway and Transportation District at Larkspur) contained conditions requiring the applicant, as mitigation for the adverse environmental effects of the project, to restore tidal action to diked-off dry areas. In addition, a third project for a recreational and industrial facility at the mouth of the Petaluma River will add approximately 32 acres to the Bay when an existing dike is breached. Permits for other major projects granted by the Commission include: a bicycle/pedestrian bridge across Richardson Bay in Mill Valley; a boat/berthing facility on the estuary in Alameda; an improved road with a bicycle path, pedestrian way and two-acre waterfront park at East Sir Francis Drake Boulevard in Larkspur; restaurants and specialty shops in Tiburon, Alameda, Emeryville, and Burlingame, which include attractive public access to the Bay as a condition of the permits; and improvements to public marinas in San Francisco and Richmond.

The Commission also entered into an agreement with the developers of Bay Farm Island in Alameda which guarantees that public access will be provided along the shoreline of that development. The agreement was occasioned by a permit application for intake-outfall pipes which would drain the interior portions of the island and service a lagoon system proposed as part of the development. No public access was proposed in the application because the developers claimed that the already filled portions of the development were exempt from BCDC permit jurisdiction. The

Commission and staff did not concur in this interpretation of the BCDC law, and therefore both sides entered into the agreement to avoid potential litigation. Under the agreement, the developer is now committed to providing public access in the shoreline band on Bay Farm Island as the development is built out, and to working with the Commission in planning the best locations for public access. The Commission has agreed to consider applications for administrative permits in the meantime without requiring public access as a condition of each application. As a condition of the permit for the pipes, the Commission also reserved the right to consider an environmental impact report on the entire development before authorizing use of the pipes for the interior lagoon system.

### Major Permits Granted

Since completion of the last Annual Report, the Commission has granted the following major permits:

To the Parks and Recreation Department of Santa Clara County, to dredge approximately 50,000 cubic yards of material from the North Basin of the Palo Alto Yacht Harbor, and within the 100-foot shoreline band, excavate existing diked dredge spoils, restore existing portions of a launch ramp road and parking lot, grade and strengthen the dikes surrounding the disposal area and provide salt-tolerant landscaping. The applicant agreed, as conditions of the permit, to provide adequate landscaping, two public toilets, benches and trash containers and to provide public access along the entire shoreline perimeter of the North Basin berthing area as well as to other points within the development (11-73). (Number in parentheses represents the permit file number.)

To the California Toll Bridge Administration, to construct and use a four-lane, high-level bridge with approaches and a bicycle path to replace the Dumbarton Bridge, construct and use four limited-access connecting roads to the approaches of the bridge, dredge 121,000 cubic yards of material, remove nine steel truss



spans from the existing bridge and up to 4,000 lineal feet of trestle-supported approaches to the existing bridge, and create and use for marshland, wildlife habitat and open space at least 200 acres of dry land diked-off from the Bay prior to September 17, 1965 (20-73).

To the Golden Gate Bridge, Highway and Transportation District, to construct and use the Larkspur Ferry Terminal, in Larkspur, Marin County, including excavating the shoreline and filling a portion of the Bay for the terminal structure and docks, resulting in a net increase to the Bay surface of .77 acres, dredging approximately 1.6 million cubic yards of material from the approach channel and turning basin, and placing a portion of the dredge spoils in an area not now subject to tidal action in order to permit the re-creation of a tidal marsh by breaching an existing dike. The permit conditions require the restoration of at least 125 acres of new Bay tidal marsh through a Commission-approved program of marsh restoration and monitoring (22-73).

To Schnitzer Steel Products of California, Inc., to construct and use a docking facility along the Oakland Inner Harbor in Oakland, for the mooring of ships and the transfer of scrap metal and steel products carried by ships, including demolition and removal of an existing wooden wharf in the Bay; construction of a new 35,700-square-foot concrete pier and placement of riprap; dredging of 27,500 cubic yards of material from the berth area; and construction of associated facilities within the shoreline band. Although the permit authorizes .86 acres of fill, the net effect would be only .3 acres of fill in the Bay (25-73).

To Frederick Zelinsky, to construct a restaurant and specialty shops on pre-existing pilings in the Bay on Racoon Strait in Tiburon, and provide approximately 9,000 square feet of boardwalk for public access to the Bay (1-74).

To Pacific Gas and Electric Company, to place in the Bay approximately  $1\frac{3}{4}$  miles of 16-inch outside diameter pipe buried at least three feet deep; and to place within the 100-foot shoreline band approximately  $4\frac{3}{4}$  miles of 12 $\frac{3}{4}$ -inch outside diameter pipe, and  $5\frac{1}{4}$  miles of 16-inch outside diameter pipe, all buried approximately three feet deep for the transportation of low sulfur fuel oil. The pipeline's route runs predominantly within the Southern Pacific Transportation Company's right-of-way from the Standard Oil Company of California's Richmond Refinery to Pacific Gas and Electric Company's electrical generating plants at Pittsburg and Antioch. As conditions of the permit, the applicant is required to restore all marsh and water areas disturbed by the construction of the pipeline or subsequent maintenance activities to their original condition. Another major issue identified in the Environmental Impact Report prepared by the Commission on the project was the impact on air quality in the Bay Area of converting the Pittsburg and Antioch power plants from natural gas to fuel oil. Though increased emissions of sulfur dioxide from burning fuel oil were inevitable, the Commission restricted use of the pipeline to the transport of low sulfur fuel oil in order to ensure, to the maximum feasible extent, that only low sulfur fuel oil was burned in the plants until the impacts of burning fuel oil with a higher sulfur content had been fully assessed. The Commission also required the applicant to develop an air quality monitoring program in cooperation with the Bay Area Air Pollution Control District to determine whether State and Federal ambient air quality standards will be met in the vicinity of the plants (2-74).

To the County of Marin, to construct a wood bicycle and pedestrian bridge covering 1,700 square feet of Bay surface at the upper end of Richardson Bay in Mill Valley (3-74).

To the Port of Oakland, to demolish and remove an existing wood wharf and to construct a

concrete wharf and related facilities for containerized shipping in the Oakland Outer Harbor between 7th and Pier Streets and to provide 18 acres of public access area along the shore of San Leandro Bay; Bay fill of 1.85 acres (4-74).

To Lathrop/McCloskey Joint Ventures, to demolish and remove an abandoned wharf and to construct and use a restaurant, public access area, fishing pier, and parking lot having a net Bay fill of 0.19 acres in the City of Emeryville along Frontage Road at Powell Street (5-74).

To Matson Terminals, Inc., to construct supporting structures for container loading and unloading ramps for roll-on/roll-off containership operations covering .26 acres of the Bay, at Berth F in the Oakland Outer Harbor (6-74).

To the City of Vallejo, to use shoreline within the Commission's jurisdiction for fabrication of off-shore exploratory drilling rigs and fixed off-shore production rigs; construct in the Bay facilities for marine construction docking and out fitting facilities for floating construction equipment; provide warehousing and an open storage depot for marine construction; and provide a public access fishing pier at Mare Island Strait in the City of Vallejo, involving 2.02 acres of net Bay fill (7-74).

To Cabot, Cabot and Forbes, California Properties, Inc., and DiSalvo Trucking Company, to construct within the 100-foot shoreline band a portion of a truck terminal parking lot and to provide public access, public parking and a pathway in the City of South San Francisco near Oyster Point Boulevard (8-74).

To Don the Beachcomber, Inc., to riprap 900 square feet of shoreline on the Oakland Estuary in Alameda; construct a restaurant; and provide a continuous landscaped public access area within the 100-foot shoreline band (9-74).

To the City and County of San Francisco, to construct a concrete

pile breakwater in the Bay at Gas House Cove in San Francisco; provide for a sewage pump-out facility at Gas House Cove; construct public restrooms at Gas House Cove; and provide for a boat protection system at the Fort Mason pier between Marina Green and Fort Mason (10-74).

To Don the Beachcomber, Inc., to construct a restaurant and parking lot and provide public access to the Bay, in the City of Burlingame, at Mills Creek within the 100-foot shoreline band (11-74).

To Hendricks/Norman, to construct a water overlook; construct a three-story office building and ancillary parking lot; and provide an 11,000-square-foot shoreline area for public access in the City of Mill Valley on Richardson Bay (12-74).

To the City of Larkspur, adjacent to the proposed Larkspur Ferry Terminal, to fill 4,280 square feet of the Bay and do work within the shoreline band to widen and improve East Sir Francis Drake Boulevard and provide a bicycle and pedestrian pathway; and provide a 1.84 acre linear park between the improved road and

the edge of the channel connecting to Corte Madera Creek (13-74).

To the City of Fairfield, to place an outfall pipe in Boynton Slough as part of a sewage treatment facility; and construct a reinforced concrete control box to control the release of treated effluent.

This project will result in the temporary disruption of 320 square feet of marsh and 2.8 acres of managed wetlands (14-74).

To Brickyard Cove Harbors, Inc., to construct in the Bay a 240-foot long concrete breakwater covering 400 square feet of the Bay at a small boat marina at Brickyard Cove in Richmond (15-74).

To Shellmaker, Inc., to drive 15 piles in the Bay; construct 40 boat slips covering 6,354 square feet of Bay surface; breach a dike and flood a 31.8 acre basin behind the dike; and provide a landscaped public access area, all adjacent to the Petaluma River in Sonoma County, opposite Black Point and near San Pablo Bay (16-74).

To Robert Hannon, to dredge 800 cubic yards and deposit spoils

outside the Commission's jurisdiction; construct berthing facilities for 28 boats covering 4,704 square feet of Bay surface; and construct a 20-foot wide public access area along the Oakland Estuary, all to be done in the City of Alameda at the foot of Webster Street (17-74).

To Cabot, Cabot and Forbes, California Properties, Inc., to construct portions of an industrial building and parking lot within the 100-foot shoreline band at Point San Bruno in South San Francisco; remove 32 existing parking spaces along the shoreline; and provide for landscaped public access and a pathway (18-74).

To Ned C. Martin, in Sausalito, to develop a marina in the Bay accommodating 90 boats, with floating walkways, piers, a floating breakwater, a permanent breakwater, and the installation of approximately 375 wood piles, which all together cover 2,534 square feet of water surface area. A 30-car parking lot will be constructed on previously authorized fill and the applicant will provide a 12-foot wide boardwalk for public access and will landscape all public access and use areas (1-75).

To Richard Schumacher, to construct within the 100-foot shoreline band a three-story single-family home, a swimming pool and cabana along the Carquinez Strait in the City of Benicia. As conditions of the permit, the applicant agreed to provide public access during daylight hours to a pathway and steps to a small beach, an approximately 1,400-square-foot access way to the Bay, and all of a beach area along the entire 340 linear feet Bay frontage of the site (2-75).

To Kappas Marina, to place additional fill and riprap covering 1,420 square feet of Bay surface, construct portions of a 1,048-foot long landscaped recreation path and remove a 9,450-foot mud wave, and leave in place existing fill, covering 14,040 square feet of Bay surface; in the 100-foot shoreline band, leave existing



Upper Richardson Bay

2,015 cubic yards of fill to raise the level of the roadway and provide paving of a 24-foot wide, 1,075-foot long road at Waldo Point on Richardson Bay in Marin County. As conditions of the permit, the applicant will provide and maintain a landscaped 8-foot by 1,048-foot pathway for public access (3-75).

To Loretta Birich, to build a four-story single-family residence mostly on the shoreline and partially extending over the Bay (covering approximately 750 square feet of water surface area), adjacent to the City of Tiburon, in Marin County (4-75).

To Independent Learning Institute, Inc., to use two existing geodesic domes, and construct one new dome for school purposes; construct a 6,000-square-foot classroom building; construct an 18-car parking lot; landscape a 20,000-square-foot area; and erect 130 linear feet of fence along the northern shore of the Tiburon peninsula in Corte Madera, Marin County; and provide a 6-foot wide by 310-foot long public walkway through the property and grant an approximately 1.17 acre area for public access (5-75).

To the City of Richmond, to replace a deteriorated section of a wooden pier and the associated pilings with a new concrete wharf and pilings for general cargo shipping at Shipyard 3 in Richmond, Contra Costa County. The total water surface area uncovered and recovered is 2.43 acres, resulting in no new fill (6-75).

To the City of Burlingame, to place earth and rock fill covering 1,000 square feet of water surface area; within the 100-foot shoreline band, widen a road from 24 to 26 feet, and construct a 2-foot high, 7-foot wide berm adjacent to the Bay at Airport Boulevard, Burlingame, San Mateo County. The applicant will provide a 2,500-foot long public pedestrian/bicycle path in one area of the development, and another such path, 3,500 feet long, parallel to the inner lagoon. The public access and use areas will be developed with appropriate landscaping,

benches, trash containers and other appropriate facilities (7-75).

To the City of Richmond, to remove a deteriorated wharf, associated pilings and a warehouse, and replace these structures with an expanded concrete wharf facility for container and general cargo shipping at Terminal III in Richmond, Contra Costa County. An additional 1.60 acres of water surface cover will result from this project and the applicant will place approximately 5,000 cubic yards of riprap beneath the new dock for shoreline protection. An existing deteriorated paved area will be replaced with new asphalt paving adjacent to the new pier. As a condition of this permit, the applicant will provide a public boat launching facility at the Inner Harbor Basin, and a public access and use area along the shoreline along with parking, benches and other public amenities (8-75).

To San Francisco Maritime Museum, to moor the World War II submarine PAMPANITO alongside Pier 45 for public exhibit. The boat and associated mooring facilities will cover 9,000 square feet of water surface area. As a condition of the permit, the applicant will provide landscaped public access and a waiting area along a 350-foot long area of the pier (10-75).

To Sailboats, Inc. (Victoria Station, Inc.), to expand the size and dining capacity of two restaurants, the "Victoria Station" and "Quinn's Lighthouse," both located at the Embarcadero, Oakland, Alameda County. As conditions of the permit, the applicant will provide an approximately 1,200-square-foot public plaza and a public access trip along the shoreline (11-75).

### **Major Permits Pending**

At the time of this report, there are three major permits being processed by the Commission. The City of San Mateo has submitted an application (9-75) to reconstruct a dike at Coyote Point; Trademarks Homes, Inc., has filed an application (12-75) to subdivide property at Semple's Crossing in Benicia; and

the County of Santa Clara, Department of Parks and Recreation, has filed an application (13-75) for maintenance dredging and construction of additional berthing facilities.

### **Major Permits Withdrawn**

During the 13 months ending December 31, 1974, four permit applications received by the Commission were partly processed but subsequently withdrawn by the applicants:

The City of Emeryville requested a permit to construct a pier and to berth a sailing ship restaurant within the Emeryville Marina. At the decision of the applicant, the application was not filed or scheduled for public hearing (18-73).

Earl T. McCord requested a permit to erect a single-family house on a bluff next to the Bay in Benicia. At the decision of the applicant, the application was not filed or scheduled for public hearing. The property was later acquired by the City of Benicia for a park (19-73).

Shellmaker, Inc., filed an application for a substantial marina and industrial development at the mouth of the Petaluma River in Sonoma County. At the applicant's request the application was withdrawn. After modifying the project, the applicant filed another application, No. 16-74, for a permit which was granted by the Commission (21-73).

Irvin T. Boop filed an application for a permit to construct a two-story house in a marsh at the Larkspur Boardwalk near Corte Madera Creek in Marin County. After the public hearing and prior to voting, the applicant withdrew the application (24-73).

### **Memoranda of Understanding (MOU)**

In compliance with the 1973 Executive Order recommending cooperation and coordination between Federal and State agencies, and to cooperate in carrying out the Bay Plan, BCDC entered into five memoranda of understanding with federal agencies during 1974:

With the Naval Air Station in Alameda for replacing eroded riprap and maintaining and repairing wharves, docks, and piers.

With the Naval Air Station in Alameda for constructing two mooring dolphins and providing for access catwalks.

With the Department of Army, Corps of Engineers, at Fort Baker for repairing the east breakwater and restoring sideslopes with rock.

With the Hunter's Point Naval Shipyard for closing and sealing a landfill site and constructing a storm sewer outfall to handle run-off from the landfill.

With the Naval Air Station in Alameda for constructing a fishing pier covering 140 square feet of Bay surface.

Eight memoranda of understanding were entered into during 1975:

With the Department of Army, Corps of Engineers, to investigate the environmental impacts of dredging and spoils disposal.

With the U. S. Department of the Interior for a wastewater reclamation and reuse pilot demonstration program.

With the Department of Army, Corps of Engineers, to demolish and replace an existing dilapidated dock at the Corps of Engineers Sausalito Base Yard.

With the Presidio of San Francisco to install a small craft anchorage in Horseshoe Cove, Fort Baker Marina, San Francisco Bay.

With the Naval Facilities Engineering Command for the alteration and structural repairs to the existing fuel pier and causeway at Point Molate, Richmond.

With the Naval Facilities Engineering Command to raise and rehabilitate an existing fuel handling wharf and access road at Moffett Field, Sunnyvale.

With the Naval Sea Systems Command for the construction and testing of an oil pollution

boom mooring system at Racoon Strait near Tiburon.

With the Naval Facilities Engineering Command for the construction of a tug pier extension, removal of an existing pontoon float and dredging biannually to maintain adequate berthing depth at the Naval Weapons Station in Concord.

## Claims of Exemption

In 1973, the Legislature amended the McAteer-Petris Act via Assembly Bill 1804 (Knox) so that any persons who believed that their projects within the Commission's jurisdiction were "grandfathered" and did not require a BCDC permit to file their claims with the Commission. By the filing deadline, April 1, 1974, 27 claims had been filed. Many involved complex legal and factual issues under the grandfather clauses, which had been included in the original and amended BCDC law to allow projects then underway to be completed without complying with the permit requirements of the Act and the Bay Plan. During the latter part of 1974, and during all of 1975, 13 claims were investigated by the Commission and prepared for public hearing. Of these 2 were heard and granted, 2 were heard and denied, and 9 were investigated and subsequently withdrawn at the request of the claimant.

During 1974-1975 the Commission granted the following claims of exemption:

To Floyd Crites (McAvoy Yacht Harbor and River Sands, Inc.), for the construction of a small boat marina, including new dredging to create an 8-acre water basin for boat berths; placement of pile-supported or floating fill to complete small boat berths; and placement of fill on roadways, parking areas, and areas incidental to marina use. The Commission denied exemption of all future maintenance dredging and the disposal of spoils. The McAvoy Yacht Harbor is between Honker

Bay and Port Chicago Highway, near West Pittsburg, in Contra Costa County (CE-74-9).

To the Port of Oakland, for an approximately 150-acre earth fill and improvements, including 9 ship berths, 6 gantry cranes, and container handling yards. The Commission denied all future work associated with the project, including the widening and lengthening of all perimeter wharves and the lengthening of Berth J. The development is situated at the end of Seventh Street in the City of Oakland (CE-74-13).

During 1974-1975 the Commission partially processed several claims of exemption which were subsequently withdrawn by the claimants:

Shellmaker, Inc., filed a claim of exemption for the dredging of four marina basins; breach of a flood control levee; and the construction of marina boat berths and buildings. The project is located at the mouth of the Petaluma River, opposite Black Point, in Sonoma County. Shellmaker received a permit for the project work and withdrew the claim prior to the public hearing (CE-74-5).

Western Pacific Railroad Company filed a claim of exemption for maintenance dredging; filling; and repairs to docks and wharves for ferry slip operations at Oakland Street and 25th Street in the City and County of San Francisco. The claim was withdrawn prior to the public hearing (CE-74-7).

A second claim filed by Western Pacific Railroad Company was for maintenance and repair work on existing facilities, including dredging and filling and repair of existing wharves, at the foot of Middle Harbor Road, City of Oakland. The claim was withdrawn prior to the public hearing (CE-74-8).

Redrock Development, Ltd. (Redrock Marina), filed a claim of exemption for maintenance dredging of boat basins and for the placement of spoils in adjacent tidal areas for the creation of a parking lot. The

claim was withdrawn prior to the public hearing (CE-74-17).

The City and County of San Francisco filed a claim of exemption for road construction; road resurfacing; and landscaping at the San Francisco Marina Small Craft Harbor. The claim was withdrawn prior to the public hearing (CE-74-22).

Alvin Davis and L. Henry Koch filed a claim of exemption for dredging; placement of riprap; and pier renovation for the creation of a commercial boat landing or restaurant on 2.14 acres of submerged tideland on the east side of Mare Island Strait, at the foot of Lemon Street in the City of Vallejo. The claim was withdrawn prior to the public hearing (CE-74-24).

The City of San Mateo filed a claim of exemption for maintenance dredging at the mouth of San Mateo Creek. The area consisted of approximately seven acres located at the mouth of the creek as it empties into the Bay, and included that portion of the creek flowing under and northwest of Third Avenue in the City of San Mateo. The claim was withdrawn after the public hearing (CE-74-25).

A second claim filed by the City of San Mateo was for exemption for the depositing of waste, demolition debris, and garden refuse at the San Mateo Refuse Disposal Site, between East Third Avenue and the Bay in the City of San Mateo. The claim was withdrawn prior to the public hearing (CE-74-26).

A third claim filed by the City of San Mateo was for exemption for maintenance dredging at the northern end of Marina Lagoon, located along the easterly boundary of the City. The claim was withdrawn after the public hearing (CE-74-27).

During 1974-1975 the Commission denied the following claims of exemption:

The claim of Edward Halperin and Dorothy Solmonson for maintenance dredging and the use for the mooring of dredging equipment of a 100-foot wide by

700-foot long mooring basin at the mouth of the Petaluma River in Sonoma County. The Commission found that the proposed work was not exempt under the "grandfather" clause because the claimants did not have a valid U. S. Army Corps of Engineers permit, and that the "vested rights" clause was inapplicable because the project was within the Commission's "bay" jurisdiction (CE-74-6).

The claim of the City of Vallejo Redevelopment Agency for the Marina Vista Redevelopment Project, which included dredging of the yacht harbor; permanent mooring of a ship to be used as a restaurant; creation of a 125-berth municipal marina; and development of remaining shoreline parcels. The project was to be located on the Mare Island Strait between Florida and Main Streets in the City of Vallejo, Solano County. The Commission found that the proposed work was not exempt under the "grandfather" clause because no specific and detailed plan existed prior to the creation of BCDC and that the "vested rights" provision does not apply to government agencies (CE-74-21).

## Enforcement

Until 1973, the Commission could enforce the McAteer-Petris Act only by court injunction, a cumbersome and time-consuming procedure. To enable BCDC to respond more quickly and effectively when violations or potential violations become evident, legislation introduced by Senator Petris was enacted in 1973 that allows the Executive Director of the Commission to issue temporary cease and desist orders, pending Commission review and action.

During 1974, the following cease and desist orders were issued:

To Cabot, Cabot and Forbes, California Properties, Inc., to halt work occurring in the shoreline band without necessary permits and requiring the company to seek approval for the work already completed. Thereafter, Permit No. 18-74 was issued

authorizing a portion of the existing work but requiring 8,900 square feet of unpermitted parking area to be converted to landscaping and public access areas.

To Kappas Marina, to halt work occurring beyond the boundaries of an existing BCDC permit (4-71) and to require the removal of excess fill unless the Commission acts favorably on an application to use the additional fill for public access. The required application was submitted in January, 1975, and a permit was granted by the Commission in July, 1975 (3-75).

No cease and desist orders were issued in 1975.

## Environmental Impact Reports

The Commission served as lead agency for three projects in its jurisdiction in 1974-1975. In each case, the Commission prepared an Environmental Impact Report (EIR), which included preparing and circulating Draft EIR's, responding to issues raised at the Commission's public hearings or by reviewers of the reports, and preparation of the final reports based on the public hearing and review process. By far the most substantial EIR involved the construction of a fuel oil pipeline and the conversion of the Pacific Gas and Electric Company's Pittsburg and Antioch power plants from natural gas to fuel oil. Although only half of the proposed work was physically within the jurisdiction of the Commission, the Commission acted as lead agency because of the potentially great public importance of the project, and because the Commission had geographical jurisdiction over more of the proposed pipeline than any other agency. The preparation and certification of the EIR on the pipeline project required several public hearings and extended Commission consideration of the project's impact on all aspects of the environment, including air quality, between January, 1974 and September, 1974. The Commission

also acted as lead agency for the proposed construction of a single-family residence in a salt marsh in Larkspur, and for the Special Area Plan for the San Francisco waterfront.

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## Advisory Boards

In addition to the Commission's legally-required Advisory Committee, whose members are listed on the inside back cover of this report, the Commission has the valuable help of two specially-appointed permit review boards, the Engineering Criteria Review Board and the Design Review Board.

### Engineering Criteria Review Board

Members of this Board are specialists in the fields of structural engineering, soils engineering, geology, engineering geology, and architecture, who advise the Commission on the safety of proposed Bay fill projects. Board members are leading professionals in their fields who volunteer their time in the belief that multi-disciplinary review is needed for all construction proposed for problem soil conditions in earthquake-prone areas. Twenty projects were reviewed by the board in twelve meetings held in 1974 and 1975. Particular emphasis was placed on defining an acceptable level of seismic safety for proposed projects and

identifying conditions necessary to achieve this level.

Board members are as follows:

**Henry J. Degenkolb**, structural engineer, H. J. Degenkolb and Associates, San Francisco

**Rudy J. Dietrich**, soils engineer, Shannon and Wilson, Inc., Burlingame

**George O. Gates**, geologist, San Mateo

**Frank E. McClure**, structural engineer, McClure and Messinger, Oakland; Chairman

**William W. Moore**, soils engineer, Dames and Moore, San Francisco

**Dr. Gordon B. Oakeshott**, geologist, Oakland

**Alan L. O'Neill**, engineering geologist, U. S. Army Corps of Engineers, San Francisco

**Henry E. Pape, Jr.**, civil engineer, U. S. Army Corps of Engineers, San Francisco

\* **Professor Joseph Penzien**, structural engineer, Earthquake Engineering Research Center, University of California, Berkeley

**George P. Simonds**, architect, Anderson, Simonds, Dusel and Campini, Oakland

**Richard Woodward**, soils engineer, Lafayette

### Design Review Board

The Design Review Board is comprised of seven architects,

landscape architects, and engineers who volunteer their time to advise the Commission on the design, appearance, and public access of proposed Bay and shoreline projects. The Board's advice was instrumental in resolving problems of public access and design in nearly 30 major projects, including: the Dumbarton Bridge; the BART Platform Plaza-Ferry Terminal facility, San Francisco; a South San Francisco shoreline industrial park; a yacht club in San Leandro; and a Marin County bicycle/pedestrian bridge, Mill Valley. Four members have served since the Board's creation in 1970.

Board members are as follows:

**Edward C. Bassett**, architect, Skidmore, Owings and Merrill, San Francisco

**Garrett Eckbo**, landscape architect, San Francisco

**Hans A. Feibusch**, engineer, Environmental Impact Planning Corporation, San Francisco

**William H. Liskamm**, architect-urban planner, San Francisco; Chairman

† **Jacob Robbins**, architect-planner, Director of Community Development, Fremont

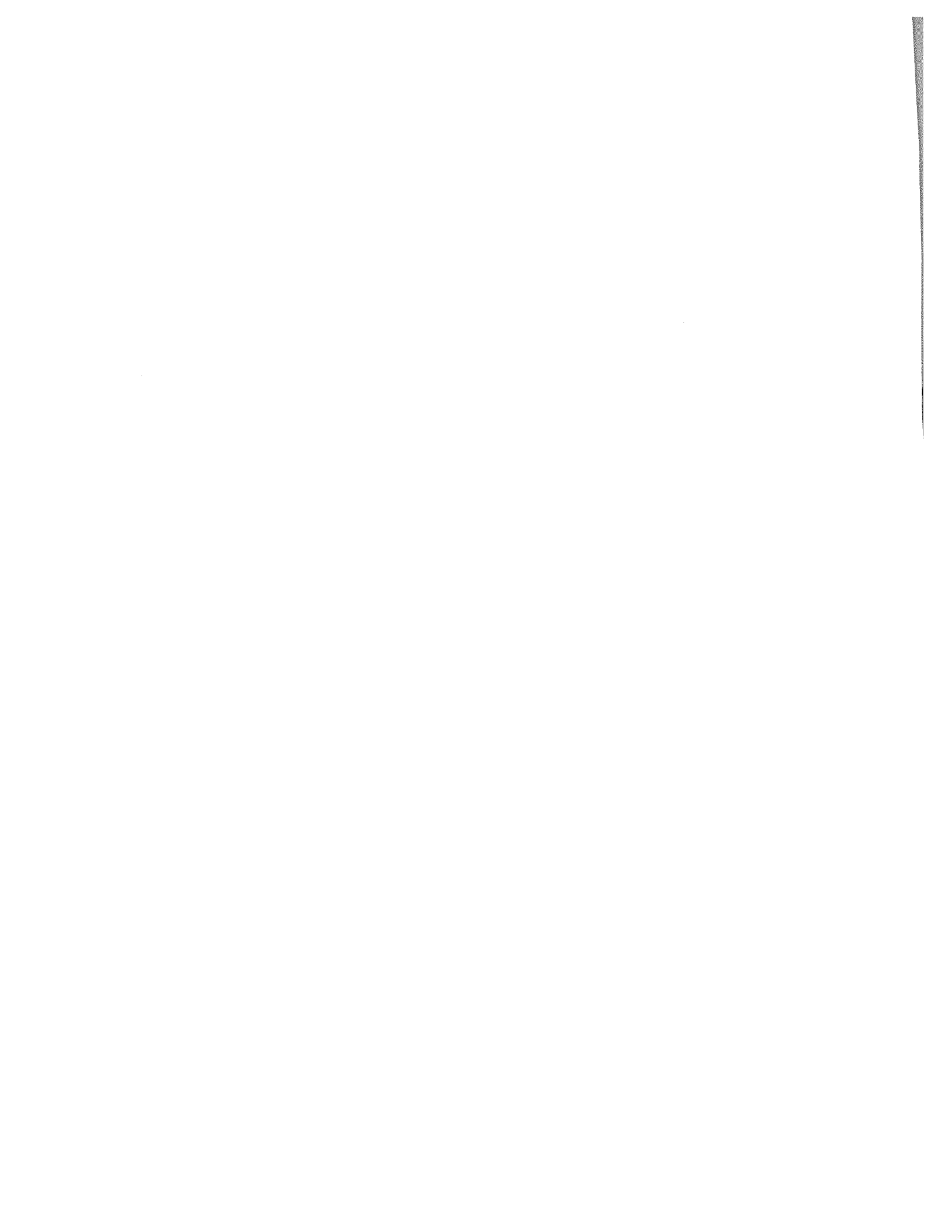
† **Kenneth Simmons**, architect, Executive Director, New Oakland Committee, Oakland

† **Chester Root**, architect, Higgins and Root Associates, Los Gatos

\* **Allan M. Walter**, architect, Allan M. Walter and Associates, San Jose.

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† New Member  
\* Retired Member



COVER PHOTO: 1859 Hydrography of  
the entrance to San Francisco Bay by  
U.S. Coast Survey Office

All photos by Richard F. Conrat

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