

San Francisco Bay enacts sea-level rise policy

Debra Kahn, Environment & Energy Publishing, 10-7-11

The San Francisco Bay Area yesterday became the first region in California to pass regulations governing development in areas prone to sea-level rise.

The San Francisco Bay Conservation and Development Commission (BCDC) voted unanimously to pass a development plan for land within 100 feet of the coastline, giving the agency a tool to deny permits for development in coastal areas susceptible to flooding. Rising seas could put as much as 180,000 acres off-limits by 2050, according to state projections of 16 inches of rise by then.

The regulations will effectively force developers to assess risks associated with sea-level rise and submit an assessment to the state for a given project. Builders will also have to draft their own blueprints for dealing with shifting conditions, whether that means building farther back from the shore, creating tidal marshes or erecting levees to keep out the water.

Both environmental groups and developers saw victory in the regulations, which were changed in three drafts over the past two years to reduce emphasis on "prohibiting" development in areas prone to sea-level rise and increase references to "encouraging" the protection of tidal marshes and other shoreline areas. The rules also were changed to emphasize that the agency would look at plans on a case-by-case basis and would respect local governments' jurisdictions.

Agency officials said the essence of the policy -- to use the latest science to protect communities from flooding -- remained unchanged.

"When you say it will encourage one thing, you kind of automatically discourage the other," said BCDC Executive Director Will Travis. "Certain words were flash points for some, and some words were a comfort to others."

Builders happy; green groups split

Paul Campos, general counsel for the Building Industry Association of the Bay Area, which represents homebuilders, contractors, architects and consultants, praised the final regulations. His and other builders' groups, as well as local governments in San Francisco, San Jose and other cities, had opposed previous versions, saying they would jeopardize development and economic growth.

"The initial language, perhaps BCDC didn't fully understand" the implications it would have for development, Campos said. "Now, all stakeholders are looking, which produced this better document."

Environmental groups were split. Save the Bay, which has been most active on the plan, maintained the regulations were as strong as ever.

"Anybody who interprets this language as different is not paying attention," said David Lewis, the group's executive director. Industry support reflects the rules' inevitability, rather than substantive changes to them, he said. "In the last couple months, I think they saw the writing on the wall."

Sierra Club members said they weren't as happy with the results. "The vote is a step in the right direction," said Megan Norris, a coastal issues organizer for the group's California chapter. "However, these policies could and should be more robust. Future regional planning efforts need to improve on these BCDC policies in order to ensure that our at-risk low-lying coastal areas are protected from the impacts of sea-level rise and coastal flooding by preventing further development in these areas."

Travis said the rules might not need to be actively enforced for some time. They should have an immediate effect on the kinds of investing and building decisions that would go before local governments before coming to the state agency, he said. BCDC is also in talks with Ceres, which advocates for climate policies on behalf of large investors, to work on insurers' policies for buildings in low-lying areas, he said.

"It's the investors who are making the decisions," he said.

The regulations now go to the state's Office of Administrative Law, followed by the federal Office of Ocean and Coastal Resource Management under the National Oceanic and Atmospheric Administration.