

Proposed Settlement Agreement

Bay Conservation & Development Commission (BCDC)
and
Richardson's Bay Regional Agency (RBRA)





Agenda/ Outline



- Settlement agreement
 - Purpose, key provisions
- RBRA Transition Plan
 - Background, comparison to agreement
- RBRA/BCDC timeline past 2 years
 - RBRA accomplishments
- Key agreement considerations
 - Anchorouts, eelgrass, financial
- Conclusion/recommendation
- Next steps
 - Transition Plan 2.0, agreement implementation




Settlement Agreement Purpose

Without agreement, BCDC intends to bring enforcement/legal action against RBRA:

- Uncertain, costly and risky litigation and outcomes

Resolves BCDC's threatened enforcement action against RBRA regarding:

- Vessels staying beyond temporary time limits
- Bay habitat



Key Settlement Agreement Provisions

- ▶ Phased timeline for departure/removal of all non-temporary vessels by 2026
- ▶ Eelgrass protection and recovery measures
 - ▶ No-anchoring zone
 - ▶ Ten-year adaptive management plan
 - ▶ Temporary moorings in anchoring zone to encourage relocation from eelgrass
- ▶ Recognition of dynamics of vessel occupants relocating
- ▶ Regular reports to BCDC



Settlement
Agreement
Scope
Relative to RBRA
Transition Plan

Not inconsistent with Transition
Plan vision, principles, and
policy direction

More aggressive timelines/
expectations for vessel removal
and eelgrass restoration than
projected in RBRA's work to
date



Settlement Agreement Provisions

Partnerships and Grants

- As envisioned in the Transition Plan, partnerships and grants are integral and critical for:
 - Facilitating land-based housing or marina berths
 - Eelgrass habitat protection and recovery
 - Vessel departure/removal from the bay



Background: Regulations

State of California McAteer –Petris Act:

Established the Bay Conservation & Development Commission (BCDC) with regulatory authority

BCDC's San Francisco Bay Plan, RBRA's Special Area Plan, ordinances:

Only temporary anchoring permitted in Richardson's Bay



Background: Vessel anchoring

Vessel occupants desire to stay on bay

- Longtime cultural history and passion among vessel occupants for living on anchorage
- Challenges for alternative housing
- Many occupants with limited means and/or vulnerabilities

Incoming vessels attracted to Richardson's Bay

- Great Recession – more people moved onto boats
- Other anchorages' closure/enforcement, increased slip fees
- Number increased to 200+

Tempering RBRA's anchorage management to date:

- Housing challenges for vessel occupants
- Balance complex public health & safety interests with anchorage rules and habitat protection
- All public agencies face public health & legal constraints in addressing solutions impacting persons without housing



Engaged focus of attention 2018-19

BCDC

- Sharpened BCDC attention after State Audit regarding Richardson's Bay oversight
- RBRA called before BCDC Enforcement Committee
- Significant focus on number of vessels and a timely decrease to zero vessels anchoring beyond temporary time limits

RBRA

- Strategic planning to resolve incongruity between regulations & extended stays
- Stakeholder engagement, community workshops
- Outcome: Improve health, safety & management of bay through safe & seaworthy conditions, eelgrass protection, & potential moorings



BCDC
2019-21

BCDC to RBRA in December 2019:

- Remove most vessels
- Submit timeline for removing remaining vessels
- Report on addressing and resolving habitat damage

Additional RBRA presentations to Enforcement Committee:

- Committee dissatisfied with rate/timeliness in decreasing vessel count and lack of end date

2020 Enforcement Committee direction to BCDC staff:

- Resolve outstanding issues with RBRA through a settlement agreement or face formal legal action/cease and desist order



RBRA 2019-21



RBRA 2019-21: Vessels

- ✓ **Updated vessel requirements (July 2019)**
Goal: Safe & seaworthy condition
- ✓ **Expanded enforcement priorities on time limits (July 2019)**
Prior: Unoccupied marine debris, unregistered vessels
Added: All unoccupied vessels
Vessels arriving in anchorage after August 2019
- ✓ **Additional grant monies (NOAA and State DBW)**
Funding removal of marine debris and other vessels
- ✓ **Vessel count decreased**
~200 in July 2019 to 86 in August 2021

RBRA 2019-21: Bay Ecology

- ✓ **Ecological Mooring Feasibility and Planning Study (Keith Merkel, 2019)**
 - Location, density and frequency of eelgrass beds
 - Noted ground tackle damage in eelgrass beds
 - Mooring recommendations (e.g. lower-impact conservation moorings)

- ✓ **Eelgrass Protection & Management Plan (Coastal Policy Solutions, 2021)**
 - Establishing Eelgrass Protection Zone/No-anchoring Zone separate from Anchoring Zone

RBRA 2019-21:

Housing Outreach & Alternatives

- ✓ Initiated coordinated outreach to persons living on the bay
- ✓ In 2019-20, agencies/non-profit organizations identified ~100 persons living on the water and assessed ~ 2/3 of them for priority status for supportive housing
- ✓ Coordinated outreach raised the profile of the needs of persons on vessels in Richardson's Bay
 - Senator Mike McGuire support for expanding housing and related opportunities
 - Foundation for County grant to fund Downtown Streets Team dedicated outreach on the water



RBRA Transition Plan Adopted June 2020

- To set course for future actions – Vessels, housing, anchorage, eelgrass
- To submit to BCDC



RBRA Transition Plan

Vision

Richardson's Bay has essential value as a recreational and environmental resource where eelgrass and the ecological systems it supports are increasingly protected, preserved and restored; vessels on the anchorage become safe, seaworthy, operable and compliant with other requirements; and the number of occupied vessels diminishes over time.



RBRA Transition Plan

Principles

- Affirm Richardson's Bay as a temporary anchorage and prevent additional vessels from extended stays
- Conditionally and discretionarily allow occupied legacy vessels that comply with RBRA requirements to remain for a limited period of time
- Support initiatives for relocating occupants of vessels to alternative housing
- Realize a decreasing number of occupied vessels over time
- Protect and promote eelgrass habitat and growth



RBRA Transition Plan

Policy Direction

- No unoccupied vessels and no extended stays for incoming vessels
- Safe & Seaworthy Program for eligible vessels to improve conditions, comply with requirements, and stay for a period of time
- Outreach to connect persons with housing and create more housing
- Sunset date for occupied-vessel anchorage
- Eelgrass protection and restoration measures



Settlement Agreement

Comparison with Transition Plan



Settlement Agreement Terms Comparison with Transition Plan:


No unoccupied or new long-term vessels

Transition Plan

- Principle: Affirm Richardson's Bay as a temporary anchorage and prevent additional vessels from extended stays
- Policy direction: No unoccupied vessels and no extended stays for incoming vessels

Settlement Agreement

- Unoccupied vessels must be off the anchorage by October 15, 2021
- Long-term vessels that arrived after August 2019 must be off the anchorage by October 2023



Settlement Agreement Terms Comparison with Transition Plan: Safe & Seaworthy Legacy Vessels

Transition Plan

- ▶ Principle: Conditionally and discretionarily allow occupied legacy vessels that comply with RBRA requirements to remain for a limited period of time
- ▶ Policy Direction: Establish Safe & Seaworthy Program for eligible vessels to improve conditions, comply with requirements, and stay for a period of time

Settlement Agreement

- Vessels with RBRA Safe & Seaworthy designation may stay until October 2026
- Vessels that failed to enroll in Safe & Seaworthy program must depart by October 2024



Settlement Agreement Terms Comparison with Transition Plan: Outreach & Housing

Transition Plan

- Principle: Support initiatives for relocating occupants of vessels to alternative housing
- Policy direction: Outreach to connect persons with housing and create more housing

Settlement Agreement

- Supports connecting vessels' occupants with finding shelter and encourages expansion of shelter and housing opportunities.
- BCDC will consider proposals to temporarily increase the percentage of affordable marina slips available for eligible vessels or their occupants and minor permit applications for live-aboard slips at existing marinas.



Settlement Agreement Terms Comparison with Transition Plan:

Sunset date for all non-temporary vessels

Transition Plan

- Principle: Realize a decreasing number of occupied vessels over time
- Policy direction: Set sunset date for occupied-vessel anchorage

Settlement Agreement

- All vessels must comply with temporary anchoring time limits as of October 2026



Settlement Agreement Terms Comparison with Transition Plan: Eelgrass Habitat

Transition Plan

- Principle: Protect and promote eelgrass habitat and growth
- Policy direction: Working with agencies, organizations, and other stakeholders, develop eelgrass protection measures and consider specific eelgrass restoration funding and projects

Settlement Agreement

- Adopt Eelgrass Protection & Management Plan with eelgrass protection/no-anchoring zone
- No new vessels may anchor in eelgrass protection zone after December 15, 2021, and no vessels may anchor there after October 2024
- Initiate eelgrass restoration studies in 2022



Settlement Agreement Terms Comparison with Transition Plan Eelgrass Habitat - Continued

Transition Plan

- Principle: Protect and promote eelgrass habitat and growth
- Policy direction: Working with agencies, organizations, and other stakeholders, develop eelgrass protection measures and consider specific eelgrass restoration funding and projects

Settlement Agreement

- Install approx. 15-20 moorings in anchoring zone by December 2022 for temporary vessel relocation out of eelgrass
- Prevent, halt, and restore habitat damage; Adopt/start to implement 10-year Adaptive Management Plan for eelgrass restoration by December 2023
- Only seaworthy vessels anchored in anchoring zone after October 2026



Settlement Agreement Other Key Provisions

- ❑ Four floating homes off Waldo Point must be removed by October 2023
- ❑ Monthly, quarterly and annual data/information reports by RBRA to BCDC on:
 - Vessels, eelgrass, housing, and governance
- ❑ BCDC agrees not to pursue enforcement action against RBRA during course of the agreement



Expansion Points from Transition Plan

- **Establishes timelines for departure or removal of anchored vessels within 5 years**
- **Amplifies commitment to habitat protection/restoration**
 - 10-year adaptive management plan to support eelgrass habitat
 - Timelines for research, protection and restoration work
 - Will necessitate attracting partnerships and grants
 - Calls for approximately 15-20 temporary moorings in anchoring zone
Moorings referenced in Transition Plan, but not included in policy direction



Timeline: Vessel departure/removal

- ▶ October 15, 2021 – removal of all unoccupied marine debris and their ground tackle/moorings (few remaining)
- ▶ December 2021 - no new vessels in Eelgrass Protection Zone
- ▶ October 15, 2023
 - ▶ All vessels that arrived after August 2019 must be removed (est. 19 vessels)
 - ▶ All floating homes removed (4 total)
- ▶ October 15, 2024 - occupied vessels that did not enroll in Safe & Seaworthy Program removed (est. 49 vessels)
- ▶ October 15, 2024 - all vessels removed from Eelgrass Protection Zone
- ▶ October 15, 2026 - occupied vessels that did enroll in Safe & Seaworthy Program removed (est. 14 vessels)
- ▶ After October 15, 2026 – exclusively short-term anchorage for safe and seaworthy vessels



Timeline: Eelgrass measures

- ▶ December 15, 2021 - Adopt EPMP establishing anchoring zone and Eelgrass Protection/no-anchoring zone
- ▶ 60 days after adoption of EPMP - Petition federal government for no-anchoring zone
- ▶ 2022 - Initiate active eelgrass recovery studies
- ▶ 2021/2023 – Take measures, as determined by qualified scientists, to halt damage and restore habitat damage caused by vessels relocated from the Eelgrass Protection Zone to the anchoring zone before the ten-year adaptive management plan
- ▶ December 15, 2022 - Install approximately 15-20 moorings in anchoring zone for temporary vessel relocation from Eelgrass Protection Zone
- ▶ December 15, 2023
 - ▶ Finalize no-anchoring zone and update ordinances to reflect zone
 - ▶ Develop ten-year adaptive management plan and begin implementing



Key Considerations

Key Consideration: People now living on boats on the bay

- ▶ Persons who live on boats will need to depart the anchorage, or move ashore or into a liveaboard marina slip, within the next five years
- ▶ Many in need of supportive housing and related assistance
- ▶ Challenges to creating affordable and supportive housing (funding and community support)
- ▶ Objections by vessel owners/occupants to boat removal and end of liveaboard anchorage

Pathways to housing via partnerships and other support

- Recent expanded federal and state interest and resources for additional affordable/supportive housing units
- Partnerships with other governmental agencies and organizations to expand housing opportunities, outreach and supportive services
- Partnerships with marinas, City of Sausalito, and BCDC:
 - Expand availability, affordability of marina/liveaboard slips
- Current Downtown Streets Team outreach to persons on the bay, funded by County grant

Key Consideration: Partnering on eelgrass-related work



Critical to engage partners and obtain grants to:

- Prepare and implement 10-year Adaptive Management Plan in support of eelgrass habitat:
 - Research data not yet available to inform extent of passive vs. active restoration techniques or costs
- Install approximately 15-20 moorings for temporarily relocating vessels out of eelgrass protection zone

Eelgrass beds are highly valued and therefore poised for grant support

RBRA has Ocean Protection Council grant for implementing the Eelgrass Protection & Management Plan and its associated no-anchoring zone/eelgrass protection zone

Key Consideration:

Vessel departure/removal

- Dedicated, consistent commitments to patrol, notice and remove vessels failing to comply with timelines
- Efforts to compel departure will be met with resistance
- Advance notice to vessel occupants about timelines and connecting with housing and services
- Preventing “new arrivals” to anchorage beyond time limits critical to overall strategy
- Safety of staff, partners





Key
Consideration:

Financial
Impact of
no
agreement

Enforcement action and
litigation by BCDC against
RBRA:

- Legal costs
- Significant uncertainty, risky outcomes outside RBRA's control – including timelines, additional cost



Key
Consideration:


Financial
Impact of
agreement

- ▶ **Eelgrass protection and recovery actions:**
 - Pursue grant funding given broader ecological benefits/interest
- ▶ **Enforcing vessel removal timelines:**
 - Focused enforcement and legal resources for addressing non-complying vessels
 - Grant funding available for vessel disposal
- ▶ **Housing alternatives:**
 - RBRA not financially responsible for housing
 - Strengthen partnerships to expand opportunities and connections



Conclusion

- ▶ While the proposed settlement contains timelines and related actions that are more rigorous than RBRA's current trajectory, it is a more favorable path than the uncertain, costly, and risky avenue of a formal enforcement action by BCDC.



Next Steps: Settlement Agreement

- ▶ **August 12, 2021: RBRA Board of Directors**
 - ▶ Action regarding proposed settlement agreement
- ▶ **August 25, 2021: BCDC Enforcement Committee**
 - ▶ If RBRA approves agreement, anticipated Committee action on recommending settlement agreement for approval by full Commission
 - ▶ If RBRA does not approve agreement, Committee begins direction on pursuit of enforcement/legal action against RBRA
- ▶ **September 2021: Full BCDC Commission** vote on the agreement or initiating enforcement action



Next Steps: Implementation Actions

- Consider establishing Ad Hoc Board subcommittees
- RBRA Transition Plan 2.0 framework for next steps:
 - **Enforcement efforts** – notably to ensure additional/new arrivals are compliant with temporary anchorage regulations
 - **Eelgrass recovery/protection efforts** – notably grant partnerships
 - **Housing and related supportive services efforts** – notably government and community partnerships to facilitate housing, marina berths and supportive services
- 2021-22 RBRA budget anticipated up to \$50,000 in existing funds for next steps