

JUNE 3, 2020 STAFF DRAFT
Proposed Amendment to the
Santa Monica Bay Restoration Commission
Memorandum of Understanding
As Amended June 18, 2020 by
Governing Board Resolution 20-02

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I. INTRODUCTION

The Santa Monica Bay Restoration Commission (Commission) was established by an act of the California Legislature (Sen. Bill No. 1381 (Kuehl, 2001-2002 Reg. Sess.)) in 2002 to monitor, assess, coordinate, and advise the activities of state programs and oversee funding that affects the beneficial uses, restoration and enhancement of Santa Monica Bay and its watersheds. The Commission serves as the Management Conference for the Santa Monica Bay National Estuary Program (NEP) (see Section 320 of the Clean Water Act (CWA) (33 U.S.C., § 1330)). The Santa Monica Bay NEP is designated by the US Environmental Protection Agency (US EPA) to promote collaborative watershed-based partnerships in order to develop and implement a Comprehensive Conservation and Management Plan (hereafter CCMP) that addresses a range of environmental problems facing Santa Monica Bay, while recognizing and balancing the needs of the local community.

The Santa Monica Bay NEP is comprised of two distinct entities, the Management Conference (Commission) and the Host Entity (described in greater detail below). The use of the term “Commission” in this Memorandum of Understanding (MOU) refers to the Santa Monica Bay NEP Management Conference as a whole, which is comprised of the components as described in Section III of this MOU. The Commission is a non-regulatory, locally based state entity whose functions, governance and membership are set forth in this MOU. It is the intent of the Legislature that the Commission independently execute its duties and that the Commission’s membership include federal, state, and local public agency officials, and employees, and representatives of other stakeholder interests.

The purpose of this MOU is to set forth the agreement among the Secretary for the California Environmental Protection Agency (CalEPA), the Secretary for the California Natural Resources Agency, and the Chairperson of the Governing Board of the Commission¹, pursuant to the provisions of California Public Resources Code section 30988.2, subdivision (b)(1), to establish and implement an effective and efficient governance structure to ensure the success of the Santa Monica Bay NEP. Since the formation of the Santa Monica Bay NEP in 1988, the Santa Monica Bay Restoration Project, followed by the Commission, have used an iterative process to establish and meet the goals and objectives of the Santa Monica Bay NEP. A clear, efficient, and effective governance structure is a key element of a successful NEP. Pursuant to the requirement of Public Resources Code (§§ 30988-30988.3), the original MOU was adopted and signed in 2003 by the Secretary for CalEPA, the Secretary for California Natural Resources Agency, and the Chair of the Bay Watershed Council of the Commission. This MOU outlines the Commission’s mission and goal statements, objectives, authorities, functions, organizational structure and governance, partnership with the Host Entity, reporting, conflict of interest and disclosure policy, reservation of authority, beneficiaries, construction, and execution and amendment; how the Commission’s governance structure is aligned with the US EPA NEP

¹ Senate Bill 1381 requires the Chair of the Bay Watershed Council of the Commission to be a signatory of the MOU. Through previous revisions of the MOU, the Chair of the Governing Board is successor to the Chair of the Bay Watershed Council.

Management Conference governance structure; and the agreement among the Secretary for CalEPA, the Secretary for California Natural Resources Agency, and the Chairperson of the Governing Board of the Commission.

II. MISSION, GOAL, OBJECTIVES, AUTHORITIES, AND FUNCTIONS

Mission Statement

The Commission's mission is to restore and enhance Santa Monica Bay through actions and partnerships that improve water quality, conserve and rehabilitate natural resources, mitigate the impacts of climate change and sea level rise, and protect Santa Monica Bay's benefits and values.

Goal

The goal of the Commission is to accelerate the pace, extent, and effectiveness of Santa Monica Bay restoration through implementation and financing of actions that improve water quality, conserve and rehabilitate natural resources, mitigate impacts of climate change and sea level rise, and protect the health of Santa Monica Bay's recreational users and natural and living resources.

Objectives

The Commission will achieve its goal by prioritizing in its educational, monitoring, and bond proceeds expenditure decisions, proposals, or projects designed to achieve the restoration objectives of Santa Monica Bay and its watersheds that include, but are not limited to, the goals in the CCMP and the following:

1. The reduction or elimination of pollution from stormwater (including urban runoff) and point and nonpoint (including on-site wastewater disposal) sources;
2. The reduction or prevention of the threat of oil and sewage spills and leaks;
3. The reduction and prevention of beach erosion;
4. The reduction and prevention of threats to public health from pollution;
5. The prevention of and protection against loss of wetlands, coastal and riparian habitats, and Santa Monica Bay's natural and living resources, and restoration of these resources where they have already been degraded;
6. Effective enforcement of applicable environmental laws;
7. Public education and warnings of any dangers related to consuming contaminated seafood;
8. Increased public education concerning the Santa Monica Bay and its watershed in collaboration with universities and grades K-12 schools; and
9. Assuring that ocean resources are accessible to all Californians regardless of socioeconomic status and are preserved and enhanced for future generations.

The Commission may establish additional goals, objectives, and priorities for expenditures, proposals, or projects through an amendment to this MOU. These goals, objectives, and priorities shall be consistent with the intent of the Commission's establishing legislation and the CCMP.

Authorities of the Commission

Public Resources Code sections 30988 to 30988.3 pertain to the Commission. Pursuant to Public Resources Code section 30988.2, subdivision (c), the Commission may do all of the following:

1. Request and receive federal, state, local, and private funds from any source and expend those moneys for the restoration and enhancement of Santa Monica Bay and its watershed;
2. Award and administer grants for the benefit and enhancement of Santa Monica Bay and its watershed;
3. Enter into contracts and joint powers authority agreements, as necessary, to carry out the purposes of the Commission; and
4. Monitor, assess, and coordinate activities among federal, state, and local agencies, and where appropriate, private firms, to restore and enhance Santa Monica Bay and its watershed.

Functions of the Commission

The Commission may carry out any or all of the following functions within its authority in order to achieve its mission, goal, and objectives including but not limited to:

1. Serve as the Management Conference of the Santa Monica Bay NEP defined under Section 320 of the CWA (Attachment A);
2. Consult with US EPA on NEP activities, oversee the effective implementation of the CCMP, and ensure the success of the Santa Monica Bay NEP;
3. Promote participation by federal, state, and local governments, special districts, community groups, and members of the public who are essential to implementation of Santa Monica Bay watershed protection efforts;
4. Promote collaboration and partnerships among stakeholders;
5. Provide technical and financial support for the implementation of Santa Monica Bay restoration projects;
6. Provide an open and neutral forum for inter-agency and inter-organizational discussion and consensus building;
7. Promote sound science that advances the implementation of the CCMP;
8. Serve as an information clearinghouse for issues that affect the beneficial uses, restoration, and enhancement of Santa Monica Bay and its watershed;
9. Negotiate and oversee agreements, grants, and contracts;
10. In collaboration with the US EPA and consistent with US EPA guidance:
 - a. Identify and select a Santa Monica Bay NEP Host Entity (Host Entity),
 - b. Enter into an agreement with a Host Entity that outlines the partnership, and
 - c. Provide direction to the Host Entity to ensure effective implementation of the CCMP;
11. Consult with and advise state programs, policies, or funding that affect the beneficial uses, restoration, and enhancement of Santa Monica Bay and its watershed;
12. Facilitate inter-agency and inter-organizational efforts to improve Santa

- Monica Bay's water quality, mitigate the impacts of climate change and sea level rise, and restore its natural and living resources, including opportunities to leverage funding;
13. Provide information to policymakers and the general public on Commission activities through public outreach and involvement programs to promote awareness of the Santa Monica Bay NEP;
 14. Assist member organizations individually and collectively by providing coordination, advice, public education, and leadership in the management and protection of Santa Monica Bay and its resources;
 15. Use and promote an integrated, multi-disciplinary approach to Santa Monica Bay management; and
 16. Coordinate and host periodic conferences, workshops, or seminars related to the state and management of Santa Monica Bay and its resources.

III. COMMISSION ORGANIZATION AND STRUCTURE

The Commission is a non-regulatory, locally based state organization whose functions and governance are prescribed in this MOU. The Commission serves as the Management Conference for the Santa Monica Bay NEP and is comprised of the Governing Board, Executive Committee², Technical Advisory Committee (TAC), Commission staff, and Santa Monica Bay Stakeholders. The administrative functions of the Commission are supported by State Water Resources Control Board (State Water Board) staff, which are herein referred to as Commission staff (Attachment B).

The Commission's membership is consistent with guidance from the US EPA on typical NEP Management Conference membership, which may include: (1) elected and appointed policymaking officials from all governmental levels; (2) environmental managers from federal, state, regional, and local agencies; (3) local scientific and academic communities; (4) private citizens; and (5) representatives from public and user interest groups—business, industry, community, and environmental.

The organizational structure of the Commission provides integrated opportunities for the Santa Monica Bay Stakeholders to engage in the activities of the Santa Monica Bay NEP in a manner that promotes collaborative decision-making and reflects citizen concerns.

The Commission's Governing Board selects a Host Entity to receive the annual federal CWA Section 320 NEP grant to implement the CCMP. The components of the Commission, including their overarching purpose in the Santa Monica Bay NEP Management Conference, the NEP parallel, members, member terms, roles and functions, meetings, and quorum are described in detail below.

A. Governing Board

The Governing Board is comprised of federal, state, and local public agency officials, staff, and representatives of other stakeholder interests that collectively make up a non-regulatory board that is the key decision-making authority of the

² The Executive Committee was established in 2005 by a resolution of the Governing Board (Resolution 05-11).

Commission. The Governing Board serves as the Policy Committee within the Management Conference of the Santa Monica Bay NEP.

Governing Board NEP Parallel: Policy Committee.

Governing Board Members. The Governing Board consists of thirty-eight (38) members—twenty-eight (28) voting members and ten (10) non-voting members. Governing Board members are ex officio, appointed, or elected as indicated in Attachment C. Each Governing Board member may designate up to two (2) alternates to assume all of the Governing Board member’s authorities, roles, and functions in the member’s absence, including voting.

For appointed Governing Board members, the appropriate governing bodies or appointment authorities of the relevant boards, commissions, and municipalities in the watershed shall appoint representatives consistent with Attachment C and in accordance with their rules and standard procedures. The voting Governing Board members shall nominate and elect seven (7) additional entities from the following categories to serve as voting members of the Governing Board:

- Two (2) representatives of environmental/public interest organizations that operate entirely or partially within the Santa Monica Bay watershed that are in good standing pursuant to Internal Revenue Code section 501(c)(3);
- Two (2) representatives of the business community/economic interests in the watershed, one of which participates in the coastal tourism industry, that operate entirely or partially within the Santa Monica Bay watershed; and
- Three (3) at-large representatives who meet one of the following criteria:
 - A federal, state, or local agency active in the Santa Monica Bay watershed;
 - An incorporated city entirely or partially within the Santa Monica Bay watershed;
 - A county entirely or partially within the Santa Monica Bay watershed;
 - A for-profit business that operates entirely or partially within the Santa Monica Bay watershed; or
 - A nonprofit organization that operates entirely or partially within the Santa Monica Bay watershed that is in good standing pursuant to Internal Revenue Code section 501(c)(3).

No person or entity may serve in more than one position on the Governing Board. Membership on the Governing Board does not diminish the regulatory responsibilities or authority of any participating agency or organization. The non-voting Governing Board members do not participate in closed session of the Governing Board.

The voting Governing Board members shall elect a Chairperson from among the voting Governing Board members, who will preside over all Governing Board meetings and work closely with Commission staff to convene Governing Board meetings and prepare Governing Board agendas and reports. The Chair of the Governing Board

shall also serve as the Chair of the Executive Committee (Section III.B).

The voting Governing Board members shall also elect officers, as necessary, and no more than five (5) Vice-chairpersons, from among the voting Governing Board members. The Vice-chairs serve on the Executive Committee and may act as Chair of the Governing Board in the Chair's absence.

Governing Board Member Terms. The term for the seven (7) elected members, Chair, and Vice-chairs of the Governing Board shall be two (2) years. The elected Governing Board members, Chair, and Vice-chairs may serve consecutive terms upon re-election. Governing Board members may nominate entities for election to the Governing Board, Chair, and Vice-chairs. The Chair and Vice-chair nominations shall be accepted during a nomination period that will be established prior to the date of election. The Chair and Vice-chair nominations shall be from voting Governing Board members. The elections of the Governing Board members, Chair, and Vice-chairs shall be held during a regular Governing Board meeting by vote of voting Governing Board members and the member, Chair, and Vice-chair terms shall be effective immediately after election. In the event of a mid-term vacancy, the Governing Board shall elect a replacement to serve the remainder of the term.

The term for appointed or ex officio Governing Board members is ongoing. No person shall continue as a member of the Governing Board if the person ceases to hold the office or ceases to be employed by the organization that qualifies that person to be appointed as a member of the Governing Board. Any vacancy should be filled expeditiously by the appointing body.

Governing Board Roles and Functions. The Governing Board is the key decision-making authority of the Commission. The Governing Board is responsible for creating a long-term vision, setting program priorities and goals, approving revisions and updates to the CCMP and Santa Monica Bay NEP Annual Work Plans, delegating tasks, and providing oversight and direction to the Executive Committee, TAC, and Commission staff to assist in implementing these objectives. The Governing Board may delegate authority to the Executive Committee, including decision-making on behalf of the Commission. The Governing Board is also responsible for soliciting and considering input and recommendations from the other components of the Commission and the Host Entity, including the NEP Director.

To support the successful implementation of the mission, goals, and objectives in this MOU and the CCMP, the Governing Board may perform the following roles and functions including, but not limited to:

1. Guide, review, and evaluate the programs for the furtherance of the Santa Monica Bay NEP;
2. Approve revisions and updates to the CCMP, Santa Monica Bay NEP Annual Work Plans, and any other plans, products, or resolutions of the Commission;
3. Approve program and funding priorities. Provide direction to Commission staff to implement the program and funding priorities;
4. In the event that the Commission is appropriated funds, approve resource and funding allocations, budgets, expenditures, and the use of funds appropriated

- to, or received by the Commission for activities or projects;
5. Authorize Commission staff to enter into legal agreements on behalf of the Commission, as necessary;
 6. Delegate authority to the Executive Committee, including decision-making authority;
 7. Monitor, assess, coordinate, and advise all state programs that affect the beneficial uses, restoration, and enhancement of Santa Monica Bay and its watershed;
 8. Identify and select a Host Entity in collaboration with US EPA;
 9. Enter into an agreement with a Host Entity describing the partnership, and provide direction to the Host Entity to implement the program and funding priorities in collaboration with US EPA and consistent with US EPA guidance;
 10. Encourage a cooperative approach in addressing issues of regional and watershed significance;
 11. Amend the MOU by a majority of voting members as necessary;
 12. Adopt a Conflict of Interest Code; and
 13. Provide opportunities to receive input from the other components of the Commission and the Host Entity, and consider input from the other components of the Commission and the Host Entity when performing roles and functions. Encourage participation from the Santa Monica Bay Stakeholders.

Governing Board Meetings. The Governing Board shall endeavor to meet at least four times a year. The meetings will be held in accordance with the Bagley-Keene Open Meetings Act (Gov. Code, § 11120, et seq.).

Governing Board Quorum. A quorum shall consist of a majority of the voting members of the Governing Board. An action is taken by the Governing Board if it is taken by a majority of a quorum of the Governing Board.

B. Executive Committee

The Executive Committee is charged with overseeing the day-to-day activities of the Commission such as the development and implementation of the CCMP and Santa Monica Bay NEP Annual Work Plans, communicating with the other components of the Commission and the Host Entity, developing agendas for the Commission's Governing Board meetings, establishing subcommittees, and addressing litigation. The Governing Board may delegate authority to the Executive Committee to ensure the successful implementation of the CCMP and Commission activities.

Executive Committee NEP Parallel: Management Committee.

Executive Committee Members. The Executive Committee consists of nine (9) members—seven (7) voting members and two (2) non-voting members (Attachment D). The voting members consist of the Chair and five (5) Vice-chairs of the Governing Board, elected as described in the Governing Board Section III.A. above, and the Chief Deputy Director of the State Water Board as an ex officio member. The non-voting members consist of the NEP Director and the US EPA Regional Administrator of Region 9 as ex officio members. The non-voting Executive Committee members do not participate in closed session of the

Executive Committee. The Executive Committee should reflect the diverse stakeholder interests represented on the Governing Board.

The Chair of the Governing Board shall be the Chair of the Executive Committee. The Chair, elected Vice-chairs, and Chief Deputy Director of the State Water Board may designate up to two (2) alternates to serve as the Executive Committee member in the member's absence. To preserve continuity, their alternates shall be the same alternates they designate to act for them on the Governing Board. Non-voting Executive Committee members may designate up to two (2) alternates to serve as the Executive Committee member in the member's absence. Alternates assume all of the Executive Committee member's authorities, roles, and functions in the member's absence, including voting on Executive Committee items. In the Chair's absence, the Chair's alternates or the voting members of the Executive Committee or their alternates may act as the Chair.

Executive Committee Member Terms. The term of the elected Executive Committee members shall be consistent with the members' term as Vice-chairs of the Governing Board. The term for ex officio Executive Committee members is ongoing. No person shall continue as a member of the Executive Committee if he or she ceases to hold the office or ceases to be employed by the organization that qualifies that person to be appointed as a member. Any vacancy should be filled expeditiously by the appointing body.

Executive Committee Roles and Functions. The Executive Committee is responsible for the planning and implementation of the Commission's vision, mission, goal, objectives, and program priorities as well as providing direction to the TAC and Commission staff and the Host Entity to assist in implementing these objectives. The work of the Executive Committee is typically done under the guidance and direction of the Governing Board. However, the Executive Committee may exercise the authority delegated by the Governing Board to support the activities of the Commission, including the successful implementation of the mission, goals, and objectives in this MOU and the CCMP. This delegated authority includes, but is not limited to, providing oversight for the day-to-day activities of the Commission and the formation of subcommittees, and making decisions on behalf of the Commission, including matters of litigation.

To support the successful implementation of the mission, goals, and objectives in this MOU and the CCMP, the Executive Committee may perform the following roles and functions including, but not limited to:

1. Exercise the authority and execute tasks delegated by the Governing Board, act as a liaison to the Governing Board, and facilitate clear communication with the other components of the Commission and the Host Entity to convey and carry out the Governing Board's direction;
2. Prepare agendas for the Commission's Governing Board meetings;
3. Provide oversight and direction to the TAC and Commission staff as needed to develop and make recommendations to the Governing Board regarding:
 - a. Development of revisions and updates to the CCMP, Santa Monica Bay

- NEP Annual Work Plans, and any other plans, products, or resolutions of the Commission;
 - b. Program and funding priorities and, in the event that the Commission is appropriated funds, resource and funding allocations, budgets, expenditures, and the use of funds appropriated to, or received by the Commission for activities or projects;
 - c. Monitoring, assessing, coordinating with, and advising all state programs that affect the beneficial uses, restoration, and enhancement of Santa Monica Bay and its watershed;
 - d. Development of legal agreements on behalf of the Commission;
 - e. Development and implementation of a Memorandum of Agreement with a Host Entity;
4. Provide opportunities to receive input from the other components of the Commission and the Host Entity, consider input from the other components of the Commission and the Host Entity, and convey this information to the Governing Board as appropriate.
 - a. Establish a mechanism for the TAC, Santa Monica Bay Stakeholders, and the Host Entity, including the NEP Director, to identify issues in the watershed for the Executive Committee to consider,
 - b. Identify the need to establish subcommittees, establish subcommittees including the operational procedures and tasks for the subcommittees, appoint subcommittee members, and report on subcommittee outcomes as appropriate, and
 - c. Consider the need for an information item on issues identified in the watershed; and
 5. Provide opportunities for the Santa Monica Bay Stakeholders to provide input and encourage participation from the Santa Monica Bay Stakeholders.

Executive Committee Meetings. The Executive Committee shall endeavor to meet at least four times a year in accordance with the Bagley-Keene Open Meeting Act (Gov. Code, § 11120, et seq.), alternating those months with the meetings of the Governing Board. The Executive Committee may also meet more often as directed by the Governing Board, or as requested by the Governing Board Chair, Commission staff, or three or more members of the Executive Committee.

Executive Committee Quorum. A quorum shall consist of a majority of the voting members of the Executive Committee. An action is taken by the Executive Committee if it is taken by a majority of a quorum of the Executive Committee. Subcommittees shall not form a quorum of the Governing Board or Executive Committee and are not given the authority to make decisions on behalf of the Governing Board or Executive Committee.

C. Technical Advisory Committee (TAC)

The TAC serves to provide scientific information and expertise and to advise the other components of the Commission and the Host Entity. The TAC is comprised of scientific experts who are knowledgeable about the state of the science in a variety of technical areas related to the Commission's mission, goals, and objectives in Santa Monica Bay and its watershed.

TAC NEP Parallel: Scientific and Technical Advisory Committee.

TAC Members. The TAC consists of experts in coastal and watershed science who provide scientific information and recommendations on a broad range of subject areas to inform the other components of the Commission and the Host Entity on scientific issues related to Santa Monica Bay. TAC members contribute the latest technical input on issues, i.e. they have a working knowledge of the current scientific literature in their field and preferably are actively publishing. TAC members represent a range of scientific specialties, for example, intertidal ecology, fisheries, physical oceanography, plankton, sea birds, sediments, wetlands, sandy shores, rocky reefs, pelagic ecology, freshwater and riparian systems, and climate change. They are drawn from a variety of sectors, e.g., academia, nonprofits, municipalities, or government agencies, but they function as non-biased, non-partisan scientific experts, not as representatives of their sectors.

The members of the TAC shall appoint a Chair from among the TAC members who has a broad understanding of scientific issues in Santa Monica Bay and can provide strong leadership and direction to the group. The members of the TAC will also appoint one (1) Vice-chair to act in the Chair's absence.

TAC Member Terms. TAC membership is for a two (2) year term. Members may serve consecutive terms upon reappointment. The terms for the TAC Chair and Vice-chair shall be two (2) years. TAC members will work with the Chief Administrative Director to nominate existing members for reappointment, to identify new TAC members, or to fill vacancies. The appointment and reappointment of TAC members must be approved by a majority of a quorum of the Governing Board.

TAC Roles and Functions. The role of the TAC is to function as a non-biased, non-partisan scientific panel that provides technical expertise to support the mission, goals, and objectives of the Commission. The TAC members work collaboratively to provide scientific information and recommendations on technical issues to present to the Governing Board or Executive Committee. In the event the TAC members are not in consensus on an issue or recommendation, the TAC may provide the Governing Board or Executive Committee a brief report with all of the TAC members' recommendations and rationale for the recommendations for the Governing Board or Executive Committee to consider.

The TAC may perform the following roles and functions including, but not limited to:

1. Develop and finalize a State of the Bay Report every five years and guide Commission staff and the Host Entity staff in coordinating the State of the Bay Conference;
2. Identify the highest priority research and projects to achieve the Commission's mission, goals, and objectives and make project recommendations to the Governing Board and Executive Committee for funding as opportunities arise;
3. Report to the other components of the Commission and Host Entity on technical issues as requested by the Governing Board or Executive Committee and develop recommendations, white papers, presentations, or reports where appropriate to inform the other components of the Commission

- and the Host Entity;
4. Convene ad hoc committees, with members drawn from both within and outside the TAC, to provide guidance on specific issues;
 5. Review select project proposals that are technical in nature or have a strong technical component and provide recommendations to the Governing Board;
 6. Review technical components of policies or policy issues identified by the Governing Board, Executive Committee, or Commission staff and make scientific recommendations to the Governing Board or Executive Committee based on their assessment of the technical issues; and
 7. Provide opportunities to receive input from the other components of the Commission and the Host Entity, and consider input from the other components of the Commission and the Host Entity when performing roles and functions.

TAC Meetings. The TAC shall endeavor to meet at least once each year and more often as requested by the Governing Board, Executive Committee, or Commission staff. TAC Meetings shall be held in accordance with the Bagley-Keene Open Meeting Act (Gov. Code, § 11120, et seq.).

TAC Quorum. A quorum shall consist of the majority of the members of the TAC.

D. Santa Monica Bay Stakeholders: Public Outreach and Involvement

The Santa Monica Bay Stakeholders is the stakeholder group of the Commission that functions as a mechanism for interested parties to provide information and input to the Commission. Santa Monica Bay Stakeholders is open to anyone interested in the Commission's activities and is intended to provide the Commission with broad and diverse stakeholder perspectives throughout the watershed. Santa Monica Bay Stakeholders are encouraged to engage and provide input at all stages of the Commission's decision-making process, including the implementation of the mission, goal, and objectives in this MOU and the CCMP.

Santa Monica Bay Stakeholders NEP Parallel: Citizens Advisory Committee.

Santa Monica Bay Stakeholders Participation. Santa Monica Bay Stakeholders is an inclusive group that is and open to anyone who is interested in the Commission's activities in the Santa Monica Bay watershed, including stakeholders of fishing interests, recreational users, environmental organizations, environmental justice groups, citizen councils, business and industry, or other interest groups that operate at least partially within the Santa Monica Bay watershed, as well as the general public.

Santa Monica Bay Stakeholders Member Terms. There is no election or appointment of Stakeholders, and consequently, no term limit for participating Stakeholders and Stakeholders are encouraged to participate on an ongoing basis.

Santa Monica Bay Stakeholders Roles and Functions. The role of the Santa Monica Bay Stakeholders is to provide information and input on the Commission's activities, including regarding restoration priorities for funding, planning, project implementation, monitoring, and further research as well as the revision, update, and implementation of the CCMP and program priorities of the Commission. The Santa

Monica Bay Stakeholders may carry out their supporting and advisory role by activities including, but not limited to:

1. Provide the Commission written and verbal comments, information, input, and constructive feedback on Commission work products, activities, and priorities.
 - a. This engagement and communication should be on an ongoing basis, but also during meetings, workshops, conferences, forums, and other events organized by the Commission to promote information dissemination and exchange.
 - b. This includes providing comments on the development of revisions and updates to the CCMP, implementation of the CCMP and the Commission's priorities;
2. Raise issues of public concern in the Santa Monica Bay watershed to the Commission and provide input on mechanisms the Commission could consider to address the issues, such as providing information items or forming subcommittees;
3. Promote participation by local governments, special districts, and community groups who are essential to implementation of watershed protection efforts;
4. Promote collaboration and partnerships among stakeholders, including identifying potential funding opportunities; and
5. Assist member organizations individually and collectively by providing coordination, public education, and leadership in the management and protection of Santa Monica Bay and its resources with the goal of increasing awareness of issues within the Santa Monica Bay watershed.

Santa Monica Bay Stakeholders Meetings. Santa Monica Bay Stakeholders are encouraged to stay informed and engaged with Commission activities; provide information and input to inform the Commission's decision-making processes; attend Commission meetings (e.g., Governing Board, Executive Committee, TAC, and annual stakeholder workshop(s)); and provide comments during public forum. In addition, the Commission shall endeavor to host at least one public workshop every year to disseminate information to the Santa Monica Bay Stakeholders on the activities of the Commission and to consider public input on the Santa Monica Bay NEP Annual Work Plan priorities, revisions and updates to the CCMP, amendment of this MOU, and other functions of the Commission. The Workshop(s) may be held in conjunction with the Governing Board, Executive Committee, and/or TAC meetings. The Workshop(s) shall be an open and neutral forum for discussion and consensus building. The Workshop(s) shall be publicly noticed and chaired by the Governing Board Chair or Vice-chair.

E. Administration and Commission Staff

Consistent with Public Resources Code section 30988.2, the State Water Board provides administrative services to the Commission. The State Water Board meets this legislative requirement by providing Commission staff including a Chief Administrative Director that may perform the following roles and functions including, but not limited to:

1. Prepare for, coordinate, and execute the meetings and workshops of the Commission;
2. Manage memberships of the Governing Board, Executive Committee, and TAC;
3. Serve as a point of contact and liaison among the other components of the Commission;
4. Manage the retention of, and respond to requests for documents and other records;
5. Support the development and implementation of the Santa Monica Bay NEP Annual Work Plan and revisions and updates to the CCMP;
6. Provide programmatic and financial updates as requested by the Governing Board or Executive Committee;
7. Coordinate with US EPA and the Host Entity to implement NEP program guidance; and
8. Develop and execute agreements, grants, and contracts on behalf of the Commission.

The State Water Board is responsible for recruiting and determining the terms of the employment of the Commission staff including the Chief Administrative Director in accordance with the applicable state civil service rules and regulations. The State Water Board may also recruit additional staff, provide counsel service, loan to, or accept the loan of an employee or employees from other state agencies.

IV. SANTA MONICA BAY NEP HOST ENTITY AND NEP DIRECTOR

The Commission serves as the Management Conference of the Santa Monica Bay NEP and is charged with overseeing the implementation of the CCMP. The Governing Board identifies and selects a Host Entity in collaboration with US EPA to support the activities and projects of the Santa Monica Bay NEP and to ensure effective implementation of the CCMP. The Host Entity receives the NEP Grant after determination by US EPA that the Host Entity meets the general administrative requirements for federal grants pursuant to 2 Code of Federal Regulations parts 200 and 1500, and complies with special provisions for NEPs included in 40 Code of Federal Regulations part 35.9000, et seq. US EPA defines the roles and functions of the Host Entity, including the NEP Director. The Host Entity and NEP Director are responsible for performing these roles and functions and meeting any applicable NEP requirements from US EPA.

In collaboration with the Commission, the Host Entity generally performs the following functions including, but not limited to:

1. Develop and implement the Santa Monica Bay NEP Annual Work Plans consistent with direction from the Governing Board and the NEP Grant agreement with US EPA;
2. Prepare revisions and updates to the CCMP, Santa Monica Bay NEP Annual Work Plans, and any other plans or reports at the request of the Governing Board or Executive Committee;
3. Receive the NEP Grant;

4. Solicit and receive sources of grant funding for CCMP implementation;
5. Provide administrative and technical support for the Santa Monica Bay NEP;
and
6. Identify a NEP Director in consultation with the Governing Board.

The NEP Director generally performs the following functions including, but not limited to:

1. Manage the NEP Grant;
2. Manage day-to-day NEP activities and coordinate NEP activities with existing efforts in Santa Monica Bay and its watershed;
3. Provide programmatic or financial updates as requested by the Governing Board or Executive Committee; and
4. Serve as liaison of the Host Entity to the Commission and US EPA and as a representative of the Santa Monica Bay NEP.

The Bay Foundation was established by the Santa Monica Bay Restoration Project and has served as the Host Entity since 2006. The Bay Foundation provides the NEP Director. The partnership between the Commission and The Bay Foundation regarding the Santa Monica Bay NEP is described in a separate Memorandum of Agreement. This MOU describes the governance structure of the Commission and its individual components. The Memorandum of Agreement is consistent with the MOU, but further describes the partnership between the Commission and The Bay Foundation as well as their respective roles and responsibilities to ensure successful implementation of the CCMP and Santa Monica Bay NEP Annual Work Plan.

V. PROGRESS REPORTS

To ensure accountability and to allow for periodic evaluation of progress, the Commission may prepare Annual Reports that summarize the accomplishments of the Commission in meeting its objectives and implementing the CCMP. These reports will be made public and given widespread distribution.

VI. CONFLICT OF INTEREST AND DISCLOSURE POLICY

All voting members of the Governing Board and Executive Committee are obliged to avoid any conflict of interest and must disclose to the Governing Board or Executive Committee any real or potential conflict of interest in any transaction or project under consideration by the Commission. In addition, voting members of the Governing Board and Executive Committee are subject to the Political Reform Act (commencing with Gov. Code, section § 81000). The Governing Board shall maintain a conflict of interest code consistent with the Political Reform Act and designate appropriate positions that shall be subject to economic interest disclosures. Nothing in this section shall reduce the Commission or its members' obligations under federal or California law.

A conflict of interest may exist whenever a voting member of the Governing Board or Executive Committee (including a spouse, sibling, parent or child of a Governing Board or Executive Committee voting member) has a personal, material financial

interest in a transaction or project under consideration by the Governing Board or Executive Committee.

If the Governing Board or Executive Committee determines that a transaction or project involves a conflict of interest, whether real or apparent, by a member of the Governing Board or Executive Committee, the Governing Board or Executive Committee shall, at a minimum, require the Governing Board or Executive Committee member to abstain from voting on any such issue.

The Governing Board or Executive Committee may approve of such a project or transaction if the Governing Board or Executive Committee makes specific findings that the transaction or project is (1) fair and benefits the objectives of the Commission; (2) approved with the full knowledge of the economic benefit to the Governing Board or Executive Committee member involved in the conflict of interest; and (3) consistent with Government Code section 1090 and any other applicable conflict of interest laws.

VII. RESERVATION OF AUTHORITY

1. Nothing in this MOU shall be construed as limiting or expanding the authority of the Commission in carrying out its legal responsibilities.
2. This MOU is not a regulation.

VIII. NO THIRD-PARTY BENEFICIARIES

1. This MOU is not intended for the benefit of any person or entity other than the Commission and signatories. Third parties cannot enforce any provision of this MOU.

IX. CONSTRUCTION

1. Any determination that a provision of this MOU is invalid does not invalidate any other provision of this MOU or the MOU in its entirety.

X. EXECUTION AND AMENDMENT

1. This MOU represents the entire agreement of the signatories and merges and supersedes any prior written or oral representations, discussions, understandings, or agreements by, between, or among the signatories relating to the subject matter of this MOU.
2. The signatories may execute this MOU in counterparts. Each executed counterpart shall have the same force and effect as an original instrument. Taken together, the executed counterparts shall constitute one and the same agreement.
3. This MOU shall become effective upon the date of final signature of the signatories.

4. Amendments to the MOU may be proposed to the Chairperson of the Governing Board at any time and shall become effective after approval by a majority of the voting members of the Governing Board and upon the date of final signature of the signatories to this MOU. The Governing Board may consult with the Secretary for CalEPA and the Secretary for California Natural Resources Agency regarding their involvement in any amendment to the MOU.

XI. AGREEMENT

1. The signatories to this MOU will support the mission, goal, and objectives of the MOU upon signing of this MOU.

This is a true and correct copy of the Memorandum of Understanding approved by the Governing Board of the Santa Monica Bay Restoration Commission on June 18, 2020, pursuant to Resolution 20-02.

Signed:

_____ Date: _____
Secretary, California Environmental Protection Agency

_____ Date: _____
Secretary, California Natural Resources Agency

_____ Date: _____
Chair, Santa Monica Bay Restoration Commission Governing Board

ATTACHMENT A. United States Environmental Protection Agency's National Estuary Program Memo

ATTACHMENT B. Santa Monica Bay NEP Entities and Interrelationships

ATTACHMENT C. Governing Board Members

ATTACHMENT D. Executive Committee Members

ATTACHMENT A
United States Environmental Protection Agency's
National Estuary Program Memo



UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

April 9, 2020

Charles Caspary, Chair
Santa Monica Bay Restoration Commission Governing Board
320 West 4th Street, Suite 200
Los Angeles, CA 90013

RE: EPA's Role in the Santa Monica Bay National Estuary Program (SMBNEP)

Dear Chair Caspary:

During recent conversations about the structure of the SMBNEP, EPA was asked to summarize its role in the SMBNEP. This letter describes the primary functions of EPA within the structure of the locally driven National Estuary Program (NEP) partnership in the Santa Monica Bay. EPA's role can best be described in terms of three separate, but related, activities.

I. Advisory Role for the Management Conference

EPA's National Estuary Program provides flexibility for individual programs to organize themselves in ways that respond to local conditions: "...[(E)ach NEP is uniquely structured, organized, and governed by its partners.....[EPA guidance documents are] not intended to be prescriptive."³ The Management Conference is the governing entity for each NEP. It charts the direction of the NEP and makes decisions on NEP priorities and programs. It serves as the forum to identify issues and to develop, update, and implement a NEP's Comprehensive Conservation and Management Plan (CCMP).

Since its inception in 1988, the structure of the SMBNEP Management Conference has undergone several organizational changes. Notably, in 2002, the State of California established the Santa Monica Bay Restoration Commission (Commission)⁴ as the vehicle to run the Management Conference for the SMBNEP. The Commission's membership, committee structure, and decision-making processes are

³ Frequently Asked Questions on National Estuary Program (NEP) Governance (FAQS), EPA, February 19, 2015, at page 1. Available at https://www.smbrc.ca.gov/about_us/orientation/docs/usepa_nep_governance_faq.pdf.

⁴ Cal.Pub.Resources Code Sections 30988(d), 30988.2.

outlined in the Santa Monica Bay Restoration Commission Memorandum of Understanding (Commission MOU), which was originally approved in 2003 and most recently amended on February 20, 2014.⁵ While EPA is not a signatory to the Commission MOU, EPA Region 9's Regional Administrator or his/her delegate serves as a nonvoting, ex-officio member of the Commission's Governing Board advising on matters related to EPA policy, funding and technical assistance, as well as providing programmatic guidance, direction and oversight.

II. Funding and technical assistance

EPA's primary roles for the SMBNEP include processing and providing oversight of Federal grant funding for NEP operations, providing support for and oversight of NEP planning through the development and implementation of a Comprehensive Conservation and Management Plan (CCMP), providing support for project planning and implementation, conducting program evaluation and tracking, and providing technical/advisory assistance to the Management Conference of the NEP.

EPA provides Federal funding for SMBNEP operations and engages in program planning, implementation, and evaluation through an annual assistance agreement with the designated "host entity." The host entity serves as an administrative, financial, and operational manager of an NEP. The host entity is responsible for certain fiduciary responsibilities as the recipient of the grant funding, including: (1) complying with terms and conditions of the assistance agreement made with EPA; (2) maintaining financial records; (3) submitting progress reports and other required paperwork; (4) employing the NEP Director and program staff, and (5) tracking and adhering to eligible cost requirements which include a non-Federal 50 percent match. Funding awarded to the host entity is intended to be used for those purposes and activities approved through the consensus of the Management Conference, and consistent with the CCMP and Section 320.

The Bay Foundation (Foundation) has been the host entity for the SMBNEP since 2006.⁶ As such, the Foundation "administers the EPA assistance agreement that supports the activities and projects of the NEP."⁷ EPA reviews and approves annual grant workplans for these assistance agreements. EPA also develops funding and CCMP guidance for all NEPs; these funding guidance documents convey EPA guidance on EPA priorities, annual work plans and reporting requirements, CCMP

⁵ Available at https://www.smbrc.ca.gov/about_us/docs/mou.pdf. Update pending (April 2020).

⁶ The relationship between the Commission and Foundation was established and described in the Memorandum of Agreement Between the Santa Monica Bay Restoration Commission and The Bay Foundation Regarding the Santa Monica Bay National Estuary Program, first signed in 2012 and most recently amended June 15, 2017. The parties are working on an amendment to the Memorandum of Agreement. This Memorandum of Agreement makes clear that the activities of the Foundation in implementing the SMBNEP are subject to the direction of the Commission.

⁷ FAQs, at page 2.

updates and revisions, and major assistance agreement policies. ⁸

EPA's role in funding is described in its entirety in the annual assistance agreement between EPA and The Bay Foundation. These annual assistance agreements must meet the general administrative requirements for federal grants pursuant to 2 CFR Parts 200, and 1500, and must also comply with special provisions for NEPs included in 40 CFR 35.9000 *et seq.*

EPA Region 9 administers the assistance agreement.

III. Program management and oversight

EPA's engagement with the Santa Monica Bay NEP takes several forms. First, EPA reviews and approves revisions or updates to the Comprehensive Conservation and Management Plan (CCMP) that are submitted by the Management Conference. EPA also conducts periodic Program Evaluations of the SMBNEP. The Program Evaluation (PE) involves, at a minimum, a 5-year progress report submitted by the NEP, a site visit by the PE review team, and the development of an evaluation letter with a corresponding rating, summary of findings, and recommendations by the PE review team. It currently occurs on a 5-year cycle. The most recent PE for the SMBNEP was completed in 2019. In addition to the more formal CCMP and PE activities, EPA also collects information annually on the NEP's habitat protection and financial leveraging accomplishments via the NEPORT reporting process.

EPA also plays a role with regard to NEP management, working with the SMBNEP Director, program staff, and Management Conference. Program management activities include: collaboration on SMBNEP projects, consultation on national NEP policy and program issues (in collaboration with the Association of National Estuary Programs, of which SMBNEP is a member), information sharing and communication of SMBNEP project outcomes and accomplishments, and providing cross-NEP mentoring and support as part of the national NEP community of practice.

The Santa Monica NEP structure is unique. EPA appreciates the State's ongoing proactive efforts to clarify roles and responsibilities between the Commission as the Management Conference and The Bay Foundation as Host Entity. We all share mutual objectives to protect and restore the invaluable Santa Monica Bay Estuary. We offer one suggestion to help further clarify roles and responsibilities: that the NEP Director (currently the Executive Director of The Bay Foundation) be given an ex-officio, non-voting seat on both the Governing Board and Executive Committee to help advise Commission activities.

We hope these clarifications on EPA's roles and responsibilities are helpful. We look forward to our continued work together to protect and restore the treasured resources of the Santa Monica Bay Estuary.

⁸ FY 2017-2019 Clean Water Act Section 320 National Estuary Funding Guidance, EPA, Updated April 7, 2017, at page 13. Update pending (April 2020).

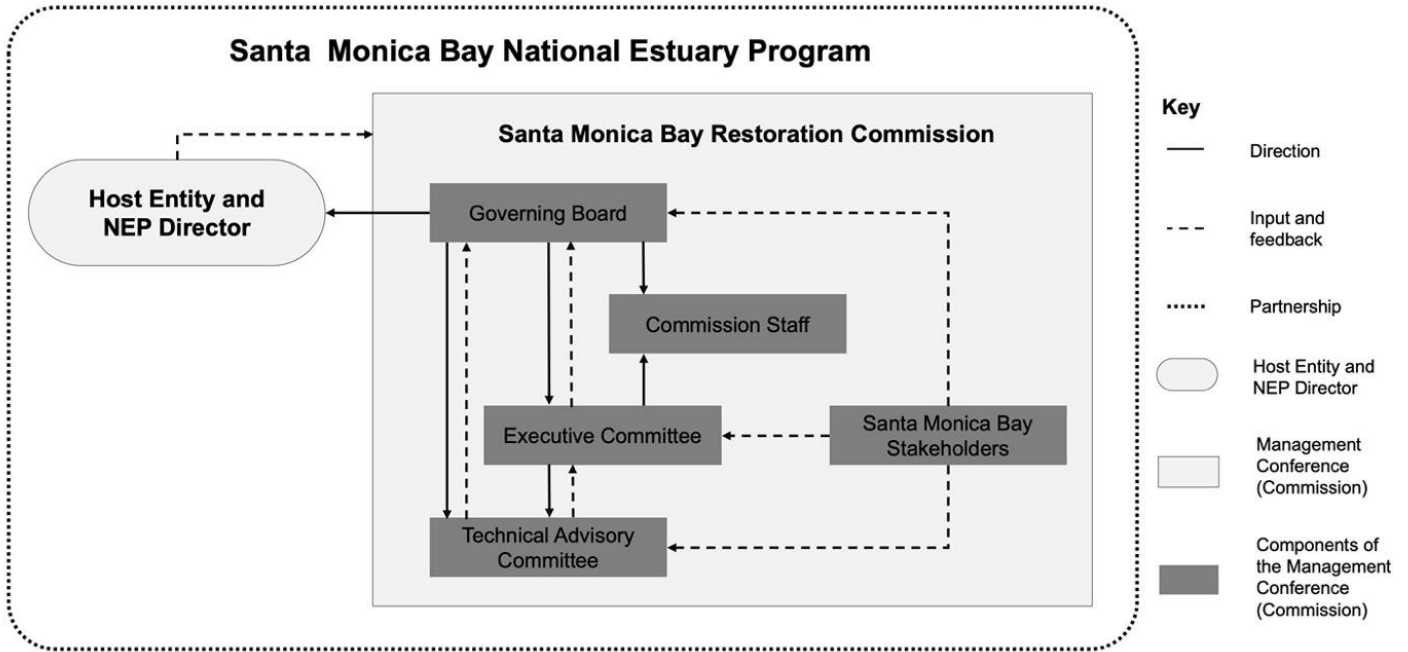
If you have further questions, please contact Erica Yelensky at yelensky.eric@epa.gov or 415-972-3021.

Sincerely,

David Smith

David Smith
Assistant Director
Water Division (WTR-3)

**ATTACHMENT B
Santa Monica Bay NEP Entities and Interrelationships**



The Santa Monica Bay NEP consists of the Commission, which serves as the Management Conference, and the Host Entity, including the NEP Director.

ATTACHMENT C
Santa Monica Bay Restoration Commission
Governing Board Members

Governing Board Seat	Type of Membership
Voting Members	Ex officio, Appointed, or Elected
Secretary for the California Environmental Protection Agency	Ex officio
Secretary for the California Natural Resources Agency	Ex officio
Chief Deputy Director, State Water Resources Control Board	Ex officio
Member, California Regional Water Quality Control Board – Los Angeles	Appointed by the Governor
Member, California Coastal Commission	Appointed by the Governor and California Legislature
Member, California State Coastal Conservancy	Appointed by the Governor and California Legislature
Supervisor, County of Los Angeles (Districts 3 or 4)	Appointed by the Board of Supervisors
Mayor or Councilmember, City of Los Angeles (SM Bay watershed district)	Appointed by the Mayor, with approval of the City Council
Councilmember for District 11, City of Los Angeles	Ex officio
Mayor or Councilmember, South Bay cities	Appointed by the appropriate Council of Governments (COG) from the following eligible members within the watershed: El Segundo, Manhattan Beach, Hermosa Beach, Inglewood, Redondo Beach, Palos Verdes Estates, Rancho Palos Verdes, Rolling Hills Estates, Rolling Hills, Torrance
Mayor or Councilmember, Malibu Creek watershed cities	Appointed by the appropriate COG from the following eligible members within the watershed: Agoura Hills, Calabasas, Malibu, Hidden Hills, Westlake Village
Mayor or Councilmember, Ballona Creek watershed cities	Appointed by the appropriate COG from the following eligible members within the watershed: Beverly Hills, Culver City, Santa Monica, West Hollywood
General Manager, Los Angeles County Sanitation Districts	Ex officio
Director, Public Works Department, City of LA	Ex officio
Director, County of Los Angeles, Department of Public Works	Ex officio
Director, CA Department of Fish and Wildlife	Ex officio

Governing Board Seat	Type of Membership
Director, CA Department of Parks and Recreation	Ex officio
Director, Santa Monica Mountains Conservancy	Ex officio
Director, Los Angeles County Dept. of Beaches and Harbors	Ex officio
Officer, Las Virgenes Municipal Water District	Ex officio
Chief, Los Angeles County Fire Department, Lifeguard Division	Ex officio
Public member, environmental/public interest	Elected by the Governing Board from representatives of environmental/public interest organizations pursuant to the criteria in Section III.A
Public member, environmental/public interest	Elected by the Governing Board from representatives of environmental/public interest organizations pursuant to the criteria in Section III.A
Public member, business/economic interest	Elected by the Governing Board from representatives of business community/economic interests pursuant to the criteria in Section III.A
Public member, coastal tourism industry	Elected by the Governing Board from representatives of the coastal tourism industry pursuant to the criteria in Section III.A
Public member, at-large representative	Elected by the Governing Board from at-large representatives pursuant to the criteria in Section III.A
Public member, at-large representative	Elected by the Governing Board from the at-large representatives pursuant to the criteria in Section III.A
Public member, at-large representative	Elected by the Governing Board from the at-large representatives pursuant to the criteria in Section III.A
Non-voting Members*	Ex officio, Appointed, or Elected
Regional Administrator, US EPA Region 9	Ex officio
Santa Monica Bay NEP Director	Ex officio
Director, NOAA-NMFS Southwest Division	Ex officio
State Senator, 26th District	Ex officio
State Senator, 27th District	Ex officio
State Assemblymember, 50th District	Ex officio
State Assemblymember, 62nd District	Ex officio

Governing Board Seat	Type of Membership
State Assemblymember, 66th District	Ex officio
Chair, Technical Advisory Committee	Ex officio
President, Santa Monica Bay Restoration Foundation Board	Ex officio

* Non-voting members of the Governing Board do not participate in closed session of the Governing Board.

ATTACHMENT D
Santa Monica Bay Restoration Commission
Executive Committee Members

Executive Committee Seat	Type of Membership
Voting Members	Ex officio or Elected
Chair of the Governing Board	Elected
5 Vice-chairs of the Governing Board	Elected
Chief Deputy Director, State Water Resources Control Board	Ex officio
Non-voting Members*	Ex officio or Elected
Regional Administrator, US EPA Region 9	Ex officio
Santa Monica Bay NEP Director	Ex officio

* Non-voting members of the Executive Committee do not participate in closed session of the Executive Committee.