

November 3, 2025

**BY EMAIL**

Larry Goldzband, Executive Director  
San Francisco Bay Conservation and Development Commission  
michael.ng@bcdc.ca.gov (Senior Staff Attorney)

**Re: Formal Legal Inquiry and Demand for Permit Amendment/Rescission**

Dear Mr. Goldzband and BCDC Commissioners,

The Soft Lights Foundation is submitting this Formal Inquiry and Demand for Action regarding the legal and environmental validity of BCDC Major Permit No. M2012.009.04, Amendment No. Four (the Permit), which authorizes the installation and operation of the "Bay Lights 360" project (Project). The findings supporting the issuance of this Permit are legally flawed and appear to violate both the McAteer-Petris Act and the California Environmental Quality Act (CEQA).

**I. The Project is a NEW Installation, Not a Minor Amendment**

The foundational flaw of Permit No. M2012.009.04 is its unjustifiable treatment of the Bay Lights 360 Project as a minor modification of previous temporary light installations. Given that all previous lights have been removed, the Bay Lights 360 is an entirely new installation of 48,000 LEDs and must be reviewed as such.

**A. The Flawed "Minor Fill" Classification**

The Executive Director's finding that the Project constitutes a "minor fill for improving shoreline appearance" (under BCDC Regulation § 10700) is factually and legally indefensible:

- **Invalid Classification:** This Project is not a "minor repair" or "improvement" of an existing structure. It is the installation of a new, long-term, 48,000-LED sculpture that fundamentally alters the Bay's environment. This scale of new construction warrants a Major Permit and full Commission review, not an Administrative Permit.
- **Conflict with Purpose:** The new, double-sided (360-degree) installation creates a significant adverse visual and environmental impact through light pollution affecting

migratory birds and Bay ecosystems. This intent to generate light pollution is incongruent with the requirement in M2012.009.04, Amendment No. Three, to "Minimize Light Emissions," and demonstrates that the Project cannot be classified under a minor provision intended to "improve shoreline appearance."

## **B. Related Permit and Agency Inconsistencies**

The circumstances surrounding the Permit and its associated documents further demonstrate its invalidity:

- **Unauthorized Permit Recipient:** The BCDC Permit was issued to the California Department of Transportation (Caltrans), while the Bay Area Toll Authority (BATA) is the designated CEQA Lead Agency for the Project.
- **Substantial Changes Without BCDC Review:** The October 29, 2024, Caltrans Encroachment Permit issued to BATA contained substantial changes to the Project—most notably, the development of a safety study to assess the impacts of shining LED lights into drivers' eyes. These substantial changes were made without prior review and written approval by BCDC, as explicitly required by M2012.009.04.
- **Expired Authority:** The Caltrans Encroachment Permit expired on October 31, 2025, raising questions about the Permittee's authority to proceed.

## **II. The CEQA Violation: Mandatory EIR is Required**

The Permit improperly relies on a prior 2012 Notice of Exemption (NOE) for a different project. Furthermore, BATA never approved the Bay Lights 360 Project and, despite failing to satisfy basic CEQA requirements, filed a new NOE on August 15, 2023. This NOE is void, and the Project is subject to the mandatory exceptions to CEQA:

- **Cumulative Impacts Exception (§ 15300.2(b)):** The cumulative impact of these successive light installations, spanning over the past thirteen years since the original 2012 permit, culminating in this massive 48,000-light structure on a critical ecosystem route, is demonstrably significant. This impact, which BCDC has allowed to progress through repeated minor amendments, must be evaluated through an EIR.
- **Unusual Circumstances Exception (§ 15300.2(c)):** The installation of 48,000 permanent, high-intensity LEDs on a major bridge structure over a body of water is an "unusual circumstance" that creates a "reasonable possibility" of a significant environmental effect (e.g., impact on bird migration, public safety, and overall visual quality of the Bay), which overrides the exemption and mandates a full EIR.

## **III. Formal Demand for Action**

Pursuant to the legal flaws outlined above, and in the interest of the Commission's duty to uphold the Public Trust Doctrine, the Soft Lights Foundation formally demands a written determination and action on the following:

- **Permit Determination:** A formal, written finding by the BCDC Legal Division and Compliance Division on whether the "minor fill" classification is valid for this new, 48,000-light installation.
- **CEQA Determination:** A written finding on why the Cumulative Impacts and Unusual Circumstances exceptions under CEQA Guidelines § 15300.2 do not apply to the new Bay Lights 360 project, thus justifying the NOE.
- **Mandatory Amendment Demand:** We demand that the Commission, in the exercise of its ultimate discretion, vote to Materially Amend Permit No. M2012.009.04, Amendment No. Four, to include a new Special Condition requiring the Permittee (BATA/Caltrans) to immediately commence the preparation of a full Environmental Impact Report (EIR) to evaluate the significant environmental impacts of this new 360-degree light installation.
- **Construction Status:** A clear statement of the Permittee's construction commencement and completion deadlines and a determination of whether the Permittee is currently in violation of the Permit due to reported work stoppages and the expiration of the Caltrans Encroachment Permit.

Please include this entire correspondence in the official public record file for Permit No. M2012.009.04, Amendment No. Four, and ensure it is distributed to all BCDC Commissioners. We require a formal, written response to these demands within 30 calendar days of receipt of this notice.

Sincerely,

/s/ Mark Baker

President

Soft Lights Foundation

[mbaker@softlights.org](mailto:mbaker@softlights.org)

cc:

David Ambuehl, Acting Director, Caltrans District 4 ([david.ambuehl@dot.ca.gov](mailto:david.ambuehl@dot.ca.gov))

Kathleen Kane, General Counsel, Bay Area Toll Authority ([kkane@bayareametro.gov](mailto:kkane@bayareametro.gov))

Sheryl Garcia, Office Chief, Office of Maintenance Environmental, FHWA ([sheryl.m.garcia@dot.ca.gov](mailto:sheryl.m.garcia@dot.ca.gov))

Enclosed:

Hamilton Biological Report January 26, 2025  
Hamilton Biological Report February 27, 2025