



Soft Lights Foundation
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January 24, 2026

BY EMAIL

Margaret Abe-Koga, Chair
BATA Oversight Committee
district5@bos.sccgov.org

Re: Public Comment – Immediate Request for Investigation into Bay Lights 360 Litigation and Procedural Failures

Dear Chair Abe-Koga and Members of the BATA Oversight Committee,

I am writing to formally alert this Committee to a mounting legal and financial crisis regarding the Bay Lights 360 project. As the body charged with overseeing the Bay Area Toll Authority's (BATA) management of state-owned bridges and toll-payer funds, it is your responsibility to investigate the following three levels of active and pending litigation that now threaten the viability of this project:

1. The First Appellate Court Appeal (Case No. A174642): This appeal challenges the very foundation of the project's approval. Evidence has been presented that the project was never formally voted on by this Board, and that staff—specifically Deputy Executive Director Alix Bockelman—exceeded her authority by filing a Notice of Exemption (NOE) on August 15, 2023, for a project that was not approved by the BATA Oversight Committee or any BATA staff member. If the Court finds this process void, every dollar spent to date will have been an unauthorized expenditure of public funds.

2. The Superior Court TRO (Temporary Restraining Order): I have filed for a TRO, case number CPF-26-519519, to immediately halt construction activities. The basis for this action is Section 12 of the Caltrans Encroachment Permit which invalidates any project that has not been approved. The Committee must investigate why construction began on December 9, 2024, stopped, and then restarted again in December 2025, without a valid CEQA or NEPA clearance in place, and without a signed and dated Project Approval document.

3. The Forthcoming Federal NEPA Lawsuit: The Federal Register notice published on November 3, 2025 (Document Number 2025-19745), attempted to retroactively "fix" a broken federal record. I am preparing a federal lawsuit based on the April 2023 Caltrans/Longcore Study (CA23-3696) and many other documents, which proves that the project's impacts on

biological resources are significant and were willfully ignored. The "N/A" determination for biological resources in the June 29, 2023, Categorical Exclusion (CE) is a direct violation of federal law.

4. Breach of ABAG Fiduciary and Environmental Duties: It has come to our attention that ABAG executive staff, who also serve as BATA executive staff, have willfully excluded the ABAG San Francisco Estuary Partnership from the Bay Lights 360 planning process. ABAG has a statutory mandate to protect the ecological health of the San Francisco Bay. By pushing this project through as a "BATA-only" action, staff have bypassed the very environmental oversight mechanisms that ABAG was created to provide. We are formally requesting that the ABAG Executive Board open an independent investigation into why their agency was sidelined in favor of a non-compliant BATA process.

5. Violation of State Public Health Policy (SCR-73): We demand the Committee investigate why BATA is proceeding with a project that directly contradicts California Senate Concurrent Resolution 73 (SCR-73). By unanimous vote, the California Legislature has declared blue and blue-rich "white" light a public health hazard and urged the reduction of eye exposure to this light. The Bay Lights 360 project does the opposite: it forces massive, high-energy blue-rich light exposure upon the public, increasing their risk of eye injury and diseases associated with light pollution. Furthermore, the project ignores the American Medical Association (AMA) guidance against high-intensity blue-rich LED street and bridge lighting. Proceeding with a project that creates a state-recognized health and safety hazard is a gross violation of BATA's duty to protect the public.

6. Lack of Public Information and Health Reporting: We demand that BATA immediately establish a public-facing project page on its website that includes a portal for reporting LED-related adverse health effects and traffic safety incidents. The current absence of information on BATA's website is a violation of the public's right to know about a project that, according to the Caltrans LED Study (CA23-3696), has a high potential for "significant adverse health impacts".

7. Misclassification of "Minor Fill" under the McAteer-Petris Act: We demand that the Committee investigate why BCDC Executive Director Larry Goldzband was permitted to classify the installation of 48,000 high-intensity LEDs as "minor fill" under the McAteer-Petris Act. Under Government Code § 66632, "fill" is defined as earth or any other substance or material; however, this project involves no physical soil or substrate fill. This classification is a legal fiction designed to bypass the "Major Permit" process, which requires a mandatory public hearing and a formal vote by the full Commission for projects that significantly change the use of the Bay. By soliciting and relying upon this administrative "minor fill" designation, BATA staff has willfully subverted the public participation and environmental stewardship mandates established by the California Legislature to protect the Estuary.

8. Committee's Responsibility to Investigate and Hold Funds: Continuing to authorize reimbursements to Caltrans for state labor and materials while the project's legal status is in freefall is a failure of your oversight mandate. If the courts find that the project was never formally approved by a board vote—making the Notice of Exemption void—every dollar spent

to date will be classified as an unauthorized expenditure of public funds. Under Code of Civil Procedure § 526a, this Committee and its officers may be held legally accountable for the illegal waste of toll-payer money. Please be advised that Soft Lights Foundation President Mark Baker is prepared to initiate a formal taxpayer waste action under § 526a to enjoin these unauthorized payments and seek accountability for the misuse of public resources. We urge this Committee to place an immediate hold on all Bay Lights 360 expenditures, including legal fees and Caltrans labor billings, until a full independent audit is completed.

Sincerely,

/s/ Mark Baker
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Cc:

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