

**FOR CONTRACT NO.:** 04-1J520  
**PROJECT ID:** 0414000249

# **INFORMATION HANDOUT**

## **WATER QUALITY**

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD**

CIWQS Place No.: 718667

## **PERMITS**

**UNITED STATES ARMY CORPS OF ENGINEERS NATIONWIDE PERMIT 3 -  
MAINTENANCE, NATIONWIDE PERMIT 27 - AQUATIC HABITAT RESTORATION**

**UNITED STATES ARMY CORPS OF ENGINEERS NATIONWIDE PERMIT 14 - LINEAR  
TRANSPORTATION PROJECT**

**SAN FRANCISCO BAY CONSERVATION DEVELOPMENT COMMISSION**

BCDC - 20-73

## **MATERIALS INFORMATION**

**ENVIRONMENTAL CERTIFICATION**

**STORM WATER DATA REPORT**

**CONCEPTUAL VISUAL SIMULATIONS**

**ROUTE: 84-SM,ALA-R28.8/R29,R0.5**



# California Regional Water Quality Control Board

## San Francisco Bay Region



Linda S. Adams  
Secretary for  
Environmental  
Protection

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<http://www.waterboards.ca.gov/sanfranciscobay>

Arnold Schwarzenegger  
Governor

December 3, 2009  
401 Database Site No. 02-41-C0617 (BT)  
CIWQS Place No.: 718667

California Department of Transportation  
Attn: Mr. Mo Pazooki  
[Mo\\_Pazooki@dot.ca.gov](mailto:Mo_Pazooki@dot.ca.gov)  
PO Box 23660  
Oakland, CA 94623-0660

**Subject: Water Quality Certification for the Dumbarton Bridge Structure  
Rehabilitation Project, San Mateo and Alameda Counties**

**Department Project No.: EA 04-1A5221**

Dear Mr. Pazooki:

We have reviewed and hereby issue water quality certification to the California Department of Transportation (Department) for the project referenced above (hereinafter Project). The U.S. Army Corps of Engineers (Corps) issued Nationwide Permit Nos. 3, *Maintenance*, and 27, *Aquatic Habitat Restoration* (File Number 2008-00177S), pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344). As such, the Department has applied to the Water Board for a Clean Water Act Section 401 water quality certification that the Project will not violate State water quality standards.

**Project:** The Department proposes to seismically retrofit an approximately 2.85-mile segment of the Dumbarton Bridge, which connects the cities of Menlo Park and East Palo Alto to the west and the city of Newark to the east. The proposed Project involves strengthening the bridge frames, columns, piles and bent caps. Project activities will be conducted along the entire length of the bridge. All proposed activities shall occur below the superstructure and no new impervious area is proposed. Project construction is expected to begin May 2010 and last approximately three years. The following Project elements are proposed:

***Main channel crossing retrofit:*** From bridge piers 16 to 31, the Department proposes to strengthen the columns, column connections, pile caps, and cross frames. Additional work includes retrofitting hinges, bent caps, and replacing the existing deck joints with “isolation bearings” to accommodate seismic movements.

The bent caps, deck joints, and hinges will be accessed using barges and cranes. Permanent fill to the Bay will occur as a result of adding a reinforced concrete collar around the pile caps.

Retrofit of approach structures: The approach structures are built over San Francisco Bay (Bay) and connect the main channel crossing at both ends to the land-based trestle structures. Work proposed at these locations includes strengthening of the column connections, pile caps, bent caps, and the superstructure.

Permanent fill to the Bay will occur as a result of adding a reinforced concrete collar around the pile caps. Approximately 0.13 acres of temporary fill to the Bay will occur as a result of coffer dam placement and dewatering around each pier. The dewatered areas around the piers will allow for construction of new concrete collars around each column. A vibratory hammer will be used to drive each sheet pile during construction of the coffer dam.

Construction of temporary trestles: Temporary trestles will be built parallel to the bridge and allow access to the bent caps and superstructure. Construction of the trestles will require driving of approximately 1,000 24-inch diameter maximum, steel pipe piles. A total of six to twelve piles will be driven on a daily basis using a vibratory hammer. Each pile will take an average of five minutes to install. The temporary trestles will take approximately six to eight months to construct and be in place for approximately three years. Construction of the temporary trestles will result in approximately 0.20 acres of temporary fill to the Bay.

Fishing Piers: On the western end of the bridge an old fishing pier (Ravenswood Pier) with concrete piles will be removed during construction of the temporary trestle. On the eastern side of the bridge, the existing Dumbarton Pier will remain.

Retrofit of trestle structures: At either end, the trestle structures are land-based and serve as an “anchor for the bridge.” They are each 600 feet in length and are composed of twenty 30-foot long spans. The Department will strengthen these structures by installing seismic joint systems in the locations where the existing deck joints connect with the approach structures. Additionally, seven 48-inch diameter steel pipe piles will be driven along each side of the existing structure to provide lateral strengthening.

Direct permanent impacts to jurisdictional wetlands will occur on the northern side of the eastern trestle where all seven piles will be placed into a surface water depression wetland (0.01 acres). Approximately 0.47 acres of this wetland area will be temporarily impacted due to equipment access for pile driving activities.

Construction of Bay wall barrier and pump station: On the northwestern side of the bridge, at the boundary between the Moseley tract and the existing frontage road, an approximately 2,000 linear foot concrete wall is proposed to prevent high tides from inundating the frontage road and the construction site.

A drainage system is also proposed to collect runoff from both the frontage road and State Route 84. Elements of the drainage system include drains, pipes, pump house, pump house outfall, a steel sheet pile barrier driven approximately 20 feet into the ground to prevent Bay water seepage, and an earthen berm on the Bay-side of the wall. All of these elements, with the exception of the pump house and outfall, will be constructed in the footprint of the paved shoulder of the existing access road. The pump house will be approximately 875 square feet and placed underground, supported by four 24 inch diameter steel pipe piles. The outflow pipe from the pump station will be 42 inches in diameter and discharge to a riprap strip placed on the floor of the Bay.

Direct permanent impact to the Bay of approximately 0.01 acres will occur as a result of placement of riprap for the pump station outfall.

**Impacts:** The Department will permanently fill approximately 0.01 acres of an upland salt marsh due to the placement of seven steel pipe columns and approximately 0.01 acres of intertidal wetland due to placement of rip-rap for the pump station outfall. Additionally, the Department will permanently fill approximately 0.05 acres of the Bay due to installation of concrete collars around existing pile caps.

The Department will temporarily fill approximately 0.13 acres of the Bay as a result of coffer dam placement and dewatering around each pier, approximately 0.47 acres of a surface water depression wetland due to equipment access for pile driving activities, and approximately 0.2 acres of the Bay due to construction of the temporary trestles.

**Mitigation:** All temporarily impacted areas shall be restored to pre-construction conditions. The Department will remove approximately 0.02 acres of fill from the Bay due to removal of the Ravenswood Pier. At the location where the existing Ravenswood Pier meets the pier, the Department shall create 0.02 acres of tidal wetlands, restore no less than 0.09 acres of intertidal wetlands by removal of rip-rap and grading, and restore an additional 0.04 acres to either intertidal wetland, mudflat, or a transitional area between the two.

Additionally, the Department shall ensure that the installed pump station provides full trash-capture; specifically, the pump station shall trap all particles retained by a 5 mm mesh screen and have a design treatment capacity of not less than the peak flow rate discharge resulting from a one-year, one-hour, storm in the sub-drainage area.

**Wetland Tracking System:** It has been determined through regional, state, and national studies that tracking of mitigation/restoration projects must be improved to better assess the performance of these projects, following monitoring periods that last several years. In addition, to effectively carry out the State's No Net Loss Policy for wetlands, the State needs to closely track both wetland losses and mitigation/restoration project success. Therefore, we require that the applicant use the Wetland Tracker Standard Form to provide Project information related to impacts and mitigation/restoration measures (see Condition No. 9 of this Certification). An

electronic copy of the form and instructions can be downloaded at:

<http://www.waterboards.ca.gov/sanfranciscobay/certs.shtml>. Project information concerning impacts and mitigation/restoration will be made available at the web link:  
<http://wetlandtracker.org>.

**CEQA Compliance:** On September 2, 2009, the Department prepared a Mitigated Negative Declaration and issued a Notice of Determination that the Project would not have a significant effect on the environment.

**Certification:** I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003 - 0017 – DWQ, “General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification” which requires compliance with all conditions of this Water Quality Certification. The following conditions are associated with this certification:

1. The Department shall adhere to Corps Nationwide Permit Nos. 3 and 27, issued to the Department on October 23, 2009, and, San Francisco Bay Conservation and Development Commission Permit No. 20-73, as amended October 26, 2009;
2. The Project shall be constructed in conformance with the Project Description described in this certification and July 2009 certification application materials. Any significant change in the Project may require amendment of the certification and shall be reported to the Water Board. Any significant change in Project description must be accepted by the Water Board Executive Officer prior to implementation of said change in the Project;
3. No fueling, cleaning or maintenance of vehicles or equipment shall take place within State waters or within any areas where an accidental discharge to State waters may occur;
4. This certification does not allow for the take, including incidental take, of any State- or Federal-listed threatened or endangered species. The Department is required, as prescribed in the State and/or Federal Endangered Species Acts, to consult with the appropriate agency prior to commencement of the project. Any unauthorized take of such listed species may result in prosecution and would also be considered a violation of this Certification;
5. Immediately following completion of construction activities in any given temporarily impacted area, these areas shall be restored to their pre-construction conditions. A person qualified to assess wetland health and function shall conduct a pre- and post-impact evaluation of wetlands “3, 5, and 7,” where approximately 0.47 acres of temporary impacts

are proposed due to construction access. Two reports shall be submitted, subject to the acceptance of Water Board staff:

- a. An initial inspection report, including photographs, documenting and describing the pre-construction condition of the wetlands and the installation of the construction access apparatus. This report shall include an assessment of wetland soil compaction. Prior to installation of the construction access apparatus, the Department shall contact Water Board staff to arrange a possible site visit to observe its installation; and,
  - b. A post-inspection report, including photographs, documenting and describing wetland conditions after the construction access apparatus has been removed. Wetland conditions shall be evaluated using the same metrics detailed in the initial inspection report. This report shall also include an assessment of wetland soil compaction, including areas where heavy equipment had been staged. The report shall include a description of mitigation measures necessary to return the wetlands to their original condition.
6. The Department shall create 0.02 acres of tidal wetlands, restore no less than 0.09 acres of intertidal wetlands by removal of rip-rap and grading, and restore an additional 0.04 acres to either intertidal wetland, mudflat, or a transitional area between the two. All mitigation shall be fully constructed by the end of Project construction;
  7. Native wetland vegetation (e.g., pickleweed, cordgrass) shall establish within a contiguous 0.02 acre area of the mitigation limits, at no less than 75% total coverage area;
  8. The Department shall monitor and submit annual monitoring reports to the Water Board detailing progress of the on-site wetland mitigation, for not less than five years. After five years, the Department shall continue to monitor the mitigation site and submit biannual reports to the Water Board until the success criteria is met. If the success criteria is not met at year ten, the Department shall contact staff of the Water Board and propose a revised mitigation strategy;
  9. The Department is required to use the standard Wetland Tracker form to provide Project information describing impacts and restoration measures within 30 days from the date of this certification. An electronic copy of the form can be downloaded at: <http://www.waterboards.ca.gov/sanfranciscobay/certs.shtml>. The completed Wetland Tracker form shall be submitted electronically to [wetlandtracker@waterboards.ca.gov](mailto:wetlandtracker@waterboards.ca.gov) or shall be submitted as a hard copy to both: (a) the Water Board (see the address on the letterhead), to the attention of Wetland Tracker and, (b) San Francisco Estuary Institute, 7770 Pardee Lane, Oakland, CA 94621-1424, to the attention of Mike May;
  10. Not later than January 4, 2010, the Department shall submit plans demonstrating that the proposed pump station shall trap all particles retained by a 5 mm mesh screen and have a

design treatment capacity of not less than the peak flow rate discharge resulting from a one-year, one-hour, storm in the sub-drainage area;

11. Upon completion of construction of the pump station, the Department shall submit as-built and operation and maintenance plans;
12. The Resident Engineer shall hold on-site water quality permit (i.e., this Water Quality Certification and Department's stormwater NPDES permit - Order No. 99-06-DWQ) compliance meetings (similar to tailgate safety meetings) to discuss permit compliance including instructions on how to avoid violations and procedures for reporting violations. The meetings shall be held at least every other week, and particularly before forecasted storm events and when a new contractor or subcontractor arrives to begin work at the site. The contractors, subcontractors and their employees, as well as any inspectors or biological monitors assigned to the project, shall be present at the meetings. Caltrans shall maintain dated sign-in sheets for attendees at these meetings, and shall make them available to the Regional Water Board on request;
13. The Department shall maintain a copy of this water quality certification at the Project site so as to be available at all times to site operating personnel. It is the responsibility of the Department to assure that all personnel (employees, contractors, and subcontractors) are adequately informed and trained regarding the conditions of this certification;
14. Discharge of treated ground or stormwater to waters of the state is prohibited in instances when residual concentrations of the flocculent or coagulant treatment agent used cannot be reliably detected in effluent at or below the lowest established freshwater chronic and acute toxicity thresholds for that agent;
15. Except as expressly allowed in this Certification, the discharge, or creation of the potential for discharge, of any soil materials including fresh concrete, cement, silts, clay, sand and other organic materials to waters of the State is prohibited;
16. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section 13330 of the California Water Code (CWC) and Section 3867 of Title 23 of the California Code of Regulations(23 CCR);
17. This certification action does not apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license, unless the pertinent certification application was filed pursuant to California Code of Regulations (CCR) Title 23, Subsection 3855(b) and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought; and,

18. Certification is conditioned upon total payment of the full fee required in State regulations (23 CCR Section 3833). Full payment of \$3402.50 was received on June 10, 2009.

We anticipate your cooperation in implementing these conditions. However, please be advised that any violation of water quality certification conditions is a violation of State law and subject to administrative civil liability pursuant to California Water Code (CWC) section 13350. Failure to respond, inadequate response, late response, or failure to meet any condition of this certification may subject you to civil liability imposed by the Water Board to a maximum of \$5,000 per day per violation or \$10 for each gallon of waste discharged in violation of this certification.

**Conditions 5, and 8 - 12 are requirements for information or reports.** Any requirement for a report made as a condition to this action is a formal requirement pursuant to CWC section 13267, and failure or refusal to provide, or falsification of such required report is subject to civil liability as described in CWC section 13268.

Should new information come to our attention that indicates a water quality problem with this project, the Water Board may issue Waste Discharge Requirements pursuant to 23 CCR Section 3857.

If you have any question, please contact Brendan Thompson at (510) 622-2506, or via e-mail to [BThompson@waterboards.ca.gov](mailto:BThompson@waterboards.ca.gov).

Sincerely,

Bruce H. Wolfe  
Executive Officer

cc (via e-mail): Mr. Bill Orme SWRCB-DWQ  
Mr. Hal Durio, USACE  
Ms. Jane Hicks, USACE  
Mr. Cameron Johnson, USACE  
Mr. Rafael Montes, BCDC

Mr. Dale Bowyer, Water Board  
Ms. Melissa Escaron, Fish and Game, Yountville  
Mr. Hardeep Takhar, Caltrans  
Mr. David Smith, USEPA  
Ms. Jacqueline Pearson-Meyer, NMFS



DEPARTMENT OF THE ARMY  
SAN FRANCISCO DISTRICT, U.S. ARMY CORPS OF ENGINEERS  
1455 MARKET STREET  
SAN FRANCISCO, CALIFORNIA 94103-1398

OCT 23 2009

Regulatory Division

SUBJECT: File Number 2008-00177S

Mr. Jeffrey G. Jensen  
California Department of Transportation  
Office of Biological Sciences & Permit  
PO Box 23660

Dear Mr. Jensen:

This letter is written in response to your submittal of May 5, 2009 concerning Department of the Army authorization to implement construction of the Dumbarton Bridge Seismic Retrofit Project located in Alameda County and in San Mateo County on State Route (SR) 84 where the highway crosses over the San Francisco Bay. This letter authorizes permanent fill of 450 square feet (0.01 acre) of wetland, the removal of the Ravenswood Pier, excavation of the Ravenswood Pier approach to restore special aquatic sites, to place approximately 1000 twenty-four inch round steel piles into the bay mud to support temporary construction trestles, to add approximately 1700 cubic yards of new concrete to the top of the footing pedestals of the bridge to strengthen the bridge columns, to use sheet pile coffer dams to dewater the bridge pedestals, and to use barges in the deeper water to support construction activities required to retrofit the Dumbarton Bridge.

Based on a review of the information you submitted and an inspection of the project site conducted by Corps personnel on May 22, 2009, your project qualifies for authorization under Department of the Army Nationwide Permit 3 – Maintenance and Nationwide Permit 27 – Aquatic Habitat Restoration (72 Fed. Reg. 11092, March 12, 2007), pursuant to Section 404 of the Clean Water Act (33 U.S.C. Section 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. Section 403). See Enclosure 1. All bridge retrofit work of the Dumbarton Bridge project is permitted by the United States Coastguard. The Department of the Army is authorizing temporary and permanent fill into wetlands and waters of the United States and work within Section 10 Waters of the United States. Three maps attached within the permit application entitled *Appendix G, Sheet 1 – Sheet 3* show the locations of the temporary work trestles where the temporary support columns will be located, and the footing pedestals of the bridge where the concrete work and dewatering will take place. A separate map entitled *Potential Wetland Restoration Area* shows the location of the mitigation site and the existing Ravenswood Pier.

The project must be in compliance with the General Conditions cited in Enclosure 2 for this Nationwide Permit authorization to remain valid. Non-compliance with any condition could

result in the suspension, modification or revocation of the authorization for your project, thereby requiring you to obtain an Individual Permit from the Corps. This Nationwide Permit authorization does not obviate the need to obtain other State or local approvals required by law.

This authorization will remain valid for two years from the date of this letter unless the Nationwide Permit is modified, suspended or revoked. If you have commenced work or are under contract to commence work prior to the suspension, or revocation of the Nationwide Permit and the project would not comply with the resulting Nationwide Permit authorization, you have 12 months from that date to complete the project under the present terms and conditions of the Nationwide Permit. Upon completion of the project and all associated mitigation requirements, you shall sign and return the Certification of Compliance, Enclosure 3, verifying that you have complied with the terms and conditions of the permit.

This authorization will not be effective until you have obtained a Section 401 water quality certification from the San Francisco Bay Regional Water Quality Control Board (RWQCB). If the RWQCB fails to act on a valid request for certification within two months after receipt of a complete application, the Corps will presume a waiver of water quality certification has been obtained. You shall submit a copy of the certification to the Corps prior to the commencement of work.

This authorization will not be effective until you have obtained a concurrence from the California Coastal Commission or S.F. Bay Conservation and Development Commission that your certification that your project will comply with California's Coastal Zone Management Act. If the Commission fails to act on a valid request for concurrence with your certification within six months after receipt, the Corps will presume a concurrence has been obtained. You shall submit a copy of the concurrence to the Corps prior to the commencement of work.

To ensure compliance with this Nationwide Permit authorization, the following special conditions shall be implemented:

1. This Corps permit does not authorize you to take an endangered species. In order to legally take a listed species, you must have a separate authorization under the Endangered Species Act (ESA) (e.g., an ESA Section 10 permit or a Biological Opinion (BO) under ESA Section 7 with "incidental take" provisions with which you must comply). The enclosed U.S. Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS) BOs dated August 14, 2009 and August 10, 2009 respectively contain mandatory terms and conditions to implement the reasonable and prudent measures that are associated with "incidental take" that is also specified in the BOs. Your authorization under this Corps permit is conditional upon your compliance with all of the mandatory terms and conditions associated with incidental take authorized by the attached BOs, whose terms and conditions are incorporated by reference in this permit. Failure to comply with the terms and conditions associated with incidental take of the BOs, where a

take of the listed species occurs, would constitute an unauthorized take and it would also constitute non-compliance with this Corps permit. The FWS and NMFS are the appropriate authorities to determine compliance with the terms and conditions of their BOs and with the ESA.

2. As mitigation for the 470 square feet (0.01 acre) of permanent fill in wetland due to the placement of seven steel pipe reinforced columns, Caltrans shall create a minimum of 500 square feet (0.01 acre) of intertidal mudflat as described in their Conceptual Design for Wetland Restoration / Creation at the Western Anchorage of the Dumbarton Bridge. At this location, Caltrans will remove earthen fill and the riprap berm that makes up the present approach to the Ravenswood Pier. This area will be graded to match existing contours and would restore approximately 0.02 acre of intertidal pickleweed and or cordgrass marsh and approximately 0.13 acre of intertidal mudflat. This mitigation site is mitigation for the 0.01 acre wetland fill and the 0.01 acre RSP fill in the adjacent project entitled *San Mateo Route 84 Barrier and Drainage System for North Frontage Road Project*.
3. Caltrans shall use Best Management Practices at all times to prevent toxic materials from leaking from machinery or being dumped into San Francisco Bay.

Should you have any questions regarding this matter, please call Hal Durio of our Regulatory Division at 415-503-6785. Please address all correspondence to the Regulatory Division and refer to the File Number at the head of this letter. If you would like to provide comments on our permit review process, please complete the Customer Survey Form available online at <http://per2.nwp.usace.army.mil/survey.html>.

Sincerely,



Jane M. Hicks  
Chief, Regulatory Division

Enclosures

Copy furnished (w/o enclosures):

US CG, Alameda, CA  
US FWS, Sacramento, CA  
US NMFS, Santa Rosa, CA  
CA RWQCB, Oakland, CA

### 3. *Maintenance.*

(a) The repair, rehabilitation, or replacement of any previously authorized, currently serviceable, structure, or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3, provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized. This NWP authorizes the repair, rehabilitation, or replacement of those structures or fills destroyed or damaged by storms, floods, fire or other discrete events, provided the repair, rehabilitation, or replacement is commenced, or is under contract to commence, within two years of the date of their destruction or damage. In cases of catastrophic events, such as hurricanes or tornadoes, this two-year limit may be waived by the district engineer, provided the permittee can demonstrate funding, contract, or other similar delays.

(b) This NWP also authorizes the removal of accumulated sediments and debris in the vicinity of and within existing structures (e.g., bridges, culverted road crossings, water intake structures, etc.) and the placement of new or additional riprap to protect the structure. The removal of sediment is limited to the minimum necessary to restore the waterway in the immediate vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend further than 200 feet in any direction from the structure. This 200 foot limit does not apply to maintenance dredging to remove accumulated sediments blocking or restricting outfall and intake structures or to maintenance dredging to remove accumulated sediments from canals associated with outfall and intake structures. All dredged or excavated materials must be deposited and retained in an upland area unless otherwise specifically approved by the district engineer under separate authorization. The placement of riprap must be the minimum necessary to protect the structure or to ensure the safety of the structure. Any bank stabilization measures not directly associated with the structure will require a separate authorization from the district engineer.

(c) This NWP also authorizes temporary structures, fills, and work necessary to conduct the maintenance activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to preconstruction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

(d) This NWP does not authorize maintenance dredging for the primary purpose of navigation or beach restoration. This NWP does not authorize new stream channelization or stream relocation projects.

*Notification:* For activities authorized by paragraph (b) of this NWP, the permittee must submit a preconstruction notification to the district engineer prior to commencing the activity (see general condition 27). Where maintenance dredging is proposed, the pre-construction notification must

## **Enclosure 1**

## **2007 Nationwide Permits (effective 19 March 2007)**

include information regarding the original design capacities and configurations of the outfalls, intakes, small impoundments, and canals. (Sections 10 and 404)

**Note:** This NWP authorizes the repair, rehabilitation, or replacement of any previously authorized structure or fill that does not qualify for the Clean Water Act Section 404(f) exemption for maintenance.

**27. Aquatic Habitat Restoration, Establishment, and Enhancement Activities.**

*Aquatic Habitat Restoration, Establishment, and Enhancement Activities.* Activities in waters of the United States associated with the restoration, enhancement, and establishment of tidal and non-tidal wetlands and riparian areas and the restoration and enhancement of non-tidal streams and other non-tidal open waters, provided those activities result in net increases in aquatic resource functions and services.

To the extent that a Corps permit is required, activities authorized by this NWP include, but are not limited to: the removal of accumulated sediments; the installation, removal, and maintenance of small water control structures, dikes, and berms; the installation of current deflectors; the enhancement, restoration, or establishment of riffle and pool stream structure; the placement of in-stream habitat structures; modifications of the stream bed and/or banks to restore or establish stream meanders; the backfilling of artificial channels and drainage ditches; the removal of existing drainage structures; the construction of small nesting islands; the construction of open water areas; the construction of oyster habitat over unvegetated bottom in tidal waters; shellfish seeding; activities needed to reestablish vegetation, including plowing or disking for seed bed preparation and the planting of appropriate wetland species; mechanized land clearing to remove non-native invasive, exotic, or nuisance vegetation; and other related activities. Only native plant species should be planted at the site.

This NWP authorizes the relocation of non-tidal waters, including non-tidal wetlands and streams, on the project site provided there are net increases in aquatic resource functions and services.

Except for the relocation of non-tidal waters on the project site, this NWP does not authorize the conversion of a stream or natural wetlands to another aquatic habitat type (e.g., stream to wetland or vice versa) or uplands. This NWP does not authorize stream channelization. This NWP does not authorize the relocation of tidal waters or the conversion of tidal waters, including tidal wetlands, to other aquatic uses, such as the conversion of tidal wetlands into open water impoundments.

Reversion. For enhancement, restoration, and establishment activities conducted: (1) In accordance with the terms and conditions of a binding wetland enhancement, restoration, or establishment agreement between the landowner and the U.S. Fish and Wildlife Service (FWS), the Natural Resources Conservation Service (NRCS), the Farm Service Agency (FSA), the National Marine Fisheries Service (NMFS), the National Ocean Service (NOS), or their designated state cooperating agencies; (2) as voluntary wetland restoration, enhancement, and establishment actions documented by the NRCS or USDA Technical Service Provider pursuant to NRCS Field Office Technical Guide standards; or (3) on reclaimed surface coal mine lands, in accordance with a Surface Mining Control and Reclamation Act permit issued by the OSM or the applicable state agency, this NWP also authorizes any future discharge of dredged or fill material associated with the reversion of the area to its documented prior condition and use (i.e., prior to the restoration, enhancement, or establishment activities). The reversion must occur within five years after expiration of a limited term wetland restoration or establishment agreement or permit, and is authorized in these circumstances even if the discharge occurs after this NWP expires. The five-year reversion limit does not apply to agreements without time limits reached between the landowner and the FWS, NRCS, FSA, NMFS, NOS, or an appropriate state cooperating agency. This NWP also authorizes discharges of dredged or fill material in waters of the United States for the reversion of wetlands that were restored, enhanced, or established on prior-converted cropland that has not been abandoned or on uplands, in accordance with a binding agreement between the landowner and NRCS, FSA, FWS, or their designated state cooperating agencies (even though the restoration, enhancement, or establishment activity did not require a section 404 permit). The prior condition will be documented in the original agreement or permit, and the determination of return to prior conditions will be made by the Federal agency or appropriate state agency executing the agreement or permit. Before conducting any

reversion activity the permittee or the appropriate Federal or state agency must notify the district engineer and include the documentation of the prior condition. Once an area has reverted to its prior physical condition, it will be subject to whatever the Corps Regulatory requirements are applicable to that type of land at the time. The requirement that the activity result in a net increase in aquatic resource functions and services does not apply to reversion activities meeting the above conditions. Except for the activities described above, this NWP does not authorize any future discharge of dredged or fill material associated with the reversion of the area to its prior condition. In such cases a separate permit would be required for any reversion.

Reporting: For those activities that do not require pre-construction notification, the permittee must submit to the district engineer a copy of: (1) The binding wetland enhancement, restoration, or establishment agreement, or a project description, including project plans and location map; (2) the NRCS or USDA Technical Service Provider documentation for the voluntary wetland restoration, enhancement, or establishment action; or (3) the SMCRA permit issued by OSM or the applicable state agency. These documents must be submitted to the district engineer at least 30 days prior to commencing activities in waters of the United States authorized by this NWP.

Notification. The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity (see general condition 27), except for the following activities:

- (1) Activities conducted on non-Federal public lands and private lands, in accordance with the terms and conditions of a binding wetland enhancement, restoration, or establishment agreement between the landowner and the U.S. FWS, NRCS, FSA, NMFS, NOS, or their designated state cooperating agencies;
- (2) Voluntary wetland restoration, enhancement, and establishment actions documented by the NRCS or USDA Technical Service Provider pursuant to NRCS Field Office Technical Guide standards; or
- (3) The reclamation of surface coal mine lands, in accordance with an SMCRA permit issued by the OSM or the applicable state agency.

However, the permittee must submit a copy of the appropriate documentation. (Sections 10 and 404)

Note: This NWP can be used to authorize compensatory mitigation projects, including mitigation banks and in-lieu fee programs. However, this NWP does not authorize the reversion of an area used for a compensatory mitigation project to its prior condition, since compensatory mitigation is generally intended to be permanent.

**Note:** To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as appropriate, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP.

1. *Navigation.* (a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. *Aquatic Life Movements.* No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions.

3. *Spawning Areas.* Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or

downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. *Migratory Bird Breeding Areas.* Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. *Shellfish Beds.* No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48.

6. *Suitable Material.* No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

7. *Water Supply Intakes.* No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. *Adverse Effects From Impoundments.* If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. *Management of Water Flows.* To the maximum extent practicable, the preconstruction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the preconstruction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. *Fills Within 100-Year Floodplains.* The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. *Equipment.* Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. *Soil Erosion and Sediment Controls.* Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.

13. *Removal of Temporary Fills.* Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. *Proper Maintenance.* Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety.

15. *Wild and Scenic Rivers.* No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).

16. *Tribal Rights.* No activity or its operation may impair reserved tribal

rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

17. *Endangered Species.* (a) No activity is authorized under any NWP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

(c) Non-federal permittees shall notify the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have "no effect" on listed species or critical habitat, or

until Section 7 consultation has been completed.

(d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific regional endangered species conditions to the NWPs.

(e) Authorization of an activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the U.S. FWS or the NMFS, both lethal and non-lethal "takes" of protected species are in violation of the ESA. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. FWS and NMFS or their world wide Web pages at <http://www.fws.gov/> and <http://www.noaa.gov/fisheries.html> respectively.

18. *Historic Properties.* (a) In cases where the district engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the preconstruction notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or

potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties which the activity may have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

(d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete preconstruction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed.

(e) Prospective permittees should be aware that section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If

circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, explaining the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

**19. Designated Critical Resource Waters.** Critical resource waters include, NOAA-designated marine sanctuaries, National Estuarine Research Reserves, state natural heritage sites, and outstanding national resource waters or other waters officially designated by a state as having particular environmental or ecological significance and identified by the district engineer after notice and opportunity for public comment. The district engineer may also designate additional critical resource waters after notice and opportunity for comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWP 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, and 50 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWP 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with general condition 27, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

**20. Mitigation.** The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and

permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10 acre and require preconstruction notification, unless the district engineer determines in writing that some other form of mitigation would be more environmentally appropriate and provides a projectspecific waiver of this requirement. For wetland losses of 1/10 acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation, such as stream restoration, to ensure that the activity results in minimal adverse effects on the aquatic environment.

(e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2 acre, it cannot be used to authorize any project resulting in the loss of greater than 1/2 acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWPs.

(f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the establishment, maintenance, and legal protection (e.g., conservation easements) of riparian

areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required. Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(g) Permittees may propose the use of mitigation banks, in-lieu fee arrangements or separate activityspecific compensatory mitigation. In all cases, the mitigation provisions will specify the party responsible for accomplishing and/or complying with the mitigation plan.

(h) Where certain functions and services of waters of the United States are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.

**21. Water Quality.** Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA Section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

**22. Coastal Zone Management.** In coastal states where an NWP has not previously received a state coastal zone

management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

**23. Regional and Case-By-Case Conditions.** The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

**24. Use of Multiple Nationwide Permits.** The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

**25. Transfer of Nationwide Permit Verifications.** If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature: "When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and

conditions, have the transferee sign and date below."

(Transferee) \_\_\_\_\_  
(Date) \_\_\_\_\_

**26. Compliance Certification.** Each permittee who received an NWP verification from the Corps must submit a signed certification regarding the completed work and any required mitigation. The certification form must be forwarded by the Corps with the NWP verification letter and will include:

- (a) A statement that the authorized work was done in accordance with the NWP authorization, including any general or specific conditions;
- (b) A statement that any required mitigation was completed in accordance with the permit conditions; and
- (c) The signature of the permittee certifying the completion of the work and mitigation.

**27. Pre-Construction Notification. (a) Timing.** Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, as a general rule, will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity:

- (1) Until notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or
- (2) If 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 17 that listed species or critical habitat might be affected or in

the vicinity of the project, or to notify the Corps pursuant to general condition 18 that the activity may have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or Section 106 of the National Historic Preservation (see 33 CFR 330.4(g)) is completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee cannot begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

**(b) Contents of Pre-Construction Notification:** The PCN must be in writing and include the following information:

- (1) Name, address and telephone numbers of the prospective permittee;
- (2) Location of the proposed project;
- (3) A description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the project and when provided result in a quicker decision.);
- (4) The PCN must include a delineation of special aquatic sites and other waters of the United States on the

project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters of the United States, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, where appropriate;

(5) If the proposed activity will result in the loss of greater than  $\frac{1}{10}$  acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(6) If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, for non-Federal applicants the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act; and

(7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

(c) *Form of Pre-Construction Notification:* The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is a PCN and must include all of the information required in paragraphs (b)(1) through (7) of this general condition. A letter containing the required information may also be used.

(d) *Agency Coordination:* (1) The

district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWP and the need for mitigation to reduce the project's adverse environmental effects to a minimal level.

(2) For all NWP 48 activities requiring pre-construction notification and for other NWP activities requiring preconstruction notification to the district engineer that result in the loss of greater than  $\frac{1}{2}$ -acre of waters of the United States, the district engineer will immediately provide (e.g., via facsimile transmission, overnight mail, or other expeditious manner) a copy of the PCN to the appropriate Federal or state offices (U.S. FWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Office (THPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will then have 10 calendar days from the date the material is transmitted to telephone or fax the district engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the preconstruction notification. The district engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each preconstruction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(3) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat

conservation recommendations, as required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(4) Applicants are encouraged to provide the Corps multiple copies of pre-construction notifications to expedite agency coordination.

(5) For NWP 48 activities that require reporting, the district engineer will provide a copy of each report within 10 calendar days of receipt to the appropriate regional office of the NMFS.

(e) *District Engineer's Decision:* In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If the proposed activity requires a PCN and will result in a loss of greater than  $\frac{1}{10}$  acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for projects with smaller impacts. The district engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed work are minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the district engineer will notify the permittee and include any conditions the district engineer deems necessary. The district engineer must approve any compensatory mitigation proposal before the permittee commences work. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after

consideration of the compensatory mitigation proposal) are determined by the district engineer to be minimal, the district engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP.

If the district engineer determines that the adverse effects of the proposed work are more than minimal, then the district engineer will notify the applicant either: (1) That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (2) that the project is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level; or (3) that the project is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period. The authorization will include the necessary conceptual or specific mitigation or a requirement that the applicant submit a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level. When mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan.

*28. Single and Complete Project.* The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

Enclosure 3

Permittee: California Department of Transportation

File Number: 2008-00177S

**Certification of Compliance  
for  
Nationwide Permit**

"I hereby certify that the work authorized by the above referenced File Number and all required mitigation have been completed in accordance with the terms and conditions of this Nationwide Permit authorization."

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(Permittee)

---

(Date)

Return to:

Hal Durio  
U.S. Army, Corps of Engineers  
San Francisco District  
Regulatory Division, CESP-N-OR-R  
1455 Market Street  
San Francisco, CA 94103-1398



DEPARTMENT OF THE ARMY  
SAN FRANCISCO DISTRICT, U.S. ARMY CORPS OF ENGINEERS  
1455 MARKET STREET  
SAN FRANCISCO, CALIFORNIA 94103-1398

BS  
10/12/09  
MO

OCT 07 2009

Regulatory Division

SUBJECT: File Number 2009-00253S

Mr. Jeffrey G. Jensen  
California Department of Transportation  
Office of Biological Sciences & Permit  
PO Box 23660  
Oakland, CA 94623-0660

Dear Jensen:

This letter is written in response to your submittal of May 5, 2009 concerning Department of the Army authorization to implement construction of the Barrier and Drainage *System for North Frontage Road to Western Dumbarton Bridge* located in San Mateo County on State Route (SR) 84 on the north side of the Dumbarton Bridge touchdown to the west side of San Francisco Bay on the North Frontage Road. This letter authorizes the placement of approximately 1900 linear feet of sheet pile barrier; an approximate 1900 foot long concrete barrier wall with an underground chamber to house a drainage pipe up to 42 inches in diameter; a 10 foot tall by 25 foot by 35 foot concrete pump house; and an outfall into San Francisco Bay with an approximate 500 square foot RSP (rock slope protection) RED (rock energy dissipater).

Based on a review of the information you submitted and an inspection of the project site conducted by Corps personnel on May 22, 2009, your project qualifies for authorization under Department of the Army Nationwide Permit 14 – Linear Transportation Project (72 Fed. Reg. 11092, March 12, 2007), pursuant to Section 404 of the Clean Water Act (33 U.S.C. Section 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. Section 403). See Enclosure 1. All work shall be completed in accordance with the plans and drawings titled *Drainage Details DD-1, Drainage Plan D-2, Layout L-3 and Potential Impacts to Jurisdictional Wetlands and Waters of the U.S Appendix G, Figure 1.*

The project must be in compliance with the General Conditions cited in Enclosure 2 for this Nationwide Permit authorization to remain valid. Non-compliance with any condition could result in the suspension, modification or revocation of the authorization for your project, thereby requiring you to obtain an Individual Permit from the Corps. This Nationwide Permit authorization does not obviate the need to obtain other State or local approvals required by law.

This authorization will remain valid for two years from the date of this letter unless the Nationwide Permit is modified, suspended or revoked. If you have commenced work or are under contract to commence work prior to the suspension, or revocation of the Nationwide Permit and the project would not comply with the resulting Nationwide Permit authorization, you

have 12 months from that date to complete the project under the present terms and conditions of the Nationwide Permit. Upon completion of the project and all associated mitigation requirements, you shall sign and return the Certification of Compliance, Enclosure 3, verifying that you have complied with the terms and conditions of the permit.

This authorization will not be effective until you have obtained a Section 401 water quality certification from the San Francisco Bay Regional Water Quality Control Board (RWQCB). If the RWQCB fails to act on a valid request for certification within two months after receipt of a complete application, the Corps will presume a waiver of water quality certification has been obtained. You shall submit a copy of the certification to the Corps prior to the commencement of work.

This authorization will not be effective until you have obtained a concurrence from the California Coastal Commission or S.F. Bay Conservation and Development Commission that your certification that your project will comply with California's Coastal Zone Management Act. If the Commission fails to act on a valid request for concurrence with your certification within six months after receipt, the Corps will presume a concurrence has been obtained. You shall submit a copy of the concurrence to the Corps prior to the commencement of work.

To ensure compliance with this Nationwide Permit authorization, the following special conditions shall be implemented:

1. This Corps permit does not authorize you to take an endangered species. In order to legally take a listed species, you must have a separate authorization under the Endangered Species Act (ESA) (e.g., an ESA Section 10 permit or a Biological Opinion (BO) under ESA Section 7 with "incidental take" provisions with which you must comply). The enclosed U.S. Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS) BOs dated August 14, 2009 and August 10, 2009 respectively contain mandatory terms and conditions to implement the reasonable and prudent measures that are associated with "incidental take" that is also specified in the BOs. Your authorization under this Corps permit is conditional upon your compliance with all of the mandatory terms and conditions associated with incidental take authorized by the attached BOs, whose terms and conditions are incorporated by reference in this permit. Failure to comply with the terms and conditions associated with incidental take of the BOs, where a take of the listed species occurs, would constitute an unauthorized take and it would also constitute non-compliance with this Corps permit. The FWS and NMFS are the appropriate authorities to determine compliance with the terms and conditions of their BOs and with the ESA.
2. ESA fencing shall be placed no more than 9 feet from the edge of the paved shoulder of the North Frontage Road along the entire length of the project except where the salt

marsh harvest mouse barrier fence may need to cut through the wetland vegetation to reach the appropriate end point as determined by the U.S. Fish and Wildlife Service.

3. As mitigation for the 500 square feet of RSP fill that will be added to the San Francisco Bay as part of the new outfall structure associated with the barrier wall drainage system, Caltrans shall create a minimum of 500 square feet of intertidal mudflat as described in their Conceptual Design for Wetland Restoration / Creation at the Western Anchorage of the Dumbarton Bridge. At this location, Caltrans will remove earthen fill and the riprap berm that makes up the present approach to the Ravenswood Pier. This area will be graded to match existing contours and would restore approximately 0.02 acre of intertidal pickleweed and or cordgrass marsh and approximately 0.13 acre of intertidal mudflat.
4. Caltrans shall use Best Management Practices and appropriate erosion controls measures throughout the implementation of this project.

Should you have any questions regarding this matter, please call Hal Durio of our Regulatory Division at 415-503-6785. Please address all correspondence to the Regulatory Division and refer to the File Number at the head of this letter. If you would like to provide comments on our permit review process, please complete the Customer Survey Form available online at <http://per2.nwp.usace.army.mil/survey.html>.

Sincerely,



Jane M. Hicks  
Chief, Regulatory Division

Enclosures

Copy furnished (w/o enclosures):

US FWS, Sacramento, CA  
US NMFS, Santa Rosa, CA  
CA RWQCB, Oakland, CA  
SF BCDC, San Francisco, CA

#### 14. Linear Transportation Projects

Activities required for the construction, expansion, modification, or improvement of linear transportation projects (e.g., roads, highways, railways, trails, airport runways, and taxiways) in waters of the United States. For linear transportation projects in non-tidal waters, the discharge cannot cause the loss of greater than 1/2-acre of waters of the United States. For linear transportation projects in tidal waters, the discharge cannot cause the loss of greater than 1/3-acre of waters of the United States. Any stream channel modification, including bank stabilization, is limited to the minimum necessary to construct or protect the linear transportation project; such modifications must be in the immediate vicinity of the project.

This NWP also authorizes temporary structures, fills, and work necessary to construct the linear transportation project. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

This NWP cannot be used to authorize non-linear features commonly associated with transportation projects, such as vehicle maintenance or storage buildings, parking lots, train stations, or aircraft hangars.

**Notification:** The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if: (1) the loss of waters of the United States exceeds 1/10 acre; or (2) there is a discharge in a special aquatic site, including wetlands. (See general condition 27.) (Sections 10 and 404)

**Note:** Some discharges for the construction of farm roads or forest roads, or temporary roads for moving mining equipment, may qualify for an exemption under Section 404(f) of the Clean Water Act (see 33 CFR 323.4).

**Note:** To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as appropriate, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP.

1. *Navigation.* (a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. *Aquatic Life Movements.* No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions.

3. *Spawning Areas.* Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or

downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. *Migratory Bird Breeding Areas.* Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. *Shellfish Beds.* No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48.

6. *Suitable Material.* No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

7. *Water Supply Intakes.* No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. *Adverse Effects From Impoundments.* If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. *Management of Water Flows.* To the maximum extent practicable, the preconstruction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the preconstruction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. *Fills Within 100-Year Floodplains.* The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. *Equipment.* Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. *Soil Erosion and Sediment Controls.* Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.

13. *Removal of Temporary Fills.* Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. *Proper Maintenance.* Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety.

15. *Wild and Scenic Rivers.* No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).

16. *Tribal Rights.* No activity or its operation may impair reserved tribal

rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

17. *Endangered Species.* (a) No activity is authorized under any NWP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

(c) Non-federal permittees shall notify the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have "no effect" on listed species or critical habitat, or

until Section 7 consultation has been completed.

(d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific regional endangered species conditions to the NWPs.

(e) Authorization of an activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the U.S. FWS or the NMFS, both lethal and non-lethal "takes" of protected species are in violation of the ESA. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. FWS and NMFS or their world wide Web pages at <http://www.fws.gov/> and <http://www.noaa.gov/fisheries.html> respectively.

18. *Historic Properties.* (a) In cases where the district engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the preconstruction notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or

potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties which the activity may have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

(d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete preconstruction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed.

(e) Prospective permittees should be aware that section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If

circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, explaining the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

#### 19. Designated Critical Resource

*Waters.* Critical resource waters include, NOAA-designated marine sanctuaries, National Estuarine Research Reserves, state natural heritage sites, and outstanding national resource waters or other waters officially designated by a state as having particular environmental or ecological significance and identified by the district engineer after notice and opportunity for public comment. The district engineer may also designate additional critical resource waters after notice and opportunity for comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWP's 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, and 50 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWP's 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with general condition 27, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWP's only after it is determined that the impacts to the critical resource waters will be no more than minimal.

20. *Mitigation.* The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and

permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed  $\frac{1}{10}$  acre and require preconstruction notification, unless the district engineer determines in writing that some other form of mitigation would be more environmentally appropriate and provides a projectspecific waiver of this requirement. For wetland losses of  $\frac{1}{10}$  acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation, such as stream restoration, to ensure that the activity results in minimal adverse effects on the aquatic environment.

(e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWP's. For example, if an NWP has an acreage limit of  $\frac{1}{2}$  acre, it cannot be used to authorize any project resulting in the loss of greater than  $\frac{1}{2}$  acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWP's.

(f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the establishment, maintenance, and legal protection (e.g., conservation easements) of riparian

areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required. Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(g) Permittees may propose the use of mitigation banks, in-lieu fee arrangements or separate activityspecific compensatory mitigation. In all cases, the mitigation provisions will specify the party responsible for accomplishing and/or complying with the mitigation plan.

(h) Where certain functions and services of waters of the United States are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.

21. *Water Quality.* Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA Section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

22. *Coastal Zone Management.* In coastal states where an NWP has not previously received a state coastal zone

management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

**23. Regional and Case-By-Case Conditions.** The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

**24. Use of Multiple Nationwide Permits.** The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed  $\frac{1}{3}$ -acre.

**25. Transfer of Nationwide Permit Verifications.** If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature: "When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and

conditions, have the transferee sign and date below."

(Transferee) \_\_\_\_\_  
(Date) \_\_\_\_\_

**26. Compliance Certification.** Each permittee who received an NWP verification from the Corps must submit a signed certification regarding the completed work and any required mitigation. The certification form must be forwarded by the Corps with the NWP verification letter and will include:

- (a) A statement that the authorized work was done in accordance with the NWP authorization, including any general or specific conditions;
- (b) A statement that any required mitigation was completed in accordance with the permit conditions; and
- (c) The signature of the permittee certifying the completion of the work and mitigation.

**27. Pre-Construction Notification.** (a) *Timing.* Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, as a general rule, will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity:

- (1) Until notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or
- (2) If 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 17 that listed species or critical habitat might be affected or in

the vicinity of the project, or to notify the Corps pursuant to general condition 18 that the activity may have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or Section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) is completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee cannot begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) *Contents of Pre-Construction Notification:* The PCN must be in writing and include the following information:

- (1) Name, address and telephone numbers of the prospective permittee;
- (2) Location of the proposed project;
- (3) A description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the project and when provided result in a quicker decision.);
- (4) The PCN must include a delineation of special aquatic sites and other waters of the United States on the

project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters of the United States, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, where appropriate;

(5) If the proposed activity will result in the loss of greater than  $\frac{1}{10}$  acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(6) If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, for non-Federal applicants the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act; and

(7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

(c) *Form of Pre-Construction Notification:* The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is a PCN and must include all of the information required in paragraphs (b)(1) through (7) of this general condition. A letter containing the required information may also be used.

(d) *Agency Coordination:* (1) The

district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWP and the need for mitigation to reduce the project's adverse environmental effects to a minimal level.

(2) For all NWP 48 activities requiring pre-construction notification and for other NWP activities requiring preconstruction notification to the district engineer that result in the loss of greater than  $\frac{1}{2}$ -acre of waters of the United States, the district engineer will immediately provide (e.g., via facsimile transmission, overnight mail, or other expeditious manner) a copy of the PCN to the appropriate Federal or state offices (U.S. FWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Office (THPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will then have 10 calendar days from the date the material is transmitted to telephone or fax the district engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the preconstruction notification. The district engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each preconstruction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and-rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(3) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat

conservation recommendations, as required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(4) Applicants are encouraged to provide the Corps multiple copies of pre-construction notifications to expedite agency coordination.

(5) For NWP 48 activities that require reporting, the district engineer will provide a copy of each report within 10 calendar days of receipt to the appropriate regional office of the NMFS.

(e) *District Engineer's Decision:* In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If the proposed activity requires a PCN and will result in a loss of greater than  $\frac{1}{10}$  acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN.

Applicants may also propose compensatory mitigation for projects with smaller impacts. The district engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed work are minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the district engineer will notify the permittee and include any conditions the district engineer deems necessary. The district engineer must approve any compensatory mitigation proposal before the permittee commences work. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after

consideration of the compensatory mitigation proposal) are determined by the district engineer to be minimal, the district engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP.

If the district engineer determines that the adverse effects of the proposed work are more than minimal, then the district engineer will notify the applicant either: (1) That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (2) that the project is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level; or (3) that the project is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period. The authorization will include the necessary conceptual or specific mitigation or a requirement that the applicant submit a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level. When mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan.

*28. Single and Complete Project.* The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

Enclosure 3

Permittee: California Department of Transportation

File Number: 2009-00253S

**Certification of Compliance  
for  
Nationwide Permit**

"I hereby certify that the work authorized by the above referenced File Number and all required mitigation have been completed in accordance with the terms and conditions of this Nationwide Permit authorization."

---

(Permittee)

---

(Date)

Return to:

Hal Durio  
U.S. Army, Corps of Engineers  
San Francisco District  
Regulatory Division, CESP-N-OR-R  
1455 Market Street  
San Francisco, CA 94103-1398



Making San Francisco Bay Better

# BCDC Original

**PERMIT NO. 20-73**

(Issued on February 27, 1974, As Amended Through October 26, 2009)

**AMENDMENT NO. THIRTEEN**

Department of Transportation  
District 4  
P. O. Box 23660  
Oakland, California 94623-0660

**ATTENTION:** James Richard, District Deputy Director  
Division of Environmental Sciences and Engineering

Ladies and Gentlemen:

On February 21, 1974, the San Francisco Bay Conservation and Development Commission, by a vote of 19 affirmative, 1 negative, approved the resolution pursuant to which the original permit had been issued. ~~Moreover, on~~ On December 26, 1974, January 19, 1976, February 9, 1977, December 5, 1977, February 28, 1978, September 27, 1979, December 9, 1983, March 26, 1985, July 17, 1986, May 20, 1992, ~~and~~ June 10, 1993, and April 12, 1995, pursuant to Regulation Section 10822, the Executive Director approved Amendment Nos. One, Two, Three, Four, Five, Six, Seven, Eight, Nine, Ten, Eleven, and Twelve, respectively. Moreover, on September 3, 2009, the San Francisco Bay Conservation and Development Commission, by a vote of 17 affirmative, 0 negative, approved the resolution pursuant to which Amendment No. Thirteen to the permit is hereby issued:

1. **Authorization**

A. Subject to the conditions stated below, the permittee, the California Department of Transportation, District 4 (Caltrans), is granted permission to:

1. Original Bridge Construction and Related Work

a. Construct and use a four-lane, high-level bridge with approaches, including:

- (1) Constructing 31 shallow water piers and 11 deep water piers, including fender system for two piers and filling .89 acres of the Bay to support a 7,400-foot-long by 85-foot-wide bridge providing navigation clearance of 85 vertical feet ~~vertically~~ at the main shipping channel and covering 14.2 acres of Bay surface area;

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- (2) Filling 50 acres of salt ponds with 650,000 cubic yards of earth and rock to construct a 2-1/2 mile long, 94-foot-wide limited-access east approach to the bridge including a 600-foot-long approach trestle;
  - (3) Filling 3-1/4 acres of salt ponds, 5-3/4 acres of marsh and 1-3/4 acres of managed wetland with 260,000 cubic yards of fill to construct a 1-1/3 mile long by 94-foot-wide limited-access, west approach to the bridge including a 600-foot-long approach trestle, which shall include no more than six access points solely for ingress and egress to the already filled property known as the "Raychem Property" situated north of the approach;
  - (4) Constructing a bicycle and pedestrian path on the south side of the bridge no less than eight feet wide; and
  - (5) Constructing temporary access trestles and work platforms adjacent to the shallow water piers used for the purpose of constructing the shallow water piers and erecting girders for the bridge.
- b. Construct and use four limited-access connecting roads to the approaches of the bridge, with adjacent bicycle paths when required under the conditions of this permit, as amended, including:
- (1) Filling 15 acres of salt crystallization ponds with 155,000 cubic yards of material to construct a three-mile-long by 225-foot-wide easterly connector road; and
  - (2) Constructing three westerly connector roads to, and widening portions of, Willow Road, Marsh Road and University Avenue, each approximately 90 feet wide and having a total length of 4-1/2 miles.
- c. Improve the existing approaches located on fill in conjunction with the development of the San Francisco Bay National Wildlife Refuge to provide (1) the bicycle path required under Special Conditions II-C-1 and II-C-3; (2) roadways that will provide improved public access to the Bay and shoreline for viewing, walking, fishing, picnicking, sitting, bicycling, and related purposes; and (3) roadways necessary to maintain existing uses within the Commission's jurisdiction.
- d. Place 650 cubic yards of material to construct a 5,200-square-foot rock surface public access area and place a total of 4,000 square feet of landscaping on the north and south sides of the area.
- e. Dredge 121,000 cubic yards of material from the Bay to construct the bridge and dispose of the spoils at the U. S. Army Corps of Engineers' approved dumping ground off Alcatraz Island.
- f. Create and use for marshland, wildlife habitat and open space at least 200 acres of dry land diked-off from the Bay prior to September 17, 1965.

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- g. Remove nine steel truss spans from the existing bridge to areas outside the Commission's jurisdiction and, as provided for in Special Condition II-C-2, remove up to 4,000 linear feet of trestle-supported approaches to the existing bridge, including removing all concrete pilings to or below the mud line.
- h. Make improvements to the area in and around Pier 44 by: (1) remodeling the interior of Pier 44 to provide offices, restrooms and other facilities for maintenance employees; (2) paving an approximately 3,600-square-foot area with asphalt for use as a storage area for maintenance equipment; (3) installing approximately 153 linear feet of 8-foot-high chain link fence with 1.5-foot-high barbed wire on top of the fence around the perimeter of the asphalt area; (4) paving a 4,400-square-foot area for 10 employee parking spaces; and (5) paving the interior of the "Bent E-20" Pier for use as storage.
- i. Facilitate preventive maintenance works of the bridge by installing: (1) a moveable scaffold system, 8 feet 2-1/2 inches long (along the length of the bridge) and 89 feet 6 inches wide (across the cross-section of the bridge); (2) 5,210 feet of a 4 inch-in-diameter airline; and (3) 5,210 feet of a two-inch-in-diameter waterline.

**2. 2009 Seismic Retrofit Project (Amendment No. Thirteen)**

**a. In the Bay:**

- (1) Construct, use and maintain approximately 5,000 square feet (0.11 acres, 1,700 cubic yards) of submerged concrete collar bolsters on the footing pedestals of Piers 5 to 15 and 32 to 40;
- (2) Construct, use and maintain approximately 500 square feet (0.01 acres, 100 cubic yards) of rock riprap at a drainage outfall on the north side of the west approach of the bridge;
- (3) Construct, use, maintain and, at project completion, remove two temporary pile-supported construction trestles covering an approximately 400,000-square-foot area (9.18 acres, 800 cubic yards);
- (4) Construct, use, maintain and, at project completion, remove 20 temporary cofferdams surrounding the shallow-water piers (Piers 5 to 15 and 32 to 40) on the east and west sides of the bridge covering approximately 2,560 square feet (0.06 acres, 1,700 cubic yards); and
- (5) Demolish and remove the pile-supported Ravenswood Pier (a segment of the former Dumbarton Drawbridge) on the southwest side of the bridge covering approximately 63,000 square feet (1.45 acres) including all pilings at least two feet below the mudline, the pier abutment, riprap and any debris placed in the mudflat beneath the trestle.

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**b. Within the existing bridge footprint:**

- (1) Construct, use and maintain 96 isolator bearings between the superstructure and the substructure (intermediate pads between the deck girder and the pier bent cap) at 16 of the main crossing channel piers, piers 16 to 31;
- (2) Construct, use and maintain column and bent cap concrete bolsters (reinforced concrete encasements) and footing overlays from Piers 5 to 40;
- (3) Replace existing deck joints with a special seismic joint system to accommodate seismic movements at Pier 16 and Pier 31;
- (4) Retrofit, use and maintain two bridge hinges (deck section separation openings for seismic displacement) at spans 21 and 25; and
- (5) Retrofit, use and maintain 13 sets of steel cross frames (strengthening steel bracings) inside the steel box girders under the bridge deck from Piers 16 to 31.

**c. Within the 100-foot Shoreline Band, Salt Ponds and the Managed Wetland:**

- (1) Construct, use and maintain a flood prevention system north of the western approach including: (a) a 2,000-foot-long, 39- to 56-inch-tall concrete high-tide barrier and contiguous underground sheet piling to prevent seepage; (b) a 2,000-foot-long, 36-inch-in-diameter drainage pipe; (c) a 900-square-foot pump station; and (d) an approximately 9,776-square-foot dirt embankment adjacent to the pump station;
- (2) Construct, use and maintain an approximately 1,256-square-foot public access lookout on the south side of the western bridge approach (this lookout replaces the overlook currently on the north side of the western bridge approach required in BCDC Permit No. 16-99);
- (3) Enhance, use and maintain an existing 5,200-square-foot rock surface public access area immediately south of the Dumbarton Pier on the east approach;
- (4) Construct, use and maintain an approximately 96-square-foot overlook (belvedere) on the top of a new outrigger-pile along the southern side of the western bridge approach, with a staircase to a small public plaza with special paving, seating and landscaping, located adjacent to the public access parking lot;
- (5) Construct, use and maintain a total of 28 four-foot-in-diameter lateral piles, on both sides (seven piles per side) of the east and west bridge approaches ;
- (6) Widen, to at least eight feet, improve, use and maintain the path that transitions between the bridge and frontage road paths;

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- (7) Use and maintain construction staging areas during the bridge retrofit and, at project completion, repave and restripe all public access parking areas impacted by construction activities;
- (8) Temporarily remove 84 parking spaces from the west side and 46 parking lot spaces from the east side of the bridge to accommodate construction activities, and, at project completion, restore and maintain 86 out of a total of 96 parking lot spaces on the west side, and all 80 parking lot spaces on the east side of the bridge. Repave, restripe, use and maintain the existing 25,000-square-foot public access parking lot, the 120,000-square-foot frontage road on the south and north sides of the west approach of the bridge; and the existing 67,000-square-foot public access parking lot at the east approach of the bridge;
- (9) Install, use and maintain way finding and interpretive signs in all public access areas within Caltrans right-of-way and, with the approval and direction of local government, install up to 50 way finding signs between the BART station in Union City and Fremont and the Caltrain station in Menlo Park (way finding signs outside of Caltran's right-of-way will be maintained by local government); and
- (10) Install, use and monitor for a period of ten years an approximately 6,534-square-foot (0.15 acre) mitigation wetland adjacent to the former Ravenswood Pier.

- B. This permit, as amended, is generally pursuant to and limited by the application filed with the Commission on December 7, 1973, and your amendments issued December 26, 1974, January 19, 1976, February 9, 1977, December 5, 1977, February 28, 1978, September 27, 1979, December 8, 1983, March 26, 1985, July 17, 1986, November 25, 1991, March 12, 1993, ~~and~~ May 17, 1993, and February 25, 2009, including all attached and subsequently submitted exhibits and correspondence, but subject to the modifications required by conditions hereto.
- C. Work authorized by the original permit was to ~~herein must~~ commence prior to March 31, 1978, or ~~this the~~ permit, as amended, ~~will was to~~ lapse and become null and void. Such work ~~must also was to~~ be diligently pursued to completion and ~~must was to~~ be completed by December 31, 1987, unless an extension of time ~~is was~~ granted by a further amendment of this amended permit. Work authorized by Amendment No. Ten ~~must was to~~ be completed by June 1, 1995.
- D. Work authorized by Amendment No. Eleven ~~must was to~~ commence prior to September 30, 1993, or ~~this the~~ permit, as amended, ~~will was to~~ lapse and become null and void. Such work ~~must also was to~~ be diligently prosecuted to completion and ~~must was to~~ be completed by September 30, 1994, unless an extension of time ~~is was~~ granted by a further amendment of ~~this~~ amended permit prior to the date of expiration.
- E. Work authorized by Amendment No. Thirteen must commence prior to December 31, 2012 or the permit, as amended, will lapse and become null and void. Such work must also be diligently pursued to completion and must be

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completed within five years of commencement or by December 31, 2017, unless an extension of time is granted by a further amendment of this amended permit prior to the date of expiration.

**II. Special Conditions**

The amended authorization made herein shall be subject to the following special conditions, in addition to the standard conditions in Part IV:

**A. Specific Plans, Plan Review, and Incidental Harassment Authorization Requirements**

1. **Plan Review.** Work authorized herein may be completed under multiple construction contracts. No work shall commence under an individual construction contract until final precise grading, drainage, mobilization, staging, site, engineering, landscaping, public access and shoreline clean-up plans and other relevant criteria, specifications, and plan information for that portion of the work, for each specific contract, have been submitted to, reviewed, and approved in writing by or on behalf of the Commission for work within the Commission's jurisdiction or for required public access either within or outside the Commission's jurisdiction. The specific drawings and information required will be determined by the Commission staff. To save time, preliminary drawings should be submitted and approved prior to final drawings. No changes to the design of the project shall be made without the prior written approval by or on behalf of the Commission.

2. **Grading, Drainage, Mobilization, Staging, Site, Architectural, Landscaping, and Public Access Plans.** Final plans shall include and clearly label the mean high tide line, or, in areas with marsh vegetation, the inland edge of marsh vegetation up to 5.0 feet above mean sea level, the line 100 feet inland of the mean high tide line or the inland edge of marsh vegetation, property lines, the boundaries of all areas to be reserved for public access purposes and open space, and details showing the location, types, dimensions, and materials to be used for all structures, irrigation, landscaping, drainage, erosion control, seating, parking, signs, lighting, fences, paths, trash containers, utilities and other proposed improvements.

Engineering plans shall include a complete set of contract drawings and specifications and design criteria. The design criteria shall be appropriate to the nature of the project, the use of any structures, soil and foundation conditions at the site, and potential earthquake-induced forces. Final plans shall be signed by the professionals of record and be accompanied by:

a. Evidence that the project design complies with all applicable Caltrans design standards and all other applicable codes; and

b. Evidence that an independent or in-house peer review panel has reviewed the project (except that such evidence may be waived by the staff, upon consultation with the Chair of the Engineering Criteria Review Board (ECRB), if peer review is determined not to be necessary).

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3. **Plan Requirements.** Plans submitted shall be accompanied by a letter requesting plan approval, identifying the type of plans submitted, the portion of the project involved, and indicating whether the plans are final or preliminary. Approval or disapproval shall be based upon:
  - a. Completeness and accuracy of the plans in showing the features required above, particularly the mean high tide line or the line 5.0 feet above mean sea level, property lines, and the line 100 feet inland of the mean high tide line or the inland edge of marsh vegetation up to 5.0 feet above mean sea level, and any other criteria required by this authorization;
  - b. Consistency of the plans with the terms and conditions of this authorization;
  - c. The provision of the amount and quality of public access to and along the shoreline and in and through the project to the shoreline required by this authorization;
  - d. Consistency with legal instruments reserving public access and open space areas;
  - e. Assurance that any fill in the Bay does not exceed this authorization and will consist of appropriate shoreline protection materials as determined by or on behalf of the Commission;
  - f. Consistency of the plans with the recommendations of the Design Review Board, as applicable;
  - g. Consistency of the plans with the recommendations of the Engineering Criteria Review Board; and
  - h. Assurance that appropriate provisions have been incorporated for safety in case of a seismic event.

Plans submitted for review shall be reviewed by or on behalf of the Commission as soon as possible, and shall be completed within 45 days after receipt of the plans to be reviewed.

4. **Conformity with Final Approved Plans.** All work, improvements, and uses shall substantially conform to the final approved plans. Prior to any public use of the facilities authorized herein, the appropriate design professional(s) of record shall certify in writing that, through personal knowledge, the work covered by the authorization has been performed in accordance with the approved design criteria and in substantial conformance with the approved plans. No noticeable changes shall be made thereafter to any final plans or to the exterior of any outside fixture, railing, lighting, landscaping, signage, parking area, public access amenities, or shoreline protection work without first obtaining written approval of the change(s) by or on behalf of the Commission.
5. **Discrepancies between Approved Plans and Special Conditions.** In case of any discrepancy between final approved plans and special conditions of this authorization or legal instruments approved pursuant to this authorization, the special conditions or the legal instrument shall prevail. The permittee is

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responsible for assuring that all plans accurately and fully reflect the special conditions of this authorization and any legal instruments submitted pursuant to this authorization.

6. Appeals of Plan Review Decisions. Any plan approval, conditional plan approval or plan denial may be appealed by the permittee or any other interested party to the Design Review Board or, if necessary, subsequently to the Commission. Such appeals must be submitted to the Executive Director within 30 days of the plan review action and must include the specific reasons for appeal. The Design Review Board shall hold a public hearing and act on the appeal within 60 days of the receipt of the appeal. If subsequently appealed to the Commission, the Commission shall hold a public hearing and act on the appeal within 90 days of the receipt of the subsequent appeal.
7. Incidental Harassment Authorization Approval. No work shall commence until the permittee provides the Commission with an approved NOAA Incidental Harassment Authorization for marine mammals and incorporates any required mitigation measures into construction practices for the seismic retrofit project.

~~C. B.~~ **Public Access.** Until this permit, as amended, is revoked, or otherwise modified by or on behalf of the Commission, the permittee shall construct, hold and maintain the following areas of the project open to the public for access to the shoreline of San Francisco Bay and to the Bay itself for viewing, fishing, walking, picnicking, sitting, bicycling, and related purposes, the exact configuration of the areas to be delineated on plans to be submitted to, and approved by or on behalf of the Commission prior to the commencement of any work authorized hereunder pursuant to Special Condition II-A, herein:

1. Public Access Requirements Associated with Original Bridge Authorization (through Amendment No. 12):
  - a. **Eastern Approach.** A hard surface, all-weather bicycle/pedestrian pathway, no less than 10 feet wide and involving no new fill, extending from the area occupied by the existing toll plaza, along the south side of the frontage road to be constructed on the existing approach road fill, to a connection with the bicycle/pedestrian path described in ~~Subparagraph 3 below~~ Special Condition II-B-1c.
  - b. **Eastern Trestle.** A 5,200-square-foot rock surface public access meeting area, involving the placement of 650 cubic yards of material, to be constructed near the ~~fishing~~ Dumbarton Pier described in ~~Special Condition II-C-2~~ herein.
  - c. **Bridge.** A hard surface, all-weather bicycle/pedestrian pathway, no less than 8 feet wide, extending from the ~~end of the pathway described in Subparagraph 1~~ eastern approach described above, along the south side of the new high-level bridge, but separated from the roadway by a concrete barrier or similar structure, to a ~~connection with the bicycle/pedestrian path described in Subparagraph 4 below~~ the western approach described below.

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- d. **Western Approach.** A hard surface, all-weather bicycle/pedestrian pathway, no less than 10 feet wide, extending from the end of the pathway described in ~~Subparagraph 3~~ Special Condition II-B-1c, along either the new approach or the south or north side of the frontage road to be constructed on the existing approach road fill, to a connection with the eastern end of each of the westerly connectors to be constructed as part of the project.
  - e. **Westernly Connectors.** A hard surface, all-weather bicycle/pedestrian pathway, no less than 10 feet wide except where a narrow width (not less than 8 feet) may be necessary along Willow Road due to the proximity of existing buildings, extending from the ends of the ~~pathway described in Subparagraph 4~~ western approach described above, along each of the westerly connectors to the westerly limits of the project.
  - f. **Toll Plaza.** An all-weather bicycle/pedestrian path, no less than 10 feet wide, extending through, or over, the proposed new toll plaza and connecting proposed trails extending north and south from the toll plaza.
2. **Public Access Improvements Associated with the 2009 Seismic Retrofit Project (Amendment No. 13)**
- a. Prior to the substantial completion of the seismic retrofit work, or by June 30, 2015, whichever is sooner, the permittee shall install the following improvements:
    - (1) An approximately 96-square-foot overlook (belvedere) on the top of a new outrigger-pile along the southern side of the western bridge approach, with a staircase to a small public plaza with special paving, seating and landscaping, located adjacent to the public access parking lot;
    - (2) An enhanced public access picnic/viewing area at the eastern bridge approach;
    - (3) A flood protection wall and pump station to prevent tidal inundation of the public access parking lot;
    - (4) Approximately 50 way finding signs directing bicyclists to the bicycle route between the Union City and Fremont BART stations and the Caltrans station in Menlo Park with approval and direction of the respective local government; and
    - (5) Approximately 400 feet of the bicycle/pedestrian path where it transitions from the bridge to the frontage road at both the west and east bridge approaches, including widening the path, relocating the path away from the vehicle travel lanes, if possible, eliminating existing impediments (e.g., utility covers), and installing a concrete barrier between the travel lanes and path.

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- b. Within one year of the removal of the temporary construction trestles, the permittee shall install a substantial public access overlook with railings, seating, seatwalls, special paving, interpretive elements, landscaping and lighting that is constructed at the site of the removed Ravenswood Pier required by BCDC Permit No. 16-99.
3. **Future Design Review.** Conceptual plans for the public access required herein shall be reviewed by or on behalf of the Commission's Design Review Board (Board) prior to submittal of construction documents to the staff for final approval pursuant to Special Condition II-A.
4. **Public Access Safety During Seismic Retrofit Construction.** During the construction of the seismic retrofit project, the permittee shall inform visitors of the Dumbarton Pier that construction activities could be hazardous to their hearing. To further protect the public, the permittee may close certain portions of the fishing pier during pile driving activities and during construction of the bridge pile caps. These limited area closures shall occur in 10-minute increments, totaling no more than approximately 1.5 hours a day of impeded access while other areas of the fishing pier remain open.
5. **Public Parking During Seismic Retrofit Construction.** Construction operations are anticipated to result in the temporary removal of 84 parking spaces out of a total of 96 spaces at the west approach and 46 spaces out of a total of 80 spaces from the east approach. To maintain public access to the area during construction, the permittee shall provide 12 temporary public shore parking spaces along the frontage road at the western approach and 32 temporary parking spaces along Marshlands Road at the eastern approach.
6. **Bicycle and Pedestrian Shuttle During Seismic Retrofit Construction.** Due to construction activities, public access on the bridge is likely to be closed to all motorized and pedestrian traffic for 2 to 4 weekends over the course of the project. During these closures, the permittee shall provide a shuttle from sunrise to sunset to transport bicyclists and pedestrians to the other side of the bridge.
7. **Minimizing Construction Interruptions.** The permittee shall make every effort to minimize closures and impacts to existing public access areas during project construction. These existing public access areas shall be open to the public after 5:00 p.m. and on weekends whenever possible, unless it is determined by the construction engineer that the path is unsafe for public use due to construction activities. In addition, signs shall be installed at all public access entrances informing the public of why the path is closed, when the path is open, possible detours, and when project construction will be completed.
8. **Maintenance.** The areas and improvements within the total public access areas shall be permanently maintained by and at the expense of the permittee or their assignees. Such maintenance shall include but is not limited to: repairs to all path surfaces; replacement and maintenance of any trees or other plant materials that die or become unkempt; repairs or replacement as needed of any public access amenities such as signs, benches, and trash containers; periodic cleanup of litter

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and other materials deposited within the access areas; removal of any encroachments into the access areas; and assuring that public access signs remain in place and visible. Within 30 days after notification by staff, the permittee shall correct any maintenance deficiency noted in a staff inspection of the site.

9. **Reasonable Rules and Restrictions.** The permittee may impose reasonable rules and restrictions for the use of the public access areas to correct particular problems that may arise. Such limitations, rules, and restrictions shall have first been approved in writing by or on behalf of the Commission upon a finding that the proposed rules would not significantly affect the public nature of the area, would not unduly interfere with reasonable public use of the public access areas, and would tend to correct a specific problem that the permittee has both identified and substantiated. Rules may include restricting hours of use and delineating appropriate behavior.
10. **Permanent Guarantee.** Prior to the substantial completion of the seismic retrofit project authorized pursuant to Amendment No. 13, the permittee shall, by instrument or instruments acceptable to counsel for the Commission, dedicate to a public agency or otherwise permanently guarantee such rights for the public as described herein. The instrument(s) shall create rights in favor of the public, which shall commence no later than after completion of construction of any public access improvements required by this amended authorization. Such instrument shall be in a form that meets recordation requirements of either Alameda or San Mateo Counties and shall include a legal description of the property being restricted and a map that clearly shows and labels the shoreline, the property being restricted for public access, the legal description of the property and of the area being restricted for public access, and other appropriate landmarks and topographic features of the site, such as the location and elevation of the top of bank, any levees, any significant elevation changes, and the location of the nearest public street(s) and adjacent public access areas. Approval or disapproval of the instrument shall occur within 30 days after submittal for approval and shall be based on the following:
  - a. Sufficiency of the instrument to create legally enforceable rights and duties to provide the public access area required by this authorization;
  - b. Inclusion of the exhibit to the instrument that clearly shows the area to be reserved with a legally sufficient description of the boundaries of such area; and
  - c. Sufficiency of the instrument to create legal rights in favor of the public for public access that will run with the land and be binding on any subsequent purchasers, licensees, and users.
11. **Recordation of the Instrument.** Within 30 days after approval of the instrument, the permittee shall record the instrument on all parcels affected by the instrument and shall provide evidence of recording to the Commission. No changes shall be made to the instrument after approval without the express written consent by or on behalf of the Commission.

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12. Assignment. The permittee shall transfer maintenance responsibility to a public agency or another party acceptable to the Commission at such time as the property transfers to a new party in interest but only provided that the transferee agrees in writing, acceptable to counsel for the Commission, to be bound by all terms and conditions of this amended permit.
13. Accessible to Persons with Disabilities. All public access facilities authorized or required herein shall be designed and built so that they are accessible to persons with disabilities.

**C. Riprap**

1. Riprap Material. Riprap material shall be either quarry rock or specially cast or carefully selected concrete pieces free of reinforcing steel and other extraneous material and conforming to quality requirements for specific gravity, absorption, and durability specified by the California Department of Transportation or the U. S. Army Corps of Engineers. The material shall be generally spheroid-shaped. The overall thickness of the slope protection shall be no more than three feet measured perpendicular to the slope. Use of dirt, small concrete rubble, concrete pieces with exposed rebar, large and odd shaped pieces of concrete, and asphalt concrete as riprap is prohibited.
2. Riprap Placement. Riprap material shall be placed so that a permanent shoreline with a minimum amount of fill is established by means of an engineered slope not steeper than one and one-half (horizontal) to one (vertical). The slope shall be created by the placement of a filter layer protected by riprap material of sufficient size to withstand wind and wave generated forces at the site.
3. Riprap Plans
  - a. Design. Professionals knowledgeable of the Commission's concerns, such as civil engineers experienced in coastal processes, should participate in the design of the shoreline protection improvements authorized herein.
  - b. Plan Review. The placement of riprap authorized herein shall be built generally in conformance with the conceptual plans submitted with the application for Amendment No. 13. No work whatsoever shall be commenced on the shoreline protection improvements authorized herein until final riprap plans have been submitted to, reviewed, and approved in writing by or on behalf of the Commission. The plans shall consist of appropriate diagrams and cross-sections that: (1) show and clearly label the Mean High Tide Line, or the inland edge of marsh vegetation five feet above Mean Sea Level in marshlands, property lines, grading limits, and details showing the location, types, and dimensions of all materials to be used; (2) indicate the source of all materials to be used; and (3) indicate who designed the proposed shoreline protection improvements and their background in coastal engineering and familiarity with the Commission's concerns. Approval or disapproval of the plans shall be based upon: (1) completeness and accuracy of the plans in showing the features required above; (2) consistency of the plans with the terms and conditions of this permit; (3) assurance that the proposed fill material does not exceed this permit; (4) the appropriateness of the types of fill material and their proposed manner of placement; and (5) the preparation of

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the plans by professionals knowledgeable of the Commission's concerns, such as civil engineers experienced in coastal processes. All improvements constructed pursuant to this permit shall conform to the final approved plans. No changes shall be made thereafter to any final plans or to the constructed shoreline protection improvements without first obtaining written approval of the change(s) by or on behalf of the Commission.

4. **Maintenance.** The shoreline protection improvements authorized herein shall be regularly maintained by, and at the expense of, the permittee, any assignee, lessee, sublessee, or other successor in interest to the project. Maintenance shall include, but not be limited to, collecting any riprap materials that become dislodged and repositioning them in appropriate locations within the riprap covered areas, replacing in-kind riprap material that is lost, repairing the required filter fabric as needed, and removing debris that collects on top of the riprap. Within 30 days after notification by the staff of the Commission, the permittee or any successor or assignee shall correct any maintenance deficiency noted by the staff.

A. D. **Mitigation for Fill Impacts.** The permittee shall fully complete the following mitigation measures to minimize Bay fill and offset the adverse impacts of the project authorized herein on Bay-related resources and endangered species:

1. **Bay Restoration and Mitigation.** Prior to the commencement of any work authorized herein, the permittee shall submit for approval by the Commission, a plan to increase the public benefits of the project and to mitigate the unavoidable adverse environmental impacts of the project. The plans shall meet the following criteria:

a. **Preparation.** The plan shall be prepared jointly by the permittee and the Commission with maximum feasible public participation.

b. **Cost.** The cost of preparing and carrying out the plan (including acquisition) shall be \$900,000.

c. **Acquisition**

(1) **New Bay Surface Area.** An area or areas totaling not less than 200 acres in size consisting of land, preferably in the South Bay (1) not now subject to tidal action; (2) not now used for the solar evaporation of sea water in the course of salt production; and (3) diked-off from the Bay prior to September 17, 1965, shall be acquired and restored to tidal action.

(2) **Other Areas.** To the extent that the funds available under Paragraph 2 are not exhausted by the acquisitions required under Subparagraph a, they shall be devoted to acquisition that will reduce or eliminate development pressures on wetlands and salt ponds which are in the Commission's jurisdiction and on which the project will have a material growth-inducing impact. Such acquisitions shall encourage retention of such areas in their present uses, and may take the form of (a) purchase of the right to future development of the areas; (b) fee acquisition with a lease back to permit continuation of present uses;

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or (c) any combination thereof. The first priority for such acquisitions shall be areas on the western side of the Bay outside the preliminary boundaries of the proposed San Francisco Bay National Wildlife Refuge in the vicinity of the proposed western connectors.

2. **New Tidal Marsh Creation.** Within one year of completion of the seismic retrofit project, or by January 1, 2015, whichever is earlier, the permittee shall create a 6,534-square-foot (0.15 acre) tidal marsh at the land end of the former Ravenswood Pier. Existing fill shall be excavated to promote positive drainage and to create elevations suitable for tidal flat (approximately 70 percent of the restoration site) and marsh establishment (approximately 30 percent of the restoration site). A restoration plan and proposed monitoring program, as described by Special Condition II-D-3 must be approved by or on behalf of the Commission pursuant to Special Condition II-A.
3. **Marsh Restoration Work and Plans.** A restoration plan and program for the 6,534-square-foot new tidal marsh shall be approved by or behalf of the Commission and shall contain the following:
  - a. **Site Conditions and Modifications.** A topographic map of the site at one-foot contour intervals and a topographic map showing any proposed site modifications. All elevations shall be relative to National Geodetic Vertical Datum (NGVD). The map shall include typical cross-sections showing the proposed marsh plain elevations, any channels, and any high spots. The map shall show: (1) figures for the ratios of typical horizontal to vertical slopes for existing and proposed marsh surface, channels, and sloughs; (2) proposed plant species along the cross-sections according to their expected zone of growth; (3) the elevation of adjacent surrounding properties; and (4) figures for the estimated tidal range related to Mean Higher High Water, Mean High Water, Mean Lower Low Water, Mean Sea Level, the maximum predicted tide, and the 100-year tide. To promote natural sedimentation and colonization of the site, constructed elevations shall generally be six to twelve inches lower than target elevations. The permittee shall provide the range of elevations where target species are found in neighboring marshes.
  - b. **Soil Information.** The program shall include a report identifying the type of soils found at the restoration site, at a nearby reference site, and the soil type of any fill to be imported to the site. Information shall be provided on the quantitative soil measurements of soil texture and dry density for soils at the site, at the reference site, and for all imported soils. All imported soils must be within 10% of the range of values found at the reference marsh for soil qualities such as grain size, organic content, salinity, and pH.
  - c. **Planting and Seeding Plan.** The restoration plan shall include a list of the vegetation proposed to be planted (primarily upland and transitional areas. Wetland plants will only be planted where they are slow in establishing or where rare native plants are desired), an irrigation plan for watering upland and transitional plants until they are established, and a maintenance plan. Such plans shall include a program for eliminating

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non-native or invasive vegetation and preventing the establishment of non-native or invasive vegetation at the site to no more than five percent of plant coverage during the monitoring period.

- d. **Schedule.** The program shall include a schedule indicating when excavation, fill, and grading will occur, the time to be allowed for settlement, and the time when planting will occur, if any.
  - e. **Identification of a Suitable Reference Site.** The program shall identify a nearby reference site that shall be evaluated as part of the monitoring program and shall provide a reference for evaluating the progress of the restoration site.
  - f. **Monitoring.** Every other year, starting October 1 of the year following the return of the site to tidal action for a ten-year period, or until those portions of the restoration site subject to tidal action are approximately 95% vegetated as compared with nearby reference marshes, whichever occurs first, the permittee shall report to the Commission on the effects of the project in restoring the target habitat at the restoration site. The report shall include measuring sedimentation rates, percentage of the site revegetated, plant survival, approximate percentage representation of different plant species, and a qualitative assessment of plant growth rates for the tidal restoration area, including adjacent transitional and upland habitats. The report shall also include photo documentation of the restored wetlands using photographs taken from permanent photo locations, management recommendations, a discussion of areas with inadequate performance, and recommendations for remedial measures. Undesirable exotic plant species such as pepperweed (*Lepidium latifolium*), *Spartina alterniflora*, broom, or star thistle shall be reasonably controlled (coverage of less than five percent of their expected zone of growth) during the ten-year monitoring period. Should adverse conditions be identified during the ten-year monitoring period, the permittee shall take corrective action as specified by or on behalf of the Commission.
- E. **Minimization of Wildlife Impacts During Construction.** The work authorized by this amended permit shall be performed in a manner that will prevent, avoid, or minimize to the extent possible any significant adverse impacts on any tidal marsh, other sensitive wetland resources, and existing native upland vegetation.
1. **San Francisco Bay National Wildlife Refuge.** During the construction of the project and during the planning for the San Francisco Bay National Wildlife Refuge, the permittee shall work closely with the U. S. Department of the Interior, Bureau of Sport Fisheries and Wildlife, to develop a plan, to be approved by or on behalf of the Commission and to be carried out in whole or in part by the permittee, to mitigate to the maximum feasible extent the unavoidable adverse environmental impacts of the construction of the bridge on the proposed Refuge. The plan shall also include provisions for improved public access to the Bay and shoreline in the area, consistent with the primary use of the Refuge as a haven for wildlife.

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2. Pile Driving and Other Physical Disturbances to Habitat. In consultation with the U.S. Fish and Wildlife Service (USFWS), NOAA Fisheries and/or the California Department of Fish and Game, the permittee shall conduct the following conservation measures:
  - a. Limit the physical disturbance of existing habitats and locate all staging and stockpiling areas and other facilities outside of sensitive areas;
  - b. Reduce the amount of disturbance within sensitive areas to the minimum necessary to accomplish the project;
  - c. Utilize a USFWS-approved biological monitor knowledgeable about sensitive and special-status species and habitats near the construction to conduct surveys before and during construction activities to inspect exclusion fencing and verify absence of listed species;
  - d. Conduct weekly focused surveys for each listed bird species during the nesting season within a 300-foot buffer of sensitive habitat areas;
  - e. Drive all permanent piles outside of the nesting seasons of listed bird species; and
  - f. Apply to the maximum extent practicable similar seasonal avoidance measures for the temporary piles to be used to construct the temporary trestles.

If seasonal avoidance is not feasible during nesting seasons of listed species, temporary trestle piles and cofferdams' sheet piles shall be driven with a vibratory hammer to reduce noise levels.

**F. Construction and Maintenance Operations**

1. Certification of Contractor Review. Prior to commencing any grading, demolition, or construction, the general contractor or contractors in charge of that portion of the work shall submit written certification that s/he has reviewed and understands the requirements of the permit and the final BCDC-approved plans, particularly as they pertain to any public access or open space required herein, or environmentally sensitive areas.
2. Best Construction Practices. The work authorized by this permit shall be performed in a manner that minimizes the potential of hazardous spills, prevents the entry of debris into the waters of the Bay, and minimizes sedimentation and erosion into the Bay. Specifically, the permittee shall:
  - a. Implement all appropriate and necessary best management practices (BMP's) to minimize the discharge of non-point source pollutants to the Bay during and after construction. The BMP's shall be consistent with applicable local, state and federal laws and any required waste discharge requirements, National Pollutant Discharge Elimination System (NPDES) permits and stormwater pollution prevention plans and shall be shown on the plans required under Special Condition II-A;

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- b. Perform all construction operations and ongoing repair and maintenance activities in a manner that prevents construction materials from falling, washing, or blowing into the Bay. In the event that such material escapes or is placed in an area subject to tidal action of the Bay, the permittee shall immediately retrieve and remove such material at its expense;
  - c. Treat water containing residue from construction activities by filtration, retention in a settling pond, or other similar measure and assure that such material not enter San Francisco Bay;
  - d. Store all hazardous materials offsite in properly designated containers in a storage area with an impermeable membrane between the ground and the hazardous material; and
  - e. Remove all construction waste material from the site to an authorized disposal area upon completion of the project.
- 3. **Hazardous Materials Removal and Remediation.** The permittee shall ensure that it performs any removal, remediation, encapsulation or disposal of hazardous or toxic materials, such as lead-based paint, consistent with the requirements of the U. S. Environmental Protection Agency and any applicable local, state and federal laws.
- 4. **Creosote Treated Wood.** No pilings or other wood structures that have been pressure treated with creosote shall be used in any area subject to tidal action in the Bay or any certain waterway, in any salt pond, or in any managed wetland within the Commission's jurisdiction as part of the project authorized herein.
- 5. **Mud Waves.** The permittee shall implement reasonable measures to prevent the creation of mud waves as a result of project construction. Should the project result in the formation of a mud wave, the permittee shall remove the mud wave and, after review and approval by or on behalf of the Commission pursuant to Special Condition II-A, implement measures to correct the conditions that led to mud wave formation.
- 6. **Removal of Excavated Material.** All dredged and excavated material shall be removed from the project site for proper disposal outside of the Commission's jurisdiction.
- 7. **Debris Removal.** All construction debris shall be removed to a location outside the Commission's jurisdiction. In the event that any such material is placed in any area within the Commission's jurisdiction, the permittee, its assignees, or successors in interest, or the owner of the improvements, shall remove such material, at its expense, within ten days after it has been notified by the Executive Director of such placement.
- ~~K-~~ 8. **Maintenance Employees and Equipment.** The permittee shall store maintenance equipment only in the exterior or interior storage areas authorized by this amended permit. The permittee shall allow employee parking only in the parking area authorized by this amended permit.

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- G. Temporary Construction Trestles.** Unless otherwise approved by or on behalf of the Commission, any fill placed for construction access and work platforms shall be pile-supported or floating only, and shall be approved by or on behalf of the Commission prior to their installation pursuant to Special Condition II-A. The permittee is strictly prohibited from using solid fill in the Bay for construction access and work platform purposes with the exception of minimal amounts of earthen fill necessary to create grade transitions from the land to pile-supported work platforms.
- H. Removal and/or Reuse of Existing Span, Trestles, Approaches, and Temporary Structures**
1. **Existing 1927 Span.** The existing overwater steel truss spans and supporting piers shall be removed from the Commission's jurisdiction as part of the project.
  2. **Existing 1927 Trestles.** The existing east and west trestles extending over the Bay shall be converted into fishing piers as part of a plan that has been approved by or on behalf of the Commission, for the rehabilitation, continuing maintenance, and use (and removal if abandoned at some future date), by the permittee or another public agency, of all or part of either or both trestles for public access to San Francisco Bay for viewing, fishing, walking, picnicking, sitting, bicycling and related purposes. Connections shall be provided from the trestles to the bicycle/pedestrian pathway described in Special Conditions II-B-1 through II-B-4. One bicycle rack shall be installed on or near the fishing pier near the eastern approach to the bridge. The location of the bicycle rack shall be depicted as drawings to be approved in writing by or on behalf of the Commission.
  3. **Existing Approaches.** Any improvement of the existing eastern and western approaches on solid fill shall be limited to those necessary to provide (a) the bicycle/pedestrian pathway described in Special Conditions II-B-1 through II-B-4; (b) roadways for public access to San Francisco Bay and its shoreline for viewing, walking, fishing, picnicking, sitting, bicycling, and related purposes; and (c) roadways to provide access necessary to maintain existing uses within the Commission's jurisdiction. Use of the right-of-way on which the existing approaches are located shall be limited to these purposes only once the project is complete and the replacement bridge and approaches are open to full traffic use. The right-of-way and any improvements shall be owned and maintained by the permittee unless a transfer of ownership and maintenance responsibility to another public agency has been approved by or on behalf of the Commission.
  4. **Removal of the Ravenswood Pier.** As part of the construction operations associated with the 2009 seismic retrofit of the Dumbarton Bridge, the permittee shall completely remove the existing pile-supported fishing pier known as the Ravenswood Pier (a segment of the former 1927 bridge structure) covering approximately 63,000 square feet (1.45 acres). Removal of the Ravenswood Pier shall include all components of the existing trestle, all pilings and footings to at least 2.0 feet below the mudline, the pier abutment, riprap and any debris placed in the mudflat beneath the trestle. All material

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shall be removed and disposed at an authorized location outside of the Commission's jurisdiction. Prior to removal of the existing structure, the permittee shall submit a removal plan to be approved by or on behalf of the Commission to ensure that the removal plan does not adversely impact Bay-related resources, endangered species, navigation and public health and safety and that sufficient safeguards are included to protect human safety and capture all demolition debris and related substances.

5. **Removal of Temporary Structures Associated with the 2009 Seismic Retrofit Project.** Within one year of substantial completion of the seismic retrofit project, the permittee shall completely remove the temporary structures authorized herein, including the construction trestles and cofferdams and all structural components of same, and shall dispose of all material at authorized locations outside the Commission's jurisdiction. Pilings associated with the temporary structures shall either be fully removed or, if complete removal is not possible, cut two feet below the mudline.

~~E. I.~~ **Western and Eastern Connectors.** The three westerly connectors (University Avenue, Willow Road, and Marsh Road) and the easterly connector ~~shall were~~ to be constructed as integral parts of the replacement project, and construction ~~shall was~~ to be scheduled, and ~~shall proceed~~, so that all connectors ~~shall were~~ to be available for traffic use at the same time the new bridge, including the eastern and western approaches, ~~is~~ was opened for full traffic use.

~~H. J.~~ **Median and Shoulders.** The median in the eastern and western approaches, and the shoulders on the replacement span ~~shall were~~ not be used for additional traffic lanes without further permit action by the Commission.

~~F. K.~~ **Financing.** The replacement project, including the approaches and eastern and western connectors, shall be financed according to a plan that provides for the following:

1. **Connecting Roads.** To the maximum feasible extent, the connecting roads in the State highway system are paid for with State highway funds, and the permittee shall use its best efforts to obtain such funds.
2. **Toll Bridge Revenues.** The maximum amount of toll bridge revenue can be made available for other transportation purposes, both in the early years of the project and in the future, if the California Legislature and the Congress of the United States authorize the use of such revenues for such purposes.

~~L.~~ **Plan Review.** The permittee shall submit, for review by or on behalf of the Commission for consistency with this authorization, final plans for each portion of the work prior to that portion of the work being advertised for bids. The permittee shall also submit, for review by or on behalf of the Commission for consistency with the terms and conditions of this permit, as amended, its final plan for financing the bridge prior to that plan being submitted to the Toll Bridge Authority for final approval. Review of construction plans shall be completed within thirty (30) days of receipt of the plans. Review of the financing plan shall be completed within ten (10) days of the receipt of the plan. This plan review condition shall also apply to work authorized under Amendment No. Ten.

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~~G.~~ L. **Right-of-Way Acquisition**

1. **Public Trust.** Prior to undertaking the acquisition of any parcel for right-of-way for the project authorized herein, the permittee shall submit to the State Lands Commission a description of the required right-of-way for the project. No parcel over which the State Lands Commission asserts, or has asserted, the public trust for navigation, commerce and fisheries shall be acquired by condemnation or any other means without the express written approval of the State Lands Commission.
2. **Connections.** Except as expressly authorized herein, no connections for vehicular access shall be permitted to (a) the eastern and western approaches; (b) the frontage roads to be constructed on the existing approach road fill; or (c) the Bayward side of the westerly connectors; and the permittee shall obtain sufficient right, title, and interest in the property on which the existing approach roads are located, to enable it to fulfill this condition.

~~M.~~ **Temporary Structures.** ~~The temporary trestles and work platforms required for the construction of the shallow water piers, including the erection of girders, shall be removed to an area outside the Commission's jurisdiction including the removal of all piling to or below the mud line before opening the bridge to traffic.~~

~~F.~~ M. **Seismic Safety.** The permittee shall submit such plans, data, or other material as the Commission's Engineering Criteria Review Board may determine are necessary for it to assess the seismic safety of the project, and the permittee shall comply with any recommendations of the Engineering Criteria Review Board that the Board may determine are necessary to ensure the seismic safety of the project.

~~J.~~ N. **Ferry Service.** In any agreement entered into to carry out or finance this project, the permittee shall not obligate itself to opposing other proposals for trans Bay transportation unless the permittee determines that the specific proposal will have a material detrimental effect on the toll bridge revenues to be used to finance this project.

~~N.~~ O. **Limits of Construction for Work Authorized in Amendment No. Eleven.** The work authorized in Amendment No. Eleven herein is confined to the placement of the scaffolding, the airline, and the waterline. The improvements shall be built in conformance with the project description in the permittee's letters dated March 12, 1993, and May 17, 1993, and as shown on the drawing No. 4333-004041, pages 1, 2, and 3, dated February 16, 1993 and February 22, 1993. No changes to the design of the project shall be made without the prior written approval of the BCDC staff.

P. **Recording.** The permittee shall record this document or a notice specifically referring to this document with both San Mateo County and Alameda County within 30 days after execution of the permit issued pursuant to this authorization and shall, within 30 days after recordation, provide evidence of recordation to the Commission.

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**III. Findings and Declarations**

This permit, as amended, is issued on the basis of the Commission's findings and declarations that the authorized work is consistent with the McAteer-Petris Act, the *San Francisco Bay Plan*, the California Environmental Quality Act of 1970, the Commission's amended management program for the San Francisco, and the public trust for commerce, navigation and fisheries, for the following reasons:

- A. **Use.** In the original permit, the San Francisco Bay Plan (Map No. 6), as amended November 18, 1971, indicated a bridge crossing between Ravenswood Point and Dumbarton Point and recognized that a replacement high-level bridge would likely be built. The Commission finds found and declared that the proposed authorized bridge ~~is~~ was in accordance with the Bay Plan, because (1) it will ~~would~~ permit motorists and pedestrians maximum views of the Bay; (2) it will provide maximum feasible public access to the shoreline and the Bay consistent with the project; and (3) it will provide adequate clearance for commercial and Navy ships in the main shipping channel and for pleasure boats where such clearance is required for them.

**C. B. Fill**

1. **Original Authorization Through Amendment No. 12.** In the original authorization, the Commission finds found and declared that solid fill covering 68.25 acres of salt ponds, 5.75 acres of marsh, 1.75 acres of a managed wetland, and 0.89 acres of the Bay (total 76.64 acres) ~~is~~ was the minimum necessary to achieve the purpose of the fill, there ~~is~~ was no alternative upland location, the extent, nature and location of the fill ~~will~~ would minimize harmful effects to the Bay Area, and ~~will~~ would provide substantial public benefits in the form of improved public access and trans Bay transportation. The proposed fill ~~is~~ was also found to be for a water-oriented use, namely a bridge and fender piling system.
2. **2009 Seismic Retrofit (Amendment No. 13).** Section 66605 of the McAteer-Petris Act, states, in part that: (a) the public benefits from fill must clearly exceed the public detriment from the loss of water areas, and that fill should be limited to water-oriented uses, such as bridges; (b) no alternative upland location exists for the fill; (c) the fill should be the minimum amount necessary; (d) the fill should minimize harmful effects to the Bay including water volume, circulation, and quality, fish and wildlife resources, and marsh fertility; (e) the fill should be constructed in accordance with sound safety standards; and (f) the fill should be authorized only when the applicant has valid title to the affected property.
  - a. **Public Benefits Versus Public Detriment.** The bridge opened in 1982, and its design dates to the mid 1970's. Following the 1989 Loma Prieta earthquake, the Governor's Board of Inquiry identified the Dumbarton Bridge as part of the critical transportation system for crossing the Bay. The bridge, part of State Route 84, serves as a major east/west connector route across the Bay between Interstate Highway I-880 in Alameda County and Interstate Highway 101 in San Mateo County.

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On the basis of research conducted since the 1989 Loma Prieta earthquake, the U. S. Geological Survey (USGS) and other scientists concluded that there is a 70 percent probability of at least one magnitude 6.7 or greater quake, capable of causing widespread damage, striking the San Francisco Bay region before 2030. It is estimated that a maximum credible earthquake (MCE) with an 8.0 magnitude would generate in excess of 30 times more energy than the Loma Prieta earthquake (magnitude 7.1).

Caltrans has determined that the existing Dumbarton Bridge does not meet current seismic design standards. The proposed project would provide a seismic upgrade in line with all other bridges in the State. The project would strengthen the bridge and upgrade all of the bridge deck's expansion joints making it safer than current conditions for the traveling public. Therefore, the seismic retrofit would provide safety for bridge users during a MCE and facilitate and expedite the reopening of the Bridge to traffic following an MCE.

In addition, Caltrans has stated that the retrofit project would have few negative impacts to the public or the Bay's natural resources. Traffic would be virtually uninterrupted by construction activities except for bridge closures during some weekends of the year. The project has also been designed to minimize construction impacts on fish and wildlife and permanent impacts to natural resources. The surface area of San Francisco Bay would be reduced permanently by approximately 5,500 square feet (fill needed to strengthen the piers) and temporarily by 402,300 square feet (for the temporary construction trestles). Caltrans proposes to mitigate for the impacts of the permanent fill by creating approximately 6,534 square feet of tidal wetlands.

- b. **Alternative Location.** Caltrans states that the proposed fill is necessary to retrofit a Bay bridge that is used daily by more than 80,000 vehicles and that does not meet structural requirements for withstanding a maximum credible earthquake event or current vehicle traffic safety design standards. There is no alternative upland location for the project purpose.
- c. **Minimum Amount of Fill Necessary.** The Dumbarton Bridge is 1.6 miles long covering 873,000 square feet (20 acres) of the Bay. The project would place 5,500 square feet of permanent fill in the Bay (0.0063 percent of the total area) to strengthen the existing pier footings. This fill is the minimum amount necessary to provide a bridge that meets Caltrans' 1999 Seismic Design Criteria (SDC) intended to provide for improved public safety on bridges.
- d. **Valid Title.** Caltrans states that the Bay property on which the proposed project would occur, including the flood barrier and pump station, the temporary pile-supported trestles and cofferdams all fall within Caltrans' existing right-of-way.

C. Safety of Fills

1. Engineering Criteria Review Board. Policy 1 of the Bay Plan Safety of Fills section states, in part, that: "the Engineering Criteria Review Board should review all except minor projects for the adequacy of their specific safety provisions, and make recommendations concerning these provisions...."

The Commission's Engineering Criteria Review Board (ECRB) reviewed the proposed project for its seismic and engineering design safety on February 5, 2009. However, the ECRB requested that Caltrans return prior to the Commission's consideration of the project in order to get a complete understanding of the geotechnical and structural criteria, and a detailed seismic instrumentation plan for the proposed project. The ECRB's second review of the project occurred on May 21, 2009. The Board was generally satisfied with the geotechnical and structural criteria, but requested Caltrans to provide additional information on (1) the impacts to the Bay area public, particularly in the South Bay, from a bridge closure as a result of a major earthquake, and any specific steps to communicate and educate the public as to the expected level of bridge safety and bridge performance during an earthquake, based on the chosen engineering criteria; (2) the effects of ground liquefaction on the piers, and (3) the stability of the steeper Bay mud slopes during a seismic event.

On August 5, 2009, Caltrans responded to the Board's requests for more information indicating that geotechnical analyses demonstrated that the occurrence of soil liquefaction at the bridge site during the target design earthquake (1,000-year return period) should be localized and unlikely to result in significant adverse effects on the bridge. Regarding the potential lateral movement of the softer soil layers (Young Bay Muds) in the slope areas of the channel crossing and its effect on the adjacent pier foundations, the additional analysis indicated that the resulting loads exerted by the Young Bay Muds on the foundations in the slope areas would not adversely affect the bridge foundations. The Board concluded the criteria used for these two analyses were satisfactory.

On August 19, 2009, Caltrans provided a response to the Board's request that Caltrans inform the Bay area public on the likely performance of the bridge as a result of a major earthquake. As of the date of the preparation of the staff's recommendation (August 28, 2009), the Board has not had the opportunity to comment on Caltrans' response. Caltrans response said that although there was a higher level of bridge performance criteria available for "lifeline" structures such as the San Francisco-Oakland Bay Bridge, the selected bridge performance criteria for the Dumbarton Bridge was in concurrence with its classification as an "important" structure. After a maximum credible earthquake event, an "important" structure could close for as little as one month and as long as twelve months for deck repair, but it would not collapse or be permanently impaired. According to Caltrans, lifeline structures are inherently more expensive to build and maintain, and these are structures selected as part of an emergency route plan developed in conjunction with regional governmental agencies to provide immediate

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movement of emergency equipment and supplies into or through the region. State Route 84, which includes the Dumbarton Bridge, is not part of the lifeline emergency route plan. Caltrans chose the seismic retrofit criteria for the Dumbarton partly based on economic realities.

2. **Sea Level Rise.** The Bay Plan policies on the safety of fills state, in part, that: "to prevent damage from flooding, structures on fill or near the shoreline should have adequate flood protection including consideration of future relative sea level rise as determined by competent engineers. Additionally, the policies state that, [to] minimize the potential hazard to Bay fill projects and bayside development from subsidence, all proposed development should be sufficiently high above the highest estimated tide level for the expected life of the project or sufficiently protected by levees." Finally, the policies state that, "[l]ocal governments and special districts with responsibilities for flood protection should assure that their requirements and criteria reflect future relative sea level rise and should assure that new structures and uses attracting people are not approved in flood prone areas or in areas that will become flood prone in the future, and that structures and uses that are approvable will be built at stable elevations to assure long-term protection from flood hazards...."

Caltrans has not done an assessment of sea level rise impacts on the structure based on the specific geographic and physical features of the area. Currently, proposed projects reviewed by the Commission are reviewed using sea level rise rates projected over a fifty-year period, generally consistent with the California Climate Action Team Reports on Climate Change. These reports project the following sea level rise scenarios: (a) a low rate of 0.08 inches (2 mm) per year; (b) a medium rate of 0.18 inches (4.6mm) per year; and (c) a higher rate of 0.33 inches (8.4 mm) per year. The scenario with the highest projected sea level rise in these reports would result in sea level rise of approximately 16 inches. However, the project is to seismically retrofit an existing bridge, which limits the ability to adjust bridge heights to account for expected sea level rise. To accommodate the isolator bearings installed as part of the seismic retrofit, the bridge deck will be raised five inches. Caltrans also states that the anticipated increase of water levels are not likely to impact the bridge's piers and columns.

Caltrans will also construct a high-tide barrier on the north side of the west bridge approach to protect an existing public access area, parking lots, and the frontage road from tidal inundation. While not designed specifically for sea level rise, the wall will protect these areas from flooding resulting from sea level rise for a number of years.

The Commission finds that, as proposed and with adequate notification of local government agencies, the seismic retrofit of the Dumbarton Bridge is consistent with the Bay Plan's Safety of Fills policies.

- D. **Fish and Wildlife Resources.** Policy 2 of the Bay Plan Fish, Other Aquatic Organisms, and Wildlife states, in part: "Specific habitats that are needed to conserve, increase, or prevent the extinction of any native species, species threatened or endangered...should be protected..." Policy 4 of the same section states, in part:

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"The Commission should: (a) consult with the California Department of Fish and Game and the U. S. Fish and Wildlife Service or the National Marine Fisheries Service whenever a proposed project may adversely affect an endangered or threatened...species...; [and] (c) Give appropriate consideration to the recommendations of the [state and federal resource agencies] in order to avoid possible adverse effects of a proposed project on fish, other aquatic organisms and wildlife habitat." Policy 1 of the Bay Plan policies on Tidal Marshes and Tidal Flats states: "Tidal marshes and tidal flats should be conserved to the fullest possible extent. Filling, diking, and dredging projects that would substantially harm tidal marshes or tidal flats should be allowed only for purposes that provide substantial public benefits and only if there is no feasible alternative." Policy 2 of the same section states that "Any proposed fill, diking, or dredging project should be thoroughly evaluated to determine the effect of the project on tidal and tidal flats, and designed to minimize, and if feasible, avoid any harmful effects." Policy 1 of the Bay Plan policies on Subtidal Areas states: "Any proposed filling or dredging project in a subtidal area should be thoroughly evaluated to determine the local and Bay-wide effects of the project on: (a) the possible introduction or spread of invasive species; (b) tidal hydrology and sediment movement; (c) fish, other aquatic organisms and wildlife; (d) aquatic plants; and (e) the Bay's bathymetry. Projects in subtidal areas should be designed to minimize and, if feasible, avoid any harmful effects."

As an existing bridge spanning the Bay, a number of Bay habitats would or could be affected by constructing the seismic retrofit project. Only a small fringe marsh exists along the western bridge approach, though larger marshlands exist nearby. Some subtidal areas will also likely be affected. Most of the project, including most of the seismic retrofit work, the temporary construction trestles, and the removal of the Ravenswood Pier will occur in intertidal flats. While permanent impacts will be small (only 5,500 square feet of Bay will be permanently lost as result of seismically strengthening the bridge piers), as much as 8,712 square feet of intertidal flats will be directly impacted by the construction of temporary facilities (coffer dams, construction trestles) and the removal of the Ravenswood Pier.

A number of special status species could be affected by project construction, including the green sturgeon, the coast steelhead, the salt marsh harvest mouse, the Pacific harbor seal, the California sea lion, the California clapper rail, the western snowy plover, and the California black rail. In addition, the intertidal flats below and adjacent to the bridge are heavily used by migratory and resident waterfowl and shorebirds.

Caltrans has included a number of construction best management practices to eliminate or minimize construction impacts, and, in consultation with the U.S. Fish and Wildlife Service (USFWS), has proposed several conservation measures, including:

1. Physical disturbance to existing habitats will be limited and all staging and stockpiling areas and other facilities will be located outside of sensitive areas.
2. Caltrans will reduce the amount of disturbance within sensitive areas to the minimum necessary to accomplish the project.

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3. A USFWS-approved biological monitor knowledgeable about sensitive and special-status species and habitats near construction areas will conduct surveys before and during construction activities to inspect exclusion fencing and verify the absence of listed species.
4. Weekly focused surveys for each listed bird species will be conducted during the nesting season within a 300 feet buffer of sensitive habitat areas.
5. All permanent piles will be driven outside of the nesting seasons of listed bird species and a vibratory hammer will be used as much as possible.
6. Similar seasonal avoidance will apply to the maximum extent practicable for the temporary piles to be used to construct the temporary trestles.

If seasonal avoidance is not feasible during nesting seasons of listed species, temporary trestle piles and cofferdams' sheet piles will be driven with a vibratory hammer to reduce noise levels.

For these reasons, and because Caltrans will offset the unavoidable, permanent loss of tidal flat habitat with compensatory mitigation (see discussion below), the Commission finds that the seismic retrofit project is consistent with the Bay Plan's policies on Fish, Other Aquatic Organisms, and Wildlife, Tidal Marsh and Tidal Flats, and Subtidal Areas.

**H. E. Mitigation and Additional Public Benefits**

1. **Original Authorization Through Amendment No. 12.** The original project's Environmental Impact Report, prepared by the permittee, indicated ~~that~~ the ~~proposed~~ original project ~~will~~ would have several significant unavoidable adverse impacts on the environment including: (1) permanent loss of 76.64 acres of salt pond, marsh and managed wetland and Bay and its associated value as wildlife habitat; (2) degradation of water quality in the South Bay during dredging and in the Bay during dredging disposal; (3) degradation of air quality in the Dumbarton transportation corridor; (4) increased pressure to develop salt ponds for uses other than solar evaporation of salt; and (5) continued reliance on the private automobile as a major transportation mode between the East and West Bay areas. The Commission ~~finds~~ found and declared that the permittee had adequately mitigated this environmental detriment and increased the public benefits of the project by providing the following benefits to man and the environment:

  - a. Provision of a bicycle and pedestrian path on the proposed bridge, approaches and portions of the connecting roads;
  - b. Acquiring and converting to tidal action at least 200 acres of dry land diked-off from the Bay prior to September 17, 1965;
  - c. Acquiring so as to reduce development pressures, wetlands and salt ponds in areas within the Commission's jurisdiction where the growth-inducing impact of the bridge will be the greatest;
  - d. Designing the toll plaza to minimize its visual impact and to provide a connection for a north/south pedestrian, equestrian and bicycle path;

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- e. Cooperating in the planning of the San Francisco Bay National Wildlife Refuge to minimize the impact of the construction of the bridge on the Refuge; and
  - f. The air quality of the Bay Area basin and particularly in the South Bay Area would be improved by the Dumbarton project.
2. **Seismic Retrofit (Amendment No. 13).** The Bay Plan Mitigation Policy 1 states, in part: “[p]rojects should be designed to avoid adverse environmental impacts to Bay natural resources such as to water surface area, volume, or circulation and to plants, fish, other aquatic organisms and wildlife habitat, subtidal areas, or tidal flats. Whenever adverse impacts cannot be avoided, they should be minimized to the greatest extent practicable. Finally, measures to compensate for unavoidable adverse impacts to the natural resources of the Bay should be required....”

The project will result in the permanent loss of approximately 5,500 square feet (0.13 acres) of Bay intertidal flats and surface area as a result of seismically strengthening the bridge piers. To do the seismic retrofit, Caltrans will also construct temporary trestles (for 3-4 years) to provide construction access that will cover approximately 402,300 square feet (9.23 acres) of tidal flats. To offset the impacts of the permanent and temporary fill, Caltrans will create a 6,534-square-foot (0.15 acre) tidal marsh at the land end of the former Ravenswood Pier by excavating existing fill to promote positive drainage and to create elevations suitable for marsh establishment.

The Commission finds that Caltrans’ proposed mitigation will offset the permanent loss of Bay tidelands that will result from project construction and therefore, the project is consistent with the Bay Plan’s Mitigation policies.

**K. F. Transportation and Financing**

1. **Original Authorization Through Amendment 12.** In weighing the public benefits of ~~this~~ the original project against the public detriment from the loss of water surface areas, as it is required to do under the McAteer-Petris Act, the Commission ~~has~~ considered those aspects of the replacement project as a transportation facility that have been brought to its attention by the permittee and the Metropolitan Transportation Commission, together with the related public testimony. ~~These have~~ Those included safety, traffic demand, and financing. The Commission ~~has also given~~ gave careful consideration to the determination by the Legislature that the existing bridge should be replaced. The Commission ~~finds~~ found that the original project, as limited by the terms and conditions herein, ~~will~~ would provide substantial transportation benefits to the public in the Bay Area.
2. **2009 Seismic Retrofit (Amendment 13).** The Bay Plan’s Transportation Policy No. 3 states, in part: “[i]f a route must be located across a waterway, the following provisions should apply: (a) [t]he crossing should be placed on a bridge or in a tunnel, not on solid fill....” The Bay Plan Transportation Policy No. 4 states, in part: “bridges over the Bay or certain waterways should

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include pedestrian and bicycle paths that will either be a part of the Bay trail or connect the Bay Trail with other regional and community trails...[and]...should be designed to maintain and enhance visual and physical access to the Bay and along the Bay shoreline."

The proposed project is a seismic retrofit of an existing pile-supported bridge to provide increased safety during seismic events. The project will also provide new public access and will enhance the existing access near the bridge, which is part of the Bay Trail. For these reasons, the Commission finds that the proposed project is consistent with the Bay Plan's Transportation Policies.

**f. G. Mass Transit.** In the original authorization, the Commission found that the construction of a high-level, four-lane bridge ~~will~~ would facilitate the establishment of adequate bus transportation between the East and West Bay areas. There ~~is~~ was no need to design the structure to include future rail mass transit because the best available evidence is that such facilities ~~will~~ would not be needed in this corridor in the foreseeable future.

**H. Approaches and Existing Causeway.** The Commission ~~finds~~ found and declared in its original authorization that, although there is a possibility that the salt ponds north and south of the bridge may be removed from salt production in the future and the dikes breached and the ponds opened to tidal action, retention of the existing approaches ~~is~~ was desirable to improve public access to the Bay and shoreline in the San Francisco Bay National Wildlife Refuge. Therefore, the Commission concluded it ~~is~~ was not necessary or desirable either to replace the present causeway with a structure on pilings or to build the proposed approaches on pilings. Since the Commission's original authorization on February 27, 1974, the levee encompassing the managed wetlands north of the western bridge approach has breached from natural causes and the salt ponds south of the west approach are being converted to managed wetlands as part of the South Bay Wildlife Refuge.

**I. Toll Plaza.** The toll plaza has been located on dry land outside the Commission's jurisdiction within an area already excavated and therefore it will not require further cutting into Coyote Hills and will not fill the Bay or salt ponds.

**J. Pressures on the Bay.** Without bridge capacity increase, traffic could be expected to shift in part to Route 237 around the south end of the Bay, and as Route 237 is presently operating near its traffic capacity, additional traffic could cause pressures for Route 237 expansion which in turn could involve encroachment on the Bay.

**K. Public Access**

**1. Original Authorization Through Amendment No. 12.** The Commission determined that the original project, subject to conditions stated herein, would provide maximum feasible public access to the Bay shoreline, consistent with the project, and this access would be improved and permanently used by the public.

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2. 2009 Seismic Retrofit (Amendment No. 13). Section 66602 of the McAteer-Petris Act states that “...maximum feasible public access, consistent with a proposed project, should be provided.” In assessing whether a project provides maximum feasible public access consistent with the project, the Commission relies on the McAteer-Petris Act, the policies of the San Francisco Bay Plan, and also relevant court decisions. In assessing whether a proposed public project, such as Caltrans’ proposed bridge retrofit, would provide the maximum feasible public access consistent with the project, the Commission should evaluate whether the proposed public access is reasonable given the scope of the project.

The Bay Plan Public Access Policy 4 states, in part: “Whenever public access to the Bay is provided as a condition of development, on fill or on the shoreline, the access should be permanently guaranteed.” Policy 6 states, in part: “Public access improvements provided as a condition of any approval should be consistent with the project and the physical environment including protection of Bay natural resources, such as aquatic life, wildlife and plant communities, and provide for the public’s safety and convenience. The improvements should be designed and built to encourage diverse Bay-related activities and movement to and along the shoreline, should permit barrier free access for the physically handicapped to the maximum feasible extent, should include an ongoing maintenance program, and should be identified with appropriate signs.” Policy 9 states, in part: “Roads near the edge of the water should be designed as scenic parkways for slow-moving, principally recreational traffic. The roadway and right-of-way should maintain and enhance visual access for the traveler, discourage traffic, and provide for safe, separated, and improved physical access to and along the shore.” Policy 11 states, in part: “The Public Access Design Guidelines should be use as a guide to siting and designing public access consistent with a proposed project. The Design Review Board should advise the commission regarding the adequacy of the public access proposed.”

The existing public access path along the southern edge of the Dumbarton Bridge consists of a Class I (paved and separated from traffic), 8-foot-wide bicycle and pedestrian path. This path transitions to a Class II bike lane along frontage roads at both ends of the bridge. At the eastern approach to the bridge, public access improvements include a fishing pier (the Dumbarton Pier, a remnant of the former Dumbarton Drawbridge), public parking, and a lookout/picnic area. At the western approach to the bridge, public access consists of parking lots both north and south of the approach and a public access lookout (the lookout is to be relocated pursuant to BCDC Permit No. 16-99). The existing Ravenswood fishing pier, abandoned since 1993, will be removed pursuant to the original authorization of 20-73. Caltrans is providing an in-lieu fee to compensate for the 16-year loss of public use of the Ravenswood Pier as part of a settlement agreement of permit noncompliance pursuant to Permit No. 16-99.

During the estimated three-year construction phase of the proposed retrofit project, the Dumbarton Pier will remain open most (more than 90%) of the time. Construction staff will apprise visitors of conditions that could be

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hazardous to their hearing, and will close portions of the fishing pier during pile driving activities and during construction of the new bridge pile caps. These limited area closures would occur in 10-minute increments, totaling approximately 1.5 hours a day of impeded access while other pier sections would remain open.

During project construction, 84 out of a total of 96 parking spaces at the west approach and 48 out of a total of 80 parking spaces at the east approach will be temporarily removed. At project completion, there will be a permanent loss of 10 parking spaces at the west approach, spaces occupied by new permanent piles for seismic support.

To maintain access during construction, Caltrans will provide 12 temporary public shore parking spaces along the frontage road at the western approach and 46 temporary parking spaces along Marshlands Road at the eastern approach.

The construction plan also includes closing the bridge to all motorized and pedestrian traffic for 2 to 4 weekends (two of them being long weekends) as the bridge deck would be raised five inches to install isolation bearings under the deck. On weekends when the deck raising is underway, a shuttle would be provided from sunrise to sunset to transport bicyclists and pedestrians to the other side of the bridge.

To provide new public access, and to offset the impacts to existing public access during construction, Caltrans will provide the following public access improvements:

- a. A 96-square-foot overlook (belvedere) on the top of a new outrigger pile driven along the southern side of the western bridge approach, with a staircase to a small, wind-protected access plaza with benches in the public access parking lot;
- b. Enhancing the public access overlook to be constructed at the site of the removed Ravenswood pier that is required by the settlement of permit compliance issues with BCDC Permit No. 16-99;
- c. Enhancing the public access picnic/viewing area at the eastern bridge approach;
- d. Constructing a wall and pump station to prevent tidal inundation of the public access parking lot;
- e. Installing approximately 50 way finding signs directing bicyclists to the bicycle route between the BART Union City and Fremont train stations and the Caltrain station in Menlo Park; and
- f. Improving approximately 400 feet of the bicycle/pedestrian path where it transitions from the bridge to the frontage road at both the west and east bridge approaches, including widening the path to eight feet to match the width of the bridge path, relocating the path away from the vehicle travel

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lanes as much as possible consistent with ADA requirements, eliminating existing impediments (e.g., utility covers), and replacing the existing metal guard rail with a concrete barrier between the travel lanes and path to improve bicycle safety.

The public access improvements will significantly enhance the existing access required in the Commission's original authorization. They have also been required to enhance the experience of visitors to the South Bay Wildlife Refuge which is constructing a major public staging area using the parking lots at the western bridge approach pursuant to CN 10-03 by providing more attractive seating areas, a new overlook of the south Bay, safety improvements to the bridge's bike/pedestrian path, and protecting existing parking lots from flooding.

The Commission finds that the proposed public access improvements provide the maximum feasible public access consistent with the project, and that the access is consistent with Bay Plan policies on public access.

- L. Appearance, Design, and Scenic Views.** The Bay Plan's Appearance, Design, and Scenic Views Policy 1, states, in part: "To enhance the visual quality of development around the Bay and to take maximum advantage of the attractive setting it provides, the shores of the Bay should be developed in accordance with the Public Access Design Guidelines." Policy 6, states, in part: "...New or remodeled bridges across the Bay should be designed to permit maximum viewing of the Bay and its surroundings by both motorists and pedestrians. Guard rails and bridge supports should be designed with views in mind." Policy 9, states, in part: "'Unnatural' debris should be removed from sloughs, marshes, and mudflats that are retained as part of the ecological system..." Policy 12, states, in part: "In order to achieve a high level of design quality, the Commission's Design Review Board...should review, evaluate, and advise the Commission on the proposed design of developments that affect the appearance of the Bay..." Policy 14, states, in part: "Views of the Bay from vista points and from roads should be maintained by appropriate arrangements and heights of all developments and landscaping between the view areas and the water." Policy 15, states, in part: "Vista points should be provided in the general locations indicated in the Plan maps. Access to vista points should be provided by walkways, trails, or other appropriate means and connect to the nearest public thoroughfare where parking or public transportation is available. In some cases, exhibits, museums, or markers would be desirable at vista points to explain the value or importance of the areas being viewed."

The Dumbarton Bridge seismic retrofit project will involve constructing a number of concrete bolsters at the footing pedestals of Piers 5 to 15 and 32 to 40, 14 trestle piles at the approaches, and installing seismic bearings at the superstructure. The bridge will be raised five inches to accommodate the improvements. Upon completion of the project, the appearance of the Dumbarton Bridge will not be significantly altered, nor will the seismic retrofit affect views of the Bay for motorists traveling over the bridge.

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Temporary trestles will be required for work at the east and west ends of the bridge. The western trestle will measure approximately 2,200 feet long, and the eastern trestle 2,500 feet. Both trestles will be lower than the existing Ravenswood and Dumbarton fishing piers, and will not exceed 24 feet in width, the minimum required for safe operation of construction equipment. During construction activity, machinery will be present onsite. These visual impacts are temporary, and will not create a permanent adverse impact on views of the Bay.

A flood prevention system consisting of a high-tide concrete barrier will be placed north of the western approach. The height of the barrier will range from 39 to 56 inches above the existing road to accommodate the varied surface level of the roadway. This barrier's height will obstruct foreground views of the Moseley Tract (the former managed wetlands lying immediately to the north of the project) from the parking lot and may affect views of the Bay from cars parked in the public access parking lot. A pump station will be installed at the levee to the north of the west approach to draw water from the parking lot during flood events and return it to San Francisco Bay. The pump station will stand approximately eight feet above the ground, with the majority of the structure buried underground to reduce visual impacts on the shoreline.

The seismic retrofit has been designed so that views of the Bay from the bridge will not be affected and the structure itself will only slightly be altered. The view impacts from temporary construction facilities (the construction trestles and equipment) are necessary in order to construct the project and will be in place for approximately three years. While portions of the flood wall may obstruct views of the bay for motorists parked in the northern parking lot of the west approach, and block views of the bay for some motorists traveling the northern frontage road, it will not block views for motorists on the bridge, the great majority of travelers using the bridge and its associated roadways. The flood wall is also necessary to keep these areas dry at high tides and storm events, and thus an unavoidable impact on views.

For these reasons, the Commission finds that the project is consistent with the Bay Plan's policies on Appearance, Design, and Scenic Views.

**B- M. Dredging.** The Commission finds and declares that the dredging authorized by the original permit, as amended, ~~is~~ was to be accomplished and spoils disposed of in accordance with the Bay Plan Policies on Dredging.

**N. Water Quality.** The Bay Plan policies on Water Quality (Policy 1) state: "Bay water pollution should be prevented to the greatest extent feasible..." and policy 2 states that, "...the policies, recommendations, decisions, advice and authority of the State Water Resources Control Board and the Regional Board, should be the basis for carrying out the Commission's water quality responsibilities." Policy 3 states, in part: "[new] projects should be sited, designed, constructed and maintained to prevent or, if prevention is infeasible, to minimize the discharge of pollutants into the Bay by: (a) controlling pollutant sources at the project site; (b) using construction materials that contain non-polluting materials; and (c) applying appropriate, accepted and effective best management practices...."

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Because a number of contaminants are known to occur in south Bay sediments, it is possible that the sediment near the bridge contains contaminants. Sediment from the Bay will be excavated during the construction of concrete bolsters on specific piers and to create the wetlands that will offset the loss of Bay tidelands resulting from project construction. Excavated material will be disposed at appropriate upland disposal facilities outside of the Commission's jurisdiction.

Removal of the Ravenswood Pier may also introduce hazardous material, such as lead paint, and asbestos bearings and joint material, into Bay waters.

To prevent the entry of debris into the waters of the Bay, and minimize sedimentation and erosion into the Bay, Caltrans will institute a number of construction best management practices, including:

1. Preparing a stormwater pollution prevention plan to protect the Bay and fish and wildlife species from pollution from fuels, oils, lubricants, and other harmful materials;
2. Treating water containing residue from construction activities by filtration, retention in a settling pond, or other similar measure and assuring that such material not enter San Francisco Bay;
3. Storing all hazardous materials offsite in properly designated containers in a storage area with an impermeable membrane between the ground and the hazardous material; and
4. Removing all construction waste material from the site to an authorized disposal area upon completion of the project.

The Commission finds that the project, as proposed, will protect the Bay's water quality, consistent with the Bay Plan's Water Quality policies.

E. O. **Public Trust.** As part of a public transportation facility, and subject to the conditions stated herein, the project's use of the lands and tidelands of the State of California is consistent with the public trust for commerce, navigation and fisheries.

L. P. **Coastal Zone Management Act.** The Commission ~~is required to review~~ further finds, declares, and certifies that the activity or activities authorized herein are consistent with the Commission's Amended Management Program for San Francisco Bay, as approved by the Department of Commerce under the Federal Coastal Zone Management Act of 1972, as amended.

Q. **Environmental Review.** The proposed project would involve the seismic retrofit of the existing Dumbarton Bridge. Caltrans certified the Initial Study with Proposed Mitigated Negative Declaration (CEQA) and an Environmental Assessment (NEPA) on June 2, 2009.

R. **Conclusion.** For all of the above reasons, the Commission finds, ~~declares,~~ and certifies that, subject to the special conditions stated herein, the project authorized herein is consistent with the San Francisco Bay Plan, the McAteer-Petris Act, the Commission's regulations, the California Environmental Quality Act, and the Commission's amended Coastal zone management program for San Francisco Bay segment of the California coastal zone.

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**IV. Standard Conditions**

- ~~A. All required permissions from governmental bodies must be obtained before the commencement of work; these bodies include, but are not limited to, the U. S. Army Corps of Engineers, the State Lands Commission, the Regional Water Quality Control Board, and the city and/or county in which the work is to be performed, whenever any of these may be required. This amended permit does not relieve the permittee of any obligations imposed by State or Federal law, either statutory or otherwise.~~
- ~~B. The attached Notice of Completion shall be returned to the Commission within 30 days following completion of the work.~~
- ~~C. Work must be performed in the precise manner and at the precise locations indicated in your application and amendment requests, as such may have been modified by the terms of the amended permit and any plans approved in writing by or on behalf of the Commission.~~
- ~~D. Work must be performed in a manner so as to minimize muddying of waters, and if diking is involved, dikes shall be waterproof. If any seepage returns to the Bay, the permittee will be subject to the regulations of the Regional Water Quality Control Board in that region.~~
- ~~E. The rights, duties, and obligations contained in this amended permit are assignable. When the permittee transfers any interest in any property either on which the authorized activity will occur or which is necessary to the full compliance of one or more conditions to this amended permit, the permittee/transferor and the transferee shall execute and submit to the Commission a permit assignment form acceptable to the Executive Director. An assignment shall not be effective until the assignee executes and the Executive Director receives an acknowledgment that the assignee has read and understands the amended permit and agrees to be bound by the terms and conditions of the amended permit, and the assignee is accepted by the Executive Director as being reasonably capable of complying with the terms and conditions of the amended permit.~~
- ~~F. Unless otherwise provided in this amended permit, all the terms and conditions of this amended permit shall remain effective for so long as the amended permit remains in effect or for so long as any use or construction authorized by this amended permit exists, whichever is longer.~~
- ~~G. Unless otherwise provided in this amended permit, the terms and conditions of this amended permit shall bind all future owners and future possessors of any legal interest in the land and shall run with the land.~~
- ~~H. Unless otherwise provided in this amended permit, any work authorized herein shall be completed within the time limits specified in this amended permit, or, if no time limits are specified, within three years. If the work is not completed by the date specified in the amended permit, or, if no date is specified, within three years from the date of the amended permit, the amended permit shall become~~

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~~null and void. If this amended permit becomes null and void for a failure to comply with these time limitations, any fill placed in reliance on this amended permit shall be removed by the permittee or its assignee upon receiving written notification by or on behalf of the Commission to remove the fill.~~

~~I. Except as otherwise noted, violation of any of the terms of this amended permit shall be grounds for revocation. The Commission may revoke any amended permit for such violation after a public hearing held on reasonable notice to the permittee or its assignee if the amended permit has been effectively assigned. If~~

~~the amended permit is revoked, the Commission may determine, if it deems appropriate, that all or part of any fill or structure placed pursuant to this amended permit shall be removed by the permittee or its assignee if the amended permit has been assigned.~~

~~J. This amended permit shall not take effect unless the permittee executes the original of this amended permit and returns it to the Commission within ten days after the date of the issuance of the amended permit. No work shall be done until the acknowledgment is duly executed and returned to the Commission.~~

~~K. Any area subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission under either the McAteer Petris Act or the Suisun Marsh Preservation Act at the time the amended permit is granted or thereafter shall remain subject to that jurisdiction notwithstanding the placement of any fill or the implementation of any substantial change in use authorized by this amended permit.~~

~~L. Any area not subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission that becomes, as a result of any work or project authorized in this amended permit, subject to tidal action shall become subject to the Commission's "bay" jurisdiction up to the line of highest tidal action.~~

~~M. Unless the Commission directs otherwise, this amended permit shall become null and void, if any term, standard condition, or special condition of this amended permit shall be found illegal or unenforceable through the application of statute, administrative ruling, or court determination. If this amended permit becomes null and void, any fill or structures placed in reliance on this amended permit shall be subject to removal by the permittee or its assignee if the amended permit has been assigned to the extent that the Commission determines that such removal is appropriate. Any uses authorized shall be terminated to the extent that the Commission determines that such uses should be terminated.~~

A. **Permit Execution.** This amended permit shall not take effect unless the permittee executes the original of this amended permit and returns it to the Commission within ten days after the date of the issuance of the amended permit. No work shall be done until the acknowledgment is duly executed and returned to the Commission.

B. **Notice of Completion.** The attached Notice of Completion and Declaration of Compliance form shall be returned to the Commission within 30 days following completion of the work.

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- C. **Permit Assignment.** The rights, duties, and obligations contained in this amended permit are assignable. When the permittee transfers any interest in any property either on which the activity is authorized to occur or which is necessary to achieve full compliance of one or more conditions to this amended permit, the permittee/transferor and the transferee shall execute and submit to the Commission a permit assignment form acceptable to the Executive Director. An assignment shall not be effective until the assignee executes and the Executive Director receives an acknowledgment that the assignee has read and understands the amended permit and agrees to be bound by the terms and conditions of the amended permit, and the assignee is accepted by the Executive Director as being reasonably capable of complying with the terms and conditions of the amended permit.
- D. **Permit Runs With the Land.** Unless otherwise provided in this amended permit, the terms and conditions of this amended permit shall bind all future owners and future possessors of any legal interest in the land and shall run with the land.
- E. **Other Government Approvals.** All required permissions from governmental bodies must be obtained before the commencement of work; these bodies include, but are not limited to, the U. S. Army Corps of Engineers, the State Lands Commission, the Regional Water Quality Control Board, and the city or county in which the work is to be performed, whenever any of these may be required. This amended permit does not relieve the permittee of any obligations imposed by State or Federal law, either statutory or otherwise.
- F. **Built Project must be Consistent with Application.** Work must be performed in the precise manner and at the precise locations indicated in your application, as such may have been modified by the terms of the amended permit and any plans approved in writing by or on behalf of the Commission.
- G. **Life of Authorization.** Unless otherwise provided in this amended permit, all the terms and conditions of this amended permit shall remain effective for so long as the amended permit remains in effect or for so long as any use or construction authorized by this amended permit exists, whichever is longer.
- H. **Commission Jurisdiction.** Any area subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission under either the McAteer-Petris Act or the Suisun Marsh Preservation Act at the time the amended permit is granted or thereafter shall remain subject to that jurisdiction notwithstanding the placement of any fill or the implementation of any substantial change in use authorized by this amended permit. Any area not subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission that becomes, as a result of any work or project authorized in this amended permit, subject to tidal action shall become subject to the Commission's "bay" jurisdiction.
- I. **Changes to the Commission's Jurisdiction as a Result of Natural Processes.** This amended permit reflects the location of the shoreline of San Francisco Bay when the permit was issued. Over time, erosion, avulsion, accretion, subsidence,

**PERMIT NO. 20-73**

(Issued on February 27, 1974, As Amended Through October 26, 2009)

**AMENDMENT NO. THIRTEEN**

Department of Transportation, District 4  
Page 37

relative sea level change, and other factors may change the location of the shoreline, which may, in turn, change the extent of the Commission's regulatory jurisdiction. Therefore, the issuance of this amended permit does not guarantee that the Commission's jurisdiction will not change in the future.

- I. **Violation of Permit May Lead to Permit Revocation.** Except as otherwise noted, violation of any of the terms of this amended permit shall be grounds for revocation. The Commission may revoke any amended permit for such violation after a public hearing held on reasonable notice to the permittee or its assignee if the amended permit has been effectively assigned. If the amended permit is revoked, the Commission may determine, if it deems appropriate, that all or part of any fill or structure placed pursuant to this amended permit shall be removed by the permittee or its assignee if the amended permit has been assigned.
- K. **Should Permit Conditions Be Found to be Illegal or Unenforceable.** Unless the Commission directs otherwise, this amended permit shall become null and void if any term, standard condition, or special condition of this amended permit shall be found illegal or unenforceable through the application of statute, administrative ruling, or court determination. If this amended permit becomes null and void, any fill or structures placed in reliance on this amended permit shall be subject to removal by the permittee or its assignee if the amended permit has been assigned to the extent that the Commission determines that such removal is appropriate. Any uses authorized shall be terminated to the extent that the Commission determines that such uses should be terminated.
- L. **Permission to Conduct Site Visit.** The permittee shall grant permission to any member of the Commission's staff to conduct a site visit at the subject property during and after construction to verify that the project is being and has been constructed in compliance with the authorization and conditions contained herein. Site visits may occur during business hours without prior notice and after business hours with 24-hour notice.

Executed at San Francisco, California, on behalf of the San Francisco Bay Conservation and Development Commission



WILL TRAVIS  
Executive Director  
San Francisco Bay Conservation  
and Development Commission

WT/RM/mm

cc: U. S. Army Corps of Engineers, Attn: Regulatory Functions Branch  
San Francisco Bay Regional Water Quality Control Board,  
Attn: Certification Section  
Environmental Protection Agency, Attn: Mike Monroe, W-8

State of California

County of San Francisco

# CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

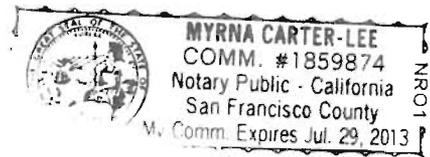
On October 26, 2009 before me,

Myrna Carter-Lee, Notary Public  
(here insert name and title of the officer)

personally appeared Will Hayes

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.



WITNESS my hand and official seal.

Signature

Myrna Carter-Lee

(Seal)

### OPTIONAL INFORMATION

*Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.*

#### Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of \_\_\_\_\_

containing \_\_\_\_\_ pages, and dated \_\_\_\_\_

The signer(s) capacity or authority is/are as:

- Individual(s)
- Attorney-in-Fact
- Corporate Officer(s)

Title(s)

- Guardian/Conservator
- Partner - Limited/General
- Trustee(s)
- Other \_\_\_\_\_

representing: \_\_\_\_\_

Names of Person(s) or Entity(ies) Signer is Representing

#### Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:  
 form(s) of identification     credible witness(es)

Notarial event is detailed in notary journal on:

Page # \_\_\_\_\_ Entry # \_\_\_\_\_

Notary contact: \_\_\_\_\_

Other

Additional Signer(s)     Signer(s) Thumbprint(s)

PERMIT NO. 20-73  
(Issued on February 27, 1974, As  
Amended Through October 26, 2009)  
AMENDMENT NO. THIRTEEN  
Department of Transportation, District 4  
Page 38

\* \* \* \* \*

Receipt acknowledged, contents understood and agreed to:

Executed at 111 GRAND AVENUE  
OAKLAND, CA

CALTRANS

Applicant

On NOVEMBER 2, 2009 By:

James B. Michael  
ODD, ENVIRONMENTAL  
Title PLANNING &  
ENGINEERING

**ACKNOWLEDGMENT**

State of California  
County of ALAMEDA )

On NOVEMBER 2, 2009 before me, SURESH DHARMANI, NOTARY PUBLIC  
(insert name and title of the officer)

personally appeared JAMES BURTON RICHARDS,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in  
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing  
paragraph is true and correct.

WITNESS my hand and official seal.

Signature *Suresh Dharmani* (Seal)



# ENVIRONMENTAL CERTIFICATION

DIST/CO/RTE/PM: 04/VAR/84/VAR

EA/Project No: 1J520

**A. Environmental Documentation**

- NEPA compliance type: CE  FONSI  Approval Date: 9/2/2009  
 EIS  Approval Date: \_\_\_\_\_ ROD Date: \_\_\_\_\_
- CEQA compliance type: CE  ND/MND  EIR  Approval Date: 9/2/2009
- Supplemental or new document needed (NEPA) Yes  No  Date: \_\_\_\_\_
- Addendum, Supplemental, or Subsequent (CEQA) Yes  No  Date: \_\_\_\_\_
- NEPA determination checked for validity/Re-evaluation Approval Date(s): 8/25/2014  
*(The Re-Validation form serves as the required consultation for all NEPA documentation including CEs in accordance with 23 CFR 771.129.)*

B. Do Environmental Construction Windows Apply? Yes  No

**C. Each of the following conditions must be true in order to complete this certification:**

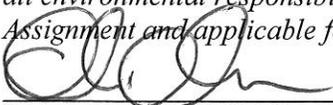
- All environmental commitments that belong in this PS&E are included.
- All actions in this PS&E are covered by the approved environmental documentation, which remains valid.
- All environmental permits, licenses, agreements, and certifications (PLACs) are complete. Project PLACs are listed below:

Agency	Type	Issue Date	Expiration Date
Bay Conservation and Development Commission	Permit	11/2/2009	6/20/2016

D. Environmental Commitment Record has been prepared: Date: 9/2009

E. Environmental Commitment Record has been updated: Yes  Date: 8/25/2014 No

*I certify that, for environmental purposes, this project is ready to list, and, as applicable, Caltrans has fully carried out all environmental responsibilities assumed under 23 USC 326 or 23 USC 327 for this project in accordance with NEPA Assignment and applicable federal laws, regulations, and policies.*

  
 \_\_\_\_\_  
 Environmental Branch Chief (sign name)  
 Oliver Iberien  
 \_\_\_\_\_  
 Environmental Branch Chief (print name)

8/26/14  
 \_\_\_\_\_  
 Date

Changes to this PS&E submittal shall be discussed with the signature authority and may require an updated environmental certification. This project may be advertised for contract award. If the project has not been advertised within twelve months of the date of Environmental Certification, this Environmental Certification expires and a new certification or update is required.

Certification expiration date is August 26, 2015.



Dist-County-Route:04-ALA/SM-84\_\_\_\_\_

Post Mile Limits:0.5-29.3\_\_\_\_\_

Project Type: Public Access Vista Point\_\_\_\_\_

Project EA: 1J520\_\_\_\_\_

Program Identification:414000249\_\_\_\_\_

Phase:  PID  
 PA/ED  
 PS&E

Regional Water Quality Control Board(s):Region 2 San Francisco Bay\_\_\_\_\_

1. Is the project required to consider incorporating Treatment BMPs? Yes  No
2. Does the project disturb 5 or more acres of soil? Yes  No
3. Does the project disturb more than 1 acre of soil and not qualify for the Rainfall Erosivity Waiver? Yes  No
4. Does the project potentially create permanent water quality impacts? Yes  No
5. Does the project require a notification of ADL reuse Yes  No

If the answer to any of the preceding questions is "Yes", prepare a Long Form – Storm Water Data Report.

Estimate Construction Start Date:06/30/2014\_\_\_\_\_ Construction Completion Date:06/30/2015\_\_\_\_\_

Separate Dewatering Permit (if yes, permit number) Yes  Permit # \_\_\_\_\_ No

Erosivity Waiver Yes  Date: \_\_\_\_\_ No

*This Short Form – Storm Water Data Report has been prepared under the direction of the following Licensed Person. The Licensed Person attests to the technical information contained herein and the data upon which recommendations, conclusions, and decisions are based. Professional Engineer or Landscape Architect stamp required at PS&E.*



[Stamp Required for PS&E only]

*Joaquin Pedrin*  
 \_\_\_\_\_  
 Joaquin Pedrin, Registered Project Engineer  
 Date 7/7/2014

*I have reviewed the stormwater quality design issues and find this report to be complete, current and accurate:*

*Norman Gonsalves*  
 \_\_\_\_\_  
 Norman Gonsalves, District/Regional SW Coordinator  
 Date \_\_\_\_\_

## 1. Project Description

The project is a compensatory mitigation project done in concurrence with the SF Bay Commission for the Dumbarton Bridge Renovation. This mitigation will reconstruct and restore wetlands.

The Dumbarton Bridge underwent a Seismic Retrofit to increase safety and structural resilience along a 2.85 mile portion of State Route (SR) 84 as it approaches and passes over southern San Francisco Bay. Work on the bridge involved strengthening the columns and their connections with pedestals, pile caps, and bent caps. It also installed seismic hinge joints. The visual impact of the project was significant enough that the BCDC insisted on compensatory mitigation.

This project will remove the asphalt concrete of the old bridge approaches and the defunct 1930's Dumbarton bridge. For the western side the project will replace removed asphalt concrete with shrubs and grasses and place boulders at water's edge. An amphitheatre, stair case and pedestrian bridge will be constructed as well.

On the eastern side the project will construct a parking lot, a pedestrian amphitheatre, and plant grasses and shrubs.

The project area is 0.97 acres with two site locations: the western approach (0.6acres) and the eastern approach (0.37 acres). The project disturbed soil area is 0.16 acres for the west approach and 0.21 acres for the east approach. Not all of the project is disturbed soil area because some of the area will be restriped asphalt pavement for parking and construction of an aerial pedestrian walkway.

The land bordering the San Francisco Bay has been highly modified by dredging, filling, and diking for salt evaporation, urban development, shipping channels, automotive transportation, and recreation.

The soil in the project area is mostly clay and silt.

The parent project has the following permits and agreements, which apply for this project too:

- BCDC Bay Fill Permit
- NPDES MS4 Permit
- RWQCB 401 Certification
- US Army Corps 404 Permit

In addition to the permits the project has had a BCDC Public Access Review and an Endangered Species Act Consultation

The surrounding land use is urban with industrial, residential, and commercial properties. The topography in the immediate region is flat with a range of hills to the east.

The project lies in Hydrological sub area 205.50 and 205.20 and drains into the San Francisco Bay South and the Lower San Francisco Bay.



## 2. Construction Site BMPs

A WPCP will be required because the project disturbs less than one acre of soil and because the project does not need to apply for a 401(it is already covered under its parent project).

The project will be required to incorporate construction site BMPs. The following are to be included as separate bid line items:

Job Site Management: This non-storm water discharge and waste management practice includes considerations for operations, illicit discharge detection and reporting, vehicle and equipment cleaning, vehicle and equipment fueling, material use, stockpile management, and concrete waste management.

Portable Concrete Washout: This waste management BMP contains procedures and practices that will minimize or eliminate the discharge of concrete waste materials to the storm drain systems or watercourses.

Temporary Fiber Roll: A fiber roll consists of straw, flax or similar materials inserted into a tube of netting. Fiber rolls are used as perimeter control for the project site and for stockpiles of soil and debris.

Street Sweeping: This tracking control BMP will provide for a sweeper machine to be on site during construction. Grindings and soil will be swept up and collected to limit debris from entering receiving waters.

Silt Fence: This sediment control BMP is a temporary linear sediment barrier of permeable fabric designed to intercept and slow the flow of sediment-laden sheet flow runoff. Silt fences allow sediment to settle from runoff before water leaves the construction site.

It is assumed that the project will produce significant quantities of construction debris from removal of asphalt concrete. It is assumed that the project will stockpile this waste on site until it is removed. Our office recommends temporary cover and stockpile management to prevent sediment from entering into the bay.

## 3. Required Attachments

Vicinity Map

Evaluation Documentation Form

District 4 Memo of (Construction) Concurrence

## Evaluation Documentation Form

DATE: 06/30/2014 \_\_\_\_\_

Project EA: 1J520 \_\_\_\_\_

NO.	CRITERIA	YES ✓	NO ✓	SUPPLEMENTAL INFORMATION FOR EVALUATION
1.	Begin Project Evaluation regarding requirement for consideration of Treatment BMPs	✓		See Figure 4-1, Project Evaluation Process for Consideration of Permanent Treatment BMPs. Go to 2
2.	Is this an emergency project?		✓	If <b>Yes</b> , go to 10. If <b>No</b> , continue to 3.
3.	Have TMDLs or other Pollution Control Requirements been established for surface waters within the project limits? Information provided in the water quality assessment or equivalent document.		✓	If <b>Yes</b> , contact the District/Regional NPDES Coordinator to discuss the Department's obligations under the TMDL (if Applicable) or Pollution Control Requirements, go to 9 or 4.  _____ (Dist./Reg. SW Coordinator initials) If <b>No</b> , continue to 4.
4.	Is the project located within an area of a local MS4 Permittee?	✓		If <b>Yes</b> . (ALA/SM), go to 5. If <b>No</b> , document in SWDR go to 5.
5.	Is the project directly or indirectly discharging to surface waters?	✓		If <b>Yes</b> , continue to 6. If <b>No</b> , go to 10.
6.	Is it a new facility or major reconstruction?		✓	If <b>Yes</b> , continue to 8. If <b>No</b> , go to 7.
7.	Will there be a change in line/grade or hydraulic capacity?		✓	If <b>Yes</b> , continue to 8. If <b>No</b> , go to 10.
8.	Does the project result in a <u>net increase of one acre or more of new impervious surface</u> ?		✓	If <b>Yes</b> , continue to 9. If <b>No</b> , go to 10.  _____ (Net Increase New Impervious Surface)
9.	Project is required to consider approved Treatment BMPs.			See Sections 2.4 and either Section 5.5 or 6.5 for BMP Evaluation and Selection Process. Complete Checklist T-1 in this Appendix E.
10.	Project is not required to consider Treatment BMPs. JRW (Dist./Reg. Design SW Coord. Initials) _____(Project Engineer Initials) July 29 2014 (Date)	✓		Document for Project Files by completing this form, and attaching it to the SWDR.

1 See Figure 4-1, Project Evaluation Process for Consideration of Permanent Treatment BMPs



## Construction Site BMP Consideration Form

DATE: 06/30/2014 \_\_\_\_\_

Project EA: 1J520 \_\_\_\_\_

Project Evaluation Process for the Consideration of Construction Site BMPs

NO.	CRITERIA	YES ✓	NO ✓	SUPPLEMENTAL INFORMATION
1.	Will construction of the project result in areas of disturbed soil as defined by the Project Planning and Design Guide (PPDG)?	✓		If Yes, Construction Site BMPs for Soil Stabilization (SS) will be required. Complete CS-1, Part 1. Continue to 2. If No, Continue to 3.
2.	Is there a potential for disturbed soil areas within the project to discharge to storm drain inlets, drainage ditches, areas outside the right-of-way, etc?	✓		If Yes, Construction Site BMPs for Sediment Control (SC) will be required. Complete CS-1, Part 2. Continue to 3.
3.	Is there a potential for sediment or construction related materials and wastes to be tracked offsite and deposited on private or public paved roads by construction vehicles and equipment?	✓		If Yes, Construction Site BMPs for Tracking Control (TC) will be required. Complete CS-1, Part 3. Continue to 4.
4.	Is there a potential for wind to transport soil and dust offsite during the period of construction?		✓	If Yes, Construction Site BMPs for Wind Erosion Control (WE) will be required. Complete CS-1, Part 4. Continue to 5.
5.	Is dewatering anticipated or will construction activities occur within or adjacent to a live channel or stream?		✓	If Yes, Construction Site BMPs for Non-Storm Water Management (NS) will be required. Complete CS-1, Part 5. Continue to 6.
6.	Will construction include saw-cutting, grinding, drilling, concrete or mortar mixing, hydro-demolition, blasting, sandblasting, painting, paving, or other activities that produce residues?	✓		If Yes, Construction Site BMPs for Non-Storm Water Management (NS) will be required. Complete CS-1, Parts 5 & 6. Continue to 7.
7.	Are stockpiles of soil, construction related materials, and/or wastes anticipated?		✓	If Yes, Construction Site BMPs for Waste Management and Materials Pollution Control (WM) will be required. Complete CS-1, Part 6. Continue to 8.
8.	Is there a potential for construction related materials and wastes to have direct contact with precipitation; stormwater run-on, or stormwater runoff; be dispersed by wind; be dumped and/or spilled into storm drain systems?	✓		If Yes, Construction Site BMPs for Waste Management and Materials Pollution Control (WM) will be required. Complete CS-1, Part 6. Continue to 9.
9.	End of checklist.	✓		Document for Project Files by completing this form, and attaching it to the SWDR.

\_\_\_\_\_  
PE to initialize after concurrence with Construction (PS&E only)

7/10/2014  
Date



## Memorandum

*Flex your power!  
Be energy efficient!*

**To:** NORMAN GONSALVES  
District Storm Water Coordinator  
Office of Water Quality

**Date:** February 7, 2011

**File:**

**From:** DEPARTMENT OF TRANSPORTATION - District 4  
Office of Construction Environmental Engineering Support

**Subject:** Division of Construction Concurrence with Storm Water Data Reports for WPCP Projects

This memo provides concurrence with your office's determination on Storm Water Data Reports for those projects that only require a Water Pollution Control Program (WPCP). However, WPCP projects that are located in environmentally sensitive areas or over a water body will still require review by my office.

The Office of Construction Environmental Engineering Support will review and provide input to all projects requiring a Storm Water Pollution Prevention Plan (SWPPP). Please ensure that adequate review time is provided for each of these projects.

If you have any comments or questions regarding this concurrence, please contact me at (510) 867-6007.

Thank You.

DRAGOMIR BOGDANIĆ, PE  
Senior Transportation Engineer  
Dist 4 Construction Storm Water Coordinator

<b>Construction Site BMPs</b>		
<b>Checklist CS-1, Part 1</b>		
Prepared by: _____	Date: _____	District-Co-Route: _____
PM : _____	Project ID (or EA): _____	RWQCB: _____

**Soil Stabilization**

General Parameters

1. How many rainy seasons are anticipated between begin and end of construction? \_\_\_\_\_ 1 \_\_\_\_\_
2. What is the total disturbed soil area for the project? (ac) \_\_\_\_\_ 0.37 \_\_\_\_\_
  - (a) How much of the project DSA consists of slopes 4:1 (h:v) or flatter? (ac) \_\_\_\_\_ 0.37 \_\_\_\_\_
  - (b) How much of the project DSA consists of 4:1 (h:v) < slopes < 2:1 (h:v)? (ac) \_\_\_\_\_ 0 \_\_\_\_\_
  - (c) How much of the project DSA consists of slopes 2:1 (h:v) and steeper? (ac) \_\_\_\_\_ 0 \_\_\_\_\_
  - (d) How much of the project DSA consists of slopes with slope lengths longer than 20 ft? (ac) \_\_\_\_\_ 0 \_\_\_\_\_
3. What rainfall area does the project lie within? (Refer to Table 2-1 of the Construction Site Best Management Practices Manual ) \_\_\_\_\_ 2 \_\_\_\_\_
4. Review the required combination of temporary soil stabilization and temporary sediment controls and barriers for area, slope inclinations, rainy and non-rainy season, and active and non-active disturbed soil areas. (Refer to Tables 2-2, and 2-3 of the Construction Site Best Management Practices Manual for Rainfall Area requirements.)  Complete

Scheduling (SS-1)

5. Does the project have a duration of more than one rainy season and have disturbed soil area in excess of 25 acres?  Yes  No
  - (a) Include multiple mobilizations (Move-in/Move-out) as a separate contract bid line item to implement permanent erosion control or revegetation work on slopes that are substantially complete. (Estimate at least 6 mobilizations for each additional rainy season. Designated Construction Representative may suggest an alternate number of mobilizations.)  Complete
  - (b) Edit Order of Work specifications for permanent erosion control or revegetation work to be implemented on slopes that are substantially complete.  Complete

- (c) Edit permanent erosion control or revegetation specifications to require seeding and planting work to be performed when optimal.  Complete

Preservation of Existing Vegetation (SS-2)

- 6. Do Environmentally Sensitive Areas (ESAs) exist within or adjacent to the project limits? (Verify the completion of DPP-1, Part 5)  Yes  No
  - (a) Verify the protection of ESAs through delineation on all project plans.  Complete
  - (b) Protect from clearing and grubbing and other construction disturbance by enclosing the ESA perimeter with high visibility plastic fence or other BMP.  Complete
- 7. Are there areas of existing vegetation (mature trees, native vegetation, landscape planting, etc.) that need not be disturbed by project construction? Will areas designated for proposed treatment BMPs need protection (infiltration characteristics, vegetative cover, etc.)? (Coordinate with District Environmental and Construction to determine limits of work necessary to preserve existing vegetation to the maximum extent practicable.)  Yes  No
  - (a) Designate as outside of limits of work (or designate as ESAs) and show on all project plans.  Complete
  - (b) Protect with high visibility plastic fence or other BMP.  Complete
- 8. If yes for 6, 7, or both, then designate ESA fencing as a separate contract bid line item, *if not already incorporated as part of design pollution prevention work (See DPP-1, Part 5).*  Complete

Slope Protection

- 9. Provide a soil stabilization BMP(s) appropriate for the DSA, slope steepness, slope length, and soil erodibility. (Consult with District/Regional Landscape Architect.)
  - (a) Select SS-3 (Hydraulic Mulch), SS-4 (Hydroseeding), SS-5 (Soil Binders), SS-6 (Straw Mulch), SS-7 (Geotextiles, Mats, Plastic Covers, and Erosion Control Blankets), SS-8 (Wood Mulching), other BMPs or a combination to cover the DSA throughout the project's rainy season.  Complete
  - (b) Increase the quantities by 25% for each additional rainy season. (Designated Construction Representative may suggest an alternate increase.)  Complete
  - (c) Designate as a separate contract bid line item.  Complete

Slope Interrupter Devices

10. Provide slope interrupter devices for all slopes with slope lengths equal to or greater than of 20 ft in length. (Consult with District/Regional Landscape Architect and Designated Construction Representative.)
- (a) Select SC-5 (Fiber Rolls) or other BMPs to protect slopes throughout the project's rainy season.  Complete
  - (b) For slope inclination of 4:1 (h:v) and flatter, SC-5 (Fiber Rolls) or other BMPs shall be placed along the contour and spaced 20 ft on center.  Complete
  - (c) For slope inclination between 4:1 (h:v) and 2:1 (h:v), SC-5 (Fiber Rolls) or other BMPs shall be placed along the contour and spaced 15 ft on center.  Complete
  - (d) For slope inclination of 2:1 (h:v) and greater, SC-5 (Fiber Rolls) or other BMPs shall be placed along the contour and spaced 10 ft on center.  Complete
  - (e) Increase the quantities by 25% for each additional rainy season. (Designated Construction Representative may suggest alternate increase.)  Complete
  - (f) Designate as a separate contract bid line item.  Complete

Channelized Flow

11. Identify locations within the project site where concentrated flow from stormwater runoff can erode areas of soil disturbance. Identify locations of concentrated flow that enters the site from outside of the right-of-way (off-site run-on).  Complete
- (a) Utilize SS-7 (Geotextiles, Mats, Plastic Covers, and Erosion Control Blankets), SS-9 (Earth Dikes/Swales, Ditches), SS-10 (Outlet Protection/Velocity Dissipation), SS-11 (Slope Drains), SC-4 (Check Dams), or other BMPs to convey concentrated flows in a non-erosive manner.  Complete
  - (b) Designate as a separate contract bid line item.  Complete



<p><b>Construction Site BMPs</b></p> <p><b>Checklist CS-1, Part 2</b></p> <p>Prepared by: Jonathan Wellen__Date:06/30/2014_____District-Co-Route:04-ALA/SM-84_____</p> <p>PM :0.5-29.3__Project EA: 1J520_____RWQCB: Region 2 San Francisco_____</p>
--

**Sediment Control**

Perimeter Controls - Run-off Control

1. Is there a potential for sediment laden sheet and concentrated flows to discharge offsite from runoff cleared and grubbed areas, below cut slopes, embankment slopes, etc.? Yes No
  - (a) Select linear sediment barrier such as SC-1 (Silt Fence), SC-5 (Fiber Rolls), SC-6 (Gravel Bag Berm), SC-8 (Sand Bag Barrier), SC-9 (Straw Bale Barrier), or a combination to protect wetlands, water courses, roads (paved and unpaved), construction activities, and adjacent properties. (Coordinate with District Construction for selection and preference of linear sediment barrier BMPs.) Complete
  - (b) Increase the quantities by 25% for each additional rainy season. (Designated Construction Representative may suggest an alternate increase.) Complete
  - (c) Designate as a separate contract bid line item. Complete

Perimeter Controls - Run-on Control

2. Do locations exist where sheet flow upslope of the project site and where concentrated flow upstream of the project site may contact DSA and construction activities? Yes No
  - (a) Utilize linear sediment barriers such as SS-9 (Earth Dike/Drainage Swales and Lined Ditches), SC-5 (Fiber Rolls), SC-6 (Gravel Bag Berm), SC-8 (Sand Bag Barrier), SC-9 (Straw Bale Barrier), or other BMPs to convey flows through and/or around the project site. (Coordinate with District Construction for selection and preference of perimeter control BMPs.) Complete
  - (b) Designate as a separate contract bid line item. Complete

Storm Drain Inlets

- 3. Do existing or proposed drainage inlets exist within the project limits? Yes No
  - (a) Select SC-10 (Storm Drain Inlet Protection) to protect municipal storm drain systems or receiving waters wetlands at each drainage inlet. (Coordinate with District Construction for selection and preference of inlet protection BMPs.) Complete
  - (b) Designate as a separate contract bid line item. Complete
- 4. Can existing or proposed drainage inlets utilize an excavated sediment trap as described in SC-10 (Storm Drain Inlet Protection- Type 2)? Yes No
  - (a) Include with other types of SC-10 (Storm Drain Inlet Protection). Complete

Sediment/Desilting Basin (SC-2)

- 5. Does the project lie within a Rainfall Area where the required combination of temporary soil stabilization and sediment control BMPs includes desilting basins? (Refer to Tables 2-1, 2-2, and 2-3 of the Construction Site Best Management Practices Manual for Rainfall Area requirements.) Yes No
  - (a) Consider feasibility for desilting basin allowing for available right-of-way within the project limits, topography, soil type, disturbed soil area within the watershed, and climate conditions. Document if the inclusion of sediment/desilting basins is infeasible. Complete
  - (b) If feasible, design desilting basin(s) per the guidance in SC-2 Sediment/ Desilting Basins of the Construction Site BMP Manual to maximize capture of sediment-laden runoff. Complete  
Designate as a separate contract bid item. Complete
- 6. Is ATS to be used for controlling sediment? Yes No
  - (a) If "yes", then will desilting basin or other means of natural storage be used? Yes No
  - (b) If "no", then plan for storage tanks sufficient to hold treatment volume. Complete
- 7. Will the project benefit from the early implementation of proposed permanent Treatment BMPs? (Coordinate with District Construction.) Yes No
  - (a) Edit Order of Work specifications for permanent treatment BMP work to be implemented in a manner that will allow its use as a construction site BMP. Complete

Sediment Trap (SC-3)

- 8. Can sediment traps be located to collect channelized runoff from disturbed soil areas prior to discharge? Yes No
  - (a) Design sediment traps in accordance with the Construction Site BMP Manual. Complete
  - (b) Designate as a separate contract bid line item. Complete

<p><b>Construction Site BMPs</b></p> <p><b>Checklist CS-1, Part 3</b></p> <p>Prepared by: Jonathan Wellen ___ Date: 06/30/2014 ___ District-Co-Route: 04-ALA/SM-84 ___</p> <p>PM : 0.5-29.3 ___ Project EA: 1J520 ___ RWQCB: Region 2 San Francisco ___</p>
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**Tracking Controls**

Stabilized Construction Entrance/Exit (TC-1)

- 1. Are there points of entrance and exit from the project site to paved roads where mud and dirt could be transported offsite by construction equipment? (Coordinate with District Construction for selection and preference of tracking control BMPs.)  Yes  No
- (a) Identify and designate these entrance/exit points as stabilized construction entrances (TC-1).  Complete
- (b) Designate as a separate contract bid line item.  Complete

Tire/Wheel Wash (TC-3)

- 1. Are site conditions anticipated that would require additional or modified tracking controls such as entrance/outlet tire wash? (Coordinate with District Construction.)  Yes  No
- Designate as a separate contract bid line item.  Complete

Stabilized Construction Roadway (TC-2)

- 3. Are temporary access roads necessary to access remote construction activity locations or to transport materials and equipment? (In addition to controlling dust and sediment tracking, access roads limit impact to sensitive areas by limiting ingress, and provide enhanced bearing capacity.) (Coordinate with District Construction.)  Yes  No
- (a) Designate these temporary access roads as stabilized construction roadways (TC-2).  Complete
- (b) Designate as a separate contract bid line item.  Complete

Street Sweeping and Vacuuming (SC-7)

- 1. Is there a potential for tracked sediment or construction related residues to be transported offsite and deposited on public or private roads? (Coordinate with District Construction for preference of including street sweeping and vacuuming with tracking control BMPs.)  Yes  No
- Designate as a separate contract bid line item.  Complete

<p><b>Construction Site BMPs</b></p> <p><b>Checklist CS-1, Part 4</b></p> <p>Prepared by: Jonathan Wellen __ Date: 06/30/2014 __ District-Co-Route: 04-ALA/SM-84 __</p> <p>PM : 0.5-29.3 __ Project EA: 1J520 __ RWQCB: Region 2 San Francisco __</p>
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**Wind Erosion Controls**

Wind Erosion Control (WE-1)

1. Is the project located in an area where standard dust control practices in accordance with Standard Specifications, Section 10: Dust Control, are anticipated to be inadequate during construction to prevent the transport of dust offsite by wind? *(Note: Dust control by water truck application is paid for through the various items of work. Dust palliative, if it is included, is paid for as a separate item.)*

Yes     No
  
- (a) Select SS-3 (Hydraulic Mulch), SS-4 (Hydroseeding), SS-5 (Soil Binders), SS-7 (Geotextiles, Mats, Plastic Covers, and Erosion Control Blankets), SS-8 (Wood Mulching) or a combination to cover the DSA subject to wind erosion year-round, especially when significant wind and dry conditions are anticipated during project construction. (Coordinate with District Construction for selection and preference of wind erosion control BMPs.)
 

Complete
  
- (b) Designate as a separate contract bid line item.
 

Complete



<p><b>Construction Site BMPs</b></p> <p><b>Checklist CS-1, Part 5</b></p> <p>Prepared by: <u>Jonathan Wellen</u> Date: <u>06/30/2014</u> District-Co-Route: <u>04-ALA/SM-84</u></p> <p>PM : <u>0.5-29.3</u> Project EA: <u>1J520</u> RWQCB: <u>Region 2 San Francisco</u></p>
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**Non-Storm Water Management**

Temporary Stream Crossing (NS-4) & Clear Water Diversion (NS-5)

- 1. Will construction activities occur within a waterbody or watercourse such as a lake, wetland, or stream? (Coordinate with District Construction for selection and preference for stream crossing and clear water diversion BMPs.) Yes No
- (a) Select from types offered in NS-4 (Temporary Stream Crossing) to provide access through watercourses consistent with permits and agreements.<sup>1</sup> Complete
- (b) Select from types offered in NS-5 (Clear Water Diversion) to divert watercourse consistent with permits and agreements.<sup>1</sup> Complete
- (c) Designate as a separate contract bid line item(s). Complete

Other Non-Storm Water Management BMPs

- 2. Are construction activities anticipated that will generate wastes or residues with the potential to discharge pollutants? Yes No
- (a) Identify potential pollutants associated with the anticipated construction activity and select the corresponding BMP such as NS-1 (Water Conservation Practices), NS-2 (Dewatering Operations), NS-3 (Paving and Grinding Operations), NS-7 (Potable Water/Irrigation), NS-8 (Vehicle and Equipment Cleaning), NS-9 (Vehicle and Equipment Fueling), NS-10 (Vehicle and Equipment Maintenance), NS-11 (Pile Driving Operations), NS-12 (Concrete Curing), NS-13 (Material and Equipment Use Over Water), NS-14 (Concrete Finishing), and NS-15 (Structure Demolition/Removal Over or Adjacent to Water).<sup>1</sup> Complete
- (b) Verify that costs for non-stormwater management BMPs are identified in the contract documents. Designate BMP as a separate contract bid line item if the requirements in Construction Site Management (SSP 07-346) are anticipated to be inadequate or if requested by Construction. Complete

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<sup>1</sup> Coordinate with District Environmental for consistency with US Army Corps of Engineers 404 and 401 permits and Dept. of Fish and Game 1601 Streambed alteration Agreements.

<b>Construction Site BMPs</b>	
<b>Checklist CS-1, Part 6</b>	
Prepared by: Jonathan Wellen_____	Date: 06/30/2014_____
District-Co-Route: 04-ALA/SM-84	
PM : 0.5-29.3_____	Project EA: 1J520_____
RWQCB: Region 2 San Francisco_____	

**Waste Management & Materials Pollution Control**

Concrete Waste Management (WM-8)

1. Does the project include concrete placement or mortar mixing? Yes   No
- (a) Select from types offered in WM-8 (Concrete Waste Management) to provide concrete washout facilities. In addition, consider portable concrete washouts and vendor supplied concrete waste management services. (Coordinate with District Construction for selection and preference of waste management and materials pollution control BMPs.) Complete
- (b) Designate as a separate contract bid line item if the quantity of concrete waste and washout are anticipated to exceed 5.2 yd<sup>3</sup> or if requested by Construction. Complete

Other Waste Management and Materials Pollution Controls

2. Are construction activities anticipated that will generate wastes or residues with the potential to discharge pollutants? Yes   No
- (a) Identify potential pollutants associated with the anticipated construction activity and select the corresponding BMP such as WM-1 (Material Delivery and Storage), WM-2 (Material Use), WM-4 (Spill Prevention and Control), WM-5 (Solid Waste Management), WM-6 (Hazardous Waste Management), WM-7 (Contaminated Soil Management), WM-9 (Sanitary/Septic Waste Management) and WM-10 (Liquid Waste Management) Complete
- (b) Verify that costs for waste management and materials pollution control BMPs are identified in the contract documents. Designate BMP as a separate contract bid line item if the requirements in Construction Site Management (SSP 07-346) are anticipated to be inadequate or if requested by Construction. Complete

Temporary Stockpiles (Soil, Materials, and Wastes)

3. Are stockpiles of soil, etc. anticipated during construction? Yes   No
- (a) Select WM-3 (Stockpile Management), SS-3 (Hydraulic Mulch), SS-4 (Hydroseeding), SS-5 (Soil Binders), SS-7 (Geotextiles, Mats, Plastic Covers, and Erosion Control Blankets), or a combination as appropriate to cover temporary stockpiles of soil, etc. Complete

- (b) Select linear sediment barrier such as SC-1 (Silt Fence), SC-5 (Fiber Rolls), SC-6 (Gravel Bag Berm), SC-8 (Sand Bag Barrier), SC-9 (Straw Bale Barrier), or a combination to encircle temporary stockpiles of soil, etc. (Coordinate with District Construction for selection and preference of BMPs related to stockpiles.)  Complete
- (c) Designate as a separate contract bid line item if the requirements in Construction Site Management (SSP 07-346) are anticipated to be inadequate or if requested by Construction.  Complete
- 4. Is there a potential for dust and debris from construction material (fill material, etc.) and waste (concrete, contaminated soil, etc.) stockpiles to be transported offsite by wind?  Yes     No

  - (a) Select SS-7, temporary cover, plastic sheeting or other BMP to cover stockpiles subject to wind erosion year-round, especially when significant wind and dry conditions are anticipated during project construction. (Coordinate with District Construction for selection and preference of wind erosion control BMPs.)  Complete
  - (b) Designate as a separate contract bid line item.  Complete

August 2014

# DUMBARTON BRIDGE PUBLIC ACCESS

EA 1J520

EFIS 0414000249

## VISUAL SIMULATIONS

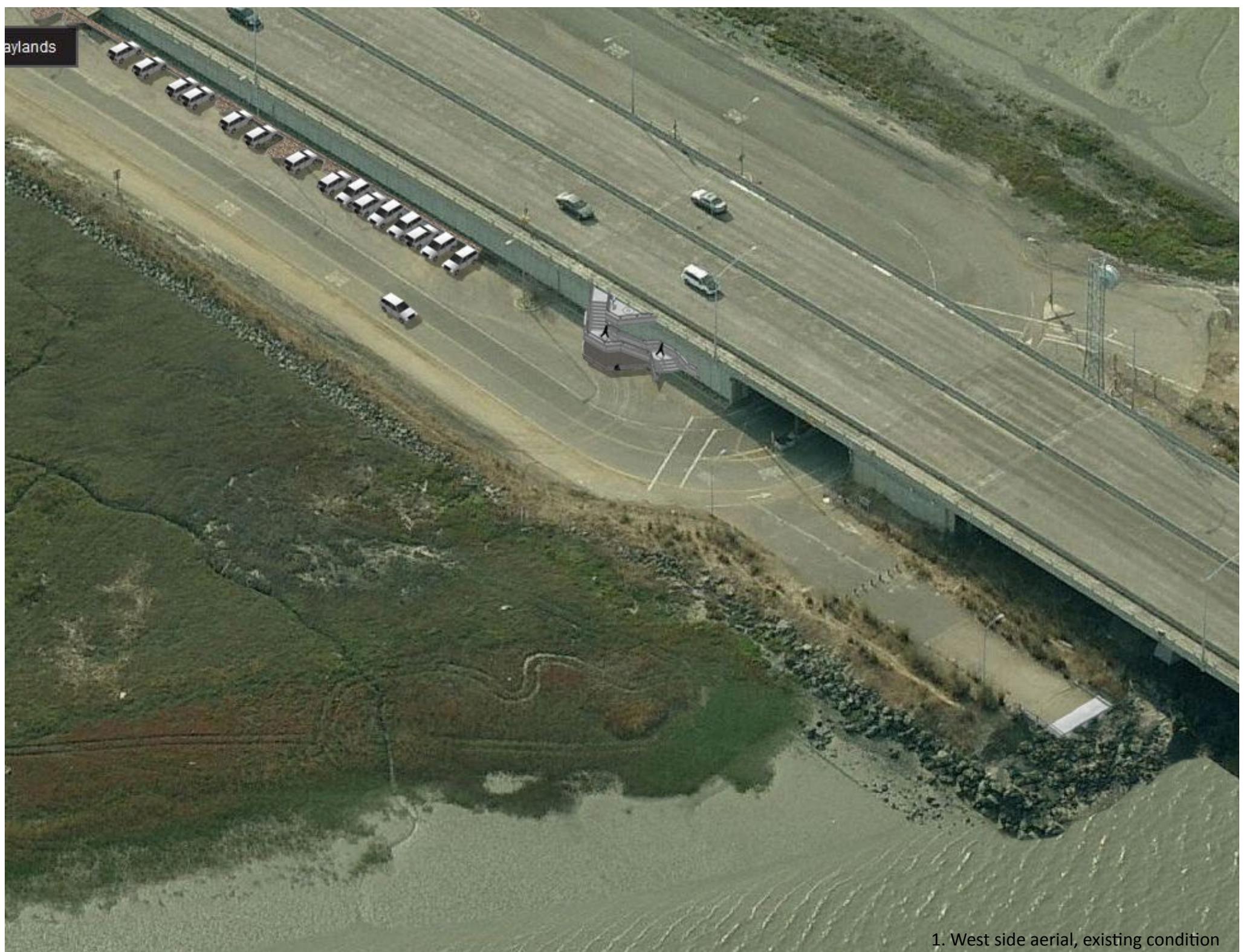
West side - Menlo Park, SM Co.

East side - Fremont, ALA Co.



1. West side aerial, existing condition
2. West side aerial, proposed condition
3. West side eye level, existing condition
4. West side eye level, proposed condition
5. East side aerial, existing condition
6. East side aerial, proposed condition
7. East side eye level, existing condition
8. East side eye level, proposed condition

aylands



1. West side aerial, existing condition

Baylands



2. West side aerial, proposed condition



3. West side eye level, existing condition



4. West side eye level, proposed condition



5. East side aerial, existing condition



6. East side aerial, proposed condition ©



06/20/2014

7. East side eye level, existing condition



8. East side eye level, proposed condition