

December 5, 2008

TO: Commissioners and Alternates
FROM: Will Travis, Executive Director (415/352-3653, travis@bcdc.ca.gov)
Bob Batha, Chief of Permits/Staff Biologist (415/352-3612 bobb@bcdc.ca.gov)
SUBJECT: **Staff Report and Recommendation on Revisions to Regionwide and Abbreviated Regionwide Permits**
(For Commission consideration on December 18, 2008)

Summary and Recommendation

The staff recommends that the Commission revise the Commission's Regionwide and Abbreviated Regionwide Permits to advance the Commission's goal of making its regulatory process more efficient, effective, and expeditious. These permits were first adopted by the Commission on December 4, 1986 and subsequently revised on April 16, 1996 to create a class of permits already issued by the Commission for projects that are fully consistent with the Commission's laws and policies and raise no issues. To obtain a Regionwide or Abbreviated Regionwide Permit, applicants fill out a simplified notice of intent to proceed. For Regionwides, the notice is a slightly shorter version of the Commission's permit application and differs from it in not requiring local government approval or environmental documentation. For Abbreviated Regionwides, the notice is a much condensed version of the Commission's permit application. The staff reviews the form to determine whether the project qualifies for a Regionwide or Abbreviated Regionwide permit and if it does, concurs that a permit has already been approved by the Commission for the activity and issues the appropriate permit.

Staff Recommendation

The staff recommends that the Commission amend its Regionwide and Abbreviated Regionwide Permits as follows:

1. **Authorize Routine, In-kind Maintenance.** Currently Regionwide and Abbreviated Regionwide permits authorize one time repairs. The proposed amendments would allow routine, on-going, in-kind repairs and maintenance for as long as the authorized facilities exist. A new special condition has been included specifying that such repairs are



Making San Francisco Bay Better

limited to in-kind repairs, shall only use material approved for use in San Francisco Bay, and shall occur only during those months of the year that avoid or minimize potential adverse impacts to fish and wildlife.

2. **Consolidate Related Regionwide Permits.** Several of the existing regionwide permits authorize closely related facilities and activities. The staff recommends combining these permits as follows:
 - a. Existing Regionwide Permit No. 2 (reconstruction and replacement and incidental additions to existing currently used outfall pipes, service lines, utility cables, and pipelines) has been combined with existing Regionwide Permit No. 11 (installation of new service lines, utility cables and similar facilities) into new Regionwide Permit No. 2.
 - b. Existing Regionwide Permit No. 3 (reconstruction and replacement of pilings, boat docks on pilings, boat slips and other pile-supported structures being used for water-oriented purposes, and wildlife habitat improvement structures such as fish screens and ladders) has been combined with existing Regionwide Permit No. 7 (construction of a floating dock or fixed pier for mooring a boat that would not exceed a total of 1,000 square feet, where no pile-supported portion is wider than eight feet, and where such dock would not raise public access issues or adversely impact Bay-related resources) into new Regionwide Permit No. 3.
 - c. Existing Regionwide Permit No. 13 (placement of a temporary structure in the Bay for 180 days or less) has been combined with existing Abbreviated Regionwide Permit No. 3 (placement of a temporary structure within the shoreline band for 180 days or less) into a new Abbreviated Regionwide Permit No. 3.
3. **Update Special and Standard Conditions to Reflect Current Commission Policies.** Changes to the Standard Conditions since the last revisions to Regionwide Permits include the following:
 - a. A title has been given to each standard condition.
 - b. The standard condition advising permittee(s) that the placement of fill does not change the Commission's underlying jurisdiction has been combined with the standard condition advising that the Commission's Bay jurisdiction follows the tide for projects that introduce tidal action into an area. The new condition is entitled "Commission Jurisdiction."
 - c. A condition advising permittee(s) that the Commission's jurisdiction may change as the result of natural processes.
 - d. The condition requiring work to be performed so as to minimize muddying of waters and waterproofing of dikes has been deleted because it duplicates a special condition (Construction Operations and Debris Removal) and references dikes for which no regionwide permit applies.
 - e. The condition specifying that the permittee(s) must return the executed permit within ten days (as opposed to 14 days in the existing regionwide standard conditions).

Changes to Special Conditions include:

- a. Inclusion of a condition for maintenance and replacement of authorized facilities.
- b. Inclusion of a condition limiting the sound pressure levels generated from pile driving associated with projects authorized by regionwide permits to less than 180 decibels to minimize impacts to fish.

- c. Inclusion of a condition specifying that work constructed must be built in conformance with the plans submitted as part of the application.
4. **Clarify the Criteria for Determining Whether a Project Qualifies for a Regionwide or Abbreviated Regionwide Permit.** Both Regionwide and Abbreviated Regionwide permits would be amended to make it clear that such permits are limited to sites that do not already have an existing BCDC permit and to projects that would not adversely impact the Bay, Bay resources that are scarce or have an abundance and diversity of fish, other aquatic organisms or wildlife (such as tidal marshes or eelgrass_beds), or existing or possible future visual or physical public access to and along the Bay from public access areas, public roads or pathways.
5. **Clarify the Distinction between Regionwide and Abbreviated Regionwide Permits.** The proposed amendments would clarify that abbreviated regionwide permits are for projects that involve routine repair and replacement of approximately 50 percent or less of a structure, whereas regionwide permits are for projects that involve a more substantial repair, replacement, reconstruction, or minor expansion of existing improvements, and certain specified classes of new structures.
6. **Change the Format of Both Regionwide and Abbreviated Permits to Clarify the Specific Activities Being Authorized by the Permit.** The proposed amendments would change the authorization section to mirror that of the Commission's administrative permits, clearly stating the project location address and the specific work authorized. The existing regionwide and abbreviated regionwide permits include a generic project location and description that has sometimes led to the impression that all activities listed, even those not applied for in their permit application, are authorized.
7. **Specify that Certain Related Activities Are Included in the Authorization.** The existing regionwide permits do not specifically authorize boat hoists, floating docks or mooring buoys (existing Regionwide Permit No. 7), or filling holes drilled for geotechnical, seismic, water quality, or monitoring purposes (existing regionwide permit Nos. 2 and 11, existing Abbreviated Regionwide Permit No. 3). Including such work in these permits will make these existing regionwide permits more clear.
8. **Expand Findings to Better Justify Certain Conditions Included in the Authorization.** Typically Commission permits have findings that fully explain the conditions included in the authorization to assure the project's consistency with the Commission's law and policies. The findings of the regionwide permits have been expanded to provide such an explanation.
9. **Include the Enforcement Finding.** The Regionwide and Abbreviated Regionwide Permits would be amended to include the Enforcement Finding advising permittee(s) the possible fines they may incur if violate the terms of the permit.
10. **Reorganize the Order of the Special Condition.** The order of the special conditions would be reorganized to be consistent among Regionwide and Abbreviated Regionwide Permits. The new order follows that used in administrative and major permits and would facilitate staff review of the permits.



~~Building San Francisco Bay~~

**REGIONWIDE PERMIT NO. RWP-1
(As Amended Through December 18, 2008)
AMENDMENT NO. ONE
(Reconstruction, replacement and maintenance
of bulkheads and seawalls in the Bay, certain
waterways, managed wetlands, and shoreline
band)**

NOTICE OF INTENT TO PROCEED NO. NOI-__

[DATE]

ATTENTION: _____

Ladies and Gentlemen:

On December 4, 1986, the San Francisco Bay Conservation and Development Commission, by a vote of 21 affirmative, 0 negative, and 0 abstentions, approved the issuance of the original of this Regionwide Permit, ~~and~~ ~~On~~ April 18, 1996, the Commission, by a vote of 17 affirmative, 0 negative, and 0 abstentions, approved Amendment No. One of this Regionwide Permit. On _____, the Commission by a vote of _____ affirmative, _____ negative, and _____ abstentions, approved Amendment No. Two of this Regionwide Permit upon which your authorization is based:

I. Authorization

A. Subject to the conditions stated below, the permittee(s) is hereby authorized to do the following:

Location: Project Address.

~~Anywhere in the Bay, in certain waterways, within managed wetlands, and within the 100-foot shoreline band~~ (Moved to Findings)

Description: Authorized Project.

~~Reconstruction, and replacement of existing, currently used timber, steel, or concrete structural, shoreline protective works, such as bulkheads and seawalls, that do not involve any substantial enlargement or any substantial extension into the Bay.~~ (Moved to Findings)

B. This authority is limited to activities undertaken at a site where activities are not already authorized by another BCDC permit and to projects that would not adversely impact: (1) the Bay; (2) Bay resources such as those that are scarce or have an abundance and diversity of fish, other aquatic organisms or wildlife (such as tidal marshes or eelgrass beds); and (3) existing or

REGIONWIDE PERMIT NO. RWP-1
AMENDMENT NO. ONE
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possible future visual or physical public access to and along the Bay from public access areas.

roads and pathways. This authority is generally pursuant to and limited by your notice of intent to proceed under a Regionwide Permit dated _____, including its accompanying exhibits, any subsequent additions or modifications, and all conditions of this amended Regionwide Permit.

C. Work authorized herein must commence within ~~two~~ one years of the date of the transmittal of this amended Regionwide Permit by the Executive Director to you or the authorization of your work will lapse and become null and void. Such work must also be diligently pursued to completion and must be completed within ~~two~~ three years of commencement, or within three years of the date of transmittal of this amended Regionwide Permit to you, whichever is earlier, unless an extension of time is granted by the Executive Director.

II. Special Conditions

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

A. **Limit of Work.** Authorized work shall be built in general conformance with the plans submitted as part of the application.

B. **Construction Operations and Debris Removal.** All construction operations shall be performed so as to minimize turbidity and the roiling of waters, to prevent ~~timbers, floats, or other~~ any construction materials from falling, washing, or blowing into any tidal areas of the Bay or drifting and presenting a navigation or pollution hazard. In the event that any such material is placed or escapes into any area subject to tidal action of the Bay, the permittee(s), its assigns or successors in interest, or the owner of the improvements shall immediately retrieve and remove such material at its expense. All construction debris shall be removed to an authorized location outside the Commission's jurisdiction.

C. **Habitat Marsh Protection.** The work authorized by this amended Regionwide Permit shall be performed so as to prevent any significant adverse impact on any tidal marsh, tidal flat, eelgrass habitat or other sensitive ~~wetland~~ Bay resources. If any unforeseen adverse impacts occur to any such area as a result of the activities authorized herein, the permittee(s) shall restore the area to or improve the area above its previous condition, which may include returning the disturbed area to its original elevation and soil composition and, if the area does not revegetate to its former condition within one year, seeding all disturbed areas with appropriate ~~marsh~~ vegetation.

D. **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.

E. **Maintenance and Replacement of Authorized Facilities.** Any in-kind repairs and maintenance of an authorized shoreline protective work shall only use construction material that is approved by the Commission in consultation with the Regional Water Quality Control Board and the California Department of Fish and Game for use in San Francisco Bay.

Construction shall only occur during those months of the year, as approved by the Commission in consultation with resource agencies such as U.S. Fish and Wildlife Service, Department of Fish and Game and National Marine Fisheries Service, that avoid or minimize potential impacts to fish and wildlife. BCDC staff should be contacted to confirm current restrictions.

F. **Abandonment.** If, at any time, the Commission determines that the improvements authorized herein have been abandoned for a period of two years or more, or have deteriorated to the point that public health, safety or welfare is adversely affected, the Commission may require that the improvements be removed by the permittee(s), its assigns or successors in interest, or by the owner of the improvements within 60 days or such other reasonable time as the Commission may direct.

G. **Notice to Contractor.** The permittee(s) shall provide a copy of this amended Regionwide Permit to any contractor or person working in concert with the permittee(s) to carry out the activities authorized herein and shall point out the special conditions contained herein.

III. Findings and Declarations

The Commission hereby finds, declares, and certifies that:

A. **Consistency with Commission Regulations.** The projects authorized by this amended Regionwide Permit ~~involve~~ include reconstruction, replacement and maintenance of existing, currently-used timber, steel, or concrete, shoreline protective works, such as bulkheads and seawalls, that do not involve any substantial enlargement or any substantial extension into the Bay, into certain waterways, managed wetlands or the 100-foot shoreline band. Such projects have been authorized by the Commission as qualifying for a Regionwide Permit because they involve repairs to protective works in the minimum amount necessary to stabilize existing dikes and banks, as defined in Regulation Sections 10601(a)(2), 10601(a)(6), and 10601(b)(1), 10601(b)(5) and 10601(c)(2) or activities similar to those described above, as defined in Regulation Section 10601(e)(3), and thus are equivalent to a “minor repair and improvement” and qualify for authorization under a Regionwide Permit that may be issued by the Commission and approved by the Executive Director, pursuant to Government Code Section 66632(f) and Regulation Sections 11700 and 11713.

B. **Consistency with McAteer-Petris Act and San Francisco Bay Plan.** The project authorized by this permit is consistent with the McAteer-Petris Act and with the *San Francisco Bay Plan* in that it will not adversely affect the Bay nor public access to and enjoyment of the Bay. Special conditions have been included to assure that project construction, materials and the improvements themselves will not adversely affect the Bay’s natural resources, water quality or navigation and that any deteriorated improvements will be removed if they adversely impact the Bay’s natural resources, water quality, or pose a navigation hazard, as required by the *San Francisco Bay Plan* policies on fish, other aquatic organisms, and wildlife, tidal marshes and tidal flats, water quality, and navigational safety.

C. **Consistency with Coastal Zone Management Act.** The 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.

D. Consistency with California Environmental Quality Act. California Public Resources Code Section 21084 provides that the California Environmental Quality Act (CEQA) guidelines shall include a list of classes of projects that have been determined not to have a substantial adverse impact on the environment and are therefore exempt from the requirements of CEQA. This list of “categorical exemptions” is located at 14 Cal. Admin. Code Sections 15300 through 15329. Section 15301 (Class 1) exempts the operation, repair, maintenance or minor alteration of existing public or private structures or facilities that involve negligible or no expansion of previous use. Section 15302 (Class 2) exempts the replacement or reconstruction of existing structures or facilities where the new structure will be located on the same site as the structure being replaced and will have substantially the same purpose and capacity as the replaced structure. The Commission’s own regulations provide that the Commission need not prepare an environmental assessment before it issues a permit for a project that falls within the list of categorically exempt activities (14 Cal. Admin. Code Section 11501). This amended Regionwide Permit is therefore categorically exempt because it authorizes only reconstruction and replacement of existing shoreline protective works that do not involve any substantial enlargement or any substantial extension into the Bay.

E. Listing with the Commission. The Commission staff will prepare a description and indicate the location of any project authorized under this amended Regionwide Permit, along with the name and address of the permittee(s), and attach such information to the listing of administrative permits, marsh development permits, and federal consistency actions that is sent to the Commission, ~~immediately~~ following the Executive Director’s approval of the project under this amended Regionwide Permit.

F. Enforcement Program and Civil Penalties. The Commission has an enforcement program that reviews its permits for compliance. The Commission may issue cease and desist and civil penalty orders if violations are discovered. The McAteer-Petris Act provides for the imposition of administrative civil penalties ranging from \$10 to \$2,000 per day up to a maximum of \$30,000 per violation. The Act also provides for the imposition of court-imposed civil penalties of up to \$30,000 in addition to any other penalties, penalties for negligent violations of between \$50 and \$5,000 per day, knowing and intentional penalties of between \$100 and \$10,000 per day, and exemplary penalties, which are supplemental penalties, in an amount necessary to deter future violations. In addition, anyone who places fill, extracts materials, or makes any substantial change in use of any water, land or structure within the area of the Commission’s jurisdiction without securing a permit from the Commission is guilty of a misdemeanor.

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 Regionwide Permit does not relieve the permittee(s) of any obligations imposed by State or Federal law, either statutory or otherwise.~~

~~B. Work must be performed in the precise manner and at the precise locations indicated in your notice of intent to proceed under a Regionwide Permit, as such may have been modified by the terms of the amended Regionwide Permit, and any plans approved in writing by the Executive Director.~~

~~C. 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(s) will be subject to the regulations of the Regional Water Quality Control Board in that region.~~

~~D. The rights, duties, and obligations contained in this amended Regionwide Permit are assignable. When the permittee(s) 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 Regionwide Permit, the permittee(s)/ 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 Regionwide Permit and agrees to be bound by the terms and conditions of the amended Regionwide Permit, and the assignee is accepted by the Executive Director as being reasonably capable of complying with the terms and conditions of the amended Regionwide Permit.~~

~~E. Unless otherwise provided in this amended Regionwide Permit, all the terms and conditions of this amended Regionwide Permit shall remain effective for so long as the amended Regionwide Permit remains in effect or for so long as any use or construction authorized by this amended Regionwide Permit exists, whichever is longer.~~

~~F. Unless otherwise provided in this amended Regionwide Permit, the terms and conditions of this amended Regionwide Permit shall bind all future owners and future possessors of any legal interest in the land and shall run with the land.~~

~~G. Unless otherwise provided in this amended Regionwide Permit, any work authorized herein shall be completed within the time limits specified in the amended Regionwide Permit, or, if no time limits are specified in the amended Regionwide Permit, within three years of the date of transmittal of the amended Regionwide Permit by the Executive Director to you. If the work is not completed by the date specified in the amended Regionwide Permit, or, if no date is specified, within three years from the date of the transmittal of the amended Regionwide Permit by the Executive Director to you, the authorization provided to you by this amended Regionwide Permit becomes null and void. If an authorization under this amended Regionwide Permit becomes null and void for a failure to comply with these time limitations, any fill placed in reliance on the authorization of this amended Regionwide Permit shall be removed by the permittee(s) or its assignee upon receiving written notification by or on behalf of the Commission to remove the fill.~~

~~H. Except as otherwise noted, violation of any of the terms of this amended Regionwide Permit shall be grounds for revocation of the authorization provided to you by this amended Regionwide Permit. The Commission may revoke any authorization of this amended Regionwide Permit for such violation after a public hearing held on reasonable notice to the~~

~~permittee(s) or its assignee if the amended Regionwide Permit has been effectively assigned. If an authorization under this amended Regionwide Permit is revoked, the Commission may determine, if it deems appropriate, that all or part of any fill or structures placed pursuant to the authorization under this amended Regionwide Permit shall be removed by the permittee(s) or its assignee if the amended Regionwide Permit has been assigned.~~

~~I. The authorization under this amended Regionwide Permit shall not take effect unless the permittee(s) executes the original of this amended Regionwide Permit and returns it to the Commission within fourteen days after the transmittal of the amended Regionwide Permit by the Executive Director to you. No work shall be done until the acknowledgment is duly executed and returned to the Commission.~~

~~J. Any area subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission under the McAteer-Petris Act at the time the authorization of the amended Regionwide 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 Regionwide Permit.~~

~~K. 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 Regionwide Permit, subject to tidal action shall become subject to the Commission's "bay" or "certain waterway" jurisdictions.~~

~~L. Unless the Commission directs otherwise, the authorization provided by this amended Regionwide Permit shall become null and void if any term, standard condition, or special condition of this amended Regionwide Permit shall be found illegal or unenforceable through the application of statute, administrative ruling, or court determination. If the authorization provided by this amended Regionwide Permit becomes null and void, any fill or structures placed in reliance on the authorization provided by this amended Regionwide Permit shall be subject to removal by the permittee(s) or its assignee if the amended Regionwide 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 Regionwide Permit shall not take effect unless the permittee(s) executes the original of this amended Regionwide Permit and returns it to the Commission within ten days after the date of the issuance of the amended Regionwide Permit. No work shall be done until the acknowledgment is duly executed and returned to the Commission.

B. **Permit Assignment.** The rights, duties, and obligations contained in this amended Regionwide Permit are assignable. When the permittee(s) 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 Regionwide Permit, the permittee(s)/ 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 Regionwide Permit and agrees to be bound by the terms and conditions of the amended Regionwide Permit, and the assignee is accepted by the Executive Director as being reasonably capable of complying with the terms and conditions of the amended Regionwide Permit.

C. Permit Runs With the Land. Unless otherwise provided in this amended Regionwide Permit, the terms and conditions of this amended Regionwide Permit shall bind all future owners and future possessors of any legal interest in the land and shall run with the land.

D. 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 Regionwide Permit does not relieve the permittee(s) of any obligations imposed by State or Federal law, either statutory or otherwise.

E. 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 Regionwide Permit and any plans approved in writing by or on behalf of the Commission.

F. Life of Authorization. Unless otherwise provided in this amended Regionwide Permit, all the terms and conditions of this amended Regionwide Permit shall remain effective for so long as the amended Regionwide Permit remains in effect or for so long as any use or construction authorized by this amended Regionwide Permit exists, whichever is longer.

G. 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 Regionwide 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 Regionwide 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 Regionwide Permit, subject to tidal action shall become subject to the Commission's "bay" jurisdiction.

H. Changes to the Commission's Jurisdiction as a Result of Natural Processes. This amended Regionwide Permit reflects the location of the shoreline of San Francisco Bay when the amended Regionwide Permit was issued. Over time, erosion, avulsion, accretion, subsidence, 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 Regionwide 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 Regionwide Permit shall be grounds for revocation. The Commission may revoke any permit for such violation after a public hearing held on

reasonable notice to the permittee(s) or its assignee if the permit has been effectively assigned. If the amended Regionwide 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 Regionwide Permit shall be removed by the permittee(s) or its assignee if the amended Regionwide Permit has been assigned.

J. Should Permit Conditions Be Found to be Illegal or Unenforceable. Unless the Commission directs otherwise, this amended Regionwide Permit shall become null and void if any term, standard condition, or special condition of this amended Regionwide Permit shall be found illegal or unenforceable through the application of statute, administrative ruling, or court determination. If this amended Regionwide Permit becomes null and void, any fill or structures placed in reliance on this amended Regionwide Permit shall be subject to removal by the permittee(s) or its assignee if the amended Regionwide 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.

K. Permission to Conduct Site Visit. The permittee(s) 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.



Bay Area Conservation and Development Commission

REGIONWIDE PERMIT NO. RWP-2
(As Amended Through December 18, 2008)
AMENDMENT NO. ONE
(Reconstruction, replacement, incidental
additions, and maintenance of service lines,
utility cables, pipelines; reconstruction of
outfalls, pipelines, utilities; and backfilling of
geotechnical or monitoring wells in the Bay,
certain waterways, managed wetlands, and
shoreline band)
NOTICE OF INTENT TO PROCEED NO. NOI _

[DATE]

ATTENTION: _____

Ladies and Gentlemen:

On March 19, 1992, the San Francisco Bay Conservation and Development Commission, by a vote of 17 affirmative, 0 negative, and 0 abstentions, approved the issuance of the original of this Regionwide Permit, and on April 18, 1996, the Commission, by a vote of 17 affirmative, 0 negative, and 0 abstentions, approved Amendment No. One of this Regionwide Permit. On _____, the Commission by a vote of _____ affirmative, _____ negative, and _____ abstentions, approved Amendment No. Two of this Regionwide Permit upon which your authorization is based:

I. Authorization

A. Subject to the conditions stated below, the permittee(s) is hereby authorized to do the following:

Location: Project Address.

Anywhere in the Bay, in certain waterways, within managed wetlands, and within the 100-foot shoreline band. (Moved to Findings)

Description: Authorized Project.

Reconstruction and replacement of, and incidental additions to, existing currently used outfall pipes, service lines, utility cables, pipelines, and similar facilities that do not involve any substantial enlargement or any substantial extension into the Bay. (Moved to

REGIONWIDE PERMIT NO. RWP-2
~~AMENDMENT NO. ONE~~
NOTICE OF INTENT TO PROCEED NO. NOI-__
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Findings)

B. This authority is limited to activities undertaken at a site where activities are not already authorized by another BCDC permit and to projects that would not adversely impact: (1) the Bay; (2) Bay resources such as those that are scarce or have an abundance and diversity of fish, other aquatic organisms or wildlife (such as tidal marshes or eelgrass beds); and (3) existing or possible future visual or physical public access to and along the Bay from public access areas, public roads and pathways. This authority is generally pursuant to and limited by your notice of intent to proceed under a Regionwide Permit dated _____, including its accompanying exhibits, any subsequent additions or modifications, and all conditions of this amended Regionwide Permit.

C. Work authorized herein must commence within ~~two~~ one years of the date of the transmittal of this amended Regionwide Permit by the Executive Director to you or the authorization of your work will lapse and become null and void. Such work must also be diligently pursued to completion and must be completed within ~~two~~ three years of commencement, or within three years of the date of transmittal of this amended Regionwide Permit to you, whichever is earlier, unless an extension of time is granted by the Executive Director.

II. Special Conditions

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

A. **Limit of Work.** Authorized work shall be built in general conformance with the plans submitted as part of the application.

B. Construction Operations and Debris Removal. All construction operations shall be performed so as to minimize turbidity and the roiling of waters, to prevent ~~timbers, floats, or other~~ construction materials from falling, washing, or blowing into any tidal areas of the Bay or drifting and presenting a navigation or pollution hazard. In the event that any such material is placed or escapes into any area subject to tidal action of the Bay, the permittee(s), its assigns or successors in interest, or the owner of the improvements shall immediately retrieve and remove such material at its expense. All construction debris shall be removed to an authorized location outside the Commission's jurisdiction and the site left in the same condition and grade as existed prior to project implementation. Any material used to backfill excavated holes and trenches shall be free of contaminants and approved for such use by the Regional Water Quality Control Board.

C. ~~Habitat Marsh~~ Protection. The work authorized by this amended Regionwide Permit shall be performed so as to prevent any significant adverse impact on any tidal marsh, tidal flat, eelgrass habitat or other sensitive ~~wetland~~ Bay resources. If any unforeseen adverse impacts occur to any such area as a result of the activities authorized herein, the permittee(s) shall restore the area to or improve the area above its previous condition, which may include returning the disturbed area to its original elevation and soil composition and, if the area does not revegetate to its former condition within one year, seeding all disturbed areas with appropriate ~~marsh~~ vegetation.

D. **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.

E. **Maintenance and Replacement of Authorized Facilities.** Any in-kind repairs and maintenance of an authorized structure or improvement shall only use construction material that is approved by the Commission in consultation with the Regional Water Quality Control Board and the California Department of Fish and Game for use in San Francisco Bay. Construction shall only occur during those months of the year, as approved by the Commission in consultation with resource agencies such as U.S. Fish and Wildlife Service, Department of Fish and Game and National Marine Fisheries Service, that avoid or minimize potential impacts to fish and wildlife. BCDC staff should be contacted to confirm current restrictions.

F. **Water Quality.** Prior to undertaking any work authorized herein on any outfall pipe or similar facility, the permittee(s) shall receive all necessary approvals from the California Regional Water Quality Control Board, San Francisco Bay Region, for any discharge or emission from such structure.

G. **Diked Wetlands Protection.** No work authorized herein on culverts, outfalls, tide gates, or similar facilities shall significantly alter water management, circulation or drainage patterns or otherwise adversely affect any salt pond or other sensitive diked wetland resources.

H. **Abandonment.** If, at any time, the Commission determines that the improvements authorized herein have been abandoned for a period of two years or more, or have deteriorated to the point that public health, safety or welfare is adversely affected, the Commission may require that the improvements be removed by the permittee(s), its assigns or successors in interest, or by the owner of the improvements within 60 days or such other reasonable time as the Commission may direct.

I. **Notice to Contractor.** The permittee(s) shall provide a copy of this amended Regionwide Permit to any contractor or person working in concert with the permittee(s) to carry out the activities authorized herein and shall point out the special conditions contained herein.

III. Findings and Declarations

The Commission hereby finds, declares, and certifies that:

A. **Consistency with Commission Regulations.** The projects authorized by this amended Regionwide Permit ~~involve~~ include reconstruction, replacement and maintenance of, and incidental additions to, existing currently-used outfall pipes, service lines, utility cables, pipelines, and similar facilities that do not involve any substantial enlargement or any substantial extension into the Bay, into certain waterways, managed wetlands or the 100-foot shoreline band. Such projects have been authorized by the Commission as qualifying for a Regionwide Permit because they involve repairs to outfall pipes approved by the California Regional Water Quality Control Board, San Francisco Bay Region, utility cables on or under the bottom of the Bay, and similar facilities, as defined in Regulation Sections 10601(a)(4), 10601(a)(5), 10601(a)(6), and 10601(b)(1) and 10601(b)(5), or activities similar to those described

above, as defined in Regulation Section 10601(e)(3), and thus are equivalent to a “minor repair and improvement” and qualify for authorization under a Regionwide Permit that may be issued by the Commission and approved by the Executive Director, pursuant to Government Code Section 66632(f) and Regulation Sections 11700 and 11713.

B. Consistency with McAteer-Petris Act and San Francisco Bay Plan. The project authorized by this permit is consistent with the McAteer-Petris Act and with the *San Francisco Bay Plan* in that it will not adversely affect the Bay nor public access to and enjoyment of the Bay. Special conditions have been included to assure that project construction, materials and the improvements themselves will not adversely affect the Bay’s natural resources, water quality or navigation and that any deteriorated improvements will be removed if they adversely impact the Bay’s natural resources, water quality, or pose a navigation hazard, as required by the *San Francisco Bay Plan* policies on fish, other aquatic organisms, and wildlife, tidal marshes and tidal flats, water quality, and navigational safety.

C. Consistency with Coastal Zone Management Act. The 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.

D. Consistency with California Environmental Quality Act. California Public Resources Code Section 21084 provides that the California Environmental Quality Act (CEQA) guidelines shall include a list of classes of projects that have been determined not to have a substantial adverse impact on the environment and are therefore exempt from the requirements of CEQA. This list of “categorical exemptions” is located at 14 Cal. Admin. Code Sections 15300 through 15329. Section 15301 (Class 1) exempts the operation, repair, maintenance or minor alteration of existing public or private structures or facilities that involve negligible or no expansion of previous use. Section 15302 (Class 2) exempts the replacement or reconstruction of existing structures or facilities where the new structure will be located on the same site as the structure being replaced and will have substantially the same purpose and capacity as the replaced structure. Section 15303 (Class 3) exempts the construction of limited numbers of new, small facilities or structures, and subsection (e) specifically exempts accessory structures. The Commission's own regulations provide that the Commission need not prepare an environmental assessment before it issues a permit for a project that falls within the list of categorically exempt activities (14 Cal. Admin. Code Section 10910). This amended Regionwide Permit is therefore categorically exempt because it authorizes only reconstruction and replacement of, and incidental additions to, existing, currently used outfall pipes, service lines, utility cables, pipelines, and similar facilities that do not involve any substantial enlargement or any substantial extension into the Bay.

E. Listing with the Commission. The Commission staff will prepare a description and indicate the location of any project authorized under this amended Regionwide Permit, along with the name and address of the permittee(s), and attach such information to the listing of administrative permits, marsh development permits, and federal consistency actions that is sent to the Commission, ~~immediately~~ following the Executive Director's approval of the project under this amended Regionwide Permit.

REGIONWIDE PERMIT NO. RWP-2
~~AMENDMENT NO. ONE~~
NOTICE OF INTENT TO PROCEED NO. NOI-__
[APPLICANT]
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F. **Enforcement Program and Civil Penalties.** The Commission has an enforcement program that reviews its permits for compliance. The Commission may issue cease and desist and civil penalty orders if violations are discovered. The McAteer-Petris Act provides for the imposition of administrative civil penalties ranging from \$10 to \$2,000 per day up to a maximum of \$30,000 per violation. The Act also provides for the imposition of court-imposed civil penalties of up to \$30,000 in addition to any other penalties, penalties for negligent violations of between \$50 and \$5,000 per day, knowing and intentional penalties of between \$100 and \$10,000 per day, and exemplary penalties, which are supplemental penalties, in an amount necessary to deter future

REGIONWIDE PERMIT NO. RWP-2

~~AMENDMENT NO. ONE~~

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violations. In addition, anyone who places fill, extracts materials, or makes any substantial change in use of any water, land or structure within the area of the Commission's jurisdiction without securing a permit from the Commission is guilty of a misdemeanor.

IV. Standard Conditions (Same as RWP-1)



Bay Area Conservation and Development Commission

REGIONWIDE PERMIT NO. RWP-3
(As Amended Through December 18, 2008)
AMENDMENT NO. ONE
(Construction, reconstruction, replacement,
and maintenance of: (1) new docks, piers,
boat hoists, associated pilings and mooring
buoys of less than 1,000 square feet; (2)
wildlife habitat improvement structures; and
(3) other pile-supported, water-oriented uses)
in the Bay, certain waterways, managed
wetlands and shoreline band)
NOTICE OF INTENT TO PROCEED NO. NOI-

[DATE]

ATTENTION: _____

Ladies and Gentlemen:

On December 4, 1986, the San Francisco Bay Conservation and Development Commission, by a vote of 21 affirmative, 0 negative, and 0 abstentions, approved the issuance of the original of this Regionwide Permit, and On April 18, 1996, the Commission, by a vote of 17 affirmative, 0 negative, and 0 abstentions, approved Amendment No. One of this Regionwide Permit. On _____, the Commission by a vote of _____ affirmative, _____ negative, and _____ abstentions, approved Amendment No. Two of this Regionwide Permit upon which your authorization is based:

I. Authorization

A. Subject to the conditions stated below, the permittee(s) is hereby authorized to do the following:

Location: Project Address.

Anywhere in the Bay, in certain waterways, and within managed wetlands. (Moved to Findings)

Description: Authorized Project.

Reconstruction and replacement of existing, currently used pilings, boat docks on pilings, boat slips and other pile-supported structures being used for water-oriented purposes, and wildlife habitat improvement structures such as fish screens and ladders and other waterway devices, that do not involve any substantial enlargement,

~~any substantial extension into the water or wetlands, or any substantial change in use. (Moved to Findings)~~

B. This authority is limited to activities undertaken at a site where activities are not already authorized by another BCDC permit and to projects that would not adversely impact: (1) the Bay; (2) Bay resources such as those that are scarce or have an abundance and diversity of fish, other aquatic organisms or wildlife (such as tidal marshes or eelgrass beds); and (3) existing or possible future visual or physical public access to and along the Bay from public access areas, roads and pathways. This authority is generally pursuant to and limited by your notice of intent to proceed under a Regionwide Permit dated _____, including its accompanying exhibits, any subsequent additions or modifications, and all conditions of this amended Regionwide Permit.

C. Work authorized herein must commence within ~~two~~ one years of the date of the transmittal of this amended Regionwide Permit by the Executive Director to you or the authorization of your work will lapse and become null and void. Such work must also be diligently pursued to completion and must be completed within ~~two~~ three years of commencement, or within three years of the date of transmittal of this amended Regionwide Permit to you, whichever is earlier, unless an extension of time is granted by the Executive Director.

II. Special Conditions

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

A. **Limit of Work.** Authorized work shall be built in general conformance with the plans submitted as part of the application.

B. **Construction Operations and Debris Removal.** All construction operations shall be performed so as to minimize turbidity and the roiling of waters, to prevent ~~timbers, floats, or other~~ construction materials from falling, washing, or blowing into any tidal areas of the Bay or drifting and presenting a navigation or pollution hazard. In the event that any such material is placed or escapes into any area subject to tidal action of the Bay, the permittee(s), its assigns or successors in interest, or the owner of the improvements shall immediately retrieve and remove such material at its expense. All construction debris shall be removed to an authorized location outside the Commission's jurisdiction.

C. **Habitat Marsh Protection.** The work authorized by this amended Regionwide Permit shall be performed so as to prevent any significant adverse impact on any tidal marsh, tidal flat, eelgrass habitat or other sensitive ~~wetland~~ Bay resources. If any unforeseen adverse impacts occur to any such area as a result of the activities authorized herein, the permittee(s) shall restore the area to or improve the area above its previous condition, which may include returning the disturbed area to its original elevation and soil composition and, if the area does not revegetate to its former condition within one year, seeding all disturbed areas with appropriate ~~marsh~~ vegetation.

D. **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.

E. Maintenance and Replacement of Authorized Facilities. Any construction of a new boat dock or wildlife habitat improvement facility, and any in-kind repairs and maintenance of an authorized boat dock, pier, boat hoist, wildlife habitat improvement or other water-related structure, shall only use construction material that is approved by the Commission in consultation with the Regional Water Quality Control Board and the California Department of Fish and Game for use in San Francisco Bay. Construction shall only occur during those months of the year, as approved by the Commission in consultation with resource agencies such as U.S. Fish and Wildlife Service, Department of Fish and Game and National Marine Fisheries Service, that avoid or minimize potential impacts to fish and wildlife. BCDC staff should be contacted to confirm current restrictions.

F. Impacts to Fish from Pile Driving. To offset impacts to fish, the driving of new or replacement piles shall include measures to attenuate noise levels generated from pile driving to less than 180-dB (peak), or to vibrate piles into place.

G. Diked Wetlands Protection. No work authorized herein on any structure of facility shall significantly alter water management, circulation or drainage patterns or otherwise adversely affect any salt pond, managed wetland, or other sensitive diked wetland resources.

H. Abandonment. If, at any time, the Commission determines that the improvements authorized herein have been abandoned for a period of two years or more, or have deteriorated to the point that public health, safety or welfare is adversely affected, the Commission may require that the improvements be removed by the permittee(s), its assigns or successors in interest, or by the owner of the improvements within 60 days or such other reasonable time as the Commission may direct.

I. Notice to Contractor. The permittee(s) shall provide a copy of this amended Regionwide Permit to any contractor or person working in concert with the permittee(s) to carry out the activities authorized herein and shall point out the special conditions contained herein.

III. Findings and Declarations

The Commission hereby finds, declares, and certifies that:

A. Consistency with Commission Regulations. The projects authorized by this amended Regionwide Permit ~~involve~~ include: (1) construction, reconstruction, maintenance and use of a floating dock, fixed pier, gangway, boat hoist or mooring buoy in the Bay, in certain waterways, in managed wetlands, and within the 100-foot shoreline band that satisfies the following criteria: (a) the pier, gangway, and/ or dock is no larger than a total of 1,000 square feet; and
(b) any pile-supported or cantilevered portion of the pier, is no more than 8 feet wide;
(2) wildlife habitat improvements, such as fish screens and ladders, tidegates and other devices that do not involve any substantial enlargement or extension into the Bay, in certain waterways, and within managed wetlands; and (3) reconstruction, replacement and

REGIONWIDE PERMIT NO. RWP-3
AMENDMENT NO. ONE
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maintenance of other pile-supported, water-oriented uses in the Bay, certain waterways and managed wetlands. Such projects have been authorized by the Commission as qualifying for a Regionwide Permit because they involve on pilings, and similar structures, and repairs to facilities needed to provide improved wildlife habitat, as defined in Regulation Sections 10601(a)(1), 10601(a)(2), 10601(a)(6) and 10601(c)(2), or activities similar to those described above, as defined in Regulation Section 10601(e)(3) (2), and thus are equivalent to a “minor repair and improvement” and qualify for authorization under a Regionwide Permit that may be issued by the Commission and approved by the Executive Director, pursuant to Government Code Section 66632(f) and Regulation Sections 11700 and 11713.

B. Consistency with McAteer-Petris Act and San Francisco Bay Plan. The project authorized by this permit is consistent with the McAteer-Petris Act and with the *San Francisco Bay Plan* in that it will not adversely affect the Bay nor public access to and enjoyment of the Bay. Special conditions have been included to assure that project construction, materials and the improvements themselves will not adversely affect the Bay's natural resources, water quality or navigation and that any deteriorated improvements will be removed if they adversely impact the Bay's natural resources, water quality, or pose a navigation hazard, as required by the *San Francisco Bay Plan* policies on fish, other aquatic organisms, and wildlife, tidal marshes and tidal flats, water quality, and navigational safety.

C. Consistency with Coastal Zone Management Act. The 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.

D. Consistency with California Environmental Quality Act. California Public Resources Code Section 21084 provides that the California Environmental Quality Act (CEQA) guidelines shall include a list of classes of projects that have been determined not to have a substantial adverse impact on the environment and are therefore exempt from the requirements of CEQA. This list of "categorical exemptions" is located at 14 Cal. Code Reg. Sections 15300 through 15329. Section 15301 (Class 1) exempts the operation, repair, maintenance or minor alteration of existing public or private structures or facilities that involve negligible or no expansion of previous use. Section 15302 (Class 2) exempts the replacement or reconstruction of existing structures or facilities where the new structure will be located on the same site as the structure being replaced and will have substantially the same purpose and capacity as the replaced structure. The Commission's own regulations provide that the Commission need not prepare an environmental assessment before it issues a permit for a project that falls within the list of categorically exempt activities (14 Cal. Code Reg. Section 11501). This amended Regionwide Permit is therefore categorically exempt because it authorizes only reconstruction and replacement of existing, currently-used pilings, boat docks on pilings, boat slips, and other pile-supported structures being used for water-oriented purposes, and wildlife habitat improvement structures such as fish screens and ladders and other waterway devices, that do not involve any substantial enlargement, any substantial extension into the water or wetlands, or any substantial change in use.

E. Listing with the Commission. The Commission staff will prepare a description and indicate the location of any project authorized under this amended Regionwide Permit, along with the name and address of the permittee(s), and attach such information to the listing of administrative permits, marsh development permits, and federal consistency actions that is sent to the Commission, ~~immediately~~ following the Executive Director's approval of the project under this amended Regionwide Permit.

F. Enforcement Program and Civil Penalties. The Commission has an enforcement program that reviews its permits for compliance. The Commission may issue cease and desist and civil penalty orders if violations are discovered. The McAteer-Petris Act provides for the imposition

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AMENDMENT NO. ONE
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[APPLICANT]
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of administrative civil penalties ranging from \$10 to \$2,000 per day up to a maximum of \$30,000 per violation. The Act also provides for the imposition of court-imposed civil penalties of up to \$30,000 in addition to any other penalties, penalties for negligent violations of between \$50 and \$5,000 per day, knowing and intentional penalties of between \$100 and \$10,000 per day, and exemplary penalties, which are supplemental penalties, in an amount necessary to deter future violations. In addition, anyone who places fill, extracts materials, or makes any substantial change in use of any water, land or structure within the area of the Commission's jurisdiction without securing a permit from the Commission is guilty of a misdemeanor.

IV. Standard Conditions (Same as RWP-1)



Bay Area Conservation and Development Commission

REGIONWIDE PERMIT NO. RWP-4 5
(As Amended Through December 18, 2008)
AMENDMENT NO. ONE
(New ancillary facilities (e.g., additions, retaining walls, stairs, patios, driveways, etc., and their repair and maintenance at single-family and two-family residences within the shoreline band)
NOTICE OF INTENT TO PROCEED NO. NOI__

[DATE]

ATTENTION: _____

Ladies and Gentlemen:

On March 19, 1992, the San Francisco Bay Conservation and Development Commission, by a vote of 17 affirmative, 0 negative, and 0 abstentions, approved the issuance of the original of this Regionwide Permit. and On April 18, 1996, the Commission, by a vote of 17 affirmative, 0 negative, and 0 abstentions, approved Amendment No. One of this Regionwide Permit. On _____, the Commission by a vote of _____ affirmative, _____ negative, and _____ abstentions, approved Amendment No. Two of this Regionwide Permit upon which your authorization is based:

I. Authorization

A. Subject to the conditions stated below, the permittee(s) is hereby authorized to do the following:

Location: Project Address.

Anywhere within the Commission's 100-foot shoreline band.
(Moved to Findings)

Description: Authorized Project.

Placement, installation or construction and use of new ancillary facilities such as retaining walls less than three feet high, stairs, patios, driveways and decks, or improvements to, and the reconstruction and replacement of existing one and two family

REGIONWIDE PERMIT NO. RWP-4 5
AMENDMENT NO. ONE
NOTICE OF INTENT TO PROCEED NO. NOI _____
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~~residences, that comply with all of the following: (1) do not involve any substantial enlargement to or change in use of the structures; (2) do not involve any new fill in the Bay; (3) are on parcels that do not have a topography suitable for shoreline access and are adjacent to existing or possible future public access areas; and (4) that are not otherwise subject to an existing Commission permit. band~~ (Moved to Findings)

B. This authority is limited to activities undertaken at a site where activities are not already authorized by another BCDC permit and to projects that would not adversely impact: (1) the Bay; (2) Bay resources such as those that are scarce or have an abundance and diversity of fish, other aquatic organisms or wildlife (such as tidal marshes or eelgrass beds); and (3) existing or possible future visual or physical public access to and along the Bay from public access areas, roads and pathways. This authority is generally pursuant to and limited by your notice of intent to proceed under a Regionwide Permit dated _____, including its accompanying exhibits, any subsequent additions or modifications, and all conditions of this amended Regionwide Permit.

C. Work authorized herein must commence within two ~~one~~ years of the date of the transmittal of this amended Regionwide Permit by the Executive Director to you or the authorization of your work will lapse and become null and void. Such work must also be diligently pursued to completion and must be completed within two ~~three~~ years of commencement, or within three years of the date of transmittal of this amended Regionwide Permit to you, whichever is earlier, unless an extension of time is granted by the Executive Director.

II. Special Conditions

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

A. **Limit of Work.** No construction work whatsoever may occur within any area subject to tidal action of the Bay, or any salt pond, managed wetland or other sensitive wetland resources. Authorized work shall be built in general conformance with the plans submitted as part of the application.

B. **Construction Operations and Debris Removal.** All construction operations shall be performed so as to minimize turbidity and the roiling of waters, to prevent ~~timbers, floats, or other~~ construction materials from falling, washing, or blowing into any tidal areas of the Bay or drifting and presenting a navigation or pollution hazard. In the event that any such material is placed or escapes into any area subject to tidal action of the Bay, the permittee(s), its assigns or successors in interest, or the owner of the improvements shall immediately retrieve and remove such material at its expense. All construction debris shall be removed to an authorized location outside the Commission's jurisdiction.

C. **Maintenance and Replacement of Authorized Facilities.** This Regionwide Permit authorizes in-kind repairs and maintenance of the facilities and improvements authorized herein provided there is no change in use.

REGIONWIDE PERMIT NO. RWP-4 5
AMENDMENT NO. ONE
NOTICE OF INTENT TO PROCEED NO. NOI ____
[APPLICANT]
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~~D. **Public Access.** No work authorized herein on any structure or facility shall have a significant adverse impact on present or possible future visual and physical public access to and along the Bay consistent with the project.~~

D. **Notice to Contractor.** The permittee(s) shall provide a copy of this amended Regionwide Permit to any contractor or person working in concert with the permittee(s) to carry out the activities authorized herein and shall point out the special conditions contained herein.

III. Findings and Declarations

The Commission hereby finds, declares, and certifies that:

A. **Consistency with Commission Regulations.** The projects authorized by this amended Regionwide Permit ~~involve~~ include placement, installation, construction, use and the in-kind repair and maintenance of new ancillary facilities to existing one- and two-family residences within the shoreline band such as retaining walls less than three feet high, stairs, patios, driveways and decks, and the reconstruction and replacement of existing one- and two-family residences, that comply with all of the following: (1) do not involve any substantial enlargement to or change in use of the structures; (2) do not involve any new fill in the Bay; and (3) are on parcels that do not have a topography suitable for shoreline access or would adversely affect adjacent existing or possible future public access areas. Such projects have been authorized by the Commission as qualifying for a Regionwide Permit because they involve the placement of small amounts of inert inorganic fill, the extraction of small amounts of materials, or a substantial change in use of any area so long as the placement, extraction, or change in use does not have a significant adverse effect on present or possible future maximum feasible public access to the Bay consistent with the project, on present or possible future use for a designated priority water-related use, and on the environment, as defined in Regulation Section 10601(b)(1), improvements to one- and two-family residences and the construction of ancillary residential structures as defined in Regulation Section 10601(b)(2), and the routine repair, reconstruction, replacement, removal and maintenance that do not involve any substantial enlargement or substantial change in uses, as defined in Regulation Section 10601(b)(5), and thus are equivalent to a “minor repair and improvement” and qualify for authorization under a Regionwide Permit that may be issued by the Commission and approved by the Executive Director, pursuant to Government Code Section 66632(f) and Regulation Sections 11700 and 11713.

B. **Consistency with McAteer-Petris Act and San Francisco Bay Plan.** The project authorized by this permit is consistent with the McAteer-Petris Act and with the *San Francisco Bay Plan* in that it will not adversely affect the Bay nor public access to and enjoyment of the Bay. Special conditions have been included to assure that project construction, materials and the improvements themselves will not adversely affect the Bay’s natural resources, water quality or navigation and that any deteriorated improvements will be removed if they adversely impact the Bay’s natural resources, water quality, or pose a navigation hazard, as required by the *San Francisco Bay Plan* policies on fish, other aquatic organisms, and wildlife, tidal marshes and tidal flats, water quality, and navigational safety.

C. **Consistency with Coastal Zone Management Act.** The 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.

D. Consistency with California Environmental Quality Act. California Public Resources Code Section 21084 provides that the California Environmental Quality Act (CEQA) guidelines shall include a list of classes of projects that have been determined not to have a substantial adverse impact on the environment and are therefore exempt from the requirements of CEQA. This list of “categorical exemptions” is located at 14 Cal. Admin. Code Sections 15300 through 15329. Section 15301 (Class 1) exempts the operation, repair, maintenance or minor alteration of existing public or private structures or facilities that involve negligible or no expansion of previous use. Section 15302 (Class 2) exempts the replacement or reconstruction of existing structures or facilities where the new structure will be located on the same site as the structure being replaced and will have substantially the same purpose and capacity as the replaced structure. The Commission’s own regulations provide that the Commission need not prepare an environmental assessment before it issues a permit for a project that falls within the list of

permit is therefore categorically exempt because it authorizes only reconstruction and replacement of existing shoreline protective works that do not involve any substantial enlargement or any substantial extension into the Bay.

E. Listing with the Commission. The Commission staff will prepare a description and indicate the location of any project authorized under this amended Regionwide Permit, along with the name and address of the permittee(s), and attach such information to the listing of administrative permits, marsh development permits, and federal consistency actions that is sent to the Commission, ~~immediately~~ following the Executive Director’s approval of the project under this amended Regionwide Permit.

F. Enforcement Program and Civil Penalties. The Commission has an enforcement program that reviews its permits for compliance. The Commission may issue cease and desist and civil penalty orders if violations are discovered. The McAteer-Petris Act provides for the imposition of administrative civil penalties ranging from \$10 to \$2,000 per day up to a maximum of \$30,000 per violation. The Act also provides for the imposition of court-imposed civil penalties of up to \$30,000 in addition to any other penalties, penalties for negligent violations of between \$50 and \$5,000 per day, knowing and intentional penalties of between \$100 and \$10,000 per day, and exemplary penalties, which are supplemental penalties, in an amount necessary to deter future violations. In addition, anyone who places fill, extracts materials, or makes any substantial change in use of any water, land or structure within the area of the Commission’s jurisdiction without securing a permit from the Commission is guilty of a misdemeanor.

IV. Standard Conditions (Same as RWP-1)



Bay Area Conservation and Development Commission

REGIONWIDE PERMIT NO. RWP-5 6
(As Amended Through December 18, 2008)
AMENDMENT NO. ONE
(Repairs, reconstruction, replacement, removal
and maintenance of multi-family residential
structures and paved areas within the
shoreline band)
NOTICE OF INTENT TO PROCEED NO. NOI-__

[DATE]

ATTENTION: _____

Ladies and Gentlemen:

On March 19, 1992, the San Francisco Bay Conservation and Development Commission, by a vote of 17 affirmative, 0 negative, and 0 abstentions, approved the issuance of ~~this~~ the original of this ~~regionwide permit.~~ On _____, the Commission by a vote of _____ affirmative, _____ negative, and _____ abstentions, approved Amendment No. Two of this regionwide permit upon which your authorization is based:

I. Authorization

A. Subject to the conditions stated below, the permittee(s) is hereby authorized to do the following:

Location: Project Address.
~~Anywhere within the Commission's 100-foot shoreline band.~~
(Moved to Findings)

Description: Authorized Project.
~~Routine repair and maintenance of existing multi-unit residential and non-residential structures and associated facilities and paved surfaces (such as parking lots, driveways, and paths) that do not involve any substantial change in use or any substantial increase in size or height of the structures being repaired or maintained. and that are not otherwise subject to an existing Commission permit. (Moved to Findings)~~

B. This authority is limited to activities undertaken at a site where activities are not already authorized by another BCDC permit and to projects that would not adversely impact: (1) the Bay; (2) Bay resources such as those that are scarce or have an abundance and diversity of fish, other aquatic organisms or wildlife (such as tidal marshes or eelgrass beds); and (3) existing or possible future visual or physical public access to and along the Bay from public access areas, public roads and pathways. This authority is generally pursuant to and limited by your notice of intent to proceed under a regionwide permit dated _____, including its accompanying exhibits, any subsequent additions or modifications, and all conditions of this amended regionwide permit.

C. Work authorized herein must commence within two ~~one~~ years of the date of the transmittal of this amended regionwide permit by the Executive Director to you or the authorization of your work will lapse and become null and void. Such work must also be diligently pursued to completion and must be completed within two ~~three~~ years of commencement, or within three years of the date of transmittal of this amended regionwide permit to you, whichever is earlier, unless an extension of time is granted by the Executive Director.

II. Special Conditions

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

A. **Limit of Work.** No construction work whatsoever may occur within any area subject to tidal action of the Bay, or any salt pond, managed wetland or other sensitive wetland resources. Authorized work shall be built in general conformance with plans submitted as part of the application.

B. **Construction Operations and Debris Removal.** All construction operations shall be performed so as to minimize turbidity and the roiling of waters, to prevent ~~timbers, floats, or other~~ construction materials from falling, washing, or blowing into any tidal areas of the Bay or drifting and presenting a navigation or pollution hazard. In the event that any such material is placed or escapes into any area subject to tidal action of the Bay, the permittee(s), its assigns or successors in interest, or the owner of the improvements shall immediately retrieve and remove such material at its expense. All construction debris shall be removed to an authorized location outside the Commission's jurisdiction.

C. **Maintenance and Replacement of Authorized Facilities.** This regionwide permit authorizes in-kind repairs and maintenance of the facilities and improvements authorized herein provided there is no change in use.

D. **Public Access.** ~~No work authorized herein on any structure or facility shall have a significant adverse impact on present or possible future visual and physical public access to~~

~~and along the Bay consistent with the project.~~

D. **Notice to Contractor.** The permittee(s) shall provide a copy of this regionwide permit to any contractor or person working in concert with the permittee(s) to carry out the activities authorized herein and shall point out the special conditions contained herein.

III. Findings and Declarations

The Commission hereby finds, declares, and certifies that:

A. **Consistency with Commission Regulations.** The projects authorized by this regionwide permit ~~involve~~ include routine repair and maintenance of: (1) existing multi-unit residential and non-residential structures and associated facilities; and (2) paved surfaces (such as parking lots, driveways, and paths) within the shoreline band that do not involve any substantial change in use or any substantial increase in size or height of the structures being repaired or maintained. Such projects have been authorized by the Commission as qualifying for a Regionwide Permit because they involve routine repair and maintenance ~~of existing multi-unit residential and non-residential structures and associated facilities and paved surfaces~~ that do not involve any substantial change in use or any substantial increase in size or height of the multi-unit residential structures and associated facilities being repaired or maintained, as defined in Regulation Section 10601(b)(5), and thus are equivalent to a “minor repair and improvement” and qualify for authorization under a regionwide permit that may be issued by the Commission and approved by the Executive Director, pursuant to Government Code Section 66632(f) and Regulation Sections 11700 and 11713.

B. **Consistency with McAteer-Petris Act and San Francisco Bay Plan.** The project authorized by this permit is consistent with the McAteer-Petris Act and with the *San Francisco Bay Plan* in that it will not adversely affect the Bay nor public access to and enjoyment of the Bay. Special conditions have been included to assure that project construction, materials and the improvements themselves will not adversely affect the Bay’s natural resources, water quality or navigation and that any deteriorated improvements will be removed if they adversely impact the Bay’s natural resources, water quality, or pose a navigation hazard, as required by the *San Francisco Bay Plan* policies on fish, other aquatic organisms, and wildlife, tidal marshes and tidal flats, water quality, and navigational safety.

C. **Consistency with Coastal Zone Management Act.** The 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.

D. **Consistency with California Environmental Quality Act.** California Public Resources Code Section 21084 provides that the California Environmental Quality Act (CEQA) guidelines shall include a list of classes of projects that have been determined not to have a substantial

adverse impact on the environment and are therefore exempt from the requirements of CEQA. This list of “categorical exemptions” is located at 14 Cal. Admin. Code Sections 15300 through 15329. Section 15301 (Class 1) exempts the operation, repair, maintenance or minor alteration of existing public or private structures or facilities that involve negligible or no expansion of previous use. Section 15302 (Class 2) exempts the replacement or reconstruction of existing structures or facilities where the new structure will be located on the same site as the structure being replaced and will have substantially the same purpose and capacity as the replaced structure. The Commission’s own regulations provide that the Commission need not prepare an environmental assessment before it issues a permit for a project that falls within the list of categorically exempt activities (14 Cal. Admin. Code Section 11501). This amended regionwide permit is therefore categorically exempt because it authorizes only reconstruction and replacement of existing shoreline protective works that do not involve any substantial enlargement or any substantial extension into the Bay.

E. **Listing with the Commission.** The Commission staff will prepare a description and indicate the location of any project authorized under this amended regionwide permit, along with the name and address of the permittee(s), and attach such information to the listing of administrative permits, marsh development permits, and federal consistency actions that is sent to the Commission, ~~immediately~~ following the Executive Director’s approval of the project under this amended regionwide permit.

F. **Enforcement Program and Civil Penalties.** The Commission has an enforcement program that reviews its permits for compliance. The Commission may issue cease and desist and civil penalty orders if violations are discovered. The McAteer-Petris Act provides for the imposition of administrative civil penalties ranging from \$10 to \$2,000 per day up to a maximum of \$30,000 per violation. The Act also provides for the imposition of court-imposed civil penalties of up to \$30,000 in addition to any other penalties, penalties for negligent violations of between \$50 and \$5,000 per day, knowing and intentional penalties of between \$100 and \$10,000 per day, and exemplary penalties, which are supplemental penalties, in an amount necessary to deter future violations. In addition, anyone who places fill, extracts materials, or makes any substantial change in use of any water, land or structure within the area of the Commission’s jurisdiction without securing a permit from the Commission is guilty of a misdemeanor.

IV. Standard Conditions (Same as RWP-1)



Bay Area Council on Development and Conservation

**REGIONWIDE PERMIT NO. RWP-6
(As Amended Through December 18, 2008)
(Seismic retrofit and repairs of state bridges)
NOTICE OF INTENT TO PROCEED NO. NOI-__**

[DATE]

ATTENTION: _____

Ladies and Gentlemen:

On September 1, 1994, the San Francisco Bay Conservation and Development Commission, by a vote of 17 affirmative, 0 negative, and 0 abstentions, approved the issuance of the original of this Regionwide Permit, and ~~on~~ On April 18, 1996, the Commission, by a vote of 17 affirmative, 0 negative, and 0 abstentions, approved Amendment No. One of this Regionwide Permit. On _____, the Commission by a vote of _ affirmative, __ negative, and __ abstentions, approved Amendment No. Two of this Regionwide Permit upon which your authorization is based:

I. Authorization

A. Subject to the conditions stated below, the permittee(s) is hereby authorized to do the following:

Location: Project Address.
~~Anywhere in the Bay, salt ponds, managed wetlands, certain waterways, and within the 100-foot shoreline band. (Moved to Findings)~~

Description: Authorized Project.
~~Retrofit existing highway structures including bridges and other elevated roadway structures to meet current seismic safety standards by undertaking one or more of the following improvements or activities, provided the improvements or activities do not result in a substantial enlargement, significant visual impact, or change in use of the structure and are consistent with the provisions of any existing Commission-~~

~~permit, if applicable: (1) investigating site foundation character by such engineering geology and geotechnical methods as drilling, coring, sampling, experimental pile testing and geophysical surveys; (2) modifying, strengthening, enlarging, replacing, reconstructing and/or removing existing bearing seats, caissons, columns, expansion joints, footings, piers, pilasters, panels, trusses, and/or walls; (3) installing additional bearing seats, columns, expansion~~

~~joints, footings, piers, pilasters, panels, trusses, and/or walls; (4) modifying, strengthening, replacing and/or reconstructing existing towers, abutments, and/or bridge decks which will not significantly change the size or appearance of the existing towers, abutments and/or bridge decks; (5) placing temporary sheet pile coffer dams; (6) constructing and/or placing and using temporary work platforms such as trestles, barges or solid fill platforms; (7) installing temporary fencing and construction staging areas outside of areas subject to tidal action; (8) implementing any mitigation measures at the project site that will offset the permanent and/or temporary adverse environmental impacts resulting from a project; and (9) any other activity similar to those listed in (1), (2), (3), (4), (5), (6), (7) and (8) of this section that would have no greater adverse impact on the Bay than the listed activities or improvements.~~
(Moved to Findings)

B. This authority is limited to activities undertaken at a site where activities are not already authorized by another BCDC permit and to projects that would not adversely impact: (1) the Bay; (2) Bay resources such as those that are scarce or have an abundance and diversity of fish, other aquatic organisms or wildlife (such as tidal marshes or eelgrass beds); and (3) existing or possible future visual or physical public access to and along the Bay from public access areas,
roads and pathways. This authority is generally pursuant to and limited by your notice of intent to proceed under a Regionwide Permit dated _____, including its accompanying exhibits, any subsequent additions or modifications, and all conditions of this amended Regionwide Permit.

C. Work authorized herein must commence within two ~~one~~ years of the date of the transmittal of this amended Regionwide Permit by the Executive Director to you or the authorization of your work will lapse and become null and void. Such work must also be diligently pursued to completion and must be completed within two ~~three~~ years of commencement, or within three years of the date of transmittal of this amended Regionwide Permit to you, whichever is earlier, unless an extension of time is granted by the Executive Director.

II. Special Conditions

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

A. Submittal and Review of Plans and Related Matters

1. A Notice of Intent to Proceed (NOI) under this amended Regionwide Permit shall not be approved until all of the following occur:
 - a. Submittal of a completed Part I of the Commission's application form;
 - b. Review and approval of engineering criteria by the Engineering Criteria Review Board (ECRB) as specified under Special Condition II-A-4 of this amended Regionwide Permit for seismic retrofit and repairs to support structures such as pilings and abutments;
 - c. Submittal of the final Plans, Specifications and Estimates (PS&Es) and Seismic Retrofit Strategy Report and Repairs to Bridge Supports that include all of the following features:

- (1) **Site, Architectural, and Grading Plans.** Site, architectural, and grading plans shall include and clearly label the shoreline, the line 100 feet inland of the shoreline, property lines, the boundaries of all areas to be reserved for public access and open space purposes, grading, details showing the location, types, dimensions, and materials to be used for all structures, irrigation, landscaping, drainage, seating, parking, signs, lighting, fences, paths, trash containers, utilities and other proposed improvements.
 - (2) **Engineering Plans.** 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;
 - d. Submittal of evidence that the project design complies with all applicable state and federal design standards;
 - e. Submittal of 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 ECRB, if peer review is determined not to be necessary); and
 - f. Submittal of written certification of the professional of record that the final PS&Es satisfy the recommendations of the ECRB.
2. **Conformity with Final Approved Plans.** All work, improvements, and uses shall conform to the final PS&Es except as provided in subparagraph 3, below. Prior to any 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 the final PS&Es or to the exterior of any constructed structure, outside fixture, lighting, landscaping, signage, landscaping, parking area, or shoreline protection work without first contacting the staff, which shall have 10 working days to review and approve, verbally or in writing, the change plans.
 3. **Discrepancies between Approved Plans and Special Conditions.** In case of any discrepancy between final PS&Es and any Special Condition of this amended Regionwide Permit, the Special Condition shall prevail. The permittee(s) is responsible for assuring that all PS&Es accurately and fully reflect the Special Conditions of this amended Regionwide Permit.

4. **Engineering Criteria Review Board Review.** Preliminary engineering plans and engineering criteria shall be reviewed by or on behalf of the ECRB prior to submittal of a complete NOI, as follows:
 - a. **Review by the Engineering Criteria Review Board.** If review is required, the staff will convene a Board meeting within 30 days of receipt of all materials required by paragraph 4.b. If the Board requires further review of the project, the staff will convene a second Board meeting within 30 days of receipt of any revised and/or supplemental materials requested by the Board. At the applicant's option, if the Board requests a third review of the project, it may be scheduled using this same procedure. Review may be waived by the Commission staff, upon consultation with the Chair of the Board, if a project is determined not to raise a significant issue with regard to public safety during seismic events.
 - b. **Materials Required for Review.** The specific drawings required, and the appropriate engineer representing the applicant, depend on the type of project and shall be as determined by the Commission staff. Such materials shall demonstrate to the satisfaction of the Board that the applicant has adopted design criteria appropriate to the nature of the project and use of any structures constructed in connection therewith. Such criteria shall take into account the soil and foundation conditions at the site and potential earthquake-induced forces. At a minimum, 13 copies of the following materials shall be submitted for review by the ECRB except in cases where the staff waives the submittal of any item, upon consultation with the Chair of the Board, if the item is determined not to be necessary for Board review:
 - (1) A list of all acceptance criteria, including the performance objectives chosen for the structure in question (such as the limitation of damage to localized areas of the structure which would be repairable in a specified amount of time, or retention of elasticity so that the structure would remain in service immediately following a major seismic event);
 - (2) A list of all design criteria, including the design methods employed to ensure the performance objectives given above, including the maximum expected design earthquake, soil and geologic conditions at the site, and a description of any structural features which might contribute to the satisfaction of the performance objectives (such as the absence of expansion joints, the inclusion of isolation or dampening devices, and/or the use of high strength concrete, etc.);

- (3) Site plans, which include a reduced set of the plans (8 1/2" x 17" maximum) recognizable global landmarks and significant details of the structure and geology;
- (4) A general project description describing the phases of construction, any temporary structures involved, a general timeline for project completion, structural vulnerabilities which inhibit the existing structure from meeting the current acceptance criteria, and any additional pertinent information;
- (5) The identification of any other materials that may be either submitted in writing or provided verbally during the presentation, which may include soil and geologic conditions, structural features, relevant degree of risk, type of hazard (liquefaction, slope instability, ground shaking settlement), design criteria, method of analysis, procedures for checking calculations and assuring compliance during construction, evidence that the design complies with all applicable state and federal design standards, evidence that a thorough and independent review of the design details, calculations, and construction drawings has been made, and certifying that construction will be in accordance with the terms and conditions of ECRB authorization; and
- (6) An identification of the person or persons who will present the information to the ECRB. The presenters should be familiar with the geology, seismology, and structural details associated with the project.

B. Limit of Work. The structural work authorized herein is confined to the seismic retrofit of an existing State-owned highway structure as specified by Senate Bill SB 131 (Chapter 15), passed by the Legislature and signed by the Governor on March 15, 1994. This structural work shall be limited to the existing state right-of-way and shall not result in the widening of the travel way or a significant raising in elevation of the structure. Any increase in size, enlargement of the structural footprint or new fill in the Bay is limited only for the purposes of achieving seismic safety of the existing highway structure. Seismic retrofit projects covered by this amended Regionwide Permit include only the structural modification or replacement of an existing highway structure.

C. Construction Operations and Debris Removal. All construction operations shall be performed so as to minimize turbidity and the roiling of waters, to prevent any construction materials from falling, washing, or blowing into any tidal areas of the Bay or drifting and presenting a navigation or pollution hazard. In the event that any such material is placed or escapes into any area subject to tidal action of the Bay, the permittee(s), its assigns or successors in interest, or the owner of the improvements shall immediately retrieve and

remove such material at its expense. All construction debris shall be removed to an authorized location outside the jurisdiction of the Commission. In the event that any such material is placed in any area within the Commission's jurisdiction, the permittee(s), its assignee, or successor 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. All temporary structures placed pursuant to this amended Regionwide Permit shall be completely removed from the Commission's jurisdiction upon completion of each individual project and the area restored to its previous condition.

C. **Habitat Marsh Protection.** The work authorized by this amended Regionwide Permit shall be performed so as to prevent any significant adverse impact on any tidal marsh, tidal flat, eelgrass habitat or other sensitive ~~wetland~~ Bay resources. If any unforeseen adverse impacts occur to any such area as a result of the activities authorized herein, the permittee(s) shall restore the area to or improve the area above its previous condition, which may include ~~ing~~ returning the disturbed area to its original elevation and soil composition and, if the area does not revegetate to its former condition within one year, seeding all disturbed areas with appropriate ~~marsh~~ vegetation.

~~D. **Construction Operations.** All construction operations shall be performed to prevent construction materials from falling 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(s) shall immediately retrieve and remove such material at its expense.~~

E. **Diked Wetlands Protection.** No work authorized herein on any structure of facility shall significantly alter water management, circulation or drainage patterns or otherwise adversely affect any salt pond, managed wetland, or other sensitive diked wetland resources.

F. **Work Windows to Protect Fish and Wildlife Construction Limitations.** All construction activities shall be confined so as to minimize disturbance to fish and wildlife, as follows: (1) Work in tidal marshes shall be limited to the dry months of May through October to minimize disturbance to migratory waterfowl and nesting resident birds in marshlands; (2) When construction would occur in marshes where California clapper rails are present, no work shall occur from February 1 to August 30 unless the Department of Fish and Game and the U.S. Fish and Wildlife Service determine that no nesting is occurring within 500 feet of the project; (3) Work in open waters of the Bay between the Richmond-San Rafael Bridge and the Hayward-San Mateo Bridge shall be limited to the months of March through December to minimize disturbance to the herring season; and (4) Work on bridges where the peregrine falcon nests shall be limited to July through January to avoid the breeding season. These construction times are general and exceptions may be made upon written approval of the Executive Director in consultation with the California Department of Fish and Game, and with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service, where appropriate.

G. **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.

H. **Limitation of Projects to Exclude Significant Visual or Physical Access Impacts.** The work authorized herein is confined to the seismic retrofit of an existing State-owned highway structure that will not result in a significant adverse impact on visual or physical public access to the Bay or on shoreline appearance. Significant adverse impacts include the construction of sheer walls between existing pilings, or other structures that may block existing public views of the Bay or shoreline, or that may alter existing or future public access. The determination of whether a project would result in a significant adverse visual or physical impact shall be determined by the Commission staff.

I. **Inapplicability of this Amended Regionwide Permit.** If, in the opinion of the Executive Director, a proposed seismic retrofit project could significantly, adversely affect tidal marshes and mud flats or important fish and wildlife resources of San Francisco Bay, the Executive Director could refuse to approve a notice of intent to undertake work under this amended Regionwide Permit, or could attach new special conditions to this amended Regionwide Permit to reduce the potential significant, adverse impacts to a point of insignificance. An applicant may appeal a decision to refuse to approve a notice of intent to proceed by filing an application for a permit pursuant to Regulation Sections 10300 and 10310, or by appealing as otherwise permitted by law.

J. **Notice to Contractor.** The permittee(s) shall provide a copy of this amended Regionwide Permit, final PS&Es and its NOI to any contractor or person working in concert with the permittee(s) to carry out the activities authorized herein and shall point out the special conditions contained herein.

III. Findings and Declarations

The Commission hereby finds, declares, and certifies that:

A. **Consistency with Commission Regulations.** The projects authorized by this amended Regionwide Permit involve routine repair, reconstruction, replacement, and other construction activities specifically limited to the seismic retrofitting of existing State-owned highway structures, including bridges, as specified by Senate Bill 131, Chapter 15 as passed by the Legislature and signed by the Governor on March 15, 1994, and as defined in Regulation Sections 10601(a)(2), 10601(a)(3), and 10601(a)(6), 10601(b)(1), 10601(b)(4) and 10601(b)(5), and 10601(c)(2), or activities similar to those described above, as defined in Regulation Section 10601(e)(1) and (3), and thus are equivalent to a "minor repair and improvement" and qualify for authorization under a Regionwide Permit that may be issued by the Commission and approved by the Executive Director, pursuant to Government Code Section 66632(f) and Regulation Sections 11700 and 11713.

B. **Consistency with McAtteer-Petris Act and San Francisco Bay Plan.** The project authorized by this amended Regionwide Permit is consistent with the McAtteer-Petris Act and with the *San Francisco Bay Plan* in that it will not adversely affect the Bay nor public access to and enjoyment of the Bay.

C. **Consistency with Coastal Zone Management Act.** The activities authorized herein are consistent with the Commission's coastal management program for San Francisco Bay, as approved by the Department of Commerce under the Federal Coastal Zone Management Act of 1972, as amended.

D. **Consistency with California Environmental Quality Act.** Senate Bill 131, Chapter 15, Section 180.2, specifies that qualifying projects shall be considered to be activities under the California Environmental Quality Act (CEQA) (Public Resource Code) Section 21080(b)(4), which states that CEQA does not apply to “{s}pecific actions necessary to prevent or mitigate an emergency.”

E. **Listing with the Commission.** The Commission staff will prepare a description and indicate the location of any project authorized under this amended Regionwide Permit, along with the name and address of the permittee(s), and attach such information to the listing of administrative permits, marsh development permits, and federal consistency actions that is sent to the Commission, ~~immediately~~ following the Executive Director’s approval of the project under this amended Regionwide Permit.

F. **Need for Special Conditions.** The Commission finds that the Special Conditions of Part II and the Standard Conditions of Part IV of this amended Regionwide Permit are reasonable and will not lead to a significant delay in the seismic retrofit project authorized by this amended Regionwide Permit.

G. **Enforcement Program and Civil Penalties.** The Commission has an enforcement program that reviews its permits for compliance. The Commission may issue cease and desist and civil penalty orders if violations are discovered. The McAtteer-Petris Act provides for the imposition of administrative civil penalties ranging from \$10 to \$2,000 per day up to a maximum of \$30,000 per violation. The Act also provides for the imposition of court-imposed civil penalties of up to \$30,000 in addition to any other penalties, penalties for negligent violations of between \$50 and \$5,000 per day, knowing and intentional penalties of between \$100 and \$10,000 per day, and exemplary penalties, which are supplemental penalties, in an amount necessary to deter future violations. In addition, anyone who places fill, extracts materials, or makes any substantial change in use of any water, land or structure within the area of the Commission’s jurisdiction without securing a permit from the Commission is guilty of a misdemeanor.

IV. Standard Conditions (Same as RWP-1)



Bay Area Conservation and Development Commission

**REGIONWIDE PERMIT NO. RWP-7 12
(As Amended Through December 18, 2008)
AMENDMENT NO. ONE
(Repair and maintenance of pile-supported
residential structures in the Bay or certain
waterway)
NOTICE OF INTENT TO PROCEED NO. NOI-__**

[DATE]

ATTENTION: _____

Ladies and Gentlemen:

On April 18, 1996, the San Francisco Bay Conservation and Development Commission, by a vote of 17 affirmative, 0 negative, and 0 abstentions, approved the issuance of ~~this~~ the original of this Regionwide Permit. On _____, the Commission by a vote of _____ affirmative, _____ negative, and _____ abstentions, approved Amendment No. Two of this Regionwide Permit upon which your authorization is based:

I. Authorization

A. Subject to the conditions stated below, the permittee(s) is hereby authorized to do the following:

Location: Project Address.

~~Anywhere in the Bay and in certain waterways.~~ (Moved to Findings)

Description: Authorized Project.

~~Routine repair and maintenance of existing, currently used, pile-supported structures being used for residential and other related purposes that do not involve any substantial enlargement, any substantial extension into the water or wetlands, or any substantial change in use.~~ (Moved to Findings)

B. This authority is limited to activities undertaken at a site where activities are not already authorized by another BCDC permit and to projects that would not adversely

REGIONWIDE PERMIT NO. RWP-7 42
NOTICE OF INTENT TO PROCEED NO. NOI-__
[APPLICANT]
[DATE]
Page 2

impact: (1) the Bay; (2) Bay resources such as those that are scarce or have an abundance and diversity of fish, other aquatic organisms or wildlife (such as tidal marshes or eelgrass beds); and (3) existing or possible future visual or physical public access to and along the Bay from public access areas, public roads and pathways. This authority is generally pursuant to and limited by your notice

of intent to proceed under a Regionwide Permit dated _____, including its accompanying exhibits, any subsequent additions or modifications, and all conditions of this amended Regionwide Permit.

C. Work authorized herein must commence within two ~~one~~ years of the date of the transmittal of this amended Regionwide Permit by the Executive Director to you or the authorization of your work will lapse and become null and void. Such work must also be diligently pursued to completion and must be completed within two ~~three~~ years of commencement, or within three years of the date of transmittal of this amended Regionwide Permit to you, whichever is earlier, unless an extension of time is granted by the Executive Director.

II. Special Conditions

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

A. **Limits of Work.** Authorized work shall be built in general conformance with the plans submitted as part of the application. This Regionwide Permit authorizes repair and maintenance work on existing, currently-used pile-supported residential structures only. No new work or work outside these structures is authorized. ~~The Regionwide Permit authorizes work within area(s) as shown on the exhibits submitted with the permittee(s)'s notice of intent to proceed under this Regionwide Permit. No work in other areas is authorized.~~

B. **Construction Operations and Debris Removal.** All construction operations shall be performed so as to minimize turbidity and the roiling of waters, to prevent ~~timbers, floats, or other~~ construction materials from falling, washing, or blowing into any tidal areas of the Bay or drifting and presenting a navigation or pollution hazard. In the event that any such material is placed or escapes into any area subject to tidal action of the Bay, the permittee(s), its assigns or successors in interest, or the owner of the improvements shall immediately retrieve and remove such material at its expense. All construction debris shall be removed to an authorized location outside the Commission's jurisdiction.

C. **Habitat Marsh Protection.** The work authorized by this amended Regionwide Permit shall be performed so as to prevent any significant adverse impact on any tidal marsh, tidal flat, eelgrass habitat or other sensitive ~~wetland~~ Bay resources. If any unforeseen adverse impacts occur to any such area as a result of the activities authorized herein, the permittee(s) shall restore the area to or improve the area above its previous condition, which may ~~include~~ including returning the disturbed area to its original elevation and soil composition and, if the area does not revegetate to its former condition within one year, seeding all disturbed areas with appropriate ~~marsh~~ vegetation.

D. **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, or in any managed wetland within the Commission's jurisdiction as part of the project authorized herein.

E. **Maintenance and Replacement of Authorized Facilities.** Any in-kind repairs and maintenance of an authorized pile-supported residential structure shall only use construction material that is approved by the Commission in consultation with the Regional Water Quality Control Board and the California Department of Fish and Game for use in San Francisco Bay. Construction shall only occur during those months of the year, as approved by the Commission

in consultation with resource agencies such as U.S. Fish and Wildlife Service, Department of Fish and Game and National Marine Fisheries Service, that avoid or minimize potential impacts to fish and wildlife. BCDC staff should be contacted to confirm current restrictions.

F. **Diked Wetlands Protection.** No work authorized herein on any structure of facility shall significantly alter water management, circulation or drainage patterns or otherwise adversely affect any salt pond, managed wetland, or other sensitive diked wetland resources.

G. **Abandonment.** If, at any time, the Commission determines that the improvements authorized herein have been abandoned for a period of two years or more, or have deteriorated to the point that public health, safety or welfare is adversely affected, the Commission may require that the improvements be removed by the permittee(s), its assigns or successors in interest, or by the owner of the improvements within 60 days or such other reasonable time as the Commission may direct.

H. **Notice to Contractor.** The permittee(s) shall provide a copy of this amended Regionwide Permit to any contractor or person working in concert with the permittee(s) to carry out the activities authorized herein and shall point out the special conditions contained herein.

III. Findings and Declarations

The Commission hereby finds, declares, and certifies that:

A. **Consistency with Commission Regulations.** The projects authorized by this Regionwide Permit ~~involve~~ include routine repair and maintenance of existing, currently-used, pile-supported residential structures in the Bay or certain waterway that do not involve any substantial enlargement, any substantial extension into the water or wetlands, or any substantial change in use. Such projects have been authorized by the Commission as qualifying for a Regionwide Permit because they involve routine repair and maintenance of pile-supported structures, used for residential and similar purposes, as defined in Regulation Sections 10601(a)(6), or activities similar to those described above, as defined in Regulation Section 10601(e)(3), and thus are equivalent to a “minor repair and improvement” and qualify for authorization under a Regionwide Permit that may be issued by the Commission and approved by the Executive Director, pursuant to Government Code Section 66632(f) and Regulation Sections 11700 and 11713.

B. **Consistency with McAteer-Petris Act and San Francisco Bay Plan.** The project authorized by this permit is consistent with the McAteer-Petris Act and with the *San Francisco Bay Plan* in that it will not adversely affect the Bay nor public access to and enjoyment of the Bay. Special conditions have been included to assure that project construction, materials and the improvements themselves will not adversely affect the Bay’s natural resources, water quality or navigation and that any deteriorated improvements will be removed if they adversely impact the Bay’s natural resources, water quality, or pose a navigation hazard, as required by the San Francisco Bay Plan policies on fish, other aquatic organisms, and wildlife, tidal

marshes and tidal flats, water quality, and navigational safety.

C. **Consistency with Coastal Zone Management Act.** The 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.

D. **Consistency with California Environmental Quality Act.** California Public Resources Code Section 21084 provides that the California Environmental Quality Act (CEQA) guidelines shall include a list of classes of projects that have been determined not to have a substantial adverse impact on the environment and are therefore exempt from the requirements of CEQA. This list of “categorical exemptions” is located at 14 Cal. Admin. Code Sections 15300 through 15329. Section 15301 (Class 1) exempts the operation, repair, maintenance or minor alteration of existing public or private structures or facilities that involve negligible or no expansion of previous use. Section 15302 (Class 2) exempts the replacement or reconstruction of existing structures or facilities where the new structure will be located on the same site as the structure being replaced and will have substantially the same purpose and capacity as the replaced structure. The Commission’s own regulations provide that the Commission need not prepare an environmental assessment before it issues a permit for a project that falls within the list of categorically exempt activities (14 Cal. Admin. Code Section 11501). This amended Regionwide Permit is therefore categorically exempt because it authorizes only reconstruction and replacement of existing shoreline protective works that do not involve any substantial enlargement or any substantial extension into the Bay.

E. **Listing with the Commission.** The Commission staff will prepare a description and indicate the location of any project authorized under this amended Regionwide Permit, along with the name and address of the permittee(s), and attach such information to the listing of administrative permits, marsh development permits, and federal consistency actions that is sent to the Commission, ~~immediately~~ following the Executive Director’s approval of the project under this amended Regionwide Permit.

F. **Enforcement Program and Civil Penalties.** The Commission has an enforcement program that reviews its permits for compliance. The Commission may issue cease and desist and civil penalty orders if violations are discovered. The McAteer-Petris Act provides for the imposition of administrative civil penalties ranging from \$10 to \$2,000 per day up to a maximum of \$30,000 per violation. The Act also provides for the imposition of court-imposed civil penalties of up to \$30,000 in addition to any other penalties, penalties for negligent violations of between \$50 and \$5,000 per day, knowing and intentional penalties of between \$100 and \$10,000 per day, and exemplary penalties, which are supplemental penalties, in an amount necessary to deter future violations. In addition, anyone who places fill, extracts materials, or makes any substantial change in use of any water, land or structure within the area of the Commission’s jurisdiction without securing a permit from the Commission is guilty of a misdemeanor.

IV. Standard Conditions (Same as RWP-1)



Bay Area Council on Development

**REGIONWIDE PERMIT NO. RWP-8
(As Amended Through December 18, 2008)
(Routine maintenance dredging of existing
navigation channels and berthing areas of no
more than 100,000 cubic yards with disposal
at approved disposal sites)**

NOTICE OF INTENT TO PROCEED NO. NOI-__

[DATE]

ATTENTION: _____

Ladies and Gentlemen :

On April 18, 1996, the Commission, by a vote of 17 affirmative, 0 negative, and 0 abstentions, approved Amendment No. One of this Regionwide Permit. On _____, the Commission by a vote of _____ affirmative, _____ negative, and _____ abstentions, approved Amendment No. Two of this Regionwide Permit upon which your authorization is based:

I. Authorization

A. Subject to the conditions stated below, the permittee(s) is hereby authorized to do the following:

Location: Project Address.

Anywhere in the Bay and in certain waterways. (Moved to Findings)

Description: Authorized Project.

Routine maintenance dredging of existing navigation channels and berthing areas of no more than 100,000 cubic yards of bottom material and the disposal of the dredged material so long as: (1) the disposal of the dredged material is at an approved upland disposal site or at the designated ocean disposal site and there are no significant adverse environmental impacts; or (2) the disposal of the dredged material is at a designated in Bay

~~disposal site and the disposal would meet the target volumes of the particular disposal site, there are no feasible upland or ocean disposal alternative, and there is no significant adverse environmental impacts. (Moved to Findings)~~

B. This authority is generally pursuant to and limited by your notice of intent to proceed under a Regionwide Permit dated _____, including its accompanying exhibits, any subsequent additions or modifications, and all conditions of this Regionwide Permit.

C. Work authorized herein must commence within one year of the date of the transmittal of this Regionwide Permit by the Executive Director to you or the authorization of your work will lapse and become null and void. Such work must also be diligently pursued to completion and must be completed within thirty months of commencement, or within thirty months of the date of transmittal of this Regionwide Permit to you, whichever is earlier, unless an extension of time is granted by the Executive Director.

II. Special Conditions

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

A. **Water Quality.** At least 20 days prior to the commencement of any disposal episode authorized herein, the permittee(s) shall submit to the Executive Director water quality certification or waiver of water quality certification from the California Regional Water Quality Control Board, San Francisco Bay Region, for that episode. Failure to obtain such certification or waiver of certification prior to the commencement of the dredging episode shall terminate the Commission's authorization for that dredging episode.

B. **Limits on Dredging.** This Regionwide Permit authorizes maintenance dredging only. No new dredging is authorized. The Regionwide Permit authorizes dredging within area(s) as shown on the exhibits submitted with the permittee's notice of intent to proceed under this Regionwide Permit. No dredging in other areas is authorized.

C. Dredging Report

1. **Prior Notice of Episode.** The permittee(s) shall notify the staff by telephone or in writing at least seven (7) days prior to undertaking any dredging episode. The permittee(s) shall permit the Commission staff or representatives of other state or federal agencies to come aboard the dredge or barge associated with the dredging or disposal episode and observe the operation to ensure that the dredging or disposal activity is consistent with the dredging report required herein and the other terms and conditions of this Regionwide Permit.

2. **Dredging Report.** Within thirty (30) days of completion of each dredging episode of the maintenance dredging authorized by this Regionwide Permit, the permittee(s) shall submit to the Commission a report which contains: (1) a bathymetric map showing (a) the location of all areas authorized to be dredged and to what depth based on Mean Lower Low Water (MLLW); and (b) the actual areas dredged and to what depth based on MLLW, and any dredging that occurred outside the area authorized to be dredged or below the authorized depths; (2) a vicinity map showing the disposal site; and (3) the actual volume of the material dredged and disposed. The Commission reserves the right to have such report inspected by a reliable third party familiar with bathymetric mapping in order to verify the contents of the report. If a third party selected by or on behalf of the Commission indicates that the report is inaccurate, the Commission reserves the right to require the permittee(s) to submit a revised report that meets the requirements of this condition.

If the Commission determines that the contents of the dredging report indicate that work has occurred beyond that authorized by the Regionwide Permit, such violation may result in the initiation of enforcement action by or on behalf of the Commission.

D. **Timing.** No dredging shall occur pursuant to this Regionwide Permit in areas of San Francisco Bay that have been identified by the California Department of Fish and Game as necessary to protect important fisheries or migrating anadromous fish species between December 1 and March 1 of any year during the duration of this Regionwide Permit unless written approval of dredging during this period is provided by or on behalf of the Commission prior to the commencement of the dredging during the closure period. Approval of any dredging activities between December 1 and March 1 of any year shall be made by or on behalf of the Commission only upon the finding that: (1) a dredging or disposal operation which was begun prior to December 1 of any year could not be completed by the December 1 deadline due to unforeseen delays; (2) a professional biologist, or other individual sufficiently competent to identify herring spawning activity, is at the project site during all dredging operations; and (3) if herring spawning is detected at or within 200 meters of the dredging operations by the permittee's on-site biologist or qualified staff person, Department of Fish and Game personnel, or the Commission staff, all dredging will cease for a minimum of 14 days or until it can be determined that the herring hatch has been completed and larval herring concentrations have left the site. To facilitate rapid and efficient communication under these circumstances, the permittee(s) shall provide the Commission staff and Department of Fish and Game personnel with all necessary telephone, FAX, and pager numbers. Dredging may be resumed thereafter at the sole discretion of the permittee(s) and the Commission staff, but shall be terminated no later than December 31 of that year, or if further spawning takes place at the site.

E. **Barge Overflow Sampling and Testing.** Results of any effluent water quality or other testing required by the San Francisco Bay Regional Water Quality Control Board shall be submitted in writing to the Commission's office at the same time that such testing is submitted to the Regional Board.

F. **In-Bay Disposal.** As part of the notice of intent to proceed under this Regionwide Permit for the initial dredging and disposal episode, and at least 45 days prior to the commencement of any subsequent in-Bay disposal episode authorized herein, the permittee(s) shall submit a written statement to the Executive Director that contains all of the following: (1) the dates within which the dredging and disposal episode is proposed; (2) the total volume of material proposed to be dredged and location of the proposed disposal in the Bay; (3) an explanation as to why ocean or upland disposal of the material is infeasible; and (4) results of chemical and biological testing of material proposed for dredging and disposal. The authorization for the dredging and disposal episode shall become effective only when either:

(1) the Executive Director informs the permittee(s) in writing that he or she has determined that the episode is consistent with the authorization provided herein, that there is no feasible upland alternative available for the dredged material, that sufficient capacity exists at the disposal site consistent with the long-term management of the disposal site, and that the material is suitable for in-Bay disposal; or (2) the Executive Director does not respond to the permittee's written statement within 30 days of its receipt. If the Executive Director: (1) determines that ocean or upland disposal of the material is feasible; (2) determines that the material is unsuitable for in-Bay disposal; or (3) is informed by the U.S. Army Corps of Engineers that the proposed disposal would unacceptably reduce disposal site capacity, then such determination shall terminate the Commission's authorization for in-Bay disposal as part of that dredging episode.

G. **Marsh Protection.** The work authorized by this Regionwide Permit shall be performed so as to prevent any significant adverse impact on any tidal marsh or other sensitive wetland resources. If any unforeseen adverse impacts occur to any such area as a result of the activities authorized herein, the permittee(s) shall restore the area to or improve the area above its previous condition, including returning the disturbed area to its original elevation and soil composition and, if the area does not revegetate to its former condition within one year, seeding all disturbed areas with appropriate marsh vegetation.

III. Findings and Declarations

The Commission hereby finds, declares, and certifies that:

A. **Consistency with Commission Regulations.** The projects authorized by this Regionwide Permit involve routine maintenance dredging and disposal activities, as defined in Regulation Sections 10602(a), 10602 (c) and 10602(e), or activities similar to those described above, as defined in Regulation Section 10601(e)(2), and thus are equivalent to a "minor repair and improvement" and qualify for authorization under a Regionwide Permit that may be issued by the Commission and approved by the Executive Director, pursuant to Government Code Section 66632(f) and Regulation Sections 11700 and 11713.

B. **Consistency with McAteer-Petris Act and San Francisco Bay Plan.** The project authorized by this permit is consistent with the McAteer-Petris Act and with the *San Francisco Bay Plan* in that it will not adversely affect the Bay nor public access to and enjoyment of the Bay.

C. **Consistency with Coastal Zone Management Act.** The 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.

D. **Consistency with California Environmental Quality Act.** California Public Resources Code Section 21084 provides that the California Environmental Quality Act (CEQA) guidelines

shall include a list of classes of projects that have been determined not to have a substantial adverse impact on the environment and are therefore exempt from the requirements of CEQA. This list of "categorical exemptions" is located at 14 Cal. Admin. Code Sections 15300 through 15329. Section 15304 (Class 4), subsection (g), exempts maintenance dredging where the spoil is deposited in a spoil area authorized by all applicable state and federal regulatory agencies. The Commission's own regulations provide that the Commission need not prepare an environmental assessment before it issues a permit for a project that falls within the list of categorically exempt activities (14 Cal. Admin. Code Section 11501). This permit is therefore categorically exempt because it authorizes only routine maintenance dredging of existing navigation channels and berthing areas of no more than 100,000 cubic yards of material, and the disposal of that material, provided the disposal occurs at a designated upland or ocean disposal site, or at a designated in-Bay disposal site where the disposal meets the target volumes of that site, and where there are no significant adverse environmental impacts.

E. **Listing with the Commission.** The Commission staff will prepare a description and indicate the location of any project authorized under this amended Regionwide Permit, along with the name and address of the permittee(s), and attach such information to the listing of administrative permits, marsh development permits, and federal consistency actions that is sent to the Commission, ~~immediately~~ following the Executive Director's approval of the project under this amended Regionwide Permit.

F. Enforcement Program and Civil Penalties. The Commission has an enforcement program that reviews its permits for compliance. The Commission may issue cease and desist and civil penalty orders if violations are discovered. The McAtter-Petris Act provides for the imposition of administrative civil penalties ranging from \$10 to \$2,000 per day up to a maximum of \$30,000 per violation. The Act also provides for the imposition of court-imposed civil penalties of up to \$30,000 in addition to any other penalties, penalties for negligent violations of between \$50 and \$5,000 per day, knowing and intentional penalties of between \$100 and \$10,000 per day, and exemplary penalties, which are supplemental penalties, in an amount necessary to deter future violations. In addition, anyone who places fill, extracts materials, or makes any substantial change in use of any water, land or structure within the area of the Commission's jurisdiction without securing a permit from the Commission is guilty of a misdemeanor.

IV. Standard Conditions (Same as RWP-1)



Bay Area Conservation and Development Commission

ABBREVIATED REGIONWIDE PERMIT NO. ARWP-1
(As Amended Through December 18, 2008)
(Minor repairs and maintenance (i.e., less than approximately 50% of an existing structure) to utilities, boat docks, pilings, and the removal of structures in the Bay, certain waterways, managed wetlands, and shoreline band)
NOTICE OF INTENT TO PROCEED NO. ANOI __

[DATE]

ATTENTION: _____

Ladies and Gentlemen :

On April 18, 1996, the San Francisco Bay Conservation and Development Commission, by a vote of 17 affirmative, 0 negative, and 0 abstentions, approved the issuance of this the original of this Abbreviated Regionwide Permit. On _____, the Commission by a vote of _____ affirmative, _____ negative, and _____ abstentions, approved Amendment No. One of this Abbreviated Regionwide Permit upon which your authorization is based:

I. Authorization

A. Subject to the conditions stated below, the permittee(s) is hereby authorized to do the following:

- Location: Project Address.
Anywhere in the Bay, in certain waterways, in managed wetlands, and within the 100 foot shoreline band. (Moved to Findings)
Description: Authorized Project.
(1) Routine repair and maintenance of existing, currently used timber, steel, or concrete structural, shoreline protective works, such as bulkheads and seawalls, that do not involve any substantial enlargement or any substantial extension into the Bay; (2) routine repair and maintenance of existing currently used outfall pipes, service lines, utility cables, pipelines, and similar facilities that do not involve any substantial enlargement

~~or any substantial extension into the Bay; (3) routine repair and maintenance of existing, currently used pilings, boat docks on pilings, boat slips and other pile-supported structures being used for water-oriented purposes, and wildlife habitat improvement structures such as fish screens and ladders and other waterway devices, that do not involve any substantial enlargement, any substantial extension into the water or wetlands, or any substantial change in use; and (4) removal of structures or improvements so long as the removal will not adversely affect present or possible future public access to the Bay, or will not involve a structure or improvement of historical, archeological, or architectural significance. (Moved to Findings)~~

B. This authority is limited to activities undertaken at a site where activities are not already authorized by another BCDC permit and to projects that would not adversely impact: (1) the Bay; (2) Bay resources such as those that are scarce or have an abundance and diversity of fish, other aquatic organisms or wildlife (such as tidal marshes or eelgrass beds); and (3) existing or possible future visual or physical public access to and along the Bay from public access areas, public roads and pathways. This authority is generally pursuant to and limited by your notice of intent to proceed under an Abbreviated Regionwide Permit dated _____, including its accompanying exhibits, any subsequent additions or modifications, and all conditions of this Abbreviated Regionwide Permit.

C. Work authorized herein must commence within within two ~~one~~ years of the date of the transmittal of this Abbreviated Regionwide Permit by the Executive Director to you or the authorization of your work will lapse and become null and void. Such work must also be diligently pursued to completion and must be completed within two ~~three~~ years of commencement, or within three years of the date of transmittal of this Abbreviated Regionwide Permit to you, whichever is earlier, unless an extension of time is granted by the Executive Director.

II. Special Conditions

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

A. **Limit of Work.** All work authorized by this Abbreviated Regionwide Permit shall be built in general conformance with the plans submitted as part of the application.

B. **Construction Operations and Debris Removal.** All construction operations shall be performed so as to minimize turbidity and the roiling of waters, to prevent ~~timbers, floats, or other~~ construction materials from falling, washing, or blowing into any tidal areas of the Bay or drifting and presenting a navigation or pollution hazard. In the event that any such

material is placed or escapes into any area subject to tidal action of the Bay, the permittee(s), its assigns or successors in interest, or the owner of the improvements shall immediately retrieve and remove such material at its expense. All construction debris shall be removed to an authorized location outside the Commission's jurisdiction.

C. **Habitat Marsh Protection.** The work authorized by this Abbreviated Regionwide Permit shall be performed so as to prevent any significant adverse impact on any tidal marsh, tidal flat, eelgrass habitat or other sensitive ~~wetland~~ Bay resources. If any unforeseen adverse impacts occur to any such area as a result of the activities authorized herein, the permittee(s) shall restore the area to or improve the area above its previous condition, which may include returning the disturbed area to its original elevation and soil composition and, if the area does not revegetate to its former condition within one year, seeding all disturbed areas with appropriate ~~marsh~~ vegetation.

D. **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, or in any managed wetland within the Commission's jurisdiction as part of the project authorized herein.

E. **Maintenance and Replacement of Authorized Facilities.** Any in-kind repairs and maintenance of an authorized shoreline protective work shall only use construction material that is approved by the Commission in consultation with the Regional Water Quality Control Board and the California Department of Fish and Game for use in San Francisco Bay. Construction shall only occur during those months of the year, as approved by the Commission in consultation with resource agencies such as U.S. Fish and Wildlife Service, Department of Fish and Game and National Marine Fisheries Service, that avoid or minimize potential impacts to fish and wildlife. BCDC staff should be contacted to confirm current restrictions.

F. **Impacts to Fish from Pile Driving.** To offset impacts to fish, the driving of new or replacement piles shall include measures to attenuate noise levels generated from driving to less than 180-dB (peak), or to use vibrate piles into place.

G **Diked Wetlands Protection.** No work authorized herein on culverts, outfalls, tide gates, or similar facilities shall significantly alter water management, circulation or drainage patterns or otherwise adversely affect any salt pond or other sensitive diked wetland resources.

H. **Water Quality.** Prior to undertaking any work authorized herein on any outfall pipe or similar facility, the permittee(s) shall receive all necessary approvals from the California Regional Water Quality Control Board, San Francisco Bay Region, for any discharge or emission from such structure.

I. **Abandonment.** If, at any time, the Commission determines that the improvements authorized herein have been abandoned for a period of two years or more, or have deteriorated to the point that public health, safety or welfare is adversely affected, the Commission may require that the improvements be removed by the permittee(s)(s), its assigns or successors in interest, or by the owner of the improvements within 60 days or such other reasonable time as the Commission may direct.

J. **Notice to Contractor.** The permittee(s)(s) shall provide a copy of this Abbreviated Regionwide Permit to any contractor or person working in concert with the permittee(s)(s) to carry out the activities authorized herein and shall point out the special conditions contained herein.

III. Findings and Declarations

The Commission hereby finds, declares, and certifies that:

A. **Consistency with Commission Regulations.** The projects authorized by this Abbreviated Regionwide Permit involve repairs and maintenance to less than approximately 50% of an existing structure anywhere within the Commission's jurisdiction. Such work includes: (1) repairs to existing protective works such as timber or steel bulkheads or seawalls in the minimum amount necessary to stabilize existing dikes and banks, as defined in Regulation Sections 10601(a)(2), ~~10601(a)(6)~~ and 10601(b)(1); (2) routine in-kind repairs and maintenance to outfall pipes approved by the California Regional Water Quality Control Board, San Francisco Bay Region, utility cables on or under the bottom of the Bay that do not involve any substantial enlargement or extension into the Bay, and similar facilities, as defined in Regulation Sections 10601(a)(5), 10601(a)(6), ~~and~~ 10601(b)(1) and 10601(b)(5); (3) routine repair, reconstruction, replacement, and maintenance of pilings, boat docks in pilings, boat slips on pilings, and similar structures, and repairs to facilities needed to provide improved wildlife habitat, as defined in Regulation Sections 10601(a)(6), ~~10601(b)(5)~~ and 10601(c)(2); and (4) removal of deteriorated structures and facilities, as defined in Regulation Sections 10601(a)(6), 10601(b)(1), 10601(b)(5) and 10601(c)(2), or activities similar to those described above, as defined in Regulation Section 10601(e)(3), and thus are equivalent to a "minor repair and improvement" and qualify for authorization under an Abbreviated Regionwide Permit that may be issued by the Commission and approved by the Executive Director, pursuant to Government Code Section 66632(f) and Regulation Sections 11700 and 11713.

B. **Consistency with McAteer-Petris Act and San Francisco Bay Plan.** The project authorized by this permit is consistent with the McAteer-Petris Act and with the *San Francisco Bay Plan* in that it will not adversely affect the Bay nor public access to and enjoyment of the Bay. Special conditions have been included to assure that project construction, materials and the improvements themselves will not adversely affect the Bay's natural resources, water quality

or navigation and that any deteriorated improvements will be removed if they adversely impact the Bay's natural resources, water quality, or pose a navigation hazard, as required by the *San Francisco Bay Plan* policies on fish, other aquatic organisms, and wildlife, tidal marshes and tidal flats, water quality, and navigational safety.

C. **Consistency with Coastal Zone Management Act.** The 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.

D. **Consistency with California Environmental Quality Act.** California Public Resources Code Section 21084 provides that the California Environmental Quality Act (CEQA) guidelines shall include a list of classes of projects that have been determined not to have a substantial adverse impact on the environment and are therefore exempt from the requirements of CEQA. This list of "categorical exemptions" is located at 14 Cal. Admin. Code Sections 15300 through 15329. Section 15301 (Class 1) exempts the operation, repair, maintenance or minor alteration of existing public or private structures or facilities that involve negligible or no expansion of previous use. Section 15302 (Class 2) exempts the replacement or reconstruction of existing structures or facilities where the new structure will be located on the same site as the structure being replaced and will have substantially the same purpose and capacity as the replaced structure. The Commission's own regulations provide that the Commission need not prepare an environmental assessment before it issues a permit for a project that falls within the list of categorically exempt activities (14 Cal. Admin. Code Section 11501). This Abbreviated Regionwide Permit is therefore categorically exempt because it authorizes routine repair and maintenance of existing structures that do not involve any substantial enlargement or any substantial extension into the Bay.

In addition, the California Environmental Quality Act (CEQA) generally requires that before an agency can issue a permit for a project that is neither statutorily exempt nor categorically exempt, it must either certify a "negative declaration" that the project will have no substantial adverse impact on the environment or it must prepare an environmental impact report (EIR). Pursuant to CEQA Section 21080.5, the Secretary for Resources has certified the Commission's permit regulations as functionally equivalent to the CEQA review process. Commission Regulation Section 11511 requires the Executive Director to determine either that a project will have no substantial adverse environmental impact or to prepare an "environmental assessment," which functions as a Commission equivalent to an EIR. This Abbreviated Regionwide Permit also authorizes the removal of structures or improvements from the Commission's jurisdiction. However, this Abbreviated Region wide Permit requires that the removal will not adversely affect present or future public access to the Bay, will not affect a structure or improvement of historical, archeological, or architectural significance, will be performed to minimize turbidity and the roiling of waters and to prevent the drifting

ABBREVIATED REGIONWIDE PERMIT NO. ARWP-1

NOTICE OF INTENT TO PROCEED NO. NOI-__

[APPLICANT]

[DATE]

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of construction materials, will not adversely affect any tidal marsh, managed wetland, or other sensitive wetland resource, and will not result in any disposal within any wetland. Therefore, the Commission finds that the removal authorized by this Abbreviated Regionwide Permit will have no substantial adverse impact on the environment.

E. **Enforcement Program and Civil Penalties.** The Commission has an enforcement program that reviews its permits for compliance. The Commission may issue cease and desist and civil penalty orders if violations are discovered. The McAteer-Petris Act provides for the imposition of administrative civil penalties ranging from \$10 to \$2,000 per day up to a maximum of \$30,000 per violation. The Act also provides for the imposition of court-imposed civil penalties of up to \$30,000 in addition to any other penalties, penalties for negligent violations of between \$50 and \$5,000 per day, knowing and intentional penalties of between \$100 and \$10,000 per day, and exemplary penalties, which are supplemental penalties, in an amount necessary to deter future violations. In addition, anyone who places fill, extracts materials, or makes any substantial change in use of any water, land or structure within the area of the Commission's jurisdiction without securing a permit from the Commission is guilty of a misdemeanor.

IV. Standard Conditions (Same as RWP-1)



Bay Area Conservation and Development Commission

**ABBREVIATED REGIONWIDE PERMIT NO. ARWP-2
(As Amended Through December 18, 2008)**

(Minor repairs and removal of one- and two-family residences in the shoreline band)

NOTICE OF INTENT TO PROCEED NO. ANOI ___

[DATE]

ATTENTION: _____

Ladies and Gentlemen :

On April 18, 1996, the San Francisco Bay Conservation and Development Commission, by a vote of 17 affirmative, 0 negative, and 0 abstentions, approved the issuance of ~~this~~ the original of this Abbreviated Regionwide Permit. On _____, the Commission by a vote of _____ affirmative, _____ negative, and _____ abstentions, approved Amendment No. Two of this Abbreviated Regionwide Permit upon which your authorization is based:

I. Authorization

A. Subject to the conditions stated below, the permittee(s) is hereby authorized to do the following:

Location: Project Address.

~~Anywhere within the Commission's 100-foot shoreline band.~~
(Moved to Findings)

Description: Authorized Project.

~~The routine repair and maintenance, or removal, of existing one- and two-family residences that comply with all of the following: (1) do not involve any substantial enlargement to or change in use of the structures; (2) do not involve any new fill in the Bay; and (3) that are not otherwise subject to an existing Commission permit.~~
(Moved to Findings)

B. This authority is limited to activities undertaken at a site where activities are not already authorized by another BCDC permit and to projects that would not adversely

impact: (1) the Bay; (2) Bay resources such as those that are scarce or have an abundance and diversity of fish, other aquatic organisms or wildlife (such as tidal marshes or eelgrass beds); and (3) existing or possible future visual or physical public access to and along the Bay from public access areas, public roads and pathways. This authority is generally pursuant to and limited by your notice of intent to proceed under an Abbreviated Regionwide Permit dated _____, including its accompanying exhibits, any subsequent additions or modifications, and all conditions of this Abbreviated Regionwide Permit.

C. Work authorized herein must commence within two ~~one~~ years of the date of the transmittal of this Abbreviated Regionwide Permit by the Executive Director to you or the authorization of your work will lapse and become null and void. Such work must also be diligently pursued to completion and must be completed within two ~~three~~ years of commencement, or within three years of the date of transmittal of this Abbreviated Regionwide Permit to you, whichever is earlier, unless an extension of time is granted by the Executive Director.

II. Special Conditions

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

A. **Limit of Work.** No construction work whatsoever may occur within any area subject to tidal action of the Bay, or any salt pond, managed wetland or other sensitive wetland resources. Authorized work shall be built in general conformance with the plans submitted as part of the Notice of Intent to Proceed with an Abbreviated Regionwide Permit.

B. **Maintenance and Replacement of Authorized Facilities.** This Abbreviated Regionwide Permit authorizes in-kind repairs and maintenance of the facilities and improvements authorized herein.

C. **Construction Operations and Debris Removal.** All construction operations shall be performed so as to minimize turbidity and the roiling of waters, to prevent ~~timbers, floats, or other~~ construction materials from falling, washing, or blowing into any tidal areas of the Bay or drifting and presenting a navigation or pollution hazard. In the event that any such material is placed or escapes into any area subject to tidal action of the Bay, the permittee(s), its assigns or successors in interest, or the owner of the improvements shall immediately retrieve and remove such material at its expense. All construction debris shall be removed to an authorized location outside the Commission's jurisdiction.

D. **Notice to Contractor.** The permittee(s) shall provide a copy of this Abbreviated Regionwide Permit to any contractor or person working in concert with the permittee(s) to carry out the activities authorized herein and shall point out the special conditions contained herein.

~~D. **Public Access.** No work authorized herein on any structure or facility shall have a significant adverse impact on present or possible future visual and physical public access to and along the Bay consistent with the project.~~

III. Findings and Declarations

The Commission hereby finds, declares, and certifies that:

A. **Consistency with Commission Regulations.** The projects authorized by this Abbreviated Regionwide Permit involve the routine repair and maintenance of approximately 50% or less of an existing structure, or the removal of one- and two-family residences and ancillary residential structures within the Commission's shoreline band jurisdiction, which is consistent with and thus involve the placement of small amounts of inert, inorganic fill, the extraction of small amounts of materials, or a substantial change in use of any area so long as the placement, extraction, or change in use does not have a significant adverse effect on present or possible future maximum feasible public access to the Bay consistent with the project, on present or possible future use for a designated priority water-related use, and on the environment, as defined in Regulation Sections 10601(b)(1), 10601(b)(5) and thus are equivalent to a "minor repair and improvement"

and qualify for authorization under an Abbreviated Regionwide Permit that may be issued by the Commission and approved by the Executive Director, pursuant to Government Code Section 66632(f) and Regulation Sections 11700 and 11713.

B. Consistency with McAteer-Petris Act and San Francisco Bay Plan. The project authorized by this permit is consistent with the McAteer-Petris Act and with the *San Francisco Bay Plan* in that it will not adversely affect the Bay nor public access to and enjoyment of the Bay. Special conditions have been included to assure that project construction, materials and the improvements themselves will not adversely affect the Bay's natural resources, water quality or navigation and that any deteriorated improvements will be removed if they adversely impact the Bay's natural resources, water quality, or pose a navigation hazard, as required by the *San Francisco Bay Plan* policies on fish, other aquatic organisms, and wildlife, tidal marshes and tidal flats, water quality, and navigational safety.

C. Consistency with Coastal Zone Management Act. The 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.

D. Consistency with California Environmental Quality Act. California Public Resources Code Section 21084 provides that the California Environmental Quality Act (CEQA) guidelines shall include a list of classes of projects that have been determined not to have a substantial adverse impact on the environment and are therefore exempt from the requirements of CEQA. This list of "categorical exemptions" is located at 14 Cal. Admin. Code Sections 15300 through 15329. Section 15301 (Class 1) exempts the operation, repair, maintenance or minor alteration of existing public or private structures or facilities that involve negligible or no expansion of previous use. Section 15302 (Class 2) exempts the replacement or reconstruction of existing structures or facilities where the new structure will be located on the same site as the structure being replaced and will have substantially the same purpose and capacity as the replaced structure. Section 15303 (Class 3) exempts the construction of limited numbers of new, small facilities or structures, and subsection (e) specifically exempts accessory structures. The Commission's own regulations provide that the Commission need not prepare an environmental assessment before it issues a permit for a project that falls within the list of categorically exempt activities (14 Cal. Admin. Code Section 11501). This Abbreviated Regionwide Permit is therefore categorically exempt because it authorizes the routine repair and maintenance of existing one- and two-family residences under limited circumstances.

In addition, the California Environmental Quality Act (CEQA) generally requires that before an agency can issue a permit for a project that is neither statutorily exempt nor categorically exempt, it must either certify a "negative declaration" that the project will have no substantial adverse impact on the environment or it must prepare an environmental

impact report (EIR). Pursuant to CEQA Section 21080.5, the Secretary for Resources has certified the Commission's permit regulations as functionally equivalent to the CEQA review process. Commission Regulation Section 11511 requires the Executive Director to determine either that a project will have no substantial adverse environmental impact or to prepare an "environmental assessment," which functions as a Commission equivalent to an EIR. This Abbreviated Regionwide Permit also authorizes the removal of structures or improvements from the Commission's jurisdiction. However, this Abbreviated Regionwide Permit requires that the removal will not adversely affect present or future public access to the Bay, will not affect a structure or improvement of historical, archeological, or architectural significance, will be performed to minimize turbidity and the roiling of waters and to prevent the drifting of construction materials, will not adversely affect any tidal marsh, managed wetland, or other sensitive wetland resource, and will not result in any disposal within any wetland. Therefore, the Commission finds that the removal authorized by this Abbreviated Regionwide Permit will have no substantial adverse impact on the environment.

E. Enforcement Program and Civil Penalties. The Commission has an enforcement program that reviews its permits for compliance. The Commission may issue cease and desist and civil penalty orders if violations are discovered. The McAteer-Petris Act provides for the imposition of administrative civil penalties ranging from \$10 to \$2,000 per day up to a maximum of \$30,000 per violation. The Act also provides for the imposition of court-imposed civil penalties of up to \$30,000 in addition to any other penalties, penalties for negligent violations of between \$50 and \$5,000 per day, knowing and intentional penalties of between \$100 and \$10,000 per day, and exemplary penalties, which are supplemental penalties, in an amount necessary to deter future violations. In addition, anyone who places fill, extracts materials, or makes any substantial change in use of any water, land or structure within the area of the Commission's jurisdiction without securing a permit from the Commission is guilty of a misdemeanor.

IV. Standard Conditions (Same as RWP-1)



Bay Conservation and Development Commission

**ABBREVIATED REGIONWIDE PERMIT NO. ARWP-3
(As Amended Through December 18, 2008)**

**(Temporary Installations in the Bay, certain waterway,
managed wetland and Shoreline Band)**

NOTICE OF INTENT TO PROCEED NO. ANOI ___

[DATE]

ATTENTION: _____

Ladies and Gentlemen :

On April 18, 1996, the San Francisco Bay Conservation and Development Commission, by a vote of 17 affirmative, 0 negative, and 0 abstentions, approved the issuance of ~~this~~ the original of this Abbreviated Regionwide Permit. On _____, the Commission by a vote of _____ affirmative, _____ negative, and _____ abstentions, approved Amendment No. Two of this Abbreviated Regionwide Permit upon which your authorization is based:

I. Authorization

A. Subject to the conditions stated below, the permittee(s) is hereby authorized to do the following:

Location: Project Address.

~~Anywhere within the Commission's 100-foot shoreline band.~~
(Moved to Findings)

Description: Authorized Project.

~~The placement, installation or construction, use, and ultimate removal of new, temporary facilities or improvements that comply with all of the following: (1) do not involve any substantial enlargement to or long-term change in use of any structure; (2) do not involve any new fill in the Bay, in certain waterways, in salt ponds, and in managed wetlands; (3) are in place for no longer than 180 days; (4) do not adversely affect existing and future maximum feasible public access to the Bay and shoreline; and (5) have no adverse impact on Bay-related resources.~~ (Moved to Findings)

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B. This authority is limited to activities undertaken at a site where activities are not already authorized by another BCDC permit and to projects that would not adversely impact: (1) the Bay; (2) Bay resources such as those that are scarce or have an abundance and diversity of fish, other aquatic organisms or wildlife (such as tidal marshes or eelgrass beds); and (3) existing or possible future visual or physical public access to and along the Bay from public access areas, public roads and pathways. This authority is generally pursuant to and limited by your notice

of intent to proceed under an Abbreviated Regionwide Permit dated _____, including its accompanying exhibits, any subsequent additions or modifications, and all conditions of this Abbreviated Regionwide Permit.

C. Work authorized herein must commence within two ~~one~~ years of the date of the transmittal of this Abbreviated Regionwide Permit by the Executive Director to you or the authorization of your work will lapse and become null and void. Such work must also be diligently pursued to completion and must be completed within two ~~three~~ years of commencement, or within three years of the date of transmittal of this Abbreviated Regionwide Permit to you, whichever is earlier, unless an extension of time is granted by the Executive Director.

II. Special Conditions

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

A. **Limit of Work.** No work whatsoever may occur within any area subject to tidal action of the Bay, or any salt pond, managed wetland or other sensitive wetland resources. Authorized work shall be built in general conformance with the plans submitted as part of the application.

B. **Construction Operations and Debris Removal.** All construction operations shall be performed so as to minimize turbidity and the roiling of waters, to prevent ~~timbers, floats, or other~~ construction materials from falling, washing, or blowing into any tidal areas of the Bay or drifting and presenting a navigation or pollution hazard. In the event that any such material is placed or escapes into any area subject to tidal action of the Bay, the permittee(s), its assigns or successors in interest, or the owner of the improvements shall immediately retrieve and remove such material at its expense. All construction debris shall be removed to an authorized location outside the Commission's jurisdiction.

C. **Habitat Protection.** The work authorized by this Abbreviated Regionwide Permit shall be performed so as to prevent any significant adverse impact on any tidal marsh, tidal flat, eelgrass habitat or other sensitive Bay resources. If any unforeseen adverse impacts occur to any such area as a result of the activities authorized herein, the permittee(s) shall restore the area to or improve the area above its previous condition, which may include returning the disturbed area to its original elevation and soil composition and, if the area does not revegetate to its former condition within one year, seeding all disturbed areas with appropriate vegetation.

D. **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, or in any managed wetland within the Commission's jurisdiction as part of the project authorized herein.

E. **Removal.** All temporary facilities, structures, and uses authorized herein shall be completely removed within 180 days of the commencement of work. All areas and natural resources affected by the installation and use of the temporary facilities and structures authorized herein shall be restored to their pre-existing conditions immediately upon removal of the temporary facilities and structures.

F. **Diked Wetlands Protection.** No work authorized herein on or that could affect culverts, outfalls, tide gates, or similar facilities shall significantly alter water management, circulation or drainage patterns or otherwise adversely affect any salt pond or other sensitive diked wetland resources.

G. **Notice to Contractor.** The permittee(s) shall provide a copy of this Abbreviated Regionwide Permit to any contractor or person working in concert with the permittee(s) to carry out the activities authorized herein and shall point out the special conditions contained herein.

~~D. **Public Access.** No work authorized herein on any structure or facility shall have a significant adverse impact on present or possible future visual and physical public access to and along the Bay consistent with the project.~~

III. Findings and Declarations

The Commission hereby finds, declares, and certifies that:

A. **Consistency with Commission Regulations.** The projects authorized by this Abbreviated Regionwide Permit involve placement, installation or construction, and use, of new temporary facilities or improvements in the Bay, in certain waterways, in managed wetlands, and within the shoreline band that comply with all of the following: (1) do not involve any substantial enlargement to or change in use of any structure; (2) do not involve any new permanent fill in the Bay, certain waterway, managed wetland, or shoreline band; (3) are no larger than a total of 1,000 square feet; (4) are in place for no longer than 180 days; (5) do not adversely affect existing and future maximum feasible public access to the Bay and shoreline; and (6) have no adverse impact on Bay-related resources. Such projects have been authorized by the Commission as qualifying for an Abbreviated Regionwide Permit because they involve the installation of temporary facilities that do not raise public access issues and that have no adverse impact on Bay related resources, as defined in Regulation Section 10601(e)(1) and (2), and thus are equivalent to a "minor repair and improvement" and qualify for authorization under an Abbreviated Regionwide Permit that may be issued by the Commission and approved by the Executive Director, pursuant to Government Code Section 66632(f) and Regulation Sections 11700 and 11713. ~~The projects authorized by this Abbreviated Regionwide Permit involve the installation of temporary facilities and structures within the Commission's shoreline band jurisdiction which is consistent with the placement of small amounts of inert, inorganic fill, the extraction of small amounts of materials, or a substantial~~

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~~change in use of any area so long as the placement, extraction, or change in use does not have a significant adverse effect on present or possible future maximum feasible public access to the Bay consistent with the project, on present or possible future use for a designated priority water related use, and on the environment, as defined in Regulation Sections 10601(b)(1) and 10601(e)(1) and (2), and thus are equivalent to a “minor repair and improvement” and qualify for authorization under an Abbreviated Regionwide Permit that may be issued by the Commission and approved by the Executive Director, pursuant to Government Code Section 66632(f) and Regulation Sections 11700 and 11713.~~

B. Consistency with McAteer-Petris Act and San Francisco Bay Plan. The project authorized by this permit is consistent with the McAteer-Petris Act and with the *San Francisco Bay Plan* in that it will not adversely affect the Bay nor public access to and enjoyment of the Bay. Special conditions have been included to assure that project construction, materials and the improvements themselves will not adversely affect the Bay’s natural resources, water quality or navigation and that any deteriorated improvements will be removed if they adversely impact the Bay’s natural resources, water quality, or pose a navigation hazard, as required by the *San Francisco Bay Plan* policies on fish, other aquatic organisms, and wildlife, tidal marshes and tidal flats, water quality, and navigational safety.

C. **Consistency with Coastal Zone Management Act.** The 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.

D. **Consistency with California Environmental Quality Act.** California Public Resources Code Section 21084 provides that the California Environmental Quality Act (CEQA) guidelines shall include a list of classes of projects that have been determined not to have a substantial adverse impact on the environment and are therefore exempt from the requirements of CEQA. This list of "categorical exemptions" is located at 14 Cal. Admin. Code Sections 15300 through 15329. Section 15301 (Class 1) exempts the operation, repair, maintenance or minor alteration of existing public or private structures or facilities that involve negligible or no expansion of previous use. Section 15302 (Class 2) exempts the replacement or reconstruction of existing structures or facilities where the new structure will be located on the same site as the structure being replaced and will have substantially the same purpose and capacity as the replaced structure. The Commission's own regulations provide that the Commission need not prepare an environmental assessment before it issues a permit for a project that falls within the list of categorically exempt activities (14 Cal. Admin. Code Section 11501). This Abbreviated Regionwide Permit is therefore categorically exempt because it authorizes routine repair and maintenance of existing structures that do not involve any substantial enlargement or any substantial extension into the Bay.

In addition, the California Environmental Quality Act (CEQA) generally requires that before an agency can issue a permit for a project that is neither statutorily exempt nor categorically exempt, it must either certify a "negative declaration" that the project will have no substantial adverse impact on the environment or it must prepare an environmental impact report (EIR). Pursuant to CEQA Section 21080.5, the Secretary for Resources has certified the Commission's permit regulations as functionally equivalent to the CEQA review process. Commission Regulation Section 11511 requires the Executive Director to determine either that a project will have no substantial adverse environmental impact or to prepare an "environmental assessment," which functions as a Commission equivalent to an EIR. This Abbreviated Regionwide Permit also authorizes the removal of structures or improvements from the Commission's jurisdiction. However, this Abbreviated Regionwide Permit requires that the removal will not adversely affect present or future public access to the Bay, will not affect a structure or improvement of historical, archeological, or architectural significance, will be performed to minimize turbidity and the roiling of waters and to prevent the drifting of construction materials, will not adversely affect any tidal marsh, managed wetland, or other sensitive wetland resource, and will not result in any disposal within any wetland. Therefore, the Commission finds that the removal authorized by this Abbreviated Regionwide Permit will have no substantial adverse impact on the environment.

E. Enforcement Program and Civil Penalties. The Commission has an enforcement program that reviews its permits for compliance. The Commission may issue cease and desist and civil penalty orders if violations are discovered. The McAteer-Petris Act provides for the imposition of administrative civil penalties ranging from \$10 to \$2,000 per day up to a maximum of \$30,000 per violation. The Act also provides for the imposition of court-imposed civil penalties of up to \$30,000 in addition to any other penalties, penalties for negligent violations of between \$50 and \$5,000 per day, knowing and intentional penalties of between \$100 and \$10,000 per day, and exemplary penalties, which are supplemental penalties, in an amount necessary to deter future

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violations. In addition, anyone who places fill, extracts materials, or makes any substantial change in use of any water, land or structure within the area of the Commission's jurisdiction without securing a permit from the Commission is guilty of a misdemeanor.

IV. Standard Conditions (Same as RWP-1)