

# SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

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January 3, 2014

## Application Summary (For Commission consideration on January 16, 2014)

**Number:** Consistency Determination No. C2013.004.00  
**Date Filed:** January 3, 2014  
**Action Required By:** March 18, 2014  
**Staff:** Jaime Michaels (415-352-3613, jaimem@bcdc.ca.gov)

### Summary

**Applicant:** Department of Veterans Affairs, VA Northern California Health Care System  
**Location:** Within the 100-foot shoreline band and within the Commission’s federal coastal zone management area, at a 623.6-acre area of the former Naval Air Station (“NAS”) Alameda, the majority of which is located in the City of Alameda, Alameda County except for the southwestern corner, which is located in the City and County of San Francisco.

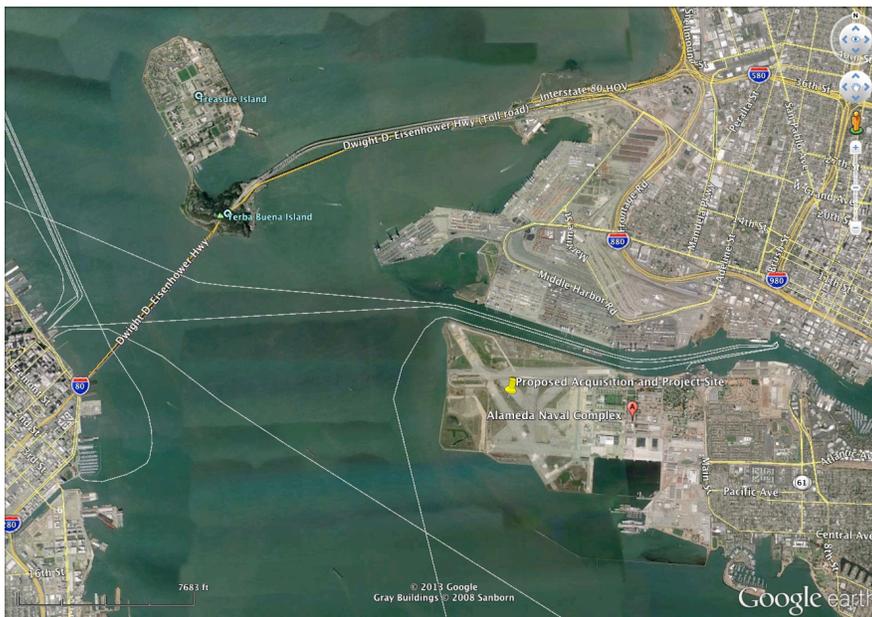


Figure 1. Site Overview



Making San Francisco Bay Better

**Project:** The proposed project would involve two major elements. The first element would be the Department of Veterans Affairs' ("VA") acquisition of a 623.6-acre area of the former NAS Alameda site from the U.S. Department of the Navy (Navy). The second element would follow acquisition and would involve the VA constructing an outpatient clinic, a public roadway, a national cemetery, and a California least tern conservation management office on an 112.4-acre section of the property. The remaining 511.2 acres would be left undeveloped and managed primarily to protect a 9.7-acre nesting colony of the federally-listed endangered California least tern (Exhibit A). Specific activities proposed at the 112.4-acre development area include: (1) the placement of 444,000 cubic yards of fill to raise site elevations to approximately 13.5 feet above Mean Sea Level (MSL) prior to developing the site; (2) the construction of a 158,000-gross-square-foot, two-story outpatient clinic ("OPC") located within a 83,000-gross square-foot ground floor footprint, with a 632-vehicle parking lot (Exhibits B and C); (3) the phased-development through 2116 of an 80-acre cemetery with facilities including 10-foot-high columbaria structures for cremated remains and 25-foot-high memorial service shelters used for interment ceremonies (Exhibit D); (4) the construction of a 2,500-square-foot, one-story-high conservation management office ("CMO") to house and interpret California least tern conservation activities with a parking area, landscaping, educational and interpretive signage, public restrooms, and a drinking fountain (Exhibit E); (5) the development of internal roadways at the OPC, CMO, and cemetery, and one approximately 3,750-foot-long, 39-foot-wide primary public roadway (North Access Road) with two 11-foot-wide vehicle lanes (22 feet total), a 12-foot-wide bicycle lane on the north edge of the roadway, and a five-foot-wide pedestrian sidewalk along the southern edge of the roadway, and a turn-around at the western terminus with eight public access vehicle parking spaces (Exhibit F); (6) the installation of landscaping, lighting, and utilities to support the above-described project; and (7) the maintenance of all above-described site features.

Within the 112.4-acre development area, the VA would provide amenities for general public access and use, including: 1) an approximately 44,500-square-foot (1.02-acre) permanent public shoreline area located west of the proposed cemetery and adjacent to North Access Road, with benches for seating, trash receptacles, signage and an eight-vehicle public parking area, including two Americans with Disabilities Act ("ADA")-compliant spaces; 2) two public

restrooms and a drinking fountain at the CMO (which would partly serve a public education function); and 3) a public roadway to the shoreline (North Access Road) with a 12-foot-wide bicycle lane along the north edge of the roadway and a single five-foot-wide pedestrian sidewalk along the southern edge of the roadway. At the 511.2-acre undeveloped area, along the western, southern, and eastern boundaries, the VA would also provide an easement over an approximately two-mile-long, 12- to 25-foot-wide corridor primarily along the Bay edge to an appropriate park agency to manage for public use (a “seasonal trail” primarily for walking and wildlife viewing). The seasonal trail would remain open from approximately August 16 to March 31 of each calendar year consistent with protection of the California least tern required by U.S. Fish and Wildlife Service (USFWS) and any necessary maintenance of areas remediated by the Navy pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”) (Exhibit G).

The use and operation of the 511.2-acre area set aside to protect the California least tern would be effective following the VA’s acquisition of the property. Development of the 112.4-acre area for an outpatient clinic and 20 acres of 25,000 columbaria niches, two memorial shelters, landscaping, roadways, and parking is the first phase of the VA’s 12 – phase development of Alameda Point and is scheduled to commence in 2017. Each subsequent phase of the 12 phase project would occur on approximately six-acre sections and would commence approximately every 10 years if demand continues. Sometime in the future, the VA may need to construct additional outfalls requiring fill in the Bay, but the number of outfalls needed, the location of the outfalls, and their potential environmental effects have not yet been evaluated. Upon full build-out, estimated to be 2119, the 80-acre cemetery would contain 300,000 columbaria niches. Upon completion of the first phase of the proposed development (including the OPC and initial 20-acre cemetery area), the following public facilities would be available for use: a 44,500-square-foot public access shoreline area (30,000 square feet beyond the rip-rap shoreline protection); two public restrooms and a drinking fountain at the CMO; and public parking at the North Access Road terminus. While the VA expects to grant the easement over the seasonal trail (at the 511.2-acre portion of the property) to the City of Alameda, relevant discussions between both parties are on-going and an easement has not yet been finalized (Exhibit H).

**Issues****Raised:**

The staff believes that the consistency determination raises two primary issues, whether the proposed project is consistent with the Commission's laws and policies regarding: (1) natural resources; and (2) public access, including specific policies regarding future sea level rise and shoreline flooding.

### Background and Site History

In 1927, wetlands at the west end of Alameda Island were filled to create an airport and supporting facilities. By the 1930s, the project site was used by the U.S. Army Air Corps and by Pan American World Airways to operate trans-Pacific flights. In 1936, the City of Alameda ceded the project site to the federal government and, by 1940, an air station was constructed and naval operations began. NAS Alameda remained an important naval base through the Cold War. In 1997, NAS Alameda was closed. In 1999, under CERCLA, 134-acres of the 624 acres the VA intends to acquire were designated as a Superfund site requiring remediation of hazardous substances, pollutants, and contaminants.

The Federal Facility Agreement ("FFA") for the former NAS Alameda requires that the Navy investigate and remediate the release of hazardous substances, pollutants, and contaminants at the site in accordance with CERCLA. To date, CERCLA-response actions at the site have involved site-specific investigations, feasibility studies, remedial activities, and securing approval of resulting reports from the other FFA signatories. The Navy and signatory agencies would require that appropriate and legally-enforceable CERCLA Institutional Controls (e.g., monitoring, inspecting, and reporting requirements to ensure compliance with land use or activity restrictions) be in effect and applicable before the VA's proposed development commences. Upon completion of the Navy's CERCLA responsibilities, the VA, under separate agreement, would assume long-term responsibility for ICs, land use, maintenance, or activity restrictions.

Pursuant to the federal Coastal Zone Management Act of 1972, as amended ("CZMA"), the San Francisco Bay Conservation and Development Commission ("Commission" or "BCDC") is required to consider federal projects for effects on the coastal zone, including projects located outside of the Commission's jurisdiction as defined by state law and concur with or object to a federal agency's determination that a project is consistent with Commission's laws and policies. The proposed project would affect a 623.6-acre area of the former NAS Alameda site entirely at areas located upland of the shoreline with the greatest concentration of activity occurring almost one mile from the Bay. At some point in the future, the consistency determination is likely to be amended to include at least two outfalls in the Bay. The San Francisco Bay Plan's

Climate Change Policy 1.c. states that “for the purposes of implementing the federal Coastal Zone Management Act, the findings and policies do not apply to projects and activities located outside the areas described in subparagraph a [areas included in the Commission’s state authority including San Francisco Bay and the 100-foot shoreline band], even if those projects or activities may otherwise be subject to consistency review pursuant to the federal Coastal Zone Management Act.”

On July 19, 1999, the Commission issued a Letter of Agreement on the Navy’s Consistency Determination No. CN8-99 in which it concurred that transfer of the subject 623.6-acre area at the former NAS Alameda to the USFWS and the U.S. Coast Guard (“USCG”) was consistent with its laws and policies. The Commission also issued a Letter of Agreement on the USFWS’ Consistency Determination No. CN4-99 on July 23, 1999, in which it concurred that the establishment of a USFWS wildlife refuge at the 511.2-acre area was consistent with its laws and policies. Property transfer to the USFWS and USCG, however, did not occur. Subsequently, the VA explored the possibility of acquiring this portion of former NAS Alameda, which is the subject of this consistency determination. The 511.2-acre area that was proposed to be acquired and managed by the USFWS for the California Least Tern in the previous consistency determinations is now proposed to be acquired by the VA and, according to the subject consistency determination, “managed for the long-term persistence and sustainability of the California least tern colony” and consistent with the USFWS Biological Opinion for the site issued in August 2012.<sup>1</sup>

### Project Description

**Project  
Details:**

The VA’s consistency determination describes the project as follows:

1. **Within the Commission’s federal coastal zone management area, and within the 100-foot shoreline band:**
  - a. Acquisition of a 623.6-acre area of the former NAS Alameda site by the Department of Veterans Affairs from the U.S. Department of the Navy;
  - b. Construction, use, operation, and management of an 112.4-acre area of the acquired property for:
    - (1) Placement of approximately 444,000 cubic yards of imported clean fill material to raise elevations to 13.5 feet above Mean Sea Level;
    - (2) Establishment of construction staging areas, installation of materials associated with pre-construction activities (such as, geotextile layers, foundation piles, and concrete mats);

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<sup>1</sup> Document link is:

<http://alamedapointenvironmentalreport.files.wordpress.com/2012/11/biological-opinion-for-va-project-at-alameda-point-8-29-2012.pdf>

- (3) Site grading;
  - (4) Construction, use, and maintenance of an 158,000-gross-square-foot two-story outpatient clinic not to exceed a height of 40 feet except for a 54-foot-high section where a penthouse for equipment and roof element would be installed, a footprint of approximately 83,000 square feet, a 632-vehicle parking lot, and associated supporting facilities (e.g., an entry roadway, shuttle stop area, and storage facilities);
  - (5) Construction, use, and maintenance of a 20-acre section of a national cemetery (Phase One);
  - (6) Subsequent construction, use, and maintenance of eleven, approximately six acre sections, of the national cemetery every ten years, which, upon completion in approximately 2119, would occupy an 80-acre area located west of the OPC with an ultimate capacity of 300,000 columbaria niches, with structures up to 10 feet tall, two internment ceremonial shelter areas with structures up to 25 feet tall, and associated facilities, including roadways, walkways, landscaping and irrigation, parking areas, memorial assembly areas, seating, perimeter fencing not to exceed six feet in height, signage, flagpoles, trash receptacles, and a maintenance garage located north of the OPC building;
  - (7) Construction, use, and maintenance of a one-story, approximately 2,500 gross-square-foot Conservation Management Office not to exceed 25 feet high for managing the California least tern including: up to 26 parking spaces for the public and employees; a bus drop-off area; a one-way roadway; two restrooms to remain accessible for general public use during regular business hours, a minimum of one drinking fountain; interpretive and educational signage; and an Americans with Disabilities Act (“ADA”) compliant pathway with an elevated viewing area;
  - (8) Construction, use, and maintenance of North Access Road, a 3,750-foot-long, 39-foot-wide road located along the northern boundary of the site with two 11-foot-wide vehicle travel lanes (22 feet total), a 12-foot-wide bicycle lane along the north edge of the roadway, one five-foot-wide pedestrian sidewalk along the road’s south side, and eight vehicle parking spaces at the roadway’s western terminus;
  - (9) Construction, use, and maintenance of the Cemetery Access Road located perpendicular to North Access Road and servicing the OPC, the cemetery, and the CMO;
  - (10) Installation, use, and maintenance of site utilities, potable water, storm drains, street lighting transformer and control cabinets, including along North Access Road; and
  - (11) Installation, use, and maintenance of water quality management and control facilities, including bioswales and drainage systems; and
- c. Use, management, and maintenance of a 511.2-acre portion of the site primarily for the protection of a 9.7-acre nesting colony of the federally-listed endangered California least tern, including an approximately two-mile-long trail easement through a 12- to 25-foot wide corridor along the

western, southern, and eastern boundaries, largely along the Bay edge, for use by the public from approximately August 16 to March 31 of each calendar year, in compliance with USFWS requirements.

**Public  
Access:**

Upon completion of phase one in approximately 2019, the VA would provide the following facilities for general public use: North Access Road providing vehicular access to the outpatient clinic, the conservation management office and the Bay shoreline and providing a 12-foot-wide bicycle lane and five-foot-wide sidewalk, a 44,500-square-foot shoreline area (30,000 square feet not occupied by rip-rap shoreline protection) located west of the proposed cemetery with seating, trash receptacles and signage, an eight-vehicle public parking area at the North Access Road terminus; and two public restrooms and a minimum of one drinking fountain at the CMO (which would also include public education). At the 511.2-acre undeveloped area, along the western, southern, and eastern boundaries and primarily along the Bay, the VA would provide an easement for construction and use of an approximately two-mile-long trail through a 12- to 25-foot-wide corridor ("seasonal trail") to the City of Alameda (or other designee) for use by the public from approximately August 16 to March 31 of each calendar year consistent with protection of the California least tern, in compliance with USFWS requirements. Portions of the 511.2-acre area will also continue having on-going maintenance of remediated areas (Table 1). Discussions regarding the seasonal trail are ongoing and an easement will not be finalized in time for the Commission's public hearing on this Consistency Determination.

**Table 1. Required Public Access**

<b>Type of Public Access</b>	<b>Area or Quantity</b>	<b>Schedule for Implementation</b>
Shoreline area with amenities	44,500-square-foot (1.02 acres)	Upon completion of Phase I of national cemetery
Parking	Eight spaces, including two ADA-compliant spaces	Same as above
Amenities at CMO	Two restrooms and one drinking fountain	Same as above
North Access Road, including bicycle lanes and sidewalk	A combined bike lane allowing for bike traffic in two directions and one sidewalk	Same as above
Seasonal Trail	Approximately two-mile-long trail easement through a 12=25-foot-wide corridor	To be determined

**Protection of  
Bay**

**Resources:** The proposed project is designed to leave undeveloped a 511.2-acre area for protecting a 9.7-acre nesting colony of the California least tern, a federally-listed endangered species. Further, the Biological Opinion for the project (August 2012) contains measures for protecting and managing the California least tern throughout all project stages.

At some undetermined time in the future, the VA may need additional outfalls to drain the property. At that time, any consistency determination issued by the Commission will need to be amended to include work on the City of Alameda's property, and any proposed fill in the Bay will be evaluated in accord with the Commission's coastal management program.

**Schedule**

**And Costs:** The use, management, and operation of the 511.2-acre for protection of the least tern colony would be effective following the VA's acquisition of the subject property. The development of the 112.4-acre development area, including the 44,500-square-foot public shoreline area (30,000 square feet not occupied by rip-rap shoreline protection), the public facilities at the CMO, and the North Access Road and terminus parking, is scheduled to begin in 2017 and be completed by 2019. By 2019, the first cemetery phase (20-acres) would be completed while the remaining phases would be built, as needed, through approximately 2116. Subsequent cemetery phases (about every 10 years) would involve approximately 12 months of development, including earthwork and installation of columbarium structures and landscaping. The easement for the seasonal trail (around the 511.2-acre portion of the property) would be granted at a yet-to-be determined date. The VA estimates the total project cost to be \$210,000,000.00.

**Staff Analysis**

- A. **Issues Raised:** The staff believes that the consistency determination raises two primary issues, whether the proposed project is consistent with the Commission's laws and policies regarding: (1) natural resources; and (2) public access, including specific policies regarding future sea level rise and shoreline flooding.
1. **Natural Resources.** The Bay Plan policies on Fish, Other Aquatic Organisms and Wildlife state, in part, "[t]o assure the benefits of fish, other aquatic organisms and wildlife for future generations, to the greatest extent feasible, the Bay's tidal marshes, tidal flats, and subtidal habitat should be conserved, restored and increased." In addition, the policies state, "[s]pecific habitats that are needed to conserve, increase or prevent the extinction of any native species, species threatened or endangered, species that the California Department of Fish and Game has determined are candidates for listing as endangered or threatened under the California Endangered Species Act, or any species that provides substantial public benefits, should be protected, whether in the Bay or behind dikes." Further, the policies direct the Commission to consult with, among others, the USFWS whenever a proposed project may adversely affect an endangered or threatened... species, and the policies direct the Commission to not authorize projects that would result in the "taking" of any listed species unless the project applicant has obtained the appropriate "take" authorization from the appropriate resource agencies. Bay Plan Map No. 5 contains a policy note for an area immediately south of the project site stating in part that "Projects [should be] allowed only if protective of harbor seals and other sensitive wildlife."

As described earlier in this staff report, 511.2 acres of the project site, including the entire southern edge of the property, would be left undeveloped, and, except for ongoing site remediation activities, managed solely to protect and enhance a 9.7-acre California least tern nesting colony lying in the midst of the proposed reserve. A two-mile-long seasonal trail along much of the shoreline of the proposed reserve may be constructed within an access easement provided by the VA and managed in accord with the USFWS's biological opinion issued for the project. The trail would only be open to the public when the least terns are not at the site (i.e. the non nesting season).

The Commission should determine whether the project is consistent with its policies regarding Fish, Other Aquatic Organisms, and Wildlife and Tidal Marshes and Tidal Flats.

2. **Public Access.** Section 66602 of the McAtteer-Petris Act states, in part, "public access to the shoreline and waters of San Francisco Bay is inadequate and that maximum feasible public access, consistent with a proposed project, should be provided." To that end, the Bay Plan contains policies directing that all projects authorized by the Commission "increase" (Public Access Policy No. 1) and "provide" (Public Access Policy No. 2) maximum feasible public access to the Bay and its shoreline. Supporting findings of these policies provide, in part, that access "usually consists of pedestrian and other non-motorized access to and along the shoreline of San Francisco Bay" and "may include certain improvements, such as paving, landscaping, and street furniture; and it may allow for additional uses, such as bicycling, fishing, picnicking, nature education, etc."

The Bay Plan Public Access Policies Nos. 3 and 4 recognize that public access can conflict with sensitive resources and provide, in part, that such areas "be carefully evaluated in consultation with appropriate agencies to determine the appropriate location and type of access" and design, management, and monitoring be used to "avoid or minimize adverse effects on wildlife. Policy No. 7 provides that access areas be safe and convenient and designed to "encourage diverse Bay-related activities and movement to and along the shoreline" and allow "barrier free access for persons with disabilities to the maximum feasible extent." Policy No. 9 states, in part, that waterfront access "be provided by walkways, trails, or other appropriate means and connect to the nearest public thoroughfare where convenient parking...may be available." Policy No. 10 states, in part, that roads near the water should "provide for safe, separated, and improved physical access to and along the shore." Lastly, Bay Plan Public Access Policy No. 5 states that "public access should be sited, designed, managed and maintained to avoid significant adverse impacts from sea level rise and flooding..." and, further, Policy No. 6 states partly that "public access provided as a condition of development should either be required to remain viable in the event of future sea level rise or flooding, or equivalent access consistent with the project should be provided nearby."

The VA's consistency determination states that the proposed project would employ up to approximately 260 staff each weekday and 50 staff each weekend day, and receive approximately 730 OPC and cemetery visitors each weekday and 250 visitors each weekend day. The consistency determination does not identify the number of visitors who would be drawn to the site to engage in recreational opportunities at the newly-opened shoreline area, which has been unavailable to the public and affords superb views of the Bay.

The proposed VA facilities would serve U.S. veterans throughout the San Francisco Bay Area and general visitors of these federal facilities. In addition, the VA proposes to develop various areas and amenities at the site intended to serve the general public (Exhibit G). The proposed conservation management office would focus on California least tern management activities, but also serve a public education and interpretive role. In addition, the CMO would provide other amenities for general public use, including a drinking fountain and two restrooms, which would be open to the public on a daily

basis during operational hours anticipated to be from 8:00 am to 5:00 pm. The VA also proposes to construct a main public road (the North Access Road) to access its proposed facilities and to travel to and from the shoreline. Further, the proposed North Access Road would include a separated 12-foot-wide bicycle pathway, a five-foot pedestrian sidewalk, and dedicated public parking for eight vehicles at its terminus. Adjacent to the road's terminus, the VA would permanently provide and operate a 44,500-square-foot shoreline area with a minimum of two benches, two trash containers, and signage. Approximately 35% of this proposed public access area is occupied by existing riprap that was not engineered, contains odd-sized pieces of concrete and rebar, and is difficult to cross. Approximately 30,000 square feet of the shoreline area would be relatively flat and could be used by the public. The VA has stated that people in wheelchairs would be able to see over the riprap. This public access area has not yet been designed but will be relatively simple, rustic and intended to be incorporated at some time in the future with the park proposed immediately north of North Access Road (the "northwest territories") that will be improved and managed by other parties, such as the City of Alameda or East Bay Regional Park District.

At the 511.2-acre undeveloped area or preserve, along the western, southern, and eastern boundaries and primarily along the Bay edge, the VA would provide an easement over an approximately two-mile-long area ranging from 12-25 feet wide, in which the City of Alameda (or other designee) may develop a seasonal trail for use by the public from approximately August 15 to April 1 of each calendar year consistent with protection of the least tern and ongoing maintenance of remediated areas. At this time, a schedule for final execution of the easement is not in place but the VA is currently working with the City of Alameda to complete the easement. Thus, the schedule for opening and operating the trail, and, if necessary, improving the trail is unknown at this time.

The consistency determination states "[T]he current shoreline area includes an existing trail. The VA anticipates the City or designee would utilize this existing trail without upgrades; or the VA will allow the City or designee to enhance the existing trail in the future." The consistency determination states that "the City or designee would construct a fence or other barrier to prevent people from leaving the shoreline easement area and existing trail. The VA would also require the City or designee to provide security, safety, environmental, biological and access signage with requirements and instructions. Signage would be placed along the trail and/or fence/barrier. In addition, the City or designee would provide security personnel to protect CLT and VA interests and obligations. Written USFWS concurrence of the shoreline trail concept would be required in order for VA to issue an easement for the trail. The fence or other barrier would need to be constructed in accordance with requirements of VA and USFWS." The VA's consistency determination also recognizes that trail enhancements undertaken by the City or designee would require a separate Commission permit and would likely be subject to the review and advice of the Commission's Design Review Board.

According to the VA's consistency determination, the USFWS's Biological Opinion (August 2012) for the project states that "use of a proposed future [seasonal] trail would be restricted to keep the public outside a protected buffer zone for the [California least tern], with additional restrictions during the breeding season (April 1 through August 15). The BO measures include reducing human presence by enacting controlled access to a trail with closure to the public during the [least tern] breeding season and fencing to keep users out of the [least tern] setback area at all times. Signage would be provided along the pathway and fence line or other barrier, directing visitors to stay on the trail. Fencing or barriers would be provided along the distance of the trail to keep people out of the remainder of the undeveloped portion of the VA Transfer Parcel. VA would provide security fencing, or other type of barrier, to prevent pedestrian access to the VA's Development Area." Further, the consistency determination states "The VA would

ensure that the seasonal trail is managed securely, safely, environmentally and biologically compliant according to a United States Fish and Wildlife Service (USFWS) 2012 Biological Opinion, other environmental regulatory requirements, security requirements, and Federal directives, restrictions and agreements.”

An analysis was performed to determine the required elevation for the proposed project considering the potential for inundation. Approximately 444,000 cubic yards of fill material are planned to prepare for Phase 1 construction at the site. Most of the fill would be placed where the proposed clinic and first phase of the cemetery would be constructed. The fill would raise the ground elevation of the OPC and Cemetery (Columbaria Phase I) to approximately 13.5 feet above MSL. Based on sea level rise predictions of 5-24 inches by 2050 and 17-66 inches by 2100 (2012 NRC projections), the proposed development location would be at a higher elevation than the sea level rise prediction for 2100.

The broken concrete riprap along the shoreline protects the edge against erosion and water inundation. Discussions with US Army Corps of Engineers (USACE) staff indicated the riprap should not be altered because it provides protection to the shoreline from flooding. The USACE has stated that the riprap is necessary and should not be changed, except if approved enhancements are determined necessary to meet FEMA standards and to protect Alameda Point in the future. As noted above, the existing concrete revetment was not engineered, is comprised of concrete pieces that are not stable, and includes exposed rebar. Therefore, providing recreational facilities to the shoreline and into the San Francisco Bay is not included as part of the proposed project.

Much of North Access Road would use portions of the former air station runways and would not be raised at this time. Thus, there is a possibility that some of the proposed public access, particularly the access at the western terminus of North Access Road and the western portion of North Access Road could be impacted by future sea level rise or temporarily flood at certain times of the year. However, as North Access Road and the western access area would be constructed largely on former runways, it is likely that these areas would withstand any temporary inundation without damage. In addition, the VA has stated that they will assure that these public access areas and amenities are maintained as long as the clinic and cemetery exist.

In evaluating whether a project provides maximum feasible public access consistent with the project, the Commission and its staff use several variables in evaluating the adequacy of the proposed public access. These variables include site constraints and opportunities, the expected level of use of the public access areas, existing access in the area, past experience with public access provided by other similar projects, project cost, and possible impacts to adjoining wildlife and habitat. The Commission has concurred with several federal projects where access was required or provided as part of the Commission's concurrence that the project was consistent with the Commission's federally approved coastal program. However, most of these projects have been put forward by the National Park Service and U.S. Fish and Wildlife Service where public access is an important part of the agency's mandate. These projects also included more work within the Commission's state authorized jurisdiction than the VA's project. For example, in Consistency Determination No. CN5-04 to the U.S. Fish and Wildlife Service for the Cullinan Ranch Marsh Restoration Project, near the City of Vallejo, Solano County, the Commission required, as part of its concurrence with the restoration of 1,549 acres of tidal marshlands and 26 acres of transitional upland habitat, that USFWS provide public access improvements including two kayak launches, an overlook and viewing platform, a fishing pier, an ADA-accessible trail, and interpretive signs.

In Consistency Determination No. 11-04 to National Park Service for the implementation of the Fort Baker Reuse Plan, the NPS proposed converting the former military installation into part of the Golden Gate National Recreation Area and converting some of the historic structures around the parade ground for use as a retreat and conference center. The Commission concurred in this consistency determination because the Park Service's proposal included a number of public serving amenities such as restoring or enhancing 40 acres of habitat, public access improvements along the waterfront including improving an existing fishing pier, and the construction of additional museum space. One federal project that, like the VA project, included very little work within the Commission's state authority was Consistency Determination CN2-08 to the California Department of Transportation and the San Francisco County Transportation Authority for the improvement of a 1.6-mile section of Doyle Drive/Highway 101. In that administrative authorized consistency determination, the Commission staff concurred with the proposed project and required that "at project completion, all public access trails existing as of the date of this consistency shall be maintained, replaced, or enhanced to conditions that are equal to or better than those existing at the time of issuance. That consistency determination also required that the "Department of Transportation shall make every effort to minimize closures and impacts to existing public access areas adjacent to Doyle Drive during project construction." No new public access improvements were required, although the project design incorporated a number of improvements that would greatly enhance public access adjacent to and across Doyle Drive.

The Commission should determine whether the VA's proposed public improvements are consistent with its policies on Public Access.

- B. **Review Boards.** As the project does not propose any fill, the Engineering Criteria Review Board did not review the project. As the proposed public access was relatively simple, rustic, and largely undesignated at the time of the submittal of this consistency determination, the project was not reviewed by the Design Review Board. However, it is anticipated that when the VA develops plans for the western public access area, the Commission staff will determine if DRB review is warranted.
- C. **Environmental Review.** Pursuant to the National Environmental Policy Act (NEPA), a final Environmental Assessment (EA) evaluating the potential environmental consequences of these actions was issued in November 2013. A joint and coordinated VA and Navy Environmental Assessment (EA) was prepared in compliance with the National Environmental Policy Act (NEPA) that evaluates the potential environmental impacts on the natural and human environment that could result from the joint and coordinated actions: 1) The Navy transfer of excess Federal property at the former NAS located at Alameda Point in Alameda, California, and 2) Subsequent reuse of the property by the VA for construction and operation of the VA facilities including a VHA Alameda Outpatient Clinic (OPC) and NCA Cemetery to serve San Francisco Bay Area Veterans in the region. An executive summary of the Environmental Assessment is attached as Exhibit I.
- D. **Relevant Portions of the McAteer-Petris Act**
  - 1. Section 66602
  - 2. Section 66605
  - 3. Section 66632
  - 4. Section 66663

**E. Relevant Portions of the San Francisco Bay Plan**

1. *San Francisco Bay Plan* Policies on Fish, Other Aquatic Organisms, and Wildlife
2. *San Francisco Bay Plan* Policies on Water Quality
3. *San Francisco Bay Plan* Policies on Public Access
4. *San Francisco Bay Plan* Policies on Tidal Marshes and Tidal Flats

**F. Relevant Portions of Federal Laws and Regulations**

1. Relevant Portions of the Coastal Zone Management Act
  - Section 304(1)
  - Section 307(c)(1)
2. Relevant Portions of the Department of Commerce, National Oceanographic and Atmospheric Administration Regulations
  - Section 930.32(a)
  - Section 930.34
  - Section 930.35
  - Section 930.39

<b>Exhibits</b>
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- A. **Project Location and Proposed Site Plan, Exhibit A**
- B. **Cemetery - Phase 1, Exhibit B**
- C. **Outpatient Clinic Perspectives, Exhibit C**
- D. **Columbaria Courts, Exhibit D**
- E. **Conservation Management Office, Exhibit E**
- F. **Roadway Sections, Exhibit F**
- G. **Public Access Improvements, Exhibit G**
- H. **Site Phasing, Exhibit H**
- I. **Environmental Assessment Impacts and Mitigation Summary, Exhibit I**