

San Francisco Bay Conservation and Development Commission

455 Golden Gate Avenue, Suite 10600, San Francisco, California 94102 tel 415 352 3600 fax 415 352 3606

April 19, 2018

TO: Members of the Enforcement Committee

FROM: Lawrence J. Goldzband, Executive Director (415/352-3653; larry.goldzband@bcdc.ca.gov)
Marc Zeppetello, Chief Counsel (415/352-3655; marc.zeppetello@bcdc.ca.gov)
Matthew Trujillo (415/352-3633; matthew.trujillo@bcdc.ca.gov)

SUBJECT: Revisions to the Executive Director's Recommended Enforcement Decision and Proposed Commission Cease and Desist and Civil Penalty Order No. CDO 2018.02; North Coast Rail Authority
(For Enforcement Committee consideration on April 19, 2018)

Proposed Revisions

- I. The staff would like to make the following revisions to the Executive Director's Recommended Enforcement Decision Regarding Proposed Commission Cease and Desist and Civil Penalty Order No. CDO 2018.02 Issued to the North Coast Rail Authority, dated April 6, 2018.

Page 7, Paragraph 3, Last line:

... written notice of completion of the remediation work submitted pursuant to Condition IV.E.

Should be changed to:

... written notice of completion of the remediation work submitted pursuant to Condition III.E of the proposed Order.

Page 8, Item V.B, Line 1:

By March 30, 2018, submit a comprehensive plan acceptable to the Executive Director...

Should be changed to:

No later than 60 days after the Effective Date of this Order, submit a comprehensive plan acceptable to the Executive Director...

Page 8, Item V.C, Line 2:

... May 31, 2018

Should be changed to:

... promptly after approval of the remediation plan by the Executive Director.

Page 8, Item E:

To ensure significant progress is maintained, submit periodic (not less than quarterly) progress reports to BCDC staff summarizing the progress of the project, accompanied by photographic evidence.

Should be changed to:

Provide written notice to the Executive Director no later than five days after the completion of the remediation work.

Page 8, Insert New Item F:

Monitor the site for no less than two years after the completion of the remediation work.

Page 8, Change Former Item F to Item G:

Pay a civil penalty of \$30,000 to resolve its civil liability for violation of the law. \$15,000 shall be due within thirty days of the issuance of the Order, but 50% of the penalty shall be waived if the Executive Director determines, in writing, that NCRA has substantially complied with the terms of the Order.

II. The staff would like to make the following revisions to the proposed Commission Cease and Desist and Civil Penalty Order No. CDO 2018.02, dated May 17, 2018.

Page 4, Condition III.B.2, Line 2:

... the road and deposited in the culvert, slough, marsh.

Should read:

... the road and deposited in the culvert, slough, and marsh.

Page 4, Condition III.B.4, Line 4:

... the culvert, slough, marsh, and, if applicable, the Petaluma River as a result of ...

Should be changed to:

... the culvert, slough, and marsh as a result of ...

Page 5, Conditions III.B.6 through 8, Lines 2 - 4:

An explanation of the methodology used to conduct the assessment and the analysis of the data, and an appendix containing the raw data.

Should be removed from Condition III.B.6 and inserted as Condition III.B.7. As a result, Conditions III.B.7 and III.B.8 should be renumbered to III.B.8 and III.B.9, respectively.

Page 7, Paragraph 1, Last Line:

Condition IV.E.

Should be changed to:

Condition III.E.