

**COUNTY OF SAN MATEO
STATE OF CALIFORNIA**

**CONTRACT DOCUMENTS
AND
SPECIFICATIONS
FOR**

60 INCH CULVERT REPLACEMENT PROJECT AT BEAR GULCH ROAD

**TOTAL PROJECT APPROXIMATELY 82 LINEAR FEET IN LENGTH
WITH APPURTENANT WORK THERETO
IN SAN MATEO COUNTY**

**COUNTY PROJECT NO. RW927
PROJECT FILE NO. E5030**

APPROVED: June 10, 2022



**ANN MADER STILLMAN
(R.C.E. No. 47882)**

Interim Director of Public Works

Department of Public Works
San Mateo County
555 County Center, 5th Floor
Redwood City, California 94063-1665



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NOT USED

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**COUNTY OF SAN MATEO
STATE OF CALIFORNIA**

NOTICE TO CONTRACTORS

NOTICE IS HEREBY GIVEN, that

Sealed bids will be received either by mail to the office of the County Executive/Clerk of the Board of Supervisors, or hand-delivered within one-half (1/2) hour prior to the bid opening at the Hall of Justice and Records, 400 County Center, Redwood City, California, 94063 until the hour of

2:30 p.m., Thursday, July 7, 2022

which all bids (mailed in or hand-delivered) will then be transmitted to the County Executive's Office in the Hall of Justice and Records at 400 County Center, Redwood City, where the bids will be publicly opened and read aloud for the following project in accordance with the specifications therefore and to which special reference is made as follows:

60 INCH CULVERT REPLACEMENT PROJECT AT BEAR GULCH ROAD

**TOTAL PROJECT APPROXIMATELY 82 LINEAR FEET IN LENGTH
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IN SAN MATEO COUNTY**

**COUNTY PROJECT NO. RW927
PROJECT FILE NO. E5030**

Bids are required for the entire work described herein.

Bidders are further advised of the following:

- 1. Contractor should be placed on a Plan Holders List for bidding. To be placed on the Plan Holders List, the Contractor shall either:**
 - a. Purchase Plans and Specifications, including forms of proposal and contract, from the County of San Mateo Department of Public Works. When purchasing by phone (650-363-4100) or email (mmanalo@smcgov.org) please send check payable to "County of San Mateo" to 555 County Center, 5th Floor, Redwood City, CA 94063; OR**
 - b. Complete and sign the following Plan Holder's Affidavit by using the link below and you will receive a separate link for downloading an electronic copy of the Plans and Specifications:**

<https://www.smcgov.org/publicworks/affidavit-form-culvert-replacement-project-bear-gulch>

The Contractor is advised that the table should be received by the County no later than three (3) working days prior to the bid opening date.

- c. If Plans and specifications are obtained through a source other than those outlined in 1a and 1b above, complete and sign the following Plan Holder's Affidavit and return to the County by PDF either via email to mmanalo@smcgov.org. **The Contractor is advised that the table should be received by the County no later than three (3) working days prior to the bid opening date.**

Plan Holder's Affidavit	
Project Title	60 Inch Culvert Replacement Project at Bear Gulch Road
Project No.	RW927
Project Engineer:	Michelle Manalo Mason
Project Manager:	Anthony Lum
Bid Open Date and Time:	2:30 p.m., Thursday, July 7, 2022
Company Name:	
Mailing Address:	
Phone Number:	Fax Number:
E-mail Address:	
(Name and Title of Authorized Representative of Bidder)	
(Signature of Authorized Representative of Bidder)	

2. The Plan Holders List will be posted to the County of San Mateo's Public Works website two (2) working days prior to the bid open date.
3. Questions regarding the Contract Documents concerning items such as

discrepancies, conflicts, omissions, doubts as to meanings, or regarding scope of bid items shall be referred to the Engineer. Inquiries must be received in writing via email, to mmanalo@smcgov.org, not less than five (5) working days prior to bid opening. Inquiries will be answered in writing via email response if written clarification is warranted, in the opinion of the Engineer, then inquiries and responses will be posted to the Project's page on the County of San Mateo's Public Works website. It will be the Contractor's sole responsibility to ensure that they receive responses, *if any*. The County will not be responsible for oral clarifications.

4. It will be the Contractor's sole responsibility to ensure that they have received addendums, *if any*, which will be posted to the County of San Mateo's Public Works website on the same day issued. Said addendums will also be sent to all current plan holders and made available during purchase of Plans and Specifications.
5. Proposals in which the prices obviously are unbalanced may be rejected.

The Department of Public Works website will be updated as needed and can be accessed under the Department's tab found on the County of San Mateo website (<http://publicworks.smcgov.org>).

ENGINEER'S ESTIMATE**60 INCH CULVERT REPLACEMENT PROJECT AT BEAR GULCH ROAD**

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Item No.	Item Description	Section No.	Unit of Measure	Estimated Quantity
1	Trench Safety	7-5	LS	1
2	Develop and Apply Water	10	LS	1
3	Mobilization	11	LS	1
4	Maintaining Traffic	12	LS	1
5	Water Pollution Control	13	LS	1
6	Temporary Creek Diversion System	13-2	LS	1
7	Construction Waste Management	14	LS	1
8	Clearing and Grubbing	17	LS	1
9	Remove Trees	17-1	EA	2
10 (F)	Roadway Excavation	19-1	CY	500
11	Structure Backfill	19-2	CY	327
12	Aggregate Base (Class 2)	26	TONS	8
13	Asphalt Concrete (Type A HMA, 1/2" max.)	39	TONS	5
14 (F)	Class 2 Concrete (Minor Structure)	51-1	CY	14
15	60 Inch Reinforced Polyethylene Pipe	64	LF	55
16	Rock Slope Protection (Class 3)	72-1	CY	12
17	Cable Railing	80-1	LF	12
18	Temporary Fence (Type ESA)	80-2	LF	160
19	Remove and Replace Existing Barbed Wire Fence	80-3	LF	30

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Item No.	Item Description	Section No.	Unit of Measure	Estimated Quantity
20	Remove and Reset Existing Road Signs	82	EA	1
21	Construction Staking	100	LS	1

Engineer's Estimate of Costs: \$ 346,000

(F) Final Pay Quantities - See Section 9-1.02C, "Final Pay Item Quantities," of the Standard Specifications.

(Note: Gaps in section numbering, above, indicate the Section is blank or does not apply.)

The foregoing quantities are approximate only, being given as a basis for the comparison of bids, and the County of San Mateo does not, expressly or by implication, agree that the actual amount of work will correspond herewith, but reserves the right to increase or decrease the amount of any class or portion of the work, or to omit any portion of the work, as may be deemed necessary or expedient by the Engineer.

Payment to the Contractor for materials furnished and work completed shall be made by the County in accordance with Section 9 of the "Special Provisions" portion of these Contract Documents. Pursuant to Section 22300 of the Public Contract Code, Contractor may, upon his request and at Contractor's expense, substitute equivalent securities for any moneys retained from such payment for the fulfillment of the Contract.

When applicable, both Contractor and Subcontractor hereby agrees to pay not less than prevailing rates of wages and be responsible for compliance with all the provisions of the California Labor Code, Article 2-Wages, Chapter 1, Part 7, Division 2, Section 1770 et seq and Section 1810 et seq. A copy of the prevailing wage scale established by the Department of Industrial Relations is on file in the office of the Director of Public Works, and available at www.dir.ca.gov/DLSR or by phone at 415-703-4774. California Labor Code Section 1776(a) requires each contractor and subcontractor keep accurate payroll records of trades workers on all public works projects and to submit copies of certified payroll records upon request.

Additionally, pursuant to State Senate Bill SB 854 (Stat. 2014, chapter 28), effective January 1, 2015:

- (1) No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].**
- (2) No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.**
- (3) This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.**

Wage rates for overtime shall be paid at not less than one and one-half (1-1/2)

times the above rates. Wage rates for Sundays and holidays shall be paid at not less than two (2) times the above rates.

The holidays upon which such rates shall be paid shall be all holidays recognized in the collective bargaining agreement applicable to the particular craft, classification, or type of worker employed on the Project.

It is the policy of the County that Contractors on public projects employ their workers and craftsmen from the local labor market whenever possible. "Local Labor Market" is defined as the labor market within the geographical confines of the County of San Mateo, State of California. Consistent with this policy, the Contractor is requested to employ craftsmen and other workers from the local labor market whenever possible to do so.

Each bidder shall submit with the bid, Certificates of Compliance and Intent on a form provided in the "Proposal" section of these Contract Documents, a certificate that bidder is in compliance with the provisions of the Equal Employment Opportunity Requirement of Executive Order 11246, Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act and any other federal, State and local laws and regulations relating to equal employment opportunity. With the execution of said certificates, bidder also agrees that bidder will maintain or develop and implement, during the course of the work concerned, a program of hiring and employment, conducted without regard to race, religion, color, national origin, ancestry, sexual orientation, or sex of the applicants. With this certification, bidder shall submit any and all information that may be required by the County in connection with the particular project.

Each bidder is hereby notified of Section 9204 and Section 20104 et seq. of the Public Contract Code as those Sections (attached hereto as Appendix E) relate to resolution of construction claims, and to Section 3186 of the Civil Code, as amended January 1, 1999 with regard to stop notices and public entity's rights to retain monies in order to provide for that entity's reasonable cost of litigation. The bidder is further notified that all provisions of Section 9204 and Section 20104 et seq. of the Public Contract Code and Section 3186 of the Civil Code, as outlined above shall be considered as incorporated into and become an integral part of these specifications.

Questions relating to equal employment should be directed to the San Mateo

County Department of Public Works, Equal Employment Opportunity Program, 555 County Center, 5th Floor, Redwood City, CA 94063-1665, telephone (650) 363-4100.

Plans and Specifications and forms of Proposal and Contract may be seen and obtained at the office of the Director of Public Works, 555 County Center, Redwood City, California, 94063-1665. Plans and specifications may be obtained for a:

NON-REFUNDABLE FEE OF \$40 PER SET

Additional technical questions should be directed to the office of the Director of Public Works, 555 County Center, Redwood City, California, 94063-1665, telephone (650) 363-4100.

The Contractor shall possess either a Class A License or a combination of Class C licenses that are applicable for the majority of the work at the time this contract is awarded. No Contract will be awarded to a Bidder who is not licensed as required by laws of the State of California.

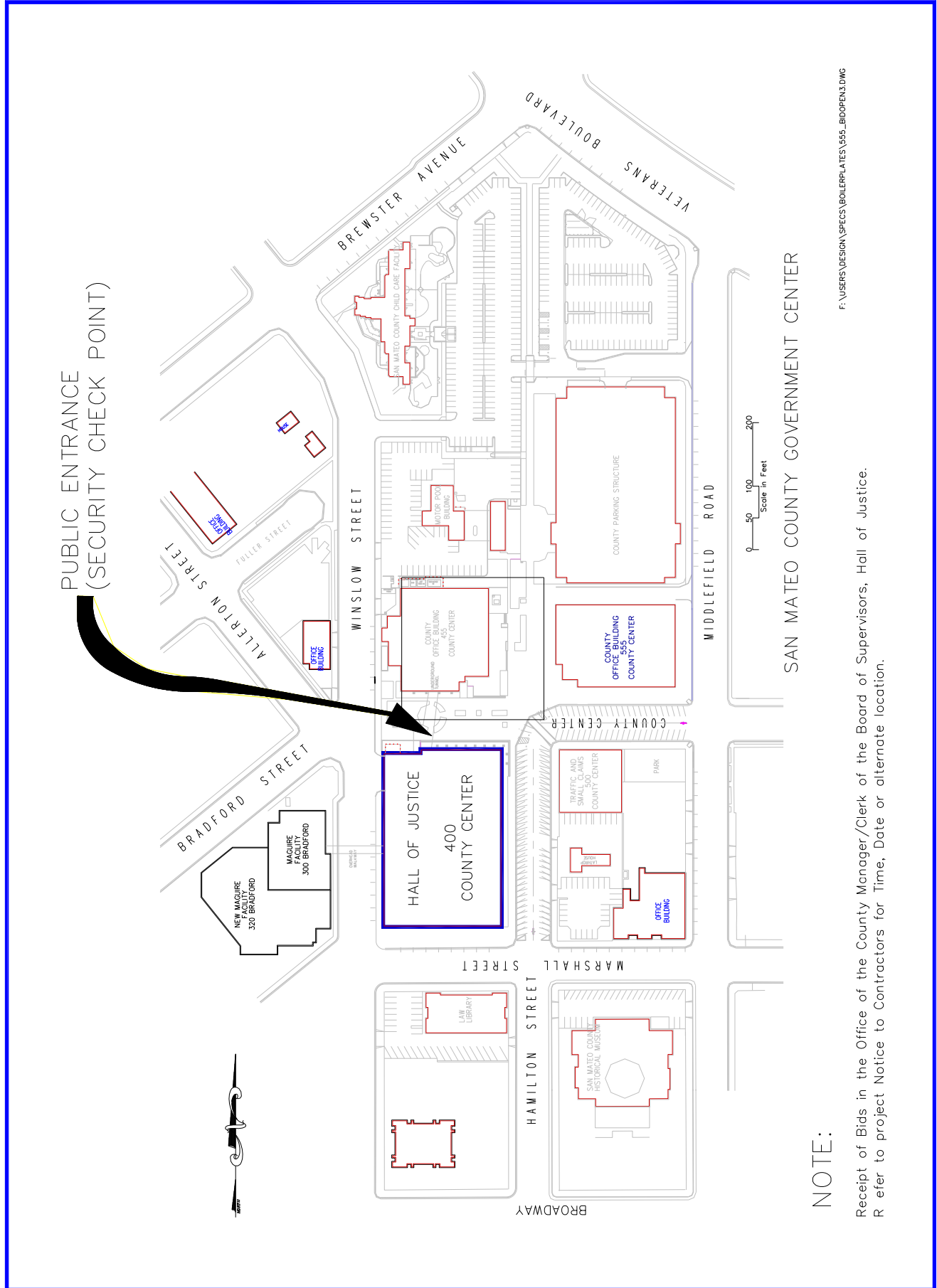
The County of San Mateo reserves the right to reject any or all bids and/or waive any informalities or irregularities in any bid received.

Bidders may not withdraw their bid for a period of **FORTY-FIVE (45) DAYS** after the date set from the opening thereof.

BY ORDER OF THE
BOARD OF SUPERVISORS
COUNTY OF SAN MATEO

DATE: June 10, 2022

**Michael Callagy, County Executive/
Clerk of the Board of Supervisors**



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NOTE:

Receipt of Bids in the Office of the County Manager/Clerk of the Board of Supervisors, Hall of Justice.
 R refer to project Notice to Contractors for Time, Date or alternate location.

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SECTION 1.**DEFINITIONS OF TERMS TO BE USED IN THE SPECIAL PROVISIONS,
NOTICE TO CONTRACTORS, PROPOSAL, AGREEMENT OR
OTHER CONTRACT DOCUMENTS**

Except as specifically stated herein, the definitions contained in the Standard Specifications of the State of California, Department of Transportation, as set forth per Section 2-1, "Plans and Specifications," of these Special Provisions and hereafter referred to as "Standard Specifications," shall be applicable with the understanding that where said definitions specifically refer to the State of California, a department or division of the State or an official, officer or employee of the State, said definition shall be interpreted to refer to the County of San Mateo, the Department of Public Works, or other appropriate department, division, official, officer or employee of the County of San Mateo.

Definition 7-1.02L, "Public Contract Code," of the Standard Specifications shall not be interpreted to include the provisions of Article 7.1 of Division 2, Part 2, Chapter 1 of the Public Contract Code.

END OF SECTION

SECTION 2. BIDDING

The Bidder's attention is directed to all the provisions of Section 2, "Bidding," of the Standard Specifications and these Special Provisions. The County will accept a Bidder's Bond in the form issued by an admitted surety insurer in lieu of the sample forms provided herein in Appendix C of these Special Provisions. The County will not be responsible for any oral interpretations to Bidders with respect to any of the work embraced herein.

Failure of the bidder to fulfill the requirements of the Special Provisions for submittals required to be furnished after bid opening, including but not limited to escrowed bid documents, where applicable, may subject the bidder to a determination of the bidder's responsibility in the event it is the apparent low bidder on a future public works contract.

All proposals must be made upon the blank form contained herein.

2-1. Plans and Specifications

Subject to the exceptions stated herein, the work embraced herein shall be done in accordance with the Standard Plans and Specifications as adopted by the County of San Mateo insofar as the same may apply, and in accordance with the following Special Provisions.

As set forth in **Resolution No. 077227** of the Board of Supervisors of the County of San Mateo, adopted **February 11, 2020**, which approved and adopted the **2018** Standard Plans and Standard Specifications of the State of California, Department of Transportation as the Standard Plans and Standard Specifications of the County of San Mateo, State of California.

In the event that a discrepancy arises between the project Plans, these Special Provisions, the Standard Plans and the Standard Specifications, the provisions of Section 5-1.02, "Contract Components," of the Standard Specifications shall apply.

END OF SECTION

SECTION 3. CONTRACT AWARD AND EXECUTION

The bidder's attention is directed to the provisions in Section 3, "Contract Award and Execution," of the Standard Specifications and these Special Provisions for the requirements and conditions concerning award and execution of contracts.

However, the following supersedes the second paragraph in Section 3-1.04, "Contract Award," of the Standard Specifications:

"The award of contract, if awarded, will be made to the lowest responsible bidder within **SIXTY (60) DAYS** after the opening of the proposals. If the lowest responsible bidder refuses or fails to execute the contract, the County may award the contract to the second lowest responsible bidder. If the second lowest responsible bidder refuses or fails to execute the contract, the County may award the contract to the third responsible bidder. The period of time after that specified above within which the award of the contract may be made shall be subject to extension for such further period as may be agreed upon, in writing, between the County and the bidder concerned."

Bidders who wish to lodge a protest for consideration as to the bidding process or the award of a contract to the lowest responsible bidder must do so as follows:

- (1) Protests based upon alleged improprieties in a solicitation, which are apparent prior to bid opening, shall be filed **two (2) business days** prior to bid opening.
- (2) Protests other than those covered by paragraph 1, above, shall be filed no later than **ten (10) calendar days** after the bid opening.
- (3) All protests shall be delivered to:

Director of Public Works
County of San Mateo
555 County Center, 5th Floor
Redwood City, CA 94063

Untimely protests, which do not meet the deadline requirements specified above, will not be accepted or considered.

Bid protests must be submitted in writing to the addressee and address listed above. Bid protests must at a minimum include the following:

- Project Name

- Project File Number
- A complete statement describing the basis for the bid protest, which includes a detailed statement of all legal and factual grounds for the protest
- Documentation supporting the protestor's grounds for the protest
- The type of relief requested and the legal basis for such relief

If a valid protest is filed timely, the Department will investigate the bid protest. The protested bidder shall have **three (3) business days** to respond to the Department and to provide any information requested by the Department. The Department shall respond to the protesting party, stating its findings. The Department Director shall make a recommendation to the San Mateo County Board of Supervisors regarding the bid protest.

Bid protests are to be delivered to the following address: 555 County Center, 5th Floor Redwood City, CA 94063.

The award of the contract, if it is awarded, will be to the lowest responsible bidder whose proposal complies with all the requirements prescribed.

The contract shall be executed by the successful bidder and shall be returned, together with the contract bonds, to the County so that it is received within ten (10) days, not including Saturdays, Sundays and legal holidays, after the bidder has received the contract for execution. Failure to do so shall be just cause for forfeiture of the proposal guaranty. The executed contract documents shall be delivered to the following address: 555 County Center, 5th Floor Redwood City, CA 94063.

END OF SECTION

SECTION 4.
DESCRIPTION OF WORK

The work to be done consists of, in general, clearing and grubbing, tree removal, excavation work, installing a temporary creek diversion system, removing the existing culvert pipe, installing a new 60 inch reinforced polyethylene pipe with the outfall 6 inches lower than the existing culvert, constructing a reinforced concrete headwall, backfilling, and paving work, as well as any other items and details not mentioned above, but required by the Project Plans, Standard Specifications and these Special Provisions, and the directions of the Engineer.

END OF SECTION

SECTION 5.

CONTROL OF WORK

Attention is directed to the provisions of Section 5, "Control of Work," of the Standard Specifications, except as herein provided, and to Section 2-1, "Plans and Specifications," of these Special Provisions.

5-1. Differing Site Conditions

This section shall be used in lieu of Section 4-1.06, "Differing Site Conditions (23 CRF 635.109)," of the Standard Specifications. Section 4-1.06 of the Standard Specifications shall not apply.

The following shall apply to digging trenches or other excavations that extend deeper than four feet (4') below the surface:

- A. The Contractor shall promptly, and before the following conditions are disturbed, notify the Engineer, in writing, of any:
 - (1) Material that the Contractor believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, II, or III disposal site in accordance with provisions of existing law.
 - (2) Subsurface or latent physical conditions at the site differing from those indicated.
 - (3) Unknown physical conditions at the site of any unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the contract.
- B. The Engineer shall promptly investigate the conditions, and if he finds that the conditions do materially differ, or do involve hazardous waste, and cause a decrease or increase in the Contractor's cost of, or the time required for, performance of any part of the work, shall issue a change order, excluding loss of anticipated profits, under the procedures described in the contract. No contract adjustment that results in a benefit to the Contractor will be allowed unless the Contractor has provided the required written notice.
- C. In the event that a dispute arises between the Engineer and the

Contractor whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the contractor's cost of, or time required for, performance of any part of the work, the Contractor shall not be excused from any scheduled completion date provided for by the contract, but shall proceed with all work to be performed under the contract. The Contractor shall retain any and all rights provided either by contract or by law that pertain to the resolution of disputes and protests between the contracting parties.

- D. In the event conditions materially differ from those indicated, the Contractor shall have no claim for construction delays, unless said conditions are determined by the Engineer to impact the controlling item of work.

5-2. Repair of Equipment

The work of installing, assembling, repairing or reconditioning, or other work of any nature on machinery, equipment or tools used in or upon the work shall be considered a part of the work to be performed under the contract and any laborers, workers or mechanics working on the machinery, equipment or tools, unless employed by bona fide commercial repair shops, garages, blacksmith shops or machine shops, which have been established and operating on a commercial basis for a period of at least 2 months prior to the award of the contract, shall be subject to all the requirements relating to labor set forth in these specifications and in the special provisions.

5-3. Cooperation

Attention is directed to Sections 5-1.20, "Coordination with Other Entities," and 5-1.36, "Property and Facility Preservation," of the Standard Specifications, and to these Special Provisions. The utility companies may be rearranging their facilities within the project area and it is expected that they will cooperate with the Contractor to the end that the work may be handled in an efficient manner.

The Contractor shall contact USA North811 (USA) service alert a minimum of forty-eight (48) hours in advance of any excavation or trenching work. USA may be contacted either on-line at usanorth811.org or by phone by dialing (800) 642-2444 or 811.

5-4. Permits and Licenses

Attention is directed to Section 5-1.20B, "Permits, Licenses, Agreements, and Certifications," of the Standard Specifications and these Special Provisions.

The Contractor shall have at least two employees trained in confined space entry regulations CAL/OSHA Confined Space Regulations, Title 8 CCR GISO 5156, 5157, and 5158 at the site whenever there are open trenches or underground work going on. It is understood that all fall protection, retrieval and atmospheric monitoring equipment shall be furnished and maintained by the Contractor at the Contractor's expense. This shall include but not be limited to cost associated with compliance with Confined Space Entry Regulations shall be at the expense of the Contractor.

Contractor's attention is directed to Appendix F, "Regulatory Environmental Documents," of these Project Specifications.

5-5. Project Appearance

The Contractor shall maintain a neat appearance to the work. Full compensation for conforming to the provisions in this section, not otherwise provided for, shall be considered as included in the unit prices paid for the various Contract items of work involved, and no additional compensation will be allowed therefore.

5-6. Preservation of Property

The Contractor's attention is directed to Section 5-1.36, "Property and Facility Preservation," of the Standard Specifications.

5-7. Air Pollution Control

Air pollution control shall conform to the provisions of Section 14-9.02, "Air Pollution Control," of the Standard Specifications.

5-8. Obstructions

Attention is directed to the provisions in Sections 5-1.36C, "Nonhighway Facilities," 15, "Existing Facilities," and 51-1.03E(9), "Utility Facilities," of the Standard Specifications.

5-9. Sound Control

Sound control shall conform to the provisions in Section 14-8.02, "Noise

Control,” of the Standard Specifications.

5-10. Public Convenience

Public Convenience shall conform to the provisions in Section 7-1.03, “Public Convenience,” of the Standard Specifications and to these Special Provisions.

5-11. Disposal of Material Outside the Highway Right of Way

Disposal of Material Outside the Highway Right Of Way shall conform to the provisions of Sections 5-1.20B(4), “Contractor-Property Owner Agreement,” and 14-10, “Solid Waste Disposal and Recycling,” of the Standard Specifications, and Section 14, “Construction Waste Management,” of these Special Provisions. The Contractor’s attention is further directed to Appendix “A”, “Construction Waste Management Plan,” of these Special Provisions.

5-12. Sanitary Sewer Monitoring and Reporting Requirements

NOT USED

5-13. Subcontracting

Attention is directed to the provisions in Section 5-1.13, “Subcontracting,” of the Standard Specifications.

END OF SECTION

SECTION 6. CONTROL OF MATERIALS

Attention is directed to Section 6, "Control of Materials," of the Standard Specifications and these Special Provisions.

The Contractor shall furnish all materials required to complete the work under this Contract.

6-1. Certificates of Compliance

Certificates of Compliance, conforming to the provisions in Section 6-2.03C, "Certificates of Compliance," of the Standard Specifications shall be furnished for all manufactured products, unless otherwise waived by the Engineer.

6-2. Materials Testing

Whenever the specifications require compliance with specified values for the following applicable properties, tests will be made as indicated:

Material To Be Tested	Property Being Tested	Acceptable Test Method(s)	Description
Aggregate Base	Relative Compaction	CT 216/CT 231	Determines field densities using a nuclear gage.
Asphalt Concrete	Relative Compaction	CT 375 or ASTM D2950	Determines field densities using a nuclear gage.
Structural Concrete	Strength Testing	CT 521	Determines compressive strength of molded concrete cylinders.

Any costs to the County for testing layers which fail the compaction requirements may be deducted from any progress payment due to the Contractor

when, in the opinion of the Engineer, such failure results from the Contractor's lack of diligence in pursuing compaction effort. In the event that a test fails, any testing after the first shall be at the Contractor's expense.

END OF SECTION

SECTION 7.

LEGAL RELATIONS AND RESPONSIBILITY

Attention is directed to the provisions of Section 7, "Legal Relations and Responsibility to the Public," of the Standard Specifications, these Special Provisions, and to the provisions of paragraph VIII, "Insurance," of the Agreement (AG) portion of the Contract Documents for insurance requirements and the provisions related to Novel Coronavirus Disease 2019 (COVID-19) in the Proposal (PR) and Sections XV, "COVID-19" and XII, "Electronic Signature," of the Agreement (AG) portions of the Contract Documents.

7-1. Equal Employment Opportunity Program for Minority Employment

It is the intent of the Board of Supervisors of the County of San Mateo to prohibit and eliminate employment discrimination and to further the opportunities for minority persons to be gainfully employed in the performance of County construction contracts. Award of a contract to a low bidder will not be made until such bidder has complied with the provisions of Section 2.50.040 of Title 2, Chapter 2.50, as amended, of the San Mateo County Ordinance Code and with these guidelines.

7-1.1. Definitions

EQUAL EMPLOYMENT OPPORTUNITY PROGRAM: An Equal Employment Opportunity Program (EEOP) is a set of specific and result oriented procedures to which a Contractor commits himself in order to achieve equal employment opportunity.

COMPLIANCE OFFICER: The Compliance Officer (CO) means the County official designated by the County Executive to represent him in the administration of these guidelines and in the enforcement of the provisions of Sections 2.50.040 and 2.50.050 of Title 2, Chapter 2.50.

7-1.2. Certifications of Compliance and Intent

Every bidder will submit with his bid, as required by Section 2.50.050 of Title 2, Chapter 2.50, a Certification of Compliance with the laws prohibiting discrimination and a Certification of Intent to implement an equal employment opportunity program on the form furnished in the Proposal section of these

Specifications.

7-1.3. Equal Employment Opportunity Program

In addition to furnishing the Certifications of Compliance and Intent, each bidder will submit his equal employment opportunity program with his bid proposal. The EEOP shall contain the following information:

A. Analysis of current work force

- (1) Total number of employees;
- (2) Numerical racial breakdown of employees by job classification;
- (3) Information on apprentices.

These figures will provide the base by which the low bidder's EEOP will be evaluated. Factors to be considered both in the original statistics and in any plans for future employment will include the percentage of minority population in San Mateo County, the availability of minority construction workers and the present minority representation in the various construction trades.

B. The affirmative actions the bidder has taken and will take to ensure equal employment opportunity. These shall include:

- (1) Recruiting and hiring minority persons. If non-union personnel are employed, this would involve employment advertising through sources serving the minority population. These include local minority newspapers, referral agencies, high schools, vocational schools and community groups. Specific information on these sources may be obtained from the Compliance Officer. Union employees will be recruited in accordance with applicable labor agreements. The bidder will seek to have included or will reaffirm clauses in all labor agreements prohibiting discrimination based on race, religion, color, national origin, age, disability, ancestry, sexual orientation, or sex. It is also suggested that bidders assist in admitting minority workers who are over the traditional apprenticeship entry age to the various craft training programs.
- (2) Providing adequate opportunity for the upgrading or further training of all employees to insure equal opportunity in advancement and

promotion. This might include a counseling service, information and assistance with night classes, or special career-directed program information.

- (3) Appointing an Equal Employment Opportunity Coordinator, full time or as an additional duty. This person will have the responsibility of administering an active program, informing company personnel and union representatives of company policy, and advising all subcontractors of their obligation to this program.
- (4) Establishing or maintaining an apprenticeship/training program designed to ensure hiring of additional minority employees in the journeyman and skilled classes. Each bidder is urged to support or develop and implement an Apprenticeship Program for his trade.
- (5) Selecting minority subcontractors or subcontractors who are known for their ongoing programs of apprenticeship for minorities. This includes advising minority Contractor associations of opportunities for subcontracts. Joint ventures with minority sub-contractors are encouraged.

C. The EEOP should state any previous experience the bidder has had with similar plans and the results of that effort. Current affirmative action plans should be described in detail.

7-1.4. Equal Employment Opportunity Program Evaluation

- A. The Compliance Officer (**CO**) will review the EEOP submitted by the low bidder in order to determine whether the program submitted complies with the provisions of Section 2.50.040 of Title 2, Chapter 2.50, as amended, of the San Mateo County Ordinance Code, and these guidelines. If deficiencies are indicated, CO may request additional information from the bidder or suggest appropriate remedies. The CO will be available to answer questions relative to the guidelines and to advise those seeking assistance of other sources. CO will not be responsible for the service or lack of service rendered by the consultant recommended, nor will the CO develop an EEOP or serve as a recruiter for any bidder.

The low bidder may withdraw his EEOP for revision after consultation with the CO; however, the revised program must be resubmitted by a date not later than fifteen (15) calendar days after the opening of bids.

- B. All subcontractors listed in the low bidder's proposal shall be required to file completed Certificates of Compliance and Intent and their EEOP with the Bidder for submission to the County. The EEOP of each subcontractor will be evaluated by criteria established for the low bidder's EEOP.
- C. The CO, upon conclusion of the EEOP review, will report his findings and recommendation to the Director of Public Works. The CO will keep acceptable EEOP's on file for six (6) months. During this time period, if the bidder or subcontractors bid for other County contracts, they may refer to the EEOP on file and state any changes, but will not be required, unless specifically requested, to re-file their program.

7-1.5. Inclusion of EEOP and Certificates

Upon award of the Contract by the Board of Supervisors, the EEOP and certifications for the bidder and all subcontractors, which have been approved and accepted by the County, will become an integral part of the Contract and subject to the provisions thereof.

7-1.6. Compliance of Contractor

- A. The Contractor will post, in conspicuous places available to employees and applicants for employment, notices, provided by the County, stating that the Contractor is obliged to comply with the provisions of these guidelines and the provisions of Section 2.050.040 of Title 2, Chapter 2.50, as amended, of the San Mateo County Ordinance Code. These notices will also be sent to all unions, employee organizations and other recruiting sources providing employees to the Contractor.
- B. All announcements of job openings will include the statement, "An Equal Opportunity Employer."
- C. The Contractor will make written progress reports on a form provided by the County to illustrate the effectiveness of his EEOP at

intervals established by the County.

- D. The **CO** will monitor the Contractor's EEOP until completion of the Contract and will report non-compliance of the Contractor in adhering to his EEOP to the Director of Public Works.
- E. The Contractor will permit, during Contractor's normal business hours and at Contractor's place of business, access by the County to his records of employment, employment advertisements, application forms and other data and records pertaining to Contractor's employment practices, for the purpose of determining whether Contractor is complying with the non-discrimination and equal employment opportunity rules of the County.

7-1.7. Compliance of Subcontractor

All subcontractors listed by the bidder are subject to all the provisions of these guidelines and the provisions of Section 2.050.040 of Title 2, Chapter 2.50, as amended, of the San Mateo County Ordinance Code.

7-1.8. Penalties for Non-Compliance

The penalties for non-compliance are listed in Title 2, Chapter 2.50, Section 2.50.050, which states:

- a. "Every public works contract shall provide that a contractor who, within the time specified in the contract, does not submit an equal employment plan and make the certifications required in this chapter shall be in breach of the contract."
- b. "If, after an award is made, the contractor is found by the County or by a Federal or State agency empowered to make such findings to be in substantial or material violation of the Fair Employment Practices Act of the State of California, the Equal Employment Opportunity Requirement of Executive Order 11246, title VII of the Civil Rights Act of 1964, or of the provisions of this chapter or of the Board-established guidelines implementing them, he may be found to be in material breach of contract, and the County shall have the power to cancel the contract in whole or in part, or alternatively, to deduct for each working day during which the contractor is found to have been in such non-compliance, two percent (2%) of the total amount payable

to the contractor.”

7-1.9. Waiver of Compliance

In the event that any of the requirements of Sections 2.050.040 and 2.050.050 of Title 2, Chapter 2.50, as amended, of the San Mateo County Ordinance Code, are found to result in an undue hardship upon a low bidder, bidder may submit evidence of hardship and a petition for waiver of such requirements to the Director of Public Works for recommendation to the Board of Supervisors. Such a waiver may only be granted by the Board and, if approved, shall become an integral part of the contract.

7-1.10. Employee Benefits

All Contractors with contracts with the County of \$5,000 or more shall comply with the provisions of Title 2, Chapter 2.84, as amended, of the San Mateo County Ordinance Code with respect to the provisions on employee benefits. As set forth in the ordinance, such contractors are prohibited from discriminating in the provisions of employee benefits between an employee with a domestic partner and an employee with a spouse. A copy of the Ordinance and Compliance form is attached to the Proposal Section of these Specifications.

In the event it is determined, by the County, that any portion of the County Ordinance Code regarding employee benefits conflict with Federal or State regulations, the Federal or State regulations shall take precedence over the County Ordinance Code.

7-1.11. Non-Discrimination

No person shall be excluded from participation in, denied benefits of, or be subject to discrimination under this Agreement on the basis of their race, color, religion, national origin, age, sex, sexual orientation, pregnancy, childbirth or related conditions, medical condition, mental or physical disability or veteran's status. Contractor shall ensure full compliance with Federal, State and local laws, directives and executive orders regarding non-discrimination for all employees and Subcontractors under this Agreement.

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Executive, including but not limited to:

- (1) termination of this Agreement;
- (2) disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 3 years;
- (3) liquidated damages of \$2,500 per violation;
- (4) imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Executive.

To effectuate the provisions of this paragraph, the County Executive shall have the authority to:

- (1) examine Contractor's employment records with respect to compliance with this paragraph;
- (2) set off all or any portion of the amount described in this paragraph against amounts due to Contractor under the Contract or any other Contract between Contractor and County.

Contractor shall report to the County Executive the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within thirty (30) days of such filing, provided that within such thirty (30) days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint and a description of the circumstance. Contractor shall provide County with a copy of its response to the Complaint when filed.

In the event it is determined, by the County, that any portion of these requirements regarding non-discrimination conflict with Federal or State regulations, the Federal or State regulations shall take precedence over County requirements.

7-2. Prevailing Wages

Attention is directed to Section 7-1.02K(2), "Wages," of the Standard Specifications.

In accordance with the provisions of Section 1770 of the California Labor Code, the Board of Supervisors of the County of San Mateo has ascertained the

prevailing rate of wages applicable to the work to be done, which prevailing wage rates have been established as indicated in the Notice to Bidders and are incorporated herein by reference.

The Contractor's attention is further directed to the following requirements of State Senate Bill SB 854 (Stat. 2014, chapter 28), effective January 1, 2015:

- (1) No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].**
- (2) No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.**
- (3) This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.**

7-2.1. Payroll Records

Reference is made to Section 7-1.02K(3), "Certified Payroll Records (Labor Code § 1776)," of the Standard Specifications. In particular, the Contractor's attention is directed 'to the last paragraph, which is amended to read:

"If by the 7th working day after the 25th of the month, the Contractor has not submitted satisfactory payrolls for all work performed during the monthly period ending on or before the 25th of that month, the Department may withhold an amount equal to ten percent (10%) of the estimated value of the work performed (exclusive of Mobilization) from that month's estimate, except that this withholding shall not exceed \$10,000 nor be less than \$1,000. Withholdings for failure to submit satisfactory payrolls shall be additional to all other withholdings or retentions provided for in the contract. The withholding for failure to submit payrolls for any

monthly period will be released for payment on the monthly estimate for partial payments following the date that all the satisfactory payrolls for which the withholding was made are submitted.”

The Contractor is advised that Contractor shall submit either Contractor’s Daily Dispatch Report at the start of each working day OR a Daily Personnel and Equipment Log (included as Appendix D of these Special Provisions) to the Engineer by the start of the first working day subsequent to the performance of the work, or Contractor may incur task-specific liquidated damages in the amount of \$500 per calendar day for every day hence until submittal is made.

The Contractor is further advised that, pursuant to State Senate Bill SB 854 (Stat. 2014, chapter 28), effective January 1, 2015, all contractors and subcontractors working on a contract for public work on a public works project must furnish electronic certified payroll records to the Labor Commissioner.

7-2.2. Contractor Employee Jury Service

All Contractors with contracts with the County of \$100,000 or more shall comply with the provisions of Title 2, Chapter 2.85, as amended, of the San Mateo County Ordinance Code, with respect to provision of jury duty pay to employees and have and adhere to a written policy that provides that its employees shall receive from the Contractor, on an annual basis, no less than five (5) days of regular pay for actual jury service in San Mateo County. The policy may provide that employees deposit any fees received for such jury service with the Contractor or that the Contractor deduct from the employees’ regular pay the fees received for jury service. A copy of the Ordinance and a Compliance Form is attached to the Proposal Section of these Specifications.

Award of a Contract to a low bidder will not be made until such bidder has certified compliance with the provisions of Title 2, Chapter 2.85, as amended, of the San Mateo County Ordinance Code.

7-3. Highway Construction Equipment

Attention is directed to Section 7-1.02O, "Vehicle Code," of the Standard Specifications and these Special Provisions.

Pursuant to the authority contained in Section 591 of the Vehicle Code, the County has determined that, within such areas as are within the limits of the project and are open to public traffic, the Contractor shall comply with all the requirements set forth in Divisions 11, 12, 13, 14 and 15 of the Vehicle Code. Attention is directed to the statement in Section 591 that this section shall not relieve him or any person from the duty of exercising due care. The Contractor shall take all necessary precautions for safe operation of his equipment and the protection of the public from injury and damage from such equipment.

7-4. Public Safety

Public Safety shall conform to the provisions in Section 7-1.04, "Public Safety," of the Standard Specifications and to these Special Provisions.

Full compensation for conforming to the requirements of this section shall be considered as included in the unit prices paid for the various Contract items of work, and no additional compensation will be allowed therefore.

7-5. Trench Safety

Trench Safety shall conform to the provisions in Section 7-1.02K(6)(b), "Excavation Safety," of the Standard Specifications and these Special Provisions. Full compensation for all work involved for this item, "Trench Safety," shall be as specified in Section 9 of the Standard Specifications and these Special Provisions.

END OF SECTION

SECTION 8.

PROGRESS OF WORK AND TIME OF COMPLETION

Attention is directed to the provisions of Section 8, "Prosecution and Progress," of the Standard Specifications, except as herein provided.

8-1. Time of Completion

The Contractor shall begin work within **TEN (10) CALENDAR DAYS** after receiving Notice to Proceed from the Department of Public Works, and shall diligently prosecute the same to completion before the expiration of

FORTY (40) WORKING DAYS

from the date of said beginning, as described above.

The Contractor is advised that punch list items are required to be completed before the expiration of the working days stated above.

The Contractor may request, in writing, for an extension of working days, which request shall state the reason for said request and the number of additional working days. The Engineer will consider said request and respond, in writing, stating either the number of additional working days approved or the reason for denying the request.

8-2. Liquidated Damages

Attention is directed to Sections 8-1.04, "Start of Job Site Activities," 8-1.05, "Time," and 8-1.10, "Liquidated Damages," of the Standard Specifications. The Contractor shall pay to the County of San Mateo the sum of Five Hundred Dollars (\$500.00) per calendar day for every calendar day delay over and above the number of working days prescribed above for finishing the work.

8-3. Progress Schedule

The Contractor is advised that an initial/baseline project schedule and subsequent schedule updates are required for the work included under this Contract, and such schedules shall be in accordance with these Special Provisions.

The provisions of Section 8-1.02, "Schedule," of the Standard Specifications are superseded by the following:

“The Contractor shall submit a baseline project schedule to the Engineer within **five (5) working days** after receipt of the Notice to Proceed from the Department of Public Works. This baseline schedule and any subsequent schedule updates shall show:

- (1) Completion of all work within the specified contract time;
 - (2) The proposed order of work; and
 - (3) Projected starting and completion times for major phases of the work, for the total project, including dates for ordering materials and for substantial completion of the project.
- Reference is made to Section 8-1, “Time of Completion,” of these Special Provisions.”

The Contractor is advised that:

- (1) **Contractor shall notify the Engineer a minimum of twenty-four (24) hours, prior to cancellation of any scheduled work. Should the Contractor fail to provide such notice, the cost for any travel time and mileage incurred by the Engineer will be deducted from the total amount due to the Contractor.**
- (2) **When requested, Contractor shall submit subsequent schedule updates within five (5) calendar days after receipt of written request from the Engineer. Failure to provide such subsequent schedule updates may be sufficient enough cause for the Engineer to issue a “Stop Notice,” and work may not be allowed to proceed until such subsequent schedule update has been submitted and approved.**

The schedule shall be developed by a critical path method. The baseline progress schedule shall have as many activities as necessary, and as approved by the Engineer, to be sufficient to assure adequate planning of the project, and to permit monitoring and evaluation of progress and the analysis of time impacts. The Contractor shall provide sufficient material, equipment, and labor to meet the completion times in this schedule.

The baseline project schedule submitted shall meet in all respects the time

and order of work requirement of the contract. If the Contractor fails to define any element of work, activity or logic, and the error is discovered by either party, it shall be corrected by the Contractor at the next scheduled monthly update or revision.

The Engineer shall have **five (5) working days** to review and accept, reject or return a submitted schedule for revision. The Contractor shall not commence project work until after receipt of written approval of the preliminary project schedule from the Engineer.

The Contractor shall submit a revised progress schedule within **five (5) working days** when requested by the Engineer, or when there is significant change in the Contractor's operations that will affect the work schedule.

During the period of the Contract, on or before the first calendar day of each month, the Contractor shall submit to the Engineer a complete, updated progress schedule. Said updated schedules shall provide a complete analysis of work previously completed and work yet to be performed, including a status update of each salient component that is delayed or not on schedule, the impact such delays will have on each of the remaining salient features of the work (with revised completion dates), and a revised completion date for all of the project work. Updated schedules shall incorporate all current schedule information, actual progress, approved adjustments of time and proposed changes in sequence and logic.

The Engineer may require the Contractor to also submit, on a weekly basis, a schedule of work for the following work week. The Engineer will determine the dates for submittal of weekly schedules.

If the Contractor or the Engineer considers that an approved or anticipated change will impact the contract progress, a schedule analysis and revised schedule supporting the proposed adjustment of time shall be submitted to the Engineer for review and approval.

If the Engineer deems that the baseline progress schedule, any necessary progress schedules and/or required supplemental schedules do not provide the information required in the section and/or is unacceptable in size, appearance, neatness and legibility, progress payments will be withheld by the Engineer until

a schedule containing the required information and/or with improved appearance has been submitted by the Contractor and approved in writing by the Engineer.

The Engineer's written approval of any schedule shall not transfer any of the Contractor's responsibilities to the Engineer. The Contractor alone shall remain responsible for adjusting forces, equipment, and work schedules to ensure completion of the work within the time(s) specified in the contract. Full compensation for conforming to all provisions of this Section, "Progress Schedule," shall be considered as included in the unit prices paid for the various Contract items of the work, and no additional compensation will be allowed therefore.

END OF SECTION

SECTION 9. MEASUREMENT AND PAYMENT

9-1. Force Account Work

Attention is directed to the provisions of Section 9-1.04, "Force Account," of the Standard Specifications and these Special Provisions.

The first sentence of bullet item 2 under Section 9-1.04B, "Labor," of the Standard Specifications is amended to read:

"Labor surcharge percentage in *Labor Surcharge and Equipment Rental Rates* and *General Prevailing Wage Rates* current during the work paid at force account for:"

With respect to extra work, the Bidder's attention is directed to the provisions of Section 4-1.05, "Changes and Extra Work," of the Standard Specifications. No extra work or change shall be made, unless pursuant to a written contract change order from the Engineer. No claim for an addition to the Contract sum shall be valid unless so ordered by the County.

9-2. Payments to Contractor

Payments shall be made according to the provisions of Section 9, "Payment," of the Standard Specifications and these Special Provisions. Attention is directed to Section 9-1.16, "Progress Payments," regarding progress or partial payments, and to Section 9-1.17, "Payment After Contract Acceptance," regarding final estimates and payments.

Section 9-1.16E(2), "Progress Withholds," of the Standard Specifications is superseded by the following:

The County of San Mateo shall retain five percent (5%) of such estimated value of the work done, and five percent (5%) of the value of materials so estimated to have been furnished and delivered and unused or furnished and stored as aforesaid as part security for the fulfillment of the Contract by the Contractor. In no event shall the County of San Mateo withhold less than five percent (5%) of the total Contract price until final completion and acceptance of the project.

The Contractor may, upon request and at the Contractor's own expense, substitute security for any money withheld to ensure performance of the Contract in accordance with Government Code Section 4590.

The filing of a Notice of Completion for the work herein provided shall not constitute an acceptance by the County of latent defects in said work.

9-3. Payments Withheld from Contractor

The County may withhold sufficient monies from any sum otherwise due the Contractor, pursuant to this Agreement, to protect the County against loss on account of:

- A. Repair or replacement of street pavement or base, and/or culverts or other structures, on or near the work, damaged by reason of the Contractor's operations due to hauling materials or moving heavy equipment.
- B. Defective work not corrected.
- C. Claims filed or reasonable evidence indicating probable filing of claims.
- D. Failure of the Contractor to make payments properly to the subcontractors for material or labor.
- E. Reasonable doubt that the Contract can be completed for the balance then unpaid.
- F. Damage to another Contractor.
- G. Failure of the Contractor to provide water pollution control.
- H. Failure of the Contractor to submit satisfactory as-built drawings.

Payment of the amounts withheld shall be made upon the determination by the County that the withholding of such amounts is no longer necessary.

9-4. Stop Notices

Section 9-1.16E(4), "Stop Notice Withholds," of the Standard Specifications is superseded by the following:

"The County of San Mateo, by and through the Department of Public Works or other appropriate County office or officers, may at its option and at any time retain any amounts due the Contractor, sums sufficient to cover claims filed pursuant to Section 9000 et seq. of the Civil Code."

9-5. Construction Claims

Each Bidder is hereby notified of Section 9204 and Section 20104 et seq. of the Public Contract Code as those Sections (attached hereto as Appendix E) relate to the resolution of construction claims and to Section 3186 of the Civil Code, as amended January 1, 1999 with regard to stop notices and public entity's rights to retain monies in order to provide for that entity's reasonable cost of litigation. The Bidder is further notified that all provisions of Sections 9204 and 21014 et seq. of the Public Contract Code and Section 3186 of the Civil Code, as outlined above, shall be considered as incorporated into and become an integral part of these Specifications.

9-6. Measurement and Payment of Bid Items

A. Item No. 01: Trench Safety

The Contract lump sum price paid for this item, "Trench Safety," shall include full compensation for furnishing all labor, materials, tools, equipment and incidentals necessary for doing all the work associated with this item as shown on the Plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer and no additional or separate payment shall be made therefore.

B. Item No. 02: Develop and Apply Water

The Contract lump sum price paid for this item, "Develop and Apply Water," shall include full compensation for furnishing all labor, materials (including dust palliative binder and water), tools, equipment and incidentals necessary for doing all work involved in developing and applying all water and/or dust palliative required for the work, and for controlling dust resulting from the Contractor's operations, public traffic, wind or other conditions at all times (including Saturdays, Sundays, holidays) and when ordered by the Engineer, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer, and no additional or separate payment shall be made therefore.

C. Item No. 03: Mobilization

The Contract lump sum price paid for this item, "Mobilization," shall include full compensation for furnishing all labor, materials, tools, equipment and

incidentals necessary for doing all the work associated with this item as shown on the Plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer, and no additional compensation will be allowed therefore.

D. Item No. 04: Maintaining Traffic

The Contract lump sum price paid for this item, "Maintaining Traffic," shall include full compensation for furnishing all labor, materials, tools, equipment and incidentals necessary for doing all the work associated with this item as shown on the Plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer, and no additional compensation will be allowed therefore.

E. Item No. 05: Water Pollution Control

The Contract lump sum price paid for this item, "Water Pollution Control," shall include full compensation for furnishing all labor, materials, tools, equipment and incidentals necessary for doing all work involved in water pollution control, and erosion and sediment control as shown in the Plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer, and no additional compensation will be allowed therefore.

F. Item No. 06: Temporary Creek Diversion System

The Contract lump sum price paid for this item, "Temporary Creek Diversion System," shall include full compensation for furnishing all labor, materials, tools, equipment and incidentals necessary for doing all work involved in designing, installing, and maintaining the temporary creek diversion system as shown in the Plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer, and no additional compensation will be allowed therefore.

G. Item No. 07: Construction Waste Management

The Contract lump sum price paid for this item, "Construction Waste Management," shall include full compensation for furnishing all labor, materials, tools, equipment and incidentals necessary for doing all the work associated with this item as shown on the Plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer, and no additional

compensation will be allowed therefore.

H. Item No. 08: Clearing and Grubbing

The Contract lump sum price paid for this item, "Clearing and Grubbing," shall include full compensation for furnishing all labor, materials, tools, equipment and incidentals necessary for doing all the work associated with this item as shown on the Plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer, and no additional compensation will be allowed therefore.

I. Item No. 09: Remove Trees

The Contract price paid per each for this item, "Remove Trees," shall include full compensation for furnishing all labor, materials, tools, equipment and incidentals necessary for doing all the work associated with this item as shown on the Plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer, and no additional compensation will be allowed therefore.

J. Item No. 10: Roadway Excavation

The Contract price paid per cubic yard for this item, "Roadway Excavation," shall include full compensation for furnishing all labor, materials, tools, equipment and incidentals necessary for doing all the work associated with this item as shown on the Plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer, and no additional compensation will be allowed therefore. Full compensation for all work involved for this item is a final pay item as specified in Section 9-1.02C, "Final Pay Item Quantities" of the Standard Specifications.

K. Item No. 11: Structure Backfill

The Contract price paid per cubic yard for this item, "Structure Backfill," shall include full compensation for furnishing all labor, materials, tools, equipment and incidentals necessary for doing all the work associated with this item as shown on the Plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer, and no additional compensation will be allowed therefore.

L. Item No. 12: Aggregate Base (Class 2)

The Contract price paid per ton for this item, "Aggregate Base (Class 2)," shall include full compensation for furnishing all labor, materials, tools, equipment and incidentals necessary for doing all the work associated with this item as shown on the Plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer, and no additional compensation will be allowed therefore.

The County reserves the right to eliminate this item, "Aggregate Base (Class 2)," from the project completely. The Contractor shall request and receive written confirmation from the County as to the status of this item of work prior to incurring any costs. The Contractor shall not be entitled to any compensation under this item of work for any cost incurred should he proceed in advance of receiving written authorization from the County.

M. Item No. 13: Asphalt Concrete (Type A HMA)

The Contract price paid per ton for this item, "Asphalt Concrete (Type A HMA)," shall include full compensation for furnishing all labor, materials, tools, equipment and incidentals necessary for doing all work involved in installing asphaltic emulsion (tack coat) and asphalt concrete as shown on the Plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer, and no additional compensation will be allowed therefore.

N. Item No. 14: Class 2 Concrete (Minor Structure)

The Contract price paid per cubic yard for this item, "Class 2 Concrete (Minor Structure)" shall include full compensation for furnishing all labor, materials, tools, equipment and incidentals necessary for doing all work involved in constructing the reinforced concrete headwall as shown on the Plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer, and no additional compensation will be allowed therefore. Full compensation for all work involved for this item is a final pay item as specified in Section 9-1.02C, "Final Pay Item Quantities" of the Standard Specifications.

O. Item No. 15: 60 Inch Reinforced Polyethylene Pipe

The Contract unit price paid per linear foot for this item, “60 Inch Reinforced Polyethylene Pipe” shall include full compensation for furnishing all labor, material, tools, equipment, and incidentals and for doing all the work associated with this item as shown on the Plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer, and no additional compensation will be allowed therefore.

P. Item No. 16: Rock Slope Protection (Class 3)

The Contract unit price paid per cubic yard for this item, “Rock Slope Protection (Class 3),” shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals necessary for work involved in furnishing and placing rock slope protection to the lines, grades, and dimensions shown on the Plans, including, but not limited to, structure excavation, shaping, and grading to establish positive drainage flow, and removal and disposal of excess material, as shown on the Plans, as specified in the Standard Specifications and these Special Provision, and as directed by the Engineer, and no additional compensation will be allowed therefore.

Q. Item No. 17: Cable Railing

The Contract unit price paid per linear foot for this item, “Cable Railing” shall include full compensation for furnishing all labor, material, tools, equipment, and incidentals and for doing all the work associated with this item as shown on the Plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer, and no additional compensation will be allowed therefore.

R. Item No. 18: Temporary Fence (Type ESA)

The Contract unit price paid per linear foot for this item, “Temporary Fence (Type ESA)” shall include full compensation for furnishing all labor, material, tools, equipment, and incidentals and for doing all the work associated with this item as shown on the Plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer, and no additional compensation will be allowed therefore.

S. Item No. 19: Remove and Replace Existing Barbed Wire Fence

The Contract unit price paid per linear foot for this item, "Remove and Replace Existing Barbed Wire Fence" shall include full compensation for furnishing all labor, material, tools, equipment, and incidentals and for doing all the work associated with this item as shown on the Plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer and no additional compensation will be allowed therefore.

T. Item No. 20: Remove and Reset Existing Road Signs

The Contract unit price paid per each for "Remove and Reset Existing Road Signs" shall include full compensation for furnishing all labor, material, tools, equipment, and incidentals and for doing all the work associated with this item as shown on the Plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer, and no additional compensation will be allowed therefore.

U. Item No. 21: Construction Staking

The Contract lump sum price bid for this item, "Construction Staking" shall include full compensation for furnishing all labor, material, tools, equipment, and incidentals and for doing all the work associated with this item as shown on the Plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer, and no additional compensation will be allowed therefore.

The County reserves the right to eliminate this item, "Construction Staking," from the project completely. The Contractor shall request and receive written confirmation from the County as to the status of this item of work prior to incurring any costs. The Contractor shall not be entitled to any compensation under this item of work for any cost incurred should he proceed in advance of receiving written authorization from the County.

END OF SECTION

SECTION 10.
DEVELOP AND APPLY WATER

Develop and apply water shall conform to the provisions of Section 10-5, "Dust Control," Section 10-6, "Watering," and Section 18, "Dust Palliatives," of the Standard Specifications, these Special Provisions and the directions of the Engineer.

The Contractor's attention is directed to the fact that the local water purveyors in the San Gregorio Area is County Service Area CSA 7, cannot provide water to the Contractor for this project. As such, Contractor shall make arrangements prior to commencement of work to obtain an adequate water supply.

In addition to all other water supply requirements for the construction work, the Contractor's attention is directed to the importance of dust control. The Contractor shall provide dust control at all times, including Saturdays, Sundays and holidays, as directed by the Engineer. The Contractor shall diligently control dust resulting from the Contractor's operations and from public traffic passing through the work by the application of water and/or dust palliative. Whenever the Contractor appears to be negligent in controlling dust, as determined by the Engineer, the Engineer may direct attention to the existence of a dust hazard and instruct the Contractor to immediately alleviate said hazard. If the Contractor fails to follow the Engineer's instructions, the Engineer may have this completed by the County and deduct the costs incurred by the County from the Contractor's payment for this item.

For the purpose of progress payments, payment for this item shall be based on the pro rata share of the work completed. When, in the opinion of the Engineer, the Contractor has been inattentive to a dust hazard, any portion of the progress payment for this item, "Develop and Apply Water," may be withheld until the dust hazard has been corrected.

Full compensation for all work involved for this item, "Develop and Apply Water," shall be as specified in Section 9 of the Standard Specifications and these Special Provisions.

END OF SECTION

SECTION 11. MOBILIZATION

Mobilization shall conform to the provisions in Section 9-1.16D, "Mobilization," of the Standard Specifications and to these Special Provisions.

11-1. Property Owner Primary Notification

The Contractor shall furnish all affected property owners and/or residents written notification that describes the proposed work and provide the Engineer with photographic evidence. The photographs shall be a representative sample of and be date and time stamped. The notices shall include relevant dates and describe anticipated impacts to property owners during the work, including, but not limited to, a description of landscaping and improvements that may be affected and/or removed and a statement that the owners/residents have a right to salvage all such existing landscaping, improvements and/or materials that the Contractor may remove to facilitate construction within the right of way. The content, format and method of delivery of such notices shall be approved by the Engineer prior to distribution. The Contractor is advised that these notices shall not be placed in mailboxes, as it is a violation of Federal postal regulations.

Affected property owners and residents shall be considered all those who:

1. Front on or are contiguous to the Project limits.
2. Have public ingress/egress route only from within the Project limits.
3. Have executed a Right-of-Entry Agreement with the Real Property Division, County of San Mateo.

The Contractor shall provide approved notification to all affected owners/residents a minimum of **TEN (10) CALENDAR DAYS** prior to the commencement of any Project site work. Failure to distribute notices shall be sufficient cause for the Engineer to suspend the work until such notices are distributed.

For additional property owner notification requirements, the Contractor's attention is directed to Section 12, "Maintaining Traffic," of these Special Provisions.

11-2. Rights of Entry

The Contractor is advised that the “Right of Entry” areas, as shown on the Plans, shall not be entered upon until specifically authorized, in writing, by the Engineer.

It is anticipated that authorization to enter shall be granted for the areas shown on the Plans no later than **THIRTY (30) CALENDAR DAYS** after the Contractor receives the Notice to Proceed. However, should authorization not be granted within the above time, the Contractor shall have no basis for a claim for damages or extra compensation in the event the Contractor's work is hindered or delayed until the expiration of **SIXTY (60) CALENDAR DAYS** after receiving the Notice to Proceed. Any such claim shall be valid only for a controlling item of work and only for the specific property for which a right of entry is required.

The right is reserved to designate additional right of entry areas or to delete areas shown on the Plans at any time and no claim for damages or compensation will be allowed therefore.

The right of entry areas, as indicated on the Plans, are approximate only. The Engineer shall designate and/or stake the limits of such areas as required for the Contractor's work prior to commencement of any such work.

Full compensation for all work involved for this item, “Mobilization,” shall be as specified in Section 9 of the Standard Specifications and these Special Provisions.

END OF SECTION

SECTION 12.

MAINTAINING TRAFFIC

Attention is directed to Section 12-1, "Temporary Traffic Control, General," of the Standard Specifications, Sections 5-10, "Public Safety," and 7-4, "Public Convenience," of these Special Provisions, the Standard Plans, the Project Plans and the directions of the Engineer. The first paragraph of Section 12-1.04, "Payment," of the Standard Specifications shall not apply. In connection with said sections, it is understood that all lights, signs, barricades, flaggers or other necessary devices shall be furnished and maintained by the Contractor at the Contractor's expense.

Contractor is advised that general roadway excavation shall not commence until authorized by the Engineer.

Property Owner Secondary Notification

The Contractor shall furnish all affected property owners and/or residents secondary written notification that describes the proposed work, including relevant dates; the Contractor's attention is directed to Section 11, "Mobilization," for primary notification requirements. The content, format and method of delivery of such secondary notices shall be approved by the Engineer prior to distribution.

Affected property owners and residents shall be considered all those who:

1. Front on or are contiguous to the Project limits.
2. Have public ingress/egress route only from within the Project limits.
3. Have executed a Right-of-Entry Agreement with the Real Property Division, County of San Mateo.

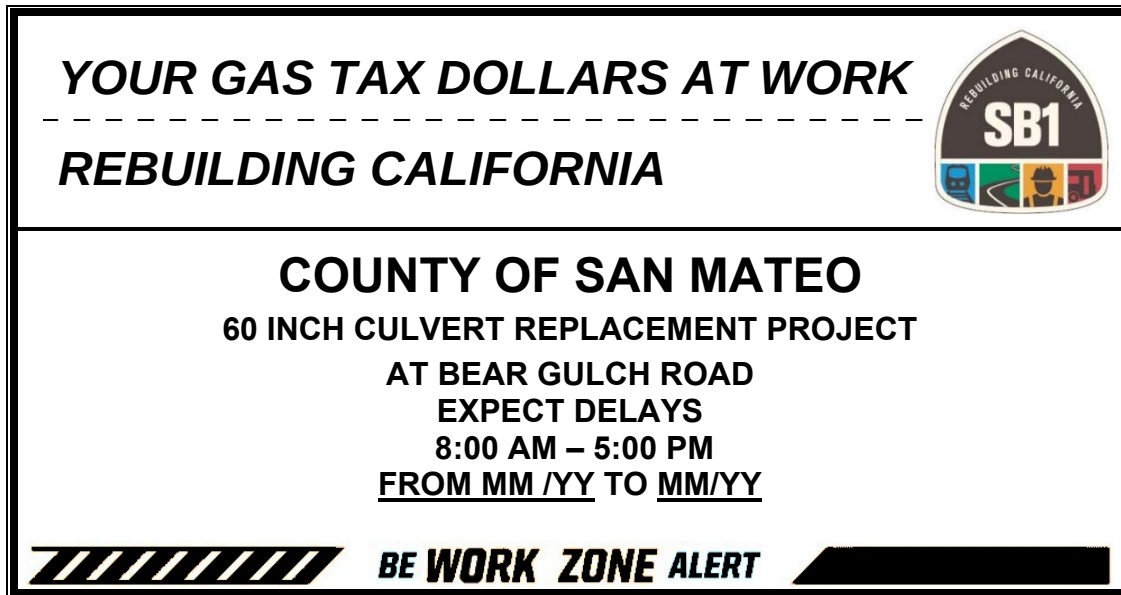
The Contractor shall provide approved notification to all affected owners/residents a minimum of **FORTY-EIGHT (48) HOURS** prior to the commencement of any Project specific site work to allow residents to move their vehicles away from the work area. Failure to distribute notices shall be sufficient cause for the Engineer to suspend the work until such notices are distributed.

12-1. Traffic Control Plan

The Contractor shall furnish an overall Traffic Control Plan for all phases of work. The Plan shall be in accordance with 2018 Standard Plan T-13 unless these requirements are modified as directed by the Engineer. The Contractor

shall submit the Traffic Control Plan within **FIVE (5) WORKING DAYS** after the pre-construction conference. The Engineer shall establish the time and place for said pre-construction conference. Delays upon the part of the Contractor in submitting a Plan, in the format as outlined in these Special Provisions and as directed by the Engineer, shall not constitute a valid reason for time extensions should the Contract time elapse before completion of said project. The Contractor is further advised that consideration for adequate review time, as determined by the Engineer, shall be included in the work schedule.

The Traffic Control Plan shall include orange advisory signs (aluminum or plywood, or as approved by the Engineer), **3' x 6' minimum**, stating expected delays, including dates, times and affected streets. Wording of advisory signs shall be as follows:



Advisory signs shall be set in accordance with the locations as shown on the Location Map of Plan Sheet 1. Signs shall be set in place a minimum of **SEVEN (7) CALENDAR DAYS** prior to commencement of construction site work, unless otherwise directed by the Engineer. No construction site work shall commence prior to the Engineer's written approval of the Traffic Control Plan and installation of required signs.

Hand-written signs will not be permitted.

The Contractor shall provide a minimum of sixteen feet (16') of

unobstructed roadway between the hours of **5:00 P.M.** and **8:00 A.M.** Between the hours of **8:00 A.M.** and **5:00 P.M.**, the Contractor shall provide a minimum of one unobstructed, reversible traffic lane, not less than twelve feet (12') wide, that is flagger controlled. The Contractor may, at his option, submit an alternate work hour proposal to the Engineer for review. Acceptance of such proposal shall be entirely at the discretion of the Engineer, and any additional costs associated with alternate work hours proposed by the Contractor shall be borne solely by the Contractor, and no additional compensation will be allowed therefore. Should the Engineer reject the Contractor's alternate work hour proposal, the Contractor shall be required to adhere to the work schedule outlined herein.

When ordered by the Engineer, the Contractor shall furnish additional flaggers for the purpose of expediting the passage of public traffic through the work under one-way controls. The Contractor may also, at his option, utilize a pilot car. During all non-working days, one channelized and unobstructed traffic lane, not less than sixteen feet (16') wide, shall be provided in each direction. Traffic may be stopped in both directions only as specifically authorized by the Engineer.

If any component in the traffic control system is damaged, displaced or ceases to operate or function as specified, from any cause, during the progress of the work, the Contractor shall immediately repair or replace said component to its original condition and reinstall the component to its original location.

The provisions in this Special Provision will not relieve the Contractor from responsibility to provide additional devices or take such measures as may be necessary to comply with the provisions in Section 7-1.04, "Public Safety," of the Standard Specifications.

At locations where traffic is being routed through construction under one-way controls, the movement of the Contractor's equipment from one portion of work to another shall be governed in accordance with such one-way controls.

During paving operations, the Contractor shall furnish and place sufficient barricades and detour signs at all cross streets to protect new pavement surfaces. The duration of placement of said barricades shall be as approved by the Engineer.

Whenever the Contractor's operations create a condition hazardous to traffic or to the public, the Contractor shall take the necessary precautions and provide additional traffic control measures to protect those who must pass through the work. If the Contractor shall appear to be neglectful or negligent in providing warning or protective measures, the Engineer may direct attention to the existence of a hazard, and require that additional barricades, flashers, warning and detour signs or lights be installed by the Contractor, or additional flaggers provided. Any action or lack of action by the Engineer as provided herein shall not relieve the Contractor from responsibility for public safety.

Full compensation for all work involved for this item, "Maintaining Traffic," shall be as specified in Section 9 of the Standard Specifications and these Special Provisions.

END OF SECTION

SECTION 13.

WATER POLLUTION CONTROL

The provisions of Section 13, “Water Pollution,” of the Standard Specifications are superseded by these Special Provisions and the San Mateo Countywide Water Pollution Prevention Program (SMCWPPP). Information regarding this program is available at **www.flowstobay.org**.

The Contractor is advised that failure to fully comply with the provisions of this Section, and all requirements listed in the California Regional Water Quality Control Board San Francisco Bay Region Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit Order No. R2-2015-0049 (MRP), and where applicable, the State Water Resources Control Board NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities Order No. 2010-0014-DWQ (Construction General Permit), and any resource agency permits obtained for the project, where applicable, except where amended in writing and signed by the Director of Public Works or the Director’s duly authorized representative, shall constitute substantial non-compliance with the requirements of the Clean Water Act, the NPDES permit program, and the Contract.

The County shall provide periodic site monitoring to ensure that the work complies with the requirements specified herein and in any resource agency permits. The County will provide the Contractor with copies of the completed monitoring reports. Should any work be found to be non-compliant, a follow up site monitoring visit will be conducted to ensure the items have been corrected. If deficiencies noted during a monitoring visit are not corrected before the follow up monitoring visit, the costs associated with additional follow up visits to correct the noted deficiencies shall be deducted from the final payment for all of the Contract work.

Construction sites are common sources of water pollution. Materials and wastes that blow or wash into a storm drain, gutter, or street have a direct impact on local creeks and wetlands, San Francisco Bay and the Pacific Ocean. The Contractor shall be responsible for any environmental damage caused by his operations and those of his subcontractors or employees.

Water pollution shall be defined as including the introduction of any material, including sediment, trash, or other debris, equipment or vehicles into any watercourse, including creeks, ponds, ditches, storm drain facilities, and any surfaces immediately tributary to those areas, except as specifically authorized by any resource agency permits. Water pollution controls are materials and measures that prevent the introduction of any material to any watercourse. Water pollution control materials and measures may consist of temporary silt fencing; straw mulch/straw logs; spill cleanup materials; pavement sweepers; sand bags or continuous berms; etc.

Water pollution controls shall be applied, maintained and removed by the Contractor as specified herein and as directed by the Engineer.

13-1. Water Pollution Control Program

Before starting any work on the project, the Contractor shall submit, for acceptance by the Engineer, a written program including Water Pollution Control Plans (WPCPs) and applicable plan drawings and details to control water pollution effectively during construction of the project. The program shall show the schedule for any erosion control work included in the contract and for all water pollution control measures that the Contractor proposes to take in connection with construction of the project to minimize the effects of the operations upon water resources. The Contractor shall not perform any clearing and grubbing or earthwork on the project, other than that specifically authorized in writing by the Engineer, until the program has been approved by the Engineer.

A. Contractor Response

The Contractor is advised that he may be required to respond to the work site after hours and/or on weekends or holidays to mitigate potential water pollution, soil erosion or sedimentation and/or to repair damaged water pollution controls. Failure to respond within four (4) hours of notification by the Department of Public Works shall constitute substantial non-compliance with these Special Provisions.

Should the County Road Maintenance Division be required to provide any after-hours, weekend or holiday repairs to the Contractor's water pollution controls due to the Contractor's failure to respond, all costs associated with providing that response, including overtime wages,

equipment and material costs, shall be deducted from the Contractor's final payment. The Contractor shall also be fully responsible for any fines, penalties or mitigations imposed by any regulatory agency caused by his failure to respond, regardless if the County Road Maintenance Division attempts any repairs or pollution prevention work in his absence.

B. Excavation and Grading

The Contractor shall not commence any excavation, backfilling, grading or stockpiling operations until water pollution control materials have been delivered to the work site. The Contractor shall certify, in writing, that the quantity of water pollution control materials at the site is sufficient to protect against water pollution caused by the work, and shall specify the type of material and intended use in said written certification. Excavation and grading activities shall be scheduled for dry weather periods. Excavation and grading activities shall not be allowed to commence or continue during periods of rainfall or runoff.

The Contractor may elect to perform excavation or grading activities immediately prior to periods of forecasted rain if he certifies in writing to the Engineer that the site will be completely secured against erosion and/or water pollution at the conclusion of the workday and prior to any rainfall. The work site shall be considered as completely secured against erosion and/or water pollution during or prior to forecast periods of rain if the turbidity of runoff from the site does not exceed the turbidity of runoff from adjacent, undisturbed sites by more than 50 NTUs (Nephelometric Turbidity Units). Should the turbidity of runoff from the work site exceed this limit, the Contractor shall be required to immediately place additional erosion and/or water pollution controls at his expense as directed by the Engineer, and shall be subject to any administrative fines or penalties associated with water quality or permit violations, and no additional compensation will be allowed therefore.

C. General Housekeeping

The Contractor shall control the amount of runoff entering upon disturbed construction and staging areas, particularly during excavation, to

reduce the amount of water pollution controls required. Temporary diversion berms and/or sandbags may be employed to divert runoff from entering upon construction and staging areas as approved by the Engineer.

Paved surfaces shall be broom-swept as necessary to prevent water pollution. Water spray system of the sweeper units shall be used as appropriate to reduce dust generation. If pavement flushing is necessary, silt ponds or other techniques to trap sediment and other pollutants shall be required.

Dumpsters shall be covered, maintained, and checked frequently for leaks. It is recommended that dumpsters be lined with plastic to prevent leakage of liquids. At no time will the Contractor be permitted to wash dumpsters at the site.

The Contractor shall place trashcans and recycling receptacles around the site for use by his forces. Trashcans and recycling receptacles shall be kept covered and shall be emptied at appropriate intervals to reduce litter at the site.

All wastes shall be disposed of properly outside the highway right of way in accordance with Section 5-11, "Disposal of Material Outside the Highway Right of Way," and Section 14, "Construction Waste Management," of these Special Provisions.

The Contractor shall maintain portable toilets in good working order and wastes shall be disposed of properly. The Contractor shall check toilets frequently for leaks, and repair or replace any toilets found to be leaking. Portable toilets shall be protected against tipping by ground anchors, bollards, or any other suitable means as approved by the Engineer.

D. Stockpiles

All soil and/or rock stockpiles shall be protected against wind, rainfall and runoff at all times. Plastic sheeting may be used to cover soils, including aggregate base, and shall be securely anchored by sandbags or other suitable means. At no time will any stockpiled materials be allowed

to erode into any watercourse or onto any roadway or other tributary surface.

E. Vehicle Maintenance

The Contractor shall designate a completely contained area of the construction site, well away from watercourses and tributary areas, for auto and equipment parking, refueling, and routine vehicle and equipment maintenance. The Contractor shall require the use of drip pans or drop cloths to catch drips and spills if any vehicle or equipment fluids (e.g. motor oil, radiator coolant, etc.) must be drained on site. Diesel oil shall not be used to lubricate or clean equipment or parts. All spent fluids shall be stored in separate containers, and recycled whenever possible, or disposed of as hazardous waste.

Spills or leaks shall be immediately contained and cleaned up by the Contractor, all at his expense, and shall be reported to the Engineer immediately after containment.

All vehicles and equipment shall be maintained in good repair. The Contractor shall inspect frequently for and immediately repair any leaks. The Contractor shall perform major maintenance, repair jobs, and vehicle and equipment washing off site.

F. Spill Prevention and Response

Fluid spills shall not be hosed down. The Contractor shall use dry cleanup methods (absorbent materials, cat litter, and/or rags) whenever possible. If water must be used, the Contractor will be required to collect the water and spilled fluids and dispose of it as hazardous waste. Spilled fluids shall not be allowed to soak into the ground or enter into any watercourse.

Spilled dry materials shall be swept up immediately. The Contractor shall not wash down or bury any dry spills. Spills on dirt areas shall be removed by digging up and properly disposing of contaminated soil. The Contractor shall report significant spills to the Engineer immediately.

G. Tire Washing

Should the Contractor's equipment be tracking soil onto a public

road, the Engineer shall require a tire-washing swale at the exit from the construction site and/or staging areas. The Engineer shall also require that soil be removed from the traveled way by whatever means necessary to prevent water pollution.

H. Roadwork and Paving

The Contractor shall avoid creating excess dust when breaking and/or removing asphalt or concrete. Broken asphalt and/or concrete pieces shall be completely removed from the site as soon as possible, or shall be stored in a separate, secure stockpile protected against from wind, rainfall and runoff. Material derived from roadway work shall not be allowed to enter any watercourse, or tributary area.

Slurry resulting from sawcutting operations shall be shoveled or vacuumed and completely removed from the site. The Contractor shall not be permitted to sweep or flush any sawcutting debris or slurry into any watercourse, or tributary area.

I. Concrete and Mortar

Except as approved by the Engineer for temporary concrete washouts for concrete mixers or trucks, the Contractor shall ensure that concrete and mortar are contained within the lines and grades shown on the Plans and not allowed to leave the construction site. Any excess concrete, mortar and/or mix water placed or spilled beyond the limits of concrete construction as shown on the Plans shall be immediately collected, removed and disposed of properly.

Location of temporary concrete washouts for concrete mixers or trucks shall be as approved, in writing, by the Engineer. Should the Contractor allow washing out of concrete mixers or trucks prior to receiving said written approval, Contractor may be required to clean up the unapproved washout area to the satisfaction of the Engineer and/or relocate temporary concrete washouts, all at the Contractor's sole expense, and no additional compensation will be allowed therefore.

Dry sacks of cement shall be protected against wind, rainfall and runoff. Opened sacks of cement shall be secured and protected from

spilling.

J. Training

Contractor shall ensure that all persons responsible for preparing, amending and implementing SWPPPs be appropriately trained in accordance with the requirements of the Construction General Permit and these Special Provisions. The Contractor shall provide documentation of all training for persons responsible for implementing these requirements upon request by the Engineer.

When required, the County will provide introductory training to the Contractor, his employees and subcontractors at the job site before work commences for any project with resource agency permits. The training will provide background information on sensitive species, permit requirements and site-specific water quality issues. When not required, the County is available to provide such training at the Contractor's request.

Full compensation for all work involved for this item, "Water Pollution Control," shall be as specified in Section 9 of the Standard Specifications and these Special Provisions.

13-2. Temporary Creek Diversion System

A. General

Prior to beginning any work within the creek channel, the Contractor shall construct a temporary diversion of flowing creek water through the construction site.

B. Execution

The Contractor shall design and install the temporary creek diversion system to provide for the continual flow of creek water at all times without disturbance. The diversion method shall incorporate sand bags and plastic sheeting or inflatable dams to act as upstream and downstream cofferdams. Water shall be allowed to flow by gravity through temporary piping.

C. Submittals

The Contractor shall submit a temporary creek diversion plan to the Engineer for approval at the pre-construction meeting. The plan shall include calculations to justify all cofferdam and pipe sizing, and timing of cofferdam

relocation, as applicable. The Engineer will have seven calendar days to review the temporary creek diversion plan.

Full compensation for all work involved for this item, "Temporary Creek Diversion System," shall be as specified in Section 9 of the Standard Specifications and these Special Provisions.

END OF SECTION

SECTION 14.

CONSTRUCTION WASTE MANAGEMENT

The County has established that this Project shall minimize the creation of construction and demolition waste on the job site. Factors that contribute to waste such as over packaging, improper storage, ordering error, poor planning, breakage, mishandling, and contamination, shall be minimized. For any waste that is generated, as many of the waste materials as economically feasible shall be reused, salvaged, or recycled. Waste disposal in landfills shall be minimized.

Full compensation for this item, "Construction Waste Management," shall be as specified in Section 9 of the Standard Specifications and these Special Provisions.

No partial payment will be made for this Contract item of work until all work required, as specified herein, is completed to the satisfaction of the County, and all necessary documentation provided.

14-1. Diversion Goals

One hundred percent (100%) of inert wastes, and at least fifty percent (50%) of the remaining construction and demolition debris shall be diverted from landfills.

Inert wastes, such as concrete, brick, rock, asphalt, and soil not intended for on-site use, shall be taken to a facility that will reuse or recycle them.

Other mixed construction & demolition (C&D) wastes shall be taken to a facility with a C&D sorting program, as listed in the Construction and Demolition Debris Recycling Guide referenced below, if additional recycling is needed in order to meet the requirements set forth in this Section. If debris box service is used, the debris boxes must be taken to a C&D sorting facility if materials are not separated on-site for recycling.

The Contractor has the option of separating on-site for recycling non-inert materials, such as cardboard, paper, wood, metals, green waste, new gypsum wallboard, tile, porcelain fixtures, and other easily recycled materials, and directing them to recycling facilities and taking the remaining mixed waste (but no more than 50% by weight or yardage) to a facility for disposal. If waste is taken for disposal, documentation must be provided to show that 50% of C&D wastes

(in addition to 100% of inert wastes) have been diverted.

14-2. References and Resources

A Construction and Demolition Guide (C&D Guide) is available online at <https://www.smcsustainability.org/waste-reduction/construction-demolition/>. For more information or resources, contact the County of San Mateo's Office of Sustainability by phone at (888) 442-2666 or by email at sustainability@smcgov.org. The Contractor's attention is directed to **Appendix A** for the County of San Mateo Waste Management Plan Form and the Waste Management Daily Transport Report.

14-3. Waste Management Plan and Daily Transport Report

The Contractor is required to complete a Waste Management Daily Transport Report, listing details of the material transported on that particular day, which is to be signed by both the Contractor's representative and the County inspector on the job site.

The Waste Management Plan shall be submitted to the Engineer, Department of Public Works, 555 County Center – 5th Floor, for approval within SEVEN (7) WORKING DAYS after the pre-construction conference.

The Waste Management Plan shall include a description of how the contractor will meet the requirements of this contract and shall include a list of disposal and recycling facilities where waste materials will be taken, a description of what will be taken to each facility (inert wastes, metals, wood, glass, plastics, mixed waste, etc.), a description of the means of transportation of recyclable materials (whether materials will be site-separated and self-hauled to designated centers, or whether mixed materials will be collected by a waste hauler and designated center, or whether mixed materials will be collected by a waste hauler and removed from the site), and an estimated amount (weight, yardage, etc.).

Approval will be granted if the plan shows:

- (1) One hundred percent (100%) of inert wastes being reused or recycled AND at least fifty percent (50%) of C&D wastes being reused or recycled; OR
- (2) All waste that is not separated on-site for recycling is sent to a

mixed C&D sorting facility for recycling.

14-4. Waste Management Plan Implementation

A. Plan Distribution:

The contractor shall provide copies of the approved Waste Management Plan to the project superintendent and each subcontractor.

B. Instruction:

The contractor shall provide on-site instruction of appropriate separation, handling, and recycling, salvage, reuse, and return methods to be used by all parties at the appropriate stages of the Project.

C. Meetings:

The contractor shall conduct monthly Construction Waste Management meetings or at least one meeting for projects with length of less than twenty (20) working days. Meetings shall include subcontractors affected by the Waste Management Plan. At a minimum, waste management goals and issues shall be discussed at regularly scheduled project meetings.

D. Separation Facilities:

The contractor shall designate a specific area or areas to facilitate separation of materials for potential reuse, salvage, recycling, and return. Recycling and waste bin areas are to be kept neat and clean and clearly marked in order to avoid co-mingling of materials. Bins set within the County Right of Way shall be subject to approval by the County. All bins used shall be protected during non-working hours from offsite contamination.

E. Materials Handling Procedures:

Materials to be recycled shall be protected from contamination, and shall be handled, stored and transported in a manner that meets the requirements set by the designated facilities for acceptance.

F. Hazardous Wastes:

Hazardous wastes shall be separated, stored, and disposed of according to State and local regulations. Unless specified in other section, the County is not aware of any hazardous wastes within the project site.

Notify the Engineer if hazardous waste is encountered.

G. Reporting:

As a condition of final approval and retention release, submit documentation to the Engineer. Projects that establish monthly progress payments shall also require monthly reporting on the Waste Management Plan. Such reports shall be submitted prior to the monthly cutoff for progress payments and shall include, at a minimum, a summary of waste materials recycled, salvaged and disposed of for the Project. Submitted with this summary will be documentation (receipts/scale tickets, waybills) showing the quantities and types of materials diverted and disposed. The documentation shall coincide with the Waste Management Daily Transport Reports (in Appendix A) that were signed by both the Contractor and the County inspector. A Notice of Completion will not be filed for the project and retention released until all reports as required for the project are submitted and approved.

The above-mentioned summary and documentation shall contain the following information:

- (3) For each material recycled and salvaged from the Project, include the amount (in cubic yards or tons, or in the case of salvaged items, state quantities by number, type and size of items) and the destination (i.e., recycling facility, used building materials yard or other local users).
- (4) For each material landfilled or incinerated from the Project, include the amount (in cubic yards or tons) of material and the identity of the landfill, incinerator and/or transfer station. All projects are subject to inspection.
- (5) Documentation shall consist of photocopies of receipts and weight tags or other records of measurement or equivalent documentation from recycling companies, deconstruction contractors, and landfill and disposal companies. The contractor shall sign the completed Waste Management Plan to certify its accuracy as part of the documentation of compliance.

It is unlawful for any person to submit documentation to the County for an approved Waste Management Plan that that said person knows to contain any false statements, including but not limited to false statements regarding weight and/or yardage of materials recycled or diverted, or to submit any false or fraudulent receipt or weight tag or other record of measurement.

END OF SECTION

SECTION 17.

CLEARING AND GRUBBING

Clearing and grubbing shall conform to the provisions of Sections 5-1.36, "Property and Facility Preservation," and 17-2, "Clearing and Grubbing," of the Standard Specifications, these Special Provisions, the Plans and the directions of the Engineer.

The Contractor attention is directed to Sub-section 14-2, "References and Resources," of Section 14, "Construction Waste Management," of these Special Provisions.

Areas within the limits of work, as shown on the Plans, or as directed by the Engineer, shall be cleared as necessary for the construction of improvements and related work. The areas to be cleared and grubbed will not necessarily extend to all right-of-way lines. The exact limits for clearing and grubbing shall be approved by the Engineer in advance of commencing any work.

Construction easements, as shown on the Plans, shall be cleared only as necessary for the construction of improvements and related work, or as directed by the Engineer.

The Contractor shall take care not to damage existing facilities that are to remain. Any damage to such facilities caused by the Contractor's operations during clearing and grubbing operations, as determined by the Engineer, shall be repaired to the satisfaction of the Engineer, all at the Contractor's expense, and no additional compensation will be allowed therefore.

All existing vegetation, fencing, driveways, and walks outside the areas to be cleared and grubbed, shall be protected from injury and damage resulting from the Contractor's operations.

Removal of any roadside markers, fences, drainage pipes, trees, shrubs, hedges, and any other improvements shall be as shown on the Plans and as directed by the Engineer.

The Contractor shall not remove any roadside markers, fences, drainage pipes, trees, shrubs, hedges, and any other improvements prior to receiving written approval from Engineer. Additionally, reference is made to Section 82-1, "Remove and Reset Existing Roadside Signs," and Section 80, "Fences," of these

Special Provisions.

Existing improvements, such as fences, that need to be removed and/or relocated, as determined by the Engineer for construction purposes, shall be accomplished only after the property owners have been given an opportunity to perform this task themselves. If the property owners do not perform this task, then the Engineer may direct the Contractor to perform this operation. Existing improvements removed shall become the property of the Contractor and shall be hauled away by the Contractor, unless arranged with the property owners to deposit the existing improvements on their property at a location designated by the property owner. Written proof of any arrangements made between the Contractor and property owners shall be provided to the Engineer.

All materials removed shall become the property of the Contractor and shall be disposed of in accordance with Section 5-11, "Disposal of Material Outside the Highway Right of Way," of these Special Provisions.

Nothing herein shall be construed as relieving the Contractor of his responsibility for final cleanup of the highway, as provided in Section 4-1.13, "Clean Up," of the Standard Specifications.

Full compensation for all work involved for this item, "Clearing and Grubbing," shall be as specified in Section 9 of the Standard Specifications and these Special Provisions.

The Contractor's attention is directed to Section 17-1, "Remove Trees," of these Special Provisions.

17-1. Remove Trees

No trees shall be removed without the prior written approval of the Engineer. Voids left by removed tree and roots shall be backfilled immediately upon completion of tree removal, in conformance with Section 19, "Earthwork," of the Standard Specifications, the Standard Trench Backfill and Bedding Details on Sheet 6 of the Plans, and the directions of the Engineer.

Prior to excavation and removal of tree root systems, the Contractor shall verify the locations of existing utilities or other obstacles within the vicinity of the tree.

The Contractor is advised that active water and gas lines may be located in the

area. **The Contractor shall contact USA North811 (USA) a minimum of forty-eight (48) hours in advance of any excavation or trenching work. USA may be contacted either on-line at usanorth811.org or by phone by dialing (800) 227-2600 or 811.**

The Contractor is advised that all trees designated for removal which are less than ten inches (10") in trunk diameter, as well as stumps of any diameter, shall be considered as included under the Contract lump sum price paid for "Clearing and Grubbing," and no additional compensation will be allowed therefore. Trees ten inches (10") or greater in trunk diameter shall be paid for per each under this item of work, "Remove Trees".

Full compensation for all work involved for this item, "Remove Trees," shall be as specified in Section 9 of the Standard Specifications and these Special Provisions.

No adjustment to the Contract bid price will be made for any increase or decrease in the quantities for this item, "Remove Trees," required. The provisions in Section 9-1.06, "Changed Quantity Payment Adjustments," of the Standard Specifications shall not apply to this item of work.

END OF SECTION

SECTION 19.

EARTHWORK

Earthwork shall conform to the provisions of Section 19, "Earthwork," of the Standard Specifications, these Special Provisions, and the directions of the Engineer.

For all open excavations greater than five feet in depth:

- i. Pursuant to State law regulations, all open excavations greater than five feet in depth shall be constructed with bracing, sheeting, shoring or other equivalent method designed for the protection of life and limb. The Contractor must at all times comply with the requirements of the construction safety orders of the Division of Industrial Safety, uniform Building Code, Cal-OSHA, and other governing codes and restrictions.
- ii. The above-stipulated requirements shall be considered the minimum to be provided. It shall be the Contractor's responsibility to provide the additional strength required to support the sides of the excavation against loads which may exceed those employed to derive the criteria set forth in the Industrial Safety orders. The Contractor shall be solely responsible for any and all liabilities which may arise from his failure to provide adequate shoring, bracing or sheeting as necessary to support the excavation under any and all conditions of loading which may exist, or which may arise during construction of the project.
- iii. The Contractor shall assign a project safety supervisor who shall, by training and experience, be fully qualified to supervise the installation, maintenance and removal of sheeting, shoring and bracing. The project safety supervisor shall have full authority over the work in all job safety matters and shall be present at all times when work is in progress in excavations and trenches greater than five feet in depth.

Grading, as directed by the Engineer, shall be performed so as to provide surface drainage away from the headwall. Said grading shall be considered as included in the Contract unit price paid for the item of roadway excavation (Section 19-1, "Roadway Excavation," of these Special Provisions), and no separate payment will be allowed therefore.

The Contractor's attention is further directed to Section 5-6, "Preservation of Property," of these Special Provisions. Damages, as a result of the Contractor's operations to properties and facilities to remain, shall be repaired or replaced at the Contractor's expense.

The Contractor's attention is directed to the road and shoulder backfill details on Sheet 3 and 6 of the Plans for the limits of the various Contract earthwork items.

It is anticipated that the Contractor may choose to perform additional earthwork beyond the limits, as shown on the Plans, to accommodate the work. Such additional work shall not result in additional compensation unless approved in advance, in writing, by the Engineer. The site will be surveyed by County forces immediately prior to and following completion of construction in order to determine the actual quantities of earthwork. The resultant quantities of earthwork shall be determined by means of average end areas. Any increase in the estimated quantities resulting from adjustments to the limits of work as approved by the Engineer shall be calculated by the Engineer by whatever means he deems best for determining the adjustment.

The Contractor may propose alternate excavation or shoring plans to safely complete the work.

Should the Engineer determine that work be suspended for the Winter Season due to the Contractor not aggressively prosecuting the Project to completion within the stipulated time, the Contractor shall be responsible for "winterizing" the Project to the satisfaction for the Engineer, and maintaining said Project in a safe and acceptable manner, regardless of the amount of effort involved, all at the Contractor's expense, and no additional compensation will be allowed therefore.

"Winterizing" shall include the general maintenance of the Project site to a level that will not leave any detrimental effects for future construction, clean-up of material tracked from the Project limits, supplying and placing material to provide and maintain access, necessary work to maintain existing drainage patterns, and all work necessary to comply with Sections 5-5, "Project Appearance," 5-10, "Public Convenience," and 7-4, "Public Safety," of these Special Provisions.

19-1. Roadway Excavation

Roadway excavation shall conform to the provisions of Section 19-2, "Roadway Excavation," of the Standard Specifications, these Special Provisions,

the Plans and the directions of the Engineer. Roadway excavation work shall be coordinated with utility company work, if any. The Contractor's attention is directed to Section 5-3, "Cooperation" of these Special Provisions.

Excavation of the existing travel way shall not commence until authorized, in writing, by the Engineer. The Contractor's attention is directed to Section 12, "Maintaining Traffic," and Section 5-10, "Public Convenience," of these Special Provisions.

The Contractor's attention is directed to Section 5-3, "Preservation of Property," of these Special Provisions. Damages, as a result of the Contractor's operations to properties and facilities to remain, shall be repaired or replaced at the Contractor's expense.

Roadway excavation shall consist of all excavation involved in this construction, including, but not limited to, the removal of asphalt concrete and other materials in the roadway prism.

All other excavation required by the Plans and not specifically designated in these Special Provisions as a pay item shall be considered as included in the various Contract items of work, and no additional compensation will be allowed therefore.

Roadway excavation shall be performed to the limits and elevations shown on the Plans and as specified in these Special Provisions, or as designated by the Engineer.

Surplus or inadequate material, as determined by the Engineer, shall become the property of the Contractor and shall be disposed of outside the highway right-of-way in accordance with the provisions of Section 5-11, "Disposal of Material Outside the Highway Right of Way," of these Special Provisions. The Contractor shall notify the Engineer prior to removing any surplus or inadequate material from the Project site.

The Contractor is advised that excavation may conflict with existing tree roots and care must be taken to avoid damaging the roots of trees to remain. The Engineer shall be notified immediately if conflicts with tree roots greater than **four inches (4")** in diameter are identified so that the Engineer may call an arborist to the site to evaluate. **No tree roots greater than four inches (4") in**

diameter shall be cut without prior written authorization from the Engineer.

Where roots greater than four inches (4") in diameter are encountered, the Contractor may be required by the Engineer to hand excavate material in order to conform to the project structural section requirements.

Tree roots requiring removal must be severed by means of a root cutter.

The quantity of material hand excavated will be paid for on a cubic yard basis as roadway excavation, and no additional compensation will be allowed therefore.

Any "Special Excavation" techniques, including excavation around tree roots that are to be saved, as required by the Engineer, shall be considered as work included in this item, "Roadway Excavation," and no additional compensation will be allowed therefore.

The Contractor's attention is further directed to Section 5-6, "Preservation of Property," of these Special Provisions.

Excavation required for shoulder conforms, swales, grade to drain areas, and asphalt concrete, and establishment of designed grading plane, as shown on the Plans and as directed by the Engineer, shall be considered as included in the Contract unit price paid per cubic yard for this item, "Roadway Excavation," and no separate payment will be made therefore. The Contractor is advised that excavation quantities for grade to drain areas will not be calculated separately for purposes of payment. Said quantities shall be considered as included in the various quantities for roadway excavation specified herein.

Upon completion of rough grading at the grading plane, or placement of any subsequent layer thereon, the surface of the roadbed shall be brought to a smooth, even condition free of humps and depressions, satisfactory for use of public traffic.

After the surface of the roadbed has been brought to a smooth and even condition for the passage of public traffic as above provided, any work ordered by the Engineer for the accommodation of public traffic prior to commencing subgrade operations shall be performed by the Contractor, entirely at his

expense. After subgrade preparation for a specified layer of material has been completed, the Contractor shall, at his expense, repair any damage to the roadbed or completed subgrade, including damage caused by his operations or use by public traffic.

The measurement of roadway excavation quantities shall conform to Section 19-2.04, "Payment," of the Standard Specifications and these Special Provisions. Quantities of roadway excavation will be computed by means of average end areas.

The Contractor is advised to review the project site for material to be excavated. Regardless of material encountered, full compensation for performing roadway excavation as described herein shall be included in the Contract unit price for this item, "Roadway Excavation," and no additional compensation will be allowed therefore.

The Contractor shall provide the Engineer all documentation as to the weight of materials removed and recycled during the course of the project. The Contractor shall provide a copy of all receipts or other proof from any recycling center used by the Contractor. The Contractor's attention is directed to Section 14, "Construction Waste Management," of these Special Provisions.

Full compensation for all work involved for this item, "Roadway Excavation," shall be as specified in Section 9 of the Standard Specifications and these Special Provisions.

19-2. Structure Backfill

Structure backfill shall conform to the provisions of Section 19-3, "Structure Excavation and Backfill," of the Standard Specifications and these Special Provisions.

Structure backfill shall be placed and compacted to a minimum ninety-five percent (95%) relative compaction for the culvert pipe and behind the concrete headwall, to the limits shown on the Plans and as directed by the Engineer.

Structure excavation material determined to be suitable structure backfill material by the Engineer shall be placed at the locations designated and to the requirements specified in the Plans and these Special Provisions, and as directed by the Engineer. At the Contractor's discretion, structure backfill material

can also be light density backfill slurry at 100 psi – 150 psi. Reference is made to Section 19-1, “Roadway Excavation,” of these Special Provisions.

The Contractor is advised that net quantity of structure backfill required, as computed by means of average end areas and distances, is approximately **three hundred twenty-seven cubic yards (327 CY)**. This is a preliminary estimate only and no assurance is given that this quantity will not be adjusted upon completion of construction. Furthermore, no assurance is made that all site-excavated material will be useable, as determined by the Engineer, for backfill.

The site may be surveyed by County forces immediately prior to and following construction to verify the quantity of structure backfill within the limits of the work. The resultant quantities of structure backfill, and any adjustment in the estimated quantities as based on these surveys, shall be calculated by the Engineer by whatever means he deems best for determining the adjustment. This shall be the sole method for determining pay quantities for this item, “Structure Backfill”.

The Engineer reserves the right to adjust the limits of structure backfill shown on the Plans by up to five (5) lineal feet. The provisions of Sections 9-1.06B, “Increases of More Than 25 Percent,” and 9-1.06C, “Decreases of More Than 25 Percent,” of the Standard Specifications shall not apply to this item of work.

Except as stated above, full compensation for all work involved for this item, “Structure Backfill,” shall be as specified in Section 9 of the Standard Specifications and these Special Provisions.

19-3. Excavation Dewatering

The Contractor shall take whatever measures necessary, as determined by the Engineer, and shall furnish, install and operate pumps or other devices as may be necessary to remove seepage, storm water that may be found or accumulate in the excavations during the progress of the work. Once seepage or ground water conditions in excavated areas are encountered, no further trenching will be allowed until suitable dewatering procedures are in operation.

The Contractor shall keep all excavations free from water at all times

during construction and until the County gives permission to cease pumping. The Contractor shall also keep all excavations free from the accumulation of water at all times, as may be required by the County for inspection or other purposes.

Full compensation for this item, "Excavation Dewatering," shall be considered as included in the unit prices paid for the various Contract items of work, and no additional compensation will be made therefore.

END OF SECTION

SECTION 21.

EROSION AND SEDIMENT CONTROL

The provisions of Section 21, “Erosion Control,” of the Standard Specifications are superseded by these Special Provisions.

The Contractor is advised that failure to fully comply with the provisions of this Section and Section 13, “Water Pollution Control,” of these Special Provisions, and all requirements listed in the National Pollutant Discharge Elimination System (NPDES) General Permit, San Francisco Bay Region Municipal Regional Stormwater NPDES Permit, and any resource agency permits obtained for the project, where applicable, except where amended in writing and signed by the Director of Public Works or his duly authorized representative, shall constitute substantial non-compliance with the requirements of the Clean Water Act, the NPDES permit program, and the Contract.

The County shall provide periodic site monitoring to ensure that the work complies with the requirements specified herein and in any resource agency permits. The County will provide the Contractor with copies of the monitoring reports. Should the work be found to be non-compliant, a follow up site monitoring visit will be conducted to ensure the items have been corrected. The costs associated with any compliance monitoring required beyond a single follow up site monitoring visit shall be deducted from the final payment for all of the Contract work.

21-1. Temporary Silt Fence

No excavation or backfill work shall commence until temporary silt fence has been placed as shown on the plans and as directed by the Engineer.

Temporary silt fence shall be installed on contour a minimum of two (2) feet to the downslope side of any excavation or backfill. Temporary silt fence shall be installed as shown on the Plans, with the supporting posts on the downslope side of the fence structure. Silt fence lines shall be unbroken, with silt fencing pieces wound together to form a contiguous structure as shown on the Plans. Attention is directed to Section 21-2, “Temporary Erosion Controls,” of these Special Provisions for additional requirements.

The Engineer may deem it necessary and require parallel silt fencing to contain the full limits of excavation and backfill. Parallel silt fence shall be placed

on contour and shall overlap the horizontal projection of the primary silt fence by not less than eight (8) linear feet.

No silt fencing shall be placed in or across any flowing stream.

A. Inspection and Maintenance

Silt fencing shall be inspected and any necessary repairs made by the Contractor at his expense daily prior to any excavation or backfill. The Contractor shall remove any soil, rock and/or debris contained by the silt fence once they have reached a depth of half ($\frac{1}{2}$) the above-ground height of the silt fence.

Any soil, rock and/or debris that are stockpiled shall be protected against wind, rainfall and runoff at all times. Plastic sheeting may be used to cover soils (including aggregate base) and shall be securely anchored by sandbags or other suitable means. At no time will any stockpiled materials be allowed to erode into any watercourse or onto any roadway or other tributary surface.

B. Removal and Disposal

Temporary silt fence and any soil, rock or debris shall be completely removed by the Contractor at the conclusion of the work. Temporary silt fence and any soils, rock or debris shall be disposed of outside the highway right of way in accordance with the provisions of Section 5-11, "Disposal of Material Outside the Highway Right-of-Way," of these Special Provisions, by the Contractor at his expense. Soil, rock or debris shall not be scattered or "flaked" on any slope. The Contractor shall specify in writing the method of removal and disposal for the Engineer's approval not less than two (2) working days prior to removing silt fence.

C. Payment

Full payment for conformance with this Special Provision shall be considered as included in the Contract price paid for "Water Pollution Control," and no additional compensation will be allowed therefore.

21-2. Temporary Erosion Control

The Contractor shall be required to adhere to the provisions of Section 10, "Develop and Apply Water," Section 13, "Water Pollution Control," this Section, and the directions of the Engineer throughout the work.

Temporary erosion controls may consist of straw logs, straw mulch, silt

fencing, temporary berms, or any combination of these or other means acceptable to the Engineer to prevent polluted runoff and/or wind erosion. The use of any type of hay or any straw containing oat or weed seed is expressly forbidden. The Contractor is encouraged to review the Best Management Practices (BMPs) included in the County of San Mateo Maintenance Standards for installation and maintenance recommendations.

Temporary erosion controls shall be applied, maintained and removed by the Contractor as specified herein and as directed by the Engineer. The Contractor shall not commence any excavation, backfilling, grading or stockpiling operations until sufficient quantities and types of temporary erosion control materials have been delivered to the work site as determined by the Engineer.

Additional temporary erosion controls, if necessary and as directed by the Engineer, shall be installed at the conclusion of the workweek to the satisfaction of the Engineer. The Engineer may also require the installation of temporary erosion controls at the conclusion of any workday when rain and/or wind is occurring or forecast.

The Contractor is advised that he may be required to respond to the work site after hours and/or on weekends or holidays to mitigate potential erosion or sedimentation and/or to repair damaged silt fencing and other erosion controls. Provisions for the Contractor's Required Response are included in Section 13, "Water Pollution Control," of these Special Provisions.

A. Staging Areas

The Contractor shall contain runoff that may potentially leave any staging area to within the staging area by any suitable means approved by the Engineer.

Staging area BMPs shall be maintained throughout the duration of the work. Staging area BMPs shall be completely removed and disposed of outside the highway right of way in accordance with the provisions of Section 5-11, "Disposal of Material Outside the Highway Right-of-Way" of these Special Provisions, by the Contractor at his expense at the conclusion of the work. Attention is directed to Section 13, "Water Pollution Control," of these Special Provisions for provisions relating to tracking of mud from staging areas.

B. Staging Area Finish

The Contractor shall finish all staging areas as specified herein and as directed by the Engineer.

All stockpiles, debris and exclusion fencing shall be completely removed and disposed of outside the highway right of way by the Contractor at the conclusion of construction operations. Staging area surfaces shall be smoothed and contoured to drain in the same manner as prior to their use. The smoothed and contoured surface shall be covered with not less than six (6) inches and not more than twelve (12) inches of three-inch (3") un-compacted drain rock unless other material is approved in advance in writing by the Engineer. Any adjacent areas disturbed by the Contractor's operations shall be smoothed and mulched as specified below.

Loose soil and/or rock resulting from any grading work required to restore the pre-construction condition shall not be scattered or "flaked" on any slope.

C. Mulch

The Contractor shall mulch all finished soil surfaces at the conclusion of the work and as part of any winterization as shown on the Plans, as specified herein and as directed by the Engineer.

Mulch shall consist of a uniform application of rice straw to a depth of not less than two (2) inches. Straw bales and flakes shall be broken apart and loosely spread prior to crimping. Mulch shall be manually crimped into the soil surface using rakes, pitchforks or other appropriate means. Mulch shall not be track-walked using heavy equipment.

The Contractor may propose in writing an alternate type of straw mulch. Any type of proposed straw shall be certified by the manufacturer as weed-free and seed-free. The Contractor may also propose to use locally collected redwood duff (fallen dried redwood leaves, seeds and seed pods, small twigs, etc.) in addition to or instead of rice straw. Written proposals for alternate straw or redwood duff shall include identification of the source of the material, including written permission from the property owner to collect redwood duff, if applicable. Proposals to use alternate types of straw or redwood duff will be submitted to the Engineer for his approval not less than three (3) working days in advance of placing mulch. The Engineer reserves the right to reject alternate proposals and

require the use of rice straw mulch.

The Contractor shall avoid mulching over newly-planted trees/plants. Mulch shall not be applied below the ordinary high water line of any water body.

D. Winterization

Should the Contractor fail to complete the work within the specified number of working days with any time extensions allowed by the Engineer and the permitting agencies, the Contractor shall be required to winterize the sites and any staging areas at his expense as specified herein and as directed by the Engineer.

Winterization shall include, at a minimum, removal or securing, at the Engineer's option, of any stockpiled materials; removing equipment from the vicinity; restoring staging areas for winter use by the County's Road Maintenance Division as specified under "Staging Area Finish" above; covering any vertical excavation faces with plastic sheeting secured with sandbags and not extending below the ordinary high water line; mulching all other excavations with rice straw as specified under "Mulch" above; and ensuring positive drainage through the work sites.

E. Payment

Full payment for conformance with this Special Provision shall be considered as included in the Contract price paid for "Water Pollution Control," and no additional compensation will be allowed therefore.

SECTION 26.
AGGREGATE BASE (CLASS 2)

Aggregate base shall be Class 2 and shall conform to the provisions in Section 26, "Aggregate Bases," of the Standard Specifications and these Special Provisions.

Aggregate base shall be placed where shown on the Plans, as specified in these Special Provisions, and as directed by the Engineer.

Aggregate base shall be produced from commercial quality aggregate consisting of broken stone, crushed gravel, natural, clean, rough-surfaced gravel and sand, or a combination thereof.

Aggregate base shall consist of reclaimed aggregate material up to 50% of the total volume whenever possible, as allowed in Section 30-1.02B, "Class 2 Supplementary Aggregate," which states:

"If supplementary aggregate is specified, supplementary aggregate must comply with $\frac{3}{4}$ -inch maximum gradation specified in section 26-1.02. Supplementary aggregate must not include cinders. Do not use supplementary aggregate with more than 50 percent by volume of reclaimed asphalt concrete. Supplementary aggregate must weigh at least 105 lb/cu ft, determined under California Test 212, Compacted Method (by Rodding)."

Except as provided for under Section 39, "Asphalt Concrete (Type A)," of these Special Provisions, the grading of the material shall conform to the three-quarter inch ($\frac{3}{4}$ ") maximum specified in Section 26-1.02B, "Class 2 Aggregate Base," of the Standard Specifications.

Spreading and compacting shall be performed by methods that will produce a uniform base, firmly and properly compacted to not less than ninety-five percent (95%) relative compaction, and free from pockets of coarse or fine material. All compacted materials may be tested by the County. The Contractor's attention is directed to Section 6-2, "Materials Testing," of these Special Provisions. Acceptance testing shall be performed using California Test Method (CT) 338 or ASTM D6938, as directed by the Engineer.

The Contractor shall notify the County a minimum of one (1) working day prior to when compacted materials are ready to be tested. The County pays for Contractor's

call for first test only. Should the first test fail, or the Engineer's designee to perform the first test arrive and the Contractor not be ready for the test, then all subsequent tests will be paid for by the Contractor until the desired compaction is reached, and no additional compensation will be allowed therefore.

Aggregate base shall be placed where shown on the Plans (including placement, as necessary, for designated shoulder areas), as specified in these Special Provisions and as directed by the Engineer.

Aggregate base that is used to provide temporary access to work areas, as well as all other work that is necessary to comply with Section 7-12, "Public Convenience," of these Special Provisions, shall not be included in the Contract quantity for Aggregate Base (Class 2), and shall be considered as included in the various Contract items of work, and no additional compensation shall be allowed therefore.

Full compensation for all work involved for this item, "Aggregate Base (Class 2)," shall be as specified in Section 9 of the Standard Specifications and these Special Provisions.

END OF SECTION

SECTION 39.
ASPHALT CONCRETE (TYPE A HMA)

Asphalt concrete shall be Type A HMA and shall conform to the provisions in Section 39, "Asphalt Concrete," of the Standard Specifications and these Special Provisions.

The Contractor shall be responsible for locating and reference marking all existing highway facilities (such as manholes, valves, and monuments) within the Project limits prior to any paving work.

Asphalt concrete to be used for roadway area, as shown on the Plans and as designated by the Engineer, shall be Type A HMA, 1/2" maximum.

The Contractor's attention is further directed to the provisions of Section 39-2.01C(15), "Compaction," of the Standard Specifications for smoothness tolerance requirements and the importance of maintaining pavement smoothness that is equal to or better than currently exists.

Should the newly paved roadway fail to meet the County's smoothness tolerances in conformance with the Standard Specifications and these Special Provisions, the Contractor shall, at the Contractor's own expense, perform corrective measures. Such corrective measures shall be approved of by the Engineer. Failure to obtain County approval of proposed corrective measures may result in additional corrective measures, all at the Contractor's sole expense, and no additional compensation will be allowed therefore.

Following any initial corrective measures, the Engineer will again make a determination as to roadway smoothness.

The amount of asphalt binder to be mixed with the aggregate shall be between five percent (5%) and six percent (6%) by weight of dry aggregate. The exact amount of asphaltic binder to be mixed with the aggregate shall be as determined by the Engineer.

Areas to which asphaltic emulsion has been applied shall be closed to public traffic. Care shall be taken to avoid tracking asphaltic emulsion onto existing pavement surfaces beyond the limits of construction.

The Contractor will be responsible for any damage to facilities caused by this operation. Any asphalt concrete or asphaltic emulsion stains occurring during the course of this Contract will be cleaned by sandblasting, or any other method satisfactory to the Engineer. The cost of repairing this damage shall be considered as included in the Contract unit price paid for Asphalt Concrete (Type A HMA, 1/2" Maximum), and no additional compensation will be allowed therefore.

At road conforms designated by the Engineer, additional asphalt concrete surfacing material shall be placed and hand raked, if necessary, and compacted to form smooth tapered connections. The Contractor is further advised that it will be his/her responsibility to ensure that the existing drainage patterns are maintained at all locations, as indicated on the Plans or as directed by the Engineer. Full compensation for furnishing all labor, tools, incidentals necessary for doing all work to hand rake said connections shall be considered as included in the Contract price paid for asphalt concrete, and no additional compensation will be allowed therefore.

Any asphalt concrete placed outside the lines and dimensions shown on the Plans, and that is not authorized by the Engineer in writing, shall not be paid for. Such quantity of asphalt concrete will be determined by the Engineer using any method he/she deems best suited to obtain an accurate quantity, and such quantity will be deducted from the total paid the Contractor, and no additional compensation will be allowed therefore. The unit weight of asphalt concrete for purposes of deduction shall be the average tested weight of the asphalt concrete used on this Project, or, absent any testing, 155 pounds per cubic foot.

Full compensation for all work involved for this item, "Asphalt Concrete (Type A HMA, 1/2" Maximum)," shall be as specified in Section 9 of the Standard Specifications and these Special Provisions.

39-1. Compaction Testing

New asphalt concrete (Type A, maximum) placed within the roadway prism, as well as other areas shown on the Plans and as designated by the Engineer, may be tested for compaction, as directed by the Engineer.

Compacting shall be performed to achieve not less than ninety-five percent (95%) of the maximum theoretical density. The Contractor's attention is

directed to Section 6-2, "Materials Testing," of these Special Provisions. Acceptance testing shall be performed using California Test Method (CT) 375, as directed by the Engineer.

For percent of maximum theoretical density, the Engineer determines a deduction for each test result outside the specifications in compliance with the "Reduced Payment Factors for Percentage of Maximum Theoretical Density" Table in Section 39-2.01A(4)(i)(ii) of the Standard Specifications.

39-2. Asphaltic Emulsion (Tack Coat)

Asphaltic Emulsion (Tack Coat) shall conform to the provisions of Section 39-2.01C(3)(f), "Tack Coat," and Section 94, "Asphaltic Emulsions," of the Standard Specifications, these Special Provisions, and the directions of the Engineer.

END OF SECTION

SECTION 51.

CONCRETE STRUCTURES

Concrete Structures shall conform to the provisions of Section 51, "Concrete Structures" of the Standard Specifications, these Special Provisions, and the directions of the Engineer.

51-1. Concrete (Minor Structures)

Class 2 Concrete (Minor Structures) shall conform to the provisions in Section 51, "Concrete Structures," of the Standard Specifications and these Special Provisions.

Concrete for minor structures shall conform to Section 90-1, "General," and Section 90-2, "Minor Concrete," of the Standard Specifications.

Concrete structures to be paid for as Class 2 Concrete (Minor Structures) shall include concrete headwall, as designated on the Plans.

The Contractor's attention is directed to Section 9-1.02C, "Final Pay Item Quantities," of the Standard Specifications.

Portland cement concrete for minor structures shall be produced from commercial quality aggregate and cement shall contain not less than 590 pounds of cement per cubic yard (350 kg/m³).

Full compensation for providing bar reinforcing steel, as shown on the Plans, as specified in these Special Provisions, and as directed by the Engineer, shall be considered as included in the Contract unit price paid for this item, "Class 2 Concrete (Minor Structure)," and no separate payment will be made therefore.

The Contractor shall take care when working in and around facilities to remain. The cost of repairing, to the satisfaction of the Engineer, any damage to said facilities to remain and resulting from the Contractor's operations, as determined by the Engineer, shall be performed by the Contractor, all at his expense, and no additional compensation will be allowed therefore. **The Contractor is advised that installation of new drainage structures, complete in place, shall be completed prior to commencement of backfilling operations.**

The Contractor shall take care when working in and around facilities to remain. The cost of repairing, to the satisfaction of the Engineer, any damage to said facilities to remain and resulting from the Contractor's operations, as determined by the Engineer, shall be performed by the Contractor, all at his expense, and no additional compensation will be allowed therefore.

Full compensation for all work involved for this item, "Class 2 Concrete (Minor Structures)," shall be as specified in Section 9 of the Standard Specifications and these Special Provisions.

END OF SECTION

SECTION 64.
PLASTIC PIPE

Plastic pipe shall conform to Section 64-2, "Plastic Pipe," of the Standard Specification and these Special Provisions. Section 4-1.06, "Differing Site Conditions (CFR 635.109)," of the Standard Specifications shall not apply to this item.

The 60 inch polyethylene pipe shall be reinforced with a smooth interior. Contech Engineered Solutions's DuroMaxx Steel Reinforced Polyethylene (SRPE) Pipe or approved equal shall be installed.

Full compensation for all work involved for this item, "60 Inch Reinforced Polyethylene Pipe," shall be as specified in Section 9 of the Standard Specifications and these Special Provisions.

END OF SECTION

SECTION 72.

ROCK SLOPE PROTECTION

Rock Slope Protection shall be installed in conformance with the provisions in Section 72, "Slope Protection," of the Standard Specifications, these Special Provisions, the Standard Plans and the Project Plans, and the directions of the Engineer.

72-1. Rock Slope Protection

Slope protection shall be rock slope protection and shall be placed in conformance with the provisions of Section 19-3, "Structure Excavation and Backfill," and Section 72, "Slope Protection," of the Standard Specifications and these Special Provisions, and the directions of the Engineer.

This work shall include construction of rip-rap slope protection. The Contractor is advised that approximately **twelve cubic yards (12 CY)** of Class 3 rock will be required for this work. Reference is made to the detail on Sheet 3 of the Plans.

Rock slope protection shall be placed below the outlet of the 60 inch reinforced polyethylene pipe in a manner that will ensure that outflow from the drains shall flow over the rock prior to entering the natural drainage flows.

Any excess material from structure excavation required for this item, "Rock Slope Protection," shall be disposed of in accordance with the provisions of Section 5-11, "Disposal of Material Outside the Highway Right of Way," of these Special Provisions. Full compensation for structure excavation required shall be considered as included in the Contract unit price paid per cubic yard for this item, "Rock Slope Protection," and no separate payment will be allowed therefore.

Full compensation for all work involved for this item, "Rock Slope Protection (Class 3)," shall be as specified in Section 9 of the Standard Specifications and these Special Provisions.

END OF SECTION

SECTION 80.

FENCES

Fences shall conform to the provisions of Section 80, "Fences" of the Standard Specifications and these Special Provisions.

Work shall include, but not be limited to, furnishing and installing permanent cable railing, temporary Environmental Safety Area (ESA) fence, and removing and replacing existing improvements to facilitate construction as shown on the Plans and as directed by the Engineer.

80-1. Cable Railing

Cable railing work shall conform to the provisions of Section 83, "Railings and Barriers," of the Standard Specifications and these Special Provisions. Cable railing work shall include furnishing and installing cable railing as shown on the Plans and as directed by the Engineer.

The Contractor shall schedule construction activities such that the end of each day no post holes are open and no posts are installed without the rail elements assembled and mounted.

Cable railing posts adjacent to the concrete headwall, as shown on the Plans, shall be installed using pre-manufactured post anchoring system. Pre-manufactured post anchoring system shall be Strata Sleeve-It or approved equal.

Full compensation for all work involved for this item, "Cable Railing," shall be as specified in Section 9 of the Standard Specifications and these Special Provisions.

80-2. Temporary Fence

Temporary fence (Type ESA) work shall conform to the specifications in Section 80, "Fences," of the Standard Specifications, these Special Provisions, the Plans, and to the directions of the Engineer.

Temporary fence (Type ESA) shall be a heavy duty, high visibility fence furnished in one continuous width and shall not be spliced to conform to the specified width dimension.

Other than new materials may be used, providing such materials are good, sound, and are suitable for the purpose intended. Materials may be

commercial quality providing the dimensions and sizes of said materials are equal to, or greater than, the dimensions and sizes shown on the Plans or specified by the specifications.

Temporary fences that are damaged from any cause during the progress of the work shall be repaired or replaced by the Contractor at the Contractor's expense, and no additional compensation will be allowed therefore.

If, in the opinion of the Engineer, the Contractor appears negligent in preventing encroachment into the "secured area," the Engineer will direct the Contractor's attention to the situation, and require that necessary corrective action be taken. If the Contractor fails to correct the situation to the satisfaction of the Engineer, the Engineer may have the work done and deduct the cost of such work from monies due to the Contractor.

The location and extent of the temporary fencing shall be as indicated on the Plans and as directed by the Engineer.

When no longer required for the work, as determined by the Engineer, temporary fences shall be removed by the Contractor. Removed facilities shall become the property of the Contractor and shall be removed from the site of the work, except as otherwise provided in this Section.

Holes caused by the removal of temporary fences shall be backfilled in accordance with the provisions in the second paragraph of Section 15-1.02, "Preservation of Property," of the Standard Specifications.

Damaged and unusable portions of the fence shall become the property of the Contractor and shall be disposed of outside the project site in accordance with Section 5-11, "Disposal of Material Outside the Highway Right of Way," of these Special Provisions.

Full compensation for this item, "Temporary Fence (Type ESA)," shall be as specified in Section 9 of the Standard Specifications and these Special Provisions.

80-3. Remove and Replace Existing Barbed Wire Fence

Remove and Replace Barbed Wire Fence work shall conform to the specifications in Section 80, "Fences," and Section 80-2, "Barbed Wire and Wire Mesh Fences" of the Standard Specifications, these Special Provisions, the

Plans, and to the directions of the Engineer.

Holes caused by the removal of existing barbed wire fence posts shall be backfilled in accordance with the provisions in the second paragraph of Section 15-1.02, "Preservation of Property," of the Standard Specifications.

Damaged and unusable portions of the fence shall become the property of the Contractor and shall be disposed of outside the project site in accordance with Section 5-11, "Disposal of Material Outside the Highway Right of Way," of these Special Provisions.

Full compensation for this item, "Remove and Replace Existing Barbed Wire Fence," shall be as specified in Section 9 of the Standard Specifications and these Special Provisions.

END OF SECTION

SECTION 82.

ROADSIDE SIGNS AND MARKERS

Roadside signs and markers shall be installed in conformance with the provisions in Section 82-3, "Roadside Signs," of the Standard Specifications, these Special Provisions, the Standard Plans and the Project Plans, the California Manual on Uniform Traffic Control Devices (2014), latest edition and the directions of the Engineer.

82-1. Remove and Reset Existing Roadside Signs

Existing roadside signs, as shown on the Plans and as directed by the Engineer, shall be removed, set at temporary locations, if necessary and as directed by the Engineer, and reset at permanent locations, as directed by the Engineer, all in conformance with Sections 56-2, "Roadside Signs", 15-2.04, "Salvage," and 15-2.05, "Reconstruction," of the Standard Specifications, the Plans and these Special Provisions, and the directions of the Engineer.

The Contractor is advised that "Roadside Sign" shall be defined herein for this Section 82-1, "Remove and Reset Existing Roadside Signs" as the entire sign assembly of the post, sign panel and mounting hardware, unless otherwise specified on the Plans, in these Special Provisions, or as directed by the Engineer.

Existing roadside signs to be removed and reset, as shown on the Plans and as directed by the Engineer, shall be removed at the time of excavation for wall installation. Removed roadside signs shall be set at permanent locations at time of removal whenever possible; otherwise removed roadside signs shall be set and maintained at temporary locations, as directed by the Engineer, at the time of removal, until they are reset at permanent locations, as directed by the Engineer.

New locations shall be as determined in the field by the Engineer.

The Contractor is advised that removal of the existing roadside signs shall be accomplished by removing the entire roadside sign assemblies, including the post. Cutting of the existing post will not be allowed. The existing posts are considered to be in serviceable condition and shall

either be reused or salvaged in conformance with these Special Provisions.

Existing roadway, street name, and regulatory traffic signs shall be maintained in a location that is visible to motorists at all times. However, any signs that interfere with construction shall be relocated, as necessary, to accommodate the work.

Any damage to new and existing highway facilities resulting from these operations shall be repaired by the Contractor, all at his expense, and no additional compensation will be allowed therefore.

There is approximately one (1) roadside marker to be removed and reset to a permanent location. The approximate location of said roadside markers to be removed and reset are as shown on the Plans.

Full compensation for this item, "Remove and Replace Existing Road Signs," shall be as specified in Section 9 of the Standard Specifications and these Special Provisions.

No adjustment to the Contract bid price will be made for any increase or decrease in the quantities of this item, "Remove and Reset Existing Roadside Signs and Markers," required. The provisions in Section 4-1.03B, "Increased or Decreased Quantities," of the Standard Specifications shall not apply to this item of work.

END OF SECTION

SECTION 94.

ASPHALTIC EMULSIONS

Asphaltic emulsion shall be Type SS1, and shall conform to the provisions of Section 39-2.010(3)(f), "Tack Coat," and Section 94, "Asphaltic Emulsions," of the Standard Specifications, these Special Provisions, and the directions of the Engineer.

Asphaltic emulsion shall be used as a tack coat for asphalt concrete overlay and for all aggregate base areas prior to asphalt concrete application. Rates of application shall be 0.12 Gal/SY, or as directed by the Engineer.

The area to which asphaltic emulsion has been applied shall be closed to public traffic, as directed by the Engineer. Care shall be taken to avoid tracking asphaltic emulsion onto existing pavement surfaces beyond the limits of construction.

The Contractor will be responsible for any asphaltic emulsion stains occurring during the course of this Contract. Such stains will be cleaned by sandblasting, or any other method satisfactory to the Engineer. The cost of repairing this damage shall be considered as included in the Contract unit bid price paid for this item, "Asphaltic Emulsions," and no additional compensation will be allowed therefore.

When used as a curing seal over cement treated areas, the Contract unit price paid per ton for this item, "Asphaltic Emulsion (Paint Binder and Curing Seal)," shall include full compensation for furnishing all labor, materials, tools, equipment and incidentals, and for doing all work involved in furnishing and placing asphaltic emulsion, as shown on the Plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer, and no additional compensation will be allowed therefore.

No adjustment of the Contract bid price will be made for any increase or decrease in quantities of this item, "Asphaltic Emulsions," required. The provisions of Section 9-1.06, "Changed Quantity Payment Adjustments," of the Standard Specifications shall not apply to this item of work.

The Contractor's attention is directed to the fact that payment for asphaltic emulsion to be used as a tack coat shall be included in the Contract unit price for paid for the "Asphalt Concrete". Reference is made to Sections 39, "Asphalt Concrete (Type A)," of these Special Provisions.

END OF SECTION

SECTION 100.

CONSTRUCTION STAKING

Section 5-1.26, "Construction Surveys," of the Standard Specifications shall not apply to this section.

The Contractor shall be responsible for all land surveying and shall provide construction stakes or marks necessary to establish the limits, lines, alignments, and grades required for proper construction staking layout and completion of the work as shown on the drawings, as specified in these Special Provisions, and as directed by the Engineer. All construction staking shall be provided under the direction of either a professional land surveyor licensed by the State of California or an Engineer qualified to perform land surveying.

The survey datum used for the project shall be in accordance or tied-in with the County datum, as referenced on the Plans.

The Contractor shall provide and establish the construction staking of principal structures, and set grades and benchmarks as required. It will be the Contractor's responsibility to layout the work from the lines and grades, and to transfer elevations from the benchmarks set. All staking, locating, and layout work required for construction purposes shall be performed by the Contractor. Where new construction connects to existing facilities, the Contractor shall check and establish the exact location of existing facilities prior to construction of new facilities.

When using construction stakes to establish alignment, the Contractor shall use a minimum of three (3) stakes to check horizontal alignments, and a minimum of two (2) stakes to check vertical alignments.

Should an occasion arise where the validity of a stake is questionable, either as to its location, or the elevation marked thereon, the Contractor shall check the stake or stakes in question. The Contractor shall be responsible for correcting any alignment or elevation errors that resulted from incorrect staking.

The Contractor shall maintain a complete and accurate log of all control and survey work as it progresses. On completion of site improvements, the contractor's surveyor shall prepare a certified survey drawing showing all dimensions, locations, angles, and elevations of construction.

The Contractor shall set or establish the necessary construction layout stakes and markings a minimum of **two (2) working days** in advance of the work and shall notify the Engineer when such markings have been set.

The Contractor shall protect all monumentation and survey points in their undisturbed location and condition. Damage, as a result of the Contractor's operations, to the existing monuments, survey markers, or reference points that are not part of this Contract, shall be repaired and replaced at the Contractor's expense.

The Contractor's attention is directed to Section 100-1, "As-Built Drawings," of these Special Provisions for additional requirement for submittal of As-Built Drawings upon completion of this project.

The Contract lump sum price paid for this item, "Construction Staking," shall be as specified in Section 9 of the Standard Specifications and these Special Provisions.

100-1. As-Built Drawings

In order for the County to produce As-Built Drawings for this project, the Contractor shall submit a PDF copy of the Plans with appropriate as-built information mark-ups, which Plans shall be signed by the Contractor certifying the accuracy of the as-built drawings, including that elevations and locations of improvements are in accordance with the contract Documents. Should the Engineer determine that additional information is required to produce accurate As-Built Drawings, the Contractor shall provide such information within **ten (10) calendar days** after receiving the written request for said additional information. The cost for providing this additional information shall be at the Contractor's expense, and no additional compensation will be allowed therefore.

Full payment for conformance with this Special Provision shall be considered as included in the Contract price paid for Construction Staking, and no additional compensation will be allowed therefore.

The Contractor is advised that Final Progress Payment may be withheld until satisfactory as-builts plans, as determined by the Engineer, are submitted to the County. Payment maybe withheld upon the determination by the County that the withholding of such amount is no longer necessary.

END OF SECTION

Appendix A

County of San Mateo Waste Management Plan Form Waste Management Daily Transport Report



County of San Mateo

WASTE MANAGEMENT PLAN

Case/group number(s):

BLD _____ - _____

Project address:

Street: _____

City: _____

Zip Code: _____

Green Halo number(s):

WMP required because project is a:

☐ Residential ☐ Demolition

☐ Nonresidential ☐ New Construction

☐ Addition

Submit to:

County of San Mateo
Department of Public Works
555 County Center, 5th Floor
Redwood City, CA 94063

Information and support: 888-442-2666

www.smcsustainability.org/waste-reduction/construction-demolition

Section One: Permit Application

This Waste Management Plan (WMP) must be completed, submitted for review, and approved to obtain a permit. Separate WMPs are required for demolition and construction at the same site unless the Building Department requires only one permit. Need for a WMP is at the discretion of the Building Official or designee.

Applicant's Name: _____ Owner's Name: _____

Phone Number: _____ Email: _____

Applicant is (please check one): ☐ Owner ☐ Architect ☐ Builder ☐ Owner/Builder ☐ Other _____

Contractor (if applicable): _____ Contact Phone Number: _____

Project Description: _____

Project Square Footage: _____ Estimated Completion Date: _____

Waste Management Requirements:

You are required to recycle or re-use all inert solids (asphalt, brick, concrete, dirt, fines, rock, sand, and stone) and 65% of all construction and demolition debris.

I understand that I am required by San Mateo County Building Regulations Section 9210 - Adoption Of 2016 California Green Building Standards Code (Building Regulations) to salvage, reuse, or recycle **all inert solids** (asphalt, brick, concrete, dirt, fines, rock, sand, and stone) and **a minimum of 65%** of all construction and demolition debris (C&D). _____ (Initial)

I understand that failure to meet the requirements of the Building Regulations shall constitute a misdemeanor, and shall be punishable by imprisonment in the county jail for up to 6 months and/or a fine of up to \$1,000, calculated as a percentage of the required 65% diversion of C&D debris, and that the fine must be paid as a condition of final approval. _____ (Initial)

At the completion of this project, or more frequently if required, all weight tags or other equivalent documentation from salvage, recycling and waste facilities will be provided and I understand that I may not be issued my final inspection unless all original receipts and documentation are submitted to the County of San Mateo Department of Public Works. _____ (Initial)

Recycling and waste facilities ask for the correct origin of the materials generated as they come through the scale house. These tons are reported to the State of California. I understand that I need to advise my debris box company, waste haulers, and my drivers that the materials generated on this project originated in Unincorporated County of San Mateo. _____ (Initial)

1) Deconstruction/salvage/reuse:

What materials will be salvaged/reused? _____

Deconstruction or salvage company (if applicable): _____

What materials will be reused on site? _____

How will this be documented? _____

2) Material transportation:

Will you be using a hauling company, debris box company or hauling the material yourself?

☐ Hauler ☐ Debris Box ☐ Self-haul

If using a hauling or debris box company, which company? _____

Have they been notified that the diversion of 65% mixed debris and all inert solids is required? ☐ Yes ☐ No

3) Waste management plan:

Check the materials you anticipate generating and fill in the facilities that you plan to use.

Category	Material	√	Reuse, Recycling or Disposal Facility
Mixed C&D	Mixed Debris		
Inerts	Asphalt		
	Bricks		
	Concrete		
	Dirt		
	Other inert solids		
Source Separated	Cardboard		
	Metals		
	Wood		
	Roofing		
	Carpet		
	Drywall		
	Yard trimmings		
	Other		
Disposal	Waste		

The undersigned hereby agrees to comply with the Waste Management Plan as submitted and is the owner or authorized agent to sign for the owner of this project.

Applicant Signature _____ **Date** _____

County Approval: ☐ Approved ☐ Approved with comments ☐ Denied

All receipts, weight tags and documentation for salvage, recycling, and disposal must be submitted:

☐ On completion of project ☐ Other _____

Office of Sustainability Approval: _____ Date: _____



County of San Mateo

WASTE MANAGEMENT PLAN

Case/Group Number(s):

BLD _____ - _____

Project Address:

Street: _____

City: _____

Section Two: Final Report Approval

Please complete, submit, and get this section approved by the Department of Public Works, prior to obtaining final approval by the Department of Public Works no later than 30 days after completion of the demolition or construction project. Please provide weight of materials in **tons**. If needed, please use the conversion table on the next page to convert cubic yards to tons.

This section must be completed and signed, and all receipts or other supporting documentation must be attached in order to receive final project approval.

Category	Date	Material/items	Name of facility debris was hauled to	Weight (Tons)	Volume (CU. YD.)
Mixed C&D					
Salvage/Reuse					
Inerts Asphalt, bricks, concrete, dirt, rock, sand, soil, stone					
Source Separated Cardboard, wood, metal, sheetrock, wire, carpet, yard trimmings					
Disposal (Waste)					

☐ All receipts or equivalent documentation for salvage, recycling, and disposal are hereby attached.

☐ This project has recycled all of the inert solids and at least 65% of all debris generated.

Applicant Signature _____ Date _____

County Approval: ☐ Approved ☐ Approved with Comments ☐ Fine Payment Required

Comments:

Fine Calculation: $1 - (\text{C\&D Diversion \% Achieved} \div 65\%) \times \$1000 = \$$ _____

Office of Sustainability Approval: _____ Date: _____



County of San Mateo

WASTE MANAGEMENT PLAN

Cubic Yards to Tons Conversion Table

Category	Material	Cubic Yards	Pounds	Tons
Mixed C&D	Mixed load C&D	1	500	0.25
Inerts	Asphalt	1	1380	0.69
	Bricks	1	3000	1.5
	Concrete	1	1860	0.93
	Dirt	1	2000	1
	Other inert solids	1	1240	0.62
Source Separated	Cardboard	1	100	0.05
	Metals	1	900	0.45
	Wood	1	300	0.15
	Asphalt roofing	1	1188	0.59
	Carpet	1	600	0.3
	Drywall	1	400	0.2
	Green waste	1	300	0.15
	Gravel	1	2600	1.3
Disposal	Waste	1	300	0.15

WASTE MANAGEMENT DAILY TRANSPORT REPORT				
Date :		Day :		Multiple Pages : Yes___ No___
			Contractor Representative :	
Project :				
			County Inspector :	
	Transport Vehicle Type	Vehicle License/I.D.	Load Destination	
			Inert Material	Non-Inert Material
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				

Note : Inert material shall be as defined in the Construction Waste Management Section of these specifications.

Comments :

Appendix B

NOT USED

Appendix C

Sample “Payment Bond” Form

Sample “Performance Bond” Form

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS:

That **WHEREAS**, the County of San Mateo hereinafter designated as the "County," has awarded to _____, hereinafter designated
(Contractor's Name)
as the "Principal," a contract dated _____, hereinafter designated
(Contract Award Date)
as the "Contract," which Contract is by this reference made a part hereof, for the work described as _____.
(Project Name, Location & Number)

And WHEREAS, pursuant to law, the Principal is required, before entering upon the performance of the work, to file a good and sufficient bond with the body by whom the Contract is awarded to secure the claims to which reference is made in Sections 9550 to 9566 and 9100 to 9364 both inclusive, of the Civil Code of California.

NOW THEREFORE, THESE PRESENTS WITNESSETH:

That the said Principal and the undersigned, _____,
(Surety's Name)
as corporate Surety, are held and firmly bound unto all laborers, material men and other persons referred to in said statutes in the sum of _____
Dollars (\$))
lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, or assigns, jointly and severally, by these presents.

The condition of this obligation is that if the above bonded Principal, contractor, person, company or corporation, or his or its sub-contractor, fails to pay any claimant name in Section 9100 of the Civil Code of the State of California, or amounts due under the Unemployment Insurance Code, with respect to work or labor performed by any such claimant, that the Surety on this bond will pay the same, in an amount not exceeding the aggregate sum specified in this bond, and also, in case suit is brought upon this bond, a reasonable attorney's fee, which shall be awarded by the court to the prevailing party in said suit, and attorney's fees to be taxed as costs in said suit.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Section 9100 to 9364 of the Civil Code, so as to give a right of action to them or

their assigns in any suit brought upon this bond.

This bond is executed and filed to comply with the provisions of the act of Legislature of the State of California as designated in the Civil Code, Sections 9550-9566 inclusive, and all amendments thereto.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

And the said Surety, for value received, hereby stipulates and agrees that no change will be made which increases the total Contract price more than twenty percent (20%) in excess of the original Contract price without notice to the Surety, then, this obligation to be void, otherwise to remain in full force and virtue.

Correspondence relating to this bond shall be sent to the Surety at the address set forth below.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and Surety this _____ day of _____, 20____.

Principal

Surety

Signature

Signature

Printed Name

Printed Name

Address for Notices:

NOTE: Notary acknowledgement for Surety and Surety's Power of Attorney must be attached.

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That WHEREAS, the County of San Mateo hereinafter designated as the "County," has awarded to _____, hereinafter designated
(Contractor's Name)
as the "Principal," a contract dated _____, hereinafter designated
(Contract Award Date)
as the "Contract," which Contract is by this reference made a part hereof, for the work described as _____.
(Project Name, Location & Number)

And WHEREAS, Principal is required to furnish a bond in connection with the Contract, guaranteeing the faithful performance thereof.

NOW THEREFORE, THESE PRESENTS WITNESSETH:

That the said Principal and the undersigned, _____,
(Surety's Name)
as corporate Surety, are held and firmly bound unto the County in the sum of _____ Dollars (\$ _____)
lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, or assigns, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above bonded Principal shall well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of said Contract during the original term of said Contract and any extensions thereof that may be granted by the County, with or without notice to the Surety, and during the life of any guarantee required under the Contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreements of any and all duly authorized modifications of said Contract that may hereafter be made, except that no change will be made which increases the total Contract price more than twenty percent (20%) in excess of the original Contract price without notice to the Surety, then, this obligation to be void, otherwise to remain in full force and virtue.

Correspondence relating to this bond shall be sent to the Surety at the address set forth below.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and Surety this _____ day of _____, 20____.

Principal

Surety

Signature

Signature

Printed Name

Printed Name

Address for Notices:

NOTE: Notary acknowledgement for Surety and Surety's Power of Attorney must be attached.

Appendix D

Daily Personnel and Equipment Log

DAILY PERSONNEL AND EQUIPMENT LOG

Using as many copies of this form necessary, the Contractor shall provide the Engineer with a list of all personnel and their title and, if applicable, equipment said employee is operating. This information is required of the Prime and their Subcontractors.

This form, if used in lieu of Contractor's Daily Dispatch Report, shall be submitted to the Engineer by the start of the first working day subsequent to the performance of the work, or Contractor may incur task-specific liquidated damages in the amount of \$500 per day for every day hence until submittal is made. Reference is made to Section 7-4.1., "Payroll Records," of the Project Special Provisions.

Date: _____ Project No.: RW927
Project: 60 Inch Culvert Replacement Project at Bear Gulch Road
Contractor: _____
Is this log for Subcontractor? Yes No
If yes, Name of Subcontractor: _____

Personnel		Equipment			
Name	Title/ Trade	No.	Type	Make	Model

Notes:

Appendix E

Public Contract Code Sections 9204 and 20104 et seq.

Public Contract Code Section 9204 et seq.

9204.

(a) The Legislature finds and declares that it is in the best interests of the state and its citizens to ensure that all construction business performed on a public works project in the state that is complete and not in dispute is paid in full and in a timely manner.

(b) Notwithstanding any other law, including, but not limited to, Article 7.1 (commencing with Section 10240) of Chapter 1 of Part 2, Chapter 10 (commencing with Section 19100) of Part 2, and Article 1.5 (commencing with Section 20104) of Chapter 1 of Part 3, this section shall apply to any claim by a contractor in connection with a public works project.

(c) For purposes of this section:

(1) "Claim" means a separate demand by a contractor sent by registered mail or certified mail with return receipt requested, for one or more of the following:

(A) A time extension, including, without limitation, for relief from damages or penalties for delay assessed by a public entity under a contract for a public works project.

(B) Payment by the public entity of money or damages arising from work done by, or on behalf of, the contractor pursuant to the contract for a public works project and payment for which is not otherwise expressly provided or to which the claimant is not otherwise entitled.

(C) Payment of an amount that is disputed by the public entity.

(2) "Contractor" means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who has entered into a direct contract with a public entity for a public works project.

(3) (A) "Public entity" means, without limitation, except as provided in subparagraph (B), a state agency, department, office, division, bureau, board, or commission, the California State University, the University of California, a city, including a charter city, county, including a charter county, city and county, including a charter city and county, district, special district, public authority, political subdivision, public corporation, or nonprofit transit corporation wholly owned by a public agency and formed to carry out the purposes of the public agency.

(B) "Public entity" shall not include the following:

(i) The Department of Water Resources as to any project under the jurisdiction of that department.

(ii) The Department of Transportation as to any project under the jurisdiction of that department.

(iii) The Department of Parks and Recreation as to any project under the jurisdiction of that department.

(iv) The Department of Corrections and Rehabilitation with respect to any project under its jurisdiction pursuant to Chapter 11 (commencing with Section 7000) of Title 7 of Part 3 of the Penal Code.

(v) The Military Department as to any project under the jurisdiction of that department.

(vi) The Department of General Services as to all other projects.

(vii) The High-Speed Rail Authority.

(4) "Public works project" means the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind.

(5) "Subcontractor" means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who either is in direct contract with a contractor or is a lower tier subcontractor.

(d) (1) (A) Upon receipt of a claim pursuant to this section, the public entity to which the claim applies shall conduct a reasonable review of the claim and, within a period not to exceed 45 days, shall provide the claimant a written statement identifying what portion of the claim is disputed and what portion is undisputed. Upon receipt of a claim, a public entity and a contractor may, by mutual agreement, extend the time period provided in this subdivision.

(B) The claimant shall furnish reasonable documentation to support the claim.

(C) If the public entity needs approval from its governing body to provide the claimant a written statement identifying the disputed portion and the undisputed portion of the claim, and the governing body does not meet within the 45 days or within the mutually agreed to extension of time following receipt of a claim sent by registered mail or certified mail, return receipt requested, the public entity shall have up to three days following the next duly publicly noticed meeting of the governing body after the 45-day period, or extension, expires to provide the claimant a written statement identifying the

disputed portion and the undisputed portion.

(D) Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. If the public entity fails to issue a written statement, paragraph (3) shall apply.

(2) (A) If the claimant disputes the public entity's written response, or if the public entity fails to respond to a claim issued pursuant to this section within the time prescribed, the claimant may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, the public entity shall schedule a meet and confer conference within 30 days for settlement of the dispute.

(B) Within 10 business days following the conclusion of the meet and confer conference, if the claim or any portion of the claim remains in dispute, the public entity shall provide the claimant a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. Any disputed portion of the claim, as identified by the contractor in writing, shall be submitted to nonbinding mediation, with the public entity and the claimant sharing the associated costs equally. The public entity and claimant shall mutually agree to a mediator within 10 business days after the disputed portion of the claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is unsuccessful, the parts of the claim remaining in dispute shall be subject to applicable procedures outside this section.

(C) For purposes of this section, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.

(D) Unless otherwise agreed to by the public entity and the contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under

Section 20104.4 to mediate after litigation has been commenced.

(E) This section does not preclude a public entity from requiring arbitration of disputes under private arbitration or the Public Works Contract Arbitration Program, if mediation under this section does not resolve the parties' dispute.

(3) Failure by the public entity to respond to a claim from a contractor within the time periods described in this subdivision or to otherwise meet the time requirements of this section shall result in the claim being deemed rejected in its entirety. A claim that is denied by reason of the public entity's failure to have responded to a claim, or its failure to otherwise meet the time requirements of this section, shall not constitute an adverse finding with regard to the merits of the claim or the responsibility or qualifications of the claimant.

(4) Amounts not paid in a timely manner as required by this section shall bear interest at 7 percent per annum.

(5) If a subcontractor or a lower tier subcontractor lacks legal standing to assert a claim against a public entity because privity of contract does not exist, the contractor may present to the public entity a claim on behalf of a subcontractor or lower tier subcontractor. A subcontractor may request in writing, either on his or her own behalf or on behalf of a lower tier subcontractor, that the contractor present a claim for work which was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that the claim be presented to the public entity shall furnish reasonable documentation to support the claim. Within 45 days of receipt of this written request, the contractor shall notify the subcontractor in writing as to whether the contractor presented the claim to the public entity and, if the original contractor did not present the claim, provide the subcontractor with a statement of the reasons for not having done so.

(e) The text of this section or a summary of it shall be set forth in the plans or specifications for any public works project that may give rise to a claim under this section.

(f) A waiver of the rights granted by this section is void and contrary to public policy, provided, however, that (1) upon receipt of a claim, the parties may mutually agree to waive, in writing, mediation and proceed directly to the commencement of a civil action or binding arbitration, as applicable; and (2) a public entity may prescribe reasonable

change order, claim, and dispute resolution procedures and requirements in addition to the provisions of this section, so long as the contractual provisions do not conflict with or otherwise impair the timeframes and procedures set forth in this section.

(g) This section applies to contracts entered into on or after January 1, 2017.

(h) Nothing in this section shall impose liability upon a public entity that makes loans or grants available through a competitive application process, for the failure of an awardee to meet its contractual obligations.

(i) This section shall remain in effect only until January 1, 2027, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2027, deletes or extends that date.

SEC. 2.

The Legislature finds and declares that it is of statewide concern to require a charter city, charter county, or charter city and county to follow a prescribed claims resolution process to ensure there are uniform and equitable procurement practices.

SEC. 3.

If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Public Contract Code Section 20104 et seq.

20104.

(a) (1) This article applies to all public works claims of three hundred seventy-five thousand dollars (\$375,000) or less which arise between a contractor and a local agency.

(2) This article shall not apply to any claims resulting from a contract between a contractor and a public agency when the public agency has elected to resolve any disputes pursuant to Article 7.1 (commencing with Section 10240) of Chapter 1 of Part 2.

(b) (1) "Public work" means "public works contract" as defined in Section 1101 but does not include any work or improvement contracted for by the state or the Regents of the University of California.

(2) "Claim" means a separate demand by the contractor for (A) a time extension, (B) payment of money or damages arising from work done by, or on behalf of, the contractor pursuant to the contract for a public work and payment of which is not otherwise expressly provided for or the claimant is not otherwise entitled to, or (C) an amount the payment of which is disputed by the local agency.

(c) The provisions of this article or a summary thereof shall be set forth in the plans or specifications for any work which may give rise to a claim under this article.

(d) This article applies only to contracts entered into on or after January 1, 1991.

(Amended by Stats. 2010, Ch. 697, Sec. 47. Effective January 1, 2011. Operative July 1, 2012, by Sec. 105 of Ch. 697.)

20104.2.

For any claim subject to this article, the following requirements apply:

(a) The claim shall be in writing and include the documents necessary to substantiate the claim. Claims must be filed on or before the date of final payment. Nothing in this subdivision is intended to extend the time limit or supersede notice requirements otherwise provided by contract for the filing of claims.

(b) (1) For claims of less than fifty thousand dollars (\$50,000), the local agency shall respond in writing to any written claim within 45 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the local agency may have against the claimant.

(2) If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the local agency and the claimant.

(3) The local agency's written response to the claim, as further documented, shall be submitted to the claimant within 15 days after receipt of the further documentation or within a period of time no greater than that taken by the claimant in producing the additional information, whichever is greater.

(c) (1) For claims of over fifty thousand dollars (\$50,000) and less than or equal to three hundred seventy-five thousand dollars (\$375,000), the local agency shall respond in writing to all written claims within 60 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the local agency may have against the claimant.

(2) If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the local agency and the claimant.

(3) The local agency's written response to the claim, as further documented, shall be submitted to the claimant within 30 days after receipt of the further documentation, or within a period of time no greater than that taken by the claimant in producing the additional information or requested documentation, whichever is greater.

(d) If the claimant disputes the local agency's written response, or the local agency fails to respond within the time prescribed, the claimant may so notify the local agency, in writing, either within 15 days of receipt of the local agency's response or within 15 days of the local agency's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon a demand, the local agency shall schedule a meet and confer conference within 30 days for settlement of the dispute.

(e) Following the meet and confer conference, if the claim or any portion remains in dispute, the claimant may file a claim as provided in Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code. For purposes of those provisions, the running of the period of time within which a claim must be filed shall be tolled from the time the claimant submits his or her written claim pursuant to subdivision (a) until the time that claim is denied as a result of the meet and confer process, including any period of time utilized by the meet and confer process.

(f) This article does not apply to tort claims and nothing in this article is intended nor shall be construed to change the time periods for filing tort claims or actions specified by Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code.

(Added by Stats. 1994, Ch. 726, Sec. 22. Effective September 22, 1994.)

20104.4.

The following procedures are established for all civil actions filed to resolve claims subject to this article:

(a) Within 60 days, but no earlier than 30 days, following the filing or responsive pleadings, the court shall submit the matter to nonbinding mediation unless waived by mutual stipulation of both parties. The mediation process shall provide for the selection within 15 days by both parties of a disinterested third person as mediator, shall be commenced within 30 days of the submittal, and shall be concluded within 15 days from the commencement of the mediation unless a time requirement is extended upon a good cause showing to the court or by stipulation of both parties. If the parties fail to select a mediator within the 15-day period, any party may petition the court to appoint the mediator.

(b) (1) If the matter remains in dispute, the case shall be submitted to judicial arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, notwithstanding Section 1141.11 of that code. The Civil Discovery Act (Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure) shall apply to any proceeding brought under this subdivision consistent with

the rules pertaining to judicial arbitration.

(2) Notwithstanding any other provision of law, upon stipulation of the parties, arbitrators appointed for purposes of this article shall be experienced in construction law, and, upon stipulation of the parties, mediators and arbitrators shall be paid necessary and reasonable hourly rates of pay not to exceed their customary rate, and such fees and expenses shall be paid equally by the parties, except in the case of arbitration where the arbitrator, for good cause, determines a different division. In no event shall these fees or expenses be paid by state or county funds.

(3) In addition to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, any party who after receiving an arbitration award requests a trial de novo but does not obtain a more favorable judgment shall, in addition to payment of costs and fees under that chapter, pay the attorney's fees of the other party arising out of the trial de novo.

(c) The court may, upon request by any party, order any witnesses to participate in the mediation or arbitration process.

(Amended by Stats. 2004, Ch. 182, Sec. 54. Effective January 1, 2005. Operative July 1, 2005, by Sec. 64 of Ch. 182.)

20104.6.

(a) No local agency shall fail to pay money as to any portion of a claim which is undisputed except as otherwise provided in the contract.

(b) In any suit filed under Section 20104.4, the local agency shall pay interest at the legal rate on any arbitration award or judgment. The interest shall begin to accrue on the date the suit is filed in a court of law.

(Added by Stats. 1994, Ch. 726, Sec. 22. Effective September 22, 1994.)

Appendix F

Regulatory Environmental Documents:

**California Department of Fish and Wildlife Op-law
Coastal Development Permit
CEQA Notice of Exemption
San Francisco Bay Regional Water Quality Control
Board 401 Certification
U.S. Army Corps of Engineers 404 Permit
U.S. Fish and Wild Life Biological Opinion**



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
(707) 428-2002
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



April 7, 2022

Khoa Vo
Deputy Director of Road Services
County of San Mateo Department of Public Works
752 Chestnut Street
Redwood City, CA 94063
Dvo1@smcgov.org

Dear Khoa Vo:

**Notification of Lake or Streambed Alteration, Notification No. 1600-2020-0229-R3,
Clear Creek and unnamed Tributaries to Arroyo Leon Creek, Coastal Culvert
Replacement, Reattachment, and Slip-out Repairs Project**

As the California Department of Fish and Wildlife (CDFW) explained in a previous letter to you dated November 30, 2021, CDFW had until January 29, 2022 to submit a draft Lake or Streambed Alteration Agreement (Agreement) to you or inform you that an Agreement is not required. CDFW did not meet that date. As a result, by law, you may now complete the project described in your notification without an Agreement.

Please note that pursuant to Fish and Game Code section 1602, subdivision (a)(4)(D), if you proceed with this project, it must be the same as described and conducted in the same manner as specified in the notification and any modifications to that notification received by CDFW in writing prior to November 30, 2021. This includes completing the project within the proposed term and seasonal work period and implementing all avoidance and mitigation measures to protect fish and wildlife resources specified in the notification. If the term proposed in your notification has expired, you will need to re-notify CDFW before you may begin your project. Beginning or completing a project that differs in any way from the one described in the notification may constitute a violation of Fish and Game Code section 1602.

Your notification includes, but is not limited to, the following information:

Site 1: This site is located approximately ½ mile north of State Route 84 (SR 84), along Clear Creek, which is an intermittent tributary to San Gregorio Creek (latitude 37°19'56.39", longitude -122°20'53.67").

San Mateo County Public Works will replace the 82 linear feet (LF), 60" diameter corrugated metal pipe culvert with an approximate 55 LF, 60" diameter reinforced polyethylene pipe, high-density polyethylene pipe, or pipe of similar material. An excavator will be used to extract the deteriorated culvert. A concrete headwall

Khoa Vo
April 7, 2022
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(approximately 22'L x 7'W x 12'H) will be installed on the culvert inlet to reduce scouring around the pipe. The culvert outlet will be lowered by approximately six inches to meet the juvenile salmonid jump criterion. This will result in a slight modification of the culvert bed slope. There will be no change in culvert alignment. One- to four-foot diameter boulders will be added to the culvert outlet for energy dissipation. Approximately 318.52 cubic yards of fill including the new culvert, headwall, soil, and boulders, will be used in this repair.

Site 2: This site is located at latitude 37.27749, longitude -122.245962 within an unnamed tributary to Arroyo Leon Creek, 200 feet downstream from the culvert outfall. Work at Site 2 includes slip out repair via excavating slipped materials and rebuilding the road shoulder using imported soil and boulders.

Site 3: This site is located at latitude 37.263490, longitude -122.24961 along the streambank of Arroyo Leon Creek. Work at Site 3 includes excavating slipped materials and rebuilding the road shoulder using imported soil and boulders. Additionally, a flex pipe and flume will be installed onto the existing culvert to reduce further incision of the gully.

Also note that while you are entitled to complete the project without an Agreement, you are still responsible for complying with other applicable local, state, and federal laws. These include, but are not limited to, Fish and Game Code sections 2080 *et seq.* (species listed as threatened or endangered, or a candidate for listing under the California Endangered Species Act); section 1908 (rare native plants); sections 3511, 4700, 5050, and 5515 (fully protected species); section 3503 (bird nests and eggs); section 3503.5 (birds of prey); section 5650 (water pollution); section 5652 (refuse disposal into water); section 5901 (fish passage); section 5937 (sufficient water for fish); and section 5948 (obstruction of stream).

Finally, if you decide to proceed with your project without an Agreement, you must have a copy of this letter and your notification with all attachments available at all times at the work site.

If you have questions regarding this letter, please contact Will Kanz, Environmental Scientist, at 707-337-1187 or by email at Will.Kanz@wildlife.ca.gov.

Sincerely,

DocuSigned by:



7988F6C4FDC24F2...

Craig Weightman, Environmental Program Manager

ec: California Department of Fish and Wildlife

Khoa Vo
April 7, 2022
Page 3 of 3

Will Kanz, Environmental Scientist
Will.Kanz@wildlife.ca.gov

Wesley Stokes, Senior Environmental Scientist
Wesley.Stokes@wildlife.ca.gov



County of San Mateo

Planning & Building Department

455 County Center, 2nd Floor
Redwood City, California 94063
650/363-4161 Fax: 650/363-4849

Mail Drop PLN122
plngbldg@smcgov.org
www.co.sanmateo.ca.us/planning

October 15, 2014

Mr. Michael Huynh
County of San Mateo
Department of Public Works
555 County Center
Redwood City, CA 94063

Dear Mr. Huynh:

Subject: **LETTER OF DECISION**
File Number: PLN2014-00199
Location: Higgins Canyon Road, Seaside Road, Bear Gulch Road, and Stage Road in unincorporated San Gregorio and the Rural Midcoast
APN: Public R-O-W

On October 8, 2014, the San Mateo County Planning Commission considered a Coastal Development Permit, pursuant to Section 6328.4 of the County Zoning Regulations, to allow the replacement or reattachment of road culverts and the repairing of road slip outs at various locations on Higgins Canyon Road, Seaside School Road, Bear Gulch Road, and Stage Road in the unincorporated areas of San Gregorio and the Rural Midcoast.

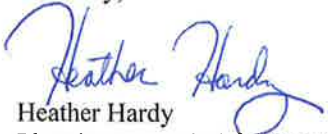
Based on information provided by staff and evidence presented at the hearing, the Planning Commission approved the project by adopting the required findings and conditions of approval as identified in Attachment A.

Any interested party aggrieved by the determination of the Planning Commission has the right of appeal to the Board of Supervisors within ten (10) business days from such date of determination. The appeal period for this matter will end at **5:00 p.m.** on October 23, 2014.

The approval of this project is also appealable to the California Coastal Commission. Any aggrieved person may appeal this decision to the California Coastal Commission within 10 working days following the Coastal Commission's receipt of the notice of Final Local Decision. Please contact the Coastal Commission's North Central Coast District Office at (415)904-5260 for further information concerning the Commission's appeal process. The County and Coastal Commission appeal periods are sequential, not concurrent, and together total approximately one month. A project is considered approved when these appeal periods have expired and no appeals have been filed.

Please direct any questions regarding this matter to Rob Bartoli, Project Planner, at (650)363-1857 or Email: rbartoli@smcgov.org.

Sincerely,


Heather Hardy
Planning Commission Secretary

County of San Mateo
Planning and Building Department

FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN 2014-00199

Hearing Date: October 8, 2014

Prepared By: Rob Bartoli, Project Planner

Adopted By: Planning Commission

FINDINGS

Regarding the Environmental Review, Found:

1. That the Planning Commission has reviewed and considered the Categorical Exemption, prepared by the Department of Public Works as Lead Department.

Regarding the Coastal Development Permit, Found:

2. That the project, as described in the application and accompanying materials required by Zoning Regulations Section 6328.7 and as conditioned in accordance with Section 6328.14, conforms with the plans, policies, requirements and standards of the San Mateo County Local Coastal Program as discussed in the staff report under Section A(2), including protection of biological resources.
3. That the project conforms to the specific findings required by policies of the San Mateo County Local Coastal Program as discussed in the staff report under Section A(2) and the applicant has agreed to implement the **mitigation measures** identified in the biological report in order to minimize any potential impact to biological resources to a less than significant level.

Regarding the Planned Agricultural Substantive Criteria, Found:

4. That the project, as described in the application and accompanying materials and discussion in this report and as conditioned, conforms to the applicable Substantive Criteria pursuant to Chapter 21.A Section 6355.

CONDITIONS OF APPROVAL

Current Planning Section

1. This approval applies only to the proposal, documents and plans described in this report and submitted to and approved by the Planning Commission at their October 8, 2014 meeting. Minor revisions or modifications to these projects may be made subject to the review and approval of the Community Development Director.
2. The applicant shall implement their construction best management practices (BMPs) as necessary for each individual work area. Said practices shall conform to the San Mateo Countywide Stormwater Pollution Prevention Program "General Construction and Site Supervision Guidelines" and include, but not be limited to:
 - a. Using filtration materials on storm drain covers to remove sediment from dewatering effluent.
 - b. Stabilizing all denuded areas and maintaining erosion control measures continuously between October 1 and April 30.

- c. Removing spoils promptly, and avoiding stockpiling of fill materials when rain is forecast. If rain threatens, stockpiled soils and other materials shall be covered with a tarp or other waterproof material.
 - d. Storing, handling, and disposing of construction materials and wastes so as to avoid their entry to a local storm drain system or water body.
 - e. Avoiding cleaning, fueling or maintaining vehicles on-site, except in an area designated to contain and treat runoff.
 - f. Ensuring that all contractors minimize the transport and discharge of pollutants from the project site into existing drainage systems and water bodies and adhere to the above referenced practices.
3. This permit shall be valid for one (1) year. Any extension of this permit shall require submittal of an application for permit extension and payment of applicable permit extension fees.
4. Prior to the beginning of construction activities associated with this Coastal Development Permit, the applicant shall submit copies of all applicable permits received from Local, State and Federal agencies for this project.

Biological Report Mitigation Measures

- 5. The project shall be timed to occur during the dry season (June 15 to October 15). Work shall not occur unless a zero precipitation forecast is obtained for the planned work days. If work is scheduled to begin prior to August 30, a qualified biologist shall conduct a pre-construction nesting bird survey.
- 6. If nesting birds are detected near the project sites, a 250-foot exclusion zone (1,000-foot for raptors) will be established. If the exclusion zone is located within the immediate work area, construction will be delayed until the young have fledged and left the nest. If a site cannot be adequately surveyed for nesting birds, work at the site will be scheduled between August 30 and October 15.
- 7. The applicant shall preform pre-construction surveys for special status semi-aquatic species and other wildlife. Surveys shall be conducted by a qualified biologist. If sensitive semi-aquatic species (California red-legged frog, San Francisco garter snake) are observed near the project sites, the appropriate agencies, California Department of Fish and Wildlife (CDFW) and United States Fish and Wildlife Service (USFWS), will be notified immediately.
- 8. The applicant shall preform pre-construction surveys for San Francisco dusky-footed woodrat (SFDW) nests by a qualified biologist. If SFDW nests are found in the project site area, nests shall be clearly marked/flagged and a 10-foot exclusion buffer will be designated. If nests are located within 10 feet of the active work area, a qualified biologist will be present during construction activities to ensure no SFDW nests are impacted. If SFDW nests are within the immediate work area and impacts to the nest cannot be avoided, a permitted biologist will relocate the nests to a nearby area with the appropriate habitat requirements. Proximity to existing SFDW nests, food availability, and understory and canopy cover will be considered when relocating the nest(s) in order to maximize relocation success. Nest relocation would occur prior to construction and during the non-breeding season for SFDW (October 1st to January 31st). A SFDW Relocation Plan will be developed and submitted to the CDFW for approval prior to initiating relocation.
- 9. Additional special status plant species surveys will be conducted during peak blooming periods, in order to maximize the likelihood of locating sensitive species in the immediate work areas. Special status plants will be clearly marked/flagged or temporary construction fencing will be erected to delineate the areas to be avoided.
- 10. The applicant shall conduct a pre-construction briefing of all personnel involved in repair activities by a qualified biologist including sensitive species training and best management practices (BMPs) implementation (Appendix C Sensitive Species Information Sheets).

11. The applicant shall perform on-site monitoring of repair activities. Monitoring shall be by a qualified biologist. The monitoring biologist shall inspect the work area for wildlife each day prior to the start of repair activities and remain on-site until the work is completed. Work will not take place in any area in which California red-legged frog (CRLF) is present. If this species is detected within the active work area, repair activities shall stop until a permitted biologist relocates the animal or it leaves on its own. Work will not take place in any area in which San Francisco garter snake (SFGS) is present. If this species is detected within the active work area, repair activities shall stop until the animal leaves the area on its own. The monitoring biologist shall inspect beneath all vehicles that have been parked for more than 15 minutes before they leave the project sites.
12. All heavy equipment shall be operated from the roadway or roadside shoulders.
13. Fueling and maintenance of vehicles shall take place at least 65 feet away from the waterways.
14. Erosion control and containment BMPs (e.g., installation of sandbags, silt fencing, and/or natural fiber tightly woven straw wattles, street sweeping, etc.) shall be installed to prevent delivery of pollutants into the waterways.
15. The removal of wetland and riparian vegetation shall be minimized. When possible, wetland and riparian vegetation shall be trimmed as opposed to removed. One 3-inch diameter at breast height (dbh) arroyo willow (*arroyo lasiolepis*) located at the Higgins Canyon Road #1 project site will require removal for proper slip-out repair. Additionally, two 12- to 13-inch dbh arroyo willows will require removal to extract the deteriorated culvert at the Bear Gulch Road project site (Section 8 – Site Specific Descriptions).
16. Where appropriate, biotechnical designs, including the brushlayering technique, shall be incorporated into the project repairs to minimize impacts to natural habitats.
17. Disturbed areas along the roadway shoulder shall be seeded with a native seed mix following culvert replacement/reattachment and slip-out repair.
18. Vegetation, sediment, debris, and trash will not be stockpiled on-site and shall be removed from the sites at the end of each workday.



Notice of Exemption

San Mateo County Department of Public Works



555 County Center, 5th Floor, Redwood City, CA 94063 Phone: (650) 363-4100 Fax: (650) 361-8220

Filing of Notice of Exemption in Compliance with Section 21152(b) of the Public Resources Code (CALIFORNIA ENVIRONMENTAL QUALITY ACT). The filing of this Notice begins a 35-day Statute of Limitations on court challenges to this approval.

Project Name:

Coastal Culvert Replacement,
Reattachment, and Slip-out Repairs Project

Project Location:

The 6 project sites are located on Higgins Canyon Road 0.7 miles and 1.8 miles from the State Route 1 intersection, on Bear Gulch Road 0.5 miles from the State Route 84 intersection, on Seaside School Road 1000 feet east from the Stage Road intersection, on Stage Road 300 feet north from the State Route 84 intersection, and on Stage Road 3.2 miles south from the State Route 84 intersection. See attached maps for more information.

Project Number: RM001

Responsible Unit: Roads

Description of Project:

The Project consists of repairing two roadside slip-outs on Higgins Canyon Road, two slip-outs on Seaside School Road, replacing one deteriorated culvert on Bear Gulch Road, and reattaching two disconnected culverts at two locations on Stage Road. Slip-out repairs will involve excavation of slipped materials and reconstruction of the roadway shoulder using a combination of imported/native soil and 1- to 4-foot diameter boulders. The deteriorated corrugated metal pipe (CMP) culvert on Bear Gulch Road will be replaced with a CMP culvert of equal length and diameter. A concrete headwall will be constructed at the inlet and boulders will be added to the outlet for energy dissipation. Culvert reattachment will be achieved by excavating the disconnected section of the culvert and reconnecting the two sections of pipe. Work will be conducted according to conservation measures and best management practices detailed in the County of San Mateo Watershed Protection Program's Maintenance Standards.

Exempt Status: (check one)

- ☐ Ministerial [Sec. 21080(b)(1); 15268];
- ☐ Declared Emergency [Sec. 21080(b)(3); 15269(a)];
- ☐ Emergency Project [Sec. 21080(b)(4); 15269(b)(c)];
- ☒ Categorical Exemption.
- Class: 1 Section Number: 15301
- ☐ Statutory Exemptions.
- Section Number:

Reason why project is exempt:

Repair of existing facilities. No change in use.

Lead Agency Contact Person: Edelzar Garcia, Senior Civil Engineer

Signature: Edelzar Garcia

Name: EDELZAR GARCIA

Date: 5/27/14

San Francisco Bay Regional Water Quality Control Board

Sent via electronic mail: No hard copy to follow

June 7, 2019
CIWQS Place ID: 806803
Regulatory Measure ID: 396666
Corps File No. 2014-00249S

County of San Mateo
Department of Public Works
555 County Center, 5th Floor
Redwood City, CA 94063

Attention: Michael Huynh (mhuynh@smcgov.org)

Subject: Conditional 401 Water Quality Certification for the Coastal Culvert Replacement, Reattachment and Slip-Out Repairs Project, Unincorporated San Mateo County

Dear Mr. Huynh:

San Francisco Bay Regional Water Quality Control Board (Water Board) staff have reviewed the application materials submitted June 3, 2014, by the County of San Mateo (Applicant) for the Coastal Culvert Replacement, Reattachment and Slip-Out Repairs Project (Project). On June 13, 2017, the U.S. Army Corps of Engineers (Corps) issued a letter authorizing the Project pursuant to Clean Water Act (CWA) Section 404 under Nationwide Permit 3 (*Maintenance*). You have applied to the Water Board for CWA Section 401 water quality certification that the Project will not violate State water quality standards.

Project Purpose: The purpose of the Project is to replace one culvert on Bear Gulch Road, repair two slip-outs on Higgins Canyon Road and two slip-outs on Seaside School Road, and reattach two culverts on Stage Road in unincorporated San Mateo County. The repair details for each site are provided below, along with the specific location and site conditions. The two sites on Higgins Canyon Road are located within the Pilarcitos Creek watershed. Four sites are in the San Gregorio Creek watershed, and one site is in the Pomponio Creek watershed.

DR. TERRY F. YOUNG, CHAIR | MICHAEL MONTGOMERY, EXECUTIVE OFFICER

1515 Clay St., Suite 1400, Oakland, CA 94612 | www.waterboards.ca.gov/sanfranciscobay

Project Details

Pilarcitos Creek Watershed, Higgins Canyon Road Slip-Outs

Higgins Canyon #1: This site is located approximately 0.7 miles east of State Route 1 (SR 1) (latitude 37°27'7.49", longitude -122°24'59.62"). Two un-named creeks converge upstream of a 36-inch corrugated metal pipe (CMP) culvert before flowing into Arroyo de Leon Creek approximately 200 feet downstream from the culvert outlet. During the rainy season the creeks convey runoff from the headwaters, the nearby agricultural field, and the neighboring drainage to the east. Based on the watershed size and runoff estimates the existing culvert size is adequate for conveying the 100-year rainfall event and does not require replacement.

A 15x10x10-foot slip-out developed on the roadway shoulder immediately adjacent to the culvert outlet. The slip-out eroded from the edge of the pavement and into the drainage channel. This slip-out was repaired in 2017. Approximately 75 cubic yards (cy) of imported soil and rock sized one to four feet in diameter was used to rebuild the shoulder and provide energy dissipation for the culvert outlet. One 3-inch diameter-at-breast-height (dbh) arroyo willow (*salix lasiolepis*) was removed to excavate a bench for the placement of boulders at the toe of the slope repair. The rest of the embankment used local willows for brush-layering in conjunction with placement of rock and imported soil. The upper two feet of the revetment is roadway shoulder and will be free of woody vegetation to allow visibility along the road.

Higgins Canyon #2: This site is located on Higgins Canyon Road approximately 1.8 miles east of SR 1 and 700 feet south of Burleigh Murray Ranch State Park (latitude 37°26'34.90", longitude -122°24'9.61"). A 15-inch CMP culvert drains an earthen roadside ditch that runs along the eastern side of Higgins Canyon Road. The culvert outlet drains to the slip-out area, producing a narrow gully surrounded by dense patches of poison oak. Flows from the gully are directed to a culvert beneath a private driveway that is located to the west, and downslope of Higgins Canyon Road. The culvert conveys flows to Arroyo de Leon Creek, located approximately 150 feet downhill of the culvert outlet. The gully is ephemeral and only flows during rain events. The 35x15x8-foot slip-out will be repaired by excavating the slipped material and keying boulders into the bench. To avoid further incision of the gully a 30-foot long flex pipe of equal diameter will be bolted onto the existing 15-inch CMP culvert. A flume will be attached to the end of the flex pipe to direct water onto the existing boulders for energy dissipation.

San Gregorio Creek Watershed

Seaside School – Slip-Out Repairs: The Seaside School sites are located on Seaside School Road approximately 1,000 feet east of the Stage Road intersection (latitude 37°19'27.73", longitude -122°23'1.55"). An unnamed intermittent and incised tributary stream runs along Seaside School Road before merging with San Gregorio Creek 50 feet downstream of the sites. Dense willow branches present at the confluence of the tributary with San Gregorio Creek act as a natural debris retainer, which may result in flooding if significant log jams form. A large willow tree has fallen onto the dense willow patch from the San Gregorio Creek channel. The two slip-outs are

located at the road edge approximately five feet above the ordinary high-water mark of the unnamed tributary.

Slip-Out #1 is 23x7x6-feet in size. The upper six feet of embankment has slipped, leaving the remaining lower portion intact. The resulting bench is six feet below the road and will serve as the foundation for the repair. The repair will consist of excavating the slipped material, keying boulders into the bench and rebuilding the shoulder with imported soil. Approximately 36 cy of imported soil and rock will be used to reconstruct the slipped shoulder. Nearby willow and dogwood branches will be harvested and placed into the reconstructed revetment to provide additional structural support and restore riparian habitat value. Woody vegetation will not be added to the upper two feet of the revetment to reduce the vegetation encroachment towards the road.

Slip-Out #2 is located approximately 50 feet east of Slip-Out #1 and is 30x5x5-feet in size at a previously repaired emergency repair site. The slip-out redeveloped after the emergency repair failed, resulting in debris deposition into the unnamed tributary. The failure was caused by a combination of moist soils during construction, and the proximity of the dead willow that fell into the stream, taking the boulders and soil used for the previous repair with it. In January 2014, slipped boulders and the fallen willow tree were removed from the stream to prevent flooding and protect Seaside School Road. The repair method will be the same as that described for Slip-Out #1, using 28 cy of soil and rock, and locally harvested willow and dogwood.

Bear Gulch Culvert Replacement: This site is located approximately ½ mile north of State Route 84 (SR 84), along Clear Creek, which is an intermittent tributary to San Gregorio Creek (latitude 37°19'56.39", longitude -122°20'53.67"). Clear Creek originates three miles north of the intersection of Bear Gulch Road and SR 84 and joins San Gregorio Creek approximately ¾ of a mile south of the Project site. Bear Gulch Road crosses Clear Creek at two locations, both of which have culverts. Since 1998, the 60-inch CMP at the Project site has shown signs of structural deterioration and the inlet of the culvert is partially collapsed due to debris from a storm event. A 20-foot long section of the culvert inlet has detached from the existing pipe, causing a sinkhole in the roadside shoulder. The road fill is currently holding the disconnected pipe segment in place. The culvert flooring has deteriorated from inlet to outlet. Emergency work was completed on January 28, 2010, and involved adding one to four-foot diameter boulders and imported soil around the top of the deteriorated pipe to stabilize the culvert outlet, and repairing a slip-out that developed adjacent to the pipe.

An excavator will be used to extract the deteriorated culvert, and it will be replaced with a 60-inch CMP culvert of equal length. A concrete headwall will be installed on the culvert inlet to reduce scouring around the pipe. One to four-foot diameter boulders will be added to the culvert outlet for energy dissipation. The culvert outlet will be lowered by approximately six inches to meet the juvenile salmonid jump criterion. This will result in a slight modification of the culvert bed slope. The culvert design modification was reviewed and approved by the National Marine Fisheries Service (NMFS) during informal consultation about the project in 2016.

Approximately 464 cy of fill, including the new culvert, headwall, soil and boulders will be used in the repair. One 12-inch dbh arroyo willow on the right bank (looking upstream) and one 13-

inch dbh willow on the left bank of the culvert inlet may need to be removed for culvert extraction. If the trees are removed, then where appropriate, stakes collected from the removed willows will be incorporated into the revegetation work at the site.

Stage #1 Culvert Reattachment: The Stage #1 site is located on Stage Road, approximately 300 feet north of SR 84 (latitude 37°19'41.17", longitude -122°23'12.41"). Due to poor construction techniques and wet soil at the time of original construction, the lower section of an 18-inch diameter high density polyethylene (HDPE) culvert outlet disconnected underground causing a small sinkhole to form on the eastern roadside shoulder. The culvert drains an earthen roadside ditch along Stage Road. An existing HDPE flume attached to the culvert outlet drains the ditch into Palmer Gulch (creek located on the east side of Stage Road) approximately 50 feet downslope from the culvert outlet. The confluence of Palmer Gulch and San Gregorio Creek is approximately 800 feet south of the site. The lower 15-foot section of pipe will be excavated from the shoulder and reattached to the upper section of culvert. The excavation area will be approximately 8x15x2-feet and will require no removal of vegetation. The culvert is above the ordinary high-water mark and the top of the bank for Palmer Gulch. Following construction the roadside shoulder will be rebuilt with native soil. Backfill around the culvert and on the shoulder will be appropriately compacted under dry conditions.

Pomponio Watershed

Stage #2 Culvert Reattachment: This site is located on Stage Road approximately 3.2 miles south of SR 84 (latitude 37°17'50.04", longitude -122°23'2.20"). A small gully conveys runoff from the nearby hillside through a 24-inch HDPE culvert. Runoff from the culvert flows down a flume and north through a channel into a low gradient valley before reaching Pomponio Creek about 1/3 mile from the site. Due to poor construction techniques and wet soil at the time of original construction, the lower section of the culvert has disconnected underground. This has allowed water to drain around the pipe and cause a 2x3-foot sinkhole to form on the roadway shoulder. The lower 10-foot section of the culvert will be excavated from the shoulder and reattached to the upper section of pipe. Culvert alignment will remain the same and the roadside shoulder will be rebuilt with native soil. Backfill around the culvert and on the shoulder will be appropriately compacted under dry conditions. Excavation will measure approximately 10x8x3-feet and approximately 9 cy of fill will be required for the repair. One pampas grass (ranked as a highly invasive plant species under the California Invasive Plant Council (Cal-IPC)) will be removed to reduce further expansion of the species in the area.

Special Status Species: The Corps initiated consultation with the United States Fish & Wildlife Service (USFWS) and NMFS to address Project related impacts to listed species, pursuant to Section 7(a) of the Endangered Species Act of 1973, as amended (16 U.S.C. § 1531 et seq.). By letter dated April 27, 2017, the USFWS appended the Project to the June 18, 2014, *Programmatic Biological Opinion for Issuance of Permits under Section 404 of the CWA and Section 10 of the Rivers and Harbors Act for Projects that May Affect the Threatened California Red-Legged Frog in Nine San Francisco Bay Area Counties, California* (FF08ESMF11-002014-F-0389), and issued an incidental take statement for California red-legged frog (*Rana draytonii*)(CRLF). The USFWS also concurred with the Corps determination that the Project is

not likely to adversely affect tidewater goby (*Eucyclogobius newberryi*) and San Francisco garter snake (*Thamnophis sirtalis tetrataenia*).

By e-mail on June 20, 2016, NMFS concurred with the Corps determination that the Project is not likely to adversely affect the Central California Coast steelhead (*Oncorhynchus mykiss*) and the Central California Coast evolutionarily significant unit of the Coho salmon (*Oncorhynchus kisutch*), and that the Project may be covered under a programmatic concurrence letter dated August 13, 2013.

Impacts: The Project will result in placement of 463.74 cubic yards of fill for the culvert and headwall at Bear Gulch Road and 146.97 cubic yards of fill for the slip-out repairs along Higgins Canyon and Seaside School Roads, resulting in 0.05 acre of permanent fill in State waters. Fill material will consist of a combination of rock and soil. Areas impacted will primarily be the following: (1) the bank of Clear Creek at the upstream and downstream ends of the new Bear Gulch road culvert where a new headwall, and boulders (to dissipate energy and protect the bank) will be placed, respectively; (2) the bed and bank of an unnamed tributary to Arroyo de Leon Creek at the Higgins Canyon #1 slip-out repair site; and (3) boulder and soil placement on the bank of an unnamed tributary to San Gregorio Creek at the Seaside slip-out repair sites.

The Water Quality Control Plan (Basin Plan) for the San Francisco Bay Basin lists the following beneficial uses for Pilarcitos, San Gregorio, and Pomponio Creeks: agricultural supply, cold freshwater habitat, fish migration, preservation of rare and endangered species, fish spawning, warm freshwater habitat, wildlife habitat, water contact recreation, and noncontact water recreation. Pilarcitos Creek has the additional beneficial use of municipal water supply. By the Basin Plan's tributary rule, the tributary streams in the Project area are also presumed to have or support the same beneficial uses as the above-named creeks.

The Project sites consist primarily of ruderal annual grassland, coastal scrub, and riparian habitat within the vicinity of Arroyo de Leon Creek, Palmer Gulch, Clear Creek, and unnamed tributaries to San Gregorio and Pomponio Creeks. Steelhead, and CRLF are known to occur within the Project limits. Impacts to these, and other wildlife species could occur due to reduced water quality during construction, disturbance to nesting birds, and loss of riparian habitat.

The limited creek areas that will be subject to hardscape from the repairs is not likely result in significant impacts to riparian and creek functions, especially considering the heavily vegetated conditions at each site. However, the cumulative impact of these types of small repairs may become more significant if the slip-outs recur, if new slip-outs occur at other locations along the creeks, or if additional culvert replacements are proposed at other locations.

Potential construction impacts will be minimized or avoided by implementation of best management practices and conservation and minimization measures. The Project includes restrictions on construction timing, pre-construction sensitive species surveys, on-site monitoring by a qualified biologist, erosion control and containment best management practices, and revegetation of disturbed areas following construction activities.

Mitigation: The direct impacts associated with the Project will be mitigated through Project design and construction at each site, and ongoing assessment of local road drainage conditions to determine whether corrective actions are needed to minimize the potential for future slip-outs in the vicinity of the Project.

Higgins Canyon Road #1: Impacts occurred to the bank of an unnamed tributary to Arroyo de Leon Creek. **Brush layering** using local willow cuttings were incorporated into the rock bank to provide vegetation along the rock face. Willow roots may enhance the stability of the structure over time.

Higgins Canyon Road #2: Impacts from placement of rock will occur within a gully formed by the discharge from a road ditch-relief culvert. The gully formation may have been exacerbated by high storm flows from the road when the culvert inlet was blocked by debris. A 30-foot-long flex pipe and flume will be installed down the steep embankment slope. This pipe will direct flows to existing and new boulders for energy dissipation. The repair will prevent further incision within the gully, and discharge of sediment to downstream creeks.

Seaside School Road Slip-Outs #1 and #2: The repair impacts will occur on the upper bank of the tributary to San Gregorio Creek. **Nearby willow and dogwood branches will be harvested and placed into the reconstructed revetment** to at each site provide additional structural support and restore riparian habitat value. Woody vegetation will not be added to the upper two feet of the revetment to reduce the vegetation encroachment towards the road.

Bear Gulch Road Culvert Replacement: As described above, the culvert slope will be modified to decrease the gap between the culvert invert and the pool surface elevation at the downstream end of the structure. This will facilitate **meeting the juvenile salmonid jump criterion.**

The two culvert reattachment repairs will have only minor impacts to areas of riparian vegetation, and mitigation beyond implementation of best management practices during construction are not required.

Following the repairs, the road shoulder at each site will be **seeded with native grasses** and covered with an erosion control blanket. The repairs will take place when the sites are dry. Disturbed areas will be seeded with a native plant mix, covered with erosion control mat, and mulched with sterile rice straw. Repair work will be preceded by a preconstruction survey for special status species.

According to the Applicant, the slip-outs have generally occurred due to unusual stormwater runoff conditions resulting from blockage of drainages and subsequent concentration of flows. Damage to the banks from voles has also been cited as an issue. To minimize the occurrence of future slip-outs at the Project locations, and the subsequent discharge of sediment to State waters, the Applicant will review road drainage conditions at each slip-out repair site to evaluate whether corrective actions are needed to prevent road drainage from contributing to these slip areas, and/or other areas in the vicinity. If modification of road drainage patterns appears to be contributing to the slip-outs, then planning efforts to modify the road drainage to prevent erosive conditions on road embankments or stream banks will be initiated. The *Handbook for Forest,*

Ranch & Rural Roads (Pacific Watershed Associates, April 2015) and the elements included in the *Characteristics of Storm-Proofed Roads* in the Attachment will be used to guide evaluation of road drainage at the slip-out sites to determine if corrective actions are needed to prevent recurrence at the problem areas.

CEQA Compliance: The Project is categorically exempt from the California Environmental Quality Act under Section 15301(c), for conducting maintenance work on existing structures. The San Mateo County Department of Public Works filed a Notice of Exemption on May 27, 2014. The Water Board, as a responsible agency, concurs that the exemption is appropriate.

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

Conditions

1. **Project Construction Plans:** The Project shall be constructed in conformance with the June 4, 2014, Application. Any changes to these plans that may impact waters of the State must be submitted to the Executive Officer for review and acceptance prior to implementation;
2. **Photo-Documentation:** To document post-construction conditions the Applicant shall **establish a minimum of two photo-documentation points at each of the Project sites.** Following implementation of the Project, the Applicant shall photographically document the immediate post-construction condition of each site;
3. **Project Completion Report:** No later than 60 days after completing the Project, the Applicant shall submit, satisfactory to the Executive Officer, documentation that the Project is complete. This Project Completion Report shall include documentation that road drainage conditions at each slip-out repair site have been evaluated to determine whether corrective actions are needed to prevent recurrence of the slip-outs (see Condition 7). Annual invoices from the State Water Board will continue to be issued until the Project Completion Report has been submitted. The Project Completion Report shall include: (a) the Project name; (b) the CIWQS Place ID listed at the top of this Certification; and (c) the date Project construction was completed. This report shall be submitted electronically to (1) the Water Board staff responsible for 401 certifications in San Mateo County (see web site at the following link: <https://www.waterboards.ca.gov/sanfranciscobay/certs.html>); and, (2) RB2-401Reports@waterboards.ca.gov. This report will be used to make necessary changes in the State's electronic database to terminate annual billing;

4. **Corps Permit:** The Applicant shall adhere to the conditions of the CWA Section 404 Nationwide Permit issued by the Corps (Corps File No. 2017-00314S);
5. **USFWS and NMFS:** The Applicant shall adhere to all requirements in the concurrence letters and programmatic biological opinions issued by USFWS and NMFS for the Project;
6. **CDFW Agreement:** The Applicant shall comply with all requirements in the Final Lake or Streambed Alteration Agreement issued by the California Department of Fish & Wildlife;
7. **Storm-Proofed Roads:** The Applicant shall use concepts included in the *Handbook for Forest, Ranch & Rural Roads* (Pacific Watershed Associates, April 2015) and the elements included in the *Characteristics of Storm-Proofed Roads* in the Attachment to guide evaluation of drainage at each of the slip-out sites and identification of any corrective actions that might be used to prevent recurrence of the slip-outs. The evaluation of drainage conditions at each site shall be documented in the Construction Completion Report required in Condition 3. If corrective actions are determined to be necessary to minimize the potential for future slip-outs at these sites, then measures shall be proposed for inclusion in the Applicant's overall road maintenance plans;

Construction and Erosion and Sediment Control Conditions

8. No debris, rubbish, creosote-treated wood, soil, silt, sand, cement, concrete, or washings thereof, or other construction related materials or wastes, oil or petroleum products or other organic or earthen material shall be allowed to enter or be placed where it may be washed by rainfall or runoff into waters of the State. Any of these materials placed within or where they may enter waters of the State by the Applicant or any party working under contract, or with the permission of the Applicant shall be removed immediately. When construction is completed, any excess material shall be removed from the work area and any areas adjacent to the work area where such material may be washed into waters of the State. During construction, the contractor shall not dump any litter or construction debris within the riparian/stream zone, seasonal wetlands, seeps and ephemeral swales on or adjacent to the Project site that are not permitted for fill by this certification. All such debris and waste shall be picked up daily and properly disposed of at an appropriate site;
9. The Applicant shall implement an effective combination of erosion and sediment control measures during all periods of construction at the site. Adequate erosion and sediment control measures shall be constructed and maintained to prevent the discharge of earthen materials to waters of the State, including all ephemeral and seasonal swales, wetlands, and storm drain systems, from disturbed areas during all periods of site grading and construction;
10. Prior to the start of the rainy season, the Applicant shall ensure that disturbed areas of State waters and disturbed areas that drain to State waters are protected with correctly-

installed erosion control measures (e.g., jute, straw, coconut fiber erosion control fabric, coir logs, etc.), and/or revegetated with propagules (seeds, cuttings, divisions) of native plants;

11. Erosion control textiles that include plastic monofilament netting are prohibited from use at the Project site. Tightly woven fiber netting, hydroseeding, or similar material shall be used for erosion control or other purposes at the site to ensure that aquatic and other wildlife species do not get trapped;
12. No equipment shall be operated in areas of flowing or standing water in such a way as to result in the discharge of pollutants into the Project area streams; no fueling, cleaning, or maintenance of vehicles or equipment shall take place within any areas where an accidental discharge to waters of the State may occur; and all earth moving work shall be performed outside of areas of flowing water or standing water;
13. The Applicant shall have a spill contingency plan for hazardous waste spill into State waters. Spill contingency plan shall include floating booms and absorbent materials to recover hazardous spills. Non-buoyant debris discharged into the Project area streams shall be recovered by divers as soon as possible after loss;
14. All equipment, including but not limited to excavators, graders, barges, pile drivers, etc., that may have come in contact with extremely invasive plants, including perennial pepperweed (*Lepidium latifolium*) or smooth cordgrass (*Spartina alterniflora*) or its hybrids, or the seeds of these plants, shall be carefully cleaned before arriving onsite and shall also be carefully cleaned before removal from the site to prevent spread of these plants;

General Conditions

15. The Applicant, and any contactors hired by the Applicant to implement the Project, are required to comply with this Certification and documents referenced herein;
16. The Applicant and any contractor hired by the Applicant shall maintain a copy of this Certification at the Project site at all times;
17. The Applicant shall permit the Water Board or its authorized representative, upon presentation of credentials, to:
 - a. Enter onto the Project site or the premises in which records are kept,
 - b. Access and copy any records required to be kept under the terms and conditions of this Certification, and
 - c. Collect samples of any discharge or surface water covered by this Certification.

18. The Applicant or a responsible representative shall immediately notify Water Board staff by telephone whenever an adverse condition occurs as a result of this Project. An adverse condition includes, but is not limited to a violation or threatened violation of the conditions of this Certification, a significant spill of petroleum products or toxic chemicals, or damage to control facilities that could affect compliance. Pursuant to Section 13267(b) of the California Water Code (CWC), a written notification of the adverse condition shall be submitted to the Water board within 30 days of occurrence. The written notification shall identify the adverse condition, describe the actions necessary to remedy the condition, and specify a timetable for remedial actions;
19. In accordance with CWC Section 13260, the Discharger shall file with the Board a report of any material change or proposed change in the ownership, character, location, or quantity of this waste discharge. Any proposed material change in operation shall be reported to the Executive Officer at least 30 days in advance of the proposed implementation of any change. This shall include, but not be limited to, all significant new soil disturbances, all proposed expansions of development, or any change in drainage characteristics at the Project site. For the purpose of this Order, this includes any proposed change in the boundaries of the area of wetland/waters of the State to be filled;
20. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to CWC Section 13330 and Section 3867 of Title 23 of the California Code of Regulations (23 CCR);
21. This Certification action does not apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license, unless the pertinent certification application was filed pursuant to 23 CCR Subsection 3855(b) and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought; and
22. **Project Fees and Annual Fees:** Certification is conditioned upon total payment of the full fee required in State regulations (23 CCR Section 3833). On June 4, 2014, the Applicant submitted a check in the amount of \$3,724, paying in full the Project's Fill and Excavation Fee. An annual active discharge fee shall be paid to the Water Board until all of the impacts to waters of the State at the Project site that are authorized by this Certification have been implemented (See Condition 2)(Note: The Annual Active Discharge Fee may be changed by the State Board; at the time of Certification it was \$218 per year).

This Certification applies to the Project as proposed in the application materials and designs referenced above in the conditions of Certification. Be advised that failure to implement the Project in conformance with this Certification is a violation of this water quality Certification. Any violation of water quality Certification conditions is a violation of State law and subject to administrative civil liability pursuant to CWC Section 13350. Failure to meet any condition of a Certification may subject the Applicant to civil liability imposed by the Water Board to a maximum of \$10,000 per day of violation or \$10 for each gallon of waste discharged in violation

of this action. Any requirement for a report made as a condition to this action is a formal requirement pursuant to CWC Section 13267, and failure or refusal to provide, or falsification of such required report, is subject to civil liability as described in CWC Section 13268. The burden, including costs, of these reports bears a reasonable relationship to the need for the reports and the benefits to be obtained. Specifically, the requested reports are necessary to ensure protection of beneficial uses, human health, and the environment. Should new information come to our attention that indicates a water quality problem with this Project, the Water Board may issue Waste Discharge Requirements.

Should new information come to our attention that indicates a water quality problem with this Project, the Water Board may issue individual Waste Discharge Requirements pursuant to 23 CCR Section 3857. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to CWC Section 13330 and 23 CCR Section 3867.

Please contact Katie Hart of my staff at (510) 622-2356 or kathryn.hart@waterboards.ca.gov if you have any questions. All future correspondence regarding this Project should reference the CIWQS Place ID No. indicated at the top of this letter.

Sincerely,

for Michael Montgomery
Executive Officer

Attachment: Location Map & Project Drawings

Cc: SWRCB-DWQ, Stateboard401@waterboards.ca.gov
Myla Ablog, Corps, San Francisco District, myla.a.ablog@usace.army.mil
Katerina Galacatos, Corps, San Francisco District, Katerina.galacatos@usace.army.mil
U.S. EPA Region 9, Jennifer Siu siu.jennifer@epa.gov
Tahsa Sturgis, Water Board, tahsa.sturgis@waterboards.ca.gov
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Rene Leclerc, Water Board, rene.leclerc@waterboards.ca.gov

CHARACTERISTICS OF STORM-PROOFED ROADS

Storm-proofed stream crossings

- All stream crossings have a drainage structure designed for the 100-year flood flow (including woody debris and sediment).
- Stream crossings have no diversion potential (functional critical dips are in place).
- Culvert inlets have low plug potential (trash barriers or deflectors are installed where needed).
- Culverts are installed at the base of the fill and in line with the natural channel.
- Any existing culverts or new emergency overflow culverts that emerge higher in the fill have full round, anchored downspouts that extend to the natural channel.
- Stream crossing culvert outlets are protected from erosion (extend culverts at least 6 feet beyond the base of the fill and use energy dissipation, where needed).
- Culvert inlet, outlet and bottom are open and in sound condition.
- Deep fills (deeper than a backhoe can reach from the roadbed) with undersized culverts or culverts with high plugging potential are fitted with an emergency overflow culvert.
- Bridges have stable, non-eroding abutments and do not significantly restrict 100-year flood flow.
- Stream crossing fills are stable (unstable fills are removed or stabilized).
- Approaching road surfaces and ditches are “disconnected” from streams and stream crossing culverts to the maximum extent feasible using road shaping and road drainage structures.
- Class I (fish-bearing) crossings meet State Fish and Wildlife and National Marine Fisheries Service fish passage criteria.
- Decommissioned stream crossings are excavated to exhume the original, stable, stream bed and channel sideslopes, and then stabilized with mulch and vegetation.

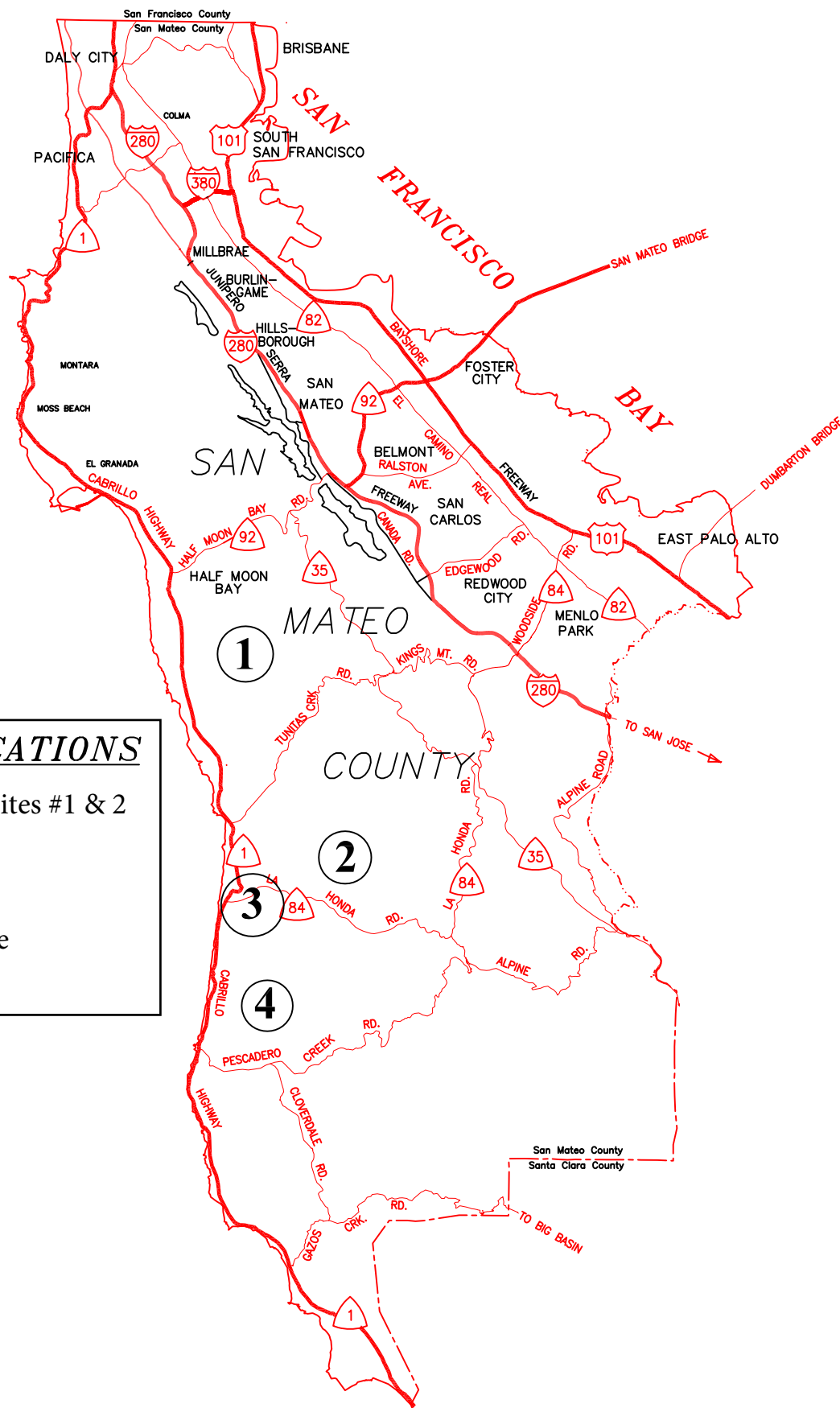
Storm-proofed road and landing fills

- Unstable and potentially unstable road and landing fills that could deliver sediment to a stream are excavated (removed) or structurally stabilized.
- Excavated spoil is placed in locations where eroded material will not enter a stream.
- Excavated spoil is placed where it will not cause a slope failure or landslide.

Storm-proofed road surface drainage

- Road surfaces and ditches are hydrologically “disconnected” from streams and stream crossing culverts. Road surface runoff is dispersed, rather than collected and concentrated.
- Ditches are drained frequently by functional ditch relief culverts, rolling dips or cross road drains.
- Outflow from ditch relief culverts does not discharge to streams.
- Ditch relief culverts with gullies that deliver to a stream are removed or dewatered.
- Ditch and road surface drainage does not discharge (through culverts, rolling dips or other cross drains) onto active or potential landslides.
- Decommissioned roads have permanent drainage and do not rely on ditches.
- Fine sediment contributions from roads, cutbanks and ditches are minimized by utilizing seasonal closures and installing a variety of surface drainage techniques including berm removal, road surface shaping (outsloping, insloping or crowning), rolling dips, ditch relief culverts, waterbars and other measures to disperse road surface runoff and reduce or eliminate sediment delivery to the stream.

PACIFIC OCEAN



PROJECT LOCATIONS

- ① Higgins Canyon Sites #1 & 2
- ② Bear Gulch Site
- ③ Stage #1 Site and Seaside School Site
- ④ Stage #2 Site



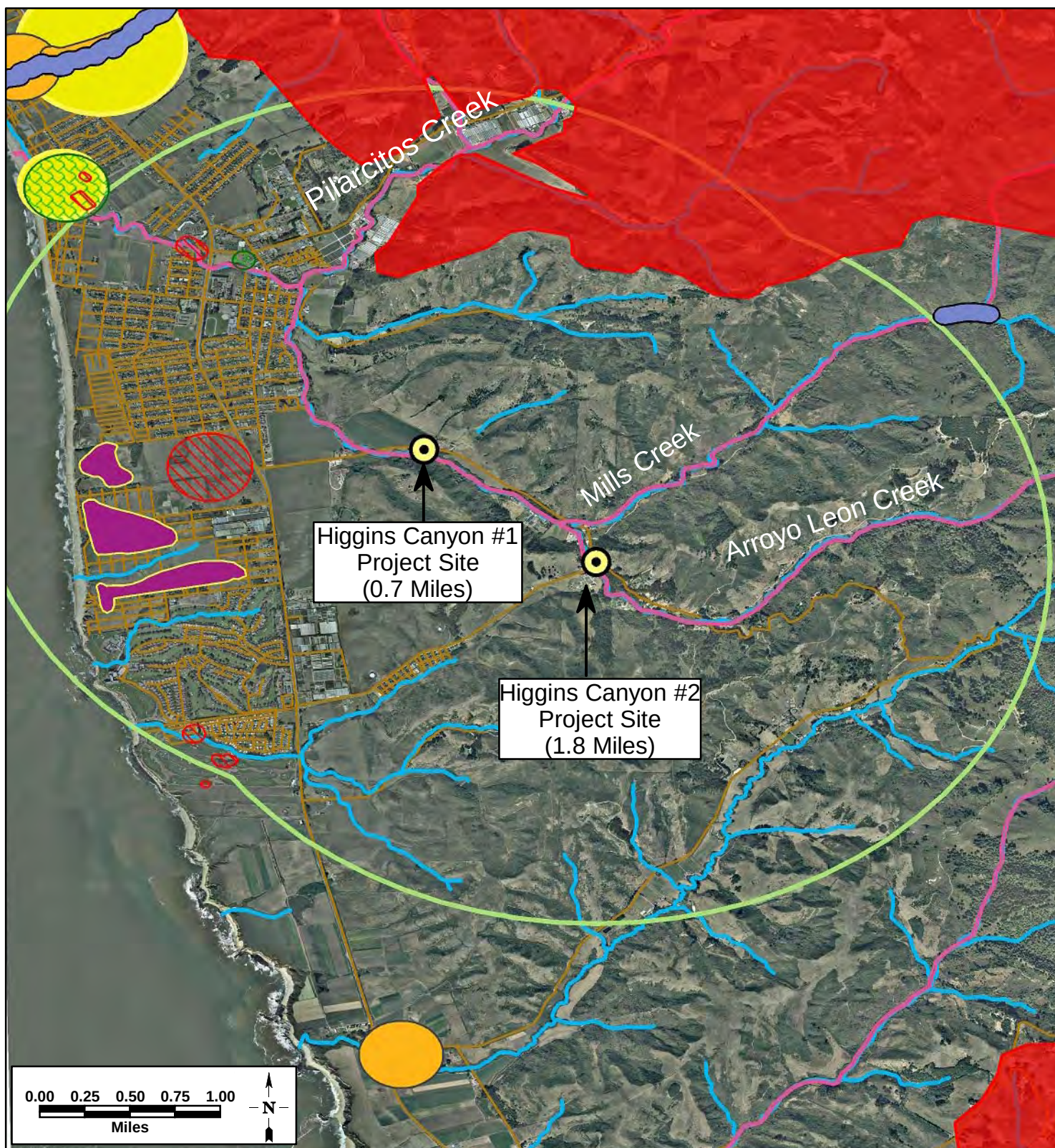
DESIGNED BY:
CHECKED BY: EG
DRAWN BY: MH

FIGURE 1. COASTAL CULVERT REPLACEMENT, REATTACHMENT, AND SLIP-OUT REPAIRS PROJECT VICINITY MAP

SCALE: NONE
DATE: JAN 2014
FILE NO: 1/XXXX

JAMES C. PORTER, DIRECTOR OF PUBLIC WORKS
SAN MATEO COUNTY

555 COUNTY CENTER, 5TH FLOOR
REDWOOD CITY, CALIFORNIA 94063-1665

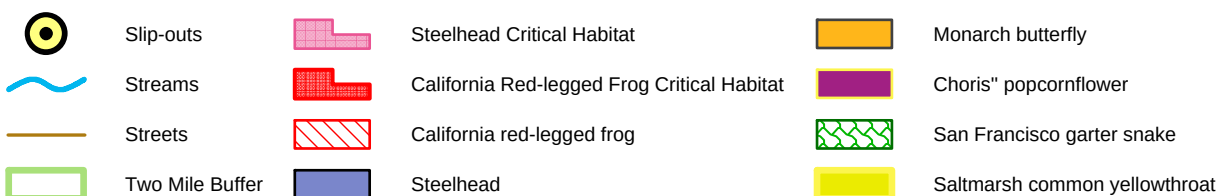


Sources: San Mateo County GIS 2005; CNDDDB 2014

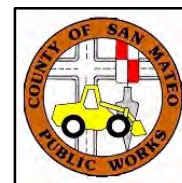
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Higgins Canyon #1 and #2 Project Sites - Slip-out Repair

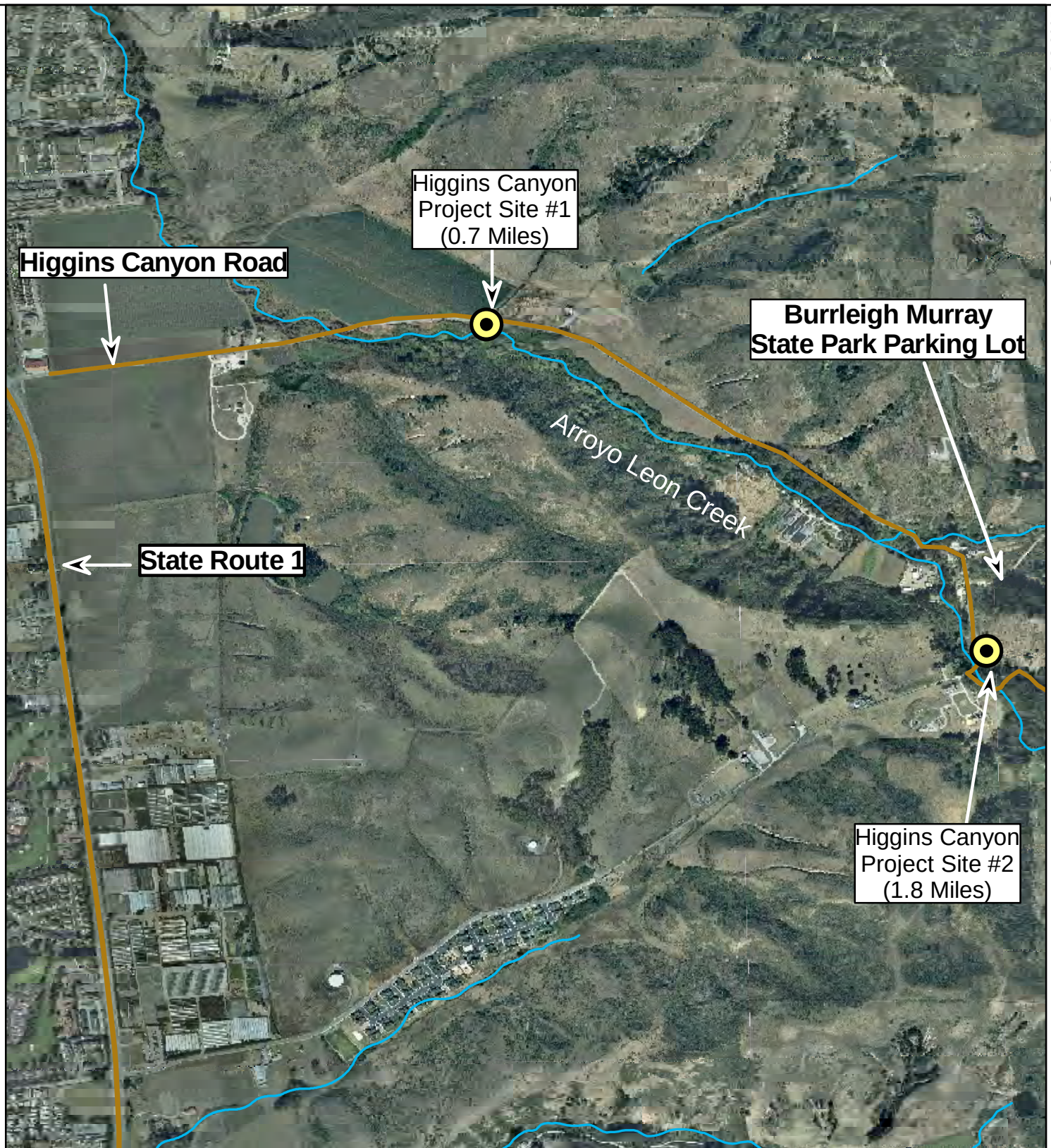
Figure 3 - Locations of Special Status Species Occurrences



NOTE: Mileages correspond to distance from State Route 1



6 February 2014
County of San Mateo
Department of Public Works

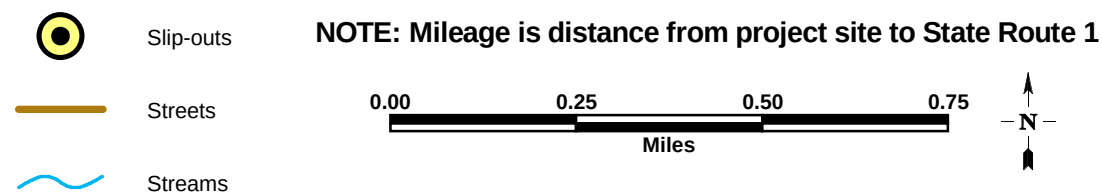


Sources: San Mateo County GIS 2005

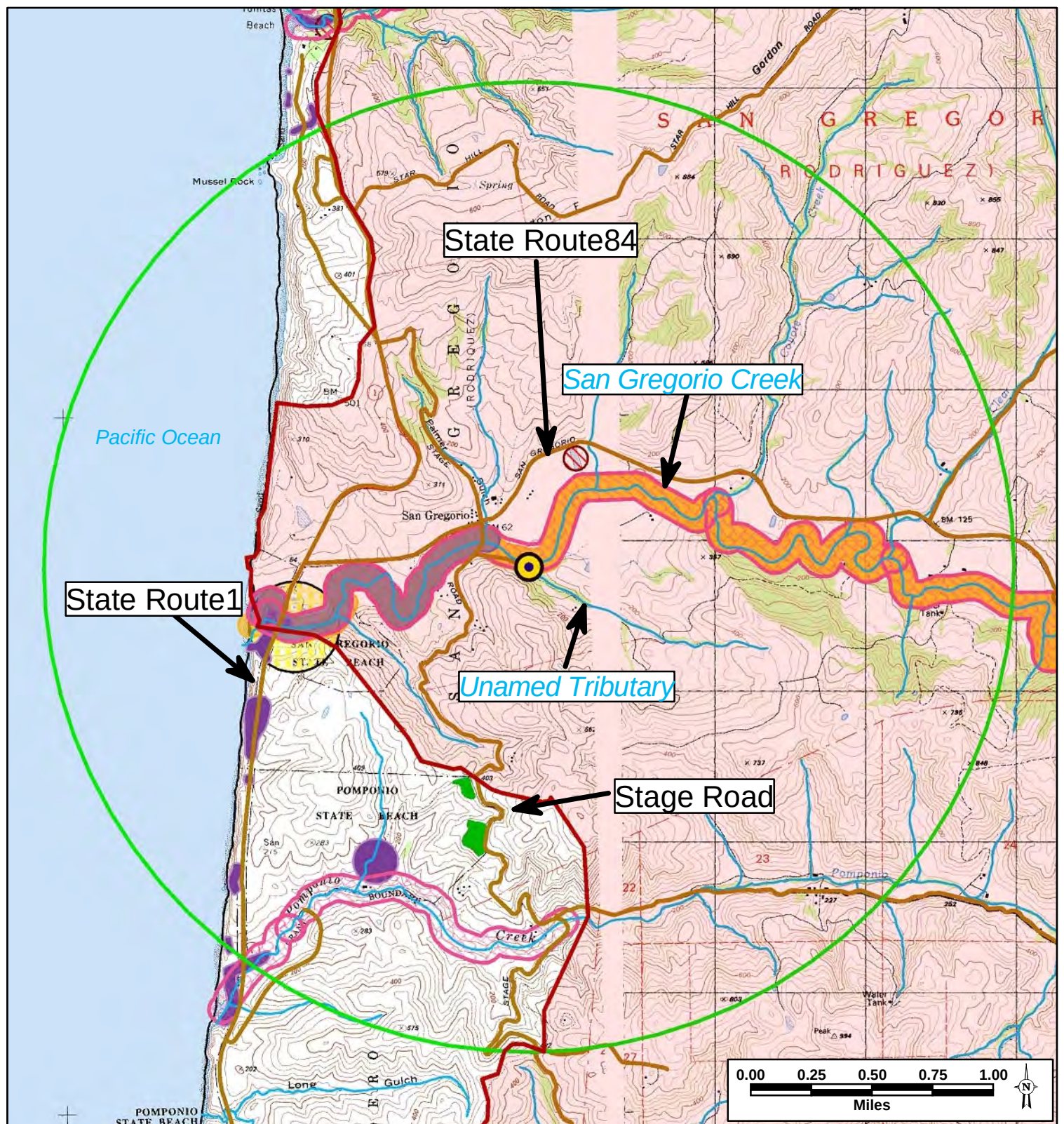
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Higgins Canyon #1 and #2 Project Sites- Slip-out Repair Project

Figure 2 - Project Site Locations Map



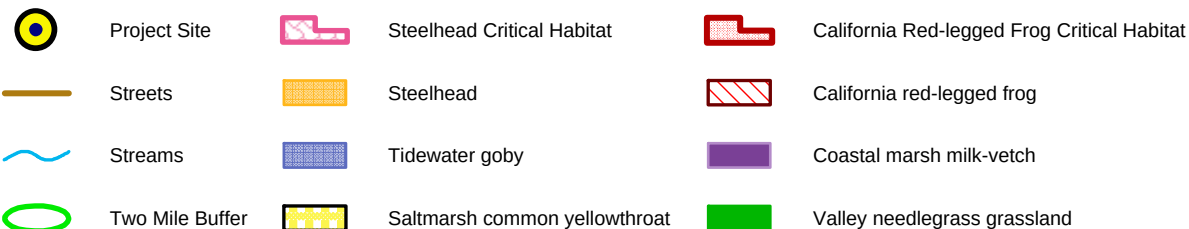
7 February 2014
County of San Mateo
Department of Public Works



Seaside School Project Site - Slip-out Repairs

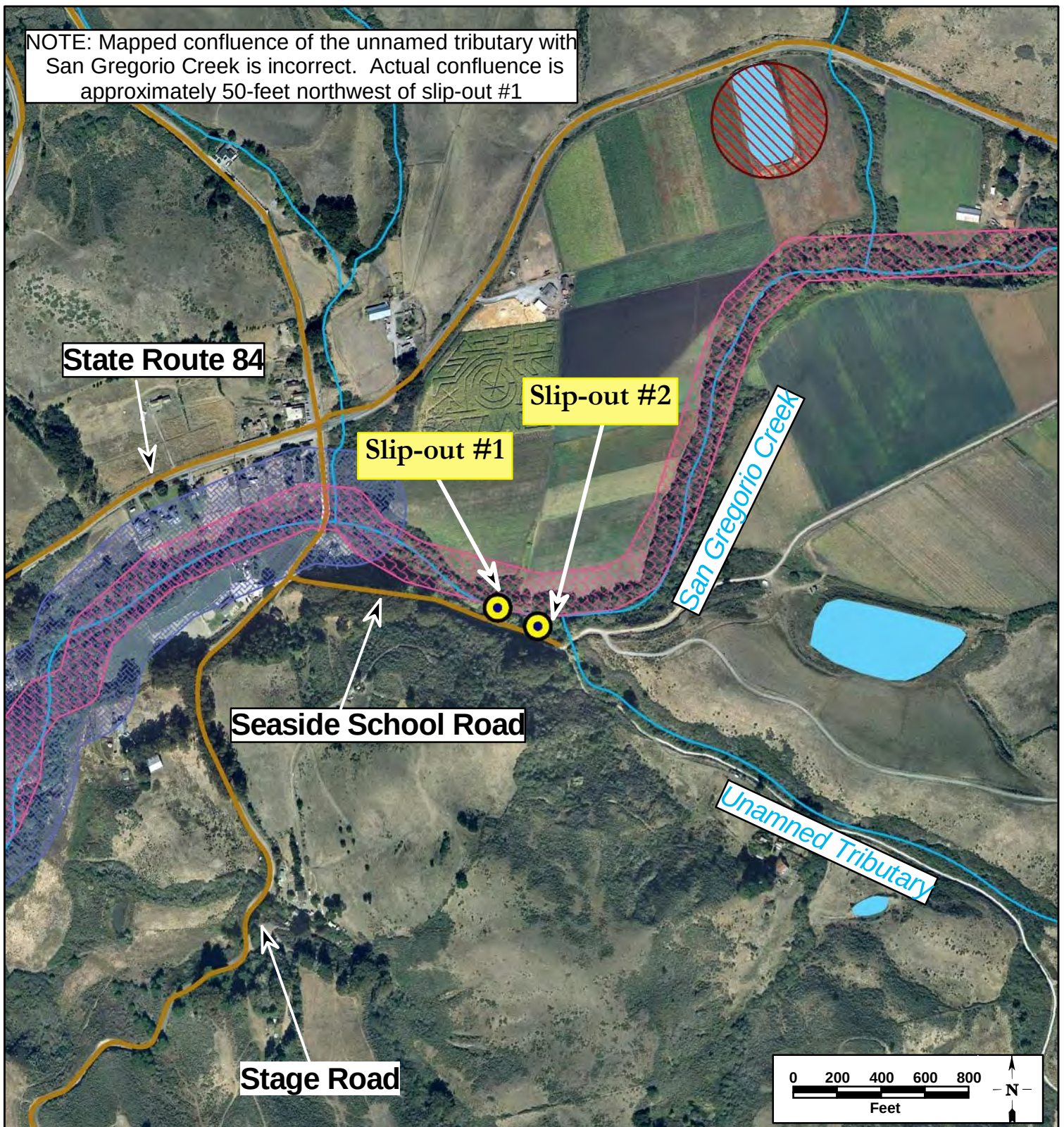
Sources: San Mateo County GIS, CNDDB 2014

Figure 6. Location of Special Status Species Occurrences and Critical Habitat



13 March 2014
County of San Mateo
Department of Public Works

NOTE: Mapped confluence of the unnamed tributary with San Gregorio Creek is incorrect. Actual confluence is approximately 50-feet northwest of slip-out #1



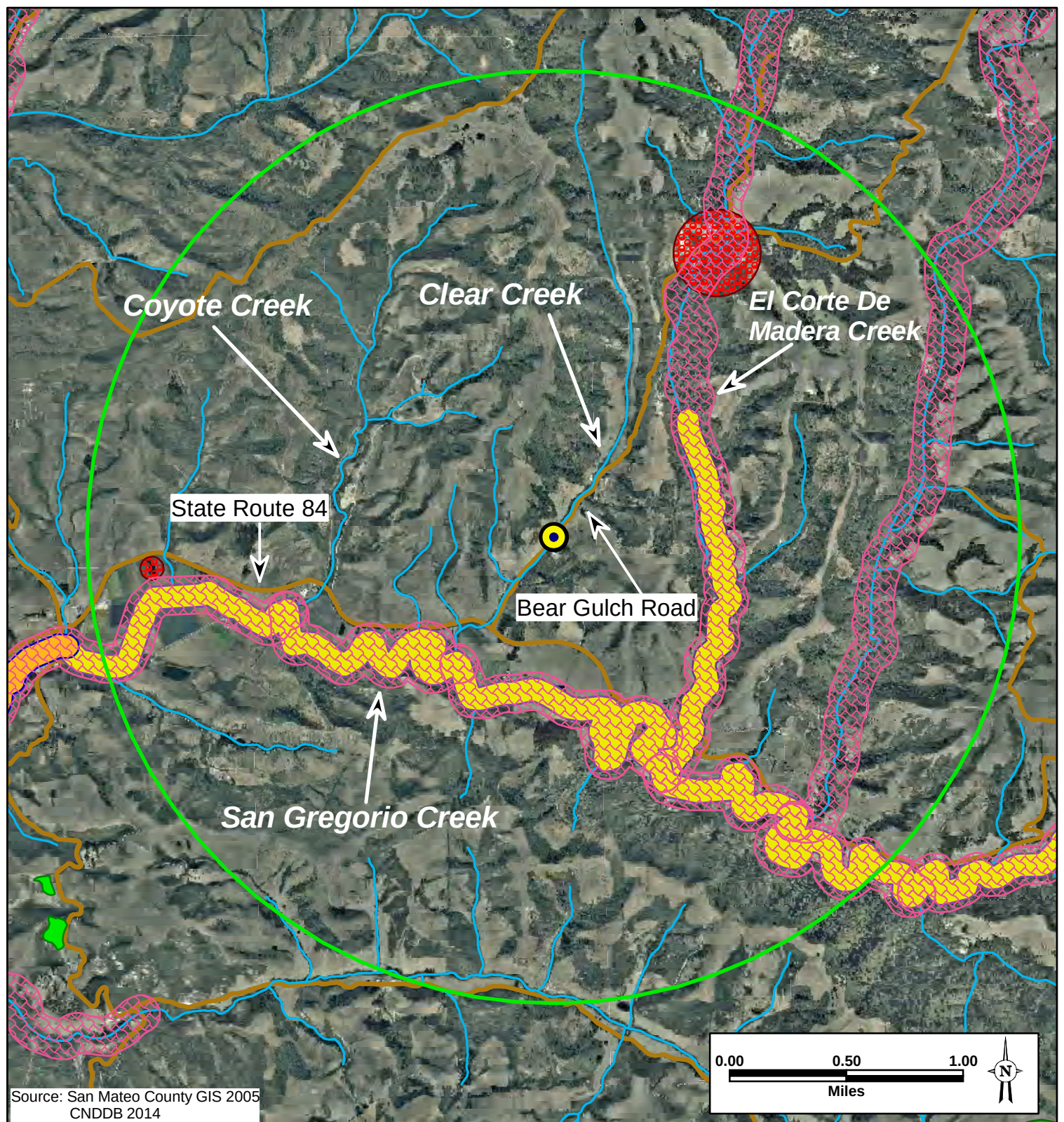
Seaside School Project Site - Slip-out Repairs

Sources: San Mateo County GIS, CNDDB 2014

Figure 5. Slip-out Location and Special Status Species Occurences Map



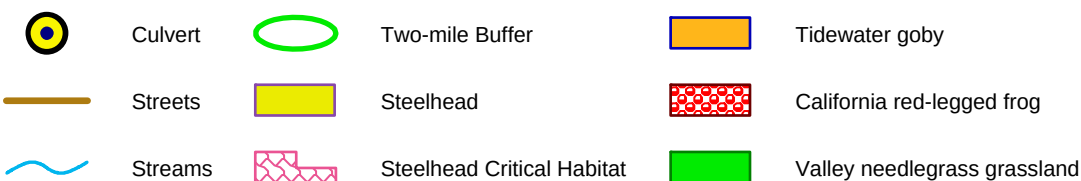
13 March 2014
County of San Mateo
Department of Public Works



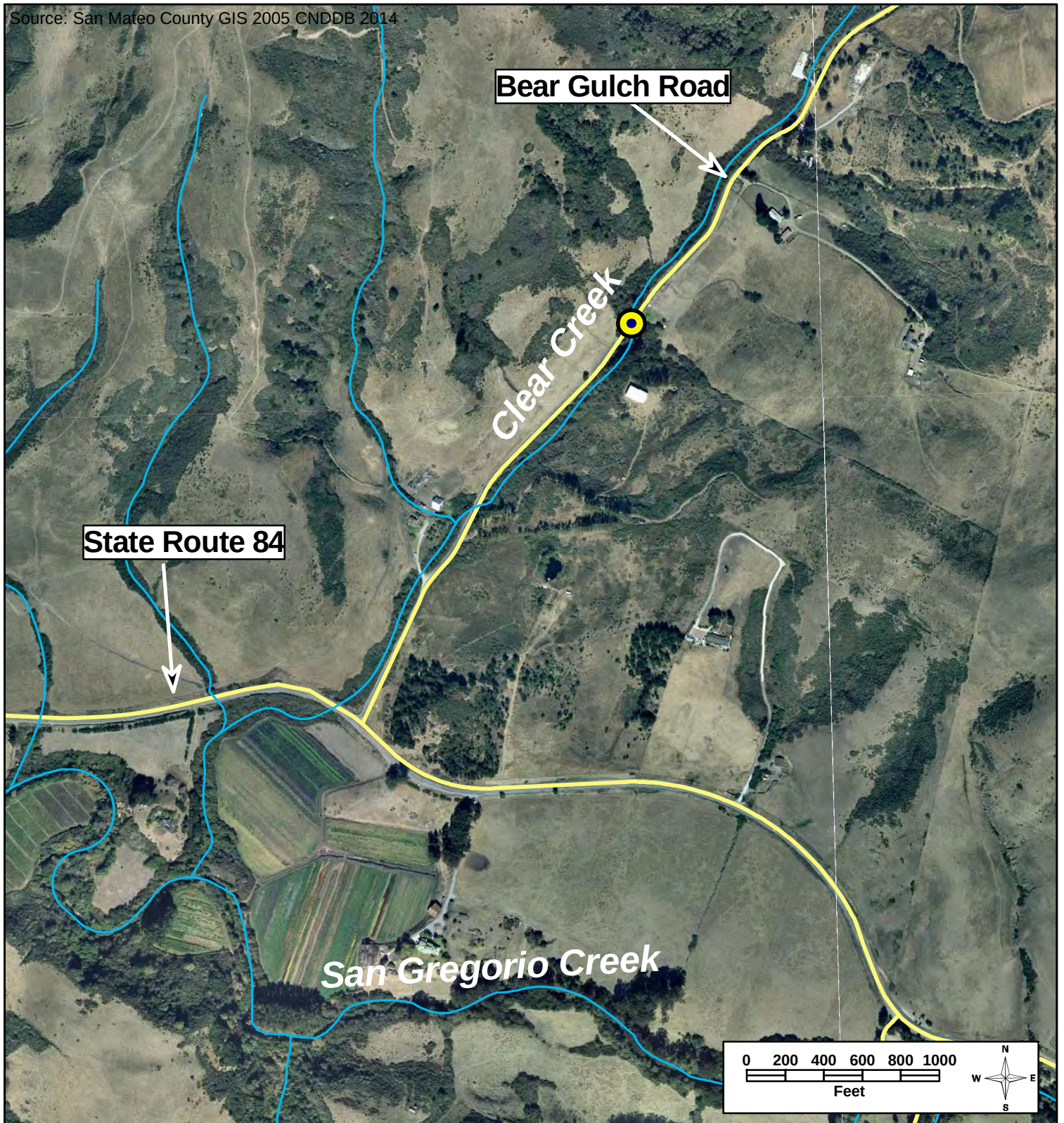
Bear Gulch Project Site - Culvert Replacement

Figure 7 - Location of Special Status Species Occurrences and Critical Habitat

Note: Mapped area falls under California red-legged frog critical habitat.



24 February 2014
County of San Mateo
Department of Public Works



Bear Gulch Project Site - Culvert Replacement

Figure 8 - Project Site Location Map

-  Project Site
-  Roads
-  Streams



Note: Map Extent is in California
Red-legged Frog Critical Habitat

9 May 2014
County of San Mateo
Department of Public Works

Sources: San Mateo County GIS 2005, CNDDB 2014

Stage #1 Project Site (300 Feet North)

San Gregorio

State Route 84

State Route 1

Stage Road

Stage #2 Project Site (3.2 Miles South)

Pacific Ocean

San Gregorio State Beach

Pomponio State Beach

San Gregorio Creek

Pomponio Creek

Scale: 0.00, 0.25, 0.50 Miles

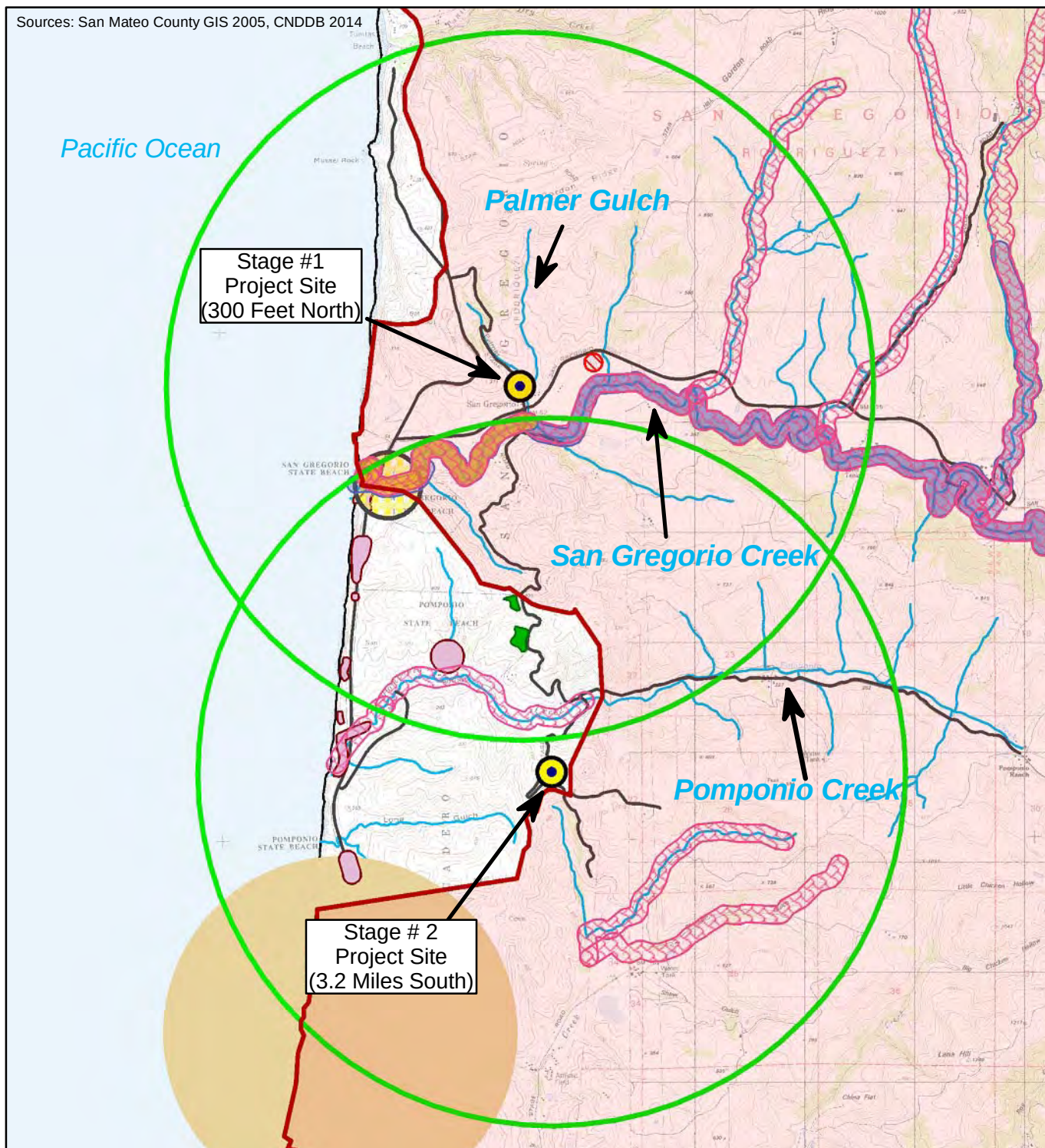
North arrow pointing up

Figure 9 Project Site Locations Map

Mileages Correspond to Distance from State Route 84

 Streams

24 February 2014
County of San Mateo
Department of Public Works



Stage #1 and #2 Project Sites Culvert Reattachment

Figure 10 - Locations of Special Status Species and Critical Habitat



*Distances are in relation to State Route 84



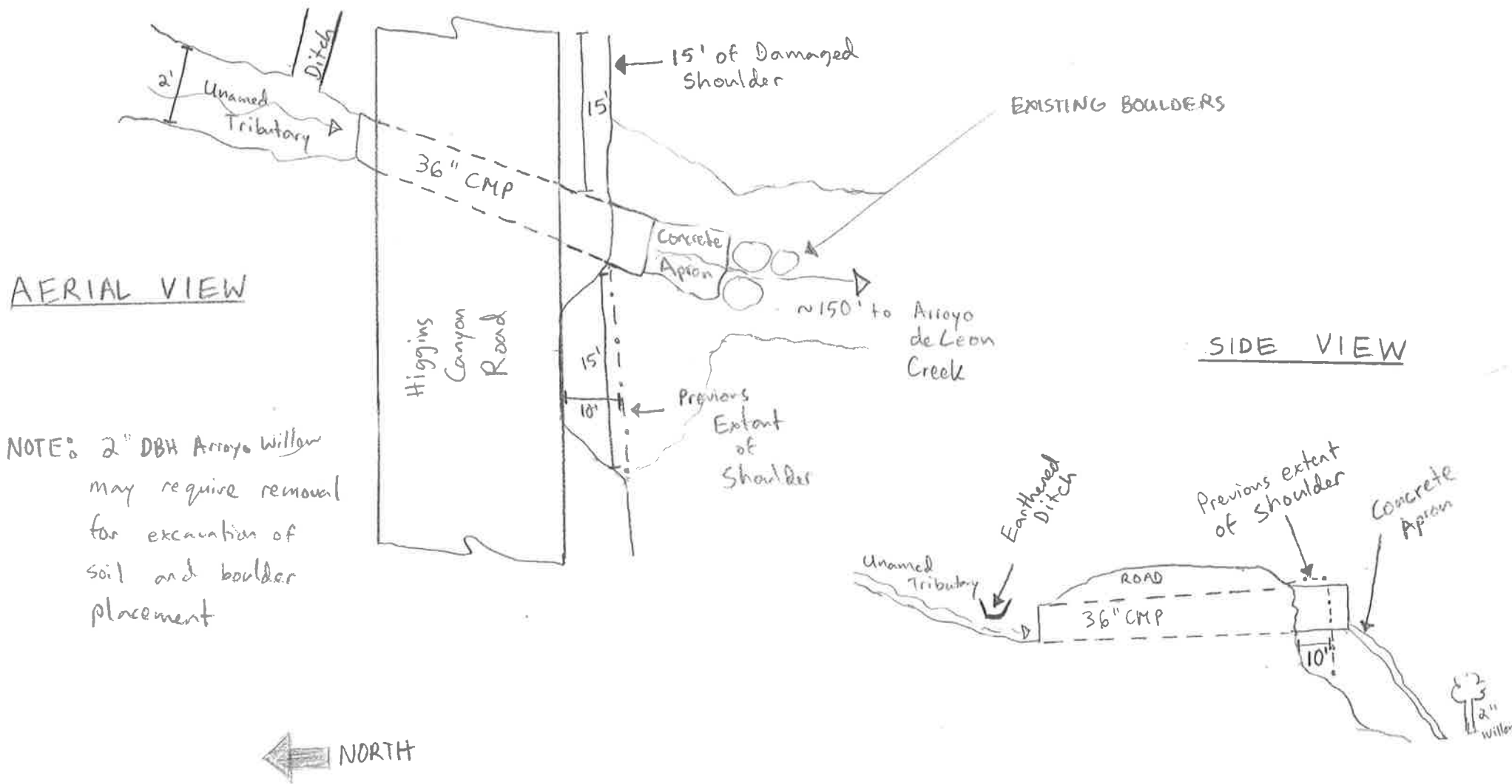
0.00 0.25 0.50 0.75 1.00
Miles



24 February 2014
County of San Mateo
Department of Public Works

Figure 11. HIGGINS CANYON #1 PROJECT SITE - SLIP-OUT REPAIR
(0.7 MILES EAST OF HIGHWAY 1)

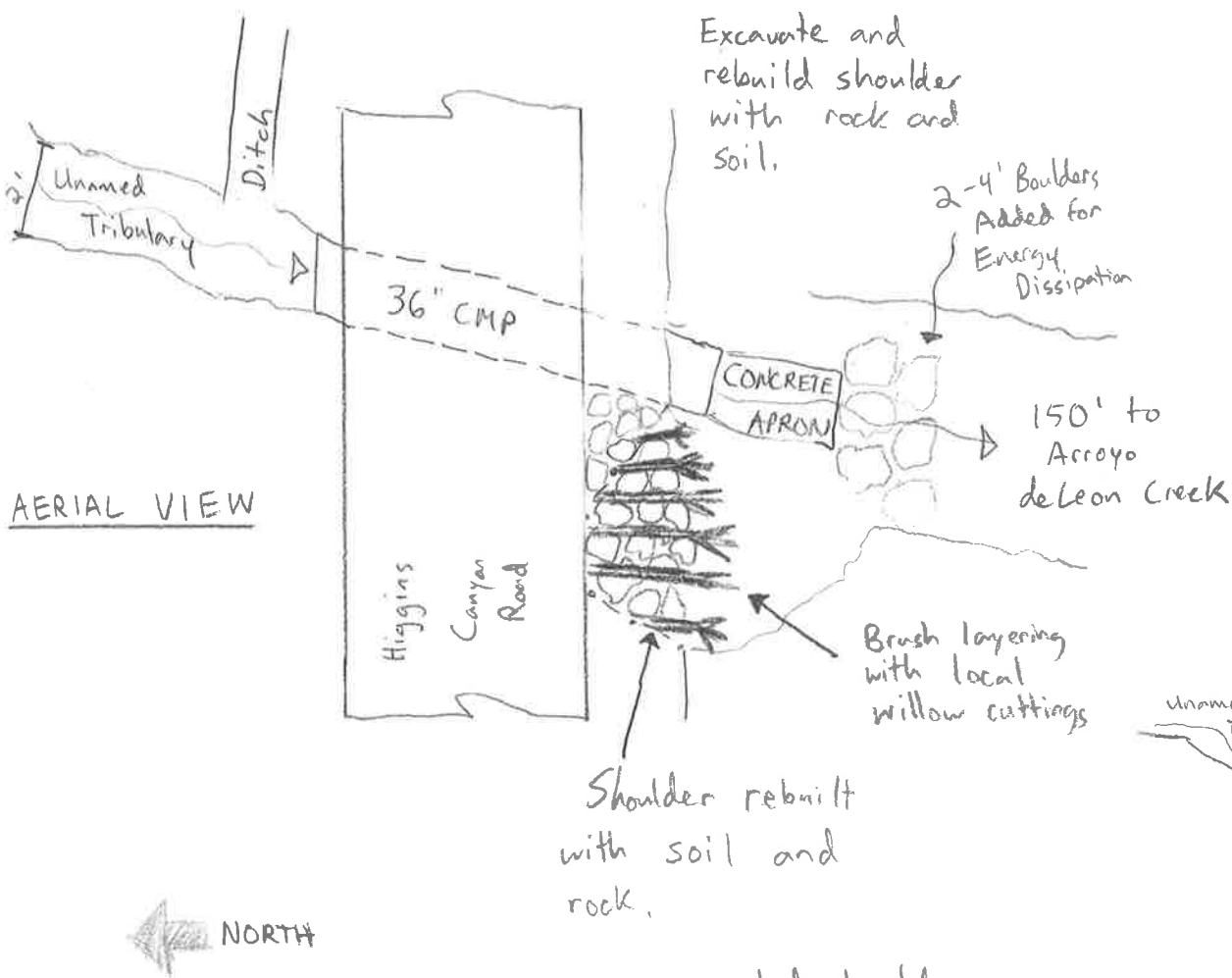
EXISTING CONDITIONS



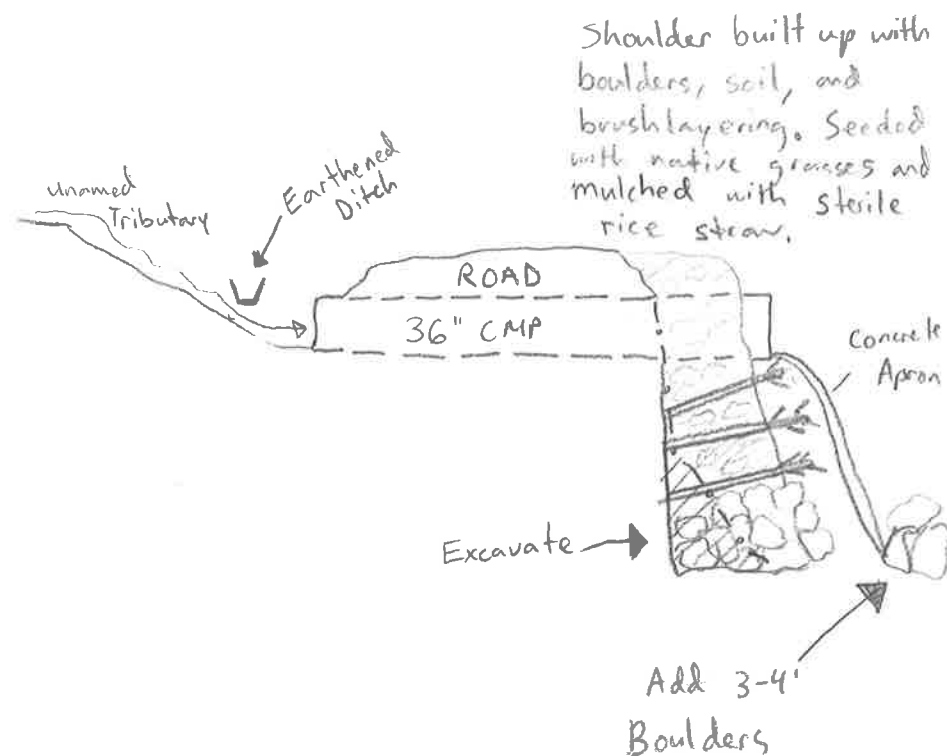
NOT TO SCALE

Figure 12. HIGGINS CANYON #1 PROJECT SITE - SLIP-OUT REPAIR
(0.7 MILES EAST OF HIGHWAY 1)

PROPOSED REPAIRS



SIDE VIEW

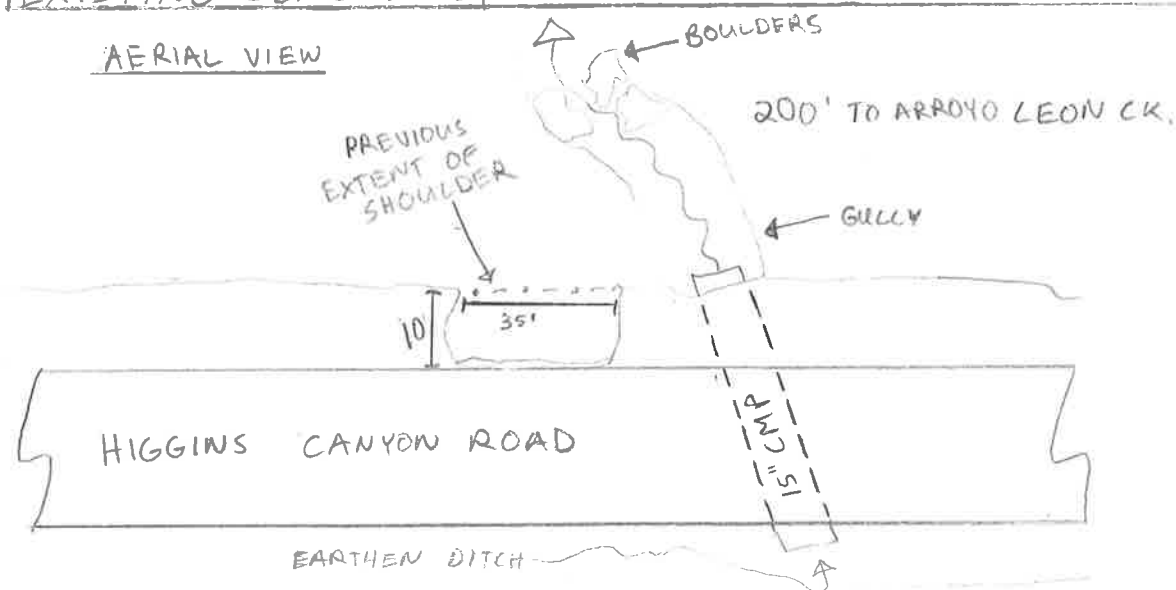


Note: Excavated shoulders will be seeded with native grasses and mulched with sterile rice straw.

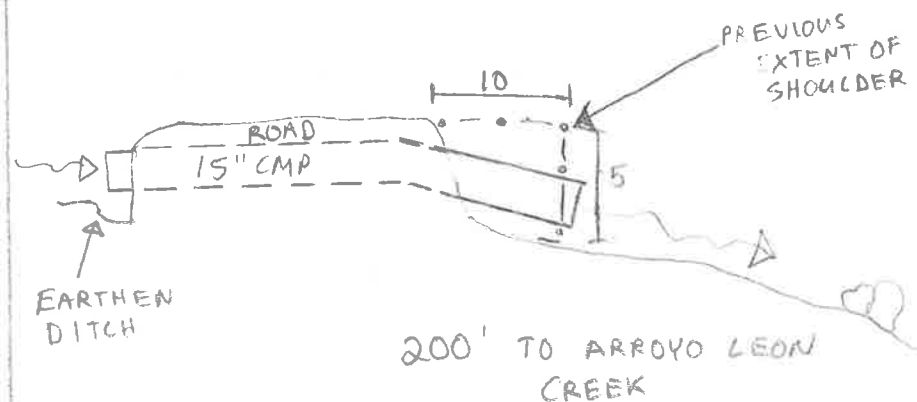
FIGURE 3. HIGGINS CANYON #2 PROJECT SITE - SLIP-OUT REPAIR AND FLEX PIPE ATTACHMENT
(1.8 MILES EAST OF HIGHWAY 1)

EXISTING CONDITIONS

AERIAL VIEW



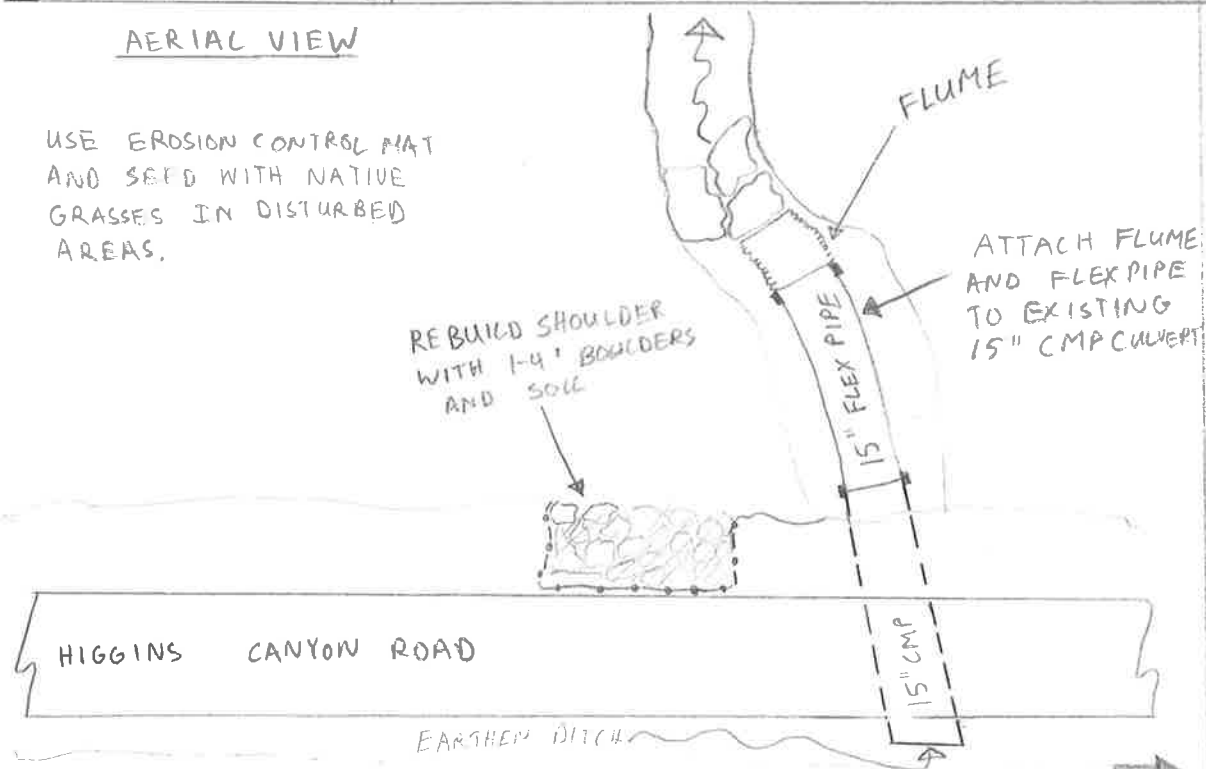
PROFILE VIEW



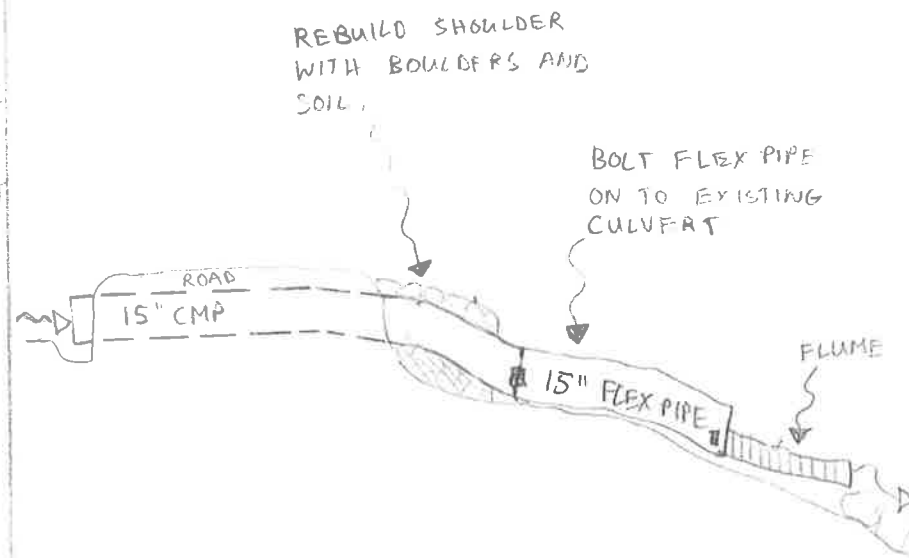
PROPOSED REPAIRS

AERIAL VIEW

USE EROSION CONTROL MAT AND SEED WITH NATIVE GRASSES IN DISTURBED AREAS.



PROFILE VIEW



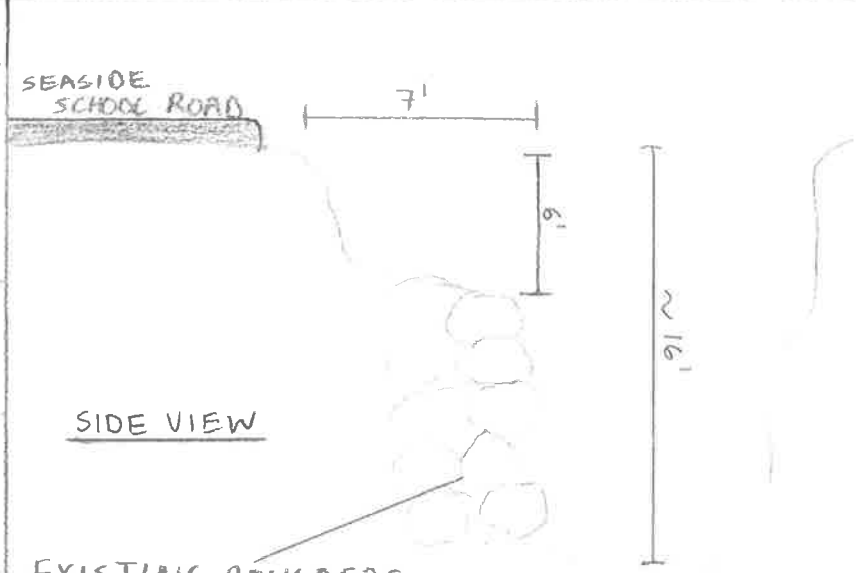
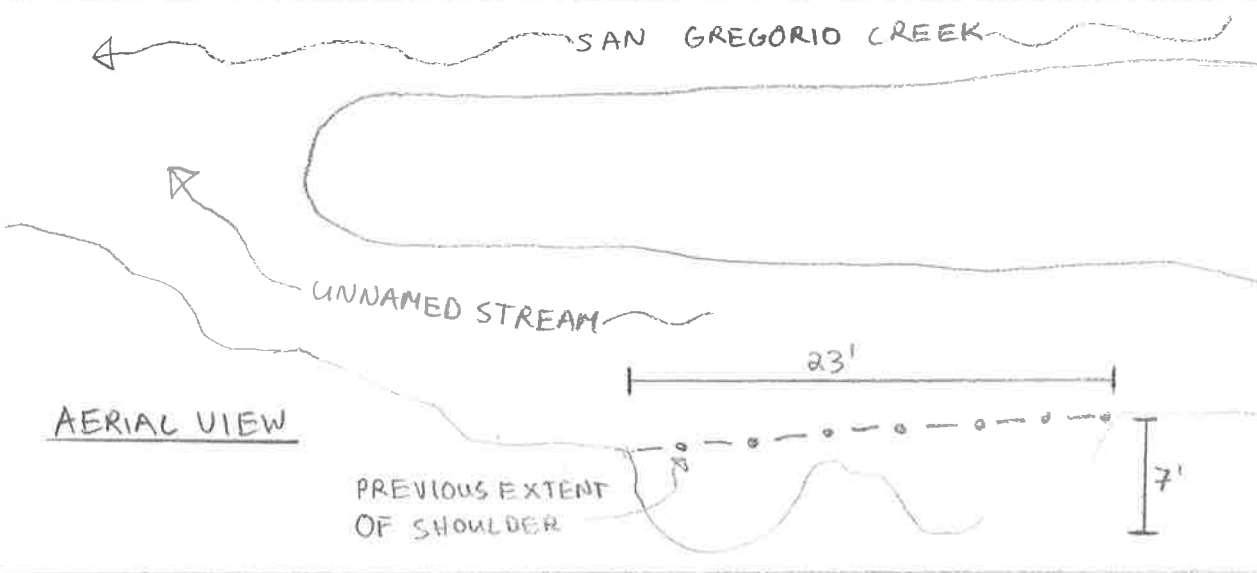
NOT TO SCALE

NORTH →

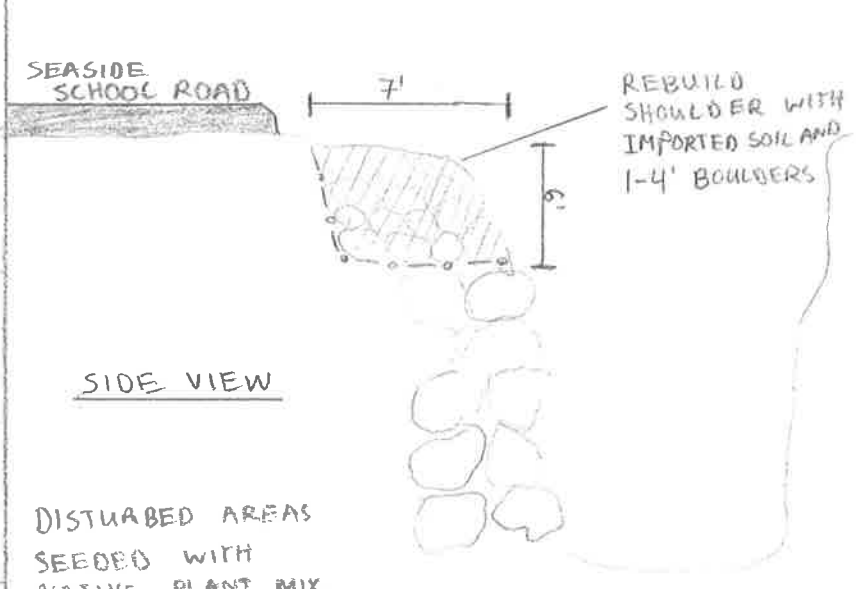
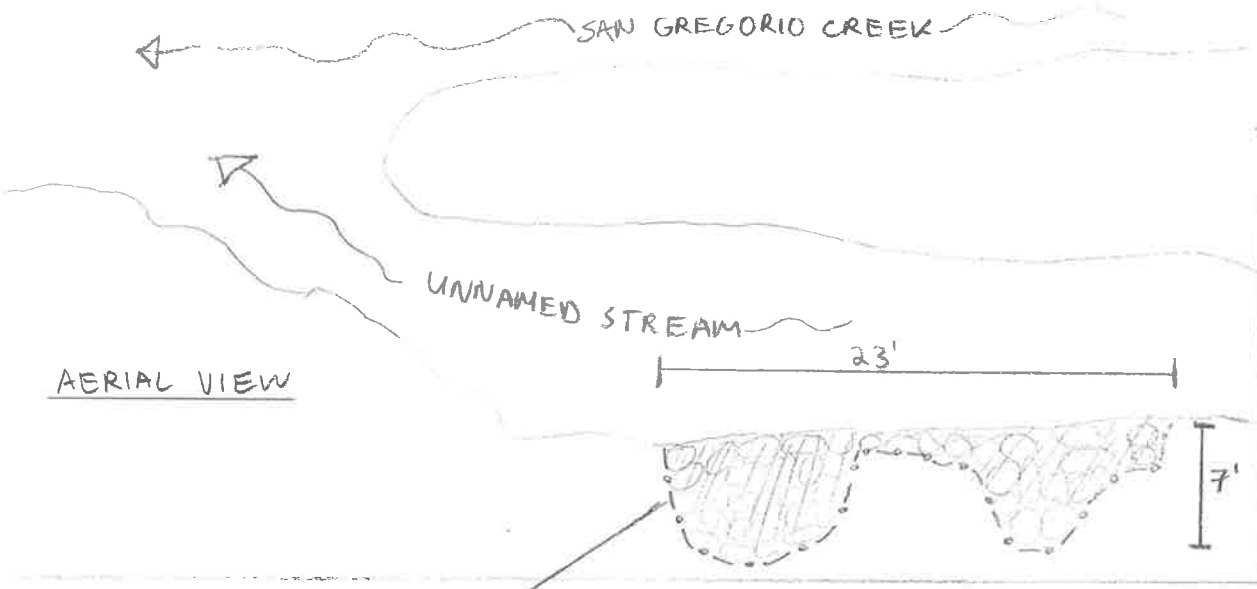
NOT TO SCALE

FIGURE 14. SEASIDE SCHOOL PROJECT SITE - SLIP-OUT #1 REPAIR

EXISTING CONDITIONS



PROPOSED REPAIRS



REBUILD SHOULDER WITH IMPORTED SOIL AND 1-4' BOULDERS.

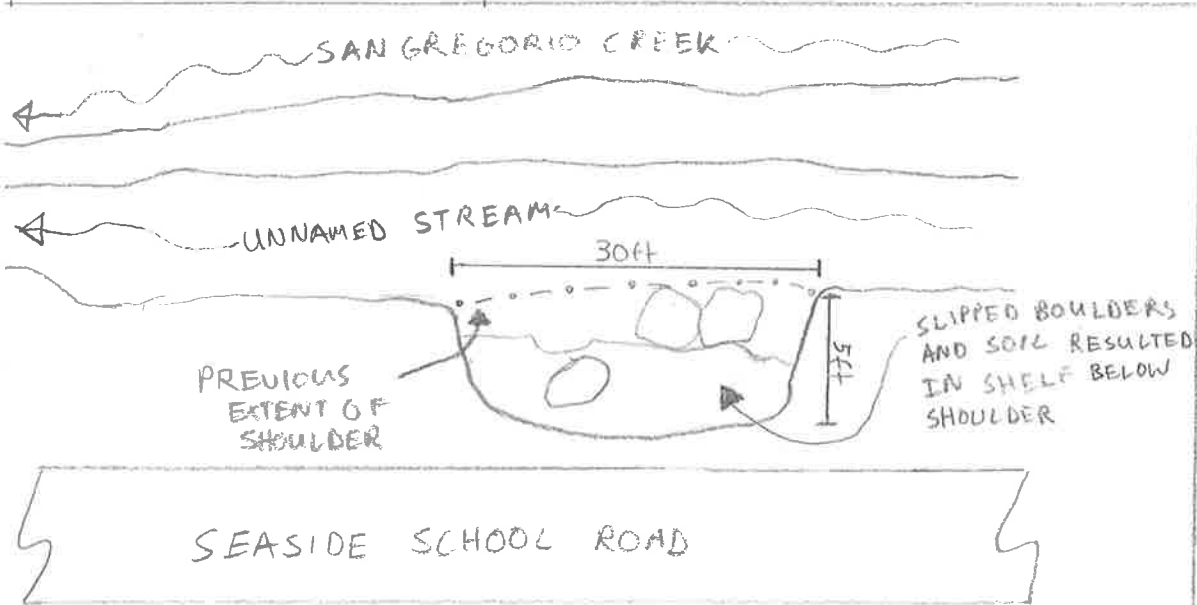
SEASIDE SCHOOL ROAD

NOT TO SCALE

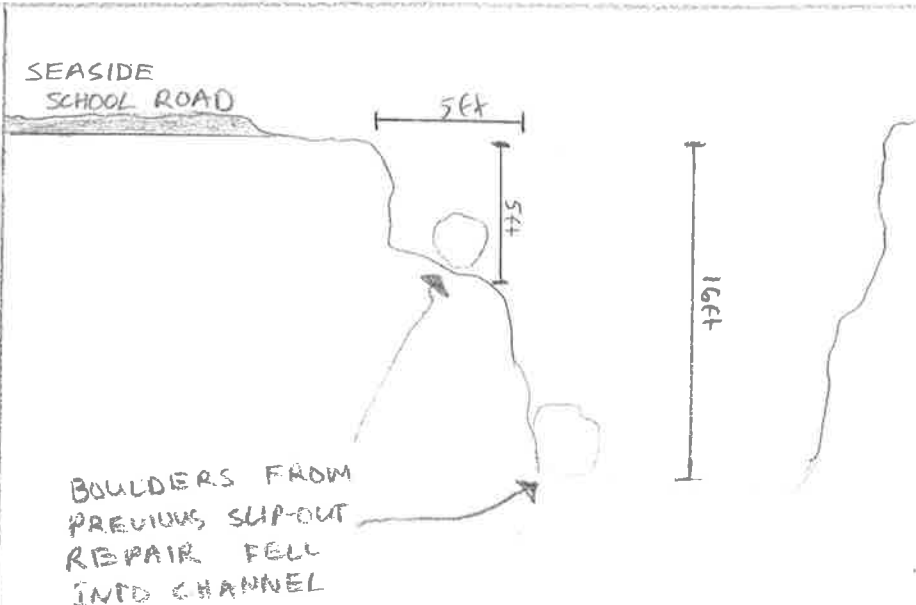
NOT TO SCALE

FIGURE 15, SEASIDE SCHOOL PROJECT SITE - SLIP-OUT #2 REPAIR

EXISTING CONDITIONS

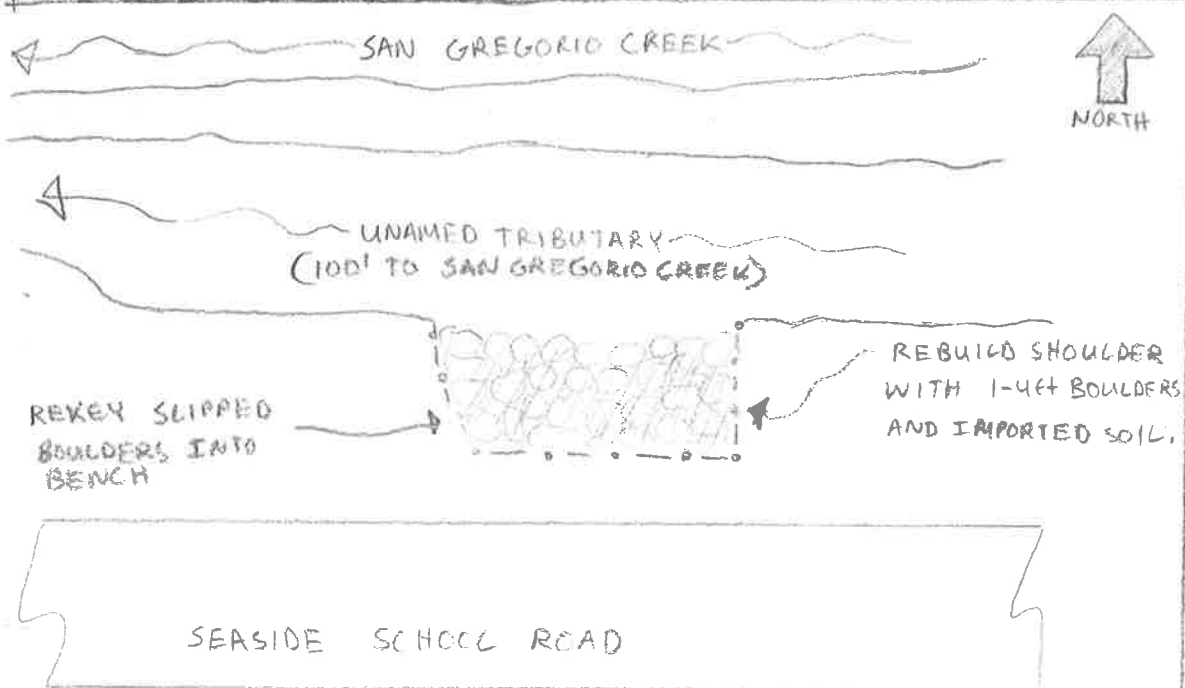


AERIAL VIEW

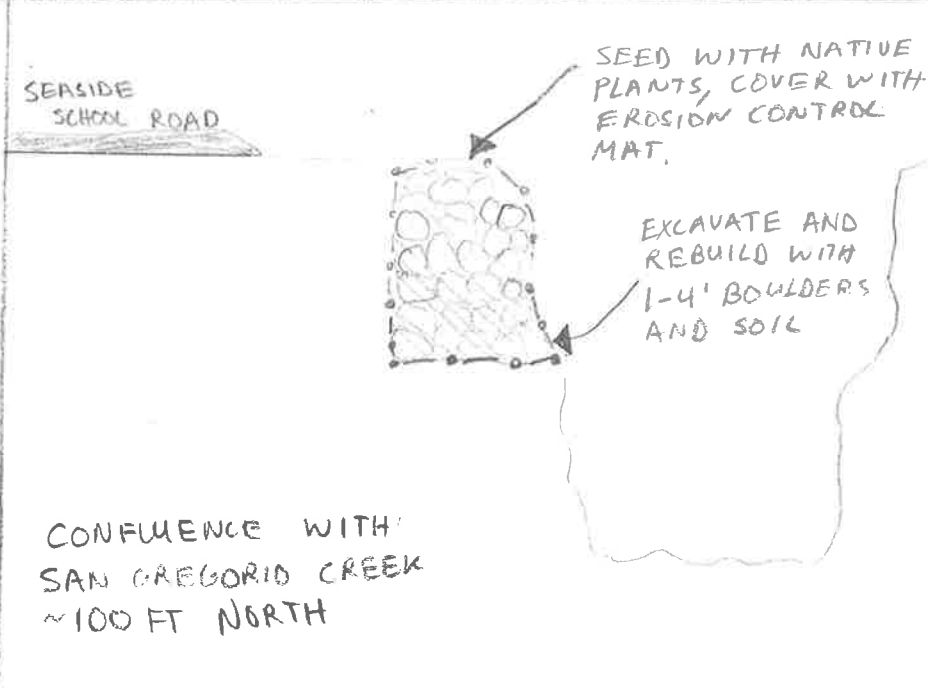


SIDE VIEW

PROPOSED REPAIRS



AERIAL VIEW



SIDE VIEW

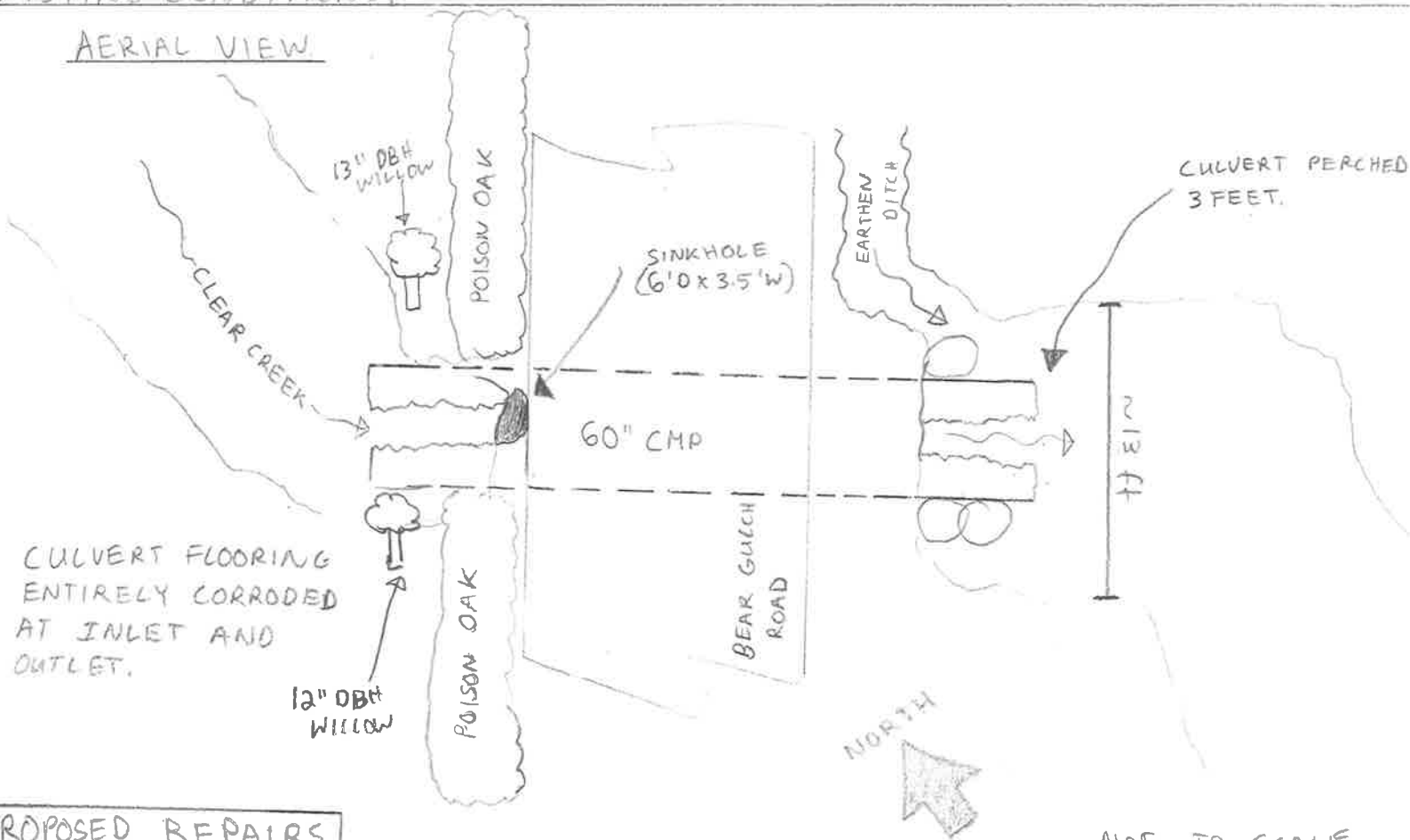
NOT TO SCALE

NOT TO SCALE

FIGURE 16. BEAR GULCH PROJECT SITE - CULVERT REPLACEMENT

EXISTING CONDITIONS

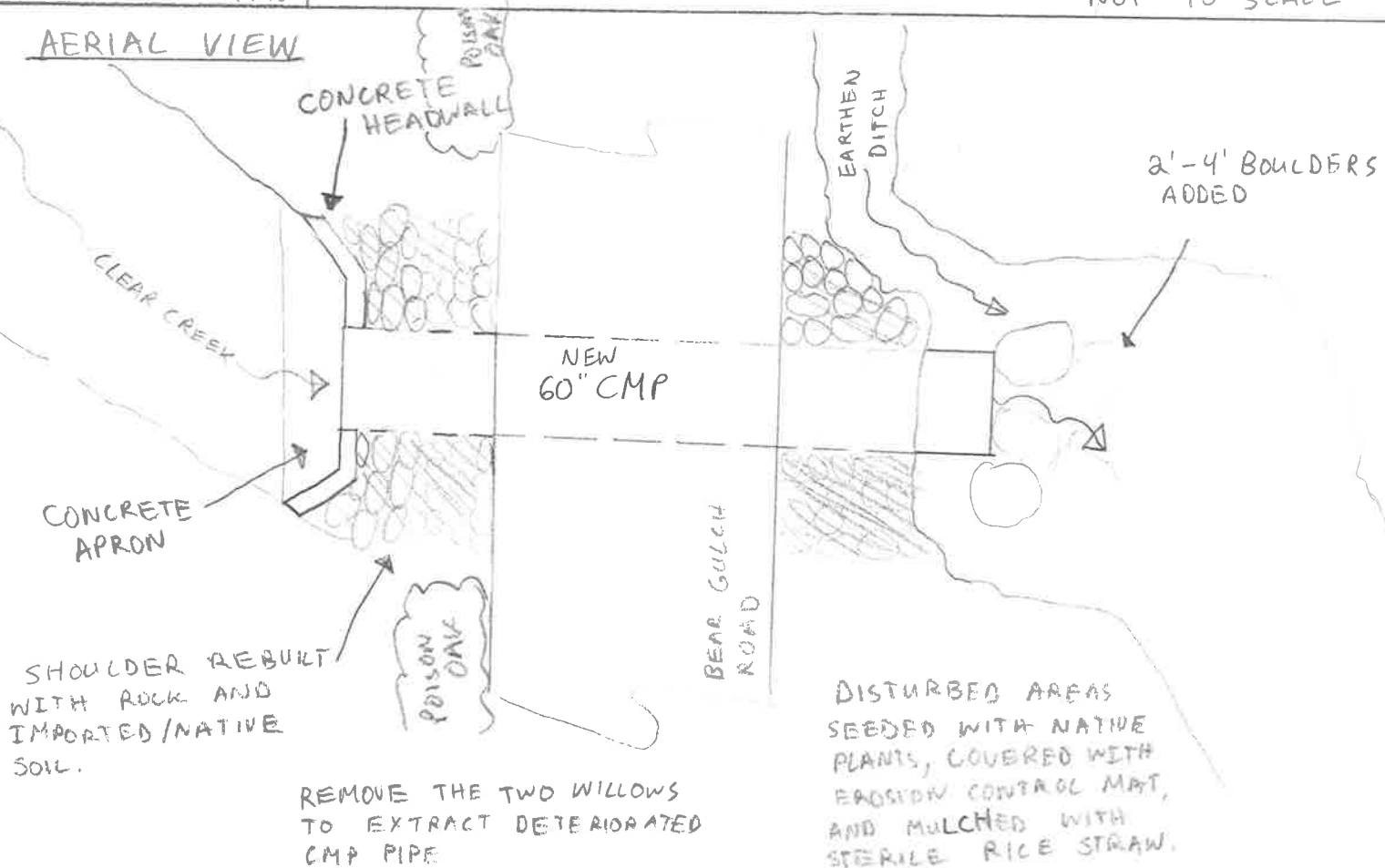
AERIAL VIEW



PROPOSED REPAIRS

NOT TO SCALE

AERIAL VIEW

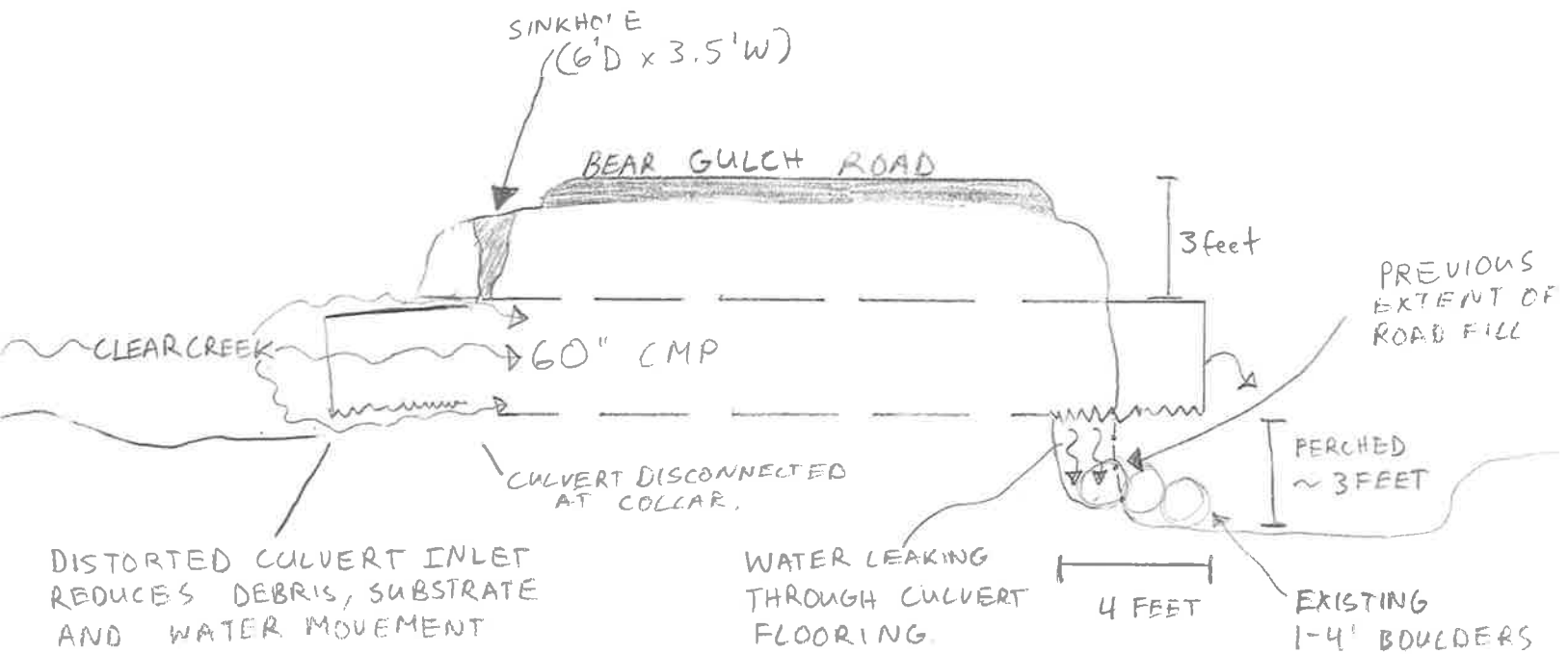


NOT TO SCALE

FIGURE 17. BEAR GULCH PROJECT SITE - CULVERT REPLACEMENT

EXISTING CONDITIONS

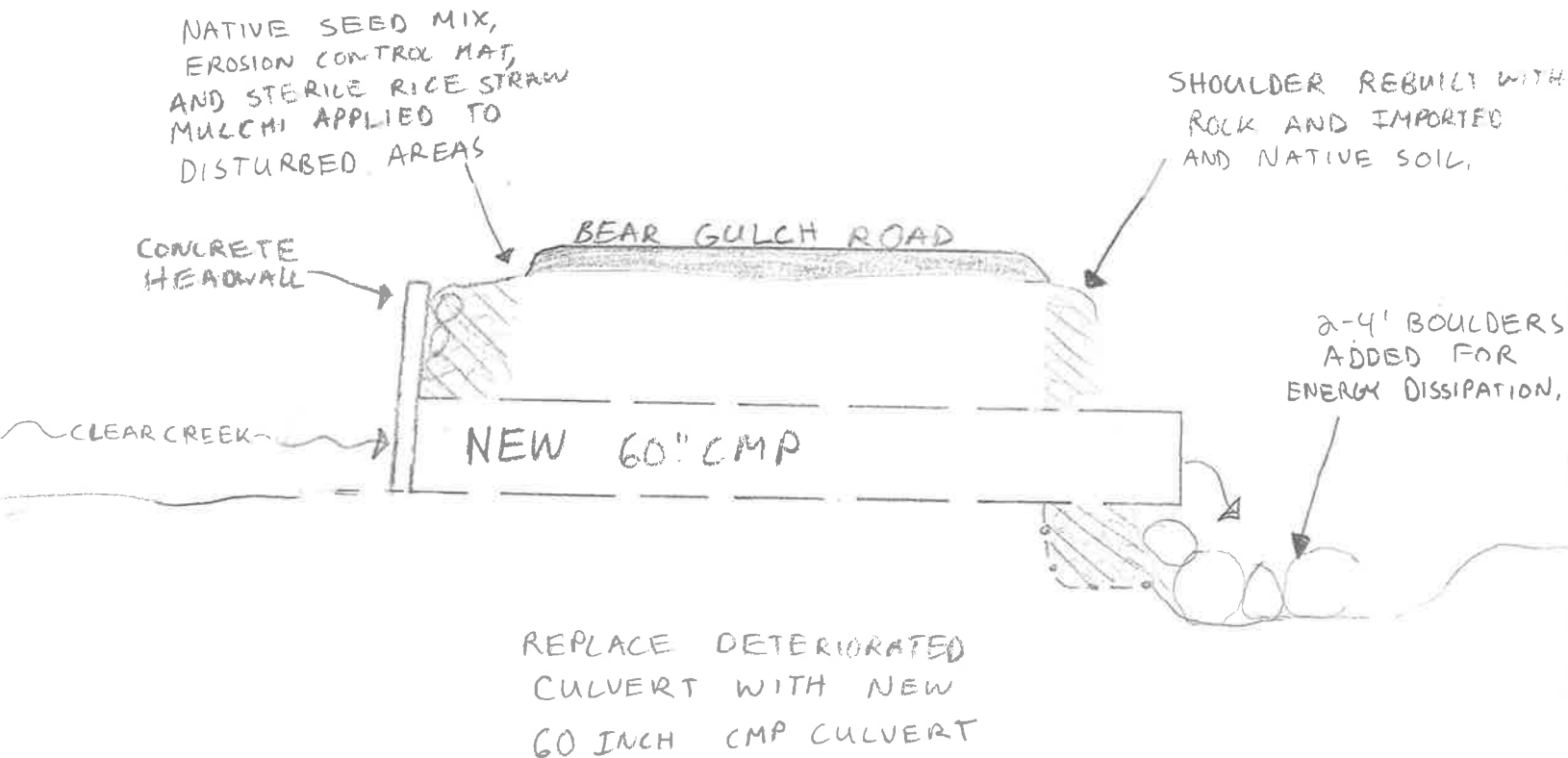
SIDE VIEW



PROPOSED REPAIRS

NOT TO SCALE

SIDE VIEW

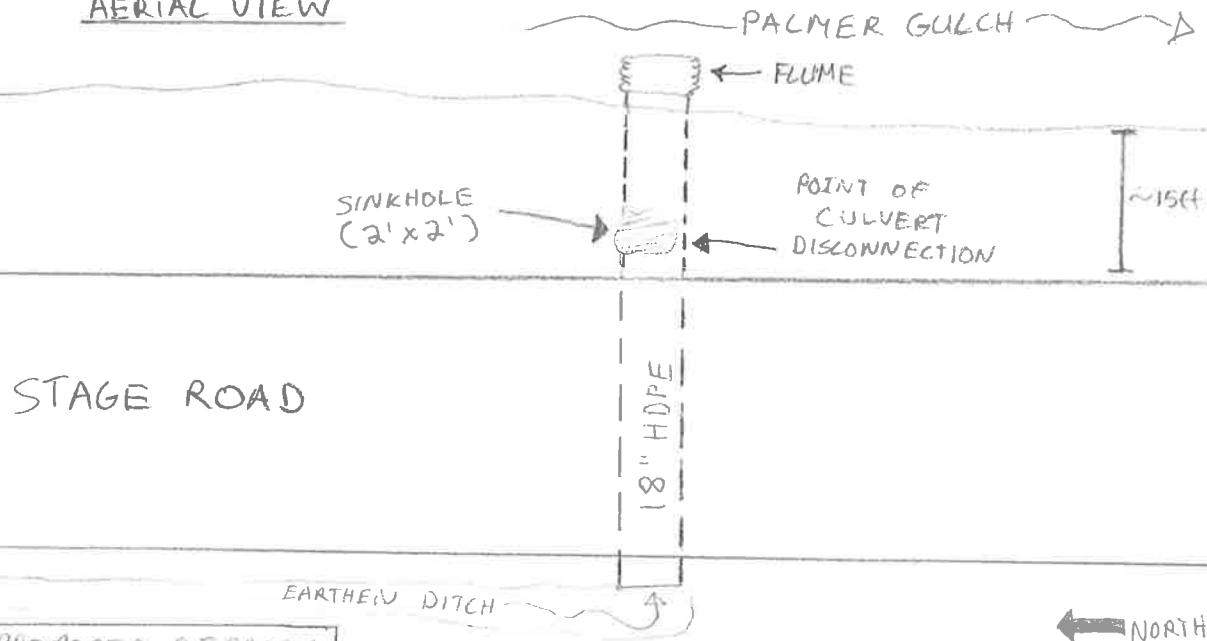


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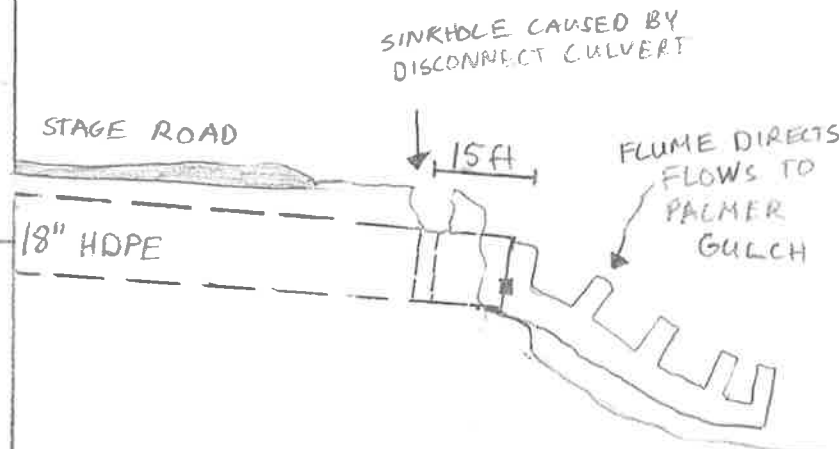
FIGURE 18. STAGE #1 PROJECT SITE - CULVERT REATTACHMENT
(300ft NORTH OF HIGHWAY 84)

EXISTING CONDITIONS

AERIAL VIEW

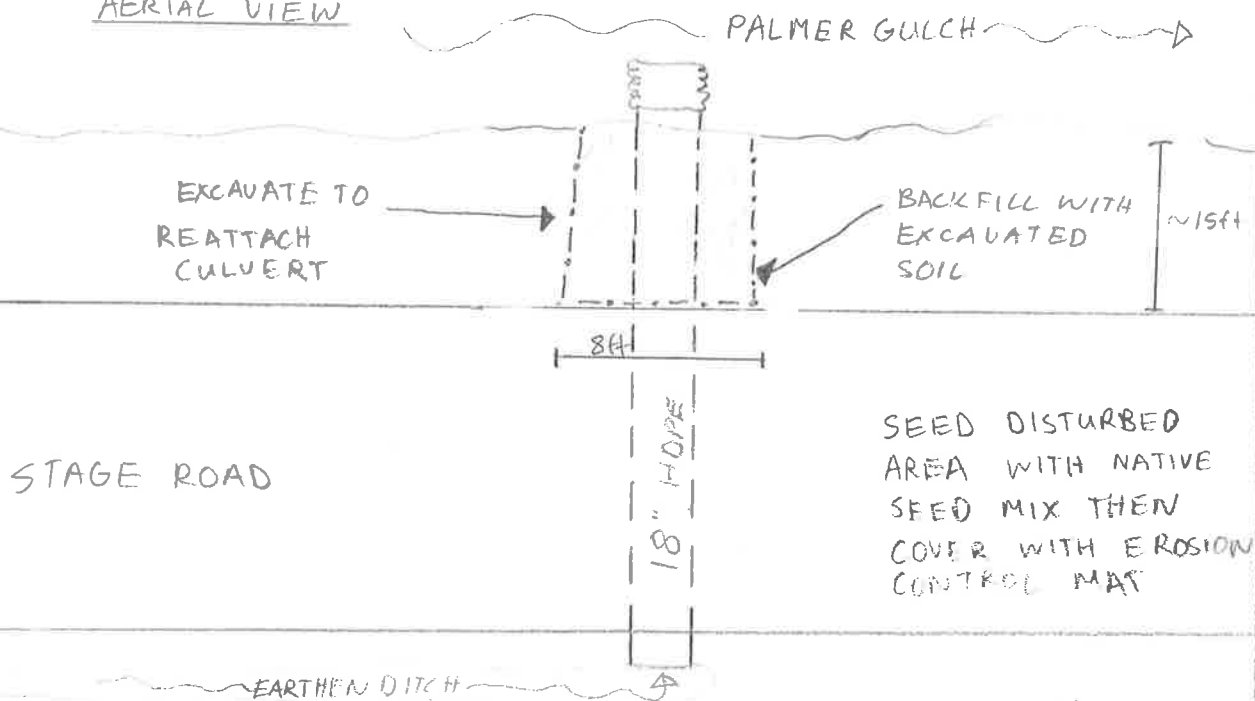


SIDE VIEW

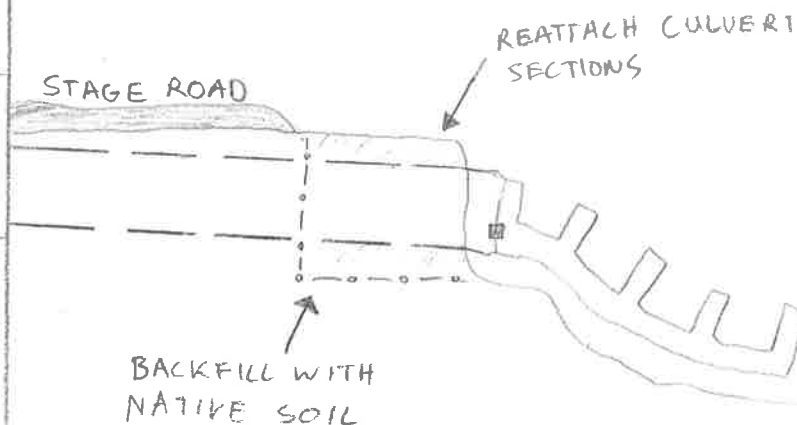


PROPOSED REPAIRS

AERIAL VIEW



SIDE VIEW



SEED DISTURBED
AREA WITH NATIVE
SEED MIX THEN
COVER WITH EROSION
CONTROL MAT

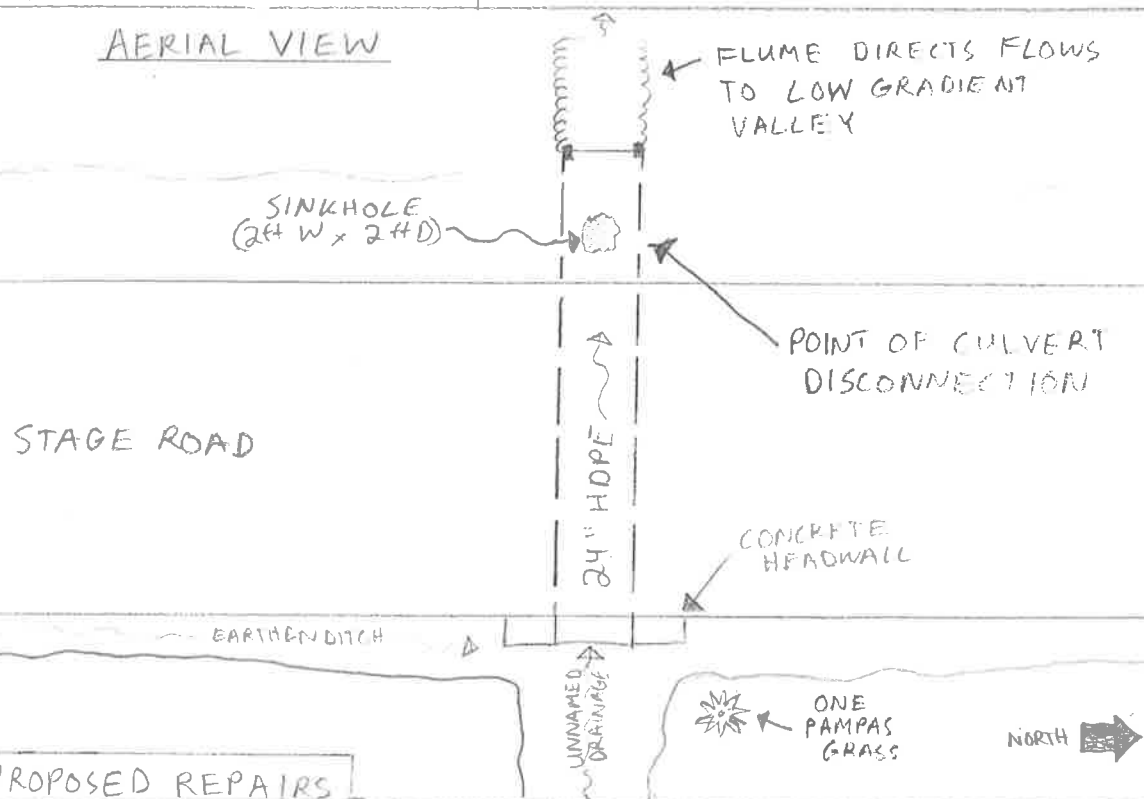
← NORTH

NOT TO SCALE

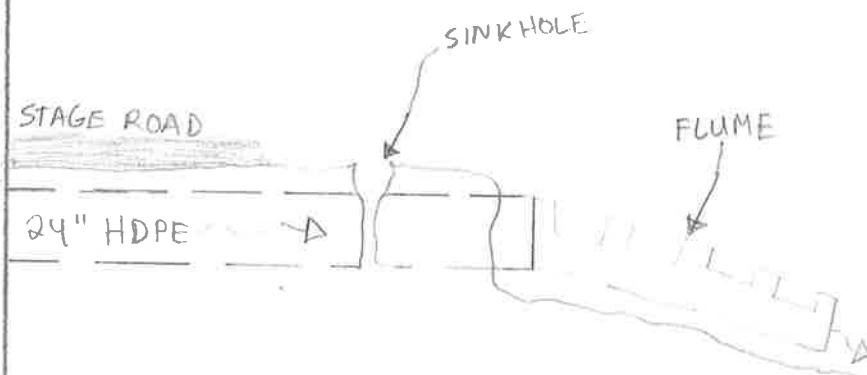
FIGURE 19. STAGE #2 PROJECT SITE - CULVERT REATTACHMENT
(3 MILES SOUTH OF HIGHWAY 84)

EXISTING CONDITIONS

AERIAL VIEW

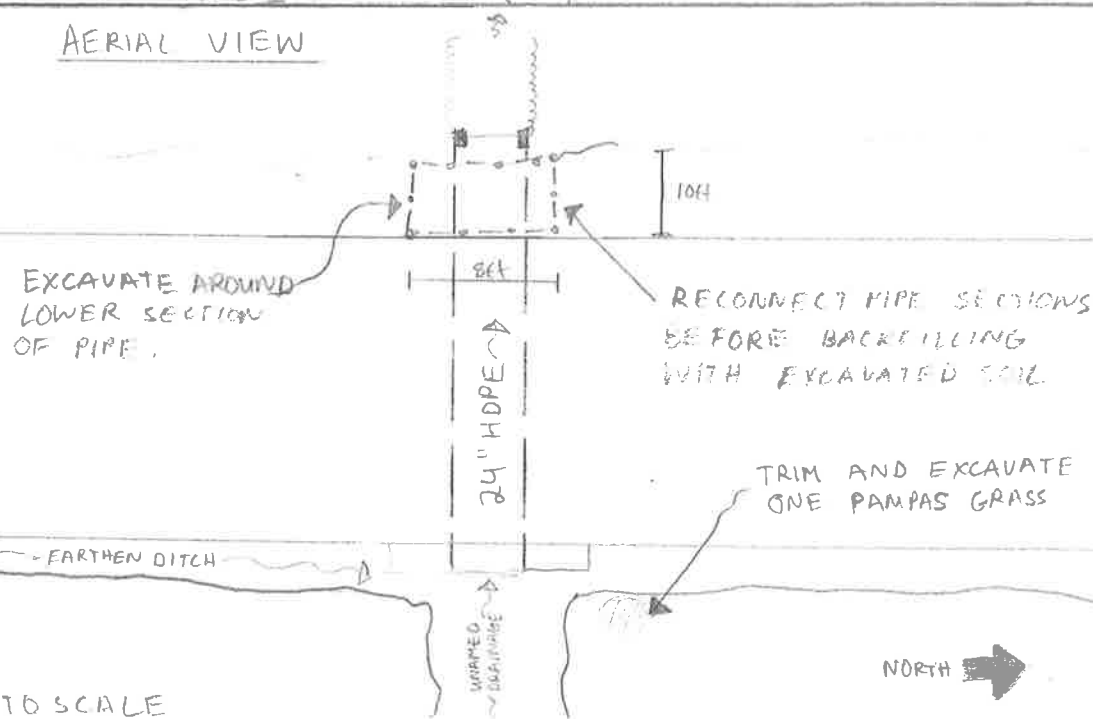


SIDE VIEW

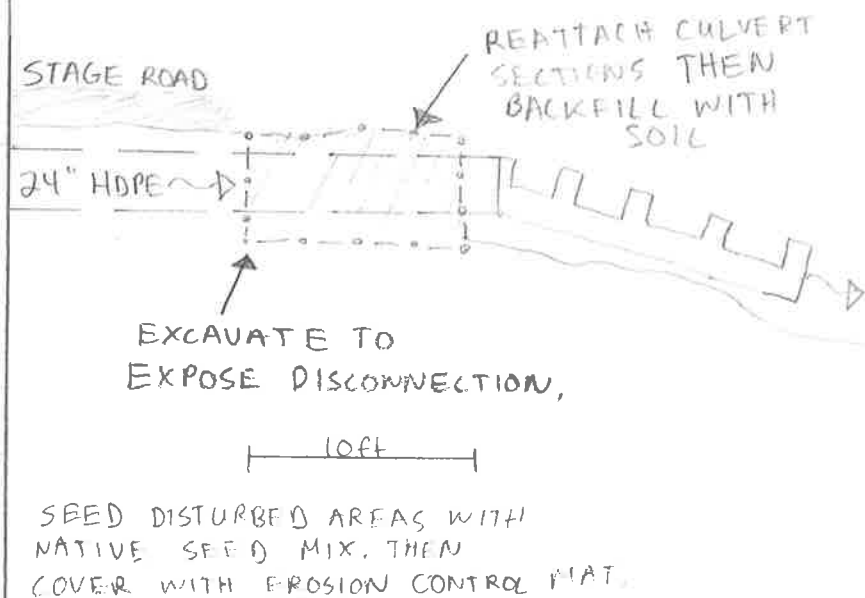


PROPOSED REPAIRS

AERIAL VIEW



SIDE VIEW



NOT TO SCALE



DEPARTMENT OF THE ARMY
SAN FRANCISCO DISTRICT, U.S. ARMY CORPS OF ENGINEERS
1455 MARKET STREET, 16TH FLOOR
SAN FRANCISCO, CALIFORNIA 94103-1398

JUN 13 2017

Regulatory Division

Subject: File Number 2014-00249S

Mr. Michael Huynh
County of San Mateo Department of Public Works
752 Chestnut Street
Redwood City, California 94063

Dear Mr. Huynh:

This correspondence is in reference to your submittal of June 4, 2014, concerning Department of the Army (DA) authorization for culvert replacement, reattachment, and slip-out repairs. The projects are located at four stream crossings, each ranging from 2 to 87 lineal feet along tributaries of Pilarcitos Creek and San Gregorio Creek in unincorporated San Mateo County, California (Higgins Canyon Road, 37.4521°N and -122.4166°W), (Seaside School Road Site 1, 37.3244°N and -122.3838°W), (Bear Gulch Road, 37.3323°N and -122.3482°W), and (Seaside School Road Site 2, 37.2972°N and -122.3839°W).

Work within U.S. Army Corps of Engineers' (Corps) jurisdiction will include the replacement of one deteriorated corrugated metal pipe culvert on Bear Gulch Road, the repair of a roadside slip-out on Higgins Canyon Road, and two slip-outs on Seaside School Road. Work will require the placement of 463.74 cubic yards of fill for the culvert and headwall installed at Bear Gulch Road and 146.97 cubic yards of fill (soil and rock) for the slip-out repairs along Higgins Canyon Road and Seaside School Road resulting in 0.05 acre of permanent fill in waters of the U.S. All work shall be completed in accordance with the plans and drawings in seven sheets entitled "Overall Project Site Plan, Coastal Culvert Replacement, Unincorporated San Mateo County, File ID. 2014-00249S," dated June 6, 2017 (enclosure 1).

Section 404 of the Clean Water Act (CWA) generally regulates the discharge of dredged or fill material below the plane of ordinary high water in non-tidal waters of the United States, below the high tide line in tidal waters of the United States, and within the lateral extent of wetlands adjacent to these waters. Section 10 of the Rivers and Harbors Act generally regulates construction of structures and work, including excavation, dredging, and discharges of dredged or fill material, occurring below the plane of mean high water in tidal waters of the United States; in former diked baylands currently below mean high water; outside the limits of mean high water but affecting the navigable capacity of tidal waters; or below the plane of ordinary high water in non-tidal waters designated as navigable waters of the United States. Navigable waters of the United States generally include all waters subject to the ebb and flow of the tide; and/or all waters presently used, or have been used in the past, or may be susceptible for future use to transport interstate or foreign commerce.

Based on a review of the information in your submittal, the project qualifies for authorization under Department of the Army Nationwide Permit (NWP) #3 for *Maintenance*, 77 Fed. Reg. 10,184 (Feb. 21, 2012)

(http://www.spn.usace.army.mil/Portals/68/docs/regulatory/NWP/NWP17_03.pdf), pursuant to Section 404 of the CWA of 1972, as amended (33 U.S.C. § 1344 *et seq.*). The project must be in compliance with the terms of NWP #3, the general conditions of the Nationwide Permit Program (http://www.spn.usace.army.mil/Portals/68/docs/regulatory/Nationwide/NWP_Gen_Cond.pdf), and the San Francisco District regional conditions cited on our website (http://www.spn.usace.army.mil/Portals/68/docs/regulatory/Nationwide/Reg_Cond.pdf). You must also be in compliance with any special conditions specified in this letter for the NWP authorization to remain valid. Non-compliance with any term or condition could result in the revocation of the NWP authorization for your project, thereby requiring you to obtain an Individual Permit from the Corps. This NWP authorization does not obviate the need to obtain other State or local approvals required by law.

This verification will remain valid until March 18, 2022, unless the NWP authorization is modified, suspended, or revoked. Activities which have commenced (i.e., are under construction) or are under contract to commence in reliance upon a NWP will remain authorized provided the activity is completed within 12 months of the date of a NWP's expiration, modification, or revocation, unless discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization in accordance with 33 C.F.R. § 330.4(e) and 33 C.F.R. § 330.5 (c) or (d). This verification will remain valid if, during the time period between now and March 18, 2022, the activity complies with any subsequent modification of the NWP authorization. The Chief of Engineers will periodically review NWPs and their conditions and will decide to modify, reissue, or revoke the permits. If a NWP is not modified or reissued within five years of its effective date, it automatically expires and becomes null and void. It is incumbent upon you to remain informed of any changes to the NWPs. Changes to the NWPs would be announced by Public Notice posted on our website (<http://www.spn.usace.army.mil/Missions/RegulatoryPublicNotices.aspx>). Upon completion of the project and all associated mitigation requirements, you shall sign and return the Certification of Compliance (enclosure 2) verifying that you have complied with the terms and conditions of the permit.

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

General Condition 18 stipulates that project authorization under a NWP does not allow for the incidental take of any federally-listed species in the absence of a biological opinion (BO) with incidental take provisions. As the principal federal lead agency for this project, the Corps initiated consultation with the United States Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) to address project related impacts to listed species, pursuant to Section 7(a) of the Endangered Species Act of 1973, as amended (16 U.S.C. § 1531 *et seq.*). By letter of April 27, 2017, (enclosure 3) the USFWS appended the project to the June 18, 2014, Programmatic Biological Opinion for Issuance of Permits under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act, including Authorization Under 22 Nationwide Permit, for Projects that May Affect the Threatened California Red-Legged Frog in Nine San Francisco Bay Area Counties, California, (FF08ESMF00-2014-F-0389) cited in enclosure 4, with an incidental take statement for California red-legged frog (*Rana draytonii*). The USFWS also concurred with the determination that the project is not likely to adversely affect tidewater goby (*Eucyclogobius newberryi*), San Mateo woolly sunflower (*Eriophyllum latilobum*), and San Francisco garter snake (*Thamnophis sirtalis tetrataenia*). By electronic mail correspondence of June 20, 2016, NMFS concurred with the determination that the project is not likely to adversely affect the Central California Coast steelhead (*Oncorhynchus mykiss*) and the Central California Coast evolutionarily significant unit of the Coho salmon (*Oncorhynchus kisutch*) and that the project may be covered under a programmatic concurrence letter dated August 13, 2013 (enclosure 5).

The Corps also initiated consultation with NMFS to address project related impacts to Essential Fish Habitat (EFH) for various life stages of fish species managed with the Pacific Coast Salmon Fishery Management Plan, pursuant to Magnuson-Stevens Fishery Conservation and Management Act of 1996, as amended (16 U.S.C. § 1801 *et seq.*). NMFS also concurred that the project may be covered by EFH conservation measures in a programmatic concurrence letter dated July 17, 2013 (enclosure 6).

In order to ensure compliance with this NWP authorization, the following special conditions shall be implemented:

1. To remain exempt from the prohibitions of Section 9 of the Endangered Species Act, the non-discretionary Terms and Conditions for incidental take of federally-listed California red-legged frog (*Rana draytonii*) shall be fully implemented as stipulated in the Biological Opinion entitled, "Programmatic Biological Opinion for Issuance of Permits under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act, including Authorizations Under 22 Nationwide Permits, for Project that May Affect the Threatened California Red-Legged Frog in Nine San Francisco Bay Area Counties, California" (pages 4-10) dated June 18, 2014 (enclosure 4). Project authorization under the NWP is conditional upon compliance with the mandatory terms and conditions associated with incidental take. Failure to comply with the

terms and conditions for incidental take, where a take of a federally-listed species occurs, would constitute an unauthorized take and non-compliance with the NWP authorization for your project. The USFWS is, however, the authoritative federal agency for determining compliance with the incidental take statement and for initiating appropriate enforcement actions or penalties under the Endangered Species Act.

2. The USFWS concurred with the determination that the project was not likely to  adversely affect California red-legged frog, tidewater goby, San Mateo woolly sunflower, and San Francisco garter snake. In addition, NMFS concurred with the determination that the project was not likely to adversely affect the Central California Coast steelhead and the Coho salmon's Central California Coast evolutionarily significant unit and critical habitat for these species. This concurrence was premised, in part, on project work restrictions outlined in enclosures 3, 4, 5, and 6 respectively. These work restrictions are incorporated as special conditions to the NWP authorization for your project to ensure unauthorized incidental take of species and loss of critical habitat does not occur.
3. Incidents where any individuals of Central California Coast steelhead (*Oncorhynchus mykiss*) or the Central California Coast evolutionarily significant unit of the Coho salmon (*Oncorhynchus kisutch*) listed by NOAA Fisheries under the Endangered Species Act appear to be injured or killed as a result of discharges of dredged or fill material into waters of the United States or structures or work in navigable waters of the United States authorized by this NWP shall be reported to NOAA Fisheries, Office of Protected Resources at (301) 713-1401 and the Regulatory Office of the San Francisco District of the U.S. Army Corps of Engineers at (415) 503-6795. The finder should leave the animal alone, make note of any circumstances likely causing the death or injury, note the location and number of individuals involved and, if possible, take photographs. Adult animals should not be disturbed unless circumstances arise where they are obviously injured or killed by discharge exposure, or some unnatural cause. The finder may be asked to carry out instructions provided by NOAA Fisheries, Office of Protected Resources, to collect specimens or take other measures to ensure that evidence intrinsic to the specimen is preserved.
4. The Corps initiated consultation with NMFS to address project related impacts to Essential Fish Habitat. The conservation recommendations outlined on pages 25 to 28 of enclosure 6 shall be fully implemented as stipulated.
5. All standard Best Management Practices shall be implemented to prevent the movement of sediment downstream. No debris, soil, silt, sand, bark, slash, sawdust, cement, concrete, washings, petroleum products, or other organic or earthen material shall be

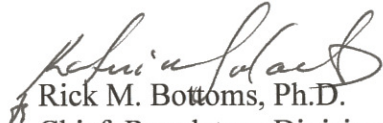
allowed to enter into or be placed where it may be washed by rainfall or runoff into the waterways.

6. A post construction report shall be submitted 45 days after the conclusion of construction activities. The report shall document construction activities and contain as-built drawings (if different from drawings submitted with application) and include before and after photos.

You may refer any questions on this matter to Myla Ablog of my Regulatory staff by telephone at (415) 503-6732 or by e-mail at Myla.A.Ablog@usace.army.mil. All correspondence should be addressed to the Regulatory Division, South Branch, referencing the file number at the head of this letter.

The San Francisco District is committed to improving service to our customers. My Regulatory staff seeks to achieve the goals of the Regulatory Program in an efficient and cooperative manner, while preserving and protecting our nation's aquatic resources. If you would like to provide comments on our Regulatory Program, please complete the Customer Service Survey Form available on our website: <http://www.spn.usace.army.mil/Missions/Regulatory.aspx>

Sincerely,


Rick M. Bottoms, Ph.D.
Chief, Regulatory Division

Enclosures

Copy Furnished (w/ encl 1 only):

CA RWQCB, Oakland, CA

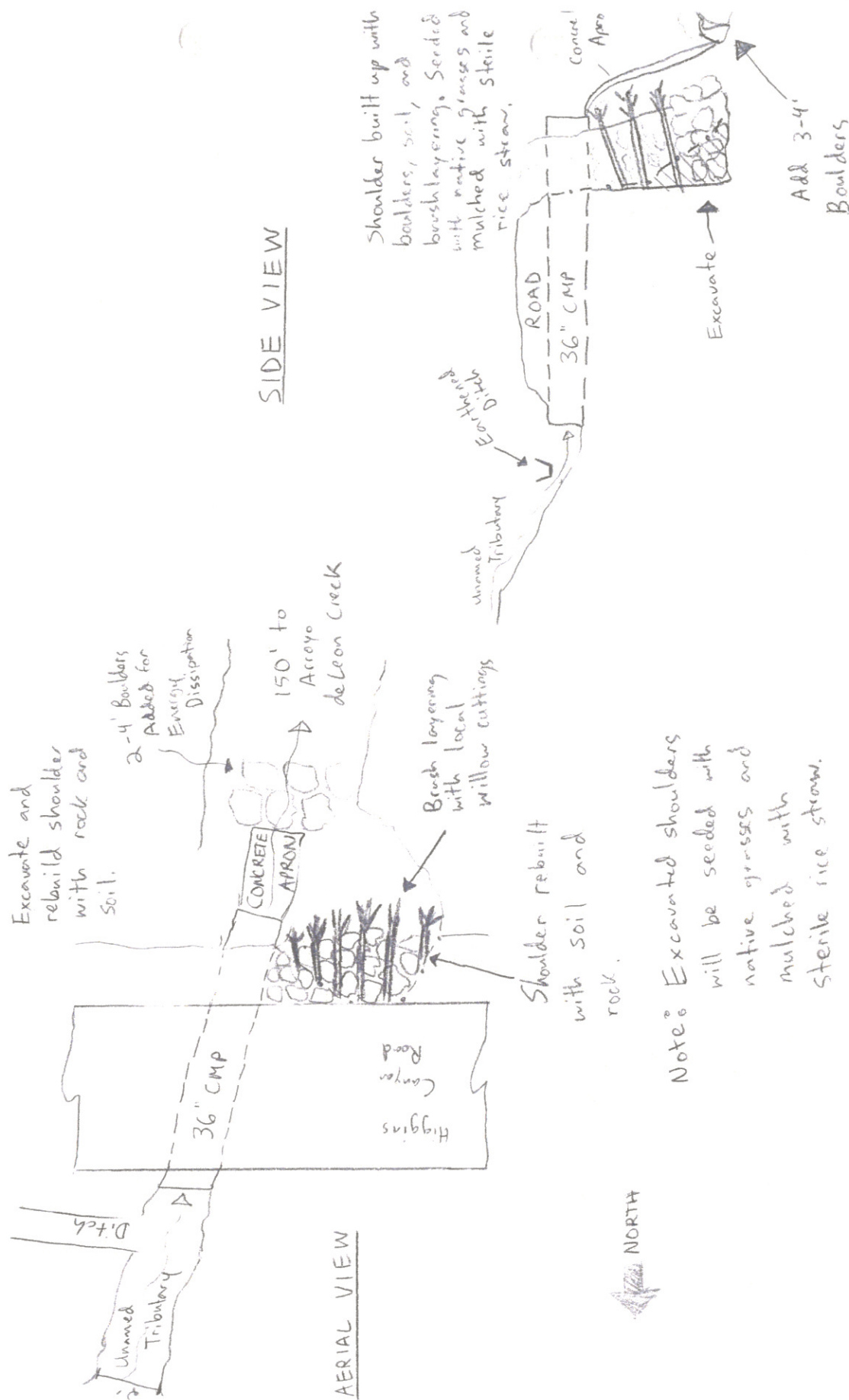
Copies Furnished (w/o encls):

U.S. NMFS, Santa Rosa, CA; Attn: Joel Casagrande

U.S. FWS, Sacramento, CA; Attn: Leif Goude

Figure 12. HIGGINS CANYON #1 PROJECT SITE - **SURF-OUT REPAIR**
(0.7 MILES EAST OF HIGHWAY 1)

PROPOSED REPAIRS

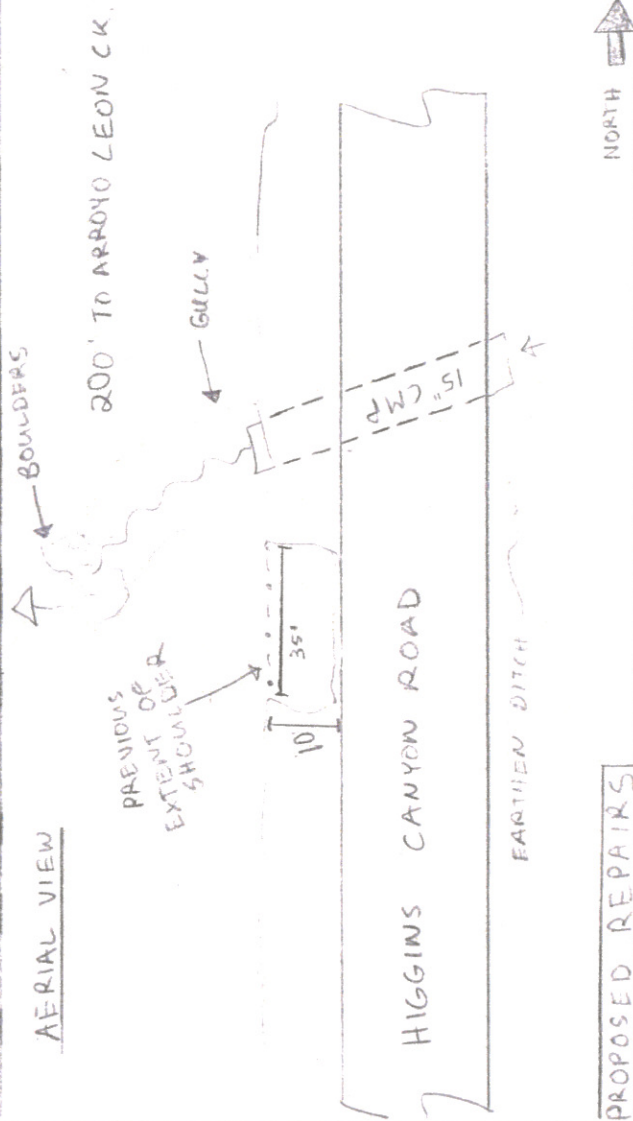


Note: Excavated shoulders will be seeded with native grasses and mulched with sterile rice straw.

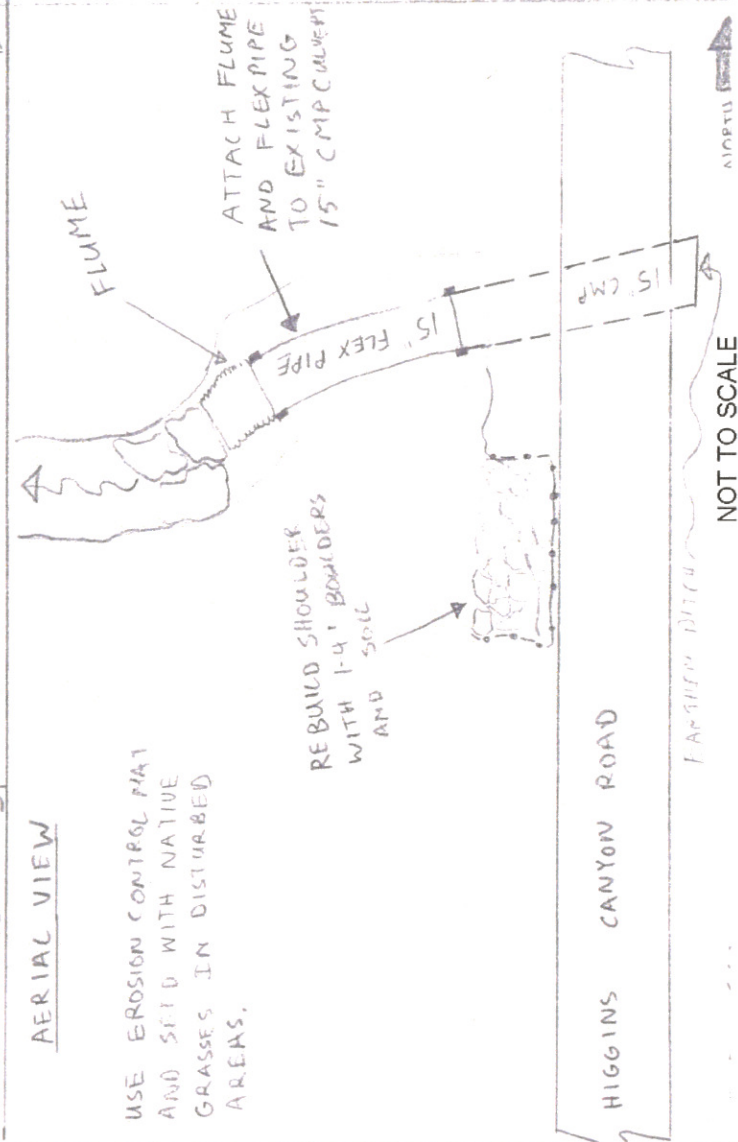
NOT TO SCALE

FIGURE 13. HIGGINS CANYON #2 PROJECT SITE - SUPPORT REPAIR AND FIERPIPE ADD ON (1.8 MILES EAST OF HIGHWAY 1)

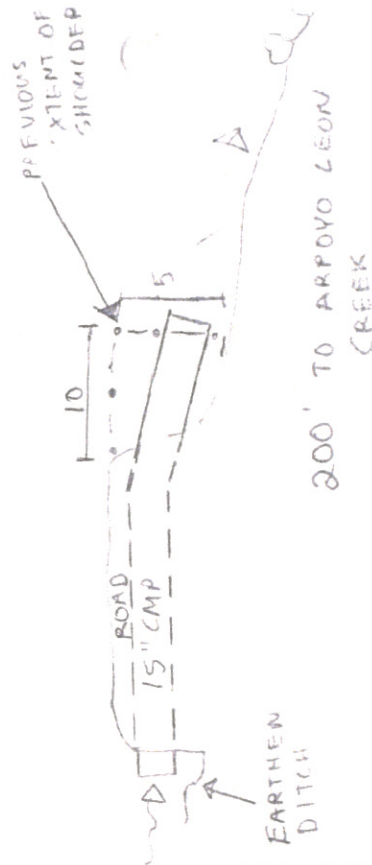
EXISTING CONDITIONS



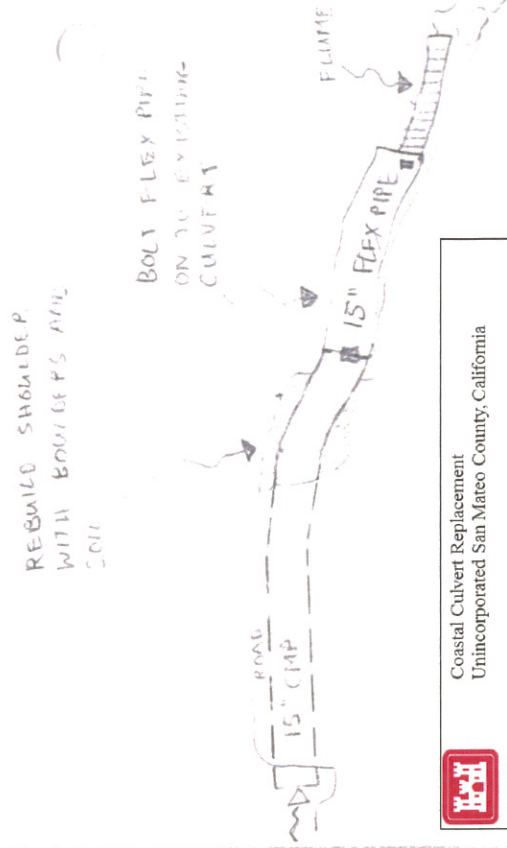
PROPOSED REPAIRS



PROFILE VIEW



PROFILE VIEW



U.S. Army
Corps of Engineers
San Francisco District
Regulatory Division

Coastal Culvert Replacement
Unincorporated San Mateo County, California

Overall Project Site Plan

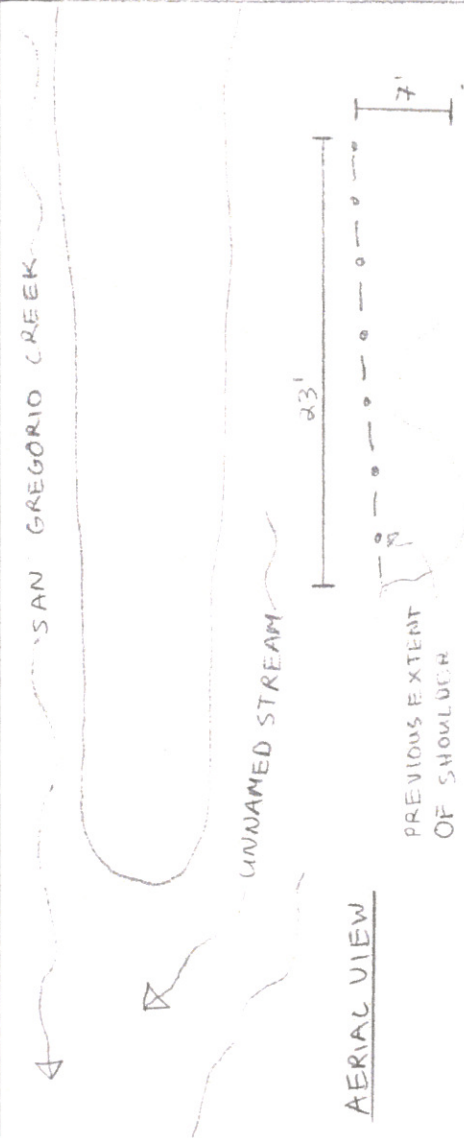
File ID: 2014-00249S

Date: June 6, 2017

Sheet 2 of 7

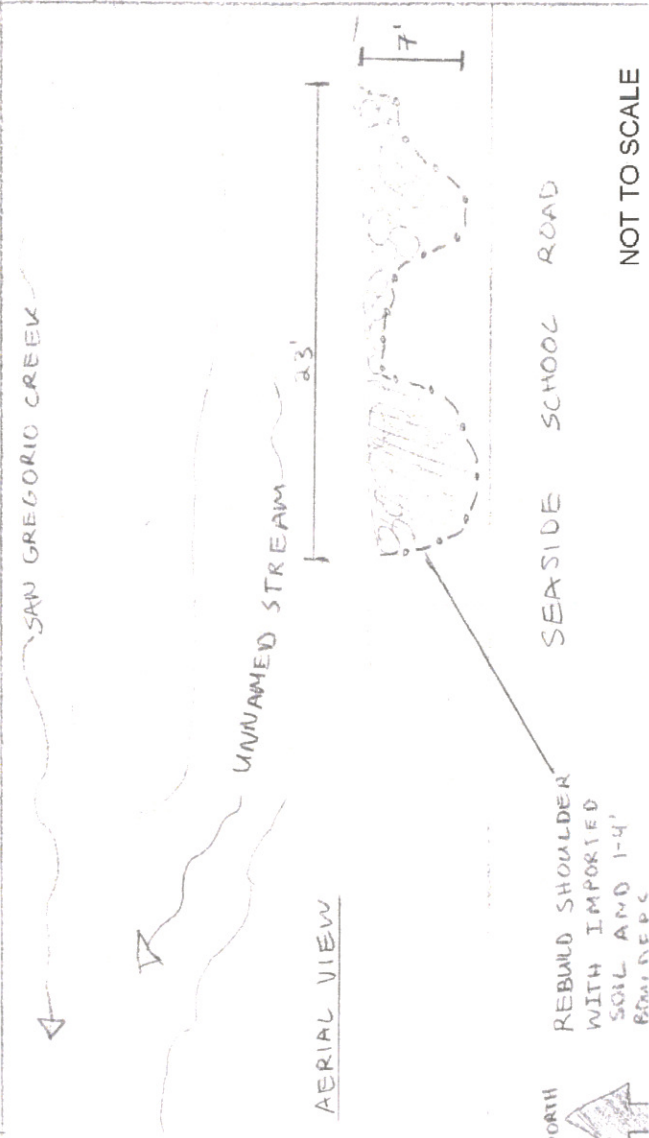
FIGURE 14 SEASIDE SCHOOL PROJECT SITE - SLIPOUT #1 REPAIR

EXISTING CONDITIONS

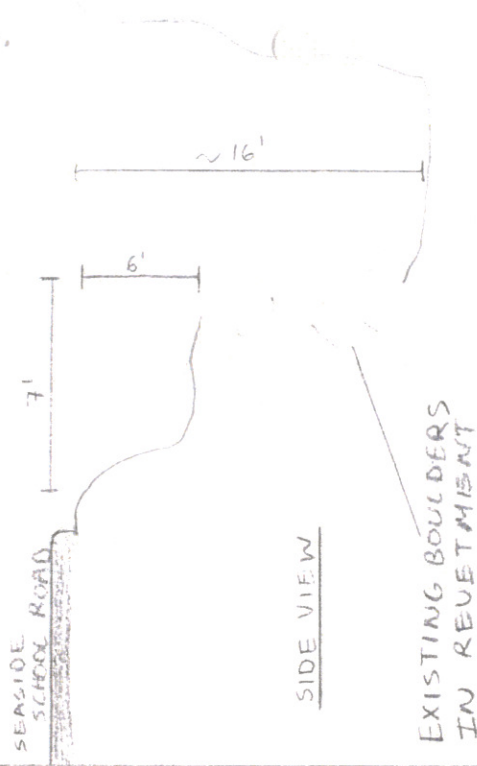


AERIAL VIEW

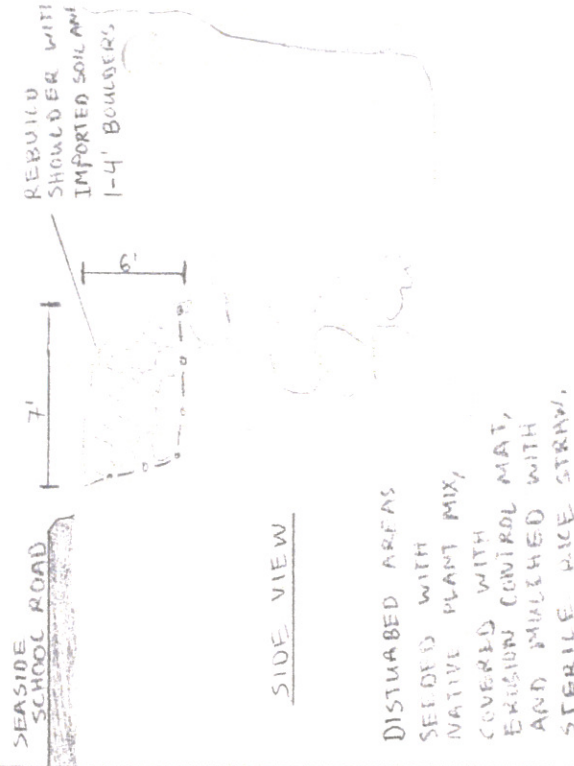
PROPOSED REPAIRS



AERIAL VIEW



SIDE VIEW



SIDE VIEW



U.S. Army
Corps of Engineers
San Francisco District
Regulatory Division

Coastal Culvert Replacement
Unincorporated San Mateo County, California

Overall Project Site Plan

File ID: 2014-00249S

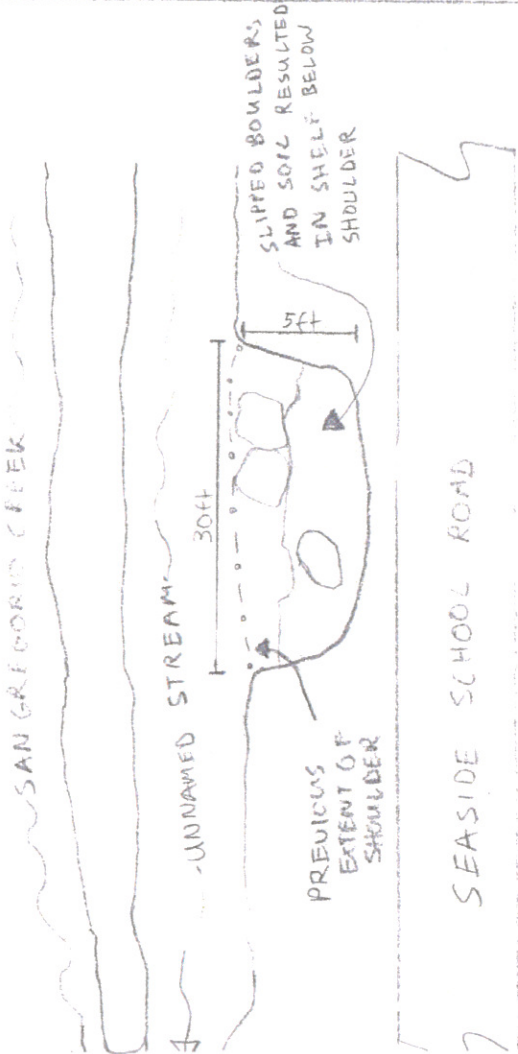
Date: June 6, 2017

Sheet 3 of 7

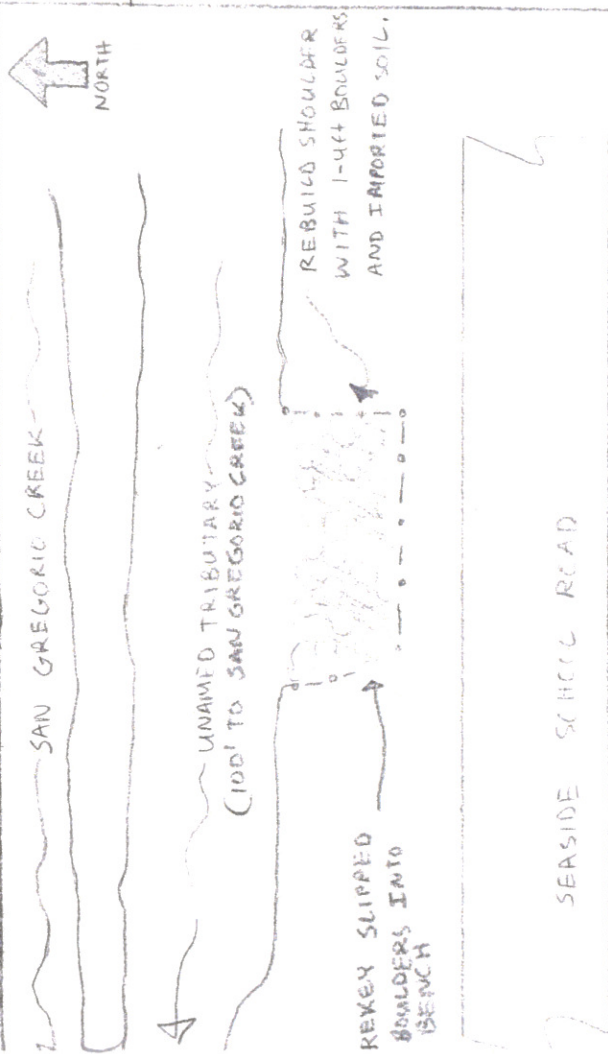
NOT TO SCALE

FIGURE 15. SEASIDE SCHOOL PROJECT SITE - SLIPOUT #2 REPAIR

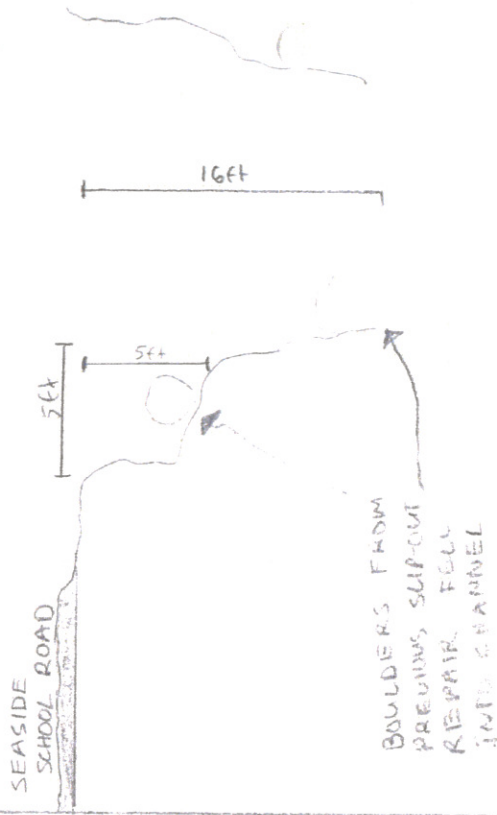
EXISTING CONDITIONS



AERIAL VIEW



AERIAL VIEW



SIDE VIEW



NOT TO SCALE



U.S. Army
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San Francisco District
Regulatory Division

Coastal Culvert Replacement
Unincorporated San Mateo County, California

Overall Project Site Plan

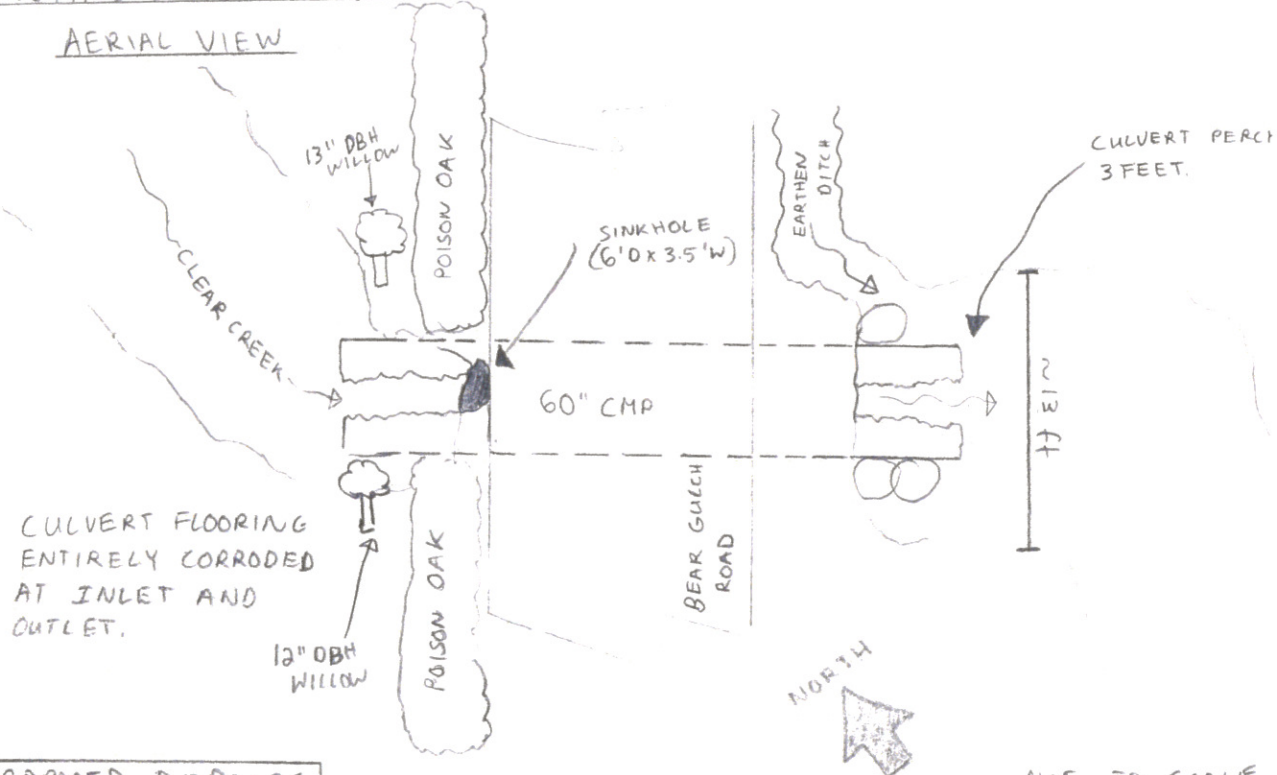
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Date: June 6, 2017

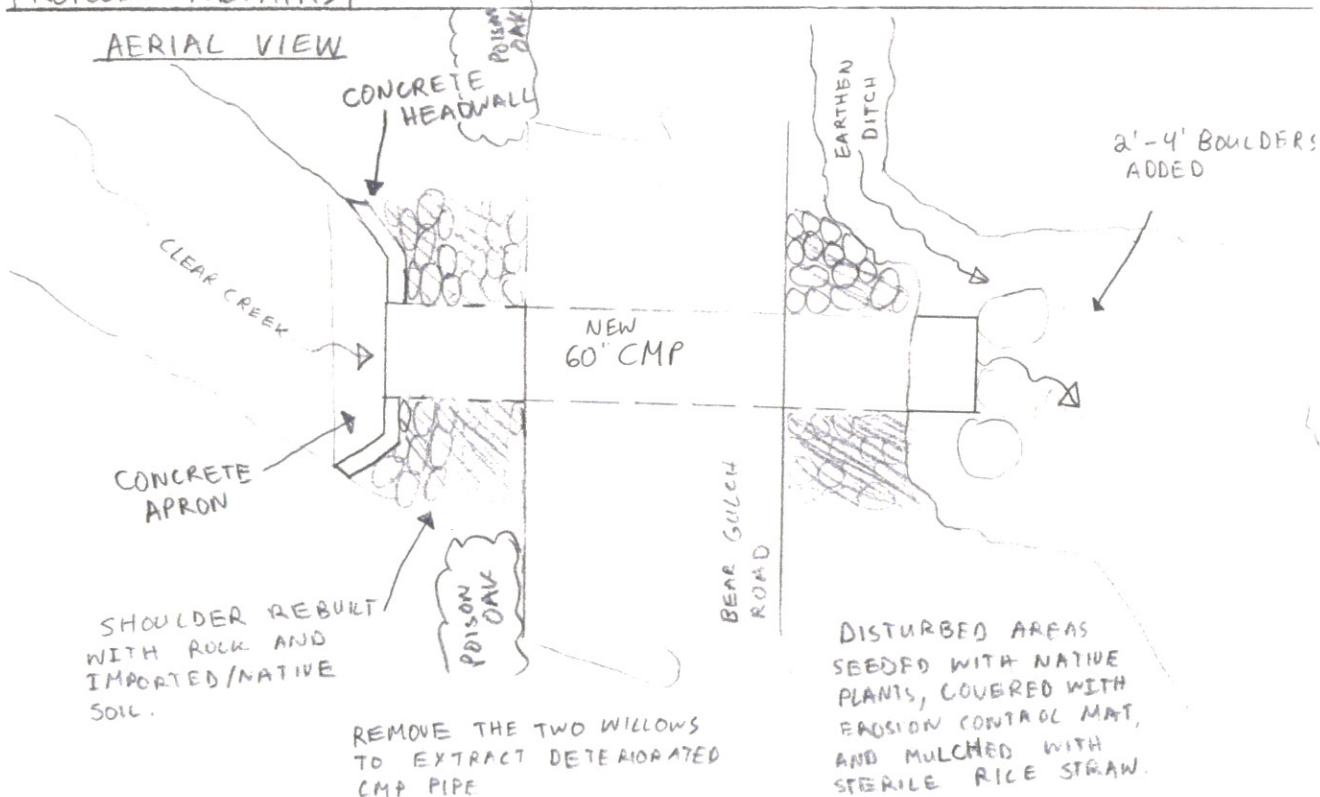
Sheet 4 of 7

FIGURE 16. BEAR GULCH PROJECT SITE - CULVERT REPLACEMENT

EXISTING CONDITIONS



PROPOSED REPAIRS



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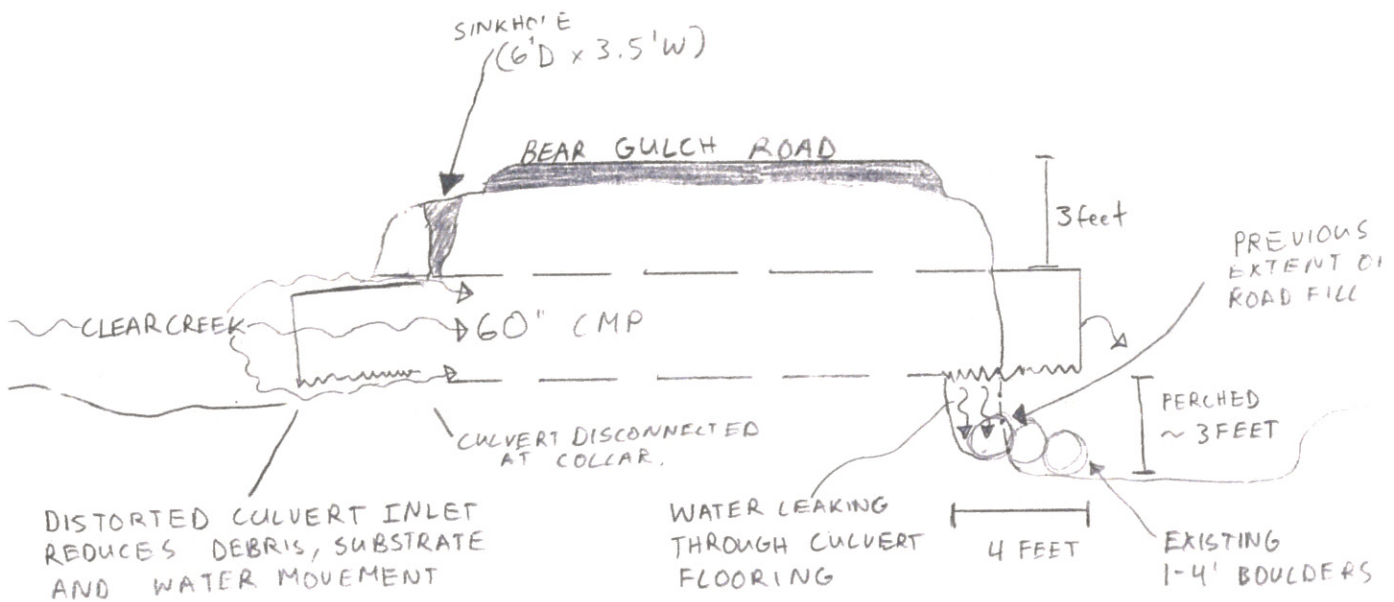
Coastal Culvert Replacement
Unincorporated San Mateo County, California

Overall Project Site Plan

FIGURE 17. BEAR GULCH PROJECT SITE - CULVERT REPLACEMENT

EXISTING CONDITIONS

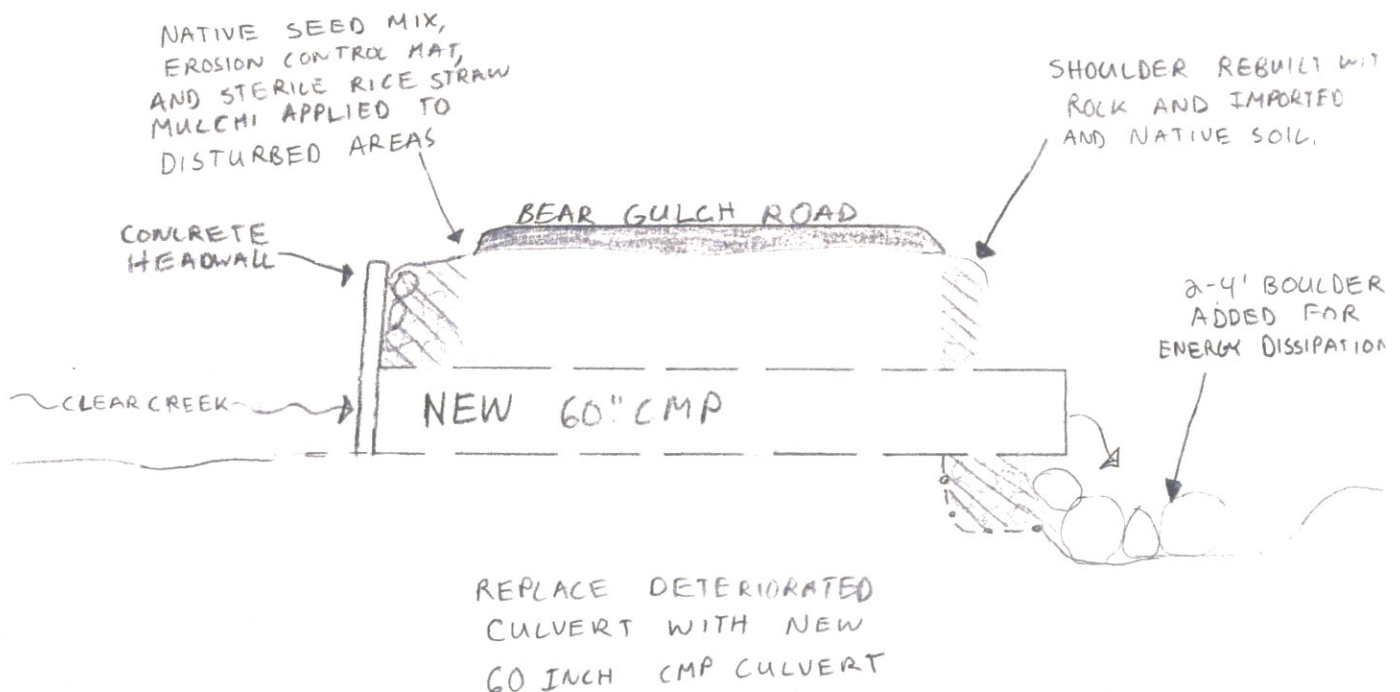
SIDE VIEW



PROPOSED REPAIRS

NOT TO SCALE

SIDE VIEW



U.S. Army
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Regulatory Division

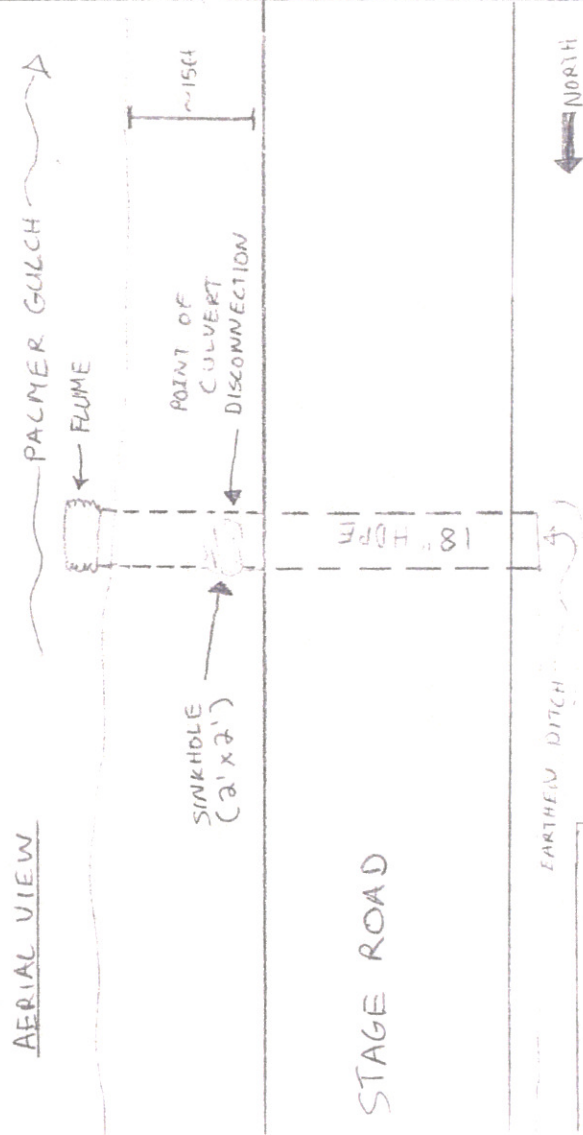
Coastal Culvert Replacement
Unincorporated San Mateo County, California

Overall Project Site Plan

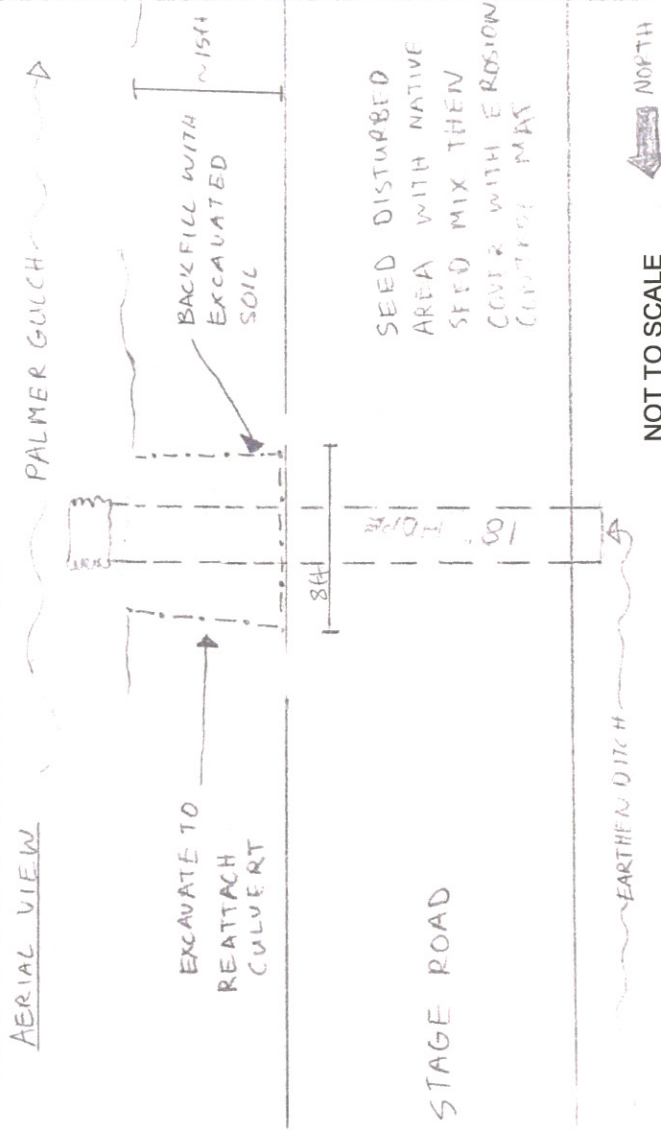
FIGURE 18. STAGE #1 PROJECT SITE - CULVERT REATTACHMENT (300ft NORTH OF HIGHWAY 84)

EXISTING CONDITIONS

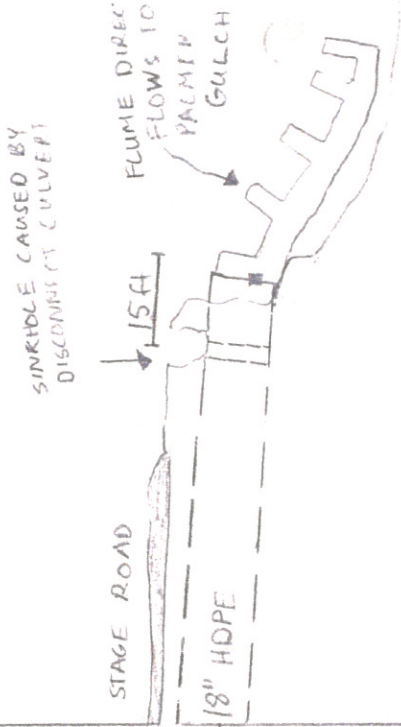
AERIAL VIEW



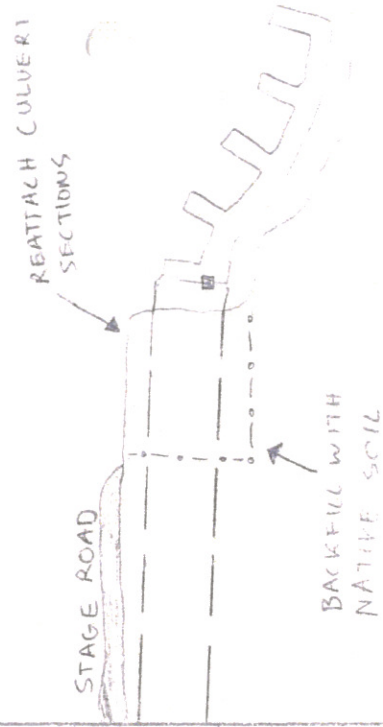
PROPOSED REPAIRS



SIDE VIEW



SIDE VIEW



U.S. Army
Corps of Engineers
San Francisco District
Regulatory Division

Coastal Culvert Replacement
Unincorporated San Mateo County, California

Overall Project Site Plan

File ID: 2014-00249S

Date: June 6, 2017

Sheet 7 of 7

NOT TO SCALE



Enclosure 2

Permittee: Michael Huynh, County of San Mateo Department of Public Works

File Number: 2014-00249S

**Certification of Compliance
for
Nationwide Permit**

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

(Permittee)

(Date)

Return to:

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

**U.S. Army Corps of Engineers
Proposed Additional Procedures and Criteria for Permitting
Projects Under a Programmatic Determination of
Not Likely to Adversely Affect Select Listed Species in California
(the 2013 NLAA Program)**

The U.S. Army Corps of Engineers (USACE) South Pacific Division and NOAA's National Marine Fisheries Service (NMFS) Southwest Region have jointly developed the following procedures and project criteria for USACE-permitted projects (2013 NLAA Program). The USACE believes adoption of these procedures and project criteria by the San Francisco and Sacramento District's Regulatory Branches in California will ensure that the proposed projects in the geographic areas within California described here are not likely to adversely affect the 20 listed species, distinct population segments (DPS), or evolutionarily significant units (ESU) (covered species) or their designated critical habitat in California. These procedures and criteria are part of the basis for USACE's request to NMFS for concurrence with the USACE's "is not likely to adversely affect" programmatic determination for the project types described in this document and referred to as the 2013 NLAA Program. The USACE will use these procedures and criteria for applicable projects for five years as described below.

The USACE has included criteria to protect both listed and non-listed marine mammals to avoid "take" of these protected species, per the Marine Mammal Protection Act (MMPA).

Procedural Overview:

- 1) Following concurrence on this programmatic determination from NMFS, the USACE will not need to initiate informal consultation for proposed projects that meet the criteria described below. For each project proposed for inclusion under the 2013 NLAA Program, the USACE will record and provide the following information to NMFS: the project location (latitude and longitude in decimal degrees and datum used; county; waterbody name; nearest public road); project type; brief project description, and the USACE's determination and rationale for how the project meets the appropriate criteria described below.

Notification requirements. The USACE will provide NMFS the above project-specific information at least six weeks prior to permit issuance. USACE permit applicants will be required to provide USACE and NMFS 4 week notice prior to project construction. Notification to NMFS by USACE and permit applicants can be an electronic mail or fax to specified contacts in NMFS Area Offices based on the location of the proposed project:

Northern California Office: Irma Lagomarsino, NMFS, 1655 Heindon Road, Arcata, CA 95521; Irma.Lagomarsino@noaa.gov; fax: (707)-825-4840.

Central California Coast Office: Gary Stern, NMFS, 777 Sonoma Ave, Room 325, Santa Rosa, CA 95404; Gary.Stern@noaa.gov; fax: (707) 575-6050.

Central Valley Office: Jeff McLain, NMFS, 650 Capitol Mall, Suite 5-100, Sacramento, CA 95814; Jeff.McLain@noaa.gov; fax: (916) 930-3629.

Projects that may affect marine mammals or sea turtles: Tina Fahy, NMFS, 501 West Ocean Blvd, Suite 4200, Long Beach, CA 90802; Christina.Fahy@noaa.gov; fax: (562) 980-4027.

The USACE 6-week notification does not require a response from NMFS for a project to proceed; however, if NMFS has concerns with the project after receiving the 6-week notification, NMFS will contact USACE within 28 days of receipt with any listed species or critical habitat concerns, including whether the proposed project qualifies for the 2013 NLAA Program. The 4 week notifications are for project tracking.

- 2) If the USACE or NMFS determines that a project does not meet the “not likely to adversely affect” project criteria below, or if there are species or critical habitat within the action area that are not listed below as covered in the 2013 NLAA Program, the USACE will make an effects determination(s) and will initiate consultation (either formal or informal, as appropriate) with NMFS if the project may affect listed species or critical habitat as per 50 CFR 402.
- 3) Projects with interrelated and/or interdependent actions that may affect a covered species or critical habitat are not covered under the 2013 NLAA Program. “Interrelated actions” are those that are part of a larger action and depend on the larger action for their justification. “Interdependent actions” are those that have no independent utility apart from the action under consideration. USACE will need to consult separately for projects with interrelated or interdependent actions.
- 4) USACE will contact NMFS prior to permit issuance for those projects where technical assistance for fish passage, species presence, or grade control impacts on fish habitat is required as part of the project criteria below. Contact shall be made as early as possible to avoid project delay.
- 5) USACE expects that NMFS will provide USACE with the most recent *Federal Register* notices and other relevant documents pertaining to covered species’ location, distribution, timing, habitat requirements, and current information regarding critical habitat delineation and primary constituent elements.
- 6) USACE will annually meet with NMFS, and as needed, to evaluate and discuss the continued effectiveness of these procedures and criteria for avoiding adverse effects to covered species and critical habitat, and to update procedures, project design criteria, and maps, if necessary. The annual meeting will occur on or before May 1st of each year.

The programmatic determination is effective for five years. USACE and NMFS may end this programmatic determination at any time or reinstate the programmatic informal consultation if either determines that it is not being implemented as intended, or if new

information requires reinitiation of consultation. For example NMFS may revoke their programmatic concurrence if USACE fails to provide annual reports. NMFS may also revoke any programmatic concurrence provided for individual projects at any time. .

Annual reporting requirements. Each year no later than May 1st, the USACE will provide a table to NMFS identifying the following in regard to projects USACE permitted under the 2013 NLAA Program the previous year:

- project type,
- description of action,
- USACE file number,
- location coordinates (latitude, longitude, and datum),
- permittee,
- waterway,
- county,
- listed species and designated critical habitat in the action area,
- status of construction (not constructed, under construction, or completed) and
- USACE's determination and rationale for how each project met the "not likely to adversely affect" criteria.
- date of project implementation and duration of each project that USACE authorized under the 2013 NLAA Program.
- status of projects that were not implemented that year.

If adaptive measures to this agreement are necessary, they will be explored during the annual meeting described above. The annual report to NMFS will be submitted to Rosalie del Rosario, NMFS, 501 West Ocean Blvd, Suite 4200, Long Beach, CA 90802; Rosalie.delRosario@noaa.gov; fax (562) 980-4027.

- 7) As requested by USACE, NMFS will provide training to USACE staff on effects determinations and the application of these procedures and guidelines. Training will be made available to regulatory project managers through workshops, or web-based training, or other appropriate forums, no more than twice per year.

Description of Proposed Projects

This proposed programmatic determination covers seven (7) types of projects as listed below. The action area is a large portion of the of California, and covers the species listed below (collectively referred to as covered species) and any critical habitat designated for those species. USACE will use a variety of permits to authorize projects under this programmatic determination, including Nationwide Permits, other forms of general permits (i.e. Regional General Permits), or individual permits such as a Letter of Permission or Standard Permit.

The following types of projects may be eligible for coverage under this programmatic NLAA determination:

1. Bank Stabilization
2. Boat Docks, Piers, and Wharfs
3. Bridge Repair/Widening/Replacement
4. Culvert Replacement/Upgrade
5. Levee Maintenance
6. Buoys, Floats, and Other Devices to Facilitate Mooring of Vessels
7. Pipeline Repair or Replacement

Covered Species and Critical Habitat

This programmatic determination applies to the list of species below and to their designated critical habitats, as applicable. Critical habitat has been designated for some of the species on the following lists. This programmatic determination also covers a species' critical habitat when an asterisk (*) is included after the species name. ESA-listed Pacific eulachon and white and black abalone are not included in this program because it is unclear how several project types under this programmatic determination may affect these three species.

NMFS Covered Species and Critical Habitats

Fish

Chinook Salmon (<i>Oncorhynchus tshawytscha</i>)	Sacramento River winter-run ESU*	Endangered
	Central Valley spring-run ESU*	Threatened
	California Coastal ESU*	Threatened
Coho Salmon (<i>Oncorhynchus kisutch</i>)	Central California Coast ESU*	Endangered
	S. Oregon/N. CA Coast ESU*	Threatened
Steelhead (<i>Oncorhynchus mykiss</i>)	South-Central California DPS*	Threatened
	Central California Coast DPS*	Threatened
	California Central Valley DPS*	Threatened
	Northern California DPS*	Threatened
Green Sturgeon (<i>Acipenser medirostris</i>)	Southern DPS*	Threatened

Marine Mammals

Blue whale (<i>Balaenoptera musculus</i>)	Endangered
Fin whale (<i>Balaenoptera physalus</i>)	Endangered
Humpback whale (<i>Megaptera novaeangliae</i>)	Endangered
Sei whale (<i>Balaenoptera borealis</i>)	Endangered
Sperm whale (<i>Physeter macrocephalus</i>)	Endangered
Western North Pacific grey whale (<i>Eschrichtius robustus</i>)	Endangered

Steller sea lion - eastern DPS (<i>Eumetopias jubatus</i>) ¹	Threatened
Killer whales - southern resident DPS (<i>Orcinus orca</i>) ¹	Endangered
North Pacific right whale (<i>Eubalaena japonica</i>) ¹	Endangered
Guadalupe fur seals (<i>Arctocephalus townsendi</i>)	Threatened

¹ Critical habitat has been designated for this species but this critical habitat is not included in this programmatic determination. Projects proposed to occur in this critical habitat will be evaluated by the USACE. USACE will make an effects determination and will initiate consultation for each project (either formal or informal, as appropriate) with NMFS if the project may affect critical habitat for this species as per 50 CFR 402.

Note: Encountering sea turtles within the coastal portions of the 2013 Program area is unlikely but possible. USACE will make an effects determination and will initiate separate consultation (formal or informal, as appropriate) for any project that may affect listed sea turtles or their critical habitat within (or outside of) the Program area.

Project Design Criteria

USACE and NMFS developed project design criteria for seven project types described below based on past consultations and technical assistance (including the last five years of programmatic concurrence). Projects that do not fit into the seven types will not be included in this 2013 NLAA Program. For example, shoreline stabilization within a tidal environment (as opposed to freshwater stream bank stabilization) and breakwaters are not included.

The project design criteria below must be followed for a project to be part of USACE's programmatic NLAA determination. Criteria for all projects are listed first, followed by specific criteria for each project type. Projects deviating from the criteria require individual informal or formal consultation if they may affect listed species or designated critical habitats as per 50 CFR 402. USACE has determined the projects included under this programmatic determination are not likely to adversely affect listed species individually or as a whole because: 1) the projects will be implemented at a time when listed species are not likely to be present in the action area; or 2) the projects will be implemented in a manner to minimize exposure of threats to listed species and/or critical habitat and the response of any exposed individuals is expected to be discountable or insignificant. Similarly, USACE has determined the projects included under this programmatic determination are not likely to adversely affect the critical habitats of the listed species because: 1) the projects will be implemented in areas not designated as critical habitats for these species, or 2) the projects will be implemented in a manner to minimize exposure of primary constituent elements or essential features of critical habitat such that the response of any exposed elements or features is expected to be discountable or insignificant.

As described below, for some projects the USACE will provide additional information to NMFS and/or obtain technical assistance and confirmation for some specific project types.

A. CRITERIA FOR ALL PROJECT TYPES UNDER THE USACE's NLAA PROGRAMMATIC DETERMINATION.

The project design criteria differentiate among some California areas in the 2013 NLAA Program based on species biological requirements, species vulnerability to project effects, and differing landscapes. The three main geographic areas used in the project design criteria correspond to NMFS Area Office jurisdictions and are as follows:

Northern California Coast: Oregon border south to the Humboldt-Mendocino County line, including the counties of Del Norte, Siskiyou, Trinity, and Humboldt.

Central California Coast: Humboldt-Mendocino County line south to Monterey-San Luis Obispo County line and includes San Francisco Bay eastward to Chipps Island. The Central California Coast includes the entire Salinas River watershed.

Central Valley: Interior California watersheds that drain to the Sacramento and San Joaquin Rivers, the mainstem Sacramento and San Joaquin Rivers, the Sacramento-San Joaquin Delta, and lower mainstem Sacramento River to Chipps Island.

Sub-areas within these jurisdictions are also listed below, these are:

San Francisco Bay: The eastern most extent of San Francisco Bay corresponds with the USACE San Francisco District's jurisdiction (ends at Chipps Island) and includes San Pablo Bay, the Carquinez Strait, Grizzly Bay, and Suisun Bay. River mouths within the Bay (except for the Sacramento-San Joaquin Delta) are included up to the extent of tidal influence (i.e., contains at least some salt or brackish water at some times). The western extent of the Bay ends at the Golden Gate Bridge.

Estuary: Any partially enclosed (by natural land formation) body of water that has one or more rivers flowing into it. The upstream extent of an estuary is the area of a river mouth influenced by tidal flows (i.e., contains at least some salt or brackish water at some times).

Bay: A body of water partially enclosed by land. Only bays named on standard USGS topographic maps are considered bays under the 2013 NLAA Program.

Coastal marine areas: Areas outside of estuaries or bays along the California coast from mean high tide to 3 miles offshore.

Delta: The Sacramento-San Joaquin Delta as defined by the California Water Code, Section 12220.

There are special timing restrictions that apply to streams with California Coastal (CC) Chinook salmon. USACE staff will contact NMFS Area Offices for information if a stream contains CC

Chinook salmon. For general reference, maps of species distribution are located at the following URL's:

<http://www.nwr.noaa.gov/ESA-Salmon-Listings/Salmon-Populations/Maps/upload/chincc.pdf>
and
<http://www.nwr.noaa.gov/Salmon-Habitat/Critical-Habitat/Redesignations/upload/SWR-ESU-MAP.pdf>

The following criteria apply to all projects under the 2013 NLAA Program that may affect NMFS Covered Species:

1. No large woody debris (LWD) will be removed in active (wetted) channels. Trees may be removed for access routes for construction equipment. If trees need to be removed from other portions of the project site, do not remove willows over 3 inches in diameter at breast height or reduce canopy cover provided by hardwoods or conifers. Replant any trees removed to achieve 1:1 successful revegetation by one of the following methods: a) trees removed can be replanted at 3:1, or b) site can be monitored for 2 years and replanted until 1:1 successful revegetation is achieved.
2. Limit new access routes requiring tree removal and grading to no more than two. Access routes should not be along the top of the stream bank but relatively perpendicular (45 to 90 degrees is acceptable) to bank.
3. Where available, use existing ingress or egress points, or perform work from the top of the stream banks.
4. Check heavy equipment daily for leaks. Do not use equipment until leak is fixed.
5. Refuel outside of active stream channel or above ordinary high water at designated sites.
6. A Spill Prevention and Control Plan shall be created, and the Plan and all materials necessary to implement shall be accessible on site.
7. No work during wet weather or where saturated ground conditions exist; if a 60% chance of a one half inch of rain or more within a 24-hour period is forecasted, then operations will cease until 24 hours after rain has ceased.
8. Petroleum products, chemicals, fresh cement, or water contaminated by the aforementioned shall not be allowed to enter flowing waters.
9. Adequate erosion control supplies (gravel, straw bales, shovels, etc.) shall be stored on site.
10. Any disturbed ground must receive appropriate erosion control treatment (mulching, seeding, planting, etc.) prior to the end of the construction season, prior to a cease of operations due to forecasted wet weather, and within seven days of Project completion.

Operations will use all feasible techniques to prevent any sediment from entering a drainage system.

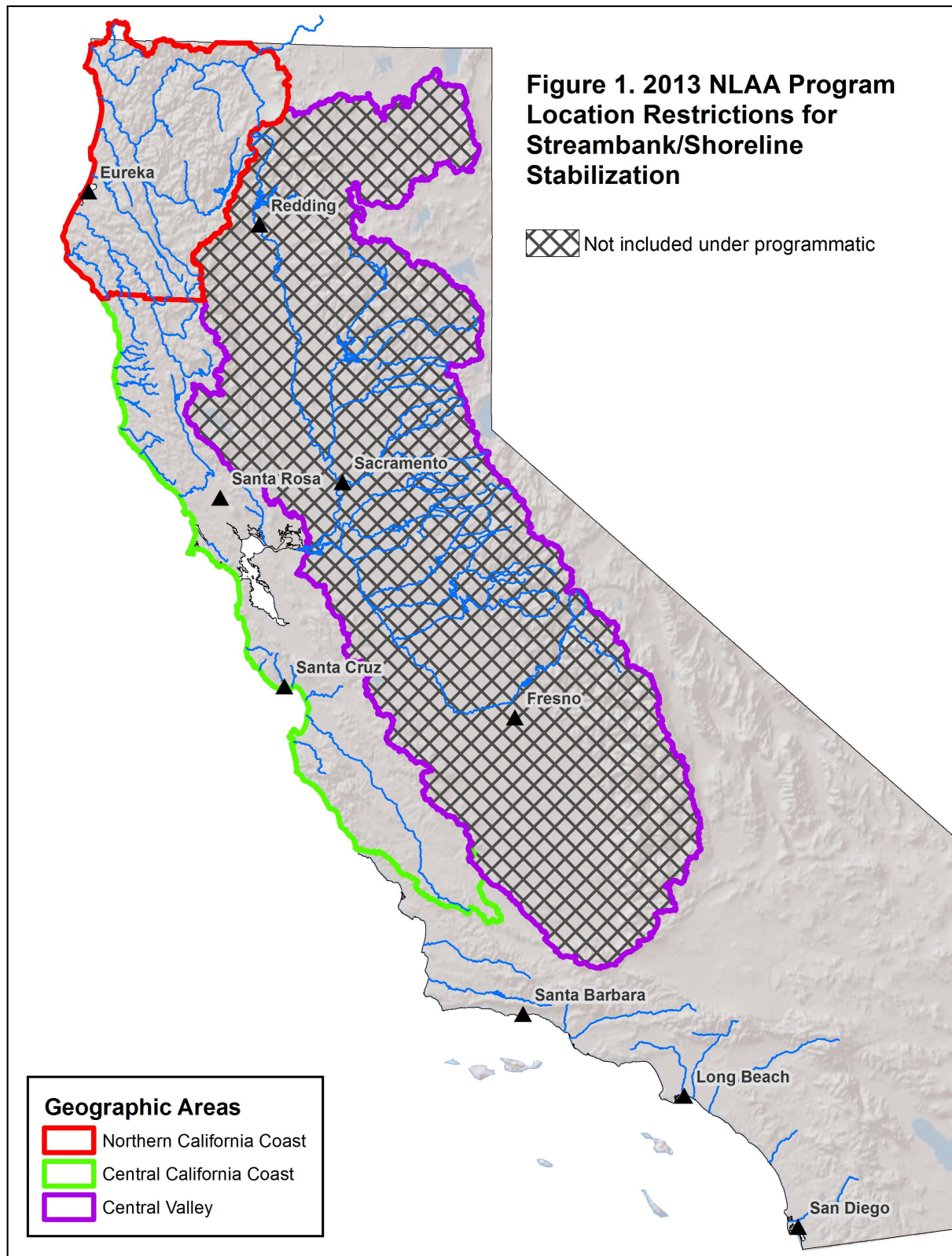
11. Work pads, falsework, and other construction items will be removed from the 100 year floodplain by the end of the construction window.
12. In areas expected or forecasted to get rainfall during the construction season, effective erosion control measures shall be in place at all times during construction activities. Construction within the 5-year floodplain does not begin until all temporary erosion controls (e.g., straw bales, silt fences that are effectively keyed in) are in place, downslope of project activities within the riparian area. Erosion control structures shall be maintained throughout, and possibly after, construction activities. Sediment shall be removed from sediment controls once it has reached one-third of the exposed height of the control. Whenever straw bales are used, they shall be staked and dug into the ground 12 cm. Catch basins shall be maintained so that no more than 15 cm of sediment depth accumulates within traps or sumps.
13. No projects in freshwater streams may occur during the same summer work season within 1,000 linear feet of each other, or within 1,000 feet of flowing or standing water in a stream. No projects in bays, estuaries, or coastal marine areas may occur within 1,100 feet of each other when pile driving would occur at the same time or with less than 24 hours in-between pile driving episodes for each project. These criteria are intended to avoid accumulation of sediment and turbidity in streams from these projects¹, and accumulation of sound wave energy.
14. Observations of all stranded marine mammals or sea turtles in the vicinity of Project activities should be reported immediately to the NMFS Southwest Region stranding coordinator, Sarah Wilkin ([562-980-3230](tel:562-980-3230)) regardless if there is any association with Project activities or not. In the unlikely event that a marine mammal or sea turtle is injured or killed as a result of any Project activities, the Project shall cease operations immediately and contact the regional stranding coordinator.
15. No fish relocations are permitted.

B. PROJECT-SPECIFIC CRITERIA FOR INCLUSION IN USACE's 2013 NLAA PROGRAM

Project design criteria for NMFS covered species are presented by project category below. Each category starts with a map showing the general areas where projects under that category are included in the 2013 NLAA Program. Following each map, project criteria include prescriptions on work timing, methods and materials approved for use, text description of specific locations where the programmatic determination does or does not apply, and any special notification or assistance requirements beyond the notification requirements described in the Procedural Overview above. In addition, project criteria are intended to ensure projects, individually or combined, are not likely to adversely affect covered species and critical habitat.

¹ Sediment and turbidity from disturbed soils can combine during the first winter rains if projects are too close to each other and occur during the same year.

1. Bank/Shoreline Stabilization



a. General Criteria:

In freshwater streams, the work area and access routes must be outside of flowing or standing water. Dewatering shall not be used to obtain dry conditions. In marine and estuarine areas, if work will occur in water, the following restrictions apply: 1) only repair or replacement of existing bank/shoreline stabilization is allowed, 2) work must be done with heavy equipment stationed on the shoreline or on floating barges, 3) work affecting aquatic habitat must be timed such that work occurs when water is not present, *i.e.*, at or around low tide (see exception for San Francisco Bay below) and, 4) sediment and turbidity containment must be used.

Except for project footprint and access routes, the bed and banks shall be undisturbed.

i. Work Windows:

1. California Coastal (CC) Chinook streams – July 1 through September 15
2. Russian River, including Dry Creek – July 1 through August 15
3. All other listed salmonid streams – June 15 through October 15

ii. Geographic Restrictions:

1. Projects in the Central Valley are not included in the 2013 NLAA Program.
2. In San Francisco Bay, if repair or replacement of shoreline stabilization work will occur in water, work is restricted to industrialized areas where listed species are unlikely to be present and critical habitat is unlikely to provide support for spawning, rearing, or migration. See special notifications below.

iii. Special Notifications and Assistance:

1. If grade control structures on salmonid streams are included, review from NMFS is required to ensure that grade control structures are unlikely to degrade salmonid habitat or impair fish passage. The project design must be submitted to NMFS with the notification package. If work will occur in San Francisco Bay where water is present, the specific location, work materials, methods, and timing, and sediment and turbidity containment methods must be provided to NMFS with the required project notification.

b. Specific Criteria:

i New Bank Stabilization: New bank stabilization refers to areas that did not previously contain any type of manmade structure designed to stabilize the bank or protect against erosion. No new bank stabilization projects are included in marine or estuarine areas.

1. Projects will not exceed 300 linear feet of stream bank or 1,000 square feet in area.
2. Only bioengineering techniques intended to create shaded riverine aquatic habitat, accumulate coarse sediments, and increase in-stream habitat complexity may be used. Bio-engineering projects emphasize the use of live plant material in the construction of durable erosion control structures.

Projects should be designed to begin the process of naturally restoring the streambank's plant and animal community. Approaches that widen the floodplain area or the margin of the river channel near the low flow water surface and at the toe of the bank are encouraged. Design should emphasize the use of natural and local building materials (e.g., stone, gravel, sand, soil, wood, branched logs, and native trees, shrubs, and grasses). Rock rip-rap may be used in limited and discrete areas such as fill in a toe trench at the base of the bank and further up the bank where shear stress during high stream flow events are greatest (not to exceed bankfull level). Any rock used should have the smallest diameter possible, be used sparingly, and be capped with sediment and native vegetation as part of the design. Natural drainage patterns should be considered and incorporated into the design where appropriate.

3. Projects that rely solely on rock rip-rap or other hardscape materials for bank protection are not allowed.
4. Gabions, concrete mats, tires, and rubble may not be used.
5. Cables may be used to anchor large woody debris. Natural drainage patterns should be considered and incorporated into the design where appropriate.

ii. Repair, Replacement, or Maintenance of Existing Bank Stabilization:

1. Replacement of failing or damaged bank stabilization with rip-rap (no grouting or concrete mats) is allowed.
2. Replacement or repair with gabions, grouted rip-rap, debris (e.g., car bodies, pipe and tire revetments, etc.) is not allowed.
3. The footprint of the repaired, replaced, or maintained bank stabilization must not exceed existing footprint. Projects shall not exceed 300 linear feet of stream bank or 1,000 square feet in area.
4. Replacement with bioengineering techniques is encouraged. Rock rip-rap may be replaced with ungrouted rip-rap only.
5. Rock rip-rap must include planting of native vegetation. Willow cuttings or other native plants will be placed in spaces between rocks/boulders – an average of one plant per square meter of bank stabilization. 6. Rip-rap must be adequately sized for a 100-year flow event. Toe trenches may be used.

2. Boat Docks, Piers and Wharfs

No map is provided because these projects may only occur under the 2013 NLAA Program in San Francisco Bay and the Delta.

a. General Criteria:

Existing creosote piles in the project area must be completely removed or cut/broken at least three feet below mudline. Any chemically treated wood material (pilings, decking, etc.,) must be coated with an impact-resistant, biologically inert substance. Decking may be made of plastic or non-reactive (e.g. epoxy wood) products. Floating docks or other floatation devices must be of materials that will not disintegrate, including concrete, steel, plastic or closed cell foam encapsulated in sun-resistant polyethylene. No rip-rap bank stabilization, excavation, creation of embayments, or removal of woody debris from the bank or channel is allowed.

i. Work Windows:

1. Central Valley: June 15 through September 15
2. San Francisco Bay: June 15 through November 30

ii. Geographic Restrictions:

1. Projects are not included in Northern California or the Central California Coast, except for those in San Francisco Bay.
2. Central Valley: Boat dock, pier and wharf projects outside the Delta are not included in the 2013 NLAA Program.
- 3.

b. Specific Criteria:

i. New Boat Dock, Pier and Wharf Construction:

1. The 2013 NLAA Program covers construction of a single new privately owned and privately used boat dock (floating or non-floating using up to four piles) for up to two boats.
2. Total project area covers no more than 1,000 square feet of surface area and total slip space measuring less than 80 feet in length.
3. Projects with multiple docks cannot be separated to meet the requirements of the 2013 NLAA Program.

ii. Repair, Replacement and Maintenance of Existing Boat Docks, Piers and Wharfs:

1. This 2013 NLAA Program covers privately owned and used boat docks (floating or non-floating) that require replacement or repair of piles, decking, floatation devices, or hardware – provided that the repair or replacement does not increase the surface area, slip space, or slip capacity beyond that described above for new construction (increase no greater than 1,000 square feet, etc.).

2. Projects with multiple docks cannot be separated to meet the requirements of the 2013 NLAA Program.
- c. Pile Driving Criteria: These criteria apply to both new and replacement Boat Docks, Piers and Wharfs. There are additional criteria below for marine mammals.

i. Additional work windows:

1. For streams with CC Chinook, hammering may only occur July 1 through September 15.

ii. Additional Specific Criteria:

For the Delta San Francisco Bay:

- a. Vibratory hammer – may use steel, wood, or concrete piles; any size pile, any number
- b. Impact hammer with wood piles – limited to projects using only one hammer and less than 20 piles installed per day
- c. Impact hammer with concrete piles – Piles must be 18 inches or less in diameter. Limited to projects using only one hammer and less than 20 piles installed per day.
- d. Impact hammer with steel piles – Piles must be 12 inches or less in diameter and hammer must be 3000 pounds or smaller and must use a wood or nylon (plastic) cushion block between hammer and pile. Limited to projects using only one hammer and less than 20 piles installed per day.

d. Marine Mammals:

Marine mammals are unlikely to occur in the Delta and Central Valley and as such are not included in the 2013 NLAA Program in these areas. If marine mammals are sighted in or near a project area in the Delta or Central Valley, NMFS Southwest Region Marine Mammal Team (562)-980-3232 will be called for further information and to obtain any authorizations or permits needed.

For boat dock, pier, and wharf pile driving projects affecting marine mammal species (in the water or at haul-out sites), work windows and other requirements are species specific. These projects may require on-site monitors and Marine Mammal Protection Act authorizations or permits. Contact NMFS Southwest Region Marine Mammal Team at (562) 980-3232 for further information

i. General Criteria for Marine Mammals:

1. Maintain root mean square (rms) underwater sound pressure for impulse sound below levels that can injure (180 dB re 1 micropascal at 1 m) or affect the behavior (160 dB re 1 micro Pascal at 1 m) of marine mammals.

2. Maintain rms underwater sound pressure for continuous sound (i.e., vibratory pile driving) below levels that can affect the behavior (120 dB re 1 micro Pascal at 1 m, or, below ambient underwater noise levels, whichever is greater) of marine mammals.

3. Maintain and monitor a safety zone where received underwater sound pressure levels are less than the criteria described above. Monitoring is to be done by NMFS-approved observer. For projects that produce sound source levels equal to or greater than the criteria described above, additional authorization under the MMPA may be required.

4. If sound pressure levels are unknown or cannot be adequately predicted or modeled, maintain and monitor the following minimum safety zones around the project area:

- a. Vibratory pile driving - 1000 meter radius
- b. Impact pile driving - 500 meter radius

Monitoring is to be done by NMFS-approved observer.

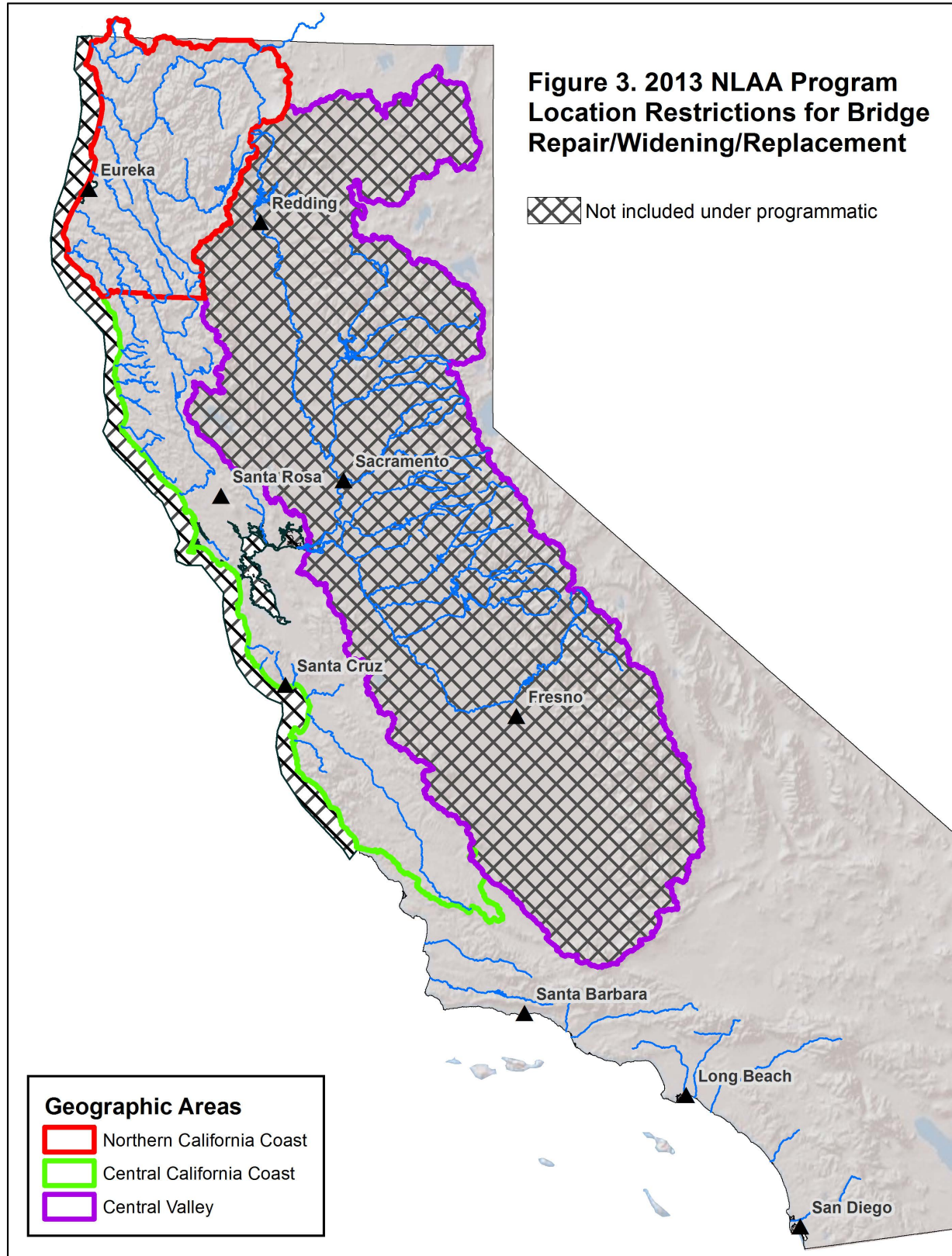
5. If any marine mammals are located within the zone where sound levels exceed thresholds for injury or behavior effects or within the established safety zone (without additional authorization under the MMPA), the Permittee must wait until the animals leaves the area or until at least 15 minutes after the animal has last been observed before beginning pile installation or removal activities. If any marine mammals move within this zone during the initial stages, the Permittee will not continue these activities until 15 minutes has passed since the last such sighting.

6. When pinnipeds (seals, sea lions) are seen by observers out of the water within the safety zone, maintain sound levels below 90 dB(A,-weighted) in air.

7. Use ramp-up procedures to slowly increase the intensity of sound produced prior to the start of each day, after a break of 30 minutes or more, and if any increase in pile installation or removal intensity is required.

8. Vessel operators should adjust vessel speed when marine mammals are in the project area. In the unlikely event of a vessel collision with a marine mammal, the responsible party must immediately contact NMFS – Ms. Sarah Wilkin at [\(562\) 980-3230](tel:5629803230).

3. Bridge Repair, Widening, and Replacement



a. General Criteria:

Bridge widening or replacement projects designed to accommodate a projected increase in traffic or provide access to new developments are not included in the 2013 NLAA Program. The 2013 NLAA Program does not apply to multi-year projects where falsework is left in the channel outside of the work windows. New bridges are not covered unless they replace an existing bridge that has been removed or will be removed prior to or concurrent with new bridge installation. The streambed within the work area and access routes must be outside of flowing or standing water. Dewatering shall not be used to obtain dry conditions. Construction activities must cease if flows rise above the silt fence levels. Except for project footprint, the bed and banks must be undisturbed.

If an existing bridge is replaced, the new bridge must be sized to pass 100-year flow event without encroachment into stream channel. Piers must be cylindrical columns. If a natural channel is not left beneath the bridge, use requirements specific for culverts and arched culverts in *Culverts Replace/Upgrade* category.

i. Work Windows:

1. Northern California Coast – June 15 through October 15
2. Central California Coast – June 15 through October 15
3. CC Chinook streams – July 1 through September 15
4. Russian River, including Dry Creek – July 1 through August 15

ii. Geographic Restrictions

1. Projects in bays, estuaries, coastal marine areas, and the Central Valley, are not included in the 2013 NLAA Program.

iii. Special Notifications and Assistance:

1. USACE must provide NMFS with design drawings for examination by a NMFS fish passage engineer to ensure that salmonid migration will not be hindered by the proposed project. Such technical assistance and confirmation can occur via email or by letter. The 2013 NLAA Program does not apply to projects that do not meet this criteria.

b. Pile Driving Criteria:

i. Additional work windows:

1. For streams with CC Chinook hammering may only occur July 1 through September 15.
2. On the Russian River, including Dry Creek, work may only occur June 15 through August 15.

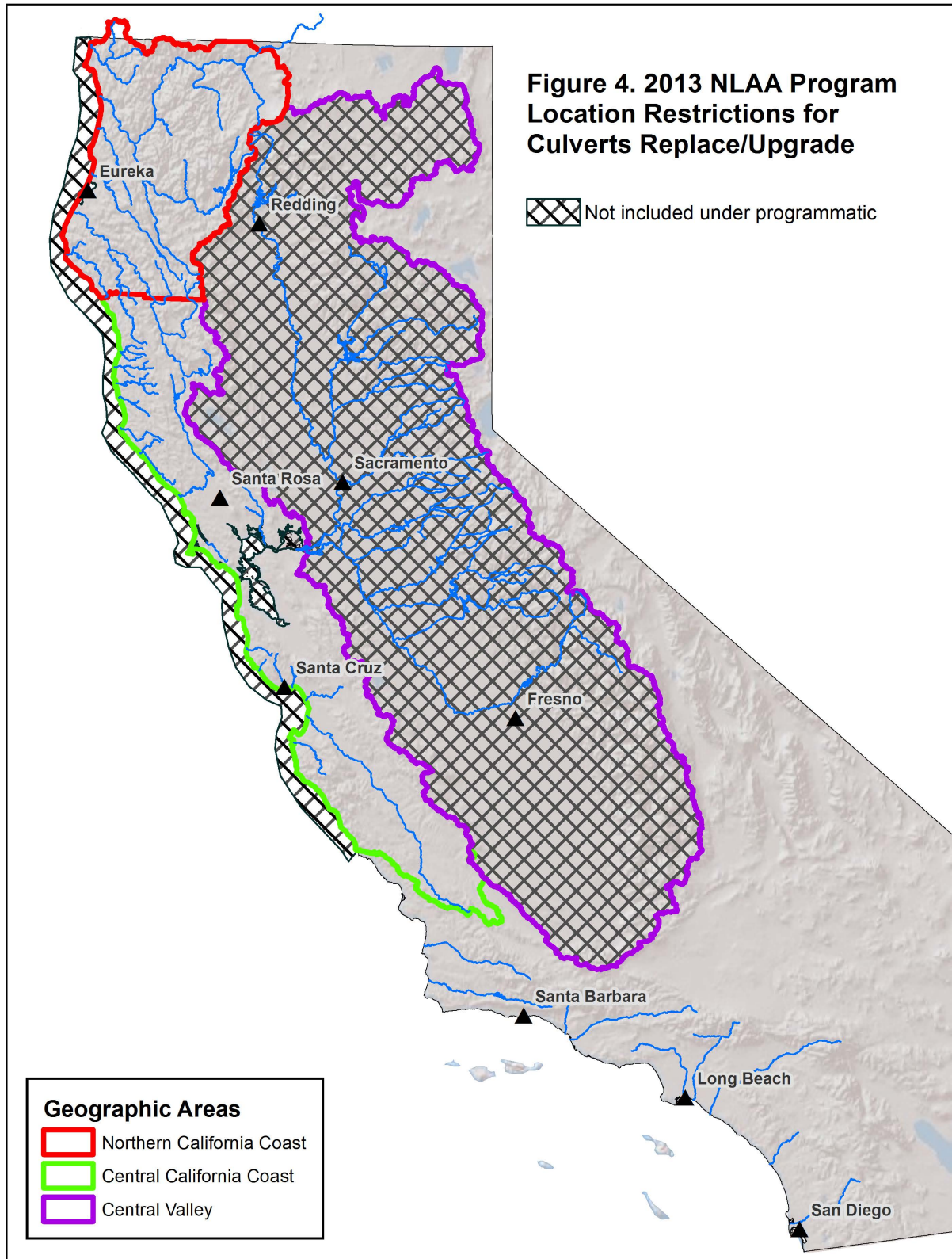
ii. Additional Specific Pile Driving Criteria:

1. For Northern California Coast and Central California Coast streams:
 - a. Vibratory hammer – may use steel, wood, or concrete piles; any size pile, any number
 - b. Impact hammer – may not be used; likely to adversely affect, needs individual consultation

c. Marine Mammals:

Pile driving projects for bridge construction, repair or widening under the 2013 NLAA Program are not anticipated to affect marine mammals because these projects do not occur in bays, estuaries, or coastal marine areas. As such, marine mammals are not covered under the 2013 NLAA Program for bridge construction, repair, or widening. If marine mammals are sighted in or near a project area, NMFS Southwest Region Marine Mammal Team (562)-980-3232 will be called for further information and to obtain any authorizations or permits needed.

4. Culverts Replace or Upgrade



a. General Criteria:

Culverts covered by the 2013 NLAA Program must meet NMFS Fish Passage Guidelines and will be no longer than 100 feet. The streambed within the work area and access routes must be outside of flowing or standing water. Dewatering shall not be used to obtain dry conditions. Except for project footprint, the bed and banks must be left as found.

Replaced or upgraded culverts must be the same kind or go up in order of preference of alternatives and structure types set out in NMFS Fish Passage Guidelines (<http://swr.nmfs.noaa.gov/hcd/NMFSSCG.PDF>) and may not maintain or create a passage barrier for adult or juvenile salmonids. Culverts must be sized to accommodate a 100-year flow event and associated debris and sediment with headwater to diameter ratio <1 .

Fine sediment cleaned out from the inside of culverts must be removed to an upland location, where it cannot enter stream networks or road drainages that are hydrologically connected to a stream, and stabilized.

i. Work Windows:

1. Northern California Coast – June 15 through October 15
2. Central California Coast – June 15 through October 15
3. CC Chinook streams – July 1 through September 15
4. Russian River, including Dry Creek – July 1 through August 15

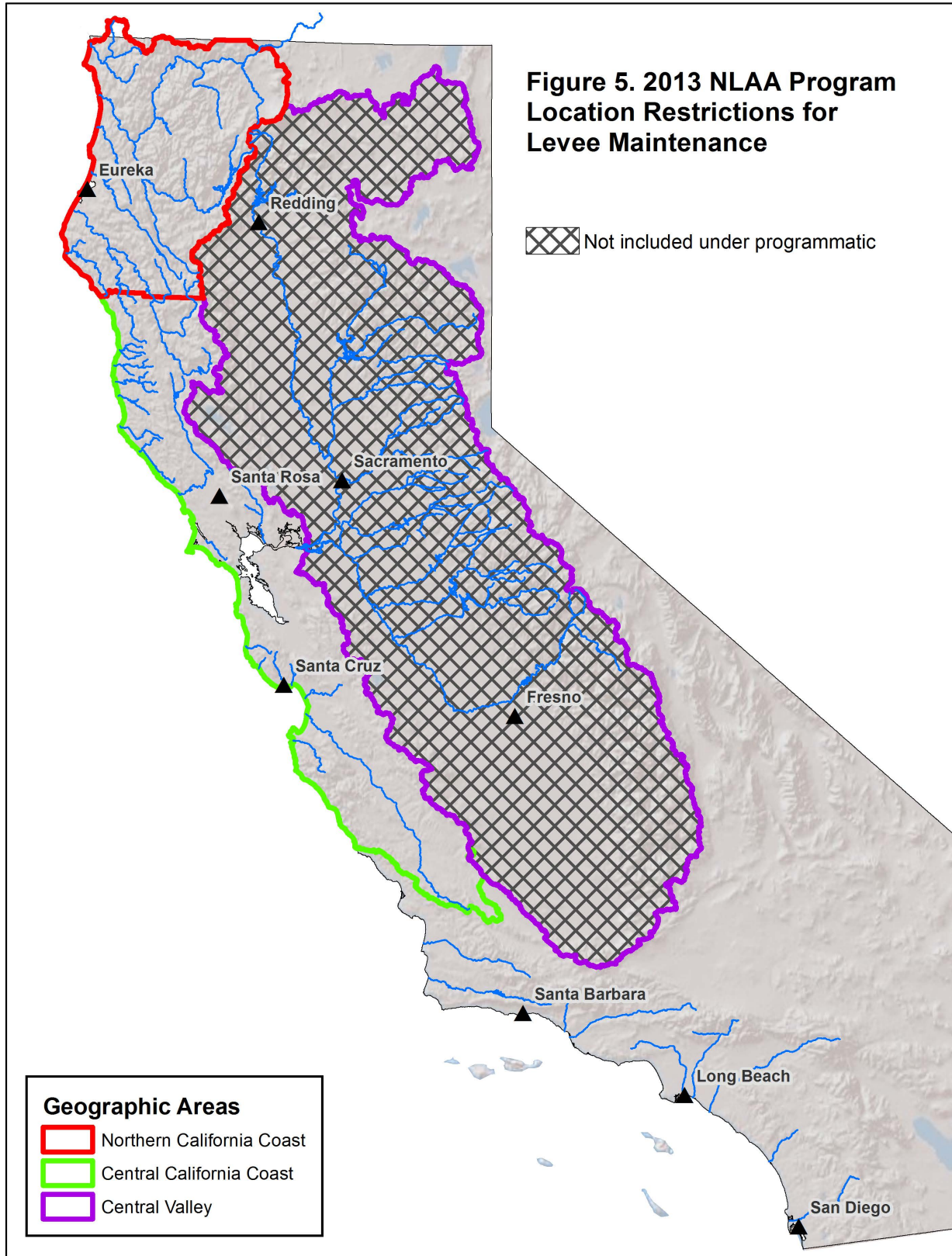
ii. Geographic Restrictions:

1. Central Valley area projects are not included in the 2013 NLAA Program.

ii. Special Notification or Assistance:

1. USACE will provide NMFS with design drawings for examination by a NMFS fish passage engineer to ensure that salmonid migration will not be hindered by the proposed project. Such technical assistance and confirmation can occur via email or by letter. The 2013 NLAA Program does not apply to projects that do not meet this criteria.

5. Levee Maintenance



a. General Criteria:

Projects must be no more than 300 feet in length. The work area and access routes must be outside flowing or standing water. Dewatering shall not be used to obtain dry conditions. Except for project footprint, the bed and banks must be left as found.

i. Work Windows:

1. Northern California Coast – June 15 through October 15
2. Central California Coast – June 15 through October 15
3. CC Chinook streams – July 1 through September 15
4. Russian River, including Dry Creek – July 1 through August 15
5. San Francisco Bay – June 15 through November 30

ii. Geographic restrictions:

1. Projects in the Central Valley areas are not included in the 2013 NLAA Program.

6. Buoys, Floats and Other Devices to Facilitate Mooring of Vessels

No map is provided because there are no location restrictions on this project type within the 2013 NLAA Program Area

a. General Criteria:

The project purpose must be to facilitate moorage of vessels where the USCG has established such areas (anchorage or fleeting areas) for that purpose (e.g., non-commercial, single-boat, mooring buoy). Sheet pile walls are not included. Floating breakwaters are allowed. Proposed activities that exceed the limits and purpose of NWP #9 or NWP #10 are not included.

i. Geographic Restrictions:

- 1
2. See marine mammal requirements below for projects in Northern California Coast, Central California Coast, and Central Valley that may affect those species.

ii. Work windows:

1. Work in streams known to contain listed salmonids may only occur June 15 through October 15
2. For streams with CC Chinook, hammering work may only occur July 1 through September 15.
3. On the Russian River, including Dry Creek, work may only occur June 15 through August 15.

b. Pile Driving Criteria:

i. Work windows

Same as above under General Criteria for Buoys, Floats, and other Devices

i. Additional Specific Criteria:

1. For Northern California Coast and Central California Coast streams:
 - a. Vibratory hammer – may use steel, wood, or concrete piles; any size pile, any number
 - b. Impact hammer – may not be used; likely to adversely affect, needs individual consultation
2. For Central Valley and San Francisco Bay:
 - a. Vibratory hammer – may use steel, wood, or concrete piles; any size pile, any number
 - b. Impact hammer with wood piles – limited to projects using only one hammer and less than 20 piles installed per day

- c. Impact hammer with concrete piles – piles must be 18 inches or less in diameter. Limited to projects using only one hammer and less than 20 piles installed per day.
- d. Impact hammer with steel piles – piles must be 12 inches or less in diameter and hammer must be 3000 pounds or smaller and must use wood cushion between hammer and pile. Limited to projects using only one hammer and less than 20 piles installed per day.

c. Marine Mammals:

Marine mammals are unlikely to occur in the Delta and Central Valley and as such are not included in the 2013 NLAA Program in these areas. If marine mammals are sighted in or near a project area in the Delta or Central Valley, NMFS Southwest Region Marine Mammal Team (562)-980-3232 will be called for further information and to obtain any authorizations or permits needed.

For pile driving projects affecting marine mammal species (in the water or at haul-out sites), work windows and other requirements are species specific. These projects may require on-site monitors and Marine Mammal Protection Act authorizations or permits. Please contact NMFS Southwest Region Marine Mammal Team (562) 980-3232 for further information.

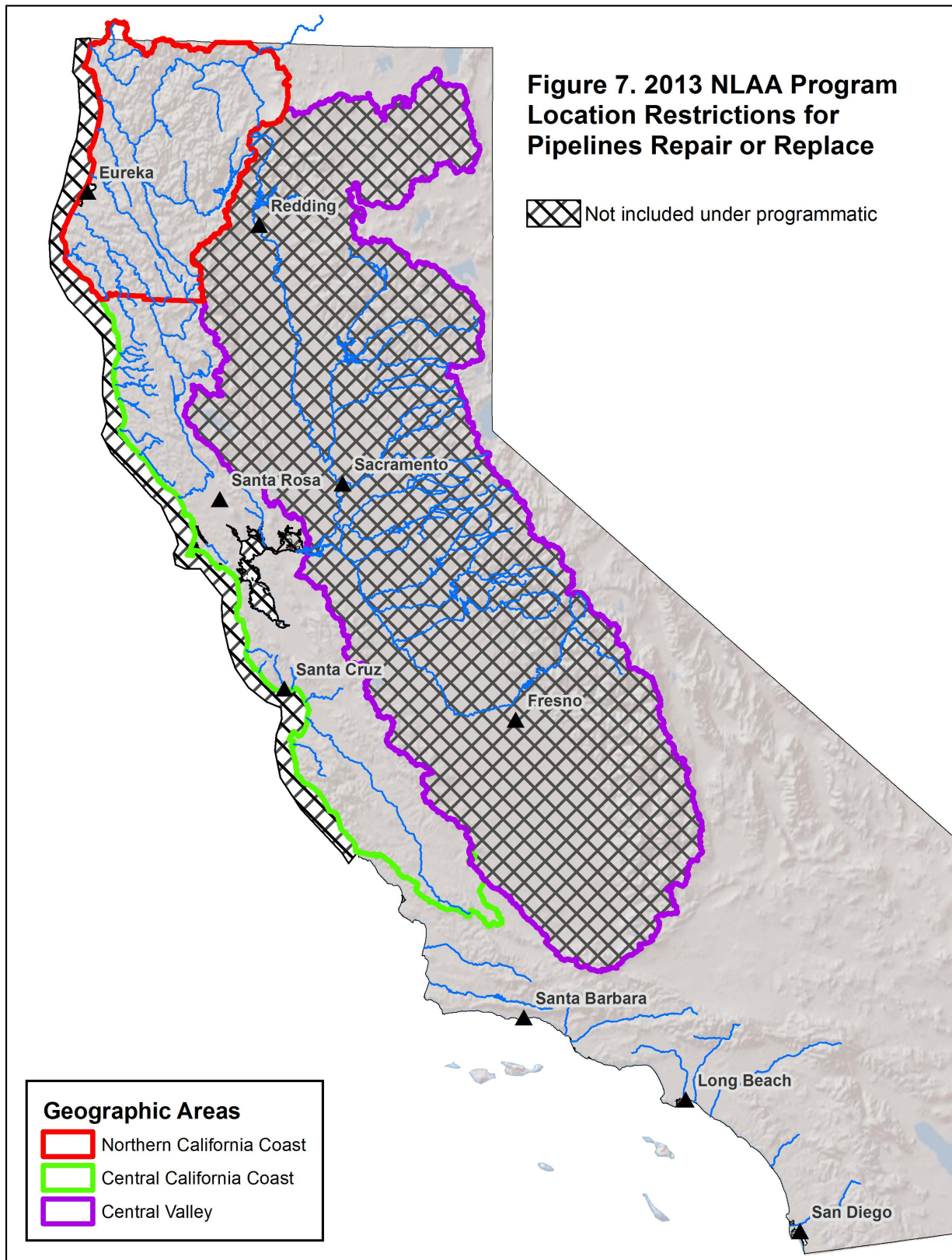
i. General Criteria for Marine Mammals:

1. Maintain root mean square (rms) underwater sound pressure for impulse sound below levels that can injure (180 dB re 1 micropascal at 1 m) or affect the behavior (160 dB re 1 micro Pascal at 1 m) of marine mammals.
2. Maintain rms underwater sound pressure for continuous sound (i.e., vibratory pile driving) below levels that can affect the behavior (120 dB re 1 micro Pascal at 1 m, or, below ambient underwater noise levels, whichever is greater) of marine mammals.
3. Maintain and monitor a safety zone where received underwater sound pressure levels are less than the criteria described above. Monitoring is to be done by NMFS-approved observer. For projects that produce sound source levels equal to or greater than the criteria described above, additional authorization under the MMPA may be required.
4. If sound pressure levels are unknown or cannot be adequately predicted or modeled, maintain and monitor the following minimum safety zones around the project area:
 - a. Vibratory pile driving - 1000 meter radius
 - b. Impact pile driving - 500 meter radius

Monitoring is to be done by NMFS-approved observer.

5. If any marine mammals are located within the zone where sound levels exceed thresholds for injury or behavior effects or within the established safety zone (without additional authorization under the MMPA), the Permittee must wait until the animals leaves the area or until at least 15 minutes after the animal has last been observed before beginning pile installation or removal activities. If any marine mammals move within this zone during the initial stages, the Permittee will not continue these activities until 15 minutes has passed since the last such sighting.
6. When pinnipeds (seals, sea lions) are seen by observers out of the water within the safety zone, maintain sound levels below 90 dB(A,-weighted) in air.
7. Use ramp-up procedures to slowly increase the intensity of sound produced prior to the start of each day, after a break of 30 minutes or more, and if any increase in pile installation or removal intensity is required.
8. Vessel operators should adjust vessel speed when marine mammals are in the project area. In the unlikely event of a vessel collision with a marine mammal, the responsible party must immediately contact NMFS – Ms. Sarah Wilkin at [\(562\) 980-3230](tel:5629803230).

7. Pipeline Repair or Replacement



a. General Criteria:

Does not apply to new pipeline projects. Except for project footprint, the bed and banks shall be left as found. No more than 300 feet of stream bed or banks may be disturbed by construction activities. No projects in bays, estuaries, or other marine areas.

i. Geographic Restrictions:

Only projects in freshwater streams are included in the 2013 NLAA Program.

ii. Work Windows:

1. Northern California Coast – June 15 through October 15
2. Central California Coast – June 15 through October 15
3. CC Chinook streams – July 1 through September 15
4. Russian River, including Dry Creek – June 15 through August 15

iii. Special Notification or Assistance:

1. If grade control structures are included, technical assistance and confirmation from NMFS is required to ensure such structures do not adversely affect salmonid habitat. Written confirmation from NMFS is required (email acceptable). USACE will transmit design drawings to NMFS for review. Pre-project notification must include a list of all affected streams, if multiple crossings are included in the action.

b. Specific Criteria:

i. Trenching:

1. The streambed within the work area must be dry throughout the construction period – no flowing or ponded water.
2. Dewatering shall not be used to obtain dry conditions.
3. Streamside woody vegetation must not be disturbed.
4. Banks must be re-seeded with native vegetation to stabilize disturbed banks.
5. Channels must be restored to pre-project contours and characteristics (no loss of pools, riffles, or cover) prior to natural rewatering of work area.
6. Pipelines must be placed beneath a stream's scour line.
7. Replacement pipeline must be the same or less capacity as old pipeline.
8. Pipeline must be relatively perpendicular to stream banks (45-90 degrees) and cannot run along stream banks.
9. Replaced pipelines do not need to be in the same location as long as old pipeline is removed from stream bed and banks.

ii. Boring:

1. The applicant must perform a geologic analysis and there must be a low likelihood that a frac-out² will occur.
2. A NMFS-approved contingency plan must be prepared and the project must have resources ready for plan implementation. An emergency response team and equipment must be maintained on site at all stream crossings.
3. No woody plant material may be removed from the bank or stream channel; construction equipment and personnel shall operate outside the stream channel and banks or levees so that no in-channel impacts occur.
45. USACE or applicant must provide NMFS the geotechnical survey prior to construction.
6. USACE or applicant must immediately contact the appropriate NMFS field office in the case of a frac-out.

² A frac-out occurs when drilling mud escapes from a drill hole into an aquatic or terrestrial environment.

**UNITED STATES DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration**

NATIONAL MARINE FISHERIES SERVICE

Southwest Region

777 Sonoma Ave., Room 325

Santa Rosa, CA 95404-4731

July 17, 2013

In response, refer to:
2007-7472

John R. McMahon, Brigadier General
South Pacific Division
U.S. Army Corps of Engineers
1455 Market Street, 16th Floor
San Francisco, California 94103-1398

Dear General McMahon:

Thank you for your letters dated November 14, 2012, and June 12, 2013, requesting re-initiation of a programmatic consultation with NOAA's National Marine Fisheries Service (NMFS) pursuant to the essential fish habitat (EFH) provisions of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) for eight categories of actions regularly permitted by the U.S. Army Corps of Engineers (USACE). Staffs from USACE and NMFS originally collaborated in 2006 and 2007 to develop this programmatic and the activity-specific criteria to avoid or minimize adverse effects of individual and cumulative instances of covered activities to EFH, and NMFS concurred with USACE on the programmatic consultation on December 21, 2007. This concurrence expired on December 21, 2012. Re-initiation was initially requested in the November 14, 2012 letter to encompass all four USACE districts. The June 12, 2013 letter initiates consultation for the San Francisco District only.

Section 305(b)(2) of the MSA requires federal action agencies to consult with NMFS for any action they authorize, fund, or undertake that may adversely affect EFH. Programmatic consultation provides an efficient and effective means for NMFS and a federal agency to consult regarding a potentially large number of similar individual actions occurring within a given geographic area. NMFS has determined that in accordance with 50 CFR 600.920(j) of the EFH regulations, programmatic consultation is appropriate for the categories of activities specified below because all activities are minor development activities routinely authorized by USACE, and sufficient information is available to develop EFH Conservation Recommendations that will address reasonably foreseeable adverse impacts to EFH.

Overview of Programmatic Consultation

This EFH programmatic consultation applies to the categories of actions regularly permitted by USACE and described in the USACE document, Proposed Additional Procedures and



Criteria for Permitting Projects under a Programmatic Determination of Not Likely to Adversely Affect for Selected Listed Species in California. This document was developed and included with the February 14, 2007 programmatic consultation completed by NMFS with USACE and U.S. Fish and Wildlife Service pursuant to section 7(a)(2) of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*) The programmatic ESA consultation is referred to as the "NLAA Programmatic." The NLAA Programmatic expired on February 14, 2012, but is expected to be renewed in 2013.

This programmatic EFH consultation applies to permit applications (*i.e.*, standard individual permits, letters of permission, nationwide permits, general permits, or any combination of those types of authorization) for activities, with certain limits and restrictions, located within the San Francisco District (SPN) and Sacramento District (SPK) regulatory programs. Permit applications for activities under the Los Angeles District (SPL) are not included in this programmatic during the first year of implementation. Program activities described below must be adhered to in order for a project to be part of this programmatic EFH consultation. Projects that deviate from activities described below or fail to implement appropriate EFH Conservation Recommendations included herein require individual EFH consultation if they may adversely affect EFH.

This programmatic determination was written to encompass all three USACE districts, but at the time of issuance, at the request of USACE, is effective for only one activity in the SPK and not effective for any activity in the SPL. As such, statewide location restriction maps included herein cover all districts, despite limited use by SPK and SPL. This programmatic may be renewed for a total of 5 years upon acceptance of the required annual reports by NMFS. During the 5-year implementation period, USACE may request that the programmatic determination become effective for SPL or become effective for additional activities described herein for the SPK. If revisions to the programmatic are required after the first year of implementation USACE and NMFS will complete the revisions within 3 months.

Reporting Requirements. For each project covered under this programmatic consultation, USACE will provide NMFS project-specific information six weeks prior to project implementation for review, including:

- project location (latitude, longitude, and datum);
- county;
- waterbody name;
- USACE file number;
- project type;
- habitat type;
- EFH Conservation Recommendations implemented and;
- USACE's determination as to how the project meets the program activities described below.

USACE will assume NMFS concurrence if they do not receive written or e-mail comments regarding their decision within 15 days of receipt of notification. USACE and NMFS will meet on an annual basis, and as needed, for the following purposes: (1) to discuss the annual tracking

report of covered projects, (2) to evaluate and discuss the continued effectiveness of the programmatic consultation, (3) to ensure that activities authorized by the programmatic consultation continue to minimize adverse effects to EFH, and (4) to update procedures and project criteria, if necessary. At any time, NMFS or USACE may revoke or revise this programmatic consultation if it is not being implemented as intended.

Annual reporting requirements. Each year, after the concurrence date, USACE will provide a table to NMFS identifying the following in regard to projects USACE permitted under this programmatic determination:

- project type;
- description of action;
- USACE file number;
- location coordinates (latitude, longitude, and datum);
- permittee;
- waterway;
- county;
- listed species in the action area;
- status of construction (*i.e.*, not constructed, under construction, or completed);
- USACE's determination and rationale for how each project met the "may affect, will not affect" criteria;
- identify the date of project implementation and duration of each project; and
- identify the status of projects that were not implemented that year.

Action Area

The proposed activities occur in areas identified as EFH for various life stages of fish species managed with the Pacific Coast Groundfish Fishery Management Plan (FMP), the Coastal Pelagic Species FMP, and the Pacific Coast Salmon FMP. The scope of this programmatic consultation includes marine, estuarine, and riverine areas within and offshore of the State of California, including the Northern California Coast, the Central California Coast, San Francisco Bay, the Southern California Coast, and the Central Valley. Boundaries for these geographic areas are as follows:

Northern California coast: Oregon border south to the Humboldt-Mendocino County line; inland watersheds that drain to the Pacific Ocean.

Central California coast: Humboldt-Mendocino County line south to Monterey-San Luis Obispo County line; inland watersheds that drain to the Pacific Ocean.

San Francisco Bay: Tributaries and marshes from Chipps Island west to the Pacific Ocean, including San Pablo Bay, the Carquinez Strait, Grizzly Bay, and Susiun Bay. River mouths within the Bay (except for the Sacramento-San Joaquin Delta) are included up to the extent of tidal influence (*i.e.*, contains at least some salt or brackish water at some times). The western extent of the Bay ends at the Golden Gate Bridge.

Southern California coast: Monterey-San Luis Obispo County line south to the California-Mexico border; inland watersheds that drain to the Pacific Ocean.

Central Valley: Interior California watersheds that drain to the Sacramento and San Joaquin Rivers, the mainstem Sacramento and San Joaquin Rivers, the legal Sacramento-San Joaquin Delta, the lower mainstem Sacramento River to Chipps Island.

Sub-areas within these jurisdictions are also listed below, these are:

Estuary: Any partially enclosed (by natural land formation) body of water that has one or more rivers flowing into it. The upstream extent of an estuary is the area of a river mouth influenced by tidal flows (*i.e.*, contains at least some salt or brackish water at some times).

Bay: A body of water partially enclosed by land. Only bays named on standard USGS topographic maps are considered bays under the 2013 NLAA Program.

Delta: The Sacramento-San Joaquin Delta as defined by the California Water Code, Section 12220.

Description of Proposed Activities and Associated Adverse Effects to EFH

The following sections contain a map showing location restrictions, a general description and specific criteria for each activity, and adverse effects resulting from each activity are described. For projects affecting marine mammal species (in the water or at haul-out sites), work windows and other requirements are species-specific. These projects may require on-site monitors and Marine Mammal Protection Act authorizations or permits. Please contact NMFS Southwest Region Marine Mammal Team (562) 980-3232 for further information.

USACE has proposed that the following conservation measures apply to all projects that may affect EFH:

1. No large woody debris (LWD) removal in active (watered) channels. Limit tree removal to areas along points of ingress and egress. If trees need to be removed from other portions of project site, do not remove willows over 3 inches diameter breast height (dbh) or reduce canopy cover provided by hardwoods or conifer. Replant any trees removed to achieve 1:1 successful revegetation. For instance: a) Trees removed can be replanted at 3:1, or b) site can be monitored for 2 years and replanted until 1:1 success is achieved.
2. Limit new access routes to no more than two requiring tree removal and grading. Access routes should not be along the top of the stream bank but relatively perpendicular (45 to 90 degrees is acceptable) to bank.
3. Where available, use existing ingress or egress points, or perform work from the top of the stream banks.

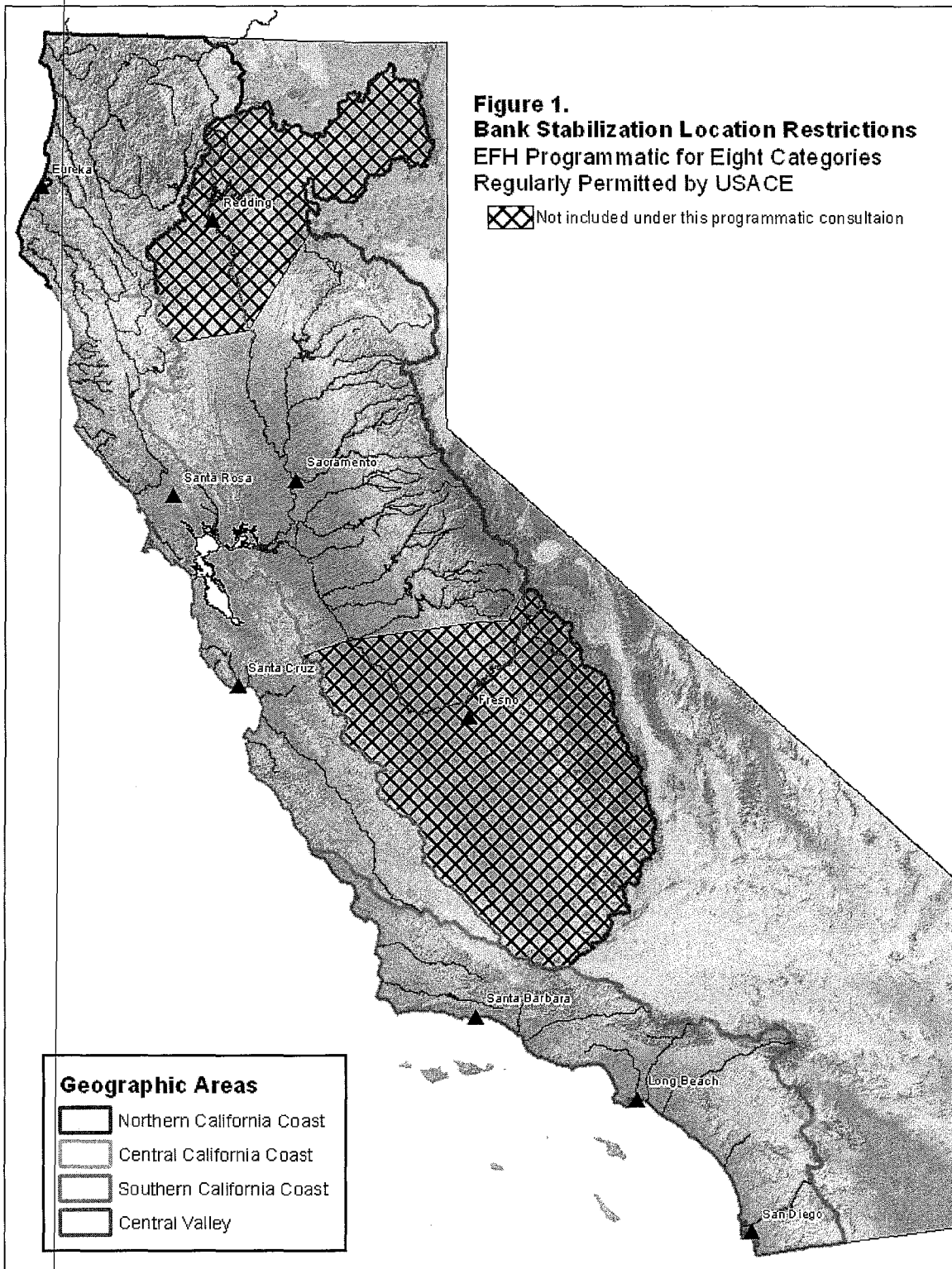
4. Check heavy equipment daily for leaks. Do not use equipment until any leaks are fixed.
5. Refuel outside of active stream channel or above ordinary high water (OHW) at designated sites.
6. A Spill Prevention and Control Plan shall be created, and the Plan and all materials necessary to implement shall be accessible on site.
7. No work in active stream channels or above high water during wet weather or where saturated ground conditions exist; if a 60% chance of a one half inch of rain or more within a 24-hour period is predicted, then operations will cease until 24 hours after rain has ceased.
8. Petroleum products, chemicals, fresh cement, or water contaminated by the aforementioned shall not be allowed to enter flowing waters.
9. Projects will not contribute sand and smaller particles or sediment-water slurry to stream channel.
10. Any disturbed ground must receive appropriate erosion control treatment (mulching, seeding, planting, *etc.*) prior to the end of the construction season, prior to a cease of operations due to forecasted wet weather, OR within seven days of Project completion, whichever comes first.
11. Remove work pads, falsework, and other construction items from the 100 year flood plain by the end of the construction window.
12. In other areas expected or predicted to get rainfall during the construction season, effective erosion control measures shall be in place at all times during construction activities. Construction within the 5-year floodplain does not begin until all temporary erosion controls (*e.g.*, straw bales, silt fences that are effectively keyed in) are in place, downslope of project activities within the riparian area. Erosion control structures shall be maintained throughout, and possibly after, construction activities. Sediment shall be removed from sediment controls once it has reached one-third of the exposed height of the control. Whenever straw bales are used, they shall be staked and dug into the ground 12centimeters (cm). Catch basins shall be maintained so that no more than 15 cm of sediment depth accumulates within traps or sumps.
13. No projects in freshwater streams may occur during the same year within 1,000 linear feet of each other.

The conservation measures described here and in the consultation initiation package as parts of the proposed action are intended to reduce or avoid adverse effects to EFH. NMFS regards these conservation measures as integral components of the proposed action and expects that all proposed activities will be completed consistent with those measures. Any deviation from these conservation measures will be beyond the scope of this programmatic EFH consultation and may

require separate, individual consultation to determine what effect the modified action is likely to have on EFH.

Based on information provided in the project description and developed during consultation, NMFS evaluated potential adverse effects to EFH pursuant to section 305(b)(2) of the MSA as discussed below for the following activities: (1) bank stabilization, (2) boat dock construction, (3) bridge repairs, (4) culvert replacements, (5) navigational dredging, (6) levee maintenance, (7) devices to facilitate mooring, and (8) pipeline repairs.

**(1) BANK STABILIZATION – SPN: Northern and Central California Coast
ONLY DURING FIRST YEAR OF IMPLEMENTATION**



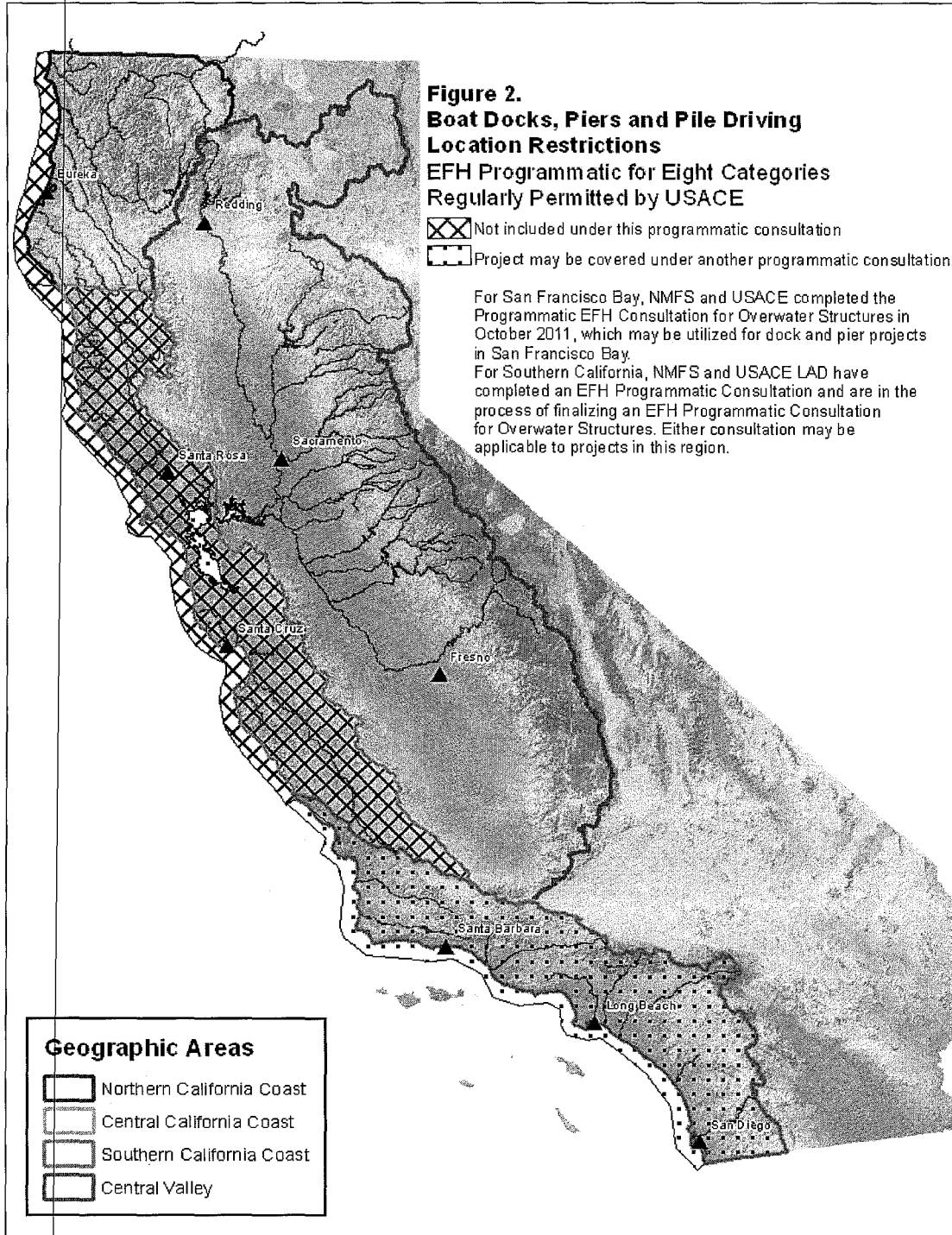
Description: For maintenance of existing bank stabilization, activity is limited to 500 feet in length for a specific episode. New bank stabilization projects shall not exceed 300 linear feet of stream bank or 1,000 square feet in area. For new bank stabilization projects, only bioengineering techniques designed to begin the process of naturally restoring the bank plant and animal community may be used. Design should emphasize the use of natural and local building materials, *e.g.*, stone, gravel, sand, soil, wood, and native plants. Rock rip rap may be used in limited and discrete areas such as fill in a toe trench at the base of the bank and further up the bank where shear stress during high flow events is greatest. Any rock used should have the smallest diameter possible, be used sparingly, and be capped with sediment and native vegetation as part of the design. New bank stabilization projects that rely solely on rock rip rap for bank protection are not covered under this programmatic EFH consultation. The use of gabions, concrete mats, tires, and rubble is not covered under this programmatic EFH consultation for new bank stabilization projects or for maintenance of existing bank stabilization projects.

In general, riverine streambank within the work area and access routes must be outside of flowing or standing water. With prior NMFS approval, projects may occur in flowing or standing water if the project area can be isolated by placing silt fences and sand bags between the work area and live stream in order to prevent sediment input to the stream. Operations shall cease if flows rise above the silt fence levels. Dewatering shall not be used to obtain dry conditions. Except for the project footprint and access routes, the bed and banks shall be undisturbed.

This programmatic EFH consultation does not cover new bank stabilization projects on the Sacramento River upstream of Hamilton City or areas on the San Joaquin River upstream of the Merced River confluence. In addition, within the Southern California Coast, this programmatic EFH consultation only applies to bank stabilization projects that occur below mean high water; those Southern California Coast projects that occur landward of mean high water will continue to be covered under the existing EFH Programmatic Consultation between NMFS and USACE LAD.

Adverse Effects: Activities covered under this programmatic EFH consultation normally would occur along estuarine and riverine shorelines, affecting intertidal and subtidal estuarine banks, and riparian vegetation along riverine banks. Bank stabilization projects, both individually and cumulatively, can adversely effect EFH through temporary impacts to the water column and permanent conversion of shorelines to uniform, artificial hard substrates, resulting in a loss of intertidal estuarine mudflats, subtidal estuarine soft bottom habitat, and/or riverine riparian cover. Shoreline armoring also causes increased energy seaward of the armoring, beach steepening, change in sediment storage capacity, and loss of organic debris (Williams and Thom 2001). Bank stabilization projects will adversely affect EFH both temporarily and permanently along rivers and estuaries. Project size limitations help decrease adverse effects.

(2) BOAT DOCKS, PIERS AND PILE DRIVING –SPN (Northern and Central California Coast) and SPK (Central California Coast) ONLY DURING FIRST YEAR OF IMPLEMENTATION



Description: Activities covered under this programmatic EFH consultation are limited to reconfiguration of existing structures within an authorized marina area and construction of a single, new privately used boat dock for up to two boats. Boat dock and pier maintenance under this programmatic is limited. New pier and floating dock projects are restricted to the legal Delta. Projects outside the legal Delta, the mainstem Sacramento, San Joaquin, Mokelumne, and Calaveras Rivers and their tributaries are not included in this programmatic EFH consultation. NMFS and USACE SPN completed the Programmatic EFH Consultation for Overwater Structures in San Francisco Bay in October 2011, which may be utilized for applicable boat dock projects in San Francisco Bay. In addition, within the Southern California Coast, these activities are covered under the existing EFH Programmatic Consultation between NMFS and USACE SPL and/or the EFH Programmatic Consultation for Overwater Structures between NMFS and USACE SPL South Coast Branch, which NMFS submitted to the Corps SPL South Coast Branch on September 28, 2012.

Any chemically treated wood material (*e.g.*, pilings, decking, *etc.*) must be coated with an impact-resistant, biologically inert substance. Decking may be constructed of plastic or non-reactive (*e.g.*, epoxy wood) products. Floating docks or other floatation devices will be constructed of materials that will not disintegrate, including concrete, steel, plastic or closed cell foam encapsulated in sun-resistant polyethylene.

For reconfiguration in existing marinas, no dredging, additional slips, dock spaces, or expansion of any kind is authorized. Existing creosote piles in the project area that are affected by project activities must be completely removed or cut/broken at least three feet below mudline. There must be no increase in footprint for existing boat docks.

Projects with multiple docks cannot be separated to meet the requirements of this programmatic consultation. No rip rap bank stabilization, excavation, creation of embayments, or removal of woody debris from the bank or channel is allowed.

Light transmitting materials:

- For construction of a single, new privately used boat dock, with total project area of no more than 400 square feet of surface area and total slip space less than 80 feet in length, light transmitting materials incorporated into the deck surface is not required.
- For construction of a single, new privately used boat docks with total project area greater than 400 square feet but no more than 1,000 square feet, light transmitting materials shall be used in at least 40 percent of the project deck surface (pier, ramp/gangway, float/dock).

Projects greater than 1,000 square feet are not allowed under this programmatic.

Pile driving and removal done as part of other categories of actions listed in this programmatic EFH consultation must meet the criteria listed below. Pile driving to build structures or facilities not otherwise covered by this programmatic EFH consultation is not included.

A vibratory hammer may be used to install and/or remove any number and size of steel, wood, or concrete piles.

An impact hammer may be used to install piles for projects using only one hammer, where less than 20 piles are installed per day, and where the following size requirements are met:

- wood piles – any size;
- concrete piles – piles must be 18 inches or less in diameter; and
- steel piles – piles must be 12 inches or less in diameter and hammer must be 3000 pounds or smaller and must use wood or nylon (plastic) cushion between the hammer and the piles.

Adverse Effects: Dock reconfiguration can degrade EFH through shading, replacement of soft bottom habitat with placement of piers and other supporting structures, modifying water circulation by temporarily affecting water column habitat during construction activities, and disturbance via activities associated with the use and operation of the facilities (Nightingale and Simenstad 2001). The shadow cast by an overwater structure affects both the plant and animal communities below the structure by limiting light for photosynthesizers, such as diatoms and benthic algae, eelgrass, and other macrophytes (Kahler *et al.* 2000, Haas *et al.* 2002), and by increasing predation by providing cover and perching platforms for piscivores (Helfman 1981). Wave energy and water transport alterations can impact the nearshore, detrital foodweb by altering the size, distribution, and abundance of substrate and detrital materials.

The measures included in the project description, including limiting the activity to reconfiguration of existing structures within a marina, allowing for no increase in dock footprint, removal of creosote piles, and limiting size of new private docks will minimize adverse effects of this activity to EFH.

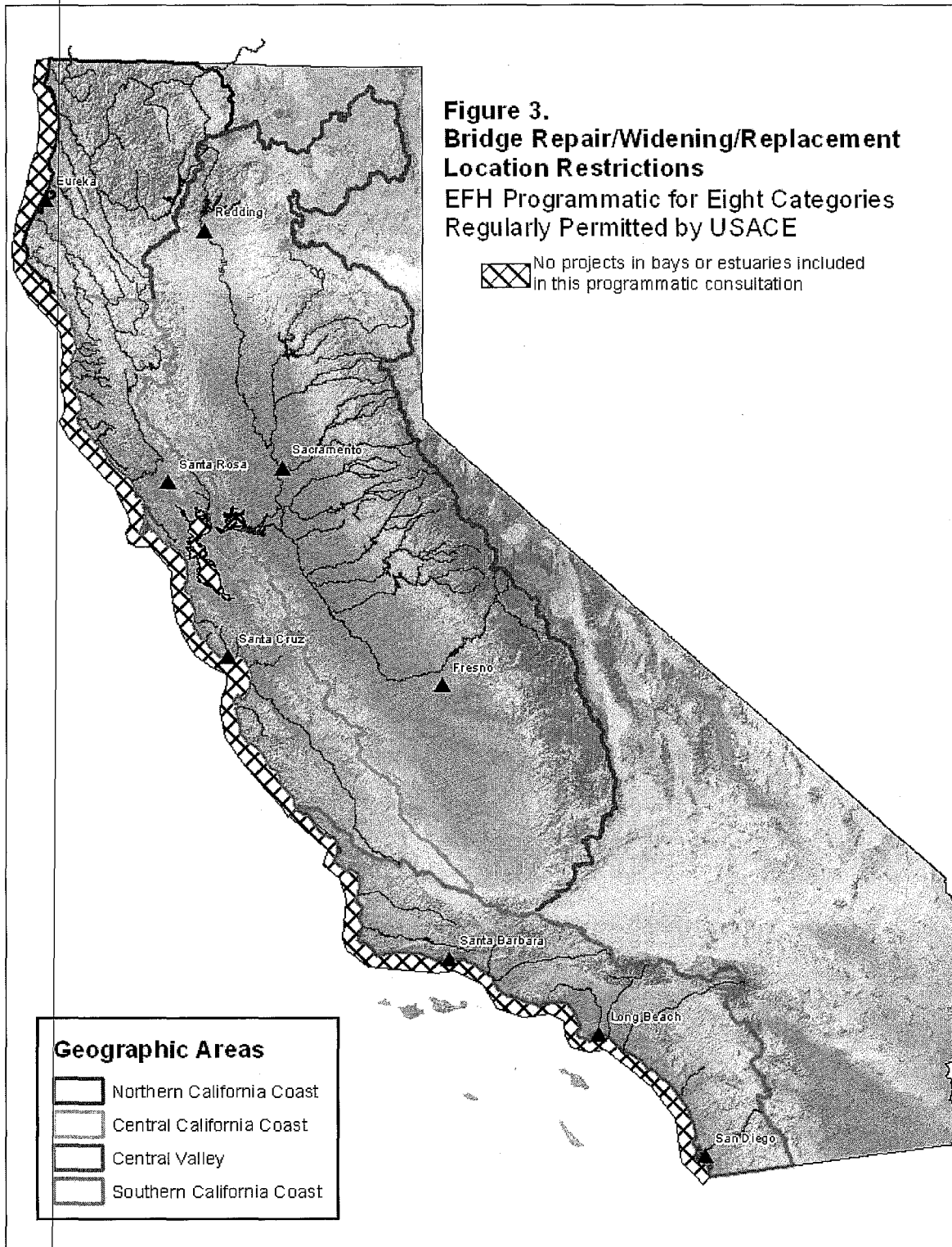
Pile driving can generate underwater sound pressure waves that may adversely affect the ecological function of EFH by modifying the water column such that managed fish and prey species are killed, harmed, or injured (CalTrans 2001, Longmuir and Lively 2001, Stotz and Colby 2001, Abbott and Bing-Sawyer 2002). The type and intensity of the sounds produced during pile driving depend on a variety of factors, including but not limited to, the type and size of the pile, the firmness of the substrate into which the pile is being driven, the depth of the water, and the type and size of the pile-driving hammer. Wood and concrete piles appear to produce lower sound pressures than hollow steel piles of similar size. Vibratory hammers produce lower intensity sounds than impacts hammers. Limitation on hammer type and size and type of pile included in the project description should minimize adverse effects to EFH.

The primary adverse effect of removing piles is the suspension of sediments, which may result in harmful levels of turbidity and release of contaminants contained in those sediments. Vibratory pile removal tends to cause the sediments to slough off at the mud line, resulting in relatively low levels of suspended sediments and contaminants. Vibratory removal of piles is gaining popularity because it can be used on all types of piles, if they are structurally sound. Breaking or cutting the pile below the mud line may suspend only small amounts of sediment, if the stub is left in place and little digging is required to access the pile. Direct pull or use of a clamshell to

remove broken piles, however, may suspend large amounts sediment and contaminants. When the piling is pulled from the substrate using these two methods, sediments clinging to the piling will slough off as it is raised through the water column, producing a potentially harmful plume of turbidity and/or contaminants. The use of a clamshell may suspend additional sediment if it penetrates the substrate while grabbing the piling.

While there is a potential to adversely affect EFH during the removal of piles, many of those removed are old creosote-treated timber piles. In some cases, the long-term benefits to EFH obtained by removing a consistent source of contamination may outweigh the temporary adverse effect of turbidity.

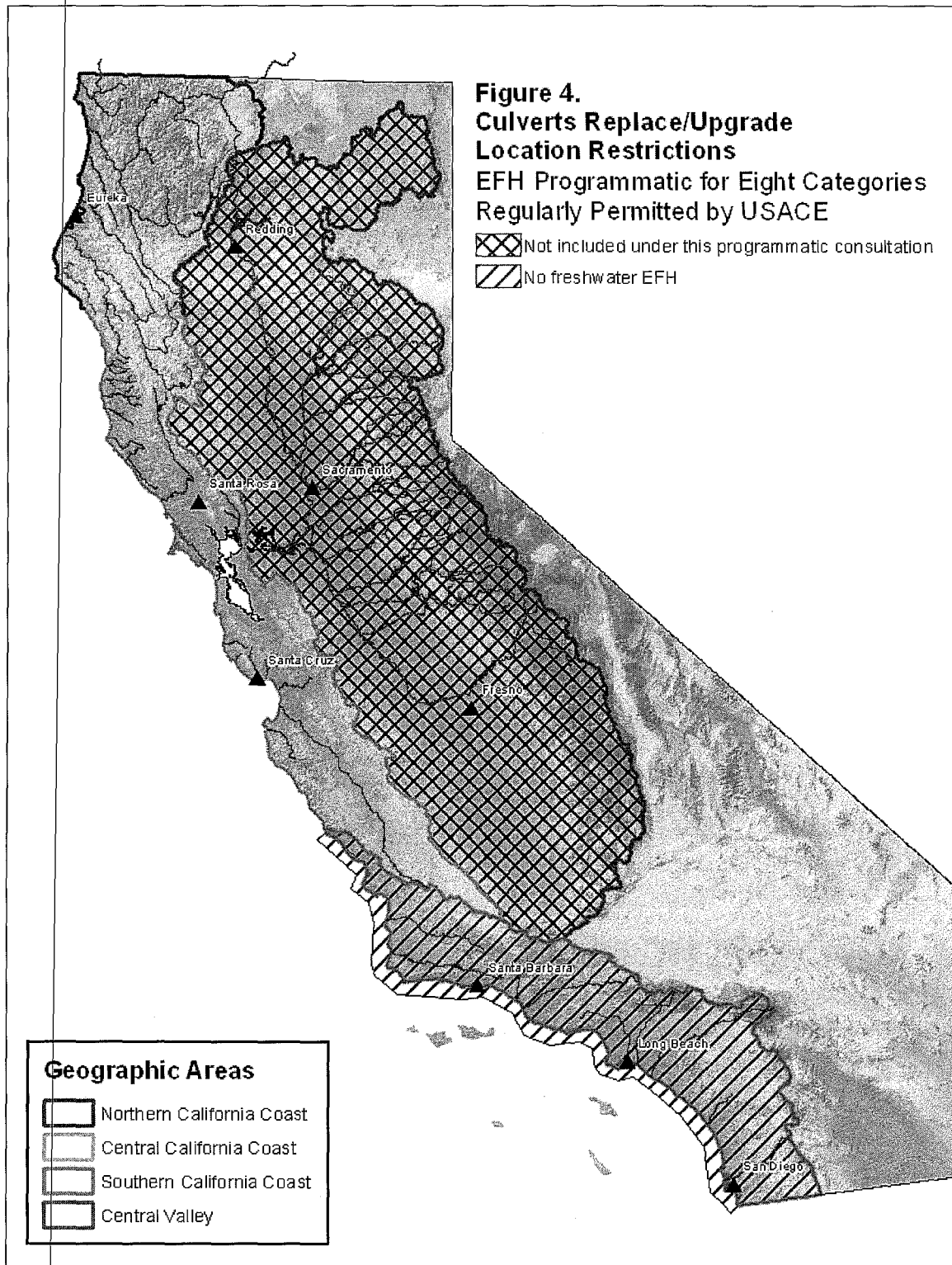
**(3) BRIDGE REPAIRS/WIDENING/REPLACEMENT – SPN ONLY
(Northern and Central California Coast) DURING FIRST YEAR OF
IMPLEMENTATION**



Description: Activities covered under this programmatic EFH consultation may include placement of cofferdams, abutments, foundation seals, piers, and/or temporary construction and access fills across waters of the United States. Activity is limited to riverine habitat; activity in estuarine habitat is not included in this programmatic EFH consultation. Dewatering may not be used to obtain dry conditions. Bridge widening or replacement projects designed to accommodate a projected increase in traffic or provide access to new developments are not included in this programmatic EFH consultation. New bridges are not covered under this programmatic EFH consultation. Bridge replacements must be sized to pass at least a 100-year flow event without encroachment into the stream channel. Piles must be cylindrical columns. If a natural channel is not left beneath the bridge, use requirements specific for culverts and arched culverts in *Culverts/Upgrade* category. Also, see information for piling installation and removal under *Boat Docks and Piers* above.

Adverse Effects: Activities could adversely affect EFH through loss of natural bottom substrate within the footprint of bridge components and modification of flow and currents from placement on bridge components within the river channel. Measures included in the project description that limit projects to bridge replacements and riverine habitats without encroachment into the stream channel will minimize adverse effects to EFH.

(4) CULVERT REPLACEMENT/UPGRADE – SPN (Northern and Central California Coast) ONLY DURING FIRST YEAR OF IMPLEMENTATION

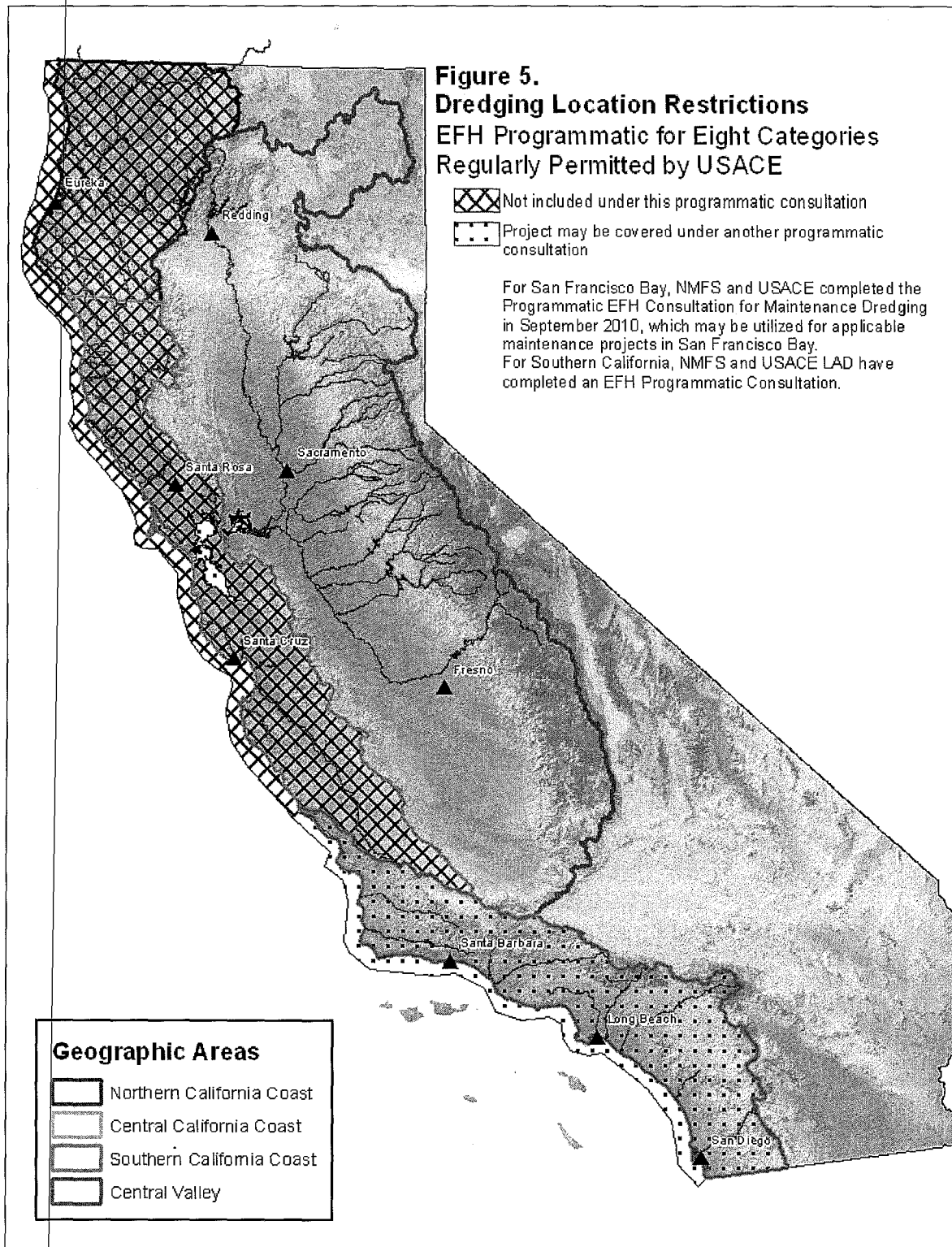


Description: Activities covered under this programmatic EFH consultation include repair, rehabilitation or replacement of any previously authorized, currently serviceable structure, removal of sediment and debris in the vicinity of existing structures, and placement of rip rap to protect existing structures. The removal of sediment and debris and the placement of rip rap are limited to the minimum necessary to restore the waterway or ensure safety of the structure. Culverts must meet NMFS Fish Passage Guidelines (<http://swr.nmfs.noaa.gov/hcd/NMFSSCG.PDF>) and can be no longer than 100 feet. Replaced or upgraded culverts must be “in kind” or go up in order of preference set out in NMFS Fish Passage Guidelines. Culverts shall be sized to accommodate a 100-year flow event and associated debris and sediment. Fine sediment will be removed to an upland location where it cannot enter stream networks or road drainages hydrologically connected to streams.

Southern California Coast and Central Valley area projects are not included in this programmatic EFH consultation.

Adverse Effects: The majority of culvert replacement projects likely will be limited to riverine habitats, but could be located in tidally influenced areas near the mouths of creeks and/or rivers. Adverse effects of these activities include temporary disturbance of the water column and substrate during activities, permanent conversion of natural embankments and substrate with artificial, hard substrate, and potential scouring of soft bottom sediments from flow directly through the culvert. Measures in the project description limiting activities to replacement of existing structures, and limiting placement of rip rap will minimize adverse effects to EFH.

(5) NAVIGATIONAL DREDGING – SPN (Northern and Central California Coast) ONLY DURING FIRST YEAR OF IMPLEMENTATION

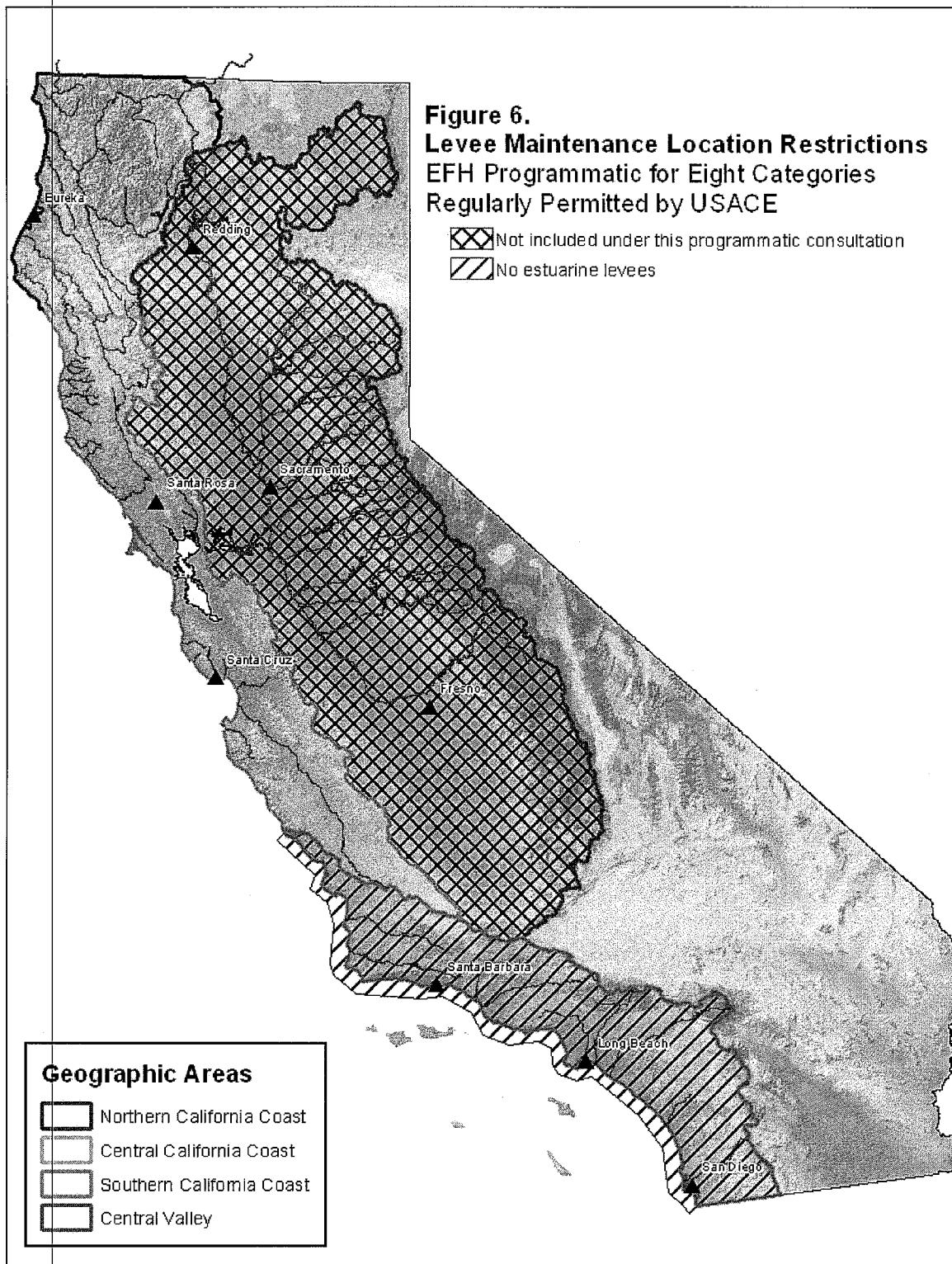


Description: Activities included under this programmatic EFH consultation include dredging of no more than 25 cubic yards below the plane of the ordinary high water mark or the mean high water mark from navigable waters of the United States as part of a single and complete project. Dredging may include clamshell or suction dredging within the Sacramento-San Joaquin Delta of 1,000 cubic yards or less that does not create or expand aquatic areas outside of the existing floodplain or levees. Dredged materials must be deposited outside of levees or offsite. Decant water must be filtered prior to returning to surface waters.

Dredging under this programmatic is limited to some Central Valley freshwater streams. Projects in the Northern California Coast, Central California Coast, and Southern California Coast areas are not included in this programmatic EFH consultation. Maintenance dredging projects in the mainstem Sacramento, San Joaquin, Mokelumne, and Calaveras Rivers and their tributaries are not included in this programmatic EFH consultation. Dredging in San Francisco Bay is not covered under this programmatic EFH consultation. USACE SPN, the Environmental Protection Agency (EPA) and NMFS completed the Programmatic EFH Consultation for Maintenance Dredging in San Francisco Bay in September 2010, which may be utilized for applicable maintenance dredging projects in San Francisco Bay. In addition, minor dredging activities (up to 25 cubic yards) in Southern California Coast are covered under the existing EFH Programmatic Consultation between NMFS and USACE SPL.

Adverse Effects: Adverse effects of dredging on EFH can include: (1) direct removal/burial of prey organisms, (2) turbidity/ siltation effects, (3) contaminant release, exposure, and uptake, (4) release of oxygen consuming substances, (5) entrainment, (6) noise disturbance, and (7) alteration to hydrodynamic regimes and physical habitat (Hanson *et al.* 2003, Simenstad *et al.* 2001). Size and location limitations in the project description will minimize these potential adverse effects.

(6) LEVEE MAINTENANCE – SPN (Northern and Central California Coast) ONLY DURING FIRST YEAR OF IMPLEMENTATION

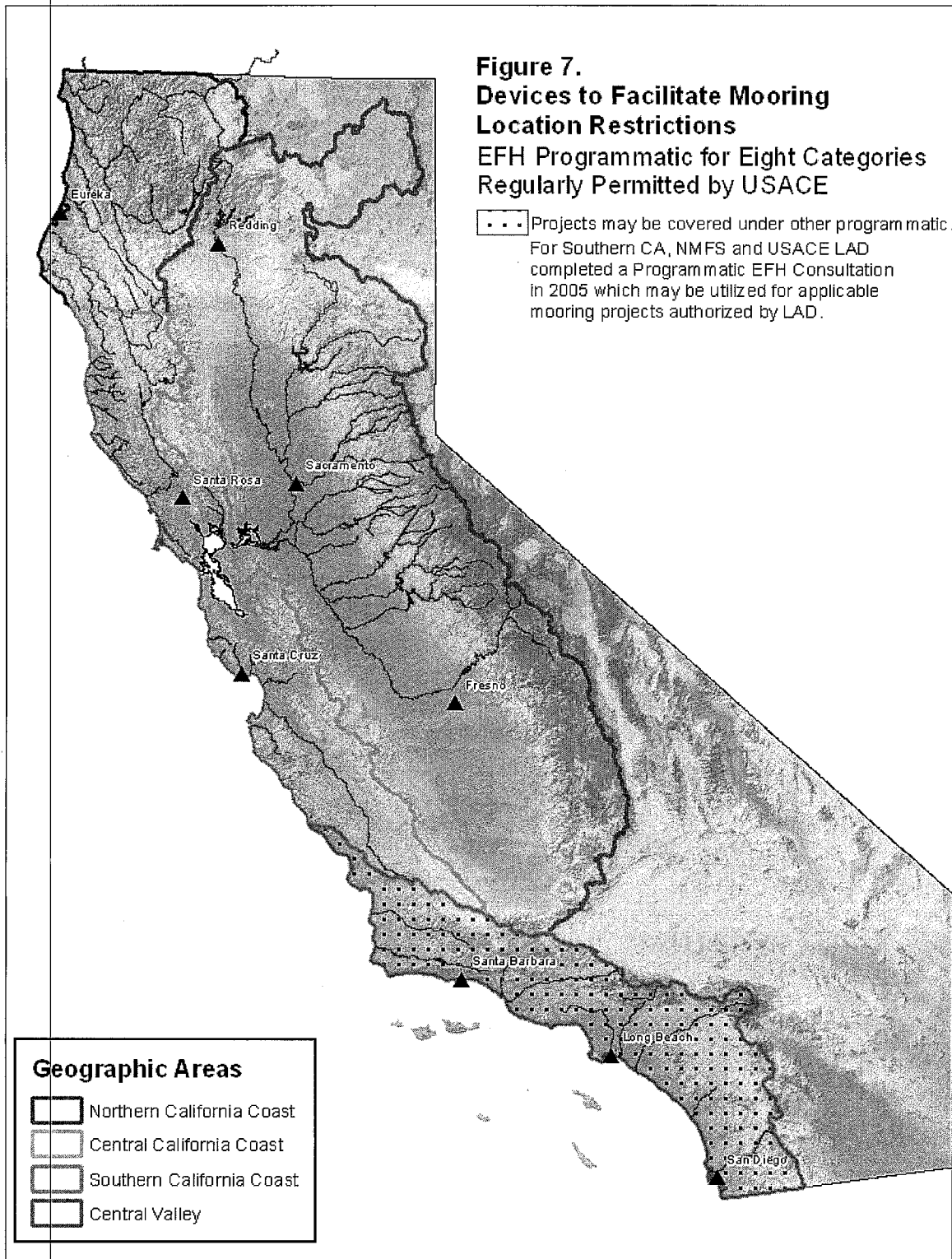


Description: Activities covered under this programmatic EFH consultation include placement of previously authorized material onto previously authorized, currently serviceable structure or fill without changing the character, scope, or size of the original fill. This activity does not include dredging from tidal areas for levee maintenance material. Projects must be no more than 300 feet in length.

Projects in Southern California Coast and Central Valley areas are not included in this programmatic consultation. In the Northern California coast and Central California Coast areas, the streambed within the work area and access routes must be outside of flowing or standing water. With prior NMFS approval, projects that are proposed to occur in flowing or standing water in streams where salmonids are likely to be absent during the construction period may proceed if the project area can be isolated by placing silt fences and sand bags between the repair and live stream in order to prevent sediment input to the stream. Operations shall cease if flows rise above the silt fence levels.

Adverse Effects: Activities could occur in riverine or estuarine habitats. Adverse effects from levee maintenance include temporary increases in suspended sediment from fallback of sediment or maneuvering construction equipment into the work area, and loss of overhanging vegetation that may have established along the outboard slope of the levee. Limiting the activity to the footprint of a previously established levee and use of previously authorized material will avoid increasing the adverse effects of levee placement.

(7) DEVICES TO FACILITATE MOORING – SPN (Northern and Central California Coast) ONLY DURING FIRST YEAR OF IMPLEMENTATION



Description: Activities covered under this programmatic EFH consultation include projects such as buoys, floats, and other devices placed within anchorage or fleeting areas to facilitate moorage of vessels where the U.S. Coast Guard has established such areas for that purpose and non-commercial, single-boat, mooring buoys are included. Sheet pile walls are not included. Floating breakwaters are not allowed. Proposed activities that exceed the limits and purpose of USACE Nationwide Permits (NWP) #9 and #10 are not included.

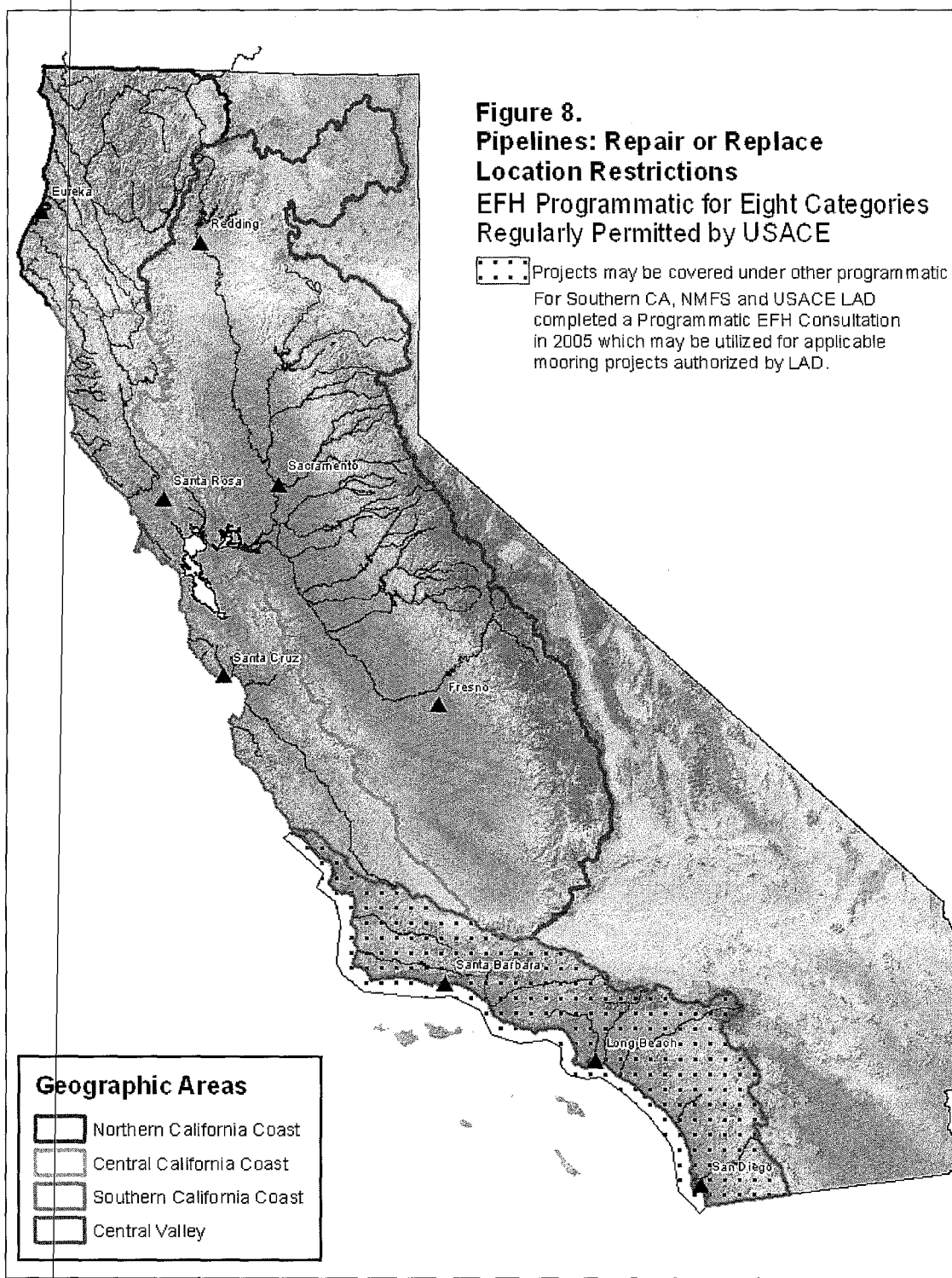
For mooring anchors and persistently moored vessels, the project proponent should strive to implement avoidance measures to the extent feasible. When avoidance measure are not feasible, minimization measures should be implemented. Avoidance and minimization measures are included in the Conservation Recommendations.

This programmatic EFH consultation does not cover devices to facilitate mooring in Southern California Coast area since those projects will continue to be covered under the existing EFH Programmatic Consultation between NMFS and USACE SPL.

Adverse Effects: Mooring buoys are a common method for anchoring boats; however, their chains can drag across the seafloor tearing up vegetation. In addition to uprooting seagrass, mooring chains can alter sediment composition ultimately impacting the benthic biota (Ostendorp *et al.* 2008). Walker *et al.* (1989) investigated the impacts of mooring buoys in Western Australia and found the 5.4 hectares of seagrass had been lost to mooring. The location of the damage within the bed may influence the extent of damage with more significant impacts associated with mooring in the center of the bed versus along the edge. The trend of seagrass loss from boat moorings is increasing. This correlates with increased vessel use (Hastings *et al.* 1995). Examples of mooring chain damages are evident throughout the world Jackson *et al.* 2002, Hiscock *et al.* 2005, Otero 2008).

Williams and Bechter (1996) examined the effects of 5 different mooring systems on marine vegetation. Their study concluded that mid-line float systems and all-rope lines had the least impact on substrate and aquatic vegetation. Disturbance impact of the remaining mooring types (*e.g.*, swinging chain moorings) ranged from 86 percent to 100 percent disturbance.

(8) PIPELINE REPAIRS AND REPLACEMENT – SPN (Northern and Central California Coast) ONLY DURING FIRST YEAR OF IMPLEMENTATION



Description: Activities included under this programmatic EFH consultation include construction, maintenance or repair of utility lines, including outfall and intake structures. This programmatic EFH consultation does not apply to new pipeline projects. Work may include trenching or boring. Replacement pipeline must be the same capacity as old pipeline. Pipelines must be relatively perpendicular (45-90 degrees) to stream banks and cannot run along stream banks. Replaced pipelines do not need to be in the same location as long as old pipeline is removed from stream bed and banks.

Dewatering shall not be used to obtain dry conditions. Streamside woody vegetation will not be disturbed. Banks will be re-seeded with native vegetation to stabilize disturbed banks. Channels will be restored to pre-project contours and characteristics (*i.e.*, no loss of pools, riffles, or cover) prior to natural rewatering of work area.

In the Central Valley area, this programmatic EFH consultation only applies to project pipelines four feet in diameter or less in dry stream channels less than 300 feet in elevation. For freshwater areas outside of the Central Valley, the streambed within the work area must be dry throughout the construction period with no flowing or ponded water.

If work includes boring, the applicant should perform a geologic analysis and there must be a low likelihood that a frac-out will occur. The geotechnical survey should be provided to NMFS prior to construction. A NMFS-approved contingency plan must be prepared and ready for implementation, and an emergency response team and equipment must be maintained on site at all stream crossings. The appropriate NMFS field office will be contacted immediately in the case of a frac-out. Construction equipment and personnel shall operate outside the stream channel and bank or levees so that no in-channel impacts occur. Pipeline projects in the Central Valley area must be buried at least 30 feet below the substrate.

This programmatic EFH consultation does not cover pipeline repairs and replacement in Southern California Coast area since those projects will continue to be covered under the existing EFH Programmatic Consultation between NMFS and USACE SPL.

Adverse Effects: Adverse effects to EFH from pipeline installation can occur through destruction of organisms and habitat during construction, increases in turbidity, resuspension of contaminants, and changes in hydrology (Hanson *et al.* 2003). Limitations for working in flowing water included in the project description should minimize adverse effects of pipeline repair projects in freshwater habitats. Adverse effects of activities in estuarine habitats where working in dry conditions is not possible will occur.

Conclusions

As described in the above effects analysis, NMFS determines that the proposed actions would adversely affect EFH for various federally managed fish species within the Pacific Coast Groundfish, Pacific Coast Salmon, and Coastal Pelagic Species FMPs. The proposed actions contain measures to avoid, minimize, mitigate, or otherwise offset the majority of adverse effects to EFH. However, some adverse effects may be unavoidable.

EFH Conservation Recommendations

The following EFH Conservation Recommendations are provided to avoid, minimize, and/or mitigate impacts to EFH. NMFS advises USACE that these recommendations be incorporated into any project using this programmatic EFH consultation.

Project Tracking

1. For the purpose of annual tracking and determining cumulative effects, USACE will provide an annual summary of the activities undertaken and will provide geographical coordinates (*i.e.*, latitude/longitude coordinates) for each action. This information will include the number of each action, the amount of acres of habitat adversely affected, the type of habitat adversely affected, and the relevant EFH Conservation Recommendations implemented. USACE will make this information available to NMFS and the public on an annual basis. Information may be made available to the public through postings on the USACE website.

Sensitive Habitats

2. USACE should ensure that projects avoid impacts to sensitive habitat resources, including rock habitat (*e.g.*, bedrock, boulders, cobble, gravel), submerged aquatic vegetation, kelp, and intertidal mudflats. For avoiding direct and indirect impacts, activities should be located at an appropriate distance from sensitive habitat (depending on geographic location, sediment type, and water circulation).
3. When impacts to sensitive habitat resources, including rock habitat (*e.g.*, bedrock, boulders, cobble, gravel), submerged aquatic vegetation, and/or kelp are unavoidable USACE should: (1) notify NMFS of potential impacts; (2) ensure a biological survey is conducted to map the coverage of the sensitive resources; and (3) ensure a mitigation plan is developed to compensate for biological resource losses. The results of the biological survey and the mitigation plan should be submitted to USACE and NMFS for review and approval. Methodology for conducting biological surveys should be appropriate for the geographic area, location, water clarity and depth of project. For example, in areas where there is low visibility, acoustic surveys are preferred. EFH coordination requirements should not be considered complete until USACE and NMFS concur on the adequacy of the proposed mitigation plan. If concurrence is not reached between the agencies, the proposed action is not eligible to be covered by this programmatic EFH consultation, and an individual EFH consultation should be completed for the proposed action.
4. USACE should ensure tree removal is limited to points of ingress and egress during proposed construction activities. If trees must be removed from other portions of project sites, no willows over 3 inches in diameter at breast height (dbh) should be removed and the canopy cover provided by hardwoods should not be reduced. Any trees removed should be replanted to achieve 1:1 successful revegetation.

5. USACE should implement the Southern California Eelgrass Mitigation Policy for all projects within Southern California, especially those projects that result in benthic disturbance (*e.g.*, piling installation, dredging, *etc.*). This policy addresses, among other issues, the mitigation site, mitigation ratio, mitigation techniques, timing and monitoring for Southern California. In most cases, this information should also be used for Central and Northern California. The policy can be accessed at:
http://swr.nmfs.noaa.gov/hcd/policies/EELPOLrev11_final.pdf.
6. USACE SPL should implement the Southern California *Caulerpa* Control Protocol. The protocol is designed to minimize the spread and introduction of this species and other potentially invasive species of this genus to California nearshore, coastal, and enclosed bays, estuaries, and harbors from Morro Bay to the U.S./Mexican border. The protocol can be accessed at: <http://swr.nmfs.noaa.gov/hcd/caulerpa/ccp.pdf>.

Bank Stabilization

7. Wherever possible, soft approaches (*e.g.*, beach nourishment, vegetative plantings, and placement of large woody debris) to shoreline modifications should be utilized.
8. Wherever possible, bank stabilization projects along estuarine and marine shorelines should incorporate natural habitats (*e.g.*, living shorelines).

Boat Docks, Piers, and Pile Driving and Removal

9. Docks should be located in sufficiently deep waters to avoid intertidal and shade impacts, to minimize or preclude dredging, to minimize groundings, and to avoid displacement of submerged aquatic vegetation.
10. Measures that increase the ambient light transmission under piers and docks should be incorporated into project design. These measures include, but are not limited to, maximizing the height of the structure and minimizing the width of the structure to decrease shade footprint, grated decking material, using solar tubes or glass blocks to direct sunlight under structure.
11. All pilings and navigational aids, such as moorings and channel markers, should be fit with devices to prevent perching by piscivorous bird species.
12. In areas of strong current, piles should be installed when the current is reduced (*i.e.*, centered around slack current) to minimize the volume of water exposed to sound pressure waves.
13. Overwater structures should use the fewest number of piles as practicable for necessary support of the structure to minimize pile shading, substrate impacts, and impacts to water circulation. Pilings should be spaced a minimum of 10 feet apart on center.
14. Remove piles completely rather than cutting or breaking off if the pile is structurally sound.

15. Minimize the suspension of sediments and disturbance of the substrate when removing piles. Measures to accomplish this include, but are not limited to, the following:
 - a) When practicable, remove piles with a vibratory hammer, rather than the direct pull or clamshell method.
 - b) Remove the pile slowly to allow sediment to slough off at, or near, the mud line.
 - c) The operator should first hit or vibrate the pile to break the bond between the sediment and pile to minimize the potential for the pile to break, as well as reduce the amount of sediment sloughing off the pile during removal.
 - d) Place a ring of clean sand around the base of the pile. This ring will contain some of the sediment substrate.
16. Complete each pass of the clamshell to minimize suspension of sediment if pile stubs are removed with a clamshell.
17. Fill all holes left by the piles with clean, native sediments if possible.
18. Place piles on a barge equipped with a basin to contain all attached sediment and runoff water after removal. Creosote-treated timber piles should be cut into short lengths to prevent reuse, and all debris, including attached, contaminated sediments, should be disposed of in an approved upland facility.
19. Drive broken/cut stubs using a pile driver, sufficiently below the mud line to prevent release of contaminants into the water column as an alternative to their removal.

Dredging

20. New dredging should be avoided to the maximum extent practicable. Activities that likely would require dredging (such as placement of piers, docks, marinas, *etc.*) should be sited in deep water areas or designed to alleviate the need for maintenance dredging.
21. Bankward slopes of the dredged area should be slanted to acceptable side slopes (*e.g.*, 3:1) to ensure that sloughing does not occur.

Levee Maintenance

22. Whenever feasible, alternative levee maintenance methods (*e.g.*, brush boxes, vegetative plantings) and softening techniques (*e.g.*, backfill rip rap with sediment and plantings) should be incorporated into project design.

Devices to Facilitate Mooring

23. Avoidance and Minimization Measures:

Avoidance:

1. All new anchored moorings and persistently moored vessels should be placed in areas in which submerged aquatic vegetation (SAV) habitat is absent. This will prevent adverse shading impacts to SAV.
2. Persistently moored vessels should be placed in waters deep enough so that the bottom of the vessel remains a minimum of 18 inches off the substrate during extreme low tide events. This will prevent adverse grounding impacts to benthic habitat.

Minimization:

1. Mooring anchors placed within SAV or habitat suitable for SAV should be of the type which use midline floats to prevent chain scour to the substrate. This will prevent adverse impacts to SAV and other benthic habitat.
2. Persistently moored vessels that are moored over SAV or rocky reef habitats with less than 18 inches between the bottom of the vessel and the substrate at low tides should utilize float stops. This will prevent adverse grounding impacts to benthic habitat.

Pipeline Repairs

24. Pipeline routes should be aligned along the least environmentally damaging route, avoiding sensitive habitats such as rock habitat, submerged aquatic vegetation, native oyster beds, emergent marsh, and intertidal sand and mudflats.
25. Horizontal direction drilling should be used through intertidal and tidal marsh areas.
26. Pipelines and submerged cables should be buried where possible.
27. Bentonite and other environmentally deleterious lubricants and fluids should not be used below ordinary high water.
28. Inactive pipelines and submerged cables should be removed unless they are located in sensitive areas. If allowed to remain in place, pipelines should be properly pigged, purged, filled with water, and capped prior to abandonment in place.
29. Silt curtains or other type barriers should be used to reduce turbidity and sedimentation if submerged aquatic vegetation or native oyster beds occur at or near the project site. NMFS developed a flowchart for a stepwise decision making process as guidance for action agencies to determine when to implement best management practices for minimizing turbidity from dredging actions as part of the programmatic EFH consultation in San Francisco Bay. This document is posted on the Southwest Region website (http://swr.nmfs.noaa.gov/hcd/HCD_webContent/nocal/kmls.htm) and may be used to evaluate avoidance and minimization measures for any project that generates turbidity.

Statutory Response Requirement

Please be advised that regulations under section 305(b)(4)(B) of the MSA and 50 CFR 600.920(k) of the MSA require your office to provide a written response to NMFS' EFH Conservation Recommendations within 30 days of receipt and at least 10 days prior to final approval of the action. For all projects using this programmatic EFH consultation, the above EFH Conservation Recommendations must be incorporated into the project description.

Supplemental Consultation

Pursuant to 50 CFR 600.920(l), USACE must reinitiate EFH consultation with NMFS if the proposed action is substantially revised in a way that may adversely affect EFH, or if new information becomes available that affects the basis for NMFS' EFH Conservation Recommendations. In the case of this programmatic EFH consultation, USACE must reinitiate EFH consultation with NMFS if a proposed action is substantially revised in a way such that the activity is no longer covered by this programmatic EFH consultation.

For questions concerning this programmatic EFH consultation, please contact either Korie Schaeffer in the NMFS Santa Rosa Office at (707) 575-6087 or Eric Chavez in the NMFS Long Beach Office at (562) 980-4064.

Sincerely,



Steven E. Edmondson
Assistant Regional Administrator
for Habitat Conservation

cc: Eric Chavez, NMFS Long Beach
Penny Ruvelas, NMFS, Long Beach
Dick Butler, NMFS, Santa Rosa
Maria Rea, NMFS, Sacramento
Irma Lagomarsino, NMFS, Arcata
Jane Hicks, Corps, San Francisco
David Castanon, Corps, Los Angeles
Michael Jewell, Corps, Sacramento
ARN 151422SWR2007SR00054

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United States Department of the Interior



In Reply Refer to:
08ESMF00-
2016-F-1196

FISH AND WILDLIFE SERVICE
Sacramento Fish and Wildlife Office
2800 Cottage Way, Suite W-2605
Sacramento, California 95825-1846

APR 27 2017

Rick Bottoms, Ph. D.
Chief, Regulatory Division
Attn: Myla Ablog
San Francisco District
U. S. Army Corps of Engineers
1455 Market Street
San Francisco, California 94103-1398

Subject: Formal Consultation on the Maintenance on Six San Mateo Culverts (File Number 2014-00000249S) in San Mateo County, California and appending to the (File Number 2007-400361S) to the June 18, 2014 *Programmatic Biological Opinion for Issuance of Permits under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act, including Authorizations Under 22 Nationwide Permits, for Project that May Affect the Threatened California Red-Legged Frog in Nine San Francisco Bay Area Counties, California.*

Dear Dr. Bottoms:

This letter is in response to the U.S. Army Corps of Engineers (Corps) March 29, 2016, request for initiation of formal consultation with the U.S. Fish and Wildlife Service (Service) on the proposed Maintenance on Six San Mateo Culverts (Project), San Mateo County, California. Your request was received by the Service on April 4, 2016. At issue are the potential effects of the proposed project on the threatened California red-legged frog (*Rana draytonii*), its critical habitat, endangered tidewater goby (*Eucyclogobius newberryi*), endangered San Mateo wooly sunflower (*Eriophyllum latilobum*) and the endangered San Francisco garter snake (*Thamnophis sirtalis tetrataenia*). No critical habitat is designated for San Francisco garter snake or San Mateo wooly sunflower. This document is issued under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act).

The Federal action on which we are consulting is the issuance of the Corps permit for the Project. Pursuant to 50 CFR 402.12(j), a project description and habitat assessment was submitted for review and requested concurrence with the findings presented therein. These findings conclude that the proposed project may affect, and is likely to adversely affect the California red-legged frog; and is not likely to adversely affect tidewater goby, San Mateo wooly sunflower, San Francisco garter snake or Critical habitat for the California red-legged. In considering your request, we based our evaluation on the following: (1) A 2014 Project Description and habitat assessment; and (2) other information available to the Service.

The Service concurs that the Project, as described here and in the Project documents submitted to the Service, may affect, but is not likely to adversely affect tidewater goby and San Mateo wooly sunflower because the Project effects are likely to be insignificant based on the following: (1) The sites are either absent habitat or in degraded habitat; (2) All work is to be limited it previously

disturbed areas and no new access road created; and (3) the sites are outside the range of known occurrences in San Mateo County.

The Service concurs that the Project, as described here and in the Project documents submitted to the Service, may affect, but is not likely to adversely affect the San Francisco garter snake because Project effects are likely to be discountable based on the following: (1) The sites are either in or adjacent to the roadway and a steep embankment which do not provide quality habitat; (2) All work is to be limited to previously disturbed areas and no new access road created; (3) the conservation measures, including instructions to stop all work if any San Francisco garter snake is encountered, will help ensure that there are no adverse effects to the species; and (4) The very short duration of the Project activities.

The Service concurs that the Project effects on designated critical habitat for the California red-legged frog are not likely to adversely affect designated critical habitat of this species. The Project will not damage or deteriorate any of the primary constituent elements (PCEs) (essential aquatic habitat, associated upland habitat, and dispersal habitat) of the critical habitat, and the PCEs will remain viable in the Project area, therefore its effects are discountable for the purposes of this consultation. This concurrence is based upon the short duration of work, small footprint of the Project activities, and conservation measures incorporated into the Project.

The remainder of this document provides our biological opinion on the effects of the proposed project on California red-legged frog. The Service has determined that the project's activities as described qualify it to be appended to the June 18, 2014 *Programmatic Biological Opinion for Issuance of Permits under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act, including Authorizations Under 22 Nationwide Permits, for Project that May Affect the Threatened California Red-Legged Frog in Nine San Francisco Bay Area Counties, California* (Programmatic Biological Opinion).

Consultation History

March 29, 2016	The Service received a request from the Corps for formal consultation on the Project and appendage to the Programmatic Biological Opinion.
March 14, 2017	The Corps sent updated info and electronic versions of the Project Description to the Service.
March 31, 2017	The Service clarified Minimization measures required for appendage to the Applicant.

BIOLOGICAL OPINION

Description of the Action

The County of San Mateo Department of Public Works (County) is proposing to replace one deteriorated corrugated metal pipe (CMP) culvert on Bear Gulch Road, repair one roadside slip-out at each of two sites on Higgins Canyon Road and two slip-outs on Seaside School Road, and reattach one disconnected culvert at each of two sites on Stage Road. Additionally, a flex pipe and flume would be installed onto the existing culvert at Higgins Canyon #2 project site to reduce further incision of the gully. Work would be performed during the dry season of June 15 to October

15, and the work at each site is expected to last between two and eight days. Please refer to the Biological Assessment and worktable for additional details.

Avoidance and Minimization Measures

The applicant will implement the proposed project using the Conservation Measures described in the Programmatic Biological Opinion (enclosure 1) excluding measures 1, 9, 20, 25, 29 and 30 as these minimization measures are impractical or would not reduce the amount of take.

Action Area

The action area is defined in 50 CFR § 402.02, as “all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action.” For the proposed project, the action area encompasses 210 linear feet of channel modification and all access and staging routes totaling approximately 0.05 acre.

Evaluation under Programmatic Biological Opinion

The proposed project meets the suitability criteria of and is within the geographic area analyzed in the Programmatic Biological Opinion. This letter is an agreement by the Service to append the proposed project to the Programmatic Biological Opinion and represents the Service's biological opinion on the effects of the proposed action. By appending the proposed project to the Programmatic Biological Opinion, the applicant acknowledges and accepts all of the conservation measures outlined within the Programmatic Biological Opinion, including, but not limited to, the measures to minimize adverse effects. The project applicant will also follow all reasonable and prudent measures, and all terms and conditions as directed by the Programmatic Biological Opinion. The Corps will ensure that the project applicant meets all of these obligations.

Status of the Species

Please refer to Page 13 of the Programmatic Biological Opinion.

Environmental Baseline

California Red-legged Frog

The California Natural Diversity Database (CNDDB) has identified multiple California red-legged frog occurrences in the general vicinity of these project sites, including three within 2 miles of the Higgins Canyon sites and two less than a mile of the Bear Gulch sites. One California red-legged frog was documented at a pond a half-mile from the Seaside School site, and several other ponds on nearby private lands may indeed be utilized as California red-legged frog breeding habitat. The project's Stage Road sites, fall within designated California red-legged frog critical habitat.

California red-legged frog likely use the drainages and associated culverts as a year round movement and dispersal corridor. Based on documented occurrences near the action area, the presence of habitat, and the biology and ecology of the species, it is likely that California Red-legged frog occur in the action area.

Effects of the Action

Effects in the action area for the California red-legged frog will be small due to the small size of the work areas, the short duration of work at the site, the temporary nature of the work, and the conservation measures in place.

The proposed action will result in temporary effects consisting of grading, staging and in-channel work to a total of approximately 0.05 acre of California red-legged frog aquatic habitat, upland foraging, and dispersal habitat within the action area. No potential California red-legged frog breeding habitat will be affected by project implementation because none of the project treatments will result in loss or degradation of the existing small pools in the action area.

Direct effects to California red-legged frogs may include injury or mortality from being crushed by earth moving equipment, construction debris, and worker foot traffic. These impacts will be reduced by minimizing and clearly demarcating the boundaries of the action area and equipment access routes and locating staging areas outside of riparian areas or other water bodies. Avoiding work activities during the breeding season for California red-legged frogs will reduce adverse impacts, particularly to eggs and tadpoles. In addition, relocating individual California red-legged frogs may further minimize injury or mortality. Limiting the staging areas to previously disturbed areas, and demarcating overland access routes to the shortest distance necessary to accomplish the project with minimal disturbance to soil and vegetation will avoid or minimize direct effects to habitat for the California red-legged frog.

The capture and handling of California red-legged frogs in order to relocate them from a work area constitutes harassment of individuals. Mortality may occur as a result of improper handling, containment, transport of individuals, or from releasing them into unsuitable habitat. Improper handling, containment, or transport of individuals will be reduced or prevented by use of a Service-approved biologist.

The potential exists for uninformed workers to intentionally or unintentionally harass, injure, harm, or kill a California red-legged frog. The potential for this effect will be reduced by informing workers of the presence and protected status of these species and the measures that are being implemented to protect them during the proposed action.

There is potential for transferring disease or pathogens from improperly decontaminated boots, waders or equipment used in other locations. Implementation of the conservation measure to decontaminate equipment will minimize the potential to transfer disease or pathogens.

Conclusion

The proposed project, as described, fits within the parameters of the level of effects analyzed in the Programmatic Biological Opinion and is not likely to jeopardize the continued existence of this listed species.

INCIDENTAL TAKE STATEMENT

Section 9 of the Act and Federal regulation pursuant to section 4(d) of the Act prohibit the take of endangered and threatened species, respectively, without special exemption. Take is defined as to

harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. Harass is defined by regulations at 50 CFR 17.3 as an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding, or sheltering. Harm is defined by the same regulations as an act which actually kills or injures wildlife. Harm is further defined to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavior patterns, including breeding, feeding, or sheltering. Incidental take is defined as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Under the terms of section 7(b)(4) and section 7(o)(2), taking that is incidental to and not intended as part of the agency action is not considered to be prohibited taking under the Act provided that such taking is in compliance with the terms and conditions of this Incidental Take Statement.

The measures described below are non-discretionary, and must be undertaken by the Corps so that they become binding conditions of any grant or permit issued to the applicant, as appropriate, for the exemption in section 7(o)(2) to apply. The Corps has a continuing duty to regulate the activity covered by this incidental take statement. If the Corps (1) fails to assume and implement the terms and conditions or (2) fails to require the applicant to adhere to the terms and conditions of the incidental take statement through enforceable terms that are added to the permit or grant document, the protective coverage of section 7(o)(2) may lapse. In order to monitor the impact of incidental take, the Corps must report the progress of the action and its impact on the species to the Service as specified in the incidental take statement of the Programmatic Biological Opinion [50 CFR §402.14(i)(3)].

Amount or Extent of Take

The Service anticipates that incidental take of the California red-legged frog will be difficult to detect due to its life history and ecology. Specifically, when California red-legged frogs are not in their breeding ponds, they may be difficult to locate due to their cryptic appearance, and finding a dead or injured individual is unlikely due to their relatively small size. Losses of California red-legged frog may also be difficult to quantify due to seasonal fluctuations in their numbers, random environmental events, changes in water regime at their breeding ponds, or additional environmental disturbances. Therefore the Service anticipates that all California red-legged frogs within the action area will be subject to incidental take in the form of non-lethal harm and harassment. The Service anticipates that no more than one (1) California red-legged frog would be killed or injured as a result of project-related activities. Upon implementation of the following Reasonable and Prudent Measures, incidental take of California red-legged frog associated with this project in the amount outlined above will become exempt from the prohibitions described in section 9 of the Act. No other forms of take are exempted under this opinion.

Effect of the Take

In the accompanying biological opinion, the Service determined that this level of anticipated take is not likely to result in jeopardy to California red-legged frog.

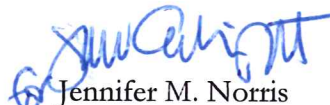
REINITIATION—CLOSING STATEMENT

This concludes formal consultation on the Maintenance on six San Mateo Culverts. As provided in 50 CFR §402.16, reinitiation of formal consultation is required and shall be requested by the Federal agency or by the Service where discretionary Federal agency involvement or control over the action has been retained or is authorized by law and:

- (a) If the amount or extent of taking specified in the incidental take statement is exceeded;
- (b) If new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered;
- (c) If the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in the biological opinion; or
- (d) If a new species is listed or critical habitat designated that may be affected by the identified action.

If you have any questions regarding this biological opinion, please contact Leif Goude (leif_goude@fws.gov) or Ryan Olah (ryan_olah@fws.gov), at the letterhead address, (916) 414-6659 or by e-mail.

Sincerely,


Jennifer M. Norris
Field Supervisor

cc:

Michael Huynh, County of San Mateo Public Works, San Mateo CA

Literature Cited

California Department of Fish and Game. 2017. RAREFIND. California Natural Diversity Database, Natural Heritage Division, Sacramento, California.

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PROPOSAL SECTION

Contractor's Check-Off List:

1. Complete **Bidder's Information Sheet**..... 1
2. Complete **Bid Proposal Sheet** 4-5
3. Complete **Acknowledgement of Site Visit Form**..... 6
4. Check off for **Bidder's Security** (cash, cashier's check, certified check, or bidder's bond) 8
5. Complete **Principal(s) and Title(s) Sheet** 10
6. Complete **State Contractor's License No. and Department of Industrial Relations Registration No. Sheet** 11
7. Complete **Subcontractor List Sheets** 12-13
8. Complete **Certification of Intent Sheet** 17
9. **Equal Employment Opportunity Sheets:**
 - i. Complete **Questionnaire for Bidder Sheet** 188-20
 - ii. Complete **Contractor Report Form** 21
10. Complete **Equal Benefits Compliance Declaration Form** 27
11. Complete **Employee Jury Service Compliance Declaration Form** 31
12. Complete **Non-Collusion Declaration Form** 32

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**PROPOSAL TO THE COUNTY OF SAN MATEO
STATE OF CALIFORNIA**

60 INCH CULVERT REPLACEMENT PROJECT AT BEAR GULCH ROAD

**TOTAL PROJECT APPROXIMATELY 82 LINEAR FEET IN LENGTH
WITH APPURTENANT WORK THERETO
IN SAN MATEO COUNTY**

**COUNTY PROJECT NO. RW927
PROJECT FILE NO. E5030**

NAME OF BIDDER: _____

STREET ADDRESS: _____

MAILING ADDRESS: _____

TELEPHONE NUMBER: (_____) _____

FAX NUMBER: (_____) _____

EMAIL FOR OFFICIAL NOTIFICATIONS: _____

The work for which this proposal is submitted is for construction in accordance with the Special Provisions and Agreement annexed hereto, the project plans described below, and the Department of Transportation Standard Plans, Revised Standard Plans, Standard Specifications, Revised Standard Specifications, 2018 edition, the Labor Surcharge and Equipment Rental Rates and the General Prevailing Wage Rates in effect on the date the work is accomplished.

It is the Contractor's obligation and responsibility to ensure that all work associated with this Project complies with all current Orders of the Health Officer of the County of San Mateo related to the Novel Coronavirus Disease 2019 (COVID-19). The County of San Mateo assumes no responsibility for work performed by Contractor that is not in compliance with all current Orders. The Contractor is advised to review the Orders of the Health Officer of the County of San Mateo, which can be found at the following link:

<https://www.smchealth.org/post/health-officer-statements-and-orders>

LOCATION OF WORK

The work will be done in accordance with the Special Provisions and Agreement annexed hereto, and in accordance with the Standard Specifications of the County of San Mateo.

The location and details of said work are further shown on the Plans titled **“60 Inch Culvert Replacement Project at Bear Gulch Road,”** File E5030 in the Department of Public Works.

TO THE BOARD OF SUPERVISORS

COUNTY OF SAN MATEO

STATE OF CALIFORNIA

The undersigned, as Bidder, declares that the only persons or parties interested in this Proposal as principals are those named herein; that this Proposal is made without collusion with any other person, firm or corporation; that he has carefully examined the location of the proposed work, the annexed proposed form of Agreement, and the Plans and Specifications therein referred to; that he proposes, and agrees if this Proposal is accepted, that he will contract with the County of San Mateo, in the form of the copy of the Agreement annexed hereto, to provide all necessary machinery, tools, apparatus and other means of construction and to do all the work and furnish all the materials specified in the Contract, in the manner and time therein prescribed and according to the requirements of the Engineer as therein set forth, and that he will accept in full payment therefor the following unit prices, to wit:

PROPOSAL TO THE COUNTY OF SAN MATEO**60 INCH CULVERT REPLACEMENT PROJECT AT BEAR GULCH ROAD**

**TOTAL PROJECT APPROXIMATELY 82 LINEAR FEET IN LENGTH
WITH APPURTENANT WORK THERETO
IN SAN MATEO COUNTY**

**COUNTY PROJECT NO. RW927
PROJECT FILE NO. E5030**

Item No.	Item Description	Section No.	Unit of Measure	Estimated Quantity	Item Price (In Figures)	Total (In Figures)
1	Trench Safety	7-5	LS	1	\$	\$
2	Develop and Apply Water	10	LS	1	\$	\$
3	Mobilization	11	LS	1	\$	\$
4	Maintaining Traffic	12	LS	1	\$	\$
5	Water Pollution Control	13	LS	1	\$	\$
6	Temporary Creek Diversion System	13-2	LS	1	\$	\$
7	Construction Waste Management	14	LS	1	\$	\$
8	Clearing and Grubbing	17	LS	1	\$	\$
9	Remove Trees	17-1	EA	2	\$	\$
10 (F)	Roadway Excavation	19-1	CY	500	\$	\$
11	Structure Backfill	19-2	CY	327	\$	\$
12	Class II Aggregate Base	26	TONS	8	\$	\$
13	Asphalt Concrete (Type A HMA, ½" max.)	39	TONS	5	\$	\$

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Item No.	Item Description	Section No.	Unit of Measure	Estimated Quantity	Item Price (In Figures)	Total (In Figures)
14 (F)	Class 2 Concrete (Minor Structure)	51-1	CY	14	\$	\$
15	60 Inch Reinforced Polyethylene Pipe	64	LF	55	\$	\$
16	Rock Slope Protection (Class 3)	72-1	CY	12	\$	\$
17	Cable Railing	80-1	LF	12	\$	\$
18	Temporary Fence (Type ESA)	80-2	LF	160	\$	\$
19	Remove and Replace Existing Barbed Wire Fence	80-3	LF	30	\$	\$
20	Remove and Reset Existing Road Signs	82	EA	1	\$	\$
21	Construction Staking	100	LS	1	\$	\$
TOTAL						\$

Notes: (F) Final Pay Quantities - See Section 9-1.02C, "Final Pay Item Quantities," of the Standard Specifications

ACKNOWLEDGEMENT OF SITE VISIT

I hereby acknowledge that a representative or representatives from our firm has/have visited the site as required for acceptance of bid for the project **“60 Inch Culvert Replacement Project at Bear Gulch Road”**. Proposal packages from contractors who do not return this form, fully executed, will not be accepted.

Name of Firm

Name(s) of Visiting Representative(s)
(Please Print)

Job Title

Date of Visit

Acknowledged by,

Name (Please Print)

Job Title

Signature

Date Signed

Bids are required for the entire work. The amount of the bid for comparison purposes will be the total of all items. The total of unit basis items will be determined by extension of the item price bid on the basis of the estimated quantity set forth for the item.

The Bidder shall set forth for each item of work, in clearly legible figures, an item price and a total for the item in the respective spaces provided for this purpose. In the case of unit basis items, the amount set forth under the "Total" column shall be the extension of the item price bid on the basis of the estimated quantity for the item.

In case of discrepancy between the item price and the total set forth for the item, the item price shall prevail, provided however, if the amount set forth as an item price is ambiguous, unintelligible or uncertain for any cause, or is omitted, or in the case of unit basis items, is the same amount as the entry in the "Total" column, then the amount set forth in the "Total" column for the item shall prevail in accordance with the following:

1. As to lump sum items, the amount set forth in the "Total" column shall be the item price.
2. As to unit basis items, the amount set forth in the "Total" column shall be divided by the estimated quantity for the item and the price thus obtained shall be the item price.

After acceptance of this Proposal and award of the Contract, if the undersigned should fail to contract as aforesaid or should fail to give the "Performance" Surety Bond in the sum of one hundred percent (100%) of the Contract bid, the "Payment" Surety Bond in the sum of one hundred percent (100%) of the Contract bid, the Certificate of Insurance covering public liability and property damage in the amounts specified in the Agreement portion of these Contract documents, and the Certificate of Insurance covering Workmen's Compensation Insurance, within **TEN (10) WORKING DAYS** after award of the Contract, the County may, at its option, determine that the bidder has abandoned the Contract, thereupon this Proposal and the acceptance thereof shall be null and void, and the forfeiture of such **security** accompanying this Proposal shall operate and the same shall become the property of the County of San Mateo, State of California.

Accompanying this Proposal is:

- ☐ Cash
- ☐ A Cashier's Check (made payable to the "County of San Mateo")
- ☐ A Certified Check (made payable to the "County of San Mateo")
- ☐ A Bidder's Bond executed by an admitted surety insurer (made payable to the "County of San Mateo") in the amount equal to at least ten percent (10%) of the total bid.

Bidders must, upon request, furnish evidence of their financial responsibility and ability to perform the work herein described.

PROVISIONS OF LABOR CODE

The Contractor shall be required to comply with all the payroll and apprenticeship provisions of Chapter 1, Division 2, Section 1776 and 1777.5 of the California Labor Code.

BIDDER'S FINANCIAL RESPONSIBILITY TECHNICAL ABILITY & EXPERIENCE

THE LOW BIDDER MUST, UPON REQUEST, FURNISH EVIDENCE OF FINANCIAL RESPONSIBILITY AND ABILITY TO PERFORM THE WORK INCLUDED IN THIS PROPOSED CONTRACT. SUCH EVIDENCE MAY INCLUDE, BUT NOT BE LIMITED TO, A FINANCIAL STATEMENT AS OF THE DATE OF BID; A STATEMENT, WITH REFERENCES, OF COMPLETED WORK OF A SIMILAR CHARACTER TO THAT INCLUDED HEREIN; A STATEMENT OF THE LAST TWO PROJECTS PERFORMED REGARDLESS OF THEIR CHARACTER; AND SUCH OTHER INFORMATION WHICH WILL ENABLE THE DIRECTOR OF PUBLIC WORKS TO JUDGE THE BIDDER'S RESPONSIBILITY, EXPERIENCE, SKILL AND BUSINESS STANDING.

**The names of all persons interested in the foregoing Proposal as principals are
as follows:**

(Name of Corporation, Co-partnership, Individual)	
(Name and Title)	(Name and Title)
(Name and Title)	(Name and Title)
(Authorized Signature of Bidder)	(Authorized Signature of Bidder)

***(NOTICE:** If the Bidder is a corporation, the legal name of the corporation and the names of the president, secretary, treasurer, and manager thereof shall be set forth together with the signature of the officer or officers authorized to sign Contracts in behalf of the corporation; if the Bidder is a co-partnership, the true name of the firm and the names of the principal partners shall be set forth together with the signature of the partner or partners authorized to sign Contracts in behalf of the co-partnership; and, if the Bidder is an individual, his full name shall be set forth and his signature shall be as the authorized officer. If the signature is by an agent, other than by an officer of a corporation or a member of a partnership, a Power of Attorney must be on file with the County prior to opening of bids or submitted with the bid; otherwise, the bid will be disregarded as irregular and unauthorized.)

Corporations must, upon request, furnish certification attesting to corporate existence and authority of officers to sign contracts and other documents.

The undersigned is licensed by the Contractor's State License Board of the State of California to perform the work hereinafter described, which State Contractor's License No. is:

State Contractor's License No.:

(Expires: _____)

Pursuant to State Senate Bill SB 854 (Stat. 2014, chapter 28), effective January 1, 2015, No contractor or subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.

Department of Industrial Relations Registration No.:

(Expires: _____)

LICENSEE: _____
(Please print)

ADDRESS: _____

CITY AND STATE: _____

Date of Proposal

Signature

SUBCONTRACTORS

DESIGNATION OF SUBCONTRACTORS: Each Bidder shall set forth below the name, business address and telephone number of each subcontractor who will perform work or labor or render service to the Contractor in or about the construction of the work or improvement to be performed under these Contract Documents. The Bidder shall also list the proposal item number(s) to be done, in whole or in part, by each subcontractor and the total amount of each subcontractor's work in dollars and as a percentage of the total bid amount. The Bidder's attention is directed to Section 5-1.13, "Subcontracting", of the Standard Specifications.

SUBCONTRACTORS

1. Name: _____ Item No(s). _____
 Address: _____ Dollar Amount: \$ _____
 Tel: (____) _____ Percent of Total Bid: _____ %
 License No.: _____
 Department of Industrial Relations Registration No.: _____

2. Name: _____ Item No(s). _____
 Address: _____ Dollar Amount: \$ _____
 Tel: (____) _____ Percent of Total Bid: _____ %
 License No.: _____
 Department of Industrial Relations Registration No.: _____

3. Name: _____ Item No(s). _____
 Address: _____ Dollar Amount: \$ _____
 Tel: (____) _____ Percent of Total Bid: _____ %
 License No.: _____
 Department of Industrial Relations Registration No.: _____

4. Name: _____ Item No(s). _____
 Address: _____ Dollar Amount: \$ _____
 Tel: (____) _____ Percent of Total Bid: _____ %
 License No.: _____
 Department of Industrial Relations Registration No.: _____

SUBCONTRACTORS

(Continued)

5. Name: _____ Item No(s). _____
 Address: _____ Dollar Amount: \$ _____
 Tel: (_____) _____ Percent of Total Bid: _____ %
 License No.: _____
 Department of Industrial Relations Registration No.: _____
6. Name: _____ Item No(s). _____
 Address: _____ Dollar Amount: \$ _____
 Tel: (_____) _____ Percent of Total Bid: _____ %
 License No.: _____
 Department of Industrial Relations Registration No.: _____
7. Name: _____ Item No(s). _____
 Address: _____ Dollar Amount: \$ _____
 Tel: (_____) _____ Percent of Total Bid: _____ %
 License No.: _____
 Department of Industrial Relations Registration No.: _____
8. Name: _____ Item No(s). _____
 Address: _____ Dollar Amount: \$ _____
 Tel: (_____) _____ Percent of Total Bid: _____ %
 License No.: _____
 Department of Industrial Relations Registration No.: _____
9. Name: _____ Item No(s). _____
 Address: _____ Dollar Amount: \$ _____
 Tel: (_____) _____ Percent of Total Bid: _____ %
 License No.: _____
 Department of Industrial Relations Registration No.: _____
10. Name: _____ Item No(s). _____
 Address: _____ Dollar Amount: \$ _____
 Tel: (_____) _____ Percent of Total Bid: _____ %
 License No.: _____
 Department of Industrial Relations Registration No.: _____

**SAN MATEO COUNTY
EQUAL EMPLOYMENT OPPORTUNITY PROGRAM**

CONTRACT COMPLIANCE PROGRAM

The purpose of the **Contract Compliance Program** is two-fold:

- 1. To prohibit and eliminate employment discrimination; and**
- 2. To further the opportunities for minority persons to be gainfully employed in County construction contracts.**

The program requires equal employment opportunity efforts by Contractors to employ minority workers on the County's construction projects. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, age, disability, ancestry, sexual orientation, or sex. The Contractor will take equal employment opportunity actions to ensure that applicants are employed, and that employees are treated, during employment, without regard to their race, religion, color, national origin, age, disability, ancestry, sexual orientation, or sex; with the goal that the ethnic composition of the Contractor's work force will approximate the ethnic composition of the population of San Mateo County. Such action shall include, but not be limited to, employment, upgrading, demotion or transfer; recruitment; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship training and on-the-job training.

The **San Mateo County Equal Employment Opportunity Program** requires the Contractor to make two certifications. The first assures compliance with laws prohibiting discrimination. The second concerns the intent to develop and implement an equal employment opportunity program.

The Contractor is further required to:

1. Post “**EQUAL EMPLOYMENT OPPORTUNITY NOTICE(S)**”, including the statement: “**AN EQUAL OPPORTUNITY EMPLOYER**”, in all announcements of job openings;
2. Permit access by County and State compliance officials to his employment records; and
3. File monthly reports on prescribed forms:

- A. **Monthly Manpower-Utilization Report**
- B. **Weekly payroll Form WH-347** (which form can be found on the U.S. Department of Labor, Wage & Hour Division website, which website is addressed as <http://www.dir.ca.gov/dlsr/PWD/Northern.html>)
- C. **Statement of Compliance** (which form is on the back of payroll form WH-347 or separate form WH-348, as requested by the County's contract compliance representative)
- D. Assign an equal opportunity officer full time or as additional duty.

Union employees are to be recruited according to applicable labor agreements. If non-union employees are recruited for the project, the Contractor shall make use of minority-oriented news media and referral sources. The Contractor shall inform all subcontractors hired by him on the project(s) of their obligations under this program; and Contractor **will be responsible for the compliance with these regulations by his subcontractors.**

For failure to comply with the non-discrimination section, the Contractor is subject to a penalty of **two percent (2%) of the total amount payable for each working day during which he was found to be in non-compliance, or the cancellation of the contract in part or whole.**

The County's Contract Compliance Program is monitored by the San Mateo County Department of Public Works, 555 County Center, 5th Floor, Redwood City, California, 94063-1665, telephone (650) 363-4100.

Information and necessary forms are available at the **Department of Public Works**. In addition to evaluating Contractors' and subcontractors' equal opportunity efforts, the **Department of Public Works** will assist Contractors and subcontractors toward meeting these obligations.

**CERTIFICATION OF COMPLIANCE
WITH LAWS PROHIBITING DISCRIMINATION**

We are in compliance with the **EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENT OF THE EXECUTIVE ORDER 11246, TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT**, any other Federal or State laws relating to equal employment opportunity and the provisions of **Title 2, Chapter 2.50 of the San Mateo County Ordinance Code** and the Board established guidelines implementing them.

We will not discriminate against any employee or applicant for employment based on **race, religion, color, national origin, age, disability, ancestry, sexual orientation, or sex**. This pertains to the areas of **recruitment, hiring, training, upgrading, transfer, compensation and termination**.

CERTIFICATION OF INTENT

We will maintain or develop and implement, during the course of the work concerned, an **Equal Employment Opportunity Program** of hiring and employment conducted without regard to **race, religion, color, national origin, age, disability, ancestry, sexual orientation, or sex** of the applicants. With this Certification we shall submit any and all information that may be required by the County in connection with this program.

We certify that we have read and understood the County of San Mateo's **GENERAL EQUAL EMPLOYMENT OPPORTUNITY STATEMENT SECTION III-A**, which is included in the proposal section of the Specifications.

As a private Contractor, working under contracts with the County of San Mateo, we understand that these policies are the requirements of said County employment and we will, in our recruitment, training and staffing, work to implement this Section as applicable.

Signature and Title of Authorized Representative or Bidder

Date

**SAN MATEO COUNTY
EQUAL EMPLOYMENT OPPORTUNITY PROGRAM**

QUESTIONNAIRE FOR BIDDER

THIS REPORT MUST BE COMPLETED IN FULL BY AN OFFICIAL OF THE COMPANY AND SUBMITTED WITH THE BID.

PROJECT: 60 INCH CULVERT REPLACEMENT PROJECT AT BEAR GULCH ROAD

NAME OF FIRM: _____

ADDRESS: _____

CITY/ZIP: _____

TELEPHONE: (____)_____ DATE OF SUBMITTAL: _____

OFFICIAL FOR COMPANY: _____

1. _____ Yes _____ No Have you read and are you acquainted with the **Equal Employment Opportunity Requirement** of the Executive Order 11246, Title VII of the **Civil Rights Act of 1964**, the California Fair Employment Practices Act and **Title 2, Chapter 2.50** of the San Mateo County Ordinance Code?

2. _____ Yes _____ No Does your employment advertising state that you are an Equal Opportunity Employer?

3. _____ Yes _____ No Have all recruitment sources been advised that all qualified applicants will be considered for employment without regard to race, religion, color, national origin, age, disability, ancestry, sexual orientation, or sex?

4. _____ Yes _____ No Were any employees hired by means other than the union hiring hall in the past year?

How many? _____

What positions? _____

5. If non-union personnel are employed by the company, or if a position cannot be filled by the union hall, specify the advertisement and recruitment sources that are used. (For example, State HRD, newspapers, high schools, vocational schools, referral agencies/organizations, community groups.)

6. How many apprentices do you employ? _____

How many of these are minorities? _____

7. _____ Yes _____ No Do you have a program for upgrading and counseling present employees?

Describe: _____

8. _____ Yes _____ No Do you have a collective bargaining agreement with a labor union or other organization?
Please list these groups _____

9. What percentage of your work force is covered by union agreement? _____

10. _____ Yes _____ No Have you advised the labor union and/or worker organizations of your company's responsibility under the Equal Employment Opportunity Program?

11. _____ Yes _____ No Does your company's collective bargaining agreement include a provision for non-discrimination in employment?

12. Describe any previous experience with Equal Employment Opportunity Programs:

If your company has a written Equal Employment Opportunity Program now in effect, please attach a copy.

**COUNTY OF SAN MATEO
EQUAL EMPLOYMENT OPPORTUNITY PROGRAM**

**CONTRACTOR REPORT FORM
(To Be Submitted with Original Bid)**

PROJECT: 60 INCH CULVERT REPLACEMENT PROJECT AT BEAR GULCH ROAD

DATE: _____

NAME OF BIDDER: _____

NAME OF PERSON SUBMITTING REPORT: _____

RACIAL/ETHNIC MAKEUP OF THE COMPANY

Be sure to include the total of all employees in each classification in the first column. Report the number of employees enrolled in formal on-the-job (apprenticeship) training programs in parenthesis () for each classification.

Minority Employees										
Job Classification	Total (All Employee s)	Ethnicity								
		American- Indian or Native Alaskan	Asian	Native Hawaiian or Pacific Islander	Black American or African American	Caucasian	Filipino	Hispani c or Latino (1)	Other (2)	Unidentifie d (3)
Total (s)										

Notes: (1) "Hispanic" includes all persons of Mexican, South and Central American, Puerto Rican, Cuban or Spanish ancestry.

(2) "Other" includes all others whose origin consists of two or more races other than Hispanic or Latino.

(3) Use this category for employees who have chosen not to identify any race or ethnicity, including "Other".

**SECTION III-A. GENERAL EQUAL EMPLOYMENT
OPPORTUNITY POLICY STATEMENT**

The Board of Supervisors of the County of San Mateo takes this opportunity to express its commitment to one of its highest priorities in the area of employment. This priority is assuring that all employees and applicants for employment are provided equal access to, and enjoyment of employment opportunities, and that they are not subjected to discrimination because of age (over 40), ancestry, creed, color, disability, marital status, medical condition, national origin, political or religious affiliation, race, sex, or sexual orientation.

The Board of Supervisors is committed to ensuring compliance with all applicable non-discrimination laws and regulations in order to attain a work environment that is free of discrimination so all County employees can provide quality public service.

The County will take positive measures toward eliminating artificial barriers to employment and achieving equal opportunity through its continued implementation and coordination of the County's Equal Employment Opportunity Program and through its review and evaluation of hiring and promotional policies and procedures.

It is the belief of the Board of Supervisors that equal employment opportunity is consistent with the basic merit system principle that all persons be afforded equal access to positions in public service based on their ability to do the job. Employment decisions shall be made on the basis of merit and in conformity with the principles of equal opportunity action.

Through adoption of the Equal Employment Opportunity Program, the Board of Supervisors commits the County, the operating departments, the Equal Employment Opportunity Coordinator, and all employees to a results-oriented Equal Employment Opportunity Program aimed at attaining a balanced workforce at all levels of County employment and achieving equal opportunity in County service.

EQUAL BENEFITS COMPLIANCE ORDINANCE NO. 04026**CHAPTER 2.84**ORDINANCE NO. 04026

AN ORDINANCE OF THE SAN MATEO COUNTY ORDINANCE CODE (TITLE 2, ADMINISTRATION), REQUIRING SPECIFIED COUNTY CONTRACTORS TO PROVIDE FOR NON-DISCRIMINATION BY COUNTY CONTRACTORS IN THE PROVISION OF EMPLOYEE BENEFITS

WHEREAS, employee benefits routinely comprise a significant proportion of total employee compensation; and

WHEREAS, discrimination in the provision of employee benefits between employees with domestic partners and employees with spouses results in unequal pay for equal work; and

WHEREAS, County of San Mateo law prohibits discrimination based on marital status and/or sexual orientation; and

WHEREAS, it is the County's intent, through the contracting practices outlined herein, to equalize the total compensation between similarly situated employees with spouses and employees with domestic partners;

Section 1. The Board of Supervisors of the County of San Mateo, State of California, **ORDAINS** as follows:

Chapter 2.84 CONTRACTS – EQUAL BENEFITS**2.84.010 Definitions.**

For the purposes of this chapter,

- A. “Contract” means a legal agreement between the County and a contractor for public works, consulting, or other services, or for purchase of supplies, material or equipment for which the consideration is in excess of \$5,000.
- B. “Contractor” means a party who enters into a contract with the County.
- C. “Contract Awarding Authority” means the Board of Supervisors or the individual authorized by the Board of Supervisors to enter into contracts on behalf of the County.
- D. “Domestic Partner” means any person who is registered as a domestic partner with the Secretary of State, State of California registry or the registry of the state in which the employee is a resident.

- E. "Employee Benefits" means the provision of any benefit other than pension and retirement benefits provided to spouses of employees or provided to an employee on account of the employee's having a spouse, including but not limited to bereavement leave; disability, life, and other types of insurance; family medical leave; health benefits; membership or membership discounts; moving expenses; vacation; travel benefits; and any other benefits given to employees, provided that it does not include benefits to the extent that the application of the requirements of this chapter to such benefits may be preempted by federal or state law.
(Ord. 4324, 08/15/06)

2.84.020 Discrimination in the provision of benefits prohibited.

(a) No contractor on a County contract shall discriminate in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse, subject to the following conditions:

1. In the event that the contractor's actual cost of providing a particular benefit for the domestic partner of an employee exceeds that of providing it for the spouse of an employee, or the contractor's actual cost of providing a particular benefit to the spouse of an employee exceeds that of providing it for the domestic partner of an employee, the contractor shall not be deemed to discriminate in the provision of employee benefits if the contractor conditions providing such benefit upon the employee's agreement to pay the excess costs.
2. The contractor shall not be deemed to discriminate in the provision of employee benefits if, despite taking reasonable measures to do so, the contractor is unable to extend a particular employee benefit to domestic partners, so long as the contractor provides the employee with a cash payment equal to the contractor's cost of providing the benefit to an employee's spouse.

(b) The Board of Supervisors may waive the requirements of this chapter when it determines that it is in the best interests of the County. The County Executive may waive the requirements of this chapter for contracts not needing the approval of the Board of Supervisors where waiver would be in the best interests of the County for such reasons as follows:

1. Award of a contract or amendment is necessary to respond to an emergency;
2. The contractor is a sole source;
3. No compliant contractors are capable of providing goods or services that respond to the County's requirements;

4. The requirements are inconsistent with a grant, subvention or agreement with a public agency;
5. The County is purchasing through a cooperative or joint purchasing agreement;

(c) Contractors should submit requests for waivers of the terms of this chapter to the Contract Awarding Authority for that contract, or in the case of Contracts approved by the Board, the County Executive.

(d) The Contract Awarding Authority, or in the case of contracts approved by the Board, the County Executive, may reject an entity's bid or proposals, or terminate a contract, if the Contract Awarding Authority determines that the entity was set up, or is being used, for the purpose of evading the intent of this chapter.

(e) No Contract Awarding Authority shall execute a contract with a contractor unless such contractor has agreed that the contractor will not discriminate in the provision of employee benefits as provided for in this chapter. (Ord. 4324, 08/15/06)

2.84.030 Application of Chapter.

The requirements of this chapter shall only apply to those portions of a contractor's operations that occur (i) within the County; (ii) on real property outside of the County if the property is owned by the County or if the County has a right to occupy the property, and if the contractor's presence at that location is connected to a Contract with the County; and (iii) elsewhere in the United States where work related to a County Contract is being performed. The requirements of this Chapter shall not apply to subcontracts or subcontractors of any contract or contractor. (Ord. 4324, 08/15/06)

2.84.040 Powers and duties of the County Executive.

The County Executive's office shall have the authority to:

(a) Adopt rules and regulations, in accordance with this chapter and the Ordinance Code of the County of San Mateo, establishing standards and procedures for effectively carrying out this chapter.

(b) Receive notification from employees of contractors regarding violations of this chapter.

(c) Determine and recommend to the Board of Supervisors for final decision the imposition of appropriate sanctions for violation of this chapter by contractors including, but not limited to:

1. Disqualification of the contractor from bidding on or being awarded a County contract for a period of up to 5 years; and
2. Contractual remedies, including, but not limited to termination of contract.

3. Liquidated damages in the amount of \$2,500.

- (d) Examine contractors' benefit programs covered by this chapter;
- (e) Impose other appropriate contractual and civil remedies and sanctions for violations of this chapter;
- (f) Allow for remedial action after a finding of non-compliance, as specified by rule;
- (g) Perform such other duties as may be required or which are necessary to implement the purposes of this chapter. (Ord. 4324, 08/15/06)

2.84.050 Date of Application.

The provisions of this chapter shall apply to any contract awarded or amended on or after July 01, 2001, provided that if the contractor is then signatory to a collective bargaining agreement, this chapter shall only apply to any contract with that contractor which is awarded or amended after the effective date of the next collective bargaining agreement. (Ord. 4324, 08/15/06)

Section 2. Severability – The provisions of this ordinance are declared to be separate and severable. If a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having run, finds any provision of this ordinance to be invalid or unenforceable as to any person or circumstance, such offending provision shall, if feasible, be deemed to be modified to be within the limits of enforceability or validity. However, if the offending provision cannot be so modified, it shall be null and void with respect to the particular person or circumstance, and all other provisions of this ordinance in all other respects, and the offending provision with respect to all other persons and all other circumstances, shall remain valid and enforceable.

COUNTY OF SAN MATEO
Equal Benefits Compliance Declaration Form
 (To Be Submitted with Proposal)

I Vendor Identification

Name of Contractor: _____

Contact Person: _____

Address: _____

Phone Number: _____ Fax Number: _____

II Employees

Does the Contractor have any employees? _____ Yes _____ No

Does the Contractor provide benefits to spouses of employees? _____ Yes _____ No

*If the answer to one or both of the above is no, please skip to Section IV. *

III Equal Benefits Compliance (Check One)
☐ Yes, the Contractor complies by offering equal benefits, as defined by Chapter 2.84, to its employees with spouses and its employees with domestic partners.

☐ Yes, the Contractor complies by offering a cash equivalent payment to eligible employees in lieu of equal benefits.

☐ No, the Contractor does not comply.

☐ (NOTE: **DO NOT CHECK THIS BOX** unless the said agreement was executed/renewed on or before July 1, 2001. If checked, a copy of the collective bargaining agreement shall be submitted with Proposal.)

 The Contractor is under a collective bargaining agreement which began **on or before July 1, 2001** and expires on _____ (date). (Section 2.84.050)
IV Declaration

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

 Executed this _____ day of _____, 20__ at _____, _____.
(City) (State)

 Signature

 Name (Please Print)

 Title

 Contractor Tax Identification Number

CONTRACTOR EMPLOYEE JURY SERVICE ORDINANCE NO. 04269**CHAPTER 2.85**ORDINANCE NO 04269

AN ORDINANCE OF THE SAN MATEO COUNTY ORDINANCE CODE (TITLE 2,
ADMINISTRATION), REQUIRING SPECIFIED COUNTY CONTRACTORS
TO PROVIDE PAID JURY SERVICE TO FULL-TIME EMPLOYEES

The Board of Supervisors of the County of San Mateo, State of California,
ORDAINS as follows:

Chapter 2.85 CONTRACTOR EMPLOYEE JURY SERVICE**2.85.010 Definitions**

For the purposes of this chapter,

- (a) "Contract" means a legal agreement between the County and a contractor for public works, consulting, or other services, or for purchase of supplies, material or equipment.
- (b) "Contractor" means a party who enters into a contract with the County for which the contractor receives consideration of \$100,000 or more.
- (c) "Contract Authority" means the Board of Supervisors or the head of the department or agency presenting the proposed contract to the Board of Supervisors.
- (d) "Employee " means any California resident who is a full-time employee of a contractor under the laws of California.
- (e) "Full time " means 40 hours or more worked per week, or a lesser number of hours if (1) the lesser number is a recognized industry standard as determined by the County Executive, or (2) the contractor has a long standing practice that defines the lesser number of hours as full time. (Ord. 4324, 08/15/06)

2.85.020 Contractor jury service policy

- (a) A contractor shall have and adhere to a written policy that provides that its employees shall receive from the contractor, on an annual basis, no less than five days of regular pay for actual jury service in San Mateo County. The policy may provide that employees deposit any fees received for such jury service with the contractor or that the contractor deduct from the employees' regular pay the fees received for jury service.

- (b) At the time of seeking a contract, a contractor shall certify to the County that it has and adheres to a policy consistent with this chapter or will have and adhere to such a policy prior to award of the contract.
- (c) The Board of Supervisors may waive the requirements of this chapter when it determines that it is in the best interests of the County for such reasons as follows:
 - (1) Award of a contract or amendment is necessary to respond to an emergency;
 - (2) The contractor is a sole source;
 - (3) No compliant contractors are capable of providing goods or services that respond to the County's requirements;
 - (4) The requirements are inconsistent with a grant, subvention or agreement with a public agency;
 - (5) The County is purchasing through a cooperative or joint purchasing agreement.
- (d) Contractors should submit requests for waivers of the terms of this chapter to the Contract Authority or the County Executive.
- (e) The County Executive may reject a contractor's bid or proposal, or terminate a contract, if he determines that the contractor is in violation of the requirements of this chapter or was established, or is being used, for the purpose of evading the intent of this chapter.
- (f) No contract shall be executed with a contractor unless such contractor is in compliance with this chapter. (Ord. 4324, 08/15/06)

2.85.030 Powers and duties of the County Executive

The County Executive's office shall have the authority to:

- (a) Adopt rules and regulations, in accordance with this chapter and the Ordinance Code of the County of San Mateo, establishing standards and procedures for effectively carrying out this chapter.
- (b) Receive notification from employees of contractors regarding violations of this chapter.
- (c) Determine and recommend to the Board of Supervisors for final decision the imposition of appropriate sanctions for violation of this chapter by contractors including, but not limited to:
 - (1) Disqualification of the contractor from bidding on or being awarded a County contract for a period of up to 5 years; and

- (2) Contractual remedies, including, but not limited to termination of contract.
- (d) Impose other appropriate contractual sanctions for violations of this chapter;
- (e) Allow for remedial action after a finding of non-compliance;
- (f) Perform such other duties as may be required or which are necessary to implement the purposes of this chapter. (Ord. 4324, 08/15/06)

2.85.040 Date of Application

The provisions of this chapter shall apply to any contract awarded or amended on or after September 01, 2005, provided that if the contractor is then signatory to a collective bargaining agreement, this chapter shall only apply to any contract with that contractor which is awarded or amended after the effective date of the next collective bargaining agreement. (Ord. 4324, 08/15/06)

COUNTY OF SAN MATEO
Employee Jury Service Compliance Declaration Form
(To Be Submitted with Proposal)

I Vendor Identification

Name of Contractor: _____

Contact Person: _____

Address: _____

Phone Number: _____ Fax Number: _____

II Employees

Does the Contractor have any employees? _____ Yes _____ No

*If the answer to the above is no, please skip to Section IV. *

III Contractor Employee Jury Service Compliance (Check One)

- ☐ Yes, the Contractor complies by offering paid employee jury service, as defined by Chapter 2.85, to its employees.
- ☐ The Contractor will have and adhere to, prior to award of the Contract, a policy that complies by offering paid employee jury service, as defined by Chapter 2.85, to its employees.
- ☐ No, the Contractor does not comply.
- ☐ *(NOTE: **DO NOT CHECK THIS BOX** unless the said agreement was executed/renewed on or before September 1, 2005. If checked, a copy of the collective bargaining agreement shall be submitted with Proposal.)*

The Contractor is under a collective bargaining agreement which began ***on or before September 1, 2005*** and expires on _____ (date). (Section 2.85.040)

IV Declaration

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Executed this _____ day of _____, 20__ at _____, _____.
(City) (State)

Signature

Name (Please Print)

Title

Contractor Tax Identification Number

NON-COLLUSION DECLARATION FORM**THIS FORM SHALL BE EXECUTED BY BIDDER AND SUBMITTED WITH BID.**

The undersigned declares:

I am the _____ of _____, the party making the foregoing bid.

The bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid. The bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or to refrain from bidding. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder. All statements contained in the bid are true. The bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on _____ [Date], at _____ [City], _____ [State].

“Contractor”

(Print)

(Signature)

AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 2022, by and between the COUNTY OF SAN MATEO, State of California, hereinafter called the "County" and _____, hereinafter called the "Contractor,"

W I T N E S S E T H:

THAT, for and in consideration of the mutual covenants and agreements hereinafter contained, the parties hereto agree as follows:

I. Services to be performed by Contractor: The Contractor will at his own proper cost and expense, do all the work and furnish all the labor, materials, equipment and utilities necessary to perform and complete in good workmanlike and substantial manner, and to the satisfaction of the Director of Public Works of the County of San Mateo, hereinafter called "Engineer," for the project

60 INCH CULVERT REPLACEMENT PROJECT AT BEAR GULCH ROAD

TOTAL PROJECT APPROXIMATELY 82 LINEAR FEET IN LENGTH WITH APPURTENANT WORK THERETO IN SAN MATEO COUNTY

COUNTY PROJECT NO. RW927 PROJECT FILE NO. E5030

and all in strict accordance with the Plans, Specifications, Notice to Contractors, Special Provisions and Proposal on file in the office of the Director of Public Works, which said Plans, Specifications, Notice to Contractors, Special Provisions and Proposal are hereby specifically referred to and by such reference made a part thereto.

II. Payments: The Contractor will receive and accept and the County will pay the prices specified in the Contractor's Proposal, dated _____, 2022, on file in the office of the Director of Public Works of the County of San Mateo and by reference made a part of this Agreement, as full compensation for furnishing all labor,

materials and equipment for doing all the work contemplated and embraced in this Agreement; the Contractor assumes any and all loss or damage arising out of the nature of the work aforesaid, or from the action of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work until its acceptance by the County, and for all risks of every description connected with the work, and also assumes any and all expenses incurred by or in consequence of the suspension or discontinuance of work and for well and faithfully completing the work, and the whole thereof, in the manner and to the Plans, Specifications and Special Provisions and requirements of the Engineer hereunder. The Contractor shall guarantee all materials and workmanship for a period of one (1) year from date of acceptance of the project by the Director of Public Works. Any defects due to faulty materials, method of installation or workmanship within that period shall be repaired by the Contractor promptly upon notice by the Engineer, at the expense of the Contractor.

It is distinctly understood that the estimate set forth in the Notice to Contractors is only an approximation of the amount of work to be done and the County does not expressly or by implication agree that the actual amount of work will correspond with the amount set forth therein, and payment shall be made to the Contractor as above set forth.

Payment to the Contractor shall be made progressively by the County for the work and materials furnished under this Agreement in accordance with the provisions of Section 9 of the Special Provisions portion of these Contract documents.

III. Term: Time is of the essence in the Agreement, and the work to be performed hereunder shall be completed within

FORTY (40) WORKING DAYS

from the date of commencement of the work, which commencement shall be within **TEN (10) CALENDAR DAYS** after receiving Notice to Proceed from the Engineer.

IV. Termination: This Contract is subject to termination as provided by Section 4410 and Section 4411 of the Government Code of the State of California, being portions of the Emergency Termination of Public Contracts Act of 1949. In the event that the Contract is terminated pursuant to said sections, compensation to the

Contractor shall be determined on the basis of the reasonable value of the work done, including preparatory work. As an exception to the foregoing, in the case of any fully completed separate item or portion of the work for which there is a separate Contract price, the Contract price shall control.

V. Relationship of Parties: Contractor agrees and understands that the work/services performed under this Agreement are performed as independent contractor and not as an employee of the County and that Contractor acquires none of the rights, privileges, powers, or advantages of County employees.

VI. Merger Clause: This Agreement, together with the Notice to Contractors, the Contractor's Proposal, the Plans, Specifications and Special Provisions and the Payment and Performance Bonds form the Contract, and said documents incorporated herein by reference become as fully a part of the Contract as if hereto attached or herein set forth in full. The Standard Specifications of the County of San Mateo, State of California, which, except as specifically noted in the County Contract documents and specifications, are identical with the Standard Specifications of the State of California, Department of Transportation, 2018 edition, and are on file with the County Executive/Clerk of the Board of Supervisors, County of San Mateo, are incorporated herein by reference as a part of the Contract documents and shall apply to this project except where the terms of this Agreement or other Contract documents are inconsistent therewith, in which case the provisions of this Contract shall prevail.

This Agreement constitutes the sole Agreement of the parties hereto and correctly states the rights, duties, and obligations of each party as of this document's date. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications shall be in writing and signed by the parties.

VII. Surety Bonds: The performance of this Contract is secured by a "Payment" Surety Bond in the sum of one hundred percent (100%) of the Contract bid, and a "Performance" Surety Bond in the sum of one hundred percent (100%) of the Contract bid. "Payment" and "Performance" Surety Bonds have been approved as to

form by the County Attorney's Office, of which samples of same are attached as Appendix C in the Special Provisions.

VIII. Insurance: The Contractor shall not commence work under this Contract until he has obtained all insurance required under this paragraph and such insurance has been approved by the County, nor shall the Contractor allow any subcontractor to commence work on his subcontract until all similar insurance required of the subcontractor has been so obtained. The Contractor shall furnish County with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending the Contractor's coverage to include the contractual liability assumed by the Contractor pursuant to this Contract. Certificates of Insurance shall be filed with the County within **TEN (10) WORKING DAYS** after award of the contract. These certificates shall specify or be endorsed to provide that **THIRTY (30) CALENDAR DAYS'** notice must be given, in writing, to County of any pending change in the limits of liability or of any cancellation or modifications of the policy.

A. Worker's Compensation and Employer's Liability Insurance

The Contractor shall have in effect during the entire life of this Contract, Worker's Compensation and Employer's Liability Insurance providing full statutory coverage; and in case any work is sublet, the Contractor shall require all subcontractors similarly to provide Worker's Compensation and Employer's Liability Insurance to full statutory limits. In signing this Contract, the Contractor makes the following certifications, required by Section 1861 of the Labor Code:

"I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the code, and I will comply with such provisions before commencing the performance of the work of this Contract."

B. Liability Insurance

The Contractor shall take out and maintain during the life of this Contract such Bodily Injury Liability and Property Damage Liability Insurance as shall comply with Section 7-1.05, "Indemnification," and Section 7-1.06, "Insurance," of the Standard Specifications and protect him/her and any subcontractor

performing work covered by this Contract, from claims for damages for bodily injury, including accidental death, as well as from claims for property damage including third party property damage, to include coverage on property in the care, custody and control of the Contractor, and also including coverage for what are commonly known as the "X, C and U" exclusions (having to do with blasting, collapse and underground property damage), which may arise from the Contractor's operations under this Contract, whether such operations be by himself/herself or by any subcontractor or by anyone directly or indirectly employed by either of them and the amounts of such insurance shall be **ONE MILLION DOLLARS (\$1,000,000)** combined single bodily injury and property damage for each occurrence. The County of San Mateo, and its officers, agents, servants and employees, shall be named as additional insureds on any such policies of insurance, which shall also contain a provision stating that the insurance afforded thereby to the County of San Mateo, and its officers, agents, servants and employees, shall be primary insurance to the full limits of liability of the policy, and that if the County of San Mateo, or its officers and employees, have other insurance against a loss covered by such policy, such other insurance shall be excess insurance only.

Such statements, mentioned above, shall be included on a separate endorsement to be submitted to the County with the Certificate of Insurance.

Such insurance shall include:

1) Comprehensive General Liability \$1,000,000

2) Motor Vehicle Liability Insurance \$1,000,000

- C.** In case of the breach of any provision of this Article, the County, at its option, may take out and maintain at the expense of the Contractor, or subcontractor, such insurance as the County may deem proper and may deduct the cost of taking out and maintaining such insurance from any sums which may be due, or become due, to the Contractor, under this Contract.

D. Hold Harmless

The Contractor's attention is directed to Section 7-1.05, "Indemnification,"

and Section 7-1.06, "Insurance," of the Standard Specifications.

The provisions contained in Section 7-1.05, "Indemnification," and Section 7-1.06, "Insurance," of the Standard Specifications of the State of California, Department of Transportation, shall be applicable with the understanding that where said provisions specifically refer to the State of California, a department or division of the State or an official, officer or employee of the State, said provision shall be interpreted to refer to the County of San Mateo, and all officers, agents, servants and employees thereof connected with the work, including but not limited to the Director of Public Works, their duly authorized representatives, other appropriate department, division, official, officer or employee of the County of San Mateo.

The provisions of Section 7-1.05, "Indemnification," and Section 7-1.06, "Insurance," of the Standard Specifications are superseded by the following:

"To the full extent permitted by law, Contractor shall indemnify and save harmless the County, its officers, employees, and servants from all claims, suits, or actions of every name, kind, and description, brought for, or on account of:

1. Injuries to or death of any person, including Contractor, its officers, employees and servants, or
2. Damage to any property of any kind whatsoever and to whomsoever belonging, or
3. Any sanctions, penalties or claims of damages resulting from Contractor's failure to comply with applicable laws, or
4. Any other loss or cost resulting from the contractor's negligent or reckless acts or omissions or willful misconduct in connection with the performance of any work required of Contractor or payments made pursuant to this Agreement, provided that this shall not apply to injuries or

damages for which the County has been found in a court of competent jurisdiction to be liable by reason of its own negligence or willful misconduct.

The duty of Contractor to indemnify and save harmless, as set forth herein, shall include the duty to defend, as set forth In Section 2778 of the California Civil Code.

The obligations set forth in this Section shall continue beyond the term of this Agreement as to any act or omission which occurred during or under this Agreement.”

E. Compensation

All insurance required by the paragraphs of this section shall be obtained and maintained by the Contractor at Contractor’s own expense and County shall not compensate Contractor for said insurance expenses other than as they are included in the Contract prices the County pays for the various items of work.

F. Nothing herein contained shall be construed as limiting in anyway the extent to which the Contractor may be held responsible for payments of damages resulting from his operation.

IX. Prevailing Wages: Contractor hereby agrees to pay not less than prevailing rates of wages, which are effective on the date the Notice to Contractors is issued for each craft or type of workman or mechanic needed to execute the Contract as provided for by the County for the performance of public work., and be responsible for compliance with all the provisions of the California Labor Code, Article 2-Wages, Chapter 1, Part 7, Division 2, Section 1770 et seq. and Section 1810 et seq., and particularly Section 1775 and 1776(a) thereof. A copy of the prevailing wage scale established by the Department of Industrial Relations is on file in the office of the Director of Public Works, and available at www.dir.ca.gov/DLSR or by phone at 415-703-4774. California Labor Code Section 1776(a) requires each contractor and subcontractor to keep accurate payroll records of trades workers on all public works

projects and to submit copies of certified payroll records upon request.

Additionally, pursuant to State Senate Bill SB 854 (Stat. 2014, chapter 28), effective January 1, 2015:

- No contractor or subcontractor may be listed on a bid proposal for a public works project (submitted on or after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
- No contractor or subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.
- This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

X. California Labor Code: The Contractor expressly covenants and agrees to comply with all the provisions of the Labor Code of the State of California limiting the hours of labor on public works to eight (8) hours during any one calendar day, and forty (40) hours in any one calendar week, requiring the payment of not less than the prevailing wage rates, and further agrees to the forfeitures provided for in said Labor Code and as set forth in Section 7, "Legal Relations and Responsibility to the Public," of the Standard Specifications and all amendments thereto, in the event of a violation of any of the provisions thereof during the course of execution of this Contract.

The Contractor expressly agrees to be responsible for compliance with all the provisions of Sections 1776 and 1777.5 of the California Labor Code.

XI. Non-Discrimination and Other Requirements:

a. General Non-discrimination:

No person shall be excluded from participation in, denied benefits of, or be subject to discrimination under this Agreement on the basis of their race, color, religion, national origin, ancestry, age, disability (physical or mental), sex, sexual orientation, gender identity, marital or domestic partner status, religion, political beliefs or affiliation, familial or parental status (including pregnancy, childbirth or related conditions), medical condition (including cancer-related), military service, or genetic information. Contractor shall ensure full compliance with Federal, state

and local laws, directives and executive orders regarding non-discrimination for all employees and Subcontractors under this Agreement.

b. Equal Employment Opportunity:

Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Contractor's equal employment policies shall be made available to County upon request.

c. Section 504 of the Rehabilitation Act of 1973:

Contractor shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified individual with a disability shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of any services this Agreement. This Section applies only to contractors who are providing services to members of the public under this Agreement.

d. Compliance with County's Equal Benefits Ordinance:

Contractor shall comply with all laws relating to the provision of benefits to its employees and their spouses or domestic partners, including, but not limited to, such laws prohibiting discrimination in the provision of such benefits on the basis that the spouse or domestic partner of the Contractor's employee is of the same or opposite sex as the employee.

e. Discrimination Against Individuals with Disabilities:

The nondiscrimination requirements of 41 C.F.R. 60-741.5(a) are incorporated into this Agreement as if fully set forth here, and Contractor and any subcontractor shall abide by the requirements of 41 C.F.R. 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

f. History of Discrimination:

Contractor certifies that no finding of discrimination has been issued in the

past 365 days against Contractor by the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or any other investigative entity. If any finding(s) of discrimination have been issued against Contractor within the past 365 days by the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or other investigative entity, Contractor shall provide County with a written explanation of the outcome(s) or remedy for the discrimination prior to execution of this Agreement. Failure to comply with this Section shall constitute a material breach of this Agreement and subjects the Agreement to immediate termination at the sole option of the County.

g. Reporting; Violation of Non-discrimination Provisions:

Contractor shall report to the County Executive the filing in any court or with any administrative agency of any complaint or allegation of discrimination on any of the bases prohibited by this Section of the Agreement or the Section titled "Compliance with Laws". Such duty shall include reporting of the filing of any and all charges with the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or any other entity charged with the investigation or adjudication of allegations covered by this subsection within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include a general description of the circumstances involved and a general description of the kind of discrimination alleged (for example, gender-, sexual orientation-, religion-, or race-based discrimination).

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Executive, including but not limited to:

- i) Termination of this Agreement;
- ii) Disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 3 years;
- iii) Liquidated damages of \$2,500 per violation; and/or
- iv) Imposition of other appropriate contractual and civil remedies and

sanctions, as determined by the County Executive.

To effectuate the provisions of this paragraph, the County Executive shall have the authority to:

- i) Examine Contractor's employment records with respect to compliance with this paragraph;
- ii) Offset all or any portion of the amount described in this paragraph against amounts due to Contractor under the Contract or any other Contract between Contractor and County.

Contractor shall report to the County Executive the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint and a description of the circumstance. Contractor shall provide County with a copy of its response to the Complaint when filed.

Compliance with Equal Benefits Ordinance. With respect to the provisions of employee benefits, Contractor shall comply with the County Ordinance which prohibits contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse.

XII. Compliance with County Employee Jury Service Ordinance:

Contractor shall comply with Chapter 2.85 of the County's Ordinance Code, which states that Contractor shall have and adhere to a written policy providing that its employees, to the extent they are full-time employees and live in San Mateo County, shall receive from the Contractor, on an annual basis, no fewer than five days of regular pay for jury service in San Mateo County, with jury pay being provided only for each day of actual jury service. The policy may provide that such employees deposit any fees received for such jury service with Contractor or that the Contractor may deduct from an employee's regular pay the fees received for jury service in San Mateo County. By

signing this Agreement, Contractor certifies that it has and adheres to a policy consistent with Chapter 2.85. For purposes of this Section, if Contractor has no employees in San Mateo County, it is sufficient for Contractor to provide the following written statement to County: "For purposes of San Mateo County's jury service ordinance, Contractor certifies that it has no full-time employees who live in San Mateo County. To the extent that it hires any such employees during the term of its Agreement with San Mateo County, Contractor shall adopt a policy that complies with Chapter 2.85 of the County's Ordinance Code." The requirements of Chapter 2.85 do not apply if this Agreement's total value listed in the Section 16 is less than one-hundred thousand dollars (\$100,000), but Contractor acknowledges that Chapter 2.85's requirements will apply if this Agreement is amended such that its total value meets or exceeds that threshold amount.

XIII. Termination of Agreement: The Contract may be terminated by the County in the event the Contractor should be adjudged bankrupt, or if he should make a general assignment for the benefit of his creditors, or if a receiver should be appointed on account of his insolvency, or if he or any of his subcontractors should violate any of the provisions of the Contract, or if he should persistently or repeatedly refuse, or should fail, except in cases where extension of time is provided, to furnish enough properly skilled workmen or proper materials, or if he should fail to make prompt payment to subcontractors, or for materials or labor, or persistently disregard laws, ordinances, or the instructions of the Engineer. In the event of any of the foregoing conditions, the Engineer is authorized and directed to serve written notice upon the Contractor and his Surety of its intention to terminate the Contract, such notice to contain the reasons for action and unless within **TWO (2) CALENDAR DAYS** after serving of such notice such conditions shall be remedied and satisfactory arrangements for continuation be made, the Contract shall, upon expiration of **TWO (2) CALENDAR DAYS**, cease and terminate. In the event of any such termination, the Engineer may take over the work and prosecute the same to completion by Contract or by any other method he may deem advisable, and at the expense of the Contractor, and the Contractor and his Surety shall be liable to the County for any excess cost occasioned thereby, and in such event, the County may without liability to so doing take possession

of and utilize such materials, appliances, plant and other property belonging to the Contractor as may be on the site of the work, and necessary therefore. In such cases, the Contractor shall not be entitled to receive any further payment until the work is completed.

XIV. Compliance with Laws: The Contractor shall comply with all existing and future State and Federal and regulating laws and all ordinances and regulations of the County of San Mateo which in any manner affect those engaged or employed in the work, or the materials used in the work, or which in any way affect the conduct of the work, and of all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same.

Controlling Law: The validity of this Agreement and of its terms or provisions, as well as the rights and duties of the parties hereunder, the interpretation, and performance of this Agreement shall be governed by the laws of the State of California.

XV. Contract Assignability: Neither party to the Contract shall assign the Contract or sublet it as a whole without written consent of the other, nor shall the Contractor assign any monies due or to become due to him hereunder without the previous written consent of the County. The Contractor shall neither mortgage nor convey title to equipment or material to be used in this work, without the written permission of the County.

XVI. COVID-19: This Provision relates to issues associated with the Novel Coronavirus Disease 2019 (COVID-19) and shall supersede any other conflicting sections or provisions of this Contract and its attachments. The ongoing COVID-19 pandemic may impact the County's ability to proceed with this Project.

Although this Project is proceeding as an Essential Infrastructure Project as determined by the County Board of Supervisors/County Executive, this determination could change in the future based on Health Orders issued by the San Mateo County Health Officer or State of California, or future determinations of the County Board of Supervisors/County Executive. Should future Health Orders or the County Board of Supervisors/County Executive directives preclude the Project from proceeding as

scheduled, the County reserves the right to:

- Cancel the Project, terminate the Contractor's work once the Contractor has safely secured the work area, and compensate the Contractor for work completed and materials purchased prior to cancellation of the Project and labor and materials, as approved by the Engineer, required to safely secure the work area such that work can be discontinued on the Project; **or**
- The County and Contractor may reach a mutually agreeable extension for completion of the Project such that the work can resume after being halted provided it complies with all Health Orders issued by the Health Officer of the County of San Mateo or the State of California and as approved by the County Board of Supervisors/County Executive.

It is the Contractor's obligation and responsibility to ensure that all work associated with this Project complies with all current Orders of the Health Officer of the County of San Mateo related to the Novel Coronavirus Disease 2019 (COVID-19). The County of San Mateo assumes no responsibility for work performed by Contractor that is not in compliance with all current Orders. The Contractor is advised to review the Orders of the Health Officer of the County of San Mateo, which can be found at the following link:

<https://www.smchealth.org/post/health-officer-statements-and-orders>

XVII. Contract Materials: The County hereby promises and agrees with the said Contractor to employ and does hereby employ the said Contractor to provide the materials, unless otherwise specified, and to do the work according to the terms and conditions herein contained and referred to, for the prices aforesaid and hereby contracts to pay the same at the time, in the manner and upon the conditions above set forth, and the said parties for themselves, their heirs, executors, administrators, successors, and assigns, do hereby agree to the full performance of the covenants herein contained.

XVIII. Retention of Records, Right to Monitor and Audit:

A. CONTRACTOR shall maintain all required records for three (3) years after

the COUNTY makes final payment and all other pending matters are closed, and shall be subject to the examination and/or audit of the County, a Federal grantor agency, and the State of California.

- B.** Reporting and Record Keeping: CONTRACTOR shall comply with all program and fiscal reporting requirements set forth by appropriate Federal, State and local agencies and as required by the COUNTY.
- C.** CONTRACTOR agrees upon reasonable notice to provide to COUNTY, to any Federal or State department having monitoring or review authority, to COUNTY's authorized representatives, and/or their appropriate audit agencies upon reasonable notice, access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules and regulations, and this Agreement, and to evaluate the quality, appropriateness and timeliness of services performed.

XIX. Notices: Any notice, request, demand or other communication required or permitted hereunder shall be deemed to be properly given when both: (1) transmitted via email to the email address listed below or transmitted via facsimile, if available, to the number listed below; and (2) sent to the physical address listed below by either being deposited in the United States mail, postage prepaid, or deposited for overnight delivery, charges prepaid, with an established overnight courier that provides a tracking number showing confirmation of receipt.

In the case of County, to:

Ann M. Stillman, Interim Director of Public Works
 County of San Mateo
 555 County Center, 5th Floor
 Redwood City, CA 94063-1665
 Facsimile: 650-361-8220
 Email: astillman@smcgov.org

In the case of Contractor, to:

(Contractor Name)
 (Contractor Address)
 (City, State Zip)
 Facsimile:
 Email:

XX. Contract Amount and Change Orders:**A. Contract Amount**

The amount payable to Contractor under the terms of this agreement is _____ DOLLARS (\$_____).

B. Change Orders

The Board of Supervisors has authorized the Director of Public Works to execute change orders to modify the scope of work provided under this agreement, and to increase the County's maximum fiscal obligation to correspond to those changes. The Board of Supervisors has directed that in the event of change orders, the County's maximum fiscal obligation shall not exceed _____ DOLLARS (\$_____). Any payments in excess of the amount authorized by the Board of Supervisors will require additional approval of the Board of Supervisors.

XXI. Proprietary Rights and Confidentiality: The requirements of this Agreement pertaining to the protection of proprietary rights and confidentiality shall survive termination of this Agreement.

XXII. Electronic Signature: Both County and Contractor wish to permit this Agreement and future documents relating to this Agreement to be digitally signed in accordance with California law and County's Electronic and Facsimile Signatures Administrative Memo (B-29). Any party to this Agreement may revoke such agreement to permit electronic signatures at any time in relation to all future documents by providing notice pursuant to this Agreement.

IN WITNESS WHEREOF, the parties to these presents have hereunto set their hands the year and date first above written.

“County”

COUNTY OF SAN MATEO
State of California

BY: _____
**President, Board of Supervisors
County of San Mateo**

ATTEST:

Michael Callagy, County Executive/
Clerk of the Board of Supervisors

“Contractor”

Name of Contractor

BY: _____
(Authorized Signature and Seal of Bidder)