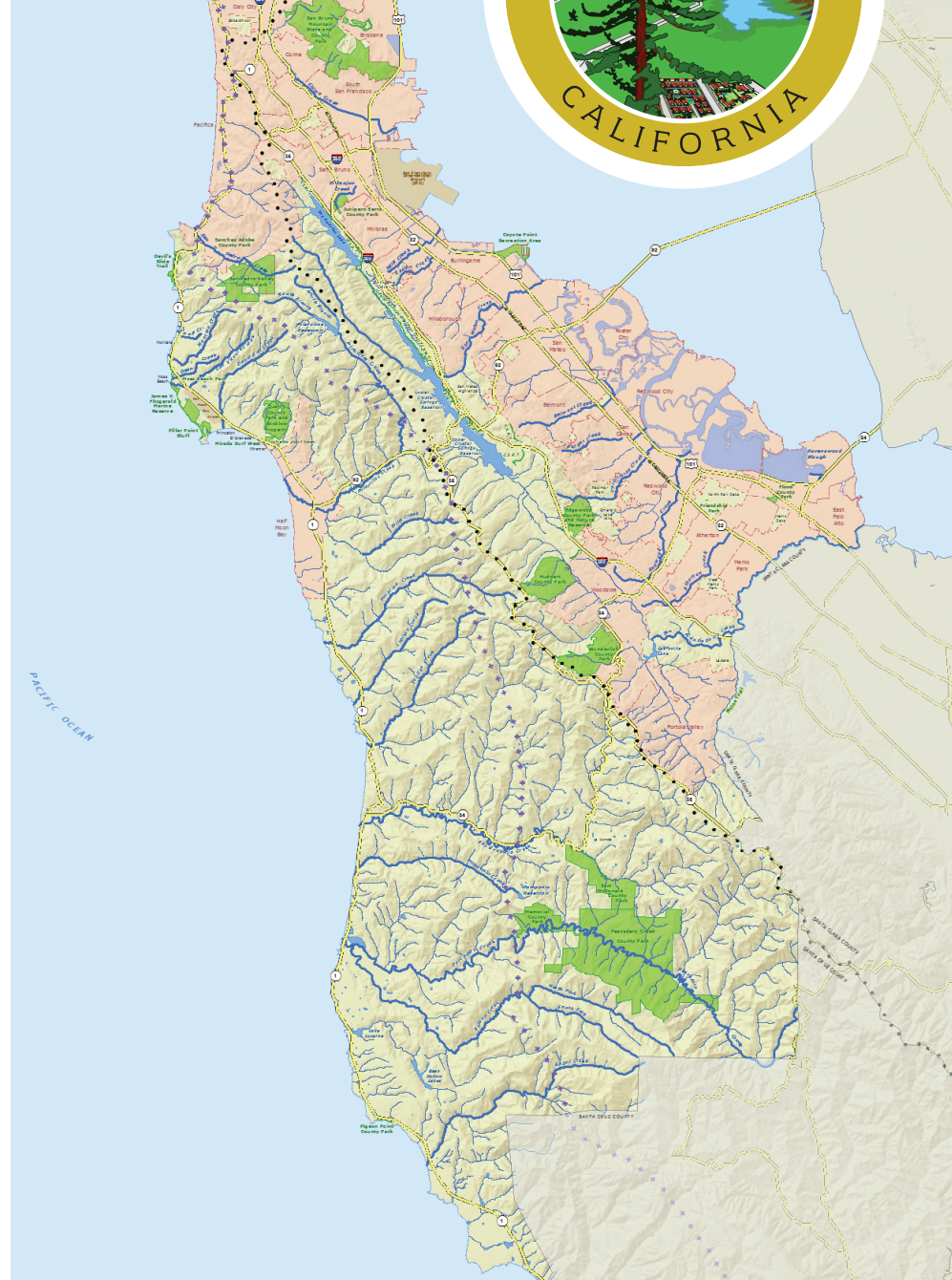


# County of San Mateo

## ROUTINE MAINTENANCE PROGRAM Final Environmental Impact Report





**County of San Mateo**  
**Routine Maintenance Program**  
**Final Environmental Impact Report**

Prepared for:

**County of San Mateo**  
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## ACRONYMS AND ABBREVIATIONS

### A

AB Assembly Bill

### B

BCDC Bay Conservation and Development Commission

BMP best management practice

### C

C/CAG City/County Association of Governments of San Mateo County

CCR California Code of Regulations

CDFW California Department of Fish and Wildlife (since 2012)

CEQA California Environmental Quality Act

Coastal Commission California Coastal Commission

County County of San Mateo

### D

DEIR draft environmental impact report

DPW Department of Public Works

### E

EIR environmental impact report

ESHA environmentally sensitive habitat area

### F

FEIR Final Environmental Impact Report

### G

GI green infrastructure

### H

HCP Habitat Conservation Plan

### L

LCP Local Coastal Program

LF linear feet

LUP Land Use Plan

### M

Manual County of San Mateo Routine Maintenance Program Manual

MMRP mitigation monitoring and reporting program

MPA California Marine Protected Area

**N**

NAHC	Native American Heritage Commission
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
NOD	Notice of Determination

**O**

OPR	Governor's Office of Planning and Research
-----	--

**P**

PRC	Public Resources Code
proposed program	San Mateo County Routine Maintenance Program

**R**

Reserve	Marine Reserve
RWQCB	Regional Water Quality Control Board

**S**

sf	square feet
SMP	State Marine Park
SMR	State Marine Reserve
SPD	South Pacific Division
SR	State Route

**U**

U.S.	United States
USACE	U.S. Army Corps of Engineers
USEPA	U.S. Environmental Protection Agency
USFWS	U.S. Fish and Wildlife Service

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# Chapter 1 Introduction

The County of San Mateo (County) has prepared this Final Environmental Impact Report (FEIR) to provide the public, responsible agencies, and trustee agencies with information about the potential environmental effects of the County's proposed Routine Maintenance Program (proposed program). This FEIR was prepared in compliance with the California Environmental Quality Act (CEQA) of 1970 (as amended) and CEQA Guidelines (California Code of Regulations [CCR], tit. 14, Section 15000 *et seq.*). Together with the Draft Environmental Impact Report (DEIR), this document constitutes the FEIR for the proposed program.

## 1.1 COUNTY OF SAN MATEO

The County of San Mateo Department of Public Works (DPW) and Parks Department are both responsible for conducting routine maintenance activities to ensure that County facilities are properly functioning and operational. For the purposes of this FEIR, these two departments will be referred to collectively as “the County” or “the Departments” unless otherwise specified or described individually. DPW is responsible for maintaining over 300 miles of roadway and associated facilities including roadway shoulder areas, roadside ditches, ditch relief culverts, bridges, green infrastructure (GI)- based stormwater facilities, and flood control facilities in active flood control zones. DPW is also responsible for conducting vegetation management at two small municipal airports including the Half Moon Bay Airport and San Carlos Airport, and closed landfills including the Pescadero Landfill and Half Moon Bay Landfill. The Parks Department is responsible for maintaining various County park and recreational facilities, including trails and campgrounds.

## 1.2 FEIR CONTEXT

To date, the County has developed, permitted, and conducted maintenance activities as individual discrete actions. The purpose of developing the proposed program is to provide a more comprehensive and consistent approach to conducting routine maintenance activities. Administered as a program, versus a series of individual maintenance activities, the County will follow a consistent set of maintenance methods, best management practices (BMPs), and impact avoidance approaches.

Administering routine maintenance programmatically also facilitates using longer-term regulatory permits from authorizing agencies. Historically, the County has experienced months and even years of permitting delays for routine maintenance projects. These delays in turn are costly and increase the risk of flooding, slope and facility failure (i.e., bluffs, creek banks, trails, roadways, culverts), or accelerated erosion by keeping some facilities from operating at their intended level of function.

The County developed the Routine Maintenance Program Manual (Manual) to describe the various routine maintenance activities conducted at County roads, trails, campgrounds, picnic areas, bridges, culverts, ditches, and the Coyote Point Marina. The County of San Mateo Routine Maintenance Program is the project for this CEQA analysis.

The proposed program was evaluated in a DEIR in accordance with CEQA and the State CEQA Guidelines and was circulated for a 45-day public review period. CEQA requires the lead agency to prepare an FEIR, addressing all substantive comments received on the DEIR, before approving a project. The FEIR must include a list of all individuals, organizations, and agencies that provided comments on the DEIR, and must contain copies of all comments received during the public review period along with the lead agency's responses.

## **1.3 SUMMARY OF PUBLIC PARTICIPATION**

### **1.3.1 NOTICE OF PREPARATION AND PUBLIC SCOPING**

Scoping refers to the public outreach process used under CEQA to determine the coverage and content of an environmental impact report (EIR). The scoping comment period offers an important early opportunity for public review and comment on the focus of the CEQA analysis. The scoping process for an EIR is initiated by publication of the Notice of Preparation (NOP), as required by CEQA, which provides formal notice to the public and to interested agencies and organizations that a DEIR is in preparation. Additionally, the NOP informs responsible agencies and the public whether the proposed project could have significant effects on the environment and to solicit their comments so that any concerns raised could be considered during the preparation of the DEIR. During the scoping period, agencies and the public are invited to comment on the project, the approach to environmental analysis, and any issues of concern to be discussed in the DEIR. Scoping also can assist the lead agency with identification of project alternatives and mitigation measures. CEQA does not require public meetings during the scoping phase.

In accordance with State CEQA Guidelines Sections 15082(a), 15103, and 15375, the County circulated a NOP for the Proposed Program beginning on January 7, 2019, and ending on February 5, 2020. The NOP was circulated to the public; local, state, and federal agencies; and other interested parties. A copy of the NOP was included in Appendix B, *Notice of Preparation, Scoping Meeting Materials, Scoping Comments and Summary Notes*, of the DEIR. Comment letters received in response to the NOP were also compiled in the scoping summary and were considered during preparation of the DEIR.

### **1.3.2 NOTICE OF AVAILABILITY OF THE DEIR AND PUBLIC REVIEW**

Upon completion of the DEIR, the County issued a Notice of Availability, providing agencies and the public with formal notification that the document was available for review. The notice was sent to the Governor's Office of Planning and Research (OPR) State Clearinghouse, responsible and trustee agencies, persons and organizations that requested a copy, and the San Mateo County Clerk's office for posting. A notice was also published in the *San Francisco Examiner*.

These actions triggered a 45-day public review period, which began on February 25, 2020, and concluded on April 10, 2020. A notice advertising the availability of the DEIR and the

location and time of the DEIR public meeting was published in the *San Francisco Examiner* on February 27, 2020 and March 5, 2020.

During the review period for the DEIR, all documents related to the proposed program were available for review on during normal operating hours at the following location:

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

In addition, an electronic copy of the DEIR was available for review and download from the County's website ([publicworks.smcgov.org/our-projects](http://publicworks.smcgov.org/our-projects)), and CD copies of the DEIR were also available by contacting Krzysztof Lisaj, Senior Civil Engineer at County of San Mateo. Hard copies were also available for review at the San Bruno and Half Moon Bay branches of the San Mateo County Library.

### 1.3.3 COMMENTS ON THE DEIR

Written comments or questions concerning the DEIR were accepted during the public review period at the following address:

**Contact Name:** Krzysztof Lisaj, Senior Civil Engineer

**Address:** County of San Mateo  
555 County Center, 5<sup>th</sup> Floor  
Redwood City, CA 94063

**Phone Number:** (650) 599-1436

**Email:** SMC\_RMP\_Comments@smcgov.org

A total of five comment letters were received during the public review period. Chapter 2 provides additional information about comments received on the DEIR.

## 1.4 FEIR REVIEW AND CERTIFICATION

The FEIR will be distributed to public agencies that provided comments at least 10 days prior to certifying the FEIR. At the close of the 10-day public agency review period, County staff will recommend to the County of San Mateo Planning Commission whether or not to certify the FEIR. This governing body will then review the FEIR, consider staff recommendations and public testimony, and decide whether to certify the FEIR.

If the County chooses to certify the EIR and approve the proposed program, the Notice of Determination (NOD) will be filed with OPR and at the office of the County Clerk.

## 1.5 ORGANIZATION AND CONTENT OF THE FEIR

This FEIR contains the following chapters:

- **Chapter 1, Introduction.** This chapter describes the context of the FEIR; summarizes the public participation process to date, including the NOP and public

scoping, the DEIR and public review, and comments on the DEIR; explains the FEIR review and certification process; and describes the organization of the document.

- **Chapter 2, *Comments on the DEIR and Responses*.** This chapter contains the substantive comments received on the DEIR and provides County's responses to those comments.
- **Chapter 3, *Revisions to the DEIR*.** This chapter presents revisions to the text of the DEIR made in response to comments received during the public review period or initiated by the County.
- **Chapter 4, *Report Preparation*.** This chapter lists the firms and individuals who assisted in the preparation of this FEIR.
- **Chapter 5, *References*.** This chapter provides a list of sources that are cited to support responses to comments on the DEIR.

## Chapter 2

# Comments on the DEIR and Responses

## 2.1 INTRODUCTION

CEQA requires the lead agency to prepare an FEIR, addressing all substantive comments received on the DEIR. The FEIR must include a list of all individuals, organizations, and agencies that provided comments on the DEIR, and must contain copies of all comments received during the public review period, along with the lead agency's responses.

This chapter provides a list of comments received, copies of the comments, and responses to those comments that address environmental issues. A primary project objective, as described in Chapter 1 of the Manual (Appendix A of the DEIR), is to avoid and minimize impacts to the natural environment including sensitive areas in the Coastal Zone.

Individual comments within each submittal are marked and numbered in the margin of the comment letter. The marked individual comments correspond to the responses to those comments. For example, Comment A-1 from Letter A corresponds to the Response to Comment A-1.

## 2.2 LIST OF COMMENTS RECEIVED

The County received five comment submittals, including letters and emails, during or immediately following the public review period. **Table 2-1** lists the identifier for each submittal; the name and affiliation of the individual who submitted each comment; and the date the comment was sent.

**Table 2-1.** List of DEIR Comment Submittals Received During the Public Review Period

Comment Letter	Commenter Name and Affiliation	Date Sent
A	Erik Martinez, California Coastal Commission	April 8, 2020
B	Craig Shuman, California Department of Fish and Wildlife	April 7, 2020
C	Laurel Sears, California Department of Transportation*	February 27, 2020
D	Sarah Fonseca, Native American Heritage Commission	March 20, 2020
E	Tahsa Sturgis, San Francisco Bay Regional Water Quality Control Board	April 13, 2020

\*Note: On February 27, 2020, Laurel Sears sent email comments along with a letter from Patricia Maurice of California Department of Transportation dated January 31, 2019 that was previously submitted during the EIR scoping process. Comment Letter C consists of both the email from Ms. Sears as well as scoping comments from Ms. Maurice dated January 31, 2019.

### 2.3 COMMENTS AND RESPONSES

This section contains a copy of each comment letter received during the DEIR review period. Following each submittal are the County’s responses to each comment that addresses an environmental issue. Revisions to the DEIR that are indicated in these responses are provided in Chapter 3 of this FEIR.

# Letter A –Erik Martinez, California Coastal Commission

STATE OF CALIFORNIA — NATURAL RESOURCES AGENCY

GAVIN NEWSOM, GOVERNOR

## CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT  
45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105  
PHONE: (415) 904-5260  
FAX: (415) 904-5400  
WEB: WWW.COASTAL.CA.GOV



April 8, 2020

**Letter A**

Krzysztof Lisaj  
County of San Mateo  
555 County Center, 5<sup>th</sup> Floor  
Redwood City, CA 94063  
[klisaj@smcgov.org](mailto:klisaj@smcgov.org)

**Subject: County of San Mateo Routine Maintenance Program Draft Environmental Impact Report (SCH# 2019012009)**

Mr. Lisaj,

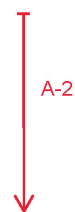
Thank you for the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the County of San Mateo Routine Maintenance Program (RMP). The California Coastal Commission (CCC) has reviewed the DEIR for the RMP which proposes routine maintenance activities conducted throughout the County for roads, trails, campgrounds, picnic areas, marinas, bridges, culverts, and ditches. CCC staff has the following concerns. The routine maintenance activities include but are not limited to culvert, bridge and other storm drainage maintenance; roadside ditch and swale maintenance; sediment removal; bank stabilization; vegetation management; road and trail maintenance; and marina maintenance activities.

### Wetland Delineation

The DEIR describes maintenance activities that involve ground disturbance near wetlands or other jurisdictional waters. Pursuant to CCR Section 13577(b), an area is a wetland under the Coastal Act where there is hydrophytic vegetation, hydric soils, or surface water. The Coastal Act requires the presence of only one of these constituents for an area to be delineated as a wetland. Please verify whether a one-parameter wetland delineation was used to delineate the potential maintenance sites. If a one-parameter wetland delineation has not been performed for areas impacted by the maintenance activities, the County should require that wetland resources are adequately assessed and impacts to wetlands are quantified via such an assessment prior to permitting this project.



Further, regarding areas designated as wetlands, Table ES-1 identifies potential impact Bio-3 as the potential adverse effects on federally protected wetlands as defined by Section 404 of the Clean Water Act and that mitigation measure BIO-9 identified on Table 2-5 of the DEIR will provide compensatory mitigation for impacts on wetlands and other waters. However, wetland buffers are not identified. Please require any state designated wetland areas delineated pursuant to the aforementioned one parameter wetlands designation are added to this discussion. Further, please confirm that wetland



**County of San Mateo Routine Maintenance Program Draft Environmental Impact Report (SCH# 2019012009)**

buffers of 100 feet will be applied to any identified wetlands (both federally and state designated) as required by LUP Policy 7.18.

A-2  
cont'd

**Environmentally Sensitive Habitat Areas (ESHA)**

The Coastal Act Section 30240 and San Mateo County's Land Use Planning Policy 7.3 prohibit any land use or development which would have significant adverse impacts on sensitive habitat areas and only uses dependent on those resources shall be allowed within those resource areas. While the DEIR discusses work length and size limitations for the maintenance activities proposed, activities involving culvert repair and replacements, sediment removal, bank stabilization, repair of existing rock slope protection along creek banks, slip-out and slide repairs, seawall revetment repair and rip-rap replacement, and activities involving dewatering would not be allowed in areas that are environmentally sensitive habitat areas. The RMP uses a tiering approach to address the potential effects of the proposed maintenance activities on federally listed species and habitats based on resource sensitivity at the maintenance site. The tier system involves the following: Tier 1 (No Impact), Tier 2 (Low Impact) and Tier 3 (Moderate/High Impact). Please keep in mind that regardless of the tier classification, if the maintenance site area is considered environmentally sensitive habitat area, the proposed activities may not be allowed at all. Please identify maintenance project locations that would classify as ESHA.

A-3

Table ES-1 identifies potential impact BIO-2 as the potential adverse effects on riparian habitat or other sensitive natural communities identified in local or regional plans, policies, regulations or by California Department of Fish and Wildlife (CDFW), US Fish and Wildlife Service (USFWS), or National Marine Fisheries Service (NMFS) and that mitigation measure BIO-8 will provide compensatory mitigation for woody riparian vegetation. However, buffers for riparian corridors are not identified. Please confirm that buffer zones of 50 feet outward for perennial streams and 30 feet outward for intermittent streams will be required per LUP Policy 7.11. Additionally, where no riparian vegetation exists along both sides of riparian corridors, buffer zones must extend 50 feet from the predictable high water point for perennial streams and 30 feet from the midpoint of intermittent streams.

A-4

**Project Locations not Included in CDP**

Section 2.3 of the DEIR states that while the maintenance locations presented in the RMP Manual (Tables B-1 and B-2 and Figures B-1 through B-7) represent anticipated maintenance locations, not every site could be determined at the time of developing the manual. It adds that the proposed program includes maintenance activities countywide that are consistent with those described in Section 2.4 of the DEIR. Please keep in mind that any new locations proposed, not initially contemplated under the programmatic approach, may need to be analyzed and permitted anew as they arise.

A-5

**County of San Mateo Routine Maintenance Program Draft Environmental Impact Report (SCH# 2019012009)**

**Measures to Protect Nesting and Migratory Birds**

Mitigation Measure Bio-9 identified on **Table 2-5** of the DEIR states that a qualified biologist will survey the work area and a minimum of 300 feet surrounding the work area for raptor nests and 100 feet for non-raptor nests. It also states that appropriate buffers for raptors, herons, and egrets are 300 feet while buffers for non-raptors nesting in trees, shrubs and structures are 100 feet. The County should require that nesting bird surveys extend a minimum of 500 feet from the project boundaries for raptors and 300 feet for non-raptors. These buffer distances should be applied as buffers for nesting birds as well.

A-6

Once again, thank you for the opportunity to comment on the Draft Environmental Impact Report for the San Mateo County Routine Maintenance Program. If you have any questions, please feel free to contact me at [erik.martinez@coastal.ca.gov](mailto:erik.martinez@coastal.ca.gov).

Best,



Erik Martinez, Coastal Planner

### **Response to Comment A-1**

The comment notes that pursuant to CCR Section 13577(b), an area is a wetland under the Coastal Act where there is hydrophytic vegetation, hydric soils, or surface water. The Coastal Act requires the presence of one of these constituents for an area to be defined as a wetland. The comment requests whether a one-parameter wetland delineation was used to delineate the potential maintenance sites and, if not, that such a delineation be conducted for maintenance sites that have not yet been evaluated.

Sites located in the Coastal Zone would be delineated according to the Coastal Act's one-parameter methodology. Please note that not all maintenance sites have been delineated yet. Delineations, including one-parameter delineations within the Coastal Zone, would be conducted as new maintenance sites need to be addressed. The delineation reports prepared for maintenance sites that had not been previously delineated will be included in the County's annual notification reports.

The following text under Impact BIO-3 in Section 3.4, *Biological Resources*, of the DEIR (page 3.4-149) has been revised to include the following text at the end of the first paragraph:

Two wetland types, coastal freshwater marsh (freshwater emergent wetlands and wet meadows) and northern coastal salt marsh (saline emergent wetlands and bay margins [tidal mudflats]), are found in the program area and are considered sensitive habitats. Wetlands with all three parameters for jurisdictional wetlands – hydrophytic vegetation, wetland hydrology, and hydric soils – are regulated by the USACE and RWQCB and occur in a number of locations throughout the program area. In the Coastal Zone, features are defined as wetlands by the Coastal Act if they possess any one of those three parameters; such features are regulated as wetlands by the California Coastal Commission.

In addition, the first paragraph of Mitigation Measure BIO-9 has been revised as follows on page 3.4-153 of the DEIR:

The notification package would describe which ground-disturbing maintenance activities would result in impacts on temporary and permanent impacts on wetlands or waters of the U.S. and state. Wetlands that are considered waters of the U.S./state will be identified on the basis of presence of all three parameters for jurisdictional wetlands – hydrophytic vegetation, wetland hydrology, and hydric soils. In the Coastal Zone, features will be delineated as wetlands under the Coastal Act if they possess any one of those three parameters. The notification package# would also describe in detail the County's proposal for providing compensatory mitigation for those impacts and may include one or more options described in Chapter 2, Section 2.7.3 and summarized below.

### **Response to Comment A-2**

The comment requests that wetland areas delineated per the one-parameter designation under the Coastal Act be included in discussions of impacts to wetlands, and requests that buffers of 100 feet will be applied to any identified wetlands (both federally and state designated) as indicated in Land Use Plan (LUP) Policy 7.18 of the County's Local Coastal Program (LCP).

As described in Response to Comment A-1, above, text has been added to Impact BIO-3 and Mitigation Measure BIO-9 in the DEIR to include consideration of one-parameter Coastal Zone wetlands. With respect to buffers, Policy 7.18 of the County's LCP does not explicitly prohibit necessary maintenance activities within wetlands or their buffers. According to Policy 7.16, permitted activities in wetlands include "incidental public service purposes, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines." The County interprets this as including necessary maintenance to ensure the functional integrity and operational quality of the County's facilities including channels, stormwater facilities, roads, trails and other recreational facilities, as described in the Manual and Chapter 2, *Project Description*, of the DEIR. Policy 7.18 allows the same types of activities within wetland buffers that are allowed in wetlands. Therefore, the County's routine maintenance can occur, if necessary, within wetland buffers.

### ***Response to Comment A-3***

This comment notes that Coastal Act Section 30240 and the County's LUP Policy 7.3 prohibit activities that would result in significant adverse impacts on environmentally sensitive habitat areas (ESHAs) and only uses dependent on those resources are allowed within these areas. ESHAs are defined in San Mateo County's LCP as any area in which plant or animal life or their habitats are either rare or especially value. The comment also notes that some program activities may not be allowed in ESHAs regardless of the program's tiering classification. This comment requests that the County identify all maintenance sites located within ESHAs.

Most maintenance sites identified in Tables B-1 and B-2 in Appendix B of the Manual (Appendix A of the DEIR) located within the Coastal Zone are within or adjacent to ESHAs. Proposed routine maintenance activities conducted within the Coastal Zone include culvert repair and replacement, GI swale maintenance, sediment removal, vegetation management, bridge maintenance, bank stabilization and slip-out/slide repairs. While not described in the comment, it is important to note that Coastal Act Section 30240 and LCP Policy 7.3 also state that any development in areas adjacent to ESHAs will be sited and designed to prevent impacts that could significantly degrade ESHAs and all uses will be compatible with the maintenance of biologic productivity of habitats. Accordingly, the proposed program includes a number of BMPs that would avoid and reduce potential adverse effects on the environment.

Some maintenance activities in the Coastal Zone would have minor impacts (e.g., limited weeding and light sediment clearing at GI sites), while others would involve ground-disturbing activities that could result in temporary erosion, water quality effects, and disturbance to habitat supporting biological resources. Temporary impacts on water quality and biological resources would be minimized or avoided through implementation of BMPs. BMPs include minimizing the work/staging area (BMPs GEN-1 through GEN-3), restricting the timing of maintenance activities (BMP GEN-16), preventing spills (BMPs GEN-6 through GEN-10), revegetating disturbed areas (BMP GEN-22), limiting vegetation and tree removal (BMP GEN-27), implementing erosion control (BMPs EC-1 through EC-14), sediment/water quality control, (BMPs SC-1 through SC-8), and channel dewatering measures (BMP DW-1), training all maintenance personnel (BMP BIO-1), and implementing measures to reduce impacts to biological resources (BMPs BIO-2 through BIO-24). Refer to Table 2-3 in Chapter 2 of the DEIR for a complete list of BMPs that would avoid and/or

minimize impacts to sensitive species and habitats. These BMPs would also be incorporated into the master 5-year permit as Conditions of Approval. For any residual impacts to sensitive species and habitats, all impacts would be offset through compensatory mitigation so that no net reduction in biological resources would occur. Compensatory mitigation options are summarized in Chapter 2, Section 2.7.3, *Program Mitigation*, of the DEIR and in more depth in Section 3.4, *Biological Resources*, of the DEIR.

Furthermore, when the County conducts many routine maintenance activities, such as a culvert repair/replacement and roadside slip-out/bank stabilization repair with bio-stabilization, the County is often improving the environmental condition at the site. In many cases, erosion is halted or prevented, fine sediment delivery reduced, and additional habitat provided either through native replanting or other restorative maintenance techniques. Compared to the “pre-project” condition, the post-maintenance condition is typically a far improved condition (above and beyond “pre-project”) for the purposes of water quality, habitat, flood protection, and other beneficial uses. A specific example is roadway slip-outs/bank repairs. Prior to the repair activity, the pre-project condition is typically a near vertical bank, void of vegetation with active erosion and sediment delivery to the adjacent channel. Following the repair, the erosion and sediment delivery is halted, the site is revegetated with native plants, and habitat features are incorporated at the water’s edge to provide habitat and cover for sensitive species and promote instream complexity.

The intent of the 3-tiered approach noted in the comment and discussed at the previous May and July 2019 meetings with the California Coastal Commission (Coastal Commission) and County staff is to help both County and regulatory agency staff identify resource and site sensitivity and thereby prioritize impact avoidance and minimization measures and/or BMPs and mitigation needs to address potential adverse effects on federally listed species and habitats from maintenance work. Refer to Chapter 2, Section 2.6, *Implementation and Oversight*, of the DEIR for further discussion of the tiered approach. The proposed program would not result in take of state listed species. As discussed at the July 2019 meeting, Tier 2 or 3 sites that may result in potential impacts to federally special-status species or habitat will first avoid impacts to the maximum extent possible through timing of work and implementation of BMPs. If avoidance is not possible, all impacts would be offset/mitigated for as described above so no net reduction in biological resources would occur and biologic productivity would be maintained.

The primary goal of the proposed program is to maintain the functional integrity and operational quality and capacity of County facilities, while avoiding and minimizing potential impacts to the natural environment. Failure to conduct routine maintenance of deteriorated or otherwise damaged facilities, including not repairing eroding streambanks, or thinning overgrown vegetation will exacerbate flooding and erosion conditions, potentially leading to catastrophic failures with resultant public safety, water quality, biological resources impacts. Not conducting routine maintenance or deferring routine maintenance increases the risk for larger and more significant environmental effects, as well as, increases the likelihood of more impactful repairs to occur later. Thus, the maintenance activities are necessary to maintain biologic productivity and prevent impacts that could significantly degrade ESHAs pursuant to Coastal Act Section 30240 and LCP Policy 7.3. Implementation of BMPs and mitigation measures identified in the DEIR would sufficiently avoid and minimize potential adverse effects while maintenance work is being conducted.

By April 30 of each year, the County will submit an annual notification report summarizing the proposed maintenance activities for that year to the County Planning and Building Department and the Coastal Commission. The annual notification report will include a site assessment for each proposed maintenance site that evaluates the existing physical and biological conditions of the site, identifies any sites that are within an ESHA, and describes the anticipated maintenance activities and BMPs that would avoid and/or minimize impacts on the environment.

### ***Response to Comment A-4***

The comment requests that the EIR describe buffer zones along streams and riparian corridors, including the dimensions of such buffer zones and how they are measured/determined, in accordance with LUP Policy 7.11 of the County's LCP.

Whereas Policy 7.11 of the County's LCP describes stream/riparian buffers, Policy 7.9 describes activities that are permitted within riparian corridors. Such permitted activities include the types of activities proposed by the proposed program that may be necessary within riparian corridors and their buffers, including: "flood control projects, including selective removal of riparian vegetation, where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development", "bridges when supports are not in significant conflict with corridor resources", and "repair or maintenance of roadways or road crossings". Policy 7.12 allows the same types of activities within riparian buffers that are allowed in riparian corridors. While Appendix C (Local Plans and Policies) includes a description of Policy 7.9, it does not include Policies 7.11 or 7.12. Thus, in response to this comment, policies 7.11 and 7.12 have been added to Appendix C, page C-6 of the DEIR, as follows:

#### 7.11 Establishment of Buffer Zones

- a. On both sides of riparian corridors, from the "limit of riparian vegetation" extend buffer zones 50 feet outward for perennial streams and 30 feet outward for intermittent streams.
- b. Where no riparian vegetation exists along both sides of riparian corridors, extend buffer zones 50 feet from the predictable high-water point for perennial streams and 30 feet from the midpoint of intermittent streams.

#### 7.12 Permitted Uses in Buffer Zones

Within buffer zones, permit only the following uses: (1) uses permitted in riparian corridors; (2) residential uses on existing legal building sites, set back 20 feet from the limit of riparian vegetation, only if no feasible alternative exists, and only if no other building site on the parcel exists; (3) on parcels designated on the LCP Land Use Plan Map: Agriculture, Open Space, or Timber Production, residential structures or impervious surfaces only if no feasible alternative exists; (4) crop growing and grazing consistent with Policy 7.9; (5) timbering in "streamside corridors" as defined and controlled by State and County regulations for timber harvesting; and (6) no new residential parcels shall be created whose only building site is in the buffer area.

When considering LCP Policies 7.9, 7.11 and 7.12 collectively, maintenance can occur, if necessary, within riparian buffers. Thus, further discussion of buffers within the EIR is unnecessary.

### ***Response to Comment A-5***

This comment notes that any new maintenances not initially identified in the Manual or analyzed in the DEIR will need to be analyzed and permitted separately from the proposed program.

As stated in the comment, the County agrees that not all maintenance sites could be identified at the time of developing the Manual as it is impossible to anticipate all maintenance locations. In July 2019, staff from the DPW, Parks Department, County Planning and Building Department, the Coastal Commission, and Horizon met to discuss the permitting authorization process for the proposed program. The County Planning and Building Department confirmed that they will issue a master 5-year permit for the proposed program that covers all routine maintenance activities conducted by DPW and the Parks Department. Any maintenance activities at new sites not previously identified in Tables B-1 and B-2 of Appendix B of the Manual (Appendix A of the DEIR) would be consistent with the identified activities for the proposed program and conducted per the impact avoidance, minimization measures and BMPs included in Table 2-3 of Chapter 2 of the DEIR and outlined in proposed program's 5-year master permit. As described in Chapter 2, Section 2.6.3, *Annual Reporting and Agency Notification*, of the DEIR, in the spring, the County will identify and evaluate its specific maintenance needs and prepare an annual notification report summarizing the proposed maintenance activities for that year. For any site that has not yet been evaluated, a site assessment would be conducted that evaluates the existing physical and biological conditions of the site and describes the anticipated maintenance activities and related issues. A one-parameter wetland delineation would also be prepared. The annual notification report, including site assessments, one-parameter wetland delineations, and a list of BMPs that would avoid and minimize adverse effects to ESHA will be submitted to the County Planning Department and the California Coastal Commission by April 30 each year.

### ***Response to Comment A-6***

The comment recommends that nesting bird surveys conducted prior to maintenance activities extend a minimum of 500 feet from project boundaries for raptors and 300 feet for non-raptors, and that these buffer distances be applied as buffers if active nests are detected.

U.S. Fish and Wildlife Service (USFWS) and California Department of Fish and Wildlife (CDFW) are the federal and state agencies responsible for ensuring compliance with the Migratory Bird Treaty Act and applicable nesting bird and raptor requirements in California Fish and Game Code. Prior to conducting maintenance at a given site and consistent with BMP BIO-9 (Measures to Protect Nesting Migratory Birds), which is included in Table 2-3 of the DEIR (page 2-77), the County's qualified biologist(s) will survey the work area and a minimum of 300 feet surrounding the work area for raptor nests and 100 feet surrounding the work area for non-raptor nests. This survey is important for evaluating potential adverse effects on nesting raptors and other nesting birds. If nesting raptors or other birds are found, the County's qualified biologist will determine an appropriate buffer for the nest

based on site-specific conditions, but at a minimum, the typical buffers described in BMP BIO-9 (300 feet for raptors and 100 feet for non-raptors) will be maintained. Note that in the experience of the County and its biological resources consultant, H.T. Harvey & Associates, many pairs of birds will tolerate activity much closer to nests even than the 300-foot (for raptors) and 100-foot (for non-raptors) buffers prescribed by BMP BIO-9. Therefore, it is the County's position, based on expert opinion, that the buffers specified in BMP BIO-9 are appropriate and adequate to avoid excessive disturbance of active bird nests. Note that in areas under the jurisdiction of the CDFW, nesting bird survey areas and buffers will be implemented as specified in the Lake and Streambed Alteration Agreement, which may differ from those in BMP BIO-9 and may be adjusted in the field as needed by the County's qualified biologist.

# Letter B –Craig Shuman, California Department of Fish and Wildlife



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Marine Region  
1933 Cliff Drive, Suite 9  
Santa Barbara, CA 93109  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

GAVIN NEWSOM, Governor  
CHARLTON H. BONHAM, Director



April 7, 2020

**Letter B**

Krzysztof Lisaj  
County of San Mateo  
555 County Center, 5th Floor  
Redwood City, CA 94063  
[klisaj@smcgov.org](mailto:klisaj@smcgov.org)

**Subject: County of San Mateo Routine Maintenance Program Draft Environmental Impact Report (SCH# 2019012009)**

Dear Mr. Lisaj:

The California Department of Fish and Wildlife (Department) has reviewed the Draft Environmental Impact Report (DEIR) for the County of San Mateo Routine Maintenance Program (Program). The purpose of the proposed Program is to conduct routine maintenance in San Mateo County (County) from 2020 through 2030 to ensure that County facilities continue to function and operate properly. The Program includes maintenance of culverts, channels, bridges, roads, trails, and other recreational facilities, including the Coyote Point Marina in the city of San Mateo.

**Department Jurisdiction**

As a trustee for the State’s fish and wildlife resources, the Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. In this capacity, the Department administers the California Endangered Species Act, the Native Plant Protection Act, and other provisions of the California Fish and Game Code that afford protection to the State’s fish and wildlife trust resources. The Department is the State’s fish and wildlife "Trustee Agency" under the California Environmental Quality Act (CEQA guidelines Section 15386). The Department is also responsible for marine biodiversity protection under the Marine Life Protection Act in coastal marine waters of California. Pursuant to our jurisdiction, the Department has the following comments and recommendations regarding the Program.

**Marine Biological Significance**

San Mateo County is bordered by two distinct marine regions: the San Francisco Bay and the outer Pacific coast. The San Francisco Bay-Delta is the second largest estuary in the United States and supports numerous aquatic habitats and biological communities. It encompasses 479 square miles, including shallow mudflats. The outer coast hosts diverse habitats, including sandy beaches, kelp forests, and rocky reefs, and is considered one of the most biologically productive marine systems in the world. Together, these ecologically significant ecosystems support thousands of species, including a few state and federally threatened and endangered species, and sustain important commercial and recreational fisheries.



*Conserving California’s Wildlife Since 1870*

Krzysztof Lisaj  
County of San Mateo  
April 7, 2020  
Page 2 of 5

**Marine Listed and Commercially/Recreationally Important Species**

Protected marine species under the State and Federal Endangered Species Acts that could potentially be present near Program activities include:

- Chinook Salmon (*Oncorhynchus tshawytscha*), state and federally threatened (Spring-run), state and federally endangered (Winter-run);
- Steelhead (*Oncorhynchus mykiss*), federally threatened (Central California Coast and Central Valley ESUs);
- Coho Salmon (*Oncorhynchus Kitsutch*), state and federally endangered;
- Green Sturgeon (*Acipenser medirostris*), federally threatened (southern DPS);
- Longfin Smelt (*Spirinchus thaleichthys*), state threatened;
- Humpback Whale (*Megaptera novaeangliae*), federally endangered;
- Black Abalone (*Haliotis cracherodii*), federally endangered;
- Southern Sea Otter (*Enhydra lutris nereis*), federally threatened and state Fully Protected species; and
- Steller Sea Lion (*Eumetopias jubatus*), federally threatened.

Several species with important commercial/recreational fisheries value and habitat value for spawning and rearing could potentially be present near Program activities; these include:

- Dungeness Crab (*Cancer magister*),
- Pacific Herring (*Clupea pallasii*),
- Rockfish (*Sebastes* spp.),
- California Halibut (*Paralichthys californicus*),
- Crangon Shrimp (*Crangon* spp.),
- Surfperches (*Embiotocidae*), and
- Eelgrass (*Zostera marina*).

**Coyote Point Marina**

The Department has the following comments specific to the proposed marina maintenance at Coyote Point Marina:

- The DEIR specifies the replacement or repair of wooden piles within Coyote Point Marina. The Department recommends avoiding the use of treated wood piles in the waters of San Francisco Bay. Fish and Game Code (FGC) states that it is unlawful to deposit into, permit to pass into, or place where it can pass into waters of the state any substance or material deleterious to fish, plant life, or bird life (FGC Section 5650(6)). The Department considers any wood treated with Ammoniacal Copper Zinc Arsenate (ACZA), Chromated Copper Arsenate (CCA), Alkaline Copper Quaternary (ACQ) to be deleterious materials. The County should consider the use of piles made of alternative materials such as plastic, concrete, or steel to the maximum extent feasible. If use of plastic, concrete, or steel piles is not feasible, all wood piles should be wrapped with a benign



B-1  
cont'd



B-2

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material, such as plastic wrap or a polyurea coating, to prevent waters of the Bay from direct contact with the treated wood. Additionally, all wrapped wood piles that may be subject to contact with docks, floating debris and/or boats, should be inspected on a yearly basis to confirm the integrity of the wrap and to repair any damaged areas.

B-2  
cont'd

- All piles should be driven with a vibratory hammer to the maximum extent feasible. If an impact hammer is required, additional sound attenuation, such as a wood cushion block or air bubble curtain, should be utilized. If the County determines when utilizing an impact hammer that the hydroacoustic sound levels generated could exceed the Interim Criteria for Injury to Fish (peak sound exposure level (SEL) of 206 decibels (dB) and accumulated SEL of 187 dB SEL threshold for fish over 2 grams and 183 dB for fish under 2 grams), then the County should further consult with the Department regarding incidental take coverage through a 2081(b) permit.
- The Department did not see any analysis of potential impacts from routine marina maintenance on Pacific herring. Pacific herring spawn has occurred in the vicinity of Coyote Point Marina during the winter months, approximately December 1 through March 15. The Department recommends that all in-water work at the Marina take place outside of this sensitive timeframe of Pacific herring. If any in-water work needs to take place at the Marina during the winter, the County should engage in further consultation with the Department.
- The DEIR did not mention any marine mammal monitoring protocols during pile driving activities. The Department recommends the County implement marine mammal monitoring protocols and appropriate buffer zones as specified by the National Marine Fisheries Service guidance during all pile driving related activities at Coyote Point Marina for the Final EIR. Marine mammal species that should be considered include the Harbor seal (*Phoca vitulina*) and the California sea lion (*Zalophus californianus*).
- Previous bay wide eelgrass surveys have shown eelgrass to be present at and near Coyote Point Marina. The Department recommends before initiating any shoreline or in-water work conducted on the bayside of the marina and breakwater that a presence/absence survey be completed within 45 meters of the proposed work. The survey should be provided to the Department and other permitting agencies for review before work commences.

B-3

B-4

B-5

B-6

**Additional Recommendations:**

- The DEIR identifies Impact BIO-6 (“Be Located inside or within 200 feet of a Marine or Wildlife Reserve”) as a potentially significant impact of the Program, however only Fitzgerald Marine Reserve was considered as part of this evaluation. The Department recommends inclusion of California Marine Protected Areas (MPAs) in the Final EIR. The Program area is within 200 feet of six MPAs: Egg (Devil's Slide) Rock to Devil's Slide Special Closure, Montara State Marine Reserve (SMR), Pillar Point State Marine Conservation Area, Año

B-7

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Nuevo SMR, Redwood Shores State Marine Park (SMP), and Bair Island SMP.  
More information about California MPAs can be found at:  
<https://wildlife.ca.gov/Conservation/Marine/MPAs>.

↑  
B-7  
cont'd

**Conclusion:**

The Department appreciates the opportunity to comment on the Draft Environmental Impact Report for the County of San Mateo Routine Maintenance Program. If you have any questions or comments, please contact Arn Aarreberg, Environmental Scientist, California Department of Fish and Wildlife, 3637 Westwind Blvd., Santa Rosa, CA 95403, phone (707) 576-2889, email [Arn.Aarreberg@wildlife.ca.gov](mailto:Arn.Aarreberg@wildlife.ca.gov).

Sincerely,



Craig Shuman, D. Env  
Marine Regional Manager

ec: Becky Ota, Program Manager  
Department of Fish and Wildlife  
([Becky.Ota@wildlife.ca.gov](mailto:Becky.Ota@wildlife.ca.gov))

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Krzysztof Lisaj  
County of San Mateo  
April 7, 2020  
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Xavier Fernandez  
Regional Water Quality Control Board, San Francisco Bay Region  
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Erik Martinez  
California Coastal Commission  
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U.S. Army Corps of Engineers, San Francisco District  
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### **Response to Comment B-1**

This comment summarizes the biological significance of two marine regions bordering San Mateo County: the San Francisco Bay and the Pacific coast. The County agrees with the list of protected marine species and commercial/recreationally important species that could potentially be present near proposed maintenance activities. No revisions to the DEIR are necessary.

### **Response to Comment B-2**

The comment recommends avoiding the use of treated wood piles in the waters of the San Francisco Bay and notes that the CDFW considers any wood treated with Ammoniacal Copper Zinc Arsenate, Chromated Copper Arsenate, Alkaline Copper Quaternary to be deleterious materials. The comment recommends using piles composed of plastic, concrete or steel and, if such materials are not feasible, CDFW recommends wrapping wood piles with plastic wrap or a polyurea coating (more benign material).

Consistent with CDFW's recommendation, the County would repair existing entrance pilings by cleaning and wrapping them with plastic pile wrap. This activity is further described in Chapter 8, Section 8.1.5, *Channel Entrance and Breakwater Maintenance*, of the Manual (Appendix A of the DEIR).

### **Response to Comment B-3**

The comment recommends that all piles should be driven with a vibratory hammer to the maximum extent feasible and that if an impact hammer is required, additional sound attenuation be utilized.

The proposed program does not involve wood pile replacement or pile driving activities. In response to this comment and to clarify that no pile driving activities would occur under the proposed program, the following text in Chapter 2, Project Description, Section 2.4.6, "Marina Maintenance Activities" of the DEIR has been revised on page 2-35:

The Parks Department is also responsible for inspecting the channel entrance pilings, day markers, entrance lights and range lights. Other minor maintenance includes ~~periodic inspection and replacement of wood pilings~~, removing hazardous logs and driftwood, and re-rocking the berm where rocks have fallen. The County also measures the depth of the channel entrance/breakwater at the marina to determine the need for future dredging work. Note that dredging and pile driving activities would not occur under the proposed program.

In addition, the following text in Chapter 8, *Coyote Point Marina Maintenance Activities*, Section 8.1.5, page 8-2, of the Manual (Appendix A of the DEIR) has been revised:

In the channel entrance area that leads to open water, the County inspects the channel entrance pilings, day markers, entrance lights, and range lights. As needed, the County replaces bulbs and repair the pilings by cleaning and wrapping the piles with a plastic pile wrap. No pile driving activities would occur under the Maintenance Program. ~~Wooden pilings are inspected periodically and replaced as needed with steel or concrete.~~

**Response to Comment B-4**

The comment notes that the DEIR did not evaluate potential impacts from routine marina maintenance on Pacific herring. The comment recommends that in-water work at Coyote Point Marina take place outside of Pacific herring's spawning season (December 1 through March 15) and in the event that in-water work needs to occur during the spawning season, the County should consult with CDFW.

The comment correctly notes that the DEIR does not evaluate potential effects on Pacific herring. The County does not anticipate conducting in-water work at Coyote Point Marina during the Pacific herring spawning season (December 1 through March 15); therefore, no adverse effects to Pacific herring are anticipated to occur. If the County needs to conduct unanticipated in-water maintenance activities during this timeframe, the County would consult with CDFW accordingly.

**Response to Comment B-5**

The comment notes that the DEIR does not mention any marine mammal monitoring protocols during pile driving activities and recommends that such protocols and appropriate buffer zones as specified by National Marine Fisheries Service's (NMFS') guidance be described for all pile driving activities at Coyote Point Marina.

The DEIR does not mention marine mammal monitoring protocols because the County does not anticipate needing to conduct any pile driving activities under the proposed program as clarified in Response to Comment B-3, above.

**Response to Comment B-6**

The comment states that previous Bay-wide eelgrass surveys have shown that eelgrass is present at and near Coyote Point Marina. Thus, comment recommends that prior to initiating any shoreline or in-water work on the bayside of the marina and breakwater that a presence/absence survey be completed within 45 meters of proposed maintenance activities. The comment further requests that the survey be provided to CDFW and other appropriate permitting agencies prior to commencing work.

The County last completed eelgrass surveys at Coyote Point Marina on March 8, 2017 to support their U.S. Army Corps of Engineers (USACE) and Bay Conservation and Development Commission (BCDC) maintenance dredging permits and specifically surveyed a potential eelgrass patch to the southeast of the approach channel near the County's dredging area (Haley Aldrich 2017). Based on the March 2017 survey, two specimens were observed but upon further assessment by a local aquatic ecologist, were not identified as eelgrass. The 2009 survey referenced in a memorandum from Haley Aldrich to Mr. Alex Braud (National Oceanic and Atmospheric Administration [NOAA]) indicates that another potential eelgrass patch exists to the north of the jetty that forms the north boundary of the marina. In the event that the County plans to conduct maintenance activities near the potential eelgrass patch along the shoreline north of the jetty (identified as "potential eel grass patch #1" in Haley Aldrich 2017), an eelgrass survey would be conducted. Survey results would be provided to CDFW and other appropriate permitting agencies prior to commencing maintenance work in this area.

In response to this comment, the following text has been added at the end of Chapter 8, Section 8.1.5, “Channel Entrance and Breakwater Maintenance” in the Manual (Appendix A), page 8-2.

Prior to conducting in-water maintenance activities to the north of the channel entrance, particularly the jetty forming the north boundary of the marina, the County will consider the need to conduct eelgrass surveys. The County last completed eelgrass surveys at Coyote Point Marina on March 8, 2017 to support their USACE and BCDC maintenance dredging permits. The County surveyed a potential eelgrass patch to the southeast of the approach channel near the County’s dredging area (Haley and Aldrich 2017 and included as **Appendix J**). Based on the March 2017 survey, two specimens were observed but upon further assessment by a local aquatic ecologist, were not identified as eelgrass. The 2009 survey referenced in Appendix J indicates that another potential eelgrass patch exists to the north of the jetty that forms the northern boundary of Coyote Point Marina. In the event that the County plans to conduct maintenance activities near the potential eelgrass patch along the shoreline north of the jetty (identified as “potential eel grass patch #1” in Haley Aldrich 2017 [Appendix J]), an eelgrass survey would be conducted per BMP BIO-25 (described in Chapter 9, Table 9-3). Survey results would be provided to appropriate permitting agencies (including CDFW) prior to commencing maintenance work in this area.

Similarly, in response to this comment, BMP BIO-25 has also been added to Chapter 9, Table 9-3, page 9-50 of the Manual to ensure eelgrass surveys are conducted prior to any in-water maintenance work planned near the potential eelgrass patch to the north of the jetty forming the northern boundary of Coyote Point Marina (Appendix A of the DEIR):

BMP Number	BMP Title	BMP Description
BIO-25	<u>Eelgrass Surveys at Coyote Point Marina</u>	<u>In the event that the County plans to conduct in-water maintenance activities to the north of the jetty forming the northern boundary of Coyote Point Marina (identified as “potential eel grass patch #1 in Appendix J), the County will retain a biologist to conduct an eelgrass survey in this area. Survey results would be provided to CDFW and other appropriate permitting agencies prior to commencing maintenance work in this area.</u>

The complete reference for the Haley and Aldrich 2017 memorandum has been added to Chapter 12, *References*, under the heading “Chapter 8 Coyote Point Marina and Other Shoreline Maintenance Activities” (page 12-11) of the Manual (Appendix A of the DEIR):

Haley Aldrich. 2017. Evaluation of Potential Eelgrass Beds near the Coyote Point Marina. USACE Permit # 26774S, BCDC Permit # M1993.014.00. Memorandum to Alex Braud, NOAA Coastal Management Fellow.

Further, the Haley and Aldrich 2017 memorandum has been added as Appendix J to the Manual (Appendix A of the DEIR) and is shown on the following page.

For consistency with the Manual, BMP BIO-25 has been added to Chapter 2, Table 2-5 on DEIR page 2-85 as follows:

BMP Number	BMP Title	BMP Description
BIO-25	Eelgrass Surveys at Coyote Point Marina	In the event that the County plans to conduct in-water maintenance activities to the north of the jetty forming the northern boundary of Coyote Point Marina (identified as "potential eel grass patch #1 in Appendix A), the County will retain a biologist to conduct an eelgrass survey in this area. Survey results would be provided to CDFW and other appropriate permitting agencies prior to commencing maintenance work in this area.

## **Appendix J.**

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### Eelgrass Survey Memorandum

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HALEY & ALDRICH, INC.  
2033 N. Main Street  
Suite 309  
Walnut Creek, CA 94596  
925.949.1012

21 March 2017  
File No. 43157

San Francisco Bay Conservation and Development Commission  
455 Golden Gate, Suite 10600  
San Francisco, CA 94102

Attention: Mr. Alex Braud  
NOAA Coastal Management Fellow

Subject: **Evaluation of Potential Eelgrass Beds near the Coyote Point Marina**  
**USACE PERMIT #: 26774S**  
**BCDC PERMIT #: M1993.014.00**

Dear Mr. Braud:

As you mentioned in your February 23, 2017 email, the 2009 eelgrass (*Zostera marina*) survey does seem to show two very small potential eelgrass patches within 250 meters of the proposed Coyote Point Marina (Marina) dredge footprint. As shown in Attachment A, potential eelgrass patch #1 is protected from any dredging related turbidity on account of the physical obstruction provided by the jetty that forms the north boundary of the Marina. Presence of vegetation in the 2.5 square meters covered by potential eelgrass patch #2 was surveyed by a professional diver hired by TranSystems. The results of this survey are summarized below.

The eelgrass swim survey was performed at 16:00 on March 8, 2017 during a -0.5 ft MLLW tide. At this tide level, the potential eelgrass patch would have been present at the waterline (Attachment B). No eelgrass was visible. The diver swam throughout an approximate 80-foot diameter circle around the potential eel grass patch area as shown in Attachment B. The diver placed four stakes in the survey area in order to provide a visual of approximate swim coverage (Attachment C). The diver found very little vegetation. But did collect samples of what he encountered at two locations shown with stakes labeled "Vegetation 1" and "Vegetation 2" in Attachments B and C. The specimens he collected were photographed and are shown in Attachment D.

The minimal amount of material found was compared to plants exhibited in the *Jepson Manual Higher Plants of California* and in *Eelgrass Conservation and Restoration in San Francisco Bay: Opportunities and Constraints* in the San Francisco Bay Subtidal Habitat Goals Project Report. After it was determined that the collected specimens did not resemble eelgrass plants depicted in the literature, they were assessed in person by Dr. Michael McGowan, a local aquatic ecologist with expertise in wetlands ecology, fish and fisheries, and ecological restoration. Dr. McGowan stated that "In my opinion, the specimens I saw are neither eelgrass, *Zostera marina*, nor pickleweed, *Salicornia* spp. They may be tubes of mud and mucus constructed by a benthic worm."

Based on the absence of any visually observed eelgrass plants at a tide level that would have revealed plants in the area mapped as eelgrass in the 2009 survey, the absence of any significant subaquatic vegetation within the swim survey area, and confirmation by a qualified ecologist that the specimens collected from within the swim survey area were not eelgrass, it appears that eelgrass patch #2 was either

Alex Braud, BCDC

21 March 2017

Page 2

erroneously mapped in 2009, or was accurately mapped but no longer exists. As such, the County of San Mateo requests that their maintenance dredging permits be finalized without provisions requiring measures to protect eelgrass.

If you have questions or would like to discuss further, please do not hesitate to contact me via telephone at (415) 748-2193 or email at [sbodensteiner@HaleyAldrich.com](mailto:sbodensteiner@HaleyAldrich.com).

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Bodensteiner". The signature is fluid and cursive, with a prominent initial "S".

Scott Bodensteiner  
HALEY & ALDRICH, INC.

Attachment A: Project Area Maps with Location of Potential Eelgrass Patches Mapped in 2009

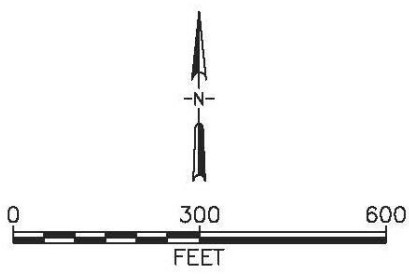
Attachment B: Swim Survey Map

Attachment C: Swim Survey Photo

Attachment D: Photo of Collected Specimens

cc: Mr. Mark D'Avignon, USACE  
Sam Herzberg, San Mateo County  
Mr. Greg Mailho, TranSystems

ATTACHMENT A



San Francisco Bay

Potential eel grass patch #1

APPROACH CHANNEL

LAUNCH RAMP

ENTRANCE CHANNEL

DREDGE UNIT A

FUEL DOCK

Potential eel grass patch #2

DREDGE UNIT B

DREDGE UNIT B

BASIN 1

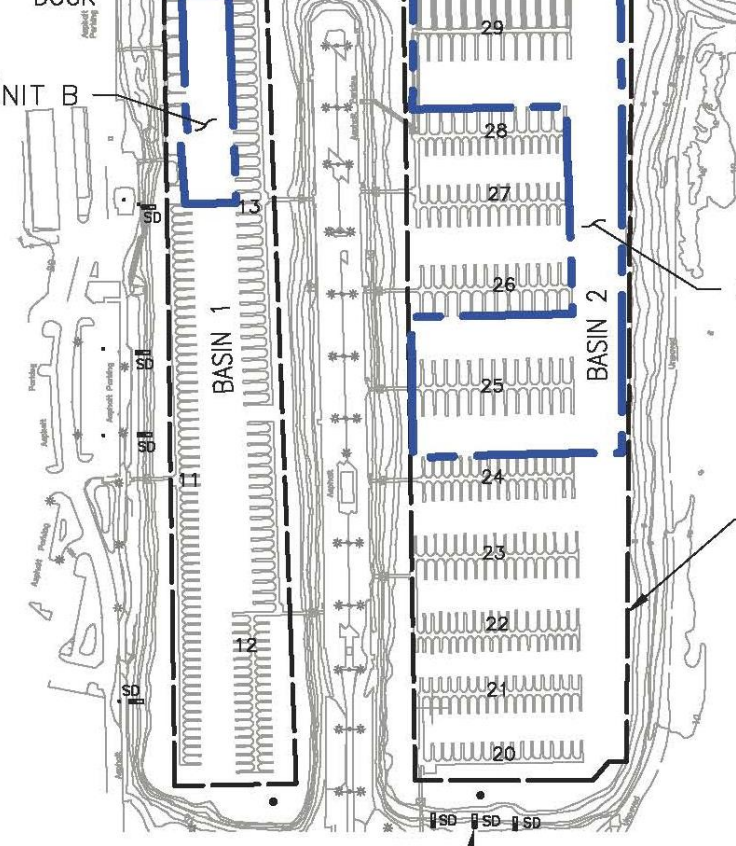
BASIN 2

DREDGE PERMIT BOUNDARY

COYOTE POINT MARINA MAINTENANCE DREDGING

DREDGE UNIT AREAS

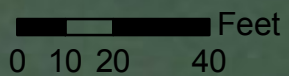
STORM DRAIN (TYPICAL)



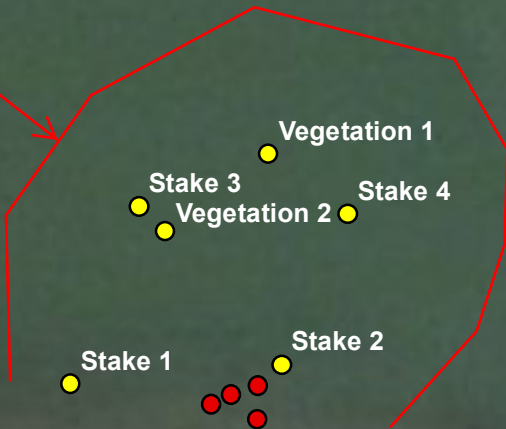
ATTACHMENT B



1 inch = 40 feet



Area swam for observation.  
Small sprigs of "vegetation"  
found at two points marked as  
"vegetation 1 and 2. Does not  
appear to be eel grass.



- EEL GRASS DATABASE COORDINATES
- TRANSYSTEMS SURVEY POINTS

**COYOTE POINT MARINA  
TRANSYSTEMS FIELD OBSERVATION  
MARCH 8, 2017, 4:00pm, TIDE = -0.5 FEET MLLW**

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

ATTACHMENT C

LOCATION OF "EEL GRASS"  
PATCH PER PROVIDED  
DATA BASE COORDINATE  
POINTS

TRANSYSTEMS STAKE #2

TRANSYSTEMS STAKE #1  
(OUT OF PHOTO) ALONG  
WATER'S EDGE AT  
CURRENT TIDE.



COYOTE POINT MARINA  
TRANSYSTEMS FIELD OBSERVATION  
MARCH 8, 2017, 4:00pm, TIDE = -0.5 FEET  
MLLW

ATTACHMENT D



### **Response to Comment B-7**

The comment notes that Impact BIO-6, pertaining to impacts to areas inside or within 200 feet of a marine or wildlife reserve, only considers Fitzgerald Marine Reserve. The comment recommends that California Marine Protected Areas (MPAs) be included in this impact and describes that the program area is within 200 feet of six MPAs: Egg (Devil's Slide) Rock to Devil's Slide Special Closure, Montara State Marine Reserve (SMR), Pillar Point State Marine Conservation Area, Año Nuevo SMR, Redwood Shores State Marine Park (SMP), and Bair Island SMP.

The text under Impact BIO-6 has been revised in Section 3.4, *Biological Resources*, of the DEIR (page 3.4-158) to include these other MPAs in the program area. The first two paragraphs are revised as follows:

The proposed program includes maintenance activities that would occur within the Fitzgerald Marine Reserve (Reserve) (see Appendix A), which is considered a sensitive habitat under the San Mateo County General Plan (County of San Mateo 1986) and designated as an Area of Special Biological Significance by the State Water Resources Control Board. In addition, the program area is within 200 feet of six California Marine Protected Areas (MPAs): Egg (Devil's Slide) Rock to Devil's Slide Special Closure, Montara State Marine Reserve (SMR), Pillar Point State Marine Conservation Area, Año Nuevo SMR, Redwood Shores State Marine Park (SMP), and Bair Island SMP. The proposed program would not result in a reduction in sizes of any of these R-reserves, but in the absence of BMPs, maintenance activities could result in the degradation of conditions within the R-reserves, including adverse effects due to increases in erosion, leaks of petrochemicals, hydraulic fluids, and solvents, spread of invasive plant species, and temporary or permanent loss of wetlands or other sensitive habitats (see Impacts BIO-2 and BIO-3).

The County would implement a number of several BMPs to address the potential impacts of Program activities on these R-reserves. General BMPs tend to minimize the footprint of work activities and minimize impacts from staging, stockpiling of materials, spills or leaks of chemicals, and other adverse effects. Relevant general BMPs include BMPs GEN-1, 3, 5 through 16, 19, and 22. In addition, BMPs EC-1 through EC-13 and SC-1 through SC-6 would be implemented to reduce maintenance activity impacts due to erosion and sedimentation.

## Letter C –Laurel Sears, California Department of Transportation

### Letter C

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**From:** Sears, Laurel@DOT <Laurel.Sears@dot.ca.gov>  
**Sent:** Thursday, February 27, 2020 11:59 AM  
**To:** Krzysztof Lisaj <klisaj@smcgov.org>  
**Cc:** State.Clearinghouse@opr.ca.gov; Leong, Mark@DOT <Mark.Leong@dot.ca.gov>  
**Subject:** SCH# 2019012009, Caltrans comments

**CAUTION: This email originated from outside of San Mateo County. Unless you recognize the sender's email address and know the content is safe, do not click links, open attachments or reply.**

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Hello,  
 Thank you for including Caltrans LD-IGR on your environmental review process for the San Mateo County Routine Maintenance Program DEIR. We sent a comment letter on January 31, 2019 and we believe those comments still apply to this document and the project as a whole.  
 For your information, we are also in the midst of minor updates to our encroachment permit language and process. The process will remain largely the same but may request proof of LD-IGR review, which is the letter attached (and this email).  
 Thank you for including us on this review process and feel free to reach out to us if you have any further questions.

C-1

--Laurel Sears

Laurel Sears, MUP/ MS  
 Associate Transportation Planner  
 Local Development- Intergovernmental Review  
 Caltrans, District 4 | 510-286-5614 | [laurel.sears@dot.ca.gov](mailto:laurel.sears@dot.ca.gov)

**DEPARTMENT OF TRANSPORTATION**

DISTRICT 4  
P.O. BOX 23660  
OAKLAND, CA 94623-0660  
PHONE (510) 286-5528  
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TTY 711  
www.dot.ca.gov



*Making Conservation  
a California Way of Life.*

January 31, 2019

SCH# 2019012009  
04-SM-2019-00234  
GTS ID 13952

Krzysztof Lisaj  
Senior Civil Engineer  
San Mateo County  
555 County Center, 5<sup>th</sup> Floor  
Redwood City, CA 94063

**County of San Mateo Routine Maintenance Program – Notice of Preparation (NOP)**

Dear Krzysztof Lisaj:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the above-referenced project. In tandem with the Metropolitan Transportation Commission’s (MTC) Regional Transportation Plan (RTP)/Sustainable Communities Strategy (SCS), Caltrans mission signals a modernization of our approach to evaluating and mitigating impacts to the State Transportation Network (STN). Caltrans’ *Strategic Management Plan 2015-2020* aims to reduce Vehicle Miles Travelled (VMT) by tripling bicycle and doubling both pedestrian and transit travel by 2020. Our comments are based on the NOP.

***Project Understanding***

The County of San Mateo (County) has developed the Routine Maintenance Program Manual to describe the various routine maintenance activities conducted by the County Department of Public Works and Parks Department. Both departments are responsible for conducting routine maintenance to ensure that county facilities are properly functioning and operational. The Manual provides a comprehensive approach to conducting routine maintenance activities. Primary maintenance activities include maintenance of culverts, storm drainage facilities, bridges, roadside ditches and swales; sediment removal in engineered channels, natural creeks and culverts; creek bank stabilization; vegetation management; grazing; road and trail maintenance; and maintenance of marinas.

C-2

***Scenic Highways***

The segment of State Route (SR) 1 adjacent to the project from Santa Cruz County line to Half Moon Bay is designated as a State Scenic Highway. Careful coordination of planning, design, construction, and regulation of land use and development should be considered to protect the social and economic values provided by the State's scenic resources.

C-3

If there is to be an aesthetic impact to SR 1 from the proposed project, then the Lead Agency has the responsibility to mitigate the impact. The Lead Agency should encourage quality

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to enhance California's economy and livability"*

Krzysztof Lisaj  
January 25, 2019  
Page 2

development that does not degrade the scenic value of the corridor. If a Lead Agency no longer adequately carries out their responsibility for the protection of the scenic corridor, the State may revoke the designation of the highway as an official State Scenic Highway and remove the signs which so indicate the highway. Further information is available on the following website:  
<http://www.dot.ca.gov/design/lap/livability/scenic-highways/index.html>

↑  
C-3  
(cont'd)

***Bridges, Trestles, Culverts and Other Structures in Riparian Environments***

Some project level activities may affect riparian flow patterns upstream of bridges, trestles, culverts or other structures for which Caltrans holds responsibility. Please ensure your project level environmental documents include hydrological studies to determine whether such impacts will occur, and to identify appropriate mitigation measures.

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C-4

***Habitat Restoration and Management***

Project level activities related to habitat restoration and management should be done in coordination with local and regional Habitat Conservation Plans, and with Caltrans where our programs share stewardship responsibilities for habitats, species and/or migration routes.

↑  
C-5

***Sea Level Rise***

The effects of sea level rise may have impacts on transportation facilities located in the project area. Executive Order (EO) S-13-08 directs State agencies planning construction projects in areas vulnerable to sea level rise to begin planning for potential impacts by considering a range of sea level rise scenarios for years 2050 and 2100. Higher water levels may increase erosion rates, change environmental characteristics that affect material durability, lead to increased groundwater levels and change sediment movement along shores and at estuaries and river mouths, as well as affect soil pore pressure at dikes and levees on which transportation facilities are constructed. All these factors must be addressed through geotechnical and hydrological studies conducted in coordination with Caltrans.

↑  
C-6

***Lead Agency***

As the Lead Agency, San Mateo County is responsible for all project mitigation, including any needed improvements to the STN. The project’s financing, scheduling, implementation responsibilities and monitoring should be fully discussed for all proposed mitigation measures, prior to the submittal of an encroachment permit. Potential mitigation measures that include the requirements of other agencies—such as Caltrans—are fully enforceable through permit conditions, agreements, or other legally-binding instruments under the control of the County.

↑  
C-7

***Transportation Permit***

Project work that requires movement of oversized or excessive load vehicles on State roadways requires a transportation permit that is issued by Caltrans. To apply, a completed transportation permit application with the determined specific route(s) for the shipper to follow from origin to destination must be submitted to: Caltrans Transportation Permits Office, 1823 14th Street,

↑  
C-8  
↓

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Krzysztof Lisaj  
January 25, 2019  
Page 3

Sacramento, CA 95811-7119. See the following website for more information:  
<http://www.dot.ca.gov/hq/traffops/permits>.

**Encroachment Permit**

Please be advised that any work or traffic control that encroaches onto the State ROW requires an encroachment permit that is issued by Caltrans. To obtain an encroachment permit, a completed encroachment permit application, environmental documentation, and six (6) sets of plans clearly indicating the State ROW, and six (6) copies of signed and stamped traffic control plans must be submitted to: Office of Encroachment Permits, California DOT, District 4, P.O. Box 23660, Oakland, CA 94623-0660. To download the permit application and obtain more information, visit <http://www.dot.ca.gov/hq/traffops/developserv/permits/>.

↑ C-8  
cont'd  
|  
C-9

Should you have any questions regarding this letter, please contact Michael McHenry at (510) 286-5562 or [Michael.Mchenry@dot.ca.gov](mailto:Michael.Mchenry@dot.ca.gov).

Sincerely,



PATRICIA MAURICE  
District Branch Chief  
Local Development - Intergovernmental Review

c: State Clearinghouse

*"Provide a safe, sustainable, integrated and efficient transportation system  
to enhance California's economy and livability"*

### ***Response to Comment C-1***

This comment stating that the comments provided on January 31, 2019 still apply to the Draft EIR for the proposed program is acknowledged. Detailed responses to comments raised in the January 31, 2019 letter are provided below in Responses to Comments C-2 through C-9.

The comment also notes that Caltrans' forthcoming updates to their encroachment permit language and process. The County appreciates the update on the encroachment permit process.

### ***Response to Comment C-2***

The comment correctly summarizes DPW's and the Parks Department's maintenance responsibilities and overall understanding of the proposed program Manual.

### ***Response to Comment C-3***

The comment correctly describes that the segment of State Route (SR) 1 adjacent to the proposed program from Santa Cruz County line to Half Moon Bay is designated as a State Scenic Highway. The comment requests that careful coordination of planning, design, construction of land use and development be considered to protect scenic resources along this highway, and notes that should a project result in an aesthetic impact to SR 1, the lead agency is responsible for mitigating that impact.

Section 3.2, *Aesthetics*, of the DEIR evaluates potential damage to scenic resources including views from SR 1 under Impact AES-2. As described in the DEIR (pages 3.2-18 to 3.2-19), the following County parks or trails are currently visible at varying degrees from SR 1: entrance to Devil's Slide Trail, Pillar Point Bluff, Mirada Surf East and West parks, Quarry County Park, Pigeon Point County Park, and Tunitas Creek Beach. The section further acknowledges that some proposed maintenance activities may be partially visible from this highway including vegetation maintenance, culvert repair, unpaved road or trail maintenance, tree removal, and other minor facility repairs. The DEIR concluded that because tree removal activities would be limited to removing hazardous trees (dead, decaying or fallen ones) that present a public safety hazard and because proposed maintenance activities would be short in duration (a couple days), views of such activities would be temporary and fleeting for motorists passing by due to the speed of travel. Thus, impacts on State scenic highways including SR 1 were determined to be less than significant and no mitigation is necessary. Refer to Section 3.2 of the DEIR for further discussion of the proposed program's impacts on aesthetics.

### ***Response to Comment C-4***

The comment requests that the County's environmental documents include hydrologic studies to determine whether impacts would occur to facilities for which Caltrans holds responsibility including bridges, trestles, and culverts. The comment also notes that mitigation should be identified for any such impacts.

As described in Chapter 2, Section 2.3, *Program Area and Maintenance Zones*, of the DEIR, proposed routine maintenance areas would occur along County maintained roads and trails, within County parks, and within or along County-maintained channels and stream courses.

DPW is responsible for maintaining culverts and bridges within the width of the road right-of-way (typically 100 feet or less) and the Parks Department is responsible for maintaining culverts and bridges within County Parks. If maintenance activities occur near bridges, trestles, culverts, or other facilities under Caltrans' maintenance responsibility, the County would coordinate with Caltrans accordingly and determine the need for additional hydrologic studies.

### **Response to Comment C-5**

The comment requests that proposed maintenance activities related to habitat restoration and management be conducted in coordination with local and regional Habitat Conservation Plans (HCPs) and with Caltrans where their programs share stewardship responsibilities for habitats, species and/or migration routes.

As described in Section 3.4, *Biological Resources*, under Impact BIO-5 of the DEIR (page 3.4-157), the San Bruno Mountain HCP is the only approved HCP within the program area and implementation of BMPs identified in Chapter 2 of the DEIR (as well as Chapter 9 of the Manual [Appendix A of the DEIR]) would avoid and minimize impacts on species covered by that HCP. The Parks Department is the HCP plan operator and is responsible for managing and monitoring the conserved habitat and endangered species within the San Bruno Mountain HCP; thus, proposed routine maintenance activities would be coordinated internally amongst Parks Department staff.

### **Response to Comment C-6**

The comment describes that the effects of sea level rise may have impacts on transportation facilities located in the program area, citing Executive Order S-13-08, which directs State agencies planning construction projects in areas vulnerable to sea level rise to evaluate potential impacts of sea level rise for years 2050-2100. The comment further requests that the following factors related to higher water levels be addressed through geotechnical and hydrological studies in coordination with Caltrans: increased erosion rates; material durability; increased groundwater levels and changes to sediment movement along shores, estuaries and river mouths; and soil pore pressure at dikes and levees on which transportation facilities are located.

Consistent with the comment's request, the DEIR does include an evaluation of potential sea level rise effects. As described in Section 3.9, *Hydrology and Water Quality*, under Section 3.9.2, "Regulatory Setting" of the DEIR (page 3.9-21), on December 10, 2019 the County's Board of Supervisors adopted a policy requiring that all County-owned and operated assets, design and construction projects, leases and property acquisitions take into account sea level rise. It requires that all County projects be sited, designed, constructed and adaptively managed to minimize sea level rise risks of the project. In addition, Section 3.7, *Greenhouse Gas Emissions*, describes how the County and City/County Association of Governments (C/CAG) recently formed the Flood and Sea Level Rise Resiliency Agency which is comprised of 20 incorporated cities, C/CAG and the County. This agency is intended to establish a coordinated response to sea level rise issues.

Section 3.7 of the DEIR includes a qualitative evaluation of the program's sea level rise impacts. Specifically, Impact GHG-4 of the DEIR evaluates the potential for exposing structures to accelerated shoreline cliff/buff erosion related to sea level rise. As described

in more detail on DEIR pages 3.7-13 to 3.7-14, some proposed maintenance activities would occur in the vicinity of coastal cliffs/bluffs (areas at potential risk of sea level rise). Proposed maintenance activities including culvert repair/replacement, road and bridge maintenance would improve existing conditions to be safer and more resilient to potential impacts from sea level rise compared to existing conditions. Other proposed maintenance activities that would take place near coastal bluffs and cliffs at coastal County Parks (e.g., Devil's Slide Trail, Fitzgerald Marine Reserve, Pillar Point Bluff, and Mirada Surf West) include vegetation maintenance, trail/road maintenance, and minor facility repairs. These activities are not anticipated to substantially increase coastal cliff or bluff erosion. If anything, some of these activities may be needed in response to ongoing erosion of coastal cliffs or bluffs at these County parks. Thus, the proposed program would have a beneficial effect on cliff/bluff erosion associated with sea level rise. No additional hydrological or geotechnical evaluations are determined necessary at this time.

Regarding the comment's concern about groundwater levels, as described in Section 3.9, *Hydrology and Water Quality*, of the DEIR, the proposed program would not involve any changes to groundwater levels. The program is also focused on maintenance of existing County facilities under the Parks Department's and DPW's maintenance responsibility. As such, the proposed program does not involve routine maintenance activities that could affect groundwater levels or changes to sediment movement along shores or river mouths that could be affected by sea level rise.

Lastly, regarding the commenter's concern about sea level rise effects on soil pore pressure on dikes or levees, the County only proposes levee maintenance along the earthen engineered portions of the Colma Creek flood control channel and a section of San Francisquito Creek (between U.S. Highway 101 upstream to Euclid Avenue in East Palo Alto). See the discussion of proposed floodwall and levee maintenance activities in Chapter 2, *Project Description*, pages 2-26 to 2-27. Proposed levee maintenance activities involve filling in burrow holes for rodent control, replacing fallen rocks, repairing cracks, and repairing slip-outs along the face to prevent erosion. Levee maintenance activities along Colma Creek would not affect levees where Caltrans' transportation facilities are located. The County would coordinate with Caltrans should any levee maintenance work along San Francisquito Creek near U.S. Highway 101 is needed.

### ***Response to Comment C-7***

The comment asserts that the County, as lead agency, is responsible for all mitigation including any improvements to the State Transportation Network. The comment further notes that the program's financing, scheduling and implementation responsibilities and monitoring be fully discussed for all proposed mitigation measures prior to submittal of an encroachment permit; and that all mitigation measures that include requirements of other agencies are fully enforceable through permit conditions, agreements, or other legally-binding instruments under the County's control.

The County understands that, as lead agency, they are responsible for all mitigation measures described in the EIR. The County will develop a mitigation monitoring and reporting program (MMRP) that identifies the scheduling and implementation responsibilities for each EIR mitigation measure. The MMRP will be prepared in advance of submitting any encroachment permit needed for the proposed program's maintenance activities.

***Response to Comment C-8***

The comment states that proposed maintenance activities involving movement of oversized or excessive load vehicles on State roadways requires a transportation permit issued by Caltrans.

As shown in Table 2-2 of the DEIR (page 2-49), the County has included Caltrans' transportation permit as a potential permit that may be required for proposed routine maintenance activities. Prior to conducting maintenance each year, the County will determine which maintenance projects (if any) involve movement of excessive load vehicles on State roadways and, as needed, will submit a transportation permit application to Caltrans for those specific projects.

***Response to Comment C-9***

The comment notes that any work or traffic control encroaching onto the State right-of-way requires an encroachment permit from Caltrans and describes specific requirements of the permit application.

As shown in Table 2-2 of the DEIR (page 2-49), the County has included Caltrans' encroachment permit as a potential permit that may be required for proposed routine maintenance activities. Prior to conducting maintenance each year, the County will determine which maintenance projects (if any) require an encroachment permit and, as needed, will submit a transportation permit application for those specific maintenance projects.

# Letter D –Sarah Fonseca, Native American Heritage Commission



STATE OF CALIFORNIA

Gavin Newsom, Governor

## NATIVE AMERICAN HERITAGE COMMISSION

### Letter D

March 18, 2020

Governor's Office of Planning & Research

Krzysztof Lisaj  
County of San Mateo

MAR 20 2020

Via Email to: [klisaj@smc.gov](mailto:klisaj@smc.gov)

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[NAHC.ca.gov](http://NAHC.ca.gov)

**Re: SCH# 2019012009, County of San Mateo Routine Maintenance Program Project, San Mateo County, California**

Dear Ms. Lisaj:

The Native American Heritage Commission (NAHC) has reviewed the Draft Environmental Impact Report (DEIR)/Mitigated Negative Declaration (MND) or Negative Declaration prepared for the project referenced above. The review may have included the Cultural Resources Section, Archaeological Report, Appendices for Cultural Resources Compliance, as well as other informational materials. We have the following concerns:

- The timelines in regards to the process for inadvertent finds of Native American remains in accordance with Health and Safety Code 7050.5 are off.

The California Environmental Quality Act (CEQA)<sup>1</sup>, specifically Public Resources Code section 21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource is a project that may have a significant effect on the environment.<sup>2</sup> If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an environmental impact report (EIR) shall be prepared.<sup>3</sup> In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources with the area of project effect (APE).

CEQA was amended in 2014 by Assembly Bill 52 (AB 52).<sup>4</sup> **AB 52 applies to any project for which a notice of preparation or a notice of negative declaration or mitigated negative declaration is filed on or after July 1, 2015.** AB 52 created a separate category for "tribal cultural resources"<sup>5</sup>, that now includes "a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment."<sup>6</sup> Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource.<sup>7</sup> Your project may also be subject to **Senate Bill 18 (SB 18)** (Burton, Chapter 905, Statutes of 2004), Government Code 65352.3, if it also involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space. **Both SB 18 and AB 52 have tribal consultation requirements.** Additionally, if your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966<sup>8</sup> may also apply.

<sup>1</sup> Pub. Resources Code § 21000 et seq.  
<sup>2</sup> Pub. Resources Code § 21084.1; Cal. Code Regs., tit. 14, § 15064.5 (b); CEQA Guidelines Section 15064.5 (b)  
<sup>3</sup> Pub. Resources Code § 21080 (d); Cal. Code Regs., tit. 14, § 15064 subd.(a)(1); CEQA Guidelines § 15064 (a)(1)

**Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.**

Agencies should be aware that AB 52 does not preclude agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52. For that reason, we urge you to continue to request Native American Tribal Contact Lists and Sacred Lands File searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>. Additional information regarding AB 52 can be found online at [http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation\\_CalEPAPDF.pdf](http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf), entitled "Tribal Consultation Under AB 52: Requirements and Best Practices".

The NAHC recommends lead agencies consult with all California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources.

A brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments is also attached.

If you have any questions or need additional information, please contact me at my email address: [Sarah.Fonseca@nahc.ca.gov](mailto:Sarah.Fonseca@nahc.ca.gov).

Sincerely,



Sarah Fonseca  
Cultural Resources Analyst

Attachment

cc: State Clearinghouse

↑  
D-1  
cont'd

**Pertinent Statutory Information:****Under AB 52:**

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements: Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a **lead agency** shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice. A **lead agency** shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project,<sup>4</sup> and **prior to the release of a negative declaration, mitigated negative declaration or environmental impact report.** For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code § 65352.4 (SB 18).<sup>5</sup>

The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:

- a. Alternatives to the project.
  - b. Recommended mitigation measures.
  - c. Significant effects.<sup>6</sup>
1. The following topics are discretionary topics of consultation:
- a. Type of environmental review necessary.
  - b. Significance of the tribal cultural resources.
  - c. Significance of the project's impacts on tribal cultural resources.

If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency.<sup>7</sup>

With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process **shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code sections 6254 (r) and 6254.10.** Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public.<sup>8</sup>

If a project may have a significant impact on a tribal cultural resource, **the lead agency's environmental document shall discuss** both of the following:

- a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
- b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code section 21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource.<sup>9</sup>

Consultation with a tribe shall be considered concluded when either of the following occurs:

- a. The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
- b. A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached.<sup>10</sup>

Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code section 21080.3.2 **shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program**, if determined to avoid or lessen the impact pursuant to Public Resources Code section 21082.3, subdivision (b), paragraph 2, and shall be fully enforceable.<sup>11</sup>

If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, **the lead agency shall consider feasible mitigation** pursuant to Public Resources Code section 21084.3 (b).<sup>12</sup>

An environmental impact report **may not be certified**, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:

<sup>4</sup> Pub. Resources Code § 21080.3.1, subds. (d) and (e)

<sup>5</sup> Pub. Resources Code § 21080.3.1 (b)

<sup>6</sup> Pub. Resources Code § 21080.3.2 (a)

<sup>7</sup> Pub. Resources Code § 21080.3.2 (a)

<sup>8</sup> Pub. Resources Code § 21082.3 (c)(1)

<sup>9</sup> Pub. Resources Code § 21082.3 (b)

<sup>10</sup> Pub. Resources Code § 21080.3.2 (b)

<sup>11</sup> Pub. Resources Code § 21082.3 (a)

<sup>12</sup> Pub. Resources Code § 21082.3 (e)

- a. The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code sections 21080.3.1 and 21080.3.2 and concluded pursuant to Public Resources Code section 21080.3.2.
- b. The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
- c. The lead agency provided notice of the project to the tribe in compliance with Public Resources Code section 21080.3.1 (d) and the tribe failed to request consultation within 30 days.<sup>13</sup>

***This process should be documented in the Tribal Cultural Resources section of your environmental document.***

**Under SB 18:**

Government Code § 65352.3 (a) (1) requires consultation with Native Americans on general plan proposals for the purposes of "preserving or mitigating impacts to places, features, and objects described § 5097.9 and § 5091.993 of the Public Resources Code that are located within the city or county's jurisdiction. Government Code § 65560 (a), (b), and (c) provides for consultation with Native American tribes on the open-space element of a county or city general plan for the purposes of protecting places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code.

- SB 18 applies to **local governments** and requires them to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: [https://www.opr.ca.gov/docs/09\\_14\\_05\\_Updated\\_Guidelines\\_922.pdf](https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf)
- **Tribal Consultation:** If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.**<sup>14</sup>
- **There is no Statutory Time Limit on Tribal Consultation under the law.**
- **Confidentiality:** Consistent with the guidelines developed and adopted by the Office of Planning and Research,<sup>15</sup> the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code sections 5097.9 and 5097.993 that are within the city's or county's jurisdiction.<sup>16</sup>
- **Conclusion Tribal Consultation:** Consultation should be concluded at the point in which:
  - The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
  - Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation.<sup>17</sup>

**NAHC Recommendations for Cultural Resources Assessments:**

- Contact the NAHC for:
  - A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
  - A Native American Tribal Contact List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.
    - The request form can be found at <http://nahc.ca.gov/resources/forms/>.
- Contact the appropriate regional California Historical Research Information System (CHRIS) Center ([http://ohp.parks.ca.gov/?page\\_id=1068](http://ohp.parks.ca.gov/?page_id=1068)) for an archaeological records search. The records search will determine:
  - If part or the entire APE has been previously surveyed for cultural resources.
  - If any known cultural resources have been already been recorded on or adjacent to the APE.
  - If the probability is low, moderate, or high that cultural resources are located in the APE.
  - If a survey is required to determine whether previously unrecorded cultural resources are present.

<sup>13</sup> Pub. Resources Code § 21082.3 (d)

<sup>14</sup> (Gov. Code § 65352.3 (a)(2)).

<sup>15</sup> pursuant to Gov. Code section 65040.2,

<sup>16</sup> (Gov. Code § 65352.3 (b)).

<sup>17</sup> (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

- If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
  - The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
  - The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

**Examples of Mitigation Measures That May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:**

- Avoidance and preservation of the resources in place, including, but not limited to:
  - Planning and construction to avoid the resources and protect the cultural and natural context.
  - Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
- Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
  - Protecting the cultural character and integrity of the resource.
  - Protecting the traditional use of the resource.
  - Protecting the confidentiality of the resource.
- Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
- Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed.<sup>18</sup>
- Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated.<sup>19</sup>

The lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.

- Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources.<sup>20</sup> In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
- Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
- Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code section 7050.5, Public Resources Code section 5097.98, and Cal. Code Regs., tit. 14, section 15064.5, subdivisions (d) and (e) (CEQA Guidelines section 15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

<sup>18</sup> (Civ. Code § 815.3 (c)).

<sup>19</sup> (Pub. Resources Code § 5097.991).

<sup>20</sup> per Cal. Code Regs., tit. 14, section 15064.5(f) (CEQA Guidelines section 15064.5(f)).

### ***Response to Comment D-1***

This comment notes that the Native American Heritage Commission (NAHC) has reviewed the DEIR and cites the tribal consultation requirements of Public Resource Code (PRC) Section 21080.3.1, Assembly Bill (AB) 52, and Senate Bill 18. The comment also recommends that jurisdictions continue to contact NAHC for the Native American tribal contacts list and results of the sacred lands files search and consult with all California Native American tribes that are traditionally and culturally affiliated with geographic area of the proposed projects as soon as possible.

Pursuant to PRC Section 21080.3.1, lead agencies are required to notify Native American tribes with a traditional and cultural affiliation with the program area about a proposed project. As described in DEIR Section 3.15, *Tribal Cultural Resources*, under Section 3.15.3, "Impact Analysis" (page 3.15-2), the proposed program is in the traditional ancestral territory of the Ohlone Indian Tribe; however, the County has not received any requests from tribes for project notifications under PRC Section 21080.3.1(b)(1). In compliance with AB 52, the County contacted the NAHC on December 21, 2018 for a list of tribes with a traditional and cultural affiliations with San Mateo County, as well as for a search of the sacred lands file. The NAHC responded on December 27, 2018, noting that sacred sites have been recorded within the vicinity of the proposed program. The NAHC also provided a list of tribes affiliated with San Mateo County and requested that the tribes be contacted for additional information about important cultural sites.

Subsequently, the County sent project notification letters on January 4, 2019, via certified return receipt, to all of the tribes listed by the NAHC, including Amah Mutsun Tribal Band, Amah Mutsun Tribal Band of Mission San Juan Bautista, Costanoan Rumsen Carmel Tribe, Indian Canyon Mutsun Band of Costanoan, Muwekma Ohlone Indian Tribe of the San Francisco Bay Area, and Ohlone Indian Tribe. To date, there has been no response from any of the tribes contacted. All correspondence between the County, the NAHC, and notified tribes is provided in Appendix I of the Routine Maintenance Manual (Appendix A of DEIR).

As part of the proposed program, the County developed Cultural Sensitivity Map Data and County Baseline Maps that will be referenced by the County prior to conducting ground-disturbing maintenance activities. These maps will guide the County in determining which cultural resources BMPs (listed in Chapter 2, *Project Description*, Table 2-4 of the DEIR) should be implemented to avoid and minimize potential effects on cultural resources.

## Letter E – Tahsa Sturgis, San Francisco Bay Regional Water Quality Control Board



### San Francisco Bay Regional Water Quality Control Board

### Letter E

*Sent via electronic email: No hard copy to follow*

April 13, 2020  
**CIWQS Place ID:** 858037  
**Reg. Measure:** 2 CW730262

San Mateo County  
 555 County Center, 5<sup>th</sup> Floor  
 Redwood City, CA 94063  
 Phone: (650) 599-1436

Attn: Krzysztof Lisaj ([klisaj@smcgov.gov](mailto:klisaj@smcgov.gov))

**Subject: Comments on the County of San Mateo Routine Maintenance Program Draft Environmental Impact Report, SCH No. 2019012009**

Dear Mr. Lisaj,

San Francisco Bay Regional Water Quality Control Board (Water Board) staff has reviewed the Draft Environmental Impact Report (DEIR) for the County of San Mateo Routine Maintenance Program (Project). The Project involves development of a comprehensive permitting approach to allow the County of San Mateo (County) to conduct routine maintenance activities in a timely manner. The DEIR also includes the *County of San Mateo Routine Maintenance Program Manual* (Horizon Water and Environment, February 2020) (Manual), which describes maintenance standards and implementation measures for the proposed routine maintenance activities described. We appreciate the opportunity to comment on the DEIR and the County's ongoing communication and collaboration with the Water Board, other regulatory agencies. We will continue to work closely with the County on this important project moving forward. Based on the information provided in the DEIR, we offer the following comments.

JIM McGRATH, CHAIR | MICHAEL MONTGOMERY, EXECUTIVE OFFICER

1515 Clay St., Suite 1400, Oakland, CA 94612 | [www.waterboards.ca.gov/sanfranciscobay](http://www.waterboards.ca.gov/sanfranciscobay)

♻️ RECYCLED PAPER

DEIR Comment Letter  
County of San Mateo Routine Maintenance Program  
Draft Environmental Impact Report

Place ID 858037  
WDID No. 2 CW730262

**Comment 1. Work Limits**

The DEIR indicates that the Project would result in impacts to aquatic resources including wetland habitat, riparian habitat, streams or tributaries, or other waters of the State. Both a Clean Water Act (CWA) Section 401 Water Quality Certification (Certification) and a CWA Section 404 Permit from the U.S. Army Corps of Engineers (Corps) will be necessary for projects involving impacts to waters of the U.S.

The Water Board adopted U.S. EPA’s Section 404(b)(1), “Guidelines for Specification of Disposal Sites for Dredge or Fill Material,” dated December 24, 1980, (404(b)(1) Guidelines) in Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) for determining the circumstance under which filling of wetlands, streams or other waters of the State may be permitted. The 404(b)(1) Guidelines prohibit all discharges of fill material into regulated waters of the United States, unless a discharge, as proposed, constitutes the least environmentally damaging practicable alternative that will achieve the basic project purpose.

The 404(b)(1) Guidelines sequence the order in which proposals should be approached: 1) Avoid - avoid impacts to waters; 2) Minimize - modify project to minimize impacts to waters; and, 3) Mitigate – once impacts have been fully minimized, compensate for unavoidable impacts to waters. When it is not possible to avoid impacts to water bodies, disturbance should be minimized. Mitigation for lost water body acreage and functions through restoration or creation should only be considered after disturbance has been minimized. Where impacts cannot be avoided, the creation of adequate mitigation habitat to compensate for the loss of water body acreage, functions and values must be provided.

In order to evaluate whether impacts have been avoided and minimized to the maximum extent practicable, the site-specific, annual, and total work limits must be explicitly established so that Water Board staff can evaluate whether the Basin Plan’s 404(b)(1) Guidelines have been met.

Section 9.3.2 Impact Minimization and Work Limits

Section 9.3.2 describes the annual work length and size limits for the maintenance activities, but the limits for each activity need to be more clearly defined. Although we recognize that exact impact amounts will be more accurately determined in the annual work plans, the information requested herein may be general but detailed enough so that Water Board staff can determine whether the activity fits within the thresholds that are authorized in the Certification, when issued. Without maximum impact thresholds, the Certification cannot accurately verify that water quality standards of the State have been met by the Project. Specifically, Table 1 outlines the additional information needed for the maintenance activities described in the DEIR and Manual.



E-1

DEIR Comment Letter  
 County of San Mateo Routine Maintenance Program  
 Draft Environmental Impact Report

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**Table 1: Summary of the Project’s work limits specified in the DEIR, by maintenance activity<sup>1</sup>.**

Maintenance Activity	Current Work Length and Size Limits	Additional Information Needed
Culvert Repair/Replacement	<u>Non-Fish Bearing Streams</u> Site Limit: <ul style="list-style-type: none"> <li>• 150 LF</li> </ul> Yearly Limit: 1,500 LF Total Limit: None Given	<ul style="list-style-type: none"> <li>• Site Limit, Yearly Limit, and Total Limit<sup>2</sup> in area</li> </ul>
	<u>Fish Bearing Streams</u> Site Limit: <ul style="list-style-type: none"> <li>• 100 LF</li> </ul> Yearly Limit: 1 Total Limit: None Given	
Channel Maintenance <ul style="list-style-type: none"> <li>• <i>Concrete Repair</i></li> <li>• <i>Rock Slope Protection</i></li> <li>• <i>Tide Gate Maintenance</i></li> <li>• <i>Floodwall and Levee Maintenance</i></li> </ul>	Site Limit: None Given Yearly Limit: None Given Total Limit: None Given	<ul style="list-style-type: none"> <li>• Site Limit, Yearly Limit, and Total Limit in LF and area.</li> </ul>
Bridge Maintenance	Site Limit: Yearly Limit: 500 LF Total Limit: None Given	<ul style="list-style-type: none"> <li>• Site Limit, Yearly Limit, and Total Limit in LF and area.</li> </ul>

E-1  
cont'd

<sup>1</sup> Linear Feet = LF

<sup>2</sup> The assumed total length is the requested permit length (5 years) multiplied by the annual limit, when specified. Although assumed, the total work limit is requested herein for confirmation.

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Maintenance Activity	Current Work Length and Size Limits	Additional Information Needed
Roadside and Trail Ditch and Swale Clearing	Site Limit: None Given Yearly Limit: None Given Total Limit: None Given	<ul style="list-style-type: none"> <li>Site Limit, Yearly Limit, and Total Limit in LF and area.</li> </ul>
Sediment Removal at Culverts and Crossings	Site Limit: 150 LF Yearly Limit: 1,500 LF Total Limit: None Given  <u>Dewatering</u> Site Limit: 750 LF Yearly Limit: 7,500 LF Total Limit: None Given	<ul style="list-style-type: none"> <li>Site Limit, Yearly Limit, and Total Limit in area</li> </ul>
Sediment Removal in Channels	Site Limit: 500 LF Yearly Limit: 1,500 LF Total Limit: None Given  <u>Dewatering</u> Site Limit: 750 LF Yearly Limit: 7,500 LF Total Limit: None Given	<ul style="list-style-type: none"> <li>Site Limit, Yearly Limit, and Total Limit in area</li> </ul>
Creek Bank Stabilization/Slip-out and Slide Repairs	Site Limit: 150 LF Yearly Limit: 750 LF Total Limit: None Given  <u>Average hydrologic year</u> <ul style="list-style-type: none"> <li>750 LF for all sites</li> </ul> <u>Wet hydrologic year:</u> <ul style="list-style-type: none"> <li>1,500 LF for all sites</li> </ul>	<ul style="list-style-type: none"> <li>area limits</li> <li>Average and wet hydrologic years definition and methodology</li> </ul>
Vegetation Management	<ul style="list-style-type: none"> <li>Proximity to other County's right of way and facilities</li> <li>Length and area not specified</li> </ul>	<ul style="list-style-type: none"> <li>Site Limit, Yearly Limit, and Total Limit in LF and area</li> </ul>

E-1  
cont'd

DEIR Comment Letter  
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Maintenance Activity	Current Work Length and Size Limits	Additional Information Needed
Marina Maintenance	Site Limit: None Given Yearly Limit: None Given Total Limit: None Given	<ul style="list-style-type: none"> <li>Site Limit, Yearly Limit, and Total Limit in LF and area</li> </ul>

E-1  
cont'd

**Comment 2. Compensatory Mitigation Description**

We appreciate the inclusion of Mitigation Measures to avoid, minimize and compensate for impacts. However, the compensatory mitigation measures described in Chapter 9, do not yet sufficiently mitigate the Project’s impacts to waters of the State in accordance with the Water Board’s existing policies. Although the Manual describes a tiered mitigation approach to impacts to special-status species, a similar approach was not taken with compensatory mitigation actions for impacts to waters of the State. The compensatory mitigation actions need to be further defined to evaluate the Project’s potential impacts to waters of the State.

E-2

Section 9.5.2 Timing of Mitigation

This section states that compensatory mitigation for impacts to waters of the U.S. would be provided in accordance with the Mitigation Rule, established by the USEPA and Corps in 2008. Although the Water Board refers the “Mitigation Rule” when determining an appropriate compensatory mitigation amount for a project’s impacts to waters of the State, the compensatory mitigation amount required by the Water Board will often exceed the amount set forth in the Mitigation Rule. Therefore, we suggest revising this section to acknowledge the Mitigation Rule is not the only factor when determining compensatory mitigation for the Water Board.

E-3

Section 9.5.3 On-Site Mitigation Approach

Section 9.5.3 provides compensatory mitigation ratios for impacts to wetlands and aquatic habitat that are mitigation on-site and in-kind. Though we appreciate inclusion of ratios to define upper limits of mitigation, the ratio described in this section is not flexible enough to account for compensatory mitigation amount that may be required by the Water Board. For example, compensatory mitigation amounts will vary depending on the habitat impacted (e.g., riparian, wetlands), impact type (e.g., permanent, temporary), proposed mitigation, timing, and location of the proposed mitigation project. To account for this variance, we recommend including a lower and upper mitigation bound and an acknowledgment that mitigation requirements may exceed those described therein.

E-4

Section 9.5.4 Off-Site Mitigation Approach

This sections states, “For off-site mitigation approaches, the county will acquire, preserve, enhance, and managed lands that provide similar ecological functions and values to the riparian or wetland habitat impacted by program maintenance activities at a ratio of 3:1...”

E-5

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County of San Mateo Routine Maintenance Program  
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Please note that we do not accept preservation as compensatory mitigation for impacts to waters of the State as that would result in a net loss of waters of the State and would not conform to the our No Net Loss Policy. Although we do accept off-site compensatory mitigation, the proposed mitigation amounts described in Section 9.5.4 should acknowledge that the compensatory mitigation required by the Water Board will be determined by the habitat impacted (e.g., riparian, wetlands), impact type (e.g., permanent, temporary), proposed mitigation, timing, and location of the proposed mitigation project.

E-5  
cont'd

Section 9.5.7 Mitigation Banks


The San Francisco Bay Wetland Mitigation Bank (Bank) is in its final phase of credit release and is unlikely to have wetland mitigation credits available for sale. The 1:1 mitigation to impact ratio described in this section is due to the timing that the Bank and its wetlands were established and verification by Water Board staff that the created wetlands have been sufficiently established and maintained. If new wetland mitigation banks are established, the mitigation ratio that we would require would be larger to account for the temporal loss of acreage, functions, and values from the time that impacts to wetlands occur and when a new mitigation bank's created wetlands would become established. Furthermore, the Manual should state that wetland mitigation credits for the Project's impacts to wetlands may only be purchased if they occur within the bank's service area.

E-6

**Closing**

If you have any questions concerning this comment letter, please contact Tahsa Sturgis at (510) 622-2316 or [Tahsa.Sturgis@waterboards.ca.gov](mailto:Tahsa.Sturgis@waterboards.ca.gov). All future correspondence regarding this Project should reference the CIWQS Place ID No. indicated at the top of this letter.

Sincerely,

 Digitally signed  
by Tahsa Sturgis  
Date: 2020.04.13  
18:38:45 -07'00'

Tahsa Sturgis  
Water Resource Control Engineer  
Watershed Management Division

DEIR Comment Letter  
County of San Mateo Routine Maintenance Program  
Draft Environmental Impact Report

Place ID 858037  
WDID No. 2 CW730262

cc: SWRCB, DWQ, [stateboard401@waterboards.ca.gov](mailto:stateboard401@waterboards.ca.gov)  
Water Board, Victor Aelion, [victor.aelion@waterboards.ca.gov](mailto:victor.aelion@waterboards.ca.gov)  
CDFW, Randi Adair, [randi.adair@wildlife.ca.gov](mailto:randi.adair@wildlife.ca.gov)  
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Ken Schwarz, [ken@horizonh20.com](mailto:ken@horizonh20.com)  
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### **Response to Comment E-1**

The comment begins by describing the U.S. Environmental Protection Agency's (USEPA's) Section 404(b)(1), "Guidelines for Specific Disposal Sites for Dredge or Fill Material," (404(b)(1) Guidelines) in the Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan). The comment summarizes the order in which projects should be approached according to the 404(b)(1) Guidelines by (1) avoiding impacts to waters; (2) modifying projects to minimize impacts to waters of the State; and (3) compensating for unavoidable impacts to waters of the State. The comment requests that in order to evaluate whether the proposed program's impacts have been avoided and minimized to the maximum extent practicable, the site-specific, annual, and total work limits must be clearly described to evaluate whether the Basin Plan's 404(b)(1) Guidelines have been met. More specifically, the comment requests that Section 9.3.2 of the Manual (Appendix A of DEIR), which currently describes annual work length and size limits for maintenance activities, be revised to include more specific limits for each activity. The comment includes Table 1, which identifies additional information that should be described in the EIR and Manual so that the Regional Water Quality Control Board (RWQCB) can verify that water quality standards of the State have been met by the proposed program.

In response to the first portion of this comment, the proposed program has been structured to avoid, minimize, and mitigate unavoidable impacts to waters of the U.S. and State according to the general intent of the 404(b)(1) Guidelines. Throughout the Manual development process, the County carefully developed work limits for the proposed routine maintenance activities to ensure that potential impacts to waters of the U.S./State are avoided to the extent feasible and that the least amount of impacts to waters of the U.S./State occur.

The proposed program is focused on maintenance of existing County facilities (e.g., culverts, roads, trails, bridges, other storm drainage infrastructure) and maintenance work would occur mostly within the existing footprint of those facilities under the County's purview. The majority of proposed maintenance activities would result in temporary (and not permanent) impacts on waters of the U.S./State (e.g., in-kind culvert repair/replacement, channel maintenance, vegetation management). Permanent impacts on waters of the U.S./State would be minimal and, in most instances, would only occur when proposed maintenance activities involved hardscape associated with a bank/ road slip-out/slide repair or a culvert replacement project that involved upsizing of a culvert. Bank stabilization techniques utilizing hardscape would only occur as a last option when biotechnical stabilization techniques are deemed infeasible. Lastly, as stated in prior responses to comments, failure to conduct routine maintenance of deteriorated or otherwise damaged County facilities, including not repairing eroding streambanks or thinning overgrown vegetation, will exacerbate flooding and erosion conditions, potentially leading to catastrophic failures with resultant public safety, water quality, and biological resources impacts. Thus, not conducting routine maintenance or deferring routine maintenance increases the risk for larger and more significant impacts on waters of the U.S./State, as well as, increases the likelihood of more impactful repairs to occur later.

Chapter 9, Table 9-1 of the Manual (Appendix A of DEIR) as well as Chapter 2, Table 2-3 of the DEIR includes a comprehensive list of BMPs that would further minimize adverse effects to waters of the U.S. and State. Chapter 9, Section 9.5, *Mitigation Opportunities*, includes a range of mitigation options that the County would implement to compensate for any

unavoidable impacts on wetlands or waters of the U.S./State. Mitigation for impacts to wetlands and waters of the U.S. are also described in Section 3.4, *Biological Resources*, of the DEIR (see Mitigation Measure BIO-9 on pages 3.4-152 to 3.4-154).

Regarding the last portion of the comment, Section 9.3.2 of the Manual describes annual work length limits for select in-water maintenance activities that would most likely have direct impacts to waters of the U.S./State and/or sensitive habitat. Many of the routine maintenance activities would occur outside of the USACE's and RWQCB's jurisdiction (e.g., majority of vegetation management and maintenance of roadside ditches) and some maintenance activities are minor in nature and focused on in-kind repair of existing hardscape structures that are not in natural waterways (e.g. concrete channel repair, in-kind repair of existing channel rock slope protection). The Manual did not include limits for vegetation management or roadside ditch maintenance/swale clearing because these activities mostly occur along County roads and trails in upland areas. The following bullets summarize such activities and, in response to this comment, describe the typical length and size of these maintenance activities that were developed based on past maintenance events within the County. Because this information would not result in a change to the EIR's evaluation, no revisions to the Draft EIR are or Manual are included.

- *Concrete Repair.* As described in Chapter 2 of the DEIR (page 2-26), this activity involves repairing minor damages on concrete channel walls or beds using grout where crumbling, cracking, or chipping is observed. This activity may also involve cleaning weep holes to prevent blockages. Work would be completed when channel flows are at its lowest or when channel is completely dry. The typical size of a concrete channel repair site is 100 linear feet [LF] and 5,000 square feet. This maintenance activity would occur infrequently (no more than 3 concrete repair projects per year).
- *Rock Slope Protection.* This activity involves in-kind repair of existing rock slope protection along creek banks by replacing missing or damaged rocks. The existing footprint for rock slope protection is typically 150 LF and 3,000 square feet, or less. In-kind repairs would take place within the footprint of the existing rock slope protection and are not anticipated to extend into adjacent waterways. The County anticipates this activity occurring no more than 3 times per year.
- *Floodwall and Levee Maintenance.* The majority of floodwall and levee maintenance activities include minor work outside of waters of the State including graffiti removal, vegetation trimming along levees, and repainting floodwalls. This work may occur up to 2 miles per year. Repairing levee slip-outs could, however, result in direct impacts to waters of the State. The work areas of levee slip-outs are described in Table 2-2 below.
- *Roadside Ditch and Swale Clearing.* The majority of the County's roadside ditch and swale clearing activities are limited to upland areas outside of waters of the State. It is difficult to estimate the size of roadside ditch and swale maintenance activities as this work occurs along County roads and varies greatly depending on road lengths. For the purposes of the EIR's air quality evaluation, however, it was assumed that each ditch maintenance site was 2,500 LF and approximately 7,500 square feet. The EIR also assumed that ditch maintenance activities would occur 66 days per year and the duration at each maintenance site would be 2 days. Using these

assumptions, annual ditch maintenance work would typically occur along 82,500 LF (15.6 miles) of County roads and across 247,500 square feet (5.7 acres).

- *Vegetation Management.* The great majority of the County's vegetation management activities would occur along County roads and trails or in the vicinity of other County facilities (e.g., campsites, picnic areas) in upland areas outside of waters of the State. The types of vegetation management activities that would occur under the proposed program include mowing, trimming and pruning, tree removal, herbicide application, grazing, burn piles, downed tree management, and invasive plant removal. As described in Chapter 2, *Project Description*, Section 2.4.4, "Vegetation Management Activities," the primary goals of vegetation management are to maintain operational capacity of County flood control facilities; maintain sight distances along County roads; reduce invasive/exotic weeds at County facilities; maintain defensible space around County facilities to reduce fire fuel loads and fire risks and hazards; and maintain open space along County fire roads and trails. Because much of this work occurs along County roads and trails, and the techniques used widely vary depending on the site, it is difficult to estimate the typical length and area of a site where vegetation management is needed.

**Table 2-2** has been developed to summarize the maximum estimated size of the County's maintenance activities with potential to result in direct impacts on waters of the State. Table 2-2 also includes a definition and methodology for the Manual's definition of an average hydrologic year and wet hydrologic year as requested by the commenter's request in Table 1 of Comment E-1.

**Table 2-2. Maintenance Activity Work Length Limits and Estimated Maximum Size of Maintenance Sites within the RWQCB’s Jurisdiction**

Maintenance Activity	Work Length (linear feet [LF]) Limits Described in the Manual and EIR	Estimated Maximum Length (LF) and Area (square feet [sf]) Size of Maintenance Sites	Notes
Culvert Repair/Replacement	Non-Fish Bearing Streams		Culvert repair/replacement activities would result in both temporary and permanent impacts on waters of the State. Only culvert replacement activities that require upsizing of a culvert would likely result in permanent impacts on waters of the State.
	Site Limit: 150 LF	Estimated Maximum Work Area: 750 sf	
	Yearly Limit: 1,500 LF	Estimated Maximum Annual Work Area: 6,000 sf	
	Total Limit: None Given	Estimated Maximum Total Work Area over 5 Years (LF, area): 7,500 LF, 37,500 sf	
	Fish Bearing Streams		
	Site Limit: 100 LF	Estimated Maximum Work Area: 500 sf	
	Yearly Limit: 1 project (100 LF)	Estimated Maximum Annual Work Area: 500 sf	
	Total Limit: None Given	Estimated Maximum Total Work Area over 5 Years (LF, area): 500 LF; 2,500 sf	
Tide Gate Maintenance	Site Limit: None Given	Estimated Maximum Work Area for Replacing Flap Gates (LF, area): 150 LF; 15,000 sf	The County only anticipates replacing the tide gate flap gates at the San Bruno Creek outlet once. Thus, the values shown here include those one-time impacts. All other tide gate maintenance activities, such as manual removal of debris and trash by field crews or with a skimmer operated from the nearby bridge, would be minor and not result in impacts to waters of the State.
	Yearly Limit: None Given	Estimated Maximum Annual Work Area (LF, area): 150 LF; 15,000 sf	
	Total Limit: None Given	Estimated Maximum Total Work Area over 5 Years (LF, area): 150 LF; 15,000 sf	
Levee Maintenance (slip-out repairs)	Site Limit: None Given	Estimated Maximum Work Area (LF, area): 150 LF; 3,000 sf	Although infrequent, the estimates shown here are for typical slip-out repairs along levees. This activity would likely occur no more than 2 times per year.
	Yearly Limit: None Given	Estimated Maximum Annual Work Area Limit (LF, area): 300 LF; 6,000 sf	
	Total Limit: None Given	Estimated Maximum Total Work Area over 5 Years (LF, area): 1,150 LF; 30,000 sf	

Maintenance Activity	Work Length (linear feet [LF]) Limits Described in the Manual and EIR	Estimated Maximum Length (LF) and Area (square feet [sf]) Size of Maintenance Sites	Notes	
Bridge Maintenance	Site Limit: None Given	Estimated Maximum Work Area (LF, area): 150 LF; 1,500 sf	Work areas shown are for bridge maintenance activities that involve erosion protection improvements at the base of bridge abutments.	
	Yearly Limit: 500 LF	Estimated Maximum Annual Work Area (LF, area): 500 LF; 5,000 sf		
	Total Limit: None Given	Estimated Maximum Total Work Area over 5 Years: 2,500 LF; 25,000 sf		
Sediment Removal at Culverts, Crossings and Channels	Site Limit: 500 LF for channels; 150 LF for culverts	Estimated Maximum Culvert Work Area: 1,125 sf		
		Estimated Maximum Channel Work Area: 3,750 sf		
	Yearly Limit: 1,500 LF	Estimated Maximum Annual Work Area: 11,250 sf		
	Total Limit: None Given	Estimated Maximum Total 5-Year Work Area over 5 years (LF, area): 7,500 LF; 56,250 sf		
	Dewatering			
	Site Limit: 750 LF	Estimated Maximum Dewatering Area: 7,500 sf		
	Yearly Limit: 2,500 LF	Estimated Maximum Annual Dewatering Area (LF, area) Length Limit: 2,500 LF; 25,000 sf		
	Total Limit: None Given	Estimated Maximum Work Area over 5 Years (LF, area): 12,500 LF; 125,000 sf		
Creek Bank Stabilization/ Slip-out and Slide Repairs	Site Limit: 150 LF	Estimated Maximum Work Area: 3,000 sf		
	Yearly Limit: 750 LF	Estimated Maximum Annual Work Area (area): 15,000 sf		

Maintenance Activity	Work Length (linear feet [LF]) Limits Described in the Manual and EIR	Estimated Maximum Length (LF) and Area (square feet [sf]) Size of Maintenance Sites	Notes
	Total Limit: None Given	Estimated Maximum Total Work Area over 5 Years (LF, area): 3,750 LF, 75,000 sf	
	Average hydrologic year: 750 LF for all sites	Definition and methodology for average hydrologic year: Defined based on the average seasonal precipitation upon review of Western Regional Climate Center's precipitation data for County of San Mateo (available at: <a href="https://wrcc.dri.edu/">https://wrcc.dri.edu/</a> ).	
	Wet hydrologic year: 1,500 LF for all sites	Definition and methodology for wet hydrologic year: Defined as the average seasonal precipitation exceeding the 75th percentile based on review of Western Regional Climate Center's precipitation data for County of San Mateo.	
Marina Maintenance	Site Limit: None Given	Estimated Maximum Work Area (LF, area): 50 LF, 400 square feet	In-water marina maintenance activities would be limited to in-kind replacement of dock flotations once per year. Impacts on waters of the State would be considered temporary.
	Yearly Limit: None Given	Estimated Maximum Annual Work Area (LF, area): 50 LF, 400 square feet	
	Total Limit: None Given	Estimated Maximum Work Area over 5 Years (LF, area): 250 LF, 2,000 square feet	

In response to this comment and to ensure consistency between Table 2-2 and the Manual, several revisions have been made to the Manual (Appendix A) of the DEIR and are described below.

The last paragraph in Chapter 5, Section 5.1.1 (page 5-2) of the Manual (Appendix A) has been revised as follows:

This Manual and the Maintenance Program's supporting permits and authorizations address routine repair and replacement of standard culverts generally 60 inches or less in diameter within the County's jurisdiction. Typically, each culvert repair or replacement site would be between 25 to 60 feet in length. Culvert repair and replacement work activities on non-fish bearing streams would be limited to 150 LF per site and the estimated maximum work area would be approximately 750 square feet. Culvert repair and replacement activities on fish-bearing streams are limited to 100 feet per site and the estimated maximum work area would be approximately 500 square feet in area. For the purposes of the Maintenance Program's CEQA analysis, the County anticipates conducting up to 28 culvert replacement projects per year.

In Section 5.1.3 (page 5-3), the following sentence has been added at the end of the paragraph under the heading "Tide Gate Maintenance":

The flaps on tide gates are also replaced on an as-needed basis. Tide gates require periodic repainting for corrosion protection and replacement. For the purposes of this Maintenance Program, the County only anticipates replacing the flap gates one time over the next 5-10 years. The estimated maximum work length and area of this activity would be 150 LF and 15,000 square feet, respectively.

In Section 5.1.3 (page 5-4), the following text has been added at the end of the second paragraph under the heading "Floodwall and Levee Maintenance":

Slip-out repairs would be conducted using similar methods as outlined in Section 7.5, Roadway Slip-out and Slide Repairs. The County anticipates that slip-out repairs along channel levees would occur no more than two times per year. The estimated maximum work length and area at each repair site would be 150 LF and 3,000 square feet, respectively.

In Section 5.1.4, "Bridge Maintenance" (page 5-4), the following text has been added at the end of the paragraph:

The estimated in-water maximum work length and area at a bridge maintenance site would be 150 LF and 1,500 square feet, respectively. Sediment removal beneath bridges is also a routine activity and is described below in Section 5.3. Refer to Figure 5-1, Photo 3, for an example of a bridge with a culvert inside that is maintained by the County. Figure 5-1, Photo 4 shows the Cloverdale Bridge where erosion improvements are needed at the base of the bridge abutment to address scouring issues.

In Section 5.4.1, "Sediment Removal from Channels" (page 5-14), the following text has been added to the second paragraph:

Sediment removal activities typically occur at focused localized sites that experience sediment deposition or blockages. For this Maintenance Program, sediment removal activities are limited to focused localized sites that are 500 feet in length or less with an estimated maximum work area of 3,750 square feet.

In Section 5.4.2, "Sediment Removal from Culverts and Crossings" (page 5-14), the following text has been revised at the end of the first paragraph:

In addition, these activities would be limited to 150 LF or less per site and would have an estimated maximum work area of 1,125 square feet. Similar to the description above for channels, sediment removal work typically occurs during the dry season.

In Section 5.5, "Bank Stabilization" (page 5-15), the following sentence has been added to the first paragraph:

For the purposes of the Maintenance Program, the total work distance will not exceed 150 feet per site. The estimated maximum work area of a bank stabilization site would be 3,000 square feet.

In Section 8.1.2, "Dock Maintenance," the following text has been revised on page 8-1:

Routine dock maintenance entails replacing damaged cleats, bumper striping, broken gussets, dock flotations, and gusset covers along the dock perimeters. Dock boxes are also inspected and periodically repaired and replaced. Repair activities may involve replacing rusty screws, bolts, and rotted plywood. On several docks, the concrete dock surface is cracked or has gaps between the concrete blocks. The County is responsible for sealing the gaps through either concrete spalling or replacing the dock blocks, depending on the nature and location of the cracking. The estimated maximum work area for conducting in-water dock maintenance activities would be 50 LF and such work would primarily be limited to replacing dock flotations.

In Section 9.3.2, "Work Length and Size Limits", the following text has been revised under the first bullet item on page 9-8:

- **Culvert Repair/Replacement.** As described in Chapter 5, the installation or replacement of culverts is limited to 60-inch size diameter culverts or smaller to convey adequate flow (i.e., 100-year flow where feasible). Typically, each site would be between 25 to 60 feet in length. Work activities on non-fish bearing streams would be limited to 150 feet in length per site and 1,500 LF for all such culvert repair/replacement projects in a year. The estimated maximum work area of a culvert repair or replacement site on a non-fish bearing stream would be 750 square feet. Culvert repair and replacement activities on fish-bearing streams are limited to 100 feet per site and one such project per year. The estimated maximum work area of a culvert repair or replacement site on a fish-bearing stream would be 500 square feet.

In Section 9.3.2, "Work Length and Size Limits", the following text has been revised on pages 9-9 to 9-10:

- **Tide Gate Maintenance.** These activities are limited to clearing debris blockages where necessary and replacing the flaps on tide gates once over the

course of the Maintenance Program where necessary. The estimated maximum work length and area of flap gate replacement would be 150 LF and 15,000 square feet, respectively.

- **Floodwall and Levee Maintenance.** For purposes of the Maintenance Program, floodwall maintenance and repair activities would be minor (e.g. graffiti removal) and conducted to return the floodwalls to its as-built design. Levee maintenance would be limited to minor repair of existing levees to maintain structure integrity (i.e., filling in burrows, replacing fallen rocks, repairing cracks, and repairing slip-outs). The County anticipates that slip-out repairs along channel levees would occur no more than two times per year. The estimated maximum work length and area at each repair site would be 150 LF and 3,000 square feet, respectively.
- **Bridge Maintenance.** For purposes of the Maintenance Program, bridge maintenance and repair activities would occur within the bridge footprint or immediately adjacent area, within 25 feet upstream or 25 feet downstream of the bridge. The total annual channel work limits associated with bridge maintenance would be 500 LF. The estimated in-water maximum work length and area at a bridge maintenance site would be 150 LF and 1,500 square feet, respectively.
- **Roadside and Trail Ditch and Swale Clearing.** This work would be limited to minor debris and sediment removal from ditches and swales in order to restore original capacity.
- **Maintenance of GI Sites.** This work would be limited to minor maintenance activities including trash, debris and sediment clearing; replanting of vegetation; cleaning storm drainage inlets and outlets; and as-needed repairs after large storms.
- **Sediment Removal at Culverts and Crossings.** At creek and road crossings, work activities would be limited to 150 LF or less per work site and have an estimated maximum work area of 1,125 square feet. The County is typically limited to working within the width of the County's road right-of-way (100-foot width or less). The total annual work limit for all sediment removal activities, including at channel sites as noted below would be 1,500 LF. Dewatering limits would be limited 750 LF per site with a total annual limit of ~~7~~2,500 LF for all sediment removal projects including at channel sites as noted below.
- **Sediment Removal in Channels.** For the purposes of the Maintenance Program, sediment removal activities shall be limited to focused localized sites that are 500 feet in length or less per site. The estimated maximum work area of each site would be 3,750 square feet. The total annual sediment limit for all sediment removal projects in the Program, including culvert, crossings, or in channel locations would not exceed 1,500 LF. The average annual amount of sediment removed for the Program would be approximately 750 cubic yards or less. The annual total sediment removed for the Program would not exceed 1,500 cubic yards. If maintenance is necessary when there is water within the channel, dewatering would be conducted through the use of cofferdams or a clean water bypass. Dewatering limits for the Program would not exceed 2,500 feet in length for all sediment removal projects.
- **Creek Bank Stabilization / Slip-out and Slide Repairs.** Since 2012, the County has completed five bank stabilization and/or slip-out repairs and 11 slip-out repairs where culvert replacement was required as well. As described in Chapter 2, the

County has also completed 13 emergency bank stabilization/slip-outs and 4 slip-out repairs in combination with culvert replacement work. The total work distance along streambanks are typically 25-100 feet per maintenance site. For purposes of the Maintenance Program, the total work distance will not exceed 150 feet per site and the estimated work area of a bank stabilization site would be 3,000 square feet. In average hydrologic years (based on average seasonal precipitation), the total annual work distance will not exceed 750 feet (for all sites) ~~the County may work on up to three bank creek bank stabilization/slip-out projects in a given year.~~ Following a wet hydrologic year or period, the total annual work distance along streambanks will not exceed 1,500 feet (for all sites) ~~the County may work on up to seven creek bank stabilization/slip-out projects in a given year.~~ For average hydrologic year conditions, ~~the total annual work distance will not exceed 750 feet (for all sites).~~ During a wet hydrologic year, ~~the total work distance along streambanks will not exceed 1,500 feet (for all sites).~~ In all cases, access, staging, and project construction will be conducted to minimize impacts on existing riparian vegetation.

### ***RESPONSE TO COMMENT E-2***

The comment asserts that the compensatory mitigation measures described in Chapter 9 of the Manual (Appendix A of the DEIR) do not sufficiently mitigate the proposed program's impacts to waters of the State in accordance with the San Francisco Bay RWQCB's existing policies and requests that they be further defined to evaluate the program's impacts to waters of the State.

This comment summarizes issues raised in Comments E-3 through E-6. Please refer to detailed Responses to Comments E-3 through E-6, below.

### ***Response to Comment E-3***

The comment acknowledges that the RWQCB refers to the USEPA and USACE's Mitigation Rule, which is cited in Section 9.5.2 of the Manual (Appendix A of DEIR), when determining the appropriate compensatory mitigation amount for a project's impacts to waters of the State. However, the comment asserts that compensatory mitigation amount required by the RWQCB will often exceed the amount set forth in the Mitigation Rule and thus, suggests that Section 9.5.2 of the Manual be revised accordingly.

The County understands that the compensatory mitigation amount required by the RWQCB may exceed the amount set forth in the USEPA and USACE's Mitigation Rule. Based on other comments provided by the RWQCB, the County understands that the RWQCB's compensatory mitigation requirements take into consideration other factors such as quality of habitat lost, the temporal loss of waters, impact type (e.g., temporary, permanent), and proposed mitigation. These factors are considered in the range of mitigation options described in Section 9.5 of the Manual. The mitigation options and approaches described in the Manual provide a range of ecosystem services, aquatic resource functions, and watershed health benefits including enhanced or restored habitats, water quality improvements, and the consideration of how to increase or return natural hydrologic and geomorphic processes to sites where feasible. Furthermore, some of the primary objectives of the proposed program are to maintain the functional integrity and operational quality and capacity of County facilities, repair and maintain facilities in a timely manner to avoid

larger-scale maintenance projects that could result in greater environmental impacts, avoid and minimize potential impacts to the natural environment through implementation of a consistent set of BMPs, and to include mitigation approaches that are more strategic and integrative (less piecemealed) that target areas in San Mateo County that could benefit from habitat enhancement and restoration. Refer to Chapter 2, *Project Description*, Section 2.2, “Program Objectives” of the DEIR for the program’s specific objectives. However, in response to this comment, the following text has been added at the end of Section 9.5.2, page 9-12, of the Manual (Appendix A of DEIR) to acknowledge that compensatory mitigation also takes into account potential impacts on beneficial uses established in the San Francisco Bay and Central Coast RWQCBs’ basin plans and the California Wetlands Conservation Policy:

The County will provide compensatory mitigation for impacts on waters of the U.S. in accordance with the Mitigation Rule and the USACE’s guidelines for preparing compensatory mitigation plans and determining mitigation ratios and Attachment 12501.6 – South Pacific Division (SPD) Mitigation Ratio Checklist.

In addition, compensatory mitigation amounts will take into account potential effects on beneficial uses established in the San Francisco Bay and Central Coast RWQCBS’ basin plans. Compensatory mitigation for impacts to wetlands will also take into account the California Wetlands Conservation Policy (Executive Order W-59-93). Objectives of this policy include:

1. To ensure no overall net loss and long-term net gain in the quantity, quality and permanence of wetlands acreage and values in California in a manner that fosters creativity, stewardship and respect for private property.
2. To reduce procedural complexity in the administration of State and Federal wetlands conservation programs.
3. To encourage partnerships to make restoration, landowner incentive programs, and cooperative planning efforts the primary focus of wetlands conservation.

### **Response to Comment E-4**

The comment asserts that the on-site and in-kind mitigation ratio included in Section 9.5.3 of the Manual is not flexible enough to account for compensatory mitigation amounts that may be required by the RWQCB. The comment notes that mitigation amounts required by the RWQCB will vary depending on factors including type of habitat impacted, impact type (permanent or temporary), proposed mitigation, timing, and location of proposed mitigation project. The comment requests that a lower and upper mitigation bound be included and that the Manual be revised to acknowledge that such requirements may exceed such ratios.

The County acknowledges that mitigation amounts required by the RWQCB may vary depending on the various factors noted in the comment. Note that the mitigation ratio (1.5:1 or 1.5 acres of wetlands or other waters shall be restored/created for every 1 acre of wetlands/other waters permanently impacted) described in Section 9.5.3 of the Manual is specifically for on-site and in-kind mitigation for impacts to wetlands and aquatic habitat and not for off-site and out-of-kind mitigation. This mitigation ratio takes into account the

temporal loss of functions and values from the time that impacts to wetlands/other waters occur to when the on-site and in-kind mitigation project gets implemented. However, this ratio assumes that when on-site, in-kind mitigation is provided, it will be provided concurrently with or immediately following the maintenance impact, and that the temporal loss of functions and values will be relatively low.

Potential impacts to wetlands/other waters are also described under Impact BIO-3 in Section 3.4, *Biological Resources*, of the DEIR (pp. 3.4-149 to 3.4-154). As discussed in Impact BIO-3 (page 3.4-152), the vast majority of impacts to acreage of wetlands and other waters would be short-term because aquatic habitats would be maintained or preserved despite proposed activities. Many vegetated wetlands would restore themselves within 1-2 years following sediment removal work. Nonetheless, the DEIR acknowledges that proposed routine maintenance activities would result in temporal losses of wetland and aquatic habitat functions and values, possible type conversion of wetlands (e.g., from wetlands dominated by certain plant species to wetlands dominated by others), and potentially very limited permanent losses of wetlands and other waters. The majority of proposed maintenance activities involves in-kind maintenance of existing County facilities and therefore, permanent losses of wetlands and other waters would be uncommon under the proposed program. The types of maintenance activities that could result in residual permanent impacts to wetlands/other waters include culvert replacement (if replaced culvert is larger than the existing one or requires realignment), erosion protection improvements at bridge abutments, bank stabilization if hardscape is required, and roadway slip-out or slide repairs. Such maintenance activities would improve water quality by preventing sediment delivery and meet total maximum daily load requirements established by the State Water Resources Control Board. Mitigation Measure BIO-9 would provide compensatory mitigation for impacts to wetlands and other waters and, consistent with the Manual, includes a range of mitigation options including on-site, in-kind mitigation, off-site mitigation opportunities, partnerships with local San Mateo County based watershed or stewardship groups, and mitigation banking. Mitigation Measure BIO-9 also includes the on-site, in-kind mitigation ratio of 1.5:1 for offsetting impacts to wetlands/other waters.

In the County's opinion, the mitigation ratios described in Mitigation Measure BIO-9 are adequate to reduce impacts to less-than-significant levels under CEQA.

### ***Response to Comment E-5***

The comment notes that the RWQCB does not accept preservation as compensatory mitigation for impacts to waters of the State as that would not result in a no net loss of waters of the State and would not conform to their No Net Loss Policy. The comment requests that the proposed mitigation amounts described in Section 9.5.4 of the Manual acknowledge that such other factors will be considered by the RWQCB (e.g., habitat impacted, impact type, proposed mitigation, timing and location of mitigation project).

As noted in Response to Comment E-4, the County acknowledges that mitigation amounts required by the RWQCB may vary depending on the various factors noted in the comment. Please note, however, that the references to preservation as a component of compensatory mitigation in Mitigation Measure BIO-9 indicate that preservation would occur in conjunction with enhancement. For example, as described in Section 9.5.5 of the Manual (Appendix A of the DEIR), the County is considering expansion of a conservation area on

County-owned land in Pescadero where future management would involve management of invasive species (i.e., bullfrogs and invasive plant species) in conjunction with surveying hydrology and vegetation, and monitoring presence of California red-legged frog and San Francisco garter snake. At this particular conservation area, direct enhancement or modification of wetland habitat is not currently proposed. It should also be noted that including preservation/conservation as a mitigation option in the program was intended to primarily compensate for species-specific habitat impacts, though such impacts are sometimes related to impacts on waters of the U.S. or State. Enhancement of degraded wetlands and other waters could result in substantial improvement in ecological functions and values and should continue to be considered as a potential means of compensating for impacts to wetlands and other waters for the purpose of reducing impacts to less-than-significant levels under CEQA.

### **Response to Comment E-6**

The comment notes that the San Francisco Bay Wetland Mitigation Bank is in its final phase of credit release and will unlikely have mitigation credits available for sale. The comment states that if new wetland banks are established, the RWQCB would require a larger mitigation ratio than 1:1 to account for the temporal loss of acreage, functions, and values from the time that impacts to wetlands occur and when a new mitigation bank's created wetlands would become established. Lastly, the comment points out that the RWQCB will only accept wetland mitigation credits for impacts to wetlands if those impacts occur within the bank's service area.

The County appreciates this update regarding the San Francisco Bay Wetland Mitigation Bank's status of available mitigation credits. In response to this comment, the following text in Section 9.5.7 of the Manual (Appendix A of the DEIR) has been revised:

Another suitable option to mitigate the Maintenance Program's impacts on wetlands and waters of the U.S. is to purchase mitigation credits from ~~the San Francisco Bay a Wetland Mitigation Bank. Purchase of wetland mitigation bank credits will occur at a ratio of 1:1.~~ This option was recently pursued to provide mitigation for the County's Colma Creek Flood Control Channel Maintenance Project, which involves sediment removal and culvert repair and replacement work in the cities of Colma and South San Francisco. The USACE recommended and preferred that the County to purchase wetland mitigation credits at a 1:1 ratio from the San Francisco Bay Wetland Mitigation Bank versus implementing other on-site or off-site mitigation options led by the County. Note that the San Francisco Bay Wetland Mitigation Bank's service area is limited to serving projects that result in impacts on tidal habitat on the County's Bayside only. ~~The San Francisco Bay Wetland Mitigation Bank is also in its final phase of credit release and may not have credits available once the Maintenance Program is operating. As there are currently no other wetland mitigation banks in San Mateo County, the appropriate mitigation ratio for purchase of wetland mitigation credits will be determined through coordination with the owner of any bank that is approved in the future, as well as with the USACE and RWQCB.~~

For consistency with revisions made to Section 9.5.7 of the Manual, the last paragraph of Mitigation Measure BIO-9 has been revised in the DEIR (pages 3.4-153 to 3.4-154):

Other options for compensatory mitigation include establishing conservation easements or deed restrictions, partnering with local San Mateo County based watershed, stewardship, or non-profit organizations that lead or coordinate habitat restoration or watershed improvement projects, or the purchase of mitigation credits from ~~the San Francisco Bay Area Wetland Mitigation Bank~~. The mitigation ratio for purchase of mitigation credits will be determined through coordination with the owner of any bank that is approved in the future, as well as with the USACE and RWQCB. ~~For the purchase of mitigation credits mitigation will occur at a ratio of 1:1.~~

## Chapter 3 Revisions to the DEIR

This chapter presents revisions to the DEIR in response to the public review and comment process. This chapter also corrects minor errors from the DEIR that are corrected herein. Changes made in response to comments are discussed in FEIR Chapter 2 and indicated below. Text added to the DEIR is underlined, and deleted text is shown in ~~strikeout~~. DEIR text changes are presented in the order they would appear in the DEIR; page numbers and line numbers from the DEIR are provided to assist in identifying the location of the revisions.

### Chapter 2, Project Description

To respond to Comment B-3, the following revisions were made to the text in Chapter 2, *Project Description*, under Section 2.4.6, “Marina Maintenance Activities” of the DEIR (page 2-35) to clarify that no pile driving activities would occur under the proposed program:

The Parks Department is also responsible for inspecting the channel entrance pilings, day markers, entrance lights and range lights. Other minor maintenance includes ~~periodic inspection and replacement of wood pilings~~, removing hazardous logs and driftwood, and re-rocking the berm where rocks have fallen. The County also measures the depth of the channel entrance/breakwater at the marina to determine the need for future dredging work. Note that dredging and pile driving activities would not occur under the proposed program.

To respond to Comment B-6, BMP BIO-25 was added to Chapter 2, *Project Description*, Table 2-5 of the DEIR (page 2-85) to ensure that eelgrass surveys are conducted prior to any in-water maintenance work planned near the potential eelgrass patch to the north of the jetty in Coyote Point Marina:

BMP Number	BMP Title	BMP Description
BIO-25	<u>Eelgrass Surveys at Coyote Point Marina</u>	<u>In the event that the County plans to conduct in-water maintenance activities to the north of the jetty forming the northern boundary of Coyote Point Marina (identified as “potential eel grass patch #1 in Appendix A), the County will retain a biologist to conduct an eelgrass survey in this area. Survey results would be provided to CDFW and other appropriate permitting agencies prior to commencing maintenance work in this area.</u>

## Chapter 3, Environmental Setting, Impacts, and Mitigation Measures

To respond to Comment A-1, the following text under Impact BIO-3 in Section 3.4, *Biological Resources* of the DEIR (page 3.4-149) was revised to include mention of one-parameter delineations:

Two wetland types, coastal freshwater marsh (freshwater emergent wetlands and wet meadows) and northern coastal salt marsh (saline emergent wetlands and bay margins [tidal mudflats]), are found in the program area and are considered sensitive habitats. Wetlands with all three parameters for jurisdictional wetlands – hydrophytic vegetation, wetland hydrology, and hydric soils – are regulated by the USACE and RWQCB and occur in a number of locations throughout the program area. In the Coastal Zone, features are defined as wetlands by the Coastal Act if they possess any one of those three parameters; such features are regulated as wetlands by the California Coastal Commission.

To further respond to Comment A-1, the following text under Mitigation Measure BIO-9 in Section 3.4, *Biological Resources* of the DEIR (page 3.4-153) was revised to mention one-parameter delineations:

The notification package would describe which ground-disturbing maintenance activities would result in impacts on temporary and permanent impacts on wetlands or waters of the U.S. and state. Wetlands that are considered waters of the U.S./state will be identified on the basis of presence of all three parameters for jurisdictional wetlands – hydrophytic vegetation, wetland hydrology, and hydric soils. In the Coastal Zone, features will be delineated as wetlands under the Coastal Act if they possess any one of those three parameters. The notification package~~It~~ would also describe in detail the County's proposal for providing compensatory mitigation for those impacts and may include one or more options described in Chapter 2, Section 2.7.3 and summarized below.

To respond to Comment B-7, the following text under Impact BIO-6 in Section 3.4, *Biological Resources* of the DEIR (page 3.4-158) was revised to mention the MPAs:

The proposed program includes maintenance activities that would occur within the Fitzgerald Marine Reserve (Reserve) (see Appendix A), which is considered a sensitive habitat under the San Mateo County General Plan (County of San Mateo 1986) and designated as an Area of Special Biological Significance by the State Water Resources Control Board. In addition, the program area is within 200 feet of six California Marine Protected Areas (MPAs): Egg (Devil's Slide) Rock to Devil's Slide Special Closure, Montara State Marine Reserve (SMR), Pillar Point State Marine Conservation Area, Año Nuevo SMR, Redwood Shores State Marine Park (SMP), and Bair Island SMP. The proposed program would not result in a reduction in sizes of any of these R-reserves, but in the absence of BMPs, maintenance activities could result in the degradation of conditions within the R-reserves, including adverse effects due to increases in erosion, leaks of petrochemicals, hydraulic fluids, and solvents, spread of invasive plant species, and temporary or permanent loss of wetlands or other sensitive habitats (see Impacts BIO-2 and BIO-3).

The County would implement ~~a number of~~ several BMPs to address the potential impacts of Program activities on these Reserves. General BMPs tend to minimize the footprint of work activities and minimize impacts from staging, stockpiling of materials, spills or leaks of chemicals, and other adverse effects. Relevant general BMPs include BMPs GEN-1, 3, 5 through 16, 19, and 22. In addition, BMPs EC-1 through EC-13 and SC-1 through SC-6 would be implemented to reduce maintenance activity impacts due to erosion and sedimentation.

To respond to Comment E-6, the following text under Mitigation Measure BIO-9 in Section 3.4, *Biological Resources* of the DEIR (pages 3.4-153 to 3.4-154) was revised to update the status of the San Francisco Bay Wetland Mitigation Bank:

Other options for compensatory mitigation include establishing conservation easements or deed restrictions, partnering with local San Mateo County based watershed, stewardship, or non-profit organizations that lead or coordinate habitat restoration or watershed improvement projects, or the purchase of mitigation credits from ~~the San Francisco Bay a Wetland Mitigation Bank~~. The mitigation ratio for purchase of mitigation credits will be determined through coordination with the owner of any bank that is approved in the future, as well as with the USACE and RWQCB. ~~For the purchase of mitigation credits mitigation will occur at a ratio of 1:1.~~

## Appendix A, County of San Mateo Routine Maintenance Program Manual

To respond to Comment E-1, the following text was revised in Chapter 5, *Culvert, Channel, Bridge, and Flood Control Facility Maintenance*, Section 5.1.1, “Culvert Repair or Replacement” (page 5-2) of the Manual (Appendix A of the DEIR) to include the estimated maximum work areas:

This Manual and the Maintenance Program’s supporting permits and authorizations address routine repair and replacement of standard culverts generally 60 inches or less in diameter within the County’s jurisdiction. Typically, each culvert repair or replacement site would be between 25 to 60 feet in length. Culvert repair and replacement work activities on non-fish bearing streams would be limited to 150 linear feet per site and the estimated maximum work area would be approximately 750 square feet. Culvert repair and replacement activities on fish-bearing streams are limited to 100 feet per site and the estimated maximum work area would be approximately 500 square feet in area. For the purposes of the Maintenance Program’s CEQA analysis, the County anticipates conducting up to 28 culvert replacement projects per year.

To respond to Comment E-1, the following text was revised in Chapter 5, *Culvert, Channel, Bridge, and Flood Control Facility Maintenance*, Section 5.1.3 under the heading “Tide Gate Maintenance” (page 5-3) of the Manual (Appendix A of the DEIR) to include the estimated maximum work areas:

The flaps on tide gates are also replaced on an as-needed basis. Tide gates require periodic repainting for corrosion protection and replacement. For the purposes of this Maintenance Program, the County only anticipates replacing the flap gates one time over the next 5-10 years. The estimated maximum work length and area of this activity would be 150 LF and 15,000 square feet, respectively.

To respond to Comment E-1, the following text was revised in Chapter 5, *Culvert, Channel, Bridge, and Flood Control Facility Maintenance*, Section 5.1.3, under the heading “Floodwall and Levee Maintenance” (page 5-3) of the Manual (Appendix A of the DEIR) to include the estimated maximum work areas:

Slip-out repairs would be conducted using similar methods as outlined in Section 7.5, Roadway Slip-out and Slide Repairs. The County anticipates that slip-out repairs along channel levees would occur no more than two times per year. The estimated maximum work length and area at each repair site would be 150 LF and 3,000 square feet, respectively.

To respond to Comment E-1, the following text was revised in Chapter 5, *Culvert, Channel, Bridge, and Flood Control Facility Maintenance*, Section 5.1.3, “Bridge Maintenance” (page 5-4) of the Manual (Appendix A of the DEIR) to include the estimated maximum work areas:

The estimated in-water maximum work length and area at a bridge maintenance site would be 150 LF and 1,500 square feet, respectively. Sediment removal beneath bridges is also a routine activity and is described below in Section 5.3.

To respond to Comment E-1, the following text was revised in Chapter 5, *Culvert, Channel, Bridge, and Flood Control Facility Maintenance*, Section 5.4.1, “Sediment Removal from Channels” (page 5-14) of the Manual (Appendix A of the DEIR) to include the estimated maximum work areas:

Sediment removal activities typically occur at focused localized sites that experience sediment deposition or blockages. For this Maintenance Program, sediment removal activities are limited to focused localized sites that are 500 feet in length or less with an estimated maximum work area of 3,750 square feet.

To correct an error in the dewatering limits for sediment removal projects, the following text was revised in Chapter 5, address comments received from regulator received during the permitting process *Culvert, Channel, Bridge, and Flood Control Facility Maintenance*, Section 5.4.1, “Sediment Removal from Channels (page 5-14) of the Manual (Appendix A of the DEIR):

Dewatering limits for the Program would not exceed ~~7~~2,500 feet in length for all sediment removal projects.

To respond to Comment E-1, the following text was revised in Chapter 5, *Culvert, Channel, Bridge, and Flood Control Facility Maintenance*, Section 5.4.2, “Sediment Removal from Culverts and Crossings” (page 5-14) of the Manual (Appendix A of the DEIR) to include the estimated maximum work areas:

In addition, these activities would be limited to 150 LF or less per site and would have an estimated maximum work area of 1,125 square feet. Similar to the description above for channels, sediment removal work typically occurs during the dry season.

To respond to Comment E-1, the following text was revised in Chapter 5, *Culvert, Channel, Bridge, and Flood Control Facility Maintenance*, Section 5.5, “Bank Stabilization” (page 5-15) of the Manual (Appendix A of the DEIR) to include the estimated maximum work areas:

For the purposes of the Maintenance Program, the total work distance will not exceed 150 feet per site. The estimated maximum work area of a bank stabilization site would be 3,000 square feet.

To address regulatory comments received from NMFS during the permitting process, the following text was revised in Chapter 5, *Culvert, Channel, Bridge, and Flood Control Facility Maintenance*, Section 5.5, "Bank Stabilization" (page 5-15) of the Manual (Appendix A of the DEIR):

In average hydrologic years (based on average seasonal precipitation) ~~the County may work on up to three creek bank stabilization/slip-out projects in a given year; however,~~ the total annual work distance will not exceed 750 feet (for all sites). Following a wet hydrologic year or period, ~~the County may need to work on up to seven creek bank stabilization projects in a given year. To provide sufficient coverage for wet hydrologic years,~~ the total annual work distance along streambanks will not exceed 1,500 feet (for all sites).

To respond to Comment E-1, the following text was revised in Chapter 8, *Coyote Point Marina Maintenance Activities*, Section 8.1.2, "Dock Maintenance" (page 8-1), of the Manual (Appendix A of the DEIR) to include the estimated maximum work areas:

Routine dock maintenance entails replacing damaged cleats, bumper striping, broken gussets, dock flotations, and gusset covers along the dock perimeters. Dock boxes are also inspected and periodically repaired and replaced. Repair activities may involve replacing rusty screws, bolts, and rotted plywood. On several docks, the concrete dock surface is cracked or has gaps between the concrete blocks. The County is responsible for sealing the gaps through either concrete spalling or replacing the dock blocks, depending on the nature and location of the cracking. The estimated maximum work area for conducting in-water dock maintenance activities would be 50 linear feet and such work would primarily be limited to replacing dock flotations.

To respond to Comment B-3, the following text was revised in Chapter 8, *Coyote Point Marina Maintenance Activities*, Section 8.1.5 "Channel Entrance and Breakwater Maintenance" (page 8-2) of the Manual (Appendix A of the DEIR) to clarify that no pile driving would occur under the proposed program:

In the channel entrance area that leads to open water, the County inspects the channel entrance pilings, day markers, entrance lights, and range lights. As needed, the County replaces bulbs and repair the pilings by cleaning and wrapping the piles with a plastic pile wrap. No pile driving activities would occur under the Maintenance Program. ~~Wooden pilings are inspected periodically and replaced as needed with steel or concrete.~~

To respond to Comment B-6, the following text was revised in Chapter 8, *Coyote Point Marina Maintenance Activities*, Section 8.1.5 "Channel Entrance and Breakwater Maintenance" (page 8-2) of the Manual (Appendix A of the DEIR) to describe past eelgrass surveys conducted in Coyote Point Marina:

Prior to conducting in-water maintenance activities to the north of the channel entrance, particularly the jetty forming the north boundary of the marina, the County

will consider the need to conduct eelgrass surveys. The County last completed eelgrass surveys at Coyote Point Marina on March 8, 2017 to support their USACE and BCDC maintenance dredging permits. The County surveyed a potential eelgrass patch to the southeast of the approach channel near the County's dredging area (Haley and Aldrich 2017 and included as Appendix J). Based on the March 2017 survey, two specimens were observed but upon further assessment by a local aquatic ecologist, were not identified as eelgrass. The 2009 survey referenced in Appendix J indicates that another potential eelgrass patch exists to the north of the jetty that forms the northern boundary of Coyote Point Marina. In the event that the County plans to conduct maintenance activities near the potential eelgrass patch along the shoreline north of the jetty (identified as "potential eel grass patch #1" in Haley Aldrich 2017 [Appendix J]), an eelgrass survey would be conducted per BMP BIO-25 (described in Chapter 9, Table 9-3). Survey results would be provided to appropriate permitting agencies (including CDFW) prior to commencing maintenance work in this area.

To respond to Comment E-1, the following text was revised in Chapter 9, *Impact Avoidance and Minimization, BMPs, and Mitigation*, Section 9.3.2, "Work Length and Size Limits" (page 9-8), of the Manual (Appendix A of the DEIR) to include the estimated maximum work areas:

- **Culvert Repair/Replacement.** As described in Chapter 5, the installation or replacement of culverts is limited to 60-inch size diameter culverts or smaller to convey adequate flow (i.e., 100-year flow where feasible). Typically, each site would be between 25 to 60 feet in length. Work activities on non-fish bearing streams would be limited to 150 feet in length per site and 1,500 linear feet for all such culvert repair/replacement projects in a year. The estimated maximum work area of a culvert repair or replacement site on a non-fish bearing stream would be 750 square feet. Culvert repair and replacement activities on fish-bearing streams are limited to 100 feet per site and one such project per year. The estimated maximum work area of a culvert repair or replacement site on a fish-bearing stream would be 500 square feet.

To respond to Comment E-1, the following text was revised in Chapter 9, *Impact Avoidance and Minimization, BMPs, and Mitigation*, Section 9.3.2, "Work Length and Size Limits" (page 9-9 to 9-10), of the Manual (Appendix A of the DEIR) to include the estimated maximum work areas and to correct the dewatering length limit for sediment removal projects:

- **Tide Gate Maintenance.** These activities are limited to clearing debris blockages where necessary and replacing the flaps on tide gates once over the course of the Maintenance Program where necessary. The estimated maximum work length and area of flap gate replacement would be 150 LF and 15,000 square feet, respectively.
- **Floodwall and Levee Maintenance.** For purposes of the Maintenance Program, floodwall maintenance and repair activities would be minor (e.g. graffiti removal) and conducted to return the floodwalls to its as-built design. Levee maintenance would be limited to minor repair of existing levees to maintain structure integrity (i.e., filling in burrows, replacing fallen rocks, repairing cracks, and repairing slip-outs). The County anticipates that slip-out repairs along channel levees would occur no more than two times

per year. The estimated maximum work length and area at each repair site would be 150 LF and 3,000 square feet, respectively.

- **Bridge Maintenance.** For purposes of the Maintenance Program, bridge maintenance and repair activities would occur within the bridge footprint or immediately adjacent area, within 25 feet upstream or 25 feet downstream of the bridge. The total annual channel work limits associated with bridge maintenance would be 500 linear feet [LF]. The estimated in-water maximum work length and area at a bridge maintenance site would be 150 LF and 1,500 square feet, respectively.
- **Roadside and Trail Ditch and Swale Clearing.** This work would be limited to minor debris and sediment removal from ditches and swales in order to restore original capacity.
- **Maintenance of GI Sites.** This work would be limited to minor maintenance activities including trash, debris and sediment clearing; replanting of vegetation; cleaning storm drainage inlets and outlets; and as-needed repairs after large storms.
- **Sediment Removal at Culverts and Crossings.** At creek and road crossings, work activities would be limited to 150 LF or less per work site and have an estimated maximum work area of 1,125 square feet. The County is typically limited to working within the width of the County's road right-of-way (100-foot width or less). The total annual work limit for all sediment removal activities, including at channel sites as noted below would be 1,500 LF. Dewatering limits would be limited 750 LF per site with a total annual limit of ~~7~~2,500 LF for all sediment removal projects including at channel sites as noted below.
- **Sediment Removal in Channels.** For the purposes of the Maintenance Program, sediment removal activities shall be limited to focused localized sites that are 500 feet in length or less per site. The estimated maximum work area of each site would be 3,750 square feet. The total annual sediment limit for all sediment removal projects in the Program, including culvert, crossings, or in channel locations would not exceed 1,500 LF. The average annual amount of sediment removed for the Program would be approximately 750 cubic yards or less. The annual total sediment removed for the Program would not exceed 1,500 cubic yards. If maintenance is necessary when there is water within the channel, dewatering would be conducted through the use of cofferdams or a clean water bypass. Dewatering limits for the Program would not exceed ~~7~~2,500 feet in length for all sediment removal projects.
- **Creek Bank Stabilization / Slip-out and Slide Repairs.** Since 2012, the County has completed five bank stabilization and/or slip-out repairs and 11 slip-out repairs where culvert replacement was required as well. As described in Chapter 2, the County has also completed 13 emergency bank stabilization/slip-outs and 4 slip-out repairs in combination with culvert replacement work. The total work distance along streambanks are typically 25-100 feet per maintenance site. For purposes of the Maintenance Program, the total work distance will not exceed 150 feet per site and the estimated work area of a bank stabilization site would be 3,000 square feet. In average hydrologic years (based on average seasonal precipitation), the total annual work distance will not exceed 750 feet (for all sites) the County may work on

~~up to three bank creek bank stabilization/slip-out projects in a given year. Following a wet hydrologic year or period, the total annual work distance along streambanks will not exceed 1,500 feet (for all sites). the County may work on up to seven creek bank stabilization/slip-out projects in a given year. For average hydrologic year conditions, the total annual work distance will not exceed 750 feet (for all sites). During a wet hydrologic year, the total work distance along streambanks will not exceed 1,500 feet (for all sites).~~ In all cases, access, staging, and project construction will be conducted to minimize impacts on existing riparian vegetation.

To respond to Comment B-6, BMP BIO-25 was added to Chapter 9, *Impact Avoidance and Minimization, BMPs, and Mitigation*, Table 9-3 (page 9-50) of the Manual (Appendix A of the DEIR) to ensure eelgrass surveys are conducted prior to any in-water maintenance work planned near the potential eelgrass patch to the north of the jetty in Coyote Point Marina:

BMP Number	BMP Title	BMP Description
BIO-25	Eelgrass Surveys at Coyote Point Marina	In the event that the County plans to conduct in-water maintenance activities to the north of the jetty forming the northern boundary of Coyote Point Marina (identified as “potential eel grass patch #1 in Appendix J), the County will retain a biologist to conduct an eelgrass survey in this area. Survey results would be provided to CDFW and other appropriate permitting agencies prior to commencing maintenance work in this area.

To respond to Comment E-3, the following text in Chapter 9, *Impact Avoidance and Minimization, BMPs, and Mitigation*, Section 9.5.2 “Timing of Mitigation” (page 9-12) of the Manual (Appendix A of the DEIR) was added to acknowledge that compensatory mitigation also considers potential impacts on beneficial uses established in the San Francisco Bay and Central Coast RWQCBs’ basin plans and the California Wetlands Conservation Policy:

The County will provide compensatory mitigation for impacts on waters of the U.S. in accordance with the Mitigation Rule and the USACE’s guidelines for preparing compensatory mitigation plans and determining mitigation ratios and Attachment 12501.6 – (South Pacific Division) SPD Mitigation Ratio Checklist.

In addition, compensatory mitigation amounts will take into account potential effects on beneficial uses established in the San Francisco Bay and Central Coast RWQCBs’ basin plans. Compensatory mitigation for impacts to wetlands will also take into account the California Wetlands Conservation Policy (Executive Order W-59-93). Objectives of this policy include:

1. To ensure no overall net loss and long-term net gain in the quantity, quality and permanence of wetlands acreage and values in California in a manner that fosters creativity, stewardship and respect for private property.
2. To reduce procedural complexity in the administration of State and Federal wetlands conservation programs.

3. To encourage partnerships to make restoration, landowner incentive programs, and cooperative planning efforts the primary focus of wetlands conservation.

To respond to Comment E-6, the following text in Chapter 9, *Impact Avoidance and Minimization, BMPs, and Mitigation*, Section 9.5.7 “Mitigation Banks” (page 9-17) of the Manual (Appendix A of the DEIR) was revised to update the status of the San Francisco Bay Wetland Mitigation Bank:

Another suitable option to mitigate the Maintenance Program’s impacts on wetlands and waters of the U.S. is to purchase mitigation credits from ~~the San Francisco Bay a Wetland Mitigation Bank. Purchase of wetland mitigation bank credits will occur at a ratio of 1:1.~~ This option was recently pursued to provide mitigation for the County’s Colma Creek Flood Control Channel Maintenance Project, which involves sediment removal and culvert repair and replacement work in the cities of Colma and South San Francisco. The USACE recommended and preferred that the County to purchase wetland mitigation credits at a 1:1 ratio from the San Francisco Bay Wetland Mitigation Bank versus implementing other on-site or off-site mitigation options led by the County. Note that the San Francisco Bay Wetland Mitigation Bank’s service area is limited to serving projects that result in impacts on tidal habitat on the County’s Bayside only. The San Francisco Bay Wetland Mitigation Bank is also in its final phase of credit release and may not have credits available once the Maintenance Program is operating. As there are currently no other wetland mitigation banks in San Mateo County, the appropriate mitigation ratio for purchase of wetland mitigation credits will be determined through coordination with the owner of any bank that is approved in the future, as well as with the USACE and RWQCB.

To respond to Comment B-6, the complete reference for the *Eelgrass Survey Memorandum* (Haley and Aldrich 2017) has been added to Chapter 12, *References*, under the heading “Chapter 8 Coyote Point Marina and Other Shoreline Maintenance Activities” (page 12-11) of the Manual (Appendix A of the DEIR):

Haley and Aldrich. 2017. Evaluation of Potential Eelgrass Beds near the Coyote Point Marina. USACE Permit # 26774S, BCDC Permit # M1993.014.00. Memorandum to Alex Braud, NOAA Coastal Management Fellow.

To respond to Comment B-6, the *Eelgrass Survey Memorandum* (Hayley and Aldrich, 2017) was added as Appendix J, *Eelgrass Survey Memorandum* of the Manual (Appendix A of the DEIR) as a reference to support the findings of past eelgrass surveys conducted in Coyote Point Marina and is show on the following page:

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## **Appendix J**

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### Eelgrass Survey Memorandum

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HALEY & ALDRICH, INC.  
2033 N. Main Street  
Suite 309  
Walnut Creek, CA 94596  
925.949.1012

21 March 2017  
File No. 43157

San Francisco Bay Conservation and Development Commission  
455 Golden Gate, Suite 10600  
San Francisco, CA 94102

Attention: Mr. Alex Braud  
NOAA Coastal Management Fellow

Subject: **Evaluation of Potential Eelgrass Beds near the Coyote Point Marina**  
**USACE PERMIT #: 26774S**  
**BCDC PERMIT #: M1993.014.00**

Dear Mr. Braud:

As you mentioned in your February 23, 2017 email, the 2009 eelgrass (*Zostera marina*) survey does seem to show two very small potential eelgrass patches within 250 meters of the proposed Coyote Point Marina (Marina) dredge footprint. As shown in Attachment A, potential eelgrass patch #1 is protected from any dredging related turbidity on account of the physical obstruction provided by the jetty that forms the north boundary of the Marina. Presence of vegetation in the 2.5 square meters covered by potential eelgrass patch #2 was surveyed by a professional diver hired by TranSystems. The results of this survey are summarized below.

The eelgrass swim survey was performed at 16:00 on March 8, 2017 during a -0.5 ft MLLW tide. At this tide level, the potential eelgrass patch would have been present at the waterline (Attachment B). No eelgrass was visible. The diver swam throughout an approximate 80-foot diameter circle around the potential eel grass patch area as shown in Attachment B. The diver placed four stakes in the survey area in order to provide a visual of approximate swim coverage (Attachment C). The diver found very little vegetation. But did collect samples of what he encountered at two locations shown with stakes labeled "Vegetation 1" and "Vegetation 2" in Attachments B and C. The specimens he collected were photographed and are shown in Attachment D.

The minimal amount of material found was compared to plants exhibited in the *Jepson Manual Higher Plants of California* and in *Eelgrass Conservation and Restoration in San Francisco Bay: Opportunities and Constraints* in the San Francisco Bay Subtidal Habitat Goals Project Report. After it was determined that the collected specimens did not resemble eelgrass plants depicted in the literature, they were assessed in person by Dr. Michael McGowan, a local aquatic ecologist with expertise in wetlands ecology, fish and fisheries, and ecological restoration. Dr. McGowan stated that "In my opinion, the specimens I saw are neither eelgrass, *Zostera marina*, nor pickleweed, *Salicornia* spp. They may be tubes of mud and mucus constructed by a benthic worm."

Based on the absence of any visually observed eelgrass plants at a tide level that would have revealed plants in the area mapped as eelgrass in the 2009 survey, the absence of any significant subaquatic vegetation within the swim survey area, and confirmation by a qualified ecologist that the specimens collected from within the swim survey area were not eelgrass, it appears that eelgrass patch #2 was either

Alex Braud, BCDC

21 March 2017

Page 2

erroneously mapped in 2009, or was accurately mapped but no longer exists. As such, the County of San Mateo requests that their maintenance dredging permits be finalized without provisions requiring measures to protect eelgrass.

If you have questions or would like to discuss further, please do not hesitate to contact me via telephone at (415) 748-2193 or email at [sbodensteiner@HaleyAldrich.com](mailto:sbodensteiner@HaleyAldrich.com).

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Bodensteiner". The signature is fluid and cursive, with a prominent initial "S".

Scott Bodensteiner  
HALEY & ALDRICH, INC.

Attachment A: Project Area Maps with Location of Potential Eelgrass Patches Mapped in 2009

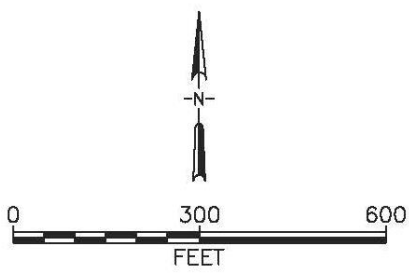
Attachment B: Swim Survey Map

Attachment C: Swim Survey Photo

Attachment D: Photo of Collected Specimens

cc: Mr. Mark D'Avignon, USACE  
Sam Herzberg, San Mateo County  
Mr. Greg Mailho, TranSystems

ATTACHMENT A



San Francisco Bay

Potential eel grass patch #1

APPROACH CHANNEL

LAUNCH RAMP

ENTRANCE CHANNEL

DREDGE UNIT A

FUEL DOCK

Potential eel grass patch #2

DREDGE UNIT B

DREDGE UNIT B

BASIN 1

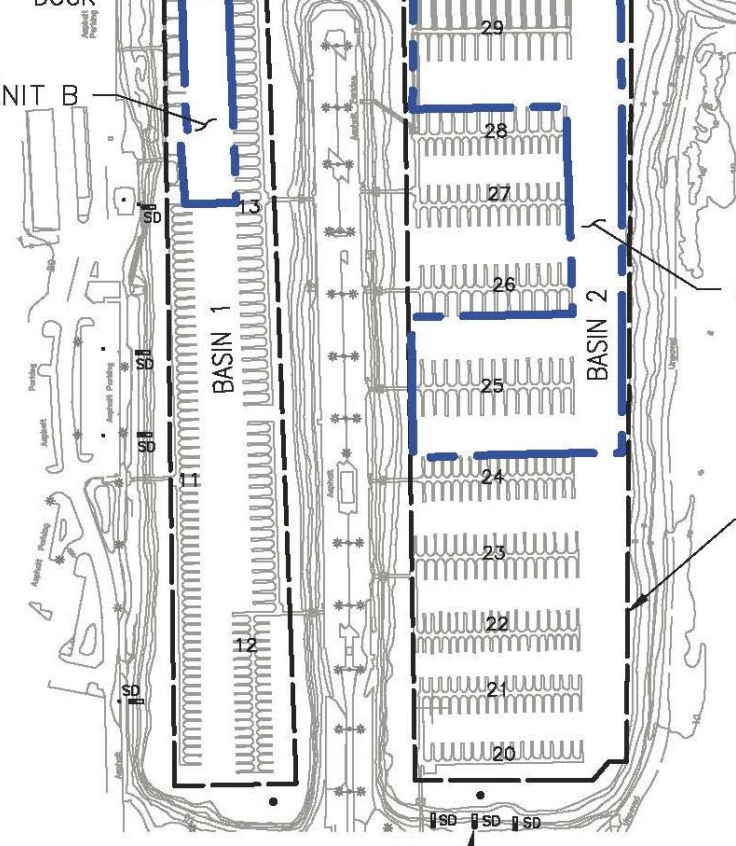
BASIN 2

DREDGE PERMIT BOUNDARY

COYOTE POINT MARINA MAINTENANCE DREDGING

DREDGE UNIT AREAS

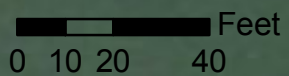
STORM DRAIN (TYPICAL)



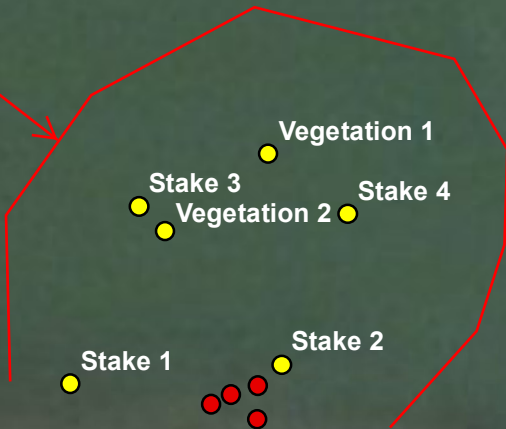
ATTACHMENT B



1 inch = 40 feet



Area swam for observation.  
Small sprigs of "vegetation"  
found at two points marked as  
"vegetation 1 and 2. Does not  
appear to be eel grass.



- EEL GRASS DATABASE COORDINATES
- TRANSYSTEMS SURVEY POINTS

**COYOTE POINT MARINA  
TRANSYSTEMS FIELD OBSERVATION  
MARCH 8, 2017, 4:00pm, TIDE = -0.5 FEET MLLW**

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

ATTACHMENT C

LOCATION OF "EEL GRASS"  
PATCH PER PROVIDED  
DATA BASE COORDINATE  
POINTS

TRANSYSTEMS STAKE #2

TRANSYSTEMS STAKE #1  
(OUT OF PHOTO) ALONG  
WATER'S EDGE AT  
CURRENT TIDE.



COYOTE POINT MARINA  
TRANSYSTEMS FIELD OBSERVATION  
MARCH 8, 2017, 4:00pm, TIDE = -0.5 FEET  
MLLW

ATTACHMENT D



## Appendix C, Local Plans and Policies

To respond to Comment A-4, the following policies from the County's LCP were added to Appendix C, *Local Plans and Policies* of the DEIR (page C-6) that describe stream/riparian buffer zones and permitted uses:

### 7.11 Establishment of Buffer Zones

- a. On both sides of riparian corridors, from the "limit of riparian vegetation" extend buffer zones 50 feet outward for perennial streams and 30 feet outward for intermittent streams.
- b. Where no riparian vegetation exists along both sides of riparian corridors, extend buffer zones 50 feet from the predictable high-water point for perennial streams and 30 feet from the midpoint of intermittent streams.

### 7.12 Permitted Uses in Buffer Zones

Within buffer zones, permit only the following uses: (1) uses permitted in riparian corridors; (2) residential uses on existing legal building sites, set back 20 feet from the limit of riparian vegetation, only if no feasible alternative exists, and only if no other building site on the parcel exists; (3) on parcels designated on the LCP Land Use Plan Map: Agriculture, Open Space, or Timber Production, residential structures or impervious surfaces only if no feasible alternative exists; (4) crop growing and grazing consistent with Policy 7.9; (5) timbering in "streamside corridors" as defined and controlled by State and County regulations for timber harvesting; and (6) no new residential parcels shall be created whose only building site is in the buffer area.

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## Chapter 4 Report Preparation

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------------------	------------------------------------

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# Chapter 5 References

## Chapter 1 Introduction

None cited.

## Chapter 2 Comments on the DEIR and Responses

Haley and Aldrich. 2017. Evaluation of Potential Eelgrass Beds near the Coyote Point Marina. USACE Permit # 26774S, BCDC Permit # M1993.014.00. Memorandum to Alex Braud, NOAA Coastal Management Fellow.

## Chapter 3 Revisions to the DEIR

Haley and Aldrich. 2017. Evaluation of Potential Eelgrass Beds near the Coyote Point Marina. USACE Permit # 26774S, BCDC Permit # M1993.014.00. Memorandum to Alex Braud, NOAA Coastal Management Fellow.

## Chapter 4 Report Preparation

None cited.

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