



Bay Area Conservation and Development Commission

April 3, 2009

City of San Leandro
835 E. 14th Street
San Leandro, California 94577

ATTENTION: John O'Driscoll

SUBJECT: BCDC Permit No. M08-13

Dear Mr. O'Driscoll:

Enclosed please find an original of BCDC Permit No. M08-13, stamped "BCDC Original," and three copies, stamped "Permittee's Copy," and one stamped "Recorder's Copy," all executed by the Executive Director. You must (1) **complete** before a Notary Public the acknowledgment section of the permit stamped "BCDC Original," and "Recorder's Copy" which indicates that you have read and that you understand all of the terms and conditions of the permit, and (2) **forward** the executed "BCDC Original," and one copy stamped "Permittee's Copy" to the Port of Oakland and one to East Bay Regional Parks District for its acknowledgement and signature; and (3) **return** that entire "BCDC Original" to the Commission's office within the ten-day time period. Within thirty days, you must submit proof that the "Recorder's Copy" has been recorded by Alameda County to the Commission's office. The copy stamped "Permittee's Copy" should be retained by the Port of Oakland, East Bay Regional Park and you for your records along with the Notice of Completion and Declaration of Compliance form which you must return to us upon project completion.

Furthermore, your permit contains special conditions that require you to take certain specific actions. Attached is a checklist to assist you in following the correct procedures. Please understand that **no** work may commence on the project until the permit stamped "BCDC Original" is executed and returned to us. Until the Commission receives the executed permit, the permittees do not have the necessary authorization for the work authorized under the permit. The commencement of any work within the Commission's jurisdiction without the necessary authorization from the Commission is a violation of the McAteer-Petris Act and could subject you to substantial fines.

If you have any questions concerning the permit or the procedure outlined above, please feel free to contact me.

Very truly yours,

KAREN WOLOWICZ
Coastal Program Analyst

KW/ra
Enc.

PERMIT NO. M08-13

CITY OF SAN LEANDRO
PORT OF OAKLAND
EAST BAY REGIONAL PARK DISTRICT

CERTIFICATION OF CONTRACTOR REVIEW

San Francisco Bay Conservation
and Development Commission
50 California Street, Suite 2600
San Francisco, CA 94111

Ladies and Gentlemen:

You are hereby informed that prior to commencing any grading, demolition, or construction authorized by the above referenced permit, I personally reviewed and understand the terms and conditions of the permit, the final plans approved by or on behalf of the Commission, particularly as they pertain to the public access, open space, and environmentally sensitive areas required herein, for those portions of the work for which I am in charge.

I, _____, hereby declare under penalty of perjury that the foregoing is true and correct and that if called upon to testify to the contents of this notice, I would so testify.

Executed on this _____ day of _____, 20____,

at _____,

California.

Contractor Name and Company

(Title)

PERMIT NO. M08-13

CITY OF SAN LEANDRO
PORT OF OAKLAND
EAST BAY REGIONAL PARK DISTRICT

NOTICE OF COMPLETION AND DECLARATION OF COMPLIANCE

San Francisco Bay Conservation
and Development Commission
50 California Street, Suite 2600
San Francisco, CA 94111

Ladies and Gentlemen:

You are hereby informed that the work authorized by the above-referenced permit was completed on _____.

I have personally reviewed the terms and conditions of the permit, the final plans approved by or on behalf of the Commission, and the completed project and hereby certify that the project is in compliance with all terms and conditions of the permit and conforms to the plans previously reviewed and approved by or on behalf of the Commission. I further certify that all conditions of the permit, particularly with regard to plan review, public access areas and improvements, recordation, open space restrictions and other special conditions have been met.

I, _____, hereby declare under penalty of perjury that the foregoing is true and correct and that if called upon to testify to the contents of this notice, I would so testify.

Executed on this _____ day of _____, 20____,
at _____

California.

(Permittee)

(Title)



Bay Area
San Francisco Bay Area

PERMIT NO. M08-13

April 3, 2009

Port of Oakland
530 Water Street
Oakland, California 94607

ATTENTION: Celia McCarthy

AND

East Bay Regional Park District
2950 Peralta Oaks Court
Oakland, California 94605

ATTENTION: Brian Weise

AND

City of San Leandro
835 E. 14th Street
San Leandro, California 94577

ATTENTION: John O'Driscoll

Ladies and Gentlemen:

I. Authorization

A. Subject to the conditions stated below, the permittees, the Port of Oakland, East Bay Regional Park District and the City of San Leandro, are hereby authorized to do the following:

Location: In the Bay and within the 100-foot shoreline band, at and adjacent to Oyster Bay Regional Shoreline Park, and San Leandro Slough and the Galbraith Golf Course in the Port of Oakland, in the Cities of San Leandro and Oakland, Alameda County.

Description: 1. **In the Bay:**

- a. Place, use and maintain on an in-kind basis an approximately 348-foot-long, 10-foot-wide, three-pier, bicycle and pedestrian bridge.
- b. If barge construction is not an option, temporarily place, use, and remove an approximately 250-foot-long, 20-foot-wide trestle with approximately 78 steel piles for construction for no longer than 180 days.

PERMIT NO. M08-13

Port of Oakland, East Bay Regional Park District,
and City of San Leandro
April 3, 2009
Page 2

2. Within the shoreline band:

- a. At the northern end of the bridge adjacent to the Galbraith Golf Course: (1) construct an approximately 630-foot-long, 12-foot-wide path with two-foot-wide shoulders along both sides of the path; (2) place an approximately 630-foot-long, 4-foot-high railing on the north side of the path; (3) remove and replace at a slightly different location an existing six-foot-high, 630-foot-long fence on the south side of the path; and (4) install trail improvements, including shore signs and landscaping;
- b. At the southern end of the bridge at Oyster Bay Regional Shoreline Park: (1) grade an existing hillside to smooth the bicycle/bridge connection; and (2) place asphalt and concrete on approximately 2,000 square feet to construct the path and landing; and
- c. Conduct on-going, in-kind repair and maintenance of the pathway and associated improvements authorized herein.

B. This authority is generally pursuant to and limited by your application received in this office on April 1, 2008, including its accompanying exhibits and all conditions of this permit.

C. Work authorized herein must commence prior to March 1, 2011, or this permit will lapse and become null and void. Such work must also be diligently pursued to completion and must be completed within three years of commencement, or by March 1, 2014, whichever is earlier, unless an extension of time is granted by amendment of the permit.

II. Special Conditions

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

A. Specific Plans and Plan Review

1. **Construction.** The final plans submitted pursuant to this condition shall generally conform with the plan entitled "Bay Trail Slough Bridge Plan"; prepared by the City of San Leandro, as revised through December 18, 2008. Final plans for the shoreline protection improvements shall be prepared and submitted for BCDC review as described below. No changes to the design of the project shall be made without the prior written approval of the BCDC staff.
2. **Plan Review.** No work whatsoever shall be commenced pursuant to this authorization until final precise site, engineering, grading, and landscaping plans and any other relevant criteria, specifications, and plan information for that portion of the work have been submitted to, reviewed, and approved in writing by or on behalf of the Commission. The specific drawings and information required will be determined by the staff. To save time, preliminary drawings should be submitted and approved prior to final drawings.
 - a. **Site, Engineering, Grading and Landscaping Plans.** Site, engineering, grading, and landscaping plans shall include and clearly label the shoreline (Mean High Water Line or the inland edge of marsh vegetation up to 5 feet above Mean Sea Level if tidal marsh is present), the line 100 feet inland of the line of the shoreline, property lines, the boundaries of all areas to be reserved for public access

PERMIT NO. M08-13

Port of Oakland, East Bay Regional Park District,
and City of San Leandro
April 3, 2009
Page 3

purposes and open space, grading, details showing the location, types, dimensions, and materials to be used for all irrigation, landscaping, drainage, signs, fences, paths, utilities and other proposed improvements.

Plans submitted shall be accompanied by a letter requesting plan approval, identifying the type of plans submitted, the portion of the project involved, and indicating whether the plans are final or preliminary. Approval or disapproval shall be based upon:

- (a) completeness and accuracy of the plans in showing the features required above, particularly the shoreline (Mean High Water Line or the inland edge of marsh vegetation up to 5 feet above Mean Sea Level if tidal marsh is present), property lines, and the line 100-feet inland of the shoreline, and any other criteria required by this authorization;
- (b) consistency of the plans with the terms and conditions of this authorization;
- (c) the provision of the amount and quality of public access to and along the shoreline and in and through the project to the shoreline required by this authorization, but limited to ensuring: (1) the public's use and enjoyment of the access area; (2) public safety; (3) accessibility for persons with disabilities; (4) sufficient durability and maintenance; and (5) the access is clear and continuous and encourages public use;
- (d) assuring that any fill in the Bay does not exceed this authorization and will consist of appropriate shoreline protection materials as determined by or on behalf of the Commission;
- (e) consistency of the plans with the recommendations of the Design Review Board; and
- (f) assuring that appropriate provisions have been incorporated for safety in case of seismic event.

Plan review shall be completed by or on behalf of the Commission within 45 days after receipt of the plans to be reviewed.

3. **Conformity with Final Approved Plans.** All work, improvements, and uses shall conform to the final approved plans. Prior to any use of the facilities authorized herein, the appropriate design professional(s) of record shall certify in writing that, through personal knowledge, the work covered by the authorization has been performed in accordance with the approved design criteria and in substantial conformance with the approved plans. No noticeable changes shall be made thereafter to any final plans or to the bridge, outside fixture, landscaping, signage, or trail improvements without first obtaining written approval of the change(s) by or on behalf of the Commission.
4. **Discrepancies between Approved Plans and Special Conditions.** In case of any discrepancy between final approved plans and Special Conditions of this authorization or legal instruments approved pursuant to this authorization, the Special Condition or the legal instrument shall prevail. The permittees are responsible for assuring that all plans accurately and fully reflect the Special Conditions of this authorization and any legal instruments submitted pursuant to this authorization.

PERMIT NO. M08-13

Port of Oakland, East Bay Regional Park District,
and City of San Leandro
April 3, 2009
Page 4

5. **Appeals of Plan Review Decisions.** Any plan approval, conditional plan approval or plan denial may be appealed by the permittees or any other interested party to the Design Review Board or, if necessary, subsequently to the Commission. Such appeals must be submitted to the Executive Director within 30 days of the plan review action and must include the specific reasons for appeal. The Design Review Board shall hold a public hearing and act on the appeal within 60 days of the receipt of the appeal. If subsequently appealed to the Commission, the Commission shall hold a public hearing and act on the appeal within 90 days of the receipt of the subsequent appeal.

B. Public Access

1. **Area.** The approximately 0.37-acre (15,500-square-foot) area, along approximately 165 feet of shoreline as generally shown on Exhibit "A" shall be made available exclusively to the public for unrestricted public access for walking, bicycling, sitting, viewing, and related purposes. If the permittees wish to use the public access area for other than public access purposes, it must obtain prior written approval by or on behalf of the Commission.

The overall proposal for public access for this project includes:

New public access in the shoreline band:

7,080 square feet

New public access out of the shoreline band:

8,480 square feet

2. **Improvements Within the Total Public Access Area.** Prior to the use of any structure authorized herein, the permittees shall install the following improvements, as generally shown on attached Exhibit A:
 - (a) A 348-foot-long and 10-foot-wide, three-pier, bicycle and pedestrian bridge in the Bay with a 54-inch high railing;
 - (b) A 630-foot-long, 12-foot-wide path with two-foot-wide shoulders on the northern end of the bridge which will smoothly transition to the existing required public access under BCDC Permit No. M04-01;
 - (c) A 2,000-square-foot asphalt and concrete landing on the southern end of the bridge which will smoothly transition to the existing public access required under BCDC Permit No. M96-06; and
 - (d) No fewer than two public access signs and, when appropriate, Bay Trail signs, one at the beginning of each path on the site.

Such improvements shall be consistent with the plans approved pursuant to Condition II-A of this authorization (and substantially conform to the plans entitled "Bay Trail Slough Bridge Plan;" prepared by the City of San Leandro, as revised through December 18, 2008.)

3. **Maintenance.** The areas and improvements within the total 15,500-square-foot area shall be permanently maintained by and at the expense of, the permittees or their assignees. Such maintenance shall include, but is not limited to, repairs to all path surfaces; replacement of any trees or other plant materials that die or become unkempt; repairs or replacement as needed of any public access amenities such as

PERMIT NO. M08-13

Port of Oakland, East Bay Regional Park District,

and City of San Leandro

April 3, 2009

Page 5

signs, periodic cleanup of litter and other materials deposited within the access areas; removal of any encroachments into the access areas; and assuring that the public access signs remain in place and visible. Within 30 days after notification by staff, the permittees shall correct any maintenance deficiency noted in a staff inspection of the site.

4. **Assignment.** The permittees shall transfer maintenance responsibility to a public agency or another party acceptable to the Commission at such time as the property transfers to a new party in interest but only provided that the transferee agrees in writing, acceptable to counsel for the Commission, to be bound by all terms and conditions of this permit.

C. **Barrier Free Access.** The permittees shall provide public access that meets the requirements of the American with Disabilities Act along all public paths including those leading to and across the bridge.

D. **Construction.** The improvements authorized herein shall be built generally in conformance with the plan entitled "Bay Trail Slough Bridge Plan;" prepared by the City of San Leandro, as revised through December 18, 2008.

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

F. **Debris Removal.** All construction debris shall be removed to an authorized location outside the jurisdiction of the Commission. In the event that any such material is placed in any area within the Commission's jurisdiction, the permittees, their assigns, or successors in interest, or the owner of the improvements, shall remove such material, at their expense, within ten days after it has been notified by the Executive Director of such placement.

G. Best Construction Management Practices

1. **Construction Timing.** All construction and removal activities for pile hammering in the Bay shall be confined to September 1st to November 30th to minimize disturbance to juvenile Central California Coast Steelhead and California Clapper Rail breeding grounds.
2. **Construction Options.** All in Bay construction operations shall be done via "flexi-float" construction barges. If the slough is deemed too shallow for the construction barges, the bridge shall be constructed with a temporary trestle to be placed in the Bay for no longer than 180 days.
3. **Pile Installation.** All pile installation shall be done using a vibratory hammer, a wood block cushion, and or the smallest hammer weight feasible in order to avoid impacts to essential fish habitat.
4. **Construction Operations.** All construction operations shall be performed to prevent construction materials from falling into the Bay. In the event that such material escapes or is placed in an area subject to tidal action of the Bay, the permittees shall immediately retrieve and remove such material at their expense.
5. **Creosote Treated Wood.** No pilings or other wood structures that have been pressure treated with creosote shall be used in any area subject to tidal action in the Bay or any certain waterway, in any salt pond, or in any managed wetland within the Commission's jurisdiction as part of the project authorized herein.

PERMIT NO. M08-13

Port of Oakland, East Bay Regional Park District,

and City of San Leandro

April 3, 2009

Page 6

H. **Site Access.** The permittees grant permission to any member of the Commission's staff to conduct a site visit at the subject property during and after construction to verify that the project is being / has been constructed in compliance with the authorization and conditions contained herein. Site visits may occur during business hours without prior notice and after business hours with 24-hour notice.

I. **In-Kind Repairs and Maintenance.** Any in-kind repairs and maintenance of the bridge and bicycle / pedestrian path shall only use construction material that is approved for use in San Francisco Bay. Construction shall only occur during current approved months during the year to avoid potential impacts to fish and wildlife. BCDC staff should be contacted to confirm current restrictions.

J. **Recording.** The permittees shall record this document or a notice specifically referring to this document on all parcels affected by this document with Alameda County within 30 days after execution of the permit issued pursuant to this authorization and shall, within 30 days after recordation, provide evidence of recordation to the Commission.

K. **Hold Harmless Agreement.** The permittees agree to indemnify, defend and save harmless the State of California, its agencies, departments, officers, agents and employees from any and all claims, demands, losses or judgments accruing or resulting to any person, firm, corporation or entity who may be injured or damaged by work performed in accordance with the terms and conditions of this permit.

L. **Reasonable Rules and Restrictions.** The permittees may impose reasonable rules and restrictions for the use of the public access areas to correct particular problems that may arise. Such limitations, rules, and restrictions shall have first been approved by or on behalf of the Commission upon a finding that the proposed rules would not significantly affect the public nature of the area, would not unduly interfere with reasonable public use of the public access areas, and would tend to correct a specific problem that the permittees have both identified and substantiated. Rules may include restricting hours of use and delineating appropriate behavior.

M. **Commission Jurisdiction Over Fill Area.** Notice is hereby given that, under the McAteer-Petris Act, the area of the approved project that is within the Commission's jurisdiction under Section 66610(a) remains within that jurisdiction even after fill or substantial change in use, authorized by the Commission, may have changed the character of the area; so that the permittees or the permittees' successors in interest will require further action by or on behalf of the Commission prior to any future change of use or work within areas filled pursuant to this authorization.

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

III. Findings and Declarations

On behalf of the Commission, I find and declare that:

A. **Consistency with Commission Regulations.** The project authorized by this permit involves the placement of approximately 3,480 square feet of pile-supported fill in the Bay for a bicycle pedestrian bridge and approximately 5,000 square feet of fill in the Bay for no longer than 180 days for project construction. The placement of this fill in the Bay is similar to, "the

PERMIT NO. M08-13

Port of Oakland, East Bay Regional Park District,
and City of San Leandro
April 3, 2009
Page 7

construction of a new single boat dock no larger than 1,000 square feet or a new multiple boat dock no larger than 5,000 square feet, or up to 20,000 square feet of expansion of boat docking facilities within an existing marina," as stated in Regulation Section 10601(a)(1), and "would have no greater adverse impact on the Bay than a similar activity" as stated in Regulation Section 10601(e)(3).

The project also involves the placement of fill in the 100-foot shoreline band for the construction of an approximately 630-foot-long path with a railing, fence, signs, and landscaping, and an approximately 2,000-square-foot landing to connect to the existing path on the southern end of the bridge. The placement of this fill in the shoreline band is similar to, "the placement of small amounts of inert inorganic fill, the extraction of small amounts of materials, or a substantial change of use of any area so long as the placement, extraction, or change in use does not have a significant adverse effect on present or possible future maximum feasible public access to the Bay consistent with the project," as stated in Regulation Section 10601(b)(1). Further, the project involves routine repair and replacement that will not involve a substantial enlargement of the work authorized herein in both the Bay and the shoreline band, which is consistent with Regulation Sections 10601(a)(6) and 10601(b)(5). Thus, this project is considered a "minor repair or improvement" for which the Executive Director may issue a permit, pursuant to Government Code Section 66632(f) and Regulation Section 10622(a),

B. Consistency with McAteer-Petris Act and San Francisco Bay Plan. The project authorized by this permit is consistent with the McAteer-Petris Act and with the San Francisco Bay Plan in that it will not adversely affect the Bay nor public access to and enjoyment of the Bay. This project will close a critical gap in the San Francisco Bay Trail between Oyster Bay Regional Shoreline Park, and the Oakland International Airport. Special Condition II-C requires that the public access provided by the permittees comply with the Americans With Disabilities Act. Therefore, as conditioned, the project complies with Bay Plan Public Access Policy Six which requires "barrier free access for the physically handicapped to the maximum feasible extent," and Sections 66602 and 66632.4 of the McAteer-Petris Act which require "maximum feasible public access." Special Conditions have been included to assure that the project will be constructed with best management practices to reduce impacts to essential fish habitat, the improved area will be maintained to provide safe and usable access, and that the construction activities will not adversely impact the Bay's natural resources, water quality, or navigation, as required by the Bay Plan policies on public access, fish, other aquatic organisms, and wildlife, tidal marshes and tidal flats, water quality and navigational safety.

C. Consistency with the Coastal Zone Management Act. The Commission further finds, declares, and certifies that the activity or activities authorized herein are consistent with the Commission's Amended Management Program for San Francisco Bay, as approved by the Department of Commerce under the Federal Coastal Zone Management Act of 1972, as amended.

D. Consistency with the California Environmental Quality Act. Pursuant to Regulation Section 11501, the project authorized by this permit is categorically exempt from the requirement to prepare an environmental impact report.

E. Consistency with the Public Trust. The Commission finds that the fill authorized herein is consistent with public trust needs for the area because the fill is for public access to the Bay.

F. Listing with the Commission. Pursuant to Regulation Section 10620, this project was listed with the Commission on March 5, 2009.

PERMIT NO. M08-13

Port of Oakland, East Bay Regional Park District,
and City of San Leandro
April 3, 2009
Page 8

G. Enforcement Program and Civil Penalties. The Commission has an enforcement program that reviews its permits for compliance. The Commission may issue cease and desist and civil penalty orders if violations are discovered. The McAteer-Petris Act provides for the imposition of administrative civil penalties ranging from \$10 to \$2,000 per day up to a maximum of \$30,000 per violation. The Act also provides for the imposition of court-imposed civil penalties of up to \$30,000 in addition to any other penalties, penalties for negligent violations of between \$50 and \$5,000 per day, knowing and intentional penalties of between \$100 and \$10,000 per day, and exemplary penalties, which are supplemental penalties, in an amount necessary to deter future violations. In addition, anyone who places fill, extracts materials, or makes any substantial change in use of any water, land or structure within the area of the Commission's jurisdiction

IV. Standard Conditions

A. Permit Execution. This permit shall not take effect unless the permittees execute the original of this permit and return it to the Commission within ten days after the date of the issuance of the permit. No work shall be done until the acknowledgment is duly executed and returned to the Commission.

B. Notice of Completion. The attached Notice of Completion and Declaration of Compliance form shall be returned to the Commission within 30 days following completion of the work.

C. Permit Assignment. The rights, duties, and obligations contained in this permit are assignable. When the permittees transfer any interest in any property either on which the activity is authorized to occur or which is necessary to achieve full compliance of one or more conditions to this permit, the permittees/transferors and the transferees shall execute and submit to the Commission a permit assignment form acceptable to the Executive Director. An assignment shall not be effective until the assignees execute and the Executive Director receives an acknowledgment that the assignees have read and understand the permit and agree to be bound by the terms and conditions of the permit, and the assignees are accepted by the Executive Director as being reasonably capable of complying with the terms and conditions of the permit.

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

E. Other Government Approvals. All required permissions from governmental bodies must be obtained before the commencement of work; these bodies include, but are not limited to, the U. S. Army Corps of Engineers, the State Lands Commission, the Regional Water Quality Control Board, and the city or county in which the work is to be performed, whenever any of these may be required. This permit does not relieve the permittees of any obligations imposed by State or Federal law, either statutory or otherwise.

F. Built Project must be Consistent with Application. Work must be performed in the precise manner and at the precise locations indicated in your application, as such may have been modified by the terms of the permit and any plans approved in writing by or on behalf of the Commission.

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

PERMIT NO. M08-13

Port of Oakland, East Bay Regional Park District,
and City of San Leandro
April 3, 2009
Page 9

H. **Commission Jurisdiction.** Any area subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission under either the McAteer-Petris Act or the Suisun Marsh Preservation Act at the time the permit is granted or thereafter shall remain subject to that jurisdiction notwithstanding the placement of any fill or the implementation of any substantial change in use authorized by this permit. Any area not subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission that becomes, as a result of any work or project authorized in this permit, subject to tidal action shall become subject to the Commission's "bay" jurisdiction.

I. **Changes to the Commission's Jurisdiction as a Result of Natural Processes.** This permit reflects the location of the shoreline of San Francisco Bay when the permit was issued. Over time, erosion, avulsion, accretion, subsidence, relative sea level change, and other factors may change the location of the shoreline, which may, in turn, change the extent of the Commission's regulatory jurisdiction. Therefore, the issuance of this permit does not guarantee that the Commission's jurisdiction will not change in the future.

J. **Violation of Permit May Lead to Permit Revocation.** Except as otherwise noted, violation of any of the terms of this permit shall be grounds for revocation. The Commission may revoke any permit for such violation after a public hearing held on reasonable notice to the permittees or their assignees if the permit has been effectively assigned. If the permit is revoked, the Commission may determine, if it deems appropriate, that all or part of any fill or structure placed pursuant to this permit shall be removed by the permittees or their assignees if the permit has been assigned.

K. **Should Permit Conditions Be Found to be Illegal or Unenforceable.** Unless the Commission directs otherwise, this permit shall become null and void if any term, standard condition, or special condition of this permit shall be found illegal or unenforceable through the application of statute, administrative ruling, or court determination. If this permit becomes null and void, any fill or structures placed in reliance on this permit shall be subject to removal by the permittees or their assignees if the permit has been assigned to the extent that the Commission determines that such removal is appropriate. Any uses authorized shall be terminated to the extent that the Commission determines that such uses should be terminated.

L. **Permission to Conduct Site Visit.** The permittees shall grant permission to any member of the Commission's staff to conduct a site visit at the subject property during and after construction to verify that the project is being and has been constructed in compliance with the authorization and conditions contained herein. Site visits may occur during business hours without prior notice and after business hours with 24-hour notice.

Executed at San Francisco, California, on behalf of the San Francisco Bay Conservation and Development Commission on the date first above written.

WILL TRAVIS
Executive Director
San Francisco Bay Conservation and
Development Commission

By: _____
CAITLIN SWEENEY
Chief Deputy Director

PERMIT NO. M08-13

Port of Oakland, East Bay Regional Park District,
and City of San Leandro
April 3, 2009
Page 10

cc: U. S. Army Corps of Engineers, Attn.: Regulatory Functions Branch
San Francisco Bay Regional Water Quality Control Board,
Attn.: Certification Section
Environmental Protection Agency, Attn: Mike Monroe, WTR-8

* * * * *

Receipt acknowledged, contents understood and agreed to:

Executed at _____
City of San Leandro

On _____ By: _____
Title

* * * * *

Receipt acknowledged, contents understood and agreed to:

Executed at _____
Port of Oakland

On _____ By: _____
Title

* * * * *

Receipt acknowledged, contents understood and agreed to:

Executed at _____
East Bay Regional Park District

On _____ By: _____
Title