STATE OF CALIFORNIA

GRAY DAVIS, Governor

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

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Permittees' Copy

PERMIT NO. 17-99(M)
(Issued on October 30, 2000, As
Amended Through March 2, 2001)
AMENDMENT NO. ONE

California Department of Transportation
District 4
P.O. Box 23660
Oakland, California 94623-0660

ATTENTION: Elizabeth Wiecha, Division Chief

Ladies and Gentlemen:

On October 19, 2000, the San Francisco Bay Conservation and Development Commission, by a vote of 20 affirmative, 0 negative, and 0 abstentions, approved the resolution pursuant to which ~~this~~ the original permit ~~is hereby~~ had been issued. Moreover, on March 2, 2001, pursuant to Regulation Section 10822, the Executive Director approved Amendment No. One, to which this amended permit is hereby issued:

I. Authorization

A. Subject to the conditions stated below, the permittee, the California Department of Transportation, is granted permission to do the following:

Partially in the Bay and Partially in the Primary Management Area of the Suisun Marsh:

a. Dredge approximately 50,000 cubic yards of material over an approximately 669, 600-square-foot area to provide a MARAD access channel leading to the Suisun Bay Reserve Fleet; and dispose of the dredged material in a "beneficial re-use" capacity, outside of the Commission's jurisdiction;

b. Dredge approximately 19,200 cubic yards of mud and 14,500 cubic yards of rock, over an approximately 14,200-square-foot area, in order to construct the Main Bridge. Approximately 16,000 cubic yards of mud will be disposed at the Carquinez disposal site (SF-9) or other approved aquatic disposal site, while the remaining mud and rock will be disposed outside the Commission's jurisdiction;

c. Dredge approximately 1700 cubic yards of material over an approximately 24,000-square-foot area in order to construct a channel 400 feet long from the Bay to the proposed mitigation site. Some of this dredged material may be used to cap certain portions of the mitigation site and the rest will be disposed of outside the Commission's jurisdiction;

d. Construct, use and maintain pier piles, footings, temporary trestles, and falsework piles, involving approximately 26,700 cubic yards of solid fill over an approximately 73,200-square-foot area;

e. Construct, use and maintain a portion of the new pile- and pier-supported, concrete bridge, involving 504,000 square feet of pile-supported fill for the main superstructure and 103,700 square feet of pile-supported fill for the temporary construction trestles and falsework bents; and

f. Install temporary, movable barges covering approximately 82,900 square feet of the Bay.

Within the 100-foot shoreline band:

a. Construct and use temporary construction trestles and falsework on the Benicia side of the Strait;

b. Construct and use temporary construction trestles on the Martinez side of the Strait;

c. Construct, use and maintain portion of the Main Span and Connector superstructures and substructures on both sides of the Strait;

d. Construct, use and maintain portion of the bicycle/pedestrian pathway;

e. Use temporary construction easements on both the Benicia and Martinez sides of the Strait;

f. Temporarily relocate three picnic tables on the Benicia side of the Strait;

g. Install approximately 100 linear feet of temporary and 100 linear feet of permanent chainlink fence on the Martinez side of the Strait; and

h. Install column drains with energy dissipation devices on the Benicia side of the Strait.

Within the Suisun Marsh Primary Management Area:

a. Excavate approximately 8,200 cubic yards of material over an area of approximately 81,000 square feet in order to construct a channel from the Mean High Water line to the Union Pacific Railroad tracks, south of the mitigation site.

B. This authority is generally pursuant to and limited by the permittee's application received on July 26, 2000, and the permittee's letter, requesting Amendment No. One, dated January 25, 2001, but subject to the modifications required by the conditions herein.

C. The work authorized by this permit must commence by December 31, 2002, and must be diligently pursued to completion and must be completed by December 31, 2006, unless the terms of this authorization are changed by amendment of this permit.

D. The project authorized herein will result in a net increase of approximately 17.53 acres of new Bay fill, of which approximately 11.57 acres is high level, suspended fill that will not have any adverse impacts on Bay resources, 2.38 acres would be temporary low-elevation shading, and 1.9 acres of floating fill. The net increase in solid fill will be approximately 1.39 acres and there will be 0.53 acres of impacts to shallow water habitat. The solid and pile-supported fill will be mitigated by the creation of 1.24 acres of shallow water habitat at the Solano County mitigation site. In addition, the project will provide approximately 5.1 acres of improved public access including an 11.81-foot-wide pedestrian and bicycle lane across the strait and a new vehicle/bicycle/pedestrian access road to the existing vista point on the Solano County side of the Strait.

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. **Plan Review.** The permittee shall not commence any work whatsoever pursuant to this authorization until final precise grading, drainage, mobilization, staging, site, engineering, architectural, landscaping and public access 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. No changes to the design of the project shall be made without the prior written approval by or on behalf of the Commission.

   a. **Site, Architectural, Landscaping and Public Access Plans.** Site, architectural, landscaping and public access plans shall include and clearly label the mean high tide line or in areas with tidal wetlands the +5.0 foot contour line (mean sea level), the line 100 feet inland of the mean high tide line or the +5.0 foot contour line, property lines, the boundaries of all areas to be reserved for public access purposes and open space, grading, details showing the location, types, dimensions, and materials to be used for all structures, irrigation, landscaping, drainage, seating, parking, signs, lighting, fences, paths, trash containers, utilities and other improvements.

   b. **Engineering Plans.** The permittee shall ensure that engineering plans include a complete set of contract drawings and specifications and design criteria. The design criteria shall be appropriate to the nature of the project, the use of any structures, soil and foundation conditions at the site, and potential earthquake-induced forces. Final plans shall be signed by the professionals of record and be accompanied by:

      (1) Evidence that the design complies with all applicable codes; and

      (2) Evidence that a thorough and independent review of the design details, calculations, and construction drawings has been made.

2. **Plan Requirements.** The permittee shall submit plans 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 mean high tide line or the +5.0 foot contour line (mean sea level), property lines, and the line 100 feet inland of the mean high tide line or the +5.0 contour line (mean sea level), 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;

d. Consistency with legal instruments reserving public access and open space areas;

e. 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; 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.** The permittee shall ensure that all work, improvements, and uses 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 exterior of any constructed structure, outside fixture, lighting, landscaping, signage, parking area, public access amenities, or shoreline protection work 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 permittee is 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.

B. **Public Access**

1. **Bridge Railings.** Caltrans shall submit, for review by the Commission staff, the final design details for the bridge railings. The railings shall be a maximum of 54-inches-tall. These design details shall be included with the plans required under Special Condition II-A.

2. **Area.** Caltrans shall make the 11.81-foot-wide, 11,700-foot-long pedestrian/bicycle pathway, from Marina Vista Road in Martinez to the Oak Road and Park Road intersection in Benicia, available to the public for public access such as walking, bicycling, sitting, viewing, fishing, picnicking, and related purposes. If Caltrans wishes to use the public access area for other than public access purposes or emergency and maintenance purposes as specified below, it must obtain prior written approval by or on behalf of the Commission. Caltrans may use the public access path on the existing bridge during emergency circumstances or for repairs and maintenance of the bridge, such as, but not limited to, sanding and painting, that cannot otherwise be reasonably completed from non-public access areas. Such repairs must be carried out in a manner that minimizes the closure of the public access path and, to the maximum extent feasible, ensures that the public has continuous access across the bridge. Caltrans must obtain prior written approval by or on behalf of the Commission for complete closures of the public access

path that last longer than 24 hours and that prevent continuous public access across the bridge. Prior to the closure of the public access areas, Caltrans shall place signs at the entrances of the public access path at Park Road in Solano County and Marina Vista Road in Contra Costa County notifying the public that the path will be temporarily closed and identifying when the path will be reopened.

3. **Public Access Guarantee.** Within 18 months of the opening of the new bridge, Caltrans shall, by instrument or instruments acceptable to counsel for the Commission, dedicate to a public agency or otherwise guarantee for so long as the Commission determines such rights for the public to the new approximately 3.2-acre public access areas. The instrument(s) shall create rights in favor of the public which shall commence no later than after completion of construction of any public access improvements required by this authorization and prior to the use of the new bridge authorized herein. Such instrument(s) shall be in a form that meets recordation requirements of both Solano and Contra Costa Counties and shall include a legal description of the property being restricted and a map that clearly shows and labels the mean high tide line or the +5.0 foot contour line mean sea level, the property being restricted for public access, the legal description of the property and of the area being restricted for public access, and other appropriate landmarks and topographic features of the site, such as the location and elevation of the top of bank of any levees, any significant elevation changes, and the location of the nearest public street and adjacent public access areas. Approval or disapproval of the instrument(s) shall occur within 30 days after submittal for approval and shall be based on the following:

   a. Sufficiency of the instrument(s) to create legally enforceable rights and duties to provide the public access area required by this authorization;

   b. Inclusion of an exhibit to the instrument(s) that clearly shows the area to be reserved with a legally sufficient description of the boundaries of such area; and

   c. Sufficiency of the instrument(s) to create legal rights in favor of the public for public access that will run with the land and be binding on any subsequent purchasers, licensees, and users.

4. **Recordation of the Instrument(s).** Within 30 days after approval of the instrument(s), Caltrans shall record the instrument(s) in each relevant County and shall provide evidence of recording to the Commission. No changes shall be made to the instrument(s) after approval without the express written consent by or on behalf of the Commission.

5. **Improvements Within the Total Public Access Area.** Within 18 months of the opening of the new Benicia-Martinez Bridge, but no later than December 31, 2006, whichever is earlier, Caltrans shall install the following improvements:

   a. On the existing bridge, an 11.81-foot-wide and approximately 6,200-foot-long, paved and separated, pedestrian and bicycle pathway;

b. Between Park Road and the existing bridge, install a new, two-way, vehicle access road with a separated 11.81-foot-wide, bicycle/pedestrian pathway which branches off and leads to the existing vista point on the north end of the existing bridge. Between the existing bridge and Marina Vista Road, install a new 11.81-foot-wide bicycle/pedestrian pathway;

c. Relocation on a temporary basis, the existing public access area, including its three picnic tables, on the north shore of the Carquinez Strait, if needed during construction, and a return of the area to its original, approved condition upon project completion; and

d. An integrated public access and Bay Trail sign program that is designed to maximize public recognition, use, and enjoyment of the public access areas and vista point access required herein.

Such improvements shall be consistent with the plans approved pursuant to Special Condition II-A of this authorization and shall substantially conform to the recommendations of the Design Review Board.

6. **Maintenance.** Caltrans shall ensure that the areas and improvements within the approximately 3.2-acre public access areas are permanently maintained. 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 signs, benches, drinking fountains, trash containers and lights; periodic cleanup of litter and other materials deposited within the access areas; removal of any encroachments into the access areas; removal of graffiti; and assuring that the public access and Bay Trail signs remain in place and visible. Within 30 days after notification by staff, Caltrans shall correct any maintenance deficiency noted in a staff inspection of the site.

7. **Assignment.** Caltrans may 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 <u>amended</u> permit.

8. **Reasonable Rules and Restrictions.** Caltrans may impose reasonable rules and restrictions for the use of the public access areas required under Special Condition II-B-2 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 Caltrans has both identified and substantiated. Rules may include restricting hours of use and delineating appropriate behavior. Such rules and restrictions that are specified by the requirements of the Vehicle Code or the Streets and Highway Code are deemed reasonable and do not require approval by or on behalf of

the Commission. However, Caltrans shall notify the Commission 14 days prior to implementing such rules and restrictions.

C. **Mitigation for Fill Impacts.** Caltrans shall provide the following mitigation to minimize Bay fill and offset the adverse impacts to Bay-related resources and endangered species:

1. **Removal of Temporary Structures.** By December 31, 2006, Caltrans shall completely remove approximately 2.38 acres of temporary, pile-supported fill for the temporary construction trestles and falsework bents over the shallow water low-elevation shading area and 0.37 acres of low elevation shading for low elevation shading of marshes and wetlands. Caltrans shall completely remove all pilings to ensure navigational safety.

2. **Revegetation of Disturbed Lands.** After construction of the new bridge, but no later than December 31, 2006, Caltrans shall revegetate any areas impacted by the project that fall within the Commission's jurisdiction. Caltrans shall design all landscape plans in cooperation with local city and county agencies and any community groups that have an interest in the project and shall strive to use native, drought tolerant landscaping that is appropriate to the micro-climatic conditions of the Carquinez Strait. Caltrans shall also work with the two counties, Contra Costa and Solano, and the Cities of Benicia and Martinez, to develop a plan for the treatment of excess land outside the Commission's jurisdiction. The plans for revegetation of disturbed areas within the Commission's jurisdiction shall be approved by or on behalf of the Commission pursuant to Special Condition II-A. The revegetation of areas outside of the Commission's jurisdiction shall be done in conjunction with the two cities and counties and shall include the use of Best Management Practices as specified by Special Condition II-I to prevent erosion and construction and to prevent stormwater runoff from being discharged into the Bay.

3. **Shallow Water Habitat.** Prior to the use of the new bridge, but no later than December 31, 2004, Caltrans shall create a minimum of 1.24 acres of tidally-influenced, shallow water habitat and 10.47 acres of northern coastal brackish marsh, and 1.61 acres of Northern Coastal Salt Marsh, at the Solano County mitigation site. The mitigation plan shall be developed consistent with Special Condition II-D below and shall substantially conform to the mitigation plan entitled "New Benicia-Martinez 22.8-acre Parcel Mitigation Report," dated February 17, 2000, and prepared by Mark E. Grismer, LAWR – Hydrology, UC Davis. The mitigation work shall not adversely impact existing public access to and along the Bay shoreline and shall include, as needed, the installation, restoration or replacement of any public access improvements to ensure the maximum feasible public access at the Solano County shoreline consistent with the project, and as approved pursuant to Special Condition II-A herein. Caltrans shall be solely responsible to fund all costs to provide 11.64 acres of mitigation, prepare the plans, specifications and estimates, construct the mitigation, monitor and provide corrective measures as deemed necessary by state and federal resource agencies, and maintain any public access improvements installed, restored or replaced because of the mitigation project as approved pursuant to Special Condition II-A herein.

4. **Construction Limitations.** Any work, placement of fill, or dredging in areas designated by state and federal resource agencies as shallow water habitat shall occur only between ~~December 1 and March 31~~ July 1 to October 31 or from trestles or within coffer dams.

5. **Mitigation Assurance.** Caltrans shall permanently provide the mitigation required under Special Condition II-C. Should any portion of the Bay that Caltrans uncovers by the excavation of the Solano County mitigation site be filled or covered for another project or use, then an equivalent amount and kind of replacement mitigation shall be provided at or near the project site.

6. **Mitigation Corrections.** Should the mitigation measures enacted at the Solano County mitigation site not achieve the mitigation goals, as detailed in the "New Benicia-Martinez 22.8 acre parcel mitigation report," dated February 17, 2000, and prepared by Mark E. Grismer, LAWR – Hydrology, UC Davis, under "Monitoring Criteria and Project Success", then Caltrans shall submit a report to the Commission, within 6 months of its becoming aware of the non-achievement, detailing the corrective actions to be taken to correct the deficiencies, along with a timetable for completing the corrective measures in the report.

D. **Mitigation Work and Plans.** Prior to carrying out any mitigation work for the tidally-influenced, shallow water habitat at the Solano County mitigation site, as required under Special Condition II-C-5 above, Caltrans shall provide a mitigation plan and program that complies with the following:

1. **Mitigation Plan.** Prior to June 30, 2002, Caltrans shall submit a final mitigation plan and program, to be approved by or on behalf of the Commission, for the creation of a minimum of 1.24 acres of tidally-influenced, shallow water habitat and 10.47 acres of northern coastal brackish marsh, and 1.61 acres of Northern Coastal Salt Marsh, at the Solano County mitigation site. The plan and program shall contain the following:

   a. **Site Conditions and Modifications.** A topographic map of the site in one-foot contours showing the existing site conditions and a topographic map showing the proposed modifications. All elevations shall be relative to National Geodetic Vertical Datum (NGVD). The map shall include typical cross-sections showing proposed elevation of marsh plain, any channels, and any high spots. The map shall show figures for the ratios of typical horizontal to vertical slopes for existing and proposed levees, channels, and sloughs. The map shall show proposed plant species along the cross-sections according to their expected zone of growth. The topographic map or a separate map shall show the site context or vicinity including storm drains, the elevation of adjacent surrounding properties, and the limit of the 100-year flood. The vicinity map shall include figures for the estimated tidal range related to Mean Higher High Water, Mean High Water, Mean Lower Low Water, Mean Sea Level, the maximum predicted tide, and the 100-year tide;

   b. **Levee Breaches.** For any levee breaches, and or culverts under railroad tracks, the plan and program shall show calculations for determining the size of any levee breach or culvert to be installed, including any tide control structure to be installed to

control the amount of water entering at various tidal stages. The program shall indicate the amount of any cut and fill activities, the amount of material to be placed to strengthen the levee, and the expected tidal exchange. The expected tidal range shall indicate predicted expectations both inside and outside the levee breach. If plants will be used to protect the levee from erosion or undercutting, the program shall specify the type of plants to be used. If plants will not be used, the program shall describe how the breach will be protected from erosion and undercutting. If any inlet-outlet structures are to be used, the program shall include detailed drawings of such structure(s), their location at the site, with a schedule of operation, inspection and maintenance;

c. **Soil and Water Information.** The plan and program shall include a report identifying the type of soils found at the site and the soil type of any fill to be imported to the site. Information shall be provided on the quantitative soil measurements of salinity, pH, organic content, and bulk density. Information shall also be provided on the water, including water analysis of salinity, pH, biochemical oxygen demand (BOD), dissolved oxygen (DO), and, if appropriate, heavy metals. The plan and program shall indicate where and how any excavated soils, creosote pilings and/or debris will be disposed and whether such materials need to be remediated;

d. **Public Access Improvements.** The plan and program shall identify all existing public access improvements at the project site including informal and formal pathways, pathway connections to the nearest public right-of-way, pedestrian and bicycle bridges and boardwalks, benches, signs and other public access amenities. The plan and program shall ensure that the restoration work does not adversely impact existing public access and shall include, as needed, the installation, restoration and/or replacement of any public access improvements to provide the maximum feasible public access consistent with the project, and as approved pursuant to Special Condition II-A herein;

e. **MOA/MOU.** The plan and program shall include all executed MOAs/MOUs and cost agreements that allow Caltrans to perform work on California Department of Fish and Game property and for funding, designing, constructing, and monitoring any establish the responsibilities, between Caltrans and the Department of Fish and Game, for funding, designing, constructing and monitoring any mitigation work and public access improvements at the mitigation site;

f. **Schedule and Phasing.** The mitigation plan and program shall include a schedule and the phasing of the mitigation indicating when fill, dredging or grading will occur, the time to be allowed for settlement, the time when levee breaches or inlet structures will begin to function and the time when planting will occur. The program shall include an estimate of the extent of expected sedimentation over a ten-year period; and

g. **Monitoring.** Caltrans shall be responsible for monitoring the 22.8-acre mitigation site for ten years after it has completed the mitigation and restoration project. Such monitoring shall include measuring the water quality, soil characteristics, plant

survival and plant growth rates, and shall be substantially consistent with the monitoring requirements identified in the restoration report entitled "New Benicia-Martinez 22.8 acre parcel mitigation report," dated February 17, 2000, and prepared by Mark E. Grismer, LAWR – Hydrology, UC Davis. At the end of ten years, the Commission reserves the right to evaluate and determine whether Caltrans shall continue to monitor the 22.8-acre mitigation site up to an additional five years. Should the Commission or other state and federal resource agencies identify adverse conditions, Caltrans shall take corrective action as specified by or on behalf of the Commission or in consultation with other state and federal resource agencies.

2. **Hold Harmless Agreement.** Caltrans agrees to indemnify, defend and save harmless the Commission and its 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 amended permit.

E. **Horizontal Control Points.** As shown on plans required by Special Condition II-A, Caltrans shall install a minimum of four permanent horizontal control points of a type and at specific locations at the Benicia Bridge site approved by or on behalf of the Commission. Caltrans shall place these control points under the supervision of a registered civil engineer or land surveyor, and shall be accurately located and mapped in relation to each other, to the closest known existing control point or other acceptable fixed point in the project area, and to the limits of any proposed fill in the Bay. Caltrans shall locate these control points to facilitate field checking, with simple equipment, of the limits of the fill authorized pursuant to this authorization. Such fill limits shall be dimensioned from these control points, or, if the scale of the drawing is adequate, it shall carry a note stating that field dimensions may be scaled from the drawing and the accuracy of such scaling, e.g., "Field dimensions to an accuracy of ± may be scaled from the drawing." Caltrans shall clearly show these control point locations on all plans submitted pursuant to Special Condition II-A.

F. **Dredging**

1. **Water Quality.** At least 20 days prior to the commencement of any dredging or disposal episode authorized herein, Caltrans shall submit to the Executive Director water quality certification or waiver of water quality certification from the California Regional Water Quality Control Board, San Francisco Bay Region, for that episode. Failure to obtain such certification or waiver of certification prior to the commencement of the dredging episode shall terminate the Commission's authorization for that dredging episode.

2. **60-Month Permit for Dredging.** Caltrans shall complete the approximately 93,600 cubic yards or less of new dredging and dispose of the material, as authorized by this permit, within 60 months of the date of issuance. No further dredging is authorized by this amended permit.

3. **Barge Overflow Sampling and Testing.** Results of any effluent water quality or other testing required by the San Francisco Bay Regional Water Quality Control Board shall be submitted in writing by Caltrans to the Commission's office at the same time that such testing is submitted to the Regional Board.

G. **Marsh Protection.** Caltrans shall perform the work authorized by this amended permit in a manner that will prevent any significant adverse impact on any tidal marsh or other sensitive wetland resources, unless already provided for as part of the project mitigation required under Special Condition II-C. If any unforeseen adverse impacts occur to any such areas not accounted for under Special Condition II-C as a result of the work authorized herein, Caltrans shall restore the area to its previous condition, including returning the disturbed area to its original elevation and soil composition and, if the area does not revegetate to its former condition within one year, Caltrans shall seed all disturbed areas with appropriate marsh vegetation.

H. **Hazardous Materials Removal and Remediation.** Caltrans shall ensure that it performs any removal, remediation, encapsulation or disposal of hazardous or toxic materials, such as TCE contaminated water, consistent with the requirements of the U.S. Environmental Protection Agency and any other applicable local, state and federal laws.

I. **Non-Point Source Pollution Control.** Caltrans shall implement all appropriate and necessary best management practices (BMPs) to minimize the discharge of nonpoint source pollutants to the Bay during and after construction. The BMPs shall be consistent with applicable local, state and federal laws and any required NPDES permits and stormwater pollution prevention plans. The final post construction BMPs and the conceptual construction BMPs shall be shown on the plans required under Special Condition II-A. The final construction BMPs may be developed by the contractor and shall be approved by or on behalf of the Commission prior to the onset of the rainy season.

J. **Debris Removal.** Caltrans shall ensure that it removes all construction debris to a location outside the jurisdiction of the Commission. In the event that any such material is placed in any area within the Commission's jurisdiction, Caltrans shall remove such material, at its expense, within ten days after it has been notified by the Executive Director of such placement.

K. **Construction Operations.** Caltrans shall ensure that it performs all construction and repair operations 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, Caltrans shall immediately retrieve and remove such material at its expense.

L. **Creosote Treated Wood.** Caltrans shall not use any new pilings or other new wood structures that have been pressure treated with creosote in any area subject to tidal action in the Bay or within the Commission's jurisdiction as part of the project authorized herein.

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 a substantial

change in use, authorized by the Commission, may have changed the character of the area; so that Caltrans 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 Caltrans has abandoned the improvements in the Bay authorized herein 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 Caltrans, its assigns or successors in interest remove the improvements within 90 days or such other reasonable time as the Commission may direct.

O. **Disabled Access.** To the maximum extent feasible, Caltrans shall design and construct all uses and improvements authorized herein to provide disabled access consistent with the local, state and federal disability laws, including the Americans with Disabilities Act.

P. **Recording.** Caltrans shall record this document or a notice specifically referring to this document with Solano and Contra Costa Counties within 30 days after execution of the amended permit issued pursuant to this authorization and shall, within 30 days after recordation, provide evidence of recordation to the Commission.

III. Findings and Declarations

This amended permit is issued based on the Commission's findings and declaration that the authorized work is consistent with the McAteer-Petris Act, and the San Francisco Bay Plan, the Suisun Marsh Preservation Act, the California Environmental Quality Act, and the Commission's amended management program for the San Francisco Bay segment of the California coastal zone for the following reasons:

A. **Use.** The San Francisco Bay Plan Map No. Two designates the Benicia-Martinez Bridge corridor as a scenic drive. The areas surrounding both the north and south ends of the bridge are designated as water-related industry priority use areas. There is a port priority use area slightly west of the north end of the bridge. Slightly further west on the south end of the bridge is a park priority use area. Much of the water-related industry area on the south end of the bridge is buffered from the Bay by tidal marsh areas extending to the east and west. Just east of the water-related industry priority use area on the north end of the bridge is an extensive managed wetland. The project authorized herein has been designed to provide scenic views of the Bay and has been located so as to not adversely affect any priority use area. Thus, it is consistent with the Bay Plan maps.

B. **Fill.** Section 66605 of the McAteer-Petris Act states that further filling of San Francisco Bay should be authorized only when public benefits from fill clearly exceed public detriment from the loss of water areas and should be limited to water-oriented uses, including bridges. In addition, the Commission should authorize fill only when no alternative upland location is available, the fill is the minimum amount necessary, and the nature, location and extent of fill minimizes the harmful effects to the Bay. Lastly, the Commission should assure itself, through review by the Engineering Criteria Review Board, that the fill is built according to sound safety standards to insure reasonable protection to people and property against hazards such as earthquakes, floods, and unstable geological conditions.

The project authorized herein is a bridge, which is defined by the McAteer-Petris Act as a water-oriented use. The new bridge is also designed to accommodate commercial and recreational navigation through the Carquinez Strait and meets all United States Coast Guard (USCG) requirements for vertical and horizontal clearances

The project provides the following public benefits:

- Alleviating existing and projected traffic congestion on the bridge, at the toll plaza, and on the immediate approaches;
- Providing the bicycle/pedestrian path across the Carquinez Strait on the existing bridge from Marina Vista Road in Martinez to the Oak Road and Park Road Intersection in Benicia;
- Reducing accident rates by improving operational characteristics of the bridge and interchanges;
- Facilitating the regional movement of goods/freight; and
- Providing a facility capable of accommodating light rail transit in the future.

In addition, all adverse impacts on the Bay have been mitigated, in accordance with Special Condition II-C, II-D, II-F, II-G, II-H, II-I, II-J, II-K, and II-L. Therefore, the Commission finds that the public benefits from the proposed fill clearly outweigh the public detriments.

Because of the nature of a bridge project, there are no feasible alternative upland locations that could be utilized to achieve the project goals. In addition, Caltrans considered other alternatives including an alignment of the bridge to the west of the existing bridge and an alignment 230-linear-feet to the east of the railroad bridge. The first alternative would have resulted in increased fill to replace the displaced Exxon marine terminal and was therefore eliminated. The second alternative would not have resulted in increased fill, but was eliminated because of conflicts with the Union Pacific Railroad's trestle. Thus, the Commission finds that this project is the minimum fill necessary to accomplish the stated project goals.

Caltrans will place a total of approximately 504,000 square feet of pile-supported fill. Using pile-supported, rather than solid, fill will reduce the impact to the environment, including land, air, water, minerals, flora, fauna, noise, and objects of historic or aesthetic significance.

The Final Environmental Impact Statement/Environmental Impact Report stated that the only impacts that the project would have on land use would be some structure displacement at Rhone-Poulenc as a result of the Toll Plaza being moved to the south end of the bridge, and conversion of a portion of the access path to an area of land used by a power tool equipment rental company. Since the environmental document was finalized, the rental company has moved from this location. The Commission is therefore able to find that the effects on the land would be minimized to the degree possible, while still achieving the goals of the project.

The Final Environmental Impact Statement/Environmental Impact Report stated that the project will not exceed State or Federal carbon monoxide standards within the traffic study area. The Commission is therefore able to find that the effects on air quality have been minimized to the degree possible.

The Final Environmental Impact Statement/Environmental Impact Report stated that the impacts from the project on water quality would be: minor re-suspension of sediment during construction; increased storm runoff; and improved quality of run-off due to mitigation. Special Conditions II-C, II-D, II-F, II-G, II-H, II-I, II-J, II-K, and II-L will reduce any of these impacts to a level of insignificance. The Commission is therefore able to find that the effects on water quality have been minimized to the degree possible.

The Final Environmental Impact Statement/Environmental Impact Report stated that the project would have no impact on minerals. The Commission therefore finds that the effects on minerals have been minimized.

The Final Environmental Impact Statement/Environmental Impact Report stated that the project would displace small amounts of salt, brackish, and freshwater marshes. Although, collectively, the impacts to sensitive habitats are substantial, the mitigation required herein will include in-kind community replacement and/or restoration and will comply with State and Federal requirements. The Commission is therefore able to find that the effects on flora and fauna have been adequately mitigated to a level of insignificance.

The Final Environmental Impact Statement/Environmental Impact Report stated that the project would have no impact on noise-sensitive receptors in the study area and no State or Federal standards would be exceeded. The Commission is therefore able to find that the effects of noise have been minimized.

The new bridge will be a lifeline structure designed for two types of earthquakes. The two types are: (1) a Functional Evaluation Earthquake (return period of approximately 450 years) with a return of service level immediate and ~~is the~~ with minimal damage; and (2) Safety Evaluation Earthquake (return period of approximately 2000 years) with a return of service level immediate and with repairable damage. The engineering criteria for the bridge ~~was~~ were reviewed and accepted by the ECRB. Special Condition II-A will ensure that the bridge will be constructed in a manner consistent with the advice of the ECRB.

For all these reasons, the Commission finds that the public benefits of the fill outweigh the public detriment and that the fill is consistent with Section 66605 of the McAteer-Petris Act.

C. **Mitigation.** In part, the Bay Plan policies on mitigation state that mitigation for the unavoidable adverse environmental impacts of any Bay fill should be considered by the Commission in determining whether the public benefits of a fill project outweigh the public detriment from the loss of water areas due to the fill. Whenever mitigation is necessary the mitigation program should assure: (a) that the benefits from the mitigation would be commensurate with the adverse impacts on Bay resources; (b) that the mitigation would be at the project site or as close as possible; (c) that the mitigation measures would be carefully planned, reviewed and approved by or on behalf of the Commission, and subject to reasonable controls to ensure success, permanence and long-term maintenance; and (d) that the mitigation would, to the extent possible, be provided concurrently with those parts of the project causing adverse impacts.

The Benicia Bridge project will result in a net increase in Bay fill of approximately 763,800 square feet of Bay surface area. This will include approximately 26,700 cubic yards of solid fill covering approximately 73,200 square feet of Bay surface area, 504,000 square feet of

pile-supported fill, 82,900 square feet of floating fill, as well as 103,700 square feet of long-term, temporary fill for trestles and falsework bents.

Generally, the adverse impacts of fill for the construction of a bridge and the construction of access trestles include: (a) the disruption and displacement of existing benthic communities; (b) the creation of shade, which can affect water and soil temperature and influence an area's plant and animal communities; (c) the dampening of wave energy and the creation of eddies which can alter water circulation and increase the rate of sedimentation; and (d) the disruption of animal use of an area and animal movement between areas.

For the majority of bridge projects, the Commission has required mitigation including: (a) enhancing habitat values in existing degraded tidal marshes by excavating channels and improving tidal circulation. Such enhancements projects always involve improvements to significantly larger areas than that covered by a bridge; (b) contributing funds on a pro-rata basis to a mitigation bank where the amount of the contribution is directly related to the cost of acquiring, restoring, monitoring and maintaining an area as tidal wetland habitat; and (c) excavating an adjoining upland to create a tidal marsh equal or greater in size to the area of the Bay covered by the proposed bridge.

The project fill will impact approximately 0.53 acres of shallow water habitat that are less than 10 feet in depth. This fill includes 0.23 acres of temporary and 0.30 acres of permanent impact. Caltrans plans to mitigate this at a ratio of 2:1, over an area of 1.24 acres. The impact to estuarine habitat (waters greater than 10 feet in depth) will be 0.106 acres, all of which will be permanent and within BCDC's jurisdiction. Caltrans will mitigate this at a ratio of 1:1, over an area of 0.106 acres. The impact to northern coastal brackish marsh will be 5.95 acres, 0.408 acres of which is within BCDC's jurisdiction and will be permanent. Caltrans will mitigate this at a ratio of 2:1, over an area of 10.47 acres. Other impacts of the project, outside BCDC's jurisdiction, will: northern coastal marsh (0.546 acres) mitigated at 3:1; and coastal and valley fresh water marsh (0.184 acres) mitigated at 3:1. State and Federal resource agencies have designated shallow water areas as critical habitat for the federally and state-listed threatened Delta smelt and federally-listed endangered winter-run chinook salmon, and as sensitive habitat for the federally-proposed endangered Central Valley steelhead and Sacramento splittail, a State species of special concern. The Commission finds that the suspended fill will not result in any significant impacts to Bay-related resources as it will be high above the Bay and will not cast any substantial shadows. As a result, the Commission finds that the total impacts within BCDC' jurisdiction would be approximately 1.04 acres, which would be mitigated over 2.46 acres.

Caltrans will mitigate the fill impacts consistent with the requirements of the United States Fish and Wildlife Service (USFWS), the National Marine Fisheries Service (NMFS), the United States Army Corps of Engineers (USACE) and the California Department of Fish and Game (CDF&G).

The proposed mitigation site covers 22.8 acres and is several hundred feet away from the Bay. While the plan calls for a dredged channel to extend from the Bay to the site, there is some question as to what the actual water elevations may be upon completion of the project. The consultant working on the hydrology for the mitigation plan has indicated a muted tidal

regime with water elevations perhaps 1 to 1.5 feet lower than the Bay. As such, the Commission finds that Special Conditions II-C-8 and II-D-1-g require that, should the project be permitted, there would be alternative measures taken in the event that the tidal influence expected does not occur, and the habitat restoration is not successful.

Special Condition II-C-2 is necessary assure that Caltrans will revegetate all areas disturbed by construction in accordance with the mitigation measures in the Final EIS. Caltrans will design all landscape plans for the project in cooperation with local city and county agencies and any community groups that have an interest in the project.

Special Conditions II-C and II-D are necessary to ensure that the project will provide 22.8 acres of mitigation in perpetuity to offset the project impacts to Bay-related resources and endangered species and that the creation of shallow water habitat will be adequately designed and monitored to ensure long-term success. Therefore, as conditioned, the Commission finds that the amount and kind of mitigation is sufficient to offset the fill impacts of the Benicia Bridge Project.

D. **Public Access.** Section 66602 of the McAteer-Petris Act states that existing public access to the shoreline and waters of the San Francisco Bay is inadequate and that maximum feasible public access, consistent with a proposed project, should be provided. In part, the Bay Plan policies on public access state that whenever public access to the Bay is provided as a condition of development, on fill or on the shoreline, the access should be permanently guaranteed, should be consistent with the project and the physical environment, and should provide for the public's safety and convenience. In addition, public access should be designed and built to encourage diverse Bay-related activities and movement to and along the shoreline, should permit barrier free access for the physically handicapped to the maximum feasible extent, should include an ongoing maintenance program and should be identified with appropriate signs.

In considering whether this project provides the maximum feasible public access, the Commission has considered physical and visual access to the Bay shoreline, as well as the appearance and design of shoreline structures. To address the Commission's requirements for public access, Caltrans will construct approximately 3.2 acres of new public access including a bicycle and pedestrian lane on the existing bridge, bicycle and pedestrian access facilities at each end of the bridge, and new vista point access which accommodates vehicles and bicycles and pedestrians. All of the public access improvements will be disabled accessible. Caltrans will guarantee the availability of the public access areas.

Caltrans has worked with the Design Review Board and several bicycle advocacy groups in the design of the proposed project. Some of these groups include: East Bay Bicycle Coalition, Regional Bicycle Advisory Committee; Contra Costa County Bicycle Advisory Council; Benicia Bike Club; and the Monticello Cycling Club. The public access required herein includes providing a new bicycle/pedestrian path on the western side of the existing bridge. The pathway will be 11.81 feet wide and will have 54-inch-tall railings on each side. The bicycle/pedestrian path limits are from Marina Vista Road in Martinez to the Oak Road and Park Road intersection in Benicia. Currently, there is no connecting trail across the Carquinez Strait. Regularly scheduled shuttles convey bicyclists and pedestrians across the existing Bridge. Both the Bay Trail Plan and the Bay Area Ridge Trail identify the existing Bridge as a means of connecting the Contra Costa and Solano County trail systems.

In addition, there will be a new access road constructed from Park Road in Benicia to the existing vista point. This road would provide bicycle/pedestrian, as well as vehicular, access to the existing vista point. Currently, there is no bicycle/pedestrian access and the vehicular access is only from the north Bridge approach and is considered hard to access because of the offramp placement. Caltrans will close this vista point during the three-year construction period of this project.

Caltrans will have to relocate temporarily the existing public access area, including its three picnic tables, on the north shore of the Carquinez Strait during construction. These would be returned as close as possible to their original location at the completion of construction.

The proposed project will result in some additional blockage of Bay views to the east for those travelling southbound on Interstate 680 leaving Solano County. However, given that the railroad bridge will remain to the east, the Commission finds that the blockage is inconsequential. Additionally, views for motorists travelling northbound on Interstate 680 will be vastly improved as they will no longer have the railroad bridge blocking their views of the Carquinez Strait to the east.

Construction of the bicycle/pedestrian pathway on the existing bridge, and leading to the existing vista point, will increase visual access to the Bay for pedestrians and bicyclists. The proposed 54-inch-tall railing height on either side of the pathway was generally accepted by the Design Review Board at its March 8, 1999 meeting.

Special Conditions II-A, II-B and II-P are necessary to ensure that the project provides approximately five acres of new public access, including a vital pedestrian and bicycle link across the Carquinez Strait and new vehicle/bicycle/pedestrian access to the existing vista point, and that the access is dedicated, maintained, ADA compliant, and designed consistent with the recommendations of the Commission's Design Review Board. Therefore, as conditioned, the Commission finds that the project provides the maximum feasible public access consistent with the project.

E. **Transportation.** In part, the Bay Plan policies on Transportation state that if a route must be located across a waterway, the following provisions should apply: (a) the crossing should be placed on a bridge or in a tunnel, not solid fill; (b) structures should provide adequate clearance for commercial ships, Navy ships, and pleasure boats to have uninterrupted passage at all times; (c) toll plazas, service yards, or other ancillary features should not be located on new fill; (d) to provide maximum ultimate capacity on any new route that is allowed over or under a waterway (and thus to minimize the number that have to be allowed in the Bay), the design of the route should, if feasible, accommodate future mass transit facilities and subsequent installation of automatic power and guidance elements for vehicles.

In 1993 MTC submitted a list of "Benicia-Martinez Bridge General Principles" to guide the bridge design, consistent with local objectives and conforming to requirements of Regional Measure One funding. These principles included direction to provide bicycle and pedestrian access, development of a traffic mitigation program, provisions to include High Occupancy Vehicle lanes and bypass of the Toll Plaza, design to accommodate future rail transit, and plans for ramp metering. Caltrans has incorporated these suggestions into the proposed design.

The proposed crossing (bridge) would be constructed as a bridge, and not on solid fill.

The staff has consulted with the U.S. Coast Guard with regard to impacts on navigation. No navigation issues were raised concerning the Bay Plan requirement that "...commercial ships, Navy ships, and pleasure boats" be provided "...uninterrupted passage at all times." All comments received by the Coast Guard to date have been incorporated into the project. Specifically, Union Pacific Railroad's request for additional clearance from its bridge resulted in the current alignment 490 feet to the east. MARAD's comment with regard to access to the Reserve Fleet resulted in the proposed MARAD channel dredging.

With the cooperation of local and regional transportation agencies, Caltrans evaluated the opportunities and constraints for providing rail transit as part of the Benicia-Martinez Bridge Project. As a result, Caltrans included accommodations for future rail transit on the new bridge, which will be constructed to provide adequate structural capability.

Caltrans and other transit agencies have not identified any project funding to accommodate a future rail transit connection across the new bridge. The proposed bridge design will accommodate the installation of a future passenger rail system across the strait. The decision to implement any other rail accommodation option will be based on funding and on the time required to accomplish the necessary design and construction activities.

Because the bridge design will minimize fill in the Bay, will provide adequate clearance for waterborne vessels, will not impact navigational safety, and will include improvements to accommodate future rail transit on the new bridge, the Commission finds that the project is consistent with Bay Plan policies on Transportation.

F. **Dredging.** In part, the Bay Plan policies on dredging state that dredging should be authorized when the Commission can find that: (a) the applicant has demonstrated that the dredging is needed to serve a water-oriented use or other public purpose; (b) the materials to be dredged meet the water quality requirements of the San Francisco Regional Water Quality Control Board; and (c) important fisheries and Bay natural resources will be protected. In addition, the disposal of dredged materials should be encouraged in non-tidal areas where the materials can be used beneficially, or in the ocean.

The dredging will occur as follows:

1. **MARAD Access Channel to Suisun Bay Reserve Fleet.** Material from the proposed 2,000-foot-wide access channel will be beneficially reused outside the Commission's jurisdiction. Caltrans will dredge approximately 50,000 cubic yards of mud using a clam shell and backhoe from an approximately 669,600-square-foot area east of the existing access channel.

2. **Main Bridge.** Caltrans will dredge approximately 19,200 cubic yards of mud and 14,500 cubic yards of rock from an approximately 14,200-square-foot area for construction of the main bridge foundations. Approximately 16,000 cubic yards of mud will be disposed at the Carquinez disposal site (SF-9) or other approved aquatic disposal site, while the remaining mud and rock will be disposed of outside BCDC's jurisdiction.

3. **Intake Channel From Suisun Bay to Mean High Water.** Caltrans will dredge approximately 1700-cubic-yards of material from an approximately 24,000-square-foot area from the Mean High Water line into Suisun Bay. Some of this dredged material might

be used to cap certain portions of the mitigation site and the rest will be disposed outside BCDC's jurisdiction

Caltrans proposes to dredge a total of 93,600 cubic yards of material over an approximately 787,800-square-foot area to construct the new bridge foundations, the MARAD access channel and the intake channel to the mitigation site. The new bridge, which is a water-oriented use under the McAteer-Petris Act and the *San Francisco Bay Plan*, is necessary to alleviate existing and projected traffic congestion.

A Sediment Sampling and Analysis Report, dated June 1999, was prepared for the Dredged Material Management Office (DMMO). The dredged material proposed for aquatic disposal has been investigated in accordance with a Sampling and Analysis Plan (SAP) developed with the concurrence of the DMMO. The SAP included analysis of physical, chemical and biological properties in general accordance with the U.S. Army Corps of Engineers and Environmental Protection Agency document "Evaluation of Dredged Material Proposed for Discharge in the Waters of the U.S. – Testing Manual." Caltrans has incorporated all suggestions made by the DMMO to date.

Dredged material from the MARAD Access Channel that is proposed for beneficial reuse (non-aquatic) or inland landfill disposal has been analyzed (Sediment Sampling and Analysis Report dated October 1999) for physical and chemical properties appropriate for the intended final disposition. Mud from the pier 17 location (2,500 CY) and pier 18, NB structure (740 CY) will be tested prior to the mud being disposed outside BCDC's jurisdiction. (The pier 17 location has been tested).

Caltrans has concluded its formal consultation with the USFWS and the NMFS under Section 7 of the Endangered Species Act and has agreed to construct in shallow water habitat only between ~~December 1 through March 31~~ July 1 through October 31 to minimize impacts to the Delta smelt, the Sacramento splittail, the winter-run chinook salmon and the Central valley steelhead.

Special Condition II-F is necessary to ensure that the dredging does not adversely impact Bay-related resources and endangered species and that the dredged material is disposed of at approved locations. Therefore, as conditioned, the Commission finds that the project is consistent with the Bay Plan policies on dredging.

G. Suisun Marsh Protection Plan

The Suisun Marsh Protection Plan, Environment, Policies (1) and (2) state, in part "The diversity of habitats should be preserved and enhanced..." and "[t]he Marsh waterways...[and]...tidal marshes...are critical habitats for marsh-related wildlife and... deserve special protection."

The excavation and dredging of the channel between the Bay and the Union Pacific Railroad tracks and the increased tidal influence on the California Department of Fish and Game property within the primary management area, combined with the mitigation plans for the site just outside of the Suisun Marsh, will serve to enhance habitat for endangered species such as the Salt Marsh Harvest Mouse and Delta Smelt.

The Suisun Marsh Protection Plan, Utilities, Facilities, and Transportation, Policy 1(e) states, in part "New roadways ...should not be constructed in the Suisun Marsh or in adjacent uplands necessary to protect the Marsh except...where such roadways...are necessary...for the operation of water-related industry."

The construction of the Bridge, which is a "water-related use" as defined in the Bay Plan, would have little impact on the Suisun Marsh primary management area. The height of the Bridge would create very limited, and transitory shading under the structure. The impacts that result from the minor shading will be very insignificant and will be mitigated within the confines of the mitigation site. Because the structure is so high, it will not be a barrier to wildlife resources.

The Suisun Marsh Protection Plan, Land Use and Marsh Management, Policy states, in part "Within the primary management area, existing uses should continue and both land and water areas should be protected and managed...."

The excavation and dredging of the channel between the Bay and the Union Pacific Railroad tracks within the primary management area will increase tidal flows to areas of the marsh, including the California Department of Fish and Game property and the outer marsh. The channel excavation will serve to enhance and protect the health of the existing marshland through beneficial tidal exchange.

Therefore, as conditioned, the Commission finds that the project is consistent with the Suisun Marsh Protection Plan.

H. **Review Boards.**

1. **Engineering Criteria Review Board.** The Commission's Engineering Criteria Review Board (ECRB) evaluated the proposed engineering criteria for the project on August 27, 1997, and concluded that Caltrans' design criteria for seismic safety were adequate.

2. **Design Review Board.** The Commission's Design Review Board evaluated the proposed project on three occasions, including October 6, 1997, March 8, 1999 and June 7, 1999. The Board's reviews focused on design and appearance; lighting on the new and existing bridges; access to and locations of vista points; and railing design. The key conclusions that came out of these reviews included: the final bridge design was worked out to the Board's satisfaction; lighting on the new bridge will match fairly closely with the existing bridge in terms of spacing and appearance; a new vehicle access road, complete with pedestrian/bicycle pathway, will be constructed between Park Road and the existing vista point; and the railing on either side of the bridge's new pedestrian pathway will be no more than 54 inches in height and the final design will be reviewed with Commission staff prior to finalizing.

I. **Environmental Review**. A Location Hydraulic Study, which evaluates potential flooding conditions associated with the existing freeways and adjacent properties in the project area, was prepared by Caltrans for this project. In addition, a Final Environmental Impact Statement/ Environmental Impact Report was prepared by Caltrans and approved in August 1997.

The Dredged Material Management Office (DMMO) has given recommendations with regard to the proposed in Bay disposal to Caltrans in December 1999. Dredged material will be disposed of in accordance with direction received from the DMMO.

Caltrans has received a Water Quality Certification for the project from the Regional Water Quality Control Board. Under the guidance of the Regional Water Quality Control Board, Caltrans is working with the Regional Board in addressing the TCE issue.

J. **Public Trust.** The approximately 11.57 acres of suspended, solid and pile-supported fill for the bridge is for a water-oriented use and to improve public access as defined by Section 66605 of the McAteer-Petris Act. Fill for water-oriented uses and public access is consistent with the public trust. Thus, the Commission finds that the fill is consistent with the public trust.

K. **Conclusion.** For all of the above reasons, the benefits of the proposed project clearly exceed the detriment of the loss of water areas and the project will provide the maximum feasible public access to the Bay and its shoreline. Therefore, the project is consistent with the *San Francisco Bay Plan*, the McAteer-Petris Act, the Suisun Marsh Protection Plan, the Commission's Regulations, and the Commission's amended management program for the San Francisco Bay segment of the California coastal zone.

IV. Standard Conditions

A. 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 and/or county in which the work is to be performed, whenever any of these may be required. This amended permit does not relieve the permittee of any obligations imposed by State or Federal law, either statutory or otherwise.

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

C. Work must be performed in the precise manner and at the precise locations indicated in your applications as such may have been modified by the terms of the amended permit and any plans approved in writing by or on behalf of the Commission.

D. Work must be performed in a manner so as to minimize muddying of waters, and if diking is involved, dikes shall be waterproof. If any seepage returns to the Bay, the permittee will be subject to the regulations of the Regional Water Quality Control Board in that region.

E. The rights, duties, and obligations contained in this amended permit are assignable. When the permittee transfer any interest in any property either on which the authorized activity will occur or which is necessary to the full compliance of one or more conditions to this amended permit, the permittee/transferor and the transferee shall execute and submit to the Commission a permit assignment form acceptable to the Executive Director. An assignment shall not be effective until the assignee executes and the Executive Director receives an acknowledgment that the assignee has read and understands the amended permit and agrees to be bound by the terms and conditions of the amended permit, and the assignee is accepted by the Executive Director as being reasonably capable of complying with the terms and conditions of the amended permit.

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

G. Unless otherwise provided in this amended permit, the terms and conditions of this amended permit shall bind all future owners and future possessors of any legal interest in the land and shall run with the land.

H. Unless otherwise provided in this amended permit, any work authorized herein shall be completed within the time limits specified in this amended permit, or if no time limits are specified in the amended permit, within six years. If the work is not completed by the date specified in the amended permit, or if no date is specified, within three years from the date of the amended permit, the amended permit shall become null and void. If an amended permit becomes null and void for a failure to comply with these time limitations, any fill placed in reliance on this amended permit shall be removed by the permittee or its assignee upon receiving written notification by or on behalf of the Commission to remove the fill.

I. Except as otherwise noted, violation of any of the terms of this amended permit shall be grounds for revocation. The Commission may revoke any amended permit for such violation after a public hearing held on reasonable notice to Caltrans or its assignee if the amended permit has been effectively assigned. If the amended permit is revoked, the Commission may determine, if it deems appropriate, that all or part of any fill or structure placed pursuant to this amended permit shall be removed by Caltrans or its assignee if the amended permit has been assigned.

J. This amended permit shall not take effect unless the permittee executes the original of this amended permit and returns it to the Commission within ten days after the date of the issuance of the amended permit. No work shall be done until the acknowledgment is duly executed and returned to the Commission.

K. 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 amended 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 amended permit.

L. 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 amended permit, subject to tidal action shall become subject to the Commission's "bay" jurisdiction.

M. Unless the Commission directs otherwise, this amended permit shall become null and void if any term, standard condition, or special condition of this amended permit shall be found illegal or unenforceable through the application of statute, administrative ruling, or court determination. If this amended permit becomes null and void, any fill or structures placed in reliance on this amended permit shall be subject to removal by the permittee, or its assignee if the amended 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.

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

WT/DL/ra

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, W-3-3
Contra Costa Transportation Authority
Solano County Transportation Authority
City of Benicia Planning Department
City of Martinez Planning Department

* *

Receipt acknowledged, contents understood and agreed to:

Executed at OAKLAND, CA

On MARCH 6, 2001

CALTRANS DISTRICT 4
Permittee

By:

CHIEF DEPUTY
Title