

MINUTE ITEM
This Calendar Item No. C26
was approved as Minute Item
No. 26 by the State Lands
Commission by a vote of 3
to 0 at its 11-9-93
meeting.

CALENDAR ITEM

C26

A 6, 16
S 3, 9

11/09/93
W 25019
J. Smith
PRC 7725

DREDGING LEASE

APPLICANT:

East Bay Municipal Utility District
P.O. Box 24055
Oakland, CA 94623-1055

AREA, TYPE LAND AND LOCATION:

Granted mineral reservation lands at the Oakland Inner Harbor Channel, Alameda County.

LAND USE:

Dredge a maximum 3,400 cubic yards of material for construction of a discharge pipeline to convey treated effluent from the San Antonio Creek Wet Weather Treatment Plant to Oakland Inner Harbor. Disposal of the dredged material will be at an approved upland disposal site.

Authorization for placement of the pipeline is not required because it will be located on granted lands.

PROPOSED LEASE TERMS:

Lease Period:

November 9, 1993 through December 31, 1996.

Royalty:

A royalty of \$0.25 per cubic yard shall be charged for dredged material placed at the approved upland disposal site, as authorized. A minimum of \$0.25 per cubic yard shall be charged for material used for private benefit or commercial sale purposes.

PREREQUISITE CONDITIONS, FEES AND EXPENSES:

Filing and process fees have been received.

STATUTORY AND OTHER REFERENCES:

A. P.R.C.: Div. 6, Parts 1 and 2; Div. 13.

B. Cal. Code Regs.: Title 3, Div. 3; Title 14, Div. 6.

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AB 884:

1/26/94

OTHER PERTINENT INFORMATION:

1. This activity involves lands identified as possessing significant environmental values pursuant to P.R.C. 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.
2. A Negative Declaration was prepared and adopted for the pipeline project by the applicant (Negative Declaration for the San Antonio Creek Wet Weather Treatment Plant, SCH 92013017). Staff review of the document indicates that dredging of material to accommodate the proposed discharge pipeline is not discussed.
3. The San Francisco Bay Conservation and Development Commission (SFBCDC), a "functional equivalent agency" under Section 21080.5 of the CEQA has:
 - a. considered the project described herein; and
 - b. found that the project as proposed will not have a significant effect on the environment.

Under Section 1525.2 of the CEQA Guidelines, the State Lands Commission may use the environmental analysis made by the SFBCDC in its consideration of this project.

Authority: Sections 21083 and 21087 of the CEQA.

APPROVALS OBTAINED:

United States Army Corps of Engineers, SFBCDC, Regional Water Quality Control Board, Bay Area Air Quality Management District, Port of Oakland and City of Oakland.

FURTHER APPROVALS REQUIRED:

State Lands Commission.

EXHIBITS:

- A. Location and Site Map
- B. SFBCDC Permit M92-44

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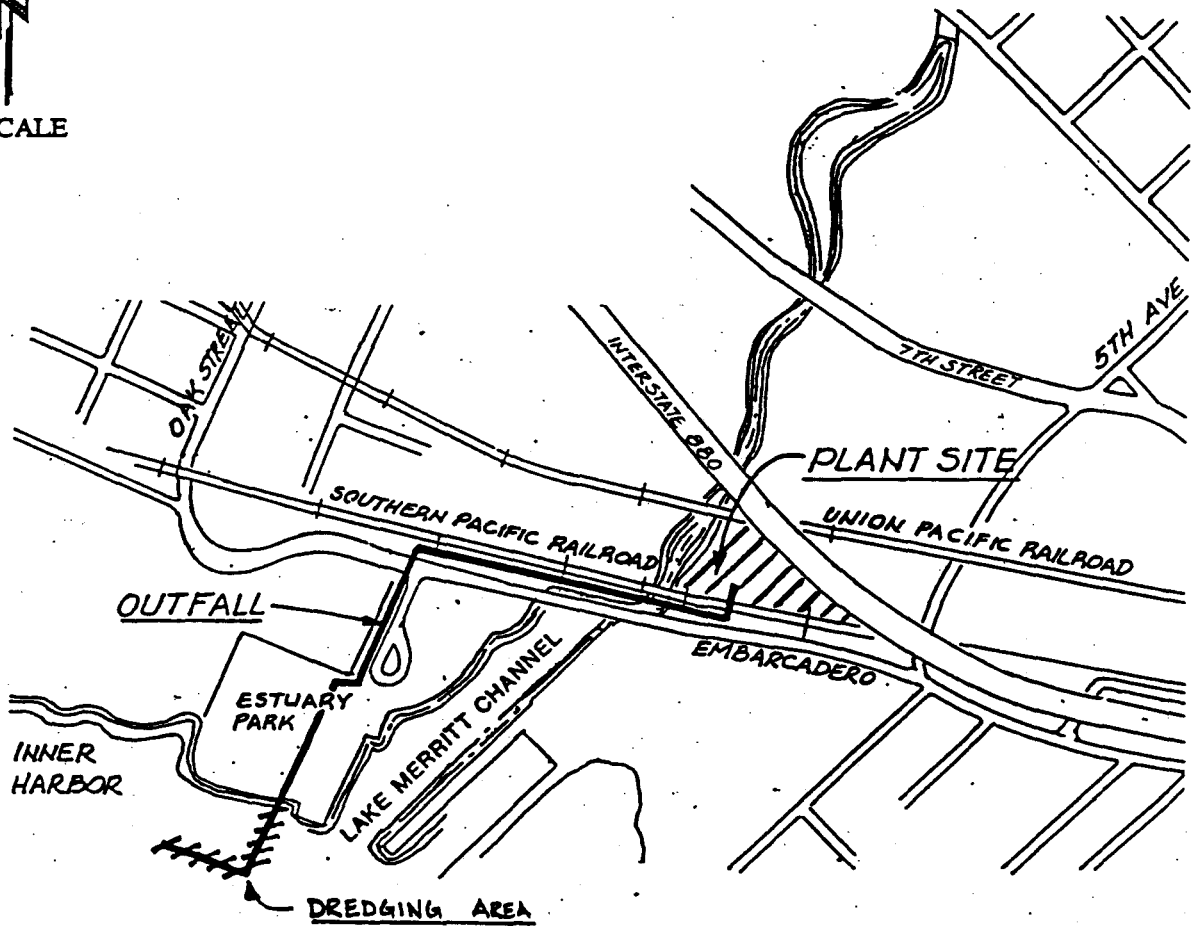
IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE SFBCDC, A FUNCTIONAL EQUIVALENT AGENCY UNDER SECTION 21080.5 OF THE CEQA, THROUGH ITS ISSUANCE OF PERMIT NUMBER M92-44, HAS CONSIDERED THE PROPOSED PROJECT AND DETERMINED THAT THE PROJECT, AS PROPOSED, WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT.
2. FIND THAT THE COMMISSION HAS CONSIDERED THE INFORMATION CONTAINED IN THE ENVIRONMENTAL ANALYSIS PREPARED BY THE SFBCDC AND CONCURS WITH THE CONCLUSIONS AND FINDINGS CONTAINED THEREIN, 14 CAL CODE REGS., SECTION 15253.
3. FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED FOR THE LAND PURSUANT TO P.R.C. 6370, ET SEQ.
4. AUTHORIZE ISSUANCE OF A DREDGING LEASE TO THE EAST BAY MUNICIPAL UTILITY DISTRICT EFFECTIVE NOVEMBER 9, 1993 THROUGH DECEMBER 31, 1996. SAID LEASE SHALL ALLOW DREDGING A MAXIMUM VOLUME OF 3,400 CUBIC YARDS OF MATERIAL FROM GRANTED MINERAL RESERVATION LANDS AT THE OAKLAND INNER HARBOR, ALAMEDA COUNTY. DISPOSAL OF THE DREDGED MATERIAL WILL BE AT AN APPROVED UPLAND DISPOSAL SITE, AS AUTHORIZED. SUCH PERMITTED ACTIVITY IS CONTINGENT UPON APPLICANT'S COMPLIANCE WITH APPLICABLE PERMITS, RECOMMENDATIONS, OR LIMITATIONS ISSUED BY FEDERAL, STATE, AND LOCAL GOVERNMENT AGENCIES.

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NO SCALE



LOCATION MAP

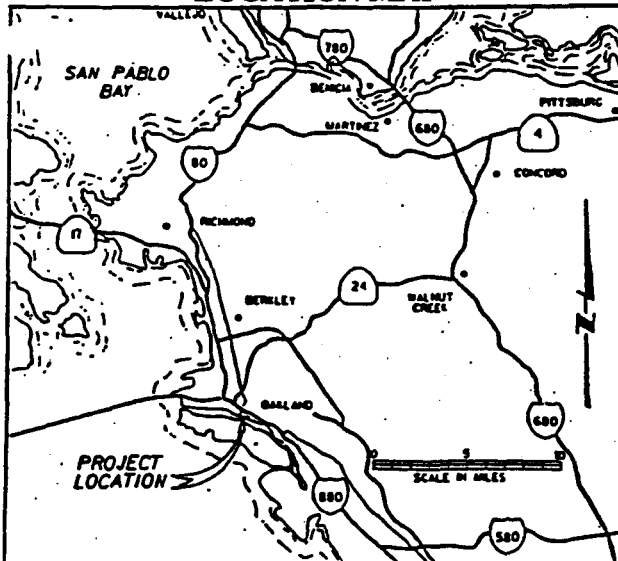


EXHIBIT "A"
 W 25019
 EAST BAY M.U.D.
 Dredging Lease
 ALAMEDA COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

THIRTY VAN NESS AVENUE, SUITE 2011
SAN FRANCISCO, CA 94102-6080
PHONE: (415) 557-3686

Permittees' Copy



PERMIT NO. M92-44

July 30, 1993

East Bay Municipal Utility District
P.O. Box 24055
Oakland, California 94623-1055

ATTENTION: Walter J. Bishop,
Chief Engineer

AND

Port of Oakland
P.O. Box 2064
Oakland, California 94623-1055

ATTENTION: J.L. Lambert,
Director of Engineering

Gentlemen:

I. Authorization

A. Subject to the conditions stated below, the permittees, the East Bay Municipal Utility District and the Port of Oakland, are hereby authorized to do the following:

Location: In the Bay and within the 100-foot shoreline band, along the Lake Merritt Channel at the Embarcadero, in the City of Oakland, Alameda County.

Description: Install a wet weather treatment plant by: (1) constructing portions of a control building, pump station, grit/screen basin, service road, and landscaping covering approximately 15,200 square feet of the shoreline band; (2) installing a 54-inch-diameter discharge pipeline, of which approximately 2,650 square feet would be within the shoreline band, approximately 2,540 square feet would be

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pile-supported over Lake Merritt Channel, and approximately 2,733 square feet would cover the Bay bottom; and (4) dredging approximately 3,400 cubic yards of material and disposing of the dredged material within the shoreline band or outside of the Commission's jurisdiction.

B. This authority is generally pursuant to and limited by your application dated August 3, 1992 including all accompanying and subsequent exhibits and all conditions of this permit.

C. Work authorized herein must commence prior to December 31, 1994, or this permit will lapse and become null and void. Such work must also be diligently pursued to completion and must be completed within two years of commencement, or by December 31, 1996, 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. Plan Review. No work whatsoever shall be commenced pursuant to this authorization until final precise site, grading, architectural, public access, 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, Architectural, and Landscaping Plans. Site, architectural, and landscaping plans shall include and clearly label the line of highest tidal action, the line 100 feet inland of the line of highest tidal action, 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,

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parking, signs, lighting, fences, paths, trash containers, utilities and other proposed improvements.

- 2. Plan Submittal. 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 line of highest tidal action, property lines, and the line 100-feet inland of the line of highest tidal action, 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 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;
 - 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

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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, landscaping, parking area, 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 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.

B. Public Access

- 1. Area. The approximately 7,600-square-foot area, along approximately 220-lineal 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, fishing, picnicking, 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.
- 2. Permanent Guarantee. Prior to the commencement of any grading or construction activity, the permittees shall, by instrument or instruments acceptable to counsel for the Commission, dedicate to a public agency or otherwise permanently guarantee such rights for the public to the new approximately 7,600-square-foot public access areas to the extent the permittees are legally able to do so. 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 any structures authorized herein. Such instrument shall be in a form that meets recordation requirements of Alameda County and shall include a

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legal description of the property being restricted and a map that clearly shows and labels the line of highest tidal action, 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 shall occur within 30 days after submittal for approval and shall be based on the following:

- a. Sufficiency of the instrument 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 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 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.
3. Recordation of the Instrument. Within 30 days after approval of the instrument, the permittees shall record the instrument and shall provide evidence of recording to the Commission. No changes shall be made to the instrument after approval without the express written consent by or on behalf of the Commission.
 4. Maintenance. The areas within the approximately 7,600-square-foot area shall be permanently maintained by and at the expense of, the permittees or their assignees. Within 30 days after notification by staff, the permittees shall correct any maintenance deficiency noted in a staff inspection of the site.
 5. 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

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acceptable to counsel for the Commission, to be bound by all terms and conditions of this permit.

- 6. Future Improvements. The permittees shall fully cooperate with the City of Oakland and/or any other public agency that may wish to install, at an appropriate time when future connections are made to adjoining public access areas, public access improvements within the approximately 7,600-square-foot public access area required pursuant to Special Condition II.B.1.
- 7. Landscaping. Prior to the use of any improvements authorized herein, the permittees shall landscape the wet weather treatment facilities with appropriate plant materials to screen the facilities from the approximately 7,600-square-foot public access area required pursuant to Special Condition II.B.1. Such landscaping shall be permanently maintained by the permittees and shall be approved by or on behalf of the Commission pursuant to Special Condition II.A.
- 8. Improvements Within Estuary Park. Prior to the use of any improvements authorized herein, the permittees shall restore all disturbed construction areas within Estuary Park, including landscaping, pathways, benches and other park facilities, to their original condition. Furthermore, the permittees shall provide the following new improvements within Estuary Park:
 - a. Restore portions of an existing parking lot by repaving and more efficiently restriping an approximately 13,000-square-foot area, thereby maintaining the same number of parking spaces that would be available to the public;
 - b. Restore existing planter areas around the parking lot by installing approximately 15,900 square feet of irrigated landscaping;
 - c. Restore an existing landscaped area between the parking lot and the picnic pavillion by installing approximately 17,000 square feet of irrigated landscaping;
 - d. Install new entry pergolas and park signage along the Embarcadero entrance;

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- e. Regrade and level with imported fill an approximately 70,000-square-foot playing field to provide proper drainage and to prepare the field for seeding.

Such improvements shall be approved by or on behalf of the Commission pursuant to Special Condition II.A.

D. Dredging Requirements

1. Water Quality Certification. Prior to the commencement of any dredging episode authorized herein, the permittees shall obtain a 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. 30-Month Permit for Dredging. The approximately 3,400 cubic yards or less of new dredging (excavation) authorized herein shall be completed within 30 months of the date of issuance of this permit. No further dredging is authorized by this permit.
3. Dredging Disposal. Prior to the disposal of any dredge material within the Commission's 100-foot shoreline band, the permittees shall submit to the Commission a report which contains the following:
 - a. A vicinity map showing the location of the disposal site in relation to the Bay and 100-foot shoreline band;
 - b. A detailed site plan showing the precise location of all areas in which dredge spoils would be disposed including existing and proposed topography; and
 - c. The calculated volume of the actual material to be disposed.

The dredge disposal plan shall be approved by or on behalf of the Commission pursuant to Special Condition II.A.

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5. Timing. To protect important fisheries or migrating anadromous fish species, no dredging shall occur pursuant to this permit between December 1 and March 1 of any year during the duration of this permit unless written approval of dredging during this period is provided by or on behalf of the Commission prior to the commencement of the dredging. Prior to such approval, the Commission or its staff shall consult with representatives of the California Department of Fish and Game, the U. S. Fish and Wildlife Service, and the National Marine Fisheries Service.

E. Debris Removal. All construction debris shall be removed 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, 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.

F. 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.

G. 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 its expense. Furthermore, all construction operations shall be phased in manner that minimizes closures to Estuary Park.

H. Recording. The applicant shall record this document or a notice specifically referring to 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.

III. Findings and Declarations

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

A. Minor Repair or Improvement. The project authorized by this permit involves the construction of a wet weather treatment plant and 54-inch discharge pipeline to treat raw sewage overflows, which is the placement of small amounts of inert inorganic fill, the extraction of

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materials, or a substantial change in use that does not have a significant adverse effect on present or possible future maximum feasible public access to the Bay consistent with the project, and on present or possible future use for a designated priority water-related use, and on the environment, as defined in Regulation Section 10601(b)(1), and the placement of outfall pipes approved by the California Regional Water Quality Control Board, as defined in Regulation Section 10601(a)(5), and thus is 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. Priority Land Use Area Designation. As originally proposed, the wet weather treatment plant was to be located within a port priority land use area, as designated in the San Francisco Bay Plan and Resolution No. 16. Because the wet weather treatment plant would not be consistent with the priority land use area designation, the permittees requested Bay Plan Amendment 1-93 to delete the port priority land use area designation from the project site and add the port priority land use area designation to an adjacent and similarly sized parcel. On May 20, 1993, the Commission adopted Resolution No. 93-8; thereby, approving the permittees' Bay Plan amendment request and resolving the project's inconsistency with the port priority land use area designation.

The permittees also propose to place portions of the discharge pipeline associated with the wet weather treatment plant within a park priority land use area, Estuary Park, as designated in the San Francisco Bay Plan and Resolution No. 16. The discharge pipeline and manholes would be placed below grade and would not permanently preclude the public's use of any park area within the Commission's 100-foot shoreline band. To ensure the installation of the outfall pipe does not adversely impact the use of the park, Special Condition II.C. requires the permittees to restore all disturbed construction areas within Estuary Park, including landscaping, pathways, benches and other park facilities to their original condition. Therefore, the Commission hereby finds the project would not adversely impact the park priority land use area designation as required by Section 66602 of the McAteer-Petris Act and the San Francisco Bay Plan.

C. Consistency With Federal Coastal Zone Management Act. The project involves the use of federal funds to construct portions of a discharge pipeline and dechlorination facility outside of the Commission's 100-foot shoreline band jurisdiction, but within a park priority land use area that is considered part of the coastal zone. Pursuant to the Federal Coastal Zone Management Act of 1972, federal projects within the coastal zone require a certification of consistency with the Commission's Amended Coastal Zone Management Program for San Francisco Bay.

The permittees propose to place the discharge pipeline below grade and have agreed to restore all disturbed construction areas within Estuary Park, including landscaping, pathways, benches and other park facilities, to

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their original condition. Therefore, construction of the discharge pipeline would not permanently preclude existing or future use of any park area within the coastal zone.

The permittees also propose to place a 750-square-foot dechlorination facility within the park's parking area. While the dechlorination facility would have a negative impact on Estuary Park and the coastal zone by permanently eliminating a 750-square-foot area from park use, the dechlorination facility would also have a positive impact on the park and the coastal zone by treating raw sewage overflows, which currently run untreated into the Bay during periods of wet weather, and improving water quality conditions along Estuary Park; thereby, enhancing recreational boating, swimming, and fishing opportunities.

The permittees have designed the dechlorination facility so that it minimizes the loss of parking spaces, is incidental to the park use, is in keeping with the basic character of the park, and does not obstruct public access to and enjoyment of the Bay. Moreover, the permittees have agreed to provide the following improvements within Estuary Park prior to the use of any facilities authorized within the Commission's Bay and 100-foot shoreline band jurisdiction:

1. Restore all disturbed construction areas within Estuary Park, including landscaping, pathways, benches and other park facilities, to their original condition;
2. Restore portions of an existing parking lot by repaving and more efficiently restriping an approximately 13,000-square-foot area, thereby maintaining the same number of parking spaces that would be available to the public;
3. Restore existing planter areas around the parking lot by installing approximately 15,900 square feet of irrigated landscaping;
4. Restore an existing landscaped area between the parking lot and the picnic pavillion by installing approximately 17,000 square feet of irrigated landscaping;
5. Install new entry pergolas and park signage along the Embarcadero entrance; and
6. Regrade and level with imported fill an approximately 70,000-square-foot playing field to provide proper drainage and to prepare the field for seeding.

Based on the installation of the park improvement project, the Commission finds that the outfall pipe and dechlorination facility would not adversely

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impact the use of Estuary Park and that the proposed park improvements would enhance the physical appearance and usefulness of the park priority land use area. The Commission further finds, declares, and certifies that the activity or activities authorized herein are consistent to the maximum extent practical 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. Bay Fill. The project involves installing a 54-inch discharge pipeline within the Bay and the 100-foot shoreline band to discharge treated run-off and sewage. Approximately 2,733 square feet of fill would cover the Bay bottom and 2,540 square feet of fill would be pile-supported over the Lake Merritt Channel. The fill placed on the Bay bottom would be offset by dredging (excavation) a trench to place the pipeline substantially below grade. The Commission finds there is no alternative upland location as the pipeline must discharge into the Bay, the fill is the minimum amount necessary to achieve the project purpose, and the applicant has adequate title to the areas in which fill would be placed as required by Section 66605 of the McAteer-Petris Act.

E. Public Access. The project involves the construction of a new wet weather treatment plant and discharge pipeline within the 100-foot shoreline band along Lake Merritt Channel. The City of Oakland has plans for providing continuous public access along Lake Merritt Channel that would eventually connect to the Port of Oakland and Estuary Park. However, there are significant obstacles, including the need to obtain access over two railroad right-of-ways and under an elevated portion of I-880, that currently precludes the provision of continuous public access along Lake Merritt Channel and more particularly along the project site of the wet weather treatment plant.

If the wet weather treatment plant is not properly set back from the shoreline, it could adversely impact the City's plan for continuous access along Lake Merritt Channel. To ensure that the wet weather treatment plant does not permanently foreclose the opportunity for future public access along Lake Merritt Channel, Special Condition II.B. requires the permittees to reserve an approximately 7,600-square-foot area for public access. The public access corridor would vary in width from approximately 30 to 35 feet. A 30 to 35-foot-width is necessary in this particular location to ensure that, at a minimum, a 12-foot-wide pathway, a 7-1/2-foot setback from the shoreline edge, and a 7-1/2 foot setback from the fence line of the wet weather treatment plant can be provided at a future date. The 7-1/2-foot setback from the shoreline would allow for shoreline erosion without potentially undermining any shoreline path that may be installed in the future and the 7-1/2-foot setback from the fence line would accommodate additional landscaping to screen the wet weather treatment plant from the public access area. Moreover, to ensure that the wet weather treatment plant in fact, does not detract from the shoreline and future public access uses, Special Condition II.B. requires the permittees to install appropriate landscaping to screen the wet weather treatment plant from the new public access area.

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Permanent public access improvements are not being required as part of this project because the issue of safe access over the railroad right-of-ways and under an elevated portion of I-880 has not yet been resolved. At such time the City of Oakland or any other public agency is able to provide continuous access along Lake Merritt Channel, the permittees must fully cooperate with such agencies to add permanent public access improvements.

The Commission hereby finds the project, as conditioned, would provide the maximum feasible public access as required by Section 66602 of the McAteer-Petris Act and the San Francisco Bay Plan.

F. Dredging. The project involves dredging or excavating approximately 3,400 cubic yards of sediment to install a 54-inch discharge pipeline and disposing of the dredged material within the Commission's 100-foot shoreline band jurisdiction or outside of the Commission's jurisdiction. Special Condition II.D. is necessary to ensure the dredging does not adversely impact Bay resources as required by the San Francisco Bay Plan.

G. CEQA. Pursuant to the California Environmental Quality Act, the East Bay Municipal Utility District certified a final Negative Declaration for the project authorized herein on February 25, 1992.

H. Listing. Pursuant to Regulation Section 10620, this project was listed with the Commission on June 4, 1993.

I. Conclusion. For all the reasons above, 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.

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 permit does not relieve the permittees of any obligations imposed by State or Federal law, either statutory or otherwise.

B. 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. 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.

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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 permittees will be subject to the regulations of the Regional Water Quality Control Board in that region.

E. The rights derived from this permit are assignable as provided herein. An assignment shall not be effective until the assignee shall have executed and the Commission shall have received an acknowledgment that the assignee has read and understood the application for this permit and the permit itself and agrees to be bound by the terms and conditions of the permit, and the assignee is accepted by the Executive Director as being reasonably capable of complying with the terms of the permit.

F. 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.

G. 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.

H. Unless otherwise provided in this permit, any work authorized herein shall be completed within the time limits specified in this permit, or, if no time limits are specified in the permit, within three years. If the work is not completed by the date specified in the permit, or, if no date is specified, within three years from the date of the permit, the permit shall become null and void. If a permit becomes null and void for a failure to comply with these time limitations, any fill placed in reliance on this permit shall be removed by the permittees or their assignees 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 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.

J. 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.

K. Any area subject to the jurisdiction of the Conservation and Development Commission under either the

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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.

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 permit, subject to tidal action shall become subject to the Commission's "bay" jurisdiction up to the line of highest tidal action.

M. 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.

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



ALAN R. PENDLETON
Executive Director

Enc.
ARP/JGJ/rr

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: Clyde Morris, W-7-2
City of Oakland, Attn: Tony Acosta
Port of Oakland, Attn: Walter J. Bishop

* * * * *

Receipt acknowledged, contents understood and agreed to:

Executed at East Bay Municipal Utility District 
Applicant

On 17 August 1993 By: Michael J. Hudd

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Receipt acknowledged, contents understood and agreed to:

Executed at Oakland, California Port of Oakland
Applicant

On _____ By: J. L. Lambert *by F.H. Daniels*
Director of Engineering
Title

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