

**CALENDAR ITEM
C47**

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04/23/14
PRC 7985.1
K. Foster

**ADOPTION OF A MITIGATED NEGATIVE DECLARATION AND MITIGATION
MONITORING PROGRAM; APPROVAL OF A LEASE AMENDMENT FOR A
GENERAL LEASE – RIGHT-OF-WAY USE FOR THE REMOVAL OF A
WASTEWATER OUTFALL PIPELINE AND APPURTENANT STRUCTURES;
AND AUTHORIZATION TO ACCEPT A QUITCLAIM DEED FOR AND THE
TERMINATION OF THE LEASE**

APPLICANT/LESSEE:

Hercules LLC
c/o Prologis
Pier 1, Bay 1
San Francisco, CA 94111

LAND TYPE AND LOCATION:

Sovereign land in San Pablo Bay, in the city of Hercules, Contra Costa County.

AUTHORIZED USE:

The operation and maintenance of an 8-inch-diameter, approximately 2000-foot-long treated wastewater industrial outfall pipeline, three 3-foot by 8-foot steel plate pipeline anchors and 3-foot long diffusers.

LEASE TERM:

20 years, beginning September 1, 1997.

CONSIDERATION:

\$7,293 per year, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

PROPOSED LEASE AMENDMENT PROVISIONS:

1. Lessee is authorized to conduct the Hercules LLC/Prologis Pipeline Removal Project (Project), as described in the Mitigated Negative Declaration (MND) and Mitigation Monitoring Program (MMP). The Project anticipates removal of all improvements from the Lease Premises. Should removal of all or any portions of any improvements prove to be

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infeasible, Lessee agrees to promptly enter into an Abandonment Agreement for any such remaining improvements.

2. Lessee shall prepare a post-project written narrative report (Report) confirming Project completion. The Report shall document all removal activities from Project implementation to completion, and shall include a detailed discussion of any significant field changes or other modifications to the approved design or execution plan. The Report shall also provide details of any extraordinary occurrences such as spill incidents, critical operations curtailment, accidents involving serious injury or loss of life, etc. Photos of pipeline removal during construction shall be provided with the report, including detailed photos of shoreline activities (i.e., the pipeline as excavated, cut, and capped, and the restored riprap). Said Report shall be provided to Lessor staff for review and approval within thirty (30) days of Project completion. Lessor staff shall provide written notification to Lessee within thirty (30) days of receipt of said Report whether said Report demonstrates satisfactory clearance of the Lease Premises or if further evidence and/or additional site clearance is required.
3. Lessee shall require its authorized contractor(s) to maintain a logbook during Project operations to keep track of all debris or objects of any kind that fall into the water. The logbook should include the type of debris, date, time, and location to facilitate identification and location of debris for recovery and site clearance verification. All waste material and debris created by Lessee or its authorized contractors shall be promptly and entirely removed from the Lease Premises and lands subject to Lessor's jurisdiction.
4. Following Lessor staff's receipt of said Report and written notification of successful Project completion, the Lease shall terminate upon the execution of a quitclaim deed by Lessee, and the execution and written acceptance of said quitclaim by Lessor staff.

All other terms and conditions of the lease shall remain in effect without amendment.

OTHER PERTINENT INFORMATION:

1. Lessee has the right to use the upland adjoining the lease premises.
2. On August 26, 1997, the Commission authorized the issuance of Lease No. PRC 7985.1, a General Lease - Right of Way Use, to Pacific Refining

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Company for an existing treated wastewater industrial outfall pipeline, steel anchor plates, and diffusers used in conjunction with an upland oil refinery. At the same time, the Commission also authorized the assignment of the Lease from Pacific Refining Company to Hercules LLC, effective upon the sale of the upland property, which occurred in September of 1997.

3. After the associated upland oil refinery was decommissioned and the upland property redeveloped, the wastewater outfall pipeline was taken out of service and capped at its upland terminus. As the pipeline is no longer functional, the Lessee has applied to amend the lease to allow for the removal of the submerged portions of the improvements, and to terminate the lease upon successful Project completion.
4. The Project includes cutting, grouting, and capping the remaining upland portion of the pipeline at the shoreline landward of the lease area, and the cutting and removal in sections of the submerged pipeline, anchor plates, and diffusers. Once all improvements have been removed to Commission staff's satisfaction, the Lease will terminate upon staff acceptance and execution of a quitclaim deed.
5. The Commission is the lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) and conducted an Initial Study to determine if the Project may have a significant effect on the environment (State CEQA Guidelines, § 15063). Although the Initial Study identified several potentially significant impacts to Biological Resources, Hazards and Hazardous Materials, Hydrology and Water Quality, and Transportation/Traffic, mitigation measures were proposed and agreed to by the Applicant prior to public review that would avoid or mitigate the identified potentially significant impacts "to a point where clearly no significant effects would occur" [State CEQA Guidelines, § 15070, subd. (b)(1)]. Consequently, the Initial Study concluded that "there is no substantial evidence, in light of the whole record before the agency, that the Project as revised may have a significant effect on the environment" [State CEQA Guidelines, § 15070, subd. (b)(2)], and a Proposed MND was prepared.

Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15025), the staff prepared a Proposed MND identified as CSLC MND No. 770, State Clearinghouse

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No. 2014032009. The Proposed MND and Initial Study were circulated for a 30-day public review period from March 5, 2014, to April 7, 2014, and staff received one comment letter from Todd Muelhoefer, representing Coscol Petroleum Corporation and Kinder Morgan, Inc., Environmental Remediation Department. The letter indicates that five former Coscol petroleum pipelines are located adjacent to the pipeline proposed to be removed. Pursuant to Coscol's lease (PRC 3414.1), these five pipelines were abandoned in place. Because Coscol is required to maintain the integrity of the abandoned pipelines, and notes that the pipelines share a 25-foot wide common trench, the letter requests clarification of how Project activities will be carried out in a manner that does not disturb or damage the abandoned pipelines. The letter also requests that the Applicant provide reasonable access to the Project site to Coscol representatives in order to monitor the five abandoned pipelines under Coscol's responsibility.

The MND notes the presence of the five abandoned Coscol pipelines in Section 1.5, Project Background and Objectives, and discusses Project pipeline removal methods in Section 2.0, Project Description. Relevant to the commenter's concern are the requirements in the MND that: (1) the offshore portion of the pipeline be secured by divers and lifted slowly to the surface in 50-foot segments to minimize disturbance to the sediment and trench, and (2) the 20-foot segment of pipeline under existing rip-rap to be removed would be excavated with care and then recontoured to continue protecting the abandoned pipelines. In addition, the MND requires the Applicant to prepare for Commission staff approval, prior to Project activities, a Construction Work Plan, which will include the specific methods to ensure safety, communication, and damage prevention. In light of these existing requirements, Commission staff determined that no changes to the MND are necessary, as adequate safeguards addressing the comments are already in the MND.

Based upon the Initial Study, the Proposed MND, and the comments received in response thereto, there is no substantial evidence that the Project will have a significant effect on the environment; California Code of Regulations, Title 14, section 15074, subdivision (b). A Mitigation Monitoring Program was prepared in conformance with the provisions of CEQA (Pub. Resources Code, § 21081.6), and is contained in Exhibit C, attached hereto.

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6. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. 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.

APPROVALS OBTAINED:

None

FURTHER APPROVALS REQUIRED:

San Francisco Bay Conservation and Development Commission
San Francisco Bay Regional Water Quality Control Board
California Department of Fish and Wildlife
California Department of Transportation
United States Army Corps of Engineers

EXHIBITS:

- A. Land Description
- B. Site And Location Map
- C. Mitigation Monitoring Program

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Certify that the Proposed MND, CSLC MND No. 770, State Clearinghouse No. 2014032009, was prepared for this Project pursuant to the provisions of CEQA, that the Commission has reviewed and considered the information contained therein and in the comments received in response thereto and that the Proposed MND reflects the Commission's independent judgment and analysis.

Adopt the Proposed MND and determine that the Project, as approved, will not have a significant effect on the environment.

Adopt the Mitigation Monitoring Program, as contained in Exhibit C, attached hereto.

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SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

1. Authorize an amendment to Lease No. PRC 7985.1, a General Lease - Right-of-Way Use, to Hercules LLC, to allow for the removal of an 8-inch wastewater outfall pipeline and appurtenant structures under the Hercules, LLC/Prologis Pipeline Removal Project; All other terms and conditions of the lease to remain in full force and effect.

2. Authorize staff acceptance of a quitclaim deed and termination of Lease No. PRC 7985.1 upon successful Project completion.

EXHIBIT A

Land Description

PRC 7985.1

Two contiguous parcels of submerged land lying in the bed of San Pablo Bay, situated in the city of Hercules, Contra Costa County, California more particularly described as follows:

PARCEL 1

A strip of land 7.50 feet in width lying 2.50 feet northeasterly and 5.00 feet southwesterly of the center of an 8 inch waste water pipe, said center of pipe described as follows:

COMMENCING at the most northerly corner of Parcel 2 as shown on that Parcel Map MSH-1 on file in the Office of the County Recorder of said County; thence S 4° 00' W, 169.65 feet along the Agreed Boundary Line as shown on said parcel map to the **TRUE POINT OF BEGINNING**; thence N 37° 47' 18" W, 522.22 feet along the center of said waste water pipe to a point designated as Point A for the purposes of this description and the end of said 7.50 foot strip.

PARCEL 2

A strip of land 11.00 feet in width lying 5.50 feet on each side of the center of above mentioned 8 inch waste water pipe, said center of pipe described as follows:

BEGINNING at the above mentioned Point A thence continuing along the center of said 8 inch pipe N 37° 47' 18" W, 1280 feet more or less to the end of said pipe and said strip.

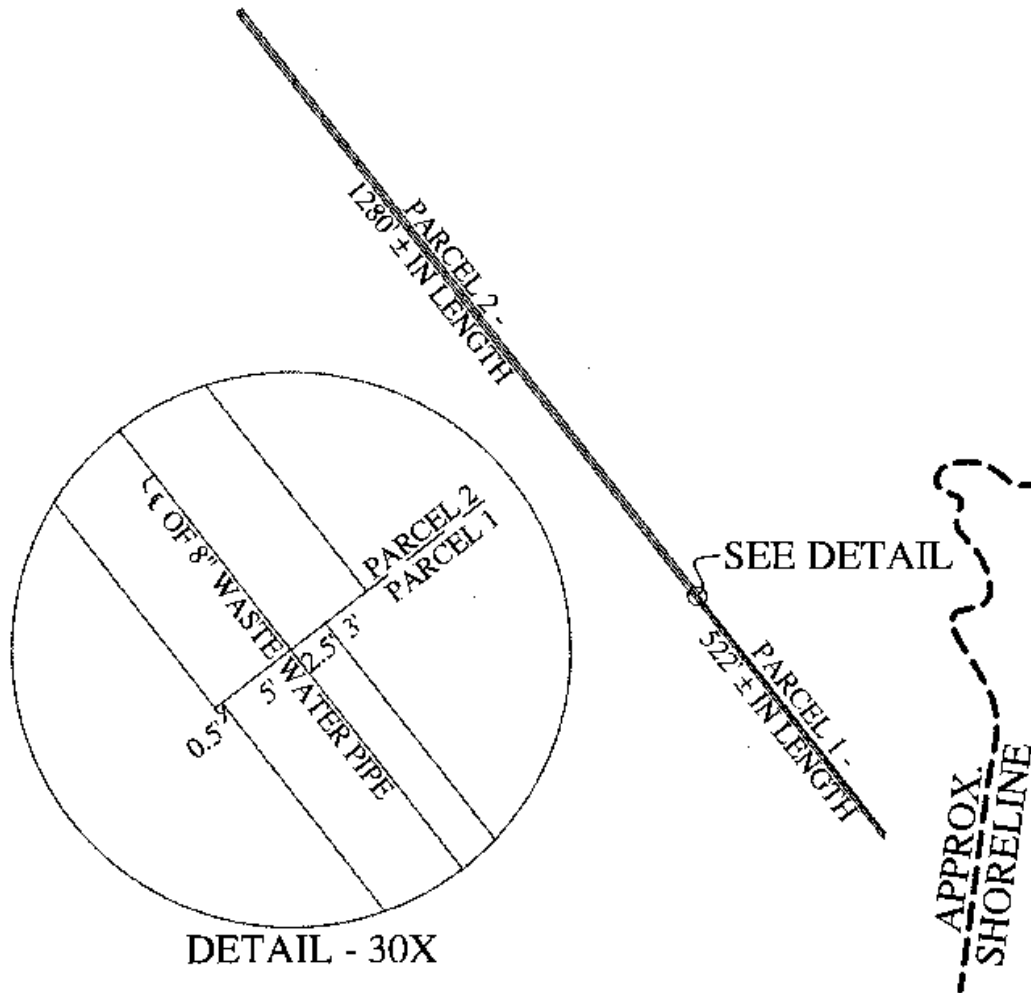
Basis of Bearings of this description is the above mentioned Parcel Map MSH-1.

END OF DESCRIPTION

Prepared by SFBCC Boundary Staff 1997

NO SCALE

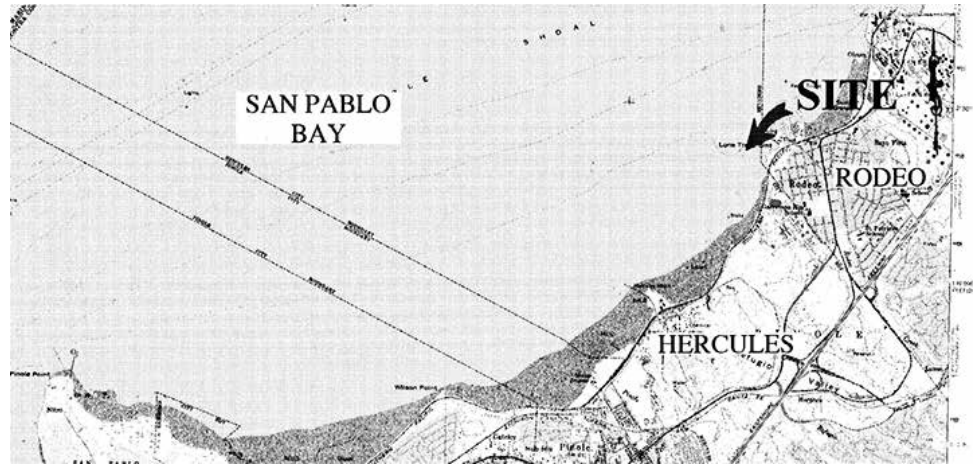
SITE



SAN PABLO BAY, HERCULES

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 7985.1
 HERCULES LLC
 GENERAL LEASE -
 RIGHT-OF-WAY USE
 CONTRA COSTA COUNTY



MJF 7/11/13

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties 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.

EXHIBIT C
CALIFORNIA STATE LANDS COMMISSION
MITIGATION MONITORING PROGRAM
HERCULES, LLC/PROLOGIS PIPELINE REMOVAL PROJECT
(State Clearinghouse No.2014032009)

The California State Lands Commission (CSLC) is the lead agency under the California Environmental Quality Act (CEQA) for the Hercules LLC/Prologis Pipeline Removal Project (Project). In conjunction with approval of this Project, the CSLC adopts this Mitigation Monitoring Program (MMP) for implementation of mitigation measures (MMs) for the Project to comply with Public Resources Code section 21081.6, subdivision (a) and State CEQA Guidelines sections 15091, subdivision (d) and 15097.

The Project authorizes Hercules LLC/Prologis (Applicant) to remove, grout, and abandon in place the pipeline in accordance with the terms and conditions of its existing CSLC Lease No. PRC 7985.1.

PURPOSE

It is important that significant impacts from the Project are mitigated to the maximum extent feasible. The purpose of a MMP is to ensure compliance and implementation of MMs; this MMP shall be used as a working guide for implementation, monitoring, and reporting for the Project's MMs.

ENFORCEMENT AND COMPLIANCE

The CSLC is responsible for enforcing this MMP. The Project Applicant is responsible for the successful implementation of and compliance with the MMs identified in this MMP. This includes all field personnel and contractors working for the Applicant.

MITIGATION COMPLIANCE RESPONSIBILITY

Hercules LLC/Prologis (Applicant) is responsible for successfully implementing all the MMs in the MMP, and is responsible for assuring that these requirements are met by all of its construction contractors and field personnel. Standards for successful mitigation also are implicit in many mitigation measures that include such requirements as obtaining permits or avoiding a specific impact entirely. Additional MMs may be imposed by applicable agencies with jurisdiction through their respective permit processes.

MONITORING

The CSLC staff may delegate duties and responsibilities for monitoring to other environmental monitors or consultants as necessary. Some monitoring responsibilities may be assumed by other agencies, such as affected jurisdictions, cities, and/or the

California Department of Fish and Wildlife (CDFW). The CSLC and/or its designee shall ensure that qualified environmental monitors are assigned to the Project.

Environmental Monitors. To ensure implementation and success of the MMs, an environmental monitor must be on site during all Project activities that have the potential to create significant environmental impacts or impacts for which mitigation is required. Along with the CSLC staff, the environmental monitor(s) are responsible for:

- Ensuring that the Applicant has obtained all applicable agency reviews and approvals;
- Coordinating with the Applicant to integrate the mitigation monitoring procedures during Project implementation (for this Project, many of the monitoring procedures shall be conducted during the deconstruction phase); and
- Ensuring that the MMP is followed.

The environmental monitor shall immediately report any deviation from the procedures identified in this MMP to the CSLC staff or its designee. The CSLC staff or its designee shall approve any deviation and its correction.

Workforce Personnel. Implementation of the MMP requires the full cooperation of Project personnel and supervisors. Many of the MMs require action from site supervisors and their crews. The following actions shall be taken to ensure successful implementation.

- Relevant mitigation procedures shall be written into contracts between the Applicant and any contractors.

General Reporting Procedures. A monitoring record form shall be submitted to the Applicant, and once the Project is complete, a compilation of all the logs shall be submitted to the CSLC staff. The CSLC staff or its designated environmental monitor shall develop a checklist to track all procedures required for each MM and shall ensure that the timing specified for the procedures is followed. The environmental monitor shall note any issues that may occur and take appropriate action to resolve them.

Public Access to Records. Records and reports are open to the public and would be provided upon request.

MITIGATION MONITORING TABLE

This section presents the Mitigation Monitoring Table (Table 5-1) for the following environmental disciplines: Biological Resources, Hazards and Hazardous Materials, Hydrology and Water Quality, and Transportation/Traffic. All other environmental

disciplines were found to have less than significant or no impacts and are therefore not included below. The table lists the following information, by column:

- Impact (impact number and title);
- Mitigation measure (full text of the measure);
- Location (where impact occurs and mitigation measure should be applied);
- Monitoring/reporting action (action to be taken by monitor or Lead Agency);
- Timing (before, during, or after construction; during operation, etc.);
- Responsible agency; and
- Effectiveness criteria (how the agency can know if the measure is effective).

Table C-1. Mitigation Monitoring Program

| Potential Impact | Mitigation Measure (MM) | Location | Monitoring / Reporting Action | Timing | Responsible Party | Effectiveness Criteria |
|---|--|----------------------|--|--------------------------------------|--|--|
| Biological Resources | | | | | | |
| BIO-1: Bottom sediment disturbance from removing submerged materials | MM BIO-1. Minimize Sediment Resuspension During Removal Activities. Divers shall be used to affix straps to the pipeline (no jetting or mechanical disturbance of the sediments shall be used) to minimize sediment resuspension. Spuds shall be used on the barge to minimize anchoring and the pipeline shall be raised slowly to the barge in order to minimize disturbance to the surrounding sediments. For the onshore work, where feasible, personnel and materials shall be transported to the barge by means of a gangway from the shore to limit use of support vessels and minimize disturbance to bottom sediments. | Offshore and onshore | Observe activities for compliance | During pipeline removal | Hercules LLC/Prologis (Applicant), and contractors | Sediment resuspension is minimized |
| BIO-2: Effects on sensitive species | MM BIO-2. Environmental Work Window. All in- water work shall be performed between June 1 and October 31 to minimize effects on | Offshore | Compliance with permit timing conditions | Prior to and during pipeline removal | Applicant, and contractors | In-water work is performed between June 1 and October 31 |

Table C-1. Mitigation Monitoring Program

| Potential Impact | Mitigation Measure (MM) | Location | Monitoring / Reporting Action | Timing | Responsible Party | Effectiveness Criteria |
|---|---|----------------------|-------------------------------|--------------------------------------|----------------------------|--------------------------------|
| | sensitive species. | | | | | |
| Hazards and Hazardous Materials | | | | | | |
| HAZ-1: Possible accidental releases of petroleum and/or non-petroleum products | MM HAZ-1. Oil Spill Prevention and Response Plan (OSPRP)/Grout Management Plan (GMP). The Applicant shall develop and submit to California State Lands Commission staff for review and approval an OSPRP/GMP that addresses accidental releases of petroleum and/or non-petroleum products (including grout) during Project operations. The OSPRP/GMP shall include the following information: <ul style="list-style-type: none"> • Specific steps to be taken in the event of a spill, including notification names, phone numbers, and locations of: (1) nearby emergency medical facilities, and (2) wildlife rescue/response organizations (e.g., Oiled Wildlife Care Network); | Offshore and onshore | Compliance with OSPRP/ GMP | Prior to and during pipeline removal | Applicant, and contractors | Prevent oil spill, grout spill |
| | | | Review and approve the Plan | Prior to pipeline removal | CSLC | |

Table C-1. Mitigation Monitoring Program

| Potential Impact | Mitigation Measure (MM) | Location | Monitoring / Reporting Action | Timing | Responsible Party | Effectiveness Criteria |
|---|---|----------------------|---|--------------------------------------|----------------------------|--|
| | <ul style="list-style-type: none"> Description of crew training and equipment testing procedures; and Description, quantities and location of spill response equipment onboard the vessel. | | | | | |
| HAZ-2: Possible risk of spills from vessel fueling | MM HAZ-2. Approved Vessel Fueling Guidelines. Vessel fueling shall only occur at an approved docking facility. No cross vessel fueling shall be allowed. | Offshore and onshore | Implement measure and observe activities for compliance | During pipeline removal | Applicant, and contractors | Reduce risk of spills |
| HAZ-3: Possible risk of spills into the water | MM HAZ-3. Onboard Spill Response Equipment. Onboard spill response equipment and supplies shall be sufficient to contain and recover the worst-case scenario spill of petroleum and/or non-petroleum products as outlined in the Oil Spill Prevention and Response Plan (OSPRP). | Offshore and onshore | Prepare inventory and observe activities for compliance | Prior to and during pipeline removal | Applicant, and contractors | Reduce release of toxic materials into the water |
| Hydrology and Water Quality | | | | | | |
| HYD-1: Possible water quality impacts | MM BIO-1. Minimize Sediment Resuspension During Removal Activities. Possible water quality impacts, from sediment resuspension, would be minimized by implementing MM BIO-1 above . | | | | | |

Table C-1. Mitigation Monitoring Program

| Potential Impact | Mitigation Measure (MM) | Location | Monitoring / Reporting Action | Timing | Responsible Party | Effectiveness Criteria |
|---|---|-----------------|---|---------------------------|----------------------------|----------------------------------|
| from sediment resuspension | | | | | | |
| Transportation/Traffic | | | | | | |
| TRA-1: Potential navigation hazard | MM TRA-1. U.S. Coast Guard (USCG) Notification. Two (2) weeks prior to commencing Project activities in the Bay, the Applicant shall notify the USCG of the start date so that the USCG can issue a notice to mariners alerting other marine vessel operators to the potential navigation hazard posed by the Project's marine equipment and personnel. | Contractor base | Compliance with notification guidelines | Prior to pipeline removal | Applicant, and contractors | Reduce risk of navigation hazard |