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Staff :	SLB - SF
Staff Report:	March 21, 2002
Hearing Date:	April 11, 2002

STAFF REPORT: REGULAR CALENDAR

APPLICATION FILE NO.: **2-01-027**

APPLICANTS: **City of San Francisco**

PROJECT DESCRIPTION: **Repair and revegetate three eroded sections of Lake Merced's western embankment, jogging path/pedestrian walkway totaling 5,600 square feet in area, and install a drainage system.**

PROJECT LOCATION: APN: 044-7283-01
San Francisco City and County
(Exhibit 1, Regional Map)

LOCAL APPROVALS: Class 1 Categorical Exemption

SUBSTANTIVE FILE DOCUMENTS: See Appendix A.

1.0 EXECUTIVE SUMMARY

The San Francisco Public Works Department proposes to repair and revegetate three eroded sections of Lake Merced's western embankment totaling 5,600 square feet in area, repair the adjacent jogging path/pedestrian walkway as needed, and install a drainage system. This will be achieved by: (1) excavating temporary fill that was placed in the eroded areas under Emergency Permit 2-01-006-G; (2) in the largest eroded area, constructing a drainage system to prevent stormwater overflows from continually eroding the embankment; (3) restoring all three areas of the eroded embankment to its natural contour by placing a total of 1,000 cubic yards of sand fill; (4) reconstructing adjacent jogging path/pedestrian walkway with gravel and asphalt; and (5) replanting the embankment with locally obtained willow cuttings. Commission staff recommends approval of the permit application with conditions to avoid significant adverse impacts related to environmentally sensitive habitat areas and polluted runoff.

STAFF NOTE

The proposed project is located on the embankment of Lake Merced in the City and County of San Francisco (Exhibit 2, Project Location Map). Although the City and County of San Francisco have a certified LCP, the project site is located on filled public trust lands over which the State retains a public trust interest. Therefore, pursuant to Section 30519 of the Coastal Act, the Commission maintains development review authority. The standard of review that the Commission must apply to the project is the Chapter 3 policies of the Coastal Act. The policies of the City and County of San Francisco LCP serve as guidance only and are not the standard of review for this project.

2.0 STAFF RECOMMENDATION

The staff recommends that the Commission approve Coastal Development Permit No. 2-01-027 subject to the conditions in Sections 2.1 and 2.2 below.

Motion:

I move that the Commission approve Coastal Development Permit No. 2-01-027 pursuant to the staff recommendation.

Staff Recommendation of Approval:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Approve the Permit:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

2.1 Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.

4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

2.2 Special Conditions

1. Nesting Birds
   If construction occurs during the nesting season (February 15 – August 31), a qualified biologist shall survey the area within 250 feet of the construction areas at Locations 1, 2, and 3, no more than 14 days prior to the commencement of work. If any active nest is discovered, a 100-foot construction-free buffer zone shall be established around the nest. In the case that an active hawk, owl, heron, or egret nest is discovered, the distance shall be increased to 250 feet. No development shall occur within the buffer zone of any active nest until the young have fledged.

2. California Red-Legged Frog
   Prior to commencement of construction, the applicant shall construct a four-foot high plywood exclusion fence around the outer limit of the construction area at Location 3 to prevent California red-legged frogs from entering the construction area.

   Two days prior to construction of the exclusion fence, the applicant shall survey the construction area at Location 3 for California red-legged frogs. The surveys shall be conducted by a qualified biologist in accordance with USFWS protocol (USFWS 1997).

   A qualified biological monitor experienced with the California red-legged frog shall be present at Location 3 during all grading activities. The biological monitor shall have the authority to halt all construction activities as necessary to protect habitat and individual animals. Construction within Location 3 is prohibited at any time that a California red-legged frog is present in the construction area. If a California red-legged frog is found within the construction area at Location 3, no work shall occur until the frog has moved outside of the construction area. If the California red-legged frog will not move outside the construction area at Location 3 on its own, the biological monitor shall consult U.S. Fish and Wildlife Services for further instructions.

3. Construction Period Erosion Control Plan.
   A. ***Prior to the issuance of the coastal development permit***, the applicant shall submit, for review and approval of the Executive Director, an erosion control plan to prevent the transport of sediment from the project site into Lake Merced. The plan shall be designed to minimize the potential sources of sediment, control the amount of runoff, and retain sediment on-site during construction. The plan shall also limit application, generation, and migration of toxic substances, ensure the proper storage and disposal of toxic materials, and ensure the application of nutrients at rates necessary to establish and maintain vegetation without causing significant nutrient runoff to Lake Merced. The Erosion Control Plan shall include, at a minimum, the Best Management Practices specified below:

If construction is carried out during dry season (May 1 – October 14):

- Areas where trucks and equipment hauling the fill are located shall be swept at the end of everyday;
- Stockpiles of fill left onsite shall covered at all times;
- Nearby stormdrain inlets shall be protected;

If construction occurs during the rainy season (October 15- April 30) the following BMPs shall also be included:

- Perimeter control for the stockpiles, vehicles and equipment.
- Provide sediment capturing devices to prevent runoff from entering Lake Merced

B. The applicants shall be fully responsible for advising construction personnel of the requirements of the final Erosion Control Plan.

C. The applicants shall undertake development in accordance with the approved Final Erosion Control Plan. No proposed changes to the approved Final Erosion Control Plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. Debris Removal
All emergency measures previously placed on site to prevent erosion and which are not authorized under this permit, such as sandbags, plastic tarps, and fabric, shall be removed within 180 days of issuance of this permit.

3.0 FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

3.1 Site Description

The project site is comprised of three separate eroded areas (Locations 1, 2, and 3) on the western embankment of Lake Merced in the City and County of San Francisco (Exhibit 2, Project Location Map & Exhibit 3, Assessor Parcel Map). Lake Merced, the largest natural freshwater lake in the City of San Francisco (603 acres in size of which 245 acres is open water), is in a low-lying area adjacent to the Great Highway and the Pacific Ocean. It is surrounded by a freshwater marshland that supports a variety of wildlife and vegetation including a nesting colony of double-crested cormorants and great blue herons, California red-legged frogs, and the San Francisco wallflower (Exhibit 4, Biological Resources Map). Lake Merced is located in a basin and was formed when sand dunes migrating along the shoreline blocked the mouth of a stream resulting in the formation of the lake. Periodically after its formation, Lake Merced was naturally connected to the Pacific Ocean and subject to tidal flushing until a sand bar formed a barrier between it and the ocean. Water would occasionally breach the sand bar until the 1880s when humans began to manipulate the seasonal conditions to permanently keep the lake separate from the ocean. Using berms and causeways, the lake was subsequently divided into four separate bodies of water: North Lake, South Lake, East Lake and Impound Lake (EIP Associates 2000).

Location 1, located on the western bank of South Lake, is the largest eroded area (approximately 140 feet wide and 8 feet deep) (Exhibits 5 and 8, Location 1). Erosion of this area exposed a stormwater drainline installed to handle roadway runoff from the immediate area (approximately 100 feet on either side of the low point in the road). Location 2 is also on the western embankment of South Lake; however, it is much smaller in size (approximately 25 feet wide and 5 feet deep at the most eroded points) (Exhibits 5 and 9, Location 2). South of Locations 1 and 2 on the western bank of Impound Lake is Location 3, which is approximately 40 feet wide and 11 feet deep at the most eroded points (Exhibits 6 and 10, Location 3). Along the top of the western embankment where Locations 1, 2, and 3 are found is a jogging path/pedestrian walkway and adjacent to this path is John Muir Drive, a two-lane road approximately 30 feet in width. Locations 1, 2, and 3 coincide with low points in John Muir Drive. Each of the eroded areas is composed of sandy soils susceptible to water and wind erosion when unvegetated. The vegetation surrounding Locations 1, 2, and 3 consists primarily of bulrush and willows.

3.2 Project Background

Overland stormwater flooding from the Vista Grande Canal eroded Locations 1, 2, and 3 during high storm flows in the winter of 2000/2001. Vista Grande Canal, an approximately six-foot wide brick culvert, runs adjacent to John Muir Drive and carries urban runoff from Daly City to the Pacific Ocean. On January 25, 2001, heavy rains caused stormwater to overflow onto John Muir Drive and then into Lake Merced. Due to the low points in John Muir Drive, the stormwater flow was concentrated in Locations 1, 2, and 3, which resulted in the erosion of the embankments and loss of approximately 480 cubic yards of sediment. On February 26, 2001, the Commission issued an emergency permit for the placement of approximately 180 cubic yards of rock and sand and revegetation to minimally repair erosion damaged portions of the pedestrian path and roadway along John Muir Drive on the south shoreline of Lake Merced. This application is for a follow-up coastal development permit to the emergency permit. Since the placement of the emergency fill, additional erosion has occurred at Location 1. Location 1 has a history of erosion problems from overland stormwater runoff. On October 9, 1998, the Executive Director granted Permit Waiver 1-98-026-W to restore the same embankment and install a water/debris separator and connect it to a drainage pipe. The volume of stormwater runoff has proved to be too large for this drainage system. Thus, the San Francisco Public Works Department (City) is proposing to install additional drainage improvements to manage the runoff.

3.3 Project Description

The City proposes to restore the three eroded areas to their original contours, restore any portion where the jogging path/pedestrian walkway has eroded, and revegetate the restored embankment with locally obtained willow cuttings. In addition, the City proposes to install a subterranean drain system at Location 1 to prevent future stormwater overflows from eroding the embankment (Exhibit 7, Drainage System). To install the drainage system at Location 1, the City proposes to first excavate the fill placed under Emergency Permit 2-01-006-G. The City proposes to construct a rock and pipe drainage system in the excavated area, which will consist of: (1) filter fabric placed on the excavated embankment; (2) a three-foot layer of rock; and (3) two, 10-foot long, perforated six-inch diameter pipes wrapped in filter fabric that will extend horizontally towards the lake. The rock layer will direct runoff into the perforated pipes where the water will dissipate into the soils. On top of the rock and drainage pipe, the City will place 750 cubic yards

of fill that will be compacted and shaped to the natural contour of the embankment. On the newly contoured embankment, the City proposes to plant locally obtained willow shoots to stabilize the soil. The City expects that the embankment will also be seeded naturally from adjacent plants. The City proposes to restore the gravel jogging path and pedestrian walkway with asphalt and crushed gravel. The City proposes to restore Locations 2 and 3 in a similar manner; however, these areas are much smaller and do not require the installation of a drainage system. Location 2 will only require 50 cubic yards of fill and Location 3 will require 250 cubic yards of fill. The City will use the fill placed under Emergency Permit 2-01-006-G and import additional sand as needed. The construction will be carried out using a backhoe and the City estimates that it will take approximately one week. No fill will be placed below the ordinary high waterline of the lake.

3.4 Biological Resources

Section 30240 of the Coastal Act states:

> *(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*
>
> *(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

Coastal Act Section 30107.5 states:

> *"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.*

Lake Merced is the largest fresh water coastal lake and wetland system between Point Reyes Peninsula in northern Marin County and Pescadero Marsh in southern San Mateo County. Due to its size and location, the lake provides shelter for thousands of migratory birds. The lake area contains a mix of native wetlands and scrub habitats, which border the shoreline, and non-native forest and grasslands, which dominate the surrounding uplands. Forty-eight species of birds have been documented nesting within the Lake Merced area including species of concern, locally rare species, and neotropical migrants (EIP Associates 2000). There are two documented areas of nesting and roosting colonies. In a cluster of eucalyptus groves on the western embankment of South Lake there are double-crested cormorant (federal species of concern) and great blue heron nesting colonies, and on the southeastern shore of Impound Lake there is a black-crowned night heron roosting area. All of these three bird species are protected under the Migratory Bird Treaty Act and are known to be sensitive to human disturbances.

Section 30107.5 of the Coastal Act defines environmentally sensitive habitat areas (ESHA) as those in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments. According to Section 30107.5, the

eucalyptus grove and area on the southeastern shore of Impound Lake are defined as ESHA because they support nesting and roosting colonies for the above mentioned bird species, one of which is a federal species of concern, and they could be easily disturbed or degraded by human activity and development.

In contrast, the areas where the embankment repair work is proposed do not support sensitive or protected plants or animals and do not therefore fit the definition of ESHA under Coastal Act Section 30107.5. As such, the proposed project does not raise an issue of conformity with Coastal Act Section 30240(a) concerning direct impacts to ESHA. However, in accordance with Coastal Act Section 30240(b), the Commission must determine whether the proposed development is sited and designed to prevent impacts that would significantly degrade the adjacent sensitive habitat areas described above and would be compatible with the continuance of those habitat areas.

Locations 1 and 2 are located on the western embankment of South Lake approximately 3,000 feet from the double-crested cormorant and great blue heron nesting colonies. Location 3 on the western embankment of Impound Lake is the closest site to the black-crowned night heron roosting area at approximately 1,000 feet. Both the nesting sites and the roosting area are located adjacent to Skyline Boulevard and John Muir Drive; roadways which are subject to daily traffic noise. Considering the great distance between the project sites and the ESHA areas and the noise already caused by the daily traffic adjacent to the ESHA areas, the proposed construction activities at Locations 1, 2, and 3 will not significantly disturb the nesting and roosting colonies.

Although proposed construction in Locations 1, 2, and 3 will not impact the identified double-crested cormorant and great blue heron nesting colonies or the roosting habitat of the black-crowned night heron, other bird species may nest in the willows adjacent to the project sites. The City does not propose to remove any of the adjacent willows; however, grading and other construction activities and associated noise may disturb birds nesting in the areas adjacent to the project sites. Construction activity and noise may cause birds to abandon nests, reduce the number of broods they produce, or cause other behaviors that result in reducing population numbers. The California Department of Fish and Game recommends as a mitigation measure to prevent the disruption of nesting habitat values that if construction occurs during the nesting season (February 15 – August 31), preconstruction surveys be carried out to identify and locate any nesting birds in the areas adjacent to the project sites. If an active nest is found, a construction-free buffer zone shall be created. The Commission finds that this mitigation measure is necessary to ensure that the proposed development is carried out in a manner that is consistent with Coastal Act Section 30240(b). Therefore, **Special Condition 1** requires that if construction occurs during the nesting season (February 15 – August 31), a qualified biologist shall survey the area within 250 feet of the construction areas at Locations 1, 2, and 3, no more than 14 days prior to the commencement of work. If any active nest is discovered, a 100-foot construction-free buffer zone shall be established around the nest. In the case that an active hawk, owl, heron, or egret nest is discovered, the distance shall be increased to 250 feet. No development shall occur within the buffer zone of any active nest until the young have fledged.

Thus, as conditioned to protect any active nests adjacent to the project site, the Commission finds that the development as proposed conforms with Section 30240(b) of the Coastal Act.

A biologist from San Francisco State University observed a California red-legged frog (federally listed as threatened) in March of 2000 on the eastern shore of Impound Lake. According to the Lake Merced Management Plan, the vegetation of Impound Lake provides a complex habitat more favorable to the California red-legged frog than the other three lakes. According to the U.S. Fish and Wildlife Service Critical Habitat Designation for the California red-legged frog, Lake Merced is not designated as critical habitat (50 CFR Part 17, March 13, 2001). Nonetheless, pursuant to 30107.5, the location and surrounding area of Impound Lake where the frog was observed is ESHA because it supports a threatened species and may be easily disturbed or degraded by human activities and developments. Coastal Act Section 30240(a) protects ESHA from any significant disruption of habitat values and 30240(b) protects ESHA from adjacent development, which would significantly degrade those areas. Situated on the embankment of Impound Lake, Location 3 is the closest site to the red-legged frog habitat; however, it is not part of the ESHA. It is located upland from the marshland surrounding Impound Lake on a heavily eroded, steep slope that does not support vegetation and is subject to significant human disturbance from the adjacent recreational path and busy roadway.

Consistent with Section 30240(b), the proposed development must be sited and designed to avoid significant impacts to the adjacent ESHA. California red-legged frogs are very mobile and are known to disperse and change locations. Although the red-legged frog was initially observed on the opposite side of the lake from Location 3, it is possible that a frog will move around the lake and may come close to the project site. If a red-legged frog enters the project site, construction activities may cause a frog mortality. The California Department of Fish and Game has recommended mitigation measures to prevent red-legged frogs from entering the project site, which include erecting exclusionary fencing around the construction area, carrying out a California red-legged frog survey of the project area before construction, and having a biologist present during construction to monitor for the presence of red-legged frogs. The Commission finds that these measures, designed to prevent impacts to California red-legged frogs, are necessary to ensure that the proposed development is carried out in a manner that is consistent with Coastal Act Section 30240(b). Therefore, **Special Condition 2** requires that: (1) the City construct a four-foot high plywood exclusion fence around the outer limit of the construction area at Location 3 to prevent California red-legged frogs from entering the construction area; (2) two days prior to construction of the exclusion fence, the City shall survey the construction area at Location 3 for California red-legged frogs (the surveys shall be conducted by a qualified biologist in accordance with USFWS protocol (USFWS 1997)); (3) a qualified biological monitor experienced with the California red-legged frog shall be present at Location 3 during all construction activities; (4) the biological monitor shall have the authority to halt all construction activities as necessary to protect habitat and individual animals; (5) construction within Location 3 is prohibited at any time that a California red-legged frog is present in the construction area; (6) if a California red-legged frog is found within the construction area at Location 3, no work shall occur until the frog has moved outside of the construction area; and (7) if the California red-legged frog will not move outside the construction area at Location 3 on its own, the biological monitor shall consult U.S. Fish and Wildlife Services for further instructions.

Thus, as conditioned to protect any California red-legged frogs that enter the project site, the Commission finds that the development conforms with Section 30240(b) of the Coastal Act.

3.5 Erosion and Polluted Runoff

Section 30231 of the Coastal Act states:

> *The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Section 30412(b) of the Coastal Act states:

> *(b) The State Water Resources Control Board and the California regional water quality control boards are the state agencies with primary responsibility for the coordination and control of water quality. The State Water Resources Control Board has primary responsibility for the administration of water rights pursuant to applicable law. The commission shall assure that proposed development and local coastal programs shall not frustrate this section. The commission shall not, except as provided in subdivision (c), modify, adopt conditions, or take any action in conflict with any determination by the State Water Resources Control Board or any California regional water quality control board in matters relating to water quality or the administration of water rights.*
>
> *Except as provided in this section, nothing herein shall be interpreted in any way either as prohibiting or limiting the commission, local government, or port governing body from exercising the regulatory controls over development pursuant to this division in a manner necessary to carry out this division.*

The project locations are on the embankment of Lake Merced upland from the shoreline. Between the embankment and the shoreline are scattered willows and bulrush. Runoff from the eroded embankment flows through this vegetated area into the lake. Lake Merced is an open water lake with wetland, riparian and upland habitats, which provide valuable habitat for wildlife, including rare and unusual species such as the double-crested cormorant, the common yellow-throat and the California red-legged frog. Thus, the protection of Lake Merced's water quality from sediment runoff is essential to preserving the lake and the coastal resources it supports.

Section 30231 of the Coastal Act protects the biological productivity and quality of coastal waters and wetlands. As proposed the project would support the goals of Section 30231 because it would enhance slope stability, thus preventing further erosion and introduction of sediments into the lake in all three eroded areas. At present, there are large amounts of loose sediment in each eroded area. This sediment has the potential to be washed into the lake. Filling, recontouring and compacting the embankment will help to prevent the transport of sediment into the water. Furthermore, each of the areas on the restored embankment will be revegetated with

willow cuttings from adjacent or nearby trees to stabilize the slopes. In addition, the proposed drainage system proposed for Location 1 will prevent future erosion of this area.

However, before the restoration is completed, any erosion and runoff that occurs during grading and construction activities on the embankment may adversely impact water quality and biological productivity of Lake Merced. Increased sediment load could affect the water quality and the ecological productivity of the lake. The City has not proposed any mitigation measures to prevent water quality impacts during construction. To prevent impacts to Lake Merced, the Commission finds that temporary erosion control and runoff control best management practices (BMPs) are necessary. Therefore, to protect the water quality and biological productivity of Lake Merced, **Special Condition 3** requires that prior to issuance of permit, the City shall submit for the review and approval of the Executive Director, erosion control and surface runoff control plans in accordance with the BMPs listed in **Special Condition 3.**

Section 30412(b) of the Coastal Act prohibits the Commission from adopting conditions, which would conflict with any determination by the State Water Resources Control Board, or any regional water quality control board. The San Francisco Regional Water Quality Control Board has issued a conditional water quality certification and waiver of waste discharge requirements for the proposed project. **Special Condition 3,** imposed to avoid water quality impacts during construction, does not modify or conflict with any of the conditions imposed by the Regional Board through the conditional water quality certification and waiver of waste discharge requirements because the Regional Board requirements also require such measures (Exhibit 11, San Francisco RWQCB determination). Therefore, the Commission finds that **Special Condition 3** is not in conflict with Section 30412(b) because it does not modify, adopt conditions, or take any action in conflict with any determination by the State Water Resources Control Board or any California regional water quality control board in matters relating to water quality or the administration of water rights.

In addition, there are various remnants of erosion prevention materials such as sandbags and plastic tarps that have been placed in and around Locations 1, 2, and 3. If these materials were to be washed into the lake, they would add plastics and other types of debris to the water, which would cause adverse impacts to water quality. Thus the Commission finds it necessary to impose **Special Condition 4**, which requires that all emergency measures previously placed on each site to prevent continued erosion and which are not authorized under this permit, such as sandbags and plastic tarps, shall be removed within 180 days of issuance of this permit.

As conditioned, to prevent sediment and debris from entering into Lake Merced during construction, the proposed development will not result in significant adverse impacts to coastal water quality. The Commission therefore finds that the proposed development will protect the biological productivity and the quality of coastal waters consistent with Section 30231 of the Coastal Act.

3.6 Public Recreation

Section 30240 of the Coastal Act also states in relevant part:

> *(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would*

significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas. [emphasis added]

Lake Merced supports numerous recreational activities including boating, fishing, golfing, jogging, bicycling, windsurfing, and picnicking (EIP Associates 2000). Locations 1, 2, and 3 are located adjacent to and partially within the jogging path/pedestrian walkway that encircles Lake Merced and is used frequently by runners and walkers. Coastal Act Section 30240(b) requires that development in areas adjacent to parks and recreation areas be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those recreation areas. Construction activities related to the proposed development would temporarily disrupt use of the jogging path/pedestrian walkway at Locations 1, 2, and 3. However, this impact will not be significant because it will occur for only a short period of time and will avoid peak-use times. As proposed, construction will not take place on weekends or holidays and will be limited to the hours between 8am – 5pm during the week. The City anticipates that the work will take only one week to complete. Furthermore, the proposed development will repair eroded portions of the jogging path/pedestrian walkway to restore recreational uses of the path in Locations 1, 2, and 3. Thus, the proposed development will not significantly degrade and will be compatible with the continuance of these recreational areas.

Therefore, as proposed, the Commission finds that the development conforms with Section 30240(b) of the Coastal Act.

4.0 CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effects, which the activity may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. The proposed project has been conditioned to be found consistent with the policies of the Coastal Act and to minimize all adverse environmental effects. Mitigation measures have been imposed to prevent disruption of significant habitats during construction activity to nesting birds, prevent impacts to California red-legged frogs, and prevent the introduction of runoff and sediment from grading into Lake Merced. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impacts, which the development may have on the environment. Therefore, the Commission finds that the proposed project can be found consistent with Coastal Act requirements to conform to CEQA.

EXHIBITS:

1. Regional Map
2. Project location Map
3. Assessor parcel Map
4. Biological Resources Map
5. Locations 1 & 2
6. Location 3
7. Drainage System
8. Photograph – Location 1
9. Photograph – Location 2
10. Photograph – Location 3
11. San Francisco Regional Water Quality Control Board Determination

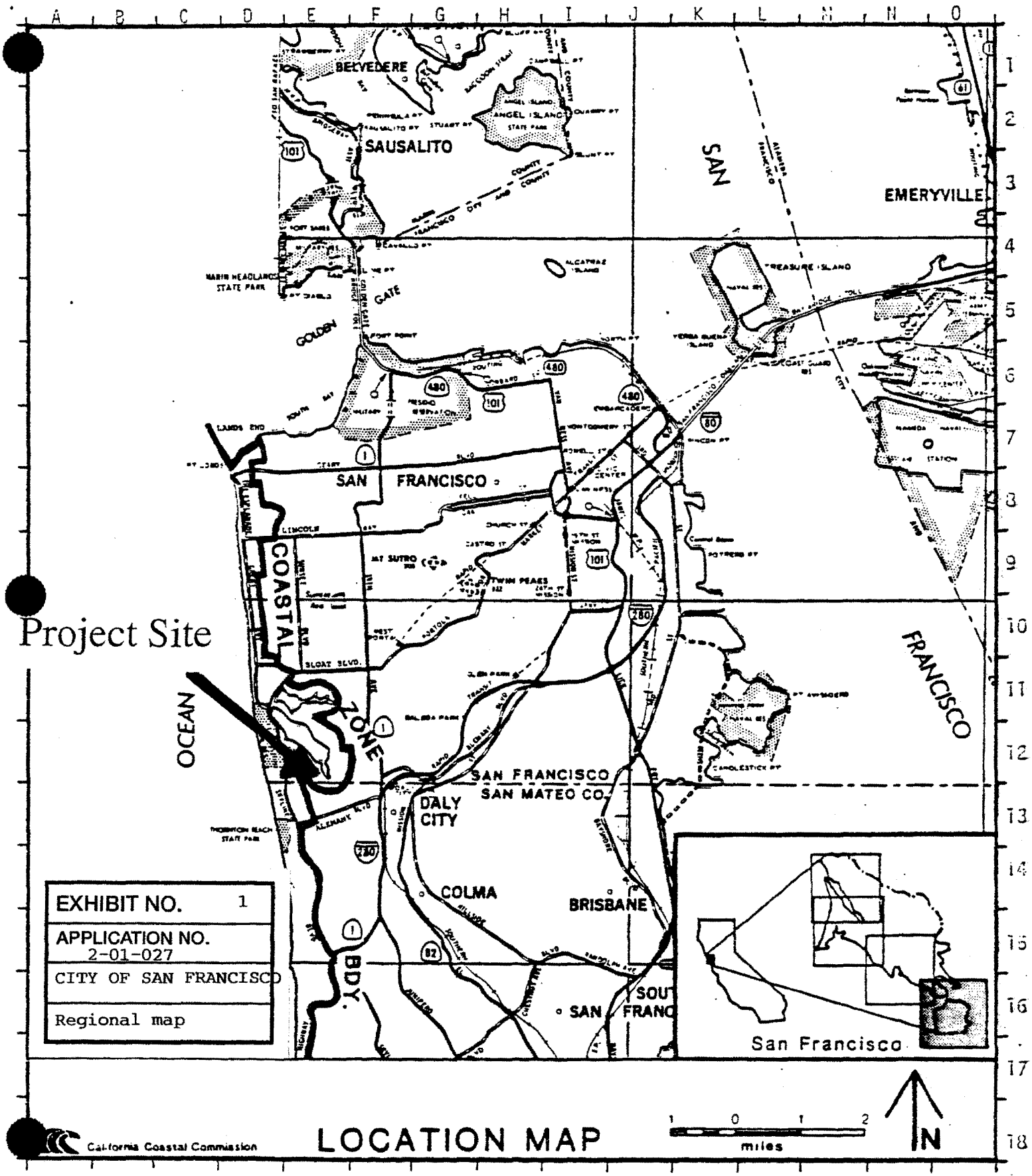
APPENDICES:

A - Substantive File Documents

APPENDIX A: SUBSTANTIVE FILE DOCUMENTS

EIP Associates. Lake Merced Management Plan, Excerpted from Significant Natural Resources Areas Management Plan. September 11, 2000.

US Fish and Wildlife Service (USFWS). Guidance on Site Assessment and Field Surveys for California Red-legged Frogs (*Rana aurora draytonii*). February 18, 1997.



County of San Francisco

Sheet 1 of 1

ATTACHMENT 1 PROJECT LOCATION

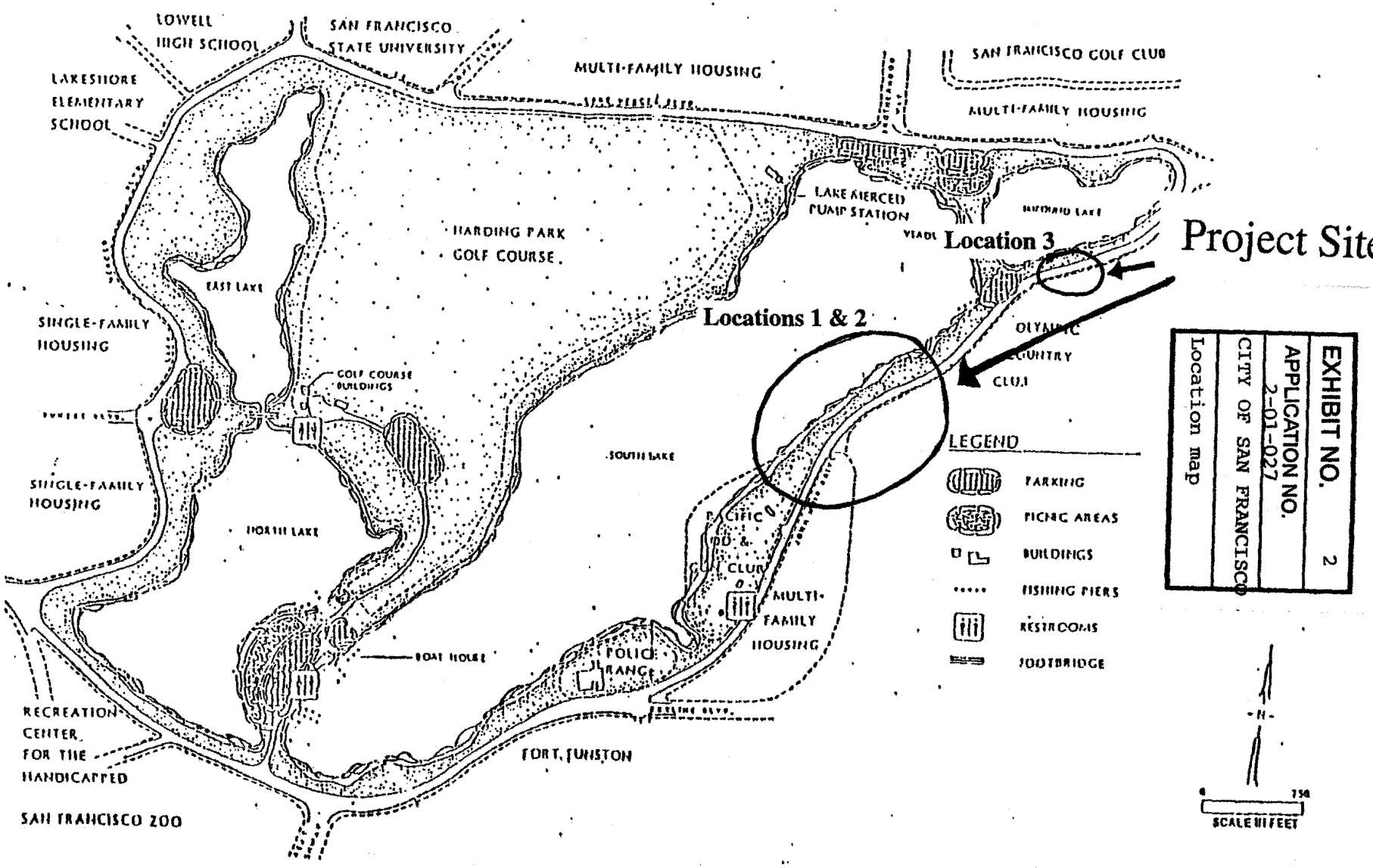


EXHIBIT NO. 2
APPLICATION NO. 2-01-027
CITY OF SAN FRANCISCO
Location map

Geo/Resource Consultants, Inc.

LAKE MERCED EXIST[illegible]ND USES
LAKE MERCED VIA[illegible]
[illegible]SOURCE

FIGUR

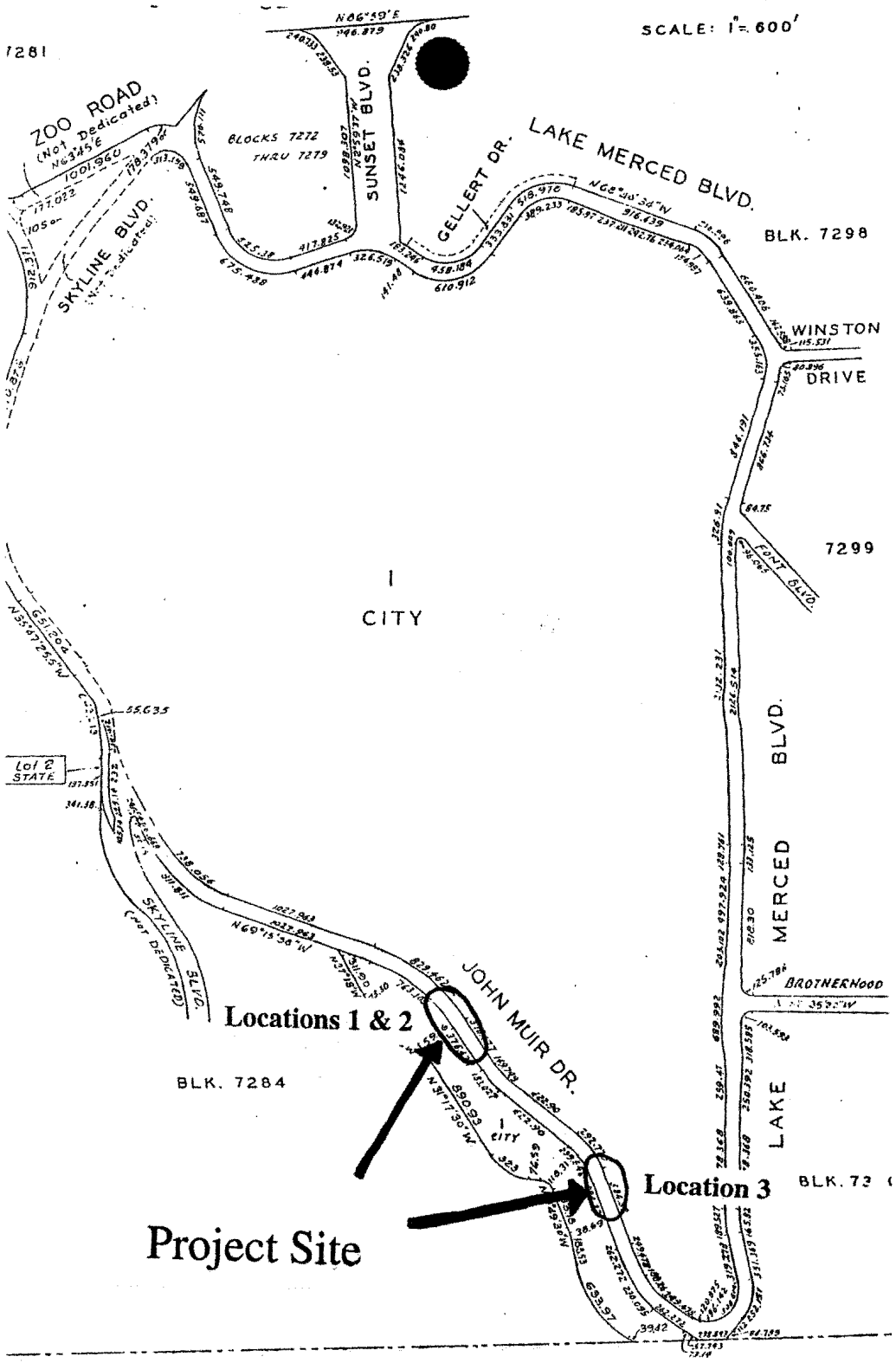


EXHIBIT NO. 3
APPLICATION NO. 2-01-027
CITY OF SAN FRANCISCO
Assessor Parcel Map

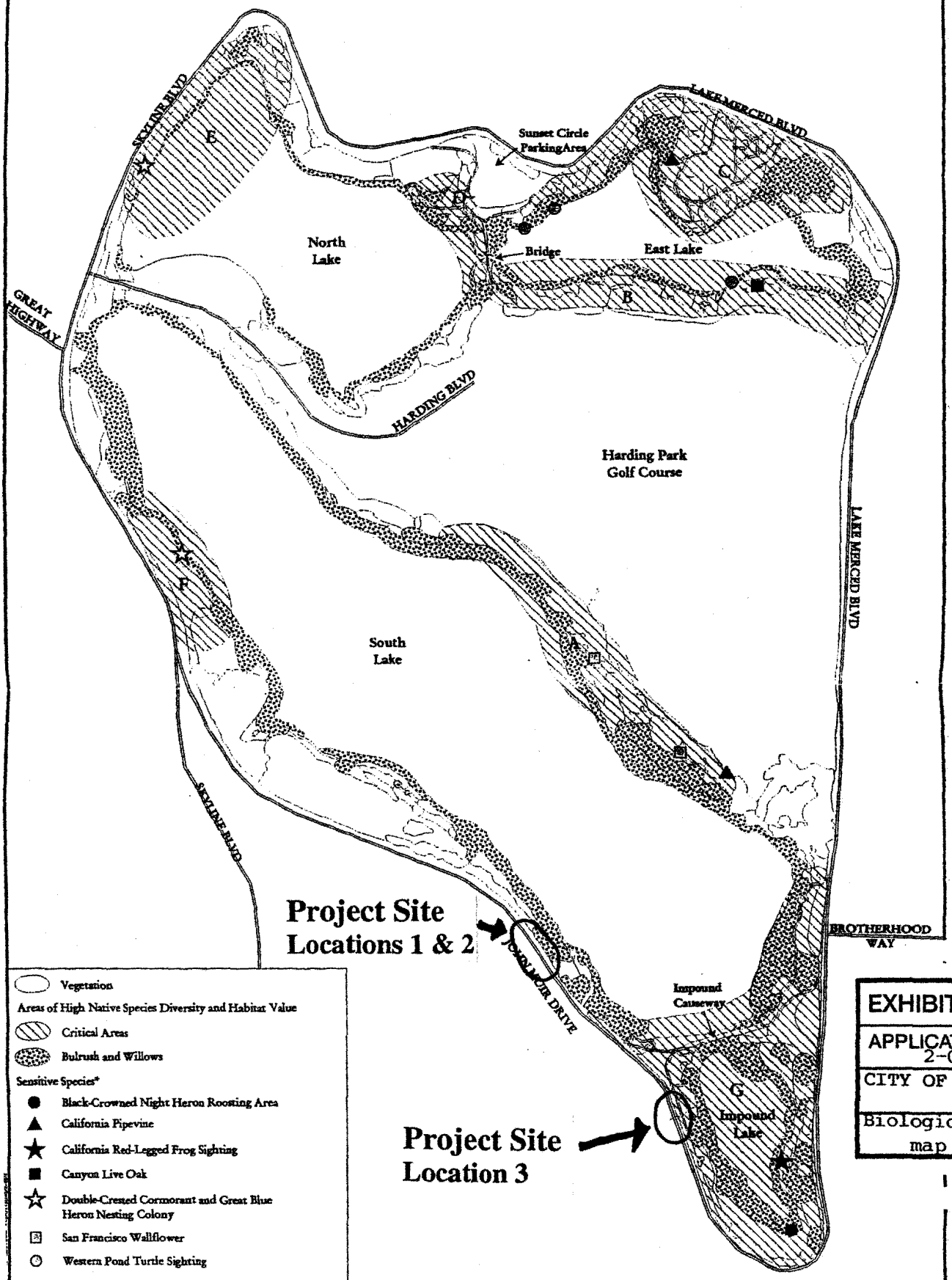


EXHIBIT NO. 4

APPLICATION NO. 2-01-027

CITY OF SAN FRANCISCO

Biological Resources map

EIP ASSOCIATES

Source: Census Tiger Database, Streets, June 30, 1997; and EIP Associates, Digitized Critical Natural Areas, Sensitive Species, and Vegetation, and GIS Program, November 28, 2000.

PROJECT NUMBER: 10108-01G

Requested by: RZ Created by: KL Date: 12/22/00

N

0 600

Feet

FIGURE 6.1-3

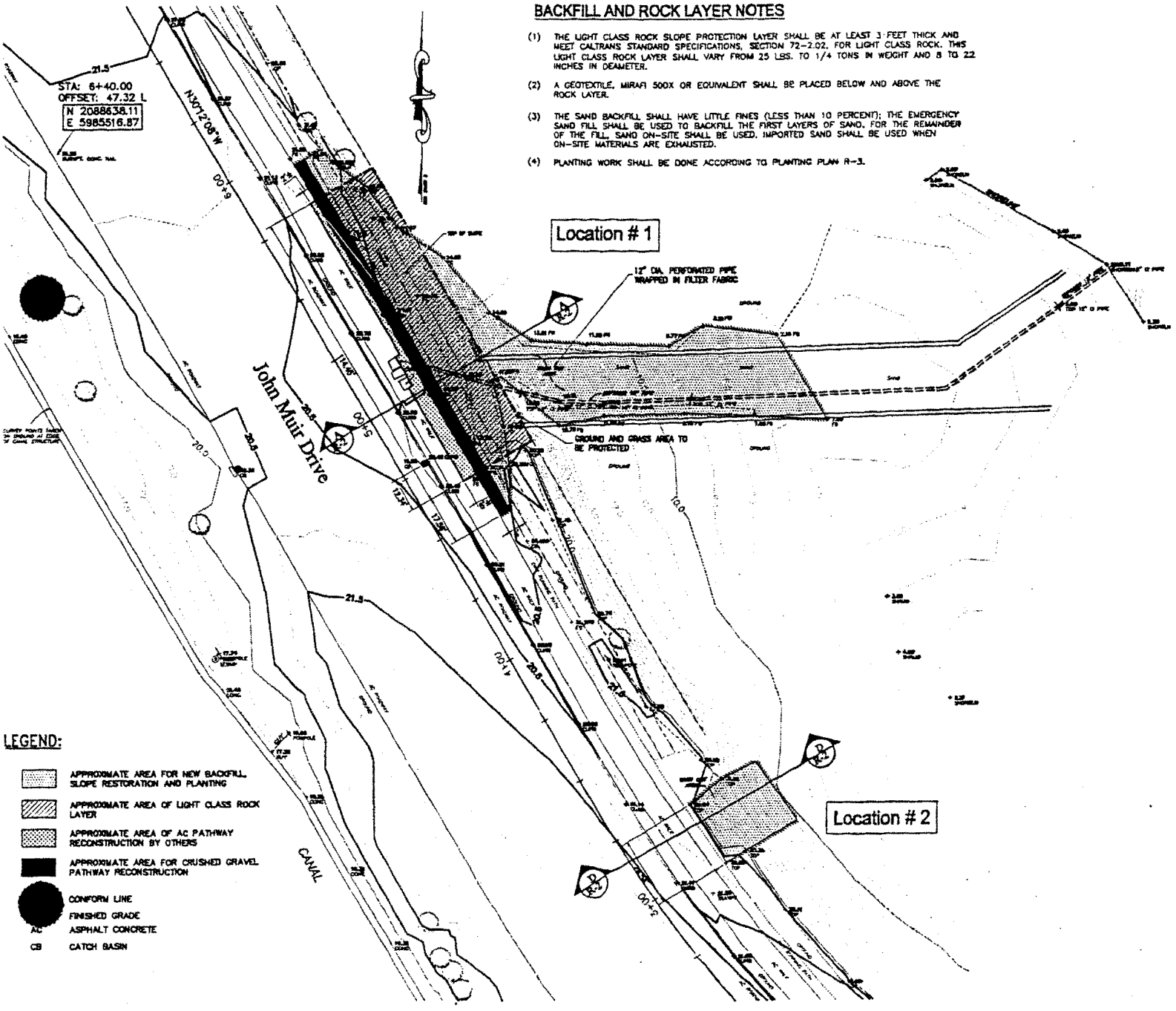
HIGH NATIVE VALUE AREAS AND SENSITIVE SPECIES

Lake Merced

Significant Natural Resource Areas Management Plan

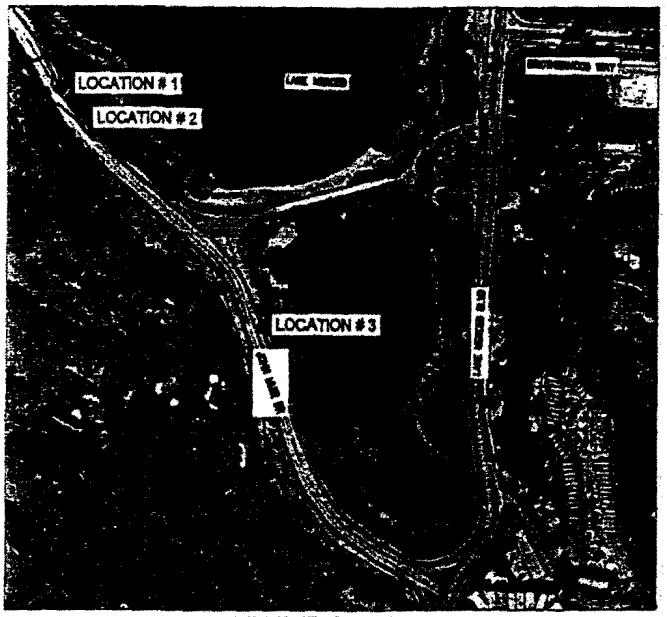
San Francisco, CA

EXHIBIT NO. 5
APPLICATION NO. 2-01-027
CITY OF SAN FRANCISCO
Locations 1 & 2



INDEX OF DRAWINGS

DWG NO.	FILE NO.	TITLE
R-1	77,113	SLOPE RESTORATION PLAN
R-2	77,114	SECTIONS AND DETAILS
R-3	77,115	PLANTING NOTES AND DETAILS



VICINITY MAP

GENERAL NOTES

(1) THE NORTH ORIENTATION OF THIS DRAWING IS BASED UPON CCS83, ZONE 3.

(2) THE ELEVATIONS AND CONTOURS SHOWN HEREON ARE BASED UPON SAN FRANCISCO CITY DATUM.

(3) THE COORDINATES OF THE COUNTY LINE MONUMENT ARE BASED UPON CCS83, ZONE 3.

(4) ALL DISTANCES WITHIN THIS DRAWING ARE BASED UPON THE US SURVEY FOOT AND DECIMALS THEREOF AND ARE GROUND DISTANCES.

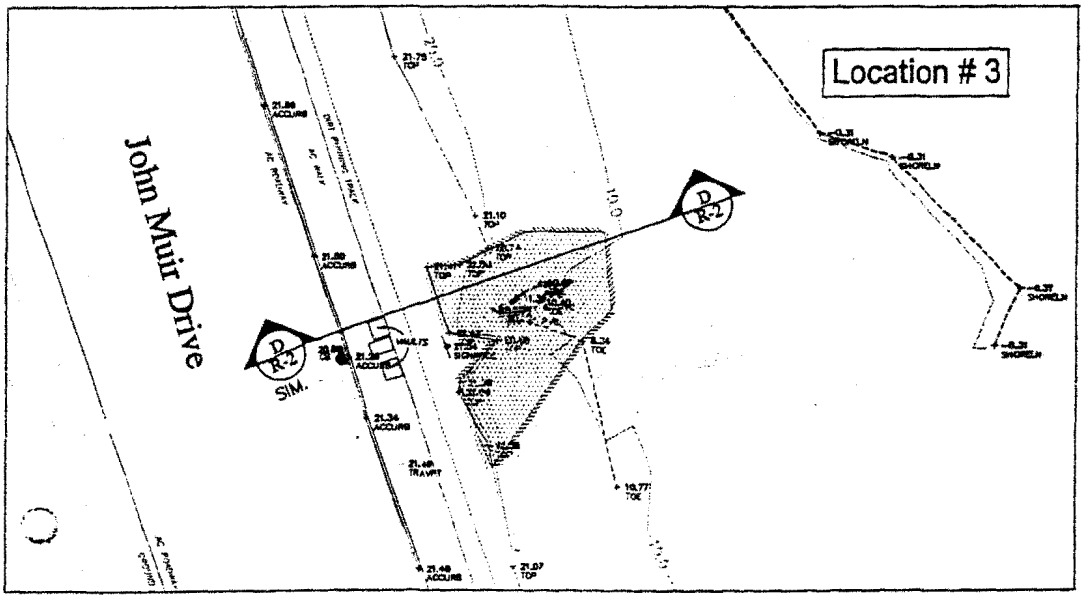
(5) THIS SURVEY WAS PREPARED BY DPW/BCM SURVEY UNDER THE DIRECT SUPERVISION OF JOHN CORY, PLS, CHIEF SURVEYOR.

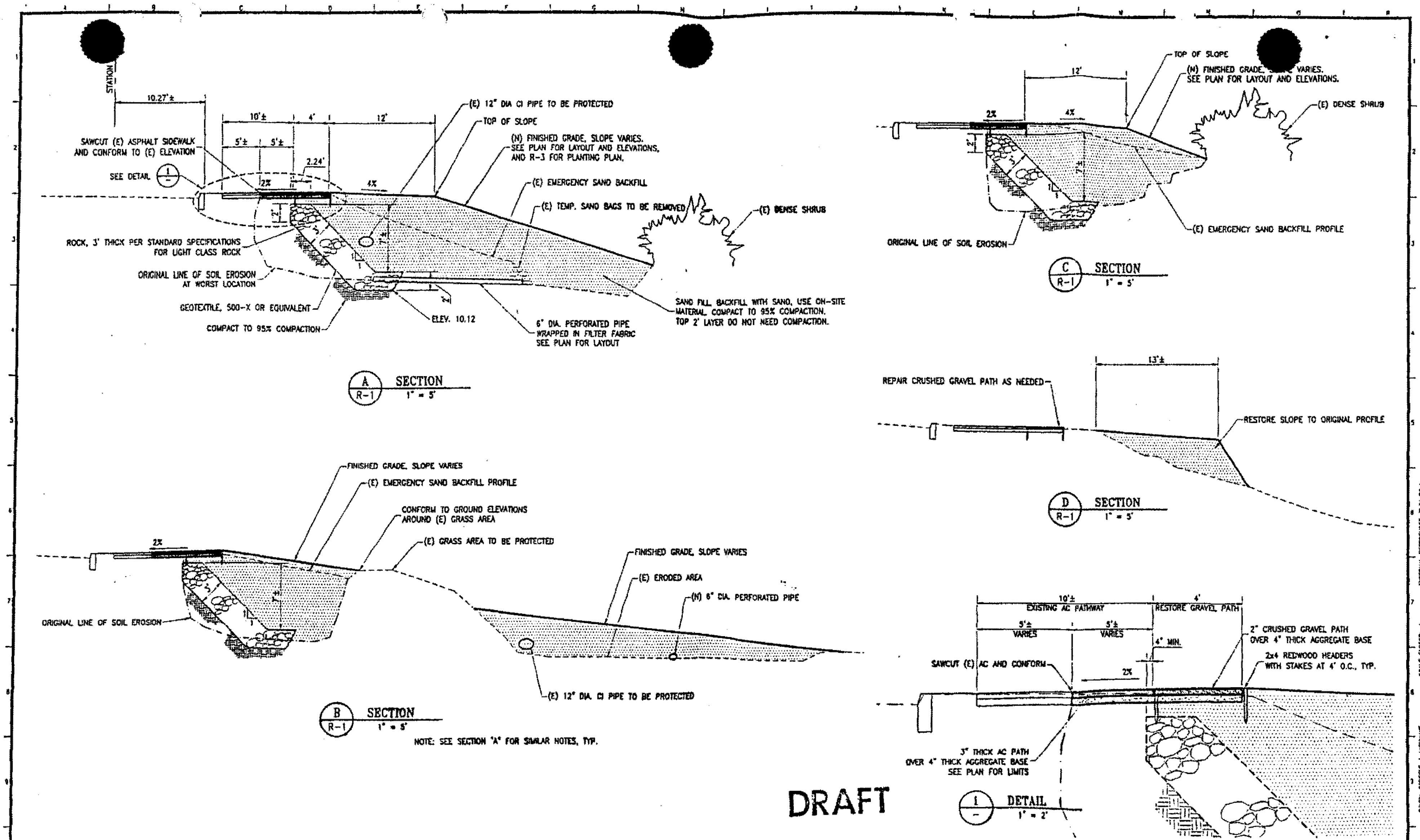
(6) INDEX NUMBER: 7283
ORDER NUMBER: 2001-012
DATE OF SURVEY: MARCH 2001

(8) ALL CITY MONUMENTS SHOWN HEREON MUST BE PROTECTED PER STATE LAND SURVEYORS ACT AND CITY & COUNTY STANDARD SPECIFICATIONS SECTION 107.09. PLEASE CALL SURVEY AT 554-8310 TO REPORT ANY MONUMENTS IN DANGER OF DESTRUCTION OR REMOVAL.

(9) EXACT LIMIT OF SLOPE RESTORATION TO BE DETERMINED BY ENGINEER IN THE FIELD.

EXHIBIT NO. 6
APPLICATION NO. 2-01-027
CITY OF SAN FRANCI
Location 3





NO.	DATE	DESCRIPTION	BY	APP

TABLE OF REVISIONS
CHECK WITH TRACING TO SEE IF YOU HAVE LATEST REVISION

REFERENCE INFORMATION & FILE NO. OF SURVEYS

BUREAU OF ENGINEERING
DEPARTMENT OF PUBLIC WORKS
CITY AND COUNTY OF SAN FRANCISCO

DESIGNED: SC	DATE: 03/26/01	APPROVED SECTION MANAGER	DATE:
DRAWN: SC	DATE: 03/26/01	DIVISION MANAGER	DATE:
CHECKED: LF	DATE: 04/03/01	CITY ENGINEER	DATE:

SCALE: AS SHOWN
SHEET OF SHEETS: 2 OF 3

JOHN MUIR DRIVE SLOPE RESTORATION
SECTIONS AND DETAILS

SPECIFICATION NO. 0370J
DRAWING NO. R-2
FILE NO.
REV. NO. 0

EXHIBIT NO. 7
APPLICATION NO. 2-01-027
CITY OF SAN FRANCISCO
Drainage system for Location 1

EXHIBIT NO. 8
APPLICATION NO. 2-01-027
CITY OF SAN FRANCISCO
Location 1

EXHIBIT NO. 9
APPLICATION NO. 2-01-027
CITY OF SAN FRANCISCO
Location 2

EXHIBIT NO. 10
APPLICATION NO. 2-01-027
CITY OF SAN FRANCISCO
Location 3

California Regional Water Quality Control Board
San Francisco Bay Region

Winston H. Hickox
Secretary for
Environmental
Protection

Internet Address: http://www.swrcb.ca.gov
1515 Clay Street, Suite 1400, Oakland, California 94612
Phone (510) 622-2300 • FAX (510) 622-2460

Gray Davis
Governor

EXHIBIT NO. 11
APPLICATION NO. 2-01-027
CITY OF SAN FRANCISCO SFRWQCB Determination
(Page 1 of 3)

Date: JAN 3 0 2002
Site No.: 02-38-C0061
File No.: 2168.05 (JRW)

Mr. Patrick Rivera
City and County of San Francisco
Department of Public Works
San Francisco, CA 94102

Subject: CONDITIONAL WATER QUALITY CERTIFICATION AND WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR THE PROPOSED LAKE MERCED BANK STABILIZATION PROJECTS AT JOHN MUIR DRIVE, SAN FRANCISCO CITY AND COUNTY

Dear Mr. Rivera:

We hereby issue conditional certification and waiver of waste discharge requirements (WDRs) for the proposed bank stabilization projects. You have applied for a Department of the Army Nationwide Permit No. 13, *Bank Stabilization,* pursuant to §404 of the Clean Water Act (33 U.S.C 1344). As such, you have applied to the Regional Board for a Clean Water Act §401 water quality certification that the projects will not violate State water quality standards.

Project: Lake Merced (the Lake) is a natural freshwater recreation lake that is surrounded by freshwater marshland that supports a variety of plants and wildlife. The Lake is a valued water resource in San Francisco and is an integral part of the hydrology of the Westside Groundwater Basin. Although the Lake is known to contain native biological communities, neither rare nor endangered species have been found in the proposed project areas.

In January 2001, three sections of embankment which are considered waters of the United States along the John Muir Drive roadway, the Lake jogging path and portions of the western side were damaged when the Vista Grande Canal (carrying storm drainage from Daly City) overflowed its banks during a heavy storm. The purpose of the proposed projects is to reconstruct and stabilize areas of the Lake that experienced erosion. The proposed activities include:

- Excavation and fill of eroded areas of the John Muir Drive roadway, the Lake jogging path, and a portion of the western embankment;
- Establishment of native vegetation along the slopes suitable to provide additional bank stabilization; and,
- Construction of a drainage system to allow stormwater overflows from the Vista Grande Canal to enter the Lake without eroding the embankment.

Mr. Patrick Rivera Site No.: 02-38-C0061

The applicant has submitted documentation indicating the project's compliance with the California Environmental Quality Act (CEQA).

Impacts: Approximately 1,000 cubic yards of fill material consisting of drain rock, sand and soil is proposed to be placed in the areas of erosion in order to stabilize and reestablish existing slopes on the Lake. Native vegetation suitable to provide additional bank stabilization will also be planted along the banks. It is our understanding that there will be no significant permanent loss of wetlands or waters of the United States as a result of this project.

Mitigation: The applicant has made significant efforts to avoid and minimize filling and otherwise adversely impacting waters of the State. As there will be no permanent significant loss of wetlands or waters of the State, and only minimal aquatic or riparian habitat will be disturbed by this project, no mitigation past implementation of the following conditions is required.

Certification and Waiver: I hereby issue an order certifying that with the incorporation of the following conditions, any discharge from the applicant's proposed project described in its application will comply with the applicable provisions of sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and Implementation Plans"), 306 ("National Standards of Performance"), and 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act. I also find that waiving WDRs for this specific discharge is not against the public interest. Pursuant to Regional Board Resolution No. 83-3, WDRs are hereby waived for this project. The following conditions are associated with this certification and waiver:

1. Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code (CWC) and Title 23 of the California Code of Regulations (23 CCR) §3867;

2. Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC License unless the pertinent certification application was filed pursuant to 23 CCR Subsection 3855(b) and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought;

3. Certification is conditioned upon total payment of the fee required in State regulations (23 CCR §3833) and owed by the applicant. The total certification fee required for the subject project is $1,000. The fee for this certification has been paid in full;

4. The applicant shall comply with all the terms and conditions of any other permits or approvals of other agencies associated with the subject project;

Mr. Patrick Rivera Site No.: 02-38-C0061

5. The project sponsor shall implement and maintain adequate erosion control measures at the project site to control the release of sediment to wetland areas and waters of the State;

6. No debris, soil, silt, sand, cement, concrete, wood, sawdust, or washings thereof, or other construction related materials or wastes, oil or petroleum products, or other organic or earthen material shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into waters of the State. When operations are completed, any excess material shall be removed from the work area and any areas adjacent to the work area where such material may be washed into waters of the State; and,

7. We request that a brief written report with photographs be submitted to the Regional Board by September 15, 2002, describing the condition of the re-vegetation efforts and erosion control measures at the project site. Should erosion control measure problems occur at the site then this report should include all interim measures performed, and/or a proposal, with timelines, of activities to be completed before the coming winter.

We anticipate your cooperation in implementing these conditions. However, please be advised that any violation of water quality certification or waiver of waste discharge requirement conditions is a violation of State law and subject to administrative civil liability. Also, any request for a report made as a condition to this action is a formal request pursuant to CWC Section 13267, and failure or refusal to provide, or falsification of such requested report is also subject to civil liability.

We anticipate no further action on this application. However, should new information come to our attention that indicates a water quality problem with this project, the Regional Board may issue Waste Discharge Requirements pursuant to CCR Section 3857.

If you have any questions regarding this letter, please contact John West of my staff at (510) 622-2438 or e-mail at jrw@rb2.swrcb.ca.gov.

Sincerely,

Loretta K. Barsamian

Loretta K. Barsamian
Executive Officer

cc: Tim Vendlinski, USEPA WTR-8
Oscar Balaguer, SWRCB-DWQ
Ed Wylie, USACE Regulatory Branch, USACE
Frank Filice, SFDPW
Water Quality Certification Database, RWCQB