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W20a

Prepared January 6, 2015 for January 7, 2015 Hearing

To: Commissioners and Interested Persons

From: Nancy Cave, District Manager
Ethan Lavine, Coastal Planner

Subject: STAFF REPORT ADDENDUM for W20a
CDP 2-14-1612 (San Francisco Public Utilities Commission)

The purpose of this staff report addendum is to respond to recent comments submitted by the public. Staff received a letter dated January 2, 2015 from Sheri Bonstelle and Neill Brower of Jeffer Mangels Butler & Mitchell LLP, attorneys representing the Pacific Rod and Gun Club (PRGC), in opposition to the proposed soil remediation project (see letter in the Deputy Director's Report dated January 7, 2015, item number 16 for the Wednesday January 7, 2015 Coastal Commission meeting). Therefore, a "Response to Comments" section is added to the staff report as Section J just prior to the CEQA findings (thus renaming the CEQA findings as Section K), starting on page 28, to provide additional context regarding these and related issues, as follows. New Exhibits 8-13, referenced in the new response to comments section, are also added to the staff report (see Deputy Director's Report dated January 7, 2015 for Exhibit 11, and see attached for others). These changes to the staff report do not alter staff's recommendation that the Commission approve a coastal permit with conditions authorizing the project.

Thus, the staff report dated December 19, 2014 is modified to add Section J (Response to Comments) and Exhibits 8-13[1] as follows (where references to "this report" are references to the staff report itself):

J. RESPONSE TO COMMENTS

Notice

[1] Exhibit 8: Photo of Posting Notice Dated January 3, 2015
Exhibit 9: San Francisco RWQCB's November 7, 2014 Concurrence Letter
Exhibit 10: San Francisco Planning Department's Response to PRGC CEQA Appeal
Exhibit 11: PRGC's January 2, 2015 Opposition Letter
Exhibit 12: San Francisco RWQCB's January 6, 2015 Support Letter
Exhibit 13: SFPUC's January 6, 2015 Support Letter

The project opponent, the Pacific Rod and Gun Club (PRGC), states that, to their knowledge, the Applicant failed to post any public notice of the application or of the Commission's hearing on the subject site as required by California Code of Regulations Section 13054(d), denying both the PRGC and other members of the public sufficient time to prepare for and attend the Commission hearing (see PRGC letter dated January 2, 2015 in **Exhibit 11**). However, the Applicant signed a declaration of posting dated September 11, 2014 indicating that notice of the pending Commission CDP application had been posted on the fence that runs along the PRGC site on John Muir Drive. On January 3, 2015, Commission staff visited the subject site to investigate the claim and found public notice of the pending application posted on the fence at the entrance to the PRGC site, in a conspicuous place where it is easily read by the public (see **Exhibit 8**). With respect to notice regarding the Commission's hearing, the Applicant provided the required interested parties mailing list and the Commission mailed the meeting notice on December 19, 2014 as required by the Commission's administrative regulations. Among the recipients on the interested parties mailing list was the Pacific Rod and Gun Club, c/o Patrick Gilligan, 520 John Muir Drive, San Francisco, CA 94132. Therefore, the project opponent is incorrect in their assertion with regards to noticing. The Applicant posted notice and the Commission mailed hearing notices as required by the Coastal Act.

No Feasible Less Environmentally Damaging Alternative

As discussed beginning on page 16 of this report, Section 30233 limits diking, filling, or dredging in wetlands expect for certain purposes. Section 30233 further limits such activities to instances where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects. The project opponent states that the mitigated negative declaration (MND) and this report fail to substantiate that the project satisfies Coastal Act Section 30233(a) because inadequate evidence exists to support a determination that the project represents the least environmentally damaging feasible alternative. To support this assertion, the project opponent makes arguments regarding the project description, project need, historic resources, and biological resources as further discussed below.

Project description

PRGC asserts that this report errs in its description of the Regional Water Quality Control Board (RWQCB) Order R2-2013-0023 and, in doing so, "forecloses any consideration of a reduced action that complies with applicable environmental quality standards and could reduce or avoid environmental impacts associated with the Project" (see PRGC letter in **Exhibit 11**). PRGC is incorrect. The Order (see **Exhibit 4**, pages 6-7) requires completion of three tasks for the upland soils area:

1. ***HUMAN HEALTH CLEANUP STANDARDS****: The Dischargers shall propose cleanup standards for the uplands portion of the Site sufficient to protect human health under current and future uses, including visitors, site workers, and neighbors. Proposed standards shall be supported by an analysis of human health risks associated with exposure to site contaminants.*

   …
2. ***REMEDIAL ACTION PLAN****: The Dischargers shall submit a technical report acceptable to the Executive Officer containing a remedial action plan and an implementation time*

schedule. This report shall evaluate the removal and/or management of soil to meet the human health cleanup standards in the reports required in Task 1. The Dischargers shall also submit documentation demonstrating compliance with CEQA in the selection of the remedial action plan so that the Executive Officer may consider the environmental impacts of the remedy prior to approval of the remedial action plan.

…

3. ***COMPLETION OF REMEDIAL ACTION****: The Dischargers shall submit a technical report acceptable the Executive Officer [sic] documenting the completion of the tasks identified in the technical report required in Task No. 2.*

The first two of these tasks have been completed. The SFPUC established human health standards for the site and prepared a Remedial Action Plan (RAP) (AMEC 2013) in compliance with Tasks 1 and 2. As the Applicant states in its CDP application, "[t]he RAP proposes excavation to remove upland soils with concentrations of lead and PAHs above the designated cleanup standards as the only effective means of achieving the remedial action objective." On November 7, 2014, RWQCB staff concurred with the Mitigated Negative Declaration and the RAP as required in Task 2 (see **Exhibit 9**). The proposed project consists of the implementation of the RAP in compliance with Task 3, and in keeping with the remedial action objective established in the RWQCB-approved RAP. The RWQCB fully supports this approval (see **Exhibit 12**).

Project need

The project opponent asserts that neither the MND nor this report substantiate the need for the remediation program, pointing to a study which found limited impacts from lead in surface water as a result of inundation of the land adjacent to the PRGC (see **Exhibit 11**). However, the RWQCB Order (again, see **Exhibit 4**, pages 1-2), details the contamination on the site. It is irrelevant that the PRGC no longer continues to contaminate the site; the site is contaminated and needs cleaning up. The need for the remediation program has been established on the basis of site investigations conducted to support the human health risk assessment conducted in compliance with the first task of the RWQCB Order. As summarized by the Applicant in its CDP application, a supplemental investigation and human health risk assessment conducted for the Applicant concluded that concentrations of soil contaminants exceed the acceptable risk for individuals with more frequent or regular exposure:

A supplemental site investigation and human health risk assessment was performed for the upland soils area to supplement previous investigations and to provide the data needed to support the human health risk assessment. The results of the supplemental site investigation, along with the findings of previous environmental investigations, indicate that elevated concentrations of lead are primarily found in upland soil closest to the shoreline; PAHs in soil appear to be distributed at elevated concentrations throughout the site, with higher concentrations found near the shoreline. Concentrations of lead in soil at the site range from "non-detect" (less than 2 milligrams per kilogram [mg/kg]) to 10,000 mg/kg, while detected concentrations of benzo(a)pyrene (a PAH) ranged from non-detect (less than 5 micrograms per kilogram [µg/kg]) to 1,200,000 µg/kg. Concentrations of lead and PAHs in soil are typically restricted to shallow soils and generally decrease with depth. Based on the concentrations of soil contaminants, the preparers of the human health risk assessment

> *concluded that there are potential human health risks from exposure to PAHs, lead, and to a lesser extent arsenic. Based on current site use the risks are within an acceptable range for infrequent visitors, offsite residents, and recreational users; however, they exceed the acceptable risk for individuals with more frequent or regular exposure, such as employees. Risk reduction or risk management measures are needed to mitigate human exposure to lead, arsenic, and PAHs.*

On the basis of the supplemental investigation and human health risk assessment, the Applicant established human health cleanup standards for the site and prepared the RAP. The RAP proposed excavation to remove upland soils with concentrations of lead and PAHs above the designated cleanup standards as the only effective means of achieving the remedial action objective. Additionally, the same supplemental investigation and health risk assessment found that lead and PAHs were found to exceed probable effects levels for ecological receptors in sediment at a majority of sampling stations at the subject site.

Historic resources
PRGC further asserts that the MND and this report base their analyses of impacts to historic resources on an incomplete evaluation of the significance of the property, and therefore fail to recommend additional mitigation and alternatives to reduce or avoid these impacts in keeping with Section 30233(a) (again, see PRGC letter in **Exhibit 11**). The Commission disagrees. In addition to the discussion starting on page 25 of this report, the potential for impacts to historic resources is outlined in more detail in the section following this one below.

Biological resources
PRGC asserts that the project cannot be found consistent with Section 30233 including because the Commission failed to adequately assess potential alternatives that could better avoid damage to the environment (see **Exhibit 11**). This report discusses the least environmentally damaging feasible alternative question under Section 30233 in the wetlands section beginning on page 16 of this report. It is important to note that the 30233 requirements in this respect are to the wetlands portion of the project, which is less than 10% of the overall roughly 10-acre project area. As discussed there, the Applicant considered an alternative to the project that would avoid the wetlands, but this would leave the wetland areas contaminated to their detriment, as well as the surrounding area's detriment. The project results in wetland restoration in this area, and is decidedly preferable to leaving the wetlands in their contaminated state.

PRGC also asserts that this approval's Special Conditions that are designed to address potential impacts to biological resources result in deferred and unenforceable mitigation. The Commission disagrees. In reference to Special Condition 3, the PRGC states, "although Special Condition 3 appears to require a 'Riparian and Wetland Habitat Restoration and Mitigation Monitoring Plan,' that plan does not even include any method to determine the effectiveness of that mitigation." However, Special Condition 3 in fact requires the Applicant to revise and resubmit a Riparian and Wetland Restoration and Mitigation Monitoring Plan (ESA, 2014) that was previously submitted by the Applicant as part of its CDP application. Once revised, the plan shall be reviewed and approved by the Commission's Executive Director. As submitted, the plan establishes performance standards and success criteria to achieve the reestablishment of impacted wetland areas. The necessity of Special Condition 3 is to strengthen the previously

submitted plan so that the restoration achieves species diversity, controls non-native species, and defines the range in which seeds and plant materials may be harvested for use in the restoration. A Final Monitoring Report is further required by Special Condition 3 for the review and approval of the Executive Director at the end of the monitoring period to evaluate whether the required management, enhancement, and/or restoration (i.e., that initially submitted by the Applicant as part of the CDP application as it is supplemented as directed by Special Condition 3) has achieved the goals and success criteria set forth in the approved revised plan. Special Condition 3 includes a provision for possible further action should the project be unsuccessful based on the approved success criteria. In addition, Special Condition 3 provides that all of its requirements, and all requirements of the approved Riparian and Wetland Restoration and Mitigation Monitoring Plan, are enforceable components of the CDP. This method of approving revisions to plans submitted to meet Coastal Act requirements is consistent with the manner in which the Commission has typically addressed identified plan deficiencies, including in terms of Executive Director oversight, and it does not inappropriately defer required changes and mitigations. It is "sufficient to articulate specific performance criteria and make further approvals contingent on finding a way to meet them." (*Endangered Habitats League v County of Orange,* 131 Cal.App.4th 777, 793 (2005).)

In reference to Special Condition 4(b), PRGC asserts that the condition "fails to specify any definite criteria to protect active nests and nesting pairs," and does not "specify minimum buffer distances, require visual designation of such buffers, shift certain activities outside of the active nesting seasons of the relevant bird species, or even specify any criteria of effectiveness." PRGC is again only focused on the condition in a vacuum, when the conditions have to always be understood in terms of what has already been proposed by the Applicant. In this case, the Applicant has already included mitigation measures protecting nesting birds as part of the proposed project (see **Exhibit 7**, pages 7-8). These mitigations avoid removal of vegetation and structures during the nesting season (February 1 to August 30). If nesting season cannot be avoided, the mitigations require preconstruction bird nesting surveys by a wildlife biologist. If the preconstruction surveys show that construction may affect an active nest, the biologist is to establish a no-disturbance buffer, typically 25 to 250 feet for passerines and between 300 and 500 feet for raptors. The Applicant is required to consult with United States Fish and Wildlife Service (USFWS) and/or California Department of Fish and Wildlife (CDFW) if bird species that are federally and/or state-listed sensitive species are discovered to establish buffers and coordinate construction work. The necessity of Special Condition 4(b) relates to a proposed mitigation measure that would allow the Applicant to remove or relocate active nests for State or Federally listed species discovered during construction activities in coordination with USFWS and/or CDFW. Relocating or removing active nests is insufficiently protective of special-status birds and raptors. Thus, Special Condition 4 requires that active nests for special-status birds and raptors be protected during nesting season, subject to Executive Director oversight. If discovered, these active nests would be subject to the mitigations included as part of the project by the Applicant and as described above.

PRGC also asserts that the site's trees are inappropriately being removed as part of the project. Given the extent of the contamination in and among the trees, however, the Applicant demonstrated that there is no feasible manner of removing the contaminants in the underlying soils while also maintaining the trees. Accordingly, this approval is conditioned for appropriately

replacing the trees in such way as to provide as many trees and a similar level of tree function and visual screening as today or better within a 10-year period, subject to Executive Director oversight to ensure success (see **Special Condition 5**).

Lastly, as stated in Section C of this report above, the proposed remediation project would help to protect the biological productivity and marine resources of Lake Merced when complete. In addition, the proposed remediation project will enhance terrestrial habitat. As indicated in the findings of RWQCB Order No. R2-2013-0023, the April 2012 supplemental investigation and health risk assessment found that both lead and PAHs were found to exceed probable effects levels for ecological receptors in sediment at a majority of sampling stations at the site.

Historic Resources

PRGC asserts that this report fails to identify all of the potential historic structures and cultural landscape elements at the PRGC site, and thus fails to preserve the historic use of the site (see **Exhibit 11**). PRGC's letter presents a historic report prepared by Page and Turnbull (July 2014) on behalf of the PRGC. The Page and Turnbull report concludes that the PRGC is a historical resource as a cultural landscape, and that the Club's period of significance extends from 1934 to 1964. This period of historic significance extends beyond the 1934 to 1941 period of significance established in the historic report prepared for the MND (Bradley, 2014). Because the original historical report analysis does not account for impacts to contributory features built between 1941 and 1964, the project opponent asserts that there is now a fair argument that the project may cause significant impacts to historic resources.

The project opponent presented similar objections in their July 25, 2014 appeal of the Preliminary Mitigated Negative Declaration prepared for the project by the San Francisco Planning Department. The Planning Department response to the appeal letter (see **Exhibit 10**, published October 15, 2014) addressed these issues in detail, as described below. Additionally, the statute of limitations has expired on challenges to the Final Mitigated Negative Declaration. (See CEQA Guideline 15075(g).)

Removal and re-establishment of Fields 4 through 7

The Applicant proposes to remove and reconstruct certain structures that contribute to the cultural landscape identified in the MND, including Fields 4 through 7. On Fields 4 through 7, the high low houses and safety fences would be removed from the site during construction and replaced during restoration. The fields' semi-circular station paths would be removed and reconstructed in the same location. The project opponent states, "reconstructing a landscape does not provide the same authentic character as the original fields in continuous use since the period of historic significance." However, in compliance with CEQA, the Applicant has followed the Secretary of the Interior's Standards for the Treatment of Historic Properties and Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings. (See CEQA Guideline 15064.5(b)(3)) The Planning Department's response to the project opponent's MND appeal clarifies that the Secretary of Interior's Standards include flexibility to temporarily remove character-defining features in order to repair or replace them with similar materials.

Period of significance

The project opponent states that the MND and this report fail to consider whether the project will impact features that the Page and Turnbull analysis concludes may be contributory to the historic resource during the period of significance identified in that report (**Exhibit 11**). As stated above, the period of significance identified in the report prepared for the MND (Bradley, 2014) identifies the period of significance as 1934 to 1941. The Page and Turnbull historical analysis would include features from 1941 to 1964, including the trap house, trap fields, various commemorative markers, and the duck tower. The Planning Department's response (again see **Exhibit 10,** pages 17-19) to the project opponent's MND appeal asserts that the Page and Turnbull analysis does not provide supporting evidence to conclude that features from 1941 to 1964 contribute to the period of historical significance of the site, as follows:

> *The Page & Turnbull Evaluation identified a much longer period of significance, from 1934 to 1964, which would encompass many more buildings constructed in the post-war period, and as a result identified many more potentially "historic" buildings and structures that could be affected by the proposed project. However, the end date of period of significance (1964) identified in the evaluation conducted by Page & Turnbull is not substantiated with any evidence that the site is historically significant during World War II or the post-war period, and did not develop a detailed post-war historic context to support their conclusions. Rather, the Page & Turnbull Evaluations state that:*
>
> > *The end of the proposed period of significance is fifty years prior to the date of this evaluation, marking the generally accepted threshold for California Register eligibility in the absence of exceptional historic significance (Page & Turnbull, page 56).*
>
> *While fifty years is the generally accepted age threshold for California Register eligibility, it is not the threshold for actual significance of any given resource. The period of significance must be substantiated by a significant association with historic events for consideration under Criterion A/1 (Public Resources Code Section 5024.1). As described above, the Page & Turnbull Evaluation does not provide supporting evidence that the site is historically significant for any events during World War II or the post-war period.*
>
> *In contrast, the Cultural Landscape Evaluation Report and the PMND do provide substantial evidence for the period of significance of 1934-1941 (Cultural Landscape Evaluation Report pages 39-41; PMND page 48), the buildings and structures identified as contributors to the cultural landscape during the period of cultural significance from 1934 – 1941, and the features and structures identified as contributing to the historical resource (Cultural Landscape Evaluate Report pages 42-50; PMND pages 50-51). In addition, the Cultural Landscape Evaluation Report provides a detailed discussion of the seven aspects of the integrity – location, design, materials, workmanship, setting, feeling, and association – that convey the individual significance of the historical resource under NRHP/CRHR Criterion A/1 and further substantiate this determination. Moreover, the substantial evidence standard, not the fair argument test, applies to the lead agency's determination regarding whether an historical resource is present in the first place (Valley Advocates v. City of Fresno [2008] 160 Cal.App.4th 1039). Therefore, impacts on structures built in the post-war period would not be impacts on the historical resource as the appellant asserts.*

The Final Mitigated Negative Declaration was adopted by the CCSF Planning Commission on October 23, 2014. The time period within which the opponent could formally challenge this action in court has since passed.

Eviction of the PRGC
PRGC states that the proposed project "will remove the historic use of the Property as a skeet shooting range, because the City has issued an eviction notice to the Club and has failed to identify any return date to the Property" (see **Exhibit 11**). Here, the Commission is evaluating the proposed project, which includes remediation and restoration of the site, including replacing buildings and objects moved during soil removal activities. Thus, the proposed project is limited to the temporary construction activities necessary to accomplish soil remediation activities as ordered by the RWQCB and the restoration of the site to pre-project conditions as discussed in more detail in Section B of this report. The City and County of San Francisco owns the subject property and controls whether the PRGC's lease will be renewed after completion of the project. As discussed on page 19 of this report, should skeet and trap shooting activities resume at the site, these activities would only be allowed so long as shot and targets do not contain lead or asphaltic materials, as has been the case in more recent years, so as to protect restored areas from degradation.

Conclusion
The proposed project, as conditioned, will appropriately remediate contamination at the site that currently affects Lake Merced and its environs, both in terms of human and non-human receptors as well as biological productivity overall. The project has been developed through a RWQCB-CCSF partnership, and the Applicant, the RWQCB, and the Commission are all in agreement on this approval with conditions (see **Exhibits 12-13**). When complete, the outcome of implementation of the project through this CDP and per the RWQCB Order is expected to be an overall environmental enhancement at this site, including in relation to the substantial coastal resources associated with Lake Merced overall. As such, and as discussed and explained in these findings, the conditioned project is consistent with the Coastal Act.

Photo of public notice at PRGC Site, January 3, 2015

November 7, 2014
CIWQS Place ID: 247266 (ADF)

San Francisco Public Utilities Commission
Attn.: Mr. Steven Ritchie
525 Golden Gate Avenue
San Francisco, CA 94102
(Sent via email to sritchie@sfwater.org)

Mr. Jon Welner
Jeffer Mangels Butler & Mitchell LLP
2 Embarcadero, 5th Floor
San Francisco, CA 94111
(Sent via email to JWelner@jmbm.com)

Subject: Water Board Staff Concurrence with the Mitigated Negative Declaration and the Upland Soil Remedial Action Plan, Pacific Rod and Gun Club and the San Francisco Public Utilities Commission, for the property located at 520 John Muir Drive, Lake Merced, San Francisco, San Francisco County

Dear Mr. Ritchie and Mr. Welner:

Water Board staff concur with the Upland Soil Remedial Action Plan (the project) for the Pacific Rod and Gun Club, dated October 23, 2014. The project was required by Task 2 of Order No. R2-2013-0023, adopted by the Water Board on June 12, 2013. This Order requires remedial actions for meeting human health standards in upland soils and further investigation and evaluation of potential risks to ecological receptors in lake sediments adjacent to the Pacific Rod and Gun Club.

The San Francisco Public Utilities Commission proposes to implement the project, which would clean up soil contamination at the Pacific Rod and Gun Club, located on the southwest side of Lake Merced. Soil contamination is the result of the former use of lead shot and clay targets made with asphaltic materials at the Gun Club's skeet and trap shooting ranges. The project consists of excavation and appropriate offsite disposal of up to 46,500 cubic yards of soils containing elevated concentrations of lead and polycyclic aromatic hydrocarbons and backfilling of excavated areas with clean fill material.

Task 2 of Order No. R2-2013-0023 also required the submission of documentation demonstrating compliance with CEQA in the selection of the remedial action plan, so that the Water Board's Executive Officer might consider the environmental impacts prior to the approval of the remedial action plan. In a Mitigated Negative Declaration dated October 3, 2014, it was determined that this project could not have a significant effect on the environment if the

mitigation measures included in the project were incorporated. These measures include protection of any special status plants or animals found at the site, protection of any historic or archaeological items encountered, and minimizing construction-related air emissions.

I concur with the project as well as the conclusions of the Mitigated Negative Declaration. Should you have any questions regarding this item, please contact Alan Friedman of my staff at (510) 622-2347, or by email at afriedman@waterboards.ca.gov.

Sincerely,

Signature on File

Bruce H. Wolfe
Executive Officer

Cc: Obi Nzewi, SFPUC (ONzewi@sfwater.org)
Patrick Gilligan, PRGC (http://www.prgc.net/patrick-gilligan)

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Exhibit A to Draft Motion
Planning Department Response to Appeal of Preliminary Mitigated Negative Declaration

CASE NO. 2013.1220E – PACIFIC ROD AND GUN CLUB UPLAND SOIL REMEDIAL ACTION PROJECT
PUBLISHED ON JUNE 25, 2014

BACKGROUND

An environmental evaluation application (2013.1220E) for the proposed project at 520 John Muir Drive (Assessor's Block 7283, Lot 4) was filed on behalf of the San Francisco Public Utilities Commission on August 29, 2013, for a proposal to implement the Pacific Rod and Gun Club Upland Soil Remedial Action Plan (the "project"), which would clean up soil contamination at the Pacific Rod and Gun Club (PRGC), located on the southwest side of Lake Merced in San Francisco, California. The SFPUC leases the site to the PRGC, which built and has operated skeet and trap shooting facilities at the site since 1934. Soil contamination is the result of the former use of lead shot and clay targets made with asphaltic materials at the skeet and trap shooting ranges. The SFPUC prepared the PRGC Remedial Action Plan (RAP) in response to a Cleanup Order R2-2013-0023 (the Order) issued by the California Regional Water Quality Control Board, San Francisco Bay Region (RWQCB) to the SFPUC and the PRGC. The project consists of excavation and appropriate off-site disposal of up to 46,500 cubic yards of soils containing elevated concentrations of lead and polycyclic aromatic hydrocarbons (PAHs) and backfilling of excavated areas with clean fill material. The project consists solely of construction activities associated with remediation of contaminated soils at the site, which is estimated to take approximately 57 weeks to complete.

The Order allows for the PRGC cleanup to occur as two independent tasks—upland soils and lake sediments—and establishes specific site investigation or remediation tasks and compliance schedules for each task. The Order requires the completion of three tasks for the upland soils area: 1) an evaluation of human health risks associated with the exposure to site contaminants and development of appropriate human health cleanup standards; 2) preparation of a RAP for removing or managing soil to meet the human health cleanup standards; and 3) implementation of the RAP. The first two tasks have been completed; the project consists of the third task, RAP implementation. For lake sediments, the Order requires the preparation of an ecological risk assessment to determine whether elevated levels of lead, arsenic, and PAHs in lake sediments pose an unacceptable risk to benthic organisms and wildlife. If this investigation indicates that there are unacceptable risks to the benthic community and wildlife exposed to contaminants in site sediments, then the RWQCB would require preparation and implementation of a RAP for lake sediments. The compliance dates in the Order require completion of the upland soil remediation in advance of the lake sediment investigation.

Because most of the buildings and structures on the PRGC site are more than 50 years old, the entire site was evaluated for its potential significance as a historical resource, which included

analysis of the property as a cultural landscape. ESA and its subconsultant, Denise Bradley Cultural Landscapes, completed an evaluation of the PRGC following the standards of the CEQA Guidelines Section 15064.5, using the criteria outlined in PRC Section 5024.1. This study included extensive review of historical information to evaluate the potential significance and integrity of the PRGC as a cultural landscape according to National Register of Historic Places (NRHP) and California Register of Historical Resources (CRHR) criteria. This evaluation included the following: architectural and historic landscape field surveys of the project site; review of archival site photographs, newspapers, and references on the development of trap and skeet shooting and recreation in San Francisco; interviews with PRGC members knowledgeable of its history; and interviews with individuals from national, state, and Bay Area skeet shootings organizations and clubs; and visits to Bay Area clubs for comparative purposes. The results of the field surveys and associated research are provided in the following technical report: Pacific Rod and Gun Club Cultural Landscape Evaluation Report,[1] which was presented as an appendix to the PMND.

The Cultural Landscape Evaluation Report found that the PRGC appears eligible for listing in the NRHP and CRHR at the local level of significance under Criterion A/1 for its association with the broad pattern of history related to the increased popularity of sport hunting and with the interrelated development of skeet, during the period in which it evolved from a type of shooting practice into a competitive sport. This occurred during the decades preceding World War II within the context of the early 20th century wildlife conservation movement. The period of significance for the PRGC under Criterion A/1 appears to begin in 1934 when the club moved to the Lake Merced site and to end in 1941, with the United States' entry into World War II, which ended the club's initial period of development. Although the activities of the club remained unchanged after World War II, its post-war expansion period (1946-early 1960s) was more directly linked with other contexts than to the early 20th century wildlife conservation movement, such as the broad interest in outdoor recreation that occurred as a result of the nation's post-World War II prosperity and an increased interest in skeet, which was a by-product of World War II training practices.

The features constructed on the PRGC property during its period of significance (1934-1941) and that relate to its significance under NRHP/CRHR Criterion A/1 (for its association with the broad pattern of history related to the increased popularity of sport hunting and the development of skeet within the context of the early 20th century wildlife conservation movement) were identified as contributing features to the PRGC cultural landscape. The primary features from this period that contribute to the PRCG cultural landscape are Skeet Fields 4 to 7 (including semi-circular station paths, high and low target launching houses, and wooden fences), the broad terrace for these fields, the Clubhouse, the Caretaker's House, the Rifle Range building, and the Shell House. These features, and the cultural landscape as a whole, retain sufficient historic integrity to convey its significance. The buildings, structures, and elements of the landscape that are identified as

[1] Denise Bradley, Cultural Landscapes, 2014. *Pacific Rod and Gun Club, San Francisco, CA, Cultural Landscape Evaluation Report*, May 2014.

contributing to the cultural landscape are a historical resource, as defined in the CEQA Guidelines Section 15064.5, and the property is identified as a historical resource in the PMND.

Those features that: (1) may have been present during the period of significance but were not associated with the pre-World War II design or function of the site as an outdoor target shooting range/sportsmen's club (for example, vegetation); or (2) were added to the property after the end of its period of significance in 1941 (although in some cases these are compatible with its pre-World War II design or function as an outdoor target shooting range/sportsmen's club) were identified as non-contributing features and, therefore, were considered to not be components of the historical resource. The Cultural Landscape Report presented historic context to identify the theme, geographic area, and chronological period of the PRGC's historical significance, which in turn supported the identification of its specific period of significance.

Because upland soil remediation requires the excavation and backfilling of soil, contributing elements of the historic resource would be removed for proposed construction activities. The PMND includes project mitigation measures that would ensure that the features that contribute to the cultural landscape of the PRGC are retained, protected and/or rebuilt in a similar size, design, location, and materials as existing. These include the following: Mitigation Measure M-CP-1a, Record and Reconstruct the Semi-Circular Station Paths at Skeet Fields 4 – 7; Mitigation Measure M-CP-1b, Record, Protect, and Return (or Replace in-Kind) the High/Low Houses and Wood Fences at Skeet Fields 4-7; and Mitigation Measure M-CP-1c, Protect the Four Contributory Buildings During Construction. As noted in CEQA Guidelines Section 15064.5(b)(3), a project that follows the Secretary of the Interior's Standards for the Treatment of Historic Properties (Standards) shall be considered as mitigated to a less-than-significant level. Because the project would comply with the Standards (specifically the Standards for Rehabilitation), impacts on the historical resource would be less than significant.

The edge of the PRGC site slopes steeply towards Lake Merced. The proposed project would affect approximately 0.85 acres of state wetlands and 0.29 of coastal scrub vegetation adjacent to Lake Merced. To reduce these temporary impacts, the project includes Mitigation Measure M-BI-2, Restoration of Coastal Scrub, Riparian Scrub, and Wetlands. This measure requires that the final grading plan restore topography of the affected habitat areas to pre-project conditions and that vegetation consistent with the coastal scrub, riparian scrub, and wetlands be planted following site remediation. The plan includes performance criteria and monitoring to ensure the restoration effort is successful.

The proposed project also includes removal of trees in order to remove contaminated soils. The PMND analysis determined that tree removal could result in a substantial adverse impact on the scenic quality of the area and designated scenic roadways, such as views from John Muir Drive/49-Mile Scenic Drive of Lake Merced. The project includes Mitigation Measure M-AE-3, Screening Vegetation, which requires planting trees and shrubs at the eastern end of the site to screen views of the PRGC facilities and includes performance standards defining the timing and

success of the vegetation screening. With implementation of this measure, impacts on scenic vistas and resources would be less than significant.

The proposed project would require the following project approvals, with approval by the SFPUC identified as the Approval Action under Chapter 31 of the San Francisco Administrative Code for the whole of the proposed project:

- US Army Corps of Engineers (Corps): Clean Water Act (CWA) Section 404 permit
- California Coastal Commission (CCC): Issuance of Coastal Development Permit (wetlands affected by the project are potentially within CCC's retained permit jurisdiction for Lake Merced)
- State Water Resources Control Board (SWRCB): National Pollutant Discharge Elimination System (NPDES) order 2009-0009-DWQ, General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit)
- California Department of Fish and Wildlife (CDFW): Section 1602 Streambed Alteration Agreement
- RWQCB: Approval of the RAP and CWA Section 401
- Bay Area Air Quality Management District (BAAQMD): Construction permit
- San Francisco Planning Commission: Approval of a Coastal Development Permit
- SFPUC: Approval of the project and construction contracts, wastewater enterprise stormwater control plan, and other implementation actions
- San Francisco Board of Supervisors: Approval of the RAP, appropriation of funding, consideration of any appeals of the Planning Commission's adoption of the IS/MND
- San Francisco Department of Public Works (SFDPW): Approval of any necessary construction permits for additional site entrance, if needed, and street parking restrictions
- San Francisco Department of Parking and Traffic: Approval of any necessary construction permits for additional site entrance and street parking restrictions

A Preliminary Mitigated Negative Declaration (PMND) was published on June 25, 2014. On July 25, 2014, Mr. David Cincotta of Jeffer, Mangels, Butler, and Mitchell LLP, representing the Pacific Rod and Gun Club, filed a letter appealing the PMND. The concerns discussed below are summarized from the appeal letter, a copy of which is included within this appeal packet. Each concern topic is summarized, followed by relevant quotes from the appeal letter, and a response. The concerns are listed generally in the order presented in the appeal letter.

CONCERN 1: The appellant states that the proposed project will cause potentially significant environmental impacts and argues that a lead agency must prepare an EIR when a project may cause potentially significant environmental impacts.

"To summarize, the 300-page MND is a strained attempt to justify the City's election not to prepare an environmental impact report (EIR) to study the potential impacts associated with a significant excavation and remediation project on a site that is ecologically, historically and culturally significant, and may potentially suffer significant environmental impacts unless further analysis is undertaken through the EIR process. The IS/MND falls woefully short of demonstrating that implementation of the RAP will not cause potentially-significant environmental impacts. Through this appeal, the Club implores the City to do a proper analysis through an EIR before allowing this RAP to move forward." (Page 1 of the Appeal Letter)

"**II. Lead Agency is Obligated to Prepare an EIR When a Project May Cause Potentially-Significant Environmental Impacts**

CEQA is premised on a 'strong presumption' in favor of requiring a lead agency to prepare an EIR as opposed to adopting a negative declaration prior to approving a project. Indeed, so long as substantial evidence in the record supports a 'fair argument' that a project may cause even a single, potentially-significant environmental impact, the agency must prepare an EIR. The obligation to prepare an EIR remains even when other substantial evidence before the agency indicates that the project may not have a substantial impact on the environment. As described by a prominent CEQA treatise, 'the fair argument standard . . . prevents the lead agency from weighing competing evidence to determine who has a better argument concerning the likelihood or extent of a potential environmental impact.' Accordingly, CEQA's 'fair argument' standard establishes a low threshold for the obligation to prepare an EIR which is met by the presence of any substantial evidence in the record of potential environmental impacts." (Page 2 of the Appeal Letter)

"**There is Substantial Evidence to Support a Fair Argument that the Overall CEQA Project will Significantly Impact the Environment**" (Page 3 of the Appeal Letter)

RESPONSE TO CONCERN 1: The appellant misinterprets the CEQA requirements for EIR preparation.

CEQA requirements do not require preparation of an EIR when a project may cause potentially significant environmental impacts, as the appellant contends. An MND is the appropriate CEQA analysis if the initial study determines that potentially significant environmental impacts can be reduced to less-than-significant levels with mitigation measures that are made part of the project. An EIR is only required if there are no applicable mitigation measures or if mitigation measures would not reduce impacts to less-than-significant levels; in which case, the project would be

considered to have a significant effect on the environment. According to CEQA Section 15070 (b), a lead agency shall prepare a Mitigated Negative Declaration (MND) when:

> The initial study identifies potentially significant effects, but:
> (1) Revisions in the project plans or proposals made by, or agreed to by the applicant before a proposed MND and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and
> (2) 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.

The PMND identifies a number of potentially significant impacts of the proposed project; however, it also demonstrates how identified and feasible mitigation measures would reduce those potentially significant impacts to less-than-significant levels. Accordingly, the City's decision to prepare an MND is correct and an EIR is not required.

CONCERN 2: The appellant asserts the proposed project should have included the remediation of contaminated lake sediments and that failure to include those elements is "piecemealing."

"The Remediation Project is a comprehensive action that is comprised of multiple components. As described in the Initial Study supporting the MND:

> Order R2-2013-0023 requires the completion of three tasks for the upland soils area: 1) an evaluation of human health risks associated with the exposure to site contaminants and development of appropriate human health cleanup standards; 2) preparation of a remedial action plan (RAP) for removing or managing soil to meet the human health cleanup standards: and 3) implementation of the RAP. The first two tasks have been completed and are discussed further below; the project considered in this initial study (IS) consists of the third task, RAP implementation. For lake sediments, Order R2-20 13-0023 requires the preparation of an ecological risk assessment to determine whether elevated levels of lead, arsenic, and PAHs in lake sediments pose an unacceptable risk to benthic organisms and wildlife. If this investigation indicates that there are unacceptable risks to the benthic community and wildlife exposed to contaminants in site sediments, then the RWQCB Order requires preparation and implementation of a RAP for lake sediments.

Out of this comprehensive plan, the IS/MND reviews only one component: implementation of the RAP." (Page 2 of the Appeal Letter)

"The IS/MND does not evaluate foreseeable and integrally related components of the overall Remediation Project, and therefore, fails to adequately evaluate the 'project' for purposes

of CEQA. … The Remediation Project is a single, comprehensive CEQA project, as indicated by the following factors among others:

- the contamination is allegedly from a single source (the Clubs' use of lead shot and PAH-laden targets between 1934 - 1994)
- the same contaminants (lead and PAHs), which are the focus of the Order, are found in all areas of the site that is the subject of the Order:
- the Order and its component parts all pertain to the same site, i.e., the Club's property at Lake Merced; and
- the eventual post-reclamation uses of the site will likely incorporate use of both the upland areas and Lake Merced.

Restoration of the site, and by extension, satisfaction of the Order, will not be achieved until both soil and lake sediments are remediated.

The failure to evaluate the potential impacts associated with the study and remediation of lake sediments renders the CEQA analysis inadequate, as environmental impacts associated with those activities will not be considered in connection with the impacts of soil remediation. For example, the IS/MND anticipates that soil remediation may generate 40 truck trips per day. If, however, sediment remediation were to happen concurrently with soil remediation, the 'project' may generate more than the estimated 40 daily truck trips, which could impact the findings of significance related to traffic impacts. The analysis of seemingly every potential impact in the IS/MND would be implicated by remediation of lake sediments. Accordingly, the IS/MND should be revised to evaluate the complete Remediation Project." (Pages 3 and 4 of Appeal Letter)

RESPONSE TO CONCERN 2: The proposed upland soil remediation project has independent utility from the lake sediment investigation and possible remediation, and thus is properly considered a separate project under CEQA.

The appellant asserts that the project description should have included remediation of lake sediments because the Order addresses both upland soils and lake sediments, and that failure to include both elements as part of this project's project description is "piecemealing." Appellant is correct that under CEQA, the lead agency is required to consider the whole of the project in one environmental review and not "piecemeal" what should properly be considered one project into smaller projects, thus minimizing the environmental impacts of the project as a whole. Here, piecemealing has not occurred because the three components raised by appellant—the proposed project, possible lake sediment remediation, and future site uses (discussed below under Concern 3)—are properly considered to be separate projects.

The primary question for understanding whether proposed activities should be considered one project or separate projects under CEQA is whether those activities have "independent utility" from each other—that is, whether they rely on or trigger the need for each other. Here, each of these three components has independent utility from the others. As discussed below, the

proposed upland soil remediation does not rely on or trigger the need for lake sediment remediation.

While the Order addresses both upland soil and lake sediments, remediation of lake sediments is not "a foreseeable integrally related component of the proposed Remediation Project," simply because the Order includes lake sediments as a potential future task, as asserted by the appellant. Remediation of submerged areas is speculative because no action may be required in the future by the RWQCB. The purpose of the Order is to require:

> …the Dischargers to submit plans to remediate soil to meet human health risk standards for current and reasonably foreseeable future land uses. This Order also requires the Dischargers to evaluate if remediation of lake sediment to meet ecological risk standards is necessary. (emphasis added)

The Order acknowledges that remediation of lake sediments may not be needed and provides separate tasks and timelines for Upland Soils and Lake Sediments. The Order requires preparation of an ecological risk assessment to determine "whether elevated lead, arsenic and PAHs in sediments pose an unacceptable risk to benthic organisms and wildlife (emphasis added)," and thus, if any remedial action is needed for the protection of the benthic community and wildlife. The City obviously cannot piecemeal a project that may never take place and never be considered a "project" under CEQA. In fact, as discussed below, the record of studies at the site supports the conclusion that no future action may be required.

Previous investigations summarized in the Order suggest that cleanup of lake sediments may not be necessary for the following reasons:

- In May 1990, bioassay tests conducted using lead-containing sediments samples reported no fish mortality;
- An investigation conducted in 1992 did not show signs of adverse impacts from lead on benthic invertebrate fauna and other organisms in the Lake; and
- In April 1995, the California Department of Fish and Game (now, Department of Fish and Wildlife) determined that, because of the limited number of waterfowl species using the Lake and on the mode of feeding observed for waterfowl, the risk of lead uptake from ingestion of lead pellets or lead-contaminated sediments by waterfowl was low, and the RWQCB determined that the remedial action plan required by the previous (rescinded) 1994 RWQCB cleanup order was not necessary.

Should the findings of the ecological risk assessment confirm the results of these previous investigations, no remediation of lake sediments would be required. Thus, the applicant's assertion that "Restoration of the site, and by extension, satisfaction of the Order, will not be achieved until both soil and lake sediments are remediated" is both speculative and incorrect. Lake sediments may not require remediation and the Order may be satisfied upon completion of the proposed remedial action (the proposed project) and the ecological risk assessment.

As discussed above, the Order stipulates separate tasks for Upland Soils and for Lake Sediments, as well as separate compliance dates for completion of these tasks. The Order establishes a compliance date for completion of the upland soil remedial action by January 1, 2016, which requires that upland soil remediation commence prior to lake sediment remediation, if it is needed at all. The potential need for lake sediment remediation, and associated compliance dates for preparation of a remedial action plan and completion of remedial action, would not be determined until sometime in the future, as determined by the RWQCB Executive Officer following review of the ecological risk assessment. However, whether the Upland Soil and Lake Sediments were considered together in one document by the RWQCB is not the legal standard for determining whether they should be considered one project under CEQA. As discussed above, the standard under CEQA is whether the activities have independent utility from each other, which in this case, they do. Upland soil remediation is independent of the lake sediment investigation because completion of upland soil remediation does not obligate or require lake sediment remediation. For these reasons, the appellant's contention that these activities should be considered one project is not correct under CEQA.

Furthermore, the appellant's assertion that lake sediment remediation should be an integral part of the proposed project because "the eventual post-reclamation uses of the site will likely incorporate use of both the upland areas and Lake Merced" is also speculative and incorrect. The project proposes soil remediation to meet human health risk standards to allow for unrestricted future use of the site. The project does not require or preclude any future use of the site. This is addressed further below under Concern 3. The assumption that eventual site use would incorporate both upland areas and Lake Merced is questionable, particularly because the project includes restoration of wetland, riparian scrub, and coastal scrub vegetation that currently limits lake access and use at the site.

CONCERN 3: The appellant asserts that the PMND should evaluate post-project use of the site and that failure to include future use in the project description is "piecemealing."

"The CEQA analysis must evaluate future development or uses that are made possible by the proposed action. In *City of Antioch* v. *Antioch City Council* (1986) 187 Cal.App.3d 1325 *('City of Antioch')*, the city approved a road and sewer extension project pursuant to a negative declaration. The city's analysis, however, reviewed only the impacts of the construction project, and not reasonably foreseeable future uses made possible by the initial approval (*Id*. at pp. 1329-1330). Finding that the city had impermissibly narrowed the scope of the project, the court reasoned that an initial study must evaluate foreseeable future development made possible by the initial approval, and that the fact that future development may take several forms does not excuse environmental review.

The IS/MND fails to describe potential environmental impacts associated with post-project uses made possible by remediation. Although the exact post-remediation use of the site

may be unknown as of this time, *City of Antioch* requires that the IS/MND evaluate in a general sense the type of development or use that can be reasonably expected to occur, due to the proposed approval.

Thus, while even without external guidance *City of Antioch* would likely require the City to evaluate such general uses as public recreation or open space, the Order and related materials provide clear guidance as to the types of developments and uses that will be made possible via remediation. Pursuant to the Order, the RAP for soil remediation must 'meet human health risk standards for current and reasonably foreseeable future land uses.' The phrase 'future reasonably future land uses' is informed by AMEC's Supplemental Investigation and Health Risk Assessment Report (April 2012), which states that 'for this HHRA ... future conditions are based on reasonably likely use options specified in the most recent version of the Lake Merced Watershed Plan.' Thus the IS/MND must be revised to address the environmental impacts of future uses made possible by the proposed remediation, including uses consistent with the Lake Merced Watershed Plan."[2] (Pages 4 and 5 of Appeal Letter)

RESPONSE TO CONCERN 3: The proposed project has independent utility from the future uses of the site, and thus is properly considered a separate project under CEQA from those activities. No change in future use is proposed.

The project does not propose a change in site use. Remediation to cleanup standards required for reasonably foreseeable future uses, namely continued recreational use of the site, would allow unrestricted future use of the site, but does not require or obligate any such use. The appellant asserts that the PMND should evaluate the type of future development or use of the project site that would be expected to occur as a result of project approval. As discussed above under Concern 2, the primary question for understanding whether proposed activities should be considered one project or separate projects under CEQA is whether those activities have "independent utility" from each other—that is, whether they rely on or trigger the need for each other. The upland soil remediation project has independent utility from future site use because site cleanup does not require or preclude future uses of the site.

The appellant correctly quotes that, pursuant to the Order, the RAP for soil remediation must "meet human health risk standards for current and reasonably foreseeable future land uses." As indicated, the AMEC health risk assessment based its exposure assessment on future land use scenarios for the site in the Lake Merced Watershed Report, which include various recreational

[2] Despite SFPUC's insistence on such intensive and costly remediation of the property that it could conceivably be sited for uses as sensitive as housing or childcare, SFPUC has yet to identify any potential post-remediation uses.

activities.[3] Identification of reasonably foreseeable future land uses is an integral part of the development of a risk assessment model, which must account for the potential exposure pathways through which future on-site users may be exposed to contaminants in soil. This, in turn, is used to identify potential human health risks and appropriate cleanup standards to ensure that site remediation is protective of the health of future site users. Use of the potential future land use scenarios provided in the Lake Merced Watershed Report to identify potential receptors and exposure pathways in no way implies that any one of these uses will ultimately be developed on the project site, but merely provides a way to establish appropriate cleanup standards.

Regardless, under any of these possible recreational activities, the risk assessment concluded that "future use is not expected to change materially in terms of the types of possible users and frequencies and durations of exposure" (AMEC, 2012, page ES-3). The potentially exposed human receptors identified for the health risk assessment included the following:

- Current caretaker
- Current and future workers
- Current adult recreational users
- Current and future occasional visitors (adults and children)
- Current and future off-site residents (adults and children)
- Future adult and child recreational users
- Future construction workers

Using these potential receptors, the health risk assessment evaluated exposure pathways and toxicity of known contaminants to develop appropriate cleanup goals in accordance with the Order. The cleanup goals established in the RAP are designed to allow for the widest possible array of unrestricted future uses of the site, and would avoid the imposition of deed restrictions which could limit future potential uses, consistent with the Project sponsor's objectives. The RAP uses cleanup goals for lead in soil that have been established by the California Office of Environmental Health Hazard Assessment (OEHHA) for residential properties because these cleanup levels would be protective of all future users, including children. OEHHA cleanup standards are only provided for either a residential scenario (more stringent) or a commercial/industrial scenario (less stringent). Of these, the residential cleanup standard is appropriate for the PRGC cleanup because potential future users could include children, which require more stringent cleanup criteria. This cleanup standard was not selected, as the appellant speculates, to provide for future "sensitive land uses such as housing or childcare", but to provide for future unrestricted use of the site.

The appellant also contends that the soil remediation project should include the potential future use of the site following remediation. However, potential future uses of the site are independent

[3] The Lake Merced Watershed Report (SFPUC, 2011) provides a purpose, vision, long-term goals, and guidelines to provide a framework to guide decision-making for the watershed, and serve as the basis for developing and evaluating future projects, initiatives, and management actions. The report has not been subject to CEQA or approved by the SFPUC.

of the soil remediation and would not be determined by the proposed project. Therefore, the appellant's contention is incorrect under CEQA. Any proposal for new or different uses of the site in the future would be developed through a public process, with community input from any local stakeholders and residents of San Francisco (including the PRGC should they choose to participate) among others, which would then be subject to a separate CEQA review process, as appropriate. The identification of future uses prior to conducting a public planning process would be a speculative exercise at this point.

CONCERN 4: The appellant asserts that compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties in accordance with CEQA Guidelines does not demonstrate that mitigation measures (M-CP-1a, M-CP-1b, and M-CP-1c) would reduce impacts on historical resources to a less-than-significant level.

"The IS/MND recognizes that significant impacts to historic resources may result from the RAP, although it incomprehensibly concludes that such impacts will be mitigated to less-than-significant levels. Specifically, Impact CP-l finds that by removing certain contributory features at the club facility (i.e., the semi-circular station paths and wood safety fences at skeet fields 4-7 and the high/low houses) and also due to the potential for damage for the contributory features remaining onsite during the remediation, the RAP may cause significant environmental impacts. Through the implementation of mitigation measures M-CP-la, M-CP-1b, and M-CP-lc, the IS/MND concludes that Impact CP-1 will be rendered less than significant. This conclusion is presented without adequate supporting evidence that such measures will minimize the impact to a less-than-significant level.

From the analysis prepared by the Club, it appears that the IS/MND's proposed mitigation measures cannot and will not reduce Impact CP-l to a less-than-significant level.

First, the IS/MND misstates the CEQA Guidelines provision that is the basis for the mitigation measures. The IS/MND states that under CEQA [Guidelines] Section 15064.5(b)(3), 'a project that follows the Secretary of the Interior's [Secretary] Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Restructuring Historic Buildings shall be considered as mitigated to a less-than-significant level.' This is a generous interpretation of the Guidelines. In reality, CEQA Guidelines Section 15064.5(b)(3) states that compliance with the Secretary's Standards will 'generally' render an impact less than significant. Accordingly, compliance with Secretary's standards does not mean that an impact is *per se* less than significant as indicated in the IS/MND, and the City is obligated to determine, based on analysis and substantial evidence, that the proposed mitigation would reduce Impact CP-l to a less-than-significant level." (Page 5 and 6 of the Appeal Letter)

RESPONSE TO CONCERN 4: Implementation of mitigation measures that are compliant with the Standards would retain and preserve the historic character of the historical resource, thus rendering the impact less than significant.

The appellant erroneously asserts that compliance with the Standards (as required by mitigation measures M-CP-1a, M-CP-1b and M-CP-1c) does not mean that an impact is *per se* less than significant. The PMND correctly interprets that the CEQA [Guidelines] Section 15064.5(b)(3), which state, "Generally, a project that follows the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Restructuring Historic Buildings shall be considered as mitigated to a less-than-significant level on the historic resource." As discussed on PMND page 53, the Standards require that the historic character of a property be retained and preserved. It follows, then, that if a project adheres to the Standards and the historic character of a property is retained and preserved, there would be no substantial adverse change in the significance of a historical resource as defined in CEQA Section 15064.5, and the impact would be less than significant.

Proposed mitigation measures M-CP-1a, M-CP-1b, and M-CP-1c are in accordance with the Standards because they would preserve and protect, or in some cases, temporarily remove and reestablish, all identified contributors to the cultural landscape. Thus, the historic character of the historical resource would be retained and preserved. The City finds there is substantial evidence to support a less-than-significant finding with implementation of these mitigation measures.

CONCERN 5: The appellant asserts that, regardless of the argument in Comment 4, the proposed mitigation measures M-CP-1a and M-CP-1b are not in compliance with the Standards because historic structures would be removed and, therefore, these measures would not reduce impacts on historical resources to a less-than-significant level.

"Second, even assuming *arguendo* that use of the Secretary's Standards under the 'Rehabilitation' criteria could render Impact CP-l less-than-significant, Mitigation Measures M-CP-la and M-CP-1b are inconsistent with that Standard. Under the RAP, certain facilities and structures will be removed and then reconstructed. The Secretary's Rehabilitation Standard does not authorize the removal of historic structures. By contrast, Rehabilitation Standard No. 2 states: 'the historic character of a property will be retained and preserved … *the removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.'* Mitigation Measures CP-1a and M-CP-lb directly contradict the Secretary's Rehabilitation Standards by moving, relocating and altering the significant features and spaces of the Club. There is no substantial evidence to demonstrate that these measures will mitigate Impact CP-1 to a less-than-significant level and to the contrary, they are likely to destroy the historic resources." (Page 6 and 7 of the Appeal Letter)

RESPONSE TO CONCERN 5: Mitigation Measures M-CP-1a and M-CP-1b are consistent with the Standards. These measures would temporarily remove, then reestablish or reconstruct, all identified contributors to the cultural landscape, thereby preserving and protecting these features in accordance with the Standards.

When the Standards state that "*the removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided*" it is referring to the permanent removal and/or demolition of the character-defining features of a historical resource. The Standards include flexibility to temporarily remove character-defining features in order to repair or replace them with similar materials. For example, the temporary removal for repair of character-defining wooden windows would not be considered to diminish a building's historical integrity. In this case, certain features of the PRGC cultural landscape would be temporarily relocated and protected during project construction, and then replaced in their original position. Under no circumstances would the character-defining features of the PRGC cultural landscape be permanently removed.

As noted on PMND page 53, the Secretary of the Interior's Standards for Rehabilitation require that the historic character of a property be retained and preserved, and that the removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property be avoided. In meeting these objectives, repair is emphasized over replacement, but replacement of historic features is allowable under the Standards with the provision that the new features should match the old in design, color, texture, and, where possible, materials. The Standards recognize situations where replacement in-kind is not technically, economically, or environmentally feasible. In such situations, compatible substitute materials that have similar characteristics can be considered. The mitigation measures in the PMND incorporate this guidance for repair and replacement as a means to ensure the retention and preservation of the historic character of the PRGC as a historical resource.

Mitigation Measure M-CP-1a, Record and Reconstruct the Semi-Circular Station Paths at Skeet Fields 4 – 7, in particular, provides the SFPUC with the flexibility allowed under the Secretary of the Interior's Standards for Rehabilitation to reconstruct the semi-circular Skeet Fields 4-7 in the same size, configuration, location as the existing fields and using materials that are compatible with the historic character of the cultural landscape; the reuse of the existing concrete is not required because this material post-dates the period of significance. Mitigation Measure M-CP1b, Record, Protect, and Return (or Replace in-Kind) the High/Low Houses and Wood Fences at Skeet Fields 4-7, provides the SFPUC with the flexibility allowed under the Secretary of the Interior's Standards for Rehabilitation to replace the high/low houses and wood fences at Skeet Fields 4-7 in a similar size, design, location, and materials as existing, if they are found to have been previously damaged beyond repair, if they are in poor structural condition, or if it is infeasible to return them to their original location due to their condition or other factors.

The PMND appropriately concluded that Mitigation Measures CP-1a through M-CP-lc would reduce impacts to the historical resource to a less-than-significant level because they would: (1)

record and reconstruct the semi-circular station paths at Skeet Fields 4 – 7 (Mitigation Measure M-CP-1); (2) record, protect, and return (or replace in-kind) the high/low houses and wood fences at Skeet Fields 4-7 (Mitigation Measure M-CP-1b); and (3) protect the four contributory buildings during construction (Mitigation Measure M-CP-1c). These measures would ensure that the character-defining features (described in detail on pages 50 and 51 in the IS/MND) that contribute to the historic character of the cultural landscape of the PRGC are retained, protected and/or reconstructed in a similar size, design, location, and materials as existing, in keeping with the Secretary of Interior's Standards for Rehabilitation.

With implementation of these mitigation measures, the proposed project would meet the Secretary of the Interior's Standards. As noted in CEQA Guidelines Section 15064.5(b)(3), a project that follows the *Secretary of the Interior's Standards (Standards) for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings* shall be considered as mitigated to a less-than-significant level. For these reasons, the PMND correctly and appropriately identified mitigation measures that would reduce impacts to the historical resource to a less-than-significant level.

CONCERN 6: The appellant asserts that PMND does not identify and appropriately mitigate potential adverse impacts on historical resources that could occur during the construction period (i.e., during removal, storage, and replacement of historic structures).

"Third, the IS/MND overlooks the fact that the historical resource (i.e., the cultural landscape) will be adversely affected during the period of time between when the structures are removed from the Club's facility and when they are replaced. The IS/MND acknowledges that numerous contributory features will be removed from the site for an extended period of time, yet the document fails to identify the impact and describe corresponding mitigation." (Page 7 of the Appeal Letter)

RESPONSE TO CONCERN 6: The appellant's claim that the PMND overlooks potential impacts on contributors of the historical resource during the construction period is incorrect. These potential impacts are identified and adequately mitigated in the PMND.

As discussed in the PMND (page 52), the PRGC site contains multiple features that contribute to its significance as an historical resource during its period of historical significance (1934 – 1941). These features are Skeet Fields 4-7 (including the level terrace, their semi-circular station paths, the high and low houses, and safety fences) and the four buildings that house the operational and social functions of the club (the Clubhouse, Caretaker's House, Rifle Range Building, and the Shell House). Of these features, only the high and low houses and safety fences from the four skeet fields would be removed and replaced and thus could be potentially "adversely affected during the period of time between when the structures are removed from the Club's facility and when they are replaced."

The physical effects of the temporary relocation of the high/low houses and wood fences at Skeet Fields 4 – 7 are addressed by Mitigation Measure M-CP-1b (Record, Protect, and Return (or Replace in Kind) the High/Low Houses and Wood Fences at Skeet Fields 4-7) on PMND pages 54-55, which requires the following:

- During site remediation activities, the SFPUC shall protect these features from accidental damage during earth moving by storing these elements within a locked, chain-link fence enclosure and posting "Keep Out" or "No Trespassing" signs.
- Following site remediation, the SFPUC shall return these features to their original positions at the reconstructed skeet fields 4-7. Based on the pre-construction recording and depending on their structural condition, any damaged components should be repaired in keeping with the Secretary of Interior's Standards for Rehabilitation…

Thus, the PMND addresses potential impacts to these contributory historical features that could occur during the approximately 57-week duration of construction. Mitigation Measure M-CP-1b stipulates that the high/low houses shall be protected during the construction period and requires that any damage that occurs during this period be repaired. As a result, these impacts would be less than significant with mitigation.

In addition, the physical effects to the four contributory buildings (Clubhouse, Caretaker's House, Rifle Range Building, and the Shell House), during construction are addressed in Mitigation Measures M-CP-1c (Protect the Four Contributory Buildings During Construction), M-NO-2a (Preconstruction Surveys and Repair), and M-NO-2b (Construction Equipment Restrictions Near Buildings). Mitigation Measure M-CP-1b requires that the buildings "…..shall be adequately protected from accidental damage due to construction activities and vandalism. These structures shall be surrounded by protective fencing and shall be secured from entry by boarding up all windows and doors, and posting 'Keep Out' or 'No Trespassing' signs on each building. Following site remediation, these buildings shall be returned to their original appearance by removing all temporary construction fencing, window and door protection, and signage." Mitigation Measures M-NO-2a and M-NO-2b further reduce potential impacts on contributory buildings by limiting construction equipment in close proximity to these buildings and by repairing any documented new cracks or other changes in the structures that are attributable to construction.

Therefore, the PMND does identify the potential for physical impacts on the historical resource during the remediation period and does provide appropriate mitigation to reduce these potential impacts to a less-than-significant level.

CONCERN 7: The appellant claims that additional features of the PRGC site are historical resources based on a historic resource evaluation prepared by its consultant, Page & Turnbull. Based on its evaluation, the project would have significant impacts on historical resources.

"2. A July 2014 Historic Resource Evaluation of the Club Demonstrates that the IS/MND Does Not Evaluate the Full Extent of the RAP's Potential Impacts to Historic Resources

A July 2014 Historic Resource Evaluation of the Club prepared by the noted historic architectural firm Page & Turnbull ('Page & Turnbull Evaluation') both demonstrates that the Club is a historic resource and that the Bradley Evaluation fails to account for key information. The Page & Turnbull Evaluation is a comprehensive analysis of the Club as a historic resource. The Evaluation, which is based on, among other research, a site visit, documentary review, photographic review, and interviews with Club members, is consistent with the Planning Department's outline for Historic Resource Evaluation Reports. Using this methodology, Page & Turnbull concluded that the Club is a historical resource as a cultural landscape, and that the Club's period of significance extends from 1934 to 1964.

The IS/MND fails to consider whether the RAP will impact features that are contributory to the historic resource during the period of significance identified in the Page & Turnbull Evaluation. Specifically, the IS/MND relied exclusively on the Cultural Landscape Evaluation Report to define the period of significance and corresponding contributory features. This resulted in the intentional exclusion of numerous potentially-contributory features in the IS/MND's impacts analysis. For example, the IS/MND does not evaluate potential impacts to the Trap House, the Trap Fields and their configuration, various commemorative markers, the Duck Tower, or the three-bay garage, all of which contribute to the Club as a historical resource. Under Page & Turnbull's analysis, many if not all of the excluded features may be considered contributory, and could be adversely affected by the RAP. Neither the existing analysis in the IS/MND nor its corresponding mitigation measures account for impacts to contributory features built between 1941 and 1964. Therefore, a fair argument exists that the project may cause significant impacts to historic resources." (Pages 7 and 8 of the Appeal Letter)

RESPONSE TO CONCERN 7: There are no additional 'historic resources' at the PRGC site or vicinity that could be affected by the proposed project that were not already considered as part of the Cultural Landscape Evaluation Report or in the PMND.

The appellant asserts that the PMND does not evaluate the full extent of the RAP's potential impacts to historical resources. The alleged discrepancy in the identification of contributory features to the cultural landscape, and associated impacts to them, arises from differing periods of significance for the cultural landscape between the Cultural Landscape Evaluation Report and the Page & Turnbull Evaluation. The Cultural Landscape Evaluation Report identifies the period of significance from 1934 to 1941, based on a thorough presentation of historic context and analysis of the PRGC's association with the broad patterns of history as follows:

> The period of significance for the PRGC's significance under Criterion A/1 appears to begin in 1934 when the club moved to the Lake Merced site and to end in 1941 with the United States' entry into World War II, which ended the club's initial period of development. Although the activities of the club remained unchanged after World War II, its post-war expansion period (1946-early 1960s) was more directly linked with other contexts, including the broad interest in outdoor recreation that occurred within the context of the nation's post-World War II prosperity and an increased interest in skeet that was a by-product of World War II training practices, than to the early 20th century conservation movement (page 39).

As a result, only those buildings, structures, and important elements of the landscape i.e., the level terrace, linear arrangement, and semi-circular path system of skeet fields 4 to 7 (the form and dimensions, not the concrete materials) constructed between 1934 and 1941 are considered contributory elements to the cultural landscape. Buildings, structures, and landscape features completed after 1941 were not considered contributory elements because they are not directly associated with the historic context identified under CRHR Criterion A/1, which is the early 20th Century conservation movement. The PMND does not identify potential impacts to the Trap House, the Trap Fields and their configuration, various commemorative markers, the Duck Tower, or the three-bay garage, because they post-date the period of significance (post-1941) and do not contribute to the PRGC cultural landscape, i.e., the identified historical resource.

The Page & Turnbull Evaluation identified a much longer period of significance, from 1934 to 1964, which would encompass many more buildings constructed in the post-war period, and as a result, identified many more potentially "historic" buildings and structures that could be affected by the proposed project. However, the end date of period of significance (1964) identified in the evaluation conducted by Page & Turnbull is not substantiated with any evidence that the site is historically significant during World War II or the post-war period, and did not develop a detailed post-war historic context to support their conclusions. Rather, the Page & Turnbull Evaluations states that:

> The end of the proposed period of significance is fifty years prior to the date of this evaluation, marking the generally accepted threshold for California Register eligibility in the absence of exceptional historic significance (Page & Turnbull, page 56).

While fifty years is the generally accepted age threshold for California Register eligibility, it is not the threshold for actual significance of any given resource. The period of significance must be substantiated by a significant association with historic events for consideration under Criterion A/1 (Public Resources Code Section 5024.1). As described above, the Page & Turnbull Evaluation does not provide supporting evidence that the site is historically significant for any events during World War II or the post-war period.

In contrast, the Cultural Landscape Evaluation Report and the PMND do provide substantial evidence for the period of significance of 1934 -1941 (Cultural Landscape Evaluation Report pages 39-41; PMND page 48), the buildings and structures identified as contributors to the cultural landscape during the period of significance from 1934 – 1941, and the features and structures identified as contributing to the historical resource (Cultural Landscape Evaluate Report pages 42-50; PMND pages 50-51).. In addition, the Cultural Landscape Evaluation Report provides a detailed discussion of the seven aspects of integrity – location, design, materials, workmanship, setting, feeling, and association – that convey the individual significance of the historical resource under NRHP/CRHR Criterion A/1 and further substantiate this determination. Moreover, the substantial evidence standard, not the fair argument test, applies to the lead agency's determination regarding whether an historical resource is present in the first place (*Valley Advocates v. City of Fresno* [2008] 160 Cal.App.4th 1039). Therefore, impacts on structures built in the post-war period would not be impacts on the historical resource as the appellant asserts.

CONCERN 8. The appellant asserts that the PMND fails to address potential impacts to additional features it claims contribute to cultural landscape and should be considered historic resources, including Lake Merced as an adjacent natural system, the general sloping topography of the grounds, and several mature trees planted in the southern portion of the property.

"Further, the IS/MND fails to identify, and account for potential impacts to, numerous features that contribute to the Club as a significant cultural landscape. Page & Turnbull identified several contributory features beyond those addressed in the IS MND, namely: Lake Merced as an adjacent natural system, the general sloping topography of the grounds, and several mature trees planted in the southern portion of the property. Due to the lack of an evaluation of potential impacts to these features in the IS/MND, that document does not provide substantial evidence to support the conclusion that the project will not result in significant impacts to historic resources." (Page 8 of the Appeal)

RESPONSE 8. The Cultural Landscape Evaluation Report considered Lake Merced as a recreational area, the mature trees at the project site, and site topography in its evaluation and appropriately found that none of these features contributes to the cultural landscape.

The appellant's assertion that the Cultural Landscape Evaluation Report failed to address San Francisco recreation, specifically around Lake Merced, is incorrect. This potential association was considered and rejected in the Cultural Landscape Evaluation Report, as follows:

> *Association with Recreation around Lake Merced.* The development of the PRGC site is part of a broad pattern of history associated with the development of recreation in San Francisco. More specifically, the PRGC site is associated with the pattern of expansion of recreation around Lake Merced that occurred during the 1910s-1930s after the

> SVWC began selling its land within the lake's watershed and after the SFPUC purchased the lake in 1930. Three golf courses (San Francisco Club in 1915, the Olympic Club in 1918, and Harding Park in 1925) were developed adjacent to the lake during this period. The PRGC was granted a lease by the SFPUC for outdoor target shooting activities in 1934 and constructed two skeet fields at its present-day site on the shore of the lake in that year. The SFPUC also expanded fishing and boating activities associated with the lake during this period. The initial stocking of the lake with sport fish (black bass) occurred in the early 1930s, and the first boat concession was granted in 1938. However, the PRGC site does not appear to possess individual significance under NRHP/CRHR Criterion A/1 for this association. It was one of several recreational facilities that developed on and around the lake during this period. Additionally, there is nothing inherent in its physical features that necessarily expresses or illustrates this association. In summary, the PRGC site does not appear to be individually significant under NRHP/CRHR Criterion A/1 for its association with the expansion of recreation around Lake Merced that occurred during the 1910s-1930s.

With regard to the assertion that Cultural Landscape Evaluation Report failed to mention Lake Merced as an adjacent natural system, the report stated the following:

> The primary land use at the PRGC site is outdoor target shooting . . . This arrangement of features—the site's spatial organization—has been shaped by the needs of this primary land use and by the long and narrow shape of the site situated between the lake and a public road. The shape of the site, the need to set the shooting activities back from the road, and the need to provide a safety zone for the falling targets (a shotfall zone) resulted in the linear arrangement of the skeet and trap fields along the edge of the site next to the lake. The portion of the shotfall area that extends out into Lake Merced is outside of the lease area for the PRGC and outside of the boundary of the PRGC cultural landscape (page 29).

Research conducted for the Cultural Landscape Evaluation Report found that the Lake Merced site was chosen by the PRCG not so much because of its beauty as an adjacent natural system, but due to: (1) the gradual slope made it relatively easy to grade for the fields; (2) its availability – it was open space with no buildings around it in the early 1930s; and 3) the lake provided an extended shotfall area. As such, the Cultural Landscape Evaluation Report appropriately addressed Lake Merced in its evaluation, and did not identify the Lake itself as a contributing feature to the cultural landscape.

With regard to the assertion that the Cultural Landscape Evaluation Report failed to address the mature trees on the property as part of the historical resource, this topic was considered and rejected in the Cultural Landscape Evaluation Report as follows:

> Secondary features that were present on site during the period of significance but that do not contribute to the design or function of the site as an outdoor target shooting range or to its function as a sportsmen's club include (1) the parking lot on the western end of the site, (2) the internal road on the eastern end of the site, (3) the small stand of trees (six eucalyptus and one Monterey cypress) in the area between the Rifle Range building and Field 8 (the remains of a larger stand of trees that predate the club's usage of the site trees), (4) several large eucalyptus trees along the southern edge of the site in the vicinity of the Caretaker's House and Clubhouse (the remains of a larger stand of trees that predate the club's usage of the site trees), (5) four Monterey pine trees (the remains of a longer row that was planted in the mid-1930s to define edge of the site next to John Muir Drive), and (6) a large Monterey cypress tree located on the west side of the primary entrance to the Rifle Range building. In the case of the trees listed above, their presence reflects the common usage of these species (eucalyptus, Monterey cypress, and Monterey pine) in San Francisco during the first half of the 20th century rather than a specific relationship to the functioning of the site as an outdoor shooting range (page 45).

As such, the Cultural Landscape Evaluation Report correctly noted that the mature trees on the project site are non-contributors to the cultural landscape because they are not related to the site's historical significance, or to the design or function of the site as an outdoor target shooting range and sportsmen's club (i.e., the reasons for which the site is historically significant). The Page & Turnbull Report incorrectly identifies the trees as historically significant when in fact they are ancillary to the site and, for the most part, existed prior to any recreational uses at the site.

With regard to site topography, specifically, the Cultural Landscape Evaluation Report states the following:

> The PRGC site is relatively flat but slopes slightly down from its south side next to John Muir Drive toward the lake and from the entrance down toward the east end of the property…... The shoreline drops off steeply at the north end and northwest portion of the site, but, according to the characterization of the site in the Lake Merced Watershed Report, the remaining shoreline interface is "generally much more gradual than is typical for shoreline conditions around the lake" (SFPUC, 2011:14). The topographic modifications to the site are related to its use and function as an outdoor target shooting range and club. These include the large level terrace for the parking lot and trap and skeet range (Fields 1 to 7) which

> occupies the majority of the area on the western portion of the site, the smaller terrace where Fields 8 and 9 are located on the east end of the site, and a bank that extends along the south side of the site that provides the transition between the elevation along John Muir Drive and the lower elevation of the site. Minor topographic modifications include the leveling of the area that accommodates the footprint of Clubhouse and Caretakers House which are located immediately to the north of the south-side bank (pages 29-30).

The Cultural Landscape Evaluation Report also identifies that one of the contributing features for the PRGC cultural landscape related to its significance under NRHP/CRHR Criterion A/1 for the period between 1934 and 1941 is Fields 4 to 7 (1938) and their character-defining features, which include *a level terrace* (page 49). As such, Cultural Landscape Evaluation Report identified certain portions of the topography on the project site as character defining to the cultural landscape. The Page & Turnbull Evaluation incorrectly identifies the 'natural slope' of the site as a contributor to its historic significance, when in fact, the original slope has been terraced to accommodate the recreational uses.

With these topics addressed in the Cultural Landscape Evaluation Report, the PMND provides substantial evidence to support the conclusion that the project would not result in significant historical resource impacts related to buildings or structures built after 1941, or to other elements deemed non-historic such as trees, topography, or Lake Merced.

CONCERN 9: The appellant asserts that project mitigation measure M-AE-3, would not fully mitigate aesthetic impacts because planted vegetation would take time to mature.

"C. The IS/MND Does Not Fully Account for Potentially-Significant Aesthetic Impacts

The RAP will require removal of a substantial amount of vegetation that currently screens on-site structures. Due to the possible removal of mature trees that screen the eastern portion of the site, the implementation of the RAP could result in potentially-significant aesthetic impacts. The IS/MND describes the potential impact as follows:

> Removing the maximum potential number of trees in this vicinity could result in a substantial adverse effect on the scenic quality of the area and designated scenic resources. These include views from John Muir Drive/49-Mile Scenic Drive and of Lake Merced, and would result in a significant impact.

To mitigate this impact, the IS/MND relies on M-AE-3 which provides:

> The SFPUC shall identify the location and spacing of new plantings that would, at maturity, screen views of the eastern portion of the site. New plants shall include native

> species indigenous to the San Francisco Peninsula and/or shrubs and trees typical of the surrounding area. Plantings (by way of species type, size, and location) shall ensure that direct views of the site east of the entrance road are substantially obstructed from any location within a ten-year period. The SFPUC shall monitor and photograph screening vegetation annually after completion of remediation activities. If it is determined that success standards are not being met, SFPUC shall take immediate action to re-plant screening vegetation to ensure compliance by the tenth-year period.

A plain reading of M-AE-3 indicates that the mitigation measure would not fully mitigate the corresponding aesthetic impact. M-AE-3 is premised on the basis that replacement trees will accomplish the same screening effect as the trees that currently screen the eastern portion of the site. However, M-AE-3 indicates that this screening will not occur, if at all, until the trees have been in place for 10 years. This means that a 10-year period may exist during which the scenic quality of the area and its designated resources may be impacted due to the lack of adequate screening of on-site structures. As the IS/MND does not include a mitigation measure to account for what is conceded to be a potentially-significant impact, there is no substantial evidence to conclude that the RAP will not result in a significant aesthetic impact." (Pages 8 and 9 of the Appeal Letter)

RESPONSE TO CONCERN 9: Mitigation Measures M-AE-3 would reduce long-term aesthetic resources impacts to a less-than-significant level.

The appellant asserts that because Mitigation Measure M-AE-3 includes a 10 year period for complete implementation of the measure, a potentially significant impact on aesthetics could occur during the mitigation implementation period. CEQA Section 21081.6(b) indicates that:

> A public agency shall provide that measures to mitigate or avoid significant effects on the environment are fully enforceable through permit conditions, agreements, or other measures. Conditions of project approval may be set forth in referenced documents which address required mitigation measures or, in the case of the adoption of a plan, policy, regulation, or other public project, by incorporating the mitigation measures into the plan, policy, regulation, or project design.

CEQA Section 20181.6(c) states that:

> Prior to the close of the public review period for a draft environmental impact report or mitigated negative declaration, a responsible agency, or a public agency having jurisdiction over natural resources affected by the project, shall either submit to the lead agency complete and detailed performance objectives for mitigation measures which would address the significant effects on the environment identified by the responsible agency or agency having jurisdiction over natural resources affected by the project, or refer the lead agency to appropriate, readily available guidelines or reference documents. Any mitigation measures submitted to a lead agency by a responsible agency or an

> agency having jurisdiction over natural resources affected by the project shall be limited to measures which mitigate impacts to resources which are subject to the statutory authority of, and definitions applicable to, that agency. Compliance or noncompliance by a responsible agency or agency having jurisdiction over natural resources affected by a project with that requirement shall not limit the authority of the responsible agency or agency having jurisdiction over natural resources affected by a project, or the authority of the lead agency, to approve, condition, or deny projects as provided by this division or any other provision of law.

There is no requirement under CEQA that a mitigation measure must be implemented within a specific timeframe to avoid a potential significant impact and in many cases, such as installation of screening vegetation or restoration activities, mitigation implementation requires time for vegetation or habitat to become successfully established. Mitigation Measure M-AE-3 includes performance objectives, means to measure success, and a provision for corrective actions. In this case it is expected that screening vegetation would fully mature within 10 years; however, substantial screening would occur earlier than that as vegetation matures. As such, the long-term aesthetic resources effects associated with the proposed project are adequately addressed in the PMND and there is no substantial evidence to support the appellant's assertion that the proposed project would result in a significant aesthetics impact.

OTHER CONCERNS

Seven comment letters were received from the following organizations and individuals: Golden Gate Audubon Society; Dolphin Club; Friends of the Gulls; Frank H. (Bert) Swan, Ph.D.; Peter Griffith; Jeanine Mahl; and Dick Morten. Comments primarily address air quality (dust), biological resources, aesthetics, and need for the project. These comments are summarized below and indicate where revisions have been made to the PMND, as applicable. The amendments do not change the overall conclusion of the PMND.

- **Dick Allen, Dolphin Club** – inquired whether the removal of 81 or more trees would alter wind patterns and velocity on South Lake, and expressed the concern that any wind velocity increase would negatively affect rowing activities on Lake Merced.
- **Dick Morten** – stated that tree removals should only occur if necessary and after habitat and wildlife impacts have been evaluated; that the IS/MND should not indicate that the PRGC has any right to future site use, and that site structures should not be considered historic resources because they may not have been constructed according to code.
- **Golden Gate Audubon Society** – provided comments and recommendations on various topics below:
    - ***Fugitive Dust*** – expressed concern about the potential for fugitive dust and contaminated material to enter Lake Merced and waterbirds, aquatic wildlife, and recreationists; proposed the establishment of monitoring stations and an

emergency dust plan. In response to this comment, additional discussion was added to Section E.13, Biological Resources, on pages 135-136.

- ***Bird Data*** – proposed using bird data available for the entire area surrounding Lake Merced in analysis of impacts to birds. Provided additional information about the Fox Sparrow, Western Kingbird, Black Phoebe, Townsend's Warbler, Yellow Warbler, Tricolored Blackbird, and Great Blue Heron. In response to these comments, Section E.13, Biological Resources, was revised on pages 124 and 134.
- ***Nesting birds*** – suggested that work exclusion zones be placed around nests built during project activities and that monitoring and surveys be conducted throughout the birding season.
- ***Tree Removal*** – questioned the 10-year screening requirement for tree replacement described in Mitigation Measure M-AE-3 and proposes that tree health, as evaluated by a qualified professional, be used as success criteria. In addition, provided recommendations for tree replacement species and numbers.
- ***Future Site Use*** – indicated that cleanup for unrestricted future use appears contradictory to the project description which states that PRGC activities would be suspended during construction and Mitigation Measures M-CP-1a and M-CP-1b that would restore skeet fields 4-7. Suggested those measures be postponed until after future site use is determined by the SFPUC. Also suggested that a groundwater recharge plan be prepared for the site.
- ***Coyotes*** – suggested measures to reduce project impacts on potential coyote dens.

- **Friends of the Gulls** – Requested that Friends of the Gulls be added to distribution list for project updates.

- **Frank H. (Bert) Swan, Ph.D.** – expressed the opinion that the AMEC health risk assessment assumptions are unrealistically conservative and warrant additional evaluation, such as biological testing of on-site and off-site gophers to determine the bioavailability of PAHs; asserted that vehicle emissions and runoff from pavement along John Muir Boulevard contribute to PAHs and lead in soil; claimed that the project requires an EIR and a cost benefit analysis of alternative remediation methods; and, indicated the proposed remediation is not based on adequate data and cost considerations.

- **Jeanine Mahl** – Supported Dr. Swan's position, questioned whether existing toxicity levels really pose a health risk, and argued for further soil and animal testing and environmental impact studies.

- **Peter Griffith** – Requested that an EIR/cost benefit analysis be completed prior to project implementation.

DATE: January 6, 2015
CIWQS Place ID: 247266 (ADF)

Ethan Lavine
North Central Coast District
California Coastal Commission
45 Fremont St., Suite 2000
San Francisco, CA 94105-2219
(Sent via email to Ethan.Lavine@coastal.ca.gov)

SUBJECT: Water Board Staff Concurrence, Coastal Permit Application Permit Number 2-14-1612, Item No. W-20a, Hearing Date January 7, 2015, San Francisco Public Utilities Commission, Pacific Rod and Gun Club, 520 Muir Drive, San Francisco, San Francisco County

Dear Mr. Lavine:

Water Board staff concur with the Coastal Commission staff recommendation to approve the coastal permit application for the San Francisco Public Utilities Commission (the SFPUC). SFPUC proposes to implement an Upland Soil Remedial Action Plan (the Project) for the Pacific Rod and Gun Club site, located along the southwest shores of Lake Merced in San Francisco. The Project is required by Task 2 of the Water Board Order No. R2-2013-0023, adopted by the Water Board on June 12, 2013. This Order requires remedial actions to achieve human health standards in upland soils.

The Project goal is to clean up soil contamination from the former use of lead shot and clay targets at the Gun Club's skeet and trap shooting ranges. The project consists of excavation and offsite disposal (as appropriate) of up to 46,500 cubic yards of soils containing elevated concentrations of lead, clay target debris, and backfilling of excavated areas with clean fill material.

Task 2 of our Order also requires SFPUC to submit documentation demonstrating compliance with CEQA in the selection of the remedial action plan. In a Mitigated Negative Declaration dated October 3, 2014, it was determined that this Project could not have a significant effect on the environment if the mitigation measures proposed in the Project were incorporated. These measures include 1) protection of any special status plants or animals found at the site, 2) protection of any historic or archaeological items encountered, and 3) minimizing construction-related air emissions.

In a letter dated November 7, 2014, the Water Board Executive Officer concurred with both the proposed Project and the conclusions of the Mitigated Negative Declaration. Water Board staff

likewise support the Coastal Commission's staff recommendations. Should you have any questions regarding this item, please contact Alan Friedman of my staff at (510) 622-2347, or by email at afriedman@waterboards.ca.gov.

Sincerely,

Signature on file

Terry Seward
Chief, GW Protection Division

Cc: Obi Nzewi, SFPUC (ONzewi@sfwater.org)
Patrick Gilligan, PRGC (http://www.prgc.net/patrick-gilligan)
Gerrett J. Colli, Jeffer Mangels Butler & Mitchell (GJC@JMBM.com)

CITY AND COUNTY OF SAN FRANCISCO

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January 6, 2015

VIA EMAIL TO COMMISSION STAFF

California Coastal Commission
North Central Coast District Office
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Re: 520 John Muir Drive, San Francisco, CA
Hearing Date: January 7, 2015, Item No. W20A
Case No.: 2-14-1612

Dear Commission Members:

This office represents the San Francisco Public Utilities Commission (SFPUC), the permit applicant in the above referenced case. This letter responds to the January 2, 2015 letter you received from Ms. Sheri Bonstelle and Mr. Neill Brower of the Jeffer Mangels law firm on behalf of the Pacific Rod and Gun Club (Gun Club).

The SFPUC is a department of the City and County of San Francisco that provides water, wastewater and power services. The SFPUC owns Lake Merced and a portion of the surrounding watershed, having purchased the property in 1930 from the Spring Valley Water Company. The Gun Club has been a tenant on the site since 1934. Pursuant to the November 5, 2012 settlement of an unlawful detainer action filed by the City, the Gun Club entered into an amended and restated lease for a two year period through January 1, 2015. The SFPUC sent the Gun Club a 90 day lease termination notice on December 15, 2014.

As described in the application pending before this Commission, the SFPUC seeks to undertake soil excavation and disposal of upland soil contaminated by decades of shooting activities by the Gun Club, followed by replacement with clean soil. As noted on page 17 of the staff report for this matter, the work area also includes 0.835 acres of freshwater emergent wetlands. The SFPUC seeks to clean up the premises to a high standard so that the property can be used for unrestricted uses without deed restrictions, in compliance with Bay Area Regional Water Quality Control Board (RWQCB) order no. R2-2013-0023.

The Gun Club has sought to frustrate and delay the cleanup of the site throughout the process leading to the certification of the mitigated negative declaration (MND) for the cleanup, prepared by the San Francisco Planning Department, and the RWQCB issuance of order no. R2-2013-0023. During these proceedings the Gun Club has (1) challenged the cleanup standard as not necessary; (2) proposed leaving contaminants in place with a cap; (3) sought a stay of the RWQCB proceedings in March 2014; (4) suggested that the cleanup be structured so as to leave the Gun Club in place during construction; and (5) appealed the mitigated negative declaration prepared by the Planning Department to the San Francisco Planning Commission. Notably, the Gun Club did not appeal the Planning Commission's certification of the MND to the San Francisco Board of Supervisors as required by the City's Administrative Code, and the SFPUC filed a notice of determination under the California Environmental Quality Act (CEQA) on

December 2, 2014. Therefore, the Gun Club failed to exhaust administrative remedies in challenging the adequacy of the MND, and now seeks to raise before this Commission issues that the San Francisco Planning Commission rejected in its determination to approve the MND.

The City offers the following responses to the points made in the January 2 letter:

Notice: Notice of the application filed with the Coastal Commission was posted on the Gun Club site, and the notice of hearing was mailed to the Gun Club 10 days before the hearing, as required by the Bagley-Keene Act. The Gun Club's lengthy submittal to this Commission on January 2nd is evidence that the Gun Club had actual notice of this hearing.

Alleged Coastal Act Violation Related to Wetlands Under PRC §30233: The Gun Club's letter is misleading in that it implies that the entire site consists of protected wetlands. The SFPUC made a concerted effort to avoid wetlands on the site in developing the Remedial Action Plan. Bay Area RWQCB order no. R2-2013-0023 separates the site into two units, requiring cleanup of the approximately 10 acre upland area and further study of whether future cleanup will be necessary of submerged areas in Lake Merced.

As noted on page 17 of the staff report, cleanup of the upland area requires the dredging and backfilling of a 0.835 acre area of freshwater emergent wetlands on the shore of Lake Merced. Environmental restoration is an authorized purpose under Public Resources Code §30233(a)(6). Removing the contaminated soil (in an area that has the highest levels of contamination due to shooting activities) and backfilling with clean soil is the only alternative that accomplishes the objective of cleaning up the 0.835 acre wetland portion of the 10 acre site consistent with Bay Area RWQCB order no. R2-2013-0023. The wetland area will be returned to its original bottom contours and replanted with native vegetation. Your staff's conclusion that the project meets the requirements of §30233 is on target. Leaving the substantial quantities of shooting debris on the surface (see Staff Report Exhibit 3), along with highly contaminated soil on the shore of Lake Merced, is simply unacceptable to the SFPUC.

Following issuance of RWQCB order no. R2-2013-0023, the Gun Club sought to convince the Bay Area RWQCB that the cleanup to the level proposed in the Remedial Action Plan was unnecessary. The executive officer of the RWQCB responded that

> [t]he Water Board's Order and State site cleanup regulations do not in any way constrain the Water Board from approving a cleanup that proposes to achieve standards that are more protective of human health and the environment than standards that are minimally acceptable based on the current land use. (Letter dated January 22, 2014 from Bruce Wolfe to James Arnold, attached as Exhibit 1.)

The Gun Club now argues that a lower level of cleanup, or no cleanup at all, would be more protective of coastal resources, in part because club members are no longer adding to the contamination in place due to cessation of use of lead shot in 1994 and substitution of biodegradable clay targets in 2000. This ignores the substantial legacy of contamination present on the site to a depth of *up to 7 feet* adjacent to Lake Merced, the largest coastal freshwater marsh between Bolinas Lagoon and Pescadero Creek. The Coastal Commission should defer to the RWQCB's judgment regarding the cleanup standard proposed by the SFPUC as the property owner.

Additionally, cleanup of the site is entirely consistent with San Francisco's adopted Local Coastal Program ("LCP"). San Francisco's LCP is found in the City's General Plan as the Western Shoreline Area Plan. Policy 5.3 of Objective 5 "Preserve the Recreational and Natural Habitat of Lake Merced", reads "Allow only those activities in Lake Merced area which will not

threaten the quality of the water as a standby reservoir for emergency use." A project whose entire purpose is to protect the water quality of Lake Merced and preserve its use as an emergency drinking water source for the City is thus entirely consistent with the LCP applicable here. It is notable that none of the LCP's policies relevant to Lake Merced mention the Gun Club or its preservation.

Alleged Inadequacy of Cultural Resource Mitigation: The Coastal Act does not focus on historic resources – Public Resources Code § 30244 protects only archaeological and paleontological resources. As a certified State regulatory program under CEQA, the Coastal Commission is more generally charged with "avoiding significant effects on the environment where feasible." (CEQA Guidelines, 14 CCR §15250).

In furtherance of this role, Commission staff has proposed special conditions regarding construction methods, pollution prevention, riparian and wetland mitigation monitoring, protection of species, tree removal, and archaeological and paleontological resources that are consistent with the mitigation measures adopted by the Planning Commission, the Coastal Act generally and §30244 in particular. These special conditions are acceptable to the SFPUC as the permit applicant. The Commission may not, however, propose additional *cultural resource* protection measures because this topic is not within the Coastal Commission's area of expertise, nor are such activities carried out or approved by the Commission.

Should the Commission contemplate an expansion of its role into cultural resource protection matters, the protection of cultural resources is an impact area analyzed under CEQA. The City Planning Department agreed that portions of the site included significant cultural resources based on the report by Denise Bradley, and required appropriate mitigation to protect these resources. During the public review period for the mitigated negative declaration, the Gun Club submitted its own cultural resource report by Page & Turnbull (Exhibit 2 to the Gun Club's January 2 letter). The chief difference between these two reports is the period of historic significance, with the City's consultant adopting a limited period from 1934-41 based on the following reasoning:

> The period of significance for the [Gun Club's] significance under Criterion A/1 appears to begin in 1934 when the club moved to the Lake Merced site and to end in 1941 with the United States' entry into World War II, which ended the club's initial period of development. Although the activities of the club remained unchanged after World War II, its post-war expansion period (1946-early 1960s) was more directly linked with other contexts, including the broad interest in outdoor recreation that occurred within the context of the nation's post-World War II prosperity and an increased interest in skeet that was a by-product of World War II training practices, than to the early 20th century conservation movement (Exhibit 2, p. 18 of City Planning Commission's reply to Gun Club's appeal)

The Page & Turnbull report simply goes back 50 years (the generally accepted age threshold for *eligibility* of an historic resource) to 1964, thereby including every shack and shed constructed on the property between 1934-64 as culturally significant, but without saying *why* the entire period was culturally significant. (See Exhibit 2, p. 18 of Planning Commission's reply to Gun Club's appeal).

The fair argument standard does not apply to the question of whether a building or other object qualifies as an historical resource for purposes of CEQA. *Citizens for Restoration of L*

Street v. City of Fresno (2014) 229 Cal.App.4th 340, 369 and n. 22. There was substantial evidence in the record to support the Planning Department's determinations on these issues. The fact that there were differences of opinion in the record concerning cultural resources does not mean that a reviewing court would reject the City's determination of significance for cultural resources. (*Id.*)

The Gun Club further asks this Commission for a remedy that it has no power to grant- to "allow that the historic Club use remain". Protection of cultural resources does not include protection of the underlying *use* – otherwise no tenancy could ever be terminated for reuse of an historic public property. CEQA defines "environment" to include "objects of historic . . . significance." (Public Resources Code Section 21065.5). Further, in determining the significance of a historic resource, CEQA directs one to consider a listed resource or "any object, building, structure, site, area, place, record or manuscript" that a lead agency determines to be historically significant . . . " (CEQA Guidelines 14 CCR Section 15064.5; see also Public Resources Code Section 21084.1). In other words, a historic resource is not a use, it is an object or location. The SFPUC has already given the Gun Club notice of termination of the lease, which will expire independently of the project schedule here.

The Commission should concur with the judgment of the lead agency here – the San Francisco Planning Commission - in its rejection of the Gun Club's CEQA appeal on these issues, defer to the RWQCB with regard to the appropriate level of cleanup for this site—a site contaminated by the Appellant—and grant the Coastal Development Permit as proposed by your staff for the long delayed cleanup of a 10 acre site bordering Lake Merced in San Francisco.

Very truly yours,

DENNIS J. HERRERA
City Attorney

Signature on file

By: Joshua Milstein
Deputy City Attorney

cc: S. Ritchie
O. Nzewi
S. Bonstelle, JMBM
Neill Brower, JMBM

Attached Exhibits:

1. Letter dated January 22, 2014 from Bay Area RWQCB Executive Officer Bruce Wolfe to James Arnold, Esq.

2. San Francisco Planning Commission Motion and Reply to Gun Club CEQA Appeal

EXHIBIT 1

January 22, 2014
CIWQS Place ID: 247266 (ADF)

San Francisco Public Utilities Commission
Attn.: Mr. Steven Ritchie
525 Golden Gate Ave.
San Francisco, CA 94102
(Sent via email to sritchie@sfwater.org)

James R. Arnold
Arnold Law Practice
3685 Mt. Diablo Blvd., Suite 331
Lafayette, CA 94549
(Sent via email to jarnold@arnoldlp.com)

Subject: Water Board Staff Concurrence with the Human Health Cleanup Standards for the Property Located at 520 John Muir Drive, Lake Merced, San Francisco, San Francisco County

Dear Mr. Ritchie and Mr. Arnold:

In a letter dated August 29, 2013, Water Board staff concurred with the human health cleanup standards proposed by the San Francisco Public Utilities Commission (PUC) in its July 23, 2013, report and submitted for compliance with Task 1 of Order No. R2-2013-0023, adopted by the Regional Water Board on June 12, 2013. The PUC proposed cleanup goals of 80 mg/kg (lead) and 0.21 mg/kg (benzo(a)pyrene toxic equivalents) for the upland soils at the Pacific Rod and Gun Club site. I find the cleanup standards proposed by the PUC in its July 23, 2013, report acceptable.

In its letters dated September 30 and November 6, 2013, the Arnold Law Practice, on behalf of the Pacific Rod and Gun Club, Inc. (Club), disagreed with our concurrence of these cleanup standards, stating that the standards were not supported with sufficient evidence. It is our understanding that the Club's major objection to the cleanup standards proposed by PUC is that those standards are more stringent than what would be necessary to protect human health under the current, and in the view of the Club, the likely future land use of the site. However, the PUC, as the land owner, intends to remediate the site's upland soils to a condition that would allow unrestricted future uses. The Water Board's Order and State site cleanup regulations do not in any way constrain the Water Board from approving a cleanup that proposes to achieve standards that are more protective of human health and the environment than standards that are minimally acceptable based on the current land use. In the future, should the PUC modify its proposal for cleanup standards based on a more restricted future use, we would review that proposal at that time.

Should you have any questions regarding this matter, please contact Alan Friedman of my staff at (510) 622-2347, or by email at afriedman@waterboards.ca.gov.

Sincerely,

Digitally signed by Bruce H. Wolfe
DN: cn=Bruce H. Wolfe, o=SWRCB, ou=Region 2, email=bwolfe@waterboards.ca.gov, c=US
Date: 2014.01.22 18:37:10 -08'00'

Bruce H. Wolfe
Executive Officer

EXHIBIT 2

SAN FRANCISCO
PLANNING DEPARTMENT

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

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Planning Commission Motion [XXXX]

HEARING DATE: October 23, 2014

Hearing Date:	October 23, 2014
Case No.:	**2013.1220E**
Project Location:	**Pacific Rod and Gun Club, 520 John Muir Drive, San Francisco**
Zoning:	Public Use District Open Space Height and Bulk District
Block/Lot:	7283/004
Project Sponsor:	San Francisco Public Utilities Commission Yin Lan Zhang – (415) 487-5201 YZhang@sfwater.org
Staff Contact:	Timothy Johnston – (415) 575-9035 Timothy.Johnston@sfgov.org

ADOPTING FINDINGS RELATED TO THE APPEAL OF THE PRELIMINARY MITIGATED NEGATIVE DECLARATION, FILE NUMBER 2013.1220E FOR THE PROPOSED UPLAND SOIL REMEDIATION PROJECT ("PROJECT") AT THE PACIFIC ROD AND GUN CLUB, 520 JOHN MUIR DRIVE IN SAN FRANCISCO

MOVED, that the San Francisco Planning Commission (hereinafter "Commission") hereby AFFIRMS the decision to issue a Mitigated Negative Declaration, based on the following findings:

1. On August 29, 2013, pursuant to the provisions of the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code, the Planning Department ("Department") received an Environmental Evaluation Application form for the Project, in order that it might conduct an initial evaluation to determine whether the Project might have a significant impact on the environment.

2. On June 25, 2014, the Department determined that the Project, as proposed, could not have a significant effect on the environment.

3. On June 25, 2014, a notice of determination that a Mitigated Negative Declaration would be issued for the Project was duly published in a newspaper of general circulation in the City, and the Mitigated Negative Declaration posted in the Department offices, and distributed all in accordance with law.

4. On July 25, 2014 an appeal of the decision to issue a Mitigated Negative Declaration was timely filed by David Cincotta of Jeffer, Mangels, Butler & Mitchell, LLP on behalf of the Pacific Rod and Gun Club.

5. Between July 10 and July 31, 2014, seven comment letters were received addressing various environmental concerns and the project in general. Comments were received from the following organizations and individuals: Golden Gate Audubon Society; Dolphin Club; Friends of the Gulls; Frank H. (Bert) Swan, Ph.D.; Peter Griffith; Jeanine Mahl; and Dick Morten.

6. A staff memorandum addresses and responds to all points raised by the appellant in the appeal letter. That memorandum is attached as Exhibit A and staff's findings as to those points are

incorporated by reference herein as the Commission's own findings. Copies of that memorandum have been delivered to the City Planning Commission, and a copy of that memorandum is on file and available for public review at the San Francisco Planning Department, 1660 Mission Street, Suite 500.

7. On October 15, 2014, amendments were made to the Preliminary Mitigated Negative Declaration to add additional sources of setting information and clarify setting and impact discussions, based on comments from the Golden Gate Audubon Society. Such amendments do not include new, undisclosed environmental impacts and do not change the conclusions reached in the Preliminary Mitigated Negative Declaration. The changes do not require "substantial revision" of the Preliminary Mitigated Negative Declaration, and therefore recirculation of the Preliminary Mitigated Negative Declaration would not be required.

8. On October 23, 2014, the Commission held a duly noticed and advertised public hearing on the appeal of the Preliminary Mitigated Negative Declaration, at which testimony on the merits of the appeal, both in favor of and in opposition to, was received.

9. All points raised in the appeal of the Preliminary Mitigated Negative Declaration at the October 23, 2014 City Planning Commission hearing have been responded to either in the Memorandum or orally at the public hearing.

10. After consideration of the points raised by appellant, both in writing and at the October 23, 2014 hearing, the San Francisco Planning Department reaffirms its conclusion that the proposed project could not have a significant effect upon the environment.

11. In reviewing the Preliminary Mitigated Negative Declaration issued for the Project, the Planning Commission has had available for its review and consideration all information pertaining to the Project in the Planning Department's case file.

12. The Planning Commission finds that Planning Department's determination on the Mitigated Negative Declaration reflects the Department's independent judgment and analysis.

The City Planning Commission HEREBY DOES FIND that the proposed Project, could not have a significant effect on the environment, as shown in the analysis of the Mitigated Negative Declaration, and HEREBY DOES AFFIRM the decision to issue a Mitigated Negative Declaration, as prepared by the San Francisco Planning Department.

I hereby certify that the foregoing Motion was ADOPTED by the City Planning Commission on October 23, 2014.

Jonas Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: [Date]

EXHIBIT A

Draft Motion
Planning Department Response to the Appeal Letter

SAN FRANCISCO
PLANNING DEPARTMENT

MEMO

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Exhibit A to Draft Motion
Planning Department Response to Appeal of Preliminary Mitigated Negative Declaration

CASE NO. 2013.1220E – PACIFIC ROD AND GUN CLUB UPLAND SOIL REMEDIAL ACTION PROJECT
PUBLISHED ON JUNE 25, 2014

BACKGROUND

An environmental evaluation application (2013.1220E) for the proposed project at 520 John Muir Drive (Assessor's Block 7283, Lot 4) was filed on behalf of the San Francisco Public Utilities Commission on August 29, 2013, for a proposal to implement the Pacific Rod and Gun Club Upland Soil Remedial Action Plan (the "project"), which would clean up soil contamination at the Pacific Rod and Gun Club (PRGC), located on the southwest side of Lake Merced in San Francisco, California. The SFPUC leases the site to the PRGC, which built and has operated skeet and trap shooting facilities at the site since 1934. Soil contamination is the result of the former use of lead shot and clay targets made with asphaltic materials at the skeet and trap shooting ranges. The SFPUC prepared the PRGC Remedial Action Plan (RAP) in response to a Cleanup Order R2-2013-0023 (the Order) issued by the California Regional Water Quality Control Board, San Francisco Bay Region (RWQCB) to the SFPUC and the PRGC. The project consists of excavation and appropriate off-site disposal of up to 46,500 cubic yards of soils containing elevated concentrations of lead and polycyclic aromatic hydrocarbons (PAHs) and backfilling of excavated areas with clean fill material. The project consists solely of construction activities associated with remediation of contaminated soils at the site, which is estimated to take approximately 57 weeks to complete.

The Order allows for the PRGC cleanup to occur as two independent tasks—upland soils and lake sediments—and establishes specific site investigation or remediation tasks and compliance schedules for each task. The Order requires the completion of three tasks for the upland soils area: 1) an evaluation of human health risks associated with the exposure to site contaminants and development of appropriate human health cleanup standards; 2) preparation of a RAP for removing or managing soil to meet the human health cleanup standards; and 3) implementation of the RAP. The first two tasks have been completed; the project consists of the third task, RAP implementation. For lake sediments, the Order requires the preparation of an ecological risk assessment to determine whether elevated levels of lead, arsenic, and PAHs in lake sediments pose an unacceptable risk to benthic organisms and wildlife. If this investigation indicates that there are unacceptable risks to the benthic community and wildlife exposed to contaminants in site sediments, then the RWQCB would require preparation and implementation of a RAP for lake sediments. The compliance dates in the Order require completion of the upland soil remediation in advance of the lake sediment investigation.

Because most of the buildings and structures on the PRGC site are more than 50 years old, the entire site was evaluated for its potential significance as a historical resource, which included

analysis of the property as a cultural landscape. ESA and its subconsultant, Denise Bradley Cultural Landscapes, completed an evaluation of the PRGC following the standards of the CEQA Guidelines Section 15064.5, using the criteria outlined in PRC Section 5024.1. This study included extensive review of historical information to evaluate the potential significance and integrity of the PRGC as a cultural landscape according to National Register of Historic Places (NRHP) and California Register of Historical Resources (CRHR) criteria. This evaluation included the following: architectural and historic landscape field surveys of the project site; review of archival site photographs, newspapers, and references on the development of trap and skeet shooting and recreation in San Francisco; interviews with PRGC members knowledgeable of its history; and interviews with individuals from national, state, and Bay Area skeet shootings organizations and clubs; and visits to Bay Area clubs for comparative purposes. The results of the field surveys and associated research are provided in the following technical report: Pacific Rod and Gun Club Cultural Landscape Evaluation Report,[1] which was presented as an appendix to the PMND.

The Cultural Landscape Evaluation Report found that the PRGC appears eligible for listing in the NRHP and CRHR at the local level of significance under Criterion A/1 for its association with the broad pattern of history related to the increased popularity of sport hunting and with the interrelated development of skeet, during the period in which it evolved from a type of shooting practice into a competitive sport. This occurred during the decades preceding World War II within the context of the early 20th century wildlife conservation movement. The period of significance for the PRGC under Criterion A/1 appears to begin in 1934 when the club moved to the Lake Merced site and to end in 1941, with the United States' entry into World War II, which ended the club's initial period of development. Although the activities of the club remained unchanged after World War II, its post-war expansion period (1946-early 1960s) was more directly linked with other contexts than to the early 20th century wildlife conservation movement, such as the broad interest in outdoor recreation that occurred as a result of the nation's post-World War II prosperity and an increased interest in skeet, which was a by-product of World War II training practices.

The features constructed on the PRGC property during its period of significance (1934-1941) and that relate to its significance under NRHP/CRHR Criterion A/1 (for its association with the broad pattern of history related to the increased popularity of sport hunting and the development of skeet within the context of the early 20th century wildlife conservation movement) were identified as contributing features to the PRGC cultural landscape. The primary features from this period that contribute to the PRCG cultural landscape are Skeet Fields 4 to 7 (including semi-circular station paths, high and low target launching houses, and wooden fences), the broad terrace for these fields, the Clubhouse, the Caretaker's House, the Rifle Range building, and the Shell House. These features, and the cultural landscape as a whole, retain sufficient historic integrity to convey its significance. The buildings, structures, and elements of the landscape that are identified as

[1] Denise Bradley, Cultural Landscapes, 2014. *Pacific Rod and Gun Club, San Francisco, CA, Cultural Landscape Evaluation Report*, May 2014.

contributing to the cultural landscape are a historical resource, as defined in the CEQA Guidelines Section 15064.5, and the property is identified as a historical resource in the PMND.

Those features that: (1) may have been present during the period of significance but were not associated with the pre-World War II design or function of the site as an outdoor target shooting range/sportsmen's club (for example, vegetation); or (2) were added to the property after the end of its period of significance in 1941 (although in some cases these are compatible with its pre-World War II design or function as an outdoor target shooting range/sportsmen's club) were identified as non-contributing features and, therefore, were considered to not be components of the historical resource. The Cultural Landscape Report presented historic context to identify the theme, geographic area, and chronological period of the PRGC's historical significance, which in turn supported the identification of its specific period of significance.

Because upland soil remediation requires the excavation and backfilling of soil, contributing elements of the historic resource would be removed for proposed construction activities. The PMND includes project mitigation measures that would ensure that the features that contribute to the cultural landscape of the PRGC are retained, protected and/or rebuilt in a similar size, design, location, and materials as existing. These include the following: Mitigation Measure M-CP-1a, Record and Reconstruct the Semi-Circular Station Paths at Skeet Fields 4 – 7; Mitigation Measure M-CP-1b, Record, Protect, and Return (or Replace in-Kind) the High/Low Houses and Wood Fences at Skeet Fields 4-7; and Mitigation Measure M-CP-1c, Protect the Four Contributory Buildings During Construction. As noted in CEQA Guidelines Section 15064.5(b)(3), a project that follows the Secretary of the Interior's Standards for the Treatment of Historic Properties (Standards) shall be considered as mitigated to a less-than-significant level. Because the project would comply with the Standards (specifically the Standards for Rehabilitation), impacts on the historical resource would be less than significant.

The edge of the PRGC site slopes steeply towards Lake Merced. The proposed project would affect approximately 0.85 acres of state wetlands and 0.29 of coastal scrub vegetation adjacent to Lake Merced. To reduce these temporary impacts, the project includes Mitigation Measure M-BI-2, Restoration of Coastal Scrub, Riparian Scrub, and Wetlands. This measure requires that the final grading plan restore topography of the affected habitat areas to pre-project conditions and that vegetation consistent with the coastal scrub, riparian scrub, and wetlands be planted following site remediation. The plan includes performance criteria and monitoring to ensure the restoration effort is successful.

The proposed project also includes removal of trees in order to remove contaminated soils. The PMND analysis determined that tree removal could result in a substantial adverse impact on the scenic quality of the area and designated scenic roadways, such as views from John Muir Drive/49-Mile Scenic Drive of Lake Merced. The project includes Mitigation Measure M-AE-3, Screening Vegetation, which requires planting trees and shrubs at the eastern end of the site to screen views of the PRGC facilities and includes performance standards defining the timing and

success of the vegetation screening. With implementation of this measure, impacts on scenic vistas and resources would be less than significant.

The proposed project would require the following project approvals, with approval by the SFPUC identified as the Approval Action under Chapter 31 of the San Francisco Administrative Code for the whole of the proposed project:

- US Army Corps of Engineers (Corps): Clean Water Act (CWA) Section 404 permit
- California Coastal Commission (CCC): Issuance of Coastal Development Permit (wetlands affected by the project are potentially within CCC's retained permit jurisdiction for Lake Merced)
- State Water Resources Control Board (SWRCB): National Pollutant Discharge Elimination System (NPDES) order 2009-0009-DWQ, General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit)
- California Department of Fish and Wildlife (CDFW): Section 1602 Streambed Alteration Agreement
- RWQCB: Approval of the RAP and CWA Section 401
- Bay Area Air Quality Management District (BAAQMD): Construction permit
- San Francisco Planning Commission: Approval of a Coastal Development Permit
- SFPUC: Approval of the project and construction contracts, wastewater enterprise stormwater control plan, and other implementation actions
- San Francisco Board of Supervisors: Approval of the RAP, appropriation of funding, consideration of any appeals of the Planning Commission's adoption of the IS/MND
- San Francisco Department of Public Works (SFDPW): Approval of any necessary construction permits for additional site entrance, if needed, and street parking restrictions
- San Francisco Department of Parking and Traffic: Approval of any necessary construction permits for additional site entrance and street parking restrictions

A Preliminary Mitigated Negative Declaration (PMND) was published on June 25, 2014. On July 25, 2014, Mr. David Cincotta of Jeffer, Mangels, Butler, and Mitchell LLP, representing the Pacific Rod and Gun Club, filed a letter appealing the PMND. The concerns discussed below are summarized from the appeal letter, a copy of which is included within this appeal packet. Each concern topic is summarized, followed by relevant quotes from the appeal letter, and a response. The concerns are listed generally in the order presented in the appeal letter.

CONCERN 1: The appellant states that the proposed project will cause potentially significant environmental impacts and argues that a lead agency must prepare an EIR when a project may cause potentially significant environmental impacts.

"To summarize, the 300-page MND is a strained attempt to justify the City's election not to prepare an environmental impact report (EIR) to study the potential impacts associated with a significant excavation and remediation project on a site that is ecologically, historically and culturally significant, and may potentially suffer significant environmental impacts unless further analysis is undertaken through the EIR process. The IS/MND falls woefully short of demonstrating that implementation of the RAP will not cause potentially-significant environmental impacts. Through this appeal, the Club implores the City to do a proper analysis through an EIR before allowing this RAP to move forward." (Page 1 of the Appeal Letter)

"**II. Lead Agency is Obligated to Prepare an EIR When a Project May Cause Potentially-Significant Environmental Impacts**

CEQA is premised on a 'strong presumption' in favor of requiring a lead agency to prepare an EIR as opposed to adopting a negative declaration prior to approving a project. Indeed, so long as substantial evidence in the record supports a 'fair argument' that a project may cause even a single, potentially-significant environmental impact, the agency must prepare an EIR. The obligation to prepare an EIR remains even when other substantial evidence before the agency indicates that the project may not have a substantial impact on the environment. As described by a prominent CEQA treatise, 'the fair argument standard . . . prevents the lead agency from weighing competing evidence to determine who has a better argument concerning the likelihood or extent of a potential environmental impact.' Accordingly, CEQA's 'fair argument' standard establishes a low threshold for the obligation to prepare an EIR which is met by the presence of any substantial evidence in the record of potential environmental impacts." (Page 2 of the Appeal Letter)

"**There is Substantial Evidence to Support a Fair Argument that the Overall CEQA Project will Significantly Impact the Environment**" (Page 3 of the Appeal Letter)

RESPONSE TO CONCERN 1: The appellant misinterprets the CEQA requirements for EIR preparation.

CEQA requirements do not require preparation of an EIR when a project may cause potentially significant environmental impacts, as the appellant contends. An MND is the appropriate CEQA analysis if the initial study determines that potentially significant environmental impacts can be reduced to less-than-significant levels with mitigation measures that are made part of the project. An EIR is only required if there are no applicable mitigation measures or if mitigation measures would not reduce impacts to less-than-significant levels; in which case, the project would be

considered to have a significant effect on the environment. According to CEQA Section 15070 (b), a lead agency shall prepare a Mitigated Negative Declaration (MND) when:

> The initial study identifies potentially significant effects, but:
> (1) Revisions in the project plans or proposals made by, or agreed to by the applicant before a proposed MND and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and
> (2) 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.

The PMND identifies a number of potentially significant impacts of the proposed project; however, it also demonstrates how identified and feasible mitigation measures would reduce those potentially significant impacts to less-than-significant levels. Accordingly, the City's decision to prepare an MND is correct and an EIR is not required.

CONCERN 2: The appellant asserts the proposed project should have included the remediation of contaminated lake sediments and that failure to include those elements is "piecemealing."

"The Remediation Project is a comprehensive action that is comprised of multiple components. As described in the Initial Study supporting the MND:

> Order R2-2013-0023 requires the completion of three tasks for the upland soils area: 1) an evaluation of human health risks associated with the exposure to site contaminants and development of appropriate human health cleanup standards; 2) preparation of a remedial action plan (RAP) for removing or managing soil to meet the human health cleanup standards: and 3) implementation of the RAP. The first two tasks have been completed and are discussed further below; the project considered in this initial study (IS) consists of the third task, RAP implementation. For lake sediments, Order R2-20 13-0023 requires the preparation of an ecological risk assessment to determine whether elevated levels of lead, arsenic, and PAHs in lake sediments pose an unacceptable risk to benthic organisms and wildlife. If this investigation indicates that there are unacceptable risks to the benthic community and wildlife exposed to contaminants in site sediments, then the RWQCB Order requires preparation and implementation of a RAP for lake sediments.

Out of this comprehensive plan, the IS/MND reviews only one component: implementation of the RAP." (Page 2 of the Appeal Letter)

"The IS/MND does not evaluate foreseeable and integrally related components of the overall Remediation Project, and therefore, fails to adequately evaluate the 'project' for purposes

of CEQA. ... The Remediation Project is a single, comprehensive CEQA project, as indicated by the following factors among others:

- the contamination is allegedly from a single source (the Clubs' use of lead shot and PAH-laden targets between 1934 - 1994)
- the same contaminants (lead and PAHs), which are the focus of the Order, are found in all areas of the site that is the subject of the Order:
- the Order and its component parts all pertain to the same site, i.e., the Club's property at Lake Merced; and
- the eventual post-reclamation uses of the site will likely incorporate use of both the upland areas and Lake Merced.

Restoration of the site, and by extension, satisfaction of the Order, will not be achieved until both soil and lake sediments are remediated.

The failure to evaluate the potential impacts associated with the study and remediation of lake sediments renders the CEQA analysis inadequate, as environmental impacts associated with those activities will not be considered in connection with the impacts of soil remediation. For example, the IS/MND anticipates that soil remediation may generate 40 truck trips per day. If, however, sediment remediation were to happen concurrently with soil remediation, the 'project' may generate more than the estimated 40 daily truck trips, which could impact the findings of significance related to traffic impacts. The analysis of seemingly every potential impact in the IS/MND would be implicated by remediation of lake sediments. Accordingly, the IS/MND should be revised to evaluate the complete Remediation Project." (Pages 3 and 4 of Appeal Letter)

RESPONSE TO CONCERN 2: The proposed upland soil remediation project has independent utility from the lake sediment investigation and possible remediation, and thus is properly considered a separate project under CEQA.

The appellant asserts that the project description should have included remediation of lake sediments because the Order addresses both upland soils and lake sediments, and that failure to include both elements as part of this project's project description is "piecemealing." Appellant is correct that under CEQA, the lead agency is required to consider the whole of the project in one environmental review and not "piecemeal" what should properly be considered one project into smaller projects, thus minimizing the environmental impacts of the project as a whole. Here, piecemealing has not occurred because the three components raised by appellant—the proposed project, possible lake sediment remediation, and future site uses (discussed below under Concern 3)—are properly considered to be separate projects.

The primary question for understanding whether proposed activities should be considered one project or separate projects under CEQA is whether those activities have "independent utility" from each other—that is, whether they rely on or trigger the need for each other. Here, each of these three components has independent utility from the others. As discussed below, the

proposed upland soil remediation does not rely on or trigger the need for lake sediment remediation.

While the Order addresses both upland soil and lake sediments, remediation of lake sediments is not "a foreseeable integrally related component of the proposed Remediation Project," simply because the Order includes lake sediments as a potential future task, as asserted by the appellant. Remediation of submerged areas is speculative because no action may be required in the future by the RWQCB. The purpose of the Order is to require:

> ...the Dischargers to submit plans to remediate soil to meet human health risk standards for current and reasonably foreseeable future land uses. This Order also requires the Dischargers to evaluate if remediation of lake sediment to meet ecological risk standards is necessary. (emphasis added)

The Order acknowledges that remediation of lake sediments may not be needed and provides separate tasks and timelines for Upland Soils and Lake Sediments. The Order requires preparation of an ecological risk assessment to determine "whether elevated lead, arsenic and PAHs in sediments pose an unacceptable risk to benthic organisms and wildlife (emphasis added)," and thus, if any remedial action is needed for the protection of the benthic community and wildlife. The City obviously cannot piecemeal a project that may never take place and never be considered a "project" under CEQA. In fact, as discussed below, the record of studies at the site supports the conclusion that no future action may be required.

Previous investigations summarized in the Order suggest that cleanup of lake sediments may not be necessary for the following reasons:

- In May 1990, bioassay tests conducted using lead-containing sediments samples reported no fish mortality;
- An investigation conducted in 1992 did not show signs of adverse impacts from lead on benthic invertebrate fauna and other organisms in the Lake; and
- In April 1995, the California Department of Fish and Game (now, Department of Fish and Wildlife) determined that, because of the limited number of waterfowl species using the Lake and on the mode of feeding observed for waterfowl, the risk of lead uptake from ingestion of lead pellets or lead-contaminated sediments by waterfowl was low, and the RWQCB determined that the remedial action plan required by the previous (rescinded) 1994 RWQCB cleanup order was not necessary.

Should the findings of the ecological risk assessment confirm the results of these previous investigations, no remediation of lake sediments would be required. Thus, the applicant's assertion that "Restoration of the site, and by extension, satisfaction of the Order, will not be achieved until both soil and lake sediments are remediated" is both speculative and incorrect. Lake sediments may not require remediation and the Order may be satisfied upon completion of the proposed remedial action (the proposed project) and the ecological risk assessment.

As discussed above, the Order stipulates separate tasks for Upland Soils and for Lake Sediments, as well as separate compliance dates for completion of these tasks. The Order establishes a compliance date for completion of the upland soil remedial action by January 1, 2016, which requires that upland soil remediation commence prior to lake sediment remediation, if it is needed at all. The potential need for lake sediment remediation, and associated compliance dates for preparation of a remedial action plan and completion of remedial action, would not be determined until sometime in the future, as determined by the RWQCB Executive Officer following review of the ecological risk assessment. However, whether the Upland Soil and Lake Sediments were considered together in one document by the RWQCB is not the legal standard for determining whether they should be considered one project under CEQA. As discussed above, the standard under CEQA is whether the activities have independent utility from each other, which in this case, they do. Upland soil remediation is independent of the lake sediment investigation because completion of upland soil remediation does not obligate or require lake sediment remediation. For these reasons, the appellant's contention that these activities should be considered one project is not correct under CEQA.

Furthermore, the appellant's assertion that lake sediment remediation should be an integral part of the proposed project because "the eventual post-reclamation uses of the site will likely incorporate use of both the upland areas and Lake Merced" is also speculative and incorrect. The project proposes soil remediation to meet human health risk standards to allow for unrestricted future use of the site. The project does not require or preclude any future use of the site. This is addressed further below under Concern 3. The assumption that eventual site use would incorporate both upland areas and Lake Merced is questionable, particularly because the project includes restoration of wetland, riparian scrub, and coastal scrub vegetation that currently limits lake access and use at the site.

CONCERN 3: The appellant asserts that the PMND should evaluate post-project use of the site and that failure to include future use in the project description is "piecemealing."

"The CEQA analysis must evaluate future development or uses that are made possible by the proposed action. In *City of Antioch* v. *Antioch City Council* (1986) 187 Cal.App.3d 1325 *('City of Antioch')*, the city approved a road and sewer extension project pursuant to a negative declaration. The city's analysis, however, reviewed only the impacts of the construction project, and not reasonably foreseeable future uses made possible by the initial approval (*Id.* at pp. 1329-1330). Finding that the city had impermissibly narrowed the scope of the project, the court reasoned that an initial study must evaluate foreseeable future development made possible by the initial approval, and that the fact that future development may take several forms does not excuse environmental review.

The IS/MND fails to describe potential environmental impacts associated with post-project uses made possible by remediation. Although the exact post-remediation use of the site

may be unknown as of this time, *City of Antioch* requires that the IS/MND evaluate in a general sense the type of development or use that can be reasonably expected to occur, due to the proposed approval.

Thus, while even without external guidance *City of Antioch* would likely require the City to evaluate such general uses as public recreation or open space, the Order and related materials provide clear guidance as to the types of developments and uses that will be made possible via remediation. Pursuant to the Order, the RAP for soil remediation must 'meet human health risk standards for current and reasonably foreseeable future land uses.' The phrase 'future reasonably future land uses' is informed by AMEC's Supplemental Investigation and Health Risk Assessment Report (April 2012), which states that 'for this HHRA ... future conditions are based on reasonably likely use options specified in the most recent version of the Lake Merced Watershed Plan.' Thus the IS/MND must be revised to address the environmental impacts of future uses made possible by the proposed remediation, including uses consistent with the Lake Merced Watershed Plan."[2] (Pages 4 and 5 of Appeal Letter)

RESPONSE TO CONCERN 3: The proposed project has independent utility from the future uses of the site, and thus is properly considered a separate project under CEQA from those activities. No change in future use is proposed.

The project does not propose a change in site use. Remediation to cleanup standards required for reasonably foreseeable future uses, namely continued recreational use of the site, would allow unrestricted future use of the site, but does not require or obligate any such use. The appellant asserts that the PMND should evaluate the type of future development or use of the project site that would be expected to occur as a result of project approval. As discussed above under Concern 2, the primary question for understanding whether proposed activities should be considered one project or separate projects under CEQA is whether those activities have "independent utility" from each other—that is, whether they rely on or trigger the need for each other. The upland soil remediation project has independent utility from future site use because site cleanup does not require or preclude future uses of the site.

The appellant correctly quotes that, pursuant to the Order, the RAP for soil remediation must "meet human health risk standards for current and reasonably foreseeable future land uses." As indicated, the AMEC health risk assessment based its exposure assessment on future land use scenarios for the site in the Lake Merced Watershed Report, which include various recreational

[2] Despite SFPUC's insistence on such intensive and costly remediation of the property that it could conceivably be sited for uses as sensitive as housing or childcare, SFPUC has yet to identify any potential post-remediation uses.

activities.[3] Identification of reasonably foreseeable future land uses is an integral part of the development of a risk assessment model, which must account for the potential exposure pathways through which future on-site users may be exposed to contaminants in soil. This, in turn, is used to identify potential human health risks and appropriate cleanup standards to ensure that site remediation is protective of the health of future site users. Use of the potential future land use scenarios provided in the Lake Merced Watershed Report to identify potential receptors and exposure pathways in no way implies that any one of these uses will ultimately be developed on the project site, but merely provides a way to establish appropriate cleanup standards.

Regardless, under any of these possible recreational activities, the risk assessment concluded that "future use is not expected to change materially in terms of the types of possible users and frequencies and durations of exposure" (AMEC, 2012, page ES-3). The potentially exposed human receptors identified for the health risk assessment included the following:

- Current caretaker
- Current and future workers
- Current adult recreational users
- Current and future occasional visitors (adults and children)
- Current and future off-site residents (adults and children)
- Future adult and child recreational users
- Future construction workers

Using these potential receptors, the health risk assessment evaluated exposure pathways and toxicity of known contaminants to develop appropriate cleanup goals in accordance with the Order. The cleanup goals established in the RAP are designed to allow for the widest possible array of unrestricted future uses of the site, and would avoid the imposition of deed restrictions which could limit future potential uses, consistent with the Project sponsor's objectives. The RAP uses cleanup goals for lead in soil that have been established by the California Office of Environmental Health Hazard Assessment (OEHHA) for residential properties because these cleanup levels would be protective of all future users, including children. OEHHA cleanup standards are only provided for either a residential scenario (more stringent) or a commercial/industrial scenario (less stringent). Of these, the residential cleanup standard is appropriate for the PRGC cleanup because potential future users could include children, which require more stringent cleanup criteria. This cleanup standard was not selected, as the appellant speculates, to provide for future "sensitive land uses such as housing or childcare", but to provide for future unrestricted use of the site.

The appellant also contends that the soil remediation project should include the potential future use of the site following remediation. However, potential future uses of the site are independent

[3] The Lake Merced Watershed Report (SFPUC, 2011) provides a purpose, vision, long-term goals, and guidelines to provide a framework to guide decision-making for the watershed, and serve as the basis for developing and evaluating future projects, initiatives, and management actions. The report has not been subject to CEQA or approved by the SFPUC.

of the soil remediation and would not be determined by the proposed project. Therefore, the appellant's contention is incorrect under CEQA. Any proposal for new or different uses of the site in the future would be developed through a public process, with community input from any local stakeholders and residents of San Francisco (including the PRGC should they choose to participate) among others, which would then be subject to a separate CEQA review process, as appropriate. The identification of future uses prior to conducting a public planning process would be a speculative exercise at this point.

CONCERN 4: The appellant asserts that compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties in accordance with CEQA Guidelines does not demonstrate that mitigation measures (M-CP-1a, M-CP-1b, and M-CP-1c) would reduce impacts on historical resources to a less-than-significant level.

"The IS/MND recognizes that significant impacts to historic resources may result from the RAP, although it incomprehensibly concludes that such impacts will be mitigated to less-than-significant levels. Specifically, Impact CP-l finds that by removing certain contributory features at the club facility (i.e., the semi-circular station paths and wood safety fences at skeet fields 4-7 and the high/low houses) and also due to the potential for damage for the contributory features remaining onsite during the remediation, the RAP may cause significant environmental impacts. Through the implementation of mitigation measures M-CP-la, M-CP-1b, and M-CP-lc, the IS/MND concludes that Impact CP-1 will be rendered less than significant. This conclusion is presented without adequate supporting evidence that such measures will minimize the impact to a less-than-significant level.

From the analysis prepared by the Club, it appears that the IS/MND's proposed mitigation measures cannot and will not reduce Impact CP-l to a less-than-significant level.

First, the IS/MND misstates the CEQA Guidelines provision that is the basis for the mitigation measures. The IS/MND states that under CEQA [Guidelines] Section 15064.5(b)(3), 'a project that follows the Secretary of the Interior's [Secretary] Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Restructuring Historic Buildings shall be considered as mitigated to a less-than-significant level.' This is a generous interpretation of the Guidelines. In reality, CEQA Guidelines Section 15064.5(b)(3) states that compliance with the Secretary's Standards will 'generally' render an impact less than significant. Accordingly, compliance with Secretary's standards does not mean that an impact is *per se* less than significant as indicated in the IS/MND, and the City is obligated to determine, based on analysis and substantial evidence, that the proposed mitigation would reduce Impact CP-l to a less-than-significant level." (Page 5 and 6 of the Appeal Letter)

RESPONSE TO CONCERN 4: Implementation of mitigation measures that are compliant with the Standards would retain and preserve the historic character of the historical resource, thus rendering the impact less than significant.

The appellant erroneously asserts that compliance with the Standards (as required by mitigation measures M-CP-1a, M-CP-1b and M-CP-1c) does not mean that an impact is *per se* less than significant. The PMND correctly interprets that the CEQA [Guidelines] Section 15064.5(b)(3), which state, "Generally, a project that follows the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Restructuring Historic Buildings shall be considered as mitigated to a less-than-significant level on the historic resource." As discussed on PMND page 53, the Standards require that the historic character of a property be retained and preserved. It follows, then, that if a project adheres to the Standards and the historic character of a property is retained and preserved, there would be no substantial adverse change in the significance of a historical resource as defined in CEQA Section 15064.5, and the impact would be less than significant.

Proposed mitigation measures M-CP-1a, M-CP-1b, and M-CP-1c are in accordance with the Standards because they would preserve and protect, or in some cases, temporarily remove and reestablish, all identified contributors to the cultural landscape. Thus, the historic character of the historical resource would be retained and preserved. The City finds there is substantial evidence to support a less-than-significant finding with implementation of these mitigation measures.

CONCERN 5: The appellant asserts that, regardless of the argument in Comment 4, the proposed mitigation measures M-CP-1a and M-CP-1b are not in compliance with the Standards because historic structures would be removed and, therefore, these measures would not reduce impacts on historical resources to a less-than-significant level.

"Second, even assuming *arguendo* that use of the Secretary's Standards under the 'Rehabilitation' criteria could render Impact CP-l less-than-significant, Mitigation Measures M-CP-la and M-CP-1b are inconsistent with that Standard. Under the RAP, certain facilities and structures will be removed and then reconstructed. The Secretary's Rehabilitation Standard does not authorize the removal of historic structures. By contrast, Rehabilitation Standard No. 2 states: 'the historic character of a property will be retained and preserved ... *the removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.'* Mitigation Measures CP-1a and M-CP-lb directly contradict the Secretary's Rehabilitation Standards by moving, relocating and altering the significant features and spaces of the Club. There is no substantial evidence to demonstrate that these measures will mitigate Impact CP-1 to a less-than-significant level and to the contrary, they are likely to destroy the historic resources." (Page 6 and 7 of the Appeal Letter)

RESPONSE TO CONCERN 5: Mitigation Measures M-CP-1a and M-CP-1b are consistent with the Standards. These measures would temporarily remove, then reestablish or reconstruct, all identified contributors to the cultural landscape, thereby preserving and protecting these features in accordance with the Standards.

When the Standards state that "*the removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided*" it is referring to the permanent removal and/or demolition of the character-defining features of a historical resource. The Standards include flexibility to temporarily remove character-defining features in order to repair or replace them with similar materials. For example, the temporary removal for repair of character-defining wooden windows would not be considered to diminish a building's historical integrity. In this case, certain features of the PRGC cultural landscape would be temporarily relocated and protected during project construction, and then replaced in their original position. Under no circumstances would the character-defining features of the PRGC cultural landscape be permanently removed.

As noted on PMND page 53, the Secretary of the Interior's Standards for Rehabilitation require that the historic character of a property be retained and preserved, and that the removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property be avoided. In meeting these objectives, repair is emphasized over replacement, but replacement of historic features is allowable under the Standards with the provision that the new features should match the old in design, color, texture, and, where possible, materials. The Standards recognize situations where replacement in-kind is not technically, economically, or environmentally feasible. In such situations, compatible substitute materials that have similar characteristics can be considered. The mitigation measures in the PMND incorporate this guidance for repair and replacement as a means to ensure the retention and preservation of the historic character of the PRGC as a historical resource.

Mitigation Measure M-CP-1a, Record and Reconstruct the Semi-Circular Station Paths at Skeet Fields 4 – 7, in particular, provides the SFPUC with the flexibility allowed under the Secretary of the Interior's Standards for Rehabilitation to reconstruct the semi-circular Skeet Fields 4-7 in the same size, configuration, location as the existing fields and using materials that are compatible with the historic character of the cultural landscape; the reuse of the existing concrete is not required because this material post-dates the period of significance. Mitigation Measure M-CP1b, Record, Protect, and Return (or Replace in-Kind) the High/Low Houses and Wood Fences at Skeet Fields 4-7, provides the SFPUC with the flexibility allowed under the Secretary of the Interior's Standards for Rehabilitation to replace the high/low houses and wood fences at Skeet Fields 4-7 in a similar size, design, location, and materials as existing, if they are found to have been previously damaged beyond repair, if they are in poor structural condition, or if it is infeasible to return them to their original location due to their condition or other factors.

The PMND appropriately concluded that Mitigation Measures CP-1a through M-CP-lc would reduce impacts to the historical resource to a less-than-significant level because they would: (1)

record and reconstruct the semi-circular station paths at Skeet Fields 4 – 7 (Mitigation Measure M-CP-1); (2) record, protect, and return (or replace in-kind) the high/low houses and wood fences at Skeet Fields 4-7 (Mitigation Measure M-CP-1b); and (3) protect the four contributory buildings during construction (Mitigation Measure M-CP-1c). These measures would ensure that the character-defining features (described in detail on pages 50 and 51 in the IS/MND) that contribute to the historic character of the cultural landscape of the PRGC are retained, protected and/or reconstructed in a similar size, design, location, and materials as existing, in keeping with the Secretary of Interior's Standards for Rehabilitation.

With implementation of these mitigation measures, the proposed project would meet the Secretary of the Interior's Standards. As noted in CEQA Guidelines Section 15064.5(b)(3), a project that follows the *Secretary of the Interior's Standards (Standards) for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings* shall be considered as mitigated to a less-than-significant level. For these reasons, the PMND correctly and appropriately identified mitigation measures that would reduce impacts to the historical resource to a less-than-significant level.

CONCERN 6: The appellant asserts that PMND does not identify and appropriately mitigate potential adverse impacts on historical resources that could occur during the construction period (i.e., during removal, storage, and replacement of historic structures).

"Third, the IS/MND overlooks the fact that the historical resource (i.e., the cultural landscape) will be adversely affected during the period of time between when the structures are removed from the Club's facility and when they are replaced. The IS/MND acknowledges that numerous contributory features will be removed from the site for an extended period of time, yet the document fails to identify the impact and describe corresponding mitigation." (Page 7 of the Appeal Letter)

RESPONSE TO CONCERN 6: The appellant's claim that the PMND overlooks potential impacts on contributors of the historical resource during the construction period is incorrect. These potential impacts are identified and adequately mitigated in the PMND.

As discussed in the PMND (page 52), the PRGC site contains multiple features that contribute to its significance as an historical resource during its period of historical significance (1934 – 1941). These features are Skeet Fields 4-7 (including the level terrace, their semi-circular station paths, the high and low houses, and safety fences) and the four buildings that house the operational and social functions of the club (the Clubhouse, Caretaker's House, Rifle Range Building, and the Shell House). Of these features, only the high and low houses and safety fences from the four skeet fields would be removed and replaced and thus could be potentially "adversely affected during the period of time between when the structures are removed from the Club's facility and when they are replaced."

The physical effects of the temporary relocation of the high/low houses and wood fences at Skeet Fields 4 – 7 are addressed by Mitigation Measure M-CP-1b (Record, Protect, and Return (or Replace in Kind) the High/Low Houses and Wood Fences at Skeet Fields 4-7) on PMND pages 54-55, which requires the following:

- During site remediation activities, the SFPUC shall protect these features from accidental damage during earth moving by storing these elements within a locked, chain-link fence enclosure and posting "Keep Out" or "No Trespassing" signs.
- Following site remediation, the SFPUC shall return these features to their original positions at the reconstructed skeet fields 4-7. Based on the pre-construction recording and depending on their structural condition, any damaged components should be repaired in keeping with the Secretary of Interior's Standards for Rehabilitation…

Thus, the PMND addresses potential impacts to these contributory historical features that could occur during the approximately 57-week duration of construction. Mitigation Measure M-CP-1b stipulates that the high/low houses shall be protected during the construction period and requires that any damage that occurs during this period be repaired. As a result, these impacts would be less than significant with mitigation.

In addition, the physical effects to the four contributory buildings (Clubhouse, Caretaker's House, Rifle Range Building, and the Shell House), during construction are addressed in Mitigation Measures M-CP-1c (Protect the Four Contributory Buildings During Construction), M-NO-2a (Preconstruction Surveys and Repair), and M-NO-2b (Construction Equipment Restrictions Near Buildings). Mitigation Measure M-CP-1b requires that the buildings ".....shall be adequately protected from accidental damage due to construction activities and vandalism. These structures shall be surrounded by protective fencing and shall be secured from entry by boarding up all windows and doors, and posting 'Keep Out' or 'No Trespassing' signs on each building. Following site remediation, these buildings shall be returned to their original appearance by removing all temporary construction fencing, window and door protection, and signage." Mitigation Measures M-NO-2a and M-NO-2b further reduce potential impacts on contributory buildings by limiting construction equipment in close proximity to these buildings and by repairing any documented new cracks or other changes in the structures that are attributable to construction.

Therefore, the PMND does identify the potential for physical impacts on the historical resource during the remediation period and does provide appropriate mitigation to reduce these potential impacts to a less-than-significant level.

CONCERN 7: The appellant claims that additional features of the PRGC site are historical resources based on a historic resource evaluation prepared by its consultant, Page & Turnbull. Based on its evaluation, the project would have significant impacts on historical resources.

"2. A July 2014 Historic Resource Evaluation of the Club Demonstrates that the IS/MND Does Not Evaluate the Full Extent of the RAP's Potential Impacts to Historic Resources

A July 2014 Historic Resource Evaluation of the Club prepared by the noted historic architectural firm Page & Turnbull ('Page & Turnbull Evaluation') both demonstrates that the Club is a historic resource and that the Bradley Evaluation fails to account for key information. The Page & Turnbull Evaluation is a comprehensive analysis of the Club as a historic resource. The Evaluation, which is based on, among other research, a site visit, documentary review, photographic review, and interviews with Club members, is consistent with the Planning Department's outline for Historic Resource Evaluation Reports. Using this methodology, Page & Turnbull concluded that the Club is a historical resource as a cultural landscape, and that the Club's period of significance extends from 1934 to 1964.

The IS/MND fails to consider whether the RAP will impact features that are contributory to the historic resource during the period of significance identified in the Page & Turnbull Evaluation. Specifically, the IS/MND relied exclusively on the Cultural Landscape Evaluation Report to define the period of significance and corresponding contributory features. This resulted in the intentional exclusion of numerous potentially-contributory features in the IS/MND's impacts analysis. For example, the IS/MND does not evaluate potential impacts to the Trap House, the Trap Fields and their configuration, various commemorative markers, the Duck Tower, or the three-bay garage, all of which contribute to the Club as a historical resource. Under Page & Turnbull's analysis, many if not all of the excluded features may be considered contributory, and could be adversely affected by the RAP. Neither the existing analysis in the IS/MND nor its corresponding mitigation measures account for impacts to contributory features built between 1941 and 1964. Therefore, a fair argument exists that the project may cause significant impacts to historic resources." (Pages 7 and 8 of the Appeal Letter)

RESPONSE TO CONCERN 7: There are no additional 'historic resources' at the PRGC site or vicinity that could be affected by the proposed project that were not already considered as part of the Cultural Landscape Evaluation Report or in the PMND.

The appellant asserts that the PMND does not evaluate the full extent of the RAP's potential impacts to historical resources. The alleged discrepancy in the identification of contributory features to the cultural landscape, and associated impacts to them, arises from differing periods of significance for the cultural landscape between the Cultural Landscape Evaluation Report and the Page & Turnbull Evaluation. The Cultural Landscape Evaluation Report identifies the period of significance from 1934 to 1941, based on a thorough presentation of historic context and analysis of the PRGC's association with the broad patterns of history as follows:

> The period of significance for the PRGC's significance under Criterion A/1 appears to begin in 1934 when the club moved to the Lake Merced site and to end in 1941 with the United States' entry into World War II, which ended the club's initial period of development. Although the activities of the club remained unchanged after World War II, its post-war expansion period (1946-early 1960s) was more directly linked with other contexts, including the broad interest in outdoor recreation that occurred within the context of the nation's post-World War II prosperity and an increased interest in skeet that was a by-product of World War II training practices, than to the early 20th century conservation movement (page 39).

As a result, only those buildings, structures, and important elements of the landscape i.e., the level terrace, linear arrangement, and semi-circular path system of skeet fields 4 to 7 (the form and dimensions, not the concrete materials) constructed between 1934 and 1941 are considered contributory elements to the cultural landscape. Buildings, structures, and landscape features completed after 1941 were not considered contributory elements because they are not directly associated with the historic context identified under CRHR Criterion A/1, which is the early 20th Century conservation movement. The PMND does not identify potential impacts to the Trap House, the Trap Fields and their configuration, various commemorative markers, the Duck Tower, or the three-bay garage, because they post-date the period of significance (post-1941) and do not contribute to the PRGC cultural landscape, i.e., the identified historical resource.

The Page & Turnbull Evaluation identified a much longer period of significance, from 1934 to 1964, which would encompass many more buildings constructed in the post-war period, and as a result, identified many more potentially "historic" buildings and structures that could be affected by the proposed project. However, the end date of period of significance (1964) identified in the evaluation conducted by Page & Turnbull is not substantiated with any evidence that the site is historically significant during World War II or the post-war period, and did not develop a detailed post-war historic context to support their conclusions. Rather, the Page & Turnbull Evaluations states that:

> The end of the proposed period of significance is fifty years prior to the date of this evaluation, marking the generally accepted threshold for California Register eligibility in the absence of exceptional historic significance (Page & Turnbull, page 56).

While fifty years is the generally accepted age threshold for California Register eligibility, it is not the threshold for actual significance of any given resource. The period of significance must be substantiated by a significant association with historic events for consideration under Criterion A/1 (Public Resources Code Section 5024.1). As described above, the Page & Turnbull Evaluation does not provide supporting evidence that the site is historically significant for any events during World War II or the post-war period.

In contrast, the Cultural Landscape Evaluation Report and the PMND do provide substantial evidence for the period of significance of 1934 -1941 (Cultural Landscape Evaluation Report pages 39-41; PMND page 48), the buildings and structures identified as contributors to the cultural landscape during the period of significance from 1934 – 1941, and the features and structures identified as contributing to the historical resource (Cultural Landscape Evaluate Report pages 42-50; PMND pages 50-51).. In addition, the Cultural Landscape Evaluation Report provides a detailed discussion of the seven aspects of integrity – location, design, materials, workmanship, setting, feeling, and association – that convey the individual significance of the historical resource under NRHP/CRHR Criterion A/1 and further substantiate this determination. Moreover, the substantial evidence standard, not the fair argument test, applies to the lead agency's determination regarding whether an historical resource is present in the first place (*Valley Advocates v. City of Fresno* [2008] 160 Cal.App.4th 1039). Therefore, impacts on structures built in the post-war period would not be impacts on the historical resource as the appellant asserts.

CONCERN 8. The appellant asserts that the PMND fails to address potential impacts to additional features it claims contribute to cultural landscape and should be considered historic resources, including Lake Merced as an adjacent natural system, the general sloping topography of the grounds, and several mature trees planted in the southern portion of the property.

"Further, the IS/MND fails to identify, and account for potential impacts to, numerous features that contribute to the Club as a significant cultural landscape. Page & Turnbull identified several contributory features beyond those addressed in the IS MND, namely: Lake Merced as an adjacent natural system, the general sloping topography of the grounds, and several mature trees planted in the southern portion of the property. Due to the lack of an evaluation of potential impacts to these features in the IS/MND, that document does not provide substantial evidence to support the conclusion that the project will not result in significant impacts to historic resources." (Page 8 of the Appeal)

RESPONSE 8. The Cultural Landscape Evaluation Report considered Lake Merced as a recreational area, the mature trees at the project site, and site topography in its evaluation and appropriately found that none of these features contributes to the cultural landscape.

The appellant's assertion that the Cultural Landscape Evaluation Report failed to address San Francisco recreation, specifically around Lake Merced, is incorrect. This potential association was considered and rejected in the Cultural Landscape Evaluation Report, as follows:

> *Association with Recreation around Lake Merced.* The development of the PRGC site is part of a broad pattern of history associated with the development of recreation in San Francisco. More specifically, the PRGC site is associated with the pattern of expansion of recreation around Lake Merced that occurred during the 1910s-1930s after the

> SVWC began selling its land within the lake's watershed and after the SFPUC purchased the lake in 1930. Three golf courses (San Francisco Club in 1915, the Olympic Club in 1918, and Harding Park in 1925) were developed adjacent to the lake during this period. The PRGC was granted a lease by the SFPUC for outdoor target shooting activities in 1934 and constructed two skeet fields at its present-day site on the shore of the lake in that year. The SFPUC also expanded fishing and boating activities associated with the lake during this period. The initial stocking of the lake with sport fish (black bass) occurred in the early 1930s, and the first boat concession was granted in 1938. However, the PRGC site does not appear to possess individual significance under NRHP/CRHR Criterion A/1 for this association. It was one of several recreational facilities that developed on and around the lake during this period. Additionally, there is nothing inherent in its physical features that necessarily expresses or illustrates this association. In summary, the PRGC site does not appear to be individually significant under NRHP/CRHR Criterion A/1 for its association with the expansion of recreation around Lake Merced that occurred during the 1910s-1930s.

With regard to the assertion that Cultural Landscape Evaluation Report failed to mention Lake Merced as an adjacent natural system, the report stated the following:

> The primary land use at the PRGC site is outdoor target shooting . . . This arrangement of features—the site's spatial organization—has been shaped by the needs of this primary land use and by the long and narrow shape of the site situated between the lake and a public road. The shape of the site, the need to set the shooting activities back from the road, and the need to provide a safety zone for the falling targets (a shotfall zone) resulted in the linear arrangement of the skeet and trap fields along the edge of the site next to the lake. The portion of the shotfall area that extends out into Lake Merced is outside of the lease area for the PRGC and outside of the boundary of the PRGC cultural landscape (page 29).

Research conducted for the Cultural Landscape Evaluation Report found that the Lake Merced site was chosen by the PRCG not so much because of its beauty as an adjacent natural system, but due to: (1) the gradual slope made it relatively easy to grade for the fields; (2) its availability – it was open space with no buildings around it in the early 1930s; and 3) the lake provided an extended shotfall area. As such, the Cultural Landscape Evaluation Report appropriately addressed Lake Merced in its evaluation, and did not identify the Lake itself as a contributing feature to the cultural landscape.

With regard to the assertion that the Cultural Landscape Evaluation Report failed to address the mature trees on the property as part of the historical resource, this topic was considered and rejected in the Cultural Landscape Evaluation Report as follows:

> Secondary features that were present on site during the period of significance but that do not contribute to the design or function of the site as an outdoor target shooting range or to its function as a sportsmen's club include (1) the parking lot on the western end of the site, (2) the internal road on the eastern end of the site, (3) the small stand of trees (six eucalyptus and one Monterey cypress) in the area between the Rifle Range building and Field 8 (the remains of a larger stand of trees that predate the club's usage of the site trees), (4) several large eucalyptus trees along the southern edge of the site in the vicinity of the Caretaker's House and Clubhouse (the remains of a larger stand of trees that predate the club's usage of the site trees), (5) four Monterey pine trees (the remains of a longer row that was planted in the mid-1930s to define edge of the site next to John Muir Drive), and (6) a large Monterey cypress tree located on the west side of the primary entrance to the Rifle Range building. In the case of the trees listed above, their presence reflects the common usage of these species (eucalyptus, Monterey cypress, and Monterey pine) in San Francisco during the first half of the 20th century rather than a specific relationship to the functioning of the site as an outdoor shooting range (page 45).

As such, the Cultural Landscape Evaluation Report correctly noted that the mature trees on the project site are non-contributors to the cultural landscape because they are not related to the site's historical significance, or to the design or function of the site as an outdoor target shooting range and sportsmen's club (i.e., the reasons for which the site is historically significant). The Page & Turnbull Report incorrectly identifies the trees as historically significant when in fact they are ancillary to the site and, for the most part, existed prior to any recreational uses at the site.

With regard to site topography, specifically, the Cultural Landscape Evaluation Report states the following:

> The PRGC site is relatively flat but slopes slightly down from its south side next to John Muir Drive toward the lake and from the entrance down toward the east end of the property..... The shoreline drops off steeply at the north end and northwest portion of the site, but, according to the characterization of the site in the Lake Merced Watershed Report, the remaining shoreline interface is "generally much more gradual than is typical for shoreline conditions around the lake" (SFPUC, 2011:14). The topographic modifications to the site are related to its use and function as an outdoor target shooting range and club. These include the large level terrace for the parking lot and trap and skeet range (Fields 1 to 7) which

> occupies the majority of the area on the western portion of the site, the smaller terrace where Fields 8 and 9 are located on the east end of the site, and a bank that extends along the south side of the site that provides the transition between the elevation along John Muir Drive and the lower elevation of the site. Minor topographic modifications include the leveling of the area that accommodates the footprint of Clubhouse and Caretakers House which are located immediately to the north of the south-side bank (pages 29-30).

The Cultural Landscape Evaluation Report also identifies that one of the contributing features for the PRGC cultural landscape related to its significance under NRHP/CRHR Criterion A/1 for the period between 1934 and 1941 is Fields 4 to 7 (1938) and their character-defining features, which include *a level terrace* (page 49). As such, Cultural Landscape Evaluation Report identified certain portions of the topography on the project site as character defining to the cultural landscape. The Page & Turnbull Evaluation incorrectly identifies the 'natural slope' of the site as a contributor to its historic significance, when in fact, the original slope has been terraced to accommodate the recreational uses.

With these topics addressed in the Cultural Landscape Evaluation Report, the PMND provides substantial evidence to support the conclusion that the project would not result in significant historical resource impacts related to buildings or structures built after 1941, or to other elements deemed non-historic such as trees, topography, or Lake Merced.

CONCERN 9: The appellant asserts that project mitigation measure M-AE-3, would not fully mitigate aesthetic impacts because planted vegetation would take time to mature.

"C. The IS/MND Does Not Fully Account for Potentially-Significant Aesthetic Impacts

The RAP will require removal of a substantial amount of vegetation that currently screens on-site structures. Due to the possible removal of mature trees that screen the eastern portion of the site, the implementation of the RAP could result in potentially-significant aesthetic impacts. The IS/MND describes the potential impact as follows:

> Removing the maximum potential number of trees in this vicinity could result in a substantial adverse effect on the scenic quality of the area and designated scenic resources. These include views from John Muir Drive/49-Mile Scenic Drive and of Lake Merced, and would result in a significant impact.

To mitigate this impact, the IS/MND relies on M-AE-3 which provides:

> The SFPUC shall identify the location and spacing of new plantings that would, at maturity, screen views of the eastern portion of the site. New plants shall include native

> species indigenous to the San Francisco Peninsula and/or shrubs and trees typical of the surrounding area. Plantings (by way of species type, size, and location) shall ensure that direct views of the site east of the entrance road are substantially obstructed from any location within a ten-year period. The SFPUC shall monitor and photograph screening vegetation annually after completion of remediation activities. If it is determined that success standards are not being met, SFPUC shall take immediate action to re-plant screening vegetation to ensure compliance by the tenth-year period.

A plain reading of M-AE-3 indicates that the mitigation measure would not fully mitigate the corresponding aesthetic impact. M-AE-3 is premised on the basis that replacement trees will accomplish the same screening effect as the trees that currently screen the eastern portion of the site. However, M-AE-3 indicates that this screening will not occur, if at all, until the trees have been in place for 10 years. This means that a 10-year period may exist during which the scenic quality of the area and its designated resources may be impacted due to the lack of adequate screening of on-site structures. As the IS/MND does not include a mitigation measure to account for what is conceded to be a potentially-significant impact, there is no substantial evidence to conclude that the RAP will not result in a significant aesthetic impact." (Pages 8 and 9 of the Appeal Letter)

RESPONSE TO CONCERN 9: Mitigation Measures M-AE-3 would reduce long-term aesthetic resources impacts to a less-than-significant level.

The appellant asserts that because Mitigation Measure M-AE-3 includes a 10 year period for complete implementation of the measure, a potentially significant impact on aesthetics could occur during the mitigation implementation period. CEQA Section 21081.6(b) indicates that:

> A public agency shall provide that measures to mitigate or avoid significant effects on the environment are fully enforceable through permit conditions, agreements, or other measures. Conditions of project approval may be set forth in referenced documents which address required mitigation measures or, in the case of the adoption of a plan, policy, regulation, or other public project, by incorporating the mitigation measures into the plan, policy, regulation, or project design.

CEQA Section 20181.6(c) states that:

> Prior to the close of the public review period for a draft environmental impact report or mitigated negative declaration, a responsible agency, or a public agency having jurisdiction over natural resources affected by the project, shall either submit to the lead agency complete and detailed performance objectives for mitigation measures which would address the significant effects on the environment identified by the responsible agency or agency having jurisdiction over natural resources affected by the project, or refer the lead agency to appropriate, readily available guidelines or reference documents. Any mitigation measures submitted to a lead agency by a responsible agency or an

> agency having jurisdiction over natural resources affected by the project shall be limited to measures which mitigate impacts to resources which are subject to the statutory authority of, and definitions applicable to, that agency. Compliance or noncompliance by a responsible agency or agency having jurisdiction over natural resources affected by a project with that requirement shall not limit the authority of the responsible agency or agency having jurisdiction over natural resources affected by a project, or the authority of the lead agency, to approve, condition, or deny projects as provided by this division or any other provision of law.

There is no requirement under CEQA that a mitigation measure must be implemented within a specific timeframe to avoid a potential significant impact and in many cases, such as installation of screening vegetation or restoration activities, mitigation implementation requires time for vegetation or habitat to become successfully established. Mitigation Measure M-AE-3 includes performance objectives, means to measure success, and a provision for corrective actions. In this case it is expected that screening vegetation would fully mature within 10 years; however, substantial screening would occur earlier than that as vegetation matures. As such, the long-term aesthetic resources effects associated with the proposed project are adequately addressed in the PMND and there is no substantial evidence to support the appellant's assertion that the proposed project would result in a significant aesthetics impact.

OTHER CONCERNS

Seven comment letters were received from the following organizations and individuals: Golden Gate Audubon Society; Dolphin Club; Friends of the Gulls; Frank H. (Bert) Swan, Ph.D.; Peter Griffith; Jeanine Mahl; and Dick Morten. Comments primarily address air quality (dust), biological resources, aesthetics, and need for the project. These comments are summarized below and indicate where revisions have been made to the PMND, as applicable. The amendments do not change the overall conclusion of the PMND.

- **Dick Allen, Dolphin Club** – inquired whether the removal of 81 or more trees would alter wind patterns and velocity on South Lake, and expressed the concern that any wind velocity increase would negatively affect rowing activities on Lake Merced.

- **Dick Morten** – stated that tree removals should only occur if necessary and after habitat and wildlife impacts have been evaluated; that the IS/MND should not indicate that the PRGC has any right to future site use, and that site structures should not be considered historic resources because they may not have been constructed according to code.

- **Golden Gate Audubon Society** – provided comments and recommendations on various topics below:

  - *Fugitive Dust* – expressed concern about the potential for fugitive dust and contaminated material to enter Lake Merced and waterbirds, aquatic wildlife, and recreationists; proposed the establishment of monitoring stations and an

emergency dust plan. In response to this comment, additional discussion was added to Section E.13, Biological Resources, on pages 135-136.

- *Bird Data* – proposed using bird data available for the entire area surrounding Lake Merced in analysis of impacts to birds. Provided additional information about the Fox Sparrow, Western Kingbird, Black Phoebe, Townsend's Warbler, Yellow Warbler, Tricolored Blackbird, and Great Blue Heron. In response to these comments, Section E.13, Biological Resources, was revised on pages 124 and 134.
- *Nesting birds* – suggested that work exclusion zones be placed around nests built during project activities and that monitoring and surveys be conducted throughout the birding season.
- *Tree Removal* – questioned the 10-year screening requirement for tree replacement described in Mitigation Measure M-AE-3 and proposes that tree health, as evaluated by a qualified professional, be used as success criteria. In addition, provided recommendations for tree replacement species and numbers.
- *Future Site Use* – indicated that cleanup for unrestricted future use appears contradictory to the project description which states that PRGC activities would be suspended during construction and Mitigation Measures M-CP-1a and M-CP-1b that would restore skeet fields 4-7. Suggested those measures be postponed until after future site use is determined by the SFPUC. Also suggested that a groundwater recharge plan be prepared for the site.
- *Coyotes* – suggested measures to reduce project impacts on potential coyote dens.

- **Friends of the Gulls** – Requested that Friends of the Gulls be added to distribution list for project updates.
- **Frank H. (Bert) Swan, Ph.D.** – expressed the opinion that the AMEC health risk assessment assumptions are unrealistically conservative and warrant additional evaluation, such as biological testing of on-site and off-site gophers to determine the bioavailability of PAHs; asserted that vehicle emissions and runoff from pavement along John Muir Boulevard contribute to PAHs and lead in soil; claimed that the project requires an EIR and a cost benefit analysis of alternative remediation methods; and, indicated the proposed remediation is not based on adequate data and cost considerations.
- **Jeanine Mahl** – Supported Dr. Swan's position, questioned whether existing toxicity levels really pose a health risk, and argued for further soil and animal testing and environmental impact studies.
- **Peter Griffith** – Requested that an EIR/cost benefit analysis be completed prior to project implementation.

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Filed:	12/4/2014
Action Deadline:	6/2/2015
Staff:	E. Lavine - SF
Staff Report:	12/19/2014
Hearing Date:	1/7/2015

STAFF REPORT: REGULAR CALENDAR

Application Number:	2-14-1612
Applicant:	San Francisco Public Utilities Commission
Project Location:	On the southwest shore of Lake Merced at 520 John Muir Drive, San Francisco.
Project Description:	Implementation of a soil remediation project involving the excavation and removal of an estimated maximum of 46,500 cubic yards of contaminated soils, replacement of excavated soils with clean imported fill, and restoration of the site to pre-project conditions.
Staff Recommendation:	Approval with Conditions.

SUMMARY OF STAFF RECOMMENDATION

San Francisco Public Utilities Commission (SFPUC) (the Applicant) proposes to implement a soil remediation project at the subject site, known as the Pacific Rod and Gun Club (PRGC), located on the southwest shore of Lake Merced, at 520 John Muir Drive in San Francisco. The City and County of San Francisco (CCSF) owns the approximately 10-acre subject property, which is managed by the SFPUC. The SFPUC leases the subject site to the PRGC, which has operated skeet and trap shooting facilities there since 1934. The subject site contains contaminated soils due to historic use of shotgun shells containing lead shot and clay targets made with asphaltic materials or petroleum pitch at the PRGC's skeet and trap ranges.

The Applicant proposes to implement a Remedial Action Plan (RAP) approved by the San Francisco Bay Regional Water Quality Control Board (RWQCB) in response to a cleanup order issued by the RWQCB in 2013. The proposed project involves removing an estimated maximum of 46,500 cubic yards of contaminated soil at the subject site from within an approximately 10 acre area to a depth ranging from 0.5 to 7 feet. Excavated soil would be delivered to appropriate disposal facilities, and would be replaced by clean imported fill which would be graded to match the existing topography of the site. Prior to remediation activities, most trees and vegetation at the subject site would be removed to allow for removal of contaminated soils, and smaller structures at the site would be moved to a safe location on- or off-site. Following soil replacement, the site would be replanted with native vegetation and structures on the site would be restored. The work would take place within the coastal zone, including within the Commission's retained jurisdiction and the certified Local Coastal Program (LCP) jurisdiction of CCSF. CCSF and the Applicant are seeking consolidated permit review of this project, pursuant to Coastal Act Section 30601.3.

The proposed project is intended to minimize the risk of human and animal exposure to elevated concentrations of lead, polycyclic aromatic hydrocarbons (PAHs), and arsenic in the site's soils, and to reduce the potential for leaching of contaminants into Lake Merced. Overall, the proposed project is protective of the water quality and biological productivity of Lake Merced, as removal of contaminated soil would reduce water quality impacts associated with potential contaminant migration to the lake, and improve lake vitality otherwise. However, as the proposed project involves ground disturbance and construction activities directly adjacent to the lake and within its wetlands, potential adverse impacts to coastal water quality and marine resources could occur. Staff is recommending special conditions to minimize potential adverse impacts to water quality and the biological productivity of Lake Merced both during and following construction. In addition to land based remediation, the restoration activities would result in dredging within a 0.835 acre area of freshwater emergent wetlands along the bank of Lake Merced. The Coastal Act limits dredging in wetlands except for certain purposes. The dredging is permissible in this case because the proposed project serves a restoration purpose, represents the least environmentally damaging feasible alternative, and as conditioned per staff recommendation, would incorporate feasible mitigation measures to minimize any adverse effects. Staff is also recommending conditions to protect habitat for sensitive species, and to ensure the protection of archaeological and paleontological resources in the event they are encountered during construction. The proposed project will not adversely affect the public's ability to access Lake Merced. Thus, the project as conditioned is consistent with the water quality, wetlands, public access and recreation and cultural resources policies of the Coastal Act.

Staff recommends approval of the coastal development permit (CDP) application as conditioned. The motion is found on page 4 below.

TABLE OF CONTENTS

I. MOTION AND RESOLUTION 4
II. STANDARD CONDITIONS 4
III. SPECIAL CONDITIONS 5
IV. COASTAL DEVELOPMENT PERMIT DETERMINATION 11
A. PROJECT LOCATION 11
B. PROJECT DESCRIPTION 12
C. WATER QUALITY AND MARINE RESOURCES 14
D. WETLAND HABITAT RESTORATION AND ALLOWABLE USES IN WETLANDS 16
E. ENVIRONMENTALLY SENSITIVE HABITAT AREAS 19
F. PUBLIC ACCESS AND RECREATION 22
G. COMMUNITY CHARACTER AND VISUAL RESOURCES 25
H. ARCHAEOLOGICAL AND PALEONTOLOGICAL RESOURCES 27
I. INDEMNIFICATION 28
J. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) 28

APPENDICES
Appendix A – Substantive File Documents

EXHIBITS
Exhibit 1 — Vicinity Map
Exhibit 2 — PRGC Site Map
Exhibit 3 — Photos of Shooting Debris On-site
Exhibit 4 — RWQCB Site Cleanup Requirements Order No. R2-2013-0023
Exhibit 5 — Remedial Excavation Depths
Exhibit 6 — Wetland Restoration Area
Exhibit 7 — Mitigation Measures Incorporated into Proposed Project

I. MOTION AND RESOLUTION

Staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the proposed development. To implement this recommendation, staff recommends a **YES** vote on the following motion. Passage of this motion will result in approval of the CDP as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Motion: *I move that the Commission approve Coastal Development Permit Number 2-14-1612 pursuant to the staff recommendation, and I recommend a yes vote.*

Resolution to Approve CDP: *The Commission hereby approves Coastal Development Permit Number 2-14-1612 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with Coastal Act policies. 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.*

II. STANDARD CONDITIONS

This permit is granted subject to the following 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 or 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.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Approved Project.** The Permittee shall undertake development in substantial conformance with the final Remedial Action Plan approved on November 11, 2014. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. **Construction Plan**. PRIOR TO COMMENCEMENT OF CONSTRUCTION, the Permittee shall submit two sets of a Construction Plan to the Executive Director for review and approval.

   (a) Construction Areas. The location of all construction areas, all staging areas, and all construction access corridors shall be clearly identified (in site plan view) and described. All such areas within which construction activities and/or staging are to take place shall be minimized to the maximum extent feasible in order to have the least impact on public access and coastal resources. Construction (including but not limited to construction activities, and materials and/or equipment storage) is prohibited outside of the defined construction, staging, and storage areas.

   (b) Construction Methods. All construction methods to be used, including all methods to be used to keep the construction areas separated from public recreational use and habitat areas (including using unobtrusive fencing (or equivalent measures) to delineate construction areas) shall be clearly identified and described.

   (c) Construction Plan Pollution Prevention Requirements. The Construction Plan shall demonstrate that the development complies with the following pollution prevention requirements:

   - **Minimize Land Disturbance and Soil Compaction.** Development shall minimize land disturbance during construction, including by phasing grading activities, to avoid increased erosion and sedimentation. Land disturbance activities (i.e., excavation and backfilling) adjacent to the northern boundary of the site shall be limited to an area of 30,000 square feet or less at any given point during construction.

   - **Stabilize Soil Promptly.** Development shall implement soil stabilization BMPs (such as mulching, soil binders, erosion control blankets, temporary re-seeding, etc.) on graded and/or disturbed areas as soon as feasible during construction where there is a potential for soil erosion to lead to discharge of sediment off-site or into coastal waters.

   - **Limit Potential for Erosion from Rains.** Excavation and backfilling shall be prohibited within 25 feet of the northern boundary of the project area adjacent to the lake during the rainy season (from October 15 to June 1), unless local weather forecasts anticipate no precipitation for at least two weeks prior to scheduled work.

Erosion control BMPs shall be operative in all areas of the site, including the area adjacent to the lake, prior to the onset of the rainy season.

- **Avoid Plastic Netting in Temporary Erosion and Sediment Control Products.** Development shall avoid the use of temporary erosion and sediment control products (such as fiber rolls, erosion control blankets, mulch control netting, silt fences, etc.) that incorporate plastic netting (such as polypropylene, nylon, polyethylene, polyester, or other synthetic fibers), in order to minimize wildlife entanglement and plastic debris pollution. Acceptable alternatives include the following:

  - **Loose-Weave Natural Fiber Netting.** Temporary rolled erosion and sediment control products with netting made of natural fibers, constructed in a loose-weave design with movable joints between the horizontal and vertical twines.

  - **Erosion and Sediment Control Products without Netting.** Temporary erosion and sediment control products that do not contain netting, including net-less erosion control blankets (e.g., made of excelsior), loose mulch, hydraulic mulch, soil binders, and straw bales.

  - **Unreinforced Silt Fences.** Silt fences constructed of woven synthetic filter fabric; however, avoid the use of reinforced silt fences backed by plastic or metal mesh.

- **Use Additional BMPs for Construction Near Coastal Waters.** Development shall implement additional BMPs for construction taking place over, in, or adjacent to coastal waters, if there is a potential for construction chemicals or materials to enter coastal waters. BMPs shall include, where applicable:

  - **Tarps to Capture Debris and Spills.** Use tarps or other devices to capture debris, dust, oil, grease, rust, dirt, fine particles, and spills to protect the quality of coastal waters.

  - **Non-Petroleum Hydraulic Fluids.** Use non-petroleum hydraulic fluids in principal heavy equipment operated for one week or longer over or in coastal waters or intertidal areas, if leaks or spills of hydraulic fluid from this equipment cannot be contained and could potentially enter coastal waters or intertidal areas.

  - **Designated Fueling and Maintenance Area.** Conduct fueling and maintenance of construction equipment and vehicles off site if feasible. Any fueling and maintenance of mobile equipment conducted on site shall take place at a designated area located at least 100 feet from coastal waters, drainage courses, and storm drain inlets, if feasible (unless these inlets are blocked to protect against fuel spills). The fueling and maintenance area shall be designed to fully contain any spills of fuel, oil, or other contaminants. Equipment that cannot be feasibly relocated to a designated fueling and maintenance area (such as hydraulic excavators) may be fueled and maintained in other areas of the site, provided that procedures are implemented to fully contain any potential spills.

(d) Content of Construction Plan Pollution Prevention Component. To comply with the Construction Plan Pollution Prevention requirements listed above, the plan shall include a construction site map and a narrative description addressing, at a minimum, the following components:

- **Site Plan.** A site plan map delineating the construction site, construction phasing boundaries, and the location of all temporary construction-phase BMPs (such as silt fences, inlet protection, and sediment basins).

- **BMPs to Minimize Land Disturbance.** BMPs that will be implemented to minimize land disturbance activities, the project footprint, and soil compaction shall be clearly identified.

- **BMPs to Minimize Erosion and Sedimentation.** BMPs that will be implemented to minimize erosion and sedimentation during construction activities shall be clearly identified, including:

  - **Soil Stabilization BMPs.** BMPs that will be implemented to stabilize soil during construction.

  - **Temporary Erosion and Sedimentation Control BMPs.** BMPs that will be implemented to control erosion and sedimentation during construction.

  - **BMP Installation and Removal Schedule.** A schedule for installation and removal of temporary erosion and sedimentation control BMPs, and identification of temporary BMPs that will be converted to permanent post-development BMPs.

  - **BMPs for Stockpiling.** BMPs that will be implemented to minimize polluted runoff from stockpiling soil and other excavated materials.

  - **Construction Phasing Schedule.** A construction phasing schedule, if applicable to the project, with a description and timeline of significant land disturbance activities.

- **BMPs to Minimize Other Pollutants from Construction.** BMPs that will be implemented to minimize the discharge of other pollutants resulting from construction activities (such as paints, solvents, vehicle fluids, asphalt and cement compounds, trash, debris, etc.) into runoff or coastal waters shall be clearly identified, including:

  - **Chemical and Material Storage BMPs.** BMPs that will be implemented to minimize polluted runoff from staging, storage, and disposal of construction chemicals and materials.

  - **Site Management BMPs.** Site management “housekeeping” BMPs to be implemented during construction, such as maintaining an inventory of

products and chemicals used on-site, and having a written plan for the clean-up of spills and leaks.

- **BMPs to Infiltrate or Treat Runoff.** BMPs to be implemented, if needed, to either infiltrate runoff or treat it prior to conveyance off-site during construction shall be clearly identified.

- **Maintenance Schedule.** A schedule for the inspection and maintenance of construction-phase BMPs, including temporary erosion and sedimentation control BMPs, as needed to ensure the permit's water quality requirements are met shall be clearly identified. Inspection and maintenance shall be required daily whenever excavation and backfilling activities occur within 25 feet of the northern boundary of the project area.

(e) Construction Requirements. The Construction Plan shall include the following construction requirements specified by written notes on the Construction Plan:

- All erosion and sediment controls shall be in place prior to the commencement of construction as well as at the end of each workday.

- The Permittee shall notify planning staff of the Coastal Commission's North Central Coast District Office at least three working days in advance of commencement of construction or maintenance activities, and immediately upon completion of construction or maintenance activities.

(f) Construction Site Documents. The plan shall provide that copies of the signed CDP and the approved Construction Plan be maintained in a conspicuous location at the construction job site at all times, and that such copies are available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of the CDP and the approved Construction Plan, and the public review requirements applicable to them, prior to commencement of construction.

(g) Construction Coordinator. The plan shall provide that a construction coordinator be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and that their contact information (i.e., address, phone numbers, etc.) including, at a minimum, a telephone number that will be made available 24 hours a day for the duration of construction, is conspicuously posted at the job site where such contact information is readily visible from public viewing areas, along with indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the name, phone number, and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry.

Minor adjustments to the above Construction Plan requirements may be allowed by the Executive Director if such adjustments: (1) are deemed reasonable and necessary; and (2) do

not adversely impact coastal resources. All requirements above and all requirements of the approved Construction Plan shall be enforceable components of this CDP. The Permittee shall undertake construction in accordance with the approved Construction Plan.

3. **Riparian and Wetland Restoration and Mitigation Monitoring Plan.** PRIOR TO COMMENCEMENT OF CONSTRUCTION, the Permittee shall submit two copies of a revised Riparian and Wetland Restoration and Mitigation Monitoring Plan to the Executive Director for review and approval that is substantially in conformance with the initial plan dated October 2014 but which shows or is modified by the following required components:

   (a) Revised Performance Standards. The performance criteria for post-planting shall be modified to include criteria establishing resulting species diversity (i.e., which species will be present) and percentage of total resulting cover by species or group of species.

   (b) Non-Native Species Management. The plan shall be revised to indicate that non-native species will be controlled within the restoration area during the established monitoring period using techniques and monitoring similar to those established in the plan for the control of invasive weeds.

   (c) Definition of Local Seeds and Plant Material. The plan shall be modified to define the local range within which seeds and plant material may be harvested for use in the restoration (e.g., in an area between Monterey and Sonoma Counties, and within 20 miles of the coast).

   (d) Final Monitoring Report. A final monitoring report shall be submitted for the review and approval of the Executive Director at the end of the monitoring period (i.e., at least 5 years). The final report shall be prepared by a qualified ecologist. The report must evaluate whether the required management, enhancement, and/or restoration has achieved the goals and success criteria set forth in the approved Plan.

   (e) Provision for Possible Further Action. If the final monitoring report indicates that the project has been unsuccessful, in part or in whole, based on the approved success criteria, the Permittee shall submit within 90 days a revised or supplemental plan to compensate for those portions of the original plan which did not meet the approved success criteria. The Permittee shall implement the revised or supplemental plan as directed by the Executive Director.

   All requirements above, and all requirements of the approved Riparian and Wetland Restoration and Mitigation Monitoring Plan, shall be enforceable components of this CDP. The Permittee shall undertake all development in accordance with the approved Riparian and Wetland Restoration and Mitigation Monitoring Plan.

4. **Sensitive Bird Species.** If an active nest of a federally or state-listed threatened or endangered species, bird species of special concern, or any species of raptor is found during preconstruction surveys or during construction, the Permittee shall take the following actions:

   (a) Notification. The Permittee shall notify all appropriate State and Federal agencies within 24 hours, and shall develop an appropriate action specific to each incident. The Permittee

shall notify the Executive Director in writing by facsimile or e-mail within 24 hours and consult with the Executive Director regarding determinations of State and Federal agencies.

(b) Action. In addition to any actions required by the Executive Director, the following requirements shall apply. If the active nest(s) is within 300 feet of construction activities (500 feet for raptors), the Permittee shall retain the services of an environmental resources specialist with experience conducting bird surveys to monitor bird behavior. The environmental resources specialist shall be present at all relevant construction meetings and during all significant construction activities (those with potential noise impacts) to ensure that nesting birds are not disturbed by construction-related noise. The environmental resources specialist shall monitor birds every day at the beginning of the project and during all periods of significant construction activities.

5. **Tree Removal and Replacement.** Any tree removed shall be replaced at a 1:1 ratio. Replacement trees shall be regionally appropriate natives and non-invasive species. The Permittee shall submit two copies of a monitoring plan, designed to ensure tree replacement success (i.e., as many trees and a similar level of tree function and visual screening as today or better) within a 10-year period, to the Executive Director for review and approval. The monitoring plan shall provide for a final monitoring report to be submitted for the review and approval of the Executive Director at the end of the 10-year period. The final report shall be prepared by a qualified ecologist. The report must evaluate whether the required tree replacement has achieved the required success criteria. If the final monitoring report indicates that the tree replacement has been unsuccessful, in part or in whole, the Permittee shall submit within 90 days a revised or supplemental plan to compensate for those portions of the original plan which did not meet the success criteria. The Permittee shall implement the revised or supplemental plan as directed by the Executive Director. In addition, an annual monitoring report for tree replacement shall be maintained on file as public information.

6. **Archaeological Resources.** In the event that any article of historical or cultural significance is encountered, all activity that could damage or destroy these resources must cease and the Executive Director and the Native American Heritage Commission must be notified so that the articles may be suitably protected or flagged for future research. A qualified archaeologist and/or the Native American Heritage Commission shall be consulted in order to examine the site and obtain recommendations for subsequent measures for the protection and disposition of significant artifacts. Mitigation measures shall be developed and submitted to the Executive Director for review and approval that address and proportionately offset the impacts of the project on archaeological resources.

7. **Paleontological Resources.** In the event that paleontological resources are encountered during project construction, all activity that could damage or destroy these resources shall be temporarily suspended until a qualified paleontologist has examined the site and mitigation measures have been developed and submitted to the Executive Director for review and approval that address and proportionately offset the impacts of the project on paleontological resources.

8. **Other Agency Review and Approval.** PRIOR TO COMMENCEMENT OF CONSTRUCTION, the Permittee shall submit to the Executive Director written evidence that all necessary permits, permissions, approvals, and/or authorizations for the approved project have been granted by all applicable agencies. Any changes to the approved project required by these agencies shall be reported to the Executive Director. No changes to the approved project shall occur without a Commission amendment to this CDP unless the Executive Director determines that no amendment is legally necessary.

9. **Liability for Costs and Attorneys Fees.** The Permittee shall reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys fees (including but not limited to such costs/fees that are: (1) charged by the Office of the Attorney General; and (2) required by a court) that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the Permittee against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit. The Permittee shall reimburse the Coastal Commission within 60 days of being informed by the Executive Director of the amount of such costs/fees. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

IV. COASTAL DEVELOPMENT PERMIT DETERMINATION

The proposed project involves development both in an area of the Commission's retained coastal development permit (CDP) jurisdiction as well as development in an area of CDP jurisdiction delegated to City and County of San Francisco (CCSF) by the Commission through certification of the CCSF's Local Coastal Program (LCP). Coastal Act Section 30601.3 authorizes the Commission to process a consolidated CDP application in such cases when the local government, the Applicant, and the Executive Director all agree to such consolidation. The standard of review for a consolidated CDP application is the Chapter 3 policies of the Coastal Act. The local government's certified LCP may also be used as non-binding guidance.

CCSF and the Applicant have requested, and the Executive Director has agreed, that the Commission review the entire project (including the portion within the CCSF's LCP jurisdiction) together as one combined and consolidated CDP application as allowed under Section 30601.3 of the Coastal Act. Thus, the standard of review for the proposed project is the Chapter 3 policies of the Coastal Act, with the CCSF LCP providing non-binding guidance.

A. PROJECT LOCATION

The proposed project is located at the site of the Pacific Rod and Gun Club (PRGC), at 520 John Muir Drive, on the southwest side of Lake Merced, in southwestern San Francisco (**Exhibit 1**). The site is approximately 1,500 feet long, 350 feet wide at its western end, and 150 feet wide at its eastern end. It is bound by John Muir Drive to the south, Lake Merced to the north, San Francisco Police Department's outdoor and indoor weapons firing range and bomb disposal facility to the west, and a narrow, undeveloped lot consisting primarily of low-lying riparian wetland to the east.

The PRGC has operated skeet and trap shooting facilities at the site since 1934. There are three trap fields and six skeet fields located on the northern portion of the site adjacent to Lake Merced. The PRGC site contains eight one-story buildings, including a clubhouse, caretaker's house, rifle range building, shell house, trap house, restroom building, barbeque shed, and garage. It also contains a tower and several small target-launching stands which serve the skeet and trap fields. There is also a large parking area located along the southern portion of the site adjacent to John Muir Drive (**Exhibit 2**). The site contains freshwater wetlands and wetland vegetation, including shrubs, rushes, and grasses, along its northern boundary with Lake Merced. The unpaved portions of the skeet and trap fields are vegetated with grass. Large quantities of shooting debris, including used clay targets and shotgun shells, litter the wetlands area and skeet and trap fields (**Exhibit 3**). The southern boundary of the site along John Muir Drive is dominated by several large stands of mature, non-native trees, including 27 Australian blackwood, 43 blue gum eucalyptus, 16 Monterey pine, and 2 Monterey cypress. The stands of trees along the southern portion of the PRGC site partially screen views of the PRGC facilities from the road.

Lake Merced is an approximately 600-acre freshwater lake. The lake and its surrounds are a well-utilized recreation area within San Francisco. It is surrounded by bicycle lanes and a 4.5-mile paved trail, as well as recreation facilities including Harding Park, picnic areas, boat launches, a fishing pier, and three golf courses. The lake is classified as an emergency non-potable water supply by the San Francisco Public Utilities Commission (SFPUC), and SFPUC indicates that the lake could be used to provide water for firefighting, basic sanitation, and other needs in the event of a major disaster.

B. PROJECT DESCRIPTION

The Applicant, SFPUC, proposes to implement a soil remediation project to address soil contamination on upland areas of the PRGC site and along the shoreline of Lake Merced. The proposed soil remediation project is prescribed by the San Francisco Bay Regional Water Quality Control Board (RWQCB) Site Cleanup Requirements Order No. R2-2013-0023 (**Exhibit 4**).[1] The Order requires the Applicant to complete the following tasks:

1) Propose cleanup standards for the upland portion of the site sufficient to protect human health under current and future uses supported by an analysis of human health risks associated with exposure to site contaminants;

[1] Order No. R2-2013-0023 establishes distinct requirements and workplans to address contamination of the upland soils at the PRGC site and sediments within Lake Merced. The proposed project that is the subject of this application would allow for compliance with requirements of the order related to upland soil contamination. The order also requires an investigation to determine whether elevated levels of lead, arsenic, and PAHs in lake sediments pose an unacceptable risk to benthic organisms and wildlife based on bioavailability and long-term exposure. If the results indicate unacceptable risks to benthic organisms and wildlife, preparation and implementation of a separate Remedial Action Plan for lake sediments will be required.

2) Submit a Remedial Action Plan (RAP) to the RWQCB that outlines how soil would be removed and/or managed to meet the human health cleanup standards; and

3) Demonstrate implementation of the RAP.

The Applicant has established site cleanup goals and prepared a RAP in compliance with the first two tasks established by the Order. **Special Condition 1** authorizes the Applicant to undertake the proposed work consistent with the approved RAP. The proposed project would consist of soil remediation activities outlined in the RAP, and once completed would allow for compliance with the third task of the RWQCB Order. The project consists of (1) site preparation activities; (2) soil excavation, removal, and disposal; (3) soil backfilling; and (4) site restoration activities. Additional details on the various project components are provided below. The Applicant has incorporated mitigation measures into the proposed project (**Exhibit 7**) to address potential adverse impacts to water quality, wetlands, sensitive species, environmentally sensitive habitat areas, public access, archeological and paleontological resources, historic resources, and visual resources.

Site Preparation Activities

Prior to the onset of soil excavation, the site would be cleared of surface debris (including target and shot debris), asphalt and concrete ground surfaces, and miscellaneous site features such as benches and fencing. Most trees and vegetation, including as many as 88 non-native trees, would be removed in order to ensure that contaminated soil in excess of the human health cleanup goals could be excavated. PRGC buildings would remain in place, and would be surrounded by protective fencing during soil remediation activities. Smaller structures, including the target launch stands and towers, would be moved to a secure location on- or off-site during construction in coordination with the PRGC. Preconstruction surveys would be conducted to allow for any repairs necessary to correct building damage caused by project construction and to restore the site to its previous condition. Temporary construction fencing would be installed surrounding the project site to restrict access to humans and wildlife during construction. A protective barrier such as silt fencing would be installed around wetlands adjacent to the site to avoid potential impacts to habitat and water quality.

Soil Excavation, Removal, and Disposal

An estimated maximum of 46,500 cubic yards of soil would be excavated from the subject site. The depth of excavation would range from 0.5 to 7 feet based on the concentration of lead and PAHs in the soil. The RAP demarcates a grid system consisting of 100-foot squares and establishes the depth of required soil excavation based on sampling results and site investigation (**Exhibit 5**). Sampling of soils would be conducted once excavation reaches the target depth within each square to determine if human health cleanup standards have been achieved, and additional excavation would take place if required. Once excavated, soil would be temporarily stockpiled on-site until sampled and characterized for the appropriate waste disposal facility according to its hazardous waste classification, as required by law. While stockpiled on-site, contaminated soil would be stored within a bermed area on liner material, protected from stormwater runoff, and covered to prevent windblown dust. Excavated soil would then be transported from the site by a licensed hazardous waste contractor. Soil would be excavated and removed from the site at a rate of approximately 200 cubic yards per day.

Soil Backfilling

Excavated areas would be backfilled with clean imported fill material, which would be compacted according to engineering specifications and graded to return the site to its pre-project topography and condition. Soil excavation and backfilling activities would be conducted simultaneously, with about 20 truck trips required to transport excavated and replacement soil to and from the site each day over the course of up to 48 weeks. At no point during construction would equipment be operated in the waters of Lake Merced.

Site Restoration Activities

Following soil backfilling, the site would be graded to restore it to pre-project conditions. The Applicant would implement erosion control measures, including hydroseeding with native plant species. Existing site features temporarily relocated during remediation activities would be returned to their original location or reconstructed to match pre-project conditions, such as the concrete station paths at the skeet fields. Some existing paved areas would be replaced with compacted base (permeable surface) to reduce stormwater runoff. If structures were damaged during construction, they would be restored to their pre-project conditions. The Applicant proposes to restore habitat functions and services in accordance with a Riparian and Wetland Restoration and Mitigation Monitoring Plan, and to replant native shrubs and trees to achieve the level of function and screening presently accomplished by vegetation on-site.

C. WATER QUALITY AND MARINE RESOURCES

Applicable Policies

Coastal Act Section 30230 requires that marine resources be maintained, enhanced, and restored. New development must not interfere with the biological productivity of coastal waters or the continuance of healthy populations of marine species. Coastal Act Section 30230 states:

> *Marine resources shall be maintained, enhanced, and, where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

Coastal Act Section 30231 requires that the productivity of coastal waters necessary for the continuance of healthy populations of marine species shall be maintained and restored by minimizing waste water discharges and entrainment and controlling runoff. Coastal Act Section 30231 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 waterflow, encouraging waste water reclamation,*

maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Although not the standard of review, on the topic of Lake Merced, the CCSF LCP states in part:

Allow only those activities in Lake Merced area which will not threaten the quality of the water as a standby reservoir for emergency use.

Analysis

The proposed project would remove an estimated maximum of 46,500 cubic yards of contaminated soils from the subject site. Overall, the proposed project would improve water quality and help protect biological productivity and marine resources when completed by reducing the potential for leaching of contaminants into Lake Merced. By removing contaminated soil, the project would also improve the long-term viability of the lake as a standby reservoir for emergency use. However, implementation of the proposed remediation project could have short-term impacts on water quality, biological productivity, and marine resources. Dredging and backfilling of soils along the subject site's northern boundary with Lake Merced could lead to sediment migration into the lake. The entrainment of sediment into the lake via stormwater runoff from proposed activities further upland on the site could also impact water quality. While no construction equipment would be operated in-water, the project requires the use of heavy equipment adjacent to the lake. As such, the project has the potential to impact marine resources and water quality through, for example, an accidental spill of hazardous fluids such as fuels or other chemicals used during construction. After soil excavation and backfilling activities are complete, there is the potential for increased sedimentation to the lake resulting from surface erosion if adequate mitigation and restoration measures were not in place.

To guard against the construction-related water quality impacts discussed above, the Applicant has incorporated a number of Best Management Practices (BMPs) and mitigation measures into the proposed project (**Exhibit 7**). Stormwater discharges from construction related to this project are subject to the State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order No. 2009-00009-DWQ (Construction General Stormwater Permit). This permit requires construction BMPs and monitoring designed to prevent pollutants from coming into contact with stormwater and to keep surface erosion and stormwater pollutants from moving into receiving waters. **Special Condition 8** requires the Applicant to demonstrate that this permit and all other necessary permits, permissions, approvals, and/or authorizations for the approved project have been granted prior to the commencement of construction.

To ensure that the Applicant implements BMPs and control measures adequate to protect coastal resources, including water quality, the Commission attaches **Special Condition 2**. **Special Condition 2** requires submittal of a Construction Plan with a pollution prevention component for Executive Director review and approval. Through the Construction Plan, the Applicant is to demonstrate adherence to various controls and construction responsibilities during project implementation to protect resources and water quality. These include standard controls imposed by the Commission to minimize stormwater runoff, surface erosion, and potential pollutants resulting from construction activities. In addition, to address the potential adverse impacts

resulting from the excavation and backfilling of large quantities of soil adjacent to Lake Merced and freshwater wetland habitat, **Special Condition 2** requires the Applicant to minimize the amount of land disturbance adjacent to the lake to a maximum area of 30,000 square feet at any given point. The Applicant is also to avoid any excavation and backfilling within 25 feet of the site adjacent to the lake during the rainy season (from October 15 to June 1), unless local weather forecasts anticipate no precipitation for at least two weeks prior to scheduled work.

The quality of coastal waters could also be adversely affected by the discharge or release of excavated contaminated soils and other construction-related debris and waste stockpiled on the site if proper protocols are not followed. The Applicant proposes to create temporary staging areas within the existing graded and paved areas of the project site to house debris boxes and segregated stockpiles of concrete and asphalt debris, fencing and miscellaneous nonhazardous debris, recyclable metals, and excavated soil. Stockpiles of excavated soil would be segregated by anticipated waste classification. Excavated material would be placed on liner material within a bermed area and covered to prevent migration of contaminants, to shield the material from elements, and to mitigate the potential for windblown dust and stormwater runoff. The staging area would be surrounded by temporary fencing.

Following excavation and soil backfilling, the site must be properly restored to minimize the possibility of entrainment of sediment from stormwater runoff. The Applicant has proposed to revegetate disturbed areas with native plants to assist in erosion-control through methods including hydroseeding. The Applicant has also prepared a Riparian and Wetland Restoration and Mitigation Monitoring Plan, which contains BMPs describing erosion control measures to be installed around the affected wetland areas following restoration planting. These measures include installation of erosion and sediment control methods (e.g., erosion control blankets, hydromulch, straw wattles, etc.) on slopes to promote vegetation establishment and reduce stormwater runoff and surface erosion. In addition, some of the existing paved areas at the site would be replaced with compacted base, a permeable material that would reduce stormwater runoff. Thus, the proposed project includes adequate mitigation measures to minimize stormwater entrainment and control runoff following restoration activities.

As to future use, should skeet and trap shooting activities resume at the subject site following the proposed restoration project, the PRGC would be required to use shot and targets that do not contain lead or asphaltic materials, as they have in recent years, so as to protect restored areas form degradation.

Conclusion

The long-term effect of the proposed project would reduce the potential for contaminants presently in the PRGC site's soil to reach Lake Merced. As conditioned, the proposed project would minimize the potential for sediment and other pollutants to be carried by accidental spills or stormwater runoff into the lake during and following construction. Thus, the proposed project, as conditioned, will protect water quality and marine resources consistent with the requirements of the Coastal Act and the CCSF LCP.

D. WETLAND HABITAT RESTORATION AND ALLOWABLE USES IN WETLANDS

Applicable Policies

Coastal Act Section 30233 limits diking, filling, or dredging in wetlands except for certain purposes. Section 30233 further limits such activities to instances where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects. Section 30233(a) states:

> *The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:*
>
> *(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.*
>
> *(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.*
>
> *(3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.*
>
> *(4) Incidental public service purposes, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*
>
> *(5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*
>
> *(6) Restoration purposes.*
>
> *(7) Nature study, aquaculture, or similar resource-dependent activities.*

Analysis

Remedial soil excavation and backfilling for the proposed project would occur predominately within the upland areas of the PRGC site, although dredging and backfilling would occur within a 0.835 acre area of freshwater emergent wetlands along the bank of Lake Merced (**Exhibit 6**). Work is required within these wetland areas for the Applicant to achieve effective established human health cleanup standards, as they contain the highest levels of contamination found on the PRGC site. As a result, the proposed project involves the removal of wetland substrate and vegetation and placement of new clean materials in these areas, and thus constitutes dredging and filling of wetlands under Section 30233(a). These activities are only allowable under the Coastal Act if three tests are met: (1) the dredging and filling must constitute an allowable use under Section 30233(a); (2) there are no feasible less environmentally damaging alternatives; and (3) feasible mitigation measures will be provided to minimize any adverse effects.

Allowable Uses

Filling and dredging of wetlands may be allowed only if its purpose falls within one or more of the enumerated uses listed in Coastal Act Section 30233(a). The soil remediation project is an effort by the Applicant to (1) minimize the risk of human exposure to elevated concentrations of lead, PAHs, and arsenic in site soils, and (2) reduce the potential for leaching of contaminants into Lake Merced. Upon removal of the contaminants and completion of the remedial action, the biological productivity and quality of Lake Merced would be enhanced both for human health and marine organisms, consistent with the requirements of Coastal Act Sections 30230 and 30231. The proposed remediation work within the wetlands portion of the site is for restoration purposes consistent with the requirements of Section 30233 because it entails a reestablishment of conditions that were present prior to contamination of the habitat from the historic use of lead shot and clay targets made with asphaltic materials at the PRGC site. As such, the proposed project serves a restoration purpose and is allowed under Coastal Act Section 30233(a)(6).

Least Environmentally Damaging Feasible Alternative

The second test of Section 30233(a) requires that there is no feasible less environmentally damaging alternative. The proposed project also meets this test. A no-project alternative would leave the site contaminated in violation of the RWQCB Site Cleanup Order, leading to wetland and related coastal resource impacts. A more narrowly tailored alternative of the project would confine the soil remediation activities to the upland portion of the site and reduce the amount of soil remediation within the wetlands area. This alternative would reduce the disturbance to wetland habitat but would not restore the full site to its condition prior to the contamination from lead, PAHs, and other heavy metals, leaving the wetland areas more contaminated than under the proposed project. As stated above, the portions of the project area with the highest concentrations of contaminants are those adjacent to the site's northern boundary with Lake Merced, including its wetland habitat. There is no means of effectively remediating the soil within this area without affecting the wetland habitat. For this reason, no feasible environmentally superior alternative exists and therefore the project is consistent with the second test of Coastal Act Section 30233(a).

Mitigation

The final test of Section 30233(a) requires that feasible mitigation measures be provided to minimize any adverse effects. The Applicant has proposed several measures to protect wetland resources on the site. Prior to the onset of construction, the Applicant would install silt fencing or another form of protective barrier at the northern boundary of the project area in order to protect wetland features adjacent to the project area. A qualified biologist would inspect the fencing prior to the onset of excavation activities and would be present during the initial vegetation clearing and excavation, and would regularly monitor the fencing to confirm proper maintenance. A qualified biologist would conduct a training program for all construction personnel on sensitive biological resources at the site and the steps that must be taken to protect these resources. The Applicant further proposes to restore all riparian and wetland habitat disturbed by the soil remediation work onsite to pre-project conditions or better. The Applicant has submitted a Riparian and Wetland Restoration and Mitigation Monitoring Plan (ESA, 2014), which provides details on the restoration location, size, and methodology. As part of its restoration project, the Applicant commits to the following:

- Use of performance standards to track successful reestablishment of coastal freshwater marsh wetland areas, willow riparian scrub areas, and coastal scrub areas over a five-year monitoring period (including survival rates for replanted species, percent cover requirements, and limits to the allowable amount of cover consisting of invasive weeds).

- Quarterly site assessments and annual monitoring for five years to track habitat reestablishment using quantitative and qualitative methods, as well as photo monitoring.

- Invasive weed management in all restoration areas during the five year monitoring period.

- Use of locally harvested seeds and plantings for coastal freshwater marsh and willow riparian scrub habitats.

- Use of erosion and sediment control measures composed entirely of biodegradable materials to promote vegetation reestablishment and to prevent adverse water quality impacts.

- Employ a qualified restoration monitor to oversee and monitor implementation of the plan.

Although the Applicant's proposal addresses the key elements of a habitat restoration plan, it needs to be modified to ensure that wetlands would be adequately restored in a timely manner. The plan does not include a criterion for species diversity within its success criteria. The plan's performance standards must establish which species will be present at the end of the monitoring period, and include percent cover requirements by specified species or groups of species. In addition, the plan must be revised to control all non-native species within the restoration area during the established monitoring period, not only invasive species as currently proposed. Also, while the Applicant proposes to collect seeds and vegetative plant material used in the restoration within the vicinity of the project area, the plan must be revised to specify that at minimum the collected seeds and plant material shall be collected within a defined local range (e.g., in an area between Monterey and Sonoma Counties, and within 20 miles of the coast). Finally, the plan must be accompanied by a final monitoring plan and provisions for further actions should additional measures be necessary to meet success criteria. Therefore, **Special Condition 3** requires the Applicant to submit a revised Riparian and Wetland Restoration and Mitigation Monitoring Plan for the Executive Director's review and approval prior to the commencement of construction to incorporate the above listed requirements. As conditioned, the project is consistent with the final test of Coastal Act Section 30233(a).

Again, as to future use, should skeet and trap shooting activities resume at the subject site following the proposed restoration project, the PRGC would be required to use shot and targets that do not contain lead or asphaltic materials, as they have in recent years, so as to protect restored areas form degradation.

Conclusion

As conditioned, the project is meets the three tests established under Coastal Act Section 30233(a).

E. ENVIRONMENTALLY SENSITIVE HABITAT AREAS

Applicable Policies

Environmentally Sensitive Habitat Areas (ESHA) are defined as areas 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. Section 30240 of the Coastal Act states that ESHAs shall be protected against disruption of habitat values and that only uses dependent on the resources be permitted within an ESHA. Coastal Act Section 30240 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.*

Analysis

The Lake Merced shoreline area provides habitat for a number of sensitive animal and plant species, and the lake and its surrounds comprise a 614-acre park. Thus, the proposed project must be evaluated for impacts which would significantly degrade those areas, and must be compatible with the continuance of those habitat and recreation areas. Special-status animal species in the area include western pond turtle, special-status and migratory birds, and special-status bats. Special-status plant species in the area include San Francisco Bay spineflower, blue coast gilia, and other locally rare species. The proposed project includes specific BMPs to address potential adverse impacts to these species, as discussed below. The proposed project also includes more general measures to protect sensitive habitat, including the previously discussed training for construction personnel on sensitive biological resources at the site and steps that must be taken to protect these resources.

The wetlands at the site and along the lake edge constitute ESHA under the Coastal Act. Restoration is a resource dependent use, and the project will not only protect these areas against significant disruption, but it will also lead to wetland enhancement when complete (see also previous Wetland findings). Other than wetlands, none of the other project components would take place in ESHA, rather the project is located adjacent to ESHA (see below), as determined by the Commission's senior ecologist, Dr. John Dixon. Thus, these resources are protected by Coastal Act Section 30240(b), and they are discussed below.

Special-status animal species

According to the Final Mitigated Negative Declaration (FMND) for the proposed project, the Western Pond Turtle, special-status and migratory birds, and special-status bats have a moderate potential to occur within or next to the subject site, although none were identified in surveys of the site for the project.

Western pond turtle is a California species of special concern which is known to occur at Lake Merced. The proposed project would not directly affect the western pond turtle's aquatic habitat,

but there is the potential for the subject site to be used for dispersal or migratory movement to the lake. The proposed project includes mitigation measures to avoid adverse construction-related impacts to the turtle. A qualified biologist would supervise the installation of exclusion fencing around the boundaries of the project area and would conduct inspections of the fencing weekly. The biologist would also conduct inspections for turtles. If turtles are found, construction would halt and would not resume until the turtles are safely off-site. The contractor would take steps during construction to avoid adverse impacts to turtles, including installing escape ramps in excavations deeper than 6 inches, and clearing trash and covering openings that turtles might use as hiding places.

Special-status and migratory birds and special-status bats have the potential to be adversely affected by both construction-related activities and through loss of habitat due to proposed vegetation removal. Although no sensitive birds or bats were identified in surveys of the site for the project, birds known to forage and/or nest in the vicinity of the project site include the bank swallow (California threatened species), yellow warbler, salt marsh common yellowthroat (California species of concern), double-crested cormorant (California watch list species), and migratory and native raptor and passerine species.

The Applicant proposes to protect nesting birds by avoiding the removal of vegetation and structures during the nesting season (February 1 to August 30). If the nesting season cannot be avoided, a qualified wildlife biologist would conduct surveys prior to the start of construction. Surveys would be conducted on the site, within suitable habitat within 250 feet of the subject site to locate passerine nests, and within suitable habitat within 500 feet of the subject site to locate active raptor nests and rookeries for double-crested cormorant or heron. If an active nest is found and would be affected by the construction, buffers would be established to avoid disturbance to nesting birds. The Applicant's biologist would work in consultation with USFWS and/or CDFW to establish no-disturbance buffers for State or Federally listed-species. Inactive raptor nests would also require approval by USFWS and/or CDFW before removal. The Applicant also proposes to remove or relocate active nests for State or Federally listed-species discovered during construction activities in coordination with USFWS and/or CDFW. Relocating or removing active nests is insufficiently protective of special-status birds and raptors. Therefore, **Special Condition 4** is necessary to require that active nests for special-status birds and raptors are to be avoided during nesting season. **Special Condition 4** also establishes criteria for avoiding construction-related impacts to nesting birds and appropriate monitoring procedures.

No special-status bats were identified on the site during a 2013 survey, though western red bat and Yuma myotis have the potential to occur around the lake. To avoid construction-related impacts to special-status bats, the Applicant proposes mitigations including preconstruction surveys to identify potential habitat. If feasible, removal of trees and structures would occur outside bat maternity season (approximately April 15 – August 31) and outside of months of winter topor (approximately October 15 – February 28), and otherwise a no-disturbance buffer of 100 feet would be established around active bat roosts. The Applicant further proposes monitoring for active roosts by a biologist during removal of trees and structures.

As previously discussed, the proposed project involves removal of most vegetation on the PRGC site to allow for excavation of contaminated soils to human health cleanup standards. Vegetation

removal could result in the loss of habitat for sensitive bird and bat species. The removal of 81 or more of the subject site's 88 mature non-native trees is proposed. According to the FMND, the stands of trees present at the PRGC site create a mature forest habitat suitable for nesting breeding-birds and special-status bats. While similar forest habitat is present at many other spots in the vicinity of the project site, replacement of habitat for these special-status species is appropriate. The Applicant has proposed planting replacement trees and shrubs that, once mature, would achieve the present function and vegetative screening on the site within ten years. While this action would restore appropriate habitat for birds and bats, it does not guarantee the full restoration of suitable forest habitat currently present on the site. Therefore, **Special Condition 5** requires 1:1 replacement of removed trees with native and regionally-appropriate non-invasive trees. It also provides for a final monitoring plan and provisions for further actions should additional measures be necessary to meet success criteria.

Special-status plant species

No known special-status plant species have been observed at the subject site. However, there is moderate potential for California Native Plant Species (CNPS) listed San Francisco Bay spineflower and blue coast gilia to occur on-site within the coastal scrub habitat. Species designated as locally rare by the Yerba Buena Chapter of the CNPS, including the dune tansy and San Francisco wallflower, also have the potential to occur at the site. The Applicant has developed mitigation measures to avoid or relocate special-status plants if discovered during construction. A qualified botanist would conduct preconstruction surveys on the project site and within adjacent suitable habitat during the blooming period for special-status plant species. If special-status plants are identified outside the remediation area, the suitable habitat area would be flagged or fenced off throughout construction and signage reading "Environmentally Sensitive Area – Keep Out" would be installed. If special-status plants are identified within the remediation area and cannot be avoided, the Applicant would coordinate with CDFW to relocate them to an appropriate site within the Lake Merced shoreline area.

Conclusion

Dr. Dixon has reviewed the relevant project materials, and believes that the measures to address habitat issues are appropriate, as augmented by the conditions of approval, and will ensure that the project has been sited and designed to prevent impacts which would significantly degrade those areas, and to be compatible with the continuance of those habitat areas. Also, as to future use of these areas, there is no danger that should the site continue to be used as a gun club that its activities would result in additional deposition of lead or asphaltic materials, as the PRGC has discontinued use of shot and targets containing these materials. As conditioned, the project contains adequate measures to minimize impacts to special-status plant and animal species habitat, and will minimize potential adverse impacts to the surrounding habitat areas consistent with Section 30240 of the Coastal Act.

F. PUBLIC ACCESS AND RECREATION

Applicable Policies

The public access and recreation policies of the Coastal Act require that maximum access and recreational opportunities shall be provided and that development shall not interfere with such access.

Coastal Act Section 30210 states:

> *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Coastal Act Section 30211 states:

> *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

Coastal Act Section 30214 states:

> *(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:*
>
> *(1) Topographic and geologic site characteristics.*
>
> *(2) The capacity of the site to sustain use and at what level of intensity.*
>
> *(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.*
>
> *(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.*
>
> *(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.*
>
> *(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.*

Although not the standard of review, on the topic of Lake Merced, the CCSF LCP states in part:

> *Preserve in a safe, attractive and usable condition the recreational facilities, passive activities, playgrounds and vistas of Lake Merced area for the enjoyment of citizens and visitors to the city.*
>
> *Maintain in usable condition the existing bicycle, bridle, pedestrian and jogging paths around the lake.*

Analysis

Lake Merced is well utilized for recreational activities including boating, windsurfing, and fishing. The areas around the lake are well utilized for walking, jogging, bicycling, bird watching, and picnicking. The proposed project would require temporary closure of the PRGC site for recreational uses in order to conduct work for the soil remediation project, however there is no existing public access to the shoreline of Lake Merced at the PRGC site. Adequate public access to the lake is provided from various points along the paved path that circles the lake's perimeter, including a fishing pier approximately 0.25 miles east of the PRGC site. Thus the proposed project would not result in any temporary impacts to the public's ability to access Lake Merced during construction activities.

The CCSF LCP states that the recreational facilities, passive activities, playground, and vistas of the Lake Merced area be preserved in a safe, attractive, and usable condition for the enjoyment of citizens and visitors to the city. The site is currently degraded due to elevated levels of lead and PAHs. The proposed project would protect site users from harmful exposure to contaminated soil by remediating soil to meet human health risk standards for current and foreseeable future land uses. The proposed soil remediation would reduce the potential for site contamination to adversely affect water quality in Lake Merced.

The CCSF LCP also states that bicycle, bridle, pedestrian, and jogging paths around Lake Merced be maintained in usable condition. During construction, there is potential for construction vehicles to disrupt users of the pedestrian path and bicycle lane that run along John Muir Drive at the site's southern boundary. It is anticipated that during construction vehicles would cross the pedestrian path and bicycle lane approximately 40 times per day to access the subject site. However, the proposed project would not result in closure of the sidewalk and bicycle route during construction. In addition, the Applicant has included measures to avoid impacts to bicyclists and pedestrians during construction. Flaggers would be present at the entrances of the PRGC site along John Muir Drive during construction to reduce the potential that trucks would cause long-term blockages to the bicycle lane and pedestrian path. The use of flaggers to direct construction traffic would help to maintain the bicycle lane and sidewalk in a safe and usable condition during construction. The Applicant has also limited construction activities to weekdays. The Commission's **Special Condition 2** will likewise ensure that construction areas are limited to that that are necessary, sited and designed in such a way as to minimize impacts on public recreational users, and includes additional protections for public access.

Conclusion

The proposed project, as conditioned, will not significantly interfere with the public's access to Lake Merced. Although there will be some shore-term inconveniences, the proposed project as conditioned addresses such issues appropriately. Also, proposed soil remediation activities will result in long-term enhancements to the quality of the subject site and Lake Merced as recreational resources. The Applicant and the Commission's conditions include measures to minimize the temporary construction-related impacts to pedestrians and bicyclists. Therefore, the proposed project is consistent with the recreation and public access policies of the Coastal Act and the CCSF LCP.

G. COMMUNITY CHARACTER AND VISUAL RESOURCES

Applicable Policies

As discussed in the section above, Lake Merced is a popular visitor destination point for recreational uses. The Coastal Act protects special communities that are popular visitor destinations, such as the Lake Merced area, under Section 30253(e). Coastal Act Section 30253 states, in part:

> *New development shall do all of the following: ...*
>
> *(e) Where appropriate, protect special communities and neighborhoods that because of their unique characteristics, are popular visitor destination points for recreational uses.*

The scenic and visual qualities of coastal areas are also protected under Coastal Act Section 30251. Cultural features set in scenic areas may be considered scenic resources. Coastal Act Section 30251 states:

> *The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

Although not the standard of review, on the topic of Lake Merced, the CCSF LCP states in part:

> *Preserve in a safe, attractive and usable condition the recreational facilities, passive activities, playgrounds and vistas of Lake Merced area for the enjoyment of citizens and visitors to the city.*

Analysis

The PRGC was established at the subject site in 1934, and most of the structures at the site are more than 50 years old. The Applicant has had the site evaluated for its potential significance as a cultural landscape, and concluded that the PRGC site appears to be eligible for listing on the National Register of Historic Places (NRHP) and the California Register of Historical Resources

(CRHR) at the local level because of its association with the development of sport hunting and skeet shooting in the period prior to World War II (Denise Bradley, 2014). The proposed construction activities have the potential to adversely affect site features that contribute to its significance as a historical resource.

The proposed project includes measures to protect the unique historic characteristics of the PRGC site. The proposed project is designed in keeping with the Secretary of Interior's Standards for Rehabilitation. All of the existing PRGC buildings would remain onsite and in their present location during proposed construction activities. To minimize the potential for damage from construction equipment operating near buildings, the Applicant would install protective fencing around the older buildings at the site. The Applicant would also conduct preconstruction surveys in order to ensure that any building damage that might occur due to construction activities would be repaired following the proposed soil remediation work. The Applicant has also proposed to temporarily move smaller structures, such as wooden fences and target launching stands, to protect them from damage during construction activities. These structures would be reinstalled at their present location during the site's restoration. Finally, the Applicant has proposed to demolish certain features as required to conduct the soil remediation activities, such as the semi-circular station paths at the skeet fields. Following soil remediation activities, the Applicant would reconstruct these features in a similar size, design, and location and using the same materials as the existing features.

As discussed above, the Applicant has also proposed removal of at least 81 of the 88 trees present on the subject site in order to excavate contaminated soils to the human health cleanup standards established for the proposed project. The majority of trees on the subject site are clustered in stands along its southern boundary with John Muir Drive, and partially screen the PRGC facilities from along the road. The proposed tree removal would thus alter the scenic and visual qualities of the site. It would affect the vistas of Lake Merced as seen from John Muir Drive, and would also affect the vistas of the lake for those viewing the PRGC site from on or across the lake.

To protect views and ensure that following restoration of the site the proposed development is visually compatible with the character of the surrounding areas, the Applicant proposes to replant the site with native species indigenous to the San Francisco Peninsula and typical of the surrounding area. As discussed above, **Special Condition 5** requires that any tree removed shall be replaced at a 1:1 ratio. The Applicant states that restoration planting would be designed to screen views of the PRGC site to match its present condition within a 10-year period. To accomplish the same level of visual screening, the Applicant proposes to monitor and photograph the screening vegetation annually. If the annual monitoring demonstrates that the restoration is not on track to successfully accomplish the required level of visual screening within the 10-year reestablishment period, the Applicant would be required to take immediate action to replant and ensure compliance. **Special Condition 5** also requires that the tree replacement activities be accompanied by a final monitoring plan and provisions for further actions should additional measures be necessary to meet success criteria.

Conclusion

The proposed project provides feasible measures to protect the unique characteristics of the Lake Merced area and its scenic and visual qualities consistent with Coastal Act Sections 30253 and 20351 and the CCSF LCP.

H. ARCHAEOLOGICAL AND PALEONTOLOGICAL RESOURCES

Applicable Policies

Coastal Act Section 30244 requires that reasonable mitigation measures be employed where development would adversely impact archaeological or paleontological resources. Coastal Act Section 30244 states:

> *Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.*

Analysis

The proposed project involves excavation of an estimated maximum of 46,500 cubic yards of soil and has the potential to uncover and adversely impact archaeological and/or paleontological resources if they are present at the subject site. No archaeological or paleontological resources have been identified at the subject site to date. However, several prehistoric sites have been documented within the vicinity of the subject site. According to the Final Mitigated Negative Declaration (FMND), a 1980 archaeological field survey that examined the subject site made no observations of potential archaeological deposits. Neither did a 2012 intensive sampling for hazardous materials show any evidence of shell midden deposits or other indication of prehistoric occupation. While there have been no fossil localities identified in the immediate vicinity of the subject site, the underlying Colma Formation is considered to have a high paleontological sensitivity. So, while the FMND concludes that there is a generally low potential for uncovering archaeological or paleontological resources during the proposed soil remediation work, it is possible that soil excavation would result in the discovery of unrecorded or buried archaeological or paleontological deposits.

The proposed project includes mitigation measures that would be implemented in the event that any indication of human remains, archaeological resources, or paleontological resources is uncovered in the course of excavation activities. **Special Conditions 6 and 7** would ensure that any archaeological or paleontological resources found during construction are appropriately protected. The conditions require the Applicant to notify the Executive Director of such discoveries, to discontinue work in the vicinity of cultural or paleontological resources uncovered during the work, and to take steps to protect such resources pursuant to Executive Director review and approval.

Conclusion

As conditioned, the proposed project would employ reasonable mitigation measures to avoid adverse impacts to archaeological and paleontological resources consistent with Coastal Act Section 30244.

I. INDEMNIFICATION

Coastal Act Section 30620(c)(1) authorizes the Commission to require applicants to reimburse the Commission for expenses incurred in processing CDP applications. Thus, the Commission is authorized to require reimbursement for expenses incurred in defending its action on the pending CDP application in the event that the Commission's action is challenged by a party other than the Applicant. Therefore, consistent with Section 30620(c), the Commission imposes **Special Condition 9** requiring reimbursement for any costs and attorneys fees that the Commission incurs in connection with the defense of any action brought by a party other than the Applicant challenging the approval or issuance of this permit.

J. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of 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 effect which the activity may have on the environment.

The San Francisco Planning Department, acting as lead agency, prepared a Preliminary Mitigated Negative Declaration. A Final Mitigated Negative Declaration was prepared for this project pursuant to the provisions of CEQA. The Final Mitigated Negative Declaration was adopted by the CCSF Planning Commission on October 23, 2014. The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. The Commission has reviewed the relevant coastal resource issues associated with the proposed project, and has identified appropriate and necessary modifications to address adverse impacts to such coastal resources. The preceding coastal development permit findings in this staff report has discussed the relevant coastal resource issues with the proposal, and the permit conditions identify appropriate mitigations to avoid and/or lessen any potential for adverse impacts to said resources consistent with the requirements of Section 30235 of the Coastal Act. All public comments received to date have been addressed in the findings above. All above findings are incorporated herein in their entirety by reference.

The Commission finds that only as modified and conditioned by this permit will the proposed project avoid significant adverse effects on the environment within the meaning of CEQA. As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects that approval of the proposed project, as modified, would have on the environment within the meaning of CEQA. If so modified, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

APPENDIX A: SUBSTANTIVE FILE DOCUMENTS

1. AMEC Environmental & Infrastructure, Inc. July 2013. Draft Remedial Action Plan: Pacific Rod and Gun Club, San Francisco, California.

2. AMEC Environmental & Infrastructure, Inc. March 2014. Tree Survey: Pacific Rod and Gun Club, San Francisco, California.

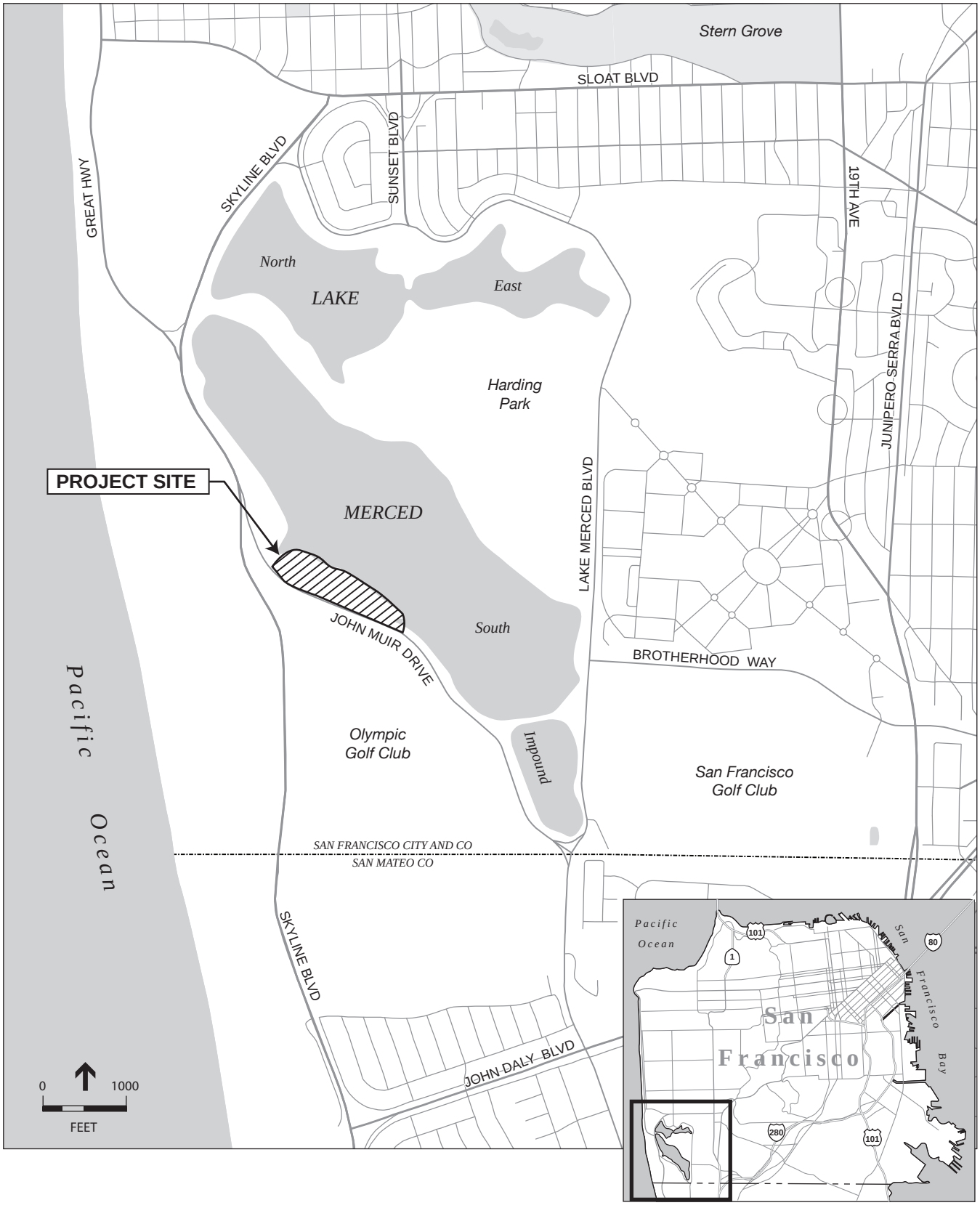
3. California Regional Water Quality Control Board, San Francisco Bay Region. Order No. R2-2013-0023: Revised Site Cleanup Requirements and Rescission of Order No. 94-017 for: Pacific Rod and Gun Club and City and County of San Francisco San Francisco Public Utilities Commission.

4. Coast Ridge Ecology. April 23, 2014. Pacific Rod and Gun Club Remediation Project Wetland Delineation.

5. Denise Bradley, Cultural Landscapes. May 2014. Pacific Rod and Gun Club, San Francisco, Cultural Landscapes Evaluation Report.

6. ESA. October 2014. Pacific Rod and Gun Club Upland Soil Remediation Action Project Riparian and Wetland Restoration and Mitigation Monitoring Plan.

7. San Francisco Planning Department. October 23, 2014. Final Mitigated Negative Declaration for Pacific Rod and Gun Club Upland Soil Remediation Project.



SOURCE: ESA

Pacific Rod and Gun Club . 120468.02

Figure 1
Project Location

CDP 2-14-1612
Exhibit 1
Page 1 of 1

Explanation

Approximate Limit of Soil Remediation

0 100
Feet

SOURCE: ESA, 2013

Pacific Rod and Gun Club . 120468.02

Figure 2
Site Plan

CDP 2-14-1612
Exhibit 2
Page 1 of 1

Photos of shooting debris at the PRGC Site

Shattered clay targets

Shotgun shells and fragments of clay targets

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

ORDER NO. R2-2013-0023

REVISED SITE CLEANUP REQUIREMENTS and RESCISSION OF ORDER NO. 94-017 for:

PACIFIC ROD AND GUN CLUB and
CITY AND COUNTY OF SAN FRANCISCO
SAN FRANCISCO PUBLIC UTILITIES COMMISSION

for the property located at:

520 JOHN MUIR DRIVE
LAKE MERCED
SAN FRANCISCO, SAN FRANCISCO COUNTY

The California Regional Water Quality Control Board, San Francisco Bay Region, hereinafter called the Regional Water Board, finds that:

SITE DESCRIPTION

1. The Pacific Rod and Gun Club (Club) operates a public recreation facility located on the west side of Lake Merced in San Francisco (Site) (see Figure 1). The Club occupies approximately 10 acres of land that is leased from the City and County of San Francisco. The San Francisco Public Utilities Commission (SFPUC), a public agency that is part of the City and County of San Francisco, currently has jurisdiction over Lake Merced. The Club built and maintains facilities at the Site, including skeet and trap ranges where shotguns are used to shoot pellets at clay targets. The Club has operated the facilities and the ranges at the Site since 1934. The facilities are used daily, and the ranges are currently in operation three days a week. For the purposes of this Order, the Club and the SFPUC are jointly considered the Dischargers.

PURPOSE OF ORDER

2. Pursuant to California Water Code (CWC) section 13304, this Order requires that site investigations and corrective measures be performed, as necessary, to address soil contamination in portions of the Site. This Order requires the Dischargers to submit plans to remediate soil to meet human health risk standards for current and reasonably foreseeable future land uses. This Order also requires the Dischargers to evaluate if remediation of lake sediment to meet ecological risk standards is necessary. Lastly, this Order supersedes and rescinds the Regional Water Board's previous order (No. 94-017) because the requirements in the previous order have been fully implemented.

SITE CONTAMINATION

3. From 1934 until 1994, Club members and the general public discharged lead pellets from shotguns in a northeasterly direction toward Lake Merced (Lake), a fresh water lake that was last used for potable water purposes in 1929 and is currently classified as an emergency non-potable water supply by the SFPUC. Since 1994, Club members and the general public

have exclusively used steel shot in trap and skeet activities. The pellets generally travelled 300 to 400 feet from the shooting positions with a significant percentage incidentally deposited into the Lake. Based on the number of shells fired in 1989, an estimate of the amount of lead falling into the Lake was about 27 tons per year. Lead has been successfully removed from the Lake on at least one occasion. During a cleanup dredging effort in 1985-1986, the City removed 128 tons of lead pellets and larger fragments from the Lake.

4. Broken clay targets continue to be deposited into the Lake and adjoining upland areas between the ranges and the Lake. Prior to 2000, clay targets manufactured using asphaltic materials or petroleum pitch (typically containing polycyclic aromatic hydrocarbons (PAHs)) were used at the Site. Fragments of targets containing PAHs can be found in soil at the Site between the ranges and the Lake. Asphaltic materials with PAHs were found in some locations, and PAHs were found in soil throughout the Site. Clay targets used since 2000 do not contain petroleum pitch and are designed to be biodegradable.

5. The two primary environmental threats at the Site are lead pellets and clay target debris incidentally deposited into the Lake and its environs. The potential damages and effects of lead released at trap and skeet facilities are well documented. Direct ingestion of lead pellets and fragments may cause waterfowl deaths. In the Lake Merced area, dabbling ducks are considered the most sensitive receptor with regards to ecologic risk. In both fresh and marine water, lead becomes available to biota through the transformation process of oxidation. The lead pellets and fragments also contained small amounts of other metals such as tin, antimony, and arsenic. The older clay targets formerly used at the Site contained asphaltenes, which in turn contain PAHs. Certain types of PAHs are classified as carcinogenic.

EARLY INVESTIGATIONS

6. In December 1989, samples were taken of the Site's upland soil in some areas and of sediment and water of Lake Merced. Analytical results indicated that lead was elevated in surface soil at concentrations greater than human health guidelines (1000 mg/kg) at several locations. Lead was elevated in a single lake sediment sample but not detected in samples of lake water. In May 1990, a followup study was performed to confirm and delineate the extent of lead in sediment and to perform bioassays of the sediment. Lead was detected in two sediment samples, and no mortality was observed to fish in the bioassay tests.

7. An investigation was conducted in 1992 to determine the extent and quantity of lead in the lake sediments and the water column and assess the presence of lead in biota. It was found that sediment lead concentrations, after removal of lead pellets, exceeded background levels (geometric mean of 143 vs. 39 mg/kg). Also, lead concentrations in aquatic plants (coontail and tule) and fauna (bloodworms, clams, and snails) exceeded background by one order of magnitude. While benthic invertebrate fauna and other organisms in the Lake did not show signs of adverse impacts from lead, the investigation recommended additional biological study to determine whether a risk to the populations of resident and migratory waterfowl existed from ingesting lead pellets in the Lake.

PREVIOUS SITE CLEANUP REQUIREMENTS ORDER NO. 94-017

8. On January 19, 1994, the Regional Water Board issued Site Cleanup Requirements Order No. 94-017 (1994 order) to the Dischargers. The 1994 order required the Dischargers to:

   a. cease the deposition of lead into the waters of Lake Merced;
   b. determine the degree to which the populations of resident and migratory waterfowl were affected by the possible ingestion of lead pellets at the Site;
   c. develop a remedial action plan, if necessary; and
   d. implement the remedial action plan, if necessary.

9. Several requirements of the 1994 order were implemented. In 1994, the Club prohibited the use of lead shot on the ranges (ammunition is now either steel or bismuth). When biodegradable clay targets without asphaltic materials containing PAHs became available in 2000, the Club switched to these targets on the ranges.

10. In a letter dated April 18, 1995, the California Department of Fish and Game (now, Department of Fish and Wildlife) determined that, based on the limited number of waterfowl species using the Lake and on the mode of feeding observed for waterfowl, the risk of lead uptake from ingestion of lead pellets or lead-contaminated sediments by waterfowl was low. Therefore, the Regional Water Board determined that the remedial action plan required by the 1994 order was not necessary, so it was not prepared.

11. The main objectives of the 1994 order, to cease deposition of lead shot into Lake Merced and to evaluate and remediate risks to waterfowl as needed, have been satisfied and therefore the 1994 order can be rescinded. This Order requires additional remedial actions for meeting human health standards in upland soils and further investigation and evaluation of potential risks to ecological receptors in Lake sediments, as well as remedial actions if needed.

SUBSEQUENT INVESTIGATIONS AND RISK ASSESSMENT

12. On September 23, 2005, the SFPUC submitted to the Regional Water Board the results of an investigation to evaluate whether a proposed raising of the Lake's level would cause adverse human or ecological risks following the inundation of residual lead shot as well as other inorganics and PAHs. The study concluded that under current conditions, residual chemicals in soil, sediment or surface water do not pose a significant health threat to humans, but that surface sediments appear to be heavily impacted by lead and, to a lesser extent, arsenic, and localized impacts to benthic species were possible. The study suggested that lead and arsenic could be leached from freshly inundated soils at concentrations exceeding both drinking water standards and ecological benchmarks.

13. On October 19, 2007, the SFPUC submitted to the Regional Water Board the results of an investigation on the environmental risk of newly inundated lead shot and associated chemicals at the Club following the rise in water levels in the Lake by seven feet compared to the level in 2002. The study evaluated the horizontal and vertical extent of lead and arsenic concentrations in surface water as well as the potential risks associated with lead

and arsenic exposure. Arsenic was not detected in the water samples. The study concluded that while there was a release of lead from inundated soils along a limited portion of the shoreline, the dissolved lead concentrations were not above drinking water standards and the surface water column did not contain dissolved lead above ecological benchmarks.

14. On April 16, 2012, the SFPUC submitted to the Regional Water Board the results of a supplemental investigation and health risk assessment for both human and ecological receptors from possible exposure to chemicals in soil, sediment, and surface water. The results indicated that potential human health risks were within an acceptable risk range for the occasional visitor or offsite resident but for receptors with more frequent exposure, such as an onsite caretaker or a permanent worker, the PAHs, lead, and, to a lesser extent, arsenic in soil throughout the Site exceeded the acceptable risk range. For ecological receptors, both lead and PAHs were found to exceed probable effects levels in sediment at a majority of sampling stations, while arsenic exceeded effects levels at only a few stations. The report concluded that risk reduction and/or risk management measures to mitigate human exposure to lead, arsenic, and PAHs in soil were needed. With respect to ecological receptors, the report also recommended additional monitoring of the metals in sediment and the bioavailability of PAHs. The investigation also concluded that the elevated concentrations of lead, PAHs, and arsenic in sediment were not dissolving into surface water in the Lake, meaning that these constituents pose no risk to human health, the environment, or the beneficial uses of surface water in the Lake given its status as an emergency non-potable water supply for the City of San Francisco.

REMAINING ENVIRONMENTAL CONCERNS

15. There remains a documented potential human health risk from current and future exposure to lead, arsenic, and PAHs accidentally discharged and dispersed into the soils throughout the Site. Also, there remains a potential risk to benthic organisms from exposure to lead, arsenic, and PAHs in the sediment that requires further study and possible remediation.

BENEFICIAL USES

16. The Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) is the Regional Water Board's master water quality control planning document. It designates beneficial uses and water quality objectives for waters of the State, including surface waters and groundwater. It also includes programs of implementation to achieve water quality objectives. The Basin Plan was duly adopted by the Regional Water Board and approved by the State Water Resources Control Board (State Water Board), Office of Administrative Law and U.S. EPA, where required.

17. The SFPUC manages Lake Merced and has designated the lake as a non-potable emergency water supply for the City of San Francisco that would be used for firefighting or sanitation purposes if no other sources of water were available. No potable use of Lake Merced is anticipated. The existing and potential beneficial uses of Lake Merced include:

    a. Municipal and domestic supply (potential)
    b. Commercial and sport fishing
    c. Cold fresh water habitat

d. Warm fresh water habitat
e. Wildlife habitat
f. Fish spawning
g. Water contact recreation (fishing only)
h. Non-contact water recreation

18. State Water Board Resolution No. 68-16: State Water Board Resolution No. 68-16, "Statement of Policy with Respect to Maintaining High Quality of Waters in California," applies to the Dischargers and requires attainment of background levels of water quality or the highest level of water quality that is reasonable if background levels of water quality cannot be restored. Cleanup levels other than background levels shall be consistent with the maximum benefit to the people of the State, not unreasonably affect present and anticipated beneficial uses of such water, and not result in exceedance of applicable water quality objectives.

19. State Water Board Resolution No. 92-49 (as amended): State Water Board Resolution No. 92-49 (as amended), "Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under California Water Code Section 13304," establishes policies and procedures to be used by the Regional Water Board when:

    a. Determining when a person is required to investigate, cleanup, or abate a discharge;
    b. Concurring with a discharger's selection of cost-effective investigation and remedial measures;
    c. Overseeing implementation of investigation and remedial measures; and
    d. Determining schedules for investigation and remedial measures.

20. Basis for California Water Code Section 13304 Order: The Dischargers have caused or permitted, causes or permits, or threatens to cause or permit waste to be discharged or deposited where it is or probably will be discharged into waters of the State and creates or threatens to create a condition of contamination or nuisance.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

21. This action adopts an order to enforce the laws and regulations administered by the Regional Water Board. The revision of site cleanup requirements and the rescission of Order No. 94-017 are not projects as defined in the California Environmental Quality Act (CEQA). There is no possibility that the adoption of this order and the rescission of Order No. 94-017 will have a significant effect on the environment. (Cal. Code Regs., tit. 14, §§ 15378 and 15061, subd. (b)(3).)

NOTICE AND MEETING

22. The Regional Water Board has notified the Dischargers and interested agencies and persons of its intent to issue Site Cleanup Requirements and has provided them with an opportunity of a public hearing and an opportunity to submit their written views and recommendations.

23. The Regional Water Board, at a public meeting, heard and considered all comments pertaining to this issuance of Site Cleanup Requirements.

IT IS HEREBY ORDERED, pursuant to CWC section 13304, that the Dischargers (or their agents, successors, or assigns) shall cleanup and abate the effects described in the above findings as follows:

PROHIBITIONS

1. The discharge of wastes or hazardous substances in a manner that will degrade water quality or adversely affect beneficial uses of waters of the State is prohibited.

2. Migration of pollutants through subsurface transport to waters of the State is prohibited**.**

3. There shall be no discharge of wastes or hazardous substances to surface waters.

4. Activities associated with the subsurface investigation and cleanup that will cause significant adverse migration of wastes or hazardous substances are prohibited.

5. The storage, handling, treatment, or disposal of polluted soil or groundwater shall not create a nuisance as defined in CWC section 13050(m).

6. The Dischargers shall not cause toxic or other deleterious substances to be present in concentrations or quantities that may cause deleterious effects on aquatic biota, wildlife or waterfowl, or which render any of these unfit for human consumption either at levels created in the receiving waters or as a result of biological concentration.

TASKS

UPLAND SOILS

1. **HUMAN HEALTH CLEANUP STANDARDS**: The Dischargers shall propose cleanup standards for the uplands portion of the Site sufficient to protect human health under current and future uses, including visitors, site workers, and neighbors. Proposed standards shall be supported by an analysis of human health risks associated with exposure to site contaminants.

   COMPLIANCE DATE: **August 1, 2013**

2. **REMEDIAL ACTION PLAN**: The Dischargers shall submit a technical report acceptable to the Executive Officer containing a remedial action plan and an implementation time schedule. This report shall evaluate the removal and/or management of soil to meet the human health cleanup standards in the reports required in Task 1. The Dischargers shall also submit documentation demonstrating compliance with CEQA in the selection of the remedial action plan so that the Executive Officer may consider the environmental impacts of the remedy prior to approval of the remedial action plan.

   COMPLIANCE DATE: **July 1, 2014**

3. **COMPLETION OF REMEDIAL ACTION:** The Dischargers shall submit a technical report acceptable the Executive Officer documenting the completion of the tasks identified in the technical report required in Task No. 2.

   COMPLIANCE DATE: January 1, 2016

LAKE SEDIMENTS

4. **WORKPLAN FOR ECOLOGICAL RISK ASSESSMENT:** The Dischargers shall prepare and submit a workplan and schedule to implement a comprehensive investigation and ecological risk assessment including analysis of existing sediment data and hypothetical risks to wildlife from exposure to impacted sediments in Lake Merced. This investigation would be used to determine whether elevated levels of lead, arsenic, and PAHs in sediment pose an unacceptable risk to benthic organisms and wildlife (including waterfowl) based on bioavailability and long term exposure. If results indicate unacceptable risks to benthic organisms and wildlife, the evaluation would then be used to determine appropriate cleanup standards for the protection of the benthic community and wildlife exposed to contaminants in site sediments.

   COMPLIANCE DATE: December 1, 2013

5. **ECOLOGICAL RISK ASSESSMENT:** The Dischargers shall submit a technical report acceptable to the Executive Officer documenting the completion of the tasks identified in the technical report required in Task No. 4.

   COMPLIANCE DATE: October 1, 2014

6. **REMEDIAL ACTION PLAN:** If requested by the Executive Officer**,** the Dischargers shall submit a technical report acceptable to the Executive Officer containing a remedial action plan and an implementation time schedule. This report shall evaluate the removal and/or management of sediment per the results of the Ecological Risk Assessment submitted to comply with Task No. 5. The Dischargers shall also submit documentation demonstrating compliance with CEQA in the selection of the remedial action plan so that the Executive Officer may consider the environmental impacts of the remedy prior to approval of the remedial action plan.

   COMPLIANCE DATE: Three months after request by the Executive Officer

7. **COMPLETION OF REMEDIAL ACTION**: If requested by the Executive Officer**,** the Dischargers shall submit a technical report acceptable the Executive Officer documenting the completion of the tasks identified in the technical report required in Task No. 6.

   COMPLIANCE DATE: Two Years after request by the Executive Officer

PROVISIONS

1. Compliance: The Dischargers shall comply immediately, or as prescribed by the time schedule contained herein, with all Prohibitions, Tasks, and Provisions of this Order. All required submittals must be acceptable to the Executive Officer. The Dischargers must also comply with all conditions of this Order. Violations may result in enforcement actions,

including Regional Water Board orders or court orders requiring corrective action or imposing civil monetary liability, or in modification or revocation of this Order by the Regional Water Board. (CWC §§ 13261, 13262, 13265, 13267, 13268, 13300, 13304, 13350).

2. Authority to Request Technical Reports: All technical and monitoring reports required by this Order are requested pursuant to CWC section 13267. Failure to submit reports in accordance with schedules established by this Order or failure to submit a report of sufficient technical quality to be acceptable to the Executive Officer may subject the Dischargers to enforcement action pursuant to CWC section 13268.

3. Authorized Reports: All technical reports submitted pursuant to this Order shall be prepared under the supervision of and signed by a California registered civil engineer or a California professional geologist.

4. Modifications to Remedial Action Plan: The Dischargers shall notify the Executive Officer at least 60 days prior to implementing any proposed major modifications to any approved Remedial Action Plan, Implementation Schedule, or remediation system. The notification shall include the rationale for any proposed modification.

5. Delayed Compliance: If the Dischargers are delayed, interrupted, or prevented from meeting one or more of the completion dates specified for the Tasks, the Dischargers shall promptly notify the Executive Officer of the delay and reason for the delay and the Regional Water Board may consider revisions to this Order.

6. Operation and Maintenance: The Dischargers shall maintain in good working order and operate as efficiently as possible any facility or control system installed to achieve compliance with the requirements of this Order.

7. Availability: A copy of this Order shall be maintained by the Dischargers and shall be made available by the Dischargers to all employees or contractors performing work necessary to comply with the Tasks set forth in this Order.

8. Change in Ownership: In the event of any change in control or ownership of the facility presently owned or controlled by the Dischargers, the Dischargers shall notify the succeeding owner or operator of the existence of this Order by letter, a copy of which shall be forwarded to the Regional Water Board upon a final change in control or ownership.

   To assume operation of this Order, the succeeding owner or operator must apply in writing to the Executive Officer requesting transfer of this Order within 30 days of the change of ownership. The request must contain the requesting entity's full legal name, mailing address, electronic address, and telephone number of the persons responsible for contact with the Regional Water Board. Failure to submit the request shall be considered a discharge without requirements, a violation of the CWC.

9. Reporting of Hazardous Substance Release: If any hazardous substance is discharged in or on any waters of the State or discharged or deposited where it probably will be discharged in or on any waters of the State, the Dischargers shall:

   a. Report such discharge to the following:

      i. The Regional Water Board by calling (510) 622-2369 during regular office hours (Monday through Friday, 8 a.m. – 5 p.m.); and to

      ii. The California Emergency Management Agency at (800) 852-7550.

   b. A written report shall be filed with the Regional Water Board within five working days. The report shall describe:

      i. The nature of the waste or pollutant.
      ii. The estimated quantity involved.
      iii. The duration of the incident.
      iv. The cause of the release.
      v. The estimated size of the affected area, and nature of the effect.
      vi. The corrective actions taken or planned and a schedule of those measures.
      vii. The persons/agencies notified.

   This reporting is in addition to any reporting to the California Emergency Management Agency that is required pursuant to the Health and Safety Code.

10. Lab Qualifications: All samples shall be analyzed by State-certified laboratories or laboratories accepted by the Regional Water Board using approved U.S. EPA methods for the type of analysis to be performed. All laboratories shall maintain quality assurance/ quality control (QA/QC) records for Regional Water Board review. This provision does not apply to analyses that can only reasonably be performed onsite (e.g., temperature).

11. Document Distribution: Copies of all correspondence, technical reports, and other documents pertaining to compliance with this Order shall be provided to the following entities:

    a. The Regional Water Board, and
    b. The Department of Toxic Substances Control.

    The Executive Officer may modify this distribution list as needed.

12. Submittal Revisions: Where the Dischargers become aware that they failed to submit any relevant facts in a report or submitted incorrect information in any report to the Regional Water Board, they shall promptly submit such facts or information.

13. Severability: Provisions of this Order are severable. If any provisions of these Requirements are found invalid, the remainder of these Requirements shall not be affected.

14. Geotracker Requirements: The State Water Board has adopted regulations requiring electronic report and data-submittal to Geotracker. The text of the regulations can be found at the following URL:

http://www.waterboards.ca.gov/water_issues/programs/ust/electronic_submittal/index.shtml

Parties responsible for cleanup of pollution at sites overseen by the Regional Water Board's Land Disposal Programs are required to submit the following information electronically to Geotracker:

a. Groundwater analytical data;
b. Surveyed locations of monitoring wells;
c. Boring logs describing monitoring well construction; and
d. Portable data format (PDF) copies of all reports (the document in its entirety [signature pages, text, figures, tables, etc.] must be saved as a single PDF file).

Note that the Dischargers are still responsible for submitting one hard copy of all reports pursuant to this Order. The Regional Water Board may require direct submittal of electronic reports and correspondence in addition to the State Water Board's Geotracker requirements.

15. Entry and Inspection: The Dischargers shall allow the Regional Water Board, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

    a. Enter upon the Dischargers' premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this Order;
    b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Order;
    c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order; and
    d. Sample or monitor at reasonable times, for the purposes of assuring compliance with this Order or as otherwise authorized by the CWC, any substances or parameters at any location.

16. Maintenance of Records: The Dischargers shall retain records of all monitoring information including all calibration and maintenance records, all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this Order, and records of all data used to complete the application for this Order. Records shall be maintained for a minimum of five years from the date of the sample, measurement, report, or application. This period may be extended during the course of any unresolved litigation regarding this discharge or when requested by the Executive Officer. Records of monitoring information shall include:

    a. The date, exact place, and time of sampling or measurements;
    b. The individuals who performed the sampling or measurements;
    c. The date(s) analyses were performed;
    d. The individuals who performed the analyses;
    e. The analytical techniques or method used; and
    f. The results of such analyses.

17. Report Certification: All application reports or information to be submitted to the Executive Officer shall be signed and certified as follows:

a. For a corporation – by a principal executive officer or the level of vice president.
b. For a partnership or sole proprietorship – by a general partner or the proprietor, respectively.
c. For a municipality, State, federal, or other public agency – by either a principal executive officer or ranking elected official.

A duly authorized representative of a person designated in this provision may sign documents if all of the following are met:

- The authorization is made in writing by a person described in paragraph (a) of this provision;
- The authorization specifies either an individual or position having responsibility for the overall operation of the regulated facility or activity; and
- The written authorization is submitted to the Executive Officer.

Any person signing a document under this Provision shall make the following certification:

> "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment." (CWC §§ 13263, 13267, and 13268.)

18. Cost Recovery: The Dischargers (as applicable) shall be liable, pursuant to CWC section 13304 and Health and Safety Code section 25270.9 to the Regional Water Board for all reasonable costs actually incurred by the Regional Water Board to investigate unauthorized discharges of waste and to oversee cleanup of such waste, abatement of the effects thereof, or other remedial action, required by this Order. If the site addressed by this Order is enrolled in a State Water Board-managed reimbursement program, reimbursement shall be made pursuant to this Order and according to the procedures established in that program. Any disputes raised by the Discharger (as applicable) over reimbursement amounts or methods used in that program shall be consistent with the dispute resolution procedures for that program**.**

19. Periodic Order Review: The Regional Water Board will review this Order periodically and may revise it when necessary. The Dischargers (as applicable) may request revisions and upon review the Executive Officer may recommend that the Regional Water Board revise these requirements.

20. Order No. 94-017 is hereby rescinded.

I, Bruce H. Wolfe, Executive Officer, do hereby certify that the foregoing is a full, complete, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Region, on June 12, 2013.

Digitally signed by Bruce H. Wolfe
Date: 2013.06.14 17:39:17 -07'00'

Bruce H. Wolfe
Executive Officer

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FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS ORDER MAY SUBJECT YOU TO ENFORCEMENT ACTION, INCLUDING BUT NOT LIMITED TO: IMPOSITION OF ADMINISTRATIVE CIVIL LIABILITY UNDER WATER CODE SECTIONS 13268 OR 13350, OR REFERRAL TO THE ATTORNEY GENERAL FOR INJUNCTIVE RELIEF OR CIVIL OR CRIMINAL LIABILITY

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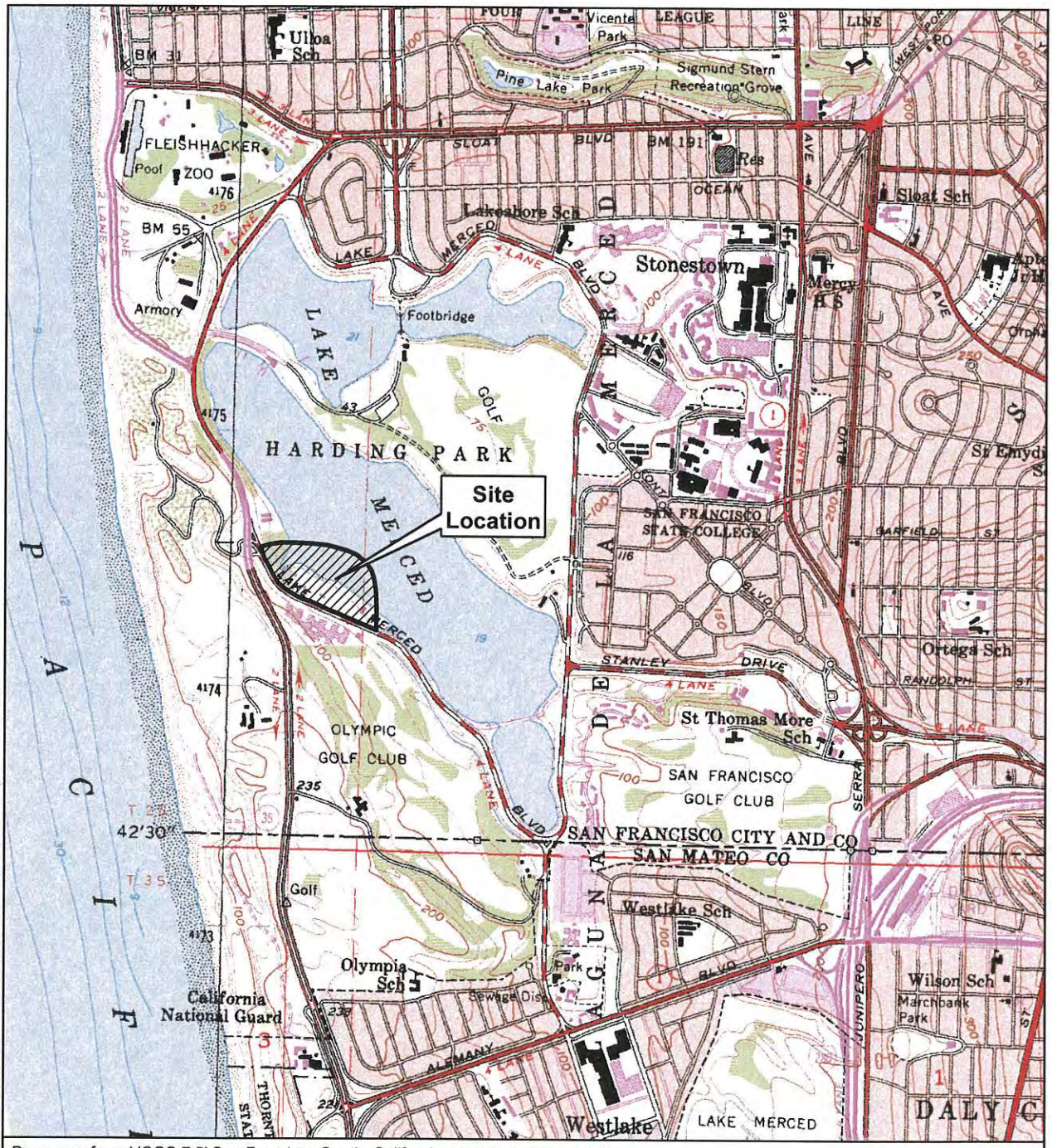
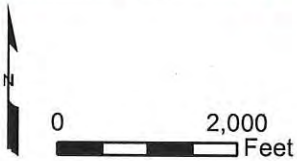
Figures:

Figure 1 - Location Map



Base map from USGS 7.5' San Francisco South, California topographic quadrangle.



SITE LOCATION MAP
Pacific Rod and Gun Club
San Francisco, California

File path: S:\15200\15280\15280.000\task_08\11_0131_prgc_fig_01slm.mxd; Date: 04/19/2011; By: kristin.uber

Remediation area Sampling grid 1.0 Design excavation depth (ft bgs)

SOURCE: AMEC, 2/14/2014

Pacific Rod and Gun Club . 120468.02

Figure 4

Remedial Excavation Depths

CDP 2-14-1612
Exhibit 5
Page 1 of 1

SOURCE: Coast Ridge Ecology, 2013

Pacific Rod and GUn Club . 120468.02

Figure 6

Temporary Impacts to State Jurisdictional Wetlands (0.83 acre)

F. MITIGATION MEASURES

The following mitigation measures have been adopted by the project sponsor and are necessary to avoid potential significant impacts of the project.

Mitigation Measure M-AE-3: Screening Vegetation.

The SFPUC shall identify the location and spacing of new plantings that would, at maturity, screen views of the eastern portion of the site. New plants shall include native species indigenous to the San Francisco Peninsula and/or shrubs and trees typical of the surrounding area. Plantings (by way of species type, size, and location) shall ensure that direct views of the site east of the entrance are substantially obstructed from any location within a ten-year period. The SFPUC shall monitor and photograph screening vegetation annually after completion of remediation activities. If it is determined that success standards are not being met, SFPUC shall take immediate action to re-plant screening vegetation to ensure compliance by the tenth-year period.

Mitigation Measure M-CP-1a: Record and Reconstruct the Semi-Circular Station Paths at Skeet Fields 4 – 7.

The SFPUC or its contractor shall implement the following to comply with the Secretary of Interior's Standards for Rehabilitation:

- Prior to commencement of site remediation, the SFPUC shall record the original size, configuration, and locations of the semi-circular station paths at skeet fields 4 – 7 through the use of digital photography and mapping. The original dimensions and locations of the station paths shall be mapped on a site plan to aid the later reconstruction of these features.

- Following site remediation, the SFPUC shall reconstruct the semi-circular station paths which define skeet fields 4 – 7 in the same size, configuration, and location as the original station paths, including the level terrace and linear arrangement of the fields. As the existing concrete materials post-date the period of significance and are not character-defining, concrete may be substituted for other compatible materials (e.g. crushed rock, gravel, or wood boardwalks outlining the path configurations).

Mitigation Measure M-CP-1b: Record, Protect, and Return (or Replace in-Kind) the High/Low Houses and Wood Fences at Skeet Fields 4 – 7.

The SFPUC or its contractor shall implement the following measures to comply with the Standards for Rehabilitation:

- Prior to commencement of site remediation, the SFPUC shall record and document the existing structural condition and location of the wood frame high/low houses at skeet fields 4 – 7 (total of 8 structures) and the wood fences which separate these fields (total of 4 fences). This shall be accomplished through; 1) digital photography of all such features, 2) mapping their original locations and configuration on a site plan, and 3) numbering and cataloging each structure. These features shall be carefully relocated to a secure, onsite or off site location to avoid damage. If stored onsite, they may be relocated to alternate safety zones as remediation progresses. The most appropriate temporary relocation sites shall be determined by the SFPUC prior to commencement of work.

- During site remediation activities, the SFPUC shall protect these features from accidental damage during earth moving by storing these elements within a locked, chain-link fence enclosure and posting "Keep Out" or "No Trespassing" signs.

- Following site remediation, the SFPUC shall return these features to their original positions at the reconstructed skeet fields 4 – 7. Based on the pre-construction recording and depending on their structural condition, any damaged components should be repaired in keeping with the Secretary of Interior's Standards for Rehabilitation. If they were previously damaged beyond repair, they are in poor structural condition, or if it is infeasible to return them to their original location due to their condition or other factors, they may be replaced in-kind in a similar size, design, location, and materials as existing, in keeping with the Standards.

Mitigation Measure M-CP-1c: Protect the Four Contributory Buildings During Construction.

The SFPUC or its contractor shall implement the following measures to comply with the Standards for Rehabilitation:

- During site remediation activities, the four contributory buildings (Clubhouse, Caretaker's House, Rifle Range Building, and the Shell House), shall be adequately protected from accidental damage due to construction activities and vandalism. These structures shall be surrounded by protective fencing and shall be secured from entry by boarding up all windows and doors, and posting "Keep Out" or "No Trespassing" signs on each building. Following site remediation, these buildings shall be returned to their original appearance by removing all temporary construction fencing, window and door protection, and signage.

Mitigation Measure M-CP-2: Accidental Discovery of Archeological Resources.

The following measures shall be implemented should construction activities result in the accidental discovery of a cultural resource:

> The following mitigation measure is required to avoid any potential adverse effect from the proposed project on accidentally discovered buried or submerged historical resources as defined in CEQA Guidelines Section 15064.5(a)(c). The project sponsor shall distribute the Planning Department archeological resource "ALERT" sheet to the project prime contractor; to any project subcontractor (including demolition, excavation, grading, foundation, etc. firms); or utilities firm involved in soils disturbing activities within the project site. Prior to any soils disturbing activities being undertaken each contractor is responsible for ensuring that the "ALERT" sheet is circulated to all field personnel including, machine operators, field crew, supervisory personnel, etc. The project sponsor shall provide the Environmental Review Officer (ERO) with a signed affidavit from the responsible parties (prime contractor, subcontractor(s), and utilities firm) to the ERO confirming that all field personnel have received copies of the Alert Sheet.
>
> Should any indication of an archeological resource be encountered during any soils disturbing activity of the project, the project Head Foreman and/or project sponsor shall immediately notify the ERO and shall immediately suspend any soils disturbing activities in the vicinity of the discovery until the ERO has determined what additional measures should be undertaken.
>
> If the ERO determines that an archeological resource may be present within the project site, the project sponsor shall retain the services of a qualified archeological consultant, based on

standards developed by the Planning Department archeologist. The archeological consultant shall advise the ERO as to whether the discovery is an archeological resource, retains sufficient integrity, and is of potential scientific/historical/cultural significance. If an archeological resource is present, the archeological consultant shall identify and evaluate the archeological resource. The archeological consultant shall make a recommendation as to what action, if any, is warranted. Based on this information, the ERO may require, if warranted, specific additional measures to be implemented by the project sponsor.

Measures might include: preservation in situ of the archeological resource; an archeological monitoring program; or an archeological testing program. If an archeological monitoring program or archeological testing program is required, it shall be consistent with the Environmental Planning (EP) division guidelines for such programs. The ERO may also require that the project sponsor immediately implement a site security program if the archeological resource is at risk from vandalism, looting, or other damaging actions.

The project archeological consultant shall submit a Final Archeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archeological resource and describing the archeological and historical research methods employed in the archeological monitoring/data recovery program(s) undertaken. Information that may put at risk any archeological resource shall be provided in a separate removable insert within the final report.

Copies of the Draft FARR shall be sent to the ERO for review and approval. Once approved by the ERO, copies of the FARR shall be distributed as follows: California Archeological Site Survey Northwest Information Center (NWIC) shall receive one (1) copy and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Environmental Planning division of the Planning Department shall receive one bound copy, one unbound copy and one unlocked, searchable PDF copy on CD three copies of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In instances of high public interest or interpretive value, the ERO may require a different final report content, format, and distribution than that presented above.

Mitigation Measure M-CP-3: Accidental Discovery of Paleontological Resources.

The following measures shall be implemented should construction result in the accidental discovery of paleontological resources:

To reduce the potential for the proposed project to result in a significant impact on paleontological resources, the SFPUC shall arrange for a paleontological training by a qualified paleontologist regarding the potential for such resources to exist in the project site and how to identify such resources. The training could consist of a recorded presentation that could be reused for new personnel. The training shall also include a review of penalties for looting and disturbance of these resources. An alert sheet shall be prepared by the qualified paleontologist and shall include the following:

1. A discussion of the potential to encounter paleontological resources;
2. Instructions for reporting observed looting of a paleontological resource; and instructions that if a paleontological deposit is encountered within a project area, all soil-disturbing

activities in the vicinity of the deposit shall cease within 50 feet and the ERO shall be notified immediately; and,

3. Who to contact in the event of an unanticipated discovery.

If potential fossils are discovered by construction crews, all earthwork or other types of ground disturbance within 50 feet of the find shall stop immediately until the qualified professional paleontologist can assess the nature and importance of the find. Based on the scientific value or uniqueness of the find, the paleontologist may record the find and allow work to continue, or recommend salvage and recovery of the fossil. The paleontologist may also propose modifications to the stop-work radius based on the nature of the find, site geology, and the activities occurring on the site. If treatment and salvage is required, recommendations shall be consistent with SVP 1995 guidelines and currently accepted scientific practice, and shall be subject to review and approval by the ERO or designee. If required, treatment for fossil remains may include preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection, and may also include preparation of a report for publication describing the finds. The SFPUC shall be responsible for ensuring that treatment is implemented and reported to the San Francisco Planning Department. If no report is required, the SFPUC shall nonetheless ensure that information on the nature, location, and depth of all finds is readily available to the scientific community through university curation or other appropriate means.

Mitigation Measure M-CP-4: Accidental Discovery of Human Remains.

The following measures shall be implemented should construction activities result in the accidental discovery of human remains and associated cultural materials:

The treatment of human remains and of associated or unassociated funerary objects discovered during any soil-disturbing activities shall comply with applicable state laws. This shall include immediate notification of the coroner of the county within which the project is located and, in the event of the coroner's determination that the human remains are Native American, notification of the California Native American Heritage Commission, which shall appoint a most likely descendant (MLD) (PRC Section 5097.98). The archeological consultant, SFPUC, and MLD shall make all reasonable efforts to develop an agreement for the treatment, with appropriate dignity, of human remains and associated or unassociated funerary objects (CEQA Guidelines Section 15064.5[d]). The agreement should take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects. The PRC allows 24 hours to reach agreement on these matters. If the MLD and the other parties do not agree on the reburial method, the SFPUC shall follow Section 5097.98(b) of the PRC, which states that "the landowner or his or her authorized representative shall reinter the human remains and items associated with Native American burials with appropriate dignity on the property in a location not subject to further subsurface disturbance."

Mitigation Measure M-TR-1: Implement Flag Control to Maintain Bicycle and Pedestrian Access.

The SFPUC and its contractor shall require flaggers to be present onsite during daily construction activities. Flaggers shall be located at the entry and exit locations of the project site and shall coordinate the movement of construction vehicles in and out of the project site. In addition, flaggers shall maintain access to on- and off-street bicycle and pedestrian facilities and the use of flaggers shall

reduce any intermittent blockages to such facilities, and eliminate any long-term blockages to such facilities.

Mitigation Measure M-NO-2a: Preconstruction Surveys and Repair.

SFPUC shall conduct a preconstruction survey of onsite buildings to document preconstruction building conditions. Following construction, the buildings shall be re-inspected. Any new cracks or other changes in structures shall be compared to preconstruction conditions and a determination made as to whether project activities could have caused such damage. In the event that the project is demonstrated to have caused the damage, SFPUC shall be responsible for having the damage repaired to the pre-existing condition.

Mitigation Measure M-NO-2b: Construction Equipment Restrictions Near Buildings.

To minimize vibration effects, no earthmoving equipment shall be used within 1.5 feet of the Clubhouse, Caretaker's House, Rifle Range Building and Shell House; only small earthmoving equipment shall be used between 1.5 feet and 15 feet of the these buildings. No vibratory equipment shall be used within 8 feet of the Clubhouse, Caretaker's House, Rifle Range Building, and Shell House and only small vibratory equipment (including compactors) shall be used between 8 feet and 26 feet of these buildings. Small earthmoving equipment and vibrators shall be used within 10 feet and 17 feet, respectively, from other buildings.

Mitigation Measure M-AQ-1: Construction Emissions Minimization.

A. ***Construction Emissions Minimization Plan.*** The project sponsor shall reduce construction-related NOx emissions by a minimum of 40 percent as compared to that estimated in this environmental analysis. Prior to issuance of a construction permit, the project sponsor shall submit a Construction Emissions Minimization Plan (Plan) to the Environmental Review Officer (ERO) for review and approval by an Environmental Planning Air Quality Specialist. The requirements of this plan may be met by demonstrating project compliance with the following:

   1. Limit truck idling time to two minutes. Legible and visible signs shall be posted in multiple languages (English, Spanish, Chinese) in designated queuing areas and at the construction site to remind operators of the two minute idling limit;

   2. The project sponsor shall require that construction operators properly maintain and tune equipment in accordance with manufacturer specifications; and

   3. All on-road haul trucks (i.e., trucks used for disposal of excavated material and delivery of clean fill) shall be year 2010 or newer.

   Should the project sponsor choose to comply with this mitigation measure through any means other than the requirements listed above, the Plan shall demonstrate an equivalent reduction in NOx emissions (40%). The project sponsor shall submit to the ERO, prior to construction, all applicable construction equipment information required to ensure that the project sponsor has fully complied with this mitigation measure.

B. Reporting. Monthly reports shall be submitted to the ERO indicating the construction phase and off-road equipment information used during each phase including the information required in A, above.

Within six months of the completion of construction activities, the project sponsor shall submit to the ERO a final report summarizing construction activities. The final report shall indicate the start and end dates and duration of each construction phase.

C. ***Certification Statement and On-site Requirements.*** Prior to the commencement of construction activities, the project sponsor must certify (1) compliance with the Plan, and (2) all applicable requirements of the Plan have been incorporated into contract specifications.

Mitigation Measure MI-BI-1a: Protocol Surveys for Special-Status Plants.

The SFPUC shall retain a qualified botanist to conduct preconstruction CDFG protocol-level[189] surveys for special-status plants (in particular San Francisco Bay spineflower, blue coast gilia, San Francisco wallflower, and dune tansy) on the project site and adjacent suitable habitat during the blooming period for these species. Surveys shall occur in the spring for San Francisco Bay spineflower (April – July), blue coast gilia (April – July), and San Francisco wallflower (March – June), and in the late summer for dune tansy (July – October).

Survey results shall be mapped and documented in a technical memorandum and provided to the Planning Department. If no special-status plants are identified during surveys, then these plants shall be assumed to be absent from the project site. If special-status plants are found during surveys, suitable habitat shall be mapped for avoidance in order to account for seasonal growth variability from year to year, when plants may not bloom but remain present in the seed bank. Suitable habitat areas shall be demarcated by a qualified botanist with flagging or orange fencing with signs that read "Environmentally Sensitive Area – Keep Out." These markings shall be installed before construction begins and continuously maintained throughout construction.

Mitigation Measure M-BI-1b: Relocation of Special-Status Plants.

If special-status plants are located within the remediation site and cannot be avoided during remediation, then a plan shall be developed in coordination with CDFW to relocate them to suitable habitat within the Lake Merced shoreline area. This can be done either through salvage and transplanting or by collection and propagation of seeds or other vegetative material. Any plant relocation would be done under the supervision of a qualified botanist.

Mitigation Measure M-BI-1c: Worker Environmental Awareness Program Training.

A project-specific Worker Environmental Awareness Program (WEAP) training shall be developed and implemented by a qualified biologist for the project and attended by all construction personnel prior to beginning work onsite. The WEAP training shall generally include but not be limited to the following:

- Applicable State and federal laws, environmental regulations, project permit conditions, and penalties for non-compliance;
- Special-status plant and wildlife species with potential to occur on or in the vicinity of the project site, avoidance measures, and a protocol for encountering such species including a communication chain;

[189] CDFG, 2009. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities. Biogeographic Data Branch, Sacramento. Data dated November 24, 2009.

- Preconstruction surveys and biological monitoring requirements associated with each phase of work;

- Known sensitive resource areas in the project vicinity which are to be avoided and/or protected (e.g. wetlands) as well as approved project work areas; and

- Best Management Practices (BMPs) and their location on the project site for erosion control and/or species exclusion.

Mitigation Measure M-B1d: Avoidance and Minimization Measures for Western Pond Turtle.

During construction at the project site, the SFPUC shall ensure a biological monitor is present during installation of exclusion fencing and initial vegetation clearing and grading. Also, the following measures shall be implemented:

- Within one week before construction commences, a qualified biologist shall supervise the installation of exclusion fencing along the boundaries of the work area, as the biologist deems necessary to prevent western pond turtles from entering the work area. The construction contractor shall install CDFW-approved species exclusion fencing, with a minimum height of 3 feet above ground surface and with an additional 4–6 inches of fence material buried such that species cannot crawl under the fence. Fencing installed along the north border (lakeside border) of the site can be multipurpose silt fencing (see Mitigation Measure M-BI-3, Wetland Protection, below) and exclusion fencing.

- A qualified biologist shall survey the project area within 48 hours before the onset of initial ground-disturbing activities and shall be present during initial vegetation clearing and ground-disturbing activities. The biological monitor shall monitor the exclusion fencing weekly to confirm proper maintenance and inspect for turtles. If western pond turtles are found, the SFPUC shall halt construction in the vicinity that poses a threat to the individual as determined by the qualified biologist. If possible, the individual shall be allowed to move out of the project area of its own volition (e.g., if it is near the exclusion fence that can be temporarily removed to let it pass). The qualified biologist shall relocate turtles to the nearest suitable habitat should they not leave the work area of their own accord. Construction shall resume after the individual is out of harm's way. If western pond turtles occur repeatedly onsite after the exclusion fencing has been installed, a qualified biologist shall initiate preconstruction sweeps of the project site for this species prior to start of construction on a daily basis and thereinafter throughout the duration of the project.

- During project activities, excavations deeper than 6 inches shall have a sloping escape ramp of earth or a wooden plank installed at a 3:1 rise; openings, such as pipes, where western pond turtles might seek refuge shall be covered when not in use; and all trash that may attract predators or hide western pond turtles shall be properly contained each day, removed from the worksite, and disposed of regularly. Following site remediation, the construction contractor shall remove all trash and construction debris from the work areas.

Mitigation Measure M-BI-1e: Nesting Bird Protection Measures

Nesting birds and their nests shall be protected during construction by use of the following:

- Removal of trees, scrub vegetation and structures shall occur outside the bird nesting season (February 1 to August 30), to the extent feasible.

- If removal of trees, scrub vegetation or structures during bird nesting season cannot be fully avoided, a qualified wildlife biologist shall conduct preconstruction nesting surveys within seven days prior to the start of such activities or after any construction breaks of 14 days or more. Surveys shall be performed for the project site and suitable habitat within 250 feet of the project site in order to locate any active passerine (perching bird) nests and within 500 feet of the project site to locate any active raptor (birds of prey) nests or double-crested cormorant or heron rookeries.

- If active nests are located during the preconstruction bird nesting survey, the wildlife biologist shall evaluate if the schedule of construction activities could affect the active nests and the following measures shall be implemented based on their determination:

    - If construction is not likely to affect the active nest, it may proceed without restriction; however, a biologist shall regularly monitor the nest to confirm there is no adverse effect and may revise their determination at any time during the nesting season In this case, the following measure would apply.

    - If construction may affect the active nest, the biologist shall establish a no disturbance buffer. Typically, these buffer distances are between 25 feet and 250 feet for passerines and between 300 feet and 500 feet for raptors. These distances may be adjusted depending on the level of surrounding ambient activity (e.g. if the project area is adjacent to a road or active trail) and if an obstruction, such as a building, is within line-of-sight between the nest and construction. For bird species that are federally and/or state-listed sensitive species (i.e., fully protected, endangered, threatened, species of special concern), an SFPUC representative, supported by the wildlife biologist, shall consult with the USFWS and/or CDFW regarding modifications to nest buffers, prohibiting construction within the buffer, modifying construction, and removing or relocating active nests that are found on the site.

- Removing inactive passerine nests may occur at any time. Inactive raptor nests shall not be removed unless approved by the USFWS and/or CDFW.

- Removing or relocating active nests shall be coordinated by the SFPUC representative with the USFWS and/or CDFW, as appropriate, given the nests that are found on site.

- Any birds that begin nesting within the project area and survey buffers amid construction activities are assumed to be habituated to construction-related or similar noise and disturbance levels and no work exclusion zones shall be established around active nests in these cases.

Mitigation Measure M-BI-1f: Avoidance and Minimization Measures for Special-Status Bats.

In coordination with the SFPUC, a preconstruction survey for special-status bats shall be conducted by a qualified biologist in advance of tree and structure removal within the project site to characterize potential bat habitat and identify active roost sites. Should potential roosting habitat or active bat roosts be found in trees and/or structures to be removed under the project, the following measures shall be implemented:

- Removal of trees and structures shall occur when bats are active, approximately between the periods of March 1 to April 15 and August 15 to October 15; outside of bat maternity roosting season (approximately April 15 – August 31) and outside of months of winter torpor (approximately October 15 – February 28), to the extent feasible.

- If removal of trees and structures during the periods when bats are active is not feasible and active bat roosts being used for maternity or hibernation purposes are found on or in the immediate vicinity of the project site where tree and structure removal is planned, a no-disturbance buffer of 100 feet shall be established around these roost sites until they are determined to be no longer active by the qualified biologist.

- The qualified biologist shall be present during tree and structure removal if active bat roosts are present. Trees and structures with active roosts shall be removed only when no rain is occurring or is forecast to occur for 3 days and when daytime temperatures are at least 50°F.

- Removal of trees with active or potentially active roost sites shall follow a two-step removal process:

    1. On the first day of tree removal and under supervision of the qualified biologist, branches and limbs not containing cavities or fissures in which bats could roost, shall be cut only using chainsaws.

    2. On the following day and under the supervision of the qualified biologist, the remainder of the tree may be removed, either using chainsaws or other equipment (e.g. excavator or backhoe).

- Removal of structures containing or suspected to contain active bat roosts shall be dismantled under the supervision of the qualified biologist in the evening and after bats have emerged from the roost to forage. Structures shall be partially dismantled to significantly change the roost conditions, causing bats to abandon and not return to the roost.

- Bat roosts that begin during remediation are presumed to be unaffected, and no buffer would be necessary.

Mitigation Measure M-BI-2: Restoration of Coastal Scrub, Riparian Scrub, and Wetlands

The habitat functions and services of all coastal scrub habitat, arroyo willow riparian scrub habitat, and freshwater emergent wetlands affected during construction shall be restored in-place to pre-project conditions. A Riparian and Wetland Restoration and Mitigation Monitoring Plan shall be prepared for the affected areas, subject to approval by the appropriate regulatory agencies, and shall generally include, but not be limited, to the following:

- A final grading plan for the affected coastal scrub habitat, riparian scrub habitat, and wetlands which would restore the topography of the affected habitat areas to pre-project conditions;

- A planting plan, composed of native coastal scrub, riparian scrub, and freshwater emergent wetland plant species, consistent with the coastal scrub, riparian habitat and wetlands of Lake Merced;

- A weed control plan to prevent the spread of invasive non-native plant species on the project site;

- Performance criteria for the revegetated areas that establish success thresholds over a specific amount of time (typically five years) as determined by the regulatory agencies with jurisdiction over the affected areas;

- A monitoring and reporting program under which progress of the revegetated areas shall be tracked to ensure survival of the mitigation plantings. The program shall document overall health and vigor of mitigation plantings throughout the monitoring period and provide

recommendations for adaptive management as needed to ensure the site is successful, according to the established performance criteria. An annual report documenting monitoring results and providing recommendations for improvement throughout the year shall be provided to the regulatory agencies; and

- A best management practices element describing erosion control measures to be installed around the affected areas following mitigation planting in order to avoid sediment runoff into the adjacent waters of Lake Merced.

Mitigation Measure M-BI-3: Wetland Protection.

At the project site, wetland protection measures shall be applied to protect state and federal jurisdictional wetlands. These measures shall include the following:

- A protective barrier (such as silt fencing) shall be erected around the adjacent wetland feature to isolate it from remediation activities;
- Signage shall be installed on the fencing to identify sensitive habitat areas and restrict construction activities;
- No equipment mobilization, grading, clearing, or storage of equipment or machinery, or similar activity shall occur at the project site until a representative of SFPUC has inspected and approved the wetland protection fencing; and
- The SFPUC shall ensure that the temporary fencing is continuously maintained until all remediation is completed.

A fencing material meeting the requirements of both water quality protection and wildlife exclusion may be used.

G. PUBLIC NOTICE AND COMMENT

A "Notification of Project Receiving Environmental Review" was mailed on February 21, 2014 to property owners and residents of property within 300 feet of the project site, responsible and trustee agencies, and interested parties. The following comments in response to the notification were received:

- San Francisco Recreation and Park Department – Expressed interest in staying informed about the project, in particular with respect to erosion control measures
- Golden Gate Audubon Conservation Committee – Requested receiving notifications regarding environmental review. The scope of environmental review should include the following: timing and extent of remediation; containment and disposal of spoils; and measures to address impacts on Lake Merced's wildlife.
- Mr. Dick Morten – Suggested that project-specific mitigation measures address potential impacts on nesting birds, dust, noise, odors, traffic, and public safety.
