

San Francisco Bay Conservation and Development Commission

455 Golden Gate Avenue, Suite 10600, San Francisco, California 94102 tel 415 352 3600 fax 415 352 3606

[DATE]

ATTENTION: _____

**SUBJECT: BCDC Regionwide Permit No. RWP-6
(Notice of Intent to Proceed No. NOIxxxx.xxx.xx)**

Dear _____:

Enclosed please find an original of Regionwide Permit No. RWP-6, stamped "BCDC Original," and a copy, stamped "Permittee's Copy," both executed by the Executive Director. I am issuing this regionwide permit to you for _____ at _____, as requested by your Notice of Intent to Proceed under a regionwide permit dated _____, including its accompanying exhibits, any subsequent additions or changes, and as modified by the conditions of this regionwide permit.

You must (1) **complete** the acknowledgment section of the regionwide permit stamped "BCDC Original," which indicates that you have read and that you agree to all of the terms and conditions of the regionwide permit, and (2) **return** that entire "BCDC Original" regionwide permit to the Commission's offices within 14 days. You should retain the copy stamped "Permittee's Copy" for your records.

Please understand that this permit authorizes you to perform only the work described in your Notice of Intent to Proceed under a regionwide permit, and no more. In addition, **no** work may commence on the project until the regionwide permit stamped "BCDC Original" is executed and returned to the Commission. Until the Commission receives the executed regionwide permit, the _____ does not have the necessary authorization for the work authorized under the permit. The commencement of any work within the Commission's jurisdiction without the necessary authorization from the Commission is a violation of the McAteer-Petris Act and could subject you to substantial fines.

If you have any questions concerning the regionwide permit or the procedure outlined above, please contact me at 415/352-36__ or _____@bcdca.gov.

Very truly yours,

ANALYST
(Coastal Program Analyst)

Enc.

cc: U. S. Army Corps of Engineers, Attn: Regulatory Functions Branch
San Francisco Bay Regional Water Quality Control Board,
Attn: Certification Section
Environmental Protection Agency
[CITY OR COUNTY PLANNING DEPT.]



San Francisco Bay Conservation and Development Commission

455 Golden Gate Avenue, Suite 10600, San Francisco, California 94102 tel 415 352 3600 fax 415 352 3606

REGIONWIDE PERMIT NO. RWP-6
NOTICE OF INTENT TO PROCEED NO. NOIxxxx.xxx.xx
(As Amended Through December 18, 2008)
(Seismic retrofit and repairs of state bridges)

[DATE]

On September 1, 1994, the San Francisco Bay Conservation and Development Commission, by a vote of 17 affirmative, 0 negative, and 0 abstentions, approved the issuance of the original of this Regionwide Permit. On April 18, 1996, the Commission, by a vote of 17 affirmative, 0 negative, and 0 abstentions, approved Amendment No. One of this Regionwide Permit. On December 18, 2008, the Commission by a vote of 18 affirmative, 0 negative, and 0 abstentions, approved Amendment No. Two of this Regionwide Permit upon which your authorization is based:

I. Authorization

A. Subject to the conditions stated below, the permittee(s) is hereby authorized to do the following:

Location: _____

Description: _____

B. This authority is limited to activities undertaken at a site where activities are not already authorized by another BCDC permit and to projects that would not adversely impact: (1) the Bay; (2) Bay resources such as those that are scarce or have an abundance and diversity of fish, other aquatic organisms or wildlife (such as tidal marshes or eelgrass beds); and (3) existing or possible future visual or physical public access to and along the Bay from public access areas, roads and pathways. This authority is generally pursuant to and limited by your notice of intent to proceed under a Regionwide Permit dated _____, including its accompanying exhibits, any subsequent additions or modifications, and all conditions of this Regionwide Permit.

C. Work authorized herein must commence within two years of the date of the transmittal of this Regionwide Permit by the Executive Director to you or the authorization of your work will lapse and become null and void. Such work must also be diligently pursued to completion and must be completed within two years of commencement, or within three years of the date of transmittal of this Regionwide Permit to you, whichever is earlier, unless an extension of time is granted by the Executive Director.



II. Special Conditions

The authorization made herein shall be subject to the following special conditions, in addition to the standard conditions in Part IV:

A. Submittal and Review of Plans and Related Matters

1. A Notice of Intent to Proceed (NOI) under this Regionwide Permit shall not be approved until all of the following occur:
 - a. Submittal of a completed Part I of the Commission's application form;
 - b. Review and approval of engineering criteria by the Engineering Criteria Review Board (ECRB) as specified under Special Condition II-A-4 of this Regionwide Permit for seismic retrofit and repairs to support structures such as pilings and abutments;
 - c. Submittal of the final Plans, Specifications and Estimates (PS&Es) and Seismic Retrofit Strategy Report and Repairs to Bridge Supports that include all of the following features:
 - (1) **Site, Architectural, and Grading Plans.** Site, architectural, and grading plans shall include and clearly label the shoreline, the line 100 feet inland of the shoreline, property lines, the boundaries of all areas to be reserved for public access and open space purposes, grading, details showing the location, types, dimensions, and materials to be used for all structures, irrigation, landscaping, drainage, seating, parking, signs, lighting, fences, paths, trash containers, utilities and other proposed improvements.
 - (2) **Engineering Plans.** Engineering plans shall include a complete set of contract drawings and specifications and design criteria. The design criteria shall be appropriate to the nature of the project, the use of any structures, soil and foundation conditions at the site, and potential earthquake-induced forces. Final plans shall be signed by the professionals of record;
 - d. Submittal of evidence that the project design complies with all applicable state and federal design standards;
 - e. Submittal of evidence that an independent or in-house peer review panel has reviewed the project (except that such evidence may be waived by the staff, upon consultation with the Chair of the ECRB, if peer review is determined not to be necessary); and

- f. Submittal of written certification of the professional of record that the final PS&Es satisfy the recommendations of the ECRB.
2. **Conformity with Final Approved Plans.** All work, improvements, and uses shall conform to the final PS&Es except as provided in subparagraph 3, below. Prior to any use of the facilities authorized herein, the appropriate design professional(s) of record shall certify in writing that, through personal knowledge, the work covered by the authorization has been performed in accordance with the approved design criteria and in substantial conformance with the approved plans. No noticeable changes shall be made thereafter to the final PS&Es or to the exterior of any constructed structure, outside fixture, lighting, landscaping, signage, landscaping, parking area, or shoreline protection work without first contacting the staff, which shall have 10 working days to review and approve, verbally or in writing, the change plans.
3. **Discrepancies between Approved Plans and Special Conditions.** In case of any discrepancy between final PS&Es and any Special Condition of this Regionwide Permit, the Special Condition shall prevail. The permittee(s) is responsible for assuring that all PS&Es accurately and fully reflect the Special Conditions of this Regionwide Permit.
4. **Engineering Criteria Review Board Review.** Preliminary engineering plans and engineering criteria shall be reviewed by or on behalf of the ECRB prior to submittal of a complete NOI, as follows:
- a. **Review by the Engineering Criteria Review Board.** If review is required, the staff will convene a Board meeting within 30 days of receipt of all materials required by paragraph 4.b. If the Board requires further review of the project, the staff will convene a second Board meeting within 30 days of receipt of any revised and/or supplemental materials requested by the Board. At the applicant's option, if the Board requests a third review of the project, it may be scheduled using this same procedure. Review may be waived by the Commission staff, upon consultation with the Chair of the Board, if a project is determined not to raise a significant issue with regard to public safety during seismic events.
- b. **Materials Required for Review.** The specific drawings required, and the appropriate engineer representing the applicant, depend on the type of project and shall be as determined by the Commission staff. Such materials shall demonstrate to the satisfaction of the Board that the applicant has adopted design criteria appropriate to the nature of the project and use of

any structures constructed in connection therewith. Such criteria shall take into account the soil and foundation conditions at the site and potential earthquake-induced forces. At a minimum, 13 copies of the following materials shall be submitted for review by the ECRB except in cases where the staff waives the submittal of any item, upon consultation with the Chair of the Board, if the item is determined not to be necessary for Board review:

- (1) A list of all acceptance criteria, including the performance objectives chosen for the structure in question (such as the limitation of damage to localized areas of the structure which would be repairable in a specified amount of time, or retention of elasticity so that the structure would remain in service immediately following a major seismic event);
- (2) A list of all design criteria, including the design methods employed to ensure the performance objectives given above, including the maximum expected design earthquake, soil and geologic conditions at the site, and a description of any structural features which might contribute to the satisfaction of the performance objectives (such as the absence of expansion joints, the inclusion of isolation or dampening devices, and/or the use of high strength concrete, etc.);
- (3) Site plans, which include a reduced set of the plans (8 1/2" x 17" maximum) recognizable global landmarks and significant details of the structure and geology;
- (4) A general project description describing the phases of construction, any temporary structures involved, a general timeline for project completion, structural vulnerabilities which inhibit the existing structure from meeting the current acceptance criteria, and any additional pertinent information;
- (5) The identification of any other materials that may be either submitted in writing or provided verbally during the presentation, which may include soil and geologic conditions, structural features, relevant degree of risk, type of hazard (liquefaction, slope instability, ground shaking settlement), design criteria, method of analysis, procedures for checking calculations and assuring compliance during construction, evidence that the design complies with all applicable state and federal design standards, evidence that a thorough and independent review of

the design details, calculations, and construction drawings has been made, and certifying that construction will be in accordance with the terms and conditions of ECRB authorization; and

- (6) An identification of the person or persons who will present the information to the ECRB. The presenters should be familiar with the geology, seismology, and structural details associated with the project.

B. Limit of Work. The structural work authorized herein is confined to the seismic retrofit of an existing State-owned highway structure as specified by Senate Bill SB 131 (Chapter 15), passed by the Legislature and signed by the Governor on March 15, 1994. This structural work shall be limited to the existing state right-of-way and shall not result in the widening of the travel way or a significant raising in elevation of the structure. Any increase in size, enlargement of the structural footprint or new fill in the Bay is limited only for the purposes of achieving seismic safety of the existing highway structure. Seismic retrofit projects covered by this Regionwide Permit include only the structural modification or replacement of an existing highway structure.

C. Construction Operations and Debris Removal. All construction operations shall be performed so as to minimize turbidity and the roiling of waters, to prevent any construction materials from falling, washing, or blowing into any tidal areas of the Bay or drifting and presenting a navigation or pollution hazard. In the event that any such material is placed or escapes into any area subject to tidal action of the Bay, the permittee(s), its assigns or successors in interest, or the owner of the improvements shall immediately retrieve and remove such material at its expense. All construction debris shall be removed to an authorized location outside the jurisdiction of the Commission. In the event that any such material is placed in any area within the Commission's jurisdiction, the permittee(s), its assignee, or successor in interest, or the owner of the improvements, shall remove such material, at its expense, within ten days after it has been notified by the Executive Director of such placement. All temporary structures placed pursuant to this Regionwide Permit shall be completely removed from the Commission's jurisdiction upon completion of each individual project and the area restored to its previous condition.

D. Habitat Protection. The work authorized by this Regionwide Permit shall be performed so as to prevent any significant adverse impact on any tidal marsh, tidal flat, eelgrass habitat or other sensitive Bay resources. If any unforeseen adverse impacts occur to any such area as a result of the activities authorized herein, the permittee(s) shall restore the area to or improve the area above its previous condition, which may include returning the disturbed area to its original elevation and soil composition and, if the area does not revegetate to its former condition within one year, seeding all disturbed areas with appropriate vegetation.

E. Diked Wetlands Protection. No work authorized herein on any structure of facility shall significantly alter water management, circulation or drainage patterns or otherwise adversely affect any salt pond, managed wetland, or other sensitive diked wetland resources.

F. Work Windows to Protect Fish and Wildlife. All construction activities shall be confined so as to minimize disturbance to fish and wildlife, as follows: (1) Work in tidal marshes shall be limited to the dry months of May through October to minimize disturbance to migratory waterfowl and nesting resident birds in marshlands; (2) When construction would occur in marshes where California clapper rails are present, no work shall occur from February 1 to August 30 unless the Department of Fish and Game and the U.S. Fish and Wildlife Service determine that no nesting is occurring within 500 feet of the project; (3) Work in open waters of the Bay between the Richmond-San Rafael Bridge and the Hayward-San Mateo Bridge shall be limited to the months of March through December to minimize disturbance to the herring season; and (4) Work on bridges where the peregrine falcon nests shall be limited to July through January to avoid the breeding season. These construction times are general and exceptions may be made upon written approval of the Executive Director in consultation with the California Department of Fish and Game, and with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service, where appropriate.

G. Creosote Treated Wood. No pilings or other wood structures that have been pressure treated with creosote shall be used in any area subject to tidal action in the Bay or any certain waterway, in any salt pond, or in any managed wetland within the Commission's jurisdiction as part of the project authorized herein.

H. Limitation of Projects to Exclude Significant Visual or Physical Access Impacts. The work authorized herein is confined to the seismic retrofit of an existing State-owned highway structure that will not result in a significant adverse impact on visual or physical public access to the Bay or on shoreline appearance. Significant adverse impacts include the construction of sheer walls between existing pilings, or other structures that may block existing public views of the Bay or shoreline, or that may alter existing or future public access. The determination of whether a project would result in a significant adverse visual or physical impact shall be determined by the Commission staff.

I. Inapplicability of this Regionwide Permit. If, in the opinion of the Executive Director, a proposed seismic retrofit project could significantly, adversely affect tidal marshes and mud flats or important fish and wildlife resources of San Francisco Bay, the Executive Director could refuse to approve a notice of intent to undertake work under this Regionwide Permit, or could attach new special conditions to this Regionwide Permit to reduce the potential significant,

adverse impacts to a point of insignificance. An applicant may appeal a decision to refuse to approve a notice of intent to proceed by filing an application for a permit pursuant to Regulation Sections 10300 and 10310, or by appealing as otherwise permitted by law.

J. **Notice to Contractor.** The permittee(s) shall provide a copy of this Regionwide Permit, final PS&Es and its NOI to any contractor or person working in concert with the permittee(s) to carry out the activities authorized herein and shall point out the special conditions contained herein.

III. Findings and Declarations

The Commission hereby finds, declares, and certifies that:

A. **Consistency with Commission Regulations.** The projects authorized by this Regionwide Permit involve routine repair, reconstruction, replacement, and other construction activities specifically limited to the seismic retrofitting of existing State-owned highway structures, including bridges, as specified by Senate Bill 131, Chapter 15 as passed by the Legislature and signed by the Governor on March 15, 1994, and as defined in Regulation Sections 10601(a)(2), 10601(a)(3), and 10601(a)(6), 10601(b)(1), 10601(b)(4) and 10601(b)(5), and 10601(c)(2), or activities similar to those described above, as defined in Regulation Section 10601(e)(1) and (3), and thus are equivalent to a "minor repair and improvement" and qualify for authorization under a Regionwide Permit that may be issued by the Commission and approved by the Executive Director, pursuant to Government Code Section 66632(f) and Regulation Sections 11700 and 11713.

B. **Consistency with McAteer-Petris Act and San Francisco Bay Plan.** The project authorized by this Regionwide Permit is consistent with the McAteer-Petris Act and with the *San Francisco Bay Plan* in that it will not adversely affect the Bay nor public access to and enjoyment of the Bay.

C. **Consistency with Coastal Zone Management Act.** The activities authorized herein are consistent with the Commission's coastal management program for San Francisco Bay, as approved by the Department of Commerce under the Federal Coastal Zone Management Act of 1972, as amended.

D. **Consistency with California Environmental Quality Act.** Senate Bill 131, Chapter 15, Section 180.2, specifies that qualifying projects shall be considered to be activities under the California Environmental Quality Act (CEQA) (Public Resource Code) Section 21080(b)(4), which states that CEQA does not apply to "{s}pecific actions necessary to prevent or mitigate an emergency."

E. **Listing with the Commission.** The Commission staff will prepare a description and indicate the location of any project authorized under this Regionwide Permit, along with the name and address of the permittee(s), and attach such information to the listing of administrative permits, marsh development permits, and federal consistency actions that is sent to the Commission, following the Executive Director's approval of the project under this Regionwide Permit.

F. **Need for Special Conditions.** The Commission finds that the Special Conditions of Part II and the Standard Conditions of Part IV of this Regionwide Permit are reasonable and will not lead to a significant delay in the seismic retrofit project authorized by this Regionwide Permit.

G. **Enforcement Program and Civil Penalties.** The Commission has an enforcement program that reviews its permits for compliance. The Commission may issue cease and desist and civil penalty orders if violations are discovered. The McAteer-Petris Act provides for the imposition of administrative civil penalties ranging from \$10 to \$2,000 per day up to a maximum of \$30,000 per violation. The Act also provides for the imposition of court-imposed civil penalties of up to \$30,000 in addition to any other penalties, penalties for negligent violations of between \$50 and \$5,000 per day, knowing and intentional penalties of between \$100 and \$10,000 per day, and exemplary penalties, which are supplemental penalties, in an amount necessary to deter future violations. In addition, anyone who places fill, extracts materials, or makes any substantial change in use of any water, land or structure within the area of the Commission's jurisdiction without securing a permit from the Commission is guilty of a misdemeanor.

IV. Standard Conditions

A. **Permit Execution.** This Regionwide Permit shall not take effect unless the permittee(s) executes the original of this Regionwide Permit and returns it to the Commission within 14 days after the date of the issuance of the Regionwide Permit. No work shall be done until the acknowledgment is duly executed and returned to the Commission.

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

C. **Permit Runs With the Land.** Unless otherwise provided in this Regionwide Permit, the terms and conditions of this Regionwide Permit shall bind all future owners and future possessors of any legal interest in the land and shall run with the land.

D. **Other Government Approvals.** All required permissions from governmental bodies must be obtained before the commencement of work; these bodies include, but are not limited to, the U. S. Army Corps of Engineers, the State Lands Commission, the Regional Water Quality Control Board, and the city or county in which the work is to be performed, whenever any of these may be required. This Regionwide Permit does not relieve the permittee(s) of any obligations imposed by State or Federal law, either statutory or otherwise.

E. **Built Project must be Consistent with Application.** Work must be performed in the precise manner and at the precise locations indicated in your application, as such may have been modified by the terms of the Regionwide Permit and any plans approved in writing by or on behalf of the Commission.

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

G. **Commission Jurisdiction.** Any area subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission under either the McAteer-Petris Act or the Suisun Marsh Preservation Act at the time the Regionwide Permit is granted or thereafter shall remain subject to that jurisdiction notwithstanding the placement of any fill or the implementation of any substantial change in use authorized by this Regionwide Permit. Any area not subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission that becomes, as a result of any work or project authorized in this Regionwide Permit, subject to tidal action shall become subject to the Commission's "bay" jurisdiction.

H. **Changes to the Commission's Jurisdiction as a Result of Natural Processes.** This Regionwide Permit reflects the location of the shoreline of San Francisco Bay when the Regionwide Permit was issued. Over time, erosion, avulsion, accretion, subsidence, relative sea level change, and other factors may change the location of the shoreline, which may, in turn, change the extent of the Commission's regulatory jurisdiction. Therefore, the issuance of this Regionwide Permit does not guarantee that the Commission's jurisdiction will not change in the future.

I. **Violation of Permit May Lead to Permit Revocation.** Except as otherwise noted, violation of any of the terms of this Regionwide Permit shall be grounds for revocation. The Commission may revoke any permit for such violation after a public hearing held on reasonable

notice to the permittee(s) or its assignee if the permit has been effectively assigned. If the Regionwide Permit is revoked, the Commission may determine, if it deems appropriate, that all or part of any fill or structure placed pursuant to this Regionwide Permit shall be removed by the permittee(s) or its assignee if the Regionwide Permit has been assigned.

J. Should Permit Conditions Be Found to be Illegal or Unenforceable. Unless the Commission directs otherwise, this Regionwide Permit shall become null and void if any term, standard condition, or special condition of this Regionwide Permit shall be found illegal or unenforceable through the application of statute, administrative ruling, or court determination. If this Regionwide Permit becomes null and void, any fill or structures placed in reliance on this Regionwide Permit shall be subject to removal by the permittee(s) or its assignee if the Regionwide Permit has been assigned to the extent that the Commission determines that such removal is appropriate. Any uses authorized shall be terminated to the extent that the Commission determines that such uses should be terminated.

K. Permission to Conduct Site Visit. The permittee(s) shall grant permission to any member of the Commission's staff to conduct a site visit at the subject property during and after construction to verify that the project is being and has been constructed in compliance with the authorization and conditions contained herein. Site visits may occur during business hours without prior notice and after business hours with 24-hour notice.

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

LAWRENCE J. GOLDZBAND
Executive Director
San Francisco Bay Conservation and
Development Commission

LJG/XX

cc: U. S. Army Corps of Engineers, Attn: Regulatory Functions Branch
San Francisco Bay Regional Water Quality Control Board,
Attn: Certification Section
Environmental Protection Agency
City of _____ Planning Department

* * * * *

Receipt acknowledged, contents understood and agreed to:

Executed at _____

Permittee

On _____

By: _____

Print Name and Title

SAMPLE