

APPENDIX A – REGULATORY AGENCIES FOR BIOLOGICAL ISSUES

BAY CONSERVATION AND DEVELOPMENT COMMISSION

This agency (BCDC) retains jurisdiction over development in shoreline areas of San Francisco Bay. Filling, dredging, new construction, changes in land use and similar actions are subject to BCDC review.

CALIFORNIA DEPARTMENT OF FISH & GAME

The Department of Fish and Game (DFG) is responsible for the conservation, protection, and management of wildlife, native plants, and habitat of the State that are necessary to maintain biologically sustainable populations. It acts as advisor to other permitting agencies and enforces its own regulations.

US ARMY CORPS OF ENGINEERS

The US Army Corps of Engineers (Corps) enforces the Clean Water Act and the Rivers and Harbors Acts. The Corps regulates the dredging or filling of the nation's navigable waters and wetlands. The Corps is the primary federal agency responsible for making wetland determinations and issuing permits for wetlands or water fill.

US FISH AND WILDLIFE SERVICE

The Fish and Wildlife Service (USFWS) primarily regulates impacts to federally-listed endangered species and their habitats. Like the DFG, the USFWS primarily acts as advisor to other permitting agencies, but also enforces its own regulations, including an ability to issue incidental take permits. It is generally involved in Corps projects.

Natural environments within the Town of Corte Madera support a diversity of biological resources. Specific State, Federal and local laws have been enacted to regulate development activities in order to protect and preserve such ecologically valuable areas. A brief discussion of the specific regulations that apply to the habitats and species likely to occur in the Town is included below.

ENDANGERED SPECIES ACT OF 1973 (16USC 1531 *ET SEQ.*)

The Endangered Species Act protects threatened and endangered species by prohibiting Federal actions that would jeopardize the continued existence, or result in the destruction of critical habitat, of such species.

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California Endangered Species Act of 1984 (Fish and Game Code Section 2050 et seq.)

The California Endangered Species Act provides for the recognition and protection of rare, threatened and endangered species of plants and animals. The Act requires state agencies to consult with the DFG.

MIGRATORY BIRD TREATY ACT (16 USC 703 ET SEQ.)

The specific birds covered in this act are identified in agreements between the U.S. and the countries of Great Britain, Mexico and Japan. The treaty protects migratory birds.

COASTAL ZONE MANAGEMENT ACT (16 USC 1456 ET SEQ.)

The Coastal Zone Management Act (CZMA) established national policy to preserve, protect, develop, and where possible, restore or enhance the nation's coastal zone. The coastal zone includes the territorial sea and inland bays. Since the Town of Corte Madera is located adjacent to the San Francisco Bay, nearly any project action proposed in the Town that requires a Federal permit would be subject to the CZMA.

THE FISH AND WILDLIFE COORDINATION ACT OF 1958 (16 USC 661 ET SEQ.)

This Act requires that whenever any body of water is proposed or authorized to be impounded, diverted or otherwise controlled or modified, the lead Federal agency must consult with the USFWS and the National Marine Fisheries Service.

MARINE MAMMAL PROTECTION ACT (P.L. 92-522; AMENDED BY P.L. 98-364, APPROVED JULY 17, 1984.)

This Act prohibits the taking or importing of marine mammals or marine mammal products except under special permit conditions.

EXECUTIVE ORDER 11990 PROTECTION OF WETLANDS (42 FR 26961, 25 MAY 1977)

This executive order requires Federal agencies to provide leadership and take action to minimize destruction, loss or degradation of wetlands, and to preserve and enhance the natural qualities of these lands.

ESTUARY PROTECTION ACT (16 USC 1221 ET SEQ.)

Consideration of estuaries and their natural resources and importance must be included in the planning for the use or development of water and land resources.

CALIFORNIA COASTAL ACT OF 1976 (PRC SECTION 3000 ET SEQ.)

All Federal actions that affect the coast must be determined to be as consistent as practicable with this plan.

CALIFORNIA WETLANDS POLICY

The California Resources Agency does not authorize or approve projects that fill or otherwise harm or destroy coastal, estuarine or inland wetlands. Exceptions may be granted if all of the following conditions are met: The project is water-dependent; no other feasible alternative is available; the public trust is not adversely affected; and, adequate compensation is proposed as part of the project.

CLEAN WATER ACT (33 USC 1251 *ET SEQ.*)

The objective of the Clean Water Act (CWA) is to restore and maintain the chemical, physical and biological integrity of the nation's waters. Specific sections of the Act control the discharge of pollutants and wastes into aquatic and marine environment.

PORTER-COLOGNE WATER QUALITY CONTROL ACT OF 1966 (CALIFORNIA WATER CODE SEC. 13000 *ET SEQ.*; CCR TITLE 23, CHAPTER 3, SUBCHAPTER 15)

The Porter-Cologne Act is the primary state regulation that addresses water quality. The requirements of the Act are implemented by the State Water Resources Control Board (SWRCB) at the state level and at the local level by the Regional Water Quality Control Board (RWCQB).

The Clean Water Act's National Pollution Discharge Elimination System (NPDES) Phase II ruling in 1999 requires Municipal storm water permits to be updated. Corte Madera works with Marin County in meeting NPDES requirements.

MCATEER-PETRIS ACT/SAN FRANCISCO BAY PLAN

The McAteer-Petris Act established the Bay Conservation Development Commission (BCDC) as the agency responsible for maintaining and carrying out the provisions of the Act and the Bay Plan. The Bay Plan is the primary plan governing development in San Francisco Bay; it is a comprehensive and enforceable plan for conservation of water of the Bay and the development of its shoreline.

BCDC is currently updating portions of the Bay Plan to include current information regarding plants and wildlife. The Bay Plan is the guiding policy document for the BCDC, and the updated versions are likely to emphasize the protection of species protected under State and Federal Endangered Species Acts. It is also likely that the open water habitats in the Corte Madera area will be designated as Essential Fish Habitat in the BCDC Bay Plan, and as such, potential impacts to these areas will require analysis during the permit process. An emphasis on the functions and values of inland wetlands is also likely to be included in the new Bay Plan and would result in greater analysis of potential impacts to the Corte Madera wetland habitats that occur east of Highway 101.

