

# Appendix F

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BCDC Consistency Determination

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DEPARTMENT OF THE NAVY  
BASE REALIGNMENT AND CLOSURE  
PROGRAM MANAGEMENT OFFICE WEST  
1455 FRAZEE RD, SUITE 900  
SAN DIEGO, CA 92108-4310

Ser BPMOW.RB0104

DEC 9 2011

Ms. Jaime Michaels  
Coastal Program Analyst  
San Francisco Bay Conservation and Development Commission  
50 California Street, Suite 2600  
San Francisco, CA 94111

Dear Ms. Michaels:

This letter is to document the conclusions of our discussions concerning a phased approach to Coastal Zone Management Act (CZMA) compliance at Hunters Point Shipyard (HPS).

As we discussed, the U.S. Department of the Navy (Navy) is preparing a Supplemental Environmental Impact Statement (SEIS) for the disposal of surplus property at HPS San Francisco, California and its subsequent reuse by the City and County of San Francisco, California in a manner consistent with the amended 2010 *Hunters Point Naval Shipyard Redevelopment Plan* (2010 Reuse Plan). The Navy is required to dispose of HPS in accordance with Public Law 101-510, the Defense Base Closure and Realignment Act of 1990, as amended.

With regard to federal lands, the CZMA provides that "lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government" are excluded from the coastal zone. However, federal activities must be consistent to the maximum extent practicable with the provisions of the federally approved state coastal management program, which includes the San Francisco Bay Plan (Bay Plan) and related San Francisco Bay Area Seaport Plan (Seaport Plan).

The Navy submitted a consistency determination to BCDC on January 12, 1999 for the HPS Redevelopment Plan analyzed in the Navy's 2000 FEIS. The BCDC issued a Letter of Agreement for Consistency Determination Number CN1-99 on 8 March 1999. For this SEIS, the Navy has received two letters from BCDC that provided comments on the scope of the study (letter of October 24, 2008) and comments on the draft SEIS (letter of April 12, 2011). The Navy considered these comments and made various changes to the SEIS document based on your concerns.

The Navy's action is disposal of surplus property from federal ownership. Following disposal, the property will no longer be owned or managed by the federal government and the City and County of San Francisco would be responsible for implementing the 2010 Reuse Plan and the future owner or developer of the property would be responsible for redeveloping the property.

The Navy's action, the disposal of real property from federal ownership, would have no effect on land or water use or an approved coastal program. However, the subsequent redevelopment of the property by a future property owner or developer in a manner consistent with the 2010 Reuse Plan would potentially have an effect. Specifically, the 2010 Reuse Plan proposes land uses within a small portion of the HPS property (approximate 55-ac [22-ha] area located within HPS parcels D-1 and E [see Attachment 1]), that are inconsistent with the existing Bay Plan, Seaport Plan, and the previous 1999 Consistency Determination. The Bay Plan and Seaport Plan designate this portion of the project site as a "Port" Priority Use Area. Within the port priority use area, marine terminals are designated for receiving and shipping either containerized or bulk cargo. The 2010 Reuse Plan proposes public and recreation land uses for this land area. As such, implementation of the 2010 Reuse Plan would be inconsistent with the "Port" Priority Use designations in the current Bay Plan and Seaport Plan. No other HPS parcel or proposed land use affect a priority use area or are inconsistent with the goals and policies of the Bay Plan or Seaport Plan.

The existing "Port" Priority Use designation at the project site does not reflect current economic conditions affecting the maritime shipping industry in San Francisco and the fact that other existing and planned port facilities in the Bay Area (e.g., Port of Oakland) are being managed to meet current and anticipated port related transportation demand (CBRE Consulting and Martin Associates 2009).

In view of the lack of anticipated demand for maritime cargo facilities and to make the proposed 2010 Reuse Plan consistent with the Bay Plan and Seaport Plan, San Francisco Redevelopment Authority is currently seeking an amendment to the Bay Plan and Seaport Plan to delete the "Port" Priority Use and marine terminal designations from the HPS property, and make conforming changes to the Bay Plan and Seaport Plan maps, map notes, policies and tables (BCDC Staff Memo of November 18, 2011). It is the Navy's understanding that the amendment would be completed by mid-2012. Following such amendment, the 2010 Reuse Plan would be consistent with the Bay Plan and Seaport Plan.

Therefore, as we discussed on October 14, 2011, and on November 28, 2011, the Navy will take the steps described below to ensure compliance with the CZMA. The HPS property will be disposed in phases by the Navy and it is anticipated that parcels D-1 and E, which includes the inconsistent "Port" Priority Use area, would be disposed of in a later phase. In the event that the Bay Plan and Seaport Plan are not amended before the portions of the project site designated as "Port" Priority Use (i.e., parcels D-1 and E) are conveyed, then a new consistency determination, and if necessary an amendment to the 1999 Letter of Agreement, may be required from BCDC before disposing of the property. Prior to the transfer of parcels D-1 and E, the Navy will review and, if necessary, provide BCDC with a consistency determination in accordance with applicable provisions of the CZMA.

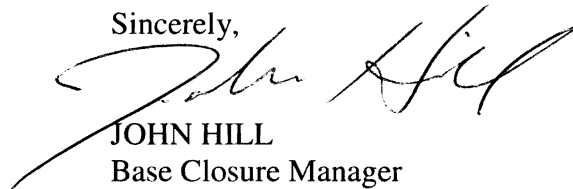
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Following disposal from federal ownership, the HPS property would be within the BCDC's jurisdiction and the future property owner and/or developer of the property would be required to obtain any applicable BCDC permits and other local, state, and federal approvals prior to implementing the 2010 Reuse Plan.

We look forward to continued collaboration with BCDC in completion of the Navy's environmental planning process. If you have any questions, please contact Mr. Ron Bochenek at (619) 532-0906 or [rjbochenek@tecinc.com](mailto:rjbochenek@tecinc.com) or [ronald.bochenek.ctr@navy.mil](mailto:ronald.bochenek.ctr@navy.mil).

Thank you for your attention and prompt response.

Sincerely,

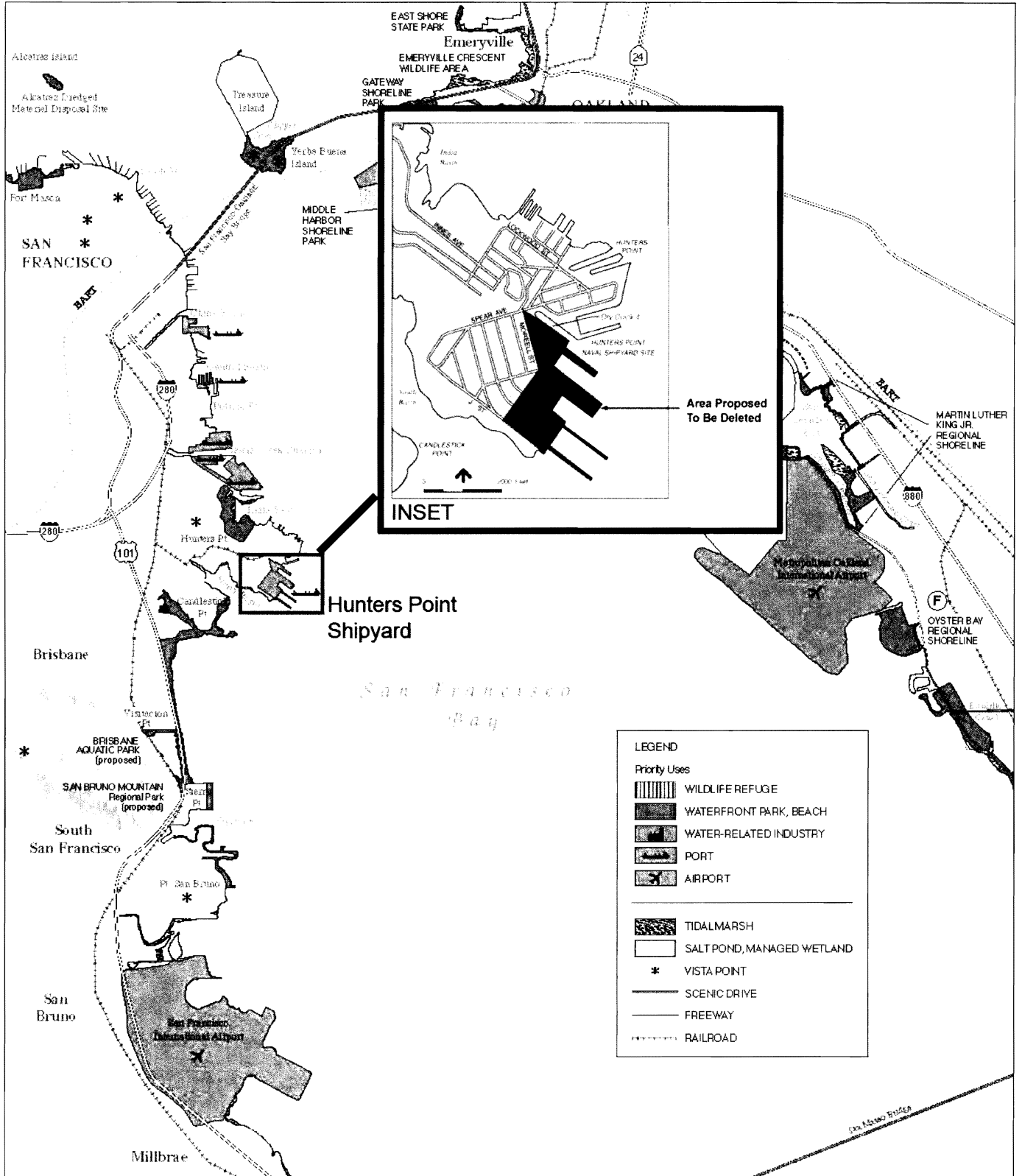


JOHN HILL  
Base Closure Manager  
By direction of the Director

Attachments: As stated

# ATTACHMENT 1

## Proposed "Port" Priority Use Changes Hunters Point Shipyard, San Francisco, CA



**SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION**

THIRTY VAN NESS AVENUE, SUITE 2011  
SAN FRANCISCO, CALIFORNIA 94102-6080  
PHONE (415) 557-3686

**LETTER OF AGREEMENT FOR CONSISTENCY  
DETERMINATION NO. CN 1-99**

March 8, 1999

United States Department of the Navy  
Engineering Field Activity, West  
Naval Facilities Engineering Command  
900 Commodore Drive  
San Bruno, California 94066-5006

ATTENTION: **John H. Kennedy**, Head,  
Environmental and Installations Planning

**Ladies** and Gentlemen:

**I. Agreement**

A. The San Francisco Bay Conservation and Development **Commission** agrees with the determination of the United **States** Department of the Navy that the following **project** is consistent with the Commission's Amended Management Program for San Francisco Bay:

**location:** In the Bay and within the 100-foot shoreline band, in the southeast portion of the San Francisco waterfront at the Hunters Point Shipyard, in the City and County of San Francisco.

**Description:** Transference of the Hunters Point Shipyard to the City and County of San Francisco and the San Francisco Redevelopment Agency for local reuse of the property. Only maritime activities consistent with the port priority use designation would **occur at** the port priority **use** area at the Hunters Point Shipyard. A variety of **uses** would **occur on** the property located outside of the port priority use **area**. Environmental **response** actions necessary for reuse of the Hunters Point Shipyard, such **as** the clean-up of contaminated sediments, would **occur** independently **from** the property transfer pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (**CERCLA**). Although under CERCLA the Navy does not formally prepare and submit a consistency determination for the selected response action, the Navy is required by law to meet the substantive requirements of the Coastal Zone Management Act and would do **so** by considering the McAteer-Petris

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Act and the Bay Plan policies for any work in BCDC's jurisdiction. **All** reuse activities occurring after the property transfer would be subject to BCDC permitting requirements.

B. This agreement is given based on the information submitted by or on behalf of the United States Department of the Navy, in its letters dated January 12, 1999, and February 16, 1999.

**II. Findings and Declarations**

A. On January 12, 1999, and February 16, 1999, the United States Department of the Navy submitted a description of the project and requested that the Commission concur that the proposed project is consistent with its Amended Coastal Zone Management Program for San Francisco Bay. Based on the information contained in those materials, the proposed project is hereby found to be consistent with the provisions of the McAteer-Petris Act and the policies of the San Francisco Bay Plan in that: (1) the designated port priority use area would only be used for maritime activities consistent with the Seaport Plan after the transfer of the Hunters Point Shipyard to the City and County of San Francisco and the San Francisco Redevelopment Agency for local reuse of the property; (2) the environmental response actions required for reuse of the site would meet the substantive requirements of the Coastal Zone Management Act by considering the McAteer-Petris Act and the Bay Plan policies for any work in BCDC's jurisdiction; and (3) all reuse activities occurring after the property transfer would be subject to BCDC permitting requirements.

B. A programmatic Revised Draft Environmental Impact Statement/Environmental Impact Report, issued by the United States Department of the Navy and the City and County of San Francisco, was prepared to assess the environmental impacts of the disposal and reuse of the Hunters Point Shipyard. The document states that no adverse environmental impacts would result from the transfer of Hunters Point Shipyard from the United States Department of the Navy to the City and County of San Francisco and the San Francisco Redevelopment Agency for local reuse of the property.

C. The Commission, pursuant to the Coastal Zone Management Act of 1972, as amended (16 USC Section 1451), and the implementing Federal Regulations in 15 CFR Part 930, is required to review Federal projects within San Francisco Bay and agree or disagree with the Federal agency's determination that the project is consistent with the Commission's Amended Coastal Zone Management Program for San Francisco Bay. This letter constitutes such review and comment.

D. This project was listed with the Commission on February 19, 1999, at which time no Commissioner or other party objected to the project.



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



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**WILL TRAVIS**  
Executive Director

WT/AG/ra

**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, Attn: Mike **Monroe**, W-3-3

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