

**CALENDAR ITEM
C44**

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08/15/14
PRC 7230.1
J. Sampson
H. Wyer

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**ADOPTION OF A FINAL MITIGATED NEGATIVE DECLARATION AND MITIGATION
MONITORING PROGRAM AND APPROVAL OF A LEASE AMENDMENT**

LESSEE:

GWF Power Systems, L.P.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Suisun Bay, adjacent to 555 Nichols Road, Bay Point, Contra Costa County.

AUTHORIZED USE:

Continued maintenance of a decommissioned six-inch diameter outfall pipeline.

LEASE TERM:

30 years, beginning August 1, 1988.

CONSIDERATION:

\$300 per year, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Liability insurance combined single-limit coverage in an amount no less than \$500,000.

PROPOSED AMENDMENT:

Amend Lease No. 7230.1, effective August 15, 2014, to include the following:

1. Amend Section 1, Term, to allow termination of the lease upon the final removal of the facilities from the Lease Premises and acceptance of a lease quitclaim by the California State Lands Commission (Commission).

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2. Amend Section 2, Special Provisions, to include a provision detailing the survivability of the lease terms beyond expiration until the Lessee fulfills all obligations to restore the Lease Premises, as required in the lease.
3. Amend Section 2, Special Provisions, to include construction language related to the conduct of work performed on the Lease Premises.
4. Amend the lease to include Exhibit C, the Mitigation Monitoring Program for the final removal of the decommissioned 6 diameter-inch outfall pipeline from the Lease Premises.

All other terms and conditions of the lease will remain in effect without amendment.

OTHER PERTINENT INFORMATION:

1. The Lessee no longer owns the upland adjoining the lease premises but does retain ownership of an appurtenant easement.
2. On August 10, 1988, the Commission authorized a General Lease – Right-of-Way Use to the GWF Power Systems Company, Inc. for the construction, use, and maintenance of three submerged outfalls serving three upland power plants. On February 21, 2013, the Commission authorized an assignment to GWF Power Systems, L.P. (GWF)
3. GWF operated three power plants from 1988 to 2012. The upland sites were utilized to generate electrical power by burning petroleum coke. Site V power plant was the only facility that utilized an outfall. The outfalls at Site III and Site IV were never constructed. In 2012-13, GWF began restoration efforts for the uplands and lease premises of all three power plants. During that time, all the upland facilities were demolished. The six-inch diameter outfall pipeline used in conjunction with the Site V upland power plant was decommissioned. The pipeline extends from the bank to 275 feet into the bay, buried three feet below the mud line, terminating into a diffuser.

The Lessee proposes to cut the pipeline at the Ordinary High Water Mark, located on the adjoining littoral property, cut two signage pilings 24 inches below the mud line, and remove the pipeline by a barge-mounted crane. After the pipeline is removed, the lease premises and bay floor will be restored to pre-Project conditions.

4. The Commission is the lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.)

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and conducted an Initial Study to determine if the Project may have a significant effect on the environment (State CEQA Guidelines, § 15063).

Although the Initial Study identified several potentially significant impacts to Biological Resources, Hazards and Hazardous Materials, and Hydrology and Water Quality, mitigation measures were proposed and agreed to by the Applicant prior to public review that would avoid or mitigate the identified potentially significant impacts “to a point where clearly no significant effects would occur” (State CEQA Guidelines, § 15070, subd. (b)(1)). Consequently, the Initial Study concluded that “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” (State CEQA Guidelines, § 15070, subd. (b)(2)), and a Mitigated Negative Declaration (MND) was prepared.

5. Pursuant to the Commission’s delegation of authority and the State CEQA Guidelines, section 15025, staff prepared an MND identified as CSLC MND No. 777, State Clearinghouse No. 2014062059. The Proposed MND and Initial Study were circulated for at least a 30-day public review period from June 18, 2014 to July 22, 2014, and staff received no comment letters.
6. Based upon the Initial Study, the MND, and the comments received in response thereto, there is no substantial evidence that the Project will have a significant effect on the environment; California Code of Regulations, Title 14, section 15074, subdivision (b). A Mitigation Monitoring Program was prepared in conformance with the provisions of CEQA (Pub. Resources Code, § 21081.6), and is contained in Exhibit C, attached hereto.
7. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff’s consultation with the persons nominating such lands and through the CEQA review process, it is the staff’s opinion that the Project, as proposed, is consistent with its use classification.

APPROVALS NEEDED:

U.S. Army Corps of Engineers
National Marine Fisheries Service
U.S. Fish and Wildlife Service
San Francisco Bay Regional Water Quality Control Board

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San Francisco Bay Conservation and Development Commission
California Department of Fish and Wildlife

EXHIBITS:

- A. Land Description
- B. Site and Location Map
- C. Mitigation Monitoring Program

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Certify that the MND, CSLC MND No. 777 (July 2014), State Clearinghouse No. 2014062059, was prepared for this Project pursuant to the provisions of CEQA, that the Commission reviewed and considered the information contained therein and in the comments received in response thereto and that the MND reflects the Commission's independent judgment and analysis.

Adopt the MND and determine that the Project, as approved, will not have a significant effect on the environment.

Adopt the Mitigation Monitoring Program, as contained in Exhibit C, attached hereto.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

Authorize the amendment of Lease No. PRC 7230.1, a General Lease – Right-of-Way Use, to include provisions specific to the removal of the authorized facilities and survivability of the lease terms, addition of construction language, and addition of Exhibit C – Mitigation Monitoring Program; acceptance of a lease quitclaim deed, and termination of the lease, upon acceptable completion of the removal of all facilities from the Lease Premises, effective August 15, 2014. All other terms and conditions of the lease will remain in effect without amendment.

EXHIBIT A

PRC 7230.1

LAND DESCRIPTION

Three strips of tide and submerged land each 10 feet wide in Contra Costa County, California, the centerlines of said strips being described as follows:

PARCEL 1 (Site 3)

BEGINNING at a point having coordinates of N=554,110, E=1,631,430; thence North 100 feet to the end of the herein described line.

PARCEL 2 (Site 4)

BEGINNING at a point having coordinates of N=555,800, E=1,638,180; thence North 100 feet to the end of the herein described line.

PARCEL 3 (Site 5)

BEGINNING at a point having coordinates of N=568,650, E=1,571,770; thence North 100 feet to the end of the herein described line.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark..

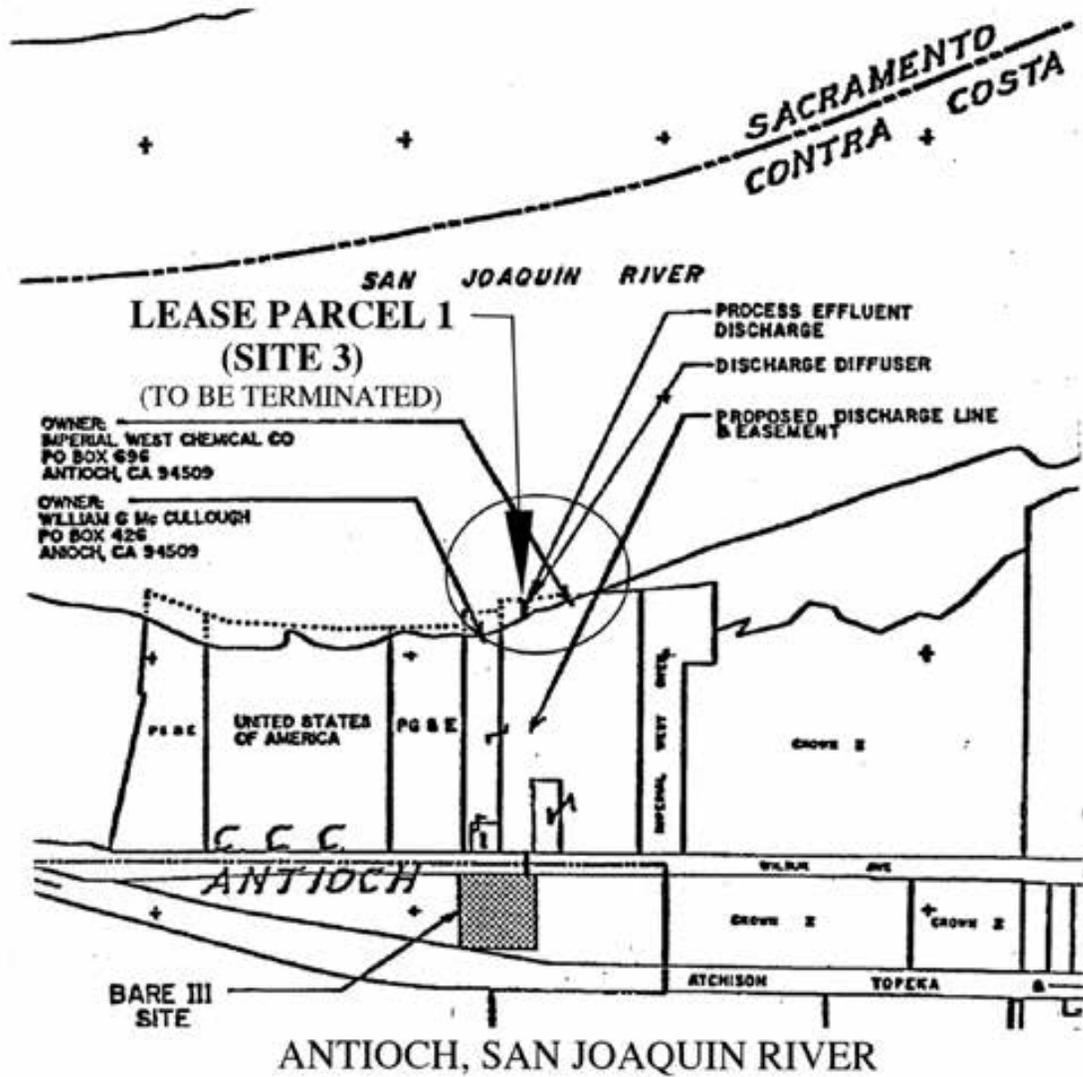
This description is based on the California Coordinate System of 1927, Zone 3.

END OF DESCRIPTION

REVISED JUNE 27, 1988 BY BIU 1.

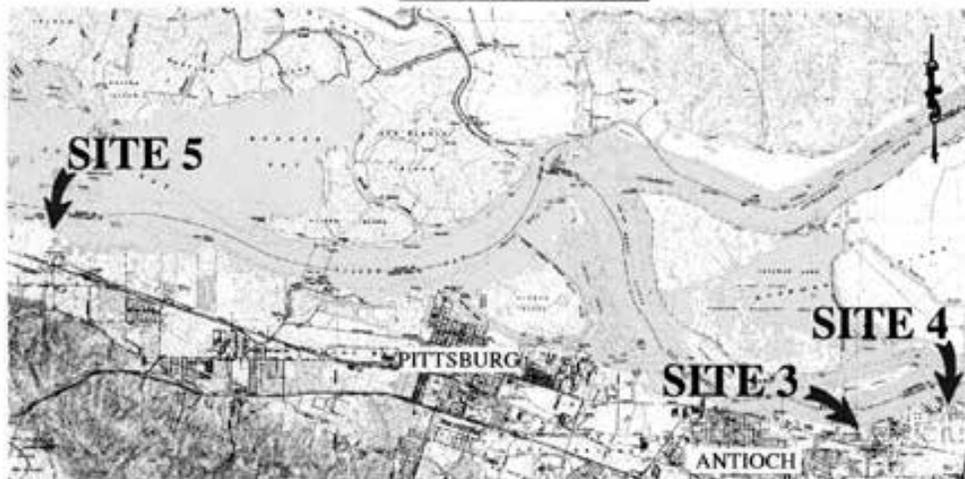
NO SCALE

SITE



NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 7230.1
 GWF POWER SYSTEMS, L.P.
 APN 051-020-010
 GENERAL LEASE -
 RIGHT-OF-WAY USE
 CONTRA COSTA COUNTY

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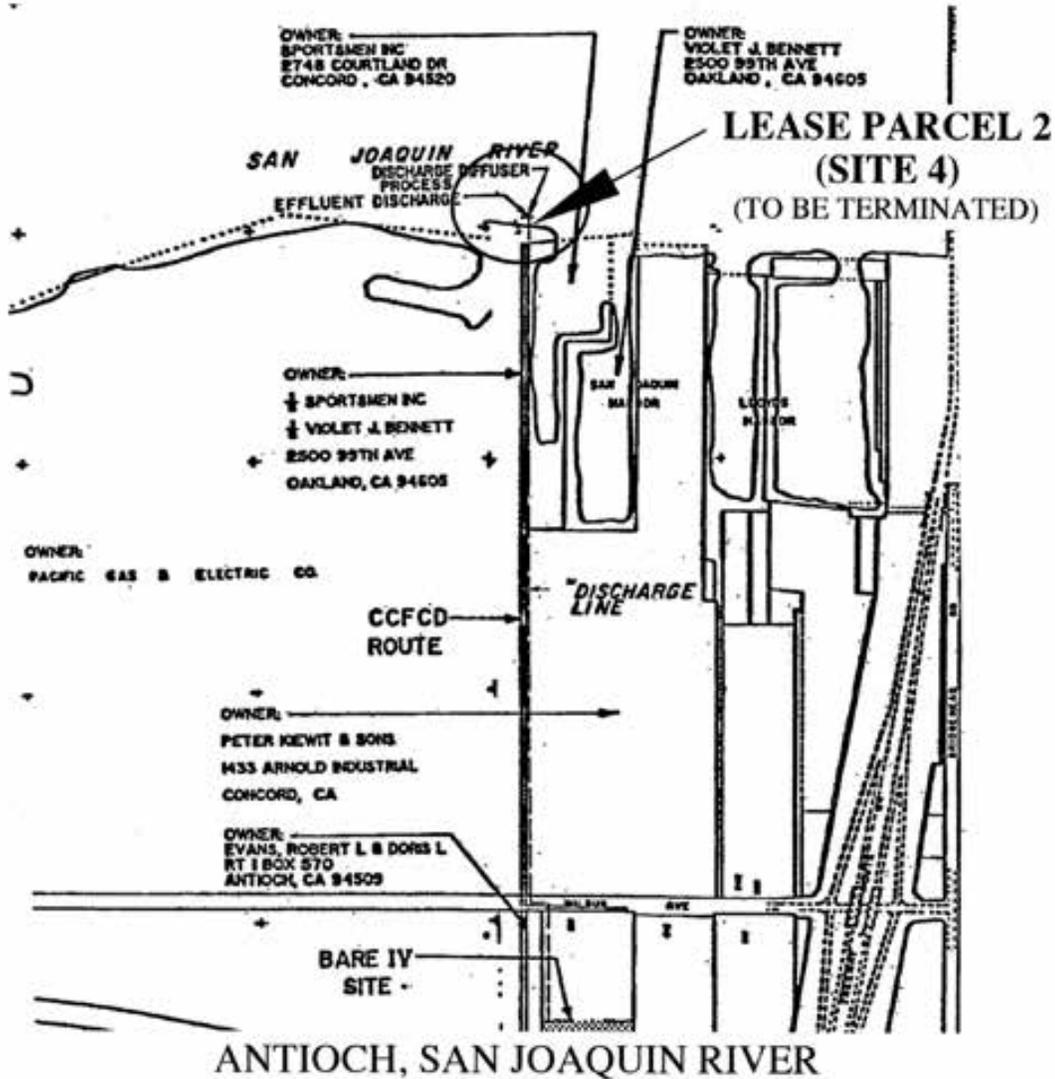


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This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

NO SCALE

SITE



NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 7230.1
 GWF POWER SYSTEMS, L.P.
 APN 051-040-065
 GENERAL LEASE -
 RIGHT-OF-WAY USE
 CONTRA COSTA COUNTY

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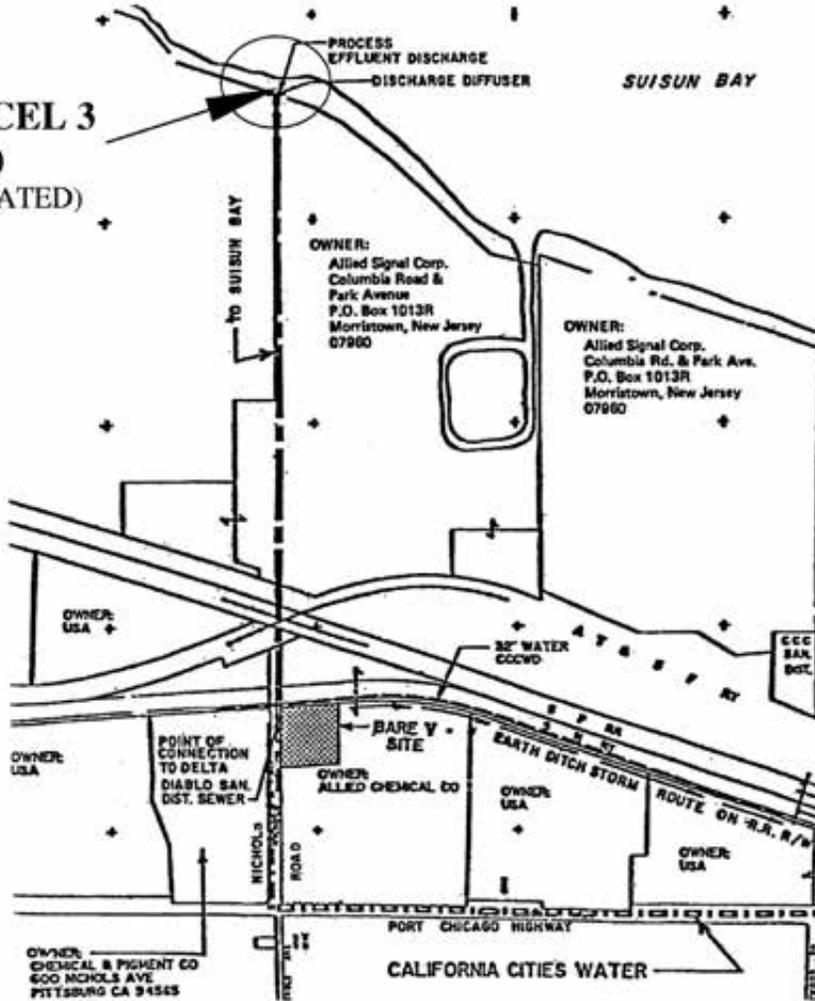


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NO SCALE

SITE

**LEASE PARCEL 3
(SITE 5)
(TO BE TERMINATED)**



555 NICHOLS ROAD, SUISUN BAY

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 7230.1
 GWF POWER SYSTEMS, L.P.
 APN 099-030-015
 GENERAL LEASE -
 RIGHT-OF-WAY USE
 CONTRA COSTA COUNTY

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EXHIBIT C
CALIFORNIA STATE LANDS COMMISSION
MITIGATION MONITORING PROGRAM
GWF OUTFALL REMOVAL PROJECT
(State Clearinghouse No. 2014062059)

The California State Lands Commission (CSLC) is the lead agency under the California Environmental Quality Act (CEQA) for the **GWF Outfall Removal Project (Project)**. In conjunction with approval of this Project, the CSLC adopts this Mitigation Monitoring Program (MMP) for implementation of mitigation measures (MMs) for the Project to comply with Public Resources Code section 21081.6, subdivision (a) and State CEQA Guidelines sections 15091, subdivision (d) and 15097.

The Project authorizes GWF Power Systems, L.P. (GWF or Applicant) to remove its outfall structure from Suisun Bay in accordance with the terms and conditions of its existing CSLC Lease No. PRC 7230.

PURPOSE

It is important that significant impacts from the Project are mitigated to the maximum extent feasible. The purpose of a MMP is to ensure compliance and implementation of MMs; this MMP shall be used as a working guide for implementation, monitoring, and reporting for the Project's MMs.

ENFORCEMENT AND COMPLIANCE

The CSLC is responsible for enforcing this MMP. The Project Applicant is responsible for the successful implementation of and compliance with the MMs identified in this MMP. This includes all field personnel and contractors working for the Applicant.

MONITORING

The CSLC staff may delegate duties and responsibilities for monitoring to other environmental monitors or consultants as necessary. Some monitoring responsibilities may be assumed by other agencies, such as affected jurisdictions, cities, and/or the California Department of Fish and Wildlife (CDFW). The CSLC and/or its designee shall ensure that qualified environmental monitors are assigned to the Project.

Environmental Monitors. To ensure implementation and success of the MMs, an environmental monitor must be on site during all Project activities that have the potential to create significant environmental impacts or impacts for which mitigation is required. Along with the CSLC staff, the environmental monitor(s) are responsible for:

- Ensuring that the Applicant has obtained all applicable agency reviews and approvals;

- Coordinating with the Applicant to integrate the mitigation monitoring procedures during Project implementation (for this Project, many of the monitoring procedures shall be conducted during the deconstruction phase); and
- Ensuring that the MMP is followed.

The environmental monitor shall immediately report any deviation from the procedures identified in this MMP to the CSLC staff or its designee. The CSLC staff or its designee shall approve any deviation and its correction.

Workforce Personnel. Implementation of the MMP requires the full cooperation of Project personnel and supervisors. Many of the MMs require action from site supervisors and their crews. The following actions shall be taken to ensure successful implementation.

- Relevant mitigation procedures shall be written into contracts between the Applicant and any contractors.
- For this Project, a Worker Environmental Awareness Program (WEAP) (under MM BIO-1) shall be implemented and all personnel would be required to participate.

General Reporting Procedures. A monitoring record form shall be submitted to the Applicant, and once the Project is complete, a compilation of all the logs shall be submitted to the CSLC staff. The CSLC staff or its designated environmental monitor shall develop a checklist to track all procedures required for each MM and shall ensure that the timing specified for the procedures is followed. The environmental monitor shall note any issues that may occur and take appropriate action to resolve them.

Public Access to Records. Records and reports are open to the public and would be provided upon request.

MITIGATION MONITORING TABLE

This section presents the mitigation monitoring table for the following environmental disciplines: Biological Resources, Hazards and Hazardous Materials, and Hydrology and Water Quality. All other environmental disciplines were found to have less than significant or no impacts and are therefore not included below. The table lists the following information, by column:

- Impact;
- Mitigation measure (full text of the measure);
- Location (where impact occurs and mitigation measure should be applied);
- Monitoring/reporting action (action to be taken by monitor or Lead Agency);
- Timing (before, during, or after construction; during operation, etc.);
- Responsible party; and
- Effectiveness criteria (how the agency can know if the measure is effective).

Table C-1. Mitigation Monitoring Program

Potential Impact	Mitigation Measure (MM)	Location	Monitoring / Reporting Action	Timing	Responsible Party	Effectiveness Criteria
Biological Resources						
Disrupt/Disturb Vulnerable Life Stages and Habitat of Fisheries Resources	MM BIO-1 Worker Environmental Awareness Program. A qualified biologist shall conduct pre-Project training (WEAP) for work crew members prior to any Project site activities. The training shall include a discussion of sensitive biological resources within the Project area and the potential presence of special-status species, special-status species' habitats, and protection measures to ensure species are not impacted by Project activities and Project boundaries. The WEAP shall also include daily trash containment/removal requirements, and prohibit workers from bringing domestic animals (e.g., dogs) and firearms to the Project site, in order to ensure the protection of native wildlife.	Not applicable	Include WEAP in final plans for submittal to CSLC; compliance monitoring Signature sheet completed for workers taking training	Pre- removal activities, and during removal, as appropriate and necessary	GWF	Sensitive species and habitats are avoided
Disrupt/Disturb Vulnerable Life Stages and Habitat of Fisheries Resources	MM BIO-2 Work Windows. All Project activities shall be conducted between September 1 and October 31.	Bay and shoreline work areas	Include protections in final plan documents for submittal to CSLC; compliance monitoring Submittal of Monitoring Record	Pre- removal activities, and during removal, and demobilization	GWF	In-water work performed between September 1 and October 31
Disrupt/Disturb Vulnerable Life Stages and Habitat of Fisheries Resources	MM BIO-3 In Water Turbidity Protections. A turbidity curtain shall be installed to protect fish from potential water quality/turbidity effects. The curtain (100 linear feet) shall be installed and maintained around the shoreline terminus flange of the pipe to contain muddy water and sediment	Bay and shoreline work areas	Include protections in final plan documents for submittal to CSLC;	Pre- removal activities, and during removal, and demobilization	GWF	Sediment resuspension is minimized

Potential Impact	Mitigation Measure (MM)	Location	Monitoring / Reporting Action	Timing	Responsible Party	Effectiveness Criteria
	materials that escape from the 6-inch-diameter outfall pipe during pipe removal. Sawdust generated during cutting and removal of timber pilings will also be contained in this curtain and/or skimmed and removed if floating in water (and disposed of in plastic bags). No activities that would entrain or impinge fish shall be used.		compliance monitoring Submittal of Monitoring Record			
Exposure of Wildlife and Fisheries Resources to Toxic Substances	<p>MM BIO-4. Protection from Release of Toxic Substances. The Applicant shall implement the following measures to prevent the release of toxic substances.</p> <ul style="list-style-type: none"> • All engine-powered equipment used and operated upon and from the deck of the barge shall incorporate the use of drip-pans or other means to retain fluids beneath the equipment. • Only approved and certified fuel cans with “no-spill” spring loaded lids shall be used when fueling up diesel or gas engines. Engines will be turned OFF and fueling will not be done over the water. A spill kit with absorbent diapers shall be readily available next to each filling area. • A continuous floating oil-absorbent sock shall be deployed and maintained around the entire barge to contain any accidental leakage of fuel or hydraulic fluids. 	Bay and shoreline work areas	<p>Include protections in final plan documents for submittal to CSLC; compliance monitoring</p> <p>Submittal of Monitoring Record</p>	Pre- removal activities, and during removal and demobilization, as appropriate and necessary	GWF	Toxic materials exposure is minimized; oil and/or fuel spills are prevented
Disturbance and Disruption of Vulnerable Life Stages (i.e., nesting season) of Special-status Wildlife in Adjacent Marsh	<p>MM BIO-1 WEAP (see above)</p> <p>MM BIO-2 Work Windows (see above)</p> <p>MM BIO-5. Confine Vehicle Use to Established Roadway. Project-related vehicle use and any other terrestrial activity shall be confined to the established levee road. No staging, driving, walking, or any other human activity shall occur in the salt marsh habitat. Vehicles shall not exceed 20 miles per hour to ensure birds/wildlife that may</p>	Bay and shoreline work areas	<p>Include WEAP and protections in final plan documents for submittal to CSLC; compliance monitoring</p> <p>Signature sheet completed for</p>	Pre- removal activities, and during removal and demobilization as appropriate and necessary	GWF	Sensitive species and habitats are avoided

Potential Impact	Mitigation Measure (MM)	Location	Monitoring / Reporting Action	Timing	Responsible Party	Effectiveness Criteria
	be on or crossing the road have an opportunity to move out of harm's way.		workers taking training			
Hazards and Hazardous Materials						
Potential Release of Hazardous Substances	MM BIO-3 In Water Turbidity Protections (see above) MM BIO-4 Protection from Release of Toxic Substances (see above)	Bay and shoreline work areas	Include protections in final plan documents for submittal to CSLC; compliance monitoring Submittal of Monitoring Record	Pre-removal activities, and during removal and demobilization, as appropriate and necessary	GWF	Sediment resuspension is minimized Toxic materials exposure is minimized; oil and/or fuel spills are prevented
Hydrology and Water Quality						
Turbidity and Resuspension of Bay Sediments in Water Column	MM BIO-3 In Water Turbidity Protections (see above) MM BIO-4 Protection from Release of Toxic Substances (see above)	Bay and shoreline work areas	Include protections in final plan documents for submittal to CSLC; compliance monitoring Submittal of Monitoring Record	Pre-removal activities and during removal and demobilization, as appropriate and necessary	GWF	Sediment resuspension is minimized Toxic materials exposure is minimized; oil and/or fuel spills are prevented