This appendix includes the Clean Water Act and Rivers and Harbors Act jurisdictional determination letter and map issued by the U.S. Army Corps of Engineers for Gnoss Field Airport.

*Clean Water Act, 33 USC 1251–1387* establishes the basic structure for regulating discharges of pollutants into the waters of the United States. It gives the USEPA the authority to implement pollution control programs, and contains requirements to set and enforce discharge limitations and to set water quality standards for all contaminants in surface waters. Section 404 requires applicants to obtain a permit for placement of dredge or fill material into non-wetland Waters of the U.S., including jurisdictional wetlands, from the U.S Army Corps of Engineers or a delegated State agency, as appropriate.

The Clean Water Act, Section 404 (b) (1) Guidelines1 states the following:

(a) The purpose of these Guidelines is to restore and maintain the chemical, physical, and biological integrity of waters of the United States through the control of discharges of dredged or fill material.

(b) Congress has expressed a number of policies in the Clean Water Act. These Guidelines are intended to be consistent with and to implement those policies.

(c) Fundamental to these Guidelines is the precept that dredged or fill material should not be discharged into the aquatic ecosystem, unless it can be demonstrated that such a discharge will not have an unacceptable adverse impact either individually or in combination with known and/or probable impacts of other activities affecting the ecosystems of concern.

(d) From a national perspective, the degradation or destruction of special aquatic sites, such as filling operations in wetlands, is considered to be among the most severe environmental impacts covered by these Guidelines. The guiding principle should be that degradation or destruction of special sites may represent an irreversible loss of valuable aquatic resources.

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1 40 CFR PART 230 SECTION 404(b)(1) Guidelines for Specification of Disposal Sites for Dredged or Fill Material
Regulatory Division

SUBJECT: File Number 2008-00293N

Mr. Craig Tackabery
County of Marin
Department of Public Works
P.O. Box 4186
San Rafael, California 94913-4186

Dear Mr. Tackabery:

Thank you for your submittal of March 19, 2009 requesting confirmation of the extent of Corps of Engineers jurisdiction at Marin County Airport/Gnoss Field Airport located on an approximately 213-acre site between State Highway 101 to the west and the Petaluma River to the east in Marin County, California.

The enclosed map entitled, "Gnoss Field Airport, Delineated Waters of the U.S.,” in one (1) sheet date certified August 26, 2009, accurately depicts the extent and location of Corps jurisdiction within the project boundary. The jurisdictional delineation is based on the current conditions of the site, as verified during a field investigation of June 11, 2009, and other data included with your submittal. This jurisdictional delineation will expire in three (3) years from the date of this letter, unless new information or a change in field conditions warrants a revision to the delineation map prior to the expiration date.

All proposed work and/or structures extending bayward or seaward of the line on shore reached by: (1) mean high water (MHW) in tidal waters, or (2) ordinary high water in non-tidal waters designated as navigable waters of the United States, must be authorized by the Corps of Engineers pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. Section 403). Additionally, all work and structures proposed in unfilled portions of the interior of diked areas below former MHW must be authorized under Section 10 of the same statute.

All proposed discharges of dredged or fill material into waters of the United States must be authorized by the Corps of Engineers pursuant to Section 404 of the Clean Water Act (CWA) (33 U.S.C. Section 1344). Waters of the United States generally include tidal waters, lakes, ponds, rivers, streams (including intermittent streams), and wetlands.

Your proposed work may be within our jurisdiction and a permit may be required. Application for Corps authorization should be made to this office using the application form in the enclosed pamphlet. To avoid delays it is essential that you enter the file number at the top of
this letter into Item No. 1. The application must include plans showing the location, extent and character of the proposed activity, prepared in accordance with the requirements contained in this pamphlet. You should note, in planning your work, that upon receipt of a properly completed application and plans, it may be necessary to advertise the proposed work by issuing a public notice for a period of 30 days.

If an individual permit is required, it will be necessary for you to demonstrate to the Corps that your proposed fill is necessary because there are no practicable alternatives, as outlined in the U.S. Environmental Protection Agency’s Section 404(b)(1) Guidelines. A copy is enclosed to aid you in preparation of this alternative analysis.

However, our nationwide or regional permits have already authorized certain activities provided specified conditions are met. Your completed application will enable us to determine whether your activity is already authorized. You are advised to refrain from commencement of your proposed activity until a determination has been made that it is covered by an existing permit. Commencement of work before you received our notification may be interpreted as a violation of our regulations.

You are advised that the Corps has established an Administrative Appeal Process, as described in 33 CFR Part 331 (65 FR 16,486; Mar. 28, 2000), and outlined in the enclosed flowchart and "Notification of Administrative Appeal Options, Process, and Request for Appeal" form (NAO-RFA). If you do not intend to accept the approved jurisdictional determination, you may elect to provide new information to the District Engineer for reconsideration or submit a completed NAO-RFA form to the Division Engineer to initiate the appeal process. You will relinquish all rights to appeal, unless the Corps receives new information or a completed NAO-RFA form within sixty (60) days of the date of the NAO-RFA.

You may refer any questions on this matter to Mr. Bryan Matsumoto of my staff by telephone at 415-503-6786 or by e-mail at bryan.t.matsumoto@usace.army.mil. All correspondence should be addressed to the Regulatory Division, North Branch, referencing the file number at the head of this letter.

Sincerely,

Jane M. Hicks
Chief, Regulatory Division

Enclosures
Copy Furnished (w/ delineation map only):

RWQCB, Oakland, CA (Attn: Marla Lafer)
Foothill Associates, Chico, CA (Attn: Brian Mayerle)
This delineation utilizes the Corps' 1987 three-parameter methodology.