

# **APPENDIX H**

## **ENVIRONMENTAL PROTECTION AND COMPLIANCE REVIEW**

### **Structural Summary**

The planning, design, site acquisition, construction, operation, and maintenance of the Great Redwood Trail (GRT) are exempt from the California Environmental Quality Act (CEQA) under Public Resources Code section 21080.57 and the Budget Act of 2025 as amended on September 17, 2025 by Senate Bill [SB] 105, because the GRT is a non-motorized trail facility funded in part by the Safe Drinking Water, Wildfire Prevention, Drought Preparedness, and Clean Air Fund (“Proposition 4”). While the exemption serves to expedite environmental restoration and construction, the Great Redwood Trail Agency (GRTA) is committed to environmental stewardship and resource protection. Numerous state and federal environmental regulations apply to the GRT. This appendix is intended to summarize applicable and potentially applicable state and federal laws. It forms the basis of the GRT Compliance Checklist (Compliance Checklist) which will be used together with information about proposed projects to determine what environmental requirements will apply to each GRT project.

The GRT covers varied terrain, and different environmental issues arise in different segments. To ensure regulatory compliance and consistency with GRTA’s adopted commitment to environmental restoration and good land stewardship, prior to providing site control or construction approval for segments of the GRT, GRTA will review each proposal for consistency with the Master Plan, GRTA’s adopted policies, and applicable regulations.

The Compliance Checklist is intended to provide a substantive outline to staff and partners for identifying topics to be considered and addressed in segment development and design documents. This information will guide GRTA staff recommendations and feedback on proposed GRT development and implementation activities, as well as GRTA Board review and approval of same. GRTA will conduct or require additional technical studies or plans as needed at GRTA’s discretion based on site-specific conditions, regulatory requirements, and GRTA’s stewardship mission. GRTA’s policy will be that findings and recommended measures will be presented to the GRTA Board for consideration during public meetings when discretionary approvals for trail development are proposed. GRTA compliance review will be implemented using the Compliance Checklist upon adoption of the Master Plan. The GRTA compliance review process will be updated from time to time by GRTA as the needs of the GRT and changes in law may require.

# Existing Environmental Regulatory Framework

## 1. Protection of Biological Resources

### Federal Laws and Regulations

#### *Federal Endangered Species Act*

The purpose of the Endangered Species Act (ESA) (16 USC Section 1531 et seq.) is to conserve the ecosystems upon which listed species depend. The law's goal is to "recover" listed species such that the protections of the ESA are no longer needed. The ESA requires that recovery plans be developed that describe the steps necessary to restore the species. Similarly, the ESA provides for the designation of "critical habitat" when prudent and determinable.

United States Fish and Wildlife Service (USFWS) and National Oceanic and Atmospheric Administration Fisheries (NOAA Fisheries) regulate the taking of species listed in the ESA as threatened or endangered. In general, persons subject to the ESA (including private parties) are prohibited from "taking" endangered or threatened fish and wildlife species on private property, and from "taking" endangered or threatened plants in areas under federal jurisdiction or in violation of state law. Under Section 9 of the ESA, the definition of "take" is to "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." USFWS has also interpreted the definition of "harm" to include significant habitat modification that could result in take. There is currently a proposed rule (Federal Register Vol. 90 No. 73, USFWS 2025) to rescind the definition of "harm" from ESA's "take" definition; however, a final rule has not been published.

#### - Section 7 of the ESA

Section 7(a)(2) requires federal agencies to consult with USFWS or NOAA Fisheries and ensure that federal agency actions are not likely to jeopardize the continued existence of any endangered or threatened species or result in destruction or adverse modification of designated critical habitat for listed species. If jeopardy or adverse modification is found, USFWS or NOAA Fisheries shall suggest reasonable and prudent alternatives, which would not violate subsection (a)(2) and can be taken by the federal agency or applicant implementing the action.

Section 7(a)(3) states that a federal agency shall consult with USFWS or NOAA Fisheries on any agency action, at the request of, and in cooperation with, the applicant if the applicant has reason to believe that implementing the action will likely affect endangered or threatened species.

Section 7(a)(4) requires that a federal agency confer with USFWS or NOAA Fisheries if an agency action is likely to jeopardize the continued existence of any species proposed for listing.

Section 7(c)(1) requires federal agencies to ask the Secretary of the Interior or the Secretary of Commerce if threatened or endangered species may be present in the area of a proposed action, and if so, the agency shall conduct a biological assessment to identify any threatened or endangered species affected by the action.

Section 7 of the ESA would apply to GRT segment-level development if take of a federally listed wildlife species is determined to be likely to occur, and the proposed project has a federal nexus (e.g., federal funding, issuance of a permit from the US Army Corps of Engineers (USACE) for impacts on wetlands, use of federal lands).

- Section 9 of the ESA

Section 9(a)(1) of the ESA prohibits take of fish or wildlife species listed as endangered or threatened without a federal permit. Section 9(a)(2) lists separate protections for plants but does not include the term take in the list of prohibitions for plants. Specifically, Section 9(a)(2) of the ESA prohibits removal or reduction to possession and malicious damage or destruction of listed plant species on federal lands and the removal, cutting, digging up, or damaging or destroying of listed plants in violation of state law.

Because Section 9 explicitly prohibits the taking of “fish or wildlife” species only and provides separate protections for plants that do not include prohibition of take, case law has determined that incidental take of plants is not prohibited under the ESA, but federal agencies need to consider the effects of their actions on listed plant species to ensure they are not likely to jeopardize the continued existence of a listed species and consultation with USFWS is required to make this determination. In the case of plants, USFWS issues “Conservation Recommendations” rather than Incidental Take Statements where an action is likely to adversely affect, but not likely to jeopardize a threatened or endangered plant species. Conservation recommendations are discretionary, not mandatory. If the conclusion is that the action is likely to jeopardize a listed plant, USFWS issues reasonable and prudent alternatives and mandatory measures to avoid jeopardy.

Section 9 of the ESA applies to the GRT project, and prohibits take of federally listed species resulting from construction and operations/maintenance of GRT projects.

- Section 10 of the ESA

Section 10 of the ESA and its implementing regulations define the requirements for applying for an incidental take permit (ITP) for non-federal agencies. Section 10 requires preparation of a habitat conservation plan (HCP) by the project applicant. HCPs are planning documents required as part of an application for an ITP. They describe the anticipated effects of the proposed taking, how those impacts will be minimized or mitigated, and how the HCP is to be funded. The ITP would allow the permit-holder to legally proceed with an activity that would otherwise result in the unlawful take of a listed species. The permit-holder also has assurances from USFWS or NOAA Fisheries through the “No Surprises” regulation that if “unforeseen circumstances” arise, USFWS or NOAA Fisheries will not require the commitment of additional land, water, or financial compensation or additional restrictions on the use of land, water, or other natural resources beyond the level otherwise agreed to in the HCP without the consent of the permittee. The purpose of the ITP is to exempt non-federal permit-holders—such as state agencies and private landowners—from the prohibitions of Section 9, not to authorize the activities that result in take.

Section 10 of the ESA would apply to the GRT project if take of a federally listed wildlife species is determined to be likely to occur, and the proposed project does not have a federal nexus (e.g., federal funding, issuance of a permit from USACE for impacts on wetlands, use of federal lands).

#### *Migratory Bird Treaty Act*

The Migratory Bird Treaty Act (MBTA), first enacted in 1918, provides for protection of international migratory birds and authorizes the Secretary of the Interior to regulate the taking of migratory birds. The MBTA provides that it will be unlawful, except as permitted by regulations, to pursue, take, or kill any migratory bird, or any part, nest, or egg of any such bird. Under the MBTA, “take” is defined as “to pursue, hunt, shoot, wound, kill, trap, capture, or collect, or any attempt to carry out these activities.” Take does not include habitat destruction or alteration, provided there is not a direct taking of birds, nests, eggs, or parts thereof. The current list of species protected by the MBTA can be found in Title 50 of the Code of Federal Regulations (CFR), Section 10.13 (50 CFR 10.13). The list includes nearly all birds native to the United States.

#### *Bald and Golden Eagle Protection Act*

The Bald and Golden Eagle Protection Act, enacted in 1940 and amended multiple times since, prohibits the taking of bald and golden eagles without a permit from the Secretary of the Interior. Similar to ESA, the Bald and Golden Eagle Protection Act defines “take” to include “pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb.” (16 USC Sections 668–668c) For the purpose of the Act, disturbance that would injure an eagle, decrease productivity, or cause nest abandonment, including habitat alterations that could have these results, are considered take and can result in civil or criminal penalties.

#### *Marine Mammal Protection Act*

The Marine Mammal Protection Act (MMPA) (16 USC Chapter 31), first enacted in 1972, provides for protection of all marine mammals (whales, dolphins, seals, and sea lions) in the United States. The MMPA provides that it would be unlawful, with certain permitted exceptions, to take a marine mammal in waters of the United States. Under the MMPA, “take” is defined as “to harass, hunt, capture, collect, or kill, or attempt to harass, hunt, capture, collect, or kill any marine mammal.”

### **California Laws and Regulations**

#### *California Endangered Species Act*

Pursuant to the California Endangered Species Act (CESA), a permit from California Department of Fish and Wildlife (CDFW) is required for projects that could result in the “take” of fish, wildlife, or plant species designated as endangered, threatened, or candidates for listing by the Fish and Game Commission. Under CESA, “take” is defined as “hunt, pursue, catch, capture, or kill” or attempt thereof, but does not include “harm” or “harass,” as does the federal definition. As a result, the threshold for take is higher under CESA than under ESA. Authorization for take of state-listed species can be obtained through an ITP or Consistency Determination.

### *California Fish and Game Code*

- Protection of Bird Nests and Raptors

Section 3503 of the California Fish and Game Code states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird. Section 3503.5 of the California Fish and Game Code states that it is unlawful to take, possess, or destroy any raptors (i.e., species in the orders Falconiformes and Strigiformes), including their nests or eggs. Fish and Game Code section 3505 makes it illegal to take, sell, or purchase any egret, osprey, bird of paradise, or Numidi, or any parts of these birds.

- Fully Protected Species

Protection of fully protected species is described in Sections 3511, 4700, 5050, and 5515 of the California Fish and Game Code. Species listed under these statutes may not be taken or possessed at any time and no ITPs can be issued for these species except for scientific research purposes, for relocation to protect livestock, or under a natural community conservation plan (NCCP) or the project activities qualify for permitting under Section 2080.15 of the California Fish and Game Code. CDFW's fully protected status was California's first attempt to identify and protect animals that were rare or facing extinction. Most species listed as fully protected were eventually listed as threatened or endangered under CESA; however, some species remain listed as fully protected but do not have simultaneous listing under CESA.

### *California Native Plant Protection Act*

State listing of plant species began in 1977 with the passage of the California Native Plant Protection Act (NPPA), which directed CDFW to carry out the legislature's intent to "preserve, protect, and enhance endangered plants in this state." The NPPA gave the California Fish and Game Commission the power to designate native plants as endangered or rare and to require permits for collecting, transporting, or selling such plants. CESA expanded on the original NPPA and enhanced legal protection for plants. CESA established threatened and endangered species categories and grandfathered all rare animals—but not rare plants—into the act as threatened species. Thus, three listing categories for plants are employed in California: rare, threatened, and endangered. Sixty-four species, subspecies, and varieties of plants are protected as rare under the NPPA. The NPPA prohibits take of endangered or rare native plants but includes exceptions for agricultural and nursery operations; for emergencies; and, after proper notification of CDFW, for vegetation removal from canals, roads, and other building sites, changes in land use, and other situations.

## **2. Protection of Aquatic Resources - General**

### **Federal Law and Regulation**

#### *Clean Water Act*

The Clean Water Act (CWA) establishes the basic structure for regulating discharges of pollutants into waters of the United States and regulating quality standards for surface waters.

#### **- Section 404 of the CWA**

Section 404 of the CWA (33 USC Section 1344) prohibits the discharge of dredged or fill material into waters of the United States, including wetlands, except as permitted under separate regulations by USACE and US Environmental Protection Act (EPA). Fill is material placed in waters of the United States where the material has the effect of replacing any portion of a water of the United States with dry land or changing the bottom elevation of any portion of a water of the United States. To discharge dredged or fill material into waters of the United States, including wetlands, Section 404 requires projects to receive authorization from the Secretary of the Army, acting through USACE. Waters of the United States include navigable waters of the United States; interstate waters; all other waters where the use, degradation, or destruction of the waters could affect interstate or foreign commerce; tributaries to any of these waters that are relatively permanent standing or continuously flowing bodies of water; and wetlands adjacent to and with a continuous surface connection to these waters. Wetlands are defined as those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Potentially jurisdictional wetlands must meet three wetland delineation criteria: hydrophytic vegetation, hydric soil types, and wetland hydrology. Wetlands that meet the delineation criteria may be jurisdictional under Section 404 of the CWA pending USACE verification.

#### **- Section 401 of the CWA**

Under Section 401 of the CWA (33 USC Section 1341), an applicant for a Section 404 permit must obtain a certificate from the appropriate state agency stating that the intended dredging or filling activity is consistent with the state's water quality standards and criteria. In California, the authority to grant water quality certification is delegated by the State Water Resources Control Board (SWRCB) to the regional water quality control boards (RWQCBs).

### **California Law and Regulation**

#### *Fish and Game Code - Lake and Streambed Alteration Provisions*

All diversions, obstructions, or changes to the natural flow or bed, channel, or bank of any river, stream, or lake in California are subject to regulation by CDFW under Section 1602 of the California Fish and Game Code. Under Section 1602, it is unlawful for any person, governmental agency, or public utility to do the following without first notifying CDFW:

- substantially divert or obstruct the natural flow of, or substantially change or use any material from, the bed, channel, or bank of any river, stream, or lake; or
- deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake.

The regulatory definition of a stream is a body of water that flows at least periodically or intermittently through a bed or channel that has banks and supports fish or other aquatic life. This definition includes watercourses with a surface or subsurface flow that supports or has supported riparian vegetation (California Code of Regulations, Title 14, Section 1.72). A CDFW Lake or Streambed Alteration (LSA) Agreement must be obtained for project activities within its jurisdiction that may adversely affect fish and wildlife resources.

#### *Porter-Cologne Water Quality Control Act*

The Porter-Cologne Water Quality Control Act requires that each of the nine RWQCBs in California prepare and periodically update basin plans for water quality control. Each basin plan sets forth water quality standards for surface water and groundwater, as well as actions to control point and nonpoint sources of pollution to achieve and maintain these standards. The jurisdiction of the RWQCBs includes waters of the United States, as well as areas that meet the definition of “waters of the state.” “Waters of the state” is defined as any surface water or groundwater, including saline waters, within the boundaries of the state. Waters of the state is defined as any surface water or groundwater, including saline waters, within the boundaries of the state. The RWQCB has the discretion to take jurisdiction over areas not federally protected under CWA Section 404 provided they meet the definition of waters of the state. SWRCB published a new set of procedures for discharges of dredged or fill material into waters of the state that went into effect on May 28, 2020, which are described below. Mitigation requiring no net loss of wetlands functions and values of waters of the state typically is required by the RWQCB.

#### - State Wetland Procedures

The State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State (State Wetland Procedures), as prepared by the SWRCB, went into effect on May 28, 2020. The Procedures consist of four major elements: (1) a wetland definition; (2) a framework for determining if a wetland feature is a water of the state; (3) wetland delineation procedures; and (4) procedures for the submittal, review, and approval of applications for Water Quality Certifications and Waste Discharge Requirements for dredge or fill activities. The Procedures include a definition for wetland waters of the state that include (1) all wetland waters of the United States; and (2) aquatic resources that meet both the soils and hydrology criteria for wetland waters of the United States but lack vegetation (less than 5 percent areal coverage at the peak of the growing season).

Wetlands that meet the current definition, or any historic definition, of waters of the United States are waters of the state. In 2000, the SWRCB determined that all waters of the United States are also waters of the state by regulation, prior to any regulatory or judicial limitations on the federal

definition of waters of the United States (CCR Title 23, Section 3831[w]). This regulation has remained in effect despite subsequent changes to the federal definition. Therefore, waters of the state include features that have been determined by EPA or USACE to be “waters of the United States” in an approved jurisdictional determination; “waters of the United States” identified in an aquatic resource report verified by USACE upon which a permitting decision was based; and features that are consistent with any current or historic final judicial interpretation of “waters of the United States” or any current or historic federal regulation defining “waters of the United States” under CWA.

The SWRCB has adopted the following definition of wetlands:

An area is wetland if, under normal circumstances, (1) the area has continuous or recurrent saturation of the upper substrate caused by groundwater or shallow surface water, or both; (2) the duration of such saturation is sufficient to cause anaerobic conditions in the upper substrate; and (3) the area’s vegetation is dominated by hydrophytes or the area lacks vegetation.

#### *State Wetland Requirements in the Coastal Zone under the Coastal Act*

Pursuant to Sections 30231 and 30233 of the California Coastal Act, the California Coastal Commission requires that most development avoid and buffer wetland resources.

Policies require the maintenance and restoration of the biological productivity and quality of wetlands, as well as limit the filling of wetlands. The filling of wetlands is generally limited to high priority uses, and must be avoided unless there “is no feasible less environmentally damaging alternative, and authorized fill must be fully mitigated.”

The 1976 Coastal Act section 30121 defines the term “wetland” as: “[L]ands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.” The Coastal Commission’s Wetlands Briefing Background Information Handout 3 regulations (California Code of Regulations Title 14 (14 CCR)) establish a “one parameter definition” that only requires evidence of a single parameter to establish wetland conditions:

Wetland shall be defined as land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes,

and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year



and their location within, or adjacent to, vegetated wetlands or deep-water habitats (14 CCR § 13577).

The Commission's one parameter definition states that wetlands must have one or more of the following three attributes: "(1) at least periodically the land supports predominantly hydrophytes; (2) the substrate is predominantly undrained hydric soil; and (3) the substrate is nonsoil and is saturated with water or covered by shallow water at some time during the growing season of each year." The Commission provides further guidance on analyzing wetlands and wetland impacts in the Procedural Guidance for the Review of Wetland Projects in California's Coastal Zone.

### **3. Site-Specific Protection of Aquatic Resources**

#### **Federal Law and Regulation**

##### *National Wild and Scenic Rivers Act*

The Wild and Scenic Rivers Act of 1968 was enacted to protect "certain selected rivers of the Nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural or other similar values." The act states that these rivers "shall be preserved in free-flowing condition, and...they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations" (16 USC 1271–1287, Public Law 90-542). The primary intent of the National Wild and Scenic Rivers Act is to prohibit new dams, diversions, and other resource projects that have a direct and adverse effect on a river's free flowing character and outstanding values. Protected rivers are designated as wild, scenic, or recreational rivers, and different segments of a given river may be designated with one or all of these classifications. Under the Act, protected rivers are required to have a Comprehensive River Management Plan that is intended to provide management direction for protecting and enhancing the outstanding river values.

The Eel River, including its major tributaries, received federal designation in the Wild and Scenic Rivers System in 1981. The GRT corridor runs parallel to the Eel River for nearly 110 miles and parallel to one of its major tributaries (the Van Duzen River) for nearly 7 miles. The GRT corridor is also adjacent to the mainstem Eel River's confluence with its three other major tributaries—the Middle Fork, North Fork, and South Fork. The sections of the Wild and Scenic Eel River adjacent to the corridor, as shown in Figure A.Q-1, are classified as "recreational" and "wild," with outstandingly remarkable values designated as fish and recreation (National Wild and Scenic River System n.d.). The Wild and Scenic Eel River is managed by the Bureau of Land Management (BLM), and they have developed their own guidance manual for managing Wild and Scenic rivers, which includes management guidelines for recreation development on designated rivers. On a river designated recreational, the manual indicates that recreation, administrative, and river access facilities may be located in close proximity to the river. All facilities should be located and designed to harmonize with the natural and cultural settings, protect identified river values including water quality, and be screened from view from the river to the extent possible (BLM 2012).

## California Law and Regulation

### *California Wild and Scenic Rivers Act*

The California Wild and Scenic Rivers Act (Public Resource Code (or “PRC”) Section 5093.50 et seq.) was passed in 1972 to preserve California’s designated rivers possessing extraordinary scenic, recreation, fishery, or wildlife values. In general, no dam, reservoir, diversion, or other water impoundment facility may be constructed on any river segment included in the system. This Act was patterned after the 1968 National Wild and Scenic Rivers Act, and both share similar criteria and definitions regarding the protection of rivers, the process used to designate rivers, and the prohibition of new water impoundments on designated rivers. Unlike the federal Wild and Scenic Rivers Act, the California Wild and Scenic Rivers Act provides protection only up to the first line of permanent vegetation and does not require a management plan for designated rivers. The California Legislature is responsible for classifying or reclassifying rivers by statute, though the Resources Secretary may recommend classifications. State-designated rivers may be added to the federal system at the request of the state Governor and the approval of the Secretary of the Interior. State rivers added to the federal system are managed by the state.

The Eel River, including its major tributaries, received state designation in the Wild and Scenic Rivers System in 1972 (State designated Wild and Scenic rivers are shown in Figure A.Q-1). California Public Resource Code Section 5093.54 designates: “Eel River. The main stem from 100 yards below Van Arsdale Dam to the Pacific Ocean; the South Fork of the Eel from the mouth of Section Four Creek near Branscomb to the river mouth below Weott; Middle Fork of the Eel from the intersection of the river with the southern boundary of the Middle Eel-Yolla Bolly Wilderness Area to the river mouth at Dos Rios; North Fork of the Eel from the Old Gilman Ranch downstream to the river mouth near Ramsey; Van Duzen River from Dinsmores Bridge downstream to the river mouth near Fortuna.” As noted in the discussion of the National Wild and Scenic Rivers Act above, the GRT corridor runs parallel to the Eel River for nearly 110 miles and one of the Eel River’s major tributaries (the Van Duzen River) for nearly seven miles. As with the National Wild and Scenic Rivers Act, the sections of the Wild and Scenic Eel River adjacent to the corridor are classified as recreational under the California Wild and Scenic Rivers Act. California Public Resource Code Section 5093.53(c) defines “recreational rivers” as “those rivers or segments of rivers that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past.”

**Figure A.Q.-1 Federal and State Wild and Scenic Rivers**



### **3. Protection of Cultural Resources, Native American Heritage**

#### **Federal Law and Regulation**

##### *National Register of Historic Places*

The National Register of Historic Places (NRHP) is the nation's master inventory of known historic properties. It is administered by the National Park Service (NPS) and includes listings of buildings, structures, sites, objects, and districts that possess historic, architectural, engineering, archaeological, or cultural significance at the national, state, or local level. Pursuant to its October 24, 2022 order, the Surface Transportation Board, in granting GRTA permission to railbank the GRT corridor, ordered that "GRTA shall retain its interest in and take no steps to alter the historic integrity of all historic properties, including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register until the Section 106 process of the National Historic Preservation Act, 54 USC Section 306108, has been completed." Although the GRTA line as a whole is not a listed historic property and no specific sites or items within the corridor have been identified as meeting the criteria for listing, individual locations should be analyzed for protection under the criteria set forth at 36 CFR 60.4 prior to any alteration or removal.

##### *Native American Graves Protection and Repatriation Act, 25 U.S.C. § 3001 et seq.*

The Native American Graves Protection and Repatriation Act (NAGPRA) is a federal law that protects Native American burial sites and requires the return of certain cultural items to tribes if found during construction, excavation or by accidental discovery. This law would apply to the GRT project.

#### **California Law and Regulation**

##### *California Native American Historical, Cultural, and Sacred Sites Act*

The California Native American Historical, Cultural, and Sacred Sites Act (Public Resource Code Section 5097.9) applies to both State and private lands. The act requires, upon discovery of human remains, that construction or excavation activity cease and that the county coroner be notified. If the remains are those of a Native American, the coroner must notify the Native American Heritage Commission (NAHC), which notifies (and has the authority to designate) the most likely descendants (MLD) of the deceased. The act stipulates the procedures the descendants may follow for treating or disposing of the remains and associated grave goods.

##### *Public Resource Code Section 5097*

Public Resource Code Section 5097 specifies the procedures to be followed in the event of the unexpected discovery of human remains on nonfederal land. The disposition of Native American human burials falls within the jurisdiction of the NAHC. Section 5097.5 of the Code states the following:

No person shall knowingly and willfully excavate upon, or remove, destroy, injure, or deface any historic or prehistoric ruins, burial grounds, archaeological or vertebrate paleontological site, including fossilized footprints, inscriptions made by human agency, or any other archaeological, paleontological or historical feature, situated on public lands, except with the express permission of the public agency having jurisdiction over such lands. Violation of this section is a misdemeanor.

#### *Health and Safety Code Section 7050.5*

Section 7050.5 of the Health and Safety Code requires that construction or excavation be stopped in the vicinity of discovered human remains until the coroner can determine whether the remains are those of a Native American. If they are determined to be those of a Native American, the coroner must contact the NAHC.

#### *California Native American Graves Protection and Repatriation Act of 2001 (CalNAGPRA), California Health and Safety Code §§ 8010 et seq.*

Enacted in 2001, CalNAGPRA outlines the process to be followed when human remains are discovered during ground-disturbing activities. It applies to all land in California and includes non-federally recognized tribes. This law would apply to the GRT project.

## **4. Seismology-Related Protections**

### **Federal Law and Regulation**

#### *National Earthquake Hazards Reduction Act*

In October 1977, the US Congress passed the Earthquake Hazards Reduction Act to reduce the risks to life and property from future earthquakes in the United States. To accomplish this, the Act established the National Earthquake Hazards Reduction Program (NEHRP). The mission of NEHRP includes improved understanding, characterization, and prediction of hazards and vulnerabilities; improved building codes and land use practices; risk reduction through post-earthquake investigations and education; development and improvement of design and construction techniques; improved mitigation capacity; and accelerated application of research results. The NEHRP designates the Federal Emergency Management Agency (FEMA) as the lead agency of the program and assigns several planning, coordinating, and reporting responsibilities. This Act is applicable to the GRT project, because its improved building codes and design and construction techniques have been incorporated into building codes and land use codes that would be utilized by the projects.

### **California Law and Regulation**

#### *Alquist-Priolo Earthquake Fault Zoning Act*

The Alquist-Priolo Earthquake Fault Zoning Act of 1972 (PRC Sections 2621-2630) intends to reduce the risk to life and property from surface fault rupture during earthquakes by regulating construction in active fault corridors, and by prohibiting the location of most types of structures intended for human occupancy across the traces of active faults. Because GRTA is not subject to city or county permitting, *Alquist-Priolo Earthquake Fault Zoning Act* does not directly apply to the GRT, but reference to its substantive provisions in reviewing proposals is advisable.

#### *Seismic Hazards Mapping Act*

The intention of the Seismic Hazards Mapping Act of 1990 (PRC Sections 2690–2699.6) is to reduce damage resulting from earthquakes. While the Alquist-Priolo Act addresses surface fault rupture, the Seismic Hazards Mapping Act addresses other earthquake-related hazards, including ground shaking, liquefaction, and seismically induced landslides. The Act’s provisions are similar in concept to those of the Alquist-Priolo Act: The state is charged with identifying and mapping areas at risk of strong ground shaking, liquefaction, landslides, and other corollary hazards. Because GRTA is not subject to city or county permitting, Seismic Hazards Mapping Act of 1990 does not directly apply to the GRT, but reference to its substantive provisions in reviewing proposals is advisable.

#### *California Building Code*

The California Building Code (CBC) (California Code of Regulations, Title 24) is based on the International Building Code. The CBC has been modified from the International Building Code for California conditions, with more detailed and/or more stringent regulations. Specific minimum seismic safety and structural design requirements are set forth in Chapter 16 of the CBC. The CBC identifies seismic factors that must be considered in structural design. Chapter 18 of the CBC regulates the excavation of foundations and retaining walls, while Chapter 18A regulates construction on unstable soils, such as expansive soils and areas subject to liquefaction. Appendix J of the CBC regulates grading activities, including drainage and erosion control. The CBC contains a provision that provides for a preliminary soil report to be prepared to identify “...the presence of critically expansive soils or other soil problems which, if not corrected, would lead to structural defects” (CBC Chapter 18, Section 1803.1.1.1). The CBC sets the seismic safety and structural design requirements for all buildings associated with the GRTA. The CBC also requires soil investigations to determine unstable soils.

## **5. Soil and Groundwater Pollution Protections**

### **Federal Law and Regulation**

#### *Clean Water Act*

(See also “Protection of Aquatic Resources”) The EPA is the lead federal agency responsible for water quality management. The CWA is the primary federal law that governs and authorizes water quality control activities by EPA as well as the states. Various elements of the CWA address water quality. These are discussed below.

### *CWA Water Quality Criteria/Standards*

Pursuant to federal law, EPA has published water quality regulations under Title 40 of the CFR. Section 303 of the CWA requires states to adopt water quality standards for all surface waters of the United States. As defined by the Act, water quality standards consist of designated beneficial uses of the waterbody in question and criteria that protect the designated uses. Section 304(a) requires EPA to publish advisory water quality criteria that accurately reflect the latest scientific knowledge on the kind and extent of all effects on health and welfare that may be expected from the presence of pollutants in water. Where multiple uses exist, water quality standards must protect the most sensitive use. As described in the discussion of state regulations below, the SWRCB and its nine RWQCBs have designated authority in California to identify beneficial uses and adopt applicable water quality objectives.

### *CWA Section 303(d) Impaired Waters List*

Under Section 303(d) of the CWA, states are required to develop lists of waterbodies that do not attain water quality objectives after implementation of required levels of treatment by point source dischargers (municipalities and industries). Section 303(d) requires that the state develop a total maximum daily load (TMDL) for each of the listed pollutants. A TMDL is the amount of a pollutant that the waterbody can receive and still comply with water quality objectives. A TMDL is also a plan to reduce loading of a specific pollutant from various sources to achieve compliance with water quality objectives. In California, implementation of TMDLs is achieved through water quality control plans, known as Basin Plans, of the State RWQCBs. There are several waterbodies within the project area with TMDLs that are described in the surface water quality section below.

### *National Pollutant Discharge Elimination System Construction General Permit*

As authorized by the federal Clean Water Act, the National Pollutant Discharge Elimination System (NPDES) Permit Program controls water pollution by regulating point sources that discharge pollutants into waters of the United States. Point sources are typically discrete conveyances such as pipes or man-made ditches. Examples of pollutants include rock, sand, dirt, and agricultural, industrial, and municipal waste discharged into waters of the United States. See Section 122.2 of Title 40 of the Code of Federal Regulations for the definitions of point source, pollutant, and water of the United States.

The NPDES Program is a federal program that has been delegated to the State of California for implementation through the SWRCB and the nine RWQCBs, collectively “Water Boards.” In California, NPDES permits are also referred to as waste discharge requirements that regulate discharges to waters of the United States.

Dischargers whose projects disturb one (1) or more acres of soil or whose projects disturb less than 1 acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity Construction General Permit Order 2022-0057-DWQ.

Construction activity subject to this permit includes clearing, grading, and disturbances to the ground such as stockpiling or excavation.

The Construction General Permit requires the development of a stormwater pollution prevention plan (SWPPP) by a certified Qualified SWPPP Developer. A SWPPP describes the potential pollution sources that could come into contact with stormwater, the best management practices (BMPs) required to minimize the potential for mobilization of pollutants, and sampling requirements for any stormwater leaving the site. Individual projects or segments of the GRT would likely be required to obtain coverage under the Construction General Permit, because they would likely disturb more than 1 acre of soil.

#### *NPDES Stormwater Permit for Discharges from Small Municipal Separate Storm Sewer Systems*

The Municipal Stormwater Permitting Program regulates stormwater discharges from municipal separate storm sewer systems (MS4s). Stormwater is runoff from rain or snow melt that runs off surfaces such as rooftops, paved streets, and highways or parking lots and can carry with it pollutants such as oil, pesticides, herbicides, sediment, trash, bacteria and metals. The runoff can then drain directly into a local stream, river, lake, or bay. Often, the runoff drains into storm drains that eventually drain untreated into a local waterbody.

Within the project area, the City of Ukiah is regulated by a Phase 1 MS4 permit (State Water Board Order No. R1-2015-0030). The City of Arcata is also regulated by a Phase II MS4 permit via State Water Board Order No. 2013-0001 DWQ. Also, portions of unincorporated Mendocino County and portions of unincorporated Humboldt County are regulated by a Phase 2 statewide general permit, which regulates small MS4s (State Water Board Order No. 2013-0001 DWQ).

#### *NPDES Waste Discharge Requirements for Discharges of Highly Treated Groundwater to Surface Waters*

For groundwater polluted with petroleum hydrocarbons and volatile organic compounds, dewatering discharge to surface water must be performed in accordance with the permit (Order No. R1-2016-0034). This permit applies to new or existing discharges of treated groundwater resulting from cleanup activities where groundwater has been impacted by petroleum products and/or volatile halogenated compounds. All discharges must meet the discharge limitations listed in the permit. The project would be required to comply with this permit if contaminated groundwater was encountered at an excavation site.

### **California Law and Regulation**

#### *Porter-Cologne Water Quality Control Act*

(See also “Protection of Aquatic Resources - General”) California’s primary statute governing water quality and water pollution issues with respect to both surface waters and groundwater is the Porter-Cologne Act. The Porter-Cologne Act grants the SWRCB and each of the nine RWQCBs



power to protect water quality and is the primary vehicle for implementation of California's responsibilities under the CWA. The applicable RWQCB for the proposed project is the North Coast RWQCB. The SWRCB and the North Coast RWQCB have the authority and responsibility to adopt plans and policies, regulate discharges to surface and groundwater, regulate waste disposal sites, and require cleanup of discharges of hazardous materials and other pollutants. The Porter-Cologne Act also establishes reporting requirements for unintended discharges of any hazardous substances, sewage, or oil or petroleum products.

Under the Porter-Cologne Act, each RWQCB must formulate and adopt a water quality control plan (known as a "Basin Plan") for its region. The Basin Plan for the North Coast Region where the project is proposed includes a comprehensive list of waterbodies within the region and detailed language about the components of applicable Water Quality Objectives (WQOs). The Basin Plan recognizes natural water quality, existing and potential beneficial uses, and water quality problems associated with human activities throughout the North Coast. Through the Basin Plan, the North Coast RWQCB executes its regulatory authority to enforce the implementation of TMDLs, and to ensure compliance with surface WQOs. The Basin Plan includes both narrative and numerical WQOs designed to provide protection for all designated and potential beneficial uses in all its principal streams and tributaries. Applicable beneficial uses include municipal and domestic water supply, irrigation, non-contact and contact water recreation, groundwater recharge, freshwater replenishment, hydroelectric power generation, and preservation and enhancement of wildlife, fish, and other aquatic resources.

The North Coast RWQCB also administers the adoption of waste discharge requirements (WDRs), manages groundwater quality, and adopts projects within its boundaries under the NPDES General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities (General Permit).

## **6. Protection of Air Quality**

### **California Law and Regulation**

California Code, Health and Safety Code Section 41700 prevents persons from discharging from any source whatsoever quantities of air contaminants or other material that cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or that endanger the comfort, repose, health, or safety of any of those persons or the public, or that cause, or have a natural tendency to cause, injury or damage to business or property. Such protections will apply to construction activities.

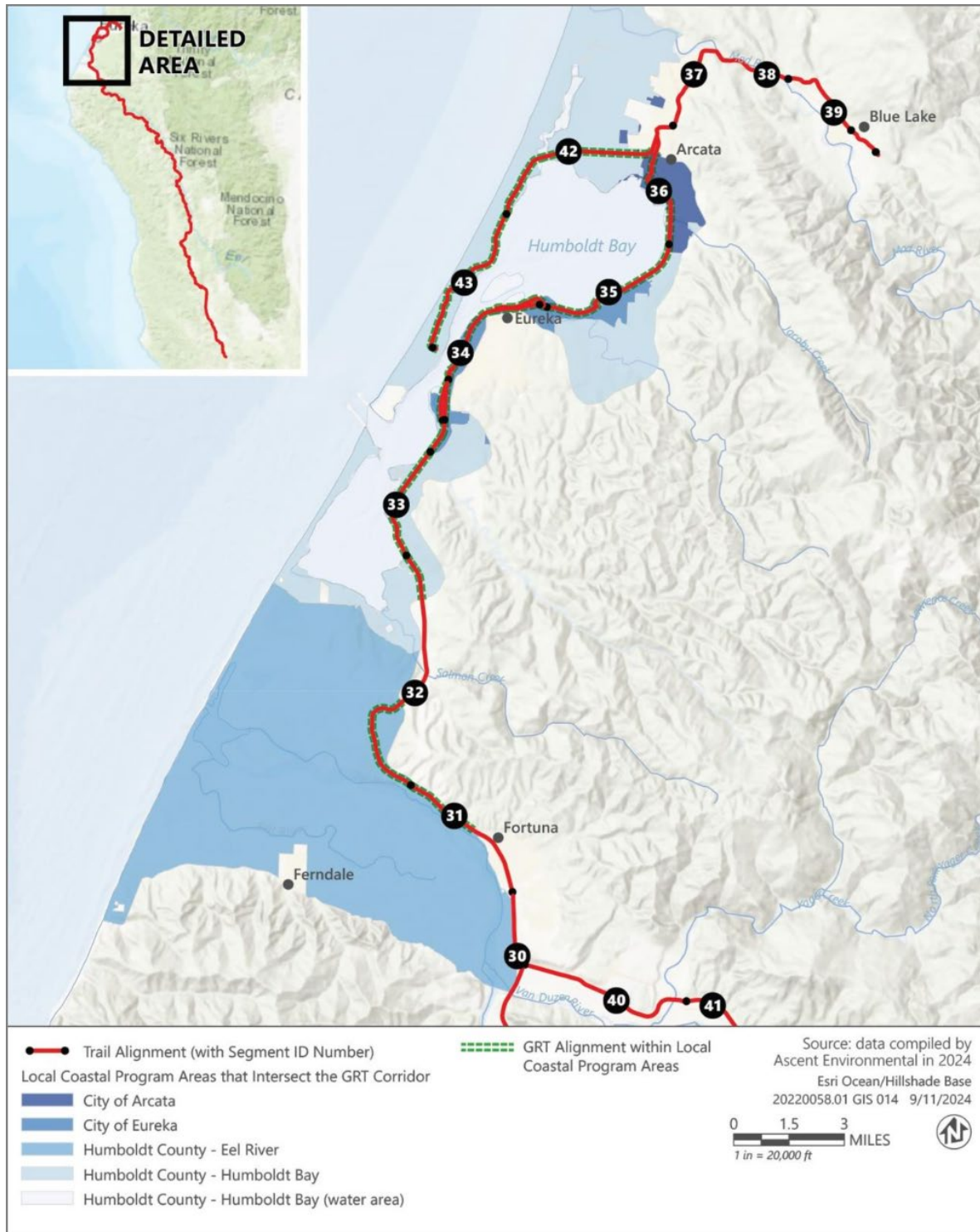
## **7. Coastal Area Protections**

### **California Law and Regulation**

*California Coastal Act*

The California Coastal Act (Coastal Act) guides how land along the coast of California is developed or protected from development. It emphasizes the importance of public access to the coast, and the preservation of sensitive coastal and marine habitat and biodiversity. The Coastal Act requires that local governments develop Local Coastal Programs (LCPs), consisting of land use plans and implementing ordinances, to carry out policies of the Coastal Act at the local level. The Coastal Act also pertains to the state-level California Coastal Commission jurisdiction over certain types of approvals, including but not limited to within areas outside of those areas covered by a certified LCP. Once certified by the Coastal Commission as consistent with and adequate to carry out the Coastal Act, the plans effectively become State requirements, and the responsibility for issuance of most Coastal Development Permits (CDPs) under the certified LCP is delegated to the local government. The Commission retains some continuing permitting and appeal jurisdiction following LCP certification and bears the responsibility to certify any amendments to the LCP. Portions of the proposed GRT are within the coastal zone and the City of Eureka, City of Arcata, and Humboldt County LCP areas (Figure A.Q- 2). The following sections discuss applicable policies and regulations within these LCPs, related to scenic resources. Although GRTA is not subject to local governmental permitting, to the extent Coastal Act requirements are generally applicable state law, they will apply to the GRT, and project components may in some cases be subject to approval by the Coastal Commission directly.

Figure A.Q.-2 Coastal Zone Areas That Intersect the GRT Corridor



### ***City of Eureka***

The City of Eureka Coastal General Plan includes the City's Coastal Land Use Policy. Part II, Sections 1 through 8 of the General Plan include development standards that apply within the coastal zone. Additionally, the General Plan includes policies intended to maintain views of the waterfront, inner harbor, and landmark buildings from public streets and other public spaces. Policies include requirements for siting buildings and maintaining landscaping in a manner that does not obstruct these coastal views (City of Eureka 1999).

Section 10-5.2944 of the Eureka Municipal Code establishes visual resources standards for scenic areas within the coastal zone. Section 10-5.2944.1 identifies scenic coastal areas within the City and prohibits off-site advertising signs or billboards in these areas. Section 10-5.2944.2 establishes conditions for development within scenic coastal areas and requires new development to minimize the alteration of natural landforms, be visually compatible with the character of the surrounding area, be sited and designed to protect views to and along the ocean and scenic coastal areas, and wherever feasible, restore and enhance visual quality in visually degraded areas. Section 10-5.2944.3 requires that permitted development does not obstruct views to and along scenic coastal areas. Section 10-5.2944.4 states that the City shall ensure that scenic route rights-of-way are maintained in an attractive manner, incorporating bicycle lanes and pedestrian walkways along scenic routes, whenever possible, and providing street "furniture" and other accessory amenities that serve to enhance the public's use and enjoyment of scenic resources.

### ***City of Arcata***

The City of Arcata LCP consists of the Coastal Land Use Element and Implementing Ordinance (Title IX of the Arcata Municipal Code). The LCP was certified by the California Coastal Commission on October 10, 1989. The LCP identifies viewsheds that warrant protection as well as measures required of development in the coastal zone to preserve these viewsheds. The LCP requires projects to be evaluated for impacts on visual resources, in accordance with Environmental Impact Review procedures established in the City's Land Use and Development Guide, which are intended to supplement the CEQA process. The LCP also requires landscape screening for projects in specified industrial areas that are visible from US 101. In addition, the LCP prohibits the planting of landscaping with potential to interrupt scenic views from US 101 (City of Arcata 1989). The City of Arcata and California Coastal Commission staff are working to revise the City's LCP for certification. The work is ongoing and a full draft of edits is available at <https://www.cityofarcata.org/549/Local-Coastal-Program-Update>. The City of Arcata's Planning Commission is anticipated to consider the draft and make recommendations to the City Council on February 24, 2026 with potential Council action on March 4, 2026.

### ***Humboldt County***

The Humboldt County LCP consists of six area LCPs, in combination with Chapters 1 through 3 of the Humboldt County Zoning Code. The proposed GRT is within the planning area of the Humboldt Bay Area LCP (Humboldt County 2022) and Eel River Area LCP (Humboldt County 2014). In

accordance with the Coastal Act, the Humboldt Bay Area and Eel River Area LCPs state that the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. As required by the LCPs, permitted development must be sited and designed to protect views to and along the ocean and scenic coastal areas, minimize the alteration of natural landforms, be visually compatible with the character of surrounding areas, and, where feasible, restore and enhance visual quality in visually degraded areas. In addition, new development in highly scenic areas must be subordinate to the character of its setting. Further, new development must, where appropriate, protect special communities and neighborhoods that are popular visitor destination points for recreational uses because of their unique characteristics.

The Humboldt Bay Area and Eel River Area LCPs include planning and management policies to protect coastal visual resources. For example, the LCPs include policies requiring that new developments are visually compatible and consistent with the physical scale of their surroundings. The LCPs also include policies to protect natural landforms and historical buildings. In addition, the LCPs include standards for development in coastal scenic areas, coastal view areas, and within scenic highways. Further, the LCPs identify natural features within the planning areas for which specific scenic protections have been established. Chapter 3 of the Humboldt County Zoning Code includes regulations for development within the coastal zone. Section 313-123 governs the protection of natural landforms, including slopes, hilltops, bluffs, and rock outcroppings.

## **8. Handling of Hazardous Materials.**

### **Federal Law and Regulation**

Various federal laws address the proper handling, use, storage, and disposal of hazardous materials, as well as requiring measures to prevent or mitigate injury to health or the environment if such materials are accidentally released. The EPA is the agency primarily responsible for enforcement and implementation of federal laws and regulations pertaining to hazardous materials. Applicable federal regulations pertaining to hazardous materials are primarily contained in CFR Titles 29, 40, and 49. Hazardous materials, as defined in the Code, are listed in 49 CFR 172.101.

#### *Management of Hazardous Materials*

- *The Toxic Substances Control Act of 1976* (15 USC Section 2601 et seq.) regulates the manufacturing, inventory, and disposition of industrial chemicals, including hazardous materials. Section 403 of the Toxic Substances Control Act establishes standards for lead-based paint hazards in paint, dust, and soil. This regulation would apply to the GRT project if it includes the cleanup of lead-based paint in the project area.
- *The Resource Conservation and Recovery Act of 1976* (42 USC 6901 et seq.) (RCRA) is the law under which EPA regulates hazardous waste from the time the waste is generated until its final disposal (“cradle to grave”). Subtitle C of RCRA set criteria for hazardous waste generators, transporters, and treatment, storage and disposal facilities. This includes

permitting requirements, enforcement and corrective action or cleanup. Under RCRA regulations, commercial chemical products, such as pesticides and herbicides, would become “solid wastes” (and thus, potentially, hazardous wastes) at the point where the project lead decides to discard them, if the pesticide product is listed in 40 CFR 261.31 or 261.33, or exhibits a hazardous waste characteristic identified in 40 CFR 261.21 through 261.24.

- *The Comprehensive Environmental Response, Compensation, and Liability Act of 1980* (also called the Superfund Act or CERCLA) (42 USC 9601 et seq.) gives EPA authority to seek out parties responsible for releases of hazardous substances and ensure their operation in site remediation. The Superfund Amendments and Reauthorization Act of 1986 (Public Law 99-499; USC Title 42, Chapter 116), also known as SARA Title III or the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), imposes hazardous materials planning requirements to help protect local communities in the event of accidental release. For releases of hazardous substances, the federal government has established Superfund Reportable Quantities (RQs).
- *The Spill Prevention, Control, and Countermeasure (SPCC) rule* includes requirements for oil spill prevention, preparedness, and response to prevent oil discharges to navigable waters and adjoining shorelines. The rule requires specific facilities to prepare, amend, and implement SPCC Plans. The SPCC rule is part of the Oil Pollution Prevention regulation, which also includes the Facility Response Plan rule. This regulation would guide management and storage of hazardous materials during GRT project construction and operation.
- *The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)* includes requirements for the distribution, sale, and use of pesticides. Railroad ties are often treated with creosote, a pesticide that is comprehensively regulated by the EPA under FIFRA. However, under EPA’s “treated articles exemption,” railroad crossties, utility poles, and other wood products that have been pressure-treated with FIFRA-registered creosote wood preservatives are not subject to FIFRA regulation. FIFRA requirements, as enforced by the State (such as adhering to herbicide labels and application instructions), would apply to the use of herbicides for vegetation management purposes associated with the GRT.
- *The National Emission Standards for Hazardous Air Pollutants (NESHAP)* regulates demolition of any structures that could contain asbestos. An Asbestos NESHAP Regulated Facility is subject to a thorough asbestos inspection of the facility and testing of materials to determine whether asbestos is present. Demolition projects require a NESHAP Notification even if there is found to be no asbestos present after testing.

### *Transportation of Hazardous Materials*

The US Department of Transportation (USDOT) regulates transport of hazardous materials between states and is responsible for protecting the public from dangers associated with such transport. The federal hazardous materials transportation law, 49 USC 5101 et seq. (formerly the Hazardous Materials Transportation Act 49 USC 1801 et seq.) is the basic statute regulating transport of

hazardous materials in the United States. Hazardous materials transport regulations are enforced by the Federal Highway Administration, US Coast Guard, Federal Railroad Administration, and Federal Aviation Administration. This regulation would guide transport of hazardous materials during project construction and operation.

## **California Law and Regulation**

### *Management of Hazardous Materials*

In California, both federal and state community right-to-know laws are coordinated through the Governor's Office of Emergency Services. The federal law, SARA Title III or EPCRA, described above, encourages and supports emergency planning efforts at the state and local levels and provides local governments and the public with information about potential chemical hazards in their communities. Because of the community right-to-know laws, information is collected from facilities that handle (e.g., produce, use, store) hazardous materials above certain quantities. The provisions of EPCRA apply to four major categories:

- emergency planning,
- emergency release notification,
- reporting of hazardous chemical storage, and
- inventory of toxic chemical releases.

The corresponding state law is Chapter 6.95 of the California Health and Safety Code (Hazardous Materials Release Response Plans and Inventory). Under this law, qualifying businesses are required to prepare a Hazardous Materials Business Plan, which would include hazardous materials and hazardous waste management procedures and emergency response procedures, including emergency spill cleanup supplies and equipment. At such time as the applicant begins to use hazardous materials at levels that reach applicable state and/or federal thresholds, the plan is submitted to the administering agency.

The California Department of Toxic Substances Control (DTSC), a division of the California Environmental Protection Agency, has primary regulatory responsibility over hazardous materials in California, working in conjunction with US EPA to enforce and implement hazardous materials laws and regulations. As required by Section 65962.5 of the California Government Code, DTSC maintains a hazardous waste and substances site list for the state, known as the Cortese List. California Code of Regulations (CCR) Title 22, Division 4.5 provides standards for characterizing hazardous waste. DTSC publishes screening levels for human health risk assessment and developing remediation goals. Individual RWQCBs are the lead agencies responsible for identifying, monitoring, and cleaning up leaking underground storage tanks (LUSTs). The North Coast RWQCB has jurisdiction over the project area.

The California Hazardous Waste Control Act (HWCA) regulates the generation, treatment, storage, and disposal of hazardous waste (California Health and Safety Code Section 2510 et seq.). Hazardous waste is any material or substance that is discarded, relinquished, disposed of, or

burned, or for which there is no intended use or reuse, and the material or substance causes or significantly contributes to an increase in mortality or illness; or the material or substance poses a substantial present or potential hazard to human health or the environment. These materials or substances include spent solvents and paints (oil and latex), used oil, used oil filters, used acids and corrosives, and unwanted or expired products (e.g., pesticides, aerosol cans, cleaners), which could be used and disposed of during implementation of the proposed project. If the original material or substance is labeled Danger, Warning, Toxic, Caution, Poison, Flammable, Corrosive, or Reactive, the waste is very likely to be hazardous.

The California Department of Pesticide Regulation (DPR) regulates the sale and use of pesticides/herbicides in California. DPR is responsible for reviewing the toxic effects of pesticide formulations and determining whether a pesticide is suitable for use in California through a registration process. Although DPR cannot require manufacturers to make changes in labels, it can refuse to register products in California unless manufacturers address unmitigated hazards by amending the pesticide label. Pesticide labels defining the registered applications and uses of a chemical are mandated by the EPA as a condition of registration. The label includes application instructions and precautions the applicator should take to protect human health and the environment. For example, product labels may contain restrictions on certain land uses and weather (i.e., wind speed) parameters. DPR also designates pesticides that can impair human health or pose hazards to the environment as “restricted materials.” CCR, Title 3, Division 6, Chapter 2, Subchapter 4, further restricts the use of certain pesticides or active ingredients. These restrictions apply to all pesticide applications approved through the restricted materials permit process (through the applicable County Agricultural Commissioner). Regulatory restrictions may include the amount of pesticide that can be applied; methods of application; where the pesticide can be applied; or additional personal protective equipment (PPE) that must be worn or used. Herbicides could be used during operations/maintenance of the proposed project to manage vegetation.

#### *Transport of Hazardous Materials and Response Plan*

The State of California has adopted USDOT regulations for the movement of hazardous materials originating within the state and passing through the state; state regulations are contained in Title 26 of the California Code of Regulations. State agencies with primary responsibility for enforcing state regulations and responding to hazardous materials transportation emergencies are the California Highway Patrol (CHP) and Caltrans. Together, these agencies determine container types used and license hazardous waste haulers to transport hazardous waste on public roads. This regulation would guide transport of hazardous materials during project construction and operation.

California has developed an emergency response plan to coordinate emergency services provided by federal, state, and local governments and private agencies. Response to hazardous materials incidents is one part of the plan. The plan is managed by the Governor’s Office of Emergency Services, which coordinates the responses of other agencies in the study area.



## **Key Non-Environmental Regulatory Frameworks**

This appendix is primarily intended to summarize environmental regulations that may be applicable to various portions of the GRT development and master plan implementation. The following are additional key regulatory components to projects like the GRT that are frequently considered during the project planning phase and should be addressed, as applicable, in GRTA review and approval of trail segment development and implementation. Although the list is not exhaustive, the following topics include matters of state and federal law often reviewed alongside project-level environmental compliance.

### *American with Disabilities Act/Architectural Barriers Act*

The Americans with Disabilities Act (ADA), the Architectural Barriers Act (ABA), and related accessibility laws set minimum standards applicable to certain improvements. The standards to be utilized for GRT's trail design include, as applicable, the following:

- 2025 California Building Code (CBC) California Code of Regulations (CCR), Title 24, Part 2
- 2010 Department of Justice (DOJ) ADA Standards for Accessible Design (ADASAD)
- 2013 US Access Board (ABA) Accessibility Guidelines for Outdoor Developed Areas, 36 CFR Part 1191 (AGODA) including the 1999 Regulatory Negotiation Committee on Accessibility Guidelines for Outdoor Developed Areas (99 AG)
- Section 508 of the 1973 Rehabilitation Act, amended 1998, 29 USC 794d
- Access Board's recently adopted Public Right-of-Way Accessibility Guidelines (2023)

### *California Department of Forestry and Fire Protection Law*

CAL FIRE is dedicated to the fire protection and stewardship of over 31 million acres of the state forestland and privately owned wildlands (i.e., undeveloped and uncultivated land) (the SRA). In addition, CAL FIRE provides emergency services in 36 of the state's 58 counties via contracts with local governments. Public Resource Code Section 4291 gives CAL FIRE the authority to enforce 100 feet of defensible space around all buildings and structures on nonfederal SRA lands, or non-federal forest-covered lands, brush-covered lands, grass-covered lands, or any land that is covered with flammable material. Public Resource Code Sections 4113 and 4125 give CAL FIRE the responsibility for preventing and extinguishing wildland fires in the SRA. CAL FIRE also maps areas of significant fire hazards in the SRA based on fuels, terrain, weather, and other relevant factors (Public Resource Code Sections 4201- 204; Government Code Sections 51175–51189). Factors that increase an area's susceptibility to fire hazards include slope, vegetation type and condition, and atmospheric conditions. CAL FIRE has identified two types of wildland fire risk areas: (1) wildland areas that may contain substantial forest fire risks and hazards; and (2) very high fire hazard risk zones.

New development located in the SRA are subject to specific requirements, the ones that are applicable to the proposed project are provided below:

- Defensible space of 100 feet around all buildings and structures (PRC Section 4291; CCR, Title 14, Section 1299.03)
- Provision of adequate emergency access and egress (PRC Sections 4290 and 4291; CCR, Title 14, Sections 1273.01–1273.09)
- Emergency water requirements (CCR, Title 14, Sections 1275.01–1275.04)

Public Resource Code, beginning with Section 4427, includes fire safety statutes that restrict the use of equipment that may produce a spark, flame, or fire; require the use of spark arrestors on construction equipment with internal combustion engines; specify requirements for the safe use of gasoline-powered tools in fire hazard areas; and specify fire suppression equipment that must be provided on-site for various types of work in fire-prone areas.

*California Building Standards Code (California Code Title 24)*

California Code of Regulations, Title 24 (CBC), Section 701A.3 (New Buildings Located in Any Fire Hazard Severity Zone) requires that new buildings located in any Fire Hazard Severity Zone (FHSZ) within the SRA, any local agency Very High Fire Hazard Severity Zone (VHFHSZ), or any Wildland-Urban Interface (WUI) Fire Area designated by the enforcing agency, shall comply with all the requirements of Chapter 7A. These CBC requirements would apply to all new buildings associated with the GRT and would include the following applicable design elements:

- roofing be designed to be fire resistant and constructed to prevent the intrusion of flames and embers (CCR, Title 24, Section 705A);
- exterior walls design (including vents, windows, and doors) be designed with noncombustible or ignition-resistant material and to resist the intrusion of flame and ember (CCR, Title 24, Sections 707A and 707A);
- decking be designed with ignition-resistant material (CCR, Title 24, Section 709A); and
- ancillary buildings and structures comply with the above provisions (CCR, Title 24, Section 710A)

*Emergency Response and Evacuation Plans/Emergency Services Act*

The 2024 State of California Emergency Plan describes how state government mobilizes and responds to emergencies and disasters in coordination with partners in all levels of government, the private sector, non-profits, and community-based organizations. The plan also works in conjunction with the California Emergency Services Act and outlines a robust program of emergency preparedness, response, recovery, and mitigation for all hazards, both natural and human caused. All local governments with a certified disaster council are required to develop their own emergency operations plan (EOP) for their jurisdiction that meet state and federal requirements. Local EOPs contain specific emergency planning considerations, such as evacuation and transportation, sheltering, hazard specific planning, regional planning, public-private partnerships, and recovery planning. GRTA is not an entity with emergency response requirements or powers under the Emergency Services Act. However, GRTA will analyze emergency response considerations in GRTA-constructed and operated segments and will seek input from

partners in trail construction and operation to ensure appropriate consideration has been given to emergency preparedness and response.

# **Environmental Protection and Compliance Review**

## **GRTA Review and Segment Development Strategy**

This section describes the how GRTA will ensure that Great Redwood Trail (GRT) segments are developed and implemented consistent with the GRT Master Plan and receive review for compliance with regulatory requirements set forth in this Appendix H. The GRTA Review and Segment Development Strategy describes the framework under which GRTA will require study and review of environmental considerations pursuant to GRTA's adopted goals and applicable regulatory requirements, and how these requirements will be integrated into the study and design for any GRT segment development project proposed to take place on GRTA property.

### **STEPS:**

#### **Step 1: Scoping**

Early in the process of developing a partnership with GRTA regarding the construction or operations of any segment for inclusion in the GRT (the "Proposed Work"), any entity proposing to work with GRTA or upon its right-of-way (a "Partner") should submit to GRTA a general description of the scope, location, operational structure, and timeline for any Proposed Work, to allow GRTA to begin preliminary analysis of the Proposed Work for completion of the required Compliance Checklist. For GRTA-initiated Proposed Work, staff will generate this description to frame the review.

GRTA will complete the Compliance Checklist based on the preliminary proposal and any other materials or facts in GRTA's possession, with ongoing dialogue between GRTA and any consultants or Partners as needed to provide sufficient basis for determining what requirements will apply to the Proposed Work in order for GRTA to approve it or proceed to completion. Prior to completion of the Compliance Checklist for any Proposed Work, GRTA staff should strive to determine the following information:

1.      **Participating Entities.** Determine all entities expected to be responsible to GRTA for construction or operation of Proposed Work, including Partners or contractors.
2.      **Location of Proposed Work.** Determine the location of the Proposed Work, including Mile Post, parcel number, or geographic coordinate reference system, where available.
3.      **Current Usage of Proposed Location.** Understand the general usage of areas immediately adjacent to the location of the Proposed Work. To the extent the location exceeds the immediate GRTA rail corridor, obtain details as to ownership of property intended for inclusion in Proposed Work and basis for its inclusion.

4. Description of Proposed Work. Determine the scope and intended purpose of Proposed Work, particularly with reference to major elements and purpose sufficient to determine consistency with GRTA's adopted Master Plan.
5. Ongoing Operational Structure for Proposed Work. Identify likely methods and parties involved in ongoing management, possession, operation and maintenance of the Proposed Work, if approved. Specifically identify whether Proposed Work is intended for completion of construction of amenities only, with ongoing ownership and operation of Proposed Work by GRTA or third parties, or whether a Partner proposes ongoing rights and obligations.
6. Estimated Costs and Potential Funding of Proposed Work. Estimate potential cost of Proposed Work and potentially available funding sources, including likely Partner commitments. If Proposed Work may include ongoing revenue-generating operations by a Partner, or other commercial elements, consider the nature of the commercial elements.
7. Estimated Timeline of Completion of Proposed Work. Develop anticipated timeline for completion of work.
8. Previously Conducted Analysis of Proposed Work or Location. Identify any prior analysis of Proposed Work, or elements thereof, that has been previously conducted or is submitted by Partners. Examples of relevant analysis may include previously conducted environmental review of any or all of the proposed location or immediately adjacent sites, title information for involved real property, or feasibility analysis of Proposed Work of major project elements.

## **Step 2: Compliance Checklist Generation**

GRTA staff will review the identified information regarding the Proposed Work against pre-identified sources of GRT-wide and localized information, and the existing environmental regulatory framework, to identify necessary design standards and environmental protection specifications to effectuate GRTA policy and comply with applicable regulation<sup>1</sup>. Reviewing the segment through the lens of such information will inform conversations with GRTA's Tribal Advisory Committee and any other standing or ad-hoc committees of the Board of Directors and will be used by GRTA to create a project-specific Compliance Checklist. The Compliance Checklist will identify site-specific areas that require special review and analysis by GRTA and its partners. This information will support staff and technical experts in completing internal review, recommending appropriate design standards and other necessary elements, and ultimately bringing a final proposal to the Board of Directors for approval. The Compliance Checklist will identify areas of specific concern to GRTA via identification of regulatory matters likely implicated by the proposed segment development

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<sup>1</sup> Generally applicable GRTA Design Standards and Environmental Protection Specifications will be adopted and incorporated into the Master Plan by separate action. Any Proposed Work reviewed or approved prior to adoption of generally applicable GRTA Design Standards and Environmental Protection Specifications will require the use of individualized design standards and environmental protection specifications to meet the requirements of this Appendix.

project. In addition, the Compliance Checklist will identify any studies required to determine whether there are environmental conditions in the project area that may require special design considerations or construction practices.

The following types of data sources will be consulted in developing the checklist for a proposed segment development project:

### **1. Biological Resources and Special-Status Species**

These datasets can help determine the potential presence of special-status species, sensitive habitats, or sensitive vegetation communities within the project area, requiring further studies by the segment development project lead.

### **2. Wetlands, Hydrology, and Aquatic Resources**

These datasets can help identify aquatic resources and potential wetlands within the project area subject to permitting or special protection.

### **3. Wildlife Corridors and Habitat Connectivity**

These datasets can help identify the presence of existing or potential wildlife corridors and connected habitats within the project area, requiring consideration for trail design elements or restoration opportunities by the segment development project lead.

### **4. Forestry, Fire Hazard, and Vegetation Management**

These datasets can help identify special forestry, fire hazard, and vegetation management considerations within the project area, which may require further studies by the segment development project lead to inform trail design and operation.

### **5. Hazardous Materials and Contaminated Sites**

These datasets can help determine the potential presence of hazardous materials or contaminated sites within the project area, requiring further studies by the segment development project lead.

### **6. Water Quality and Flood Hazards**

These datasets can help identify potential flood hazards within the project area, requiring further studies by the segment development project lead.

### **7. Cultural and Tribal Resources**

These datasets can help determine the potential presence of cultural or historical resources within the project area, requiring further studies by the segment development project lead.

### **8. Geology, Soils, and Seismic Hazards**

These datasets can help identify potential geomorphic or seismic hazards within the project area, requiring further studies by the segment development project lead.

## **9. Coastal Resource Layers**

These datasets can help identify any coastal resources within the project area which may be subject to permitting or special protection.

## **10. Scenic Resource Layers**

These datasets can help identify any scenic resources within the project area which may be subject to permitting or special protection.

### **Step 3: Incorporation of Information into Documentation for Proposed Work**

Once the Compliance Checklist is complete and all required information has been gathered, GRTA will work with staff, partners, and consultants to prepare segment-specific materials for presentation to the Board of Directors for approval. This process of developing appropriate requirements for the Proposed Work will include discussion of any feedback from the Tribal Advisory Committee and address its incorporation into the proposed terms for approval of the Proposed Work recommended to the Board of Directors. GRTA will require the inclusion of environmental protection contract terms, construction specifications, or similar binding parameters based upon the manner in which the Proposed Work is expected to be presented to the Board of Directors. The GRTA Environmental Protection Specifications required for all segments will include the following:

- Parameters for Identification of Sensitive Resources at Worksites
- Biological Resource Preservation Protocols
  - Bird and Nesting Protection Requirements
  - Wildlife Protection Requirements
  - Special Status and Culturally Important Plant Protection Requirements
  - Invasive Plant Species Control
- Cultural and Tribal Resource Protection Protocols
- Waterway and Water Quality Protection Protocols
  - Stormwater Pollution Prevention Plan Requirements
  - Erosion Control Requirements
- Construction-Related Debris Control Requirements
  - Dust, Debris, and Air Quality Requirements
  - Hazardous Material Compliance Requirements

### **Step 4: Review and Board Recommendation**

GRTA staff will bring to the Board of Directors, for their consideration and possible approval for development for inclusion in the GRT, those final proposals which GRTA staff have reviewed and which show:

- Complete documentation for Proposed Work, including terms and conditions necessary to comply with all regulatory requirements identified by Steps 1-3 as applicable to the Proposed Work
- The Proposed Work will meet the requirements of the Master Plan and adopted GRTA Policy
- The Proposed Work is consistent with GRTA's priorities and enabling legislation



## **Compliance Checklist**

This form should be completed by GRTA, informed by the informational guidelines set forth in Step 1, for any proposed commencement of implementation of any segment or significant amenity for inclusion in the GRT by a third party not already authorized to commence trail construction. This form should also be completed by GRTA for any proposed commencement of trail construction of a segment of GRT by GRTA, or proposed opening of any segment of GRT for operation by GRTA for which the Compliance Checklist was not completed for construction thereof (“Proposed Work”).

GRTA will complete this Compliance Checklist based upon its initial review of the Proposed Work to identify any aspects of the Proposed Work for which GRTA determines compliance with its own policies or applicable law will require further review, study, and/or particularized design or implementation elements for approval. Where the completed Checklist identifies that further information or study should be obtained, or indicates particular contract or approval terms are necessary, presentation to the GRTA Board of Directors for approval of Proposed Work should not occur until GRTA staff has obtained and reviewed any needed information and determined any required contract or approval terms needed to effectuate GRT’s adopted policies and ensure compliance with applicable regulatory requirements. Any terms of approval or contract that are responsive to matters identified for analysis in the completed Checklist may be included in implementing agreements between Partner(s) and GTRA, as required terms to be included in design or construction documents, or as otherwise appropriate. This document does not replace any existing legal requirements imposed by state or federal law with respect to the Proposed Work.

The Compliance Checklist is intended as a tool for scoping staff and Board of Directors’ analysis of Proposed Work. GRTA’s inclusion in or exclusion from the completed checklist of any topic, issue, or environmental condition that may be implicated by the Proposed Work does not constitute a finding by GRTA as to the application of any law or regulation to the Proposed Work.

Each checklist topic below that is checked indicates that there is required information to be compiled, study to be completed, or required approval terms related to that topic, as applicable. Additional details regarding required studies or information may be included in additional pages. Where GRTA staff has not identified the need for additional information or studies regarding a topic, the checklist section shall be marked “N/A”.

|   |  |                        |
|---|--|------------------------|
| In each section and subsection, either (1) list the specific topic areas that must be reviewed, or (2) reference the attached document(s) that contain the required analysis for that section. If no further study is needed, mark N/A. |  |                        |
| BIOLOGICAL RESOURCES <sup>2</sup> (See Appendix H, Section 1):  |  | <b>REQUIRED REVIEW</b> |
| 1. State or Federally Protected Species   |  |                        |
|   | Threatened or Endangered Species Survey<br>(Completed/TBD/N/A) |                        |
|   | Critical Habitat Survey  |                        |
|   | Required Contract Terms  |                        |
| 2. Protection of Bird Nests and Raptors   |  |                        |
|   | Survey of Nesting Birds  |                        |
|   | Required Contract Terms  |                        |
| 3. Native Plant Protection  |  |                        |
|   | California Native Plant Protection – Survey                    |                        |
|   | Required Contract Terms  |                        |
| 4. Culturally Important Plant/Animals to Local Native American Populations  |  |                        |
|   | Culturally Informed Plant and Animal Study                     |                        |
|   | Required Contract Terms  |                        |
| 5. Environmentally Sensitive Area (Coastal Act)   |  |                        |
|   | Environmentally Sensitive Habitat Area study                   |                        |

<sup>2</sup> Fisheries and Fish address in “Streams and Rivers” topic

|  |  |                        |
|--|--|------------------------|
|  | Required Contract Terms  |                        |
| STREAMS, RIVERS, AND WETLANDS (See Appendix H, Section 2): |  | <b>REQUIRED REVIEW</b> |
| 6. In-Stream Work, Alteration, and Impacts:                |  |                        |
|  | Plans and Specifications to Specifically Address Streams and Waterways- Construction Impacts, Permanent Impacts/Alterations  |                        |
|  | Narrative Identification of Impacts to Include: Construction Impacts, Permanent Impacts, Permit Application Plan (addressing applicability of Section 401/Water Quality Certification by RWQCB; Section 404/Army Corp of Engineers Permit; Fish and Game Section 1602/CDFW Agreement)  |                        |
|  | Required Contract Terms  |                        |
| 7. Wetlands:   |  |                        |
|  | Narrative Identification of Impacts to Include: Construction Impacts, Permanent Impacts, Permit Application Plan (addressing applicability of Section 401/Water Quality Certification by RWQCB; Section 404/Army Corp of Engineers Permit; if applicable, Waste Discharge Requirements under Porter Cologne Act; if applicable, Coastal Development Permit |                        |
|  | Required Contract Terms  |                        |
| 8. Protected Waterways (See Appendix H, Section 3)         |  |                        |
|  | Wild and Scenic Rivers Act Review (Eel River) of Bureau of Land Management Guidance Compliance Plan  |                        |
|  | Required Contract Terms  |                        |
| CULTURAL RESOURCES (See Appendix H, Section 4):            |  | <b>REQUIRED REVIEW</b> |
| 9. Historic Places   |  |                        |

|   |  |                        |
|---|--|------------------------|
|   | National Registry of Historic Places – Review for Listed Properties  |                        |
|   | Required Contract Terms  |                        |
| 10. Native American Historical, Cultural, Sacred Sites                    |  |                        |
|   | Culturally Informed Historical and Sacred Site Study   |                        |
|   | Plans and Specifications to Specifically Address Management and Protection of Identified Sites, Presented to Tribal Advisory Committee |                        |
|   | Required Contract Terms  |                        |
| AIR, SOIL, AND GROUNDWATER PROTECTIONS<br>(See Appendix H, Section 5,6 )  |  | <b>REQUIRED REVIEW</b> |
| 11. National Pollutant Discharge Elimination System (NPDES) Permit Review |  |                        |
|   | Stormwater Pollution Prevention Plant (SWPPP)  |                        |
|   | RWQCB Basin Plan Compliance Review   |                        |
|   | Required Contract Terms  |                        |
| COASTAL ZONE PROTECTIONS (See Appendix H, Section 7)                      |  | <b>REQUIRED REVIEW</b> |
| 12. Coastal Area Protections  |  |                        |
|   | Coastal Act Compliance/Permitting Analysis (Local and/or State) re: Coastal Development Permit Requirement                             |                        |
|   | Required Contract Terms  |                        |
| 13. Hazardous Materials (See Appendix H, Section 5)                       |  |                        |
|   | Existing materials/contamination survey  |                        |
|   | Proposed Activity Review   |                        |

|   |  |                            |
|---|--|----------------------------|
|   | Required Contract Terms  |                            |
| NON-ENVIRONMENTAL COMPLIANCE MATTERS <sup>3</sup> |  | <b>REQUIRED<br/>REVIEW</b> |
|   | California Building Codes (Seismological Considerations/Fire Safety) |                            |
|   | American with Disabilities Act/Architectural Barriers Act            |                            |
|   | Emergency Response/Emergence Services Act                            |                            |
|   | Great Redwood Trail Agency Act                                       |                            |

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<sup>3</sup> Authorities and considerations listed in this section do not require the preparation of separate project-specific analysis prior to Board of Directors consideration, but should be considered by staff to ensure final authorization of Proposed Work presented to Board of Directors meets regulatory and policy requirements.

**Additional document(s) attached here.**