

APPROVED JURISDICTIONAL DETERMINATION FORM  
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

**SECTION I: BACKGROUND INFORMATION**

- A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):** August 3, 2012
- B. DISTRICT OFFICE:** San Francisco District **FILE NUMBER:** 293235  
**File Name:** Brannan Street Wharf  
**Waterbody Name:** San Francisco Bay
- C. PROJECT LOCATION AND BACKGROUND INFORMATION:**  
State: California County/parish/borough: San Francisco Co. City: San Francisco  
Center coordinates of site: (lat/long (in degree decimal format): Lat: 37.7844 N Long: -122.3874 W  
Pick List (lat/long (in degree decimal format): Lat: Pick Long: Pick  
Pick List (lat/long (in degree decimal format): Lat: Pick Long: Pick  
Universal Transverse Mercator:  
Name of nearest waterbody: San Francisco Bay  
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: n/a  
Name of watershed or Hydrologic Unit Code (HUC): San Francisco bay  
 Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request  
 Check if other sites (e.g., offsite mitigation sites, disposal sites, etc) are associated with this action and are recorded on a different JD form.
- D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):**  
 Office (Desk) Determination. Date: February 10, 2012  
 Field Determination. Date(s):

**SECTION II: SUMMARY OF FINDINGS**

**A. RHA SECTION 10 DETERMINATION OF JURISDICTION.**

There are no "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [Required].

- Waters subject to the ebb and flow of the tide.  
 Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. **Explain:**

**B. CWA SECTION 404 DETERMINATION OF JURISDICTION**

There are "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

1. Waters of the U.S.:

- a. Indicate presence of waters of U.S. in review area (check all that apply):<sup>1</sup>

- TNWs, including territorial seas  
 Wetlands adjacent to TNWs  
 Relatively permanent waters<sup>2</sup> (RPWs) that flow directly or indirectly into TNWs  
 Non-RPWs that flow directly or indirectly into TNWs  
 Wetlands directly abutting RPWs that flow directly or indirectly into TNWs  
 Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs  
 Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs  
 Impoundments of jurisdictional waters  
 Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-wetland waters: linear feet: width (ft) and/or 0.5 acres. (other comments: )  
Wetlands: acres. (other comments: )

c. Limits (boundaries) of jurisdiction based on: Pick List

Elevation of established OHWM (if known):

2. Non-regulated waters/wetlands (check if applicable):<sup>3</sup>

<sup>1</sup> Boxes checked below shall be supported by completing the appropriate sections in Section III below.

<sup>2</sup> For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

<sup>3</sup> Supporting documentation is presented in Section III.F.

- Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. *Explain:*

### SECTION III: CWA ANALYSIS

#### **A TNWs AND WETLANDS ADJACENT TO TNWs**

**The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.**

##### 1. TNW

Identify TNW: [San Francisco Bay](#)

Summarize rationale supporting determination that waterbody is a TNW: [San Francisco Bay was traversed by watercraft since before the coming of Europeans; the indigenous peoples used their canoes to fish and clam along the shoreline. The era of sail brought ships that communicated with the rest of the world and served as early ferries and freighters within the Bay and between the Bay and inland ports such as Sacramento and Stockton. These were gradually replaced by steam-powered vessels starting in the late 19th century. Several shipyards were early established around the Bay, augmented during wartime. The Bay continues to serve as a major international shipping port, served by a large container facility operated by the Port of Oakland, and two smaller facilities in Richmond and San Francisco.](#)

##### 2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is “adjacent”:

#### **B CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):**

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are “relatively permanent waters” (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody<sup>4</sup> is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

##### **1. Characteristics of non-TNWs that flow directly or indirectly into TNW**

###### (i) General Area Conditions:

Watershed size: [Pick List](#)  
Drainage area: [Pick List](#)  
Average annual rainfall: inches  
Average annual snowfall: inches

###### (ii) Physical Characteristics:

###### a. Relationship with TNW:

- Tributary flows directly into TNW  
 Tributary flows through [Pick List](#) tributaries before entering TNW

Project waters are [Pick List](#) river miles from TNW.  
Project waters are [Pick List](#) river miles from RPW.  
Project waters are [Pick List](#) aerial (straight) miles from TNW.  
Project waters are [Pick List](#) aerial (straight) miles from RPW.

<sup>4</sup> Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

Project waters cross or serve as a state boundary. **Explain:**

Identify flow route to TNW<sup>5</sup>:

Tributary stream order, if known:

**b. General Tributary Characteristics (check all that apply):**

Tributary is:

- Natural: (comment if needed )
- Artificial (man-made): **Explain:**
- Manipulated (man-altered): **Explain:**

Tributary properties with respect to top of bank (*estimate*):

Average width: feet (measured from top of bank to top of bank)

Average depth: feet. (measured from OHWM to top of bank)

Average side slopes: [Pick List](#)

**Primary tributary substrate composition (check all that apply):**

- Silt:
- Sand:
- Clay:
- Cobbles:
- Gravel:
- Muck:
- Bedrock:
- Concrete:
- Vegetation (Type / % cover):
- Other (Explain):

Tributary condition/stability [e.g., highly eroding, sloughing banks]. **Explain:**

Presence of run/riffle/pool complexes. **Explain:**

Tributary geometry: [Pick List](#).

Tributary gradient (approximate average slope): %

**c. FLOW INFORMATION**

Tributary provides for: [Pick List](#)

Estimate average number of flow events in review area/year: [Pick List](#)

Describe flow regime:

Other information on duration and volume:

Surface flow is: [Pick List](#). Characteristics:

Subsurface flow: [Pick List](#). **Explain findings:**

- Dye (or other) test performed:

Tributary has (check all that apply):

- Bed and banks
- OHWM<sup>6</sup> (check all indicators that apply):
  - clear, natural line impressed on the bank
  - changes in the character of soil
  - destruction of terrestrial vegetation
  - vegetation matted down, bent, or absent
  - leaf litter disturbed or washed away
  - multiple observed or predicted flow events
  - water staining
  - abrupt change in plant community. **Explain:**
  - other (list):
- Discontinuous OHWM.<sup>7</sup> **Explain:**
- the presence of litter and debris
- shelving
- the presence of wrack line
- sediment sorting
- scour
- sediment deposition

<sup>5</sup> Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

<sup>6</sup> A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

<sup>7</sup>Ibid.

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (*check all that apply*):

- |   |   |
|---|---|
| <input type="checkbox"/> High Tide Line indicated by: <b>OR</b> <input type="checkbox"/> Mean High Water Mark indicated by: |   |
| <input type="checkbox"/> oil or scum line along shore objects   | <input type="checkbox"/> survey to available datum                    |
| <input type="checkbox"/> fine shell or debris deposits (foreshore)  | <input type="checkbox"/> physical markings                            |
| <input type="checkbox"/> physical markings/characteristics  | <input type="checkbox"/> vegetation lines/changes in vegetation types |
| <input type="checkbox"/> tidal gauges   |   |
| <input type="checkbox"/> other ( <i>list</i> ):   |   |

(iii) **Chemical Characteristics:**

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.). *Explain:* .

Identify specific pollutants, if known:

(iv) **Biological Characteristics.** Channel supports (*check all that apply*):

- Riparian corridor. Characteristics (type, average width):
- Wetland fringe. Characteristics:
- Habitat for:
  - Federally Listed species. *Explain findings:*
  - Fish/spawn areas. *Explain findings:*
  - Other environmentally-sensitive species. *Explain findings:*
  - Aquatic/wildlife diversity. *Explain findings:*

**2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW**

(i) **Physical Characteristics:**

(a) General Wetland Characteristics:

Properties

Wetland size:        acres

Wetland type. *Explain:*

Wetland quality. *Explain:*

Project wetlands cross or serve as state boundaries. *Explain:*

(b) General Flow Relationship with Non-TNW:

Flow is: **Pick List** *Explain:*

Surface flow is: **Pick List**

Characteristics:

Subsurface flow: **Pick List** *Explain findings:*

- Dye (or other) test performed:

(c) Wetland Adjacency Determination with Non-TNW:

- Directly abutting
- Not directly abutting
  - Discrete wetland hydrologic connection. *Explain:*
  - Ecological connection. *Explain:*
  - Separated by berm / barrier. *Explain:*

(d) Proximity (Relationship) to TNW

Project wetlands are **Pick List** river miles from TNW.

Project waters are: **Pick List** aerial (straight) miles from TNW.

Flow is from: **Pick List**

Estimate approximate location of wetland as within the: **Pick List** floodplain.

(ii) **Chemical Characteristics:**

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). *Explain:*

Identify specific pollutants, if known: *Explain:*

(iii) **Biological Characteristics.** Wetland supports (*check all that apply*):

- Riparian buffer. Characteristics (type, average width):

- Vegetation type/percent cover. **Explain:**
- Habitat for:
  - Federally Listed species. **Explain findings:**
  - Fish/spawn areas. **Explain findings:**
  - Other environmentally-sensitive species. **Explain findings:**
  - Aquatic/wildlife diversity. **Explain findings:**

**3. Characteristics of all wetlands adjacent to the tributary (if any)**

- (i) All wetland(s) being considered in the cumulative analysis: **Pick List**
- (ii) Approximately ( ) acres in total are being considered in the cumulative analysis.

(iii) For each wetland associated with the reach or waterbody being analyzed in this form, specify the following:

Number/Name <sup>8</sup>	Directly abuts (Yes/No)	Size	Number/Name	Directly abuts (Yes/No)	Size
	Pick	acres		Pick	acres
	Pick	acres		Pick	acres
	Pick	acres		Pick	acres
	Pick	acres		Pick	acres
	Pick	acres		Pick	acres
	Pick	acres		Pick	acres

- (iv) Summarize overall biological, chemical and physical functions being performed:

**C. SIGNIFICANT NEXUS DETERMINATION**

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

**Note:** the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

<sup>8</sup> In the Number/Name column, add the number and/or name that you have given the wetland being referred to in the table. Example, you are referring to a wetland on your wetland delineation map number 6, that you call wetland No.3 on a reach you refer to as Putah Creek. For this wetland you would add to the table in the Number/Name column, something like the following: (No. 3, Putah Ck., Map # 6).

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** *Explain* findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D
2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** *Explain* findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:
- 3 **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** *Explain* findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

**D DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):**

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:
- TNWs: linear feet width (ft), and/or 0.5 acres.
  - Wetlands adjacent to TNWs: acres.
2. **RPWs that flow directly or indirectly into TNWs.**
- Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: .
  - Tributaries of TNW where tributaries have continuous flow “seasonally” (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally: .
- Provide estimates for jurisdictional waters in the review area (*check all that apply*):
- Tributary waters: linear feet width (ft).
  - Other non-wetland waters: acres.
- Identify type(s) of waters: .
3. **Non-RPWs<sup>9</sup> that flow directly or indirectly into TNWs.**
- Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.
- Provide estimates for jurisdictional waters within the review area (*check all that apply*):
- Tributary waters: linear feet width (ft).
  - Other non-wetland waters: acres.
- Identify type(s) of waters: .
4. **Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.**
- Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
    - Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in **Section III.D.2**, above. Provide rationale indicating that wetland is directly abutting an RPW: .
    - Wetlands directly abutting an RPW where tributaries typically flow “seasonally.” Provide data indicating that tributary is seasonal in **Section III.B** and rationale in **Section III.D.2**, above. Provide rationale indicating that wetland is directly abutting an RPW: .
- Provide acreage estimates for jurisdictional wetlands in the review area: acres.
5. **Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.**

<sup>9</sup>See Footnote # 3.  
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- Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at **Section III.C.**

Provide acreage estimates for jurisdictional wetlands in the review area: \_\_\_\_\_ acres.

**6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.**

- Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at **Section III.C.**

Provide estimates for jurisdictional wetlands in the review area: \_\_\_\_\_ acres.

**7. Impoundments of jurisdictional waters.<sup>10</sup>**

As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.

- Demonstrate that impoundment was created from “waters of the U.S.,” or
- Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
- Demonstrate that water is isolated with a nexus to commerce (see E below).

**E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):<sup>11</sup>**

- which are or could be used by interstate or foreign travelers for recreational or other purposes.
- from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
- which are or could be used for industrial purposes by industries in interstate commerce.
- Interstate isolated waters. Explain: \_\_\_\_\_.
- Other factors. Explain: \_\_\_\_\_.

Identify water body and summarize rationale supporting determination: \_\_\_\_\_.

Provide estimates for jurisdictional waters in the review area (*check all that apply*)

- Tributary waters: \_\_\_\_\_ linear feet \_\_\_\_\_ width (ft).
- Other non-wetland waters: \_\_\_\_\_ acres.  
Identify type(s) of waters: \_\_\_\_\_.
- Wetlands: \_\_\_\_\_ acres.

**F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):**

- If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
  - Prior to the Jan 2001 Supreme Court decision in “SWANCC,” the review area would have been regulated based solely on the “Migratory Bird Rule” (MBR).
- Waters do not meet the “Significant Nexus” standard, where such a finding is required for jurisdiction. **Explain:** \_\_\_\_\_.
- Other: (explain, if not covered above): \_\_\_\_\_.

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (*check all that apply*):

- Non-wetland waters (i.e., rivers, streams): \_\_\_\_\_ linear feet \_\_\_\_\_ width (ft).

<sup>10</sup> To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

<sup>11</sup> **Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.**

- Lakes/ponds:        acres.
- Other non-wetland waters:        acres. List type of aquatic resource:        .
- Wetlands:        acres.
- 

**SECTION IV: DATA SOURCES.**

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant:        .
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - Office concurs with data sheets/delineation report.
  - Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps:        .
- Corps navigable waters' study:        .
- U.S. Geological Survey Hydrologic Atlas:        .
  - USGS NHD data.
  - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name:        .
- USDA Natural Resources Conservation Service Soil Survey. Citation:        .
- National wetlands inventory map(s). Cite name:        .
- State/Local wetland inventory map(s):        .
- FEMA/FIRM maps:        .
- 100-year Floodplain Elevation is:        (National Geodetic Vertical Datum of 1929)
- Photographs:         Aerial (Name & Date):        .
  - Other (Name & Date):        .
- Previous determination(s). File no. and date of response letter:        .
- Applicable/supporting case law:        .
- Applicable/supporting scientific literature:        .
- Other information (please specify): [http://en.wikipedia.org/wiki/San\\_Francisco\\_Bay](http://en.wikipedia.org/wiki/San_Francisco_Bay).
- [Section 5052 of the Water Resources Development Act of 2007, Pub. L. No. 110-114, § 5052, 121 STAT.1211](#)

B. ADDITIONAL COMMENTS TO SUPPORT JD:

- [Per Section 5052 of the Water Resources Development Act of 2007, Pub. L. No. 110-114, § 5052, 121 STAT.1211, this area has been declared non-navigable under Section 10 of the Rivers and Harbors Act of 1899. The declaration of non-navigability applies to "the portion of the San Francisco California waterfront area beginning at the intersection of the northeasterly prolongation of that portion of the northwesterly line of Bryant Street lying between Beale Street and Main Street with the southwesterly line of Spear Street, which insterection lies on the line of jurisdiction of the San Francisco Port Commission; following thence southerly along said line of jurisdiction as described in the State of Califonia Harobr and Navigation Code Section 1770, as amended in 1961, to its intersection with the southeasterly line of Townsend Street; thence northeasterly along said southeasterly line of Townsend Street, to its intersection with a line parallel and distant 10 feet southerly from the existing southern boundary of Pier 40 produced; thence easterly along said parallel line, to its point of intersection with the United States Government Pierhead line; thence northerly along said Pierhead line to its intersection with a line parallel with and distant 10 feet easterly from , the existing boundarly line of Pier 30-32; thence northerly along said parallel line and its northerly prolongation to a point of intersection with a line parallel with and distant 10 feet northerly from the existing northerly boundary of Pier 30-32; thence westerly along last said parallel line to its intersection with the Unites States Government Pierhead line; thence northerly along said Pierhead line to its intersection aforementioned northwesterly line of Bryant Street produced northeasterly; thence southwesterly along said northwesterly line of Bryant Street produced to the point of beginning". The declaration of nonnavigability applies to the area described above, but only to those parts that are or will be bulkheaded, filled or otherwise occupied by permanent structures. Thus the site is subject to Section 404 of the Clean](#)

Water Act, but not Section 10 of the Rivers and Harbors Act of 1899.