

BRRIT FAQs

What is the BRRIT?

The Bay Restoration Regulatory Integration Team (BRRIT) is a collaborative team comprised of staff from the six state and federal regulatory agencies with jurisdiction over and dedication to permitting habitat restoration projects in and around San Francisco Bay. The BRRIT is supported by funding from the San Francisco Bay Restoration Authority (SFBRA) and other Bay Area organizations interested in improving permitting of multi-benefit restoration projects. Specifically, the BRRIT is comprised of:

- U.S. Army Corps of Engineers (Corps)
- U.S. Fish and Wildlife Service (USFWS)
- NOAA National Marine Fisheries Service (NOAA Fisheries)
- San Francisco Bay Regional Water Quality Control Board (Water Board)
- California Department of Fish and Wildlife (CDFW)
- San Francisco Bay Conservation and Development Commission (BCDC)

The U.S. Environmental Protection Agency (USEPA) also participates on an ad hoc basis.

What kinds of projects will the BRRIT review?

The BRRIT reviews projects that qualify for funding under the SFBRA's definition of multi-benefit wetland restoration projects and their associated flood management and public access infrastructure features.

What is the benefit of working with the BRRIT? Will using the pre-application process streamline my permitting timeline?

The primary benefit to coordinating with the BRRIT early in your Project planning phase is that the team is dedicated to providing early review, project input and guidance, identifying agency requirements that need to be met, and resolving regulatory issues early in the planning process. After completing the pre-application process, project permitting will be less likely to encounter regulatory challenges that can delay permitting and construction.

What can project applicants do to facilitate efficient processing of their permit?

To enable a smooth permitting process, applicants can participate in pre-application coordination with the BRRIT to identify potential issues and work collaboratively to resolve them. Through this process, the applicant will also learn about important information to provide, as part of the complete permit application.

What does the BRRIT do to facilitate efficient permit processing?

The BRRIT can improve the permitting timeline by being available for pre-application meetings, site visits, and providing written guidance to restoration projects. The BRRIT will review project information collaboratively with applicants, identifying issues early in the design and planning process, and providing recommendations to meet agency requirements. The team approach helps applicants navigate permitting from different agencies on parallel tracks as much as

possible and is intended to reduce common permitting delays. Project applicants will have one dedicated BRRIT member that manages communications and helps schedule follow up meetings, as needed or requested.

The BRRIT has also made available on the SFBRA website, resources that can assist applicants in their preparation of application materials.

The BRRIT coordinates closely with the associated Policy Management Committee (PMC), comprised of management level staff from each agency. The PMC is actively working to address known overarching policy-level challenges to the restoration community and is also available to the BRRIT for assistance with project-level challenges, as necessary when it feels elevation is required.

What is the geographic scope of projects reviewed by the BRRIT?

As per the authorizing legislation of the SFBRA, projects must be located within the nine Bay Area counties along the shoreline of the San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, and most of northern Contra Costa County shoreline to the edge of but not including the Delta Primary Zone. “Along the Shoreline” includes the following areas:

- **Subtidal Habitats.** Area lying below mean low tide, within a reasonable distance of the shoreline.
- **Baylands.** Areas that lie between the maximum and minimum elevations of the tides over multiyear cycles, including those areas that would be covered by the tides in the absence of levees or other unnatural structures, including the portion of creeks or rivers located below the head of tide.
- **Transition Zones.** Uplands adjacent to potential or actual tidal wetlands that can provide transitional habitat and/or marsh migration space, as well as areas that are needed to enhance the project’s resilience to projected sea level rise.

If my project is a voluntary restoration, why do I need to get permits?

Many Bay natural habitats, including wetlands, tidal waters, ponds, and tributaries to the Bay, are protected by federal and state laws and regulations. These include the Clean Water Act, the Rivers and Harbor Act, the Endangered Species Acts, the Porter Cologne Act, McAteer Petris Act, and California Fish and Game Codes. Environmental laws and regulations are important in order to avoid unintended consequences, to ensure coordination with other land and water management efforts, to avoid and minimize impacts to sensitive resources, and to promote thorough project planning.

How do I get my project reviewed by the BRRIT?

The San Francisco Bay Restoration Authority conducts a call for projects to participate in the BRRIT pre-application/permitting process about every six months. To be included on the BRRIT Project List, enter your project into EcoAtlas as “San Francisco Bay Restoration Authority (Eligible)” using the Project Tracker tool and Authority staff will determine eligibility. If you have questions about how to get your restoration project included on the Project List for BRRIT review, please email BRRIT@sfbayrestore.org.

Can I contact the BRRIT directly about my project?

The San Francisco Bay Restoration Authority determines which projects are eligible for BRRIT review. Eligible projects may contact the BRRIT by emailing BRRIT@waterboards.ca.gov. If you have questions about how to get your restoration project included on the Project List for BRRIT review, please email BRRIT@sfbayrestore.org.

How can I schedule a pre-application meeting?

The SFBRA will contact you to let you know if your project was selected as an eligible project for BRRIT review. Eligible projects can email BRRIT@waterboards.ca.gov to schedule a pre-application meeting. Pre-application meetings are generally held on the first Wednesday of the month at the Water Board office in Oakland, but may be scheduled as needed based on project timeline constraints.

When should I bring my project to the BRRIT?

We strongly recommend that you schedule a pre-application meeting as early as possible in your project planning phase. The BRRIT can advise you of the options for permitting pathways, any likely protected species conservation measures that may need to be considered for the project construction, any potential for cultural resource consultation, and other potential public concerns about the project.

How does the regulatory process differ when projects are reviewed by the BRRIT?

The regulatory process does not differ when projects are reviewed by the BRRIT. However, efficiencies are anticipated because projects will receive coordinated review by the BRRIT. By participating in robust pre-application meetings, many regulatory hurdles can be resolved prior to application submittal and ensure timely processing of permits. The BRRIT team members work in close coordination with each other and with the applicant, allowing more rapid exchange of information and opportunity for problem solving.

How do I know what permits my restoration project will need?

If you answer “yes” to any of the following, you will need a Corps Permit:

- Will your project require any work activities that take place in tidal waters, or anywhere in a tidal marsh below the local mean high water elevation?
- Will your project require installing any sort of structure in tidal waters, or anywhere in the tidal marsh below the local mean high water elevation?
- Will your project require placing any materials in tidal waters or on tidal wetlands (even temporarily)?
- Will your project require placing any materials (even temporarily) in any wetland, pond, or local tributary that flows to the San Francisco Bay?

If your project needs a Corps Permit, it will also need a Water Quality Certification from the San Francisco Regional Water Quality Control Board.

If your project needs a Corps Permit, and there are any federally listed species (under the Endangered Species Act) or their habitats present, your project may also need Endangered Species Act consultation, which the Corps would likely conduct on the project's behalf.

- Will your project involve work within a tidal slough or a tributary stream?

If yes, you will likely need a 1602 Streambed Alteration Agreement from the CA Department of Fish and Wildlife.

- Will your project involve potential impacts to species listed under the California Endangered Species Act?

If yes, you may need to obtain a CESA 2081(b) Incidental Take Permit.

- Will your project involve work in the Bay or within the 100-foot shoreline band of the Bay?

If yes, you will likely need a BCDC permit.

I know that I need a Corps permit, but should I request an Individual Permit from the Corps or can my restoration project be covered under a Nationwide Permit?

You should discuss this question when you come to the BRRIT for your pre-application meeting because there are pros and cons to each permitting pathway. Is your project likely to result in greater than minimal adverse environmental effects? If yes, then you will need an Individual Permit. Keep in mind that while your project may be a *net benefit* to the environment, it could still have adverse impacts that are not minimal – for example, if you are restoring tidal flow to a large area of productive habitat that is currently not subject to tides. If the current habitat provides important functions that would be lost, then the adverse effects could be more than minimal. This does not mean your project wouldn't be permitted, it only means that the Corps would require NEPA document and would issue an individual permit for the project.

The level of adverse effects is not the only consideration. If your project will need adaptive management activities over time to ensure success, early conversation with the BRRIT would help determine whether an individual permit, which includes future adaptive management activities, would provide more flexibility and reduce the need for additional permits after construction.

Isn't the Nationwide 27 the fastest permit pathway for my restoration project?

It may be, but only by a couple of months. For example, many restoration projects involve potential effects to federally listed species (e.g., salt marsh harvest mouse, Ridgway's rail, steelhead, or other salmonids) and therefore require Endangered Species Act consultation for in the course of obtaining an Individual Permit or a Nationwide 27. Consultation can add four to six months to the permit processing time. For an Individual Permit NEPA review, including an alternatives analysis, actual permit processing time does not need to be much longer than the nationwide permit processing, since both permit pathways require the Endangered Species Act consultation.

What should I submit as part of my permit application package to the agencies?

After one or more pre-application meetings and a recommendation by BRRIT that you should advance to the application stage, your application, should include, at minimum:

- Delineation of waters of the U.S., including wetlands and non-wetland waters.
- Project location including map.
- Complete description of the proposed activity(ies), including any fill or excavation discharges; beneficial reuse of dredged sediment; proposed construction methods, including access and staging.
- Design plans at a level that captures the likely work and impacts to species or habitat under the jurisdiction of the BRRIT agencies.
- A Biological Assessment if any federally listed species (under the Endangered Species Act) or their habitats are present (the Biological Assessment should include a project description, the species and habitat present, proposed measures to avoid and minimize impacts, and description of likely effects to the species and/or critical habitat).
- An inventory of the cultural resources of the project area and ¼ mile around the project area (The Area of Potential Effect (APE)). That inventory should include an evaluation of potential resources that are over 50 years old and an effects evaluation to determine if resources present are eligible for the National Register of Historic Properties.
- A description of the aerial extent of temporary and permanent project impacts to aquatic resources in acres and linear feet; the volume of fill or excavation in cubic yards; and any discharges within the jurisdictional waters of the U.S and State. The description of aquatic resource impacts should correspond to those delineated in the Delineation Report.
- A proposed monitoring plan that includes success criteria and methods to measure whether the project is achieving success. If adaptive management will be needed, the monitoring plan should include methods proposed to identify adaptive management triggers, potential adaptive management scenarios, and measures that would be implemented.

Can the BRRIT work on mitigation projects?

- No. The BRRIT can only work on SFBRA priority projects.

Where can I find information on specific agency permitting requirements?

U.S. Army Corp of Engineers (Corps):

Regulatory Home Page for the San Francisco District -
<https://www.spn.usace.army.mil/Missions/Regulatory.aspx>

For more information on the Nationwide Permits (including a link to the 2017 Nationwide Permits) - <https://www.spn.usace.army.mil/Missions/Regulatory/Regulatory-Overview/Nationwide/>

National Marine Fisheries Service (NMFS):

<https://www.fisheries.noaa.gov/west-coast/about-us/protecting-marine-life-west-coast>

U.S. Fish and Wildlife Service (USFWS):

<https://www.fws.gov/endangered/what-we-do/consultations-overview.html>

California Department of Fish and Wildlife (CDFW):

<http://wildlife.ca.gov/Conservation/CESA>

<https://wildlife.ca.gov/Conservation/LSA>

Bay Conservation and Development Commission (BCDC)

<https://www.bcdc.ca.gov/permits/>

San Francisco Bay Regional Water Quality Control Board (Water Board):

<https://www.waterboards.ca.gov/sanfranciscobay/certs.html>