

# Briefing on Inactive Cases

**August 8, 2019**

**Adrienne Klein**

# Enforcement Report – Backlog Follow-Up

- 52 cases are more than 10 years old (i.e. 2009 and older)
- 12 high priority
- 7 against public agencies
- 1 public agency case is high priority (ER1990.026 USACOE)

# Cases Opened and Closed Per Year (2008 to 2018)

Year	Cases Opened	Cases Closed	Total Number of Cases at Beginning of Year	Total Number of Cases at End of Year
2008	32	49	146	136
2009	44	42	136	138
2010	42	44	138	132
2011	53	33	131	151
2012	49	22	151	178
2013	56	54	178	174
2014	51	70	172	154
2015	57	13	151	195
2016	53	45	195	204
2017	55	33	204	226
2018	60	28	226	261

# 1. ER1988.024

## 628 John's Place, Benicia

- **Location:** Benicia, Solano County
- **Violation:** Public access stairs to beach, related to 10-home development authorized by a BCDC permit, are in disrepair and closed by City mandate
- **Proposed Case Management Plan:** As of 2019, City is satisfied with proposed revetment repair design submitted by property owner. Next step is to seek regulatory approvals, including BCDC approval. Allow landowner to continue to pursue design and approvals for new/repared seawall so that City can then reconstruct public access stairway

Photograph of 628 John's Place,  
dated February, 2010



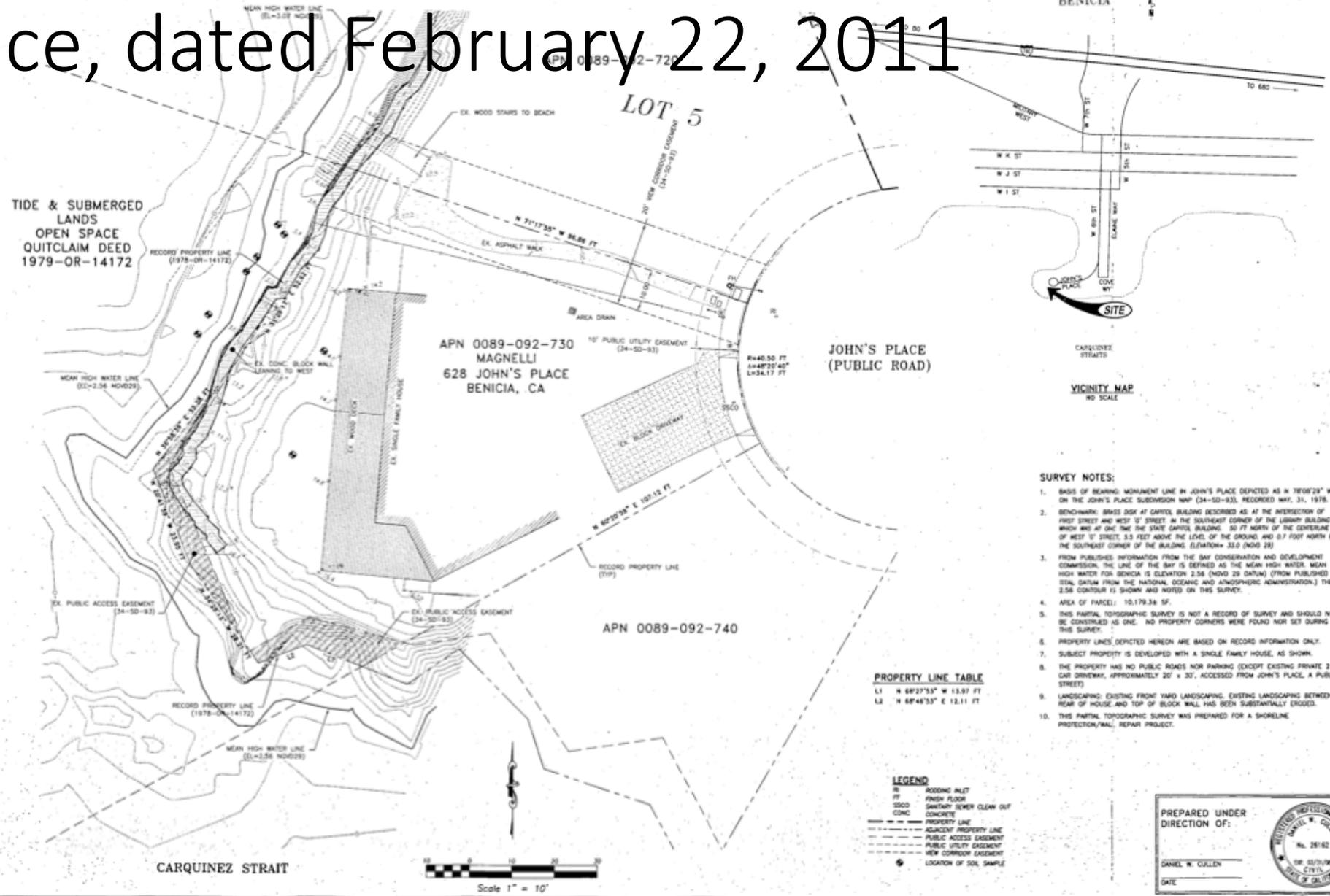
# Aerial Photograph of 628 John's Place, dated September 1, 2018



1987

Imagery Date: 9/1/2018 38°03'18.01" N 122°10'09.05" W elev 0 ft eye alt 448 ft

# Partial Topographic Survey of 628 John's Place, dated February 22, 2011



- SURVEY NOTES:**
1. BASIS OF BEARING: MONUMENT LINE IN JOHN'S PLACE DEPICTED AS N 78°07'21" W ON THE JOHN'S PLACE SUBDIVISION MAP (34-50-93), RECORDED MAY, 31, 1978.
  2. BENCHMARK: BRASS DISK AT GARAGE BUILDING DESCRIBED AS: AT THE INTERSECTION OF FIRST STREET AND WEST 10' STREET IN THE SOUTHWEST CORNER OF THE LIBRARY BUILDING WHICH WAS AT ONE TIME THE STATE CAPITOL BUILDING. 50 FT NORTH OF THE CENTERLINE OF WEST 10' STREET, 5.5 FEET ABOVE THE LEVEL OF THE GROUND AND 6.7 FOOT NORTH OF THE SOUTHWEST CORNER OF THE BUILDING (ELEVATION+ 33.0 (NGD 28)).
  3. FROM PUBLISHED INFORMATION FROM THE BAY CONSERVATION AND DEVELOPMENT COMMISSION, THE LINE OF THE BAY IS DEFINED AS THE MEAN HIGH WATER. MEAN HIGH WATER FOR BENICIA IS ELEVATION 2.58 (NGD 28 DATUM) (FROM PUBLISHED STATION DATUM FROM THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.) THE 2.58 CONTOUR IS SHOWN AND NOTED ON THIS SURVEY.
  4. AREA OF PARCEL: 10,179.38 SF.
  5. THIS PARTIAL TOPOGRAPHIC SURVEY IS NOT A RECORD OF SURVEY AND SHOULD NOT BE CONSIDERED AS ONE. NO PROPERTY CORNERS WERE FOUND NOR SET DURING THIS SURVEY.
  6. PROPERTY LINES DEPICTED HEREON ARE BASED ON RECORD INFORMATION ONLY.
  7. SUBJECT PROPERTY IS DEVELOPED WITH A SINGLE FAMILY HOUSE, AS SHOWN.
  8. THE PROPERTY HAS NO PUBLIC ROADS NOR PARKING (EXCEPT EXISTING PRIVATE 2 CAR DRIVEWAY, APPROXIMATELY 20' x 30', ACCESSED FROM JOHN'S PLACE, A PUBLIC STREET).
  9. LANDSCAPING: EXISTING FRONT YARD LANDSCAPING. EXISTING LANDSCAPING BETWEEN REAR OF HOUSE AND TOP OF BLOCK WALL HAS BEEN SUBSTANTIALLY ERODED.
  10. THIS PARTIAL TOPOGRAPHIC SURVEY WAS PREPARED FOR A SHORELINE PROTECTION/WALL, REPAIR PROJECT.

**CSA**  
Cullen-Sherry & Associates, Inc.  
Civil Engineering - Surveying  
2009 Atlantic Street, Suite A, P.O. Box 951, Benicia, California 94810  
(707) 744-3019 Fax (707) 745-8438 www.csa-engineers.com  
Data Collector: MICHAEL BULLOCK; Plot Sherry: BOB SHERRY

**PARTIAL TOPOGRAPHIC SURVEY**  
**628 JOHN'S PLACE**  
BENICIA, CALIFORNIA  
PREPARED FOR: *[Signature]*

SCALE: AS NOTED  
DATE: 2-22-2011  
DESIGN BY: [Signature]  
DRAWN BY: AAS  
CHECKED BY: DMC  
FIELD BOOK: [Signature]  
SHEET NUMBER: **1**  
OF 1 SHEETS  
PROJECT: 09109

**PREPARED UNDER DIRECTION OF:**  
[Signature]  
DATE: \_\_\_\_\_

**REGISTERED PROFESSIONAL ENGINEER**  
NO. 28162  
OF CALIFORNIA  
CIVIL

## 2. ER1995.002

### 22 Lucky Drive, Greenbrae

- **Location:** 22 Lucky Drive, Greenbrae, Marin County
- **Violation:** Two episodes of placing broken rock, concrete and fill around and under the residence in Corte Madera Creek, illegal live-aboard, removal of marsh vegetation, repair of decks around house, residential expansion via an enclosure, installing of pilings. Since discovery of violations, property has changed hands
- **Proposed Case Management Plan:** **1.** Contact current owner; solicit after-the-fact application. Resolve without fines if all unauthorized work is permitted or removed within specified timeframe. **2.** Coordinate with the SLC, who owns the submerged tidelands on which this and other residences are located and with Marin County, from whom discretionary approval may be necessary

# Aerial Image of 22 Lucky Drive, dated September 19, 2018



1987

Imagery Date: 9/19/2018 37°56'26.93" N 122°31'04.82" W elev 2 ft eye alt 264 ft

Google Earth

## 3. ER1998.013

# City and County of San Francisco

- **Location:** Adjacent to India Basin, northeast of Hunters Point Road, in the City and County of SF
- **Violation/Challenges:** Failure to submit public access instrument required by the original permit special condition
- **Proposed Case Management Plan:** Contact permittee and provide them with instructions to complete this and other outstanding permit requirements



# Aerial Image of India Basin dated September 3, 2002



## 4. ER1999.005

# Oracle America Inc, Centrum Owners Association and Oracle Corporation

- **Location:** Redwood City, San Mateo County
- **Violation/Challenges:** Failure to submit public access instrument required by the original permit special condition
- **Proposed Case Management Plan:** Contact permittee and provide them with instructions to complete this and other outstanding permit requirement.

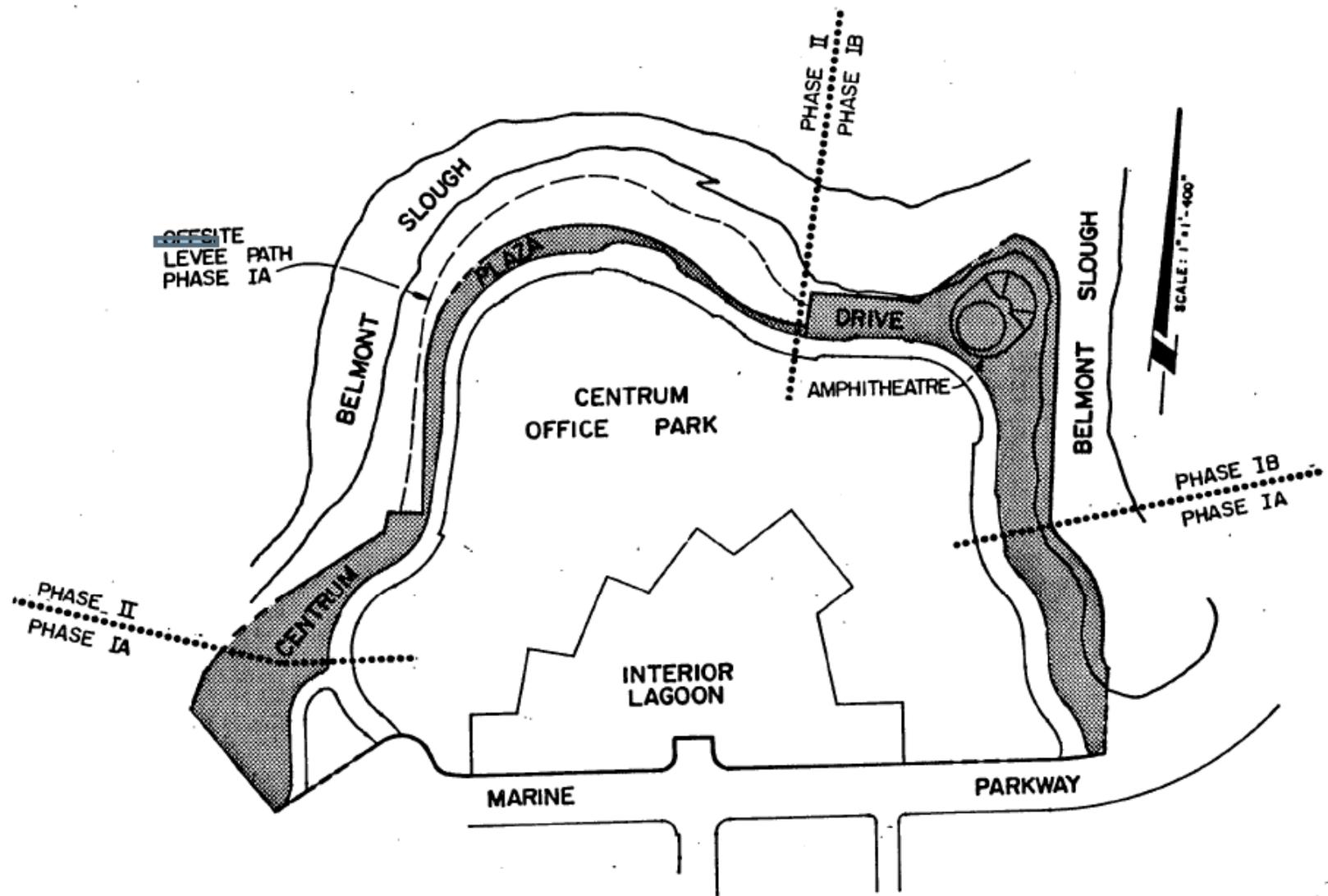


EXHIBIT A

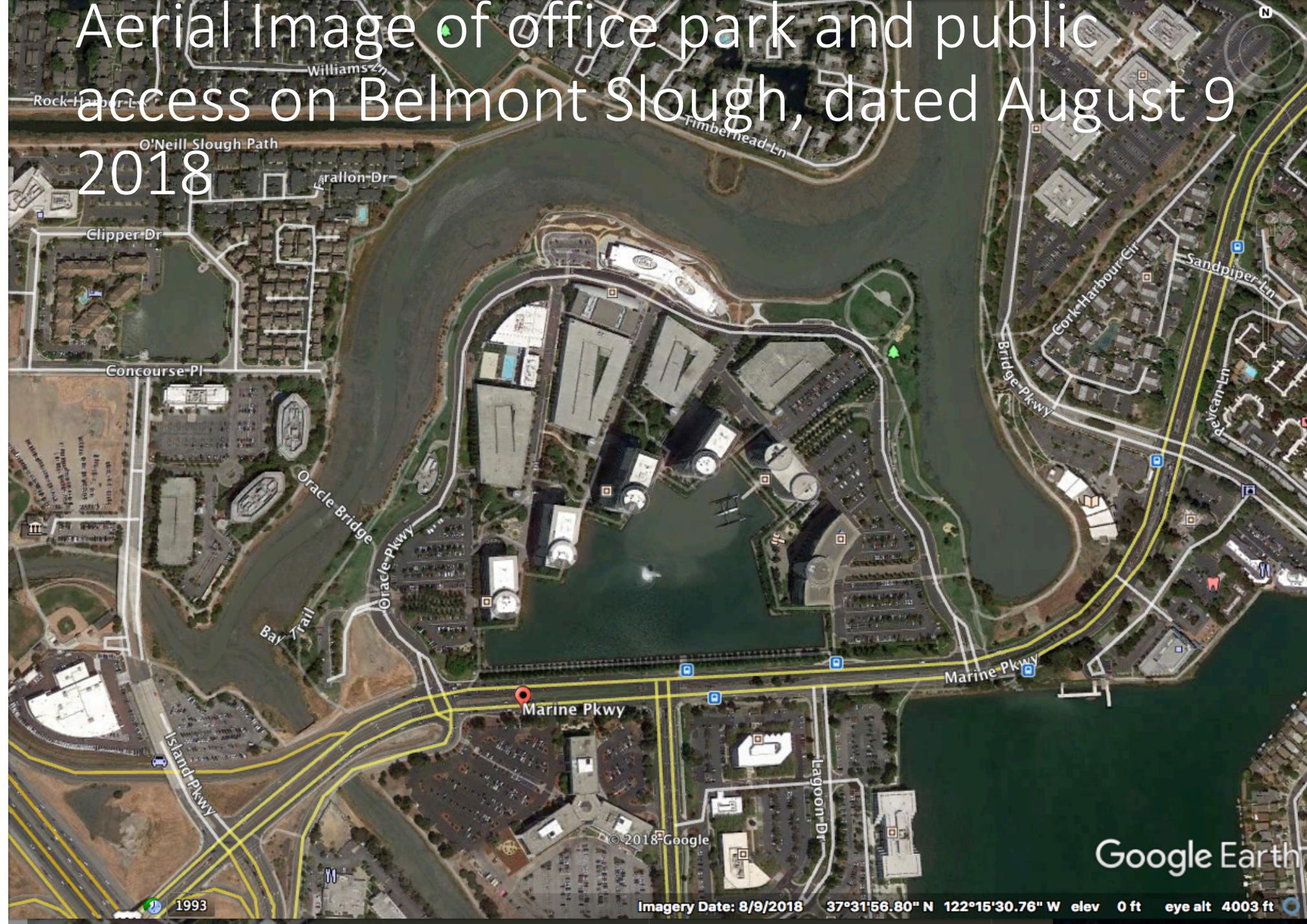
BCDC PERMIT NO. 26-82  
 REF: SECTION II-B-5  
 PHASING OF THE CONSTRUCTION OF THE  
 ACCESS IMPROVEMENTS

SEPT. 3, 1987

**Brian Kangas Foulk**  
 CONSULTING ENGINEERS

540 Price Avenue,  
 Redwood City, CA 94063  
 415/365-0412

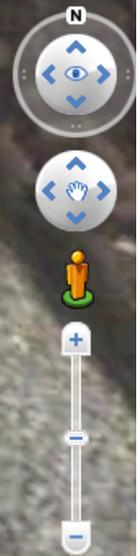
# Aerial Image of office park and public access on Belmont Slough, dated August 9 2018



# 5. ER1999.019

## 1331 Milton Road, Napa County

- Location: On the Napa River, BCDC Certain Waterway jurisdiction.
- Violation/Challenges: Unauthorized construction of multiple boat docks in BCDC jurisdiction and non-compliant property owner
- Proposed Case Management Plan: Close case since docks have been removed and notify new owner that a BCDC permit, including a lease from the SLC and review by other agencies, is required to construct new docks and drive pilings in the Napa River



Aerial image of 1331 Milton Road, dated July, 2002

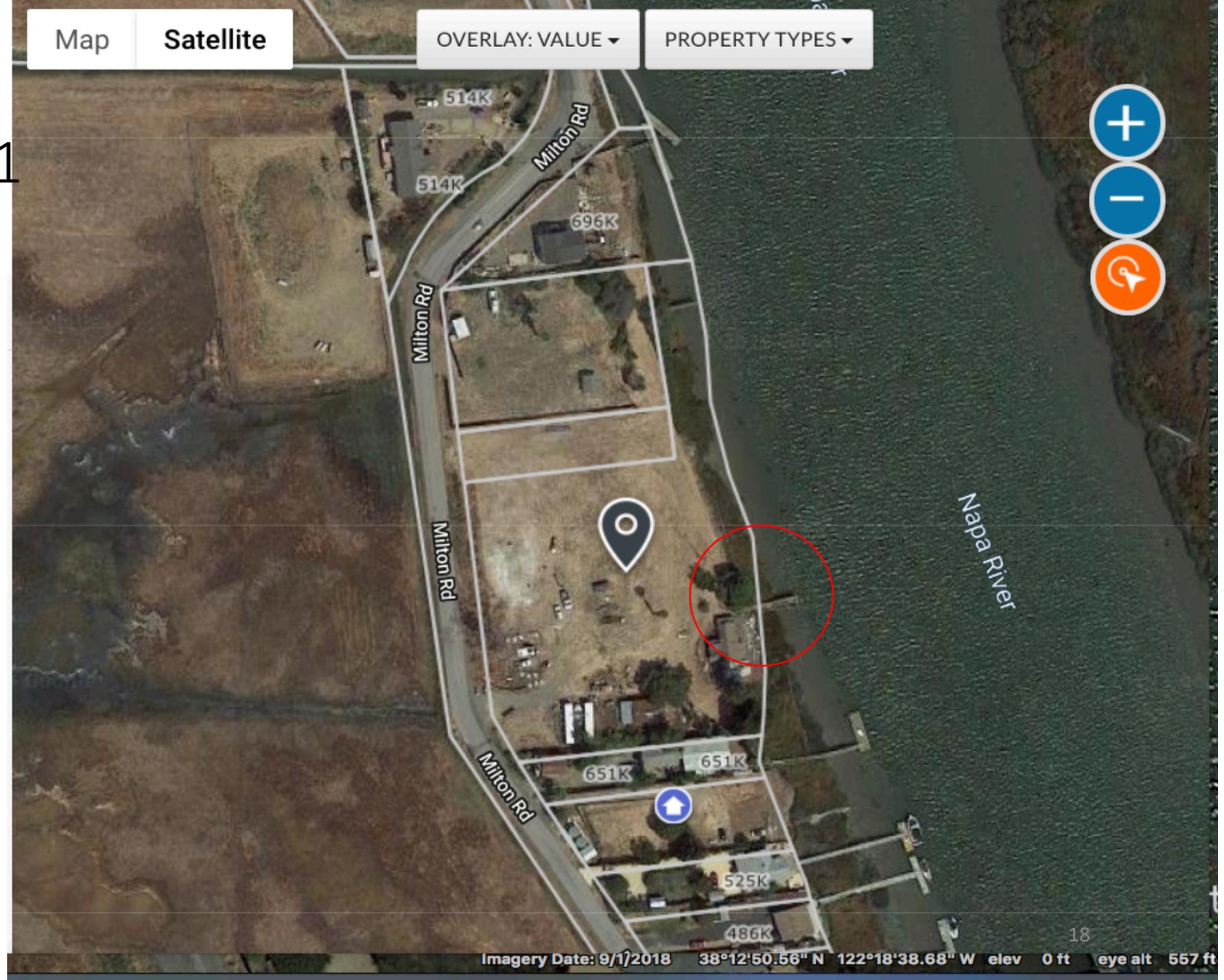
Image © 2019 Maxar Technologies

Google Earth

1993

Imagery Date: 7/24/2002 38°12'51.45" N 122°18'33.18" W elev 0 ft eye alt 624 ft

Aerial image of 1331  
Milton Road, dated  
September 1, 2018





Aerial image of 1331 Milton Road, dated September 1, 2018

Google Earth

Imagery Date: 9/1/2018 38°12'50.78" N 122°18'36.88" W elev 0 ft eye alt 204 ft

## 6. ER1999.034

### 1620 Fernside Drive, City and County of Alameda

- **Location:** City and County of Alameda
- **Violation:** Construction of a single boat dock and seawall that may be inconsistent with the permit authorization
- **Proposed Case Management Plan:** Investigate permitting status, and conduct site visit as necessary, to assess whether existing boat dock and shoreline protection are consistent with permit authorization and proceed accordingly.

# Aerial Image of 1620 Fernside Drive, dated October 26, 2018



1620 Fernside Blvd

© 2018 Google

Google Earth

1993

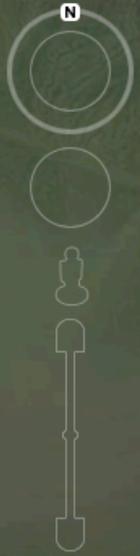
Imagery Date: 10/26/2018 37°45'29.91" N 122°13'33.76" W elev 0 ft eye alt 440 ft

## 7. ER1999.081

### 3393 Petaluma Boulevard, Sonoma County

- **Location:** On riverfront property and in the Petaluma River, a BCDC certain waterway, Petaluma, Sonoma County
- **Violation:** Placement of fill consisting of rock and concrete riprap in the Petaluma River
- **Proposed Case Management Plan:** In 2018, BCDC activated this case and learned that in the past, the County had referred the case to the USACOE, which is not currently pursuing an action. Staff will investigate this file and determine the appropriate action

# Aerial Image of 3393 Petaluma Blvd, dated February 14, 2018



© 2018 Google

Google Earth

1993

Imagery Date: 2/14/2018 38°13'19.85" N 122°36'16.40" W elev 0 ft eye alt 3174 ft

Two photographs of  
3393 Petaluma Blvd,  
dated May 19, 2000



Photograph of 3393 Petaluma Blvd,  
dated October 12, 2018



## 8. ER1990.026

# US Army Corps of Engineers

- **Location:** A 1,025-acre managed wetland at the Rich Island Duck Club, Simmons Island, Solano County (Duck Club)
- **Authorization:** A 1985 consistency determination issued to Army authorized one million cubic yards (cy) of dredging in the Stockton Ship Channel, and disposal of the material at four locations, one of which allowed placement of 350,000 cy of material over 100 acres of the duck club to improve habitat, fill borrow ditches and maintain levees



Aerial Image of Simmons Island,  
dated 2003



Aerial Image of  
Simmons Island, dated  
September 1, 2018

© 2018 Google

Google Earth

1993

Imagery Date: 9/1/2018 38°05'57.25" N 121°59'52.43" W elev 0 ft eye alt 7348 ft

# 8. ER1990.026

## US Army Corps of Engineers

- **Authorization:** Consistency determination requires removal of any unused material within 10 years of project completion, in accordance with a 1985 agreement between Army and Stockton Port District (Port) and a 1986 letter from Army to BCDC
- **Authorization:** The 1985 Agreement states: Port has the right to sell, remove or otherwise dispose of any excess material. Port agrees that if not all material is used or removed by July 1, 1996, Army has the right to remove the material and charge Port with net cost associated with such removal
- **Violation:** Prior July 1, 1996, i.e. 10 years following project completion, BCDC staff notified Army, Port District and Duck Club to use or remove excess material to avoid a violation. Port subsequently hired a consultant to prepare a dredged material management plan

# 8. ER1990.026

## US Army Corps of Engineers

- Enforcement Committee heard matter on November 30, 2006 and declined to initiate litigation, instead selecting to direct the Army, Port District and Duck Club to:
  - Prepare a final detailed plan based on conceptual plan and completed additional engineering work, environmental review, obtain permits and complete construction, monitoring and reporting; OR
  - Remove all excess material to an acceptable offsite location with a reasonable length of time, TBD by Enforcement Committee and Commission

# 8.ER1990.026

## US Army Corps of Engineers

- Shortly before follow-up EC meeting scheduled for May 10, 2007, Duck Cub presented a revised site restoration plan that raised a number of issues
- During the 2007 EC meeting, the Corps and the Port confirmed their commitment to carry out the original plan with Port funding but the Duck Club advocated for consideration of its plan
- The EC directed the parties to work on a solution to rectify differences between the two plans and report back
- The matter remains unresolved

## 8. ER1990.026

# US Army Corps of Engineers

- **Proposed Case Management Plan:** Schedule call/meeting with parties to assess funding and capacity to finalize site restoration plan within a specified timeframe. If agreement between Army, Port and Duck Club cannot be achieved within specified timeframe, work with the Office of the Attorney General to consider whether to commence litigation

# Questions/Discussion