

Mr. Darryl Foreman
Greenbrae Marina Property Owners
Association
578 Riviera Circle
Larkspur, CA 94939

and

Mr. Richard T. Moseley
Salt River Construction Corporation
5643 Paradise Drive, Suite 8
Corte Madera, CA 94925

EXECUTIVE DIRECTOR
CEASE AND DESIST ORDER NO.
ECD2016.02

Effective Date: July 1, 2016
Expiration Date: September 29, 2016

To: Mr. Darryl Foreman And Mr. Richard T. Moseley:

I. CEASE AND DESIST

Pursuant to my authority under California Government Code Section 66637, I hereby order you, Darryl Foreman and Richard T. Moseley and all of your agents and employees, and any other persons acting in concert with you, to cease and desist all activity in violation of the San Francisco Bay Plan (Bay Plan) and the McAteer-Petris Act (MPA) at Larkspur Marina in Marin County, as described herein. Specifically, you are ordered to:

1. Cease and desist from dredging any sediment from the Larkspur Marina, and disposing the sediment back into the Corte Madera Creek channel, in violation of your permit from the San Francisco Bay Conservation and Development Commission (Commission or BCDC) as required under Government Code Section 66632(h);
2. Fully comply with requirements of Section III of this order.

II. FINDINGS

This Order is based on the following findings:

1. Greenbrae Marina Property Owners Association (GMPOA) is comprised of homeowners with properties, including boat docks, along Corte Madera Creek, which is located in the Town of Larkspur, Marin County. Mr. Darryl Foreman represents GMPOA. Mr. Richard T. Moseley is the agent for Salt River Construction Corporation. GMPOA hired Salt River Construction Corporation to perform maintenance dredging of the creek channel facing the properties along the creek as well as around the homeowners' private docks and dispose of the dredged sediment at the state and federally authorized San Pablo Bay disposal site, SF-10. Both parties

Executive Cease and Desist

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are required to adhere to GMPOA's BCDC Permit No. M1992.050.00, which authorizes the maintenance dredging of the boat docks and adjacent channel, with disposal of the dredged sediment at SF-10. The 2016 dredging episode was further conditioned and authorized by the BCDC episode approval letter issued on June 1, 2016.

2. In 1965, the Legislature enacted the McAteer-Petris Act (MPA), which is codified, as amended, at Government Code Sections 66600-66694. The Site is located in the jurisdiction of the Commission as established by Government Code Section 666610. Specifically, the Site is in the Commission's "San Francisco Bay" jurisdiction as defined in Government Code Section 666610(a). Any person wishing to place fill, to extract materials, or to make any substantial change in use of any water, land, or structure, within the area of the Commission's jurisdiction, including at the Site, is required to obtain a permit from the Commission. Government Code § 66632(a).
3. California Code of Regulations Title 14, Natural Resources, Sections 10602(a) and 10602(e)(1) and 10713.5 (a-d) define dredging and disposal projects that are authorized administratively and specifies the location of in-Bay dredged material disposal sites.
4. On July 1, 2016, BCDC Staff observed Salt River Construction Corporation employee illegally disposing dredged material into the Corte Madera Creek channel rather than in the dredge material disposal scow intended to transport the material to SF-10.

III. CONDITIONS

1. Mr. Darryl Foreman and Mr. Richard T. Moseley must jointly stop dredging at Larkspur Marina of Corte Madera Creek and stop the unauthorized disposal of sediment in the same channel until they meet with Commission staff to discuss the violation and develop assurances sufficient to satisfy Commission staff that further dredging and disposal of dredged sediment will occur in accordance with the BCDC permit and the conditions therein.
2. Within twenty (20) days of the date of this order, or by no later than July 21, 2016, Mr. Darryl Foreman and Mr. Richard T. Moseley must perform a bathymetric survey of the dredged channel. Once BCDC staff has reviewed and approved the survey, Mr. Darryl Foreman and Mr. Richard T. Moseley must remove the sediment illegally disposed of in the channel and return it to authorized design depth of minus 5 feet Mean Lower Low Water (MLLW).

IV. TERMS

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1. Under Government Code Section 66641, any person who intentionally or negligently violates any cease and desist order issued by the Commission's Executive Director may be liable civilly in a sum of up to \$6,000 for each day in which such violation persists. In addition, upon the failure of any person to comply with any cease and desist order issued by the Commission's Executive Director, and upon the request of the Commission, the Attorney General of the State of California may petition the Superior Court for the issuance of a preliminary or permanent injunction, or both, restraining the person or persons from continuing any activity in violation of the cease and desist order.
2. This order does not affect any duties, rights, or obligations under private agreements or under regulations of other public bodies.
3. Mr. Darryl Foreman and Mr. Richard T. Moseley must conform strictly to this order.
4. This order does not constitute a recognition of property rights.
5. This order is effective upon issuance thereof, on July 1, 2016, and shall become null and void ninety (90) days after issuance, on September 29, 2016.

V. Opportunity for Judicial Review

Under Government Code Section 66639 within thirty (30) days after service of a copy of a cease and desist order issued by the Commission's Executive Director, any aggrieved party may file with the Superior Court a petition for writ of mandate for review of the order pursuant to Section 1094.5 of the Code of Civil Procedure. Failure to file such an action shall not preclude a party from challenging the reasonableness and validity of the order in any judicial proceedings brought to enforce the order or for other civil remedies.

DATED: July 1, 2016



LAWRENCE J. GOLDZBAND
Executive Director

List of Exhibits

Exhibit A: Photograph of Unauthorized Disposal

Exhibit B: BCDC Permit No. M1992.050.00

Exhibit C: Episode Approval Letter for BCDC Permit No. M1992.050.00

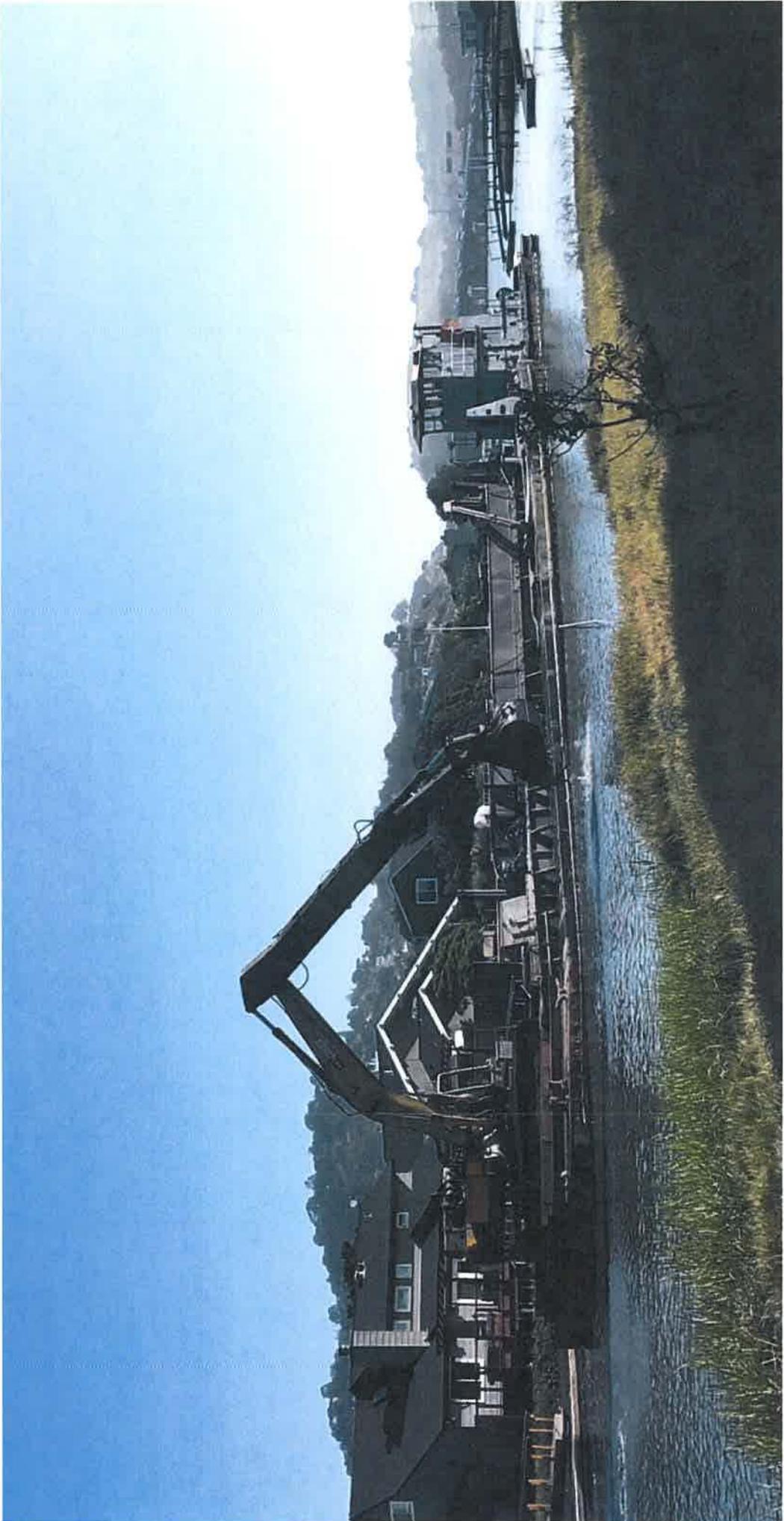
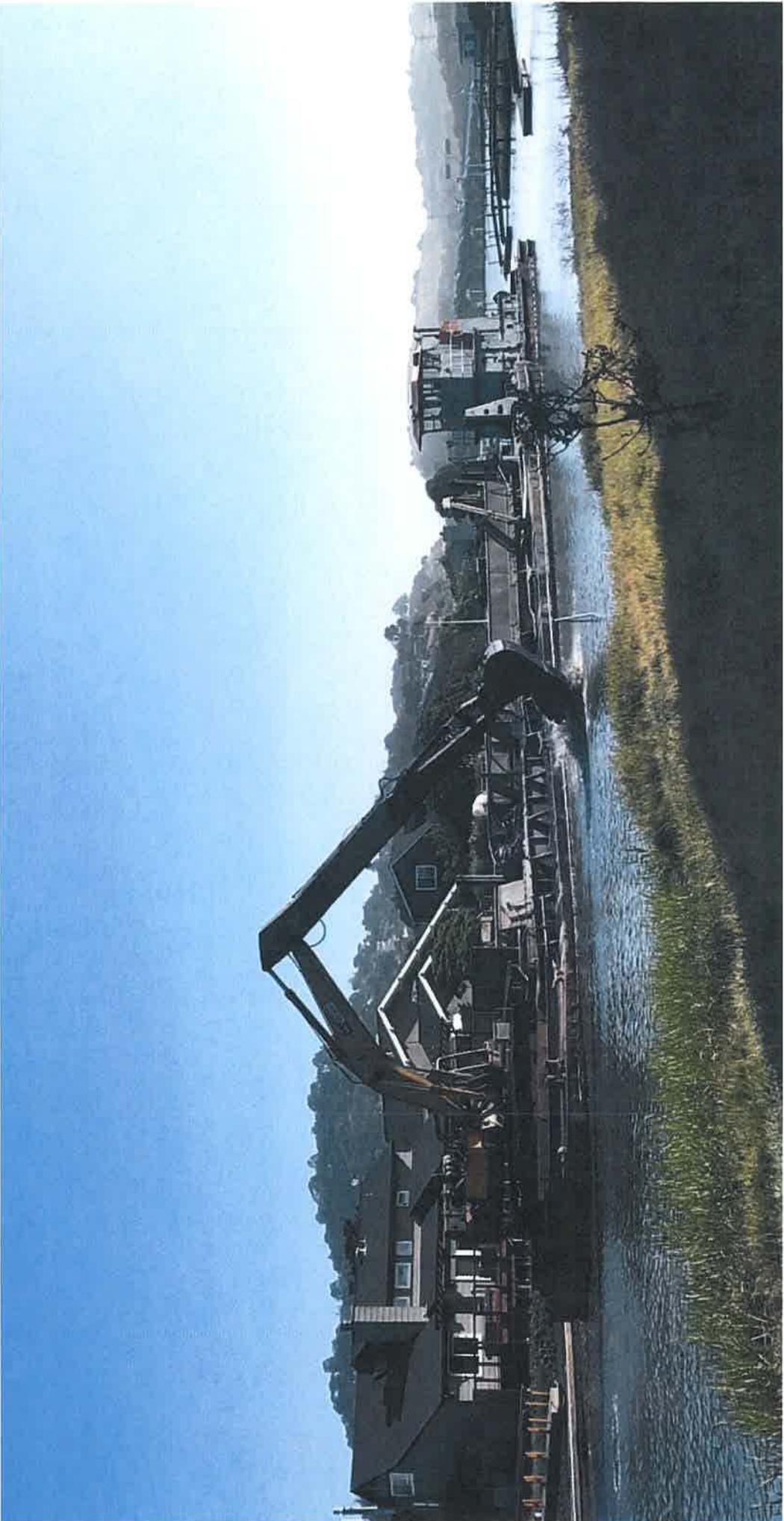


EXHIBIT A





Making San Francisco Bay Better

July 20, 2010

Mr. Darryl Foreman
Greenbrae Marina Property Owners Association
578 Riviera Circle
Larkspur, California 94939

SUBJECT: Amendment No. Two to BCDC Permit No. M92-50

Ladies and Gentlemen:

Enclosed please find an original of BCDC Permit No. M92-50, Amendment No. Two, stamped "BCDC Original," and a copy, stamped "Permittees' Copy," both executed by the Executive Director, incorporating the amendment requested in your letter dated April 26, 2010. In the amended permit, deleted language has been ~~struck through~~ and added language has been underlined.

I am issuing its amendment, which is included in the attached amended permit, on behalf of the Commission and upon the following findings and declarations:

1. This amendment to the permit is issued pursuant to Regulation Section 10810 upon the same criteria provided for the issuance of administrative permits in that the project authorized by this amendment is a "minor repair or improvement" for which the Executive Director may issue a permit, pursuant to Government Code Section 66632(f) and Regulation Section 10622(a).
2. The amendment to the permit is consistent with the San Francisco Bay Plan and the McAteer-Petris Act because the proposed project will not adversely affect the Bay nor public access to and enjoyment of the Bay consistent with the project.

You must: (1) **complete** the acknowledgment section of the amended permit stamped "BCDC Original," which indicates that you have read and that you understand all of the terms and conditions of the amended permit; and (2) **return** that entire "BCDC Original" to the Commission's office within the ten-day time period. You should retain the copy stamped "Permittees' Copy" for your records along with the Notice of Completion and Declaration of Compliance, which shall be returned to us upon project completion.

Furthermore, your permit contains special conditions which require you to do the following: (1) Special Condition II-D-1 requires that you notify the Commission staff at least seven days prior to undertaking **any** dredging episode; and (2) Special Condition II-D-2 requires you to notify the Executive Director 45 days prior to the commencement of any in-Bay disposal. Please read all of the Special Conditions for specifications on your project.

Mr. Darryl Foreman
Greenbrae Marina Property Owners Association
July 20, 2010
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Attached is a checklist to assist you in following the correct procedures. Please understand that **no** work may commence on the project until the amended permit stamped "BCDC Original" is executed and returned to us. The commencement of any work within the Commission's jurisdiction without the necessary authorization from the Commission is a violation of the McAteer-Petris Act and could subject you to substantial fines.

If you should have any questions concerning the amended permit or the procedure outlined above, please feel free to contact me.

Very truly yours,

CAROLYNN BOX
Coastal Program Analyst

Enc.

WT/CB/rca

cc: Rob Lawrence, U. S. Army Corps of Engineers
Brian Ross, U. S. Environmental Protection Agency
Beth Christian, San Francisco Bay Regional Water Quality Control Board
Donn Oetzel, State Lands Commission
George Isaac, California Department of Fish and Game
David Woodbury, NOAA Fisheries
Ryan Olah, U. S. Fish and Wildlife Service

CHECKLIST For Permit Compliance

Permit No.: M92-50.02
Permittee: Greenbrae Marina Property Owners Association
Date Issued: July 20, 2010
Analyst:Carolynn Box

PERMITTEE CHECKLIST

FOR BCDC USE

Within 10 Days of the Issuance of this Permit

Return the executed Original permit to BCDC

Received _____

Submittals Prior to the First Dredging Episode

In-Bay Disposal written statement 45 days before dredging

Received _____

Water Quality Certification 45 days prior to episode

Received _____

Notify BCDC 7 days before dredging episode

Received _____

(Your permit application satisfies the submittals required for the first dredging episode, provided that the dredging commences within a year of permit issuance.)

After the First Dredging Episode

Submit Dredging Report within 30 days

Received _____

Submit Results of effluent and other testing specified

Received _____

by Regional Water Quality Control Board (if required)

Submittals Prior to the Second Dredging Episode (Episode 2):

In-Bay Disposal written statement 45 days before dredging

Received _____

Water Quality Certification 45 days prior to episode

Received _____

Notify BCDC 7 days before dredging episode

Received _____

After the Second Dredging Episode

- Submit Dredging Report within 30 days
- Submit Results of effluent and other testing specified by Regional Water Quality Control Board (if required)

Received _____

Received _____

Submittals Prior to the Third Dredging Episode (Episode 3):

- In-Bay Disposal written statement 45 days before dredging
- Water Quality Certification 45 days prior to episode
- Notify BCDC 7 days before dredging episode

Received _____

Received _____

Received _____

After the Third Dredging Episode

- Submit Dredging Report within 30 days
- Submit Results of effluent and other testing specified by Regional Water Quality Control Board (if required)

Received _____

Received _____

Submittals Prior to the Fourth Dredging Episode (Episode 4):

- In-Bay Disposal written statement 45 days before dredging
- Water Quality Certification 45 days prior to episode
- Notify BCDC 7 days before dredging episode

Received _____

Received _____

Received _____

After the Fourth Dredging Episode

- Submit Dredging Report within 30 days
- Submit Results of effluent and other testing specified by Regional Water Quality Control Board (if required)

Received _____

Received _____

**Submittals Prior to the Fifth Dredging Episode
(Episode 5):**

In-Bay Disposal written statement 45 days before dredging

Received _____

Water Quality Certification 45 days prior to episode

Received _____

Notify BCDC 7 days before dredging episode

Received _____

After the Fifth Dredging Episode

Submit Dredging Report within 30 days

Received _____

Submit Results of effluent and other testing specified by Regional Water Quality Control Board (if required)

Received _____

Upon Completion of the Authorized Dredging

Submit Notice of Completion

Received _____

PERMIT NO. M92-50
(Issued on May 12, 1993, As Corrected and
Amended Through July 20, 2010)
AMENDMENT NO. TWO

**GREENBRAE MARINA PROPERTY OWNERS
ASSOCIATION**

NOTICE OF COMPLETION AND DECLARATION OF COMPLIANCE

San Francisco Bay Conservation
and Development Commission
Fifty California Street, Suite 2600
San Francisco, CA 94111

Ladies and Gentlemen:

You are hereby informed that the work authorized by the above-referenced amended permit was completed on _____.

I have personally reviewed the terms and conditions of the amended permit, the final plans approved by or on behalf of the Commission, and the completed project and hereby certify that the project is in compliance with all terms and conditions of the amended permit and conforms to the plans previously reviewed and approved by or on behalf of the Commission. I further certify that all conditions of the amended permit, particularly with regard to plan review, public access areas and improvements, recordation, open space restrictions and other special conditions have been met.

I, _____, hereby declare under penalty of perjury that the foregoing is true and correct and that if called upon to testify to the contents of this notice, I would so testify.

Executed on this _____ day of _____, 20____,
at _____, California.

(Permittee)

(Title)



Making San Francisco Bay Better

PERMIT NO. M92-50

(Issued on May 12, 1993, as Corrected and Amended Through July 20, 2010)

AMENDMENT NO. TWO

Mr. Darryl Foreman
Greenbrae Marina Property Owners Association
578 Riviera Circle
Larkspur, California 94939

Ladies and Gentlemen:

I. Authorization

A. Subject to the conditions stated below, the permittee, Greenbrae Marina Property Owners Association, is hereby authorized to do the following:

Location: In the Bay, at the Larkspur/Lark, Corte Madera and Lucky Creeks (also known as the Corte Madera Canals), at the Greenbrae Marina, City of Larkspur, Marin County.

Description: In the Bay:

1. Dredge a total of approximately 150,000 cubic yards (cy) of material, approximately 11,400 cy of which will be new dredging and approximately 138,6000 cy of which will be maintenance dredging. Larkspur Channel, Corte Madera Creek, and Lucky Channel The ~~Creeks~~ will be dredged to -5 feet Mean Lower Low Water (MLLW) plus 1-foot of over dredge depth allowance in an area beginning at the outboard face of the individual homeowner's docks and ending 69 feet outboard of the docks ~~and -The Creeks will also be dredged to -3 feet MLLW plus 1-foot of over dredge depth allowance in the an~~ area beginning at the outboard face of the individual homeowner's docks and ending 12 feet inboard of the outboard face of the docks. No dredging will take place within 30 feet of any marsh vegetation. (Amendment No. One) (Complete);
- ~~2.~~ Maintenance dredge up to 58,600 cy of sediment from Larkspur/Lark, Corte Madera and Lucky Creeks and dispose of the dredged material at either the Alcatraz or San Palo Bay designated disposal sites by December 1, 1996 (Amendment No. One) (Complete);

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32. Perform new dredging up to 11,400 cy of sediment from Larkspur/Lark, Corte Madera and Lucky Creeks and dispose of the dredged material at either the Alcatraz or San Pablo Bay designated disposal sites by December 1, 1996 (Amendment No. One) (Complete);
43. Maintenance dredge up to 80,000 cy of sediment from Larkspur Channel, Corte Madera Creek, and Lucky Channel and dispose of the dredged material in-bay at the state and federally authorized, Alcatraz (SF-11) or San Pablo Bay (SF-10) disposal site, the San Francisco Deep Ocean disposal site (SF DODS), or an authorized upland location. The first episode of dredging is limited to 62,000 cy of dredging unless additional material is determined to be suitable by the Dredged Material Management Office (DMMO) for unconfined aquatic disposal. Larkspur Channel, Corte Madera Creek, and Lucky Channel ~~The Creeks~~ will be dredged to -5 feet Mean Lower Low Water (MLLW) plus 1-foot of over dredge depth allowance in an area beginning at the outboard face of the individual homeowner's docks and ending 69 feet outboard of the docks and ~~The Creeks will also be dredged to -3 feet MLLW plus 1-foot of over dredge depth allowance in the an~~ area beginning at the outboard face of the individual homeowner's docks and ending 12 feet inboard of the outboard face of the docks. No dredging will take place within 30 feet of any marsh vegetation. (Amendment No. One) (Complete);
5. Maintain and repair, in-kind, the floating docks, gangways, and pier authorized herein with no overall increase in size of Bay fill (Amendment No. One);
64. Maintenance dredge up to 150,000 cy of sediment from Larkspur Channel, Corte Madera Creek, and Lucky Channel (Exhibit B) to a depth of -3 feet MLLW underneath the boat docks and -5 feet MLLW within the channels, plus a one-foot over dredge allowance (Exhibit B). The first episode of dredging shall include the 1,186 cubic yards of material that was determined to be not suitable by the Dredged Material Management Office (DMMO) for unconfined aquatic disposal (Exhibit D) and placement of the contaminated sediment at an appropriate upland facility (Amendment No. Two); and
7. Dispose of the dredged sediment at the state and federally authorized, Alcatraz (SF-11) or San Pablo Bay (SF-10) disposal site, the San Francisco Deep Ocean disposal site (SF DODS), or an authorized upland location.

B. This authority is generally pursuant to and limited by your application dated July 12, 1992, ~~and~~ your letter dated May 12, 2003, requesting Amendment No. One, and your application received on April 26, 2010, including all accompanying and subsequent exhibits, and all conditions of this amended permit.

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C. Work authorized herein must commence prior to December 31, 2004, or this amended permit will lapse and become null and void. Work authorized by Amendment No. Two herein must commence prior to September 15, 2011, or this amended permit will lapse and become null and void. Such work must also be diligently pursued to completion within ~~five~~ ten years of issuance, or by ~~April 20, 2009~~ July 20, 2020, whichever is earlier, unless an extension of time is granted by further amendment of this amended permit (Amendment No. Two).

Work authorized by Amendment No. One, the in-kind repair and maintenance of existing boat docks, piers, and/or gangways, authorized in Item No. ~~Five~~ Four, above, may occur as needed for so long as the originally authorized project exists (Amendment No. One).

II. Special Conditions

The authorization made herein shall be subject to the following special conditions, in addition to the standard conditions in Part IV:

A. **Water Quality Approval.** At least 45 days prior to the commencement of any dredging episode authorized herein, the permittee shall submit to the Executive Director water quality certification, waste discharge requirements, or any other required approvals from the California Regional Water Quality Control Board, San Francisco Bay Region. Failure to obtain such certification prior to the commencement of any dredging episode shall terminate the Commission's authorization for that episode. The Executive Director may, upon review of the Regional Board approval, either: (1) approve the dredging episode consistent with this authorization; or (2) amend this authorization, as necessary, related to water quality issues. Unless the permittee agrees to amend this authorization in a manner specified by or on behalf of the Commission, this amended permit shall become null and void (Amendment No. One).

B. **Five Ten-Year Permit for Dredging.** The approximately ~~80,000~~ 150,000 cy or less of maintenance dredging authorized shall be completed within ~~five~~ ten years of the date of issuance of this amended permit. No further dredging is authorized (Amendment No. ~~One~~ Two).

C. **Limits on Work.** This amended permit authorizes maintenance dredging only within area(s) as shown on Exhibit B to an authorized project depth of -5 feet MLLW plus one foot allowable over-dredge depth in the channel and ~~minus three~~ -3 feet MLLW plus one foot allowable over-dredge depth in the dock areas as shown in Exhibits B and C. The first episode is limited to 70,000 cy of dredging. The material identified in Exhibit D, approximately 1,186 cy has elevated levels of mercury and should be placed at Winter Island or at an approved upland location outside of the Commission's jurisdiction during the first dredging episode. Repair and maintenance of docks, piers, and/or gangways shall be confined to existing structural footprints and shall not result in the enlargement of the existing pier, gangway or dock structures (Amendment No. ~~One~~ Two).

D. Dredging and Disposal Activity

1. **Pre-Dredging and Disposal Report and Notice.** At least 45 days before the commencement of any dredging and disposal episode authorized herein, the permittee shall submit to the Commission's Executive Director:

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- a. bathymetric map showing the location of all areas authorized to be dredged, the authorized depth including over-dredge depth based on MLLW, the volume of material proposed to be dredged, and the approximate date of project commencement. At least two (2) weeks prior to the scheduled date of commencement of any dredging episode, the permittee shall notify the Commission staff by telephone or in writing or, if the date of commencement changes, provide an updated schedule (Amendment No. One).
 - b. a written statement to the Executive Director that contains: (1) the proposed disposal site and quantity of material to be disposed, and dates within which the disposal episode is proposed; (2) if applicable, a discussion as to how the volume proposed for disposal is consistent with in-Bay disposal allocations and disposal site limits; (3) the results of chemical and biological testing of sediment proposed for disposal; and (4) an alternatives analysis to explain why ocean disposal, upland disposal or beneficial reuse of dredged material is infeasible. Having a signed small dredger programmatic alternatives analysis on file at the Commission's office shall satisfy Item D.1(b)4 (Amendment No. Two)~~If this is the first episode of a new or renewed permit, conditions b(2), b(3) and b(4) should have already been met, unless a significant amount of time has past between the permit issuance and the episode (Amendment No. One).~~
2. **Authorization of Disposal.** The authorization for the proposed in-Bay disposal shall become effective only if the Executive Director: (1) informs the permittee in writing that the episode is consistent with the authorization provided herein, alternative disposal and beneficial reuse options are infeasible, the volume proposed for disposal is consistent with both in-Bay disposal allocations, if applicable, and the disposal site limits, and the material is suitable for in-Bay disposal; or (2) does not respond to the permittee's pre-disposal report within 30 days of its receipt. If the Executive Director determines that: (a) ocean disposal, upland disposal, or beneficial reuse of the material is feasible; (b) the material proposed for disposal is unsuitable for the Bay; or (c) the proposed disposal is inconsistent with in-Bay allocations and disposal site limits, the Commission's authorization for in-Bay disposal shall be terminated (Amendment No. One).
3. **Post-Dredging Requirements**
- a. Within (30) days of completion of each dredging episode authorized by this amended permit, the permittee shall submit to the Commission a bathymetric map showing the actual area(s) and depths dredged including over-dredge depth based on MLLW, any dredging that occurred outside the area or below the depths authorized herein, and a written statement indicating the total volume of material dredged and disposed and the disposal location (Amendment No. One).
 - b. If a dredging episode stops for longer than six consecutive months, the permittee must submit, before the dredging episode has resumed, notification to the Commission that dredging will begin again. If a dredging episode is suspended

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for more than six months, the Commission may require the permittee to complete: (1) new sediment characterization, (2) a re-survey of the dredge area, and/or (3) a revised alternative disposal option analysis (Amendment No. One).

- c. If the dredging episode continues longer than one year, whether dredging is continual throughout the year or is fragmented within the episode, the permittee must provide the Commission with the following dredging report: (1) the actual areas and the depth dredged based on MLLW, and any dredging that occurred outside the area dredged; (2) the actual volume of the material dredged; and (3) the volume and location of the material disposed. The dredging report must be submitted no later than one year after the commencement of the episode, and must be submitted every six months thereafter throughout the life of the amended permit or until the episode is complete. The Commission may require additional sediment characterization, bathymetric surveys, and/or alternative disposal analyses at the commencement of the next episode. Within 30 days of the completion of the episode, the permittee must submit a dredging report as described in Special Condition 3a (Amendment No. One).

EG. Seasonal Limitations. Except as provided below, all dredging and disposal activities shall be confined to the work window, September 1st and October 31st for activities within 250 feet of the marsh habitat on the west side of the Larkspur Channel and June 1st and October 31st for the remainder of the site, to minimize disturbance to the following endangered and special status species:

Species of Concern	Work Window Period	Consulting Agency
Steelhead Trout	June 1 st to November 30 th	NOAA Fisheries
Chinook Salmon	June 1 st to November 30 th	NOAA Fisheries
Coho Salmon	June 1 st to October 1 st	NOAA Fisheries
Clapper Rail (Larkspur Channel)	September 1 st to Jan 31 st	FWS

CDFG-California Department of Fish and Game; NOAA-NOAA Fisheries, FWS—U.S. Fish and Wildlife Service

This work window between September 1st and October 31st for activities within 250 feet of the marsh habitat on the west side of the Larkspur Channel and June 1st and October 31st for the remainder of the site is consistent with Tables F-1 and F-2 of Appendix F, "In-Bay Disposal and Dredging" and Figures 3.2 and 3.3 of the Long-Term Management Strategy (LTMS) Management Plan 2001, as amended by the FWS on May 28, 2004. No work inconsistent with the time and location limits contained in these tables may be conducted without the approval of the Executive Director, provided that such approval may only be issued after (1) consultation between the US Army Corps of Engineers and the US. Fish and Wildlife Service and/or NOAA Fisheries has occurred; and (2) the Executive Director has determined that dredging and disposal outside of the work window will be consistent with the Commission's laws and policies (Amendment No. One).

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F. Longfin Smelt. If, at any time during the life of this permit, any new laws, policies or regulations require measures to protect longfin smelt from potential adverse impacts of dredging, dredged material disposal, and/or beneficial reuse of dredged material, this permit shall become null and void unless the permittee agrees to amend this authorization to comply with the new laws, policies, or regulations in a manner specified by or on behalf of the Commission. For example, if CDFG requires an incidental take permit under the California Endangered Species Act, the permittee must obtain the CDFG take permit, provide the take permit to the Commission and amend the Commission's permit or the Commission's permit will become null and void (Amendment No. Two).

GH. Barge Overflow Sampling and Testing. Results of any effluent water quality or other testing required by the California Regional Water Quality Control Board, San Francisco Bay Region shall be submitted in writing to Commission staff at the same time such testing is submitted to the Regional Board (Amendment No. One).

HI. Monitoring and Enforcement. The permittee shall allow the Commission staff or representatives of other state or federal agencies to come aboard the dredge or barge associated with any dredging or disposal episode and observe the operation(s) to ensure that these activities are consistent with pre-dredging reports required herein and other terms and conditions of this amended permit. Further, the Commission reserves the right to have post-dredging reports inspected by a reliable third party familiar with bathymetric mapping in order to verify the contents of these reports. If a third party selected by or on behalf of the Commission indicates that a post-dredging report is inaccurate, the Commission reserves the right to require the permittee to submit a revised report that meets the conditions of this amended permit. If the Commission determines that the post-dredging report indicates that work has occurred beyond that authorized by this amended permit such violation may result in the initiation of enforcement action by or on behalf of the Commission (Amendment No. One).

IJ. Long-Term Management Strategy Program. If, at any time during the effective life of this amended permit, the Commission's laws, Bay Plan policies, or regulations are changed and are in effect regarding dredging, dredged material disposal, and beneficial reuse consistent with the multi-agency Long-Term Management Strategy Program (LTMS), this amended permit shall become null and void unless the permittee agrees to amend this authorization to meet the new laws, policies, or regulations in a manner specified by or on behalf of the Commission (Amendment No. One).

JK. In-Kind Repairs and Maintenance. Any in-kind repairs and maintenance of the floating boat docks, piers, and/or gangways shall only utilize construction material that is approved for use in San Francisco Bay. Construction shall only occur during current approved months during the year to avoid potential impacts to fish and wildlife. BCDC staff should be contacted to confirm current restrictions (Amendment No. One).

KL. Creosote Treated Wood. No pilings or other wood structures that have been pressure treated with creosote shall be used in any area subject to tidal action in the Bay or any certain waterway, in any salt pond, or in any managed wetland within the Commission's jurisdiction as part of the project authorized herein (Amendment No. One).

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LM. Debris Removal. All construction debris shall be removed to an authorized location outside the jurisdiction of the Commission. In the event that any such material is placed in any area within the Commission's jurisdiction, the permittee(s), its assignees, or successors in interest, or the owner of the improvements, shall remove such material, at its expense, within ten days after it has been notified by the Executive Director of such placement (Amendment No. One).

III. Finding and Declarations

On behalf of the Commission, I find and declare that:

A. The project authorized by this amendment permit involves maintenance dredging of approximately 150,000 cy of material from the Greenbrae Marina Property, and disposal of the material at the state and federally-designated Alcatraz Disposal Site (SF-11), San Pablo Bay Disposal Site (SF-10), the San Francisco Deep Ocean Disposal Site (SF DODS) or an authorized upland location over a ten-year period, a project consistent with Regulation Section 10602(a) as maintenance dredging completed within a period of ten years with disposal at an approved in-bay disposal site, with annual target volumes consistent with Regulation Sections 10713.5 and 10721(a) through 10721(e), at the San Francisco Deep Ocean Disposal Site (SF-DODS), and/or at a non-aquatic location, and thus qualifies as a "minor repair or improvement" for which the Executive Director may issue a permit as consistent with Regulation Section 10622(a) and 10810(b), and pursuant to Government Code Section 66632(f). Additional dredging volume may be authorized by amendment or by granted time extension of the original permit (Amendment No. Two).

~~The project authorized by this amended permit involves new dredging of 100,000 cubic yards or less and maintenance dredging completed within a period of five years, and disposal of the dredged material at a site listed in Regulation Section 10713.5, and of an amount not to exceed the target volumes set for the Alcatraz and San Pablo Bay sites, as defined in Regulation Section 10602(a) (b), and thus is a "minor repair or improvement" for which the Executive Director may issue (1) a permit, pursuant to Government Code Section 66632(f) and Regulation Section 10622(a), and (2) an amendment to a permit pursuant to Regulation Section 10810.~~

B. The project authorized by this permit includes the maintenance and repair of floating docks, gangways, and piers with no overall increase in size or fill and is therefore consistent with Regulation Section 10601(a)(6) and Government Code Section 66605 as it is the minimum fill necessary to complete the project (Amendment No. One).

C. The project authorized by this amended permit is consistent with the McAteer-Petris Act and with the San Francisco Bay Plan in that it will not adversely affect the Bay nor public access to and enjoyment of the Bay. Further, this permit contains special conditions that require the permittee to work within the environmental work windows set forth by NOAA and the FWS, thereby protecting listed species consistent with Bay Plan dredging and fish, other aquatic organisms and wildlife policies. The project is considered a small dredging project, with a project depth of less than minus 12 feet MLLW and an average of 50,000 cy yards per year, and therefore it is infeasible at this time to dispose of the dredged sediments at an upland or ocean site, and therefore is consistent with the LTMS and Bay Plan dredging policies. On November 12, 2009, the

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Regional Water Quality Control Board issued a water quality certification for this project. In addition, the permittee is removing the sediment with elevated levels of mercury and disposing of them at an upland location. Therefore, this project is consistent with Bay Plan water quality and dredging policies (Amendment No. Two).

D. The Commission further finds, declares, and certifies that the activity or activities authorized herein are consistent with the Commission's Amended Management Program for San Francisco Bay, as approved by the Department of Commerce under the Federal Coastal Zone Management Act of 1972, as amended.

E. Pursuant to Article 19, Regulation Section 15304(g), 11501 the project authorized by this amended permit is categorically exempt from the requirement to prepare an environmental impact report under Article 19, Section 15304(g), because it is maintenance dredging only with disposal at an authorized disposal site (Amendment No. Two).

F. Pursuant to Regulation Section 10620, this project was listed with the Commission on March 6, 1993.

G. The dredging disposal authorized by this corrected permit is consistent with the public trust because it involves dredging for a water-oriented recreational use. Water-oriented recreational uses are consistent with the public trust.

H. The original authorization was for 70,000 cy of dredging, 11,400 cy of new work and 58,600 cy of maintenance dredging, both were authorized for disposal at the Alcatraz or San Pablo Bay disposal site, and expired on December 1, 1996. Amendment No. One authorized an additional 80,000 cy of maintenance dredging only and disposal at the Alcatraz, San Pablo Bay, the San Francisco Deep Ocean disposal sites, or an authorized upland location. Amendment No. One will expired on April 22, 2009. In 2004, 60,991 cy of material was dredged and disposed at the Alcatraz disposal site (Amendment No. One). Amendment No. Two authorizes an additional 150,000 cy of maintenance dredging and disposal at the Alcatraz, San Pablo Bay, the San Francisco Deep Ocean disposal sites, or an authorized upland location. The Dredge Material Management Office (DMMO) determined that the material located near the confluence of Lucky Channel and Corte Madera Creek, shown on Exhibit D, has high levels of Mercury and will be placed at Winter Island or at an approved upland location outside of the Commission's jurisdiction (Amendment No. Two).

IV. Standard Conditions

A. **Permit Execution.** This permit shall not take effect unless the permittee executes the original of this permit and returns it to the Commission within ten days after the date of the issuance of the permit. No work shall be done until the acknowledgment is duly executed and returned to the Commission (Amendment No. Two).

B. **Notice of Completion.** The attached Notice of Completion and Declaration of Compliance form shall be returned to the Commission within 30 days following completion of the work (Amendment No. Two).

C. **Permit Assignment.** The rights, duties, and obligations contained in this permit are assignable. When the permittee transfers any interest in any property either on which the activity is authorized to occur or which is necessary to achieve full compliance of one or more

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conditions to this permit, the permittee/transferor and the transferee shall execute and submit to the Commission a permit assignment form acceptable to the Executive Director. An assignment shall not be effective until the assignee executes and the Executive Director receives an acknowledgment that the assignee has read and understands the permit and agrees to be bound by the terms and conditions of the permit, and the assignee is accepted by the Executive Director as being reasonably capable of complying with the terms and conditions of the permit (Amendment No. Two).

D. Permit Runs With the Land. Unless otherwise provided in this permit, the terms and conditions of this permit shall bind all future owners and future possessors of any legal interest in the land and shall run with the land (Amendment No. Two).

E. Other Government Approvals. All required permissions from governmental bodies must be obtained before the commencement of work; these bodies include, but are not limited to, the U. S. Army Corps of Engineers, the State Lands Commission, the Regional Water Quality Control Board, and the city or county in which the work is to be performed, whenever any of these may be required. This permit does not relieve the permittee of any obligations imposed by State or Federal law, either statutory or otherwise (Amendment No. Two).

F. Built Project must be Consistent with Application. Work must be performed in the precise manner and at the precise locations indicated in your application, as such may have been modified by the terms of the permit and any plans approved in writing by or on behalf of the Commission (Amendment No. Two).

G. Life of Authorization. Unless otherwise provided in this permit, all the terms and conditions of this permit shall remain effective for so long as the permit remains in effect or for so long as any use or construction authorized by this permit exists, whichever is longer (Amendment No. Two).

H. Commission Jurisdiction. Any area subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission under either the McAteer-Petris Act or the Suisun Marsh Preservation Act at the time the permit is granted or thereafter shall remain subject to that jurisdiction notwithstanding the placement of any fill or the implementation of any substantial change in use authorized by this permit. Any area not subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission that becomes, as a result of any work or project authorized in this permit, subject to tidal action shall become subject to the Commission's "bay" jurisdiction (Amendment No. Two).

I. Changes to the Commission's Jurisdiction as a Result of Natural Processes. This permit reflects the location of the shoreline of San Francisco Bay when the permit was issued. Over time, erosion, avulsion, accretion, subsidence, relative sea level change, and other factors may change the location of the shoreline, which may, in turn, change the extent of the Commission's regulatory jurisdiction. Therefore, the issuance of this permit does not guarantee that the Commission's jurisdiction will not change in the future (Amendment No. Two).

J. Violation of Permit May Lead to Permit Revocation. Except as otherwise noted, violation of any of the terms of this permit shall be grounds for revocation. The Commission may revoke any permit for such violation after a public hearing held on reasonable notice to the permittee

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or its assignee if the permit has been effectively assigned. If the permit is revoked, the Commission may determine, if it deems appropriate, that all or part of any fill or structure placed pursuant to this permit shall be removed by the permittee or its assignee if the permit has been assigned (Amendment No. Two).

K. Should Permit Conditions Be Found to be Illegal or Unenforceable. Unless the Commission directs otherwise, this permit shall become null and void if any term, standard condition, or special condition of this permit shall be found illegal or unenforceable through the application of statute, administrative ruling, or court determination. If this permit becomes null and void, any fill or structures placed in reliance on this permit shall be subject to removal by the permittee or its assignee if the permit has been assigned to the extent that the Commission determines that such removal is appropriate. Any uses authorized shall be terminated to the extent that the Commission determines that such uses should be terminated (Amendment No. Two).

~~A. All required permissions from governmental bodies must be obtained before the commencement of work; these bodies include, but are not limited to, the U. S. Army Corps of Engineers, the State Lands Commission, the Regional Water Quality Control Board, and the city and/or county in which the work is to be performed, whenever any of these may be required. This amended permit does not relieve the permittee of any obligations imposed by State or Federal law, either statutory or otherwise.~~

~~B. The attached Notice of Completion and Declaration of Compliance form shall be returned to the Commission within 30 days following completion of the work.~~

~~C. Work must be performed in the precise manner and at the precise locations indicated in your application, as such may have been modified by the terms of the amended permit and any plans approved in writing by or on behalf of the Commission.~~

~~D. Work must be performed in a manner so as to minimize muddying of waters, and if diking is involved, dikes shall be waterproof. If any seepage returns to the Bay, the permittee will be subject to the regulations of the Regional Water Quality Control Board in that region.~~

~~E. The rights derived from the amended permit are assignable as provided herein. An assignment shall not be effective until the assignee shall have executed and the Commission shall have received an acknowledgment that the assignee has read and understood the application for this amended permit itself and agrees to be bound by the terms and conditions of the amended permit, and the assignee is accepted by the Executive Director as being reasonably capable of complying with the terms of the amended permit.~~

~~F. Unless otherwise provided in this amended permit, all the terms and conditions of this amended permit shall remain effective for so long as the amended permit remains in effect or for so long as any use or construction authorized by this amended permit exists, whichever is longer.~~

~~G. Unless otherwise provided in this amended permit, the terms and conditions of this amended permit shall bind all future owners and future possessors of any legal interest in the land and shall run with the land.~~

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H. Unless otherwise provided in this amended permit, any work authorized herein shall be completed within the time limits specified in this amended permit, or, if no time limits are specified in the amended permit, within three years. If the work is not completed by the date specified in the amended permit, or, if no date is specified, within three years from the date of the amended permit, the amended permit shall become null and void. If the amended permit becomes null and void for a failure to comply with these time limitations, any fill placed in reliance on this amended permit shall be removed by the permittee or its assignee upon receiving written notification by or on behalf of the Commission to remove the fill.

I. Except as otherwise noted, violation of any of the terms of this amended permit shall be grounds for revocation. The Commission may revoke any amended permit for such violation after a public hearing held on reasonable notice to the permittee or its assignee if the amended permit has been effectively assigned. If the amended permit is revoked, the Commission may determine, if it deems appropriate, that all or part of any fill or structure placed pursuant to this amended permit shall be removed by the permittee or its assignee if the amended permit has been assigned.

J. This amended permit shall not take effect unless the permittee executes the original of this amended permit and returns it to the Commission within ten days after the date of the issuance of the amended permit. No work shall be done until the acknowledgment is duly executed and returned to the Commission.

K. Any area subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission under either the McAteer Petris Act or the Suisun Marsh Preservation Act at the time the amended permit is granted or thereafter shall remain subject to that jurisdiction notwithstanding the placement of any fill or the implementation of any substantial change in use authorized by this amended permit.

L. Any area not subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission that becomes, as a result of any work or project authorized in this amended permit, subject to tidal action shall become subject to the Commission's "bay" jurisdiction.

M. Unless the Commission directs otherwise, this amended permit shall become null and void if any term, standard condition, or special condition of this amended permit shall be found illegal or unenforceable through the application of statute, administrative ruling, or court determination. If this amended permit becomes null and void, any fill or structures placed in reliance on this amended permit shall be subject to removal by the permittee or its assignee if the amended permit has been assigned to the extent that the Commission determines that such removal is appropriate. Any uses authorized shall be terminated to the extent that the Commission determines that such uses should be terminated.

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Executed at San Francisco, California, on behalf of the San Francisco Bay Conservation and Development Commission on the date first above written.

WILL TRAVIS
Executive Director
San Francisco Bay Conservation
and Development Commission

WT/CB/rca

- cc: Mark D'Avognon, U.S. Army Corps of Engineers
- Beth Christian, San Francisco Bay Regional Water Quality Control Board
- Jason Brush, Environmental Protection Agency
- Donn Oetzel, State Lands Commission
- Ryan Olah, U.S. Fish and Wildlife Service
- David Woodbury, NOAA Fisheries
- Vicki Frey, Department of Fish and Game

* * * * *

Receipt acknowledged, contents understood and agreed to:

Executed at _____

Applicant

On _____

By: _____

Title

PERMIT NO. 1978.035.00

Department of Water Resources

NOTICE OF COMPLETION AND DECLARATION OF COMPLIANCE

San Francisco Bay Conservation
and Development Commission
455 Golden Gate Avenue, Suite 10600
San Francisco, CA 94102

Ladies and Gentlemen:

You are hereby informed that the work authorized by the above-referenced permit was completed on _____.

I have personally reviewed the terms and conditions of the permit, the final plans approved by or on behalf of the Commission, and the completed project and hereby certify that the project is in compliance with all terms and conditions of the permit and conforms to the plans previously reviewed and approved by or on behalf of the Commission. I further certify that all conditions of the permit, particularly with regard to plan review, public access areas and improvements, recordation, open space restrictions and other special conditions have been met.

I, _____, hereby declare under penalty of perjury that the foregoing is true and correct and that if called upon to testify to the contents of this notice, I would so testify.

Executed on this _____ day of _____,

20____, at _____, California.

(Permittee)

(Title)

San Francisco Bay Conservation and Development Commission

455 Golden Gate Avenue, Suite 10600, San Francisco, California 94102 tel 415 352 3600 fax 415 352 3606

June 1, 2016

Mr. Darryl Foreman
Greenbrae Marina Property Owners Association
578 Riviera Circle
Larkspur, California 94939

SUBJECT: Maintenance Dredging Episode Approval; BCDC Permit No. M1992.050.02

Dear Mr. Foreman:

Thank you for your episode approval request received on May 25, 2016 for maintenance dredging at the Larkspur Marina in the City of Larkspur, Marin County. This episode includes maintenance dredging of up to 39,521 (cy) of sediment from portions of the marina, including the Larkspur, Corte Madera, and Lucky channels, Corte Madera canal, and adjacent berthing areas and as shown on the signed pre-dredge survey dated April 24, 2016 to the authorized project depths of minus 5 feet Mean Low Lower Water (MLLW) in the channels and minus 3 feet MLLW in the berthing areas, plus 2 feet of over-depth allowance throughout. The dredged material will be disposed of at the state and federally authorized San Pablo Bay Disposal Site (SF-10). No further dredging or disposal is authorized.

We have reviewed Larkspur Marina's permit file, the signed small dredger programmatic alternative disposal site analysis, the 2016 Water Quality Certification, the environmental work windows affecting your project, and the Dredge Operation Plan for this episode. The Dredged Material Management Office (DMMO) has reviewed the physical, chemical, and biological sediment characterization testing performed in 2015 and the supplemental testing completed in February 2016. Through the review of the test results, the DMMO was satisfied that the elevated levels of PCB found in sediment cores LM-DU2-03 and LM-DU2-05 are not likely to bioaccumulate to harmful levels in invertebrate species found in the Bay. Therefore, the DMMO has determined that in-Bay placement at the San Pablo Bay Disposal Site is acceptable. Further, the DMMO has reviewed the Tier 1 Exclusion from Testing Request and determined that the sediment that has accumulated in the dredge footprint since the last episode (2015) is suitable for in-Bay disposal.

To comply with the environmental work windows protective of Pacific herring, steelhead trout, Coho and Chinook salmon dredging must be completed by November 30th. If for some reason extension of time is needed, consultation with the LTMS agencies on behalf of NOAA Fisheries Service and the California Department of Fish and Wildlife (CDFW) is required.

info@bcdc.ca.gov | www.bcdc.ca.gov
State of California | Edmund G. Brown — Governor



EXHIBIT C

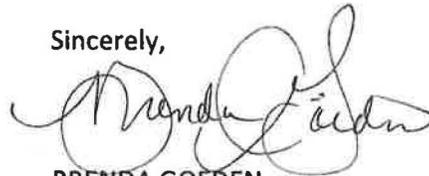
Mr. Daryl Foreman
Larkspur Marina
June 1, 2016
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NOAA has recently amended its LTMS programmatic biological opinion to allow planned dredging outside the work window if the sediment is going to beneficial reuse that will benefit fish habitat, and has delegated its decisions on these projects to the LTMS agencies. However, the herring work window is still in place for this area due to the severe drought, and a waiver would be required from CDFW for dredging outside the environmental work window for herring.

Additionally, because the dredging will be conducted with a mechanical dredge it is unlikely to result in the take of state-listed longfin smelt. Please be advised that it is the responsibility of the Greenbrae Marina Property Owners Association to apply for an incidental take permit from CDFW if there is any reason to believe that project activity could result in the take of longfin smelt or other state listed species.

Your project can proceed as proposed and as specified in the authorization section of your permit. In addition, please be advised that you should submit a post-dredge report to us within 30 days of completion of this dredging episode as required by the special conditions. If you have any questions or changes to your project, please contact me at 415/352-3623 or via email at brenda.goeden@bcd.ca.gov.

Sincerely,



BRENDA GOEDEN
Sediment Program Manager

BG/cj

cc: James Mazza, U.S. Army Corps of Engineers
Jason Brush, U.S. Environmental Protection Agency
Beth Christian, S.F. Bay Regional Water Quality Control Board
Al Franzoia, California State Lands Commission
Arn Aarreberg, California Department of Fish and Wildlife (Marine Region)
Gary Stern, NOAA Fisheries Service
City of Larkspur Planning Department