San Francisco Bay Conservation and Development Commission

375 Beale Street, Suite 510, San Francisco, California 94105 | Phone: 415-352-3600 State of California | Gavin Newsom – Governor | info@bcdc.ca.gov | www.bcdc.ca.gov

Via Electronic Mail

October 15, 2025

Shannon Clemence 46 Sandy Beach Rd. Vallejo, 94590

Email: Redvine1960@gmail.com

SUBJECT: Violation Report and Complaint for Administrative Civil Penalties (BCDC

Enforcement No. ER2023.058.00)

Dear Respondent:

Please see the enclosed Violation Report and Complaint for Administrative Civil Penalties. BCDC is initiating a formal enforcement proceeding to compel you to obtain a permit for the placement of unauthorized fill in BCDC's Bay and 100-foot shoreline band jurisdiction.

This action is being taken because you have failed to resolve this issue since you were first notified about it on November 20, 2023.

Within thirty-five days, you must submit to me the completed statement of defense form or a certified cashier's check in the amount of the proposed administrative civil penalty.

Signed,

Docusigned by:

UNU USLUY

7,98061AD3AB64EF....

ANNE USHER

Enforcement Analyst

AU/mm

cc: Amanda Boyd, BCDC staff attorney, Amanda.boyd@bcdc.ca.gov

Gregory Earl, ALCHEMISTSGUILD@GMAIL.COM

Luke Ward, public land management specialist, State Lands Commission,

Luke.Ward@slc.ca.gov

Denise Feiling, permit technician II, Solano County Building & Safety Services Division,

dmfeiling@solanocounty.com



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Date Mailed: October 15, 2025

35th Day After Mailing: November 19, 2025

60th Day After Mailing: December 14, 2025

Hearing Date: December 10, 2025

Violation Report/Complaint for Administrative Civil Liability Enforcement Case No. ER2023.058.00 (Shannon Clemence)

Guidance to Respondents

FAILURE TO RESPOND TO THIS VIOLATION REPORT/COMPLAINT FOR ADMINISTRATIVE CIVIL LIABILITY BY COMPLETING THE ENCLOSED STATEMENT OF DEFENSE FORM AND ENCLOSING ALL PERTINENT DECLARATIONS UNDER PENALTY OF PERJURY, PHOTOGRAPHS, LETTERS, AND OTHER WRITTEN DOCUMENTS COULD RESULT IN A CEASE AND DESIST ORDER, A PERMIT REVOCATION ORDER, OR AN ORDER SETTING ADMINISTRATIVE CIVIL LIABILITY AND IMPOSING A SUBSTANTIAL CIVIL PENALTY BEING ISSUED TO YOU WITHOUT YOUR HAVING AN OPPORTUNITY TO CONTEST THEM BY RAISING ANY DEFENSES OR MITIGATING FACTORS OR TO INTRODUCE ANY EVIDENCE.

The San Francisco Bay Conservation and Development Commission is issuing this violation report/complaint for administrative civil liability and the enclosed statement of defense form because the Commission's staff believes that you may be responsible for or involved with a possible violation of either the Commission's laws or a Commission permit. The report/complaint contains a brief description of the alleged violation, a summary of all the pertinent information currently known to staff, and a list of all supporting evidence relied on by staff. All the listed supporting evidence is attached to or accompanies this report/complaint or will be provided to you in electronic format upon request. You can arrange to review the Commission's enforcement file for this matter located at the Commission's offices and/or have copies of these materials made at your expense by contacting Anne Usher of the Commission's staff at telephone number 415-352-3662. The report/complaint informs you of the nature of the possible violation and lists the supporting evidence so that you can fill out the enclosed Statement of Defense form and otherwise be prepared for the Commission enforcement proceedings.

Receipt of the report and the enclosed statement of defense form is the first step in Commission enforcement proceedings. Subsequently, either the Commission or its enforcement committee shall hold an enforcement hearing and the Commission will determine what, if any, enforcement action to take.

Careful reading and a timely response to these materials are essential to allow you to present your side of the case to the Commission. A copy of the Commission's enforcement regulations is also included so that you can fully understand the Commission's enforcement procedures. If you have any questions concerning either the report/complaint, the enclosed statement of defense form, the procedures that the Commission and its enforcement committee follow, or anything else pertinent to this matter, contact Anne Usher of the Commission's staff as quickly as possible at telephone number 415-352-3662. Thank you for your cooperation.

Violation Report and Complaint for Administrative Imposition of Civil Penalties

1. Person or persons believed responsible for illegal activity:

Shannon Clemence

2. Brief description of the nature of the violation or unauthorized activity:

In the BCDC's 100-foot shoreline band jurisdiction, the placement of unauthorized fill: a shed.

In the BCDC's Bay jurisdiction, the placement of unauthorized fill: concrete pilings under the home, a deck, deck railings, and a deck-bracing substructure.

3. Description of and location of the property on which the violation or unauthorized activity occurred:

46 Sandy Beach Road, Vallejo, Solano County, APN 0062-020-210

4. Name of owner, lessee (if any), and other person(s) (if any) who controls property on which violation or unauthorized activity occurred:

Shannon Clemence

5. Approximate date (and time if pertinent and known) that the violation or unauthorized activity occurred:

BCDC staff confirmed the violation on January 17, 2024.

- 6. Summary of all pertinent information currently known to the staff in the form of proposed findings of fact with references to all pertinent supporting evidence listed in an attachment to the report/complaint:
 - i. BCDC received a complaint in an email on Sept. 19, 2023, which the person mirrored in a submission through BCDC's portal the next day. The person alleged that Shannon Clemence had built an accessory dwelling unit (ADU) in front of her house, extended the deck on the left side of the house and added a support structure for it, erected a 6-foot fence, removed and replaced boards on the deck

- and in the courtyard, installed new deck railings, and added six to eight concrete pilings.
- <u>Supporting evidence:</u> Initial ERF for ER2023.058.00 and emails from complainant and their exhibits, "2023.09.19_ClemenceViolationReport1-5." (VR/1)
- ii. Staff confirmed Ms. Clemence's ownership of 46 Sandy Beach Road and reviewed its parcel lines.
 - <u>Supporting evidence</u>: RealQuest database property record, Solano County parcel map, and grant deed. (VR/2)
- iii. Investigation continued with a review of Google Earth satellite imagery from 2016 to 2023. This review showed additional decking between 2016 and 2022 and the addition of a shed-like structure between May 2022 and July 2023.
 - Supporting evidence: Google Earth images document. (VR/3)
- iv. Staff sent Ms. Clemence an initial contact letter. The letter, on November 20, 2023, noted the initial report BCDC received and described her alleged violations as placing six to eight concrete pilings in the Bay and BCDC's 100-foot shoreline band jurisdiction, placing a shed or similar structure in its 100-foot shoreline band jurisdiction, and placing a deck and deck railing cantilevered over the Bay in violation of Section 66632(a) of the McAteer-Petris Act. The letter noted that BCDC did not authorize any new fill at 46 Sandy Beach Road.
 - <u>Supporting evidence</u>: Initial contact letter dated November 20, 2023 (VR/4)
- v. BCDC staff conducted a site visit on January 17, 2024. Ms. Clemence and Gregory Earl, her partner, confirmed her placement of the shed, decking and deck railing, substructure to support the deck, and new wood beams to hold a paddleboard and surfboard. BCDC noted that there were also concrete pilings under the home that appeared to constitute a violation. Mr. Earl reached out on her behalf in February 2024 and former BCDC Enforcement Policy Manager, Matthew Trujillo, provided information to him about how to fill out BCDC's permit application and urged him to seek further guidance from the permitting team.
 - <u>Supporting evidence:</u> Site visit photos from January 17, 2024, and email from Matthew Trujillo on February 26, 2024. (VR/5)
- vi. Through correspondence with various other agencies, BCDC staff learned that Ms. Clemence's Solano County construction permits had expired. Email correspondence with the United States Army Corps of Engineers (USACE) in December 2023 made BCDC aware that Ms. Clemence previously told USACE that she did not install new piles on her property, that a narrow deck on the south side had been destroyed in a fire in 2018, and that she had initiated a process with

Solano County in 2020 to get a permit to reconstruct it. She confirmed that she did that work and constructed the shed, noting that it is in an upland area.

Solano County informed BCDC staff in November 2023 that the permits it had issued for her home had expired because she did not request inspections.

The State Lands Commission (SLC) communicated to Ms. Clemence on April 30, 2024, via email that the SLC lease assigned to Ms. Clemence prohibited her from expanding any existing portion of residence, deck, and appurtenant facilities and asked her to contact the SLC regarding removing the unauthorized construction.

<u>Supporting evidence:</u> November 2, 2023, and December 14, 2023, emails from Brian Matsumoto, USACE; a November 3, 2023, email with Denise Feiling, Solano County; and a April 30, 2024, email with Vicki Caldwell, SLC, and a copy of the SLC lease assigned to Ms. Clemence, dated August 23, 2019. (VR/6)

vii. Staff issued Ms. Clemence a Notice of Violation on April 2, 2024, based on the staff investigation confirming the violations and Ms. Clemence's failure to apply for and obtain an after-the-fact permit authorizing the placement of fill on her property.

Supporting evidence: Notice of Violation (VR/7)

viii. Staff gave Ms. Clemence a time extension until June 30, 2024, to secure a permit. In a conversation with staff on April 2, 2024, Mr. Earl said that he had been working with Solano County's permit office to obtain permits. He also noted that his father had died and staff recommended that he and Ms. Clemence seek and extension of the violation notice's 35-day time limit. On April 7, 2024, Ms. Clemence did so, filing an appeal pursuant to 14 CCR Section 11391(b) in which she noted that her role as her mother's caregiver and full-time job also made it difficult to meet the deadline. On April 12, 2024, staff supported the request in a memorandum to Commission Chair Zack Wasserman and Executive Director Larry Goldzband and the request was approved.

<u>Supporting evidence</u>: Call notes from April 2, 2024, between Matthew Trujillo, former Enforcement Analyst Rachel Cohen, and Mr. Earl, and memorandum approving the time extension, fully executed on April 15, 2024. (VR/8)

ix. On June 27, 2024, Ms. Clemence submitted a permit application. On July 10, 2024, permitting staff sent Ms. Clemence a letter informing her that the permit application was incomplete pending additional information.

On August 20, 2024, BCDC permitting staff conducted a site visit. Staff found that the new deck coverage was greater than Ms. Clemence had outlined in her application but said it was unclear how much of the work that was not in the application had been done to replace what had burned in the fire. Because it was high tide, staff could not determine whether new pilings had been placed and what debris existed under the deck but stated that her deck probably does not require

them. They added that the shed and retaining wall do not appear to be problems from a regulatory perspective. The shed contains no electricity or plumbing, making it a storage shed, not an ADU. The report further notes that the after-the-fact permit request is also for a 64-foot fence.

<u>Supporting evidence</u>: Ms. Clemence's permit application, dated June 10, 2024, with project information description, a 30-day letter, dated July 10, 2024, and site visit notes from August 20, 2024. (VR/9)

x. Staff followed up with the State Lands Commission. In June 2024, the SLC had allowed Ms. Clemence to apply for a lease amendment and told her what she needed to submit. That month, Ms. Clemence informed the SLC that before she purchased her home, it had sustained significant damage to siding and roofing from a fire at a neighboring property, 16 Sandy Beach Road. She noted that past owners of 46 Sandy Beach had applied for Solano County construction permits but had not closed them out. When she bought the home, she said she sought to remove the siding, replace it with fire-retardant siding, and replace a catwalk deck with a wider one that could serve as a fire escape—with a ramp for her mother, who uses a wheelchair. She said that she did not replace the siding because contractors found that it contained asbestos.

In February 2025, the SLC informed staff that the SLC was going to consider amending Ms. Clemence's lease to allow for the deck addition at its meeting on April 2, 2025.

<u>Supporting evidence</u>: June 12, 2024, and February 12, 2025, emails with Vicki Caldwell and Jennifer Bryant and survey, SLC. (VR/10)

- xi. Staff spoke again with Ms. Clemence and her partner. Mr. Earl said that Ali Mahalat Engineering was completing project drawings required for her BCDC permit. He explained that a neighbor had done work on Shannon's house, including installing concrete pilings under the home, before she bought it in 2019. Regarding the shed, he said the county allowed her to build a 9x9 one on her property and did not mention the need to obtain a permit from BCDC.
 - <u>Supporting evidence</u>: Notes from phone conversation on February 6, 2025, and February 7, 2025, email from Greg Earl. (VR/11)
- xii. On March 19, 2025, BCDC staff issued Ms. Clemence a Notice of Recission, stating that the process of resolving her violations using the standardized fine process is no longer available pursuant to BCDC regulation section 11390(d) due to her failure to make a good faith effort to correct the identified violations within 125 days of the mailing of the Notice of Violation.

Supporting evidence: Notice of Recission, dated March 19, 2025. (VR/12)

xiii. On September 11, 2025, Ms. Clemence told BCDC staff that she also replaced a fence along the parking lot side of her property in September 2020. Ms. Clemence said the previous fence had been partially burned by the fire at 16 Sandy Beach Road. She acknowledged not seeking and obtaining a BCDC permit for this construction.

Supporting evidence: September 11, 2025, interview with Ms. Clemence and Gregory Earl and email from Gregory Earl on September 15, 2025. (VR/13)

- 7. Provisions of law or Commission permit that the staff alleges have been violated:
 - McAteer-Petris Act § 66632 (a)
 - "Any person or governmental agency 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 shall secure a permit from the commission and, if required by law or by ordinance, from any city or county within which any part of the work is to be performed. For purposes of this title, "fill" means earth or any other substance or material, including pilings or structures placed on pilings, and structures floating at some or all times and moored for extended periods, such as houseboats and floating docks. For the purposes of this section "materials" means items exceeding twenty dollars (\$20) in value."
- 8. If the staff is proposing that the Commission impose an administrative civil penalty as part of this enforcement proceeding:

(FOR INTERNAL USE ONLY: Check this box if no penalty is being proposed at this time. \Box)

(a) A list or table of all alleged violations for which staff is proposing a penalty:

Violation One: The placement of unauthorized fill in the Bay and 100-foot shoreline jurisdictions, including concrete pilings underneath the home and decking (including a deck railing and substructure) and a shed.

(b) The total amount of proposed administrative civil penalties:

Violation One: \$30,000

(c) A statement of the applicable factors set forth in Government Code Section 66641.9 that the Executive Director considered, consistent with the Administrative Civil Penalty Policy in Appendix J of the Commission's regulations, in determining the total amount of the proposed administrative civil penalties:

A summary of the penalty calculation methodology used herein is as follows:

- 1) Determined the total initial base penalty amount for each violation by evaluating: (a) the gravity of harm of the violation; and (b) the extent of deviation from the requirement at issue. Based on those evaluations, use Table 1 to determine the initial base penalty amount for the violation. Multiply the initial base penalty amount by the number of days that the violation has persisted to determine the total initial base penalty for the violation.
- 2) Adjustments specific to the violator were made to the base penalty amount for each violation. The following additional factors were considered for potential adjustment of the total initial base penalty for each violation:
 - a. the violator's degree of culpability for the violation;
 - b. any history of violations by the violator;
 - c. any voluntary removal or resolution efforts and cooperation by the violator.
- 3) The total base penalty amount was determined by calculating the sum for all violations of the total initial base penalty amount for each violation (i.e., the initial base penalty amount for the violation multiplied by the number of days of violation) multiplied for each violation by the percentages of any adjustments for the violator's culpability, history of violations, and voluntary efforts to resolve the violation.
- 4) Considered adjustments to the total base penalty amount based on additional factors and determine the final penalty amount. (Depending on the available information, the Executive Director may recommend adjusting or the Commission may adjust the total base penalty amount based on consideration of the following factors: (a) any economic benefit to the violator; (b) the violator's ability to pay or continue in business; (c) costs to the State in pursuing the enforcement action; (d) other factors as justice may require.) The final penalty amount was determined by making any appropriate adjustments to the total base penalty amount based on consideration of these additional factors.
- 9. Any other statement or information that the staff believes is either pertinent to the alleged violation or unauthorized activity or important to a full understanding of the alleged violation or unauthorized activity:

None.

10. List of all supporting evidence relied on by staff, including any declarations under penalty of perjury (these records will be provided to you in electronic format upon request):

| Violation Report and Complaint (VR/C) Exhibit | Description | Record Date |
|---|---|--|
| 1 | Initial Enforcement Report Form and emails | September 19 and 20, 2023 |
| 2 | Parcel ownership confirmation | RealQuest: Bought April 30, 2019 Grant Deed: Signed November 1, 2022 Parcel Map: Copyright 1996 |
| 3 | Google Earth satellite imagery | Images from 2016 to 2023 |
| 4 | Initial contact letter | November 20, 2023 |
| 5 | Staff site visit and email | Site visit: January 17, 2024 |
| | | Email from Matthew Trujillo: February 26, 2024. |
| 6 | USACE, SLC, Solano County responses | Brian Matsumoto, USACE: November 2, 2023 Denise Feiling, Solano County: November 3, 2023 Vicki Caldwell, SLC: April 30, 2024 |
| 7 | Notice of violation | April 2, 2024 |
| 8 | Time extension granted | April 12, 2024 |
| 9 | Permit staff site visit | August 20, 2024 |
| 10 | Emails with Vicki Caldwell and Jennifer Bryant and survey, SLC | Vicki Caldwell: February 11, 2025 Jennifer Bryant: June 12, 2024 |
| 11 | Phone conversation and email from Greg Earl | February 6 and 7, 2025 |
| 12 | Notice of Recission | March 19, 2025 |
| 13 | Phone conversation with Mr. Earl and Ms. Clemence and email with Mr. Earl | September 11 and 15, 2025 |



THOMPSON LAW BUILDING, APC 410 TUOLUMNE STREET • VALLEJO, CA 94590 PHONE (707) 643-2122 • Fax (707) 647-4314

September 19, 2023

Via Email: rachel.cohen@bcdc.ca.gov

Rachel Cohen
Enforcement Analysts
San Francisco Bay Conservation and Development Commission
375 Beale Street, Suite 510
San Francisco, California
94105

Re:

Supplemental Complaint – Notice of Violations of the McAteer-Petris Construction of a ADU, placement of concrete pilings in BCDC'S Bay; illegal addition of a brand-new deck, deck boards, and concrete pilings;

replacement of existing deck and railings.

Property Owner:

Shannon Clemence

Cell phone: 415/412-6981

Email: redivine1960@gmail.com 46 Sandy Beach Road, Vallejo, CA

APN 0062-020-210

Dear Ms. Cohen:

By this notice, I am hereby filing a supplemental formal complaint against Shannon Clemence who recently installed, constructed, erected, built and an Accessory Dwelling Unit ("ADU"), deck extension, deck railing, support structure and concrete pilings to support the new deck on her residence located at 46 Sandy Beach Road in Vallejo, California.

A. UNAUTHORIZED CONSTRUCTION OF AN ADU ON THE SITE

I recently observed Gregory Earl, Shannon Clemence's boyfriend who is a self-employed builder and resides with her, transporting lumber and building supplies to the subject property and constructing (aided by some other Hispanic workers), in front of the subject property, what appears to be an Accessory Dwelling Unit, which included building a foundation, framing the structure, installing the sub floor, roof, siding, insulation, a sunroof, large window, and front door. The project does not appear to have not been completed. I have attached herewith and identified as Exhibit 4, photographs of the illegal structure for your review.

B. <u>UNAUTHORIZED INSTALLATION OF DECK ADDITION/EXTENSION</u>, <u>SUPPORT STRUCTURE</u>, <u>DECK BOARD(S)</u>, <u>DECK RAILING AND</u> <u>ADDITIONAL CEMENT PILINGS</u>

I have also enclosed herewith for your review a copy of survey of Ms. Clement's property and her parcel site map identified as Exhibit 5.

As you can clearly see, her deck, which was originally constructed 25 years (or more) ago was limited to three quarters of the back of her residence and did not extend around the corner and down the left-hand side of her residence.

However, following her purchase of the subject property on May 6, 2019, she extended her deck around the corner and down the left-hand side of her residence, constructed a fence, installed a new support structure(s) underneath her residence and deck boards on the deck and in the front of her residence, and installed new pilings as confirmed by the photographs attached herewith and identified as Exhibits 6, 7, 8, and 9.

I reasonably believe that Ms. Clemence failed to obtain the necessary permits from BCDC. Further, that this activity on the part of Ms. Clemence represents a violation of the McAteer-Petris Act 66632(a).

As a enforcement officer, I bring these matters to your direct attention.

Please investigate this matter.

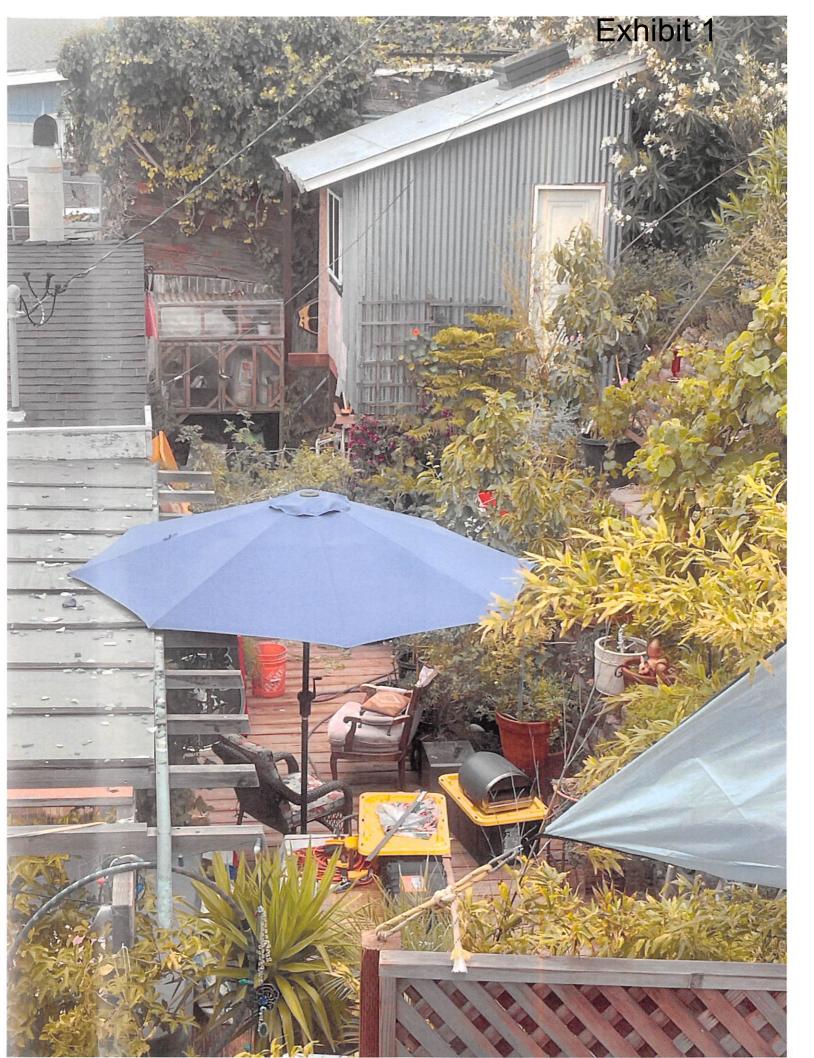
I can be reached at 707/643-2122.

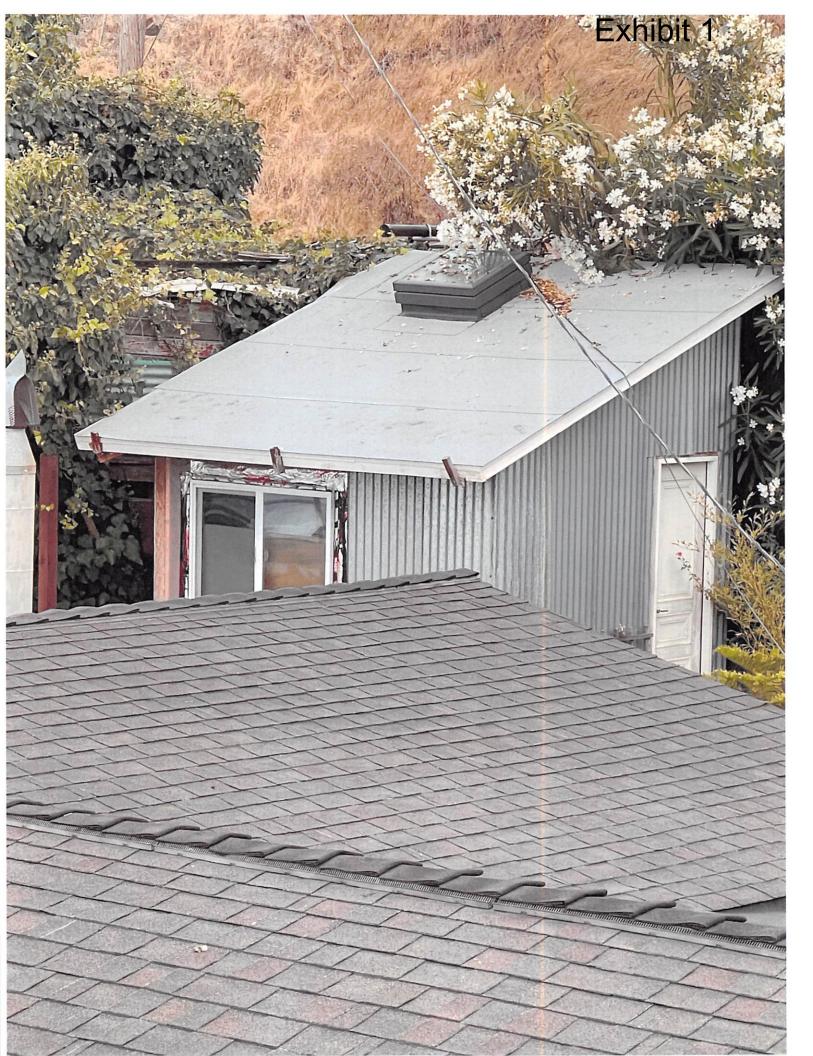
Thank you in advance.

Very truly yours,

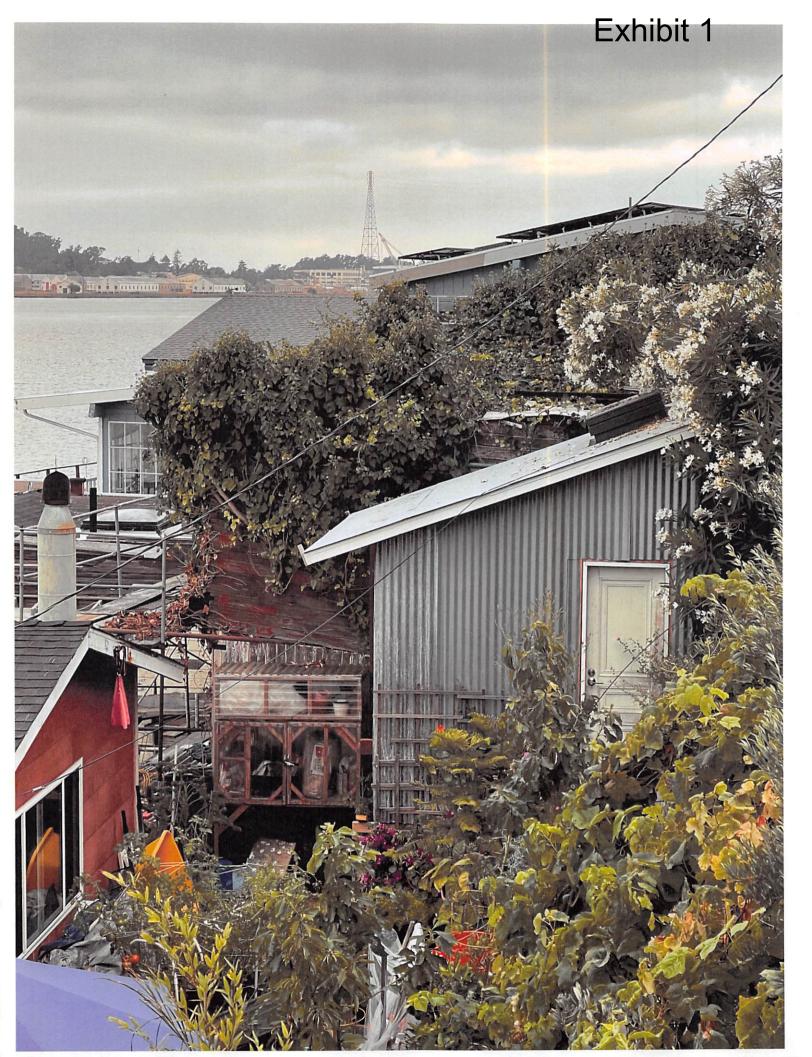
Michael A. Thompson, Esq.

Enclosures

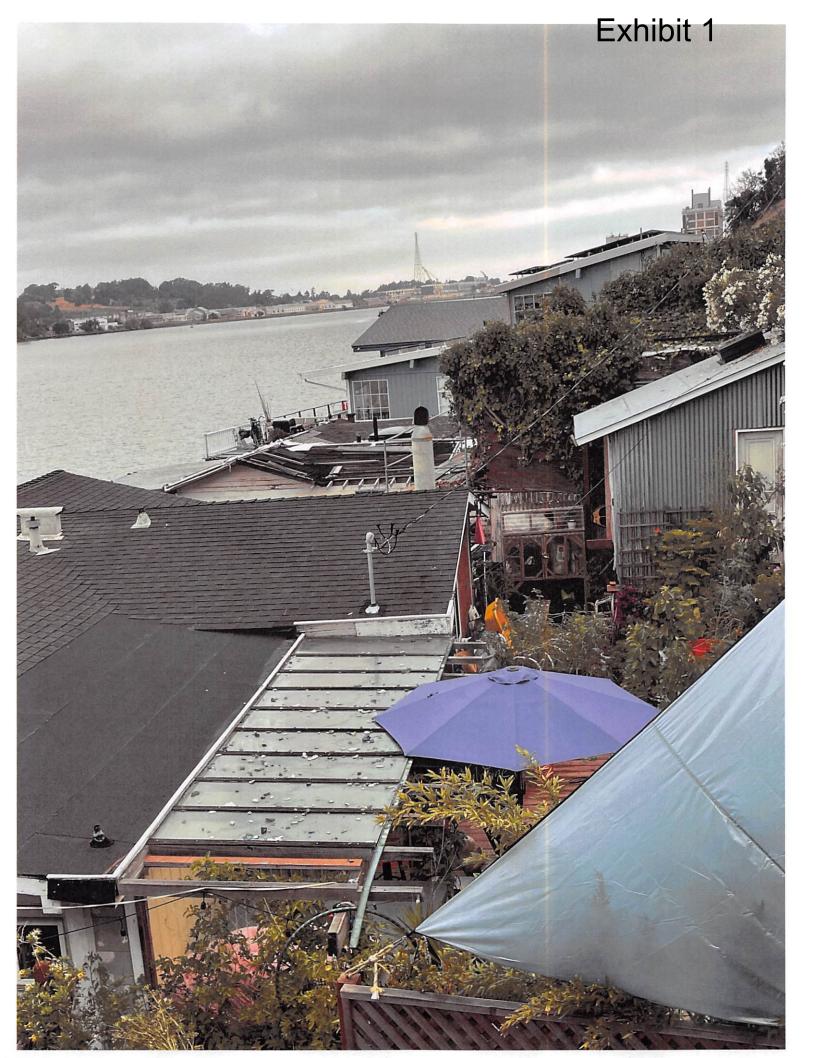


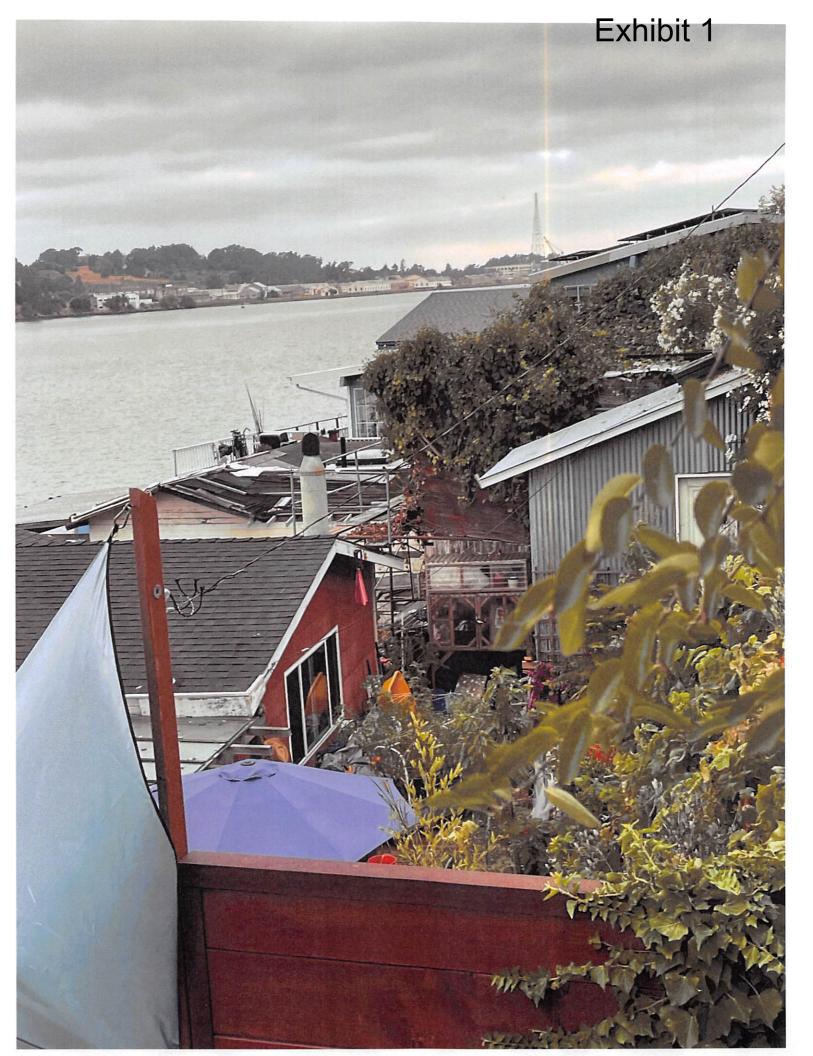


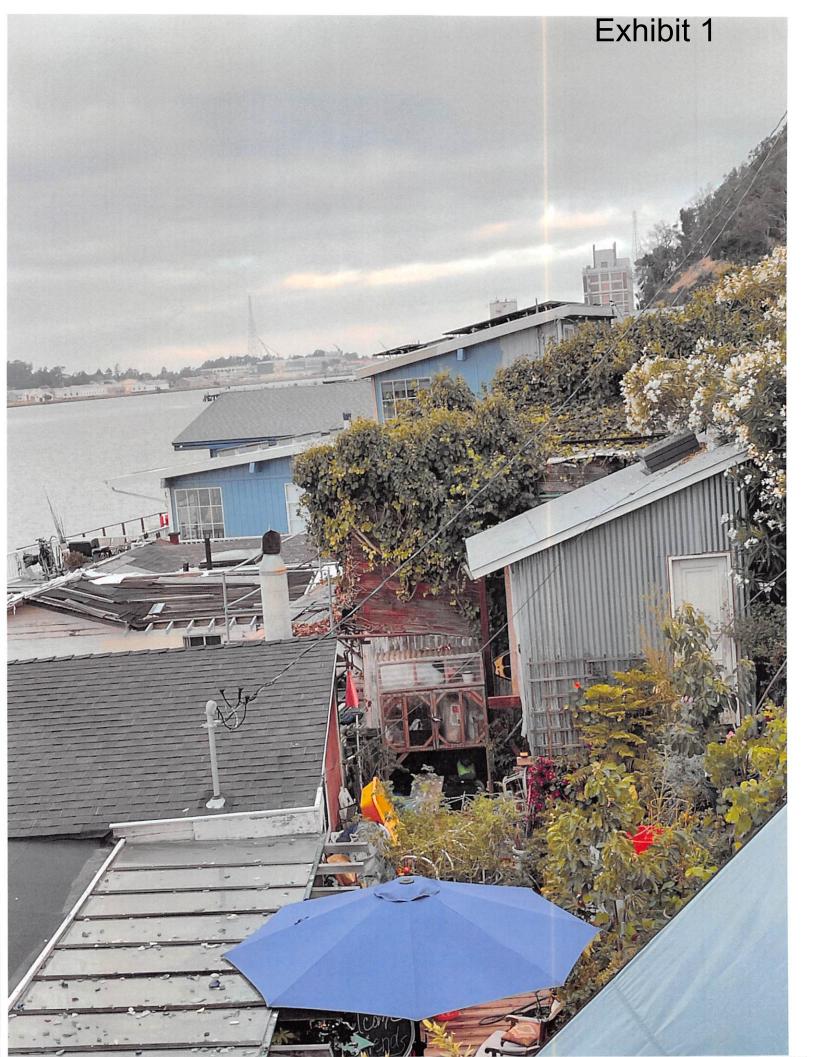


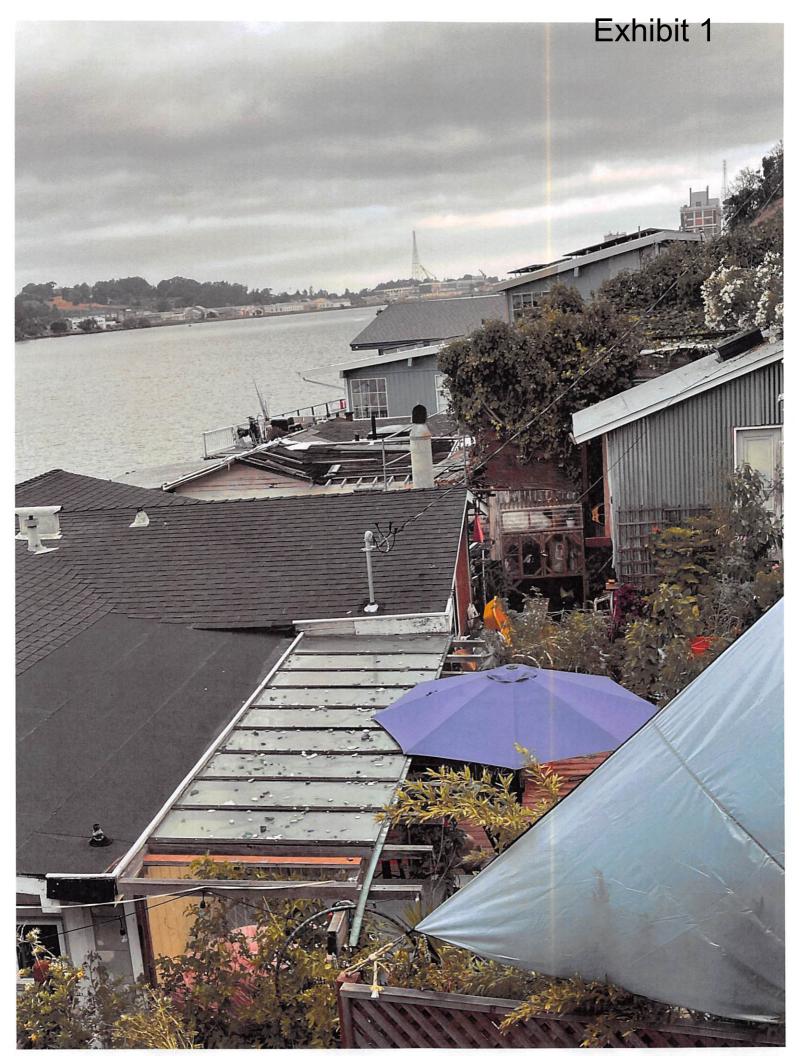








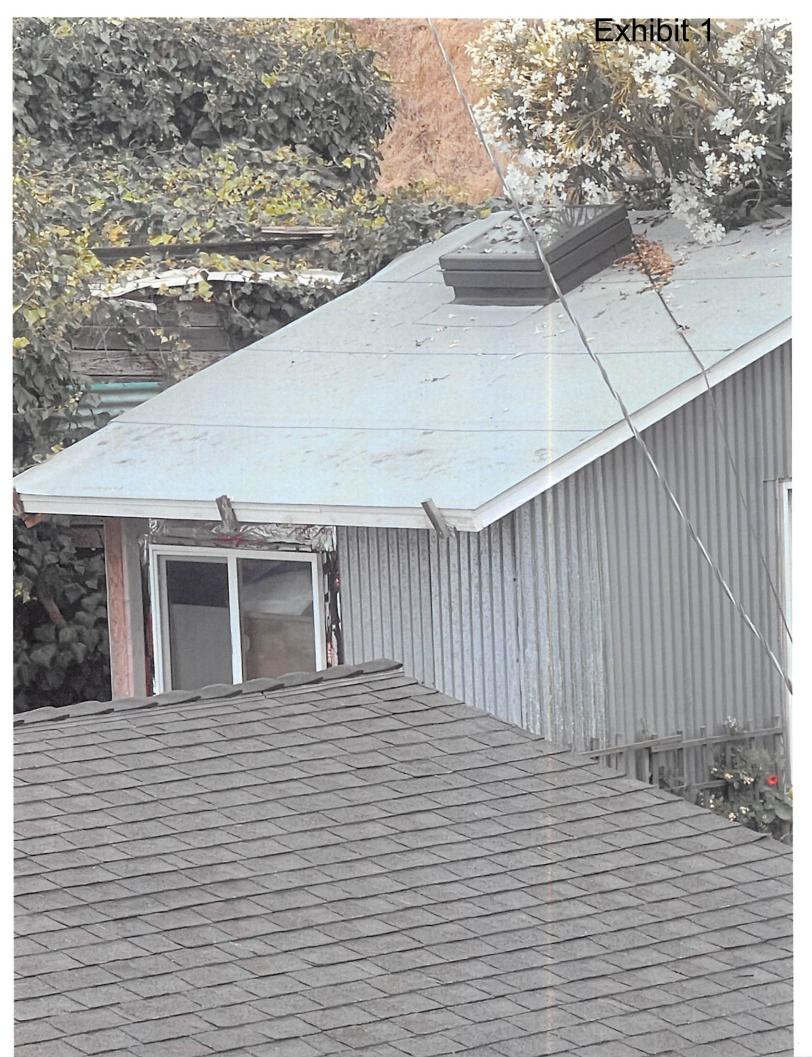


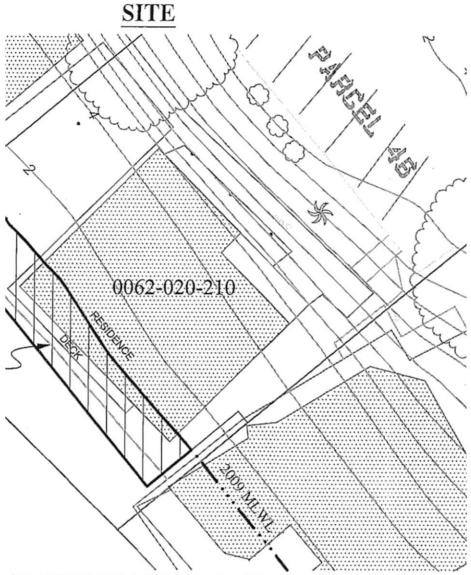






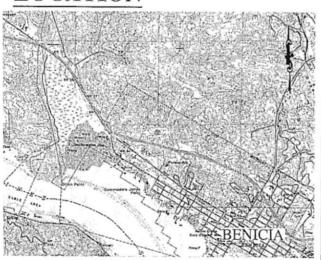






6 SANDY BEACH ROAD, VALLEJO

LOCATION



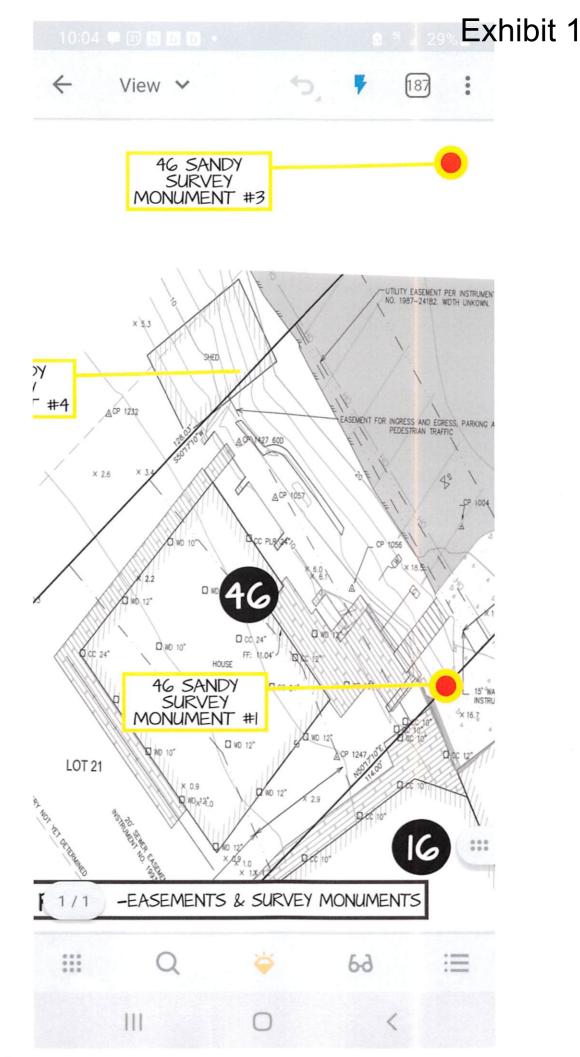
MAP SOURCE: USGS QUAD

is of generally defining the lease premises, is provided by the Lessee or other parties and is construed as, a waiver or limitation of any State r property.

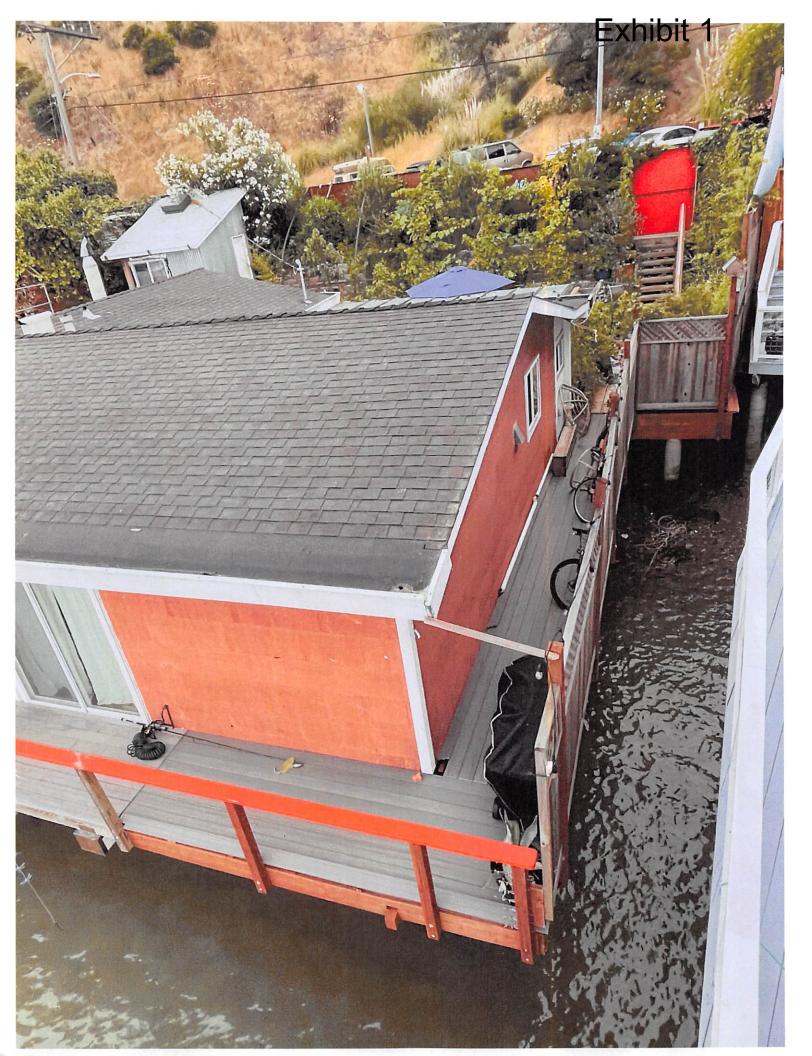
Exhibit

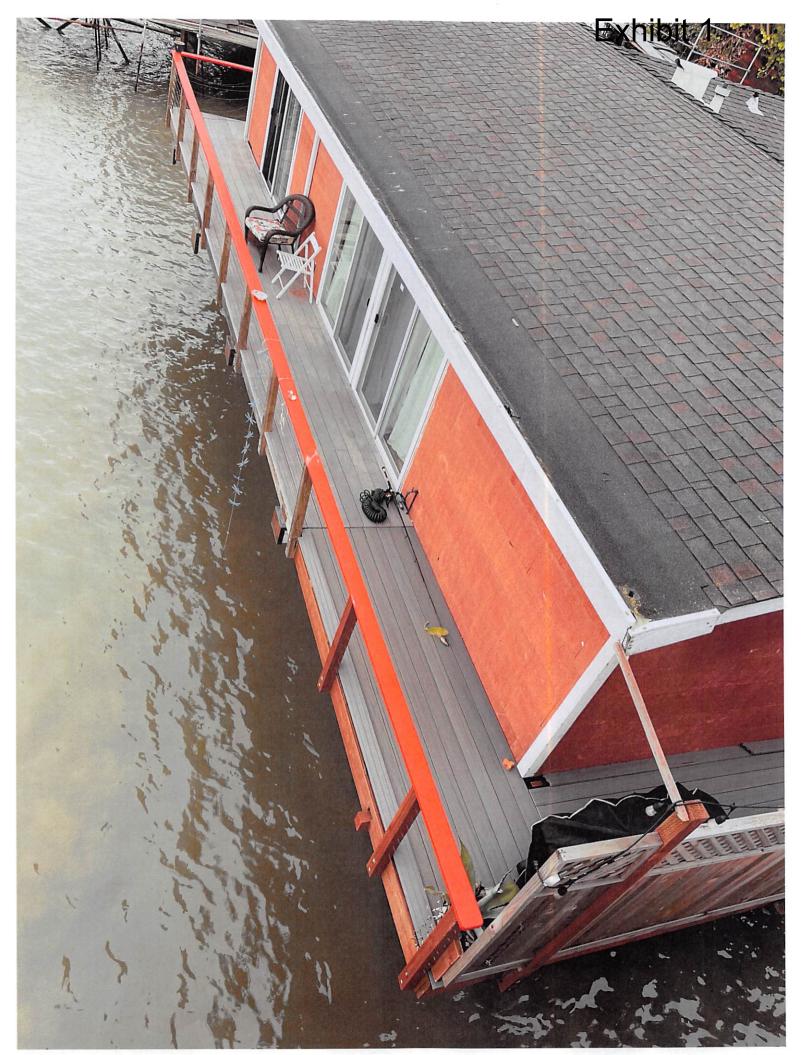
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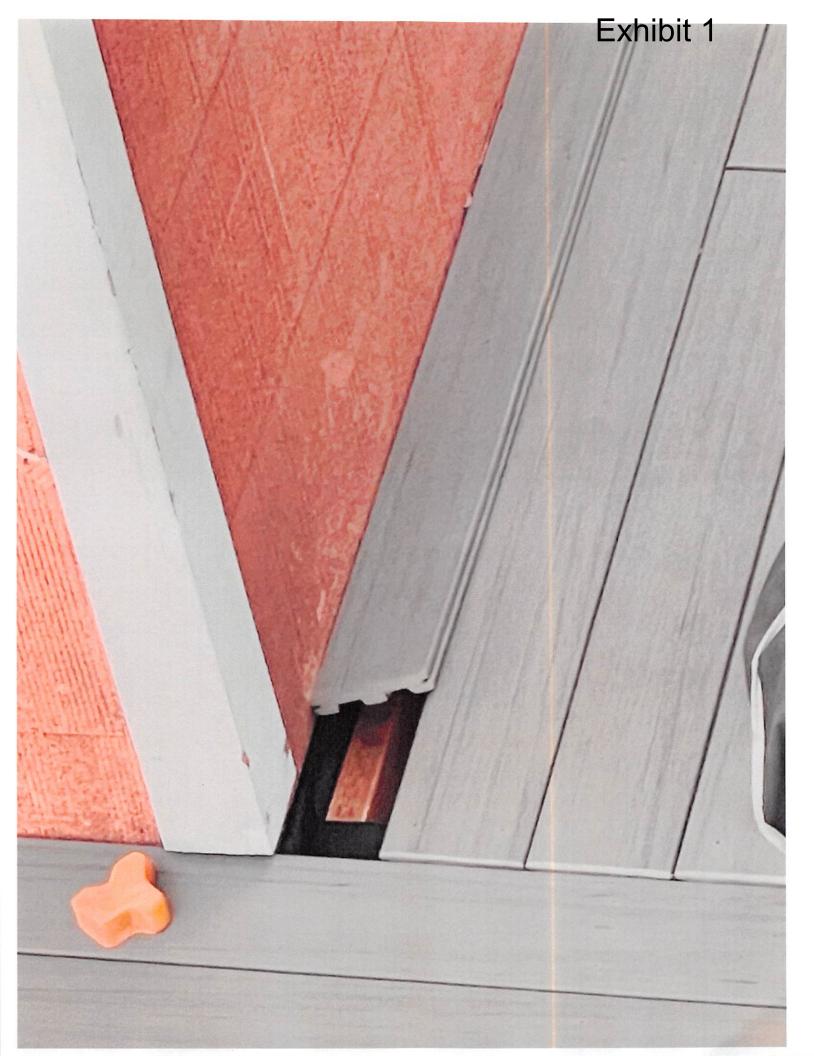


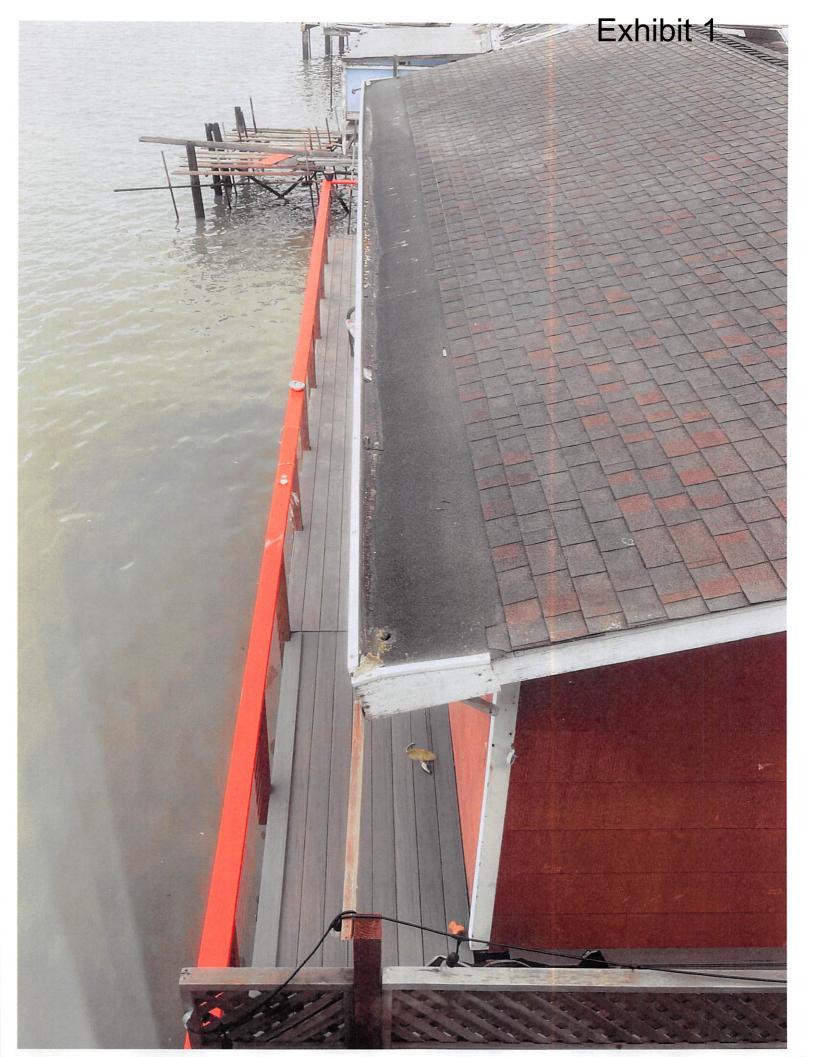


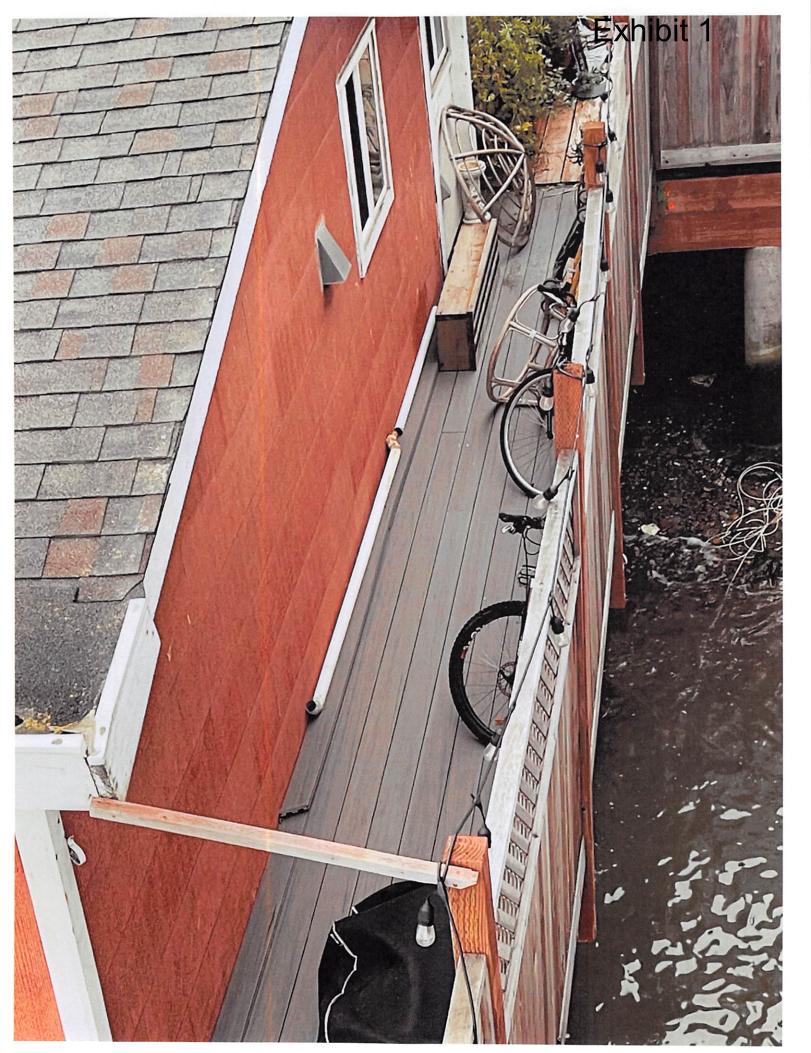


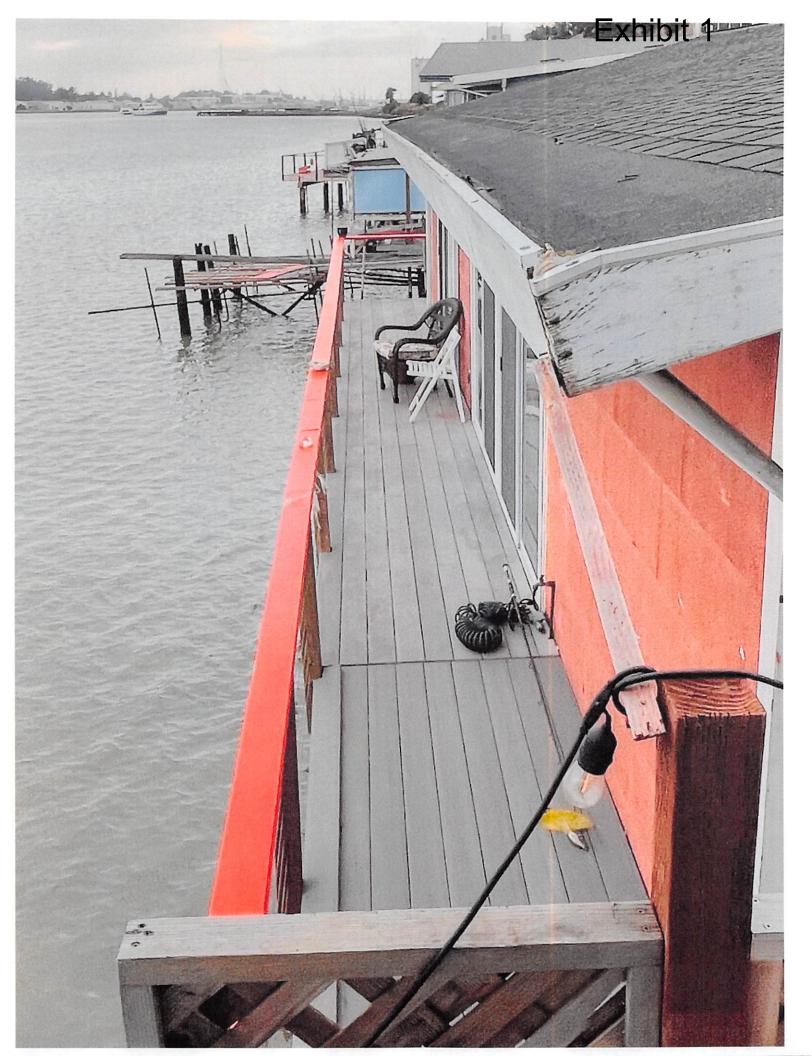


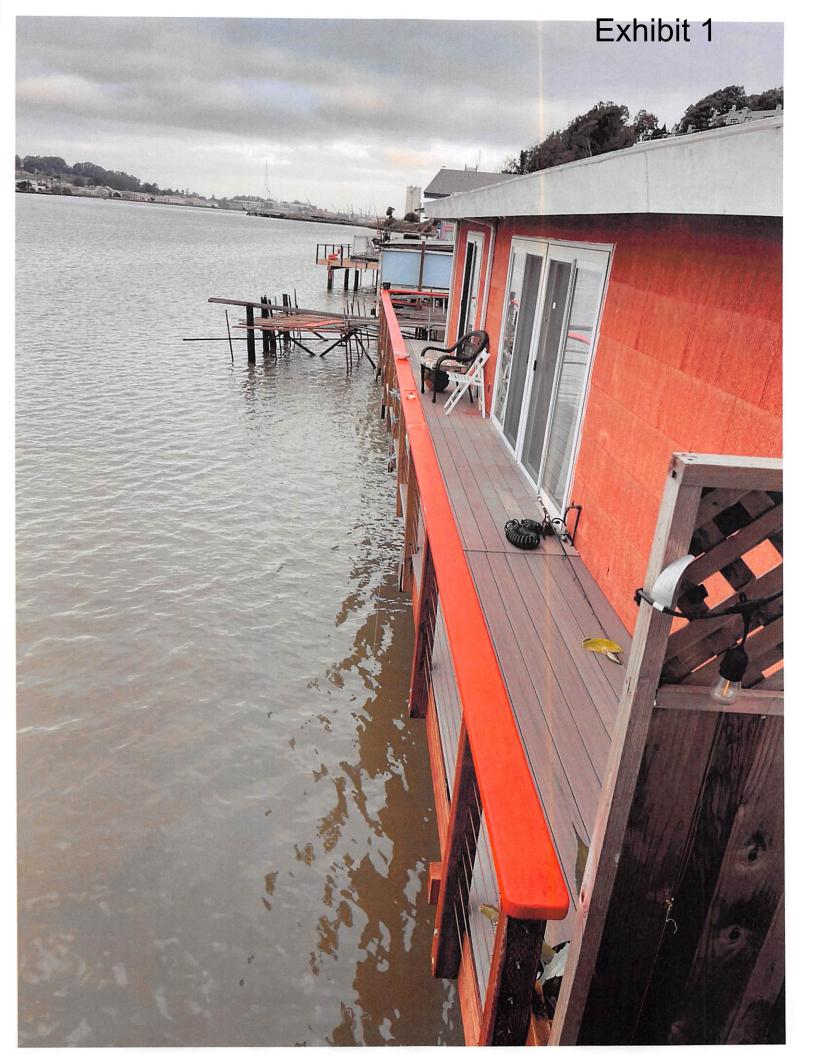


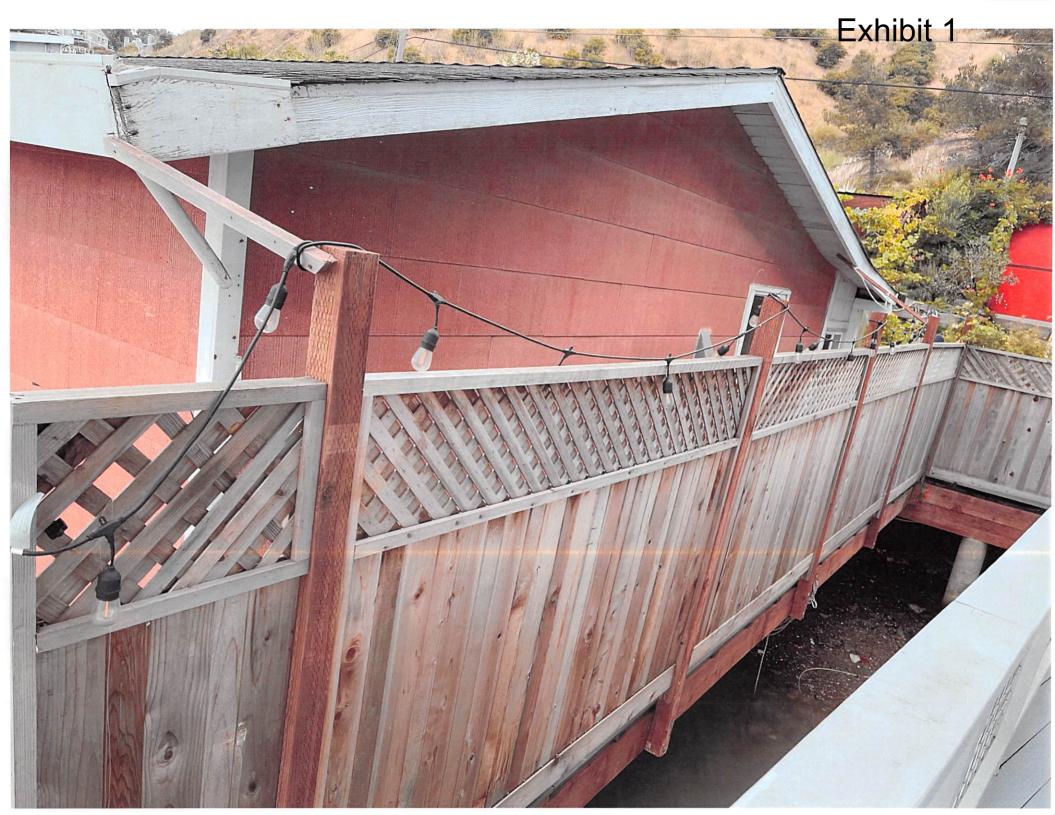


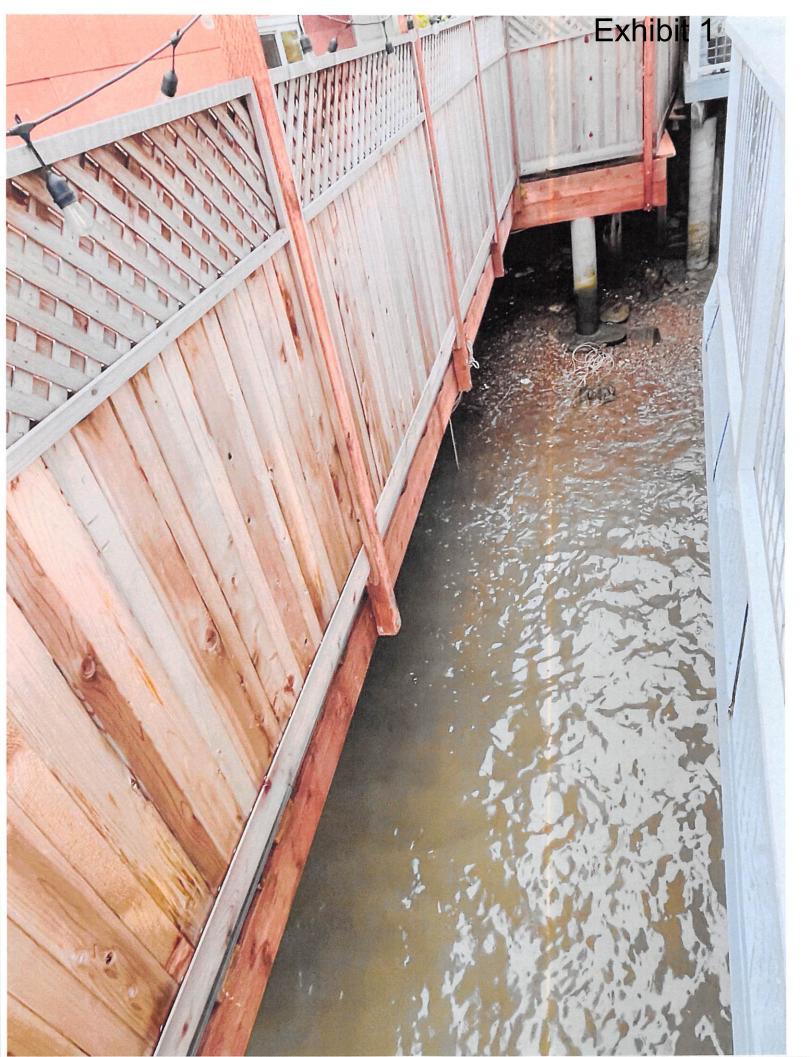


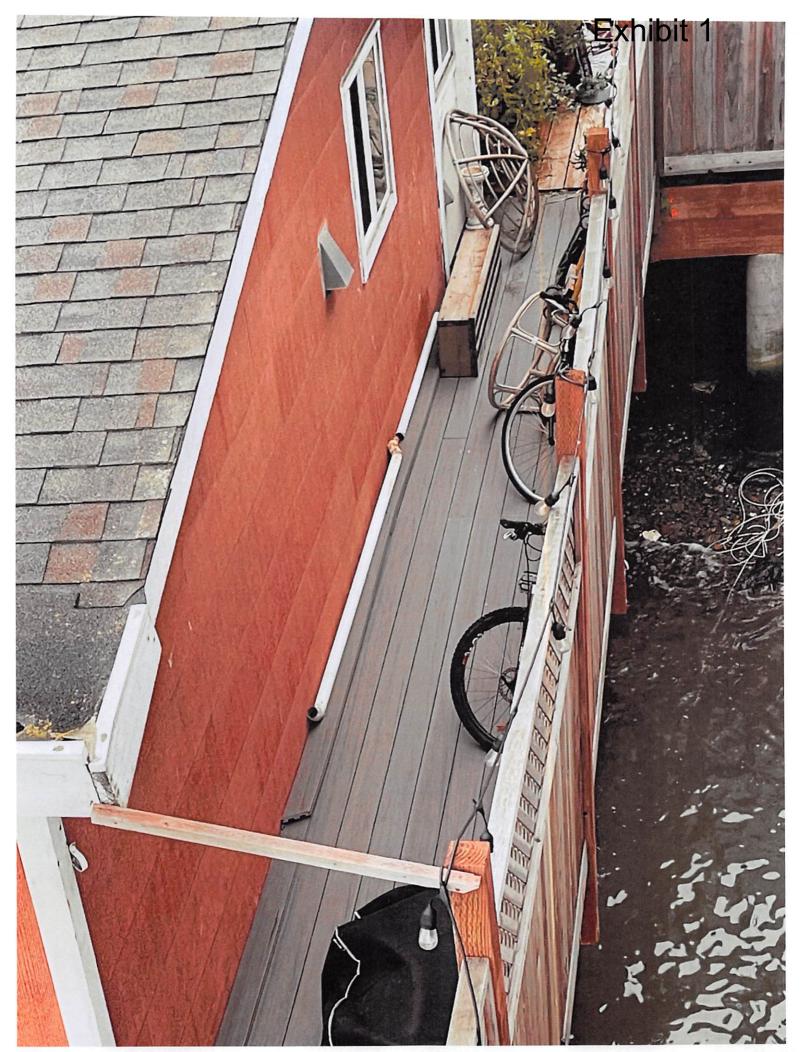


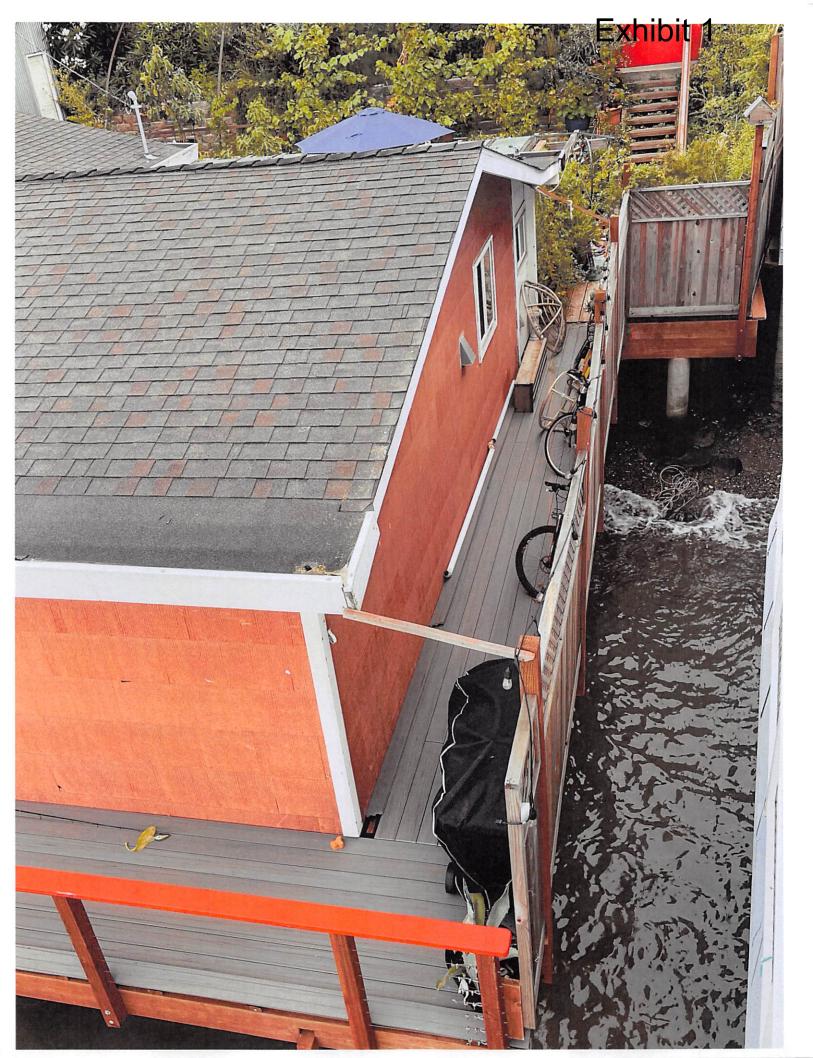


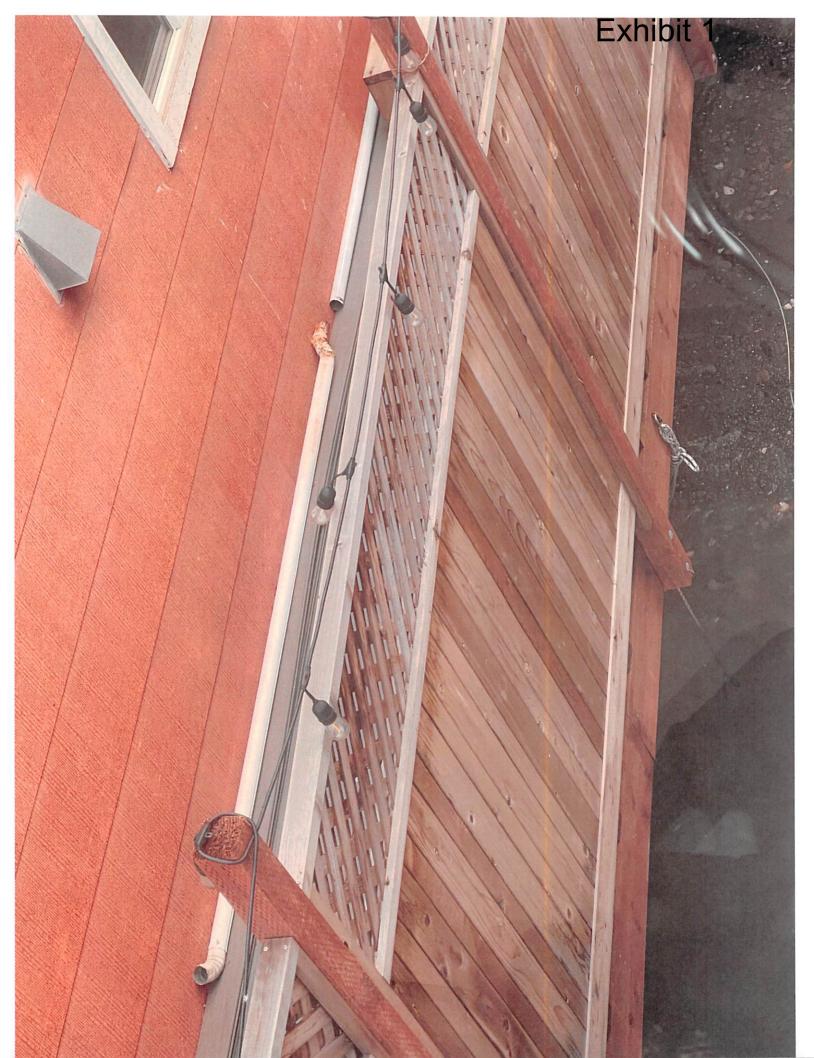


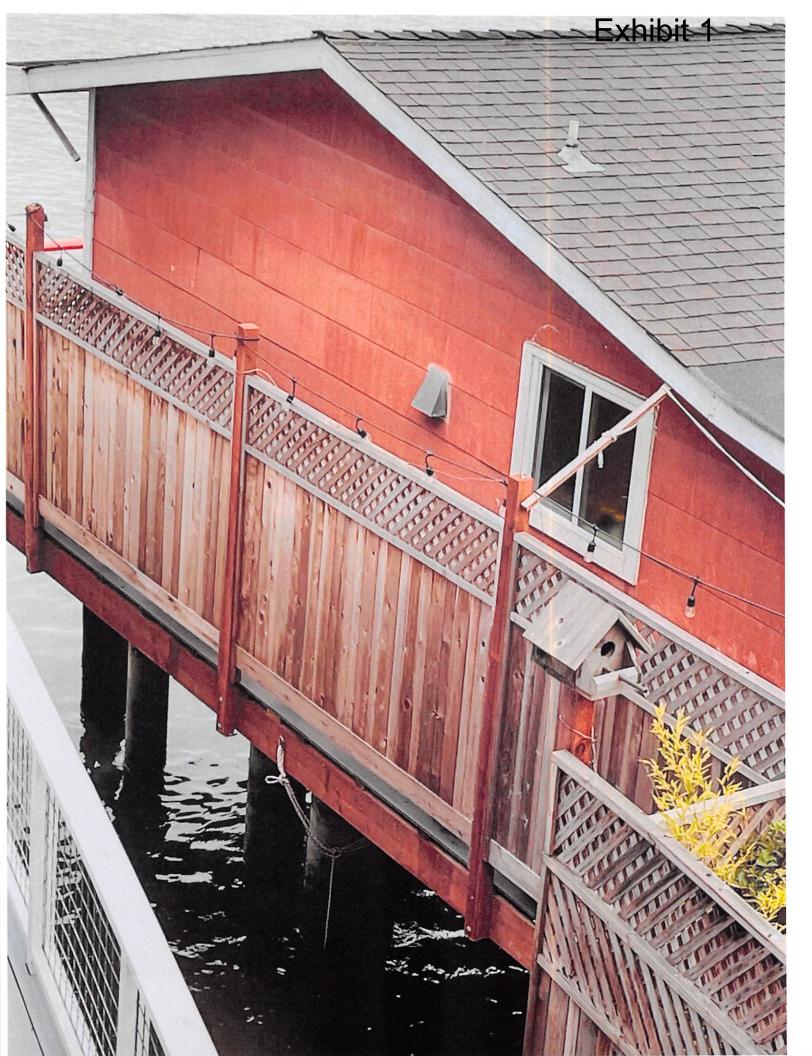




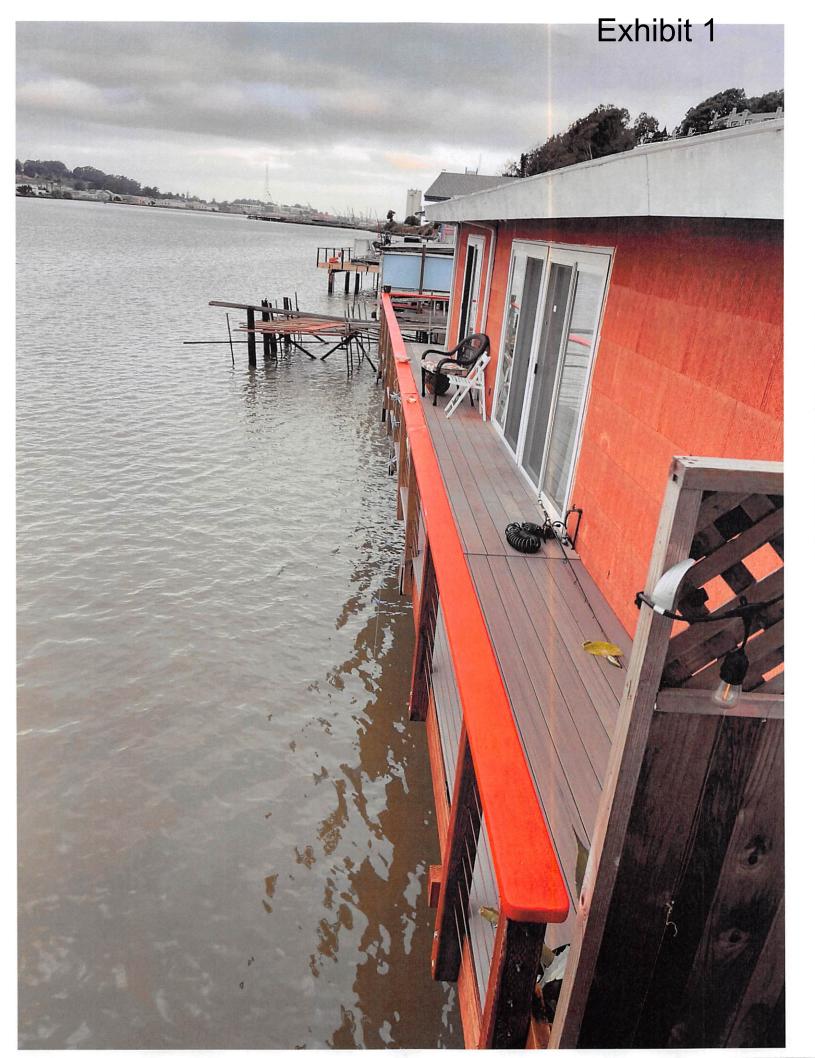






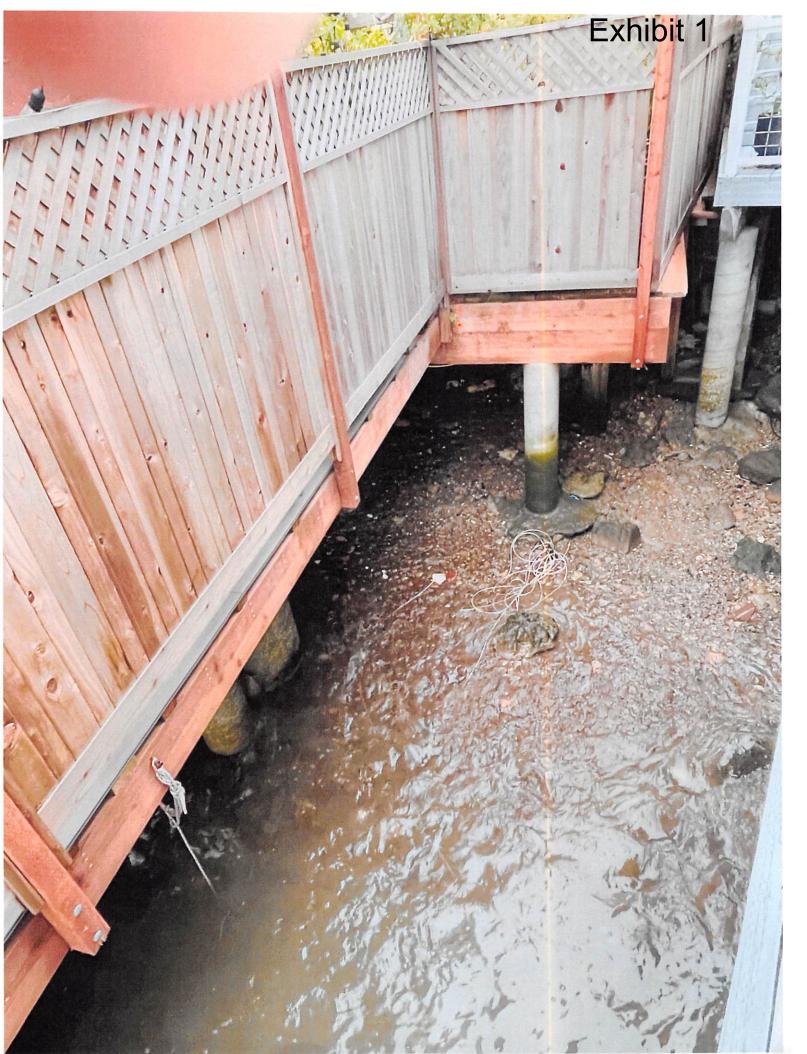






















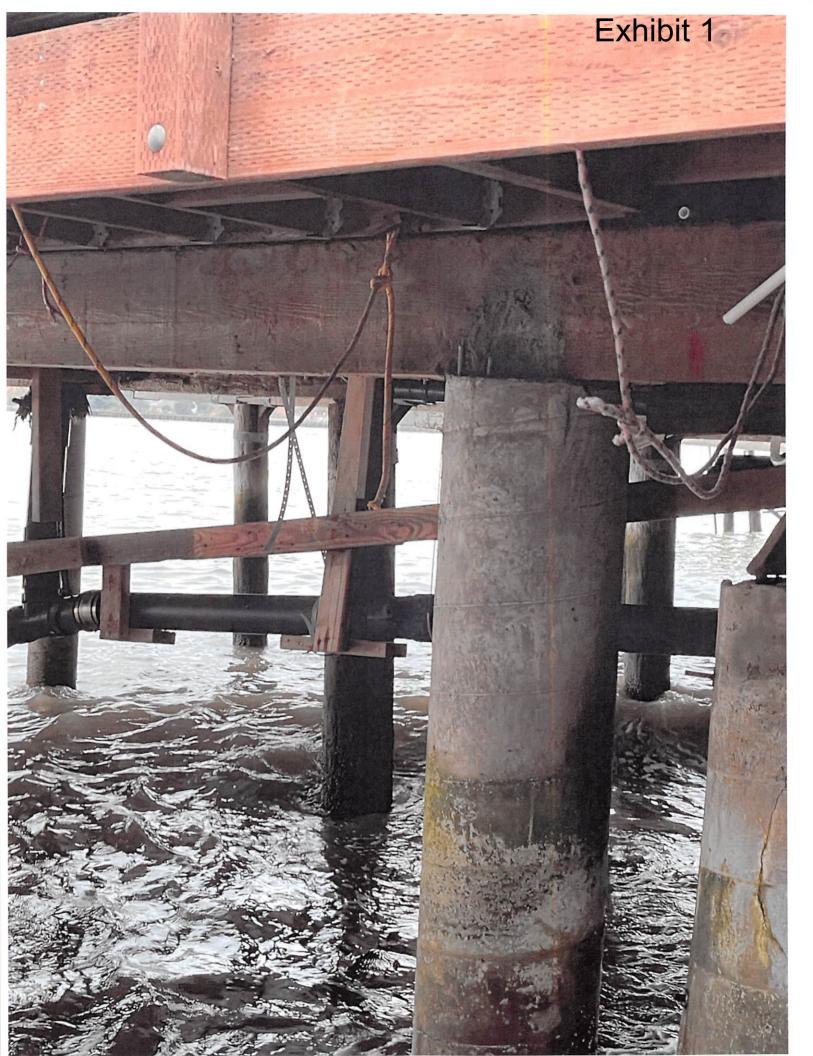


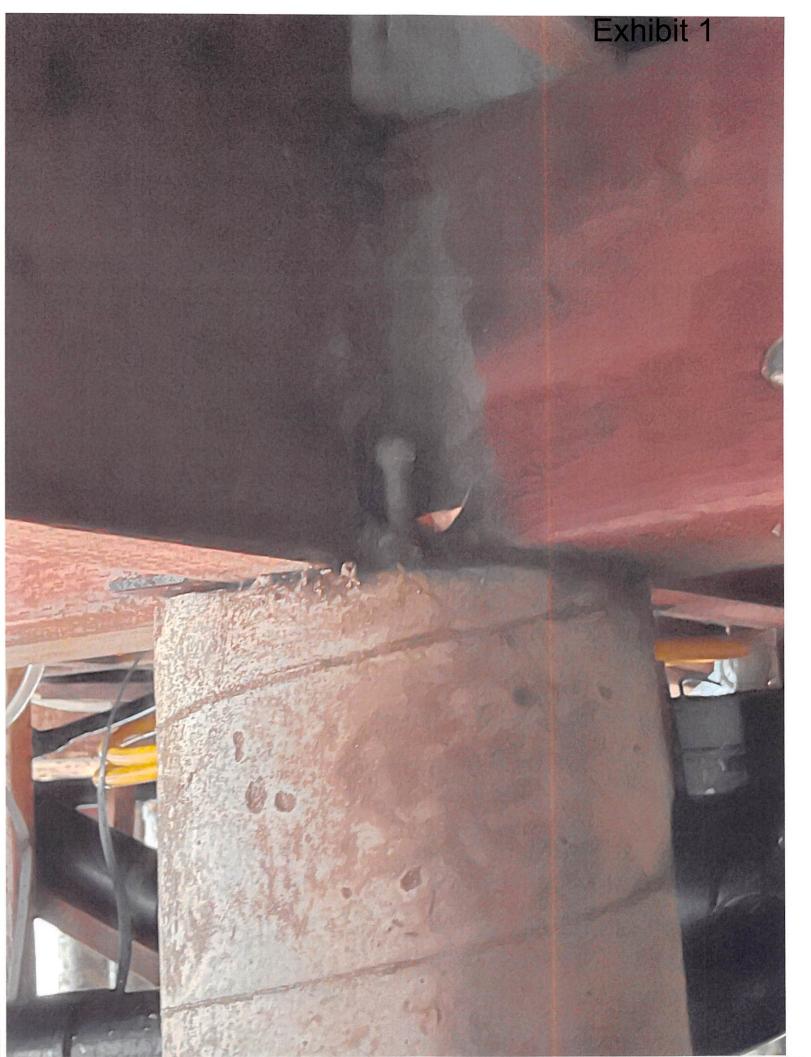


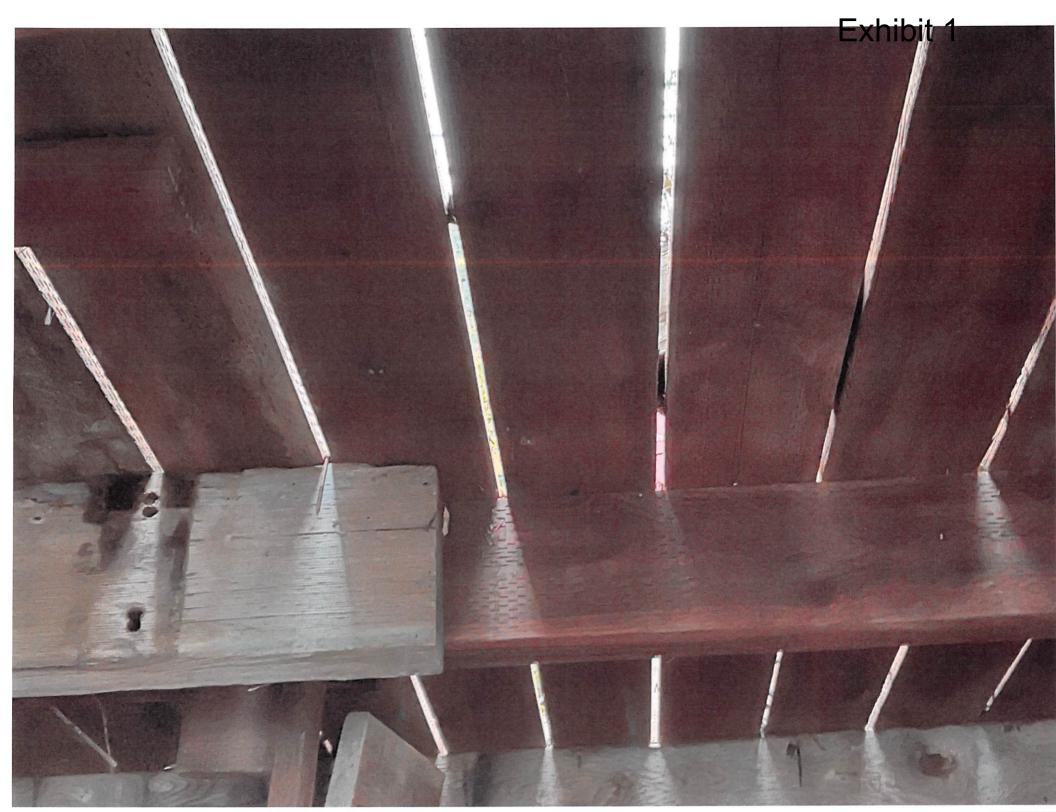










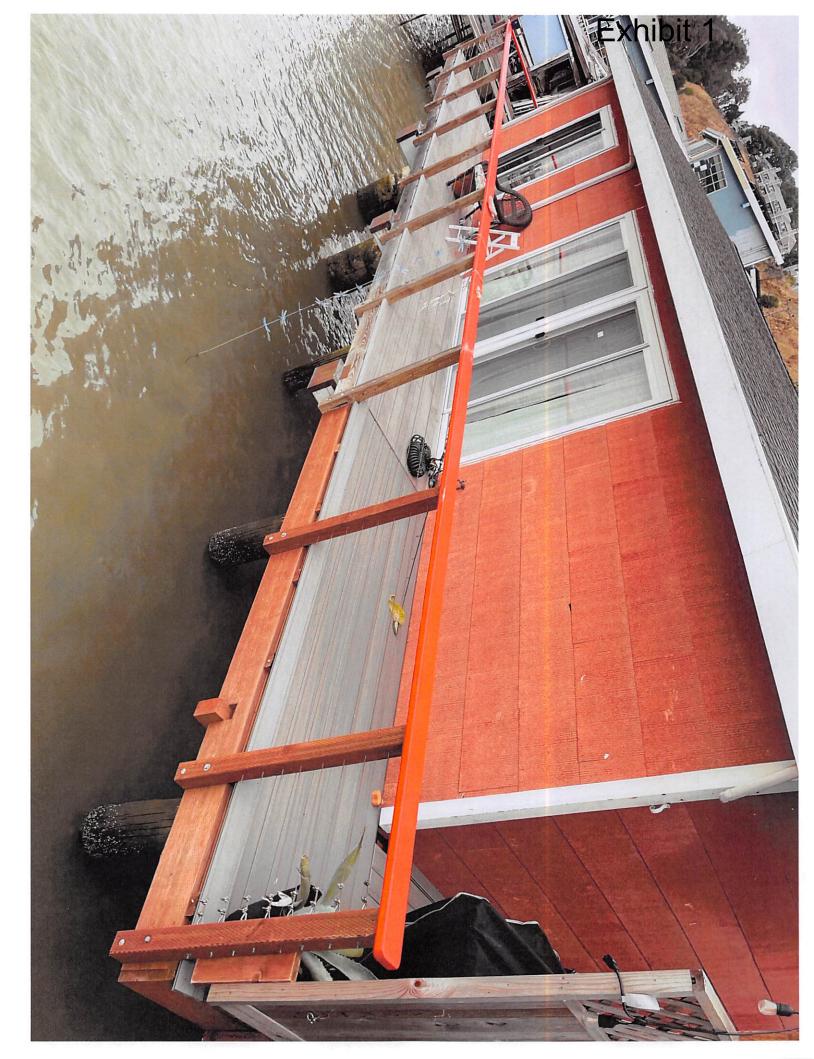


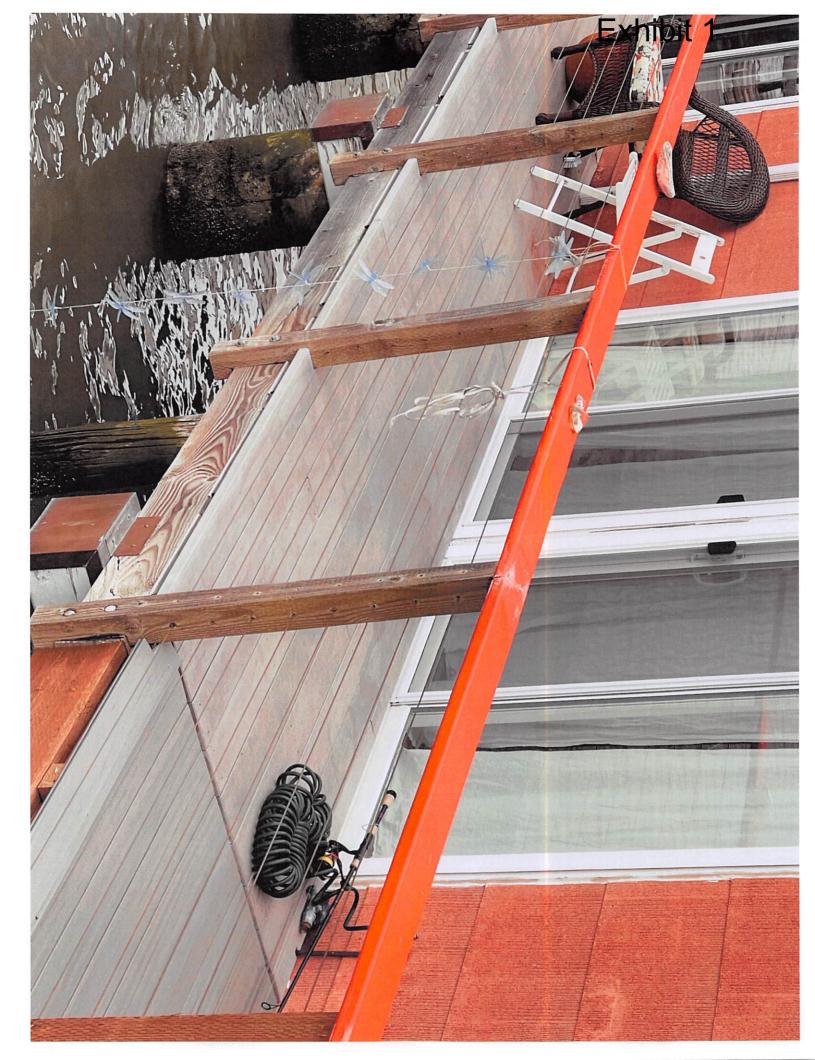


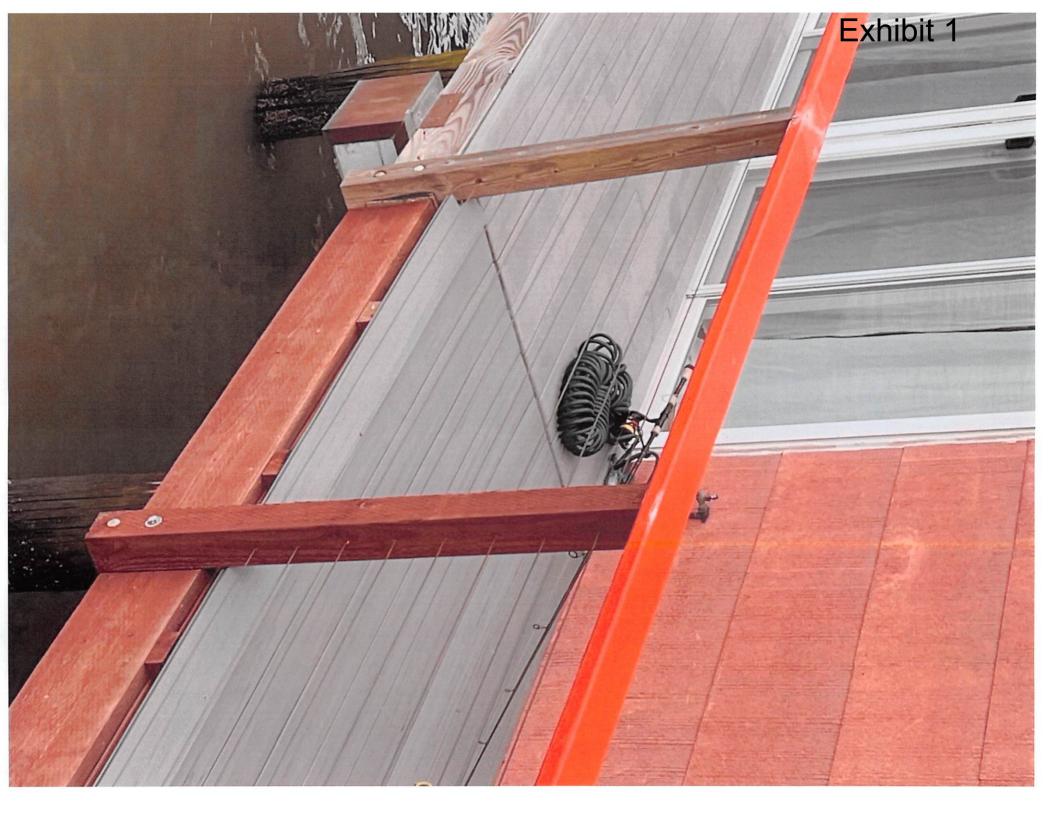


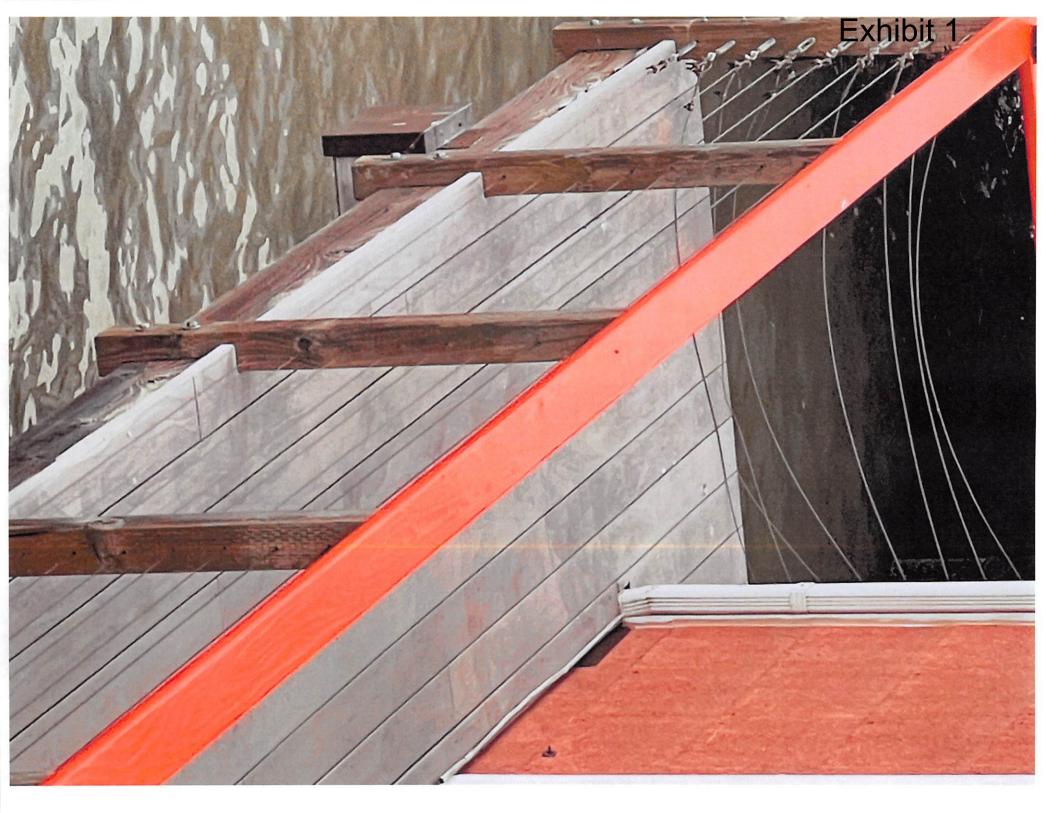


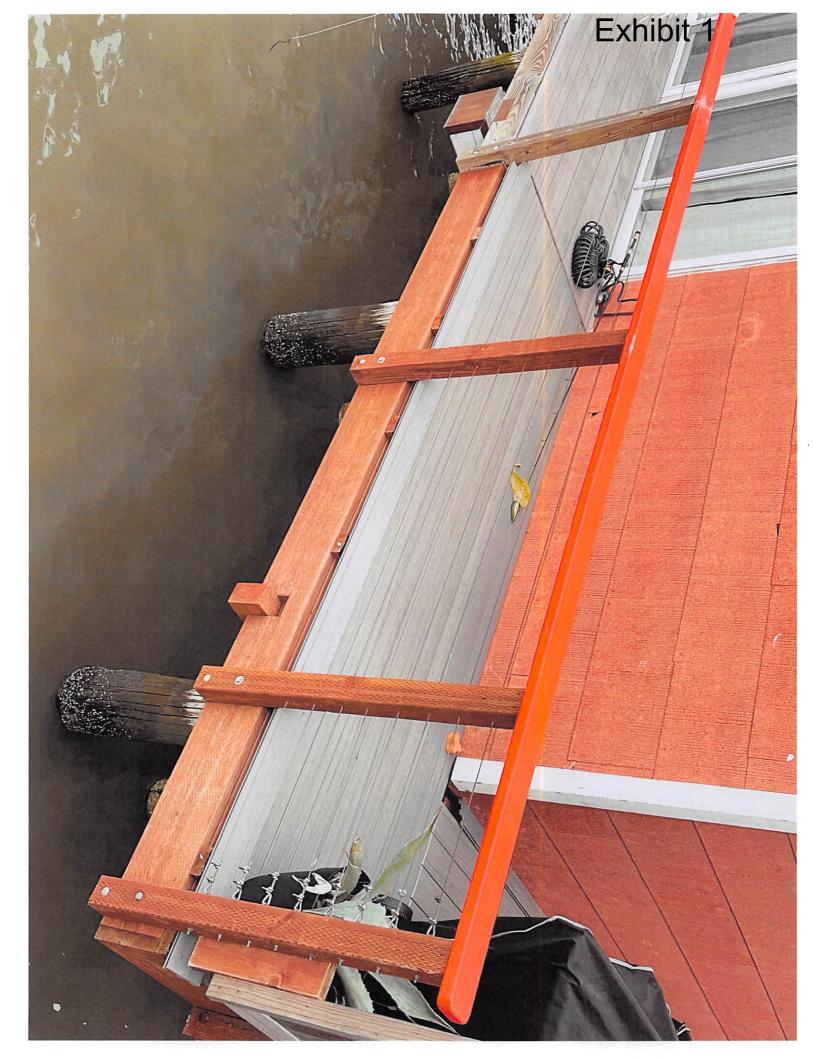




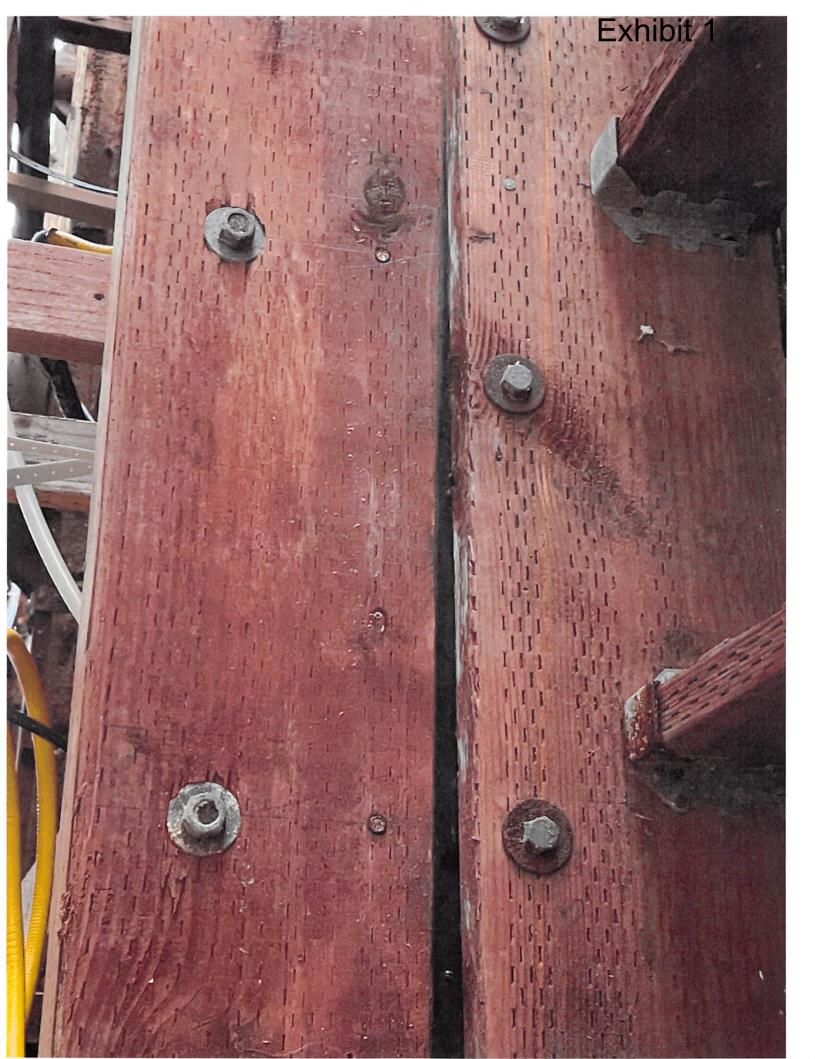




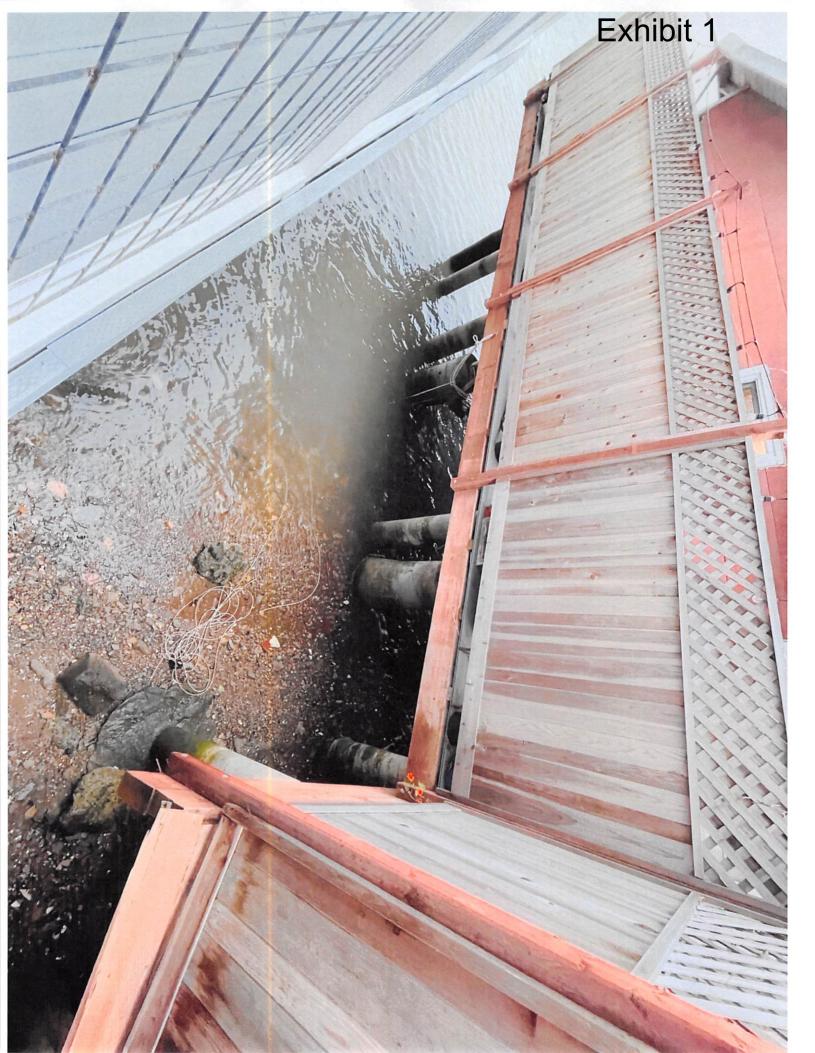


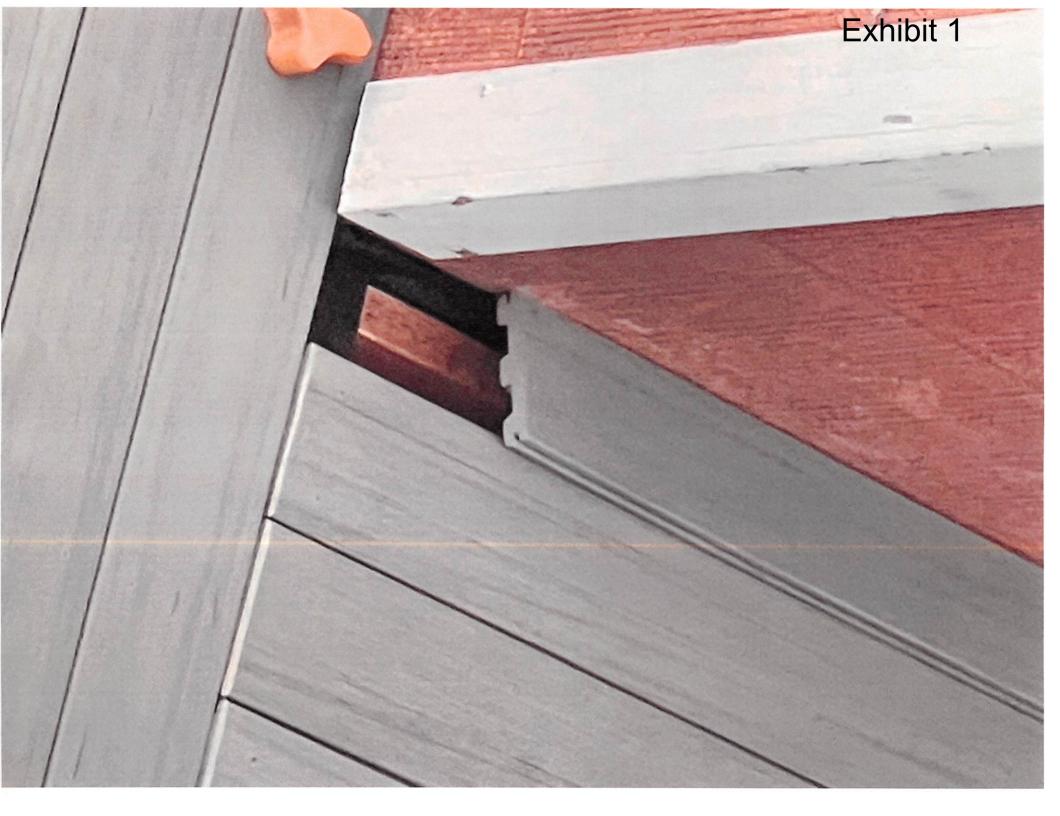


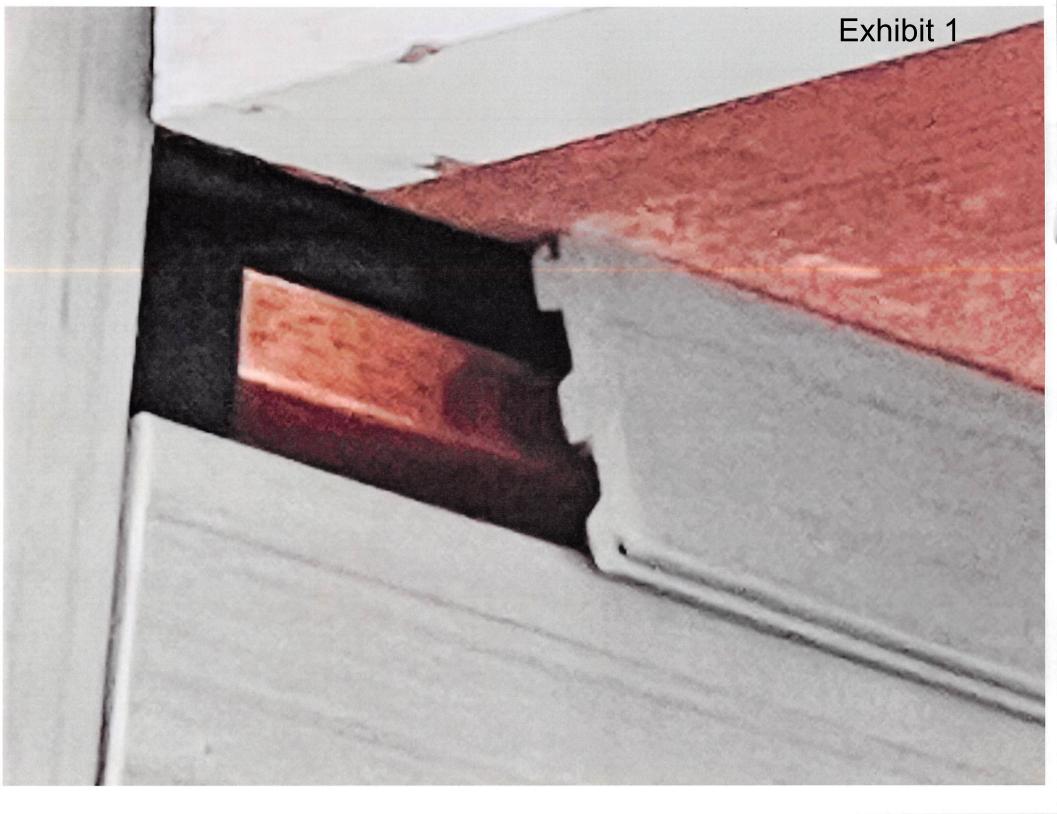


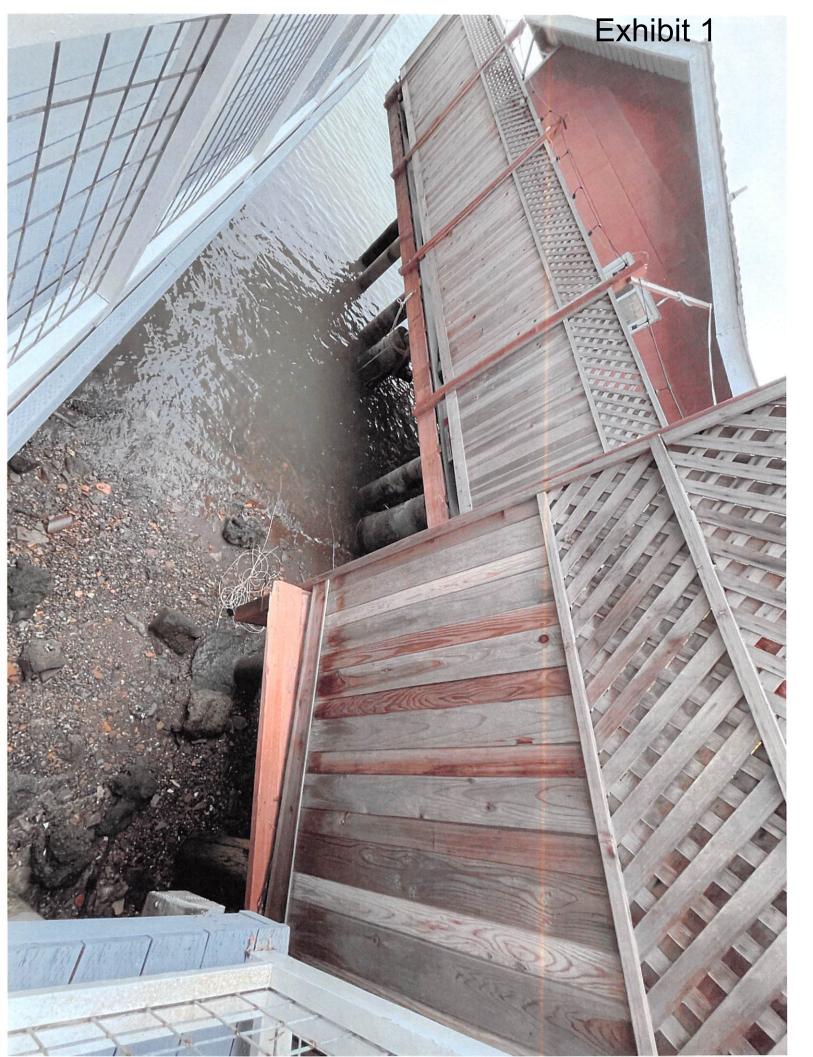






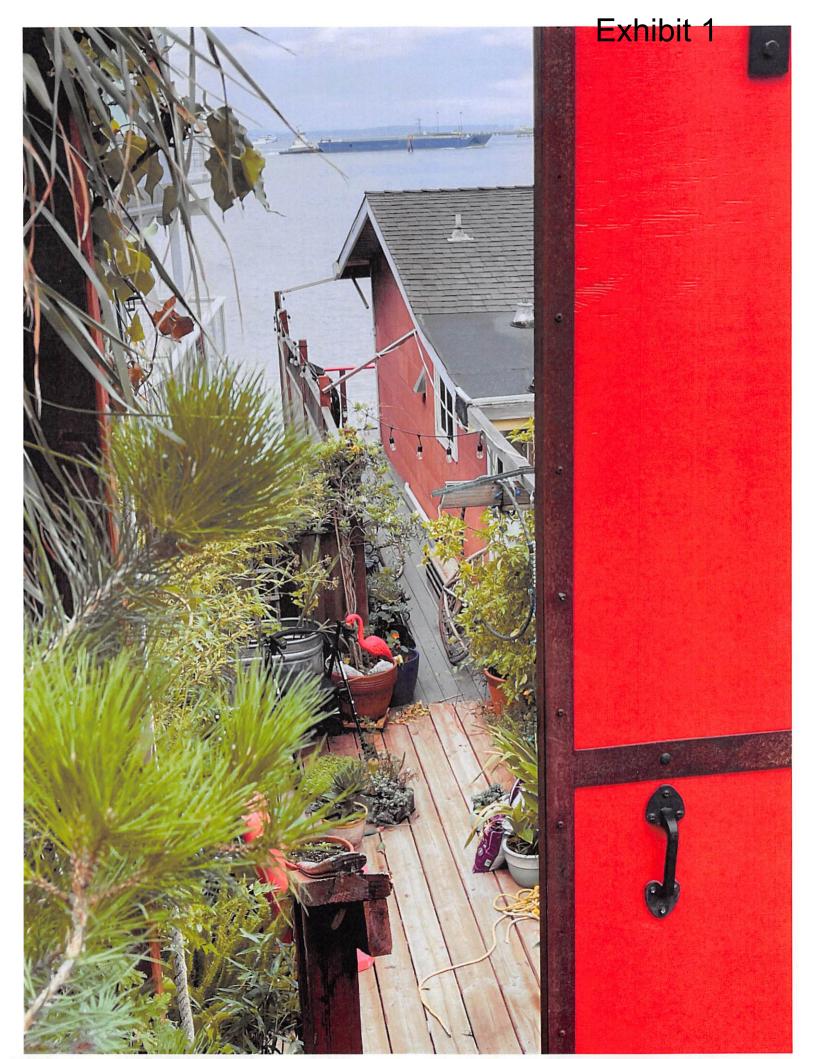


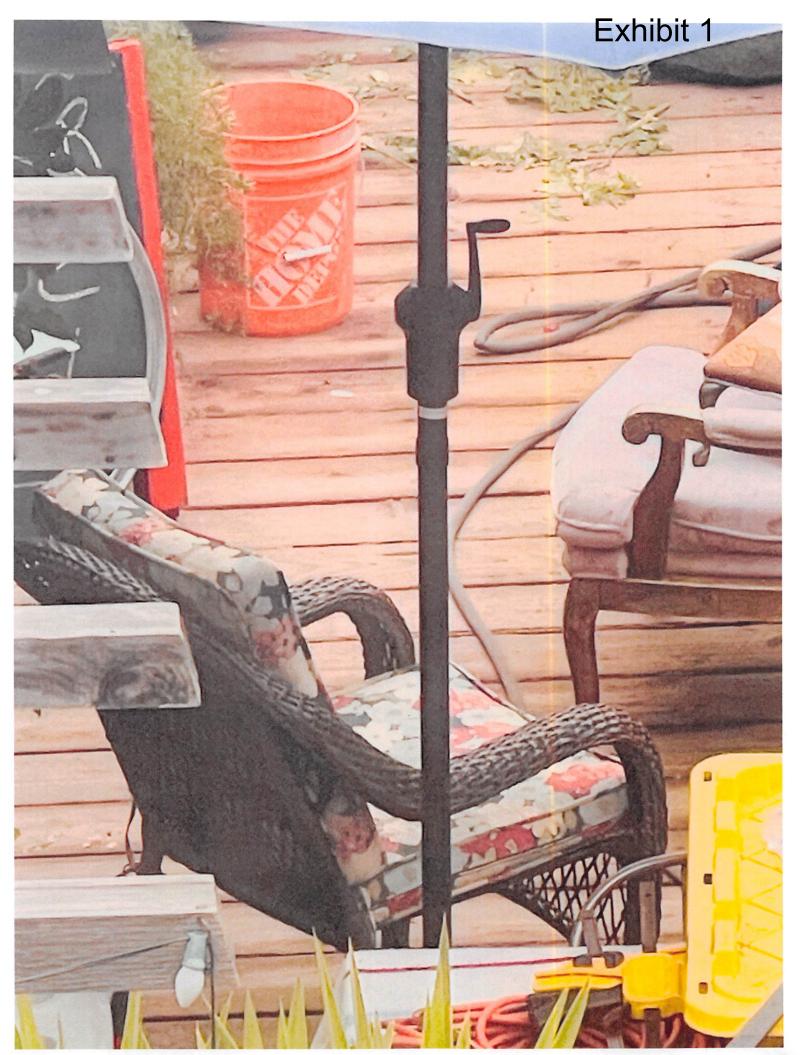


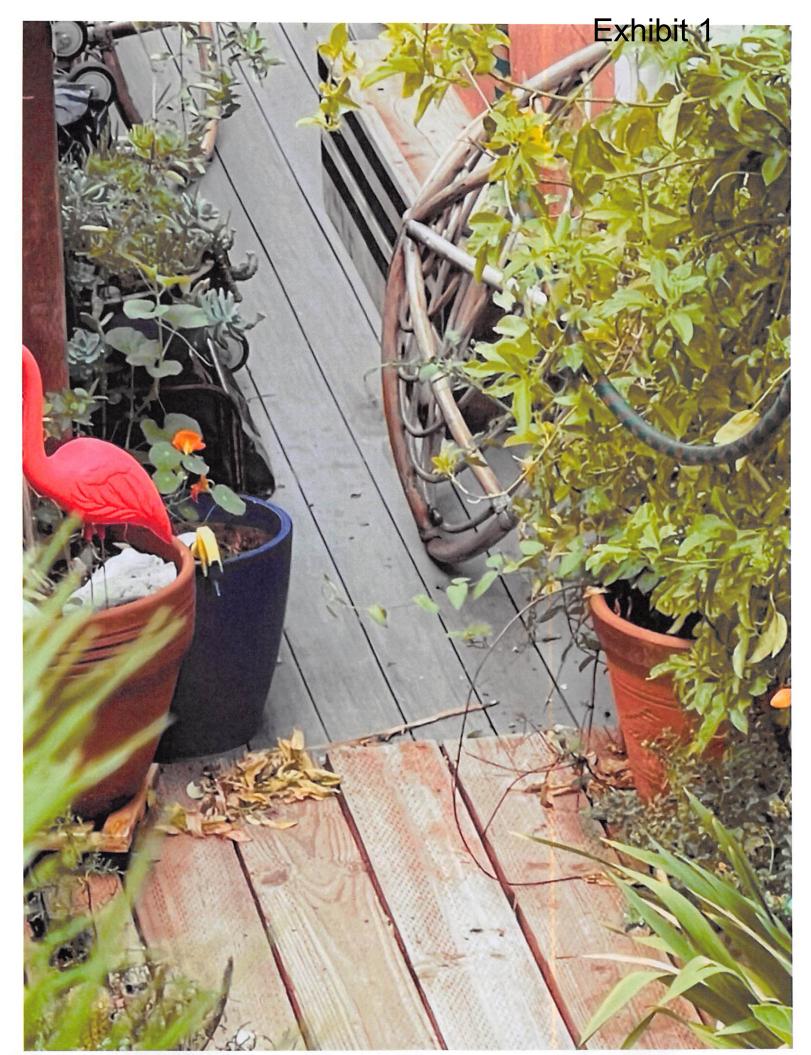














BCDC Enforcement Violation Report Form

Submitted by: Anonymous user

Submitted time: Sep 20, 2023, 4:09:23 PM

FormIgnore

Yes

ER#

ER2023.058.00

Permittee or Respondent

SHANNON CLEMENCE

Status

B. Active Case

Enforcement Staff Assigned

RC

Address of the Alleged Violation

46 SANDY BEACH RAOD, VALLEJO, CA 94590

Location of the Alleged Violation

Lat: 38.076167 Lon: -122.239988



County

Solano

Description of the Alleged Violation

NEW ADDITION/ERECTION/CONSTRUCTION OF AN ACCESSORY DWELLING UNIT ("ADU") IN THE FRONT OF THE RESIDENCE; CONSTRUCTION/ERECTION OF A BRAND NEW (ADDITIONAL) DECK/EXTENSION ON THE LEFT SIDE OF THE RESIDENCE AND A 6 FOOT FENCE; REMOVAL OF THE ORIGINAL WOOD DECK BOARDS AND REPLACEMENT OF DECK BOADS ON THE DECK AND IN THE FRONT COURT YARD OF THE RESIDENCE; CONSTRUCTION OF A NEW FRAME/SUPPORT STRUCTURE FOR THE DECK EXTENSION UNDERNEATH THE RESIDENCE; INSTALLATION OF NEW DECK RAILINGS; INSTALLATION OF 6 - 8 (POSSIBLY MORE) CONCRETE PILING UNDERNEATH THE RESIDENCE TO SUPPORT THE DECK, DECK FRAME, AND DECK EXTENSION, AS MORE FULLY DESCRIBED IN MY EMAIL DATED 9/19/23 AND 9/20/23 SENT TO RACHEL COHEN, ENFORECEMENT ANALYST.

I

Date Report Submitted

Sep 19, 2023

Date ER Case Opened

Oct 13, 2023

Date Assigned

Oct 13, 2023

When did you first observe the Alleged Violation?

Sep 19, 2023

Suspected Duration or Frequency of Violation

Constant

Do you know who the Responsible Party is?

Yes

Responsible Party's Name (Person and/or Organization)

SHANNON CLEMENCE (THE PROPERTY OWNER) AND GREGORY EARL (HER LIVE-IN BOYFRIEND WHO CLAIMS TO BE A SELF EMPLOYED CONTRACTOR/BUILDER) HE HAS DONE WORK FOR RESIDENTS IN THE SANDY BEACH COMMUNITY - CELL: 707/321-3562, EMAIL ADDRESS: ALCHEMISTSGUILD@GMAIL.COM

Responsible Party's Address

46 SANDY BEACH ROAD, VALLEJO, CA 94590 APN 0062-020-210

Responsible Party's Email

REDIVINE1960@GMAIL.COM

Responsible Party's Phone Number

415 412-6981 CELL PHONE

Can BCDC staff contact you about this report?

Yes

Reporter Name

Micheal A. Thompson

Reporter Address

410 Tuolumne Street, Vallejo, CA 94590

Reporter Email

MICHEALTHOMPSONLAWOFFICE@GMAIL.COM

Reporter Phone Number

707 643-2122

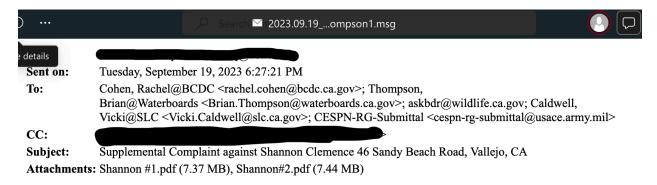
Please indicate if you wish to remain anonymous.

Yes

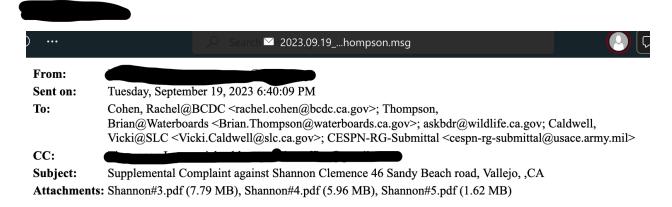
Which other agencies, if any, have you contacted about this violation?

RYAN WHITE - SOLANO COUNTY CODE COMPLIANCE OFFICER BUILDIING & SAFETY, DEPARTMENT OF RESOURCE MANAGEMENT 675 TEXAS STREET, FAIRFIELD, CA 94533

Redacted emails from anonymous person submitting initial complaint about construction at 46 Sandy Beach Road, Vallejo.



Ms. Cohen -see attached #1 and #2 - because of the size of the documents, I have to send them separately.



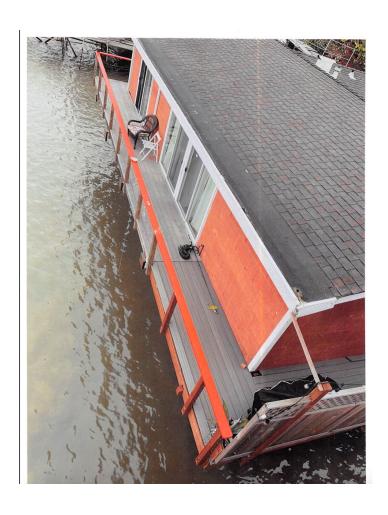
Ms. Cohen - see attached #3, #4, and #5 to my supplemental complaint.

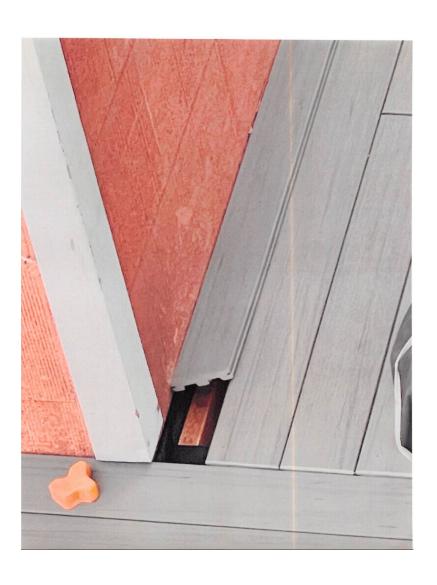
Exhibits are attached separately as redacted PDFs to shield their identity. Photos from the emails are below.

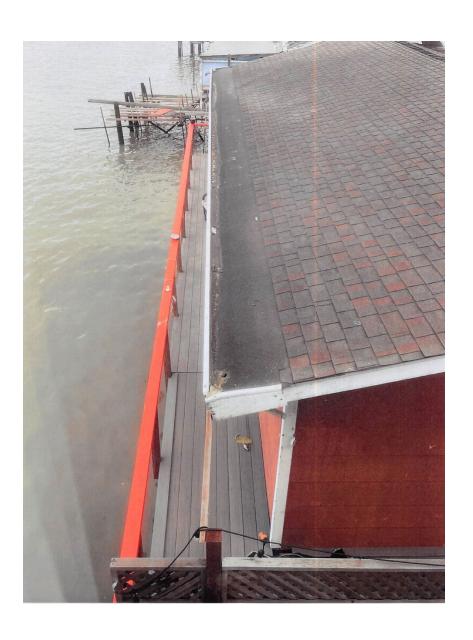


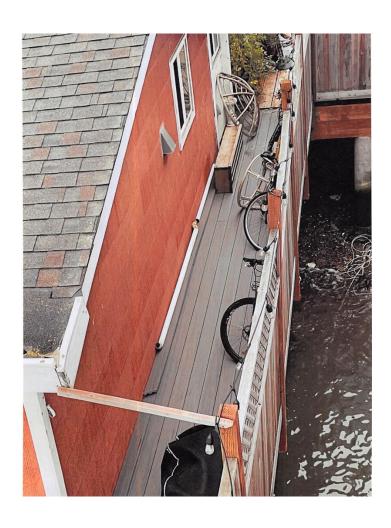


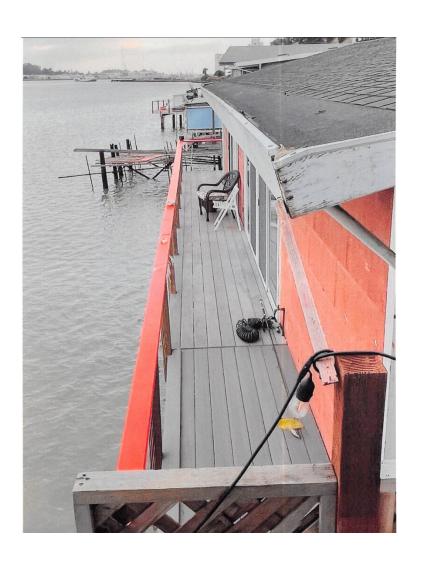






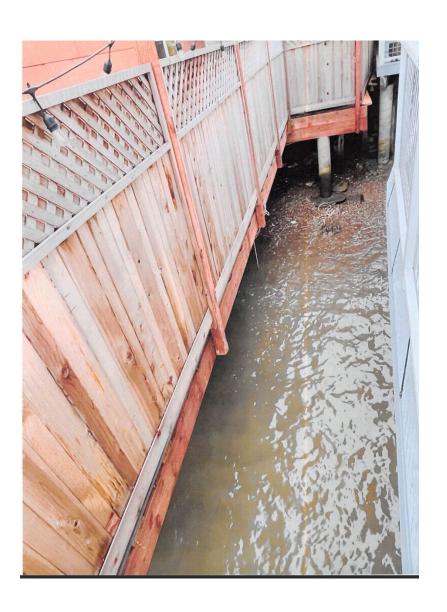


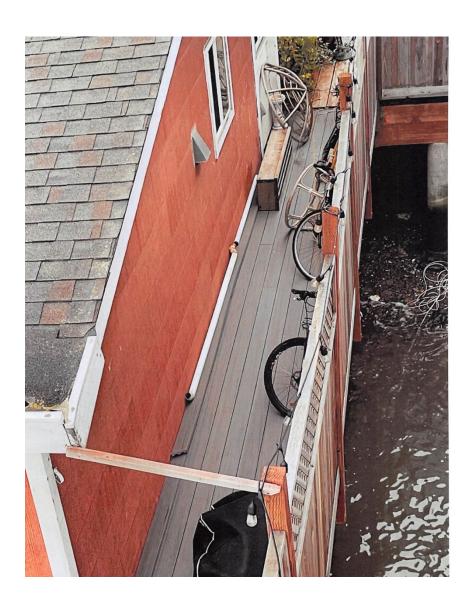


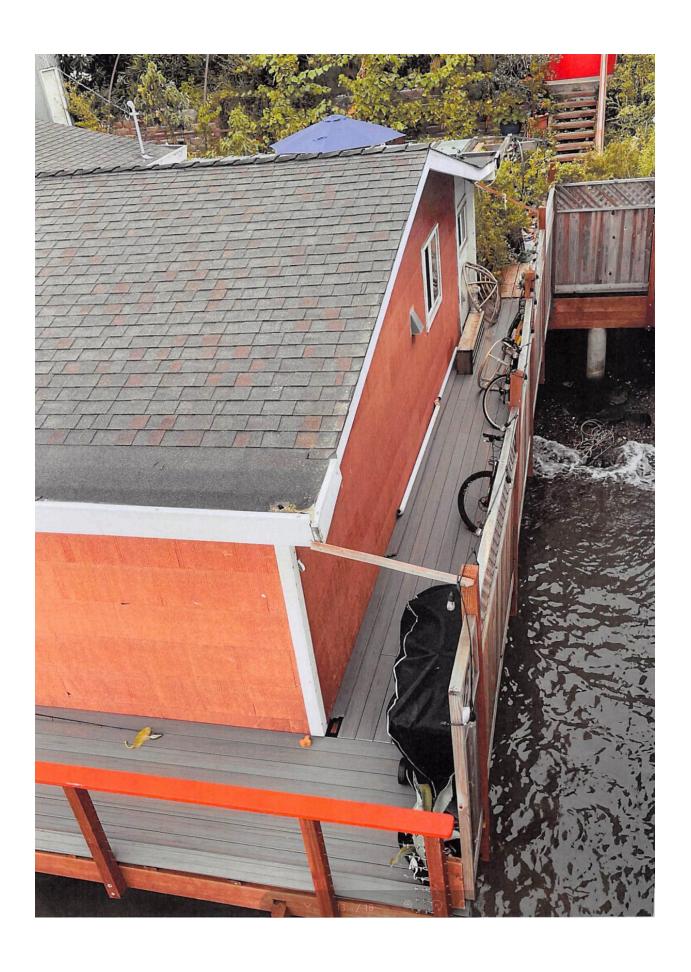




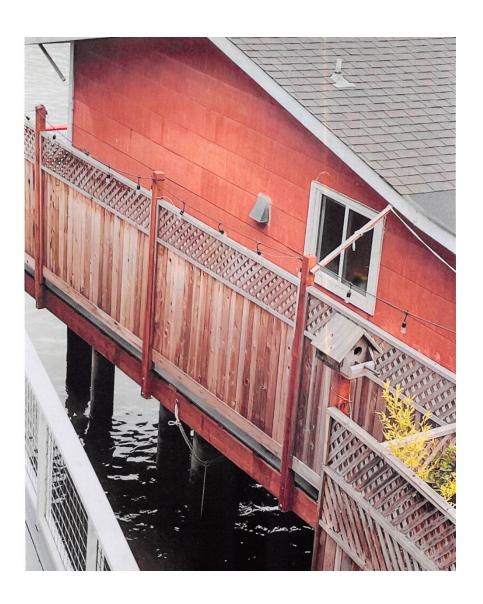




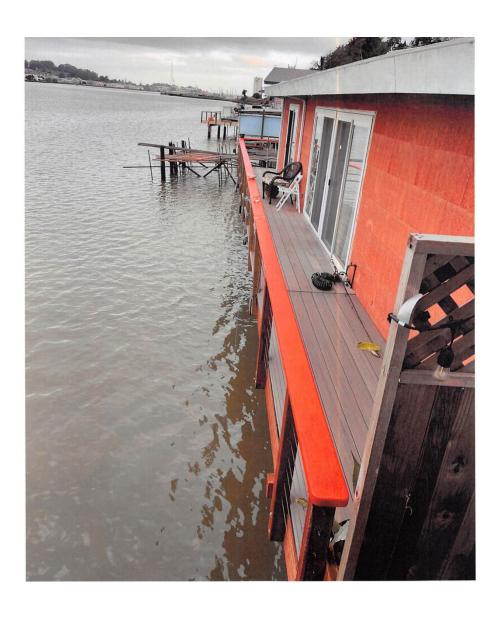


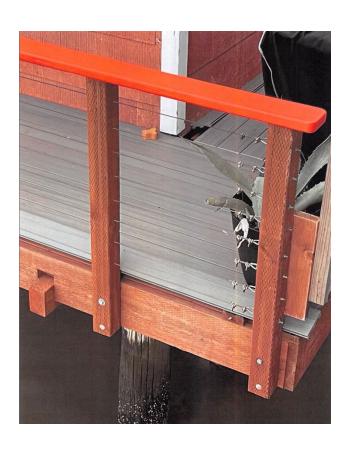












| Recording requested by (name): | Glenn Zook | 1/27/2023 10:18:42 AM | |
|---|--|---|--|
| Todd J. Wenzel, Esq. | Assessor/Recorder | AR60 | |
| When recorded mail to and mail tax statements to: Shannon E. Clemence, Trustee | Todd Wenzel, Attorney Doc # 20230003687 | 71tles: 1 Pages: 3 Fees \$19.00 | |
| Shannon E. Clemence Revocable Trust-11/1/22 | | Taxes \$0.00 SB2 Fee \$0.00 | |
| 46 Sandy Beach Rd. | | Other \$0.00 Paid \$19.00 | |
| Vallejo, CA 94590 | _ 1 | , aid \$15.00 | |
| | Recorder's Use C | nly | |
| GRANT DEED | | | |
| Assessor's Parcel No. (APN): | Declaration of Exemption From Gov't Coo | le & 27388 1 Fee | |
| 0062-020-210 | ☐ Transfer is exempt from fee per GC § 27 | • | |
| If exempt, enter R&T code: Section 11930 Explanation: Transfer to a trust by Grantor Signature of Ueclarant of Agent determining tax | ☐ recorded concurrently "in connection w Documentary Transfer Tax ☐ recorded concurrently "in connection w residential dwelling to an owner-occup ☐ Transfer is exempt from fee per GC 2738 ☐ Fee cap of \$225.00 reached ☐ No | ith" tran sfer subject to vith" a transfer of ier 88.1(a)(1): | |
| For a valuable consideration, receipt of which is | hereby acknowledged, | | |
| GRANTOR(S) SHANNON CLEMENCE, an unm (owners who are signing deed) | narried woman | | |
| (current owner(s) form of title) hereby grant(s) to GRANTEE(S) SHANNON E. (new owners, incl.) | CLEMENCE luding current owners if staying on title) | | |
| (new owners, continued) | | | |
| as Trustee of THE SHANNON E. CLEMENCE I (new owner(s) form of title) | REVOCABLE TRUST dated 11/1/2022 | | |
| the following real property in the City of Vallejo | | | |
| County of Solano | , California (insert legal description): | | |
| SEE ATTACHED EXHIBIT "A" ATTACH | ED HERETO AND MADE A PART HEREC | OF . | |
| Date: 2 3 2 2 | (Signature of declarant) SHANNON CLEMENCE, an unmarrie (Print name) | d woman | |
| Date: | (Signature of declarant) | | |
| | (Print name) | - | |

ACKNOWLEDGMENT

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

| State of California (| | |
|--|--|--|
| County of Oldho) | | |
| On December 2, 2022 before me, Oncome | Pelacio: Notary Public ne and title of the officer) | |
| who proved to me on the basis of satisfactory evidence to | be the person(of where person | |
| is/are subscribed to the within instrument and acknowledge the same in his/her/their authorized capacity(ies), and that instrument the person(s), or the entity upon behalf of which instrument. | ed to me that he she they executed by his/her/their signature(s) on the | |
| I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct. | | |
| WITNESS my hand and official seal. | SONIA PELAYO Notary Public - California Solano County Commission # 2295998 My Comm Expires Jul 14 2023 | |
| Signature () () () () () () () () () (| | |
| | (Seal) | |

EXHIBIT "A" Legal Description

PARCEL A:

PARCEL FORTY-SIX (46) AS SHOWN ON THE JAMES AND WATERS MAP OF SANDY BEACH CABIN SITES, RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF SOLANO COUNTY, CALIFORNIA, ON THE 14TH DAY OF FEBRUARY, 1944 IN BOOK 1 OF MAPS AT PAGES 1 AND 2, BEING PART OF SURVEY NO. ELEVEN (11), STATE TIDELANDS, SOLANO COUNTY, CALIFORNIA.

EXCEPTING THEREFROM THE NORTHERLY 13 FEET OF PARCEL NO. FORTY-SIX (46) AS DESCRIBED IN THE DEED RECORDED MARCH 19, 1957 AS INSTRUMENT NO. 4704, OFFICIAL RECORDS.

FURTHER EXCEPTING THEREFROM ANY PORTION THEREOF WHICH MAY LIE OUTSIDE THE BOUNDS OF TIDELAND SURVEY NO, ELEVEN (11), SOLANO COUNTY.

AND FURTHER EXCEPTING THAT CERTAIN PARCEL OF SUBMERGED LAND AS SHOWN IN THE MEMORANDUM OF LEASE RECORDED APRIL 12, 2016 AS INSTRUMENT NO. 201600028484 OF OFFICIAL RECORDS DESCRIBED AS FOLLOWS:

A PARCEL OF SUBMERGED LAND SITUATE IN MARE ISLAND STRAIT, CITY OF VALLEJO, COUNTY OF SOLANO, STATE OF CALIFORNIA, LYING ADJACENT TO AND WITHIN THE EXTERNAL BOUNDARIES OF PARCEL 46 AS SHOWN ON THAT CERTAIN RECORD OF SURVEY TITLED "SANDY BEACH CABIN SITES", FILED FEBRUARY 14, 1944 IN BOOK 1 OF MAPS, AT PAGES 1 AND 2, SOLANO COUNTY RECORDS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

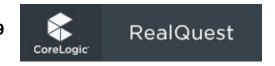
BEGINNING AT THE MOST NORTHERLY CORNER OF SAID PARCEL; THENCE SOUTHWESTERLY ALONG THE NORTHWESTERLY BOUNDARY AND THE SOUTHWESTERLY PROLONGATION THEREOF, 112.8 FEET; THENCE LEAVING SAID PROLONGATION IN A SOUTHEASTERLY DIRECTION PERPENDICULAR TO SAID PROLONGATION TO A POINT ON A LINE PARALLEL WITH AND THREE FEET NORTHWESTERLY OF THE SOUTHEASTERLY BOUNDARY OF SAID PARCEL; THENCE NORTHEASTERLY ALONG SAID LINE, 23.8 FEET; THENCE LEAVING SAID LINE IN A SOUTHEASTERLY DIRECTION PERPENDICULAR TO SAID LINE TO A POINT ON THE SOUTHEASTERLY BOUNDARY OF SAID PARCEL; THENCE NORTHEASTERLY ALONG SAID BOUNDARY TO THE EASTERLY CORNER OF SAID PARCEL; THENCE IN THE NORTHWESTERLY DIRECTION ALONG THE NORTHEASTERLY BOUNDARY OF SAID PARCEL TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ANY PORTION LYING LANDWARD OF THE ORDINARY LOW WATER MARK OF MARE ISLAND STRAIT.

APN: 0062-020-210

Property Detail Report

For Property Located At: 46 SANDY BEACH RD, VALLEJO, CA 94590-8159



Owner Information

Owner Name: **CLEMENCE SHANNON E**

Mailing Address: 46 SANDY BEACH RD, VALLEJO CA 94590-8159 C026

Vesting Codes: 11

Location Information

Legal Description: **LOT 46 RS 11**

County: SOLANO, CA APN: 0062-020-210

Census Tract / Block: 2508.01 / 3 Alternate APN: Township-Range-Sect: Subdivision:

Legal Book/Page: Map Reference: 134-F6 /

Legal Lot: Tract #: 46

School District: VALLEJO BASIC Legal Block: Market Area: School District Name: VALLEJO BASIC Neighbor Code: Munic/Township: UNINCORPORATED

Owner Transfer Information

Recording/Sale Date: 01/27/2023 / 12/02/2022 **GRANT DEED** Deed Type:

Sale Price: 1st Mtg Document #:

Document #: 3687

Last Market Sale Information

05/07/2019 / 04/30/2019 Recording/Sale Date: 1st Mtg Amount/Type: \$397,600 / CONV

Sale Price: \$497,000 1st Mtg Int. Rate/Type: Sale Type: **FULL** 1st Mtg Document #: 26839 Document #: 26837 2nd Mtg Amount/Type:

GRANT DEED 2nd Mtg Int. Rate/Type: Deed Type:

Transfer Document #: Price Per SqFt: \$414.17

Multi/Split Sale: New Construction:

NORTH AMERICAN TITLE Title Company: Lender: LAND HM FIN'L SVCS INC Seller Name: DOPKINS FAMILY TRUST

Prior Sale Information

Prior Rec/Sale Date: Prior Lender:

Prior Sale Price: Prior 1st Mtg Amt/Type: Prior 1st Mtg Rate/Type: Prior Doc Number:

Prior Deed Type:

Property Characteristics

Gross Area: 1,200 Parking Type: Construction:

1,200 Heat Type: **CENTRAL** Living Area: Garage Area:

Tot Adj Area: Garage Capacity: Exterior wall: Above Grade: Parking Spaces: Porch Type: Total Rooms: Basement Area: Patio Type: 2 Bedrooms: Finish Bsmnt Area: Pool: Bath(F/H): 1/ Basement Type: Air Cond: Year Built / Eff: 1959 / Roof Type: Style:

Fireplace: Υ/ Foundation: **AVERAGE** Quality:

of Stories: 1 Roof Material: Condition:

Other Improvements:

Site Information

IMPR SINGL FAM RESID Zoning: Acres: 0.18 County Use:

(1000)7,840 Lot Width/Depth: State Use:

Lot Area: Х Land Use: SFR Res/Comm Units: / Water Type: Site Influence: Sewer Type:

Tax Information

Total Taxable Value: \$532,881

 Total Value:
 \$532,881
 Assessed Year:
 2023
 Property Tax:
 \$6,852.32

 Land Value:
 \$214,439
 Improved %:
 60%
 Tax Area:
 092003

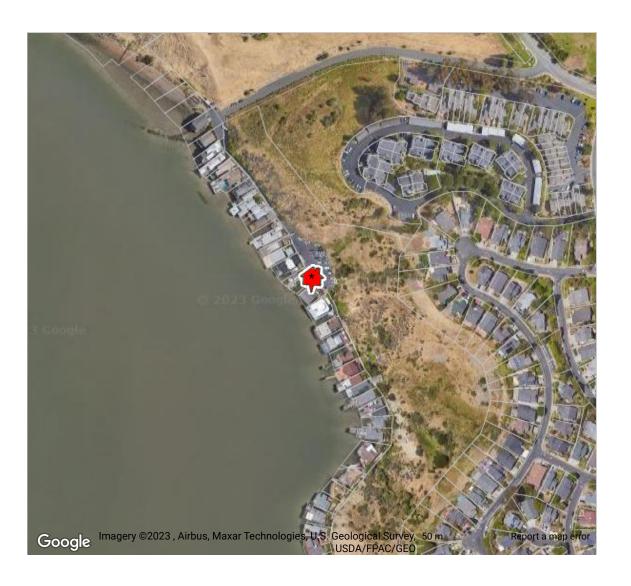
Improvement Value: \$318,442 Tax Year: 2022 Tax Exemption:


Street Map Plus Report

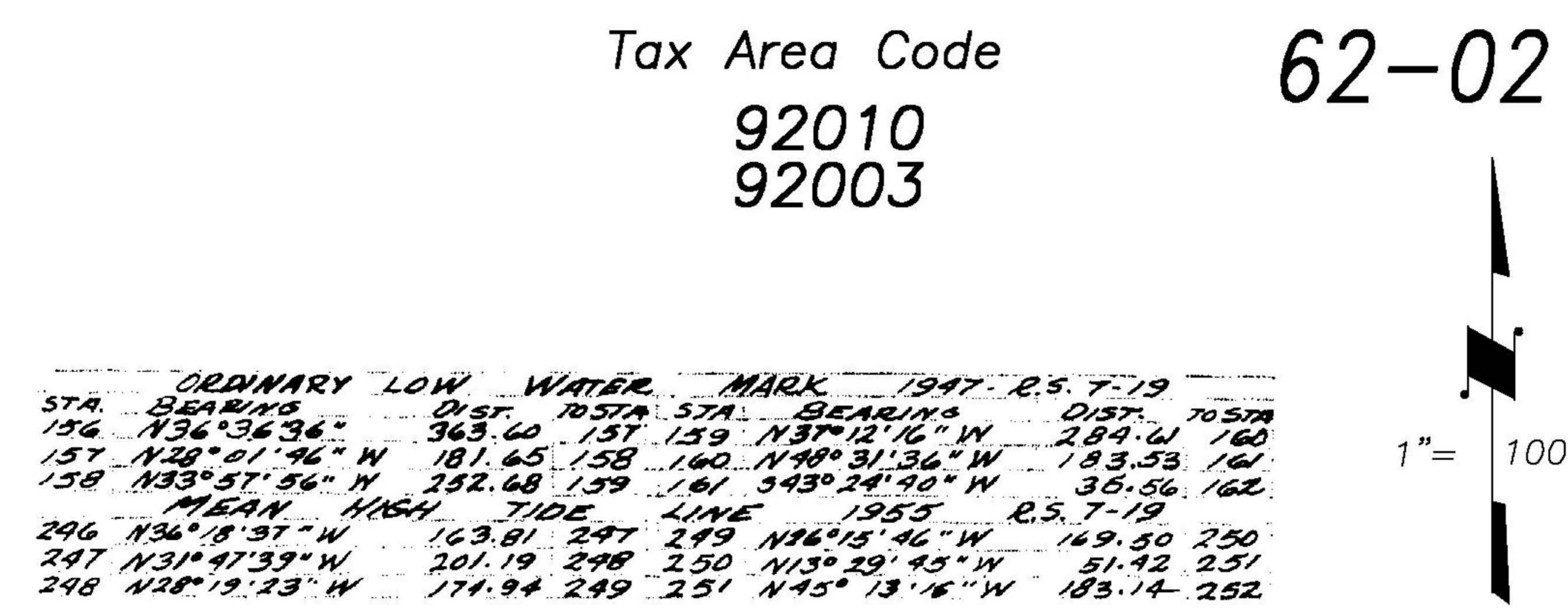
For Property Located At



46 SANDY BEACH RD, VALLEJO, CA 94590-8159





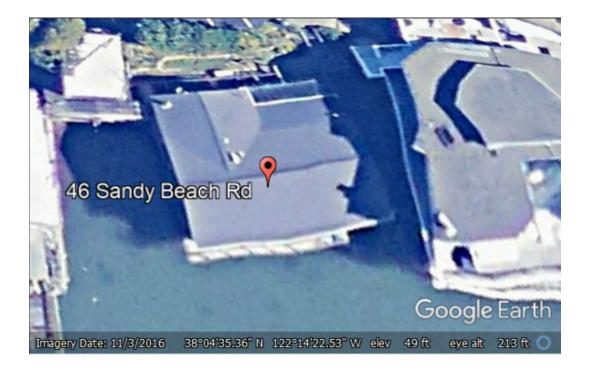


NOTE: This map is for assessment purposes only. It is not intended to define legal boundary rights or imply compliance with land division laws.

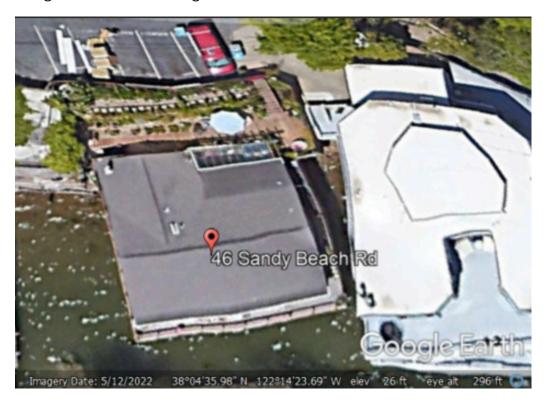
VICINITY OF VALLEJO Assessor's Map Bk. 62 Pg. 02 County of Solano, Calif.

09-10

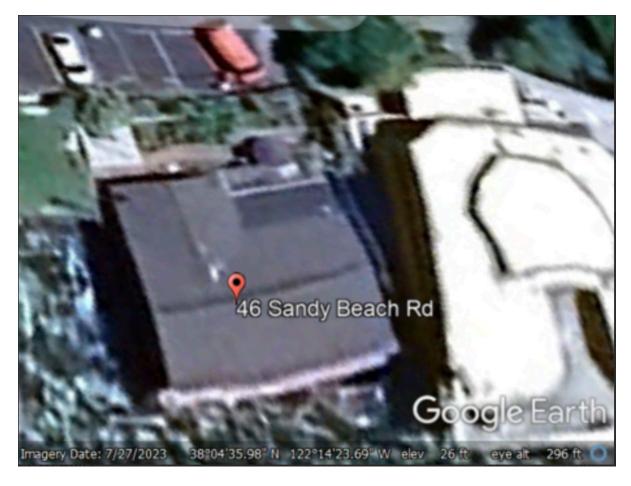
Google Earth satellite image from 11/3/2016.



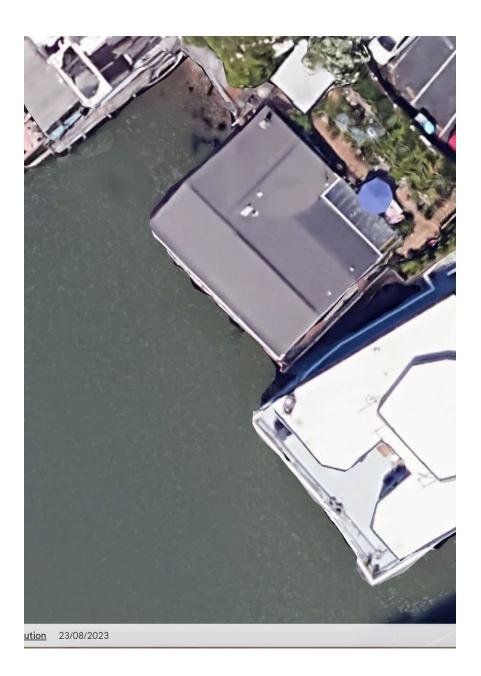
Google Earth satellite image from 5/12/2022



A Google Earth image from 7/27/2023



A Google Earth image from 23/8/2023 (please note the date standard used).





San Francisco Bay Conservation and Development Commission

375 Beale Street, Suite 510, San Francisco, California 94105 tel 415 352 3600 fax 888 348 5190 State of California | Gavin Newsom – Governor | info@bcdc.ca.gov | www.bcdc.ca.gov

Via Certified and Electronic Mail

November 20, 2023

ATTN: Shannon E. Clemence 46 Sandy Beach Road Vallejo, CA 94590

E-mail: redvine1960@gmail.com

SUBJECT: Initial Contact Letter Regarding Placement of Unauthorized Fill in BCDC's Bay and Shoreline Band Jurisdiction (BCDC Enforcement Case ER2023.058.00)

Dear Shannon E. Clemence:

On September 19, 2023, BCDC staff received a report alleging unauthorized activities at 46 Sandy Beach Road in Vallejo, Solano County (Solano County Assessor's Parcel Number 0062-020-210), as described below.

| Alleged Activity: | This action represents a violation of the following statute: |
|---|--|
| Placement of approximately 6-8 concrete pilings in BCDC's Bay and 100-foot shoreline band jurisdiction. | McAteer-Petris Act Section 66632(a). |
| Placement of a shed or similar structure in BCDC's 100-foot shoreline band jurisdiction. | |
| Placement of decking and deck railing cantilevered over the Bay. | |

The McAteer-Petris Act Section 66632(a) requires that:

Any person or governmental agency 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 shall secure a permit from the commission and, if required by law or by ordinance, from any city or county within which any part of the work is to be





performed. For purposes of this title, "fill" means earth or any other substance or material, including pilings or structures placed on pilings, and structures floating at some or all times and moored for extended periods, such as houseboats and floating docks. For the purposes of this section "materials" means items exceeding twenty dollars (\$20) in value.

BCDC did not authorize any new fill at this address. This letter serves as notice that BCDC believes that violations have occurred, and we have opened BCDC Enforcement Case ER2023.058.00.

Please respond within 15 days of the date of this letter to confirm receipt and provide additional information that you believe that we should consider. Please submit this information to me at the contact information provided below.

Pursuant to the McAteer-Petris Act and its regulations, BCDC is authorized to conduct enforcement investigations and commence administrative enforcement actions. While this letter does not commence a formal enforcement proceeding, we reserve the right to take formal action, including imposing fines or penalties. A prompt response will be considered in determining the next steps that BCDC pursues.

Further, while the report we received focused on the activities identified above, we recognize the potential that there may be other violations at the site. We urge you to review the applicable regulations to your property to ensure you are fully compliant with them.

Thank you for your attention to this matter.

Sincerely,

01D29D76CC1B4FA...

MATTHEW TRUJILLO

Enforcement Policy Manager

San Francisco Bay Conservation and Development Commission

375 Beale Street, Suite 510

San Francisco, California 94105

Tel: 415-352-3633

Fax: 415-352-3606

Email: matthew.trujillo@bcdc.ca.gov

Website: www.bcdc.ca.gov

cc: (via e-mail only):

SF Bay Regional Water Quality Control Board, Erin Fairley, erin.fairley@waterboards.ca.gov
US Army Corps of Engineers, Bryan Matsumoto, bryan.t.matsumoto@usace.army.mil
CA Dept. of Fish and Wildlife, Sabrina Dunn, sabrina.funn@wildlife.ca.gov





CA State Lands Commission, Vicki Caldwell, vicki.caldwell@slc.ca.gov
Solano County Building Department, Denise Feiling, dmfeiling@solanocounty.com
Solano County Building Department, building@solanocounty.com

Encls.

MT/mm



Exhibit 4
Page 4
November 20, 2023

Figure 1, 2. Google Earth imagery of 46 Sandy Beach Road with yellow arrows pointing out the difference in decking between 2016 and 2022.





Figure 3, 4. Google Earth imagery of 46 Sandy Beach Road with yellow arrows pointing out a shed-like structure which BCDC believes was placed between May 2022 and July 2023.





From: <u>Trujillo, Matthew@BCDC</u>
To: <u>Cohen, Rachel@BCDC</u>

Subject: FW: Voice Message Attached from 7073213562 - WIRELESS CALLER

Date: Monday, February 26, 2024 2:17:40 PM **Attachments:** 7073213562 20240226_111135.way

Hi Rachel,

I got this voicemail from Gregory Earl today. I called him back and answered questions about the permit form to the best of my ability. I referred him to info@bcdc.ca.gov for further permit application questions. If he contacts them and they refer him to you, kick it back to permits and ask them to help him file his application. He wanted to know about the start and end dates of the project (the deck, shed, pilings) and I said it might be N/A since it's a ATF approval, but the permit analyst should be able to help. He also wanted to know how much of the project in sq. ft. is in the shoreline band. I told him the shed is for sure, but that the house might be in the bay depending on when it was built. (Was this the one that was reconstructed and authorized by a commission order, or am I thinking of another case?) I told him for the purposes of getting the application in, to just give the square footage for the house and shed combined and note for the analyst that the jurisdiction of the home is unclear.

Best Regards,

MATTHEW TRUJILLO Enforcement Policy Manager (415) 352-3633 Matthew.Trujillo@bcdc.ca.gov http://bcdc.ca.gov/enforcement

San Francisco Bay Conservation and Development Commission 375 Beale St., Suite 510
San Francisco, CA 94105
FAX: (415) 352-3606
Main Number: (415) 352-3600

Main Number: (415) 352-3600 Business Days & Hours: M-F 8:30a – 5:00p

----Original Message----

From: voicemessage@mail200.hvs.att.com <voicemessage@mail200.hvs.att.com>

Sent: Monday, February 26, 2024 11:12 AM

To: Matthew Trujillo <4153523633@mail200.hvs.att.com> Cc: Trujillo, Matthew@BCDC <Matthew.Trujillo@bcdc.ca.gov>

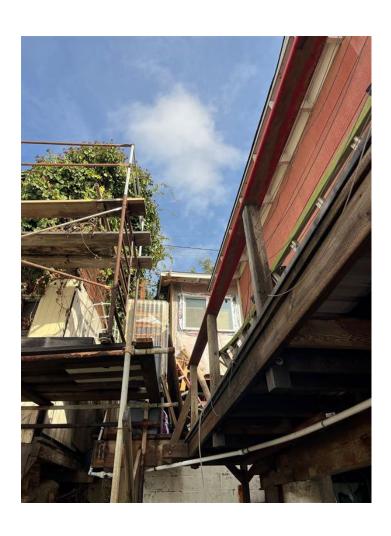
Subject: Voice Message Attached from 7073213562 - WIRELESS CALLER

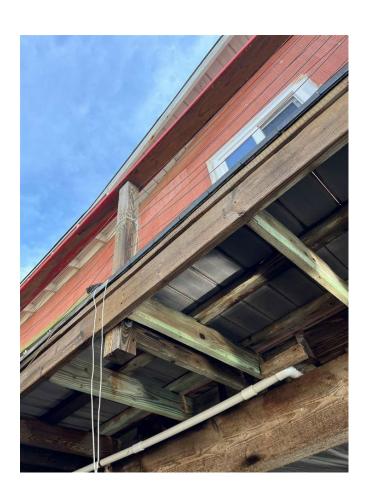
Time: Feb 26, 2024 11:11:35 AM

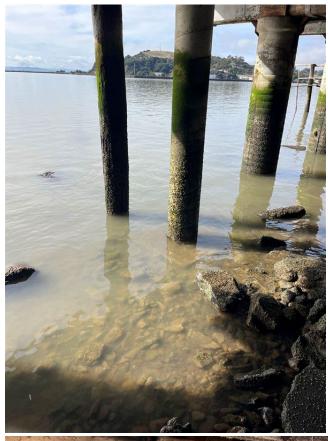
Click attachment to listen to Voice Message

These photos are from a BCDC staff site visit on Jan. 17, 2024.



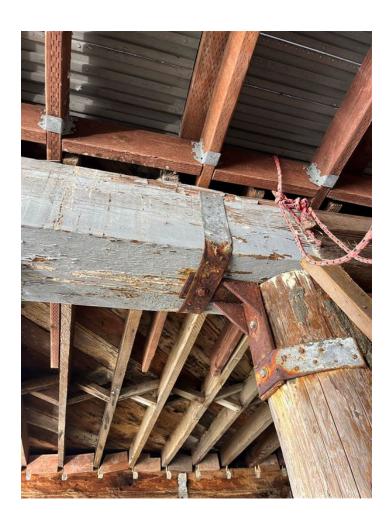






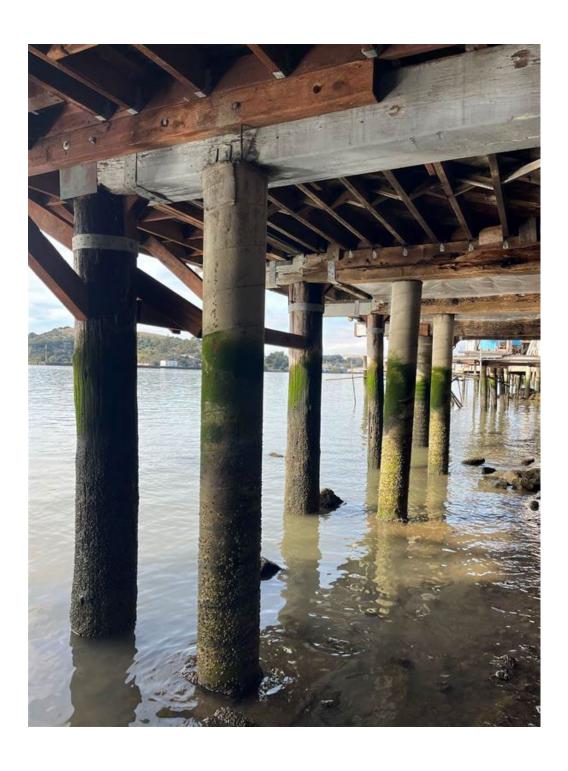






























From: Matsumoto, Bryan T CIV USARMY CESPN (USA)

To: redivine1960@gmail.com

Cc: McWhorter, Scott; Squires, Kim; Brian Meux; Fairley, Erin@Waterboards; Dunn, Sabrina@Wildlife; Cohen,

Rachel@BCDC

Subject: Inquiry: 46 Sandy Beach Road (Corps File: SPN-2023-00431)

 Date:
 Thursday, November 2, 2023 2:23:00 PM

 Attachments:
 SPN-2023-00431 ENF VI signed 2023.11.02.pdf

SPN-2023-00431 ENF VI Investigation Questionnaire.pdf

Ms. Clemence:

Please find attached an electronic copy of the Corps' Notice of Alleged Violation letter along with an investigation questionnaire. This inquiry concerns work/structures at 46 Sandy Beach Road in the City of Vallejo, Solano County. A hard copy will also be sent by mail. Please confirm receipt of this email and feel free to contact me with any questions.

Bryan Matsumoto Senior Project Manager USACE, Regulatory Division, North Branch 450 Golden Gate Avenue, 4th Floor, Room 1111 San Francisco, California 94102-3404

Office: 415-503-6786

INVESTIGATION QUESTIONNAIRE U.S. Army Corps of Engineers San Francisco District, Regulatory Division

File No. SPN-2023-00431

Date: November 2, 2023

Addressed To: Shannon Clemence 46 Sandy Beach Road Vallejo, CA 94590 redivine1960@gmail.com

| 1. | Property | Owner: | |
|----|------------|------------------------|------------|
| | Address: | | |
| | (Bus.) | | |
| | | | Phone: () |
| | (Res.) | | |
| | E-mail Ad | dress: | |
| , | Boroon / | contractor doing work | |
| ۷. | Person / C | contractor doing work: | |
| | Company | | |
| | | | Phone: () |
| | (Bus.) | | |
| | Address: | | Phone: () |
| | (Res.) | | |
| | E-mail Add | dress: | |

| B. Consultant: | | | | |
|-----------------------------|-----------------|-------------|----------------------|-------------------|
| Company: | | | | |
| Address: | | | Phone: (_ |) |
| | | | | |
| E-mail Address: | | | | |
| . Location of Work: | | | | |
| Address: | | | | |
| City: | | _ ST: _ | ZIP: | |
| County: | _ | | | |
| ¼ of¼ of | Sec | , R | N / S, T (circle) | E / W (circle) |
| Lat: | ° N Lo | ng: | | ° W |
| UTM: Region Nor | th: | E | East: | |
| Assessor Parcel Number | : | | | |
| Describe location (relation | n to towns, roa | ds, buildin | gs, etc.): | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| lame of Waterbody, if know | n: | | | |

| Prior to this notification, were you aware of this activity taking place? |
|--|
| |
| When did the activity begin? |
| Was the work discontinued? |
| Was the work completed? |
| Is the work still in progress? |
| Please describe the work in detail, including the purpose of the work. |
| |
| |
| Was any fill material imported to the site? (Specify type(s) of material discharged and the amount of each type in cubic yards.) |
| |
| How was the material placed (discharged)? |
| |

| Was any grading performed associated with the activity? |
|--|
| |
| |
| Was any discing performed associated with the activity? Please explain the history of discing performed on the site. |
| |
| |
| Were you ever informed by any other permit issuing agency that a Department of the Army permit may be required? |
| |
| |
| Are you one of the persons responsible for the activity? |
| Are you operating a business that is associated with the activity? |
| |
| Is the activity in question supervised by you or by others whom you employ? |
| |
| Will you allow Corps of Engineers' personnel access to the site to verify the nature of the activity? |
| |

| 6. | Permits obtained prior to commencement of work: | | | |
|----|---|-------|--|--|
| | Department of the Army Permit #: | | | |
| | | When? | | |
| | CA Department of Fish & Game Permit #: | | | |
| | | When? | | |
| | CA Regional Water Quality Control Board Permit #: _ | | | |
| | | When? | | |
| | Local Permit #: | | | |
| | | When? | | |
| | | | | |
| 7. | Additional Information: | | | |
| | Please submit any other information and/or photographs which, in your opinion, may be pertinent to the Corps of Engineers' evaluation of the activity and the determination on whether the activity occurred in jurisdictional waters of the United States. | | | |
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From: Feiling, Denise M.

To: <u>Cohen, Rachel@BCDC</u>; <u>Millea, John D.</u>

Cc: <u>Kauffman, Nicole C.</u>

Subject: RE: 46 Sandy Beach Road Permits

Date: Friday, November 3, 2023 2:55:03 PM

Attachments: <u>image001.jpg</u>

Building Permit (1).pdf Building Permit (2).pdf Building Permit (8).pdf Building Permit.pdf B2018-0868.pdf

Hello Rachel,

I have attached copies of the issued building permits you requested. All of the permits at this site are expired due to no inspections requested.

The only plans I was able to locate are for B2018-0868 and those are attached but was not on your list

Please let me know if I can be of further assistance.

Thank you,

Denise M. Feiling
Building Permit Technician II
County of Solano Building Division
675 Texas Street, Suite 5500
Fairfield, CA 94533
Bldg (707) 784-6765
dmfeiling@solanocounty.com
www.solanocounty.com

Solano County Logo (Green and Black)



From: Cohen, Rachel@BCDC <rachel.cohen@bcdc.ca.gov>

Sent: Thursday, November 2, 2023 2:20 PM

To: Millea, John D. <JDMillea@SolanoCounty.com>

Cc: Building <Building@solanocounty.com> **Subject:** 46 Sandy Beach Road Permits

Hi John,

This is Rachel Cohen from BCDC's enforcement unit – you helped me back in August by sending me a permit file for 16 Sandy Beach Road in Vallejo. We've now received a report for the neighboring property, 46 Sandy Beach Road, stating that the owner placed new pilings, an accessory dwelling unit, new deck and railing. I saw the County issued the below mentioned permits for some of this work – would you or someone in your office be able to email me

copies of these permits and the building plans associated with them? It would be most helpful to aid our enforcement case.

| 06/17/2022 | B2022-0536 | Building Permit | Interior alteration to existing bathroom addition of second bathroom. NO structural changes. No changes to building envelope or exterior. |
|------------|------------|-----------------|--|
| 01/29/2021 | B2021-0107 | Building Permit | 48" wide x 53' long extension to perimeter catwalk on side of dwelling/ access for replacing siding and evacuation access **7/14/22: Expired |
| 01/14/2021 | B2021-0044 | Building Permit | REPLACE EXTERIOR SIDING |
| 11/15/2018 | B2018-0868 | Building Permit | Replace deck floor boards, stairway and handrails damaged by fire in like for like configuration. |

Thanks very much, Rachel

Rachel Cohen (she/her)

Enforcement Analyst

SF Bay Conservation and Development Commission (BCDC)

Direct: 415-352-3661 Main: 415-352-3600

[EXTERNAL Email Notice!] External communication is important to us. Be cautious of phishing attempts. Do not click or open suspicious links or attachments.



DEPARTMENT OF RESOURCE MANAGEMENT Exhibit 6 BUILDING & SAFETY SERVICES

675 TEXAS ST., SUITE 5500 FAIRFIELD, CA 94533 Office Number: (707) 784-6765

24 Hour Inspection Request Line: (707) 784-4750

BUILDING PERMIT Permit No: B2021-0107 **Permit Issued By:** Status: Expired **Applied Date:** 1/29/2021 **Issued Date: Expires Date: 46 SANDY BEACH ROAD** Parcel No.: 0062020210 **Valuation:** \$2,000.00 **Job Address:** 48" wide x 53' long extension to perimeter catwalk on side of dwelling/ access for replacing siding and evacuation **Description:** access **7/14/22: Expired **CLEMENCE SHANNON** Owner: **Contractor:** 46 SANDY BEACH RD VALLEJO CA **Licensed Contractor Declaration** I hereby affirm that I am licensed under provisions of Chapter 9 (commencing with Section 7000) of Division of the Business and Professions Code, and my License is in full force and effect. License Class License# **Expiration Date** _Signature_ **Owner/Builder Declaration** I hereby affirm that I am exempt from the Contractor's License law for the reason: [] I, as owner of the property, or my employee with wages as the sole compensation, will do the work, and the structure is not intended or offered for sale (Section 7044, Business and Professions Code). [] I, as owner of the property, am exclusively contracting with licensed contractors to construct the project Section 7044, Business and When the following conditions: 1. The structure is his or her principal place of residence. 2. He or she has resided in the residence for the past 12 months prior to the work. 3. He or she has not availed his or herself of this exemption on more than two structures more than once during any three-year period. _. B&PC for this reason_ [] I am exempt under sec. _ Date Signature **Worker's Compensation Declaration** I hereby affirm that I have a certificate of Worker's Compensation Insurance, (Section 3800, Lab.C.) Policy Number Insurance Co. **Expiration Date** _Signature_ Date Certificate of Exemption From Workers' Compensation Insurance I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to Worker's Compensation Laws of California. Date Signature Notice to Applicant: If, after making this Certificate of Exemption, you should become subject to Worker's Compensation provision of the Labor Code, you must forthwith comply with such provision or this permit shall be deemed revoked. **Division of Industrial Safety Permit Classification** [] As Owner/Builder, I will not perform or employ anyone to do work which would require a permit from the Division of Industrial Safety, unless such person has a permit to do such work from the division. [] Division of Industrial Safety Permit Number_ **Air Quality Permit Certificate**] I hereby affirm that I am not installing nor modifying any equipment which may cause air pollution. My Air Quality Management District Authority to Construct permit number is **Hazardous Materials and Waste Management** [] I have read the Hazardous Material Information Guide and understand my requirement under Chapter 6.95 of the California Health and Safety Code Section 25505, 25533, and 25534. **I understand that if the building does not currently have a tenant, that it is my responsibility to notify the occupant of the requirements which must be met prior to issuance of a Certificate of Occupancy. I certify that I have read this application and state that the information is correct. I agree to comply with all county ordinances and state laws relating to building construction, and hereby authorize representatives of the county to enter the above property for inspection purposes. [] I will submit a Construction and Demolition Waste Management Plan and/or Report, with receipts, documenting complance with State Law to divert a minimum of 65% of non-hazardous waste from landfills through recycling or re-use. Applicants Signature_ Date



Applicants Signature_

DEPARTMENT OF RESOURCE MANAGEMENT Exhibit 6 BUILDING & SAFETY SERVICES

675 TEXAS ST., SUITE 5500 FAIRFIELD, CA 94533 Office Number: (707) 784-6765

24 Hour Inspection Request Line: (707) 784-4750

BUILDING PERMIT Permit No: B2022-0536 **Permit Issued By:** Denise Feiling **Issued Date:** 7/15/2022 Status: Expired **Applied Date:** 6/17/2022 **Expires Date:** 7/14/2024 **46 SANDY BEACH ROAD** Parcel No.: 0062020210 Valuation: \$25,000.00 **Job Address:** Interior alteration to existing bathroom addition of second bathroom. NO structural changes. No changes to building **Description:** envelope or exterior. CLEMENCE SHANNON Owner: **Contractor:** 46 SANDY BEACH RD VALLEJO CA **Licensed Contractor Declaration** I hereby affirm that I am licensed under provisions of Chapter 9 (commencing with Section 7000) of Division of the Business and Professions Code, and my License is in full force and effect. License Class License# **Expiration Date** _Signature_ **Owner/Builder Declaration** I hereby affirm that I am exempt from the Contractor's License law for the reason: [] I, as owner of the property, or my employee with wages as the sole compensation, will do the work, and the structure is not intended or offered for sale (Section 7044, Business and Professions Code). [] I, as owner of the property, am exclusively contracting with licensed contractors to construct the project Section 7044, Business and Owner-Builder intends to perform work and the structure is intended or offered for sale, the applicant must apply with the following conditions: 1. The structure is his or her principal place of residence. 2. He or she has resided in the residence for the past 12 months prior to the work. 3. He or she has not availed his or herself of this exemption on more than two structures more than once during any three-year period. _. B&PC for this reason_ [] I am exempt under sec. _ Date Signature **Worker's Compensation Declaration** I hereby affirm that I have a certificate of Worker's Compensation Insurance, (Section 3800, Lab.C.) Policy Number Insurance Co. **Expiration Date** _Signature_ Date Certificate of Exemption From Workers' Compensation Insurance I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to Worker's Compensation Laws of California. Date Signature Notice to Applicant: If, after making this Certificate of Exemption, you should become subject to Worker's Compensation provision of the Labor Code, you must forthwith comply with such provision or this permit shall be deemed revoked. **Division of Industrial Safety Permit Classification** [] As Owner/Builder, I will not perform or employ anyone to do work which would require a permit from the Division of Industrial Safety, unless such person has a permit to do such work from the division. [] Division of Industrial Safety Permit Number_ **Air Quality Permit Certificate**] I hereby affirm that I am not installing nor modifying any equipment which may cause air pollution. My Air Quality Management District Authority to Construct permit number is **Hazardous Materials and Waste Management** [] I have read the Hazardous Material Information Guide and understand my requirement under Chapter 6.95 of the California Health and Safety Code Section 25505, 25533, and 25534. **I understand that if the building does not currently have a tenant, that it is my responsibility to notify the occupant of the requirements which must be met prior to issuance of a Certificate of Occupancy. I certify that I have read this application and state that the information is correct. I agree to comply with all county ordinances and state laws relating to building construction, and hereby authorize representatives of the county to enter the above property for inspection purposes. [] I will submit a Construction and Demolition Waste Management Plan and/or Report, with receipts, documenting complance with State Law to divert a minimum of 65% of non-hazardous waste from landfills through recycling or re-use.

Date



65% of non-hazardous waste from landfills through recycling or re-use.

Applicants Signature_

DEPARTMENT OF RESOURCE MANAGEMENT Exhibit 6 BUILDING & SAFETY SERVICES

675 TEXAS ST., SUITE 5500 FAIRFIELD, CA 94533 Office Number: (707) 784-6765

24 Hour Inspection Request Line: (707) 784-4750 **BUILDING PERMIT Permit No:** B2018-0868 **Permit Issued By: Trevor Slevin** Status: Expired **Applied Date:** 11/15/2018 **Issued Date:** 11/15/2018 **Expires Date:** 11/14/2020 **46 SANDY BEACH ROAD** Parcel No.: 0062020210 **Valuation:** \$4,200.00 **Job Address:** Replace deck floor boards, stairway and handrails damaged by fire in like for like configuration. **Description:** Owner: DOPKINS DONALD G & JANET M TR **Contractor:** WILLIAM DOTY CONSTRUCTION 46 SANDY BEACH RD **POBOX 522** VALLEJO CA CROCKETT, CA 94525 **Licensed Contractor Declaration** I hereby affirm that I am licensed under provisions of Chapter 9 (commencing with Section 7000) of Division of the Business and Professions Code, and my License is in full force and effect. License# 733683 License Class В Expiration Date 3/31/2019 Date_ Signature Owner/Builder Declaration I hereby affirm that I am exempt from the Contractor's License law for the reason: [] I, as owner of the property, or my employee with wages as the sole compensation, will do the work, and the structure is not intended or offered for sale (Section 7044, Business and Professions Code). [] I, as owner of the property, am exclusively contracting with licensed contractors to construct the project Section 7044, Business and [] Owner-Builder intends to perform work and the structure is intended or offered for sale, the applicant must apply with the following conditions: 1. The structure is his or her principal place of residence. 2. He or she has resided in the residence for the past 12 months prior to the work. 3. He or she has not availed his or herself of this exemption on more than two structures more than once during any three-year period. _____. B&PC for this reason__ [] I am exempt under sec. ___ Date_ Signature_ **Worker's Compensation Declaration** I hereby affirm that I have a certificate of Worker's Compensation Insurance, (Section 3800, Lab.C.) Policy Number Insurance Co. **Expiration Date** Date Signature Certificate of Exemption From Workers' Compensation Insurance I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to Worker's Compensation Laws of California. Signature Notice to Applicant: If, after making this Certificate of Exemption, you should become subject to Worker's Compensation provision of the Labor Code, you must forthwith comply with such provision or this permit shall be deemed revoked. **Division of Industrial Safety Permit Classification** [] As Owner/Builder, I will not perform or employ anyone to do work which would require a permit from the Division of Industrial Safety, unless such person has a permit to do such work from the division. Division of Industrial Safety Permit Number_ **Air Quality Permit Certificate** [] I hereby affirm that I am not installing nor modifying any equipment which may cause air pollution.] My Air Quality Management District Authority to Construct permit number is **Hazardous Materials and Waste Management** [] I have read the Hazardous Material Information Guide and understand my requirement under Chapter 6.95 of the California Health and Safety Code Section 25505, 25533, and 25534. **I understand that if the building does not currently have a tenant, that it is my responsibility to notify the occupant of the requirements which must be met prior to issuance of a Certificate of Occupancy. I certify that I have read this application and state that the information is correct. I agree to comply with all county ordinances and state laws relating to building construction, and hereby authorize representatives of the county to enter the above property for inspection purposes. 1 I will submit a Construction and Demolition Waste Management Plan and/or Report, with receipts, documenting complance with State Law to divert a minimum of

Date



DEPARTMENT OF RESOURCE MANAGEMENT Exhibit 6 BUILDING & SAFETY SERVICES

675 TEXAS ST., SUITE 5500 FAIRFIELD, CA 94533 Office Number: (707) 784-6765

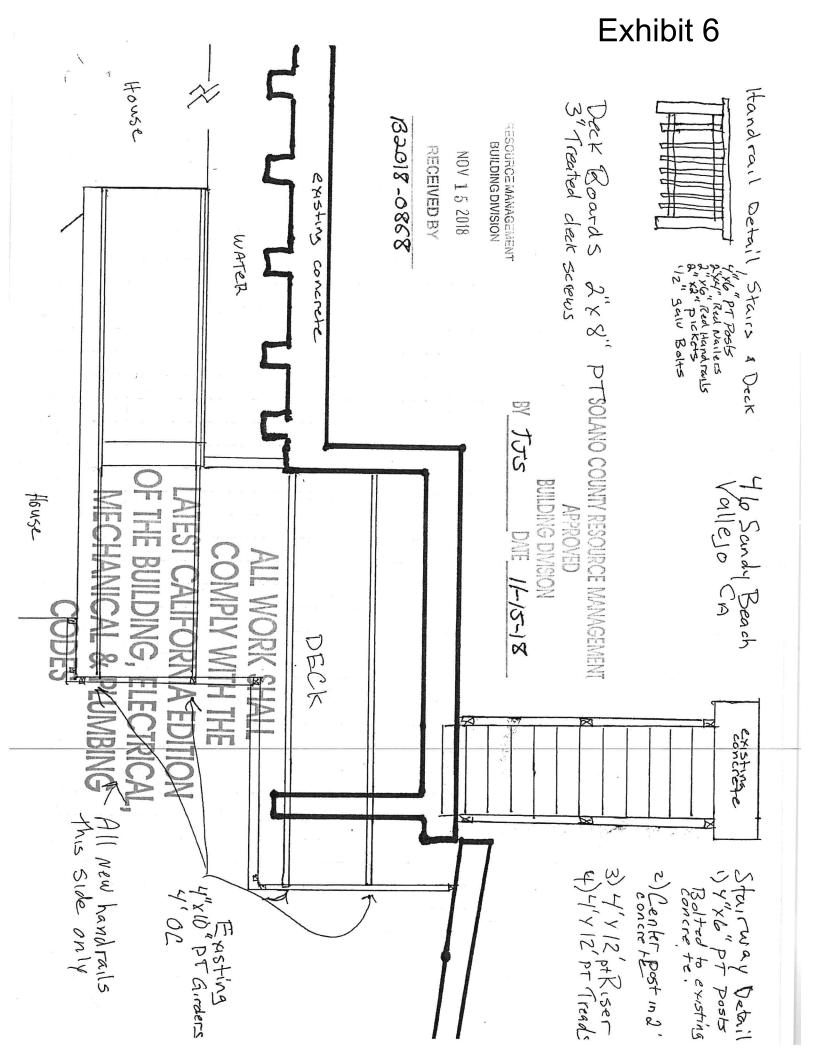
Office Number: (707) 784-6765 24 Hour Inspection Request Line: (707) 784-4750 **BUILDING PERMIT Permit No:** B2021-0044 **Permit Issued By:** Avril Rockwood Status: Expired **Applied Date:** 1/14/2021 **Issued Date:** 3/30/2022 **Expires Date:** 3/29/2024 **46 SANDY BEACH ROAD** Parcel No.: Valuation: \$25,000.00 **Job Address:** 0062020210 REPLACE EXTERIOR SIDING **Description:** Owner: CLEMENCE SHANNON Contractor: **46 SANDY BEACH RD** VALLEJO CA **Licensed Contractor Declaration** I hereby affirm that I am licensed under provisions of Chapter 9 (commencing with Section 7000) of Division of the Business and Professions Code, and my License is in full force and effect. License# License Class **Expiration Date** Date_ Owner/Builder Declaration I hereby affirm that I am exempt from the Contractor's License law for the reason: [] I, as owner of the property, or my employee with wages as the sole compensation, will do the work, and the structure is not intended or offered for sale (Section 7044, Business and Professions Code). [] I, as owner of the property, am exclusively contracting with licensed contractors to construct the project Section 7044, Business and [] Owner-Builder intends to perform work and the structure is intended or offered for sale, the applicant must apply with the following conditions: 1. The structure is his or her principal place of residence. 2. He or she has resided in the residence for the past 12 months prior to the work. 3. He or she has not availed his or herself of this exemption on more than two structures more than once during any three-year period. [] I am exempt under sec. ______. B&PC for this reason__ Date_ _Signature_ **Worker's Compensation Declaration** I hereby affirm that I have a certificate of Worker's Compensation Insurance, (Section 3800, Lab.C.) Policy Number Insurance Co. **Expiration Date** Date Signature Certificate of Exemption From Workers' Compensation Insurance I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to Worker's Compensation Laws of California. Signature Notice to Applicant: If, after making this Certificate of Exemption, you should become subject to Worker's Compensation provision of the Labor Code, you must forthwith comply with such provision or this permit shall be deemed revoked. **Division of Industrial Safety Permit Classification** [] As Owner/Builder, I will not perform or employ anyone to do work which would require a permit from the Division of Industrial Safety, unless such person has a permit to do such work from the division. Division of Industrial Safety Permit Number_ **Air Quality Permit Certificate** [] I hereby affirm that I am not installing nor modifying any equipment which may cause air pollution.] My Air Quality Management District Authority to Construct permit number is **Hazardous Materials and Waste Management** [] I have read the Hazardous Material Information Guide and understand my requirement under Chapter 6.95 of the California Health and Safety Code Section 25505, 25533, and 25534. **I understand that if the building does not currently have a tenant, that it is my responsibility to notify the occupant of the requirements which must be met prior to issuance of a Certificate of Occupancy. I certify that I have read this application and state that the information is correct. I agree to comply with all county

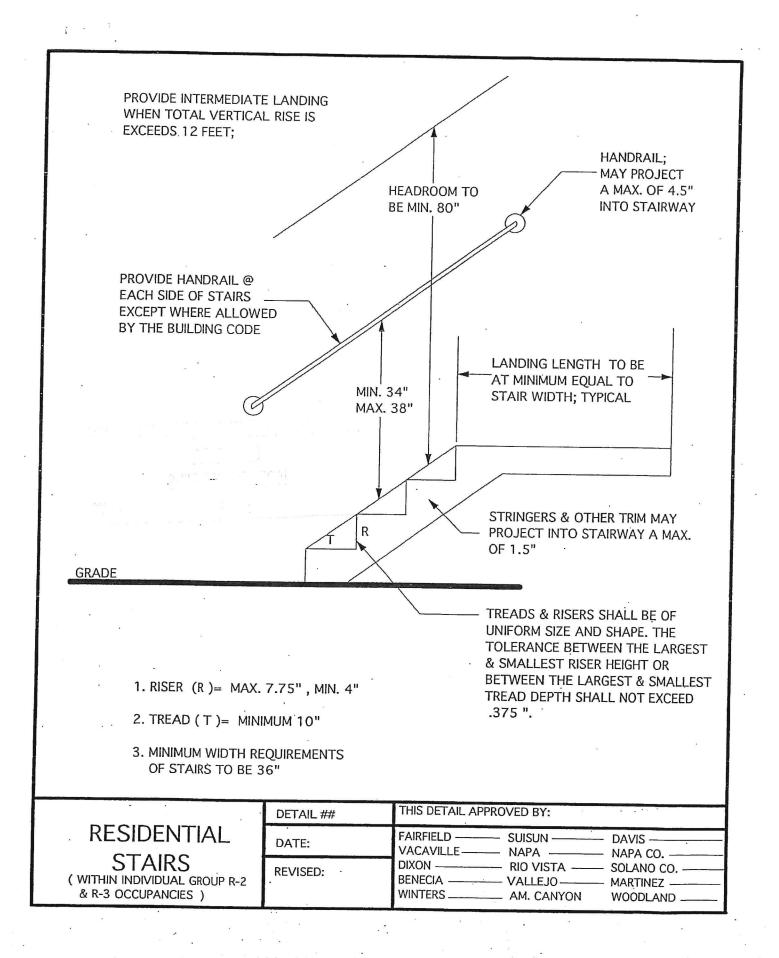
Applicants Signature______ Date_____

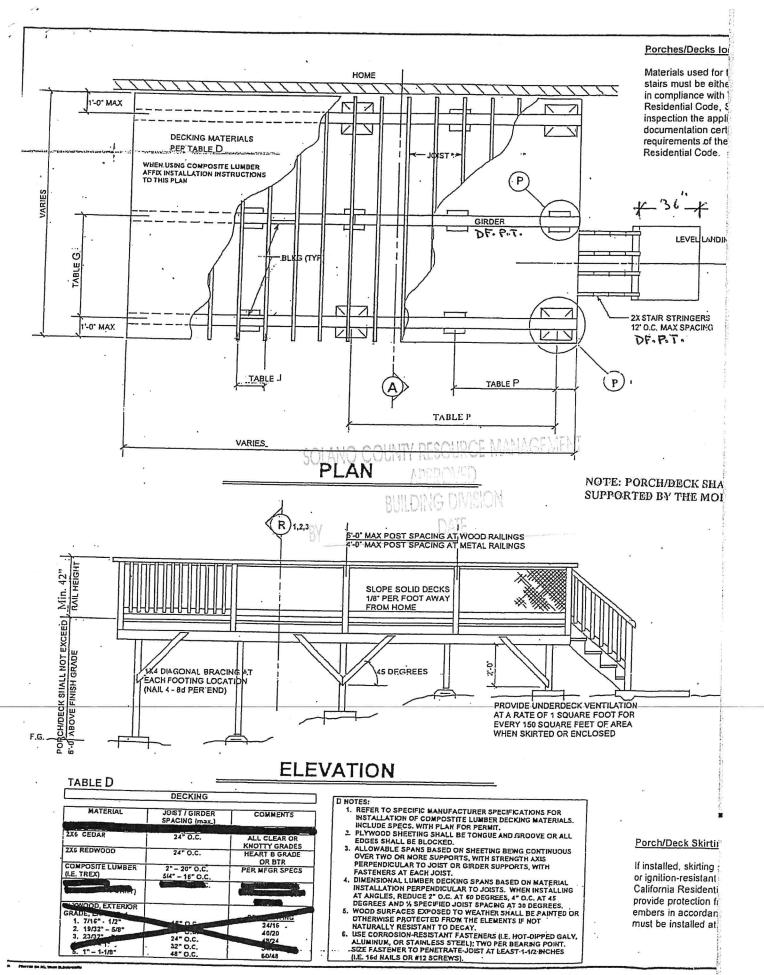
65% of non-hazardous waste from landfills through recycling or re-use.

ordinances and state laws relating to building construction, and hereby authorize representatives of the county to enter the above property for inspection purposes.

[] I will submit a Construction and Demolition Waste Management Plan and/or Report, with receipts, documenting complance with State Law to divert a minimum of







1" - 1-1/8"

60/48

located in Fire Severity Zones

or the walking surface of decks and ither Class A or B flame spread and be ith Title 24, Part 2, California e, Section 327.9. At the time of plicant shall provide the supporting ertifying the materials comply the the current edition of the California

45.

VARIES

Guards shall be located along open-sided walking surfaces, including stairs, ramps and landings, that are located more than 30 inches vertically to the floor or grade below any point within 36 inches horizontally to the edge of the open side. Required guards shall be not less than 42 inches high measured vertically above the adjacent walking surface, adjacent fixed seating or the line connecting the leading edges of the treads. Required guards shall not have openings from the walking surface to the required guard height which allow passage of a sphere 4 inches in diameter. 25 CCR 1502 & 2502 and CRC. R 312.1, 312.2, 312.3. Exceptions:

1. The triangular openings at the open side of a stair, formed by the riser, tread and bottom rail of a guard, shall not allow passage of a sphere 6 inches in diameter. Guards on the open sides of stairs shall not have openings which allow passage of a

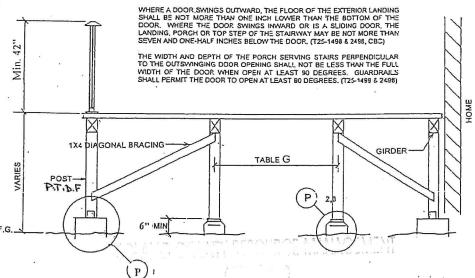
sphere 4 3/8 inches in diameter. Guardrails and handrails shall be able to resist a single concentrated load of 200 pounds applied in any direction at any point along the top. Guard in-fill components

(intermediate rails) shall be designed to withstand a horizontally applied normal load of 50 pounds on an area equal to 1 square foot. CRC Table R 301.5 P.T.D.F JOIST ... BLKG **GONAL BRACING** GIRDER BETWEEN ALLPOSTO POST 18" MIN P P.T.DF.

MIN

SECTION - JOIST

IALL NOT BE **DBILEHOME**



SECTION - GIRDER

ting located in Fire Severity Zones

Watch West

ig shall be approved noncombustible nt material per Title 24, Part 2, ntial Code Section 327.7. It shall i from the intrusion of flames and ance with Standard SFM 12-7A-1 and at the time of final inspection.

DESIGN ASSUMPTIONS

- Floor Load 40 psf dead, 20 psf live Wind 85 MPH
- Soil bearing 1,500 psf vertical Seismic D

Hardware

Codes 25 CCR Chapter 2 and 2.1 and Calif. Residential Code

Simpson Strong-Tie or equal

REVISIONS BY A/15/08 AK 6/00/02 12/11

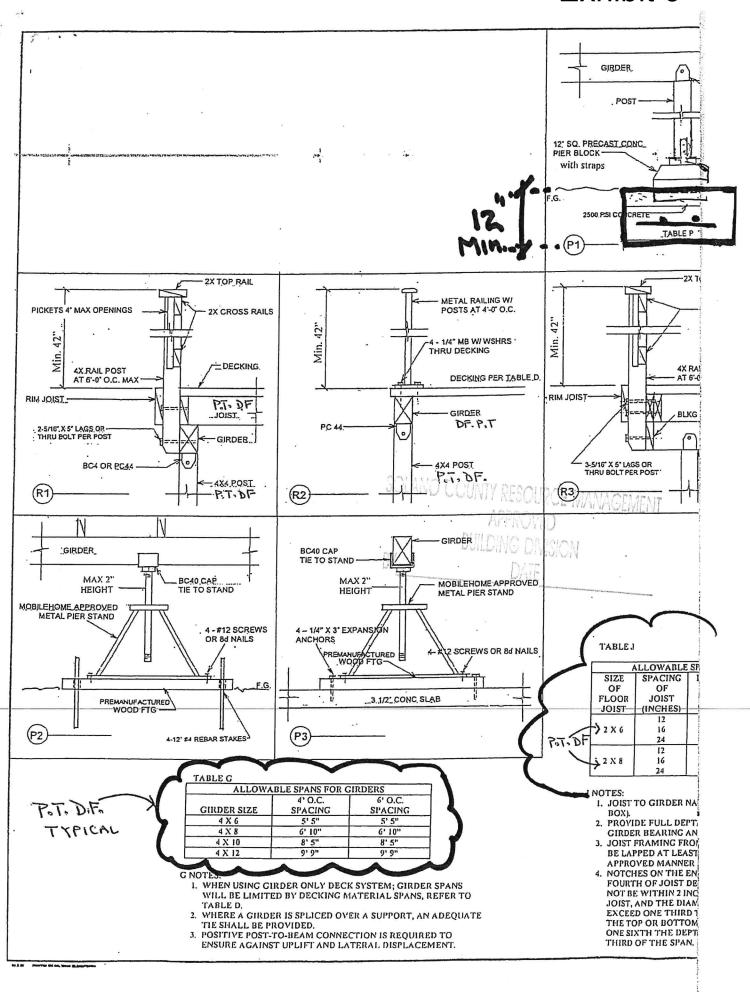
- FREESTANDING STATE OF CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT DIVISION OF CODES AND STANDARDS / DECK PLAN PORCH

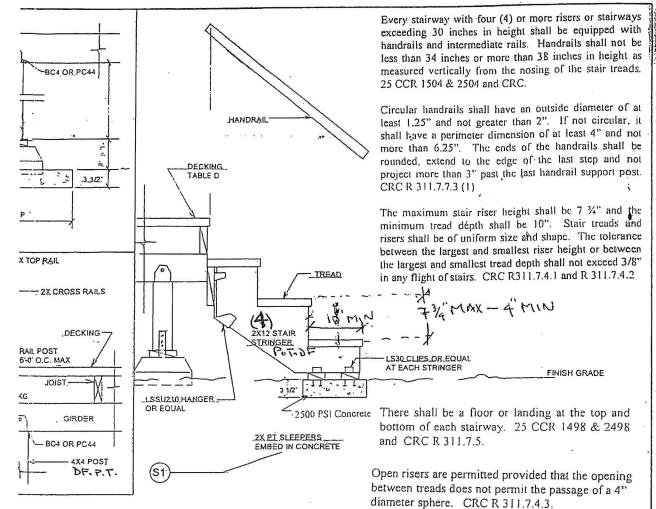
4/15/08

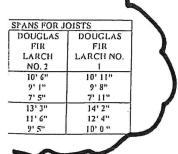
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VAILING, TOENAIL 3-8d (COMMON OR

PTH 2X BLOCKING BETWEEN JOISTS AT AND NAIL BAND OR RIM JOIST AT ENDS. COM OPPOSITE SIDES OF GIRDER SHALL. ST 3 INCHES OR TIED TOGETHER IN AN IR AT BEARING POINT.

ENDS OF JOISTS SHALL NOT EXCEED ONE DEPTH. HOLES BORED IN JOISTS SHALL NCHES OF THE TOP OR BOTTOM OF THE AMETER OF SUCH HOLE SHALL NOT IN THE DEPTH OF THE JOIST, NOTCHES IN DM OF THE JOIST'S SHALL NOT EXCEED PTH AND SHALL NOT BE IN THE MIDDLE

TABLE P

| GIRDER SPAN 4' PIER SPACING | PIER LOAD CAPACITY | REQ'D BEARING AREA | CONCRETE PADS THICK | WOOD PADSZ" NOMNAL |
|--------------------------------|--------------------------|--------------------------|---------------------|--------------------------|
| 3' 6" TO 5' 5" | 1250 psi | 180 sq. in. | 13 X 13 | 12 X 10 |
| 5' 6" TO 6' 10" | 1660 | 240 . | 15 X 15 | 12 X 24 |

| GIRDER SPAN 6' PIER SPACING | PIER LOAD CAPACITY | REQ'D BEARING AREA | CONCRETE PADS THICK | WOOD NOMANAL |
|--------------------------------|--------------------------|--------------------------|---------------------|-----------------|
| 3' 6" TO 5' 5" | 1870 psi | 270 sq. in. | 16 X 16 | 12 xX24 |
| 5' 6" TO 6' 10" | 3120 | 450 | 21 x 21 | 2- 12 X 20 |

P NOTES:

- 1. CONCRETE PIER BLOCK SHALL BE 12" SQUARE MINIUM, PRE-MANUFACTED UNITS WITH STRAPS.
- 2. METAL PIERS SHALL BE LISTED AND LABELED FOR MANUFACTURED HOUSING USE WITH DE MINIMUM BASE.

HOUSING USE, WITH 12" MINIMUM BASE.

3. DOUBLE PIERS MAY NLOT BE USED TO MEET MINIMUM LOAD CAPACITY.

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PORCH / DECK PLAN — FREESTANDING STATE OF CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT DIVISION OF CODES AND STANDARDS



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|---------------|
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| NOWMAN |
| HCD C&S |
| mint O |

or 2

From:Trujillo, Matthew@BCDCTo:Cohen, Rachel@BCDC

 Subject:
 FW: 46 Sandy Beach Road (SPN-2023-00431)

 Date:
 Thursday, December 14, 2023 4:21:12 PM

Attachments: SPN-2023-00431 Completed Investigation Questionnaire.doc.pdf

image001.png

Is this for you?

Best Regards,

MATTHEW TRUJILLO
Enforcement Policy Manager
(415) 352-3633
Matthew.Trujillo@bcdc.ca.gov
http://bcdc.ca.gov/enforcement

San Francisco Bay Conservation and Development Commission

375 Beale St., Suite 510 San Francisco, CA 94105 FAX: (415) 352-3606

Main Number: (415) 352-3600

Business Days & Hours: M-F 8:30a – 5:00p

signature_726525059

From: Matsumoto, Bryan T CIV USARMY CESPN (USA) <Bryan.T.Matsumoto@usace.army.mil>

Sent: Thursday, December 14, 2023 4:11 PM

To: redvine1960@gmail.com

Cc: Fairley, Erin@Waterboards <Erin.Fairley@Waterboards.ca.gov>; Dunn, Sabrina@Wildlife <Sabrina.Dunn@Wildlife.ca.gov>; Trujillo, Matthew@BCDC <Matthew.Trujillo@bcdc.ca.gov>;

McWhorter, Scott <mcwhorter.scott@epa.gov> **Subject:** 46 Sandy Beach Road (SPN-2023-00431)

You don't often get email from bryan.t.matsumoto@usace.army.mil. Learn why this is important

Shannon,

Thank you for taking the time to talk with me today and providing some answers to the attached questionnaire. Please confirm the following items are accurate based on our conversation:

- -You did not install any new piles since you have owned the property.
- -The catwalk on the south side that was recently constructed (please provide an approximate date of

construction) was destroyed in a fire in 2018, and you initiated the process with the County to get a permit to reconstruct it in 2020.

-The shed was constructed in an upland area that is not over the aquatic resource.

Feel free to contact me with any questions that you might have.

Bryan Matsumoto Senior Project Manager USACE, Regulatory Division, North Branch 450 Golden Gate Avenue, 4th Floor, Room 1111 San Francisco, California 94102-3404

Office: 415-503-6786

INVESTIGATION QUESTIONNAIRE U.S. Army Corps of Engineers San Francisco District, Regulatory Division

File No. SPN-2023-00431

Date: November 2, 2023

Addressed To: Shannon Clemence 46 Sandy Beach Road Vallejo, CA 94590 redivine1960@gmail.com

| 1. | Property Owner: SHANNON CU | EMENCE |
|----|-----------------------------------|-------------------------|
| | Address: 46 Sarry Berte (Bus.) | 14 Phone: (45 408- 6948 |
| | Address: 46 Samoy BEACH R. (Res.) | O Phone: 415 412-6981 |
| | E-mail Address: PEDVINE 1960@ | HOTMAIL. COM |
| 2. | Person / contractor doing work: | |
| | Company: | |
| | Address:(Bus.) | Phone: () |
| | Address:(Res.) | Phone: (<u>)</u> |
| | E-mail Address: | |

| Phone: () | Company: | | | |
|---|---|----------------|---|-----|
| -mail Address: | | | | |
| ocation of Work: ddress: | | | - Mariana (Mariana Mariana Mari | |
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| ity: VAULS ST:ZIP: 94590 ounty: | ocation of Work: | | | |
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| TM: Region North: East: | | | s | |
| | at:° N | Long: | | ° W |
| ssessor Parcel Number: 0062 - 020 - 210 | JTM: Region North: | E | ast: | |
| | ssessor Parcel Number: | 2-020 | -210 | |
| escribe location (relation to towns, roads, buildings, etc.): | Describe location (relation to towns, r | oads, building | ıs, etc.): | |
| | | | | |
| | | | | |
| | | | | |

| 6. | Permits obtained prior to commencement of work: | |
|------------|--|---------------------------------------|
| | Department of the Army Permit #: | E |
| | | When? |
| | CA Department of Fish & Game Permit #: | A5 |
| | | When? |
| | CA Regional Water Quality Control Board Permit #: | NOOS |
| | | When? |
| | Local Permit #: Southo | County |
| | | When? |
| 7 : | Additional Information: | |
| • • | Please submit any other information and/or photographs | s which, in your opinion, may |
| | be pertinent to the Corps of Engineers' evaluation of the determination on whether the activity occurred in jurisdic States. | activity and the |
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| | FIRE ESCAPE ON THE SOUTH | ##################################### |
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| | BULDING DEPARTMENT | |

| Was any grading performed associated with the activity? |
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| Was any discing performed associated with the activity? Please explain the history of discing performed on the site. |
| |
| |
| Were you ever informed by any other permit issuing agency that a Department of the Army permit may be required? |
| N ₀ |
| |
| |
| Are you one of the persons responsible for the activity? |
| Are you operating a business that is associated with the activity? |
| |
| ls the activity in question supervised by you or by others whom you employ? <u>ん</u> ひ |
| Will you allow Corps of Engineers' personnel access to the site to verify the nature of the activity? |
| Y65 |

| Prior to this notification, were you aware of this activity taking place? |
|--|
| When did the activity begin? |
| Was the work discontinued? |
| Was the work completed? |
| Is the work still in progress? |
| Please describe the work in detail, including the purpose of the work. The analymorphism of the work of the work. The analymorphism of the streeth of the amount of each type in cubic yards.) How was the material placed (discharged)? Now the streeth of the work. The analymorphism |
| |

From: Caldwell, Vicki@SLC

To: redvine1960@gmail.com

Cc: Trujillo, Matthew@BCDC; Cohen, Rachel@BCDC; Klein, Adrienne@BCDC; Malan, Margie@BCDC

Subject: FW: Notice of Violations (BCDC Enforcement Case ER2023.058.00)

Date: Tuesday, April 30, 2024 3:24:52 PM

Attachments: 2024.04.02 ER2023.058.00 Shannon Clemence 35DL.docx.pdf

Importance: High

Hi Shannon,

As you know, on August 23, 21019, the Commission authorized the assignment of Lease 9313 from the Dopkin's to you.

https://www.slc.ca.gov/wp-content/uploads/2019/08/08-23-19 27.pdf.

You were assigned Lease 9313, which has a Section 2, paragraph 5 provision stating:

5. Notwithstanding the provisions of Section 3, General Provisions, Paragraph 5(g) Residential Use of this Lease, Lessee(s) is hereby authorized to maintain the existing residential and related residential structure(s), as shown on the attached Exhibit B, on the Lease Premises, subject to the following conditions:

There shall be no expansion, vertically or otherwise, of the existing (portion of residence, deck, and appurtenant facilities) authorized by this Lease and as described and shown on the attached Exhibit B, or construction of new structures, within the Lease Premises, without the prior written approval of the Lessor.

6. Built-in fixed improvements including, but not limited to, permanent roofs, wet bars, barbecues, grills, hot tubs, refrigerators, or sinks are hereby prohibited from placement onto those portions of the deck or pier within the Lease Premises.

The attached BCDC enforcement violation clearly shows that you are in breach of the lease you were assigned. The addition of the deck must be removed from the Lease Premises as well as any other improvement you may have constructed.

Please contact me regarding the **Removal** of the unauthorized facilities. Your lease **DOES NOT** allow expansion of any improvements.

I look forward to hearing from you soon.

Thank you,

Vicki

Vicki Caldwell

Public Land Manager, Enforcement and Compliance Officer

CALIFORNIA STATE LANDS COMMISSION

100 Howe Avenue, Suite 100-South | Sacramento | CA 95825

916.574.1894 | Email: vicki.caldwell@slc.ca.gov

Work Hours: M-F, 6:00 a.m. – 3:00 p.m.

X (Twitter) | Instagram | YouTube

From: Malan, Margie@BCDC <margie.malan@bcdc.ca.gov>

Sent: Tuesday, April 2, 2024 10:07 AM

To: Shannon Clemence < redvine1960@gmail.com>

Cc: Trujillo, Matthew@BCDC <Matthew.Trujillo@bcdc.ca.gov>; Fairley, Erin@Waterboards <Erin.Fairley@Waterboards.ca.gov>; bryan.t.matsumoto@usace.army.mil; sabrina.funn@wildlife.ca.gov; Caldwell, Vicki@SLC <Vicki.Caldwell@slc.ca.gov>; dmfeiling@solanocounty.com; Building <building@solanocounty.com>; alchemistsguild@gmail.com

Subject: Notice of Violations (BCDC Enforcement Case ER2023.058.00)

Attention: This email originated from outside of SLC and should be treated with extra caution.

Dear Shannon E. Clemence:

Please see attached letter on behalf of Matthew Trujillo. If you have any questions, please contact Matthew at 415-352-3633 or at

matthew.trujillo@bcdc.ca.gov.

Please note this same letter will also be sent to you via Certified Mail today.

Sincerely,

Margie F. Malan, Legal Secretary

San Francisco Bay Conservation and Development Commission (BCDC) Bay Area Metro Center 375 Beale St, Suite 510, San Francisco, CA 94105 Direct: (415) 352-3675

Main: (415) 352-3600

Email: margie.malan@bcdc.ca.gov Website: www.bcdc.ca.gov

San Francisco Bay Conservation and Development Commission

375 Beale Street, Suite 510, San Francisco, California 94105 tel 415 352 3600 fax 888 348 5190 State of California | Gavin Newsom – Governor | info@bcdc.ca.gov | www.bcdc.ca.gov

Via Electronic and Certified Mail

April 2, 2024

ATTN: Shannon E. Clemence 46 Sandy Beach Road Vallejo, CA 94590

E-mail: redvine1960@gmail.com

SUBJECT: Notice of Violations (BCDC Enforcement Case ER2023.058.00)

Dear Shannon E. Clemence:

On September 19, 2023, BCDC staff received a report alleging unauthorized activities at 46 Sandy Beach Road in Vallejo, Solano County (Solano County Assessor's Parcel Number 0062-020-210). Staff informed you of these alleged violations of McAteer-Petris Act Section 66632(a) in an initial contact letter mailed to you on November 20, 2023. On January 17, 2024, staff visited the site with you and your authorized representative Mr. Gregory Earl and confirmed that violations consisted of placement of concrete pilings underneath the home and placement of decking, deck railing, and deck bracing substructure in BCDC's Bay jurisdiction, and placement of a shed structure in BCDC's 100-foot shoreline band jurisdiction. In conversations with staff, you have committed to applying for and obtaining an after-the-fact permit to authorize these projects.

You have thirty-five (35) calendar days from the date of this letter to resolve the outstanding violation described below before fines begin to accrue pursuant to California Code of Regulations, Title 14, § 11390(a)(4). A detailed description of how fines accrue is attached to this letter in Appendix 1.

Description of Violations. The placement of unauthorized fill in the Bay including concrete pilings underneath the home, and decking (including deck railing and substructure). The placement of unauthorized fill in the 100-foot shoreline band, consisting of a shed structure.

This activity represents a violation of the following:

McAteer-Petris Act Section 66632(a). Any person or governmental agency 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 shall secure a permit from the commission and, if required by law or by ordinance, from any city or county within which any part of the work is to be performed. For purposes of this title, "fill" means earth or any other substance or material, including pilings or structures placed on pilings, and structures floating



Page 2 April 2, 2024

Shannon E. Clemence Enf. Case ER2023.058.00

at some or all times and moored for extended periods, such as houseboats and floating docks. For the purposes of this section "materials" means items exceeding twenty dollars (\$20) in value.

To resolve your violations, you must apply for and obtain a BCDC permit. If you fail to obtain a permit within 125 days of the mailing date of this notice, you will be subject to a formal enforcement action that may include up to \$30,000 in administrative civil penalties per violation (e.g., each individual instance of fill) found at the site and a Commission cease-and-desist order that mandates the removal of the unauthorized fill at the site.

I look forward to continuing to work with you to bring your property into compliance. Please don't hesitate to reach out with any questions.

Sincerely,

—DocuSigned by:

Matthau 2 G. Taisla

----01D29D76CC1B4FA...

MATTHEW TRUJILLO

Enforcement Policy Manager

San Francisco Bay Conservation and Development Commission

375 Beale Street, Suite 510

San Francisco, California 94105

Tel: 415-352-3633 Fax: 415-352-3606

Email: matthew.trujillo@bcdc.ca.gov

Website: www.bcdc.ca.gov

MT/mm

cc: (via e-mail only):

SF Bay Regional Water Quality Control Board, Erin Fairley, erin.fairley@waterboards.ca.gov
US Army Corps of Engineers, Bryan Matsumoto, bryan.t.matsumoto@usace.army.mil
CA Dept. of Fish and Wildlife, Sabrina Dunn, sabrina.funn@wildlife.ca.gov
CA State Lands Commission, Vicki Caldwell, vicki.caldwell@slc.ca.gov
Solano County Building Department, beilding@solanocounty.com
Solano County Building Department, building@solanocounty.com
Gregory Earl, alchemistsguild@gmail.com

Page 3 April 2, 2024

Shannon E. Clemence Enf. Case ER2023.058.00

Figure 1. Image taken underneath home of some new pilings and new wooden deck substructure.



Figure 2. Image showing some new pilings and a portion of the new deck.



Page 4 April 2, 2024

Shannon E. Clemence Enf. Case ER2023.058.00

Figure 3. Image showing some new pilings underneath home and new wooden bracing for deck.



Figure 4. Image showing new shed structure in the shoreline band.



Exhibit 6
Page 5
April 2, 2024

Appendix 1. Explanation of Standardized Fines Pursuant to the BCDC's Regulations (Effective October 1, 2022)

Enforcement Options.

Pursuant to <u>Chapter 13</u>, <u>Subchapter 2</u>, <u>Article 3</u> of the BCDC's administrative regulations, you may resolve each alleged violation without having to go through a Commission enforcement proceeding by taking each and every corrective action required by this letter and by paying the standardized fines specified in the BCDC's regulations §11390(a) or (b) or (c), as described below. Pursuant to §11390(d), if you do not make a good-faith effort to correct the alleged violations; have not corrected all the alleged violations within 125 days of the mailing date of this letter (or by the date(s) specified below); or you do not pay the amount of standardized fines assessed by the date payment is due, you may no longer have the option to settle this matter with standardized fines and we may, pursuant to BCDC's regulations §11321-11334, commence a formal enforcement proceeding that would include public hearings before the Commission, and could lead to the issuance of a cease and desist and civil penalty order with an administratively imposed civil penalty of between \$10 and \$2,000 per day, up to a maximum of \$30,000 per alleged violation.

Opportunity to Complete Corrective Action without Imposition of a Standardized Fine.

Pursuant to §11388, except as provided in §11390(c), if the person responsible for the alleged violation submits information demonstrating that the alleged violation(s) have not occurred or that the responsible person has completed each and every corrective action required by this notice within 35 days after the date of mailing printed above, the Commission shall not impose any standardized fine.

Opportunity to Complete Correction Action with Imposition of a Standardized Fine.

Except as provided in § 11390 (\underline{c}) and (\underline{d}), if the person responsible for the alleged violations noted above fails to resolve each violation within 35 days of the date of this letter, that person may resolve their enforcement case by completing each and every corrective action required by this letter and by paying a fine in the amount provided in § 11390(\underline{a}) and, where applicable, (\underline{b}), as follows:

§ 11390(a)(1). For the failure to submit an executed Commission permit before commencing the work authorized by the permit, or, for any permit issued to authorize previously commenced or completed work, for failure to return an acknowledged, executed permit within the time period stated in the permit:

Standardized Fines.

If the executed permit is received between 36 and 65 days after the date of the mailing of this letter, you may resolve the penalty portion of the alleged violation by paying a standardized fine of \$2,000. If the executed permit is received more than 65 days after the date of the mailing of this letter, you may resolve the alleged violation by paying a standardized fine of \$5,000, plus \$500 per day, from the 65th day to the date the executed permit is received, up to a maximum fine of \$30,000 per violation.

Exhibit 6
Page 6
April 2, 2024

§ 11390(a)(2). For the failure to submit any document other than an executed Commission permit in the form, manner or time required by a Commission permit:

Standardized Fines.

For each document submitted between 36 and 65 days after the date of the mailing of this letter, you may resolve alleged violation by paying a standardized fine of \$2,000 per document. For each document submitted between 66 and 95 days after the date of the mailing of this letter, you may resolve the alleged violation by paying a standardized fine of \$5,000 per document. For each document submitted more than 95 days after the date of the mailing of this letter, you may resolve the alleged violation by paying a standardized fine of \$5,000 per document, plus \$500 per day, from the 96^{th} day to the date the document is received, up to a maximum fine of \$30,000 per document.

§ 11390 (a)(3). For the failure to comply with any condition required by a Commission permit not covered by (a)(1) or (a)(2):

Standardized Fines.

If corrected between 36 and 65 days after the date of the mailing of this letter, you may resolve the alleged violation by paying a standardized fine of \$2,000 for each violation of each separate permit requirement. If corrected between 66 and 95 days after the date of the mailing of this letter, you may resolve the alleged violation by paying a standardized fine of \$5,000 for each violation of each separate permit requirement. If corrected more than 95 days after the date of the mailing of this letter, you may resolve the alleged violation by paying a standardized fine of \$5,000 for each violation noted above, plus \$500 per day per violation, from the 96th day to the date the required improvements are provided, up to a maximum fine of \$30,000 per permit requirement.

§ 11390 (a)(4). For the failure to obtain a Commission permit or an amendment to a previously issued Commission permit prior to undertaking any activity that can be authorized by an administrative permit or an amendment to a previously issued Commission permit:

Standardized Fines.

If either a complete and properly executed application accompanied by a check or money order for the application fee is submitted between 36 and 65 days and a permit or permit amendment is obtained within 155 days after the date of the mailing of this letter, or the unauthorized activity is completely corrected between 36 and 65 days after the mailing date of this letter, then you may resolve the alleged violation by paying a standardized fine of \$2,000.

If a complete, executed application and fee is submitted between 66 and 95 days and a permit or permit amendment is obtained within 185 days after the date of the mailing of this letter, or the unauthorized activity is completely corrected between 66 and 95 days after the mailing date of this letter, then you may resolve the alleged violation by paying a standardized fine of \$5,000.

Exhibit 6
Page 7
April 2, 2024

If a complete, executed application and fee is submitted, or the unauthorized activity is completely corrected, more than 95 days after the date of the mailing of this letter then you may resolve the violation by paying a standardized fine of \$5,000 plus \$500 per day from the 96th day to the date that either the complete, executed application and fee are submitted or the unauthorized activity is completely corrected, up to a maximum fine of \$30,000 per violation.

§ 11390 (a)(5). For the failure to obtain a Commission permit prior to undertaking any activity that can be authorized by either a regionwide or abbreviated regionwide permit:

Standardized Fines.

If either a complete notice of intent to proceed (NOI) under a regionwide or abbreviated regionwide permit is submitted between 36 and 65 days and said NOI is approved within 155 days after the date of the mailing of this letter, or the unauthorized activity is completely corrected between 36 and 65 days, you may resolve the alleged violation by paying a standardized fine of \$2,000.

If either a complete NOI under a regionwide or abbreviated regionwide permit is submitted between 66 and 95 days and said NOI is approved within 185 days after the date of the mailing of this letter, or the unauthorized activity is completely corrected between 66 and 95 days, you may resolve the alleged violation by paying a standardized fine of \$4,000.

If either a complete NOI under a regionwide or abbreviated regionwide permit is submitted, or the unauthorized activity is completely corrected, more than 95 days after the date of the mailing of this letter, you may resolve the alleged violation by paying a standardized fine of \$4,000, plus \$500 per day, from the 96th day to the date the NOI is submitted or the unauthorized activity is completely corrected, up to a maximum fine of \$30,000 per violation.

§ 11390 (a)(6). For the placement of fill, the extraction of materials or a change in use that could not be authorized under the Commission's laws and policies:

Standardized Fines.

If the violation is corrected and the area returned to its prior status between 36 and 65 days after the mailing of this letter, you may resolve the alleged violation by paying a standardized fine of \$3,000.

If the violation is corrected and the area returned to its prior status between 66 and 95 days after the mailing of this letter, you may resolve the alleged violation by paying a standardized fine of \$8,000.

If the violation is corrected and the area returned to its prior status more than 95 days after the mailing of this letter, you may resolve the alleged violation by paying a standardized fine of \$8,000, plus \$500 per day, to the date the violation is completely corrected, up to a maximum fine of \$30,000 per violation.

Shannon E. Clemence Enf. Case ER2023.058.00

Page 8 April 2, 2024

§ 11390(b). A person believed to be responsible for any alleged violation must pay double the amount listed in subsection (a) to resolve the alleged violation if that person has previously paid, or has been assessed but has failed to pay, any standardized fine pursuant to § 11390(a) and § 11391 within the five years prior to resolution of the alleged violation.

§ 11390(c). If a violation resolved pursuant to § 11388 is repeated by the same person within five years of the resolution of the prior violation, § 11390(a) and (b) shall not apply. Instead, the person believed to be responsible for the subsequent alleged violation may resolve the subsequent alleged violation by paying \$200 per day for each day the alleged violation occurs or persists after the mailing date of this letter.



Re: Regarding 46 Sandy Beach Rd, Vallejo

From Usher, Anne@BCDC <anne.usher@bcdc.ca.gov>

Date Wed 2/12/2025 10:22 AM

To Caldwell, Vicki@SLC <Vicki.Caldwell@slc.ca.gov>

Good morning, Vicki! Thanks so much for letting me know - and so guickly UI really appreciate it.

Best, Anne

From: Caldwell, Vicki@SLC <Vicki.Caldwell@slc.ca.gov>

Sent: Wednesday, February 12, 2025 5:25 AM

To: Usher, Anne@BCDC <anne.usher@bcdc.ca.gov> **Subject:** RE: Regarding 46 Sandy Beach Rd, Vallejo

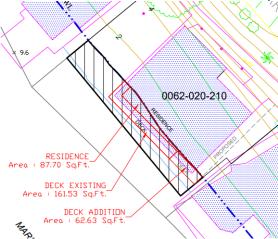
WARNING: This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

Good morning, Anne,

I hope this email finds you well!

The Lease Amendment to Lease 9313 for Shannon Clemence for the 62.63 sq. ft. deck addition is scheduled for Commission consideration at our **April 2, 2025**, **meeting**.

Here is the area of deck addition for ADA compliance.



Please let me know if you have any additional questions.

Thank you,

Vicki

Vicki Caldwell, (she, her) Compliance/Enforcement Officer

Land Management Division

CALIFORNIA STATE LANDS COMMISSION

100 Howe Avenue, Suite 100-South

Sacramento CA 95825

916.574.1894

Vicki.Caldwell@slc.ca.gov

Work Hours: Monday - Friday, 6 a.m.- 3 p.m.

1 of 2 12/02/2025, 10:25 AM



From: Usher, Anne@BCDC <anne.usher@bcdc.ca.gov>

Sent: Tuesday, February 11, 2025 3:31 PM

To: Caldwell, Vicki@SLC <Vicki.Caldwell@slc.ca.gov> **Subject:** Regarding 46 Sandy Beach Rd, Vallejo

Attention: This email originated from outside of SLC and should be treated with extra caution.

Hi Vicki,

I hope you're doing well. I wanted to see if you could please tell me where things stand with your consideration of an amendment to SLC's lease for 46 Sandy Beach Road in Vallejo (Shannon Clemence is the property owner).

I understand from speaking with Shannon's partner, Greg, that were in touch with her this summer and did a site visit after initially informing her that her construction on the house needed to be taken down because it was done without first obtaining the amendment. (And noting our enforcement case). I see that she was also in touch with someone else on SLC's staff.

Please let me know when you get a chance. Thanks!

Best, Anne

Anne Usher

Enforcement Policy Analyst (415) 352-3662 Anne.Usher@bcdc.ca.gov



San Francisco Bay Conservation and Development Commission

http://bcdc.ca.gov/enforcement

375 Beale St., Suite 510 San Francisco, CA 94105 FAX: (415) 352-3606

Main Number: (415) 352-3600

Business Days & Hours: M-F 8:30a - 5:00p

2 of 2 12/02/2025, 10:25 AM

STAFF REPORT **27**

| Α | 14 | 08/23/19 |
|---|----|------------|
| | | PRC 9313.1 |
| S | 3 | D. Tutov |

ASSIGNMENT OF LEASE

LESSEE/ASSIGNOR:

Donald G. Dopkins and Janet N. Dopkins, Co-Trustees of the Dopkins Family Trust Dated February 21, 1997

APPLICANT/ASSIGNEE:

Shannon Clemence

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Mare Island Strait, adjacent to 46 Sandy Beach Road, near Vallejo, Solano County.

AUTHORIZED USE:

Continued use and maintenance of a portion of an existing residence, deck, and appurtenant facilities.

LEASE TERM:

30 years, beginning February 9, 2016.

CONSIDERATION:

\$278 per year; with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Liability insurance in an amount no less than \$1,000,000 per occurrence.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, and 6505.5; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and the State's Best Interests Analysis:

On February 9, 2016, the Commission authorized a General Lease – Recreational and Residential Use to Donald G. Dopkins and Janet N. Dopkins, Co-Trustees of the Dopkins Family Trust Dated February 21,

STAFF REPORT NO. 27 (CONT'D)

1997 (<u>Item C31, February 9, 2016</u>). That lease will expire on February 8, 2046.

On April 30, 2019, interest in the upland parcel was deeded to Shannon Clemence. The Applicant is now requesting an assignment of the lease and agrees to perform and be bound by the terms, conditions, covenants, and agreements contained in the lease. Staff recommends an assignment of the lease to reflect the change in ownership of the upland parcel from the Assignor to the Assignee. The assignment will be effective as of the date of transfer, April 30, 2019. The lease assignment will not result in a change in the use of, or impacts to, Public Trust resources.

Climate Change:

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The lease area is located in Mare Island Strait, which is a tidally influenced site vulnerable to flooding at current sea levels and will be at higher risk of flood exposure given projected scenarios of sea-level rise. The subject facilities are also classified within FEMA's Coastal High Hazard Area as an area currently subject to inundation by the 1 percent annual chance flood event, with additional hazards due to storm-induced velocity wave action.

The California Ocean Protection Council updated the State of California Sea-Level Rise Guidance in 2018 to provide a synthesis of the best available science on sea-level rise projections and rates. Commission staff evaluated the "high emissions," "medium-high risk aversion" scenario to apply a conservative approach based on both current emission trajectories and the lease location and structures. The San Francisco tide gauge was used for the projected sea-level rise scenario for the region as listed in Table 1.

Table 1. Projected Sea-Level Rise for San Francisco¹

| Year | Projection (feet) |
|------|-------------------|
| 2030 | 0.8 |
| 2040 | 1.3 |
| 2050 | 1.9 |
| 2100 | 6.9 |

Source: Table 13, State of California Sea-Level Rise

Guidance: 2018 Update

Note: ¹ Projections are with respect to a 1991 to 2009 baseline.

STAFF REPORT NO. 27 (CONT'D)

Rising sea levels can lead to more frequent flood inundation in low-lying areas and larger tidal events and could increase inundation levels within the lease area over the term of the lease. In addition, as stated in *Safeguarding California Plan: 2018 Update* (California Natural Resources Agency 2018), climate change is projected to increase the frequency and severity of natural disasters related to flooding, fire, drought, extreme heat, and storms (especially when coupled with sea-level rise). In rivers and tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. Climate change and sea-level rise will further influence coastal and riverine areas by changing erosion and sedimentation rates. Near-coastal riverine areas will be exposed to increased wave force and run-up, potentially resulting in greater bank erosion than previously experienced. Finally, in rivers and tidally influenced waterways, flooding and storm flow will likely increase scour, decreasing bank stability and structure.

Regular maintenance and implementation of best management practices, as required by the terms of the lease, will help reduce the likelihood of severe structural degradation, dislodgement, or hazards from the electrical conduits. Further climate change impact analyses on the leased facilities will be assessed at the time the lease expires in 2046, if an application is submitted for a new lease, and would be based on projected sea-level rise scenarios at that time.

Conclusion:

For all the reasons above, staff believes the assignment of this lease will not substantially interfere with the Public Trust needs at this location, at this time, and for the foreseeable term of the lease; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

- Approval or denial of the assignment is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law.
- 2. This activity is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.

STAFF REPORT NO. 27 (CONT'D)

2. Assignment of the lease is not a project as defined by the California Environmental Quality Act because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

- Find that the existing and, for a limited period, continuing use and maintenance of a portion of the residence, deck, and appurtenant facilities are not generally consistent with the Public Trust doctrine, but the current use does not substantially interfere with the trust; and,
- 2. Find that the assignment of the proposed lease is in the best interests of the State.

AUTHORIZATION:

Authorize the assignment of Lease No. PRC 9313.1, a General Lease – Recreational and Residential Use, of sovereign land as described in Exhibit A, Land Description, and shown on Exhibit B, Site and Location Map (for reference purposes only), attached and by this reference made a part hereof; from Donald G. Dopkins and Janet N. Dopkins, Co-Trustees of the Dopkins Family Trust Dated February 21, 1997, to Shannon Clemence, effective April 30, 2019.

EXHIBIT A

PRC 9313.1

LAND DESCRIPTION

A parcel of submerged land situate in Mare Island Strait, City of Vallejo, County of Solano, State of California, lying adjacent to and within the external boundaries of Parcel 46 as shown on that certain Record of Survey titled "Sandy Beach Cabin Sites", filed February 14, 1944 in Book 1 of Maps, at Pages 1 and 2, Solano County Records, and being more particularly described as follows:

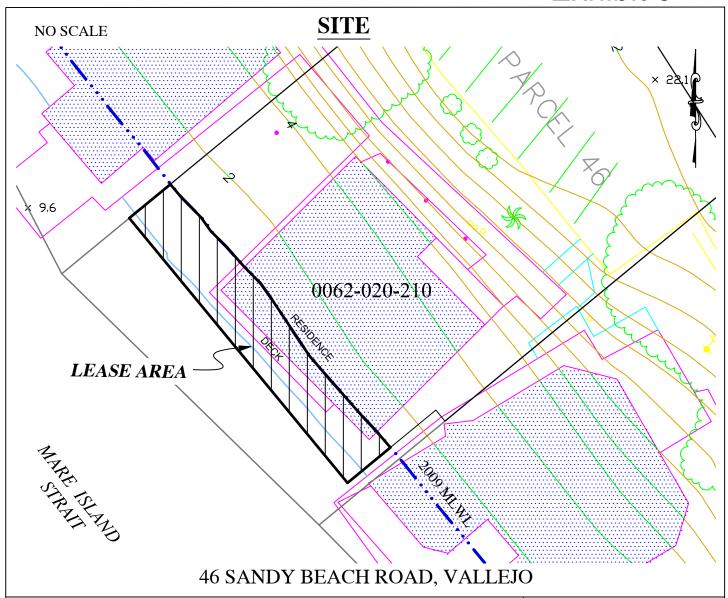
BEGINNING at the most northerly corner of said parcel; thence southwesterly along the northwesterly boundary and the southwesterly prolongation thereof, 112.8 feet; thence leaving said prolongation in a southeasterly direction perpendicular to said prolongation to a point on a line parallel with and three feet northwesterly of the southeasterly boundary of said parcel; thence northeasterly along said line, 23.8 feet; thence leaving said line in a southeasterly direction perpendicular to said line to a point on the southeasterly boundary of said parcel; thence northeasterly along said boundary to the easterly corner of said parcel; thence in the northwesterly direction along the northeasterly boundary of said parcel to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying landward of the ordinary low water mark of Mare Island Strait.

END OF DESCRIPTION

Prepared 05/13/2019 by the California State Lands Commission Boundary Unit.







LOCATION



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit B

PRC 9313.1 CLEMENCE APN 0062-020-210 GENERAL LEASE -RESIDENTIAL & RECREATIONAL USE SOLANO COUNTY





San Francisco Bay Conservation and Development Commission

375 Beale Street, Suite 510, San Francisco, California 94105 tel 415 352 3600 fax 888 348 5190 State of California | Gavin Newsom – Governor | info@bcdc.ca.gov | www.bcdc.ca.gov

Via Electronic and Certified Mail

April 2, 2024

ATTN: Shannon E. Clemence 46 Sandy Beach Road Vallejo, CA 94590

E-mail: redvine1960@gmail.com

SUBJECT: Notice of Violations (BCDC Enforcement Case ER2023.058.00)

Dear Shannon E. Clemence:

On September 19, 2023, BCDC staff received a report alleging unauthorized activities at 46 Sandy Beach Road in Vallejo, Solano County (Solano County Assessor's Parcel Number 0062-020-210). Staff informed you of these alleged violations of McAteer-Petris Act Section 66632(a) in an initial contact letter mailed to you on November 20, 2023. On January 17, 2024, staff visited the site with you and your authorized representative Mr. Gregory Earl and confirmed that violations consisted of placement of concrete pilings underneath the home and placement of decking, deck railing, and deck bracing substructure in BCDC's Bay jurisdiction, and placement of a shed structure in BCDC's 100-foot shoreline band jurisdiction. In conversations with staff, you have committed to applying for and obtaining an after-the-fact permit to authorize these projects.

You have thirty-five (35) calendar days from the date of this letter to resolve the outstanding violation described below before fines begin to accrue pursuant to California Code of Regulations, Title 14, § 11390(a)(4). A detailed description of how fines accrue is attached to this letter in Appendix 1.

Description of Violations. The placement of unauthorized fill in the Bay including concrete pilings underneath the home, and decking (including deck railing and substructure). The placement of unauthorized fill in the 100-foot shoreline band, consisting of a shed structure.

This activity represents a violation of the following:

McAteer-Petris Act Section 66632(a). Any person or governmental agency 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 shall secure a permit from the commission and, if required by law or by ordinance, from any city or county within which any part of the work is to be performed. For purposes of this title, "fill" means earth or any other substance or material, including pilings or structures placed on pilings, and structures floating



Exhibit 7
Page 2
April 2, 2024

at some or all times and moored for extended periods, such as houseboats and floating docks. For the purposes of this section "materials" means items exceeding twenty dollars (\$20) in value.

To resolve your violations, you must apply for and obtain a BCDC permit. If you fail to obtain a permit within 125 days of the mailing date of this notice, you will be subject to a formal enforcement action that may include up to \$30,000 in administrative civil penalties per violation (e.g., each individual instance of fill) found at the site and a Commission cease-and-desist order that mandates the removal of the unauthorized fill at the site.

I look forward to continuing to work with you to bring your property into compliance. Please don't hesitate to reach out with any questions.

Sincerely,

— DocuSigned by: Maithan A. Quille

MATTHEW TRUJILLO

Enforcement Policy Manager

San Francisco Bay Conservation and Development Commission

375 Beale Street, Suite 510 San Francisco, California 94105

Tel: 415-352-3633 Fax: 415-352-3606

Email: matthew.trujillo@bcdc.ca.gov

Website: www.bcdc.ca.gov

MT/mm

cc: (via e-mail only):

SF Bay Regional Water Quality Control Board, Erin Fairley, erin.fairley@waterboards.ca.gov

US Army Corps of Engineers, Bryan Matsumoto, bryan.t.matsumoto@usace.army.mil

CA Dept. of Fish and Wildlife, Sabrina Dunn, sabrina.funn@wildlife.ca.gov

CA State Lands Commission, Vicki Caldwell, vicki.caldwell@slc.ca.gov

Solano County Building Department, Denise Feiling, dmfeiling@solanocounty.com

Solano County Building Department, building@solanocounty.com

Gregory Earl, <u>alchemistsguild@gmail.com</u>

Page 3 April 2, 2024

Shannon E. Clemence Enf. Case ER2023.058.00

Figure 1. Image taken underneath home of some new pilings and new wooden deck substructure.



Figure 2. Image showing some new pilings and a portion of the new deck.



Page 4 April 2, 2024

Figure 3. Image showing some new pilings underneath home and new wooden bracing for deck.



Figure 4. Image showing new shed structure in the shoreline band.



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Page 5
April 2, 2024

Appendix 1. Explanation of Standardized Fines Pursuant to the BCDC's Regulations (Effective October 1, 2022)

Enforcement Options.

Pursuant to <u>Chapter 13</u>, <u>Subchapter 2</u>, <u>Article 3</u> of the BCDC's administrative regulations, you may resolve each alleged violation without having to go through a Commission enforcement proceeding by taking each and every corrective action required by this letter and by paying the standardized fines specified in the BCDC's regulations §11390(a) or (b) or (c), as described below. Pursuant to §11390(d), if you do not make a good-faith effort to correct the alleged violations; have not corrected all the alleged violations within 125 days of the mailing date of this letter (or by the date(s) specified below); or you do not pay the amount of standardized fines assessed by the date payment is due, you may no longer have the option to settle this matter with standardized fines and we may, pursuant to BCDC's regulations §11321-11334, commence a formal enforcement proceeding that would include public hearings before the Commission, and could lead to the issuance of a cease and desist and civil penalty order with an administratively imposed civil penalty of between \$10 and \$2,000 per day, up to a maximum of \$30,000 per alleged violation.

Opportunity to Complete Corrective Action without Imposition of a Standardized Fine.

Pursuant to §11388, except as provided in §11390(c), if the person responsible for the alleged violation submits information demonstrating that the alleged violation(s) have not occurred or that the responsible person has completed each and every corrective action required by this notice within 35 days after the date of mailing printed above, the Commission shall not impose any standardized fine.

Opportunity to Complete Correction Action with Imposition of a Standardized Fine.

Except as provided in § 11390 (\underline{c}) and (\underline{d}), if the person responsible for the alleged violations noted above fails to resolve each violation within 35 days of the date of this letter, that person may resolve their enforcement case by completing each and every corrective action required by this letter and by paying a fine in the amount provided in § 11390(\underline{a}) and, where applicable, (\underline{b}), as follows:

§ 11390(a)(1). For the failure to submit an executed Commission permit before commencing the work authorized by the permit, or, for any permit issued to authorize previously commenced or completed work, for failure to return an acknowledged, executed permit within the time period stated in the permit:

Standardized Fines.

If the executed permit is received between 36 and 65 days after the date of the mailing of this letter, you may resolve the penalty portion of the alleged violation by paying a standardized fine of \$2,000. If the executed permit is received more than 65 days after the date of the mailing of this letter, you may resolve the alleged violation by paying a standardized fine of \$5,000, plus \$500 per day, from the 65th day to the date the executed permit is received, up to a maximum fine of \$30,000 per violation.

Exhibit 7
Page 6
April 2, 2024

§ 11390(a)(2). For the failure to submit any document other than an executed Commission permit in the form, manner or time required by a Commission permit:

Standardized Fines.

For each document submitted between 36 and 65 days after the date of the mailing of this letter, you may resolve alleged violation by paying a standardized fine of \$2,000 per document. For each document submitted between 66 and 95 days after the date of the mailing of this letter, you may resolve the alleged violation by paying a standardized fine of \$5,000 per document. For each document submitted more than 95 days after the date of the mailing of this letter, you may resolve the alleged violation by paying a standardized fine of \$5,000 per document, plus \$500 per day, from the 96^{th} day to the date the document is received, up to a maximum fine of \$30,000 per document.

§ 11390 (a)(3). For the failure to comply with any condition required by a Commission permit not covered by (a)(1) or (a)(2):

Standardized Fines.

If corrected between 36 and 65 days after the date of the mailing of this letter, you may resolve the alleged violation by paying a standardized fine of \$2,000 for each violation of each separate permit requirement. If corrected between 66 and 95 days after the date of the mailing of this letter, you may resolve the alleged violation by paying a standardized fine of \$5,000 for each violation of each separate permit requirement. If corrected more than 95 days after the date of the mailing of this letter, you may resolve the alleged violation by paying a standardized fine of \$5,000 for each violation noted above, plus \$500 per day per violation, from the 96th day to the date the required improvements are provided, up to a maximum fine of \$30,000 per permit requirement.

§ 11390 (a)(4). For the failure to obtain a Commission permit or an amendment to a previously issued Commission permit prior to undertaking any activity that can be authorized by an administrative permit or an amendment to a previously issued Commission permit:

Standardized Fines.

If either a complete and properly executed application accompanied by a check or money order for the application fee is submitted between 36 and 65 days and a permit or permit amendment is obtained within 155 days after the date of the mailing of this letter, or the unauthorized activity is completely corrected between 36 and 65 days after the mailing date of this letter, then you may resolve the alleged violation by paying a standardized fine of \$2,000.

If a complete, executed application and fee is submitted between 66 and 95 days and a permit or permit amendment is obtained within 185 days after the date of the mailing of this letter, or the unauthorized activity is completely corrected between 66 and 95 days after the mailing date of this letter, then you may resolve the alleged violation by paying a standardized fine of \$5,000.

Exhibit 7
Page 7
April 2, 2024

If a complete, executed application and fee is submitted, or the unauthorized activity is completely corrected, more than 95 days after the date of the mailing of this letter then you may resolve the violation by paying a standardized fine of \$5,000 plus \$500 per day from the 96th day to the date that either the complete, executed application and fee are submitted or the unauthorized activity is completely corrected, up to a maximum fine of \$30,000 per violation.

§ 11390 (a)(5). For the failure to obtain a Commission permit prior to undertaking any activity that can be authorized by either a regionwide or abbreviated regionwide permit:

Standardized Fines.

If either a complete notice of intent to proceed (NOI) under a regionwide or abbreviated regionwide permit is submitted between 36 and 65 days and said NOI is approved within 155 days after the date of the mailing of this letter, or the unauthorized activity is completely corrected between 36 and 65 days, you may resolve the alleged violation by paying a standardized fine of \$2,000.

If either a complete NOI under a regionwide or abbreviated regionwide permit is submitted between 66 and 95 days and said NOI is approved within 185 days after the date of the mailing of this letter, or the unauthorized activity is completely corrected between 66 and 95 days, you may resolve the alleged violation by paying a standardized fine of \$4,000.

If either a complete NOI under a regionwide or abbreviated regionwide permit is submitted, or the unauthorized activity is completely corrected, more than 95 days after the date of the mailing of this letter, you may resolve the alleged violation by paying a standardized fine of \$4,000, plus \$500 per day, from the 96th day to the date the NOI is submitted or the unauthorized activity is completely corrected, up to a maximum fine of \$30,000 per violation.

§ 11390 (a)(6). For the placement of fill, the extraction of materials or a change in use that could not be authorized under the Commission's laws and policies:

Standardized Fines.

If the violation is corrected and the area returned to its prior status between 36 and 65 days after the mailing of this letter, you may resolve the alleged violation by paying a standardized fine of \$3,000.

If the violation is corrected and the area returned to its prior status between 66 and 95 days after the mailing of this letter, you may resolve the alleged violation by paying a standardized fine of \$8,000.

If the violation is corrected and the area returned to its prior status more than 95 days after the mailing of this letter, you may resolve the alleged violation by paying a standardized fine of \$8,000, plus \$500 per day, to the date the violation is completely corrected, up to a maximum fine of \$30,000 per violation.

Shannon E. Clemence Enf. Case ER2023.058.00 Page 8 April 2, 2024

§ 11390(b). A person believed to be responsible for any alleged violation must pay double the amount listed in subsection (a) to resolve the alleged violation if that person has previously paid, or has been assessed but has failed to pay, any standardized fine pursuant to § 11390(a) and § 11391 within the five years prior to resolution of the alleged violation.

§ 11390(c). If a violation resolved pursuant to § 11388 is repeated by the same person within five years of the resolution of the prior violation, § 11390(a) and (b) shall not apply. Instead, the person believed to be responsible for the subsequent alleged violation may resolve the subsequent alleged violation by paying \$200 per day for each day the alleged violation occurs or persists after the mailing date of this letter.

Call with Matthew Trujillo, Gregory Earl, Rachel Cohen on 4/2/24 at 2:30pm

- Greg was at the county offices working with Jim O'Brian on 4/1 to obtain County permits.
- Greg is about halfway through the BCDC permit application form.
- Greg asked whether they are required to pull a permit that was retroactive to someone else's work (e.g. the pilings)?
 - MT: Yes submit the application with all the changes to the property and discuss with the permit analyst whether you can narrow the scope after you lay out the whole picture. The violations will be resolved when a permit is obtained. We recommend submitting the permit application as complete.
- Greg shared that his father passed away the night before our call.
 - MT: If you feel like this is a lot to handle, apply to appeal the 35-day timeline submit a letter to us and we will send to ED/Chair. Be realistic with the amount of time you're asking for. 2-3x 35-days seems reasonable. Give personal reason as well as any technical reasons why timeline needs to be extended.
- Greg asked whether it's realistic/reasonable to submit the application within 35-days.
 - MT: It's tight but possible. Matthew recommends submitting the appeal and asking for the extension.
- Greg asked about the maintenance topic we discussed on our site visit.
 - MT: Ask for maintenance provision so you can do minor repairs and in-kind maintenance to your pilings and deck structures.
- Greg said they pulled a County permit to redo their bathroom, but the project never materialized because it was Covid, and no contractors would come into the house. Does renovating the bathroom count as maintenance?
 - o MT: Get our authorization for the bathroom renovation. You can wait until you're ready to do the work, and then approach us for a permit amendment.

San Francisco Bay Conservation and Development Commission

375 Beale Street, Suite 510, San Francisco, California 94105 tel 415 352 3600 fax 888 348 5190 State of California | Gavin Newsom – Governor | info@bcdc.ca.gov | www.bcdc.ca.gov

April 12, 2024

TO:

Zach Wasserman <u>zack.wasserman@bcdc.ca.gov</u> (via DocuSign) Larry Goldzband <u>larry.goldzband@bcdc.ca.gov</u> (via DocuSign)

SUBJECT: Staff Recommendation to Approve Respondent's Appeal of 35-Day-Letter Time Limit Under CCR § 11391(b) (ER2023.058.00)

Dear Chair Wasserman and Executive Director Goldzband:

BCDC Enforcement Case number ER2023.058.00 concerns the unauthorized placement of fill at 46 Sandy Beach Road in Vallejo, Solano County, consisting of approximately 15 concrete piles in the Bay underneath the home, new decking cantilevered over the Bay, and a shed structure in the Shoreline Band. Staff issued a Notice of Violations on April 2, 2024, which requires the Respondent to seek and obtain a Commission permit within 35 days (or by May 7, 2024), after which standardized fines begin accruing.

Pursuant to 14 CCR § 11391(b), the Respondent submitted a letter on April 7, 2024 (enclosed), appealing the 35-day time limit to address the violations before fines begin accruing ("grace period") and proposing an alternative date of June 7, 2024 to complete the required corrective action of applying for and obtaining a permit. As you will see in her enclosed appeal letter, the Respondent requests the extension due to a recent loss in her family causing her partner and authorized representative to be out of town for a few weeks, and her role as primary caretaker to her senior mother while maintaining long work and commute hours.

Staff recommends granting the extension of the 35-day deadline to June 30, 2024 to ensure the Respondent has adequate time and to account for any unforeseen delays. The Respondent has begun seeking Solano County permits for the improvements and filling out their BCDC permit application, showing a willingness and intention to remedy their violations. The unauthorized work that was performed does not pose an immediate threat to Bay resources or public access because this is a longstanding, pile-supported residence in an established bayside neighborhood, where the applicable work was performed to maintain and safeguard the home for continued residential use. Extending the 35-day deadline would enable the Respondent to submit a complete, fileable permit application and the additional time to do so would have a negligible impact on Bay resources. Respondent, to-date, has been a willing and active partner with staff in seeking to resolve this enforcement case and in staff's opinion merits the benefit of the doubt that their determination to do so timely is genuine and their intentions in seeking this appeal are true. To this end, staff recommends approval of the appeal to extend the grace



Enf. No. ER2023.058.00 35-Day Appeal

Date

Page 3 April 12, 2024

| Please check one of the boxes indicating your decision, then sign the memorandum: |
|--|
| approve the Respondent's request to extend the 35-day time limit to June 30, 2024. |
| \Box I approve an extension of the 35-day time limit, with the following changes: |
| |
| ☐ I do not approve the Respondent's request to extend the 35-day time limit to June 30, 2024. |
| DocuSigned by: |
| R. Eachary Wasserman |
| Zachary Wasserman, Commission Chair |
| San Francisco Bay Conservation and Development Commission |
| 4/15/2024 |
| Date |
| |
| Please check one of the boxes indicating your decision, then sign the memorandum: |
| ☑ I approve the Respondent's request to extend the 35-day time limit to June 30, 2024. |
| \Box I approve an extension of the 35-day time limit, with the following changes: |
| |
| \Box I do not approve the Respondent's request to extend the 35-day time limit to June 30, 2024. |
| DocuSigned by: |
| Larry Goldzband |
| Larry Goldzband, Executive Director |
| San Francisco Bay Conservation and Development Commission |
| 4/12/2024 |



My partner Greg, must spend a few weeks in Arizona sorting family matters, related to his father's passing earlier in the week. In addition, I am also primary care taker to my 84 year old mother, juggling 50 hours work weeks in the city, not including the additional commute hours.

Please understand my willingness to complete these tasks, has been largely impacted by my work load, my mothers declining health & recent death in the family. In good faith, my history of pulling permits in Solano County, related to my property, shows a willingness to conform and abide by regulations and code compliance.

Sincerely, Shannon Clemence 46 Sandy Beach road, Vallejo,CA 415-412-6981 redvine1960@gmail.com From: Goldzband, Larry@BCDC To:

Trujillo, Matthew@BCDC; Cohen, Rachel@BCDC

Subject: RE: Wasserman - extension Date: Wednesday, April 17, 2024 11:53:19 AM

Yup!

Larry Goldzband, Executive Director

San Francisco Bay Conservation and Development Commission

larry.goldzband@bcdc.ca.gov

Mobile: (925) 818-1751 Desk: (415) 352-3653 375 Beale St., Ste. 510 San Francisco, CA 94105



From: Trujillo, Matthew@BCDC <Matthew.Trujillo@bcdc.ca.gov>

Sent: Wednesday, April 17, 2024 11:51 AM

To: Goldzband, Larry@BCDC <larry.goldzband@bcdc.ca.gov>; Cohen, Rachel@BCDC <rachel.cohen@bcdc.ca.gov>

Subject: Re: Wasserman - extension

We'll check the box for him. Approved, correct?

Best Regards,

MATTHEW TRUJILLO Enforcement Policy Manager (415) 352-3633

Matthew.Trujillo@bcdc.ca.gov http://bcdc.ca.gov/enforcement

From: Goldzband, Larry@BCDC < larry.goldzband@bcdc.ca.gov>

Sent: Wednesday, April 17, 2024 11:34:25 AM

To: Cohen, Rachel@BCDC < rachel.cohen@bcdc.ca.gov> Cc: Trujillo, Matthew@BCDC < Matthew.Trujillo@bcdc.ca.gov >

Subject: Wasserman - extension

11:32 ■■ 5GE - Zack >

iMessage Today 10:40 AM

Quick check-in: Docusign sort of screwed up we thnk — we got your signature but not a great mark on the choice between extending the time limit or not — did you approve the time extension?

Intended to I'll try to check

Don't worry. This is good enough.

Delivered







Larry Goldzband

Cell: (925) 818-1751 Office: (415) 352-3653 Sent from my iPhone

 $Gmail\ -\ Fwd:\ BCDC\ Permit\ Application\ No.\ M2024.003.00\text{-}46\ Sand...$

https://mail.google.com/mail/u/0/?ik=a6a1103734&view=pt&search=...

Sent from my iPhone

Begin forwarded message:

From: "Amezcua, Reyna@BCDC" <reyna.amezcua@bcdc.ca.gov>

Date: June 27, 2024 at 3:32:19 PM PDT

To: redvine1960@gmail.com

Subject: BCDC Permit Application No. M2024.003.00-46 Sandy Beach-After-the-fact authorization

for a new storage shed, soldier pile wall, and catwalk deck

Hello Shannon,

This is to confirm that we have received your BCDC Permit Application on the above-referenced application. Please note that Mr. Pierce Abrahamson, Permit Analyst, will email you a response letter within 30 days of application submittal or by July 10, 2024, indicating whether the application is complete or if additional material is needed to complete the application. Should you have any questions, please contact Mr. Abramson at pierce.abramson@bcdc.ca.gov.

Reyna Amezcua
San Francisco Bay Conservation and Development Commission
Bay Area Metro Center
375 Beale St., Suite 510, San Francisco, CA 94105
reyna.amezcua@bcdc.ca.gov
info@bcdc.ca.gov | www.bcdc.ca.gov
Main Office Number: (415) 352-3600



2 of 2

BCDC

Application Shannon Clemence 06-10-2024



Property Ownership and Applicant Information (must be completed by all applicants)

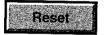
a. APPLICANT: Owns Leases Homeowner Other Property Rights: _ project project Association site owns/will own APPLICANT'S REPRESENTATIVE: None Name/Title: Shannon Clemence Name/Title: ___ Address: 46 Sandy Beach Road Address: ____ City, State, Zip: Vallejo, CA 94590 City, State, Zip: _____ Telephone :415-412-698 Fax: Telephone:_____ Fax:____ Email: redvine1960@gmail.com Email: ____ I hereby authorize to act as my representative and bind me in all matters concerning this application. SHANNON CLEUENLE Signature of Applicant Print Name b. CO-APPLICANT: Owns Leases Homeowner Other Property Rights: project project Association site owns/will own CO-APPLICANT'S REPRESENTATIVE: None Name/Title: Address: __ Address: City, State, Zip: City, State, Zip: ___ Telephone: ____ Fax: ____ Telephone: _____ Fax: ____ Email: I hereby authorize to act as my representative and bind me in all matters concerning this application. Signature of Co-Applicant Print Name Date (mm/dd/yyyy) PROPERTY OWNER: Same As Applicant or Co-Applicant OWNER'S REPRESENTATIVE: None Name/Title: Name/Title: Address: __ Address: _ City, State, Zip: City, State, Zip: Telephone: _____ Fax: ____ Telephone: _____ Fax: I bereby authorize to act as my representative and bind me in all matters concerning this application. SHANNON CLEMENCE Signature of Owner Print Name

BCDC Application Form Page 1

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Exhibit 9





San Francisco Bay Conservation and Development Commission

375 Beale Street, Suite 510, San Francisco, California 94105 tel 415 352 3600 fax 888 348 5190 State of California | Gavin Newsom – Governor | info@bcdc.ca.gov | www.bcdc.ca.gov

BCDC Application Form

| For BCDC Use Only |
|---------------------|
| Application number: |
| Fee: |

Checklist of Application Requirements (For Applicant's Use)

| | Major Permit | Administrative Permit | Regionwide Permit |
|---|---|--|--|
| Application Form | One fully completed and signed original and seven copies | One fully completed and signed original | One fully completed and signed original |
| Large Scale Project Site Plan | Опе сору | One copy | One copy |
| 8.5"x11" Project Site Plan | Seven copies | One copy | Опе сору |
| 8.5"x11" Public Access and Open Space Plan | Severi copies | One copy | None |
| 8.5"x11" Vicinity Map | Seven copies | One copy | Опе сору |
| Proof of Legal Property Interest | Опе сору | One copy | Опе сору |
| Local Government Discretionary Approval | One copy | One copy | None |
| Environmental Documentation | One copy of environmental determination and EIR or EIS Summary | One copy of environmental determination | None |
| Water Quality Certification/Waiver | Orie copy, if applicable | One copy, if applicable | One copy, if applicable |
| Dept. of Toxic Substances Control Approval | One copy, if applicable | One copy, if applicable | One copy, if applicable |
| Biological Opinion/Take Authorization from state and federal agencies | One copy, if applicable | One copy, if applicable | Not applicable |
| Application Processing Fee | As specified in Commission regulations, Appendix M | As specified in Commission regulations, Appendix M | As specified in Commission regulations, Appendix M |
| Notice of Application* | Posted at project site | Posted at project site | Posted at project site |
| Certification of Posting the Notice of Application* | One signed original returned to BCDC | One signed original returned to BCDC | One signed original returned to BCDC |

*BCDC staff will provide the forms for posting the Notice of application and the Certification.

Authority: Reference: Sections 66632, Government Code; and Section 29201(e), Public Resources Code.
Sections 65940-65942, 66605, 66632(b) and (f) and 84308, Government Code; Sections 2770, 2774, 21080.5, 21082, 21180 and 29520, Public Resources Code; and the San Francisco Bay Plan.

15 of 49 07/02/2025, 12:36 PM

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(Box 1, Property Ownership and Applicant Information, continued)

d. Provide documentation of property interests, such as a copy of a grant deed, lease or easement, and Conditions Covenants and Restrictions, for a homeowner's association, that demonstrates that the owner or applicant has adequate legal interest in the property to undertake the proposed project. See Commission regulations Appendix F for complete details.

e. DISCLOSURE OF CAMPAIGN CONTRIBUTIONS:

The following contributions of more than \$250 were made by the applicant or applicant's representative to a BCDC commissioner's alternate in the preceding twelve months to support the commissioner's or alternate's campaign for election to a local, state or federal office.

| Contribution Made To: | Contribution Made By: | Date of Contribution: |
|--------------------------------------|-----------------------|-----------------------|
| | | 1 |
| No such contributions have been made | | |

f. CERTIFICATION OF ACCURACY OF INFORMATION AND AUTHORIZATION TO INSPECT:

I hereby certify under penalty of perjury that to the best of my knowledge the information in this application and all attached exhibits is full, complete, and correct, and I understand that any misstatement or omission of the requested information or of any information subsequently requested shall be grounds for denying the permit, for suspending or revoking a permit issued on the basis of these or subsequent representations, or for the seeking of such other and further relief as may seem proper to the Commission. I further agree that the Commission staff may, with 24 hours notice, inspect the project site while this application is pending.

| the last | 06/10/2024 |
|--|--------------------|
| Signature of Applicant or Applicant's Representative | Date (mm/dd/yyyy) |
| | |
| Signature of Co-applicant or Co-applicant's Representative | Date (mm/dd/yyyy) |
| ■ | |
| Signature of Co-applicant or Co-applicant's Representative | Date(mm/dd/yyyy) |
| = | |
| Signature of Co-applicant or Co-applicant's Representative | Date (mm/dd/yyyy) |



Total Project and Site Information (must be completed by all applicants)

| a. | Project Street Address: | 46 Sandy Beach Road | | | |
|----|---|-------------------------------------|-------------|-------------------|-------------|
| b. | City, County, Zip: | Vallejo, CA 94590 | | | |
| c. | Assessor's Parcel Number(s): | 0062020210 | | | |
| d. | Latitude: | 122-14-23-W | Longitude: | 38-04-35-N | |
| e. | Previous BCDC permit number(s) | for work at this site: | | | |
| f. | Project Name: As built STORA | GE SHED, CATWALK DEC | K, SOLD | IER PILE WALL | |
| g. | Brief Project Description: As-built | , after the fact construction | of a store | age shed, ADA fi | e |
| | escape catwalk deck and a | soldier pile wall wall/fence. | | | |
| h. | Date work is expected to begin: | | | | |
| | Date work is expected to be comp | leted: work completed | | | |
| i. | | 12, 500.00 | | - AF-15- | |
| j. | Length of shoreline on the project | | | 1110 | feet |
| k. | Length of shoreline at adjacent pro | operty owned or controlled | y-1 | 1 11076 | |
| | by the applicant: 61'-0" Lineal f | eet | | | feet |
| I. | Approximate size of project site w | ithin BCDC's "shoreline band" juris | sdiction: | 125.25 | square feet |
| m. | Approximate size of project site w "certain waterway" jurisdiction: | thin BCDC's "Bay" or | | 12.25 | square feet |
| n. | Approximate size of project site w salt pond jurisdiction: | thin BCDC's managed wetland or | | 0 | square feet |
| Ο. | Approximate size of project site w | thin the Suisun Marsh: | | N/A | square feet |
| p. | Approximate size of project site ou | itside of BCDC's jurisdiction | | 0 | square feet |
| q. | Approximate total size of project s jurisdiction): | ite (including areas outside BCDC | a's | 125.25 | square feet |
| r. | Area of total project site reserved | or non-public access uses: | | N/A | square feet |
| S. | Area of total project site reserved | or public access: | | N/A | square feet |
| t. | Does the project involve developm Yes N | | ent area of | the Suisun Marsh? | |
| | If "Yes," provide any relevant duck | club number(s): | | | |
| | | BCDC Application Form Page 3 | 3 | | |

(Box 2, Total Project and Site Information, continued)

u. Project Details. Complete all that apply.

| ı | posed Elements of Project | Wate Mand Wetla Suisu | Certain rway, | In BCDO Shorelin Band jurisdic | ne | Outsic BCDC jurisdi | 's | Tot | als |
|----|--|--------------------------------|------------------|---|---------------------|---------------------------|--------|-------|---------------------|
| 1. | Structures | 0 | sq.ft. | 104 | _sq.ft. | 0 | sq.ft. | 104 | _sq.ft. |
| 2. | All Roads, Parking, Pathways, Sidewalks | 0 | sq.ft. | 0 | _sq.ft. | 0 | sq.ft. | | _sq.ft. |
| 3. | Number of Parking Spaces: | | 0 | 10 |) | | | 1 | 0 |
| 4. | All Landscaping | 0 | sq.ft. | 0 | _sq.ft. | 0 | sq.ft. | 0 | _sq.ft. |
| 5. | Left undeveloped | 0 | sq.ft. | 0 | _sq.ft. | 0 | sq.ft. | 0 | _sq.ft. |
| 6. | Shoreline Protection | Ō | sq.ft. | 0 | _sq.ft. | 0 | sq.ft. | 0 | _sq.ft. |
| 7. | Piers, docks and other marine-related purposes | 0 | sq.ft. | 0 | _sq. ft. | 0 | sq.ft. | 0 | _sq.ft. |
| 8. | Areas used for other purposes (specify) | 0 | sq.ft. | 21.25 | _sq.ft. | | sq.ft. | 21.25 | _sq.ft. |
| To | tals: | 0 | sq.ft. | 125.2 | 5 _{sq.ft.} | | sq.ft. | 125.2 | 5 _{sq.ft.} |

^{*} If project will occur in more than one of these jurisdictions, provide the requested information for each area separately.

about:blank

(Box 2, Total Project and Site Information, continued)

- V. INFORMATION ABOUT THE TOTAL PROJECT AND SITE (PROVIDE IN AN ATTACHMENT):
 - 1. Provide a detailed project description.
 - 2. Describe the existing condition of the site, including the elevations, underwater topography, vegetation, structures and uses. Provide one or more photographs of existing site conditions.
 - Identify bathymetric features, tidal hydrology and sediment movement at the project site and describe how the project may influence these factors.
 - Endangered or Threatened Species.
 - a. Identify any known threatened or endangered species, or any species that the California Department of Fish and Game or a federal wildlife agency has determined are candidates for listing as threatened or endangered species, or any species that provide substantial public benefits that may be found at the project site.
 - b. Provide any "biological opinion" issued by a state or federal agency as the result of an endangered species consultation.
 - c. Provide any "take" authorizations issued by the state or federal resource agencies.
 - 5. Identify any subtidal areas that are scarce or that have an abundance and diversity of fish, other aquatic organisms and wildlife (e.g., eel grass beds, sandy deep water or underwater pinnacles) at the site. Add the identified areas to the project site plan (see below).
 - 6. Indicate whether the project would involve the release of pollutants or have the potential for accidental pollutant discharge into the Bay. If so, describe how the proposed project has been designed and would be constructed and maintained to prevent or minimize the discharge of pollutants into the Bay, including non-point source pollution (storm water runoff). Provide any storm water pollution prevention plans, when available, storm water management plans, or other water pollution or erosion and sediment control plans showing proposed best management practices developed for the project and the project site.
 - 7. Identify any suspected or known sites of toxic contamination on or in proximity to the project site, and provide the following information: (a) the types of pollutants present; (b) the location of the pollutants (show on the site plan); (c) the extent to which the pollutants are accessible to humans, fish, wildlife or vegetation, or are moving offsite; and (d) steps being taken (including government actions) to control or clean up the pollutants.
 - 8. Provide a copy of any water quality certification or waste discharge requirements that are required by the San Francisco Bay Regional Water Quality Control Board, and any approvals that are required by the State Department of Toxic Substances Control.
 - 9. You must provide information to show that your project would be consistent with the Commission's laws and policies. This application addresses the most common policies raised by most projects. The Commission staff will assist you in identifying additional policies, if any, that apply to your project. Once they are identified, please explain how they offer support for your project and how the project would be consistent with them. The Commission's laws and policies may be found in the digital library at www.bcdc.ca.gov.
- PROJECT PLANS: Provide the following types of plans: (a) vicinity map sized 8.5"x11"; (b) public access
 and open space exhibit; (c) project site plan reduced to 8.5"x11"; and (d) full-sized project site plan.
 - PLAN REQUIREMENTS: The public access and open space exhibit must include property boundaries, proposed structures, and an accurate depiction of areas to be provided as public access, open space and view corridors. At a minimum, the project site plan must include property boundaries, all existing and proposed structures and improvements (with cross sections and elevations if necessary), and any tidal marshes and tidal flats. All plans must include a graphic scale, a north arrow, the date and name of the person who prepared the plans, and a depiction of the edge of the Commission's jurisdiction over the Bay or certain waterway (mean high water or, in tidal marshlands, the inland edge of marsh vegetation up to five feet above Mean Sea Level), and the edge of the Commission's shoreline band jurisdiction (100 feet wide measured from the edge of the Bay). See also Appendix F for details.



Fill Information

("Fill" means earth or any other substance or material, including pilings or structures placed on pilings, and structures floating at some or all times and moored for extended periods, such as houseboats and floating docks. Gov. Code Section 66632(a))

| a | . Complete this box if fill would be placed in any of these areas (check a | all those that apply |) : |
|----|---|----------------------|--------------------|
| | San Francisco Bay Salt pond Managed w | vetland | "Certain waterway" |
| | Primary management area of the Suisun Marsh Other: | | |
| b | . Surface area of tidal and subtidal property to be covered with fill: | 0 | square feet |
| c. | Total volume of solid fill to be placed in tidal and subtidal areas: | 0 | cubic yards |
| d. | Type of Fill. Surface area of proposed: | | |
| | Solid fill: | 0 | square feet |
| | Floating fill: | 0 | square feet |
| | Pile-supported fill: | 0 | square feet |
| | Cantilevered fill: | 0 | square feet |
| | Total area to be filled: | O | square feet |
| e. | Types of Areas to be filled. Of the total area to be filled, what is the footprint of fill that would be placed in: | | |
| | Open water: | 0 | square feet |
| | Tidal marsh: | 0 | square feet |
| | Tidal flat: | 0 | square feet |
| | Salt pond: | 0 | square feet |
| | Managed wetlands in the primary management area of the of the Suisun Marsh: | 0 | square feet |
| | Other managed wetlands: | 0 | square feet |
| f. | Area on new fill to be reserved for: | | |
| | Private, commercial, or other non-public-access uses: | 0 | square feet |
| | Public access: | 0 | square feet |

(Box 3, Fill Information, continued)

g. INFORMATION REGARDING FILL (PROVIDE IN AN ATTACHMENT):

- Provide dimensions of portions of all structures to be built on new fill, including length, width, area, height
 and number of stories.
- 2. Provide one or more photographs of existing shoreline conditions.
- 3. Explain the purpose of fill in the Bay, salt pond, managed wetland, certain waterway, or Suisun Marsh considering that the Commission can approve new fill for only five purposes: (a) accommodating a water-oriented use; (b) minor fill for improving shoreline appearance; (c) minor fill for providing new public access to the Bay; (d) accommodating a project that is necessary to the health, safety, or welfare of the public in the entire Bay Area; and (e) accommodating a project in the Suisun Marsh that is consistent with either: (1) the Suisun Marsh Preservation Act and the Suisun Marsh Protection Plan; or (2) the Suisun Marsh Local Protection Program.

4. Explain:

- (a) what possible impacts the fill would have on the Bay Area, including impacts on: (1) the volume of Bay waters, on Bay surface area, or on the circulation of Bay water; (2) water quality; (3) the fertility of marshes or fish or wildlife resources; and (4) other physical conditions that exist within the area, including land, air, water, minerals, flora, fauna, noise, or objects of historic or aesthetic significance; and
- (b) how the nature, location, and extent of the fill would minimize possible harmful conditions or effects to the Bay.
- 5. For projects in subtidal areas that have an abundance and diversity of fish, other aquatic organisms and wildlife, or are scarce such as eelgrass beds and sandy deep water, identify feasible alternatives and public benefits associated with the project.
- 6. Explain: (a) why the fill would be the minimum amount necessary; and (b) why there is no alternative upland location for the project that would avoid the need for Bay fill.
- If the fill is to be used for improving shoreline appearance or providing new public access to the Bay, explain why it is physically impossible or economically infeasible to accomplish these goals without filling the Bay.
- 8. Explain how the fill would result in a stable and permanent shoreline.
- 9. Explain the steps that would be taken to assure that the project will provide reasonable protection to persons and property against hazards of unstable geologic or soil conditions, of sea level rise, or of flood or storm waters.
- 10. Provide the names, addresses, and telephone numbers of any licensed geologists, engineers, or architects involved in the project design who can provide technical information and certify the safety of the project.
- 11. Describe in detail the anticipated impacts of the fill on the tidal and subtidal environment, and describe how these impacts would be addressed or mitigated, and explain how the public benefits of the project would clearly exceed the public detriment from the loss of water area, tidal marsh or tidal flats.
- 12. For marina projects, indicate how many berths, if any, are to be made available for live-aboard boats and explain how these live-aboard boats would contribute to public trust purposes.
- 13. For tidal, subtidal and other wetland restoration projects, including mitigation projects: (a) identify specific long-term and short-term biological and physical goals; (b) identify success criteria; (c) provide a monitoring program intended to assess the success and sustainability of the project; (d) include an adaptive management plan with corrective measures, if needed, to achieve success and sustainability; and (e) identify the provisions for long-term maintenance, as required by the Bay Plan policies on Mitigation, Tidal and Subtidal Areas. The Commission's laws and policies may be found at www.bcdc.ca.gov in the digital library.

about:blank



Shoreline Band Information

("Shoreline band" means the land area lying between the Bay shoreline and a line drawn parallel to and 100 feet from the Bay shoreline. The Bay shoreline is the Mean High Water Line, or five feet above Mean Sea Level in marshlands.)

| a. | Does the project involve development within the 100-foot shoreline band around San Francisco Bay? Yes No |
|----|---|
| | |
| | If "Yes," complete this box. |
| b. | Types of activities to be undertaken or fill, materials or structures to be placed within the shoreline band: |
| | ADA/fire escape catwalk 48" wide decking, Storage Shed, Soldier pile wall/gate. |
| | |
| | |
| C. | Would the project be located within a priority use area designated in the San Francisco Bay Plan? Yes No |
| | The Bay Plan and Maps that depict priority use areas can be viewed in the digital library at www.bcdc.ca.gov. |
| | If "No," go to section (d). If "Yes," please indicate which priority use the area is reserved for: |
| | Would the project use be consistent with the priority use for which the site is reserved? Yes No |
| | If "Yes," go to section (d). If "No," attach an explanation of how the project can be approved despite this inconsistency. |
| d. | Total shoreline band area: Within project site: 125.25 square feet |
| | To be reserved for private, non-public access uses: 125.25 square feet |
| | To be reserved for public access: 0 square feet |
| | |
| e. | INFORMATION ABOUT WORK PROPOSED IN THE SHORELINE BAND (PROVIDE IN AN ATTACHMENT): |
| | Provide dimensions of portions of all structures to be built within the shoreline band, including length, width, area, height, and number of stories. |
| | 2. Provide one or more photographs of existing conditions within the 100-foot shoreline band. |
| | |

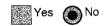


Public Access Information

(must be completed by all applicants)

a. PUBLIC ACCESS DETAILS:

 Does public access to the shoreline or do views to the Bay presently exist at the project site, at a contiguous property, or from nearby roads or public access areas?



If "Yes" attach a description of the existing public access and views at these areas.

If "No," explain what is preventing public access to, or views of, the shoreline.

- Describe how the project would or would not adversely impact present and future public access and views to the Bay. If so, describe how the proposed public access would offset the impact.
- For most large projects, identify: (1) the existing number of people or employees using the site; and (2) the existing number of cars, bicycles, and pedestrians visiting the site and the level of service of all nearby roads leading to the site. Describe how the project would change these factors.
- 4. Identify the public's use of existing nearby parks, public access, public parking and other recreational areas on the shoreline and the roads leading to the site and describe the impact the project is expected to have on that use.
- 5. Do public safety considerations or significant use conflicts make it infeasible to provide new public access to the shoreline on the project site?



If "Yes," describe the public safety considerations or significant use conflicts that make it infeasible to provide public access at the project site and either: (1) identify an offsite area where public access to the shoreline is proposed as part of the project and describe the proposed public access area and improvements at that location; or (2) explain why no offsite public access is proposed as part of the project.

(Box 5, Public Access, continued)

| 6. | Dimensions of the public acces | s areas: | None Proposed | | |
|-------|--|----------|---------------|-------------|---|
| | | Existing |] | Proposed | |
| inclu | public access area ding areas outside the mission's jurisdiction: | | square feet | 0 | square feet |
| | ic access within Commission's eline band jurisdiction: | s | linear feet | 0 0 0 | square feet linear feet average width |
| | ic access pathways, walks in the shoreline band: | | square feet | 0 | square feet |
| | | | | 0 | linear feet average width |
| | ic access area, landscaping e shoreline band: | | square feet | 0 | square feet |
| Bay, | ic access on fill within Commi certain waterway, and aged wetlands jurisdiction: | | linear feet | 0 0 0 | square feet linear feet average width |
| | | | linear feet | 0 0 0 | square feet linear feet average width |
| Viev | _ | | linear feet | 0 0 | square feet linear feet average width |
| Publ | ic Access Parking: | | stalls | 0 | stalls |

b. ADDITIONAL PUBLIC ACCESS INFORMATION (PROVIDE IN AN ATTACHMENT):

- Describe the existing and proposed public access improvements, both on-site and off-site, including decks, piers, pathways, sidewalks, signs, benches, landscaping, parking, and any other proposed public improvements.
- 2. Describe how the public access area and facilities would be accessible to disabled persons.
- 3. Describe the proposed connections to existing public streets or offsite public pathways.
- Specify how the public access areas would be permanently guaranteed (e.g., dedication, deed restriction, etc.) and how the areas and improvements would be maintained.
- 5. Describe the species present, wildlife use, and habitat conditions in and adjacent to the proposed public access areas and the likely type and degree of human use of the site (i.e., bicycling, dog walking, birding, frequency of use, etc.). Describe how any potential adverse effects on wildlife from public access would be avoided or minimized through the siting, design and management of the public access being proposed at the site.

Box 6

Dredging and Mining Information

| a. | Complete this box if the project involves mining, dredging or the disposal of dredged material in any of the following areas. | | | | | |
|----|---|--|--|----------------|--------------------|--|
| | San Francisco Bay | alt pond | Managed wetla | nd " | Certain waterway" | |
| | Primary management area | | Other: None | | | |
| b. | Are you submitting a separate a | ******** | ed Material Managem | ent Office (DN | MMO)? | |
| | | es 🌠 No | | | | |
| | If "Yes," attach a copy of that ap | oplication; it is not nece | ssary to complete this | Box. If "No," | complete this box. | |
| c. | Type of activity: | Maintenance Dredging | New Dredging | ! | Mining | |
| d. | Method of dredging or mining: | None | | | | |
| | | | | | | |
| e. | Total volume and area of mater | rial to be dredged or mi | ned from: | | | |
| | Open waters: | | cubic yards | 0 | square feet | |
| | Tidal marshes: | | cubic yards | 0 | square feet | |
| | Tidal flats: | | cubic yards | 0 | square feet | |
| | Salt ponds: | | cubic yards | 0 | square feet | |
| | Managed wetlands in the prima | ary management area c | of the Suisun Marsh: | | | |
| | | | cubic yards | 0 | square feet | |
| | Other managed wetlands: | | cubic yards | 0 | square feet | |
| | Subtidal areas that are scarce other aquatic organisms and w | or have an abundance rildlife, such as eelgrass | and diversity of fish, s beds and sandy dee | _ | | |
| | | | cubic yards | 0 | square feet | |
| | Other (specify): | | cubic yards | 0 | square feet | |
| f. | Are knockdowns proposed as | part of the dredging pro | oject? | | | |
| | | Yes 📝 No | | | | |
| | Number of knockdowns: | 0 | | | | |
| | Volume per knockdown event: | 0 | cubic yards | | | |
| | • | BCDC Application F | Form Page 11 | | | |

(Box 6, Dredging and Mining Information, continued)

| 9 | LO | cation(s) where dredged or mined material will be deposited: | None | |
|----|------|--|---|--|
| | _ | | | |
| h. | Tot | tal volume of dredged material to be disposed: | bic yards | |
| | Ber | neficially re-used: 0 cubic yards | | |
| i. | Esti | imated future maintenance dredging required annually: 0 | cubi | ic yards |
| j. | For | dredging projects: | | |
| | Proj | posed design depths (MLLW): (1) 0 posed over-depth dredging (+ feet): (1) 0 | (2) 0 | (3) 0 |
| | Proj | posed over-depth dredging (+ feet): (1) 0 | (2) 0 | (3) 0 |
| | ivun | nber of dredging episodes: 0 | | |
| k. | Doe | es this project have an annual average dredging average of 50,0 | | |
| | | Yes No | 00 cubic yards or I | ess? |
| l. | ADD | DITIONAL INFORMATION (PROVIDE IN AN ATTACHMENT): | | |
| | 1. | If the dredged material is to be disposed of in the Bay, exp beneficially re-used or disposed of in the ocean, upland, jurisdiction. | plain why the mate or inland outside | erial cannot feasibly be of the Commission's |
| | 2. | Provide the results of testing for biological, chemical or placedged. | hysical properties | of the material to be |
| | 3. | Provide a copy of a water quality certification or waste disc disposal of dredged material from the San Francisco Bay Region | charge requiremen | nts for the dredging or |
| • | 4. | Identify local and Bay-wide effects of the project on: (a) the pospecies; (b) tidal hydrology and sediment movement; (c) fis (d) aquatic vegetation; and (e) the Bay's bathymetry. | | |
| į | 5. | For projects in subtidal areas that have an abundance and dive wildlife, or are scarce such as eelgrass beds and sandy deep | ersity of fish, other | aquatic organisms and |

BCDC Application Form Page 12

wildlife, or are scarce such as eelgrass beds and sandy deep water, identify feasible alternatives and

public benefits associated with the project.



Information on Government Approvals (must be completed by all applicants)

| | Required (ES NO | Type of Approval | Date Approval Expected/Received | Agency Contact and Phone Number |
|--|--------------------|---------------------|------------------------------------|------------------------------------|
| ocal Government Discretionary Approval(s): | Yes No | Deck, shed & | | Solano County - Taylor Kauffi |
| State Lands Commission: | Yes No | Deck | | Vicki Caldwell 916-574-1894 |
| Regional Water Quality Control Board: | Yes No | <u>Deck</u> | nal Board Number: | |
| California Dept. of Toxic Substances Control: | Yes No | | | |
| California Department of Fish and Game Streambed Alteration Permit: | Yes No | | | |
| DF&G Take Authorization: | Yes No | | | |
| Other DF&G Permit: | Yes No | | | |
| U.S. Army Corps Of Engineers: | Yes No | Deck | | Bryan Matsumoto 415-503-6 |
| | | | Public Notice Number | er: |
| U.S. Fish and Wildlife Service: Take Authorization | Yes No | | | |
| Biological Opinion: | | | | |
| NOAA Fisheries Service: Take Authorization | | | | |
| Biological Opinion | Yes No Yes No | | | |
| U.S. Coast Guard: | Yes No | | | |
| Federal Funding: | Yes No | | | |
| Other Approval (Specify): | : | | | |



Environmental Impact Documentation

(must be completed by all applicants)

| a. | ls | the | project | statutorily | or | categorically | exempt | from | the | neea | Ю | prepare | arry | GHAILOHHIGHKA |
|----|----|-----|-----------|-------------|----|---------------|--------|------|-----|------|---|---------|------|---------------|
| | | | entation? | | | STARTER START | | | | | | | | |

If "Yes," please attach a statement that identifies and supports this statutory or categorical exemption.

b. Has a government agency other than BCDC, serving as the lead agency, adopted a negative declaration or certified an environmental impact report or environmental impact statement on the project?



If "Yes," attach a copy of the document. If the environmental impact report or statement is longer than ten pages, also provide a summary of up to ten pages. If "No," provide sufficient information to allow the Commission to make the necessary findings regarding all applicable policies. The certified document must be submitted prior to action on the permit.



Public Notice Information

(must be completed by all applicants)

a. Owners and residents of all properties located within 100 feet of the project site (if more than four, provide the information electronically):

East:

| | North: | | East: | | | | | |
|------------|-------------------|--|---|--|--|--|--|--|
| Name: | | Darold Sims | Name:JG SWISS POF LLC Address:240 Foster Avenue | | | | | |
| | | 15 Sandy Beach Road | | | | | | |
| | City, State, Zip: | Vallejo, CA 94590 | City, State, Zip: Dixon, CA 95620 | | | | | |
| Telephone: | | 707-980-5009 | Telephone:916-470-2376 | | | | | |
| | relepitorie. | (415) 333-3333 | (415) 333-3333 | | | | | |
| | South: | | West: | | | | | |
| | Name: | Mike & Johanna Thompson | Name:Address: | | | | | |
| | Address: | 16 Sandy Beach Road | | | | | | |
| | City, State, Zip: | Vallejo, CA 94590 | City, State, Zip: | | | | | |
| | | 707-483-3994 | Telephone:(415) 333-3333 | | | | | |
| b. | Other persons kn | nown to be interested in this project: , provide the information electronically | None). | | | | | |
| | Name: | Kim P Tony Cocarova | Name: Jill Cress | | | | | |
| | Address: | 14 Sandy Beach Road | Address: 17 Sandy Beach Road | | | | | |
| | City, State, Zip: | Vallejo, CA 94590 | City, State, Zip: Vallejo, CA 94590 | | | | | |
| | Telephone: | 707 000 F000 | Telephone:707-553-8334 | | | | | |
| | releptione. | (415) 333-3333 | (415) 333-3333 | | | | | |

San Francisco Bay Conservation and Development Commission

375 Beale Street, Suite 510, San Francisco, California 94105 tel 415 352 3600 fax 888 348 5190 State of California | Gavin Newsom – Governor | <u>info@bcdc.ca.gov</u> | <u>www.bcdc.ca.gov</u>

July 10, 2024

Shannon E. Clemence 46 Sandy Beach Road Vallejo, CA 94590 Via Email: redvine1960@gmail.com

SUBJECT: BCDC After-the-Fact Permit Application for the 46 Sandy Beach Deck, Shed, and Wall Project; BCDC Permit Application No. M2024.003.00 and Enforcement Case No. ER2023.058.00

Dear Shannon:

Thank you for your application received on June 10, 2024, for the Deck, Shed, and Wall Project at 46 Sandy Beach, Vallejo, CA 95490. This application is recognized by our staff as an after-the-fact permit application associated with BCDC enforcement case No. ER2023.058.00. Our review of the application has determined that it is incomplete pending the submittal of the following items:

1. Total Project and Site Information

While the narrative document and site plans you provided partially describe the completed project, revisions are necessary to achieve a complete and accurate project description. As described, our partial understanding of the project is as follows:

- a. Within the Bay (please confirm):
 - i. Construct 49.5 linear feet of 48"-wide Trex and douglas fir wood cantilevered deck with 4" x 4" x 48" cedar fence panels along the southeasterly side of the deck and 36"-high wood and stainless-steel cable railing handrails along the southwesterly side of the ${\rm deck}^1$.
- b. Within the 100-foot shoreline band:

¹ Please confirm that the cable railing handrail installation is only applicable to the southwesterly side



Shannon E. Clemence Permit Application No. M2024.003.00 / ER2023.058.00



- i. Construct an approximately 64'-4"-linear-foot soldier pile wall, consisting of:
 - 1. Two sliding barn doors constructed with 3- to 4-foot-long plywood and welded steel frames.
 - Structural steel I-beam posts placed 3 feet deep in 12-foot diameter burials with 5000 P.S.I sakrete concrete footings.
- ii. Construct a 9'-4" x 9'-4" storage shed of 7 to 11 feet high on stilts supported by:
 - 1. 2"x 6" and 4" x 4" pressure treated wooden posts
 - 2. 10-3/4" x 8-3/4" concrete pier blocks and three low retaining walls made from 16" x 11" CMU garden wall blocks
- iii. Construct a retaining wall to support the stairs made from 8" x 8" x 16" CMU retaining cinder blocks.

Please verify the accuracy and completeness of this information, including the total number of structures and their associated dimensions.

2. Project Clarifications

Please address the following:

- Provide the area of all structures in square feet and any other dimensions (length, width, height, depth) for specific items as needed.
- State the total current quantity of wooden support pilings and concrete support pilings.
- Your application states the wood and concrete support pilings for the deck are all "existing." However, on January 17, 2024², your authorized representative Mr.
 Gregory Earl confirmed that violations in connection to your BCDC enforcement case include the placement of concrete pilings. Please confirm that you are not

² Please see the April 2, 2024 BCDC enforcement letter, which states "On January 17, 2024, staff visited the site with you and your authorized representative Mr. Gregory Earl and confirmed that violations consisted of placement of concrete pilings underneath the home and placement of decking, deck railing, and deck bracing substructure in BCDC's Bay jurisdiction, and placement of a shed structure in BCDC's 100-foot shoreline band jurisdiction. In conversations with staff, you have committed to applying for and obtaining an after-the-fact permit to authorize these projects."



Shannon E. Clemence Permit Application No. M2024.003.00 / ER2023.058.00



including any unauthorized piling installations in your permit application. If you do decide to include any post 1969 piling installations in your permit application, please provide a detailed description of the work completed including dimensions, materials, quantity, location, and installation dates.

3. Fill and Shoreline Band Information

It appears that the project contains work in both the Commission's Bay and 100-foot shoreline band jurisdictions. The exact boundaries of the jurisdictional lines, however, are to be determined based on the revisions requested in Sections 1 and 3. Once the project description is accurately captured and the jurisdictional lines are properly mapped, please revise Boxes 3 and 4 on the application to reflect these adjustments. Boxes 3 and 4 are attached to this letter. You may also provide the corresponding corrections to Boxes 3 and 4 in a written response.

4. Project Plans

Please submit revised project plans that address the following issues:

- BCDC has two distinct jurisdictions relevant to your application: the Bay, which is defined as the elevation line of mean high water (MHW) where tidal marsh vegetation is not present, and the 100-foot shoreline band, which is the area within a line 100 feet upland from the MHW line. Please ensure both jurisdictional lines are included and properly mapped on a drawing with all the proposed structures on it. According to our records, MHW at your site is at an elevation of 5.6 feet NAVD88. We cannot accept OHT and OHW waterlines as substitutes.
- Please provide the design plans for the cantilevered deck as prepared and stamped by a registered civil engineer in California to confirm the structure is safe and will withstand earthquake forces. Please let us know if this project required a local building permit.

5. **Photographs**

The photos provided in your application do not fully capture the scope of work and are not in legible size and format. Please submit full size photos that capture the full scope of work from multiple angles. We also recommend providing captions for each photo that indicate what is being photographed and where it is located.

6. **Processing Fee**

We have received and filed a \$200 check from you on June 10, 2024. This amount will be applied to the total fee balance once the final fee amount is determined.



Shannon E. Clemence Permit Application No. M2024.003.00 / ER2023.058.00



Processing fees for BCDC applications are based on the total project cost³ and the permit type. Your application states the total project cost is \$12,500 for work including a soldier pile wall, a storage shed, a catwalk deck, and other potential supporting structures. As described, the total project cost appears lower than comparable projects. In addition to the revised project activities list we are requesting in section 1, please review the accuracy of this number and submit an itemized breakdown. This will allow us to determine the appropriate processing fee for your application.

7. Other Governmental Approvals

Your application states that approvals are required from the following agencies:

- The Solano County Department of Resource Management
- The State Lands Commission
- The San Francisco Bay Regional Water Quality Control Board

Please provide a copy of all relevant permits, certification or waivers from the above agencies.

8. Environmental Documentation

Please provide environmental documentation, as required under the California Environmental Quality Act (CEQA), in the form of a categorical or statutory exemption, negative declaration, or other certified environmental impact document.

9. Local Government Approval

Please submit all the relevant documentation which clearly indicates that all the local government discretionary approvals have been received for the project. For example, if approval is required from the City of Vallejo, this documentation should be submitted.

10. Public Notice

Please find enclosed the completed "Notice of Application" which the Commission's regulations require to be posted at or near the project site in a prominent location before a permit application can be filed. Please post the Notice so that it will be visible to the members of the public, complete the form that certifies that you have posted the Notice, and return the form to the Commission's office.

³ Total project cost means all expenditures, including the cost for planning, engineering, architectural, and other services, made or to be made for designing the project plus the estimated cost of construction of all aspects of the project both inside and outside the Commission's jurisdiction

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Shannon E. Clemence Permit Application No. M2024.003.00 / ER2023.058.00



Until the above-mentioned information is submitted and reviewed for adequacy, your application will be held as incomplete.

We appreciate your time and collaboration in working towards a satisfactory BCDC permit application for this project. If you have any questions, please reach out to me directly at pierce.abrahamson@bcdc.ca.gov.

Sincerely,

—DocuSigned by: Pierce Havahamson

-8A992957C01D4E8...

PIERCE ABRAHAMSON

Shoreline Development Analyst

Enclosures:

Boxes 3 and 4

Posting Notice

PA/ra

cc: Vicki Caldwell, State Lands Commission, Vicki.Caldwell@slc.ca.gov County of Solano Department of Resource Management San Francisco Bay Regional Water Board US Army Corps of Engineers City of Vallejo Planning Department





Site Visit Report

Site Visit Date: August 20, 2024

Enforcement Case Number: ER2023.058.00

Permit Number: M2024.003.00

Meeting Location: 46 Sandy Beach Road, Vallejo, CA, 94590 BCDC Staff: Pierce Abrahamson, Jenn Hyman, Lisa Herron

Other Attendees:

Shannon E. Clemence (homeowner)

Agenda:

- 1. Determine bay coverage of enforcement-related deck
- 2. Assess age of pilings
- 3. Assess age of other decks

Next Steps:

- 1. Shannon to submit revised application addressing points raised in the last letter AND submit under the deck photos, as it was high tide when we visited
- 2. Internal check in on determining whether the deck violates our regulations
- 3. Coordinate with enforcement team on timing of penalties in relation to application progress

Notes Summary:

- 1. The "new" deck coverage is clearly more than outlined in the application/site plan. However, it's unclear how much of what isn't in the application was merely a replacement of what burnt down in a fire or not.
- The site visit wasn't as helpful as anticipated given it was high tide. We couldn't
 determine definitively whether there are new pilings and what debris exists under
 there, but it does seem likely that her deck doesn't require them as they are
 cantilevered.
- 3. The shed and the retaining wall don't appear to be issues from a regulatory perspective.
 - >>TRUE? This is inside the shoreline band, no?
 - *I need to find out what was built on the community easement land the neighbor says she can't build on.
- 4. Another issue to inform enforcement: her neighbor is attaching their structurally failing property to her seawall

>> I need details. What are the regulations on this? Also, that property looks like it's falling apart. How do we handle that?

See Attached Photos/Drawings In folder for Further Information

PROJECT OWNER: Shannon Clemence

PROJECT LOCATION: 46 Sandy Beach Road, Vallejo, CA 94590

APN: 0062020210

BCDC ENFORCEMENT CASE: ER2023-058-00

TOTAL PROJECT & SITE INFORMATION - Attachment (Page 5 - Box 2)

1- PROJECT DESCRIPTION

After-the-fact permitting for the construction of:

- (A) SOLDIER PILE WALL 64'-4" Lineal feet of privacy and protective barrier fencing.
- (B) STORAGE SHED a 9'-4" x 9'-4" shed that contains no electricity or plumbing.
- (C) ADA/FIRE ESCAPE CATWALK DECK 48" wide X 49'-6" Lineal feet of cantilevered ADA/fire escape catwalk decking.

2- EXISTING CONDITIONS

The high tide (OHT) waterline is identified as 5'-5" and low tide (OHW) waterline is 1'-3" (please see ELEVATIONS-sheets 7 - for all (3) sets of plans. The cantilevered CATWALK DECKING is approximately 6'-2" in elevation and descends to 7'-6" at the south-easterly corner of the residence.

3- BATHYMETRIC FEATURES

The topography under 46 Sandy Beach Road, features a rocky beach littered with concrete and asphalt debris, as a former dumping spot and vacant lot. Sediment movement is largely contained by the existence of the rock, asphalt and concrete debris.

4- ENDANGERED & THREATENED SPECIES

To the best of my knowledge, I have not been able to identify any endangered or threatened species, under my home during any low tide activity, as the water recedes well beyond any sustainable habitat and there are no tidal pools or similar.

5- SUBTIDAL AREAS

The subtidal area under 46 Sandy Beach Road, is directly affected by extreme tidal action and does not sustain marine life. Further, directly under the residence, there are no tidal pools, sea grass beds or habitats for marine life.

6- RELEASE OF POLLUTANTS

There has been no release of pollutants or unlawful discharges of any hazardous contaminants on or within the property boundaries, during my ownership of 46 Sandy Beach Road. Pollutants or contaminants will NOT be introduced to the property or waterway, at any time.

7- TOXIC CONTAMINATION

There has been no release of pollutants or unlawful discharges of any hazardous contaminants on or within the property boundaries, during my ownership of 46 Sandy Beach Road. Pollutants or contaminants will NOT be introduced to the property or waterway.

8- WATER CERTIFICATION

There are NO water quality or waste discharge requirements, that are applicable to this project, to the best of my knowledge.







Exhibit 9

il - Fwd: 46 Sandy Beach road California State Lands Lease #P...

https://mail.google.com/mail/u/0/?ik=a6a1103/34&view

i will work on application this weekend.

Thank you

Shannon

Sent from my iPhone

On Jun 12, 2024, at 10:40 AM, Bryant, Jennifer@SLC < Jennifer.Bryant@slc.ca.gov> wrote:

Helio Shannon,

Thank you for your letter addressing concerns and questions regarding the additions to your property. Per LMD management, it has been concluded that in order to move forward we will need you to apply for an amendment to the lease.

You will need to complete and submit an application for amendment through our online portal found here. There is a filing fee of \$25 and an Approximate Expense Deposit of \$2,000 for a total of \$2,025 that will need to be remitted at time of submission. Payment options are available at the end of the application or directly through the payment portal also found here.

You will need the following documents available to submit with your application:

- 1. Photos of improvements
- 2. Documents from other agencies

Please let me know if you have any additional questions or concerns.

Thank you!!

<image001.png>

Jennifer Bryant, Compliance/Enforcement Officer

CALIFORNIA STATE LANDS COMMISSION

100 Howe Avenue, Suite 100 S. | Sacramento | CA 95825

Phone: 916-574-1865 | Email: jennifer.bryant@slc.ca.gov

From: shannon clemence <redvine1960@gmail.com>

Sent: Tuesday, June 11, 2024 7:44 PM

To: Caldwell, Vicki@SLC < Vicki.Caldwell@slc.ca.gov>

Subject: 46 Sandy Beach road California State Lands Lease #PRC9313.1.

Attention: This email originated from outside of SLC and should be treated with extra caution.

June 11, 2024

I want to thank you for coming out to personally view my property on May 17th, 2024, and offering myself the opportunity to share some

of 46 Sandy Beach Road.

Prior to my purchase of 46 Sandy, which was 2019, 46 Sandy sustained significant fire damage from an adjacent fire originating at 16 Sandy, previously owned

2/6/25, 12:43 PM

2 of 3

nail - Fwd: 46 Sandy Beach road California State Lands Lease #P...

https://mail.google.com/mail/u/0/?ik=a6a1103734&view=pt&searcn=...

by Elaine 'Lani' Mein. Historically, numerous Solano County of Resource Management Construction Permits were "pulled" on and for 46

This implies that the Dopkins Trust and it's heirs, may or may not have, authorized and or performed substantial home improvements on my property, in their possession and ownership.

What this nome fire displayed, was the huge reality of future cascading fires, fueled by prevailing on-shore winds, on Sandy Beach,.

Upon my purchase of 46 Sandy, I sought to remove the existing siding of my new residence, consisting of fire damaged fascia boards/roofing, and to create an additional ADA compliant fire escape - catwalk deck. In addition, fire-retardant siding substrates and an ADA compliant bathroom for my elderly mother, was planned in advance. The existing north-westerly catwalk decking is barely 28-1/2" width at best, which features an additional elevation rise/lift of 8", without an ADA approved ramp for ingress/egress.

I applied and was granted a permit, for a 48° wide x 53 foot long extension catwalk deck, from Solano County of Resource Management,

Perhaps the County could endeavor to educate and inform Sandy Beach residents of the additional permitting and requirements for lawful compliance, with the relevant governing agencies.

Upon receipt of this Solanc County permit, I invited contractors to bid on these specified work(s), who then identified asbestos siding, which was prohibitively expensive for me to remove, abate and replace. I then opted for completing the catwalk decking as permitted, to be in advance of all contractor's expectations, for supportive decking structures and an ability to perform trades in pursuit of my

Yesterday, on June 10, 2024, the Solano County of Resource Management, and BCDC, accepted my applications for "after the fact" permits, for various home improvements and general improvements, which includes: (1) soldier pile wall (2) storage shed (3) ADA/catwalk decking - with both BCDC and Solano County Department of Resource Management applications under review. Today I paid the County Permit fees and remitted payment for BCDC application fees, as well.

Please advise on how your agency wishes to proceed with my case.

Thank you, Shannon Clemence #46 Sandy Beach Road 415-412-6981 redvine1960@gmail.com

shannon's head....

2/6/25, 12:43 PM



Re: Regarding 46 Sandy Beach Rd, Vallejo

From Usher, Anne@BCDC <anne.usher@bcdc.ca.gov>

Date Wed 2/12/2025 10:22 AM

To Caldwell, Vicki@SLC <Vicki.Caldwell@slc.ca.gov>

Good morning, Vicki! Thanks so much for letting me know - and so quickly coll really appreciate it.

Best, Anne

From: Caldwell, Vicki@SLC <Vicki.Caldwell@slc.ca.gov>

Sent: Wednesday, February 12, 2025 5:25 AM **To:** Usher, Anne@BCDC <anne.usher@bcdc.ca.gov>

Subject: RE: Regarding 46 Sandy Beach Rd, Vallejo

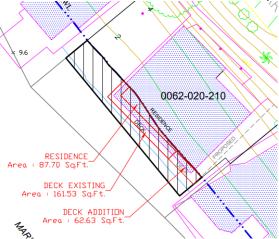
WARNING: This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

Good morning, Anne,

I hope this email finds you well!

The Lease Amendment to Lease 9313 for Shannon Clemence for the 62.63 sq. ft. deck addition is scheduled for Commission consideration at our **April 2, 2025**, **meeting**.

Here is the area of deck addition for ADA compliance.



Please let me know if you have any additional questions.

Thank you,

Vicki

Vicki Caldwell, (she, her) Compliance/Enforcement Officer

Land Management Division

CALIFORNIA STATE LANDS COMMISSION

100 Howe Avenue, Suite 100-South

Sacramento CA 95825

916.574.1894

Vicki.Caldwell@slc.ca.gov

Work Hours: Monday - Friday, 6 a.m.- 3 p.m.

1 of 2 12/02/2025, 10:25 AM



From: Usher, Anne@BCDC <anne.usher@bcdc.ca.gov>

Sent: Tuesday, February 11, 2025 3:31 PM

To: Caldwell, Vicki@SLC <Vicki.Caldwell@slc.ca.gov> **Subject:** Regarding 46 Sandy Beach Rd, Vallejo

Attention: This email originated from outside of SLC and should be treated with extra caution.

Hi Vicki,

I hope you're doing well. I wanted to see if you could please tell me where things stand with your consideration of an amendment to SLC's lease for 46 Sandy Beach Road in Vallejo (Shannon Clemence is the property owner).

I understand from speaking with Shannon's partner, Greg, that were in touch with her this summer and did a site visit after initially informing her that her construction on the house needed to be taken down because it was done without first obtaining the amendment. (And noting our enforcement case). I see that she was also in touch with someone else on SLC's staff.

Please let me know when you get a chance. Thanks!

Best, Anne

Anne Usher

Enforcement Policy Analyst (415) 352-3662 Anne.Usher@bcdc.ca.gov



San Francisco Bay Conservation and Development Commission

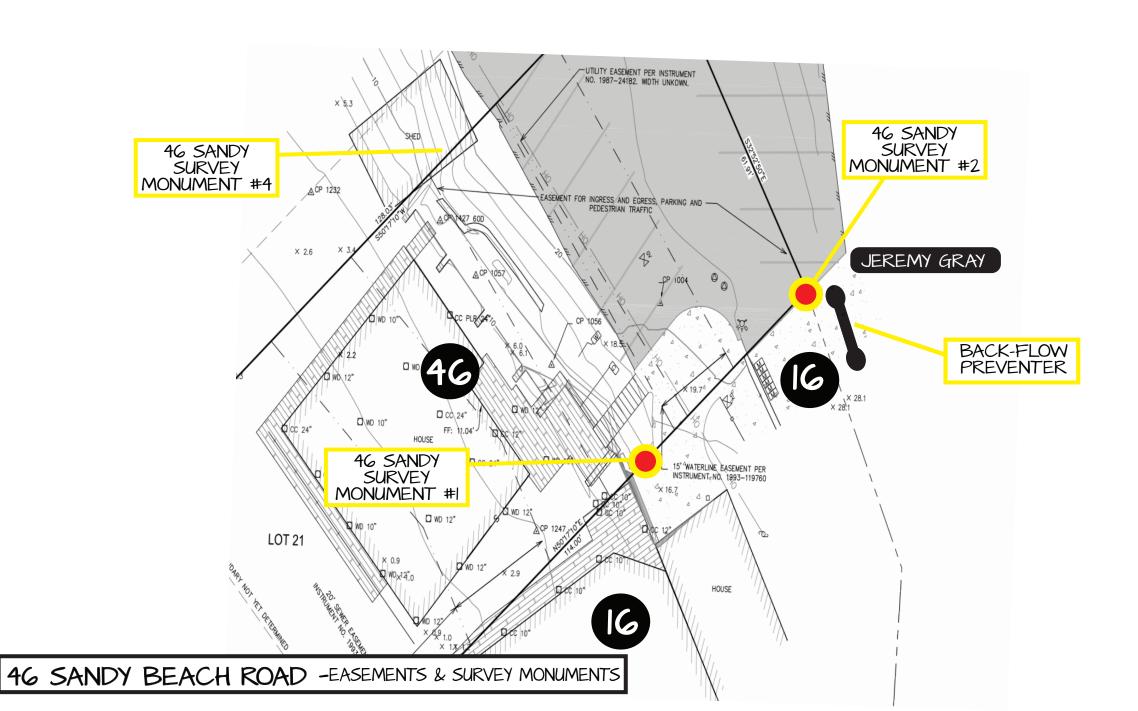
http://bcdc.ca.gov/enforcement

375 Beale St., Suite 510 San Francisco, CA 94105 FAX: (415) 352-3606

Main Number: (415) 352-3600

Business Days & Hours: M-F 8:30a - 5:00p

2 of 2 12/02/2025, 10:25 AM



Greg Earl, Shannon Clemence's partner

Phone conversation Feb. 6, 2025.

Greg said that a neighbor sued them, turned them in to BCDC.

He said Shannon bought the house in 2019 and thought she could expand it. She called the county during Covid and asked what was required. The county permitted a catwalk deck. And an abatement company told her she has asbestos.

Told her needed the cat walk. Her mom is in a wheelchair. It would help with an exit.

Sandy Beach Improvement Assoc. (quasi HOA). They are operating a 'parking scheme' on her and other parking areas. Michael Thompson = atty of record. They – filed a quit claim – can't charge for parking. She asked county what can do. They wouldn't do anything. So she built a wall system in front of her house. County said as long as within 7 ft you're ok. No one told her re BCDC.

Neighbor, other said (recently died). Mr. Simms. Did work on Shannon's house, including concrete pilings to support under the home. Before she bought it. Not sure when he did this. Then county allowed her to build a shed – 9x9 shed on her property. Claims again county didn't mention BCDC.

And she was going to do a bathroom remodel. Got permits but couldn't do the work – Covid. Didn't close out the permit with the county.

They hired a civil engineer, Ali, contracted. Just came out two days ago to certify the work that's been performed. Doing the drawings now. Yes, violations.

Spoke with Matthew two months ago. Matthew and Rachel did a site visit a long time ago – over a year ago.

They applied for an after the fact permit.

>> He's going to email me his records for when they submitted the permit and who on our staff, if anyone, was assigned to their case. I flagged the email from Vicki Caldwell.



46 Sandy Beach Road

From Gregory Earl <alchemistsguild@gmail.com>

Date Fri 2/7/2025 9:37 AM

To Usher, Anne@BCDC <anne.usher@bcdc.ca.gov>

Cc shannon clemence <redvine1960@gmail.com>

1 attachment (2 MB)

BCDC STATE LANDS DOCS Feb 06-2025.PDF;

You don't often get email from alchemistsguild@gmail.com. Learn why this is important

WARNING: This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

CC:

Redvine1960@gmail.com

Owner of 46 Sandy Beach Road -Shannon Clemence

Dear Ms. Usher,

Thank you for the opportunity to discuss 46 Sandy Beach Road and to provide you with our communication history with State Lands and BCDC.

As discussed earlier yesterday, Ms. Clemence has contracted with Ali Mahalat Engineering to guide us through this process of permitting and compliance with all the relevant agencies and authorities.

My understanding is that Mr. Malahat has experience in this process and has a working relationship with BCDC, Solano County Department of Resource Management and other governing agencies.

I last spoke with Mathew Trujillo a few months ago and gave him a similar update.

Ms. Clemence has submitted her drawings already to BCDC with her permit application, and my understanding is that Ali has taken her drawings and currently is in the process of expanding upon and completing those.

Attached are the State Lands/BCDC communications you requested in a continuous PDF file.

Vicki Caldwell / State Lands Mathew Trujillo/ BCDC Reyna Amezcua / BCDC Pierce Abrahamson / BCDC BCDC Permit Application

Please feel free to contact us anytime, Shannon and I are very motivated to resolve all issues with 46 Sandy Beach Road.

1 of 2

Sincerely, Gregory Earl 707-321-3562

Shannon Clemence 415-412-6981

2 of 2

San Francisco Bay Conservation and Development Commission

375 Beale Street, Suite 510, San Francisco, California 94105 tel 415 352 3600 fax 888 348 5190 State of California | Gavin Newsom – Governor | <u>info@bcdc.ca.gov</u> | <u>www.bcdc.ca.gov</u>

Via Electronic Mail

March 19, 2025

ATTN: Shannon Clemence 46 Sandy Beach Rd. Vallejo, CA 94590 Email: redivine1960@gmail.com

SUBJECT: Notification of Recission of the Opportunity to Resolve BCDC Enforcement Case ER2023.058.00 Using the Standardized Administrative Fines Process

Dear Ms. Clemence,

This letter serves as a notification that the San Francisco Bay Conservation and Development Commission (BCDC) will initiate a formal enforcement process regarding the following matters:

- In the BCDC's 100-foot shoreline band jurisdiction, the placement of unauthorized fill: a shed.
- In the BCDC's Bay jurisdiction, the placement of unauthorized fill: concrete pilings under the home, a deck, deck railings, and a deck-bracing substructure.

These alleged violations are associated with the property located at 46 Sandy Beach Road, Vallejo, Solano County. On April 5, 2024, you received a "Notice of Violation" notifying you of your opportunity to resolve the alleged violations at your property by completing certain corrective actions and by paying a standardized fine. BCDC then notified you on April 17, 2024, that the Commission chair and executive director had approved an extension of the standard thirty-five day grace period until June 20, 2024, pursuant to the BCDC's regulations (14 CCR) Section 11391(b).

Pursuant to Section 11390(d) of the BCDC's regulations, the executive director has determined that you have not made a good faith effort to correct the alleged violations. Therefore, the opportunity to resolve the violations through the standardized fine process in now rescinded.

You will receive a Violation Report and Complaint for Administrative Civil Liability, initiating the formal enforcement process. This report will provide detailed information on the identified alleged violations; outline next steps, including the submission of a Statement of Defense or payment of the proposed administrative civil penalty; and include information regarding a hearing date before the Commission's Enforcement Committee.



Shannon Clemence Enforcement Case No. ER2023.058.00 Page 2 March 19, 2025

In the meantime, continue any efforts that are in progress to correct the alleged violations at your property while formal enforcement is pending. Should you successfully resolve your violations while formal enforcement is pending, then we may suspend this process prior to your final hearing before the commission.

If you have any immediate questions, require clarification, or can provide evidence that the violations have been resolved, please feel free to contact me.

Thank you for your attention to this matter.

Sincerely,

DocuSigned by:

lune Uslur —798061AD3AB64EF...

ANNE USHER

Enforcement Analyst

San Francisco Bay Conservation and Development Commission

375 Beale Street, Suite 510 San Francisco, California 94105

Tel: 415-352-3662 Fax: 415-352-3606

Email: anne.usher@bcdc.ca.gov Website: www.bcdc.ca.gov

Encl.

Cc: Matthew Trujillo, enforcement manager (via email)

Amanda Boyd, staff attorney (via email)

Vicki Caldwell, compliance/enforcement officer, California State Lands Commission,

Vicki.Caldwell@slc.ca.gov

Denise Feiling, building permit technician II, Solano County's building division,

dmfeiling@solanocounty.com

San Francisco Bay Conservation and Development Commission

375 Beale Street, Suite 510, San Francisco, California 94105 tel 415 352 3600 fax 888 348 5190 State of California | Gavin Newsom – Governor | <u>info@bcdc.ca.gov</u> | <u>www.bcdc.ca.gov</u>

Via Electronic Mail Only

April 17, 2024

ATTN: Shannon E. Clemence c/o Gregory Earl

46 Sandy Beach Road Vallejo, CA 94590

E-mail: redvine1960@gmail.com, alchemistsguild@gmail.com

SUBJECT: Extension of 35-Day Time Limit (BCDC Enforcement Case ER2023.058.00)

Dear Shannon:

On April 11, 2024, BCDC staff received your appeal to extend the 35-day deadline ("grace period") to resolve the violations at 46 Sandy Beach Road, Vallejo, Solano County before fines begin accruing. The Commission's Executive Director and Chair have approved an extension of the grace period until **June 30, 2024**, pursuant to 14 CCR § 11391(b).

Please recall, to resolve the violations at your property (46 Sandy Beach Road) you should immediately file a complete BCDC permit application. If this case remains unresolved after June 30, 2024, then standardized administrative fines will begin accruing on July 1, 2024, pursuant to 14 CCR § 11390(a)(4).

Please retain a copy of this notice for your records; and let us know of any questions you may have.

Sincerely,

— DocuSigned by:

Matthur

01D29D76CC1B4FA... MATTHEW TRUJILLO

Enforcement Policy Manager

San Francisco Bay Conservation and Development Commission

375 Beale Street, Suite 510

San Francisco, California 94105

Tel: 415-352-3633

Email: matthew.trujillo@bcdc.ca.gov

Website: www.bcdc.ca.gov

MT / mm



San Francisco Bay Conservation and Development Commission

375 Beale Street, Suite 510, San Francisco, California 94105 tel 415 352 3600 fax 888 348 5190 State of California | Gavin Newsom – Governor | info@bcdc.ca.gov | www.bcdc.ca.gov

Via Electronic and Certified Mail

April 2, 2024

ATTN: Shannon E. Clemence 46 Sandy Beach Road Vallejo, CA 94590

E-mail: redvine1960@gmail.com

SUBJECT: Notice of Violations (BCDC Enforcement Case ER2023.058.00)

Dear Shannon E. Clemence:

On September 19, 2023, BCDC staff received a report alleging unauthorized activities at 46 Sandy Beach Road in Vallejo, Solano County (Solano County Assessor's Parcel Number 0062-020-210). Staff informed you of these alleged violations of McAteer-Petris Act Section 66632(a) in an initial contact letter mailed to you on November 20, 2023. On January 17, 2024, staff visited the site with you and your authorized representative Mr. Gregory Earl and confirmed that violations consisted of placement of concrete pilings underneath the home and placement of decking, deck railing, and deck bracing substructure in BCDC's Bay jurisdiction, and placement of a shed structure in BCDC's 100-foot shoreline band jurisdiction. In conversations with staff, you have committed to applying for and obtaining an after-the-fact permit to authorize these projects.

You have thirty-five (35) calendar days from the date of this letter to resolve the outstanding violation described below before fines begin to accrue pursuant to California Code of Regulations, Title 14, § 11390(a)(4). A detailed description of how fines accrue is attached to this letter in Appendix 1.

Description of Violations. The placement of unauthorized fill in the Bay including concrete pilings underneath the home, and decking (including deck railing and substructure). The placement of unauthorized fill in the 100-foot shoreline band, consisting of a shed structure.

This activity represents a violation of the following:

McAteer-Petris Act Section 66632(a). Any person or governmental agency 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 shall secure a permit from the commission and, if required by law or by ordinance, from any city or county within which any part of the work is to be performed. For purposes of this title, "fill" means earth or any other substance or material, including pilings or structures placed on pilings, and structures floating



Shannon E. Clemence Enf. Case ER2023.058.00 Page 2 April 2, 2024

at some or all times and moored for extended periods, such as houseboats and floating docks. For the purposes of this section "materials" means items exceeding twenty dollars (\$20) in value.

To resolve your violations, you must apply for and obtain a BCDC permit. If you fail to obtain a permit within 125 days of the mailing date of this notice, you will be subject to a formal enforcement action that may include up to \$30,000 in administrative civil penalties per violation (e.g., each individual instance of fill) found at the site and a Commission cease-and-desist order that mandates the removal of the unauthorized fill at the site.

I look forward to continuing to work with you to bring your property into compliance. Please don't hesitate to reach out with any questions.

Sincerely,

— DocuSigned by:
Matthur A. Quille

MATTHEW TRUJILLO

Enforcement Policy Manager

San Francisco Bay Conservation and Development Commission

375 Beale Street, Suite 510

San Francisco, California 94105

Tel: 415-352-3633 Fax: 415-352-3606

Email: matthew.trujillo@bcdc.ca.gov

Website: www.bcdc.ca.gov

MT/mm

cc: (via e-mail only):

SF Bay Regional Water Quality Control Board, Erin Fairley, erin.fairley@waterboards.ca.gov

US Army Corps of Engineers, Bryan Matsumoto, bryan.t.matsumoto@usace.army.mil

CA Dept. of Fish and Wildlife, Sabrina Dunn, sabrina.funn@wildlife.ca.gov

CA State Lands Commission, Vicki Caldwell, vicki.caldwell@slc.ca.gov

Solano County Building Department, Denise Feiling, dmfeiling@solanocounty.com

Solano County Building Department, building@solanocounty.com

Gregory Earl, <u>alchemistsguild@gmail.com</u>

Shannon E. Clemence Enf. Case ER2023.058.00 Page 3 April 2, 2024

Figure 1. Image taken underneath home of some new pilings and new wooden deck substructure.



Figure 2. Image showing some new pilings and a portion of the new deck.



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Figure 3. Image showing some new pilings underneath home and new wooden bracing for deck.



Figure 4. Image showing new shed structure in the shoreline band.



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Appendix 1. Explanation of Standardized Fines Pursuant to the BCDC's Regulations (Effective October 1, 2022)

Enforcement Options.

Pursuant to Chapter 13, Subchapter 2, Article 3 of the BCDC's administrative regulations, you may resolve each alleged violation without having to go through a Commission enforcement proceeding by taking each and every corrective action required by this letter and by paying the standardized fines specified in the BCDC's regulations §11390(a) or (b) or (c), as described below. Pursuant to §11390(d), if you do not make a good-faith effort to correct the alleged violations; have not corrected all the alleged violations within 125 days of the mailing date of this letter (or by the date(s) specified below); or you do not pay the amount of standardized fines assessed by the date payment is due, you may no longer have the option to settle this matter with standardized fines and we may, pursuant to BCDC's regulations §11321-11334, commence a formal enforcement proceeding that would include public hearings before the Commission, and could lead to the issuance of a cease and desist and civil penalty order with an administratively imposed civil penalty of between \$10 and \$2,000 per day, up to a maximum of \$30,000 per alleged violation.

Opportunity to Complete Corrective Action without Imposition of a Standardized Fine.

Pursuant to §11388, except as provided in §11390(c), if the person responsible for the alleged violation submits information demonstrating that the alleged violation(s) have not occurred or that the responsible person has completed each and every corrective action required by this notice within 35 days after the date of mailing printed above, the Commission shall not impose any standardized fine.

Opportunity to Complete Correction Action with Imposition of a Standardized Fine.

Except as provided in § 11390 (\underline{c}) and (\underline{d}), if the person responsible for the alleged violations noted above fails to resolve each violation within 35 days of the date of this letter, that person may resolve their enforcement case by completing each and every corrective action required by this letter and by paying a fine in the amount provided in § 11390(\underline{a}) and, where applicable, (\underline{b}), as follows:

§ 11390(a)(1). For the failure to submit an executed Commission permit before commencing the work authorized by the permit, or, for any permit issued to authorize previously commenced or completed work, for failure to return an acknowledged, executed permit within the time period stated in the permit:

Standardized Fines.

If the executed permit is received between 36 and 65 days after the date of the mailing of this letter, you may resolve the penalty portion of the alleged violation by paying a standardized fine of \$2,000. If the executed permit is received more than 65 days after the date of the mailing of this letter, you may resolve the alleged violation by paying a standardized fine of \$5,000, plus \$500 per day, from the 65th day to the date the executed permit is received, up to a maximum fine of \$30,000 per violation.

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§ 11390(a)(2). For the failure to submit any document other than an executed Commission permit in the form, manner or time required by a Commission permit:

Standardized Fines.

For each document submitted between 36 and 65 days after the date of the mailing of this letter, you may resolve alleged violation by paying a standardized fine of \$2,000 per document. For each document submitted between 66 and 95 days after the date of the mailing of this letter, you may resolve the alleged violation by paying a standardized fine of \$5,000 per document. For each document submitted more than 95 days after the date of the mailing of this letter, you may resolve the alleged violation by paying a standardized fine of \$5,000 per document, plus \$500 per day, from the 96th day to the date the document is received, up to a maximum fine of \$30,000 per document.

§ 11390 (a)(3). For the failure to comply with any condition required by a Commission permit not covered by (a)(1) or (a)(2):

Standardized Fines.

If corrected between 36 and 65 days after the date of the mailing of this letter, you may resolve the alleged violation by paying a standardized fine of \$2,000 for each violation of each separate permit requirement. If corrected between 66 and 95 days after the date of the mailing of this letter, you may resolve the alleged violation by paying a standardized fine of \$5,000 for each violation of each separate permit requirement. If corrected more than 95 days after the date of the mailing of this letter, you may resolve the alleged violation by paying a standardized fine of \$5,000 for each violation noted above, plus \$500 per day per violation, from the 96th day to the date the required improvements are provided, up to a maximum fine of \$30,000 per permit requirement.

§ 11390 (a)(4). For the failure to obtain a Commission permit or an amendment to a previously issued Commission permit prior to undertaking any activity that can be authorized by an administrative permit or an amendment to a previously issued Commission permit:

Standardized Fines.

If either a complete and properly executed application accompanied by a check or money order for the application fee is submitted between 36 and 65 days and a permit or permit amendment is obtained within 155 days after the date of the mailing of this letter, or the unauthorized activity is completely corrected between 36 and 65 days after the mailing date of this letter, then you may resolve the alleged violation by paying a standardized fine of \$2,000.

If a complete, executed application and fee is submitted between 66 and 95 days and a permit or permit amendment is obtained within 185 days after the date of the mailing of this letter, or the unauthorized activity is completely corrected between 66 and 95 days after the mailing date of this letter, then you may resolve the alleged violation by paying a standardized fine of \$5,000.

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Shannon E. Clemence Enf. Case ER2023.058.00

If a complete, executed application and fee is submitted, or the unauthorized activity is completely corrected, more than 95 days after the date of the mailing of this letter then you may resolve the violation by paying a standardized fine of \$5,000 plus \$500 per day from the 96th day to the date that either the complete, executed application and fee are submitted or the unauthorized activity is completely corrected, up to a maximum fine of \$30,000 per violation.

§ 11390 (a)(5). For the failure to obtain a Commission permit prior to undertaking any activity that can be authorized by either a regionwide or abbreviated regionwide permit:

Standardized Fines.

If either a complete notice of intent to proceed (NOI) under a regionwide or abbreviated regionwide permit is submitted between 36 and 65 days and said NOI is approved within 155 days after the date of the mailing of this letter, or the unauthorized activity is completely corrected between 36 and 65 days, you may resolve the alleged violation by paying a standardized fine of \$2,000.

If either a complete NOI under a regionwide or abbreviated regionwide permit is submitted between 66 and 95 days and said NOI is approved within 185 days after the date of the mailing of this letter, or the unauthorized activity is completely corrected between 66 and 95 days, you may resolve the alleged violation by paying a standardized fine of \$4,000.

If either a complete NOI under a regionwide or abbreviated regionwide permit is submitted, or the unauthorized activity is completely corrected, more than 95 days after the date of the mailing of this letter, you may resolve the alleged violation by paying a standardized fine of \$4,000, plus \$500 per day, from the 96th day to the date the NOI is submitted or the unauthorized activity is completely corrected, up to a maximum fine of \$30,000 per violation.

§ 11390 (a)(6). For the placement of fill, the extraction of materials or a change in use that could not be authorized under the Commission's laws and policies:

Standardized Fines.

If the violation is corrected and the area returned to its prior status between 36 and 65 days after the mailing of this letter, you may resolve the alleged violation by paying a standardized fine of \$3,000.

If the violation is corrected and the area returned to its prior status between 66 and 95 days after the mailing of this letter, you may resolve the alleged violation by paying a standardized fine of \$8,000.

If the violation is corrected and the area returned to its prior status more than 95 days after the mailing of this letter, you may resolve the alleged violation by paying a standardized fine of \$8,000, plus \$500 per day, to the date the violation is completely corrected, up to a maximum fine of \$30,000 per violation.

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§ 11390(b). A person believed to be responsible for any alleged violation must pay double the amount listed in subsection (a) to resolve the alleged violation if that person has previously paid, or has been assessed but has failed to pay, any standardized fine pursuant to § 11390(a) and § 11391 within the five years prior to resolution of the alleged violation.

§ 11390(c). If a violation resolved pursuant to § 11388 is repeated by the same person within five years of the resolution of the prior violation, § 11390(a) and (b) shall not apply. Instead, the person believed to be responsible for the subsequent alleged violation may resolve the subsequent alleged violation by paying \$200 per day for each day the alleged violation occurs or persists after the mailing date of this letter.

Interview with Gregory Earl and Shannon Clemence, Sept. 11, 2025

I asked about the staircase at the front of her house, which a neighbor alleged Shannon had installed. She denied doing so, saying it has been there since 1959.

Regarding the fence, Shannon said that when the fire that happened next door – before she purchased the house in 2019 – the fence had partially burned down. (One side of her house and part of the roof were also harmed).

She said she asked Solano County if she needed to replace it and staff told her that she didn't need a permit if certain conditions were met. As with the other construction on her house, Shannon contends that staff did not tell her that she first needed a BCDC permit.

She and her partner installed the new fence in September 2020.



Re: 46 Sandy Beach Road fences

From Usher, Anne@BCDC <anne.usher@bcdc.ca.gov>

Date Mon 9/15/2025 9:05 PM

To Gregory Earl <alchemistsguild@gmail.com>

Hi Greg,

Enormous thanks! I really appreciate it.

Best, Anne

From: Gregory Earl <alchemistsguild@gmail.com> Sent: Monday, September 15, 2025 3:15 PM

To: Usher, Anne@BCDC <anne.usher@bcdc.ca.gov>

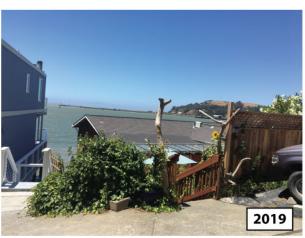
Subject: 46 Sandy Beach Road fences

WARNING: This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

Anne, as requested, here is the history of fences located on 46 Sandy Beach since Clemence's ownership from 2019 and onward.

1 of 4 17/09/2025, 2:32 PM





2 of 4 17/09/2025, 2:32 PM





3 of 4 17/09/2025, 2:32 PM











SEPTEMBER 2025

4 of 4

Statement of Defense Form

BY November 19, 2025: (1) COMPLETE THIS FORM (OR A DOCUMENT PROVIDING THE INFORMATION REQUESTED BY THIS FORM), (2) INCLUDE WITH THE COMPLETED FORM ALL DOCUMENTS, DECLARATIONS, UNDER PENALTY OF PERJURY, AND OTHER EVIDENCE YOU WANT PLACED IN THE RECORD AND TO BE CONSIDERED BY THE COMMISSION, (3) LIST ANY WITNESSES WHOSE DECLARATION IS PART OF THE STAFF CASE AS IDENTIFIED IN THE VIOLATION REPORT/COMPLAINT FOR ADMINISTRATIVE CIVIL LIABILITY THAT YOU WISH TO CROSS-EXAMINE, THE AREA OF KNOWLEDGE ABOUT WHICH YOU WANT TO CROSS-EXAMINE THE WITNESS, AND THE INFORMATION YOU HOPE TO ELICIT BY CROSS-EXAMINATION, AND (4) RETURN THE COMPLETED FORM AND ALL INCLUDED MATERIALS TO THE SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION STAFF. FAILURE TO DO SO, OR TO SUBMIT A WRITTEN EXTENSION REQUEST (AS DISCUSSED BELOW), MEANS THAT YOU WILL WAIVE THE OPPORTUNITY TO RAISE ANY DEFENSES OR MITIGATING FACTORS OR TO INTRODUCE ANY EVIDENCE AND THAT THE ENFORCEMENT COMMITTEE OR COMMISSION CAN REFUSE TO CONSIDER ANY STATEMENTS AND EVIDENCE THAT YOU SUBMIT AT A LATER DATE WHEN THE ENFORCEMENT COMMITTEE OR COMMISSION HEARS THIS MATTER.

ANY STATEMENTS THAT YOU MAKE ON THIS FORM (OR IN A DOCUMENT PROVIDING THE INFORMATION REQUESTED BY THIS FORM) WILL BECOME PART OF THE ENFORCEMENT RECORD AND MAY BE USED AGAINST YOU.

YOU MAY WISH TO CONSULT WITH OR RETAIN AN ATTORNEY BEFORE YOU COMPLETE THIS FORM OR OTHERWISE CONTACT THE COMMISSION ENFORCEMENT STAFF.

This form is enclosed with a violation report/complaint for administrative civil liability. The violation report/complaint indicates that you may be responsible for or in some way involved in either a violation of the Commission's laws, a Commission permit, or a Commission cease and desist order. The violation report/complaint summarizes what the possible violation involves, who may be responsible for it, where and when it occurred, if the Commission staff is proposing any administrative civil penalty and, if so, how much, and other pertinent information concerning the possible violation.

This form requires you to respond to the alleged facts contained in the violation report/complaint, to raise any defenses that you believe apply, and to inform the staff of all facts that you believe may exonerate you of any legal responsibility for the possible violation or may mitigate your responsibility. This form also requires you to enclose with the completed statement of defense form copies of all written documents, such as letters, photographs, maps, drawings, etc. and written declarations under penalty of perjury that you want the Commission to consider as part of this enforcement hearing. Failure to raise a defense or mitigating factor in or to submit evidence with your response to the violation report/complaint will waive your right to raise such defense or mitigating factor or to submit such evidence at the enforcement hearing on this matter. This form also requires you to identify by name any person whose declaration under penalty of perjury was submitted by staff with the violation report/complaint whom you may want to cross-examine at the enforcement hearing on this matter, the area of knowledge that you want to cover in the cross-examination, the nature of the testimony that you hope to elicit, and the reasons that you believe other means of producing this evidence are unsatisfactory. Finally, if the staff is only proposing a civil penalty (*i.e.*, issuance of either a cease and desist order or a permit revocation order is not proposed), this form allows you to pay the proposed civil

penalty without contesting the matter if you chose to do so, subject to notification of the amount by the Commission.

IF YOU WANT TO CROSS-EXAMINE ANY PERSON WHOSE DECLARATION UNDER PENALTY OF PERJURY STAFF HAS SUBMITTED WITH THE VIOLATION REPORT/COMPLAINT, YOU MUST COMPLETE PARAGRAPH EIGHT TO THIS STATEMENT OF DEFENSE FORM.

Complete this form as fully and accurately as you can and return an original and one copy of the completed form and an original and one copy of all documents that you want to be made part of the record of the enforcement proceeding, no later than 35 days after this form was mailed to you, to the Commission's enforcement staff at the following address:

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION 375 BEALE STREET, SUITE 510 SAN FRANCISCO, CA 94105

If you believe that you have good cause for not being able to complete this form and submit all written documents and any declarations under penalty of perjury that you want the Commission to consider within the required 35 days of its mailing, you may, within that time, submit a written extension request explaining why you need additional time to respond. If the Executive Director has issued a combined violation report and complaint for administrative liability, or only a compliant for administrative liability, your extension request shall include a waiver of and consent to extend the 60-day time limit for a hearing on the complaint under Government Code Section 66641.6(b).

If the violation report/complaint that accompanied this statement of defense form included a proposed administrative civil penalty, you may resolve the civil penalty aspect of the alleged violation by simply providing to the staff a certified cashier's check in the amount of the proposed civil penalty within the 35-day time period. If you choose to follow this alternative, the Executive Director will cash your check and place a brief summary of the violation and proposed administrative civil penalty along with a notation that you are choosing to pay the civil penalty rather than contesting it on an administrative permit listing. (See 14 C.C.R. § 11322(g).) If no Commissioner objects to the amount of the administrative civil penalty, your payment will resolve the civil penalty portion of the alleged violation. If a Commissioner objects to the amount of the proposed administrative civil penalty, the Commission shall determine by a majority of those present and voting whether to accept or object to the proposed civil penalty. If such a majority votes to accept the proposed civil penalty, your payment will resolve the civil penalty portion of the alleged violation. If such a majority objects to the proposed civil penalty, the Commission shall direct the staff to return the money paid to you and shall direct you to file your completed statement of defense form and all supporting documents within 35 days of the Commission's actions. Of course, you also have the opportunity of contesting the fine from the outset by completing this form and filing it and all supporting documents within 35 days of its having been mailed to you.

If you have any questions, please contact ANNE USHER of the Commission Enforcement Staff as soon as possible at telephone number 415-352-3662.

| 1. Facts or allegations contained in the violation report/complaint that you admit (with specific reference to the paragraph number in the violation report/complaint): | | |
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| 2. Facts or allegations contained in the violation report/complaint that you deny (with specific reference to paragraph number in the violation report/complaint): | | |
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| 3. Facts or allegations contained in the violation report/complaint of which you have no personal knowledge (with specific reference to paragraph number in the violation report/complaint): | | |
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| espondent Name | Page 5 |
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| 202000.00 | Statement of Defense Form |
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| Any other information statement at that you want to m | alrai |
| Any other information, statement, etc. that you want to m | ake. |
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| Documents, exhibits, declarations under penalty of perjuic or enclosed with this statement to support your answers of liministrative record for this enforcement proceeding. (Plean other, and title and enclose a copy with this completed form | r that you want to be made part of the ase list in chronological order by date, |
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| 8. Name of any person whose declaration under penalty of perjury was submitted with the violation report/complaint as being part of the staff's case who the respondent wants to cross-examine, identify a documents referred to in such person's declaration about which you want to cross-examine the person, the area or areas of information about which the respondent wants to cross-examine the person, and the information that the respondent hopes to elicit in cross-examination, and state the reason(s) why some other method of proving this information is unsatisfactory. | | | |
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NOTE: Authority cited: Section 29418(c), Public Resources Code. Reference: Section 29418(c), Public Resources Code.

HISTORY

1. New section filed 5-18-87; operative 6-17-87 (Register 87, No. 30).

§ 11214. Designation of an Amendment as Minor.

- (a) If the Executive Director intends to determine that a proposed amendment is minor, he or she shall notify the Commission of this intent by summarizing the proposed amendment and stating the intent as part of the administrative listing of administrative permits and consistency determinations that Section 10620 requires.
- (b) The Executive Director shall send the listing to or shall otherwise notify in writing the County of Solano, the Cities of Benicia, Fairfield, and Suisun City, the Solano County Local Agency Formation Commission, the Solano County Mosquito Abatement District, the Suisun Resource Conservation District, the California Department of Fish and Game, the United States Fish and Wildlife Service, and the United States Bureau of Reclamation at least nine (9) working days before the meeting at which the Commission may comment on the listing.
- (c) If two (2) or more members of the Commission object to the Executive Director's proposed determination that the proposed amendment is minor, the determination shall not become effective and the Commission shall process the amendment pursuant to Section 11212.
- (d) If less than two (2) members of the Commission object to the Executive Director's proposed determination that the proposed amendment is minor, the proposed determination shall become effective and the amendment shall become effective on the tenth (10th) working day following the meeting at which the amendment was listed.
- (e) The Executive Director shall give written notice of final action on the proposed amendment to the entity that proposed the amendment and to all persons who have requested in writing that they receive such notice. Note: Authority cited: Section 29418(c), Public Resources Code. Reference: Section 29418(c), Public Resources Code.

HISTORY

1. New section filed 5-18-87; operative 6-17-87 (Register 87, No. 30).

§ 11215. Frequency of Amendments.

No local government, district, nor the Solano County Local Agency Formation Commission shall submit an amendment to the Commission or the Executive Director for certification more frequently than three (3) times during any calendar year.

NOTE: Authority cited: Section 29201(e), Public Resources Code. Reference: Section 29418, Government Code; and Section 65361, Government Code.

HISTORY

1. New section filed 5-18-87; operative 6-17-87 (Register 87, No. 30).

Chapter 13. Enforcement Procedures

Subchapter 1. General Provisions

§ 11300. Grounds for the Issuance of Cease and Desist

Any one of the following actions shall constitute grounds for the issuance by the Commission of a cease and desist order: (1) the undertaking or threat to undertake an activity that requires a Commission permit without having obtained a Commission permit, (2) the violation of a term or condition of a Commission permit, or (3) the inclusion of inaccurate information in a permit application or at the public hearing on the permit application.

NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Section 66638, Government Code; and Section 29601, Public Resources Code.

HISTORY

 Renumbering and amendment of former Section 11300 to Section 11301, and new Section 11300 filed 10-11-89; operative 11-10-89 (Register 89, No. 43).
 For prior history, see Register 87, No. 30.

§ 11301. Grounds for Permit Revocation.

Any one of the following actions shall be grounds for the complete or partial revocation of a Commission permit:

- (a) the violation of a term or condition of a permit,
- (b) the violation of a Commission cease and desist order or an Executive Director's cease and desist order, or
- (c) the inclusion of inaccurate information in a permit application or at the public hearing on a permit application.

NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Sections 66638 and 66641(d), Government Code; Section 29601, Public Resources Code; and Sunset Amusement Company v. Board of Police Commissioners (1972) 7 Cal.3d 64, 80.

HISTORY

- 1. Renumbering and amendment of former Section 11301 to Section 11303, and renumbering and amendment of former Section 11300 to Section 11301 filed 10–11–89; operative 11–10–89 (Register 89, No. 43). For prior history, see Register 87, No. 30.
- Redesignation of former subsections (1)–(3) as subsections (a)–(c) and amendment of Noti: filed 6–7–2022; operative 10–1–2022 (Register 2022, No. 23).

§ 11302. Grounds for the Imposition of Administrative Civil Liability.

Any one of the following actions shall constitute grounds for the imposition of administrative civil liability by the Commission:

- (a) the undertaking of any activity that requires a Commission permit without having obtained the Commission permit or
- (b) the violation of any term or condition of a Commission permit. NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Sections 66641.5(e) and 66641.6, Government Code; and Sections 29610 and 29611, Public Resources Code.

HISTORY

- 1. New section filed 5-18-87; operative 6-17-87 (Register 87, No. 30).
- Repealer and new section filed 10-11-89; operative 11-10-89 (Register 89, No. 43).
- Amendment of section heading, designation of former subsection (1)-(2) as subsection (a)-(b) and amendment of Note filed 6-7-2022; operative 10-1-2022 (Register 2022, No. 23).

§ 11303. Referral to the Attorney General by the Commission or the Executive Director.

- (a) A violation of any one of the following shall be grounds for the referral of the violation by the Commission or the Executive Director to the Attorney General's Office without the Commission's having issued either a cease and desist order or a permit revocation order: (1) the McAteer–Petris Act, (2) the Suisun Marsh Preservation Act, (3) the Federal Coastal Zone Management Act, or (4) a term or condition of a Commission permit.
- (b) In addition, a violation of either a Commission cease and desist order or a Commission permit revocation order shall also be grounds for the referral of the violation by either the Commission or the Executive Director to the Attorney General's Office.
- (c) A referral made to the Attorney General's Office pursuant to subsections (a) and (b) may include any other unresolved, alleged violation including those of the type enumerated in Section 11390.

NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Sections 66640(a), 66641(b) and 66642(a), Government Code; and Section 29601, Public Resources Code.

HISTORY

- Repealer of former Section 11303, and renumbering and amendment of former Section 11301 to Section 11303 filed 10-11-89; operative 11-10-89 (Register 89, No. 43). For prior history, see Register 87, No. 30.
- 2. Amendment filed 5-22-2003; operative 6-21-2003 (Register 2003, No. 21).
- Amendment of subsection (c) and amendment of NOTE filed 6-7-2022; operative 10-1-2022 (Register 2022, No. 23).

Bytes Date 1

Subchapter 2. Procedures for the Issuance of Cease and Desist Orders, Permit Revocation Orders, and Orders Setting Administrative Civil Liability

Article 1. Definitions

§ 11310. Definitions.

The following definitions are applicable to this chapter:

- (a) "Complaint," as used in subsection (b) of Section 66641.6 of the Government Code, means the document that initiates the possible imposition of administrative civil liability by the Commission. A complaint shall contain the information required by Government Code Section 66641.6(b) and follow the format and include the information for a staff violation report/complaint as set out in Appendix H.
- (b) "Enforcement committee," as used in this chapter, means a committee that the Commission has established pursuant to Commission resolution. The Chair shall appoint Commission members or other representatives of the Commission to the enforcement committee with the concurrence of the Commission to assist the Commission in carrying out its enforcement responsibilities. The enforcement committee shall consist of no fewer than four and no more than six Commission members or other representatives of the Commission. A quorum of the enforcement committee necessary to conduct business, to hold hearings and to vote on recommended enforcement decisions shall consist of three members notwithstanding the total number of enforcement committee members. The enforcement committee shall select from its members a chair, who shall serve for a period agreed upon by a majority of the enforcement committee members. The enforcement committee shall conduct its hearings in accordance with the Commission's laws and regulations upon matters referred to it by either the Executive Director or the Commission. The Chair of the Commission may change the members of the enforcement committee from time to time as necessary due to changes in membership of the Commission or to fill vacancies on the committee provided that the Chair notifies the Commission prior to such change at a Commission meeting and the Commission concurs.
- (c) "Enforcement hearing," as used in this chapter, means any public hearing held before the enforcement committee or the Commission as part of a Commission enforcement proceeding.
- (d) "Person," as used in Sections 66637 through 66642 of the Government Code and in this chapter, means any individual, firm, association, organization, partnership, business trust, corporation, company, or governmental agency.
- (e) "Respondent," as used in this chapter, means a person to whom the Commission staff has issued a violation report or complaint and a statement of defense form in accordance with Section 11321(c).
- (f) As used in this Chapter, "significant harm to the Bay's resources or to existing or future public access" shall be determined based on both the context and intensity of the violation.
- (1) "Context" refers to the location of the violation and the characteristics of the area where it occurs. Areas with important environmental or ecological significance (e.g., habitat or refugia for sensitive species) are generally considered to be more significant than previously degraded habitat or areas with limited habitat value, and highly visible and/or frequently used areas are generally considered to be more significant than isolated areas with low visibility or infrequent usage.
- (2) "Intensity" refers to the severity of the impact and the degree to which it affects the environment or public access. Violations presenting significant ecosystem hazards (e.g., toxic or biohazardous fill) or involving large portions of a particular site shall generally be considered to be more severe. In addition, violations that substantially interfere with the

ability to use designated public access or encompass large portions of a designated public access area will be considered to be more significant.

(3) Where multiple violations are alleged at a site, if a single violation results in harm that is individually limited but cumulatively significant when added to other violations at the site, it shall be determined that the violation has resulted in significant harm to the Bay's resources or to existing or future public access.

NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Sections 66637, 66638, 66641.5(e), 66641.6 and 66643, Government Code; and Section 29601, Public Resources Code.

HISTORY

- Renumbering and amendment of former Section 11310 to Section 11710, and renumbering and amendment of Section 11010 to Section 11310 filed 5–18–87; operative 6–17–87 (Register 87, No. 30). For prior history, see Registers 86, No. 39 and 73, No. 50.
- Renumbering of former subsection (a) to subsection (e), repealer of former subsections (b) and (c), new subsections (a)–(d), and renumbering of former subsection (d) to subsection (f) filed 10–11–89; operative 11–10–89 (Register 89, No. 43).
- 3. Amendment of subchapter heading, section and Note filed 6–7–2022; operative 10–1–2022 (Register 2022, No. 23).

Article 2. Commission Cease and Desist Orders, Permit Revocation Orders, and Orders Setting Administrative Civil Liability

§ 11320. Staff Investigation and Discovery, and Appointment of a Hearing Officer.

- (a) As part of any enforcement investigation, the Executive Director may issue subpoenas and the staff may send interrogatories, conduct depositions, and inspect property at any time.
- (b) At the request of the Executive Director or the chair of the enforcement committee, or on its own initiative, the Commission may appoint a hearing officer to conduct an investigation or hold a hearing, make proposed findings of fact, and recommend to the Commission what action it should take on an enforcement matter. A hearing officer appointed to hold an enforcement hearing shall proceed in accordance with the procedural requirements of Section 11327 and shall adopt a recommended enforcement decision in accordance with Section 11330.

NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Sections 11180, 11181, 66637, 66638, 66641.5(e), 66641.6 and 66643, Government Code; and Section 29601, Public Resources Code.

HISTORY

- Repealer of former Section 11320, and renumbering and amendment of former Section 11331 to Section 11320 filed 10-11-89; operative 11-10-89 (Register 89, No. 43). For prior history, see Register 87, No. 30.
- 2. Amendment of article heading, section and NOTE filed 6-7-2022; operative 10-1-2022 (Register 2022, No. 23).

§ 11321. Commencing Commission Enforcement Proceedings.

- (a) If the Executive Director believes, as a result of an enforcement investigation, that any person has caused or threatens to cause significant harm to the Bay's resources or to existing or future public access, or that the nature, circumstances, extent, and gravity of the violation or violations so warrant, the Executive Director shall commence Commission enforcement proceedings by issuing at least 45 days prior to holding an enforcement hearing on the matter the following materials to the last known address of each party that the Executive Director believes may be legally responsible in some manner for the alleged violation:
- (1) a violation report that follows the format and contains the information set out in Appendix H,
- (2) a complaint for administrative civil liability that follows the format and contains the information set out in Appendix H if the staff seeks civil penalties, and
- (3) a statement of defense form that follows the format and requests the information set out in Appendix I. The violation report and complaint for administrative civil liability can be combined into a single document so long as it contains all the information required for both.

- (b) The violation report and/or complaint shall list all documents, including any declarations under penalty of perjury, on which the staff relies to provide a prima facie case of the violations alleged and copies of all such documents shall be attached to or accompany the violation report and/or complaint or shall be provided to the respondent in electronic format upon request.
- (c) Issuance of a violation report and/or complaint shall occur when the violation report and/or complaint is mailed by certified mail to all persons or entities named as a respondent in the violation report and/or complaint. Upon written consent of the respondent or respondent's authorized representative, a violation report and/or complaint shall be mailed to the respondent or the respondent's authorized representative by email. NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Sections 66638, 66641.5(e) and 66641.6, Government Code; and Sections 29601, 29610 and 29611, Public Resources Code.

- 1. Renumbering and amendment of former Section 11330 to Section 11321 and Section 11322 filed 10–11–89; operative 11–10–89 (Register 89, No. 43). For prior history, see Register 87, No. 30.
- 2. Amendment of section and NOTE filed 6-7-2022; operative 10-1-2022 (Register 2022, No. 23).

§ 11322. Respondent's Required Response to the Violation Report or Complaint, the Executive Director's Consideration of the Respondent's Response, and Extensions of Time.

- (a) Within thirty-five (35) days of the issuance of the violation report and/or complaint and the statement of defense form, each respondent shall submit to the Commission at its office an original and one copy of the completed statement of defense form (or an original and one copy of a document providing the information requested by the form) and an original (or verified copy) and one copy of all documents that the respondent wants to be made part of the record of the enforcement proceeding, including any declarations under penalty of perjury and any documentary evidence such as letters, photographs, and similar matters. Once submitted, all such declarations and documents shall be permanently retained by the Commission as part of the enforcement record.
- (b) If a respondent believes that cross-examination of a person whose declaration under penalty of perjury has been submitted with the violation report and/or complaint is needed to show or contest a fact alleged in the violation report and/or complaint, the respondent shall request such cross-examination in the completed statement of defense form. The completed statement of defense form or an addendum shall list the name of each person whose declaration under penalty of perjury has been submitted with the violation report and/or complaint that the respondent wants to cross examine, all documents referred to in such person's declaration about which the respondent wants to cross-examine, a description of the area of knowledge about which the respondent wants to cross-examine the person, including a specific reference to the fact or information respondent disputes, the information that respondent believes can be elicited by cross-examination, and the reasons the respondent believes that the information can best be provided by cross-examination rather than by the submittal of declarations or other written evidence.
- (c) Within 35 days of the issuance of a complaint for administrative civil liability and a statement of defense form, each respondent shall submit to the Commission at its office either (1) a certified cashier's check in the amount of the proposed administrative civil penalty or (2) the completed statement of defense form, copies of all documents that the respondent wants to be made part of the record of the enforcement proceeding in accordance with subsection (a), and any request to allow cross-examination in accordance with subsection (b).
- (d) If the staff wants to cross-examine any person whose declaration under penalty of perjury has been submitted with a respondent's completed statement of defense form, the staff shall, within seven days of receiving the completed statement of defense form, mail to all respondents a list of all persons whose declaration under penalty of perjury has been submitted by respondent that the staff wants to cross examine, all docu-

- ments referred to in such person's declaration about which staff wants to cross-examine the person, a description of the area or areas of knowledge about which the staff wants to cross-examine the witness, and the information that the staff hopes to elicit in cross-examination.
- (e) If the Executive Director sends a violation report and a complaint for administrative civil liability together, paying the civil penalties will not release the respondent from the possible issuance of a cease and desist order or permit revocation order.
- (f) If the Executive Director issues a violation report only, and not a complaint for administrative civil liability, the Executive Director shall for good cause extend the 35-day time limit imposed by subsection (a) upon receipt within the 35-day time limit of a written request for such extension and demonstration of good cause. If the Executive Director issues a violation report and complaint for administrative civil liability or only a complaint for administrative civil liability, the Executive Director shall for good cause extend the 35-day time limit imposed by paragraphs (a) and (c) of this section upon receipt within the 35-day time limit of a written request for such extension, demonstration of good cause, and waiver of and consent to extend the 60-day time limit for a hearing on the complaint under Government Code Section 66641.6(b). Any extension shall be valid only to those specific items or matters that the Executive Director identifies to the requesting party as being exempt from the 35-day filing requirement and shall be valid only for such additional time as the Executive Director allows.
- (g) If a respondent responds to a complaint for administrative civil liability by submitting a cashier's check in the amount of the penalty proposed in the complaint to the Executive Director in a timely fashion, the Executive Director shall cash the check and list the violation, the amount of the proposed penalty, and the fact that the respondent has agreed to pay the penalty as part of the administrative permit listing within 30 days of receipt of the check.
- (h) At the next Commission meeting after receiving the listing, the Commission can object to the amount of a proposed administrative civil penalty that a respondent has paid by voting by a majority of those present and voting. If the Commission so objects, the Executive Director shall return the respondent's money and the respondent shall submit his or her completed statement of defense form and supporting documents within 35 days of the Commission's action. Thereafter, the enforcement matter shall proceed according to these regulations.
- (i) At any time after issuance of a violation report and/or complaint, the Executive Director and a respondent may agree on the terms of a proposed stipulated order or a proposed settlement agreement to resolve a violation or violations, which may include a schedule of corrective actions to be implemented by the respondent and payment of administrative civil penalties. The Executive Director shall include the proposed stipulated order or proposed settlement agreement in his or her recommended enforcement decision prepared in accordance with Section 11326. If the Commission fails to adopt the proposed stipulated order or proposed settlement agreement, and the respondent has not submitted a completed statement of defense form, copies of any supporting documents, and any request for cross-examination in accordance with subsections (a) and (b), the respondent shall submit his or her completed statement of defense form, copies of any supporting documents, and any request for cross-examination within 35 days of the Commission's failure to adopt the proposed stipulated order or proposed settlement agreement. Thereafter, the enforcement matter shall proceed according to these regulations. If the Commission fails to adopt the proposed stipulated order or proposed settlement agreement, and the respondent has previously submitted a completed statement of defense form, copies of any supporting documents, and any request for cross-examination, the Executive Director shall prepare a new recommended enforcement decision in accordance with Section 11326 within 30 days of the Commission's failure to adopt the proposed stipulated order or proposed settlement agreement, and thereafter, the enforcement matter shall proceed according to these regulations. NOTE: Authority cited: Section 66632(f), Government Code; and Section

29201(e), Public Resources Code. Reference: Sections 11415.60, 66638,

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66641.5(e) and 66641.6, Government Code; and Sections 29601, 29610 and 29611, Public Resources Code.

HISTORY

- Renumbering and amendment of former Section 11330(d) to Section 11322 filed 10-11-89; operative 11-10-89 (Register 89, No. 43). For prior history, see Register 87, No. 30.
- 2. Amendment of section heading, section and Note filed 6-7-2022; operative 10-1-2022 (Register 2022, No. 23).

§ 11323. Distribution of Notice of Enforcement Hearings.

- (a) At least ten (10) days prior to the initial enforcement hearing on a proposed Commission cease and desist order, a proposed permit revocation order, or a proposed Commission civil penalty order, whether held before the enforcement committee or the Commission the Executive Director shall mail by first class mail or send by email, and shall also make available on the Commission's website, a written notice of the date, time, and place of the initial enforcement hearing to all respondents at their last known address, the Deputy Attorney General advising the enforcement committee or Commission, and to all members of the public who have requested in writing that they receive such notice, provided that no notice need be mailed to the respondent if the respondent has already received notice of the hearing in a cease and desist order issued by the Executive Director. A meeting notice mailed and posted on the Commission's website pursuant to California Government Code Section 11125 will meet this notice requirement.
- (b) After the initial enforcement hearing, notice of further enforcement hearings may be given by either announcing the date, time, and place of the further meeting on the record at the close of the preceding enforcement hearing or by mailing by first class mail or sending by email, and also making available on the Commission's website, written notice of the date, time, and place of the further meeting to all respondents at least 10 days prior to the further enforcement hearing.

NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Sections 66638, 66641.5(e) and 66641.6, Government Code; and Section 29601, Public Resources Code.

HISTORY

- Renumbering and amendment of Former Section 11337 to Section 11323 filed 10-11-89; operative 11-10-89 (Register 89, No. 43). For prior history, see Register 87, No. 30.
- 2. Amendment of section and NOTE filed 6-7-2022; operative 10-1-2022 (Register 2022, No. 23).

§ 11324. Distribution of the Violation Report, Complaint, Statement of Defense Form(s), and Recommended Enforcement Decision.

At least ten (10) days prior to the enforcement hearing, the Executive Director shall make available on the Commission's website and shall mail by first class mail or send by email the following materials to each respondent, to the committee members if the enforcement hearing will be held before the enforcement committee or to the Commission if the enforcement hearing will be held before the Commission, and to the Deputy Attorney General advising the enforcement committee or Commission: (1) the violation report and/or complaint for administrative civil liability and all documents or other evidence cited therein or listed on an index of supporting documents or evidence attached thereto, (2) each completed statement of defense form and the enclosed exhibits, with a notation that indicates if any of the statements have been filed in an untimely fashion, and (3) a recommended enforcement decision that complies with Section 11326.

NOTE: Authority cited: Section 66632(f), Government Code and Section 29201(e), Public Resources Code. Reference: Sections 66638 and 66641.6, Government Code; and Section 29601, Public Resources Code.

HISTORY

- Renumbering and amendment of former Section 11336 to Section 11324 filed 10-11-89; operative 11-10-89 (Register 89, No. 43). For prior history, see Register 87, No. 30.
- Amendment of section heading, section and NOTE filed 6-7-2022; operative 10-1-2022 (Register 2022, No. 23).

§ 11325. Ex Parte Contacts. [Repealed]

NOTE: Authority cited: section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Sections 66637–66638 and 66641.6, Government Code; and Section 29601, Public Resources Code.

HISTORY

- Renumbering and amendment of former Section 11333 to Section 11325 filed 10-11-89; operative 11-10-89 (Register 89, No. 43). For prior history, see Register 87, No. 30.
- 2. Repealer filed 12-27-2004; operative 1-26-2005 (Register 2004, No. 53).

§ 11326. Contents of an Executive Director's Recommended Enforcement Decision.

- (a) The Executive Director shall prepare a recommended enforcement decision on a proposed Commission cease and desist order, a proposed permit revocation order, or a proposed order setting administrative civil liability.
- (b) The Executive Director's recommended enforcement decision shall be in writing and shall include:
- (1) a summary of (A) any background to the alleged violation, (B) the allegations made by staff in its violation report and/or complaint, (C) the allegations either admitted or not contested by respondent(s), and (D) all defenses and mitigating factors raised by the respondent(s);
- (2) any staff response to the defenses, mitigating factors, or arguments raised by the respondent(s), and any rebuttal evidence submitted by the staff to matters raised in the statement of defense form, with references to supporting documents;
 - (3) a summary and analysis of all disputed issues;
- (4) a recommended enforcement decision on a proposed order setting administrative civil liability shall identify all violations for which administrative civil penalties are proposed and include:
 - (A) the total amount of proposed administrative civil penalties; and
- (B) a statement of the applicable factors set forth in Government Code Section 66641.9 that the Executive Director considered, consistent with the Administrative Civil Penalty Policy in Appendix J of these regulations, in determining the total amount of the proposed administrative civil penalties;
- (5) a statement of whether the Executive Director has issued a cease and desist order and its expiration date;
- (6) a recommendation on what action the Commission should take; and
- (7) the proposed text of any cease and desist order, permit revocation order, order setting administrative civil liability, or stipulated order that the Executive Director recommends that the Commission issue or any settlement agreement that the Executive Director recommends that the Commission approve.

NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Sections 66638, 66641.5(e), 66641.6 and 66641.9, Government Code; and Sections 29601, 29610 and 29611, Public Resources Code.

HISTORY

- Renumbering and amendment of former Section 11335 to Section 11326 filed 10-11-89; operative 11-10-89 (Register 89, No. 43). For prior history, see Register 87, No. 30.
- Amendment of section and Note filed 6–7–2022; operative 10–1–2022 (Register 2022, No. 23).

§ 11327. Enforcement Hearing Procedure.

Enforcement hearings shall proceed in the following manner:

- (a) the Chair or enforcement committee chair shall announce the matter, ask all respondents or their attorneys present to identify themselves for the record, and announce any imposition of time limits for presentations to be made by the staff, the respondent(s), and the public at the hearing;
- (b) the Chair or enforcement committee chair may impose time limits based on the circumstances of the alleged violation(s), the number of other items contained on the meeting agenda, the number of persons who intend to speak, and such other factors as the Chair believes relevant;
- (c) the staff shall summarize the violation report and/or complaint for administrative civil liability and recommended enforcement decision with particular attention to limiting its presentation to issues of controversy;

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- (d) each respondent shall summarize its position(s) on the matter(s) relevant to the alleged violation or proposed order with particular attention to those issue(s) where an actual controversy exists between the staff and the respondent party or parties;
 - (e) members of the public may speak concerning the matter;
- (f) presentations made by the staff, a respondent, and the public shall be limited to responding to (1) evidence already made part of the enforcement record and (2) the policy implications of such evidence; the enforcement committee or the Commission shall not allow oral testimony unless the committee or Commission believes that such testimony is essential to resolve any factual issues that remain unresolved after reviewing the existing written record and whose resolution is essential to determining whether a violation has occurred or to determining what remedy is appropriate. If the committee or Commission allows oral testimony, such testimony shall be taken under oath, and all representatives of the staff and all respondents shall be given a right to examine or cross—examine all witnesses who are allowed to testify;
- (g) cross-examination of any witness whose declaration under penalty of perjury has become part of the enforcement record shall be permitted only if the party who wishes to cross-examine has identified in writing pursuant either to Section 11322(b) or Section 11322(d) the person to be cross-examined, the area or areas of information into which the crossexamination will delve, and the information sought to be uncovered. Following cross-examination of a witness whose declaration under penalty of perjury has become part of the enforcement record, a representative of the opposing party shall be entitled to examine the witness on the area or areas of information addressed during cross-examination. Neither cross-examination nor direct examination shall be allowed of any person who has not submitted a declaration under penalty of perjury which has become part of the enforcement record and who has not been identified in writing pursuant to either Section 11322(b) or Section 11322(d), including any member of the public who has commented on an enforcement matter or submitted information related to an alleged violation.
- (h) enforcement committee members or Commissioners may ask questions at any time during the hearing or deliberations.
- (i) the enforcement committee or Commission shall close the public hearing after the staff, all respondents, and the public have completed their presentations and committee members or Commissioners have completed their questioning;
- (j) the enforcement committee or Commission shall rule on any objections to the admissibility of evidence or the acceptance of late evidence and identify any evidence submitted but rejected because it was not filed in a timely manner or in violation of Section 11328.
- (k) the enforcement committee or Commission shall deliberate and vote on an enforcement matter; and
- (*l*) if a hearing officer has been appointed for an enforcement matter, the hearing officer shall render a written decision that follows the format of an enforcement committee recommended enforcement decision in accordance with Section 11330 within 14 days of the closing of the enforcement hearing.

NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Sections 66638, 66641.5(e) and 66641.6, Government Code; and Section 29601, Public Resources Code.

HISTORY

- 1. Renumbering and amendment of former Section 11328 to Section 11327 filed 10–11–89; operative 11–10–89 (Register 89, No. 43). For prior history, see Register 87, No. 30.
- Amendment of section and Note filed 6-7-2022; operative 10-1-2022 (Register 2022, No. 23).

§ 11328. Acceptance of Late Evidence.

The introduction of surprise testimony and exhibits at enforcement hearings shall be discouraged. All documents and declarations under penalty of perjury shall be submitted with the violation report and/or complaint or the completed statement of defense form, except to the extent otherwise provided by Section 11322(d) or the Executive Director has extended the time for such submittal pursuant to Section 11322(f), or the Commission or enforcement committee admits the testimony into

the record pursuant to Section 11327(f) and this section. To this end, the Commission or the enforcement committee shall not accept into the record or consider any statement of defense form or any written evidence not filed in a timely manner unless the Commission or enforcement committee finds that (1) the person seeking to introduce the evidence made all reasonable efforts to obtain and submit the evidence in a timely manner but was unable to do so and would be substantially prejudiced if the evidence were not admitted and (2) no other party would suffer substantial prejudice by its admission.

NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Sections 66638, 66641.5(e) and 66641.6, Government Code; and Section 29601, Public Resources Code.

HISTORY

- 1. New section filed 10-11-89; operative 11-10-89 (Register 89, No. 43).
- 2. Amendment of section and NOTE filed 6–7–2022; operative 10–1–2022 (Register 2022, No. 23).

§ 11329. Admissibility of Evidence.

- (a) Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule that might make improper the admission of such evidence over objection in civil actions.
- (b) Hearsay evidence, including but not limited information provided by the public to the Commission or staff or in public comments, may be admitted and used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in a civil action or unless it is in the form of a declaration under penalty of perjury and the declarant is subject to cross—examination as provided in Sections 11322 and 11327.
- (c) The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing, and irrelevant or unduly repetitious evidence shall be excluded.
- (d) The Chair or the enforcement committee chair shall have the final authority to determine whether any evidence whose admissibility is challenged by objection shall be admitted into evidence and become part of the record.
- (e) In determining whether to admit testimony or exhibits into the record over objection, the Chair or the enforcement committee chair shall consult with the Deputy Attorney General advising the Commission or enforcement committee at the hearing.

NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Sections 66638, 66641.5(e) and 66641.6, Government Code; Section 29601, Public Resources Code; and Section 351, Evidence Code.

HISTORY

- 1. Renumbering and amendment of former section 11339 to section 11329 filed 10–11–89; operative 11–10–89 (Register 89, No. 43). For prior history, see Register 87, No. 30.
- Amendment of portions of subsection (a) to create new subsections (b) and (c) and relettering of former subsections (b) and (c) filed 9-3-92; operative 10-5-92 (Register 92, No. 36).
- 3. Amendment of subsections (b), (d) and (e) and amendment of NOTE filed 6-7-2022; operative 10-1-2022 (Register 2022, No. 23).

§ 11330. Adoption of an Enforcement Committee Recommended Enforcement Decision.

- (a) After the enforcement committee has closed the enforcement hearing and completed its deliberations, it shall adopt a recommended enforcement decision, which shall include all of the following:
- (1) a summary of (A) any background to the alleged violations, (B) the allegations made by staff in its violation report and/or complaint, (C) the allegations either admitted or not contested by respondent(s), (D) the defenses and mitigating factors raised by the respondent(s), and (E) the staff's response to the defenses, mitigating factors, or arguments raised by the respondent(s);
 - (2) a statement of any rulings by the enforcement committee;
- (3) a recommended enforcement decision on a proposed order setting administrative civil liability shall identify the violations for which penalties are proposed and include:
 - (A) the total amount of proposed administrative civil penalties; and

- (B) a statement of the applicable factors set forth in Government Code Section 66641.9 that the enforcement committee considered, consistent with the Administrative Civil Penalty Policy in Appendix J of these regulations, in determining the total amount of the proposed administrative civil penalties;
- (4) a statement of whether the Executive Director has issued a cease and desist order and its expiration date;
- (5) any further written report on or explanation of the enforcement proceedings as the enforcement committee believes is appropriate;
- (6) a recommendation on what action the Commission should take; and
- (7) the proposed text of any cease and desist order, permit revocation order, order setting administrative civil liability, or stipulated order that the enforcement committee recommends that the Commission issue or any settlement agreement that the enforcement committee recommends that the Commission approve.
- (b) The enforcement committee can adopt with or without change the Executive Director's recommended enforcement decision. The chair of the enforcement committee shall direct Commission counsel to prepare the enforcement committee recommended enforcement decision, provided that: (1) Commission counsel shall submit the enforcement committee recommended enforcement decision to the respondent(s) by email for review not less than three days before the Executive Director mails the recommended decision to the Commission and respondent(s) in accordance with Section 11331; and (2) if the respondent(s) provides written comments on or objections to the recommended decision within two days of receipt thereof, the Executive Director may modify the recommended decision based on such comments or objections, if he or she determines that such modifications are appropriate, and shall include the respondent's comments or objections when mailing the recommended decision to the Commission and respondent(s) in accordance with Section 11331.

NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Sections 66638, 66641.5(e), 66641.6 and 66641.9, Government Code; and Sections 29601, 29610 and 29611, Public Resources Code.

HISTORY

- Renumbering and amendment of former Section 11330 to Section 11321 and 11322, and new Section 11330 filed 10-11-89; operative 11-10-89 (Register 89, No. 43). For prior history, see Register 87, No. 30.
- Amendment of section heading, section and NOTE filed 6-7-2022; operative 10-1-2022 (Register 2022, No. 23).

§ 11331. Referral of the Recommended Enforcement Decision to the Commission.

At least ten (10) days prior to the Commission's consideration of a recommended enforcement decision referred to it either directly by the Executive Director or by the enforcement committee, the staff shall mail by first class mail or send by email, and shall also make available on the Commission's website, the recommended enforcement decision to all respondents, to all Commissioners, and to the Deputy Attorney General advising the Commission.

NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Sections 66638, 66641.5(e) and 66641.6, Government Code; and Section 29601, Public Resources Codes.

HISTORY

- Renumbering and amendment of former Section 11331 to Section 11320, and new Section 11331 filed 10–11–89; operative 11–10–89 (Register 89, No. 43).
 For prior history, see Register 87, No. 30.
- 2. Amendment of section and Note filed 6-7-2022; operative 10-1-2022 (Register 2022, No. 23).

§ 11332. Commission Action on Recommended Enforcement Decision.

(a) Except as provided in subsection (c), when the Commission acts on a recommended enforcement decision, the Commission shall allow representatives of the staff, each respondent, and members of the public an opportunity to present their respective arguments or comments on the recommendation, subject to such reasonable time limits as the Chair may

impose and subject to a prohibition against the introduction of any new evidence unless the Commission proceeds either to remand the matter or hold a de novo evidentiary hearing.

- (b) Thereafter, the Commission shall do one of the following:
- (1) adopt the recommended enforcement decision without any change in any proposed cease and desist order, permit revocation order, or order setting administrative civil liability;
- (2) either (A) dismiss the entire matter by voting not to issue any proposed cease and desist order, proposed permit revocation order, or proposed order setting administrative civil liability or (B) if the recommended enforcement decision includes one or more of a proposed cease and desist order, a proposed permit revocation order, and a proposed order setting administrative civil liability, adopt the recommended enforcement decision with regard to one or more proposed orders and dismiss the other proposed order(s) recommended in the recommended enforcement decision by voting not to issue them;
- (3) remand the matter to the enforcement committee or the staff for further action as the Commission directs; or
- (4) reject the recommended enforcement decision and decide to consider the entire matter de novo. In this event, the Commission shall continue the public hearing to the next available Commission meeting, when it shall proceed in accordance with the same procedural requirements as the Commission must follow under these regulations pursuant to Section 11327. As part of this de novo proceeding, the Commission can accept additional evidence only in compliance with Sections 11327 and 11328 or if the Commission provides the staff, all respondents, and the public a reasonable opportunity to review and respond to the additional evidence prior to the Commission's de novo review.
- (c) If the respondent(s) agrees in writing to accept the recommended enforcement decision, and the Executive Director also agrees to accept the recommended decision, the Executive Director shall calendar the recommended enforcement decision as a consent item on a Commission meeting agenda. At the Commission meeting, after allowing public comment on the consent item the Commission shall determine by a majority of those commissioners present and voting whether to adopt the recommended enforcement decision on consent without any change and without any further proceedings. If a majority of those commissioners present and voting do not determine to adopt the recommended decision on consent, the Commission shall proceed to act on the matter in accordance with subsections (a) and (b).

NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Sections 66638,66641.5(c), 66641.6 and 66641.9, Government Code; and Sections 29601, 29610 and 29611, Public Resources Code.

HISTORY

- 1. New section filed 5-18-87; operative 6-17-87 (Register 87, No. 30).
- 2. Repealer and new section filed 10-11-89; operative 11-10-89 (Register 89, No. 43).
- Amendment of section and Note filed 6-7-2022; operative 10-1-2022 (Register 2022, No. 23).

§ 11333. Commission Hearing Procedures on Direct Referral of an Enforcement Matter by the Executive Director.

The Executive Director shall determine whether to refer an enforcement matter to the Commission or to the enforcement committee. When the Executive Director refers an enforcement matter directly to the Commission, the Commission shall follow the procedures set out in Sections 11327 through 11329 and in Section 11334.

NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code, Reference: Sections 66638, 66641.5(e) and 66641.6, Government Code; and Section 29601, Public Resources Code.

HISTORY

- Renumbering and amendment of former Section 11333 to Section 11325, and new Section 11333 filed 10-11-89; operative 11-10-89 (Register 89, No. 30).
 For prior history, see Register 87, No. 30.
- 2. Amendment of section and Note filed 6-7-2022; operative 10-1-2022 (Register 2022, No. 23).

§ 11334. Voting on a Proposed Commission Cease and Desist Order, a Proposed Commission Permit Revocation Order, or a Proposed Commission Order Setting Administrative Civil Liability.

- (a) The Commission shall vote on a recommended enforcement decision, a proposed Commission cease and desist order, a proposed permit revocation order, or a proposed order setting administrative civil liability by roll call in alphabetical order except that the Chair shall vote last;
- (b) Any member may change his or her vote at any time before the Chair announces the final tally; and
- (c) The decision of whether or not to issue an order shall be by majority vote of those present and voting.

NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Sections 66638, and 66641.5(e) and 66641.6, Government Code; and Section 29601, Public Resources Code.

HISTORY

- 1. Repealer of former Section 11334, and renumbering and amendment of former Section 11341 to Section 11334 filed 10–11–89; operative 11–10–89 (Register 89, No. 43). For prior history, see Register 87, No. 30.
- 2. Amendment of section heading, subsection (a) and NOTE filed 6–7–2022; operative 10–1–2022 (Register 2022, No. 23).

§ 11335. Staff Report and Recommendation. [Renumbered]

NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Sections 66637–66642, Government Code; and Section 29601, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 11335 to Section 11326 filed 10–11–89; operative 11–10–89 (Register 89, No. 43). For prior history, see Register 87, No. 30.

§ 11336. Distribution of Staff Report and Recommendation. [Renumbered]

NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Sections 66637–66642, Government Code; and Section 29601, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 11336 to Section 11324 filed 10–11–89; operative11–10–89 (Register 89, No. 43). For prior history, see Register 87, No. 30.

§ 11337. Notice of Public Hearing. [Renumbered]

NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Sections 66637–66642, Government Code; and Section 29601, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 11337 to Section 11323 filed 10–11–89; operative 11–10–89 (Register 89, No. 43). For prior history, see Register 87, No. 30.

§ 11338. Public Hearing Procedure. [Renumbered]

NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Sections 66637–66642, Government Code; and Section 29601, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 11338 to Section 11327 filed 10–11–89; operative 11–10–89 (Register 89, No. 43). For prior history, see Register 87, No. 30.

§ 11339. Admissibility of Evidence. [Renumbered]

NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Sections 11513 and 66637–66642, Government Code; and Section 29601, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 11339 to Section 11329 filed 10–11–89; operative 11–10–89 (Register 89, No. 43). For prior history, see Register 87, No. 30.

§ 11340. Contents of Cease and Desist Orders.

- (a) Cease and desist orders shall be signed by the Executive Director and shall contain the following:
- (1) a statement of whether the Executive Director is issuing the order pursuant to Section 66637 of the Government Code or the Commission is issuing the order pursuant to Section 66638 of the Government Code;

- (2) the names of the person or persons who have undertaken or who are threatening to undertake the activity that is the subject of the order;
- (3) identification of the property where the activity has been undertaken or may be undertaken;
 - (4) a description of the activity;
 - (5) the effective date of the order;
 - (6) the expiration date, if any, of the order;
- (7) any terms, conditions, or other provisions necessary to bring the activity into compliance with the provisions of the McAteer-Petris Act, the Suisun Marsh Preservation Act, or a permit;
- (8) written findings that (1) explain the decision to issue the order and (2) provide the factual and legal basis for the issuance of the order;
- (9) in the case of an order issued by the Executive Director, notice of the date and place of any public hearing to be held on any cease and desist order proposed to be issued by the Commission relating to the same activity if the Executive Director has scheduled one;
- (10) notice that a respondent 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 within thirty (30) days after service of a copy of the order; and
- (11) such other provisions that the Commission has approved, including provisions relating to:
- (A) a disclaimer of any effect of the order upon any duties, rights, or obligations under private agreements or under regulations of other public bodies:
- (B) the obligation to conform strictly to the order and the consequences of the failure to do so; and
- (C) the fact that the order does not constitute a recognition of property rights.
- (b) A cease and desist order can be combined with a permit revocation order and/or an order setting administrative civil liability so long as the combined order contain all the information required under these regulations for each type of order.

NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Section 66638, Government Code; and Section 29601, Public Resources Code.

HISTORY

- 1. Repealer of former Section 11340, and renumbering and amendment of former Section 11343 to Section 11340 filed 10–11–89; operative 11–10–89 (Register 89, No. 43). For prior history, see Register 87, No. 30.
- 2. Amendment of subsection (b) and NOTE filed 6-7-2022; operative 10-1-2022 (Register 2022, No. 23).

§ 11341. Modifications of Cease and Desist Orders Issued by the Executive Director.

The Executive Director may modify a cease and desist order that he or she has issued for good cause, but he or she shall not do so in a manner that extends the 90-day expiration period provided for in Section 66637 of the Government Code unless a respondent stipulates in writing to the extension. The Executive Director may, however, issue consecutive cease and desist orders for a persisting violation or a persisting threatened violation.

NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Section 66637, Government Code; and Section 29601, Public Resources Code.

HISTORY

- Renumbering and amendment of former Section 11341 to Section 11334, and renumbering and amendment of former Section 11344(a) to Section 11341 filed 10-11-89; operative 11-10-89 (Register 89, No. 43). For prior history, see Register 87, No. 30.
- Amendment of section and Note filed 6–7–2022; operative 10–1–2022 (Register 2022, No. 23).

§ 11342. Modification of Cease and Desist Orders Issued by the Commission.

The Executive Director may modify a cease and desist order issued by the Commission for good cause if the modification would not be a material alteration of the order.

NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Section 66638, Government Code; and Section 29601, Public Resources Code.

- Renumbering and amendment of former Section 11342 to Section 11370, and renumbering and amendment of former Section 11344(b) to Section 11342 filed 10-11-89; operative 11-10-89 (Register 89. No. 43). For prior history, see Register 87, No. 30.
- 2. Amendment of section and Note filed 6–7–2022; operative 10–1–2022 (Register 2022, No. 23).

§ 11343. Appeal from the Modification of a Commission Cease and Desist Order.

(a) A person who has been personally served with a Commission cease and desist order or to whom the Commission has mailed by certified mail a cease and desist order and to whom the order is directed may appeal to the Commission any modification of the order by the Executive Director by filing a written statement that the party is appealing the modification and the reasons for the appeal.

(b) If the appeal is filed within ten days of the personal service or mailing by certified mail of the modification to the order, the appeal shall stay the effect of the modification, but the previously effective order shall re-

main in effect.

(c) Appeals of modifications of a cease and desist order by the Executive Director cannot be filed more than ten days after the personal service or mailing by certified mail of the modification.

NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Section 66638, Government Code; and Section 29601, Public Resources Code.

HISTORY

- Renumbering and amendment of former Section 11343 to Section 11340, and renumbering and amendment of former Section 11344(e) to Section 11343 filed 10-11-89; operative 11-10-89 (Register 89, No. 43). For prior history, see Register 87, No. 30.
- Amendment of section and Note filed 6-7-2022; operative 10-1-2022 (Register 2022, No. 23).

§ 11344. Amendments to Cease and Desist Orders. [Renumbered]

NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Sections 66637–66642, Government Code; Section 29601, Public Resources Code; and Bel Mar Estates v. California Coastal Commission (1981) Cal. App. 3d 936, 940.

HISTORY

 Renumbering and amendment of former Section 11344 to Sections 11341, 11342, and 11343 filed 10-11-89; operative 11-10-89 (Register 89, No. 43). For prior history, see Register 87, No. 30.

§ 11350. Contents of Permit Revocation Orders.

- (a) Commission permit revocation orders shall be signed by the Executive Director and shall contain the following:
- (1) the names of the person or persons who have violated a term or condition of a Commission permit or a Commission cease and desist order or who have misstated any information on a permit application or at a public hearing;
- (2) an identification of the term or condition of a permit or a cease and desist order that was violated, or the information that was misstated on the permit application;
 - (3) the effective date of the order;
- (4) the work and uses that are no longer authorized and the date by which any corrective actions or termination of uses must occur;
- (5) any terms, conditions, or other provisions that the Commission may determine that, if complied with, could avoid revocation of the permit:
- (6) written findings that (A) explain the decision to issue the permit revocation order and (B) provide the factual and legal basis for the issuance of the order;
- (7) notice that an aggrieved party can file with the superior court a petition for a writ of mandate for review of the order pursuant to Section 1094.5 of the Code of Civil Procedure.
- (b) A permit revocation order can be combined with a cease and desist order and/or an order setting administrative civil liability so long as the combined order contains all the information required by these regulations for each types of order.

NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code, Reference: Section 66638, Government Code; Section 29601, Public Resources Code; and Sunset Amusement Company v. Board of Police Commissioners (1972) 7 Cal.3d 64, 80.

HISTORY

- 1. New section filed 5-18-87; operative 6-17-87 (Register 87, No. 30).
- 2. Amendment filed 10-11-89; operative 11-10-89 (Register 89, No. 43).
- 3. Amendment of subsections (a)(2) and (b) and amendment of NOTE filed 6-7-2022; operative 10-1-2022 (Register 2022, No. 23).

§ 11351. Modification of Permit Revocation Orders.

The Executive Director may modify a permit revocation order for good cause if the modification would not materially change the order. NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Section 66638, Government Code; and Sections 29600 and 29601, Public Resources Code.

HISTORY

- 1. New section filed 10-11-89; operative 11-10-89 (Register 89, No. 43).
- 2. Amendment of section and Note filed 6-7-2022; operative 10-1-2022 (Register 2022, No. 23).

§ 11352. Appeal from Modification of a Permit Revocation Order.

- (a) A person to whom the Commission has issued a permit revocation order may appeal to the Commission any modification of the order by the Executive Director by filing within ten (10) days of the date of the personal service or mailing by certified mail of the modification a written statement that the party is appealing the modification and the reasons for the appeal.
- (b) If the appeal is filed within ten days of the personal service or mailing by certified mail of the modification to the order, the appeal shall stay the effect of the modification, but the previously effective order shall remain in effect.
- (c) Appeals of modifications of a permit revocation order by the Executive Director cannot be filed more than ten days after the personal service or mailing by certified mail of the modification.

NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Section 66638, Government Code; and Section 29601, Public Resources Code.

HISTORY

- 1. New section filed 10-11-89; operative 11-10-89 (Register 89, No. 43).
- Amendment of subsections (b)–(c) and amendment of Note filed 6–7–2022; operative 10–1–2022 (Register 2022, No. 23).

§ 11360. Preparation and Execution of Commission Cease and Desist Orders, Permit Revocation Orders, and Orders Setting Administrative Civil Liability.

The Executive Director shall prepare and sign a cease and desist order, a permit revocation order, or an order setting administrative civil liability authorized by the Commission no later than the fifth (5th) working day following approval.

NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Sections 66638, 66641.5(e) and 66641.6, Government Code; and Sections 29601, 29610 and 29611, Public Resources Code.

HISTORY

- Renumbering and amendment of Section 11051 to Section 11360 filed 5-18-87; operative 6-17-87 (Register 87, No. 30). For prior history, see Register 73, No. 50.
- Amendment of section heading, section and Note filed 6-7-2022; operative 10-1-2022 (Register 2022, No. 23).

§ 11361. Issuance.

"Issuance" of a cease and desist order, a permit revocation order, an order setting administrative civil liability, or of any modification of such orders, is complete when the Executive Director executes the original copy of the order or modification and it is stamped "Issued BCDC" with the date

NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Sections 66637, 66638, 66641.5(e) and 66641.6, Government Code; and Sections 29600 and 29601, Public Resources Code.

- 1. Renumbering and amendment of Section 11050 to Section 11361 filed 5–18–87; operative 6–17–87 (Register 87, No. 30). For prior history, see Register 73, No. 50.
- 2. Amendment filed 10-11-89; operative 11-10-89 (Register 89, No. 43).
- Amendment of section and Note filed 6-7-2022; operative 10-1-2022 (Register 2022, No. 23).

§ 11362. Service of Copies.

(a) Persons to Whom the Order or Modification is Issued. The Executive Director shall cause to be personally served or mailed by certified mail an original copy of a cease and desist order, a permit revocation order, and of any modification of such orders to each person to whom the order or modification is being issued and the owner of the property on which any violation addressed by the order occurred no later than the second working day following the date of issuance, except that with the written consent of the party to be served, the Executive Director shall serve any such order or order modification by email. The Executive Director shall cause to be personally served or mail by registered mail an order setting administrative civil liability or modification to such order to each person to whom the order is being issued no later than the second working day following the date of issuance, except that with the written consent of the party to be served, the Executive Director shall serve any such order or modification by email.

(b) Other Interested Persons. The Executive Director shall personally serve on or shall mail by certified mail a copy of a cease and desist order or a permit revocation order authorized by the Commission and of any modification of such an order to each person who appeared at the hearing and submitted a written request for a copy no later than the second working day following the date of issuance, except that with the written consent of the party to be served, the Executive Director shall serve any such order or order modification by email. The Executive Director shall cause to be personally served or mail by registered mail an order setting administrative civil liability or modification to such order to each person who appeared at the hearing and submitted a written request for a copy, except that with the consent of the party to be served, the Executive Director shall serve any such order or order modification by email. In addition, the Executive Director shall post on the Commission's website a copy of a cease and desist order, permit revocation order, or an order setting administrative civil liability, or any modification of such orders no later than the second working day following issuance.

NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Sections 66637, 66638, 66641.5(e) and 66641.6, Government Code; and Sections 29600 and 29601, Public Resources Code.

HISTORY

- Renumbering and amendment of Section 11052 to Section 11362 filed 5-18-87; operative 6-17-87 (Register 87, No. 30). For prior history, see Register 73, No. 50.
- 2. Amendment filed 10-11-89; operative 11-10-89 (Register 89, No. 43).
- Amendment of section and Note filed 6–7–2022; operative 10–1–2022 (Register 2022, No. 23).

§ 11370. Enforcement Record.

The record of an enforcement proceeding shall consist of

- (a) the violation report, including all documents referred to in the report;
 - (b) any complaint for administrative civil liability;
- (c) all timely filed statement of defense form(s), including all documents submitted therewith;
- (d) all untimely filed statement of defense forms that have nevertheless been admitted into evidence;
- (e) the Executive Director's recommended enforcement decision, including all documents and any other evidence referred to or included in the recommendation,
- (f) minutes or a verbatim transcript of all enforcement committee and Commission enforcement hearings and deliberations, provided, that if any oral testimony or any cross—examination and direct examination of a person whose declaration under penalty of perjury has become part of

the enforcement record is allowed at the enforcement hearing, a verbatim transcript of such testimony shall also be included;

- (g) all evidence submitted but rejected because it was not filed in a timely manner or violated Section 11328, with a notation that it was rejected and is included in the record only so that a reviewing court will know what evidence was rejected;
- (h) any enforcement committee's or hearing officer's recommended enforcement decision,
 - (i) any order that the Commission issues,
- (j) such other permit or other Commission files as have explicitly been made a part of the record,
- (k) the McAteer-Petris Act, if relevant to any of the issues raised in the proceeding,
- (l) the San Francisco Bay Plan, if relevant to any of the issues raised in the proceeding,
- (m) the Suisun Marsh Preservation Act, if relevant to any of the issues raised in the proceeding,
- (n) the Suisun Marsh Protection Plan, if relevant to any of the issues raised in the proceeding,
- (o) the Suisun Marsh Local Protection Program, if relevant to any of the issues raised in the proceeding, and
 - (p) the Commission's regulations.

NOTE: Authority cited: Section 66632(1), Government Code; and Section 29201(e), Public Resources Code. Reference: Sections 66638, 66640, 66641.5(e), 66641.6 and 66641.7, Government Code; and Sections 29600 and 29601, Public Resources Code.

HISTORY

- Renumbering and amendment of former Section 11342 to Section 11370 filed 10-11-89; operative 11-10-89 (Register 89, No. 43).
- Amendment of section and Note filed 6-7-2022; operative 10-1-2022 (Register 2022, No. 23).

§ 11380. Content of Complaint for Administrative Civil Liability.

The complaint shall follow the format and contain the information set out in Appendix H to these regulations. The complaint shall identify the violations for which administrative civil penalties are proposed and include:

- (a) a list or table of all alleged violations for which staff is proposing a penalty;
 - (b) the total amount of proposed administrative civil penalties; and
- (c) a statement of the applicable factors set forth in Government Code Section 66641.9 that the Executive Director considered, consistent with the Administrative Civil Penalty Policy in Appendix J of these regulations, in determining the total amount of the proposed administrative civil penalties;

NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Sections 66641.5(e), 66641.6 and 66641.9, Government Code; and Sections 29610 and 29611, Public Resources Code.

HISTORY

- 1. New section filed 10-11-89; operative 11-10-89 (Register 89, No. 43).
- 2. Amendment of section heading, section and Note filed 6–7–2022; operative 10-1-2022 (Register 2022, No. 23).

§ 11381. Commission Hearing on Complaint for Administrative Civil Liability.

- (a) The Commission shall comply with the requirements of Cal. Govt. Code Section 66641.6(b) by either: (1) hearing the matter itself within 60 days of the service of the complaint; or (2) by having the enforcement committee hold a hearing within 60 days of the service of the complaint. With the written consent of the respondent(s) to whom a complaint is issued, the Executive Director shall for good cause extend the 60–day time limit for a hearing on the complaint under Government Code Section 66641.6(b).
- (b) The Executive Director shall determine whether to refer a complaint for administrative civil liability to the Commission or to the enforcement committee.

- (c) When the Executive Director determines whether to refer a complaint to the Commission or to the enforcement committee, he or she shall consider the following factors:
- (1) the time that it would take the Commission or enforcement committee to complete consideration of the complaint,
- (2) whether the Executive Director has issued a cease and desist order for the violation or violations alleged in the complaint, and whether the Executive has proposed that any order setting administrative civil liability be combined with a Commission cease and desist order and/or a permit revocation order.
- (3) the relative workloads of the Commission and the enforcement committee at the time,
- (4) whether the complaint involves any policy issues that should be determined by the Commission initially,
- (5) whether the Commission or the enforcement committee has already heard any enforcement matter that is related to the complaint, and
- (6) any request by the Commission that it hear the matter directly. NOTE: Authority cited: Section 66632(f), Government Code. Reference: Sections 66641.5(e) and 66641.6, Government Code.

- 1. New section filed 10-11-89; operative 11-10-89 (Register 89, No. 43).
- 2. Amendment of section heading, section and NOTE filed 6-7-2022; operative 10-1-2022 (Register 2022, No. 23).

§ 11382. Further Procedures for Commission Review of Complaints for Administrative Civil Liability.

The Commission shall follow the procedures established by Sections 11321 through 11334 of these regulations when it considers a recommended enforcement decision from either the staff or the enforcement committee relative to the possible imposition of administrative civil liability.

NOTE: Authority cited: Section 66632(f), Government Code. Reference: Sections 66641.5(e), 66641.6 and 66641.9, Government Code.

HISTORY

- 1. New section filed 10-11-89; operative 11-10-89 (Register 89, No. 43).
- 2. Amendment of section heading, section and NOTE filed 6-7-2022; operative 10-1-2022 (Register 2022, No. 23).

§ 11383. Contents of a Commission Order Setting Administrative Civil Liability.

- (a) A Commission order setting administrative civil liability shall be signed by the Executive Director and shall contain the following:
 - (1) the name(s) of the person(s) required to pay the civil penalties;
- (2) the amount of the civil penalties and findings that address the applicable factors set forth in Government Code Section 66641.9 that the Commission considered in determining the amount of the civil penalties;
- (3) the date by which the civil penalties must be paid in full, or, if the penalties are to be paid in installments, the amount of each installment and the date by which each installment must be paid;
- (4) written findings that (1) explain the decision to issue the order setting administrative civil liability and (2) provide the factual and legal basis for the issuance of the order, and
- (5) notice that a person to whom the Commission issues an order setting administrative civil liability 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 within thirty (30) days after service of a copy of the order.
- (b) An order setting administrative civil liability can be combined with a cease and desist order or a permit revocation order so long as the combined order contains all the information required under these regulations for each type of order.

NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Sections 66641.5(e), 66641.6 and 66641.9, Government Code; and Sections 29610 and 29611, Public Resources Code.

HISTORY

- 1. New section filed 10-11-89; operative 11-10-89 (Register 89, No. 43).
- 2. Amendment of section heading, section and NOTE filed 6-7-2022; operative 10-1-2022 (Register 2022, No. 23).

§ 11384. Modification of a Commission Order Setting Administrative Civil Liability.

The Executive Director may modify an order setting administrative civil liability for good cause if the modification would not alter the total amount of the civil penalties or otherwise materially change the order. Note: Authority cited: Section 66632(f), Government Code. Reference: Sections 66641.5(c), 66641.6 and 66641.9, Government Code.

HISTORY

- 1. New section filed 10-11-89; operative 11-10-89 (Register 89, No. 43).
- 2. Amendment of section heading, section and Note filed 6-7-2022; operative 10-1-2022 (Register 2022, No. 23).

§ 11385. Appeal from Modification of an Order Setting Administrative Civil Liability.

- (a) A person to whom the Commission has issued an order setting administrative civil liability may appeal to the Commission any modification of the order by the Executive Director by filing within ten (10) days of the date of personal service or mailing by registered mail of the modification a written statement that the party is appealing the modification and the reasons for the appeal.
- (b) If the appeal is filed within ten days of the personal service or mailing by registered mail of the modification to the order, the appeal shall stay the effect of the modification, but the previously effective order shall remain in effect.
- (c) Appeals of modifications of an order setting administrative civil liability by the Executive Director cannot be filed more than ten days after the personal service or mailing by registered mail of the modification. NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Sections 66641.5(e), 66641.6 and 66641.9, Government Code.

HISTORY

- 1. New section filed 10-11-89; operative 11-10-89 (Register 89, No. 43).
- 2. Amendment of section heading, section and Note filed 6-7-2022; operative 10-1-2022 (Register 2022, No. 23).

Article 3. Standardized Fines

§ 11386. Applicability of Article.

- (a) This Article shall apply to an enforcement action if the Executive Director determines:
- (1) that an alleged violation is one of the types identified in Section 11390:
- (2) that the alleged violation has not resulted in significant harm to the Bay's resources or to existing or future public access; and
- (3) that the alleged violation can be corrected in a manner consistent with the Commission's laws and policies.
- (b) For purposes of this Article, "significant harm to the Bay's resources or to existing or future public access" shall be determined in accordance with Section 11310(f).
- (c) If an enforcement action involves both an alleged violation that has not resulted in significant harm to the Bay's resources or to existing or future public access and an alleged violation that has resulted in significant harm to such resources or public access or that is otherwise not subject to resolution under this Article, the Executive Director may, depending on the nature and extent of all the violations and on whether the responsible party has taken appropriate action to resolve the violations, commence Commission enforcement proceedings for all the alleged violations by following the procedures established by Sections 11321 through 11334 of these regulations.

NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Section 66641.5(e), Government Code; and Section 29610, Public Resources Code.

HISTORY

- 1. New section filed 2-26-93; operative 3-29-93 (Register 93, No. 9).
- 2. Amendment filed 6-26-97; operative 7-26-97 (Register 97, No. 26).
- 3. Amendment of section and Note filed 12–9–98; operative 1–8–99 (Register 98, No. 50).
- 4. Amendment filed 5-22-2003; operative 6-21-2003 (Register 2003, No. 21).
- 5. New article 3 heading, amendment of section heading and subsections (a)-(a)(10), renumbering of former subsections (b)-(b)(3) to new section

11387, renumbering of former subsection (c) to new section 11388, renumbering of former subsection (d) to new section 11389, renumbering of former subsections (e)–(h) to new section 11390, renumbering of former subsections (i)–(k) to new section 11391, new subsections (b)–(c) and amendment of NOTE filed 6–7–2022; operative 10–1–2022 (Register 2022, No. 23)

§ 11387. Notice of Alleged Violation.

If this Article applies to an enforcement action, the Executive Director shall mail a written notice to the person(s) responsible for the alleged violation(s) that contains all of the following information:

- (a) the nature of the alleged violation(s) and each and every action that must be taken to correct the alleged violation;
- (b) the fact that if the alleged violation(s) are fully corrected within 35 days of the mailing of the notice, the Commission shall not impose any fine; and
- (c) the fact that if the alleged violation(s) are not fully corrected within 35 days of mailing of the notice, the person responsible for the alleged violation(s) may be subject to the payment of a fine and may resolve the alleged violation(s) by taking each and every corrective action required by the notice and paying the standardized fine specified in Section 11390(a) or 11390(b) without having to go through a Commission enforcement proceeding pursuant to Sections 11321 through 11334, except as provided in Section 11390(d).

NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Section 66641.5(e), Government Code; and Section 29610, Public Resources Code.

HISTORY

Renumbering and amendment of former section 11386, subsections (b)–(b)(3) to new section 11387 filed 6–7–2022; operative 10–1–2022 (Register 2022, No. 23).

§ 11388. Opportunity to Complete Corrective Action without Imposition of a Standardized Fine.

Except as provided in Section 11390(c), if the person responsible for the alleged violation(s) submits to the Executive Director information demonstrating that the alleged violation(s) have not occurred or that such person has completed each and every corrective action specified in the notice pursuant to Section 11387 within thirty–five (35) days after the mailing of the notice, the Commission shall not impose any standardized fine.

NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Section 66641.5(e), Government Code; and Section 29610, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 11386, subsection (c) to new section 11388 filed 6-7-2022; operative 10-1-2022 (Register 2022, No. 23).

§ 11389. Opportunity to Complete Corrective Action with Imposition of a Standardized Fine.

Except as provided in Sections 11390(c) and 11390(d), if the person responsible for the alleged violation(s) fails to submit to the Executive Director information demonstrating that such person has completed each and every corrective action required by the notice pursuant to Section 11387 within thirty—five (35) days after the date of the mailing of the notice, the responsible person may resolve the alleged violation(s) by completing each and every corrective action required by the notice sent pursuant to Section 11387 and by paying a fine in the amount provided in Sections 11390(a) or 11390(b).

NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Section 66641.5(e), Government Code; and Section 29610, Public Resources Code.

HISTORY

 Renumbering and amendment of former section 11386, subsection (d) to new section 11389 filed 6-7-2022; operative 10-1-2022 (Register 2022, No. 23).

§ 11390. Violations Subject to a Standardized Fine and Schedule of Standardized Fines.

- (a) The following standardized fines shall apply to the following types of alleged violations:
- (1) for the failure to return an acknowledged, executed Commission permit before commencing the work authorized by the permit, or, for any permit issued to authorize previously commenced or completed work,

for failure to return an acknowledged, executed permit within the time period stated in the permit:

- (A) if the fully executed permit is returned between thirty-six (36) and sixty-five (65) days after the date of the mailing of the notice required by Section 11387: TWO THOUSAND DOLLARS (\$2,000.00); or
- (B) if the fully executed permit is returned more than sixty-five (65) days after the date of the mailing of the notice required by Section 11387: FIVE THOUSAND DOLLARS (\$5,000.00) plus FIVE HUNDRED DOLLARS (\$500.00) per day from the sixty-fifth (65) day to the date the fully executed permit is received by the staff.
- (2) for the failure to submit any document other than an acknowledged, executed Commission permit in the form, manner or time required by a Commission permit:
- (A) if a required document is submitted between thirty-six (36) and sixty-five (65) days after the date of the mailing of the notice required by Section 11387: TWO THOUSAND DOLLARS (\$2,000.00) per document:
- (B) if a required document is submitted between sixty-six (66) and ninety-five (95) days after the date of the mailing of the notice required by Section 11387: FIVE THOUSAND DOLLARS (\$5,000.00) per document; or
- (C) if a required document is submitted more than ninety-five (95) days after the date of the mailing of the notice required by Section 11387: FIVE THOUSAND DOLLARS (\$5,000.00) for each document plus FIVE HUNDRED DOLLARS (\$500.00) per day for each document, from the ninety-sixth (96th) day to the date the document is received by the staff.
- (3) for the failure to comply with any condition required by a Commission permit not covered by subsections (a)(1) or (a)(2):
- (A) if corrected between thirty—six (36) and sixty—five (65) days after the date of the mailing of the notice required by Section 11387: TWO THOUSAND DOLLARS (\$2,000.00) for each violation of each separate permit requirement; or
- (B) if corrected between sixty-six (66) and ninety-five (95) days after the date of the mailing of the notice required by Section 11387: FIVE THOUSAND DOLLARS (\$5,000.00) for each violation of each separate permit requirement; or
- (C) if corrected more than ninety-five (95) days after the date of the mailing of the notice required by Section 11387: FIVE THOUSAND DOLLARS (\$5,000.00) for each violation of each separate permit requirement, plus FIVE HUNDRED DOLLARS (\$500.00) per day for each violation, from the ninety-sixth (96th) day to the date the violation is corrected or the required improvements are provided.
- (4) for the failure to obtain a Commission permit or an amendment to a previously issued Commission permit prior to undertaking any activity that can be authorized by an administrative permit or an amendment to previously issued Commission permit:
- (A) if either a complete and properly executed application accompanied by a check or money order for the applicable application fee, as determined pursuant to Appendix M, Section (b) of the Commission's regulations, is submitted between thirty—six (36) and sixty—five (65) days and a permit or permit amendment is obtained within one hundred and fifty—five (155) days after the date of the mailing of the notice required by Section 11387 or the unauthorized activity is completely corrected between thirty—six (36) and sixty—five (65) days after the date of the mailing of the notice required by Section 11387: TWO THOUSAND DOLLARS (\$2,000.00);
- (B) if either a complete and properly executed application accompanied by a check or money order for the applicable application fee, as determined pursuant to Appendix M, Section (b) of the Commission's regulations, is submitted between sixty-six (66) and ninety-five (95) days and a permit or permit amendment is obtained within one hundred and eighty-five (185) days after the date of the mailing of the notice required by Section 11387 or the unauthorized activity is completely corrected between sixty-six (66) and ninety-five (95) days after the date of the mail-

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ing of the notice required by Section 11387: FIVE THOUSAND DOL-LARS (\$5,000.00):

(C) if a complete and properly executed application accompanied by a check or money order for the applicable application fee, as determined pursuant to Appendix M, Section (b) of the Commission's regulations, is submitted more than ninety-five (95) days after the date of the mailing of the notice required by Section 11387 or the unauthorized activity is completely corrected within the same time limits: FIVE THOUSAND DOLLARS (\$5,000.00) plus FIVE HUNDRED DOLLARS (\$500.00) per day from the ninety-sixth (96th) day to the date the fully complete and properly executed application accompanied by a check or money order for the applicable application fee is submitted or the activity is completely corrected.

(5) for the failure to obtain a Commission permit prior to undertaking any activity that can be authorized by a regionwide permit or an abbrevi-

ated regionwide permit:

- (A) if either a complete notice of intent to proceed under a regionwide permit or abbreviated regionwide permit is submitted between thirty-six (36) and sixty-five (65) days and the Executive Director approves the notice of intent to proceed within one hundred and fifty-five (155) days after the date of the mailing of the notice required by Section 11387 or the unauthorized activity is completely corrected between thirty-six (36) and sixty-five (65) days after the date of the mailing of the notice required by Section 11387: TWO THOUSAND DOLLARS (\$2,000.00);
- (B) if either a complete notice of intent to proceed under a regionwide permit or an abbreviated regionwide permit is submitted between sixty—six (66) and ninety—five (95) days and the Executive Director approves the notice of intent to proceed within one hundred and eighty—five (185) days after the date of the mailing of the notice required by Section 11387 or the unauthorized activity is completely corrected between sixty—six (66) and ninety—five (95) days after the date of the mailing of the notice required by Section 11387: FOUR THOUSAND DOLLARS (\$4,000.00);
- (C) if a complete notice of intent to proceed under a regionwide permit or an abbreviated regionwide permit is submitted more than ninety–five (95) days after the date of the mailing of the notice required by Section 11387 or the unauthorized activity is completely corrected within the same time limits: FOUR THOUSAND DOLLARS (\$4,000.00) plus FIVE HUNDRED DOLLARS (\$500.00) per day from the ninety–sixth (96th) day to the date the complete notice of intent to proceed is submitted or the unauthorized activity is completely corrected.
- (6) for the placement of fill, the extraction of materials or a change in use that could not be authorized under the Commission's laws and policies:
- (A) if the violation is corrected and the area restored to its prior status between thirty-six (36) and sixty-five (65) days after the mailing of the notice required by Section 11387: THREE THOUSAND DOLLARS (\$3,000.00);
- (B) if the violation is corrected and the area restored to its prior status between sixty-six (66) and ninety-five (95) days after the mailing of the notice required by Section 11387: EIGHT THOUSAND DOLLARS (\$8,000.00);
- (C) if the violation is corrected and the area returned to its prior status more than ninety-five (95) days after the mailing of the notice required by Section 11387: EIGHT THOUSAND DOLLARS (\$8,000.00) plus FIVE HUNDRED DOLLARS (\$500.00) per day to the date the violation is completely corrected.
- (b) A person responsible for any alleged violation must pay double the amount listed in subsection (a) to resolve the alleged violation if that person has previously paid or has been assessed but has failed to pay any standardized fine pursuant to subsection (a) and Section 11391 within the five years prior to resolution of the alleged violation.
- (c) If a violation resolved pursuant to Section 11388 is repeated by the same person within five years of the resolution of the prior violation, Section 11388 and subsections (a) and (b) shall not apply. Instead, the person responsible for the subsequent violation may resolve the subsequent al-

leged violation by paying TWO HUNDRED DOLLARS (\$200.00) per day for each day the subsequent alleged violation occurs or persists after the date of the mailing of the notice required by Section 11387.

(d) If the person responsible for the alleged violation does not complete all the required corrective actions within 125 days of the notice mailed pursuant to Section 11387 or does not pay the amount of standardized fines assessed in accordance with this section when payment is due under Section 11391(c) or (d), the Executive Director may commence Commission enforcement proceedings in accordance with Sections 11321 through 11334. If the Executive Director determines that the person responsible for the violation has not made a good–faith effort to correct an alleged violation, the Executive Director may terminate the opportunity for resolution of the violation using the standardized fine process by mailing a notice stating that the process is no longer available. After mailing such notice, the Executive Director shall commence Commission enforcement proceedings in accordance with Sections 11321 through 11334 to resolve the violation.

Note: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Section 66641.5(e), Government Code; and Section 29610, Public Resources Code.

HISTORY

 Renumbering and amendment of former section 11386, subsections (e)—(h) to new section 11390 filed 6-7-2022; operative 10-1-2022 (Register 2022, No. 23)

§ 11391. Notice of Liability for Standardized Fines and Opportunity to Appeal or to Resolve Violation through Commission Enforcement Proceedings.

- (a) After the violation has been completely resolved, the Commission staff shall notify the person responsible for the violation by first class mail or email of the amount of standardized fines assessed in accordance with Section 11390. The notice shall state that if any person subject to standardized fines believes that the amount of standardized fines is inappropriate or was not properly determined in accordance Section 11390, that person can appeal the amount of the fines to the Executive Director and the Chair by submitting to the Executive Director within 21 days of the date of the notice a written statement that the person is appealing and the reasons for the appeal. The Commission staff shall submit to the Executive Director a response to the appeal within 14 days after receipt thereof. The Executive Director and the Chair can reduce the amount of the standardized fines to an amount that they believe is appropriate and can establish a schedule for the payment of the standardized fines in installments.
- (b) If any person subject to the standardized fines listed in Sections 11390(a), (b), or (c) believes that the 35-day time limit for resolution without a standardized fine established pursuant to Sections 11387 and 11388 is not feasible, that person may appeal the time limit to the Executive Director and the Chair by submitting to the Executive Director within 35-days of the notice mailed pursuant to Section 11387 a written statement that the person is appealing the 35-day time limit, the reasons for the appeal, and a proposed alternative date to complete the required corrective action. The Executive Director and the Chair can modify the 35-day time limit and the time periods for accrual of standardized fines set forth in Section 11390(a) for the violation as they believe appropriate.
- (c) If any person subject to standardized fines does not appeal the amount of such fines within 21 days of receiving notice from Commission staff under subsection (a), the full amount of such fines shall be due and payable by cashier's check thirty (30) days after the date of the notice provided under subsection (a).
- (d) If any person subject to standardized fines appeals the amount of such fines within 21 days of receiving notice from Commission staff under subsection (a), any fines the Executive Director and Chair determine to be appropriate shall be due and payable by cashier's check by the date or dates specified in their decision on the appeal.
- (e) Any person receiving a notice under Section 11387 may waive the opportunity to resolve the violation under this Article by submitting a let-

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ter to the Executive Director indicating such a waiver and requesting that the violation be resolved through Commission enforcement proceedings in accordance with Sections 11321 through 11334 if that person believes such proceedings are necessary to fairly determine liability for the violation, the appropriate remedy, or the appropriate fine or administrative civil penalty amount. A waiver of the opportunity to resolve a violation under this Article and request that the violation be resolved through Commission enforcement proceedings may be submitted at any time after receipt of a notice under Section 11387 but no later than: (1) twenty one (21) days after the date of the notice provided by Commission staff under subsection (a) of amount of standardized fines assessed, if the person receiving such notice elects not to appeal the amount of such fines to the Executive Director and Chair; or (2) fourteen (14) days after the date of the decision of the Executive Director and Chair on any appeal of the amount of standardized fines. If a letter waiving the opportunity to resolve a violation under this Article and requesting that the violation be resolved through Commission enforcement proceedings is submitted after the Commission staff has provided notice under subsection (a) of the amount of standardized fines assessed or after the decision of the Executive Director and Chair on any appeal of the amount of standardized fines, no such fines shall be due pursuant to that notice or that decision, and the appropriate amount of fines or administrative civil penalties shall be determined through Commission enforcement proceedings.

(f) If a person subject to standardized fines fails to pay such fines when due and payable under subsection (c) or (d), as applicable, and if such person has not submitted a letter waiving the opportunity to resolve a violation under this Article and requesting that the violation be resolved through Commission enforcement proceedings under subsection (e), the Executive Director shall commence Commission enforcement proceedings in accordance with Sections 11321 through 11334 to resolve the violation. In those proceedings, the person subject to such fines may not contest his or her liability for the violation or that the violation occurred, and the Commission shall determine only whether the amount of standardized fines was properly calculated in accordance with Section 11390. Note: Authority cited: Section 66632(f), Government Code; and Section

NOTE: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Section 66641.5(e), Government Code; and Section 29610, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 11386, subsections (i)–(k) to new section 11391 filed 6–7–2022; operative 10–1–2022 (Register 2022, No. 23).

Chapter 14. Marsh Development Permits Issued by Local Governments and Appeals Therefrom

Subchapter 1. Marsh Development Permits Issued by Local Governments

Article 1. Application

§ 11400. Application of Chapter.

This Chapter shall govern the issuance of a marsh development permit or any other local permit that incorporates the provisions of a marsh development permit, hereinafter referred to as "a marsh development authorization," by local governments pursuant to California Public Resources Code Section 29502(a) and appeals from marsh development authorizations issued by local governments.

NOTE: Authority cited: Sections 29201(e) and 29521, Public Resources Code. Reference: Section 29502, Public Resources Code.

HISTORY

1. Renumbering and amendment of Section 11225 to Section 11400 filed 5–18–87; operative 6–17–87 (Register 87, No. 30). For prior history, see Register 86, No. 39.

Article 2. Marsh Development Permits Issued by Local Governments

§ 11410. Order of Permits.

If a Suisun Marsh development requires both a marsh development permit from the Commission and a marsh development authorization from a local government because part of the development site is located within either the primary management area of the Suisun Marsh or within tidelands, submerged lands, or other public trust lands within the secondary management area and if another part of the development site is located within the secondary management area of the Suisun Marsh, the person or entity who proposes the development shall first obtain the marsh development authorization from the appropriate local government for that part of the site or development that is within the secondary management area before requesting a marsh development permit from the Commission for that part of the site or development that is within the primary management area.

NOTE: Authority cited: Sections 29201(e) and 29521, Public Resources Code. Reference: Sections 29300 and 29502, Public Resources Code.

HISTORY

- 1. New section filed 5–18–87; operative 6–17–87 (Register 87, No. 30).
- Change without regulatory effect amending section filed 12-31-2020 pursuant to section 100, title 1, California Code of Regulations (Register 2021, No. 1). (OAL review extended 60 calendar days pursuant to Executive Order N-40-20.)

§ 11411. Application.

- (a) The person or entity applying for a marsh development authorization from local government for a development within the secondary management area shall submit to the local government and the local government shall require the person or entity to provide the following:
- (1) an application that provides detailed information about the development and that includes a site plan that shows the property lines of the site and the location and extent of existing and proposed work and uses information that clearly distinguishes existing improvements from proposed improvements, and existing shoreline public access areas from proposed shoreline public access areas, the location of any existing leves and water transporting and water control structures, and information that identifies all building elevations, the approximate distance from the development to the nearest marsh, the location of any managed wetland and any tidal area in the vicinity, and the name and location of the nearest public road;
- (2) a statement that describes all environmental impacts that may arise from the proposed development with supporting facts and information;
- (3) a statement that the person signing the application is either the applicant or has the authority to bind legally the applicant;
- (4) sufficient evidence that shows the applicant either owns the land, has a lease of sufficient duration to allow a reasonable return on any investment, or has an enforceable option on the land on which the development will occur or other similar authority to use the property; and
- (5) a statement under penalty of perjury by the person signing the application that all the information submitted is complete and accurate.
- (b) The local government may either incorporate the request for this information into its existing applications forms or may request this information separately.

NOTE: Authority cited: Sections 29201(e) and 29521, Public Resources Code. Reference: Section 29502, Public Resources Code.

HISTORY

 Renumbering and amendment of Section 11227 to Section 11411 filed 5-18-87; operative 6-17-87 (Register 87, No. 30). For prior history, see Register 86, No. 39.

§ 11412. Notice to the Commission of Pending Applications.

(a) Within five (5) working days of the filing of an application with the local government for a marsh development authorization, the local government shall provide in writing to the Commission the following information: