

MINUTE ITEM

This Calendar Item No. C23
was approved as Minute Item
No. 23 by the State Lands
Commission by a vote of 3
to 0 at its 4-28-93
meeting.

CALENDAR ITEM

C23

A 6
S 3

04/28/93
WP 6459
J. Smith
PRC 6459

EXTENSION OF MAINTENANCE DREDGING PERMIT

APPLICANT:

Western Dock Enterprises
P.O. Box 4669
Petaluma CA 94955

AREA, TYPE LAND AND LOCATION:

Granted sovereign lands in San Rafael Creek at the Marin
Yacht Club, Marin County.

LAND USE:

Dredge a maximum 7,500 cubic yards of material in San Rafael
Creek to maintain navigable depth to facilitate docking of
recreational boats at the Marin Yacht Club. Applicant
proposes disposal of material at the United States Army
Corps of Engineers approved San Pablo Bay Disposal Site
SF-10.

TERMS OF ORIGINAL PERMIT:

Permit Period

Ten (10) years beginning April 12, 1983 through
April 11, 1993.

Royalty

\$0.15 per cubic yard assessed for material removed and
placed at approved disposal site;

\$0.25 per cubic yard assessed for material sold or used
for private or commercial purposes.

TERMS OF AMENDED PERMIT:

Permit Period

Extend expiration date to December 31, 1994.

In-bay Disposal Fee

\$0.10 per cubic yard fee was assessed by the San
Francisco Bay Conservation and Development Commission
(SFBCDC) pursuant to the adoption of the SFBCDC's
dredging fee regulations on December 23, 1992.

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All other terms and conditions of the original permit remain in full force and effect.

PREREQUISITE CONDITIONS, FEES AND EXPENSES:

Filing and processing fees have been received.

STATUTORY AND OTHER REFERENCES:

- A. P.R.C.: Div. 6, Parts 1 and 2; Div. 13.
- B. Cal. Code Regs.: Title 3, Div. 3; Title 14, Div. 6.

AB 884:

08/09/93.

OTHER PERTINENT INFORMATION:

1. Pursuant to the State Lands Commission's delegation of authority to the Executive Officer to issue dredging permits for 10,000 cubic yards or less, on April 12, 1983, a dredging permit was issued to Western Dock Enterprises to dredge a maximum 7,500 cubic yards of material in San Rafael Creek at the Marin Yacht Club, Marin County. This dredging project is part of a larger maintenance dredging project within San Rafael Creek, only 7,500 cubic yards of which are under State Lands Commission's jurisdiction. Due to delays in accomplishing the dredging and the expiration of other permits, the applicant is requesting an extension of their current permit. All other terms and conditions of the original permit remain in full force and effect.
2. The San Francisco Bay Conservation and Development Commission (SFBCDC), a "functional equivalent agency" under Section 21080.5 of the CEQA has:
 - a. served as the lead agency under CEQA;
 - b. considered the project described herein; and
 - c. found that the project, as proposed, will not have a significant effect on the environment.

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Under Section 15252 of the CEQA Guidelines, the State Lands Commission may use the environmental analysis made by the SFBCDC in its consideration of this project.

Authority: Sections 21083 and 21087 of the CEQA.

3. This activity involves lands identified as possessing significant environmental values pursuant to P.R.C. 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

APPROVALS OBTAINED:

SFBCDC, Regional Water Quality Control Board, and United States Army Corps of Engineers.

FURTHER APPROVALS REQUIRED:

State Lands Commission.

EXHIBITS:

- A. Location Map
- B. Site Map
- C. SFBCDC Permit No. M92-45.

IT IS RECOMMENDED THAT THE COMMISSION:

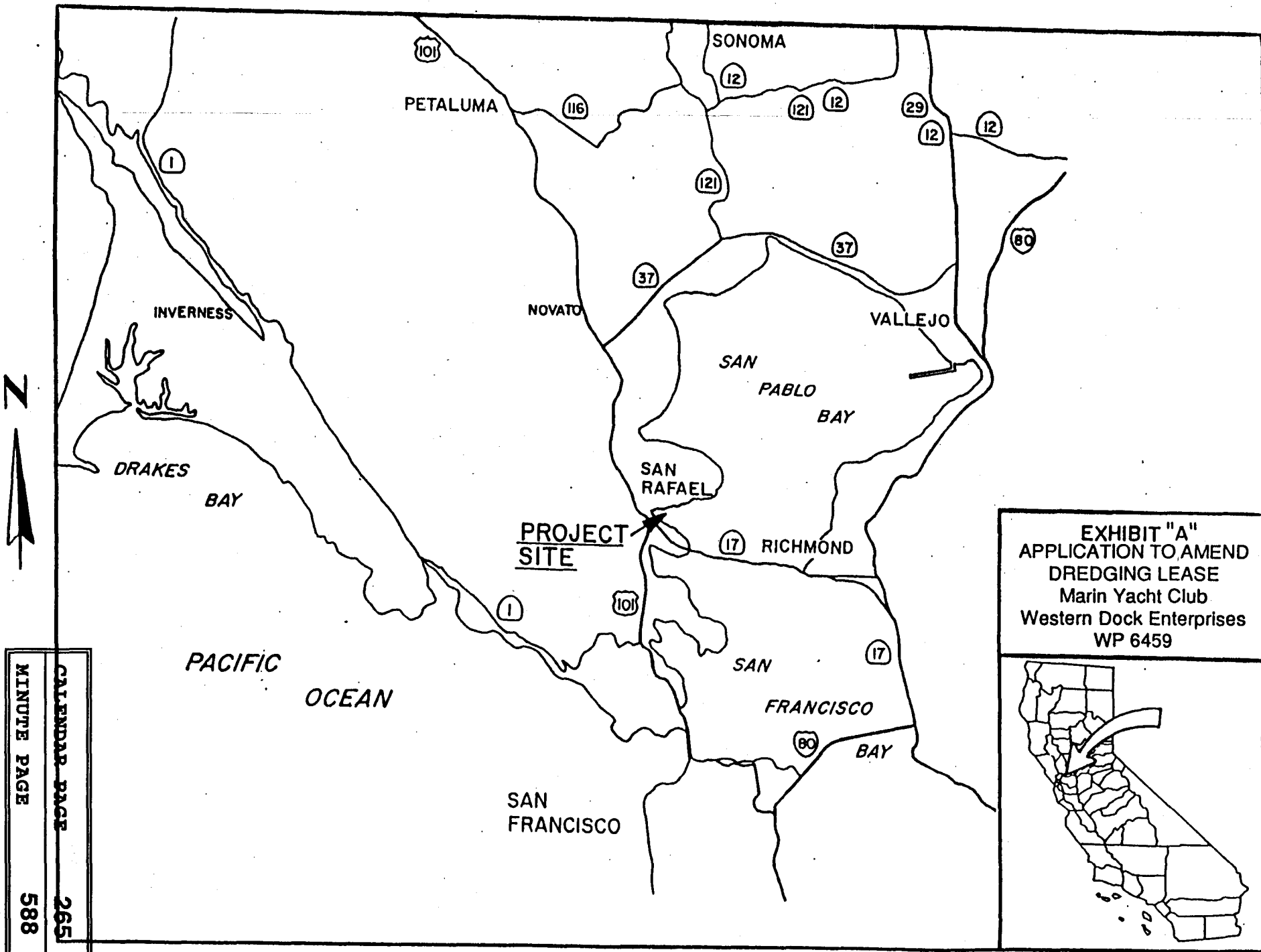
1. FIND THAT THE SFBCDC, A FUNCTIONAL EQUIVALENT AGENCY UNDER SECTION 21080.5 OF THE CEQA, HAS CONSIDERED THE PROPOSED PROJECT AND DETERMINED THAT THE PROJECT, AS PROPOSED, WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT.
2. FIND THAT THE COMMISSION HAS CONSIDERED THE INFORMATION CONTAINED IN THE ENVIRONMENTAL ANALYSIS PREPARED BY THE SFBCDC AND CONCURS WITH THE CONCLUSIONS AND FINDINGS CONTAINED THEREIN, 14 CAL CODE REGS., SECTION 15253.
3. FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED FOR THE LAND PURSUANT TO P.R.C. 6370, ET SEQ.

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4. AUTHORIZE ISSUANCE TO WESTERN DOCK ENTERPRISES OF AN EXTENSION TO DREDGING PERMIT PRC 6459, TO EXPIRE ON DECEMBER 31, 1994. SAID AMENDMENT SHALL ALLOW DREDGING A MAXIMUM VOLUME OF 7,500 CUBIC YARDS OF MATERIAL FROM SAN RAFAEL CREEK AT THE MARIN YACHT CLUB, MARIN COUNTY. ALL OTHER TERMS AND CONDITIONS OF THE ORIGINAL PERMIT REMAIN IN FULL FORCE AND EFFECT. SUCH PERMITTED ACTIVITY IS CONTINGENT UPON APPLICANT'S COMPLIANCE WITH APPLICABLE PERMITS, RECOMMENDATIONS, OR LIMITATIONS ISSUED BY FEDERAL, STATE, AND LOCAL GOVERNMENT AGENCIES.

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EXHIBIT "A"
 APPLICATION TO AMEND
 DREDGING LEASE
 Marin Yacht Club
 Western Dock Enterprises
 WP 6459



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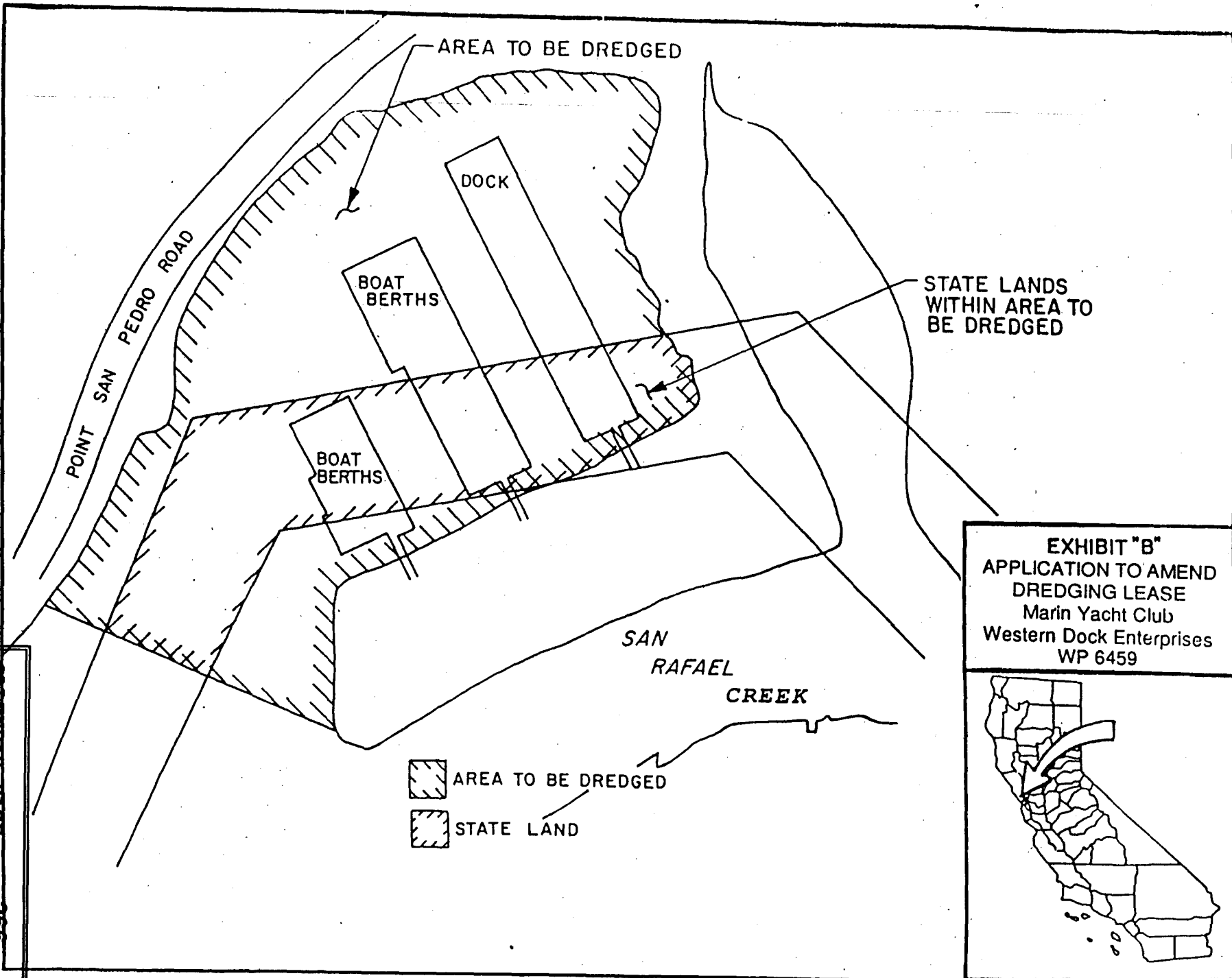


EXHIBIT "B"
APPLICATION TO AMEND
DREDGING LEASE
Marin Yacht Club
Western Dock Enterprises
WP 6459



EXHIBIT C

PETE WILSON

STATE OF CALIFORNIA

Governor

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

THIRTY YAN NESS AVENUE, SUITE 2011
 SAN FRANCISCO, CA 94102-6080
 PHONE: (415) 357-3686



PERMIT NO. M92-45

November 10, 1992

BCDC Original

Marin Yacht Club
 24 Summit Avenue
 San Rafael, California 94901

ATTENTION: Jack Keefe

Dear Mr. Keefe:

I. Authorization

A. Subject to the conditions stated below, the permittee, Marin Yacht Club, is hereby authorized to do the following:

Location: In the Bay, at the federally-designated San Pablo Bay disposal site.

Description: Dispose of a total of approximately 81,000 cubic yards of dredged material, 12,000 cubic yards on an annual basis until December 31, 1994, and 45,000 cubic yards on a one-time basis only. The material will be dredged from the Marin Yacht Club mooring basin, located on San Rafael Creek, in the City of San Rafael, outside of the Commission's jurisdiction.

B. This authority is generally pursuant to and limited by your application dated August 17, 1992 including its accompanying exhibits and all conditions of this permit.

C. Work authorized herein must be diligently pursued to completion and must be completed by December 31, 1994, unless an extension of time is granted by amendment of the permit.

II. Special Conditions

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

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A. In-Bay Disposal. At least 45 days prior to the commencement of the one-time only dredging episode and each annual dredging episode authorized herein, the permittee shall submit a written statement to the Executive Director that contains all of the following: (1) the dates within which the dredging and disposal episode is proposed; (2) the total volume of material proposed to be dredged and location of the proposed disposal in the Bay; (3) an explanation as to why ocean or upland disposal of the material is infeasible; and (4) an explanation as to how the proposed disposal is consistent with the U.S. Army Corps of Engineers' management of the disposal site so as to maintain adequate disposal site capacity. The authorization for the dredging and disposal episode shall become effective only when either: (1) the Executive Director informs the permittee in writing that he or she has determined that the episode is consistent with the authorization provided herein, that there is no feasible upland alternative available for the dredged material, and that sufficient capacity exists at the disposal site consistent with the long-term maintenance of the disposal site; or (2) the Executive Director does not respond to the permittee's written statement within 30 days of its receipt. If the Executive Director determines that ocean or upland disposal of the material is feasible or the U.S. Army Corps of Engineers indicates that the proposed disposal is inconsistent with the Corps' management of the disposal site so as to maintain adequate disposal site capacity, such determination shall terminate the Commission's authorization for in-Bay disposal as part of that dredging episode.

B. Dredging Fee. All dredging disposal episodes authorized herein commenced subsequent to the effective date of dredging user fee authorized under Assembly Bill 1059, and required pursuant to regulations to be adopted by the Commission, shall be subject to the user fee. The permittee shall provide such fee in the amount specified by the Commission's dredging fee regulation within 30 days of the effective date of the regulation. Failure to pay the fee within 30 days of the effective date of the regulation shall result in this authorization being suspended and becoming of no further effect until the fee is paid in full and a letter is issued by the Executive Director activating the authorization.

III. Findings and Declarations

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

A. The project authorized by this permit involves the disposal of any amount of dredged material at the San Pablo Bay disposal site meeting water quality standards as defined by Regulation Section 10601(a)(3) and thus is a "minor repair or improvement" for which the Executive Director may issue a permit, pursuant to Government Code Section 66632(f) and Regulation Section 10622(a).

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B. The project authorized by this permit is consistent with the McAteer-Petris Act and with the San Francisco Bay Plan in that it will not adversely affect the Bay nor public access to and enjoyment of the Bay.

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

D. Pursuant to Regulation Section 11501, the project authorized by this permit is categorically exempt from the requirement to prepare an environmental impact report.

E. Pursuant to Regulation Section 10620, this project was listed with the Commission on November 5, 1992.

IV. Standard Conditions

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

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

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

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

E. The rights derived from this permit are assignable as provided herein. An assignment shall not be effective until the assignee shall have executed and the Commission shall have received an acknowledgment that the

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assignee has read and understood the application for this permit and the permit itself and agrees to be bound by the terms and conditions of the permit, and the assignee is accepted by the Executive Director as being reasonably capable of complying with the terms of the permit.

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

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

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

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

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

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

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

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

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

Alan R. Pendleton
ALAN R. PENDLETON
Executive Director

Enc. 0471r--11/10/92

ARP/CS/rr

cc: U. S. Army Corps of Engineers, Attn: Regulatory Functions Branch
San Francisco Bay Regional Water Quality Control Board,
Attn: Certification Section
Environmental Protection Agency, Attn: Clyde Morris, W-7-2
Baykeeper, Attn: Mike Herz
Les Shorter, Western Dock Enterprises

* * * * *

Receipt acknowledged, contents understood and agreed to:

Executed at San Rafael

WA Lopez
Applicant

On 12 Nov 1992

By: Marin Yacht Club
WA Lopez

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