

MINUTE ITEM

This Calendar Item No. C27
was approved as Minute Item
No. 27 by the State Lands
Commission by a vote of 3
to 0 at its 9-9-93
meeting.

CALENDAR ITEM

C27

A 6
S 3

09/09/93
W 25001
J. Smith
PRC7713

MAINTENANCE DREDGING LEASE

APPLICANT:

Waterfront Property Owners Corporation
550 Riviera Circle
Larkspur, California 94939

AREA, TYPE LAND AND LOCATION:

Submerged lands at the Greenbrae Marina, Corte Madera Creek,
Larkspur, Marin County.

LAND USE:

Maintenance dredge a maximum of 19,000 cubic yards of
material at the Greenbrae Marina, Corte Madera Creek,
Larkspur, Marin County. Material will be disposed of at the
San Pablo Bay Aquatic Disposal Site SF-10.

TERMS OF THE PROPOSED LEASE:

Lease Period:

October 1, 1993 through December 1, 1993

Royalty:

No royalty shall be charged for material disposed of at
the approved in-bay disposal site.

A royalty of \$0.25 per cubic yard shall be charged for
dredged material used for private benefit or commercial
sale purposes.

PREREQUISITE CONDITIONS, FEES AND EXPENSES:

Filing and processing costs 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.

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AB 884:

11/08/93.

OTHER PERTINENT INFORMATION:

1. 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.
2. Questions have been raised about continuing disposal of dredged material in San Francisco Bay. It is anticipated the currently approved in-bay sites will reach capacity within ten years. However, the current lack of suitable upland disposal sites severely limits the options available for disposal.

Through participation in the Federal/State Joint Long-Term Management Strategy being conducted to identify and evaluate site options for the disposal of material dredged from San Francisco Bay, the State Lands Commission has emphasized the need to focus on the selection of upland and ocean disposal site(s). This need has also been expressed by the San Francisco Bay Conservation and Development Commission (SFBCDC).

Identification and evaluation of alternate disposal sites will require numerous studies which have been estimated to cost several million dollars. As ongoing in-bay disposal contributes to the eventual obsolescence of in-bay sites and exacerbates the need to develop other alternatives, a \$0.20 per cubic yard fee has been assessed by the SFBCDC to be deposited in a fund to offset the cost of needed studies.

Given the necessity of the proposed dredging in order to maintain navigability staff recommends authorization of the proposed dredging and disposal.

3. The San Francisco Bay Conservation and Development Commission (SFBCDC), a "functional equivalent agency" under Section 21080.5 of the CEQA has:

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- 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.

Under Section 15253 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.

APPROVALS OBTAINED:

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

FURTHER APPROVALS REQUIRED:

State Lands Commission.

EXHIBITS:

- A. Location and Site Map
- B. SFBCDC Permit M92-50

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE SFBCDC, A FUNCTIONAL EQUIVALENT AGENCY UNDER SECTION 21080.5 OF THE CEQA, THROUGH ITS ISSUANCE OF PERMIT NUMBER M92-50, 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 WILL INVOLVE LANDS IDENTIFIED AS POSSESSING SIGNIFICANT ENVIRONMENTAL VALUES PURSUANT TO P.R.C. 6370, ET SEQ., BUT THAT SUCH ACTIVITY WILL HAVE NO DIRECT OR INDIRECT EFFECT ON SUCH LANDS.
4. AUTHORIZE ISSUANCE OF A DREDGING LEASE TO THE WATERFRONT PROPERTY OWNERS CORPORATION, EFFECTIVE OCTOBER 1, 1993 THROUGH DECEMBER 1, 1996. SAID LEASE SHALL ALLOW DREDGING A MAXIMUM VOLUME OF 19,000 CUBIC YARDS OF MATERIAL FROM THE GREENBRAE MARINA, CORTE MADERA CREEK, LARKSPUR, MARIN

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COUNTY. THE DREDGED MATERIAL SHALL BE DISPOSED OF AT THE CORPS/EPA APPROVED IN-BAY DISPOSAL SITE SF-10. 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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SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

THIRTY VAN NESS AVENUE, SUITE 2011
 SAN FRANCISCO, CA 94102-6080
 PHONE: (415) 557-3686

**BCDC Original**

PERMIT NO. M92-50

May 12, 1993

Waterfront Property Owners Corporation
 550 Riviera Circle
 Larkspur, California 94939

ATTENTION: Peter Paul, President

Ladies and Gentlemen:

I. Authorization

A. Subject to the conditions stated below, the permittee, Waterfront Property Owners Corporation, is hereby authorized to do the following:

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

Description: Dredge a total of approximately 70,000 cubic yards of material, approximately 11,400 cubic yards of which will be new dredging and approximately 58,600 cubic yards of which will be maintenance dredging. The Creeks will be dredged to -5 feet Mean Lower Low Water (MLLW) in an area beginning at the outboard face of the individual homeowner's docks and ending 60 feet outboard of the docks. The Creeks will also be dredged to -3 feet MLLW in an area beginning at the outboard face of the individual homeowner's docks and ending 12 feet inboard of the outboard face of the docks. No dredging will take place within 20 feet of marsh vegetation. Disposal of the dredged material will occur at either the Alcatraz or San Pablo Bay designated disposal sites.

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B. This authority is generally pursuant to and limited by your application dated July 12, 1992, including its accompanying exhibits, and all conditions of this permit.

C. Work authorized herein must commence prior to June 1, 1994, or this permit will lapse and become null and void. Such work must also be diligently pursued to completion and must be completed within 30 months of commencement, or by December 1, 1996, whichever is earlier, 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:

A. Water Quality Certification. After water quality certification for this project was issued by the Regional Board, the testing guidelines for in-Bay disposal of dredged materials were changed. Thus, the permittee should note that authorization for any future dredging, other than the dredging authorized in this permit, will be subject to the new guidelines.

B. Thirty-Month Permit for Dredging. The approximately 70,000 cubic yards or less of new and maintenance dredging authorized by this permit shall be completed within 30 months of the date of commencement, or by December 1, 1996 whichever comes first. No further dredging is authorized by this permit.

C. Limits on Dredging. The permit authorizes dredging within area(s) shown on Exhibit A. In addition, the permittee shall not dredge within 20 feet of any marsh vegetation.

D. Dredging Report

1. Prior Notice of Episode. The permittee shall notify the staff by telephone or in writing at least seven (7) days prior to undertaking any dredging episode. The permittee shall permit the Commission staff or representatives of other state or federal agencies to come aboard the dredge or barge associated with the dredging or disposal episode and observe the operation to ensure that the dredging or disposal activity is consistent with the dredging report required herein and the other terms and conditions of this permit.
2. Dredging Report. Within 30 days of completion of each dredging episode of the new and maintenance dredging authorized by this permit, the permittee

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shall submit to the Commission a report which contains: (1) a bathymetric map showing the location of all areas authorized to be dredged and to what depth; (2) a bathymetric map showing the actual areas dredged and to what depth, and any dredging that occurred outside the area authorized to be dredged or below the depths authorized to be dredged shall be depicted graphically on the map; (3) a vicinity map showing the disposal site; and (4) the calculated volume of the actual material dredged or disposed. The Commission reserves the right to have such report inspected by a reliable third party familiar with bathymetric mapping in order to verify the contents of the report. If a third party selected by or on behalf of the Commission indicates that the report is inaccurate, the Commission reserves the right to require the permittee to submit a revised report that meets the requirements of this condition. If the Commission determines that the contents of the dredging report indicates that work has occurred beyond that authorized by the permit, such violation may result in the initiation of enforcement action by or on behalf of the Commission.

F. Dredging Fee. All dredging episodes authorized herein shall be subject to the user fee. The permittee shall provide such fee in the amount specified by the Commission's dredging fee regulation prior to issuance of this permit. Failure to pay the fee 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 new dredging of 100,000 cubic yards or less and maintenance dredging completed within a period of 30 months, and disposal of the dredged material at a site listed in Regulation Section 10713.5, and of an amount not to exceed the target volumes set for the Alcatraz and San Pablo Bay sites, as defined in Regulation Section 10602(a)(b), and thus is a "minor repair or improvement" for which the Executive Director may issue a permit, pursuant to Government Code Section 66632(f) and Regulation Section 10622(a).

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 March 26, 1993.

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

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.

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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 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.

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
Executive Director

Enc.

ARP/CS/mm

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

* * * * *

Receipt acknowledged, contents understood and agreed to:

Executed at CARLSBUR CALIF. Waterfront Property Owners
Applicant CORP.
On 15 MAY 93 By: Daryl Foreman
Title Project Coordinator

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