

**CALENDAR ITEM  
C42**

A	11	12/16/02
S	7	W 25582 N. Smith

**LETTER OF PERMISSION**

**PERMITTEE:**

Rhodia, Inc.  
259 Prospect Plains Road, CN 7500  
Cranbury, New Jersey 08512

**AREA, LAND TYPE, AND LOCATION:**

Sovereign lands in the Carquinez Strait, city of Martinez, Contra Costa County.

**BACKGROUND:**

The applicant has requested authorization to start initial activities prior to commencement of the overall project, which will be before the Commission at a subsequent meeting. The project involves remediating soils and sediments contaminated with copper and zinc in, and adjacent to Peyton Slough, in accordance with the San Francisco Bay Regional Water Quality Control Board (RWQCB) Cleanup and Abatement Order No. 01-094. The overall project involves: 1) excavating a new alignment for Peyton Slough just east of the existing Slough and rerouting water flow, 2) removing dredge spoil piles adjacent to Peyton Slough, 3) dewatering and capping the existing Slough in-situ, and 4) implementing a restoration plan that would revegetate the impacted wetlands, providing for the restoration of the California black and clapper rail habitat, and the new cap. In summary, the proposed project would re-align Peyton Slough and cap remaining contamination within the alignment of the existing slough. A portion of the proposed project will be constructed on lands owned by the California State Lands Commission, Shore Terminal, LLC and Rhodia, Inc. (Exhibit A). Habitat for the state-threatened California black rail, California clapper rail and salt marsh harvest mouse is found at the site. All suitable habitat for these species must be removed from the project site by January 31, 2003, before the onset of the rail breeding season, to allow remediation activities to occur without impacts to these species and to avoid a delay in the overall project of one year.

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**AUTHORIZED ACTIVITY:**

Removal of the California black rail and clapper rail habitat and trapping and removal of any salt marsh harvest mice located in the construction zone for the remediation of Peyton Slough. Removal of vegetation from the construction zone must be done outside of the breeding season (between February 1 and August 1).

**OTHER PERTINENT INFORMATION:**

1. An application for this project was received May 29, 2002; staff has not deemed this application complete, at this time. Due to the tight schedule within which the project must commence construction, staff believes the issuance of a Letter of Permission at this time is appropriate and does not prejudice the Commission's consideration of the project at a subsequent meeting. If authorized, the Letter of Permission for the proposed habitat removal would contain a condition that Rhodia, Inc., acquires all permits for this portion of the project before beginning. Also, the Letter of Permission provides for restoration of premises if the overall project is not approved by all regulatory agencies.
2. A Mitigated Negative Declaration was prepared and adopted for this project by the California Regional Water Quality Control Board, San Francisco Bay Region. The California State Lands Commission's staff has reviewed and commented on such document.

A Mitigation Monitoring Program was adopted by the California Regional Water Quality Control Board, San Francisco Bay Region.

3. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 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:**

California Regional Water Quality Control Board.

**FURTHER APPROVALS REQUIRED:**

US Fish and Wildlife Service, National Marine Fisheries, San Francisco Bay Conservation and Development Commission, California Department of Fish and Game and US Army Corps of Engineers.

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**EXHIBITS:**

- A. Site Map
- B. Location Map

**PERMIT STREAMLINING ACT DEADLINE:**

N/A

**RECOMMENDED ACTION:**

IT IS RECOMMENDED THAT THE COMMISSION:

**CEQA FINDING:**

FIND THAT A MITIGATED NEGATIVE DECLARATION AND A MITIGATION MONITORING PROGRAM WERE PREPARED AND ADOPTED FOR THIS PROJECT BY CALIFORNIA REGIONAL WATER CONTROL BOARD, SAN FRANCISCO BAY REGION AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.

**SIGNIFICANT LANDS INVENTORY FINDING:**

FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED BY THE COMMISSION FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370, ET SEQ.

**AUTHORIZATION:**

AUTHORIZE ISSUANCE TO RHODIA, INC., OF A LETTER OF PERMISSION, BEGINNING DECEMBER 10, 2002, FOR A TERM OF 52-DAYS, FOR THE REMOVAL OF VEGETATION AND ASSOCIATED ACTIVITIES TO PROTECT THE CALIFORNIA BLACK RAIL, THE CALIFORNIA CLAPPER RAIL AND THE SALT MARSH HARVEST MOUSE IN ANTICIPATION OF REMEDIATION/RESTORATION OF THE LAND SHOWN ON EXHIBIT A, ATTACHED, AND BY THIS REFERENCE MADE A PART HEREOF; LIABILITY INSURANCE FOR COMBINED SINGLE LIMIT COVERAGE OF \$2,000,000.