

**CALENDAR ITEM
C15**

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10/27/11
WP 7480.9
N. Lavoie

DREDGING LEASE

APPLICANT:

Port Sonoma Associates LLC

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Petaluma River, adjacent to 270 Sears Point Road, near the city of Novato, Sonoma County.

AUTHORIZED USE:

Maintenance dredging to remove a maximum of 8,000 cubic yards of material annually.

LEASE TERM:

Five years, beginning October 27, 2011.

CONSIDERATION:

No monetary consideration will be charged as the project will result in a public benefit. Dredged material may not be sold.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises, known as Port Sonoma (Port), which consists of a main channel and three marinas.
2. On December 12, 1990, the Commission authorized a one-year dredging permit to Port Sonoma-Marin. That Permit expired on December 11, 1991. On July 15, 1999, the upland property transferred to Port Sonoma Associates LLC. The Applicant is now applying for a new Dredging Lease.
3. Increased tug traffic in the Petaluma River's main channel west of the Port entrance has caused increased sediment deposits, creating a shoal. Maintenance dredging is needed to maintain navigable depths through the shoal to allow recreational boaters to continue using the Port and to allow larger tug boats and barges to

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enter the Port. The Applicant is proposing annual dredging of the shoal in the River to a depth of six feet below mean low low water (MLLW) with a one-foot over dredge allowance. Maintenance dredging will occur in open water, with a current depth of approximately zero feet to four feet below MLLW. The maximum annual amount of dredge material will not exceed 8,000 cubic yards within the work window of December 1 through January 31 of each year.

- 4.. The California Dredging Company will conduct the maintenance dredging with a 12-inch cutter suction hydraulic dredge mounted on a barge. The dredge machinery will include a discharge pipeline. Before dredge material will be deposited at an approved disposal site, it must pass federal, State and Sonoma Land Trust environmental quality standards for toxicity, pH and salinity. All elutriated water must also pass Regional Water Quality Control Board criteria. Once the material is determined to meet the required standards, it will be offloaded and piped to the Carneros River Ranch, which is a 528-acre property across Highway 37 from Port Sonoma (approximately 800 feet) and east of the Petaluma River. The Carneros River Ranch is an approved disposal site furthering the San Francisco Bay Long Term Management Solution for the placement of dredged material.
5. A Mitigated Negative Declaration SCH # 2011062013 was prepared by Sonoma County and adopted on July 7, 2011, for this project. The California State Lands Commission's staff has reviewed such document. A Mitigation Monitoring Program was adopted by Sonoma County.
6. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370, et seq., but such activity will not affect those significant lands. 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:

U.S. Army Corps of Engineers, NOAA Fisheries

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FURTHER APPROVALS REQUIRED:

San Francisco Bay Regional Water Quality Control Board, California Department of Fish and Game, San Francisco Bay Conservation and Development Commission.

EXHIBITS:

- A. Site and Location Map
- B. Land Description
- C. Mitigation Monitoring Program

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that a Mitigated Negative Declaration SCH # 2011062013 and a Mitigation Monitoring Program were prepared by Sonoma County and adopted on July 7, 2011, for this Project and that the Commission has reviewed and considered the information contained therein. Adopt the Mitigation Monitoring Program, as contained in Exhibit C, attached hereto.

SIGNIFICANT LANDS INVENTORY FINDING:

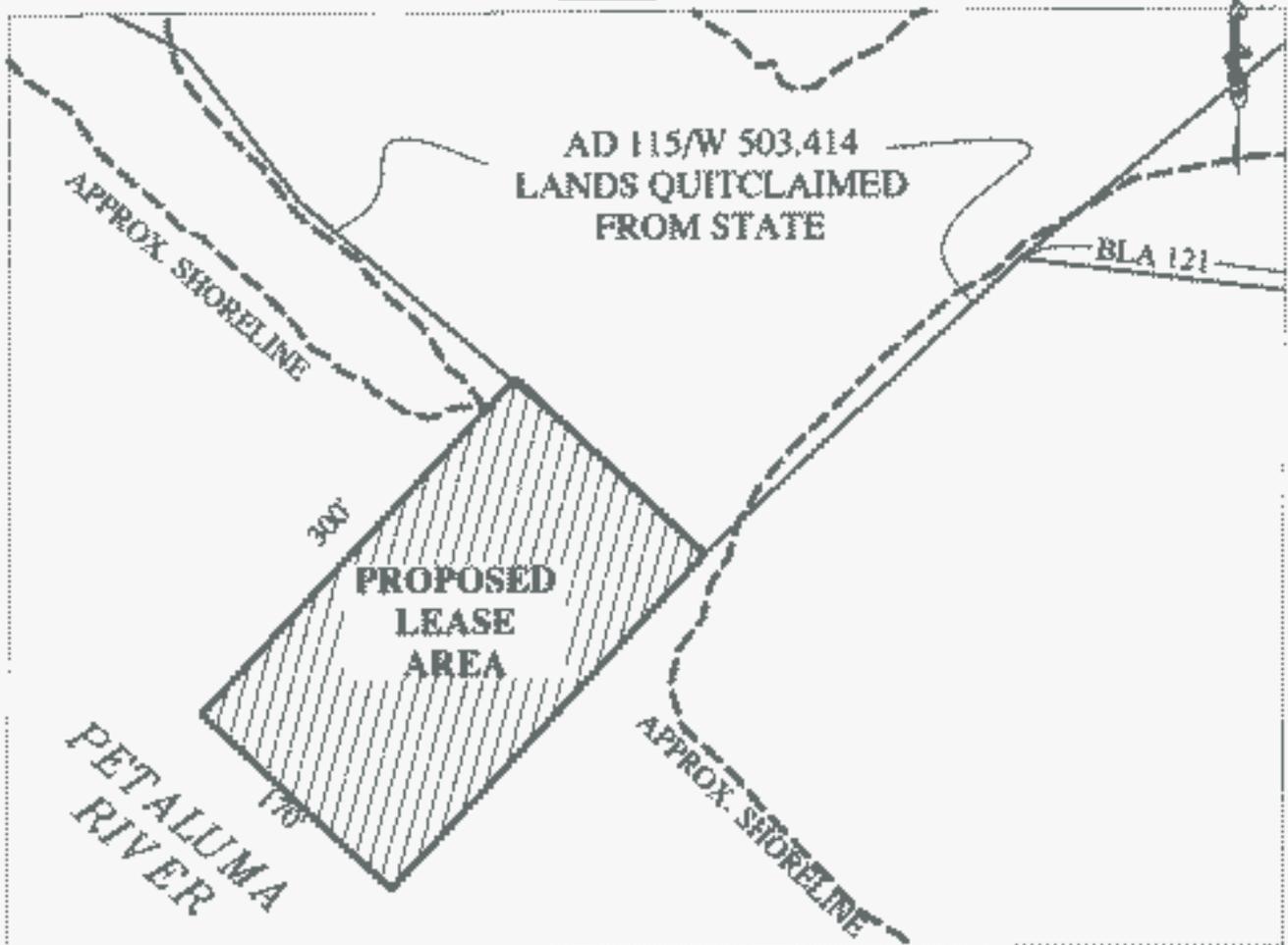
Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370, et seq.

AUTHORIZATION:

Authorize the issuance of a Dredging Lease to Port Sonoma Associates LLC beginning October 27, 2011, for a term of five years, for the annual maintenance dredging to remove a maximum of 8,000 cubic yards of material as shown on Exhibit A (for reference purposes only) and as described in Exhibit B attached and by this reference made a part hereof; such permitted activity is contingent upon the Applicant's compliance with applicable permits, recommendations, or limitations issued by federal, State and local governments; disposal at an approved disposal site; no monetary consideration will be charged as the project will result in a public benefit; and dredged material may not be sold.

NO SCALE

SITE



270 Sears Point Road, near Novato

NO SCALE

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 A

WP 7480.9
PORT SONOMA
ASSOCIATES LLC
APN 068-140-026
DREDGING LEASE
SONOMA COUNTY



DATE 10/11/11

EXHIBIT B

WP 7480.9

LAND DESCRIPTION

A parcel of submerged land lying in the bed of the Petaluma River, Sonoma County, State of California, being more particularly described as follows:

BEGINNING at a point have coordinates CCS83 (Zone 2) N(y)=1804151.9 feet, E(x)=6417100.7 feet (Latitude=N 38°06'54.510", Longitude=W 122°30'08.787") thence in a clockwise direction through the following three (3) points:

- (1) N(y)=1803932.5 feet, E(x)=6416896.1 feet;
- (2) N(y)=1804048.4 feet, E(x)=6416771.8 feet;
- (3) N(y)=1804267.8 feet, E(x)=6416976.4 feet;

thence continuing to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying landward of those lands as described in Superior Court of the State of California in and for the County of Sonoma, Amended Judgment, No. 49442 filed October 25, 1963, Book 61 of Judgments, Page 483, Sonoma County Records.

END OF DESCRIPTION

PREPARED 10/12/11 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



- (3) Portable toilets shall be serviced as needed, but in no case less than once every seven days.
- (4) The applicant shall provide an accessible portable restroom on the job site where required by Federal, State or local law, including but not limited to, requirements imposed under OSHA, the Americans with Disabilities Act or Fair Employment and Housing Act.
- (5) If complaints are received that PRMD believes are valid complaints, the applicant or current operator of the Use Permit shall increase the number of portable toilets and/or increase the frequency of maintenance of the portable toilets. The property owner and his agent(s) are expected to maintain portable toilets and hand washing units so that:
 - (a) The holding tank does not leak or overflow.
 - (b) Toilet paper is promptly replaced when the dispenser runs out.
 - (c) Water, paper towels and soap is promptly replaced when the hand washing units run out.
 - (d) The wait to use a portable toilet shall not be so long that people relieve themselves at other impromptu locations.
 - (e) Reliance upon portable toilets shall not create a public nuisance.

Vector Control:

5. A mosquito and vector control plan for drainage areas acceptable to the Marin-Sonoma Mosquito and Vector Control District (telephone 707-285-2200) shall be submitted prior to issuance of the grading permit. The Project Review Health Specialist shall receive a copy of the vector control plan and an acceptance letter from the Marin-Sonoma Mosquito and Vector Control District.

OPERATIONAL REQUIREMENTS:

Water:

6. A safe, potable water supply shall be provided and maintained for employees.

Groundwater Protection:

7. The pumping station in the Northwest corner of the property for pumping runoff water into the Petaluma River shall be maintained and operated for a minimum of one year following the application of any dredged materials to prevent the buildup of salinity on this site.

Septic:

8. Maintain the portable toilets consistent with County policies.

Hazardous Materials Program:

9. Comply with applicable hazardous waste generator, underground storage tank, above ground storage tank and AB2185 (hazardous materials handling) requirements and maintain any applicable permits for these programs from the Hazardous Materials Division of Sonoma County Department of Emergency Services.

Noise:

10. Noise shall be controlled in accordance with the following as measured at the exterior property line of any affected residential or sensitive land use:

TABLE NE-2: Maximum Allowable Exterior Noise Exposures

Hourly Noise Metric ¹ dBA	Daytime (7:00 a.m. to 10 p.m.)	Nighttime (10 p.m. to 7 a.m.)
L50 (30 minutes in any hour)	50	45
L25 (15 minutes in any hour)	55	50
L08 (5 minutes in any hour)	60	55
L02 (1 minute in any hour)	65	60

¹ The sound level exceeded n% of the time in any hour. For example, the L50 is the value exceeded 50% of the time or 30 minutes in any hour; this is the median noise level. The L02 is the sound level exceeded 1 minute in any hour.

Limit exceptions to the following:

- (A) If the ambient noise level exceeds the standard in Table NE-2, adjust the standard to equal the ambient level, up to a maximum of 5 dBA above the standard, provided that no measurable increase (i.e. +/- 1.5 dBA) shall be allowed
- (B) Reduce the applicable standards in Table NE-2 by five dBA for simple tone noises, noises consisting primarily of speech or music, or for recurring impulsive noises, such as pile drivers and dog barking at kennels
- (C) Reduce the applicable standards in Table NE-2 by 5 decibels if the proposed use exceeds the ambient level by 10 or more decibels
- (D) For short term noise sources which are permitted to operate no more than six days per year, such as concerts or race events, the allowable noise exposures shown in Table NE-2 may be increased by 5 dB. These events shall be subject to a noise management plan including provisions for maximum noise level limits, noise monitoring, complaint response and allowable hours of operation. The plan shall address potential cumulative noise impacts from all events in the area.
- (E) Noise levels may be measured at the location of the outdoor activity area of the noise sensitive land use, instead of the exterior property line of the adjacent noise sensitive land use where:
 - (a) the property on which the noise sensitive use is located has already been substantially developed pursuant to its existing zoning, and
 - (b) there is available open land on those noise sensitive lands for noise attenuation.

This exception may not be used on vacant properties which are zoned to allow noise sensitive uses.

11. If noise complaints are received from nearby residents, and they appear to be valid complaints in PRMD's opinion, then the applicant shall conduct a noise monitoring study to determine if the current operations meet noise standards and identify any additional noise mitigation measures if necessary. A copy of the noise monitoring study shall be submitted to the Project Review Health Specialist within sixty days of notification from PRMD that a noise complaint has been received. The owner/operator shall implement any additional mitigation measures needed to meet noise standards.
12. Special events were not requested in this Use Permit and therefore are not authorized by this Use Permit. No prejudice against future special events being authorized by future Zoning or Use Permits is implied.

Solid Waste:

13. All garbage and refuse on this site shall be accumulated or stored in non-absorbent, water-tight, vector resistant, durable, easily cleanable, galvanized metal or heavy plastic containers with tight fitting lids. No refuse container shall be filled beyond the capacity to completely close the lid. All garbage and refuse on this site shall not be accumulated or stored for more than seven calendar days, and shall be properly disposed of to a County Transfer Station or County Landfill before the end of the seventh day.

TRANSPORTATION AND PUBLIC WORKS:

Transportation Mitigations:

14. **Mitigation Measure 15(d):** Before the import to the Ranch of any dry fill authorized under this Use Permit, the applicant shall obtain an Encroachment Permit from Caltrans and shall construct a left turn lane and acceleration and deceleration channelization lanes as recommended in project traffic study (or as amended by Caltrans).

Mitigation Monitoring 15(d): Before the import to the Ranch of any dry fill authorized under this Use Permit, the applicant shall submit to PRMD a copy of the Caltrans Encroachment Permit to build the left turn lane and acceleration and deceleration lanes prescribed in Mitigation Measure 15(d)(1) and a Caltrans Certificate of Completion that the work has been completed.

15. Prior to issuance of any permit that results from approval of this application, a development fee (Traffic Mitigation Fee) shall be paid to the County of Sonoma, as required by Section 26, Article 98 of the Sonoma County Code.

STORMWATER AND DRAINAGE:

Geological Mitigations:

16. **Mitigation Measure Geo 6(b):** Storm Water Pollution Prevention Plan. In accordance with the Clean Water Act and the State Water Resources Control Board (SWRCB), the applicant shall file a Storm Water Pollution Prevention Plan (SWPPP) prior to the start of construction. The SWPPP shall include specific best management practices to reduce soil erosion. This is required to obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity (Construction General Permit, 99-08-DWQ).

Mitigation Monitoring Geo 6(b): The applicant shall file a SWPPP with the SFBRWQCB as prescribed in Mitigation Measure 6(b), and submit proof of permit receipt to the Sonoma County PRMD planner prior to grading permit issuance.

17. **Mitigation Measure Geo 6(c):** Before issuance of a grading permit, the applicant shall submit to PRMD for review and approval a final geotechnical report consistent with the preliminary report which details specific measures for placement of fill from present condition to project completion. The design-level geotechnical investigation shall include exploration to more thoroughly determine the thickness and areal extent of Bay Mud. To avoid inducing additional settlement to the settlement that is already on-going, grading plans shall include as little additional new fill as possible, and any structures with significant loads or that are settlement-sensitive shall be founded on deep foundations extended below the Bay Mud, as recommended in the design-level geotechnical investigation report. Long-term maintenance planning for the development shall also include provisions for periodic grading to correct drainage problems and improve site grades. The Geotechnical Engineer will recommend other site-specific recommendations based on the results of the design-level geotechnical investigation to mitigate on-going settlement and any additional settlement to be expected in response to new development.

Mitigation Monitoring Geo 6(c): The applicant shall submit to PRMD prior to grading permit issuance a geotechnical investigation as prescribed in Mitigation Measure 6(c) regarding bay mud and settlement as it relates to fill and new development.

18. **Mitigation Measure Geo 6(d):** Compliance with a design-level geotechnical investigation report prepared by a Registered Geotechnical Engineer and with structural design plans as prepared by a Registered Structural Engineer. Proper foundation engineering and construction shall be performed in accordance with the recommendations of a Registered Geotechnical Engineer and a Registered Structural Engineer. The final design-level geotechnical report will include recommendations for fill selection, placement and compaction as well as foundation design recommendations to reduce the effects of the existing on-site expansive soils.

Mitigation Monitoring Geo 6(d): The applicant shall submit to PRMD prior to grading permit issuance a final design-level geotechnical report which will include recommendations for fill selection, placement and compaction as well as foundation design recommendations to reduce the effects of the existing on-site expansive soils.

Hydrological/Water Quality Mitigations:

19. **Mitigation Measure Hydro 8(a):** The applicant shall maintain and comply with WDR's issued by RWQCB. Before issuance of a grading permit, the project sponsor shall submit to PRMD current WDR's from the RWQCB. The project sponsor must submit to PRMD any future changes to WDR's for the ranch within 10 working days of their issuance.

Mitigation Monitoring Hydro 8(a): The applicant is responsible for securing, maintaining WDR's issued by SFBRWQCB, and submitting documentation of said permit to PRMD prior to grading permit issuance.

20. **Mitigation Measure Hydro 8(b):** Before storing ditch water in any of the proposed reservoirs, the applicant shall secure approval from the State Board of Water Resources (SBWR), if required.

Mitigation Monitoring Hydro 8(b): The applicant shall provide approval of the SBWR to PRMD, if required, and submit documentation of said approval to PRMD prior to grading permit issuance.

21. **Mitigation Measure Hydro 8(d):** The applicant shall install the pumps as prescribed in the reports entitled Carneros River Ranch, Impact to Local Flooding of Proposed Dredge Material Fill in Lands of Carneros River Ranch, dated Revised November 3, 2010, by Wood Rodgers, and Carneros River Ranch, Analysis of Impacts to 100-year Floodplain of Proposed Dredge Material Fill in Lands of Carneros River Ranch, dated Revised November 3, 2010, by Wood Rodgers.

Mitigation Monitoring Hydro 8(d): Before issuance of a grading permit, the applicant shall submit to PRMD specifications for and proof of installation pumps for Cells 3-5 as specified in the reports entitled Carneros River Ranch, Impact to Local Flooding of Proposed Dredge Material Fill in Lands of Carneros River Ranch, dated Revised November 3, 2010, by Wood Rodgers, and Carneros River Ranch, Analysis of Impacts to 100-year Floodplain of Proposed Dredge Material Fill in Lands of Carneros River Ranch, dated Revised November 3, 2010, by Wood Rodgers.

22. The proposed project is currently located within a FEMA Special Flood Hazard Area (SFHA) and is affected by flooding from the Petaluma River and San Pablo Bay. No fill shall be placed within a SFHA, unless an engineering analysis demonstrates that no reduction in the flood storage capacity within the SFHA will result from the fill placement and related improvements (no net fill in special flood hazard areas), or the County Board of Zoning Adjustments grants an exception to County Grading Ordinance standards pursuant to section 11.10.020D. Any land subject to inundation by a SFHA shall be delineated and shown on the grading plans as "SUBJECT TO INUNDATION" in one-inch lettering.

23. The base flood elevation is estimated to be at 9.5 feet above mean sea level (NAVD 1988). The lowest floor elevation of any habitable structure must be at 1 foot or higher above 9.5-ft mean sea

- level. The grading plans shall show all elevations based upon the North American Vertical Datum of 1988 (NAVD 88).
24. Grading and/or building permits require review and approval by the Grading & Storm Water Section of the Permit and Resource Management Department (PRMD) prior to issuance. Grading permit applications shall abide by the standards and provisions of Chapters 11 & 11A of the Sonoma County Code, unless an exception is granted by the County Board of Zoning Adjustments pursuant to section 11.10.020D.
 25. A soils engineering report, prepared by a soils engineer, and engineering geology report, prepared by an engineering geologist, shall be submitted with the grading permit application(s) for the proposed project. The soils engineer and the engineering geologist must be registered in the State of California.
 26. A drainage report for the proposed project shall be prepared by a civil engineer, registered in the State of California, be submitted with the grading and/or building permit application, and be subject to review and approval by the Grading & Storm Water Section of PRMD. The drainage report shall include, at a minimum, a project narrative, on- and off-site hydrology maps, hydrologic calculations, hydraulic calculations, pre- & post-development analysis for all existing and proposed drainage facilities. The drainage report shall abide by and contain all applicable items in the Drainage Report Required Contents (DRN-006) handout. The drainage report shall also include a 100-yr floodplain/floodway study (see below) and an analysis of the existing downstream drainage conditions. If the analysis demonstrates inadequate capacity to handle the anticipated runoff from the proposed project, then improvements to the downstream drainage system shall be required.
 27. Drainage improvements shall be designed by a civil engineer, registered in the State of California, and in accordance with the Sonoma County Water Agency Flood Control Design Criteria. Drainage improvements shall be shown on the grading/site plans and be submitted to the Grading & Storm Water Section of the PRMD for review and approval. Drainage improvements shall maintain off-site natural drainage patterns, limit post-development storm water levels and pollutant discharges in compliance with PRMD's best management practices guide, and abide by the standards and provisions of Chapters 11 & 11A of the Sonoma County Code (unless an exception is granted by the County Board of Zoning Adjustments pursuant to section 11.10.020D) and all other relevant laws and regulations. Drainage improvements shall not adversely affect adjacent properties or drainage systems.
 28. The applicant shall provide grading plans, prepared by a civil engineer registered in the State of California, which clearly indicate the nature and extent of the work proposed and include all existing and proposed land features, elevations, roads, driveways, buildings, limits of grading, adequate grading cross sections and drainage facilities such as swales, channels, closed conduits, or drainage structures. The grading plans shall abide by and contain all applicable items from the Grading Permit Required Application Contents (GRD-004) handout.
 29. As part of the grading plans, the applicant shall include an erosion prevention/sediment control plan which clearly shows best management practices to be implemented, limits of disturbed areas, vegetated areas to be preserved, pertinent details, notes, and specifications to prevent damages and minimize adverse impacts to the environment. Tracking of soil or construction debris into the public right-of-way shall be prohibited. Runoff containing concrete waste or by-products shall not be allowed to drain to the storm drain system, waterway(s), or adjacent lands. The erosion prevention/sediment control plan shall abide by and contain all applicable items in the Grading Permit Required Application Contents (GRD-004) handout.
 30. Residue or polluted runoff shall not be allowed to drain directly to the storm drain system, waterway(s) or adjacent lands.
 31. Polluted runoff from waste receptacles shall not be allowed to drain directly to the storm drain system, waterway(s) or adjacent lands.
 32. Existing drainage patterns shall be maintained in such a manner that does not adversely affect

surrounding properties.

33. Adopted Best Management Practices shall be implemented to effectively minimize and prevent polluted storm water discharges.
34. All structures requiring a building permit or an agricultural exemption shall adhere to a building setback line measured, from the toe of the stream bank outward, a distance of 2.5 times the height of the stream bank plus 30 feet, or 30 feet outward from the top of the stream bank, whichever distance is greater (Sonoma County Code Ch. 7-14.5). If the top of the stream bank cannot be determined by visual analysis, then the building setback line shall be determined by hydraulic analysis.
35. Grading and land disturbance shall be setback from streams a minimum of 25 feet from the top of stream bank.
36. Any waterway setbacks, including but not limited to building setbacks, grading setbacks, riparian corridor setbacks or biotic resources setbacks, shall be shown and noted on the grading/site plans.
37. A waterway setback analysis shall be prepared to determine the most stringent composite waterway setback, be submitted with the grading and/or building permit application, and be subject to review and approval by the Grading & Storm Water Section of the Permit and Resource Management Department. The waterway setback analysis shall include several cross sections of the Petaluma River and surrounding streams. At a minimum, building, grading, riparian corridor, biotic resources, and floodway setbacks shall be included in the waterway setback analysis. The most stringent composite waterway setback shall be shown and noted on the grading/site plans.
38. Before construction may begin near a waterway, wetland, or environmentally sensitive area a protective construction fence shall be placed in such a manner to allow the proposed development while preventing land disturbance adjacent to the waterway, wetland, or environmentally sensitive area. The protective construction fence shall be shown and noted on the grading/site plans.
39. The proposed project shall not reduce the existing cross-sectional area of the Petaluma River, prior to bank erosion, as determined by a civil engineer.
40. Any necessary storm drain easements shall be shown and noted on the grading/site plans.
41. The fuel dispensing areas shall be separated from the rest of the project site by grade breaks that prevent storm water run-on. The fuel dispensing area is defined as extending 6.5 feet from the corner of each fuel dispenser or the length at which the hose and nozzle assembly may be operated plus one foot, whichever is more. Any surface water flow from the fuel dispensing area shall not be permitted to enter the storm drain system without receiving appropriate treatment. The fuel dispensing area shall be covered with a roof that must extend beyond the fuel dispensing area a minimum of 2 feet (or more as may be regulated otherwise). The roof cover shall not drain onto the fuel dispensing area.
42. The project is subject to National Pollutant Discharge Elimination System (NPDES) requirements and must obtain coverage under the State Water Resource Control Board's General Construction Permit (General Permit). Documentation of coverage under the General Permit must be submitted to the Grading & Storm Water Section of the Permit and Resource Management Department prior to issuance of any grading permit for the proposed project.
43. The applicant is responsible to contact the San Francisco Bay Regional Water Quality Control Board and obtain any necessary permits or waivers for proposed work in or near a waterway. The applicant shall provide said documentation to the Grading & Storm Water Section of the Permit and Resource Management Department prior to issuance of any permit for the proposed project.
44. The applicant is responsible to contact the California Department of Fish & Game and obtain any necessary permits or waivers for proposed work in or near a waterway. The applicant shall

- provide said documentation to the Grading & Storm Water Section of the Permit and Resource Management Department prior to issuance of any permit for the proposed project.
45. The applicant is responsible to contact the California Department of Transportation and obtain any necessary permits or waivers for proposed work within Highway 37 right of way. The applicant shall provide said documentation to the Grading & Storm Water Section of the Permit and Resource Management Department prior to issuance of any permit for the proposed project.
 46. The applicant is responsible to contact the California Division of Water Rights and obtain any necessary permits or waivers for the proposed storage of surface water in reservoirs. The applicant shall provide said documentation to the Grading & Storm Water Section of the Permit and Resource Management Department prior to issuance of any permit for the proposed project.
 47. The applicant is responsible to contact the U.S. Army Corps of Engineers and obtain any necessary permits or waivers for proposed work in or near a wetland or navigable waters. The applicant shall provide said documentation to the Grading & Storm Water Section of the Permit and Resource Management Department prior to issuance of any permit for the proposed project.
 48. A roiling permit from the Permit and Resource Management Department shall be obtained prior to start of work within any active waterway.

PLANNING:

"The conditions below have been satisfied" BY _____ DATE _____

Biological Mitigations:

49. **Mitigation Measure Bio 4(a)(1):** Dredging at Marina 1 will be restricted to the period from 01 December to 31 January. Peak numbers of long fin smelt adults in San Pablo Bay are found in April and May (CDFG 2009a); in October through November adults are also found in San Pablo Bay en route to Suisun Bay and points east for spawning. Local longfin smelt captures were made in early November but not later. Finally, the LTMS Final EIS/EIR provides a work window for longfin smelt for San Pablo Bay from 01 August to 31 January (Table J-2).
Mitigation Monitoring Bio 4(a)(1): The applicant shall monitor port dredge operations to ensure it abides by the 01 December to 31 January dredging timeframe with verification to be provided to the USACE and BCDC. Pre- and post dredge bathometric surveys shall be used to verify the beginning and end of operations.
50. **Mitigation Measure Bio 4(a)(2):** The dredge cutterhead shall be maintained at or below the substrate surface during dredging operations. The cutterhead shall not be raised more than 3 feet off the bottom for flushing; at that time, the cutterhead will be kept moving but the pump will be shut off (e.g., when moving the dredge pipe, at end of dredging, etc.).
Mitigation Monitoring Bio 4(a)(2): The applicant shall monitor port dredge operations to ensure the dredge cutterhead is maintained in its prescribed position.
51. **Mitigation Measure Bio 4(a)(3):** If construction at Marina 1 would commence anytime during the nesting/breeding season of native bird species listed as special status species, a pre-construction survey of the project vicinity for nesting birds shall be conducted. This survey shall be conducted by a qualified biologist (experienced with the nesting behavior of bird species of the region) within 14 days prior to the commencement of construction activities that would occur during the nesting/breeding season (typically February through August in the project region). The intent of the survey shall be to determine if active nests of special status bird species as defined above are present within the construction zone or within 500 feet of the construction zone. The survey area shall include the construction zone and a surrounding 500 feet area. The surveys shall be timed such that the last survey is concluded no more than two weeks prior to initiation of construction. If

ground disturbance activities are delayed following a survey, then an additional pre-construction survey shall be conducted such that no more than two weeks will have elapsed between the last survey and the commencement of ground disturbance activities.

If active nests are found in areas that could be directly affected or are within 500 feet of construction and would be subject to prolonged construction-related noise, a no-disturbance buffer zone shall be created around active nests during the breeding season or until a qualified biologist determines that all young have fledged. The size of the buffer zones and types of construction activities restricted within them will be determined through consultation with the USFWS or CDFG depending on the species, taking into account factors such as the following:

- A. Noise and human disturbance levels at the construction site at the time of the survey and the noise and disturbance expected during the construction activity; and
- B. Distance and amount of vegetation or other screening between the construction site and the nest; and
- C. Sensitivity of individual nesting species and behaviors of the nesting birds.

Limits of construction to avoid an active nest shall be established in the field with flagging, fencing, or another appropriate barrier, and construction personnel shall be instructed on the sensitivity of nest areas. The biologist shall serve as a construction monitor during those periods when construction activities would occur near active nest areas of special status bird species to ensure that no impacts on these nests occur.

Mitigation Monitoring Bio 4(a)(3): If any construction in Marina 1 should commence during the nesting/breeding season of native bird species listed as special status species, the pre-construction survey of the project vicinity for nesting birds shall be conducted by a County-qualified biologist.

52. **Mitigation Measure Bio 4(a)(4):** Before the commencement of construction activities at the Ranch during the breeding season of native bat species in California (generally occurs from April 1 through August 31), a focused survey shall be conducted by a qualified bat biologist to determine if hibernation or active maternity roosts of special-status bats are present within any of the structures. Hibernation sites with evidence of prior occupation will be sealed before the hibernation season (November-March), and nursery sites will be sealed before the nursery season (April-August). If the site is occupied, then the action will occur either prior to or after the hibernation season for hibernacula and after August 15 for nursery colonies. Construction will not take place as long as the site is occupied.

Should an active maternity roost of a special-status bat species be identified, the roost shall not be disturbed until the roost is vacated and juveniles have fledged, as determined by the biologist. Once all young have fledged, then the tree may be removed. Species-appropriate replacement roosting habitat (e.g., bat boxes) shall be provided should the project require the removal of a tree actively used as a maternity roost.

Mitigation Monitoring Bio 4(a)(4): A qualified biologist shall conduct the native bat species study as prescribed in Mitigation 4(a)(4). The applicant shall ensure that project construction and operation shall comply with study requirements.

53. **Mitigation Measure Bio 4(a)(5):** Before any ground disturbance for construction at the Ranch, a qualified biologist will conduct protocol-level surveys for burrowing owls. The surveys will establish the presence or absence of western burrowing owl and/or habitat features and evaluate use by owls in accordance with CDFG survey guidelines (CDFG 1993).

Surveys should take place near sunrise or sunset in accordance with CDFG guidelines. All burrows or burrowing owls will be identified and mapped. Surveys will take place no more than 30 days prior to construction. During the breeding season (February 1-August 31), surveys will

document whether burrowing owls are nesting in or directly adjacent to disturbance areas. During the nonbreeding season (September 1-January 31), surveys will document whether burrowing owls are using habitat in or directly adjacent to any disturbance area. Survey results will be valid only for the season (breeding or nonbreeding) during which the survey is conducted.

If burrowing owls are found during the breeding season (February 1-August 31), the applicant will avoid all nest sites that could be disturbed by project construction during the remainder of the breeding season or while the nest is occupied by adults or young. Avoidance will include establishment of a nondisturbance buffer zone (described below). Construction may occur during the breeding season if a qualified biologist monitors the nest and determines that the birds have not begun egg-laying and incubation or that the juveniles from the occupied burrows have fledged. During the nonbreeding season (September 1-January 31), the project proponent should avoid the owls and the burrows they are using, if feasible. Avoidance will include the establishment of a buffer zone (described below).

If occupied burrows for burrowing owls are not avoided, passive relocation will be implemented. Owls should be excluded from burrows in the immediate impact zone and within a 160-foot buffer zone by installing one-way doors in burrow entrances. These doors should be in place for 48 hours prior to excavation. The project area should be monitored daily for 1 week to confirm that the owl has abandoned the burrow. Whenever possible, burrows should be excavated using hand tools and refilled to prevent reoccupation (CDFG 1995). Plastic tubing or a similar structure should be inserted in the tunnels during excavation to maintain an escape route for any owls inside the burrow.

Mitigation Monitoring Bio 4(a)(5): Before any ground disturbance for construction at the Ranch, a County-qualified biologist will conduct a preconstruction survey for burrowing owls as prescribed in Mitigation 4(a)(5). The applicant shall ensure that project construction and operation shall comply with study requirements.

54. **Mitigation Measure Bio 4(a)(6):** If construction at the Ranch would commence anytime during the nesting/breeding season of native bird species listed as special status species, a pre-construction survey of the project vicinity for nesting birds shall be conducted. This survey shall be conducted by a qualified biologist (experienced with the nesting behavior of bird species of the region) within 14 days prior to the commencement of construction activities that would occur during the nesting/breeding season (typically February through August in the project region). The intent of the survey shall be to determine if active nests of special status bird species as defined above or those protected by the Migratory Bird Treaty Act are present within the construction zone or within 500 feet of the construction zone. The survey area shall include all trees and shrubs in the construction zone and a surrounding 500 foot area. The surveys shall be timed such that the last survey is concluded no more than two weeks prior to initiation of construction or tree removal. If ground disturbance activities are delayed following a survey, then an additional pre-construction survey shall be conducted such that no more than two weeks will have elapsed between the last survey and the commencement of ground disturbance activities.

If active nests are found in areas that could be directly affected or are within 500 feet of construction and would be subject to prolonged construction-related noise, a no-disturbance buffer zone shall be created around active nests during the breeding season or until a qualified biologist determines that all young have fledged. The size of the buffer zones and types of construction activities restricted within them will be determined through consultation with the CDFG, taking into account factors such as the following:

- A. Noise and human disturbance levels at the construction site at the time of the survey and the noise and disturbance expected during the construction activity; and
- B. Distance and amount of vegetation or other screening between the construction site and the nest; and
- C. Sensitivity of individual nesting species and behaviors of the nesting birds.

Limits of construction to avoid an active nest shall be established in the field with flagging, fencing, or another appropriate barrier, and construction personnel shall be instructed on the sensitivity of nest areas. The biologist shall serve as a construction monitor during those periods when construction activities would occur near active nest areas of special status bird species to ensure that no impacts on these nests occur.

Mitigation Monitoring Bio 4(a)(6): Before any ground disturbance for construction at the Ranch, a qualified biologist will conduct a preconstruction survey for the nesting/breeding season of native bird species listed as special status species as prescribed in Mitigation 4(a)(6). The applicant shall ensure that project construction and operation shall comply with study requirements.

55. **Mitigation Measure Bio 4(a)(7):** A pre-construction survey of all ditches at the Ranch adjacent to any areas proposed for grading shall be conducted by a qualified biologist. Any western pond turtles or eggs observed within the construction zone shall be relocated by a biologist in possession of a valid California Scientific Collecting Permit to a suitable area outside of the construction zone.

Mitigation Monitoring Bio 4(a)(7): Before construction near ditches at the Ranch, a qualified biologist will conduct a preconstruction survey for western pond turtles as prescribed in Mitigation 4(a)(7). The applicant shall ensure that project construction and operation shall comply with study requirements.

56. **Mitigation Measure Bio 4(c)(1):** At a minimum, the equivalent acreage of wetlands to be filled within the Ranch shall be successfully restored within the Ranch before any wetland loss. These resources shall be restored, managed and monitored as described in a project Wetland Mitigation Program (WMP), to be developed and approved by the County prior to the restoration work. As shown on the project plans, sufficient wetland restoration area is available within the Ranch to off-set project-related losses of wetlands. Further, these wetlands would be located within a managed landscape and shall provide greater functions and values than the present-day wetlands. In addition, the WMP shall ensure that the restored wetlands meet specific performance criteria to ensure that the restoration effort is successful. These criteria shall be fully defined in the WMP but shall ensure that there will be no net loss of either extent or function prior to the loss of the existing wetlands.

Mitigation Monitoring Bio 4(c)(1): Before fill is placed in Cell 3, the applicant shall improve the wetland reserve comprising at least 11 acres shall be improved as prescribed in Mitigation 4(c)(1).

57. **Mitigation Measure Bio 4(c)(2):** A conservation easement shall be placed over at least 11 acres of restored wetland area on the Ranch prior to the loss of wetlands. This area, described as the conservation area, will be subject to management and other prescriptions that will provide for protection of the restored wetlands. In addition, the applicant shall provide an endowment for long-term funding of the maintenance of this area.

Mitigation Monitoring Bio 4(c)(2): Before fill is placed in Cell 3, the applicant shall improve the wetland reserve comprising at least 11 acres shall be improved as prescribed in Mitigation 4(c)(2).

58. This Use Permit allows the applicant to elevate existing agricultural fields located behind 10 foot high levees from approximately one foot below sea level to approximately seven feet above sea level (after compaction), and eleven feet above sea level (after compaction) for future building pad areas, on a 528 acre parcel, through importation via barge (and pipe) and trucks of up to 9,274,000 cubic yards (measured dry) or up to 18,548,000 cubic yards (measured wet) of dredge/fill material, with a maximum annual importation rate of 900,000 cubic yards wet via barge and 200,000 cubic yards dry via truck. Barge offloading to occur at Port Sonoma (APN 068-140-026), and all fill to occur at adjacent 528 acre Cameros River Ranch (APN 068-130-013). This permit includes an exception to County Grading Ordinance standards for fill in a special flood hazard area pursuant to section 11.10.020D.

For all fill, the applicant shall give first priority to accepting clean (as defined by Regional Water

Quality Control Board standards) materials (dredge and dry fill) coming from Sonoma County. For example, clean dredge materials from the Petaluma river up to the maximum annual importation limit of the project shall be accepted before dredge materials from out of county shall be accepted. No contaminated dredge or dry fill shall be accepted for placement on the site at any time.

The applicant shall submit a report to PRMD once a year detailing annual importation amounts by type (i.e. dredge or truck), where the fill originated, cumulative total fill amounts and resulting elevation for each cell, imported soil and runoff water testing results for contamination and pH, agricultural planting completed/growth rates, and compliance (timing of operations, monitoring results, etc.) with ongoing biological mitigations. Evidence of violation of importation rates, cumulative importation totals, on-site soil or water contamination, failure of successful agricultural planting as determined by PRMD, or non-compliance with ongoing biological mitigations shall require the applicant to submit a Use Permit modification application (fees apply), and the project shall be returned to the Board of Zoning Adjustments for potential modification and/or revocation/termination.

The use shall be operated in accordance with the proposal statement and site plan located in File No. UPE08-0110 as modified by these conditions.

59. This Use Permit (UPE08-0110) shall supercede all prior Use Permits, upon implementation or when all the pre-operational conditions have been met and this Use Permit is vested. The application of biosolids on site allowed under PLP97-0002 shall permanently cease in each fill cell on the property as fill material is started to be placed in that cell, ultimately eliminating biosolid placement on the entire property.
60. This use shall be constructed, maintained, and operated in conformance with all applicable county, state, and federal statutes, ordinances, rules, and regulations. A violation of any applicable statute, ordinance, rule or regulation shall be a violation of the Use Permit, subject to revocation.
61. The applicant shall pay all applicable development fees prior to issuance of building permits.
62. Development on this parcel is subject to the Sonoma County Fire Safe Standards and shall be reviewed and approved by the County Fire Marshal/Local Fire Protection District. Said plan shall include, but not be limited to: emergency vehicle access and turn-around at the building site(s), addressing, water storage for fire fighting and fire break maintenance around all future structures. Prior to occupancy of any structure, written approval that the required improvements have been installed shall be provided to PRMD from the County Fire Marshal/Local Fire Protection District.
63. Prior to building permit issuance or prior to exercising this approval, whichever comes first, the property owner(s) shall execute and record a Right-to-Farm declaration on a form provided by PRMD (if one has not already been recorded).
64. Prior to the issuance of a grading permit, the applicant shall submit to PRMD a Condition Compliance Review fee deposit (amount to be determined consistent with the ordinance in effect at the time). In addition, the applicant shall be responsible for payment of any additional compliance review fees that exceed the initial deposit (based upon hours of staff time worked) prior to final inspection being granted.
65. This "At Cost" entitlement is not vested until all permit processing costs are paid in full. Additionally, no grading or building permits shall be issued until all permit processing costs are paid in full.
66. The applicant shall include these Conditions of Approval on a separate sheet(s) of plan sets to be submitted for building and grading permit applications.
67. All building and/or grading permits shall have the following note printed on plan sheets:

"In the event that archaeological resources such as pottery, arrowheads, midden or

culturally modified soil deposits are discovered at any time during grading, scraping or excavation within the property, all work shall be halted in the vicinity of the find and County PRMD - Project Review staff shall be notified and a qualified archaeologist shall be contacted immediately to make an evaluation of the find and report to PRMD. PRMD staff may consult and/or notify the appropriate tribal representative from tribes known to PRMD to have interests in the area. Artifacts associated with prehistoric sites include humanly modified stone, shell, bone or other cultural materials such as charcoal, ash and burned rock indicative of food procurement or processing activities. Prehistoric domestic resources include hearths, firepits, or house floor depressions whereas typical mortuary resources are represented by human skeletal remains. Historic artifacts potentially include all by-products of human land use greater than fifty (50) years of age including trash pits older than fifty (50) years of age. When contacted, a member of PRMD Project Review staff and the archaeologist shall visit the site to determine the extent of the resources and to develop and coordinate proper protection/mitigation measures required for the discovery. PRMD may refer the mitigation/protection plan to designated tribal representatives for review and comment. No work shall commence until a protection/mitigation plan is reviewed and approved by PRMD - Project Review staff. Mitigations may include avoidance, removal, preservation and/or recordation in accordance with California law. Archeological evaluation and mitigation shall be at the applicant's sole expense.

"If human remains are encountered, all work must stop in the immediate vicinity of the discovered remains and PRMD staff, County Coroner and a qualified archaeologist must be notified immediately so that an evaluation can be performed. If the remains are deemed to be Native American, the Native American Heritage Commission must be contacted by the Coroner so that a "Most Likely Descendant" can be designated and the appropriate provisions of the California Government Code and California Public Resources Code will be followed."

68. Any proposed modification, alteration, and/or expansion of the use authorized by this Use Permit shall require the prior review and approval of PRMD or the Board of Zoning Adjustments, as appropriate. Such changes may require a new or modified Use Permit and additional environmental review.
69. The Director of PRMD is hereby authorized to modify these conditions for minor adjustments to respond to unforeseen field constraints provided that the goals of these conditions can be safely achieved in some other manner. The applicant must submit a written request to PRMD demonstrating that the condition(s) is infeasible due to specific constraints (e.g. lack of property rights) and shall include a proposed alternative measure or option to meet the goal or purpose of the condition. PRMD shall consult with affected departments and agencies and may require an application for modification of the approved permit. Changes to conditions that may be authorized by PRMD are limited to those items that are not adopted standards or were not adopted as mitigation measures or that were not at issue during the public hearing process. Any modification of the permit conditions shall be documented with an approval letter from PRMD, and shall not affect the original permit approval date or the term for expiration of the permit.

The owner/operator and all successors in interest, shall comply with all applicable provisions of the Sonoma County Code and all other applicable local, state and federal regulations.

70. This permit shall be subject to revocation or modification by the Board of Zoning Adjustments if: (a) the Board finds that there has been noncompliance with any of the conditions or (b) the Board finds that the use for which this permit is hereby granted constitutes a nuisance. Any such revocation shall be preceded by a public hearing noticed and heard pursuant to Section 26-92-120 and 26-92-140 of the Sonoma County Code.

In any case where a Use Permit has not been used within two (2) year after the date of the granting thereof, or for such additional period as may be specified in the permit, such permit shall become automatically void and of no further effect, provided however, that upon written request by the applicant prior to the expiration of the two year period the permit approval may be extended for

not more than one (1) year by the authority which granted the original permit pursuant to Section 26-82-130 of the Sonoma County Code.