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**San Francisco Bay Regional Water Quality Control Board**

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**CLEAN WATER ACT SECTION 401 WATER QUALITY  
CERTIFICATION AND ORDER  
FOR THE**

**Oyster Point Marina Dock Replacement Project**

**San Mateo County**

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*Sent via electronic mail: No hard copy to follow*

**Effective Date:** March 20, 2023  
**RM:** 447801  
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**Corps File No:** 2012-00151S

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## **Certification and Order Coverage**

This Clean Water Act (CWA) section 401 Water Quality Certification (Certification) and Order (Order) is issued to the San Mateo Harbor District (Permittee).

Pursuant to CWA section 404, the Permittee will fill and discharge to waters of the U.S. under a U.S. Army Corps of Engineers (Corps), Regulatory Branch, Nationwide Permit (NWP) 3 (*Maintenance*) (Corps File No. 2012-00151S).

The Permittee applied to the San Francisco Bay Regional Water Quality Control Board (Water Board) requesting Certification verifying the Oyster Point Marina Dock Replacement Project (Project) does not violate State water quality standards. The application for Certification was initially received on May 24, 2022. We issued a notice of incomplete application and requested additional information including clarification of the Project's impacts and stormwater measures, which were fully resolved on February 14, 2023. The Application fee was received by Water Board staff on March 2, 2023.

The following sections are derived from the Application materials.

### **1. Project**

The Project will improve safety of commercial fishing handling operations, improve dock accessibility, and increase the life and capacity of the commercial docks.

#### **1.1 Site Description & Background**

The Project is located in Oyster Point Marina (Marina) in San Francisco Bay (Bay) (Lat. 37.66338, Long. -122.37563). The Marina is operated by the Permittee and includes a 408-berth marina, consisting of floating docks, gangway, and piles, a boat launch ramp, public fishing pier, swimming beach, and other landside facilities. The Marina is protected from the Bay by concrete sheet pile breakwaters. The landside facilities are built over a capped landfill which ceased operations in 1977. The West Basin was constructed in 1978 along with other shoreside improvements. The West Basin docks and accessways were constructed in the late 1980s. The East Basin's construction started in 1962, with its docks constructed in the early 1980s.

Docks 1 through 14 are arranged from west to east. The Harbor Master's building is located on a strip of land dividing the berthing areas into the West Basin (Docks 1 – 6) and the East Basin (Docks 11 - 14). Docks 7 and 8 are not in the Project scope, but are situated on the western and eastern sides of the Harbor Master's office, respectively. Docks 9 and 10 were removed in 2012, with that area now occupied by the South San Francisco Ferry Terminal. Docks 1 – 7 were constructed with timber decks and frames with polyethylene enclosed floatation, and Docks 8 and 11 are floating concrete docks. Docks 12 - 14 are older and constructed of solid laminated Ammoniacal Copper Zinc Arsenate (ACZA) treated-wood deck on polyethylene enclosed floatation, except for the northern portion, which was removed and replaced with concrete wave attenuator float modules. Access to the East Basin docks is provided by concrete access platforms and grated metal gangways, and access to the West Basin docks is provided by aluminum bridges, concrete access platforms, and grated metal gangways.

Dock inspections performed in 2014 and 2018 determined that floating Docks 12 - 14 are in poor condition and should be replaced. The older accessways at Docks 1 - 14 are also proposed for replacement. In 2021, the grade along the West Basin shoreline was raised to accommodate sea level rise as part of a private site development. This involved relocating the Bay Side trail further shoreward and installing interim aluminum bridges to re-establish access from the shoreline to Docks 1 - 6.

## **1.2 Summary**

The Project will remove and replace deteriorating floating Docks 12 - 14 in the East Basin, remove older accessways at Docks 11 - 14 in the East Basin, and provide a long-term access solution to Docks 1 - 6 in the West Basin by removing the interim bridgeways and replacing the existing access platforms, and improving public access by adding a kayak launch in the East Basin.

### Dock Replacement

To replace Docks 12 - 14, the existing deteriorated floating timber docks will be disconnected from the piles and adjacent dock modules by hand, floated to the shoreline, and lifted by crane and placed on land. The removed dock modules will then be taken to the landfill by truck for disposal. The replacement concrete floating docks will be delivered to the site by truck, lifted by crane, placed into the water, and moved into place by work boat. The existing concrete wave attenuators will remain, and the new docks will be designed to work in conjunction with the wave attenuators.

### Accessway Replacement

In total, seven existing accessways will be replaced. The four existing accessways (abutment, access platform, security gate, and gangways) at Docks 11 - 14 in the East Basin will be replaced. In the West Basin at Docks 1 - 6, three existing accessways will be replaced and lengthened shoreward to re-establish access to the raised shoreline. Replacement of the access platforms and gangways will not result in additional overwater coverage. The access platforms in the East Basin will be approximately the same width and length as the existing platforms. The access platforms in the West Basin will be approximately the same width, but will extend slightly further inland to connect to the Bay Trail, which was relocated shoreward in 2021. The existing bridgeways installed to provide interim access to Docks 1 - 6 after the raising of the shoreline grade will also be removed. A public kayak launch will be installed in the East Basin to improve public access.

The existing gangways for Docks 1 - 3 and 12 - 14 will be removed by crane, placed on land, and removed by truck for recycling. The existing gangway at Dock 11 will be removed and reinstalled on the new access platform. The replacement gangways will be constructed off-site and transported to the site via a truck. The existing gangways are grated metal, and replacement gangways will be grated aluminum. The abutments at Docks 12 - 14 will be removed using land-based equipment and replaced in kind. New abutments will be constructed using cast-in-place concrete or pre-cast concrete. In addition, the dock modifications will include replacement of utilities (water and electric) from shore to the docks. New electrical equipment boxes will be located on the new fixed pier accessways.

For demolition of the existing accessways, the concrete platform may be cut from the existing piles and removed as a unit using a crane, or it may be necessary to remove the platform in smaller pieces using a hammer. If the access platform is demolished using a hammer, a platform will be installed below the existing access platform to catch any falling pieces.

The replacement access platforms will be supported by up to four, 16-inch, square concrete piles. The new platform will be constructed using precast concrete and cast-in-place concrete, with cast-in-place concrete constructed using falsework supported by the concrete piles. Security fencing and access gates will be installed on the concrete slab, along with guardrails along the perimeter. Due to construction access restraints in the West Basin, replacing the access platforms will require work to occur within the intertidal area, requiring gravel crane pads to be temporary installed and removed after construction. The Permittee shall return these temporarily impacted areas to at least their pre-Project condition once the Project’s construction is completed or the crane pads are no longer needed, whichever comes first.

In total, approximately 115, 12- to 14-inch, square concrete piles will be removed and replaced with 105, 16-inch, square concrete piles as part of the Project. The piles will be removed with a vibratory pile extractor or by direct pull, and the new concrete piles will be driven with an impact hammer.<sup>1</sup> Equipment will work from upland areas for the East Basin replacements.

## 2. Impacts to Waters of the State

The Water Board has independently reviewed the Project record to analyze impacts to water quality and the environment and designated beneficial uses within the Project’s watershed.

### 2.1 Fill and Discharge

The Project will temporarily and permanently impact approximately 0.126 and 0.036 acres of waters of the State, respectively, as shown in Table 1.

**Table 1: Summary of the Project's impacts to waters of the State.**

Activity	Aquatic Resource Type <sup>1</sup>	Impact Type	Acres
Pile Replacement	Bay	Permanent	0.0006
Floating Dock Replacement	Bay	Permanent	0.0350
Temporary Cranes	Bay	Temporary	0.126
		<i>Temporary Impacts Subtotal</i>	<i>0.126</i>
		<i>Permanent Impacts Subtotal</i>	<i>0.036</i>
<b>Total</b>			<b>0.162</b>

<sup>1</sup>These habitat types are for CIWQS reporting purposes.

<sup>1</sup> If they cannot be extracted or break during extraction, the piles will be cut one foot below the mudline.

### 3. Mitigation

The Project's permanent impacts to waters of the State shall be mitigated by the Permittee. A long-term water quality benefit is anticipated from the removal and replacement of the existing treated-wood floating docks. The Permittee will monitor the temporarily impacted areas to ensure they are returned to at least their pre-Project condition (see Conditions 13 and 14). No further mitigation is required.

### 4. California EcoAtlas

Regional, state, and national studies have determined that tracking of mitigation and restoration projects must be improved to better assess the performance of these projects, following monitoring periods that last several years. To effectively carry out the State's Wetlands Conservation Policy of no net loss to wetlands, the State needs to closely track both losses and successes of mitigation and restoration projects affecting wetlands and other waters of the State. The Water Board must also track project performance in Bay Area creeks subject to routine repair and maintenance activities, such as recurring instabilities. Therefore, we adopted the digital interactive mapping tool called *EcoAtlas*.<sup>[1]</sup> *EcoAtlas* is a web-based tool that integrates maps, project plans, site conditions, restoration efforts, and other elements on a project-by-project basis based on data inputs. Accordingly, we require the Permittee to upload their Project information to *EcoAtlas* with the *Project Tracker* tool at <https://ptrack.ecoatlas.org> (see Condition 8). The San Francisco Estuary Institute developed *EcoAtlas* and maintains detailed instructions for *Project Tracker* on its website at <https://ptrack.ecoatlas.org/instructions>.

### 5. CEQA Compliance

The Permittee, as lead agency, determined the Project was categorically exempt from the California Environmental Quality Act (CEQA) requirements and filed a Notice of Exemption (NOE) pursuant to title 14, California Code of Regulations (14 CCR), section 15302, *Replacement or Reconstruction*. The Water Board, as a responsible agency under CEQA, has reviewed the NOE and concurs that it is appropriate.

### 6. Conditions

I, Eileen White, Executive Officer, do hereby issue this Order certifying that any discharge from the proposed Project will comply with the applicable provisions of sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the CWA, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification," which requires compliance with all conditions of this Order, including the following:

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<sup>[1]</sup> Source: California Wetlands Monitoring Workgroup (CWMW). *EcoAtlas*. Accessed March 12, 2019. <https://www.ecoatlas.org>. CWMW includes SFEI, State Board, U.S. EPA-Region IX, and other agencies with similar goals to track effects of projects in wetlands and other aquatic habitats.

## 6.1 Regulatory Compliance and Work Windows

1. **Design Conformance.** The Project work shall be constructed in conformance with the Application materials, including supplemental information, and as described in this Certification. Any changes to the Project that may impact waters of the State must be accepted by the Executive Officer before they are implemented. To request Executive Officer acceptance, the Permittee shall submit the proposed revisions, clearly marked and described, to the attention of the Water Board staff listed on the cover page of this Certification. The Permittee shall not implement the proposed revisions until notified that they have been accepted by the Executive Officer.

***Rationale:** This condition is necessary to ensure compliance with the permit and applicable conditions and to ensure that the proposed work and final restoration work has been conducted in accordance with the permit and all applicable conditions. (California Water Code (CWC) section 13264).*

2. **Corps Permit Compliance.** The Permittee shall adhere to the conditions of the Corps' CWA Section 404 NWP 3 (*Maintenance*) (Corps File No. 2012-00151S).

***Rationale:** This condition is required pursuant to 23 CCR section 3856(e), which requires that copies be provided to the Water Boards of "any final and signed federal, state, and local licenses, permits, and agreements (or copies of the draft documents, if not finalized) that will be required for any construction, operation, maintenance, or other actions associated with the activity."*

3. **Special Status Species.** This Certification does not allow for the take, or incidental take, of any special status species. The Permittee shall request appropriate protocols prescribed from the United State Fish and Wildlife (USFWS) and/or National Marine Fisheries Service (NMFS) to ensure that Project activities do not impact the Beneficial Use of the Preservation of Rare and Endangered Species, and shall implement the provided protocols, as appropriate (*CWC section 13369(b)(1)(B) and (C); (Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) section 4.19)*);

4. **Precipitation and Construction Planning.** Precipitation forecasts shall be considered when planning construction activities. The Permittee shall monitor the 72-hour forecast from the National Weather Service at <http://www.nws.noaa.gov>. When there is a forecast of more than 40% chance of rain, or at the onset of unanticipated precipitation, the Permittee shall remove all equipment from waters of the State, implement erosion and sediment control measures (e.g., jute, straw, coconut fiber erosion control fabric, coir logs, straw), and cease all Project activities. If any construction activities will occur after October 31, a Winterization Plan shall be submitted to the Executive Officer for review and acceptance and contain, but not be limited to, the following:

- a) *Activities and Timeline Description*—for any proposed activity that will begin or end after October 31, the activity and its respective construction timeline, from start to finish, shall be described in detail.

- b) *Erosion Control Measures*—all erosion control measures shall be described in detail, including, but not limited to, the type of erosion control measure and its material, implementation timeline, and best management practices to be used during and after implementation;

*Rationale: This condition is necessary to ensure avoidance and minimization of impacts to waters of the State from construction activities (CWC section 13376 et seq.).*

## 6.2 General Construction

5. **Discharge Prohibition**. No unauthorized construction-related materials or wastes shall be allowed to enter into or be placed where they may be washed by rainfall or runoff into waters of the State. When construction is completed, any excess material shall be removed from the work area and any areas adjacent to the work area where such material may be discharged to waters of the State;

*Rationale: This condition is necessary to ensure that contaminated material is not placed within waters of the State (Basin Plan sections 3.3.12, 3.3.19, and 4.19).*

6. **Equipment Maintenance Prohibition**. No fueling, cleaning, or maintenance of vehicles or equipment shall take place within waters of the State, or within any areas where an accidental discharge to waters of the State may occur; and construction materials and heavy equipment must be stored outside of waters of the State. When work within waters of the State is necessary, best management practices shall be implemented to prevent accidental discharges;

*Rationale: This condition is necessary to ensure avoidance and minimization of impacts to waters of the State and associated Beneficial Uses from construction activities (CWC section 13369(b)(1)(B) and (C); Basin Plan section 4.19).*

7. **Beneficial Use Impacts**. All work performed within waters of the State shall be completed in a manner that minimizes impacts to beneficial uses and habitat; measures shall be employed to minimize disturbances along waters of the State that will adversely impact the water quality of waters of the State. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete Project implementation;

*Rationale: This condition is necessary to ensure minimization of impacts to waters of the State and to ensure successful restoration of all temporary impacts authorized (State Board Resolution No. 68-16; 40 CFR part 131.12 (a)(1); CWC sections 13264 and 13369; Basin Plan Ch. 3 and 4).*

## 6.3 Pre-Construction Reporting and Other Requirements

8. **EcoAtlas Form**. The Permittee shall input Project information into *EcoAtlas* no later than 14 days from this Certification's issuance date, consistent with Section 4 herein. The Project information shall be added to the *Project Tracker* tool in *EcoAtlas* online at <https://ptrack.ecoatlas.org>. Instructions for adding information to *EcoAtlas* are



available at <https://ptrack.ecoatlas.org/instructions>, or by contacting the Water Board staff listed on the cover page of this Certification. The Permittee shall notify the Water Board and submit documentation demonstrating the Project has been successfully added to EcoAtlas via email to [RB2-401Reports@waterboards.ca.gov](mailto:RB2-401Reports@waterboards.ca.gov), or by mail to the attention of 401 Certifications Reports (see address on the letterhead), and include **EcoAtlas\_447801\_Oyster Point Marina Dock Replacement Project**;

***Rationale:** This condition is necessary to ensure compliance with the permit and applicable conditions (CWC section 13267).*

9. **Start of Construction.** The Permittee shall submit a Start of Construction (SOC) Report acceptable to the Executive Officer. The SOC Report shall be submitted no later than seven days prior to start of initial ground disturbance activities and notify the Water Board at least 48 hours prior to initiating in-water work and any stream diversions in any given Project year. Notification may be via telephone, email, delivered written notice, or other verifiable means. The SOC Report shall be submitted in same timeframe specified herein for multiple construction seasons, if necessary, via email to [RB2-401Reports@waterboards.ca.gov](mailto:RB2-401Reports@waterboards.ca.gov), or by mail to the attention of 401 Certifications Reports (see address on the letterhead), and include **SOC\_447801\_Oyster Point Marina Dock Replacement Project**;

***Rationale:** This condition is necessary to assist in scheduling compliance inspections to ensure compliance with the permit and applicable conditions (CWC section 13267).*

10. **Photo-Documentation Points.** Prior to the start of construction, the Permittee shall establish a minimum of 4 photo-documentation points at each location where Project related impacts to waters of the State occur. The points shall be used to track the Project's construction impacts, the pre- and post-construction condition, and overall Project success. The Permittee shall prepare a site map with the photo-documentation points clearly marked. Prior to and following construction in each year where sediment and/or vegetation is removed, the Permittee shall photographically document the immediate pre- and post-Project condition at locations where impacts to waters of the State occur, including temporary impacts. These post-construction photographs and map shall be submitted, along with the as-built and construction completion reports (See Conditions 11 and 12);

***Rationale:** This condition is necessary to assist in scheduling compliance inspections to ensure compliance with the permit and applicable conditions (CWC section 13267).*

#### 6.4 Active Construction and Post-Construction Reporting Requirements

11. **As-Built Report.** The Permittee shall prepare an as-built report(s) acceptable to the Executive Officer for each year that Project activities occurred. The as-built report(s) shall be submitted to the Water Board no later than 60 days after completing Project construction activities. The report(s) shall include a description of the areas of actual disturbance during Project construction and the photographs and map specified in Condition 10. The report(s) shall clearly identify and illustrate the Project site, and the locations where impacts to waters of the State occurred. The as-built report(s)

shall include the 100 percent construction plans marked with the contractor's field notes that clearly depict any deviations made during construction from the designs reviewed by the Water Board. The as-built report(s) shall be sent via email to [RB2-401Reports@waterboards.ca.gov](mailto:RB2-401Reports@waterboards.ca.gov), or by mail to the attention of 401 Certifications Reports (see address on the letterhead), and include **As-Built\_447801\_Oyster Point Marina Dock Replacement Project** in the email subject line when sent electronically or in the cover letter for hard copy submissions;

***Rationale:** This condition is necessary to assist in scheduling compliance inspections to ensure compliance with the permit and applicable conditions (CWC section 13267).*

- 12. Project Construction Completion Report.** The Permittee shall submit a Notice of Project Construction Completion (NOC) acceptable to the Executive Officer to notify the Water Board that the Project has been completed. The Completion Notice shall be submitted to the Water Board no later than 60 days after completing all Project construction activities. The Completion Notice shall include the as-built reports (see Condition 11), the post-construction photographs (see Condition 10), the date of the first Project-related disturbance of waters of the State occurred, and the date construction was completed for each Project activity. The Completion Notice shall be sent via email to [RB2-401Reports@waterboards.ca.gov](mailto:RB2-401Reports@waterboards.ca.gov), or by mail to the attention of 401 Certifications Reports (see address on the letterhead), and include **NOC\_447801\_Oyster Point Marina Dock Replacement Project** in the email subject line when sent electronically or in the cover letter for hard copy submissions;

***Rationale:** This condition is necessary to ensure compliance with the permit and applicable conditions and to ensure that the proposed work and restoration work has been conducted in accordance with the permit and all applicable conditions (CWC section 13267).*

## 6.5 Mitigation Requirements

- 13. Mitigation Requirements and Mitigation Plan.** The Permittee shall monitor the temporarily impacted areas for a minimum 2-year period after they are restored upon the Project's completion to confirm these areas have been restored to at least their pre-Project condition and no adverse effects to beneficial uses have otherwise occurred following the Project's implementation. The monitoring shall be conducted in accordance with the *Oyster Point Marina Dock Replacement Project-Crane Pads Temporary Impact Restoration Plan* (Moffatt & Nichol, November 21, 2022). The Permittee shall submit annual monitoring reports in accordance with Condition 14. If a monitoring report indicates the impacted areas have not or may not be restored to at least their pre-Project condition, the Permittee shall propose remedial actions in the corresponding annual report or as a supplement to the annual monitoring report. If not restored to at least their pre-Project condition, the Executive Officer may extend the monitoring period for the temporarily impacted areas or require compensatory mitigation;

***Rationale:*** *This condition is necessary to ensure compliance with the permit and applicable conditions and to ensure that the proposed work and restoration work has been conducted in accordance with the permit and all applicable conditions (33 CFR parts 332.4 and 332.6).*

**14. Annual Monitoring Report.** The Permittee shall submit annual monitoring reports, acceptable to the Executive Officer, by January 31 following each monitoring year after the Project is completed and the temporarily impacted areas have been restored. The first monitoring year commences in the calendar year after the temporarily impacted areas have been restored. At the time of this Certification's issuance, the Project, including restoration of temporarily impacted areas, is anticipated to occur in 2023. Therefore, unless the Project is completed after 2023, the first annual monitoring report shall be due by January 31, 2025. Annual reports shall include, but not be limited to, the following:

- a) ***Photographs:*** photographs taken during the monitoring year from the photo-documentation points specified in Condition 10 shall be included in each annual monitoring report, and updated as appropriate. The photographs shall include captions with respect to the photograph's point of view, direction of flow, when applicable, locations of Project activities, location of the photo-documentation point, and date photographed.
- b) ***Environmental Drivers:*** each monitoring report shall describe the precipitation events that occurred at the site during the monitoring year. The effects of the mitigation project and environmental drivers (e.g., precipitation events, drought events) on site conditions shall be described in reference to the monitoring year's precipitation events.
- c) ***Cumulative Monitoring:*** each annual report shall summarize all data from previous monitoring reports in addition to the current year's monitoring data, including the need for, and implementation of, any remedial actions. Monitoring data may include all relevant qualitative and quantitative data necessary to determine whether the site is stable. The final monitoring report shall document whether the temporarily impacted areas were restored to their pre-project condition.

The overall Project and mitigation success shall be determined by, and acceptable to, the Executive Officer. If monitoring indicates that beneficial uses have been, or have the potential to be, adversely affected, the Permittee shall, in consultation with the appropriate agencies, identify remedial measures to be undertaken, including compensatory mitigation and extension of the monitoring and reporting period until the final success criteria are met. Annual monitoring reports shall be submitted via email to [RB2-401Reports@waterboards.ca.gov](mailto:RB2-401Reports@waterboards.ca.gov), or by mail to the attention of 401 Certifications Reports (see the address on the letterhead), and include **AMR\_447801\_ Oyster Point Marina Dock Replacement Project** in the email subject line when sent electronically or in the cover letter for hard copy submissions;

***Rationale:** This condition is necessary to ensure compliance with the permit and applicable conditions and to ensure that the proposed work and restoration work has been conducted in accordance with the permit and all applicable conditions (33 CFR parts 332.4 and 332.6).*

## 6.6 Administrative and General Compliance

- 15. Site Access.** The Permittee shall grant Water Board staff or an authorized representative, upon presentation of credentials and other documents as may be required by law, permission to: (1) enter upon the Project site or compensatory mitigation site(s) where a regulated facility or activity is located or conducted, or where records are kept; (2) have access to and copy any records that are kept and are relevant to the Project or the requirements of this Order; (3) inspect any facilities, equipment, practices, or operations regulated or required under this Order; and (4) sample or monitor for the purposes of assuring Order compliance;

***Rationale:** This condition is necessary to assist in scheduling compliance inspections and to ensure compliance with the permit and applicable conditions (CWC section 13267).*

- 16. Certification and Order at Site.** A copy of this Order shall be provided to any consultants, contractors, and subcontractors working on the Project. Copies of this Order shall remain at the Project site for the duration of this Order. The Permittee shall be responsible for work conducted by its consultants, contractors, and any subcontractors;

***Rationale:** This condition is necessary to ensure compliance with the permit and applicable conditions (CWC sections 13170 and 13245).*

- 17. Ownership Change Notification.** The Permittee shall provide a signed and dated notification to the Water Board of any change in ownership or interest in ownership of any Project area at least 10 days prior to the transfer of ownership. The purchaser shall also submit a written request to the Water Board to be named as the permittee in an amended order. Until this Order has been modified to name the purchaser as the permittee, the Permittee shall continue to be responsible for all requirements set forth in this Order;

***Rationale:** This condition is necessary to ensure compliance with the permit and applicable conditions (CWC section 13264).*

- 18. Water Quality Violations Notification.** The Permittee shall notify the Water Board of any violations of water quality standards, along with the cause of such violations, as soon as practicable (ideally within 24 hours). Notification may be via telephone, email, delivered written notice, or other verifiable means;

***Rationale:** This condition is necessary to minimize adverse impacts to water quality (CWC sections 13385 and 13267).*

**19. Discharge Change Notification.** In accordance with CWC section 13260, the Permittee shall file with the Water Board a report of any material change or proposed change in the ownership, character, location, or quantity of this waste discharge. Any proposed material change in operation shall be reported to the Executive Officer at least 30 days in advance of the proposed implementation of any change. Changes to discharges include, but are not be limited to, significant new soil disturbances, proposed expansions of development, or any change in drainage characteristics at the Project site. For the purpose of this Order, this includes any proposed change in the boundaries of the area of wetland/waters of the State to be impacted;

**20. Submittal of Reports.** Where this Certification requires submittal of reports, including plans, reports, or related information, the submitted reports shall be acceptable to the Executive Officer;

*Rationale: This condition is necessary to ensure compliance with the permit and applicable conditions (CWC section 13267).*

**21. Individual Waste Discharge Requirements.** Should new information come to our attention that indicates a water quality problem with this Project, the Water Board may issue Waste Discharge Requirements pursuant to CWC sections 13263 and/or 13377 and 23 CCR section 3857;

**22. Expiration.** This Order shall continue to have full force and effect regardless of the expiration or revocation of any federal license or permit issued for the Project;

*Rationale: This condition is necessary to ensure compliance with the permit and applicable conditions (CWC sections 13170 and 13245).*

## 6.7 Standard Conditions

**23. Certification and Order Modification.** This Order is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to CWC sections 13320 and 13330 and 23 CCR section 3867;

**24. Hydroelectric Facilities.** This Order does not apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license, unless the pertinent certification application was filed pursuant to 23 CCR subsection 3855(b) and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought;

**25. Application Fee.** This Certification and Order is conditioned upon full payment of the required fee, including annual fees, as set forth in 23 CCR section 3833. The required \$3,447 Project fee, calculated using the 2021/2022 Water Quality Certification Dredge and Fill Application Fee Calculator, Category A– *Fill and Excavation Discharges*, was received by the Water Board on March 2, 2023;

***Rationale:** Conditions 23, 24, and 25 are standard conditions that “shall be included as conditions of all water quality certification actions” (23 CCR section 3860(a)).*

## **6.8 Annual Fees**

**26. Annual Fee.** In accordance with 23 CCR section 2200, the Permittee shall pay an annual fee to the Water Board each fiscal year (July 1 – June 30) until Project construction activities are completed and an acceptable Notice of Project Construction Completion is received by the Water Board. If monitoring is required, the Permittee shall pay an annual fee to the Water Board until monitoring activities are completed and an acceptable Notice of Mitigation Monitoring Completion is received by the Water Board (Note: the Annual Post Discharge Monitoring Fee may be changed by the State Water Board; at the time of Certification it was \$2,031 per year for Category A projects). Annual fees will be automatically invoiced to the Permittee. **The Permittee must notify the Water Board at Project and mitigation completion with a final report in order to request to terminate annual billing.** Notification shall reference **NOT\_447801\_ Oyster Point Marina Dock Replacement Project** and should be sent to the staff listed at the bottom of this Certification and to [RB2-401Reports@waterboards.ca.gov](mailto:RB2-401Reports@waterboards.ca.gov). Water Board staff will verify the conditions of the Certification have been met and may request a site visit at that time to confirm the Project’s status and compliance with the Certification (23 CCR sections 3833(b)(3) and 2200 (a)(3); CWC section 13267).

This Order applies to the Project as proposed in the application materials and designs referenced above in the conditions of Certification. Be advised that failure to implement the Project in conformance with this Order is a violation of this Certification. Any violation of Certification conditions is a violation of State law and subject to administrative civil liability pursuant to CWC sections 13350, 13385, or 13399.2. Failure to meet any condition of this Certification may subject the Permittee to civil liability imposed by the Water Board to a maximum of \$25,000 per day of violation and/or \$25 for each gallon of waste discharged in violation of this action above 1,000 gallons. Any requirement for a report made as a condition to this Certification (e.g., conditions 4, 8-12, 14, and 17-19) is a formal requirement pursuant to CWC sections 13267 and 13383, and failure or refusal to provide, or falsification of such required report, is subject to civil liability as described in CWC section 13268 and criminal liability under 13387. The burden, including costs, of these reports bears a reasonable relationship to the need for the report and the benefits to be obtained. Should new information come to our attention that indicates a water quality problem with this Project, the Water Board may issue Waste Discharge Requirements.

If you have any questions concerning this Order, please contact Tahsa Sturgis of my staff at (510) 622-2316 or [tahsa.sturgis@waterboards.ca.gov](mailto:tahsa.sturgis@waterboards.ca.gov). All future correspondence regarding this Project should reference **RM 447801**.

Sincerely,

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for Eileen White  
Executive Officer

cc: SWRCB, DWQ, [stateboard401@waterboards.ca.gov](mailto:stateboard401@waterboards.ca.gov)  
Water Board, Victor Aelion, [victor.aelion@waterboards.ca.gov](mailto:victor.aelion@waterboards.ca.gov)  
U.S. EPA, Region IX:  
Region IX Mailbox, [r9cwa401@epa.gov](mailto:r9cwa401@epa.gov)  
Jennifer Siu, [siu.jennifer@epa.gov](mailto:siu.jennifer@epa.gov)  
Corps, SF Regulatory Branch, Katerina Galacatos, [katerina.galacatos@usace.army.mil](mailto:katerina.galacatos@usace.army.mil)