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SECRETARY FOR
ENVIRONMENTAL PROTECTION

San Francisco Bay Regional Water Quality Control Board

CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND ORDER

Petaluma Marina and Petaluma River Turning Basin Maintenance Dredging Petaluma, Solano County

Effective Date: November 24, 2021
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Water Quality Certification – 2021 Amendment

We hereby issue an amended Clean Water Act (CWA) section 401 water quality certification (Certification) to the City of Petaluma to perform maintenance dredging in (1) the Petaluma Marina (Marina) located on the eastern shoreline of the Petaluma River, Petaluma and (2) the USACE Federal Navigation Channel Turning Basin (Turning Basin) in the Petaluma River Channel, located approximately 1.5 miles upstream of the Marina on the eastern shoreline of the Petaluma River (Appendix 1). The City is the nonfederal sponsor for the Petaluma River Channel. The City has received a USACE individual permit (expiring on December 31, 2029) authorizing multiple episodes of dredging over a 10-year period pursuant to CWA section 404 (33 USC 1344) and section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to dredge the Marina and the Turning Basin. This amended Certification verifies that the dredging project described below will not violate State water quality standards.

Project Description

The Marina and Turning Basin dredging project (Project) involves mechanically dredging, via excavator bucket or clamshell, approximately 350,000 cubic yards (cy) of sediment by December 31, 2029. The Project will be dredged as follows:

Dredge Area	Permitted Depth (MLLW*)	Overdepth (MLLW*)
Marina Dredge Unit 1: Entrance Channel	10 ft	2 ft
Marina Dredge Unit 2: Docking Area	8 ft	2 ft
Turning Basin	8 ft	1 ft

* MLLW = Mean Lower Low Water

The dredge footprints for Marina Dredge Unit 1 and Marina Dredge Unit 2 are shown in Appendix 2. The dredge footprint for the Turning Basin is shown in Appendix 3.

The dredged material will be disposed and/or reused at a combination of beneficial reuse and aquatic disposal sites. This will be coordinated based on suitability determinations through the Dredged Material Management Office (DMMO). Disposal/reuse sites may include any in-Bay disposal sites including the San Pablo Bay Disposal Site (SF-10); and Cullinan Ranch Restoration Project (Cullinan Ranch), Montezuma Wetland Restoration Project (Montezuma), Shollenberger Dredged Materials Placement Site (Shollenberger Site), and/or any other beneficial reuse sites that may get permitted and become available during the term of the Certification. We encourage the City to continue evaluating the feasibility of beneficially reusing the existing dredged sediments from the Shollenberger Site and future dredged sediments from the Marina and Turning Basin to help alleviate climate change issues.

Reuse of Dredged Material to Address Climate Change Issues

Climate change will have a lasting impact on shoreline communities especially those in low lying areas, such as the City of Petaluma. The need to anticipate and address sea level rise impacts to the City's infrastructure and facilities, such as the Marina, is vital. Equally important is the need to protect and enhance aquatic ecosystems, such as tidal wetlands, that provide fish and wildlife habitat for a variety of native species, including rare, threatened and endangered species. On-going operations and maintenance activities associated with the Marina, such as dredging, may exacerbate sea level rise impacts by redistributing sediment from a portion of the Petaluma River to locations outside the watershed. Thus, it is important for the City to address the anticipated impacts of sea level rise on the City's aquatic resources, both in its built and natural environments, by developing multi-benefit projects that address (a) flood risk reduction, (b) infrastructure reliability, (c) social and economic resilience, (d) environmental justice, (e) water quality improvement, (f) habitat conservation and restoration, and (g) shoreline access. We encourage the City to continue evaluating the feasibility of beneficially reusing the existing dredged sediments from the Shollenberger Site and future dredged sediments from the Marina and Turning Basin to help alleviate climate change issues.

Disposal and/or Reuse of Dredged Material

We concur that the City's Marina meets the Long-Term Management Strategy for the Placement of Dredged Material in the San Francisco Bay Region (LTMS) Management Plan's definition of a "small" dredger (project design depth \leq -12 feet MLLW and annual average dredge volume \leq 50,000 cy). The Marina has not been dredged during the past 10 years.

The City therefore qualifies for the Small Dredger Programmatic Alternatives Analysis (SDPAA), dated October 28, 2004, for the Marina. The SDPAA concluded that in-Bay unconfined aquatic disposal of suitable material from small dredging projects that do not otherwise have project specific upland disposal sites is the Least Environmentally Damaging Practicable Alternative (LEDPA) in accordance with CWA section 404(b)(1). The City submitted a signed SDPAA agreement as part of the Certification application.

The federal standard placement site for dredged materials from the Petaluma River Channel is the Shollenberger Site. Alternative placement sites include Cullinan Ranch, Montezuma, and/or any other beneficial reuse sites that may get permitted and become available during the term of the Certification.

The exact location for disposal or reuse of material from each individual dredging episode will be determined as part of the episode approval process, and will depend on several factors including cost, quantity of dredged material, physical, chemical, and biological characteristics of dredged material, the availability of various disposal or reuse locations, and any potential environmental impacts associated with the use of those locations.

Should the City dispose some or all of the dredged materials at Cullinan Ranch, the dredged materials will be transported by barge to Cullinan Ranch, in the San Pablo Bay National Wildlife Refuge, where it will be beneficially reused to restore tidal wetlands for the endangered salt

marsh harvest mouse and other species. Dredged materials placement and management at Cullinan Ranch is regulated under Waste Discharge Requirements and Water Quality Certification Order No. R2-2010-0108. All dredged sediment and any water entrained during dredging will be completely contained within the placement cell.

Should the City dispose some or all of the dredged materials at Montezuma, the dredged materials will be transported by barge to Montezuma in the Suisun Marsh, where the dredged materials will be beneficially reused to restore tidal marsh habitat for the endangered least tern and salt marsh harvest mouse. Dredged material placement and management at Montezuma is regulated under the Water Board's Waste Discharge Requirements and Water Quality Certifications Order No. R2-2012-0087.

Should the City dispose some or all of the dredged materials at the Shollenberger Site, the dredged materials will be transported by barge. Dredged materials will be offloaded from the scow through a pump system that will draw water from the Petaluma River to slurry sediment within the barge and facilitate pumping of the dredged material within the scow to the placement site. The sediment slurry will then be piped about 1,000 feet directly into the Shollenberger Site. Dredged materials placement and management at the Shollenberger Site is regulated under Waste Discharge Requirements Order No. R2-92-080. The Executive Officer accepted a revised self-monitoring program from the City for the Shollenberger Site in a letter dated September 21, 2020.

California Environmental Quality Act

The Project is categorically exempt from the requirements of the California Environmental Quality Act pursuant to Title 14 of the California Code of Regulations, section 15304(g), minor alterations to land—maintenance dredging.

Certification and General Waste Discharge Requirements

I hereby certify that any discharge from the Project, as conditioned by this Certification, will comply with the applicable provisions of CWA 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), and with other applicable requirements of State law. CWA section 401 directs the agency responsible for certification to prescribe effluent limitations and other limitations necessary to ensure compliance with the CWA and with any other appropriate requirement of State law. Section 401 further provides that State certification conditions shall become conditions of any federal license or permit for the project. The conditions of this Certification must be met to ensure that the Project will comply with water quality standards, any applicable effluent limitation, standard of performance, prohibition, effluent standard, or pretreatment standard required pursuant to the CWA sections listed above and to ensure that the Project will comply with any other appropriate requirements.

This discharge of dredged or fill material is also considered to be a discharge of waste to waters within the jurisdiction of the Water Board. Pursuant to Article 4 of Chapter 4, Division 7 of the

California Water Code (Wat. Code § 13260 et seq.), the Water Board must issue waste discharge requirements for these discharges. Therefore, this Certification also enrolls the above referenced Project under the State Water Resources Control Board's Order No. 2003-0017-DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification" (General Order). The only substantive requirement of the General Order is to comply with the limitations and monitoring requirements contained in this Certification. Fees paid to satisfy California Code of Regulations, title 23, section 3833(b) (fees associated with this Certification) shall also be deemed to satisfy fees required by the General Order. The following conditions are associated with this Certification:

1. This Certification expires on December 31, 2029.
2. Maintenance dredging shall be implemented in conformance with the Project description provided above and all documents submitted with the 401 water quality certification application and the amendment request.
3. No overflow or decant water shall be discharged from any barge at any time.
4. During transportation from the dredging site to the placement site, no dredged material shall be permitted to overflow, leak, or spill from barges, bins or dump scows.
5. Request for dredged material suitability determinations for each dredging episode and evaluations of disposal alternatives must be coordinated through the DMMO, following applicable federal and State guidance on a tiered testing framework and on the preparation of reports.
6. Dredging must not commence until authorized in writing by Water Board staff. At least 20 days prior to dredging, the City must provide a dredge episode approval request package to the Water Board. The package must include the following information specific to the dredge event:
 - a. Estimated volume of sediment (i) overlying the permitted depth, (ii) overdepth, and (iii) total volume to be dredged;
 - b. Areas to be dredged (include a map);
 - c. Proposed disposal and/or beneficial reuse placement sites;
 - d. Discussion on the sediment quality, explaining why the sediment is suitable for the proposed disposal and/or beneficial reuse placement sites; and
 - e. Summary of the most recent sediment testing results.
7. Monitoring Program

If the City disposes of the Project's dredged materials at an aquatic disposal site, it shall provide a technical report that documents monitoring efforts designed to evaluate the water quality impacts of the dredged material discharge on waters of the State, pursuant to California Water Code (Water Code) section 13267.

Regional Monitoring Program: Please be aware that this Condition is an order for a technical report. The Water Board requires dischargers of waste materials to the Bay, including those who dispose of dredged material, to monitor the impacts of their discharges under Water Code section 13267. This monitoring provides necessary

information about ambient Bay water quality and potential long-term impacts of dredged material disposal. The City may elect to participate in the San Francisco Estuary Regional Monitoring Program for Trace Substances (RMP) to fulfill this requirement or provide comparable data on an individual basis. The RMP is a coordinated and comprehensive long-term monitoring program with the goal of monitoring water and sediment quality to provide the scientific foundation for managing and improving the health of the San Francisco Bay aquatic ecosystem. Additionally, the RMP provides for special and pilot studies of interest to program participants.

Since 1992, many Bay Area dischargers have decided to provide this information through the RMP, rather than through individual monitoring programs. The San Francisco Estuary Institute (SFEI), located in Richmond, administers the program with oversight by the Water Board. Dischargers may contribute money to the RMP, based on the RMP Dredger Fee Schedule Policy and any subsequent amendments, as approved by the RMP Steering Committee. The fees will be based on in-Bay dredge disposal volumes calculated using post-dredge survey results provided to the Water Board by the City for each calendar year ending December 31. The Water Board recognizes payment to the RMP as fulfilling the requirement to provide information on water quality impacts under Water Code section 13267.

8. **Post-Dredge Report:** The City must provide an electronic copy of a post-dredge report to Water Board staff by February 14 each year for dredging performed the previous year. The report may be submitted via [email \(RB2-Dredgereports@waterboards.ca.gov\)](mailto:RB2-Dredgereports@waterboards.ca.gov). The report shall contain the following information:
 - a. Dredging dates,
 - b. Post-dredge survey maps of the dredge footprint,
 - c. Calculated final dredge volume,
 - d. Placement location(s) of dredged materials, and
 - e. Volume of dredged material placed at each placement location.

If the City does not perform the dredge event in the calendar year when the Water Board provides an episode approval, it shall provide a letter to the Water Board by February 14 of the following calendar year certifying that it did not perform the dredge event the previous calendar year.

If neither a Post-Dredge Report or a letter certifying that the City did not perform the dredge event authorized by the episode approval the previous calendar year is received by February 14 of the following calendar year, the Water Board will use the volume proposed in the episode approval request to assess the annual fee and as appropriate, the monetary contribution to the RMP in lieu of site-specific monitoring.

9. The City or its representative shall notify Water Board staff immediately by telephone and e-mail whenever an adverse condition occurs due to this activity. An adverse condition includes, but is not limited to, a violation or threatened violation of conditions of this Certification, or a release of petroleum products or toxic chemicals to waters of the State. Pursuant to Water Code section 13267, a written notification of adverse

condition shall be submitted to the Water Board within 30 days of occurrence. The written notification shall identify the adverse condition, describe the action necessary to remedy the condition, and specify a timetable, subject to the modifications of the Water Board, for remedial actions.

10. In response to a suspected violation of any condition of this Order, the Water Board may require the Permittee to furnish, under penalty of perjury, any technical or monitoring reports the Water Board deems appropriate, provided that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports (Water Code section 13267).
11. This Certification is subject to modification or revocation upon administrative or judicial review pursuant to section 13330 of the Water Code and section 3867 of Title 23 of the California Code of Regulations (23 CCR).
12. This Certification is not intended and shall not be construed to apply to 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.
13. Certification is conditioned upon payment of the full amendment fee required in State regulations (23 CCR section 3833). The amendment fee for the Project of \$2,066 was paid in full on May 21, 2021.
14. If the City does not provide a Post-Dredge Report or a letter certifying that the City did not perform the dredge episode authorized by the episode approval the previous calendar year by February 14 of the following calendar year, the Water Board will use the volume proposed in the episode approval request to assess the annual fee and as appropriate, the monetary contribution to the RMP in lieu of site-specific monitoring. Annual fees are required and will be invoiced annually for the previous fiscal year until the Project is complete or when the Certification expires on December 31, 2029.

Conclusion

This Certification applies to the Project as proposed in the application materials. Please be advised that failure to implement the Project as proposed is a violation of this Certification. Any violation of 401 water quality certification conditions is subject to administrative civil liability pursuant to Water Code sections 13268 and 13350. Failure to meet any condition of this Certification may subject Marina Owner to civil liability imposed by the Water Board to a maximum of \$5000 per violation day for violations of Water Code section 13267 technical report requirements and \$5,000 per violation day or \$10 for each gallon of waste discharged in violation of this Certification.

We anticipate no further action on the application for this Certification. Should new information come to our attention that indicates a water quality problem with this project, the Water Board may issue individual waste discharge requirements pursuant to 23 CCR section 3857.

Should you have questions or concern, please send Selina Louie, of my staff an email at selina.louie@waterboard.ca.gov.

Sincerely,

Michael Montgomery
Executive Officer

Appendixes

Appendix 1. Location Map

Appendix 2. Footprint for Marina Dredge Unit 1 & 2

Appendix 3. Footprint for Marina and Turning Basin

cc w/attachments (all via email):

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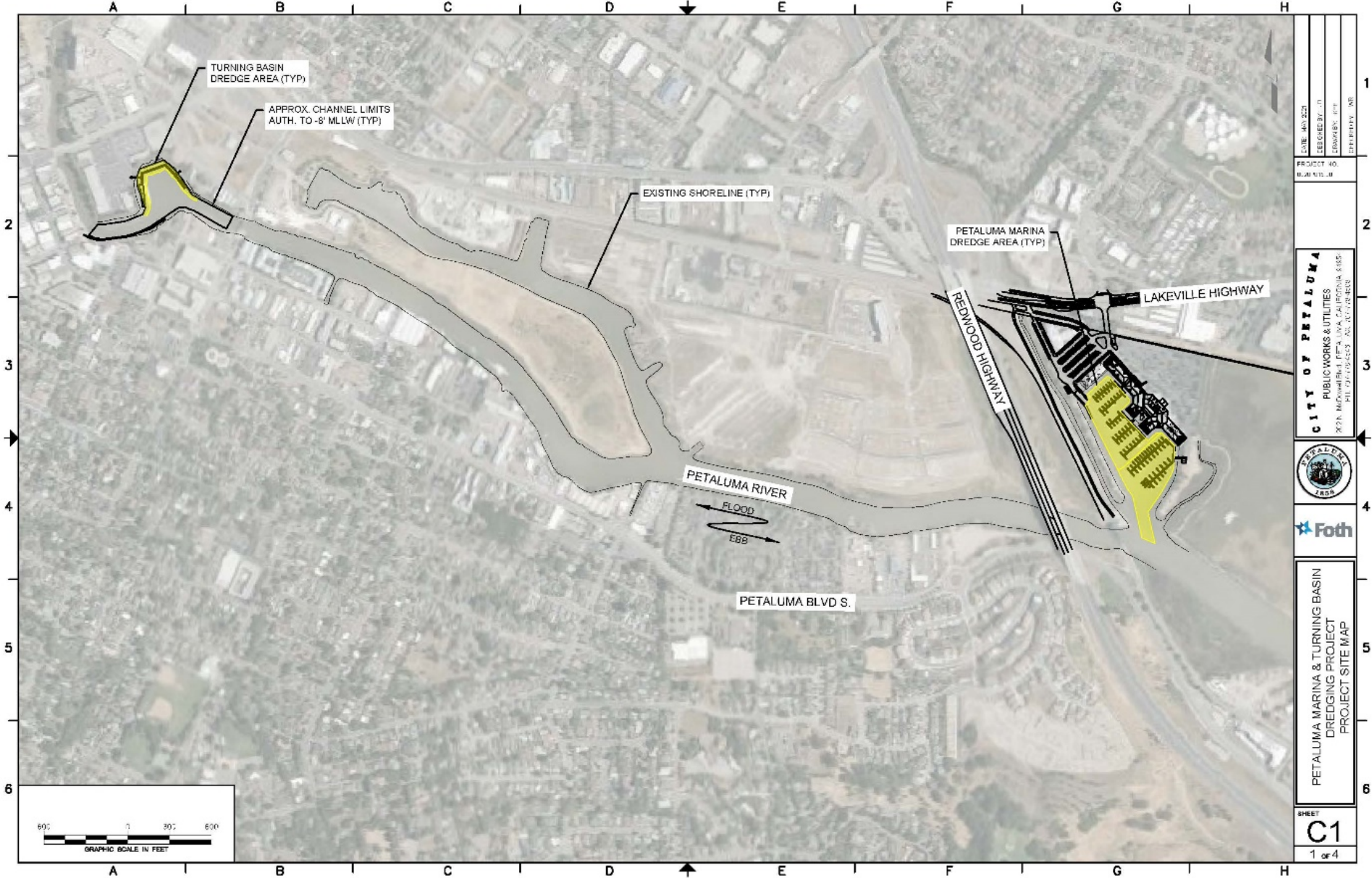
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Appendix 1. Location Map



Appendix 2. Footprint for Dredge Unit 1 & 2



Appendix 3. Footprint for Turning Basin

