US Army Corps
of Engineers

DEPARTMENT OF THE ARMY REGIONAL PERMIT No. 2
ABALONE AQUACULTURE FACILITIES
IN PILLAR POINT HARBOR

File No.: **22808S**

Issuing Office: **San Francisco District**

NOTE. The term "you" and its derivatives, as used in this permit, means the permittee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

Authorized work: **Abalone Aquaculture Facilities.** Anchored floats/rafts with suspended rearing cages.

Permit Conditions:

General Conditions:

1. This authorization ends on **1 October 2004.**

2. Endangered Species. No activity is authorized under this regional permit which is likely to adversely affect a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act, or which is likely to destroy or adversely modify the critical habitat of such species. Permittees shall notify the district engineer if any listed species or critical habitat might be affected or is in the vicinity of the project and shall not begin work on the activity until notified by the district engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized. Information on the location of threatened and endangered species and their critical habitat can be obtained from the U.S. Fish and Wildlife Service and the National Marine Fisheries Service.

3. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. No activity authorized under this permit may substantially disrupt the movement of those species of aquatic life indigenous to the waterbody, including those species which normally migrate through the area.

6. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

9. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

10. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

1. The permittee must comply with the self-monitoring and reporting program established as part of the permittee's National Pollutant Discharge Elimination System permit from the California regional Water Quality Control Board.

2. The permittee must adhere to the policies and procedures established by the California Department of Fish and Game to ensure the use of sabellid free abalone stock in the out-planting of their facility.

3. The permittee shall provide the Corps with: drawings showing plan and cross section/elevation views of the facilities as built; a map showing the location of the activity; the latitude and longitude of the activity.

4. This authorization will <u>not</u> be effective until you have obtained from the California Coastal Commission a concurrence with your certification that your project will comply with California's Coastal Zone Management Act.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

   (X) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

   ( ) Section 404 of the Clean Water Act (33 U.S.C. 1344).

   ( ) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

   a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

   b. This permit does not grant any property rights or exclusive privileges.

   c. This permit does not authorize any injury to the property or rights of others.

   d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

   a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

   b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

   c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

   d. Design or construction deficiencies associated with the permitted work.

   e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

   a. You fail to comply with the terms and conditions of this permit.

   b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).

   c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

(District Engineer) **Peter T. Grass** for
LTC, EN

8-18-99
(Date)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(Transferee)

(Date)