



US Army Corps  
of Engineers®

Regulatory Division  
1455 Market Street  
San Francisco, CA 94103-1398

SAN FRANCISCO DISTRICT

# PUBLIC NOTICE

## Project: Glen Cove Marina Maintenance Dredging

NUMBER: 2009-00120N

DATE: June 15, 2009

RESPONSE REQUIRED BY: July 15, 2009

PROJECT MANAGER: Jessica Burton Evans

PHONE: (415)503-6862

Email: Jessica.L.BurtonEvans@usace.army.mil

**1. INTRODUCTION:** Mr. Nima Gabbay, Owner/General Manager of Glen Cove Marina, LLC (2000 Glen Cove Marina Road, Vallejo, California, 94591) has applied for a ten-year Department of the Army permit to perform maintenance dredging of the Glen Cove Marina (GCM), located in the City of Vallejo, Solano County, California (Attachment 1). The purpose of the proposed dredging is to return GCM to its originally permitted depth to allow safe navigational depths for recreational boats. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

**2. PROJECT DESCRIPTION:** As shown in the Attachments 1-4, the applicant plans to remove approximately 85,000 cubic yards (cys) of sediment from the 7.5-acre (approximately) marina in an initial episode and a total of 450,000 cys over the life of the permit. Existing depths range from -1 to -4 feet mean lower low water (MLLW) in the GCM basin (Attachment 3). The proposed design depth for this permit is -10 feet MLLW plus an additional 2-foot overdredge allowance. The material would be removed using a clamshell or hydraulic dredge and removed by barge to the Carquinez Strait Disposal Site (SF-09).

Prior to each dredging episode, the Dredge Material Management Office (DMMO) will evaluate the sediments to be dredged for disposal or reuse suitability. The DMMO includes representatives from the U.S. Environmental Protection Agency,

San Francisco Bay Conservation and Development Commission (BCDC), San Francisco Bay Regional Water Quality Control Board (RWQCB), and the U.S. Army Corps of Engineers (Corps). The DMMO is tasked with approving sampling and analysis plans in conformity with testing manuals, reviewing the test results and reaching consensus regarding a suitable disposition for the material.

### **3. COMPLIANCE WITH VARIOUS FEDERAL LAWS:**

**National Environmental Policy Act of 1969 (NEPA):** The Corps will assess the environmental impacts of the proposed action in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. Section 4371 et. seq.), the Council on Environmental Quality's Regulations, 40 C.F.R. Part 1500-1508, and Corps' Regulations, 33 C.F.R. Part 230 and 325, Appendix B. Unless otherwise stated, the Environmental Assessment will describe only the impacts (direct, indirect, and cumulative) resulting from activities within the Corps' jurisdiction. The documents used in the preparation of the Environmental Assessment will be on file with the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 1455 Market Street, San Francisco, California 94103-1398.

**Endangered Species Act of 1973 (ESA):** Section 7 of the Endangered Species Act requires formal consultation with the U.S. Fish and Wildlife Service (FWS) and/or the National Marine Fisheries Service (NMFS) if a Corps permitted project may adversely

affect any Federally listed threatened or endangered species or its designated critical habitat. Species and critical habitat currently identified as potentially impacted by the proposed project include Chinook salmon, steelhead trout, delta smelt, and green sturgeon.

Please note that programmatic biological opinions (BOs) were issued by FWS (March 12, 1999, Amended May 28, 2004) and NMFS (September 18, 1998) for the Long Term Management Strategy for the placement of dredged material in the San Francisco Bay region. As a result of the BOs there are allowable time frames to dredge to protect the habitat for threatened (and endangered) species and the species themselves per Section 7 of the Endangered Species Act of 1973, as amended. If the dredge work is conducted within those time frames, there is no need for consultation.

Federally-listed endangered adult winter-run Chinook salmon (*Oncorhynchus tshawytscha*) migrate through San Francisco Bay, Carquinez Strait, Suisun Bay and Honker Bay, to spawning areas in the upper Sacramento River during the late fall and early winter. Juveniles travel downstream through San Francisco Bay to the Pacific Ocean in the late fall as well. The movements of adult and juvenile salmon through the Bay system are thought to be rapid during these migrations. Since impacts to the water column during disposal events would be short-term, localized and minor in magnitude, no potentially adverse effects to winter-run Chinook salmon that may be near the disposal site are anticipated, if the dredge work is conducted from June 1 through November 30. If a permit is issued for this proposed project it will contain a condition that dredging is allowed only from June 1 through November 30 in any year for the protection of winter-run chinook salmon, without consultation (pursuant to Section 7 of the ESA) with and approval from NMFS and the Corps.

Central California Coast populations of steelhead trout (*Oncorhynchus mykiss*) were classified as federally threatened in August 1997. The steelhead that occur in San Francisco Bay are included in this

evolutionarily significant unit (ESU) and therefore receive protection under the Endangered Species Act. There is concern that steelhead migrating through the Bay might be near the disposal site. If a permit is issued for this proposed project it will contain a condition that dredging is allowed only from June 1 through November 30 in any year, without consultation (pursuant to Section 7 of the ESA) with and approval from NMFS and the Corps.

Delta smelt (*Hypomesus transpacificus*) was federally listed as a threatened species on March 5, 1993. The delta smelt is a small fish endemic to the upper Sacramento-San Joaquin estuary. The inhabit open, surface waters of the Delta and Suisun Bays and have been observed as far west as the Napa River and San Pablo Bay (FWS, 2004) The delta smelt spawns in shallow water habitats (less than -10 feet MLLW) within the same areas. The proposed project will not result in the loss of shallow water habitat because the final design depth of the proposed project is -5 feet MLLW. The Corps has determined that the proposed project is consistent with the formal programmatic BO, issued by FWS on December 1, 2004, for the issuance of Section 10 and 404 permits by the Corps for projects with relatively small impacts on delta smelt. The Corps will request, by separate letter, that the FWS append the proposed project to the programmatic BO for delta smelt. The programmatic BO for delta smelt includes the condition that in-water work in the Central Zone, where Glen Cove Marian is located, is restricted to a work window of August 1 through November 30. If a permit is issued for the proposed project, it will contain the condition that dredging work is restricted to the August 1 through November 30 work window for the protection of Delta Smelt.

**Magnuson-Stevens Fisheries Conservation and Management Act:** This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The proposal would impact approximately 7.5 acres of EFH utilized by various species of sole, shark, and rockfish. Our initial determination is that the proposed action would not

have a substantial adverse impact on EFH or federally managed fisheries in California waters. This determination is based on the fact that GCM has been dredged several times in the past and that the Carquinez Strait disposal site (SF-09) has been and continues to be used for disposal. Therefore, both sites are considered by the Corps to be disturbed and the proposed activity will result in no new impacts to EFH. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with NMFS. The Glen Cove Marina is located along the Carquinez Strait near the city of Benicia, Solano County. The recently-deposited bottom sediments to be dredged during maintenance dredge activities are composed mainly (approximately 95%) of silts and clays (mud). It is presumed that fish species utilizing the area would be using it for feeding during a period of growth. When dredging occurs, the fish should be able to find ample and suitable foraging areas in and along the Carquinez Strait. As the infaunal community recovers in the dredged area, fish species will return to feed. The "Baywide Eelgrass Inventory of San Francisco Bay," prepared by Merkel and Associates, dated October 2004, does not show the area in and around the Marina as having any eelgrass beds. Eelgrass is not expected to be established in this area.

**Clean Water Act of 1972 (CWA):**

**a. Water Quality:** Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must first obtain a State water quality certification before a Corps permit may be issued. The applicant has provided the Corps with evidence that a valid request has been submitted to the San Francisco Bay Regional Water Quality Control Board for State water quality certification. No Corps permit will be granted until the applicant obtains the required water quality certification. The Corps may assume a waiver of water quality certification if the State fails or refuses to act on a valid request for certification within 60 days after the receipt of a valid request, unless the District Engineer determines a shorter or longer period is reasonable for the State to act.

Those parties concerned with any water quality issues that may be associated with this project should write to the Executive Officer, California Regional Water Quality Control Board, San Francisco Bay Region, 1515 Clay Street, Suite 1400, Oakland, California 94612 by the close of the comment period of this Public Notice.

**b. Alternatives:** Evaluation of this proposed activity's impact includes application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water Act (33 U.S.C. Section 1344(b)). On October 29, 2004 the U.S. Army Corps of Engineers, U.S. Environmental Protection Agency, San Francisco Bay Conservation and Development Commission, and the San Francisco Bay Regional Water Quality Control Board adopted the "Small Dredgers Programmatic Alternatives Analysis (SDPAA) for Disposal of Maintenance Dredged Material in the San Francisco Bay Region." Due to the limited disposal alternatives in the San Francisco Bay Region, small dredgers (as defined in the SDPAA) are not required to submit an alternative analysis for disposal of maintenance-dredged material. The GCM is included on the list of small dredgers in the SDPAA.

**Coastal Zone Management Act of 1972 (CZMA):**

Section 307 of the Coastal Zone Management Act requires the applicant to certify that the proposed project will comply with the State's Coastal Zone Management Program, if applicable. No Corps permit will be issued until the State has concurred with the applicant's certification. Coastal development issues should be directed to the San Francisco Bay Conservation and Development Commission (BCDC), 50 California Street, Suite 2600, San Francisco, California 94111.

**National Historic Preservation Act of 1966 (NHPA):**

Because the Marina has been previously dredged, historic or archeological resources are not expected to occur in the project vicinity. If unrecorded resources are discovered during construction of the

project, operations will be suspended until the Corps completes consultation with the State Historic Preservation Office (SHPO) in accordance with Section 106 of the National Historic Preservation Act.

**4. PUBLIC INTEREST EVALUATION:** The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits that reasonably may be expected to accrue from the proposed activity must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered, including its cumulative effects. Among those factors are: conservation, economics, aesthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

**5. CONSIDERATION OF COMMENTS:** The Corps of Engineers is soliciting comments from the public, Federal, State and local agencies and officials, Indian Tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest in the proposed activity.

**6. SUBMISSION OF COMMENTS:** Interested parties may submit, in writing, any comments concerning this activity. Comments should include the applicant's name and the number and the date of this Public Notice, and should be forwarded so as to reach this office within the comment period specified on Page 1. Comments should be sent to Ms. Jessica Burton Evans at the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 1455 Market Street, San Francisco, California 94103-1398. It is the Corps' policy to forward any such comments that include objections to the applicant for resolution or rebuttal. Any person may also request, in writing, within the comment period of this Public Notice that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Additional details may be obtained by contacting the applicant whose name and address are indicated in the first paragraph of this Public Notice or by contacting Ms. Jessica Burton Evans of our office at telephone number (415) 503-6862 or by E-mail at: Jessica.L.BurtonEvans@usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided upon request.



Figure 1. Glen Cove Marina - Project Location

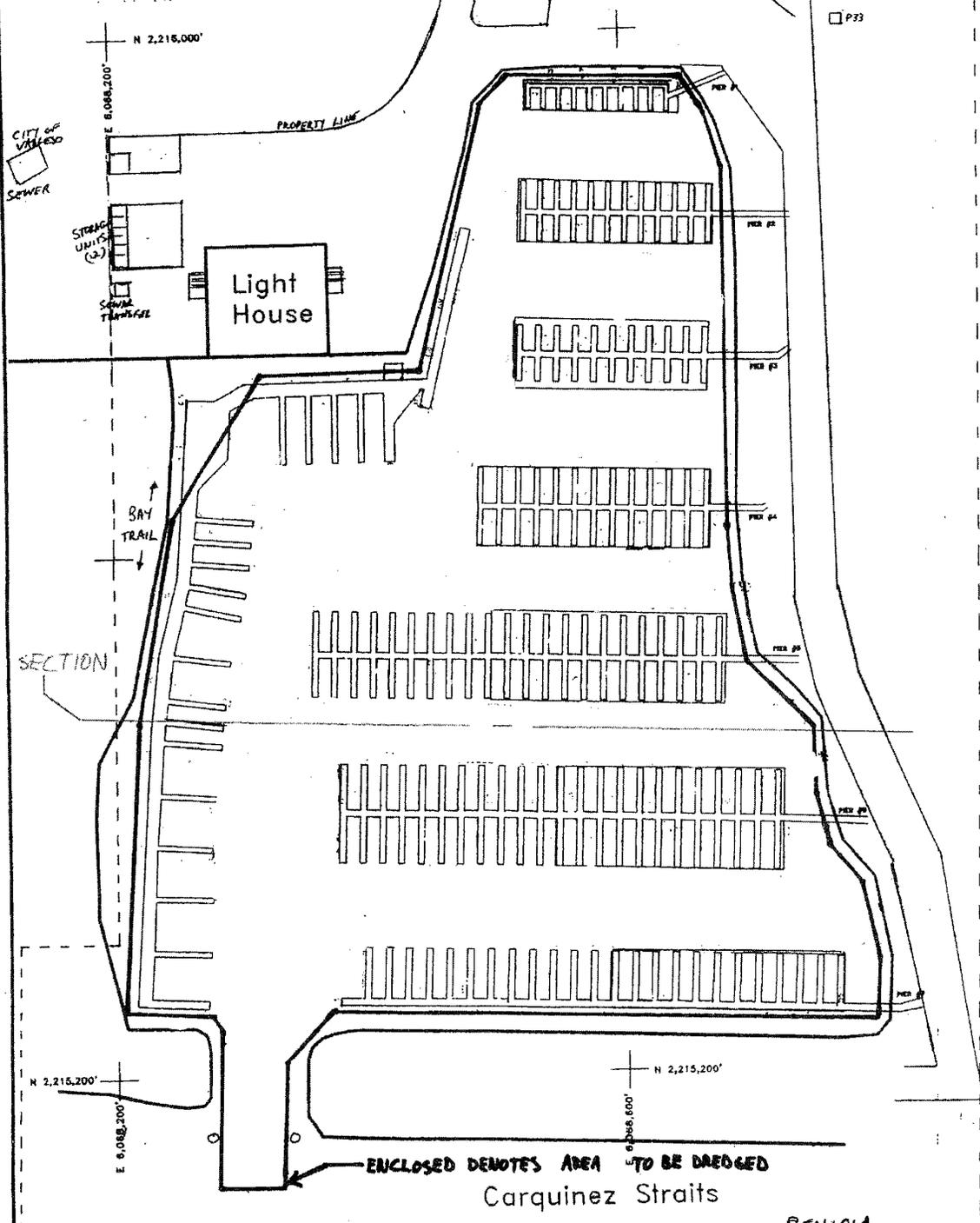
*D. G. Gabbay*  
NIMA GABBAY  
"OWNERS"

**MAINTENANCE DREDGING OF GLEN COVE  
AREA TO BE DREDGED**

GLEN COVE MARINA ROAD

10-8-08  
Prepared by: Tom Zedaker  
Glen Cove Marina, LLC  
2000 Glen Cove Marina Rd  
Vallejo, CA 94591

1 inch = 100 feet



**ENCLOSED DENOTES AREA TO BE DREDGED  
Carquinez Straits**

BENICIA

10-8-08

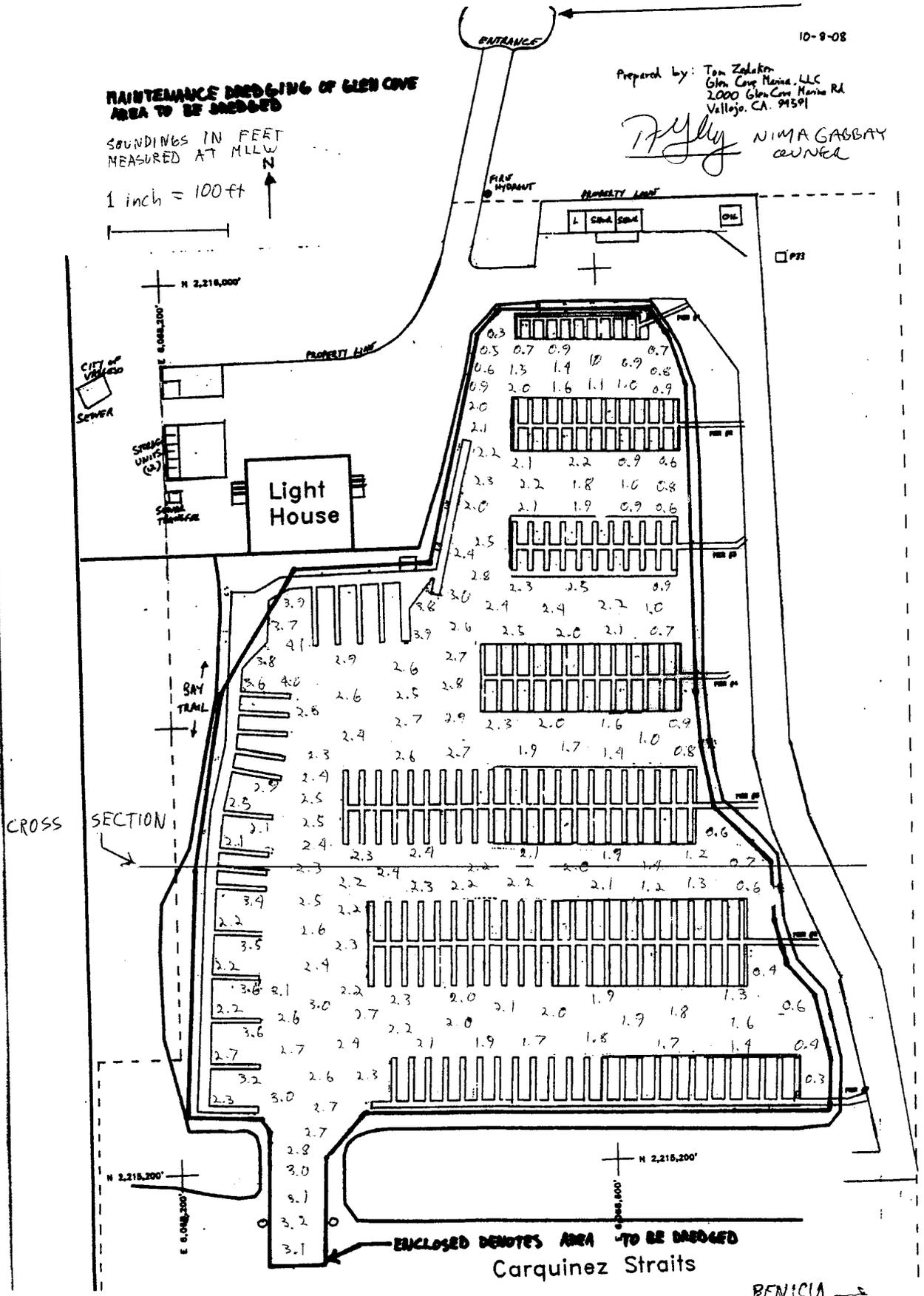
**MAINTENANCE DREDGING OF GLEN CREEK  
AREA TO BE DREDGED**

SOUNDINGS IN FEET  
MEASURED AT MLLW

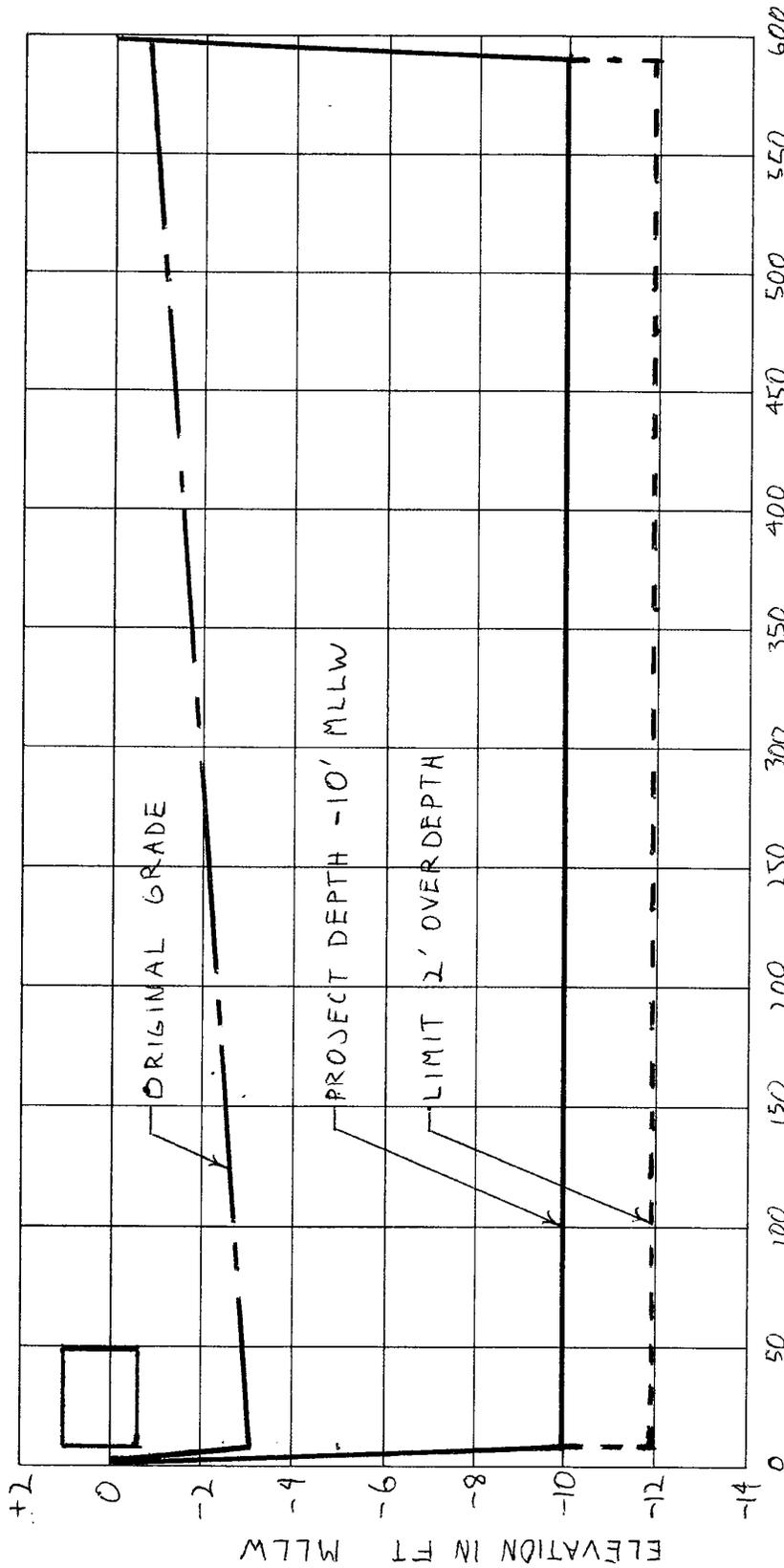
1 inch = 100 ft

Prepared by: Tom Zolator  
Glen Cove Marina, LLC  
2000 Glen Cove Marina Rd.  
Vallejo, CA 94591

*Tom Zolator*  
NIMA GABBAY  
OWNER



TYPICAL SECTION



MAINTENANCE DREDGING OF GLEN COVE MARINA  
IN: GLEN COVE MARINA  
WATERWAY: CARQUINEZ STRAIT  
COUNTY OF: SOLANO  
APPLICATION BY: GLEN COVE MARINA  
DATE: JUNE 3, 2009

GLEN COVE MARINA  
2000 GLEN COVE MARINA RD.  
VALLEJO, CA 94591  
707-552-3236

*[Signature]*  
NIMA GAGBAY "owner"