

# San Francisco Bay Conservation and Development Commission

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July 8, 2016

**TO:** BCDC Enforcement Committee

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**SUBJECT: Staff Recommended Enforcement Decision Regarding Proposed Stipulated Cease and Desist and Civil Penalty Order No. CCD 2016.01; Trux Airline Cargo Services and City of South San Francisco**  
(For BCDC Enforcement Committee consideration on July 21, 2016)

## Staff Recommendation

The staff recommends that the Enforcement Committee adopt this Recommended Enforcement Decision and proposed Stipulated Cease and Desist and Civil Penalty Order No. CCD 2016.01 (“Stipulated Order”) that would be issued by the Commission to Trux Airline Cargo Services (“Trux”) and the City of South San Francisco (“City”) for the reasons stated below.

This matter arises out of an enforcement action commenced by BCDC staff on November 16, 2001, which was never resolved, and recommenced on July 30, 2015, against Trux and the City concerning compliance issues with BCDC Permit No. 1998.011.02 (“Permit”) authorizing a long term parking structure in the shoreline band in the City of South San Francisco.

On June 21, 2016, BCDC staff mailed a recommended enforcement decision and proposed order that would have required Trux and the City to: (i) comply with the Permit; (ii) resolve all outstanding Permit violations within 60 days of issuance; and (iii) and pay a \$255,000 civil penalty into the Bay Fill Cleanup and Abatement Fund within 31 days of issuance, with \$30,000 of the penalty amount suspended for timely compliance with the terms of the Order.

On June 27, 2016, at the request of Trux and the City, the permittees met with BCDC staff to discuss settlement and reached an agreement to reduce the total penalty from \$255,000 to \$210,000. Of the total penalty amount, \$10,000, rather than \$30,000, will be suspended for compliance with the terms of the Order. The permittees must still resolve the three outstanding permit violations, consisting of the recordation of two legal instruments to dedicate the public access and open spaces areas, respectively, and the maintenance issues in the public access “finger” park. However, those violations must be resolved within 45 days of the date of the Enforcement Committee hearing rather than within 60 days of the date of issuance of the Order.

The BCDC staff has determined that the modified terms of the proposed Stipulated Order, to which the permittees agree, result in a fair resolution of the alleged violations. On July 8, 2016, the staff mailed a copy of the draft proposed Stipulated Order to the permittees. On July 15, 2016, staff will mail a copy of the final proposed Stipulated Order to the Enforcement Committee and will post it on the Commission’s website.

The documents mailed to the Enforcement Committee on June 21<sup>st</sup>, consisting of: (1) the June 21<sup>st</sup> Recommended Enforcement Decision by the Enforcement Committee; (2) the June 21<sup>st</sup> proposed order; (3) the Violation Report; (4) Permit No. 1998.011.04, issued on May 10, 2016; and (5) the permittees’ Statements of Defense, will not be mailed again. However, as of today’s date, they are posted on the BCDC website.