

Summary of Violations and Proposed Administrative Civil Penalties – Revised on 11/06/2017

Westpoint Harbor (BCDC permit No. 2002.002.00)

| | Specific Permit Violations | Duration in Days of Violation | Minimum Penalty at \$10/day; | Maximum Penalty at \$2,000/day; | Proposed Daily Penalty | Proposed Penalty | Remarks |
|----|--|--|-------------------------------------|--|--------------------------------|-------------------------|---|
| 1A | Failure to obtain plan review approval to construct public access pathways. Special Condition II.A.1 | May 2011 to Nov 2017 (more than 6.25 years) | \$22,800 | Capped at \$30,000 | \$100/day; Capped at \$30,000 | | |
| 1B | Failure to install and/or make available public access pathways. Special Condition II.B.4.d | September 2009 to Nov 2017 (more than 8 years) | Capped at \$30,000 | Capped at \$30,000 | \$1000/day; Capped at \$30,000 | \$30,000 | Four separate violations counted as a single violation for the purpose of proposed penalty |
| 1C | Failure to make available for public access 10 guest berths. Special Condition II.B.4.e | September 2009 to Nov 2017 (more than 8 years) | Capped at \$30,000 | Capped at \$30,000 | \$100/day; Capped at \$30,000 | | |
| 1D | Failure to make available public restrooms within the harbormaster's building. Special Condition II.B.4.f | September 2009 to June 2017 (8.75 years) | Capped at \$30,000 | Capped at \$30,000 | \$100/day; Capped at \$30,000 | | |
| 2A | Failure to obtain plan review prior approval to install landscaping. Special Condition II.A.1 | May 2011 to Nov 2017 (more than 6 years) | \$22,800 | Capped at \$30,000 | \$100/day; Capped at \$30,000 | \$30,000 | Three separate violations counted as a single violation for the purpose of proposed penalty |
| 2B | Failure to complete installation of and make available 170,500 square feet of landscaped areas. Special Condition II.B.4.g | September 2009 to Nov 2017 (more than 8 years) | Capped at \$30,000 | Capped at \$30,000 | \$100/day; Capped at \$30,000 | | |
| 2C | Failure to remove trees adjacent to slough that present problem for wildlife per director of Bay Design Analyst. Unauthorized fill. Government Code § 66632(a) | December 2012 to Nov 2017 (more than 4.75 years) | \$17,325 | Capped at \$30,000 | \$50/day; Capped at \$30,000 | | |
| 3A | Failure to obtain plan review approval to install site furniture, lighting and irrigation. Special Condition II.A.1 | May 2011 to Nov 2017 (more than 6.5 years) | \$22,800 | Capped at \$30,000 | \$100/day; Capped at \$30,000 | \$30,000 | Two separate violations counted as a single violation for the purpose of proposed penalty |
| 3B | Failure to complete installation of and make available all required site furnishings. Special Condition II.B.4.h | September 2009 to Nov 2017 (more than 8 years) | Capped at \$30,000 | Capped at \$30,000 | \$100/day; Capped at \$30,000 | | |
| 4A | Failure to obtain plan review approval to install public access signs. Special Condition II.A.1 | May 2011 to Nov 2017 (more than 6.5 years) | \$22,800 | Capped at \$30,000 | \$100/day; Capped at \$30,000 | \$30,000 | Two separate violations counted as a single violation for the purpose of proposed penalty |
| 4B | Failure to provide required public access and Bay Trail signs. Special Condition II.B.4.i | September 2009 to Nov 2017 (more than 8 years) | Capped at \$30,000 | Capped at \$30,000 | \$100/day; Capped at \$30,000 | | |
| 5A | Failure to make available 8 signed public parking spaces. Special Condition II.B.4.c | September 2009 to Nov 2017 (more than 8 years) | Capped at \$30,000 | Capped at \$30,000 | \$100/day; Capped at \$30,000 | \$30,000 | Two separate violations counted as a single violation for the purpose of proposed penalty |
| 5B | Failure to make available 15 signed public parking spaces for vehicle and boat trailer parking. Special Condition II.B.4.b | September 2009 to Nov 2017 (more than 8 years) | Capped at \$30,000 | Capped at \$30,000 | \$100/day; Capped at \$30,000 | | |

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| 6A | Failure to obtain plan review approval to construct public boat launch. Special Condition II.A.1 | May 2011 to Nov 2017 (more than 6.5 years) | | | | \$30,000 | Violation 6A withdrawn |
| 6B | Failure to make available signed public boat launch. Special Condition II.B.4.a | September 2009 to Nov 2017 (more than years) | Capped at \$30,000 | Capped at \$30,000 | \$100/day; Capped at \$30,000 | | |
| 7A | Failure to install buoys in slough to identify "no wake" zone. Special Condition II.H | May 2011 to Nov 2017 (more than 6.25 years) | \$22,800 | Capped at \$30,000 | \$100/day; Capped at \$30,000 | | |
| 7B | Failure to install buoys informing public of access restrictions on Greco Island and other protected marshlands. Special Condition II.H | May 2011 to Nov 2017 (more than 6.25 years) | \$22,800 | Capped at \$30,000 | \$100/day; Capped at \$30,000 | \$30,000 | Three separate violations counted as a single violation for the purpose of proposed penalty |
| 7C | Failure to install signs at public boat launch and other public access areas informing public of access restrictions on Greco Island and other protected marshlands. Special Condition II.I | May 2011 to Nov 2017 (more than 6.25 years) | \$22,800 | Capped at \$30,000 | \$100/day; Capped at \$30,000 | | |
| 8 | Failure to provide visual barriers to adjacent salt pond. Special Condition II.K | May 2011 to Nov 2017 (more than 6.25 years) | \$22,800 | Capped at \$30,000 | \$100/day; Capped at \$30,000 | \$30,000 | |
| 9 | Failure to provide shorebird roost habitat mitigation. Special Condition II.F | October 2016 to Nov 2017 (12 months) | \$3,600 | Capped at \$30,000 | \$100/day; = Capped at \$30,000 | \$30,000 | Violation began upon construction of Phase 2; exact date unknown but no later than October 22, 2016. |
| 10 | Failure to provide non-tidal wetland mitigation. than Special Condition II.G | 2004 to 2017 (more than 13 years) | | Capped at \$30,000 | Capped at \$30,000 | \$30,000 | Permit does not establish a compliance deadline, but Regional Board's water quality certification requires this prior to construction of the marina basin. |
| 11A | Unauthorized construction of rower's dock on west side of marina basin. Unauthorized fill and substantial change in use. Government Code § 66632(a) | December 2014 to Nov 2017 (more than 2.75 years) | \$10,025 | Capped at \$30,000 | \$100/day; Capped at \$30,000 | | |
| 11B | 101 Surf Sports use of unauthorized rower's dock, storage of kayaks in required Phase 1B public access area, and use of parking lot for storage container, a wood-enclosed changing or storage area placed over designated public parking spaces, picnic tables, and portable toilet. Substantial change in use. Government Code § 66632(a) | September 2016 to Nov 2017 (13 months) | \$3,900 | Capped at \$30,000 | \$100/day; Capped at \$30,000 | \$30,000 | Multiple separate violations counted as a single violation for the purpose of proposed penalty. |
| 12 | Three unauthorized floating docks supporting large storage tents on the east side of the marina basin. Unauthorized fill. Government Code § 66632(a) | December 2016 to Nov 2017 (10 months) | \$3,000 | Capped at \$30,000 | \$100/day = \$30,000 | \$30,000 | Unknown when these violations commenced; discovered on 12/8/16 site visit. Three separate violations counted as a single violation for the purpose of proposed penalty. |

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|-----|--|---|----------|--------------------|-------------------------------|----------|---|
| 13A | Failure to obtain plan review approval to construct fuel dock. Special Condition II.A.1 | December 2014 to April 2016 (1 year and 4 months) | \$4,850 | Capped at \$30,000 | \$100/day; Capped at \$30,000 | \$30,000 | Unknown when these violations commenced. Existing structure authorized after-the-fact by Amendment 6. Two separate violations counted as one for the purpose of proposed penalty. |
| 13B | Unauthorized construction of substantially larger fuel dock than authorized. Government Code § 66632(a) | December 2014 to April 2016 (1 year and 4 months) | \$4,850 | Capped at \$30,000 | \$100/day; Capped at \$30,000 | | |
| 14 | <p>Numerous instances of unauthorized placement of fill and/or substantial change in use</p> <ul style="list-style-type: none"> • Fence and gate blocking public access from Pacific Shores Property • Fire suppression equipment and utility structure on public access pathway • Two PG&E transformers in public access area near boatyard • Solar and wind powered container in east end of parking lot <p>• Fenced area south of parking lot that contains a garden and may be used for storage</p> <ul style="list-style-type: none"> • A wooden storage shed, numerous planters, and stored construction material south of the parking lot • An asphalt pad of unknown purpose in a dedicated public access area | <p>Certain violations discovered earlier than September 2014 (more than 2.75 years) others discovered during December 2016 site visit to Nov 2016 (10 months)</p> | \$3,000 | Capped at \$30,000 | \$100/day; Capped at \$30,000 | \$30,000 | Multiple separate violations counted as a single violation for the purpose of proposed penalty. |
| 15 | Failure to submit Certification of Contractor Review. Special Condition II.U | May 2011 to September 2014 | | | | \$0 | No penalty proposed for violations of this requirement for work performed under Amendment Three or Amendment Four. |
| 16 | Failure to submit Certification of Contractor Review. Special Condition II.U | October 22, 2016 to April 24, 2017 (6 months) | \$1,800 | Capped at \$30,000 | \$200/day; Capped at \$30,000 | \$30,000 | Repeat violation. |
| 17 | Conduct work and operations without authorization (expired permit). Authorization Section I.C; Standard Condition IV.E. | 8/16/2010 to 6/15/2011 (303 days) | | | | \$0 | Violations resolved promptly after issuance of May 4, 2011 enforcement letter |
| 18 | Conduct work and operations without authorization (expired permit). Authorization Section I.C; Standard Condition IV.E. | 8/16/2014 to 4/18/2016 (610 days) | \$6,100 | Capped at \$30,000 | \$200/day; Capped at \$30,000 | \$30,000 | Repeat violation. |
| 19 | Failure to provide information regarding the number and location of live-aboard boats. Special Condition II.P.1 | May 2011 to January 2017 (6 years and 7 months) | \$23,700 | Capped at \$30,000 | \$100/day; Capped at \$30,000 | \$30,000 | |

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| 20 | Failure to provide copy of berthing agreement re: compliance with requirements for marine toilets. Special Condition II.O.4 | 5/4/2011 to 7/29/2011 | | | | 0 | Violation Withdrawn |
| 21 | Failure to notify NOAA re: nautical charts. Special Condition II.AA | May 4, 2011 to July 29, 2011 | | | | \$3,000 | Standardized fines accrued prior to compliance. |
| 22 | Failure to maintain public access improvements. Special Condition II.B.5 | May 2011 to Nov 2017 (more than 6.5 years) | | | | \$0 | No penalty imposed for violations of this requirement because public access improvements not approved, completed or made available for public use. |
| 23 | Unauthorized sign at boat launch that requires public to obtain a permit and pay a \$10 fee prior to use of public boat launch | August 3, 2017 to November 6, 2017 | \$920 | Capped at \$30,000 | \$1,000/day; Capped at \$30,000 | \$30,000 | Knowing and intentional violation that occurred after date of issuance of the Violation Report/Complaint |
| | | | | | | Total Proposed Penalty | \$543,000 |