

1 J. DAVID BREEMER, No. 215039
2 Email: JBreemer@pacificlegal.org
3 Pacific Legal Foundation
4 555 Capitol Mall, Suite 1290
5 Sacramento, California 95814
6 Telephone: (916) 419-7111
7 Facsimile: (916) 419-7747

8 Attorney for Plaintiff Daniel Knight

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA

11 DANIEL KNIGHT,

12 Plaintiff,

13 v.

14 RICHARDSON BAY REGIONAL AGENCY,
15 et al.,

16 Defendants.

No. 3:22-cv-06347-WHO

**(RENEWED) MOTION FOR
PRELIMINARY INJUNCTION AND
MEMORANDUM IN SUPPORT**

17 Date: January 4, 2023
18 Time: 2:00 p.m.
19 Courtroom: 2 (via videoconference)
20 Judge: Hon. William H. Orrick

TABLE OF CONTENTS

TABLE OF AUTHORITIES	ii
INTRODUCTION	1
FACTS AND PROCEDURE	2
A. Background	2
B. Knight and His Boat.....	3
C. The RBRA Buyback Program and Seizure Order.....	4
1. The Buyback Offer.....	5
2. The Seizure Order	6
3. Prior Proceedings	6
STANDARD OF REVIEW	7
ARGUMENT	7
I. KNIGHT’S BOAT DOES NOT QUALIFY AS “MARINE DEBRIS”	8
II. KNIGHT IS LIKELY TO PREVAIL ON HIS CLAIMS THAT THE SEIZURE ORDER VIOLATES THE FOURTH AMENDMENT, THE TAKINGS CLAUSE, SUBSTANTIVE DUE PROCESS PROTECTIONS, AND STATE PROCEDURAL DUE PROCESS RULES.....	10
A. Knight Will Prevail on His Fourth Amendment Claim	10
1. The Order Caused a “Seizure”	10
2. The Boat Seizure Is Unreasonable	11
B. Knight Will Prevail on His Takings Clause Claim	13
1. Background Takings Law	13
2. The Order Effects an Unconstitutional Taking	14
3. An Injunction Is a Proper Remedy for Knight’s Takings Claim	15
C. Knight Will Prevail on His Substantive Due Process Claim	16
D. Knight Will Prevail on His California Constitution Due Process Claim	18
III. KNIGHT WILL SUFFER IRREPARABLE HARM AND THE EQUITIES SUPPORT AN INJUNCTION.....	19
CONCLUSION	20

TABLE OF AUTHORITIES

Cases

<i>Aitken v. City of Aberdeen</i> , 393 F. Supp. 3d 1075 (W.D. Wash 2019).....	19
<i>Alliance for Wild Rockies v. Cottrell</i> , 632 F.3d 1127 (9th Cir. 2011).....	7, 17, 20
<i>Am. Beverage Ass’n v. City & Cnty. of San Francisco</i> , 916 F.3d 749 (9th Cir. 2019).....	7–8
<i>Archer v. Gipson</i> , 108 F. Supp. 3d 895 (E.D. Cal. 2015).....	11
<i>Associated Gen. Contractors of Cal., Inc. v. Coal. for Econ. Equity</i> , 950 F.2d 1401 (9th Cir. 1991).....	19
<i>Beaudreau v. Superior Court</i> , 535 P.2d 713 (Cal. 1975)	18
<i>Boddie v. Connecticut</i> , 401 U.S. 371 (1971).....	18
<i>California v. Azar</i> , 911 F.3d 558 (9th Cir. 2018).....	7
<i>Cedar Point Nursery v. Hassid</i> , 141 S. Ct. 2063 (2021).....	13
<i>Citicorp Servs., Inc. v. Gillespie</i> , 712 F. Supp. 749 (N.D. Cal. 1989)	19
<i>City of Ladue v. Gilleo</i> , 512 U.S. 43 (1994).....	16
<i>Cleveland Bd. of Educ. v. Loudermill</i> , 470 U.S. 532 (1985).....	18
<i>County of Sacramento v. Lewis</i> , 523 U.S. 833 (1998).....	16
<i>Frost v. Railroad Comm’n of Cal.</i> , 271 U.S. 583 (1926).....	14
<i>Garcia v. City of Los Angeles</i> , 11 F.4th 1113 (9th Cir 2021).....	10, 12
<i>Garfinkle v. Superior Court</i> , 578 P.2d 925 (Cal. 1978)	18
<i>Goldie’s Bookstore v. Superior Court</i> , 739 F.2d 466 (9th Cir. 1984).....	19

1	<i>Hernandez v. County of Monterey,</i>	
2	110 F. Supp. 3d 929 (N.D. Cal. 2015)	19–20
3	<i>Horne v. Dep’t of Agric.,</i>	
4	576 U.S. 350 (2015)	13, 16
5	<i>Johnson v. Macy,</i>	
6	145 F. Supp. 3d 907 (C.D. Cal. 2015).....	15–16
7	<i>Johnson v. Outboard Marine Corp.,</i>	
8	172 F.3d 531 (8th Cir. 1999).....	11
9	<i>Kash Enters., Inc. v. Los Angeles,</i>	
10	562 P.2d 1302 (Cal. 1977)	18
11	<i>Kincaid v. City of Fresno,</i>	
12	No. 1:06-cv-1445 OWW SMS, 2006 WL 3542732 (E.D. Cal. Dec. 8, 2006).....	10
13	<i>Knick v. Twp. of Scott,</i>	
14	139 S. Ct. 2162 (2019)	13–14
15	<i>Koontz v. St. Johns River Water Mgmt. Dist.,</i>	
16	570 U.S. 595 (2013)	14
17	<i>Lavan v. City of Los Angeles,</i>	
18	693 F.3d 1022 (9th Cir. 2012).....	10–12, 17–19
19	<i>Lenz v. Winburn,</i>	
20	51 F.3d 1540 (11th Cir. 1995).....	11
21	<i>Lingle v. Chevron U.S.A. Inc.,</i>	
22	544 U.S. 528 (2005)	13
23	<i>Loretto v. Teleprompter Manhattan CATV Corp.,</i>	
24	458 U.S. 419 (1982)	13
25	<i>Martin v. City of Boise,</i>	
26	920 F.3d 584 (9th Cir. 2019).....	14
27	<i>Melendres v. Arpaio,</i>	
28	695 F.3d 990 (9th Cir. 2012).....	8
	<i>Menefee & Son v. Dep’t of Food & Agriculture,</i>	
	199 Cal. App. 3d 774 (1988).....	18
	<i>Mitchell v. U.S. Dep’t of Housing & Urban Dev.,</i>	
	569 F. Supp. 701 (N.D. Cal. 1983)	19
	<i>Moore v. City of East Cleveland,</i>	
	431 U.S. 494 (1977)	16
	<i>Mullane v. Central Hanover Bank & Trust Co.,</i>	
	339 U.S. 306 (1950)	18

1	<i>Nunez v. City of Los Angeles,</i>	
2	147 F.3d 867 (9th Cir. 1998).....	16–17
3	<i>Palko v. Connecticut,</i>	
4	302 U.S. 319 (1937).....	16
5	<i>Park Village Apartment Tenants Ass’n v. Mortimer Howard Trust,</i>	
6	636 F.3d 1150 (9th Cir. 2011).....	19
7	<i>Park Village Apartment Tenants Ass’n v. Mortimer Howard Trust,</i>	
8	252 Fed. Appx. 152 (9th Cir. 2007).....	16
9	<i>Park Village Apartments Tenants Ass’n v. Mortimer Howard Trust,</i>	
10	No. C 06-7389 SBA, 2007 WL 519038 (N.D. Cal. Feb. 14, 2007).....	15–16
11	<i>Payton v. New York,</i>	
12	445 U.S. 573 (1980).....	16–17
13	<i>Pottinger v. City of Miami,</i>	
14	810 F. Supp. 1551 (S.D. Fla. 1992)	15, 19
15	<i>Proctor v. District of Columbia,</i>	
16	No. 1:18-cv-00701 (TNM), 2018 WL 6181739 (D.D.C. Nov. 27, 2018)	12
17	<i>Regan v. Taxation With Representation of Wash.,</i>	
18	461 U.S. 540 (1983).....	14
19	<i>Rios v. County of Sacramento,</i>	
20	562 F. Supp. 3d 999 (E.D. Cal. 2021).....	18
21	<i>Sausalito/Marin County Chapter of California Homeless Union v. City of Sausalito,</i>	
22	522 F. Supp. 3d 648 (N.D. Cal. 2021)	2
23	<i>Severance v. Patterson,</i>	
24	566 F.3d 490 (5th Cir. 2009).....	11–12
25	<i>Silverman v. United States,</i>	
26	365 U.S. 505 (1961).....	17
27	<i>Skelly v. State Personnel Bd.,</i>	
28	539 P.2d 774 (Cal. 1975)	18
	<i>Soldal v. Cook County,</i>	
	506 U.S. 56 (1992).....	10, 17
	<i>Sullivan v. City of Berkeley,</i>	
	No. C 17-06051 WHA, 2018 WL 489011 (N.D. Cal. Jan. 19, 2018).....	12
	<i>Tahoe-Sierra Pres. Council v. Tahoe Reg’l Planning Agency,</i>	
	535 U.S. 302 (2002).....	13–14
	<i>Transohio Sav. Bank v. Dir., Office of Thrift Supervision,</i>	
	967 F.2d 598 (D.C. Cir. 1992)	15

1	<i>U.S. WeChat Users Alliance v. Trump</i> ,	
2	488 F. Supp. 3d 912 (N.D. Cal. 2020)	7
3	<i>United States v. Jacobsen</i> ,	
4	466 U.S. 109 (1984)	10, 12
5	<i>United States v. Piner</i> ,	
6	608 F.2d 358 (9th Cir. 1979).....	11
7	<i>United States v. Salerno</i> ,	
8	481 U.S. 739 (1987)	16–17
9	<i>Washington Legal Found. v. Legal Found. of Washington</i> ,	
10	271 F.3d 835 (9th Cir 2001).....	15
11	<i>Washington v. Glucksberg</i> ,	
12	521 U.S. 702 (1997)	16
13	<i>Winter v. Natural Res. Def. Council, Inc.</i> ,	
14	555 U.S. 7 (2008)	7
15	U.S. Constitution	
16	U.S. Const. amend. V	13
17	Cal. Const. art. I, § 7	18
18	Statutes	
19	Cal. Harb. & Nav. Code § 550	8, 11
20	Cal. Harb. & Nav. Code § 551	8–9, 11
21	Cal. Harb. & Nav. Code § 551(a)(1)(A)	8–9
22	Regulation	
23	33 C.F.R. § 110.126a	2
24	Rule	
25	Fed. R. Civ. P. 65	1

INTRODUCTION

Pursuant to Federal Rule of Civil Procedure Rule 65, Plaintiff Daniel Knight (Knight) hereby moves the Court to issue a preliminary injunction halting enforcement of a Richardson Bay Regional Agency (RBRA) order that seizes and takes Knight's boat and his home in violation of the federal and state constitutions. This motion rests on the declarations and exhibits concurrently filed with this memorandum, as well as the declarations and exhibits previously filed with this Court as part of Knight's Motion for a Temporary Restraining Order. *See* ECF No. 3.

Daniel Knight, a retired truck driver, has lived on a boat in Richardson Bay (Bay) since 1999—longer than the RBRA has been in existence. He lives in a fully operational, 35-foot “Coronado” sailboat, which he bought for \$6,000. Knight's boat has electricity, a fully functional hot water system and shower, and a working engine and sail system. He lives and sleeps on the boat, conducts personal business from there, and sails it from time to time. *See* Exhibit A (Second Declaration of Daniel Knight), ¶¶ 3–10, 12; Exhibit B (photos); Exhibit C (photos of inside of boat).

The RBRA is, however, displeased with boaters like Knight, as it believes the combined effect of boat anchors in the Bay may harm “eel grass” that lies on the Bay floor. The RBRA has entered into an agreement with the San Francisco Bay Conservation and Development Commission (BCDC) to remove boats like Knight's by 2026. *See* Exhibit D (BCDC Agreement). As part of this removal effort, the RBRA created a boat buy-back program that would allow boaters like Knight to sell their vessels to the RBRA for \$150 per foot so the agency could dispose of them. *See* Exhibit E (Buyback program material).

In Summer of 2022, the RBRA wanted Knight to join this program. But Knight refused because a condition of Knight's Buyback contract was that he would forfeit payment for the boat if he became homeless in nearby cities after selling—a certainty in his case since the boat is his only home. *See* Exhibit F (Buyback contract). After Knight refused to sell his boat, the RBRA posted a notice on his boat stating that it would be removed and disposed of as “marine debris” in 10 days. Exhibit K (notice and order). Knight has nowhere to store the boat, no home other than the boat, no boat trailer, nor any financial means. *See* Exhibit A, ¶¶ 26–36. The RBRA has already demonstrated the intent, ability, and willingness to engage in boat removal enforcement actions

1 even when it makes the owner-occupant homeless and destitute, *Sausalito/Marin County Chapter*
 2 *of California Homeless Union v. City of Sausalito*, 522 F. Supp. 3d 648, 651 (N.D. Cal. 2021)
 3 (summarizing evidence of people being forced into homeless camps due to RBRA’s boat
 4 enforcement actions). Enforcement of the removal order against Knight will leave him in that very
 5 state. This is irreparable harm.

6 Knight should not suffer such harm, however, because the order is unconstitutional and
 7 invalid. The boat is not “marine debris.” But in any case, the order amounts to an unreasonable
 8 seizure of Knight’s boat, in violation of the Fourth Amendment, because the order was issued
 9 without a prior hearing or reasonable compensation guarantee and includes an unreasonable 10-day
 10 compliance deadline. The order also creates an unconstitutional taking of Knight’s property, on the
 11 facts of this case, because it will take his boat and home without just compensation. Further, since
 12 the boat does not qualify as “marine debris,” the RBRA never had authority to issue the seizure
 13 order, and doing so was not due process of “law.” Finally, the order violates the California
 14 Constitution’s due process guarantee because it was issued without adequate notice or hearing.
 15 Knight is likely to prevail on all of these claims. Since the equities also support a preliminary
 16 injunction in this case, the Court should issue one.

17 **FACTS AND PROCEDURE**

18 **A. Background**

19 Richardson Bay (Bay) is a small bay that flows into the larger San Francisco Bay waters.
 20 The Bay lies within Marin County and is surrounded by communities such as Sausalito, Mill
 21 Valley, and Tiburon, California. A potential refuge in the often chaotic northern Pacific coastal
 22 environment, the Bay’s waters have attracted boaters for centuries and is a federally designated
 23 anchorage area. *See* 33 C.F.R. § 110.126a. Indeed, for many decades, at least since the World War II
 24 era, people have lived on boats in the Bay. *See* Exhibit G (*San Francisco Chronicle* article with
 25 1952 photos and history).

26 In the year 2000, four cities that surround the Bay entered into a “joint powers agreement”
 27 (JPA) for the purpose of managing the Bay. *See* Exhibit H. The JPA created a regional local
 28 government agency called the Richardson Bay Regional Agency, and then delegated to the agency

1 the participating cities' powers to regulate the Bay. The RBRA is run by a board of directors who
2 represent the participating cities and a small staff that includes executive director Steven McGrath
3 and Harbor Master Jim Malcom (Harbor Master Malcom).

4 **B. Knight and His Boat**

5 Daniel Knight, a United States citizen, owns and lives on a boat anchored in Richardson
6 Bay. As a 65-year old, retired truck driver, Knight lives on a small, fixed income. Knight suffers
7 from certain medically diagnosed health conditions, including a staphylococcus infection, which is
8 currently latent in his skin, and arthritis, which worsens in cold weather. Both require shelter and
9 sanitation. *See* Exhibit A, ¶¶ 2–6.

10 Knight arrived and initially anchored in the Bay in approximately 1999, prior to the creation
11 of the RBRA. He has lived on a boat in the Bay continuously since then and lives on the boat that
12 is the subject of this dispute. *See* Exhibit A, ¶¶ 6–8, *see also* Exhibit C (photos of living area within
13 boat). Knight does not own any other residence or have access to any other residence in the Bay
14 area. He does not hold a marina berth lease and could not afford a berth even if one were available.
15 He does not have family in the area. Exhibit A, ¶¶ 7–8, 32.

16 Knight's boat is a 35 foot "Coronado" sailboat, which he bought for \$6,000. Exhibit A, ¶ 9.
17 This boat has a working diesel motor engine, a completely rigged, functional sail system, enclosed
18 helm, and operational wheel for navigation. The boat has a new, tankless water heater for hot water
19 and showers. It has a generator and electricity, and a bed. Knight and others have periodically sailed
20 and operated Knight's boat, under its own power, since he acquired it. *Id.* ¶¶ 10–12. On
21 November 2, 2022, Knight safely sailed the boat on the Bay. *See* Exhibit I (Declaration of Shannon
22 Satterfield); Exhibit J (photos taken 11/2/2022).

23 In October 2021, a powerful "mini-typhoon" storm impacted the Bay, and damaged many
24 boats. Knight's boat was one of the impacted vessels. The storm moved the boat off its anchorage,
25 beached it, moderately damaged a small part of the hull, and washed mud into the vessel. However,
26 the storm did not seriously harm the sails, engine, and other critical parts. The boat was still
27 operable after the storm. *See* Exhibit A, ¶¶ 13–15.

28 ///

1 Knight believes the storm damaged the boat because someone removed his anchorage
2 system about two weeks prior to the storm. He was thus forced to use a substitute system during
3 the storm, which likely contributed to the storm's ability to move the boat off its anchorage. Knight
4 believes that Harbor Master Malcom (or his agents) took his original anchorage system, while
5 Knight was sailing his boat, because he later saw the missing anchor system lying in the Harbor
6 Master's boat storage yard. *Id.* ¶¶ 15–16.

7 After the storm, Knight was forced to temporarily live in a County homeless camp while he
8 worked to repair his boat. While he was not on the boat as much as in the past during this time, he
9 still regularly visited it, in preparation for reoccupying it when repairs were complete. Knight paid
10 about \$1,000 for repairs to the boat, primarily to patch a small breach in the hull. In early 2022, he
11 moved back onto the boat full-time. Knight is often gone from the boat during daylight hours, but
12 returns to sleep there at night. Exhibit A, ¶¶ 13–18.

13 After repairing the boat, Knight did not sail much as in the past because he feared that
14 RBRA agents would again take his anchorage system while he was sailing and off the anchorage.
15 *Id.* ¶¶ 17–19. Nevertheless, Knight continued to use the boat for transportation on a number of
16 occasions in 2022, including in the summer and, more recently, in November 2022. On
17 November 2, 2022, Knight sailed the boat with a friend, and it left and returned under its own power
18 without problems. *See* Exhibit A, ¶¶ 20–21, 39; *see also* Exhibit I (Satterfield Declaration); Exhibit
19 J (photos taken 11/2/2022).

20 **C. The RBRA Buyback Program and Seizure Order**

21 On or around August 2019, the RBRA reached an agreement (“BCDC Agreement”) with
22 Defendant San Francisco Bay Conservation and Development Commission (BCDC) to remove
23 many anchored vessels from Richardson Bay by October 2026. A main goal of the Agreement is
24 to protect “eel grass” on the floor of the Bay from anchor damage by removing boats. *See* Exhibit
25 D (BCDC Agreement).

26 The Agreement states that “all illegally anchored vessels on Richardson Bay that arrive after
27 August 2019 will be removed along with their ground tackle no later than October 15, 2023.”
28 Exhibit D (BCDC Agreement) at 5. The Agreement further states that “[a]ll illegally anchored

1 vessels present on the anchorage before August 2019 will be removed from the anchorage no later
2 than October 15, 2026.” *Id.* According to this timeline: (a) all unoccupied “marine debris” vessels
3 would be removed by October 15, 2021; (b) “[o]ccupied vessels that failed to enroll in the Safe and
4 Seaworthy Program shall be subject to immediate removal with their ground tackle/moorings and
5 . . . shall be removed no later than October 15, 2024;” (c) “occupied vessels that enroll[] in the
6 Safe and Seaworthy Program and are maintained in a seaworthy condition shall be removed no
7 later than October 15, 2026.” *Id.* at 5–6.

8 **1. The Buyback Offer**

9 In June 2022, the RBRA adopted a Vessel Buyback program to facilitate the removal of
10 boats from Richardson Bay in accordance with the BCDC Agreement. The program offers eligible
11 participants the opportunity to sell boats anchored in Richardson Bay for \$150 per foot so that the
12 RBRA can remove vessels from an “Eelgrass Protection Zone (EPZ)” and other parts of Richardson
13 Bay. *See* Exhibit F (Buy Back Program Payment Conditions)

14 After adoption of the Buyback program, Harbor Master Malcom contacted Knight about
15 potentially selling his boat through the program. Knight was initially interested because he felt
16 threatened by the RBRA’s planned removal of boats like his under the Agreement. The RBRA sent
17 him a contract that offered him \$5,250 to sell his boat for removal under the Buyback program. *See*
18 Exhibit F (Knight Buyback contract).

19 Knight ultimately opted not to execute the Buyback contract for several reasons. First, when
20 Knight read the proposed Buyback contract, he learned that one of the conditions was that he could
21 not become homeless in the adjacent cities of Sausalito, San Rafael, or Navato after he was paid
22 for the boat under the Buyback program. *See* Exhibit F. Condition number 3 of the Buyback
23 contract states that a vessel owner selling a boat under the Buyback Program agrees to “[n]o new
24 overnight presence by the vessel owners or occupants in any encampment or other outdoor area in
25 the City of Sausalito, San Rafael, or Navato.” *Id.* The “Payment Conditions” page of the Buyback
26 contract then states: “Any failure to abide by [the] conditions prior to 6 months from first payment
27 will result in failure to receive final 20% payment, as well as legal proceedings to recoup funds
28 already distributed for buy back.” *Id.* The contract further states: “Any failure to follow these

conditions after 100% of funds have been distributed will result in legal proceedings to recoup all funds previously distributed.” *Id.*

Since Knight has no other residence other than the boat, selling the boat under the program would mean he would immediately become homeless. Exhibit A, ¶¶ 32–33. But the moment that happened, the Buyback contract made clear that Knight would forfeit the boat Buyback payment. Therefore, participating in the program would mean Knight would be left with no boat, no home, and no money under the Buyback program. Moreover, Knight’s boat is worth more than the \$5,250 offered through the Buyback program. *Id.* ¶ 34. Therefore, on October 10, 2022, Knight sent a letter to the Harbor Master stating that he objected to the terms of the Buyback and would not participate at this time. *Id.* ¶ 35.

2. The Seizure Order

A few days later, on or about October 14, 2022, Knight found a notice attached to his boat entitled “Ten Day Notice to Remove Marine Debris.” *See* Exhibit K (Notice and order).¹ The notice stated that his boat would be “removed and disposed” of as “marine debris” within 10 days (by October 24, 2022), unless Knight left the Bay. Knight did not receive any administrative hearing or other opportunity to contest the “marine debris” classification for his boat or the removal/disposal order before its issuance, nor did the order itself offer any hearing opportunity. Knight was not offered compensation by the RBRA if his boat was removed as “marine debris” and the order did not offer any.

D. Prior Proceedings

On October 21, 2022, Knight filed a complaint in this Court, raising multiple claims against the RBRA, its officers, the BCDC, and other defendants, under the Constitution, 42 U.S.C. § 1983, and other statutory provisions. The complaint sought both equitable relief and damages. *See* ECF No. 1. He also concurrently filed a motion for a temporary restraining order (TRO) and a preliminary injunction. ECF No. 3.

¹ The RBRA may have previously posted a “marine debris” notice on Knight’s boat in 2021. The agency voluntarily withdrew that notice afterward and Knight did not file suit at that time. Therefore, any such prior notice or order is not at issue here.

1 This Court held a hearing on the motion for a TRO on October 27, 2022. Afterward, the
 2 Court granted a TRO. ECF No. 11. In so doing, the Court set a briefing and hearing schedule for a
 3 motion for preliminary injunction. The order directed the parties to address several issues in their
 4 preliminary injunction memoranda, including: “whether the RBRA may exercise authority over
 5 vessels in Richardson Bay; whether the *Coronado* qualifies as marine debris; whether Knight lives
 6 on the boat; what form of compensation was offered and/or rejected and why; other questions raised
 7 by this order; and, any other pertinent information.” ECF No. 12 at 13.

8 STANDARD OF REVIEW

9 A district court may grant preliminary injunctive relief if the moving party shows: (1) a
 10 substantial likelihood of success on the merits; (2) that irreparable harm is likely in the absence of
 11 relief; (3) the balance of equities favors the movant; and (4) the injunction is in the public interest.
 12 *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). The balance of equities and public
 13 interest factors merge where, as here, the government is a party. *California v. Azar*, 911 F.3d 558,
 14 575 (9th Cir. 2018). One seeking a preliminary injunction need not prove that they will certainly
 15 prevail on their claims but only that the claims raise “serious questions.” *Alliance for Wild Rockies*
 16 *v. Cottrell*, 632 F.3d 1127, 1131–35 (9th Cir. 2011).

17 ARGUMENT

18 This motion is based on Knight’s federal constitutional claims under the Fourth
 19 Amendment, Takings Clause, substantive protections of the Due Process Clause, and the state Due
 20 Process Clause in Article I, Section 7 of the California Constitution. Knight is likely to prevail on
 21 all of these claims because it is unreasonable, illegitimate, procedurally impermissible and
 22 unconstitutional to order removal of his boat (and home) as “marine debris” on 10-days notice,
 23 without a prior hearing or guarantee of reasonable compensation. Further, Knight will suffer
 24 irreparable harm without a preliminary injunction as the removal of his boat would instantly make
 25 him homeless and endanger his health and life. Finally, the balance of equities/public interest
 26 consideration favors Knight because an injunction maintains the status quo, *U.S. WeChat Users*
 27 *Alliance v. Trump*, 488 F. Supp. 3d 912, 929 (N.D. Cal. 2020), and “it is always in the public interest
 28 to prevent the violation of a party’s constitutional rights.” *Am. Beverage Ass’n v. City & Cnty. of*

1 *San Francisco*, 916 F.3d 749, 758 (9th Cir. 2019) (quoting *Melendres v. Arpaio*, 695 F.3d 990,
2 1002 (9th Cir. 2012)).

3 I.

4 **KNIGHT’S BOAT DOES NOT QUALIFY AS “MARINE DEBRIS”**

5 Although the question of whether Knight’s boat is “marine debris” within the meaning of
6 state law is likely to arise as a subsidiary issue in some of Knight’s constitutional claims, it is useful
7 to address the issue at the outset since the “marine debris” classification is at the core of the RBRA’s
8 action, and this Court specifically asked for briefing on the question. To be clear, Knight’s right to
9 a preliminary injunction does not hinge on resolution of the “marine debris” issue because, whether
10 it is “debris” or not (it is not), the boat is still private property that is constitutionally protected from
11 unconstitutional removal. Nevertheless, the reality is that Knight’s boat cannot be considered
12 “marine debris.”

13 Cal. Harb. & Nav. Code § 550 defines “marine debris” as follows:

14 (b) “Marine debris” is a vessel or part of a vessel, including a derelict, wreck, hulk,
15 or part of any ship or other watercraft or dilapidated vessel, that is *unseaworthy and*
16 *not reasonably fit or capable of being made fit to be used as a means of*
transportation by water.

17 *Id.* (emphasis added).

18 Cal. Harb. & Nav. Code § 551 includes additional criteria for removing vessels that qualify
19 as “marine debris” under the prior provision. It states, in relevant part:

20 (a) (1) Notwithstanding any other law, marine debris that is floating, sunk, partially
21 sunk, or beached in or on a public waterway, public beach, or on state tidelands or
22 submerged lands may be removed and destroyed, or otherwise disposed of, by any
23 state, county, city, or other public agency having jurisdiction over its location or
having authority to remove marine debris or solid waste, subject to the following
conditions:

24 (A) The object meets the definition of marine debris in subdivision (b) of Section
25 550 *and has no value or a value that does not exceed the cost of removal and*
disposal.

26 (B) If there is no discernible registration, hull identification number, or other
27 identification insignia, a peace officer or authorized public employee securely
28 attaches to the marine debris a notice stating that the marine debris shall be removed
by the public agency if not claimed or removed within 10 days.

(C) If there is discernible registration, hull identification number, or other identification insignia, a notice is attached to the marine debris as described in subparagraph (B), and sent to the owner of the marine debris, if known, at the owner's address of record with the Department of Motor Vehicles, by certified or first-class mail.

(D) The marine debris remains in place for 10 days from the date of attaching the notice to the marine debris or from the date the notice letter was sent, whichever is later, before being removed.

(2) (A) The notice attached to the marine debris shall state the name, address, and telephone number of the public agency providing the notice.

(B) A notice sent to the owner shall contain the information specified in subparagraph (A), and further state that the marine debris will be removed and disposed of within 10 days if not claimed, and that the marine debris may be claimed and recovered upon the payment of the public agency's costs.

(Emphasis added.)

Therefore, as the foregoing provisions show, a vessel can be treated as "marine debris" under California law only if it is (1) "unseaworthy" *and* (2) lacks value, or least has such little value that it is worth less than the cost of removal and disposal. Knight's boat meets neither of the criteria. First, the evidence shows that Knight regularly uses the boat for water transportation, including on November 2, 2022. *See* Exhibit A, ¶ 39; Exhibit I (Dec. of Satterfield); Exhibit J (photos of Nov. 2, 2022, boat trip). A vessel that is actually used on the water without problems is certainly "seaworthy." The RBRA does not and cannot dispute that the vessel has (1) working sails, (2) a working engine, and (3) that the boat sailed and operated on the water under its own power. Exhibit A, ¶¶ 10–11. This is sufficient to conclude that Knight is likely to prevail on his assertion that the boat is not "marine debris," and that RBRA lacks authority to order his boat removed as such.

Even if there were doubt on whether the boat is "marine debris," the RBRA cannot prevail on the second criterion for the permissible removal of "marine debris," namely, that the vessel lacks meaningful monetary value. Cal. Harb. & Nav. Code § 551 makes clear that "marine debris" may be removed as such only if the subject vessel also has negligible value. *See* § 551(a)(1)(A) (removal permissible if marine debris "has no value or a value that does not exceed the cost of removal and disposal"). It is the RBRA's burden to make this evidentiary showing since it is the entity invoking the authority of § 551(a)(1)(A). But it cannot do so. Indeed, the RBRA's own Buyback offer of \$5,250 for Knight's boat and the purchase price of \$6,000 demonstrate that his boat has significant

value. Exhibit A, ¶¶ 9, 29. This precludes the agency from satisfying the “no value” element of the “marine debris removal” process under Harb. & Nav. Code § 551. Therefore, Knight is likely to prevail on the issue of whether the RBRA has authority to remove the boat as “marine debris.” It does not.

II.

KNIGHT IS LIKELY TO PREVAIL ON HIS CLAIMS THAT THE SEIZURE ORDER VIOLATES THE FOURTH AMENDMENT, THE TAKINGS CLAUSE, SUBSTANTIVE DUE PROCESS PROTECTIONS, AND STATE PROCEDURAL DUE PROCESS RULES

A. Knight Will Prevail on His Fourth Amendment Claim

Knight asserts that the RBRA’s boat seizure order effects an unreasonable and unconstitutional seizure of his boat. The Fourth Amendment protects personal property from unreasonable seizures in the civil, as well as criminal, context. *Soldal v. Cook County*, 506 U.S. 56, 66–67 (1992). To establish an unreasonable seizure, one must show that (1) a protected property interest (2) has been seized, *id.* at 61; (3) in an unreasonable manner. *Lavan v. City of Los Angeles*, 693 F.3d 1022, 1027 (9th Cir. 2012); *Garcia v. City of Los Angeles*, 11 F.4th 1113 (9th Cir 2021); *Kincaid v. City of Fresno*, No. 1:06-cv-1445 OWW SMS, 2006 WL 3542732, at *35–36 (E.D. Cal. Dec. 8, 2006).

1. The Order Caused a “Seizure”

A “seizure” for purpose of Fourth Amendment review occurs when “there is some meaningful interference with an individual’s possessory interests in that property.” *Soldal*, 506 U.S. at 63 (quoting *United States v. Jacobsen*, 466 U.S. 109, 113 (1984)). Here, Knight’s boat is personal private property. The removal and disposal of the boat under the Order would plainly interfere with Knight’s possessory interest in the vessel, and “disposal” would permanently terminate that interest.

Indeed, even if the RBRA could legitimately treat Knight’s boat as “marine debris” (it cannot), the removal Order still effects a seizure subject to Fourth Amendment scrutiny. After all, whether “marine debris” or not, Knight has an important possessory and property interest in the boat,

///

///

///

1 which is all that is needed to trigger the protections of the Fourth Amendment.² *Lavan*, 693 F.3d at
 2 1032; *Lenz v. Winburn*, 51 F.3d 1540, 1549 n.10 (11th Cir. 1995) (“[A] possessory interest is all
 3 that is needed for the Fourth Amendment’s reasonableness requirement to apply to a seizure.”).
 4 Similarly, even if Knight did not live on his boat (he does), his boat is still property that is subject
 5 to, and protected by, the Constitution, including the Fourth Amendment. *Johnson v. Outboard*
 6 *Marine Corp.*, 172 F.3d 531, 536 (8th Cir. 1999); *United States v. Piner*, 608 F.2d 358, 361 (9th
 7 Cir. 1979). The “simple rule” that the government may not seize property “like a thief in the night”
 8 holds true “regardless of whether the property in question is an Escalade or an EDAR, a Cadillac
 9 or a [homeless] cart,” or here, a sailboat. *Lavan*, 693 F.3d at 1032.

10 **2. The Boat Seizure Is Unreasonable**

11 The boat seizure authorized by the Order is unreasonable for several reasons. First, because
 12 Knight’s boat does not qualify as “marine debris” under Cal. Harb. & Nav. Code §§ 550–551, the
 13 seizure order is unauthorized by California law, and an unauthorized seizure is by definition
 14 “unreasonable.” *See Severance v. Patterson*, 566 F.3d 490, 502 (5th Cir. 2009) (property owner
 15 stated an unreasonable seizure claim because the owner alleged the interference with her property
 16 was “*unjustified by state law* or, if justified, then uncompensated”) (emphasis added).

17 But even if the RBRA had state law authority to remove the boat as “marine debris,” doing
 18 so in this case would still be an unreasonable seizure because there has been no prior hearing
 19 opportunity for Knight to contest the order or the RBRA’s interference with his possessory interest
 20 in his boat. If he had had such an opportunity, Knight could have shown that the order was
 21 unreasonable and unwarranted in his case because the boat is seaworthy, and because of the severe
 22 impact of seizure on his life, and his economic and health status.

23 Furthermore, the 10-day notice of the boat seizure is unreasonable in this case. Ten days’
 24 notice is not a reasonable period for a person to remove all personal belongings from a long-
 25 occupied vessel, find a new place to live, seek a safe and affordable storage area for the boat, or to

26 ² Notably, even when government determines that property is a “nuisance,” which has not happened
 27 here with respect to Knight’s boat, the Fourth Amendment applies and prohibits the government
 28 from unreasonably seizing the property. *Archer v. Gipson*, 108 F. Supp. 3d 895, 911 (E.D. Cal.
 2015) (finding an unreasonable seizure of construction materials deemed to be a nuisance).

1 take other necessary steps. *See, e.g., Proctor v. District of Columbia*, No. 1:18-cv-00701 (TNM),
2 2018 WL 6181739, at *3 (D.D.C. Nov. 27, 2018) (plaintiffs stated valid Fourth Amendment claim
3 based in part on an allegation that the government noticed the wrong date or time of scheduled
4 street clean-ups that resulted in seizure of property); *Sullivan v. City of Berkeley*, No. C 17-06051
5 WHA, 2018 WL 489011, at *4 (N.D. Cal. Jan. 19, 2018). (Fourth Amendment claims allowed to
6 proceed where the plaintiffs alleged that a city “collect[ed] and store[d] property without notice,
7 and in a way that [did] not allow plaintiffs to retrieve it in a usable condition (or at all)”). We don’t
8 expect people to vacate apartments with less than 60 days’ notice in California, and here the RBRA
9 provided Knight 10 days. Finally, the seizure order is unreasonable because it was issued without
10 any reasonable compensation guarantee to Knight for the loss of his boat and home. *See Severance*,
11 566 F.3d at 502 (property owner stated an unreasonable seizure claim because, even state law
12 allowed the interference with her property, it was still “uncompensated”).

13 The RBRA will undoubtedly point out that it offered a Buyback program payment of \$5,250
14 to Knight for his boat. But that offer was not just or *reasonable* compensation because the payment
15 was conditioned on Knight not becoming homeless after receiving payment for the boat, a
16 contingency that was a certainty in this case given that Knight has nowhere to live other than the
17 boat. *See* Exhibit F. Thus, the Buyback program did not provide “just” compensation to Knight, or
18 indeed any compensation at all, because sale of his boat under the program and the resulting
19 homelessness would immediately allow the RBRA to recoup the payment, leaving him with no
20 compensation.

21 The RBRA may seek to avoid this analysis by arguing that Knight’s boat should not be on
22 the Bay in the first place. But this is wrong and besides the point. The Fourth Amendment applies
23 even to property that the government believes is unlawful or improperly located. *Lavan*, 693 F.3d
24 at 1029 (“Violation of a City ordinance does not vitiate the Fourth Amendment’s protection of
25 one’s property.”); *id.* at 1030 (“the Supreme Court has recognized [Fourth Amendment] protected
26 possessory interests even in contraband”) (citing *Jacobsen*, 466 U.S. at 124–25); *Garcia*, 11 F.4th
27 at 1118 (“The Fourth Amendment protects individuals from unreasonable government seizures of
28 their property, even when that property is stored in public areas.”).

1 Knight's boat is protected by the Fourth Amendment regardless of the RBRA's
 2 characterization of its seaworthiness or location, and because issuance of the seizure Order without
 3 adequate notice, hearing or compensation was unreasonable in this case, Knight will prevail on his
 4 Fourth Amendment claim.

5 **B. Knight Will Prevail on His Takings Clause Claim**

6 Knight is also likely to prevail on his claim that the order amounts to an unconstitutional
 7 taking of his property, because his boat is property protected by the Takings Clause, the pending
 8 removal of the boat amounts to a *per se* "taking," and the RBRA has not provided compensation
 9 for the taking of Knight's boat.

10 **1. Background Takings Law**

11 The Takings Clause of the Fifth Amendment prohibits uncompensated takings of private
 12 property. U.S. Const. amend V. A *per se* or "categorical" "taking" occurs when government
 13 engages in or authorizes a physical occupation of property. *See Lingle v. Chevron U.S.A. Inc.*, 544
 14 U.S. 528, 539 (2005). Physical occupation of private property is a *per se* taking, regardless of the
 15 purpose, size, or duration of the taking. *Cedar Point Nursery v. Hassid*, 141 S. Ct. 2063, 2074
 16 (2021) ("The duration of an appropriation—just like the size of an appropriation—bears only on
 17 the amount of compensation.") (citation omitted); *Loretto v. Teleprompter Manhattan CATV Corp.*,
 18 458 U.S. 419, 432 (1982). Invasions of personal property are just as protected from takings under
 19 these strict, *per se* standards as invasions of real property. *Horne v. Dep't of Agric.*, 576 U.S. 350,
 20 360–61 (2015) (holding that confiscation of raisins is subject to the same strict *per se* takings tests
 21 as a taking of land).

22 The most obvious example of a *per se*, physical taking is when the government takes
 23 possession of property for its own purposes. *See Tahoe-Sierra Pres. Council v. Tahoe Reg'l*
 24 *Planning Agency*, 535 U.S. 302, 322 (2002) (A taking occurs "[w]hen the government physically
 25 takes possession of an interest in property . . . regardless of whether the interest that is taken
 26 constitutes an entire parcel or merely a part thereof.") (citation omitted). When the government
 27 physically possesses private property, its action is automatically unconstitutional unless it provides
 28 just compensation to the affected property owner at the time of the taking. *Knick v. Twp. of Scott*,

1 139 S. Ct. 2162, 2172–73 (2019). Notably, takings claims are justiciable and remediable in federal
 2 court without regard to the existence of overlapping state court remedies. *Id.*

3 **2. The Order Effects an Unconstitutional Taking**

4 Here, the order states that the RBRA “shall” remove and dispose of Knight’s boat in 10
 5 days. Exhibit K. The agency thus intends to take physical possession of Knight’s boat—a
 6 quintessential taking. *Tahoe-Sierra Pres. Council*, 535 U.S. at 322.

7 This taking is unconstitutional because the RBRA has not offered or guaranteed just
 8 compensation to Knight for the boat. Again, the agency may argue that the taking is compensated
 9 because Knight could get paid through the Buyback program. But the boat payment available
 10 through that program is inadequate, unjust, and, ultimately, an illusion, because it is conditioned
 11 on the requirement that Knight refrain from becoming homeless in surrounding cities after any sale
 12 of his boat through the program. *See* Exhibit F. This condition is likely in itself an unconstitutional
 13 condition because it requires the waiver of a legal right—the right to live without a home, if forced
 14 to³—as a condition of the benefits of the Buyback program. *See generally, Koontz v. St. Johns*
 15 *River Water Mgmt. Dist.*, 570 U.S. 595, 604 (2013) (“the government may not deny a benefit to a
 16 person because he exercises a constitutional right”) (quoting *Regan v. Taxation With*
 17 *Representation of Wash.*, 461 U.S. 540, 545 (1983)); *Frost v. Railroad Comm’n of Cal.*, 271 U.S.
 18 583, 592–93 (1926) (invalidating a regulation that required the petitioner to give up a constitutional
 19 right “as a condition precedent to the enjoyment of a privilege”).

20 But regardless, in this case, the “no homelessness” condition imposed on the Buyback
 21 program is impossible for Knight to satisfy because his boat is his only home. The condition thus
 22 ensures he will not be compensated. Obtaining “compensation” by selling the boat in the Buyback
 23 program would instantly make homeless and leave him without any living options except a nearby
 24 homeless camp. Exhibit A, ¶¶ 32–33, which would result in forfeiture of a Buyback payment. The
 25 Buyback payment (the alleged compensation for a taking of the boat) is thus self-negating in
 26 Knight’s case. As soon as Knight obtained it by selling the boat, he would forfeit it by becoming

27 _____
 28 ³ *See Martin v. City of Boise*, 920 F.3d 584, 616 (9th Cir. 2019) (Constitution forbids criminal
 penalties against living outside).

1 homeless and living outside. Moreover, the \$5,250 payment offered through the Buyback program
 2 is less than the amount Knight paid for the boat. Exhibit A, ¶ 9. The Buyback payment program
 3 accordingly does not provide “just” compensation. Therefore, the RBRA’s plan to take the boat
 4 qualifies as an unconstitutional taking. *Pottinger v. City of Miami*, 810 F. Supp. 1551, 1570 n.30
 5 (S.D. Fla. 1992) (“The court further finds that the City’s seizure and destruction of plaintiffs’
 6 personal property violate the fifth amendment, which prohibits the taking of private property for
 7 public use without just compensation.”).

8 The RBRA may argue that Knight can avoid a taking altogether by voluntarily removing
 9 his boat from the Bay. But this is not a solution in this case because Knight has plausibly
 10 demonstrated that he has nowhere to go, nor means to move or store the boat. Exhibit A, ¶ 32. He
 11 does not own a home, boat trailer, or marina berth and has limited resources. *Id.* While voluntary
 12 boat removal may be feasible in another situation, it is not here. For Knight, the seizure order is a
 13 guarantee that the RBRA will take the boat within 10 days. Since this will occur without just
 14 compensation, it is unconstitutional.

15 **3. An Injunction Is a Proper Remedy for Knight’s Takings Claim**

16 Finally, the RBRA may question whether an injunction is the proper remedy for the
 17 uncompensated taking of the boat. It is. While monetary compensation may be the optimal remedy
 18 in many takings cases, an injunction is proper when damages are inadequate to remedy a taking.
 19 *Washington Legal Found. v. Legal Found. of Washington*, 271 F.3d 835, 849–50 (9th Cir 2001)
 20 (citing *Transohio Sav. Bank v. Dir., Office of Thrift Supervision*, 967 F.2d 598, 613 (D.C. Cir. 1992)
 21 (“the district court should accept jurisdiction over takings claims for injunctive relief in the few
 22 cases where a Claims Court [damages] remedy is ‘so inadequate that the plaintiff would not be
 23 justly compensated’”).

24 Damages for the loss of Knight’s boat are not an adequate remedy in this case. Again,
 25 Knight’s boat is not just a means of transportation; it is a home. The seizure order is thus effectively
 26 an eviction order, and eviction is “not an injury for which remedies available at law are adequate.”
 27 *Johnson v. Macy*, 145 F. Supp. 3d 907, 920 (C.D. Cal. 2015); *see also, Park Village Apartments*

28 ///

1 *Tenants Ass’n v. Mortimer Howard Trust*, No. C 06-7389 SBA, 2007 WL 519038, at *8 (N.D. Cal.
2 2007), *aff’d*, 252 Fed. Appx. 152 (9th Cir. 2007) (citing eviction injunction cases).

3 Moreover, even if otherwise theoretically adequate, a damages remedy would not remedy
4 the taking here. This is because takings damages only provide “fair market value” for the property
5 that is taken. *Horne*, 576 U.S. at 368–70. Here, Knight’s boat has value beyond its mere economic
6 value as a vessel due to its function as his residence. Thus, even if damages were adequate as a
7 matter of law in an eviction-type takings case (they are not), *Johnson*, 145 F. Supp. 3d at 907, they
8 would remain inadequate here due to the fact that compensating fair market value for the boat will
9 not make Knight whole.

10 **C. Knight Will Prevail on His Substantive Due Process Claim**

11 Knight has also raised a claim against the seizure order under the Fourteenth Amendment’s
12 Due Process Clause. In certain circumstances, that clause provides substantive protections against
13 “deprivations of property” “without due process of law.” Among those circumstances are cases
14 where the government deprives a person of life, liberty, or property in a way that “interferes with
15 rights implicit in the concept of ordered liberty” or “shocks the conscience.” *Nunez v. City of Los*
16 *Angeles*, 147 F.3d 867, 871 (9th Cir. 1998) (quoting *United States v. Salerno*, 481 U.S. 739, 746
17 (1987)). A threshold requirement is that the claimant must show he has been deprived of a right
18 “rooted in this Nation’s history and tradition,” and “implicit in the concept of ordered liberty.”
19 *Washington v. Glucksberg*, 521 U.S. 702, 721 (1997) (quoting *Moore v. City of East Cleveland*,
20 431 U.S. 494, 503 (1977), *Palko v. Connecticut*, 302 U.S. 319, 325 (1937)). When this standard is
21 met, the issue revolves around whether a challenged deprivation arbitrarily interferes with the
22 protected private interest or is “conscience-shocking.” *Glucksberg*, 521 U.S. at 769 (Souter, J.,
23 concurring); *County of Sacramento v. Lewis*, 523 U.S. 833, 847–48 (1998).

24 Here, this case implicates fundamental rights rooted in this nation’s tradition of “ordered
25 liberty.” Most importantly, the deprivation of Knight’s boat interferes with the basic right to live
26 peaceably in the privacy of a home. The Supreme Court has long recognized that this interest enjoys
27 special constitutional protection. *City of Ladue v. Gilleo*, 512 U.S. 43, 58 (1994) (“A special respect
28 for individual liberty in the home has long been part of our culture and our law[.]”); *Payton v. New*

1 *York*, 445 U.S. 573, 596–97 (1980) (stating, in a Fourth amendment case, that “[t]he zealous and
 2 frequent repetition of the adage that a ‘man’s house is his castle,’ made it abundantly clear that both
 3 in England and in the Colonies ‘the freedom of one’s house’” was vital to liberty) (footnote
 4 omitted); *Soldal*, 506 U.S. at 61 (stating that at the “very core” of the Fourth Amendment “stands
 5 the right of a man to retreat into his own home”) (quoting *Silverman v. United States*, 365 U.S. 505,
 6 511 (1961)).

7 The order challenged here injures Knight’s fundamental right to live free from arbitrary
 8 interference in his home. Indeed, in this case, Knight’s protected interest in his home is intertwined
 9 with other important private interests, such as his ability to maintain his health. Exhibit A, ¶ 5.
 10 Knight needs and uses his boat/home to take care of his medical needs, which include frequent
 11 showers for his skin, and shelter from the cold to minimize arthritis. Since Knight’s right to enjoy
 12 the safety and protection of his home implicates deeply rooted and longstanding life, liberty, and
 13 property interests, the RBRA’s act of taking the boat and depriving Knight of his home “interferes
 14 with rights implicit in the concept of ordered liberty.” *Nunez*, 147 F.3d at 871 (quoting *Salerno*,
 15 481 U.S. at 746).

16 Moreover, the RBRA’s interference with Knight’s boat is arbitrary because the agency lacks
 17 authority to seize Knight’s home as “marine debris.” As discussed above, the boat is seaworthy and
 18 cannot be legitimately treated as “marine debris” under California law. *See* Exhibit I (photos of
 19 Nov. 2, 2022 boat trip). As a result, the RBRA lacks power to deprive Knight of his boat home,
 20 which renders the seizure order arbitrary. An unauthorized, arbitrary decision is not “law,” and is
 21 thus not consistent with “due process of law.” Ultimately, the sudden, arbitrary interference with
 22 Knight’s boat and home is conscience shocking, as it will force a medically challenged, 65-year-
 23 old man onto the streets in the wintertime. *Lavan*, 693 F.3d at 1032 (“The City’s decision to forego
 24 any process before permanently depriving Appellees of protected property interests is especially
 25 troubling given the vulnerability of [] homeless residents[.]”). Knight is accordingly likely to
 26 prevail on his substantive due process claim, or has at least raised “serious questions” on the merits,
 27 which is sufficient to justify a preliminary injunction. *Alliance for Wild Rockies*, 632 F.3d at 1131–
 28 35.

D. Knight Will Prevail on His California Constitution Due Process Claim

The California Constitution, Article I, Section 7, provides: “A person may not be deprived of life, liberty, or property without due process of law” For most purposes, California’s Due Process Guarantee is construed consistently with its federal counterpart. *Garfinkle v. Superior Court*, 578 P.2d 925 (Cal. 1978). Like the federal due process guarantee, the state “Constitution requires some form of notice and a hearing.” *Kash Enters., Inc. v. Los Angeles*, 562 P.2d 1302, 1310 (Cal. 1977) (quoting *Beaudreau v. Superior Court*, 535 P.2d 713, 719 (Cal. 1975)). Indeed, “[n]ormally notice and an opportunity for a hearing must precede even a temporary deprivation of a property interest.” *Menefee & Son v. Dep’t of Food & Agriculture*, 199 Cal. App. 3d 774, 781 (1988) (citing *Skelly v. State Personnel Bd.*, 539 P.2d 774, 788–90 (Cal. 1975)).

In this case, of course, the RBRA gave Knight no opportunity to be heard before it ordered his boat removed and disposed of. This alone creates a meritorious due process claim. *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 542 (1985) (“We have described ‘the root requirement’ of the Due Process Clause as being ‘that an individual be given an opportunity for a hearing *before* he is deprived of any significant property interest.’”) (quoting *Boddie v. Connecticut*, 401 U.S. 371, 379 (1971)) (emphasis in original); *Lavan*, 693 F.3d at 1032–33; *Rios v. County of Sacramento*, 562 F. Supp. 3d 999, 1024 (E.D. Cal. 2021) (California due process claim stated for taking of homeless person’s property without adequate prior notice or hearing).

The 10-day notice which the RBRA gave for removal of Knight’s boat is also constitutionally inadequate for the taking of a vessel that serves as a home. Notice “must afford a reasonable time” for the affected property owner to address the issue. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950), and a 10 day seizure deadline is not reasonable in this case, given Knight’s economic and living status. *Id.* at 313 (A deprivation must “be preceded by notice and opportunity for hearing *appropriate to the nature of the case.*”) (emphasis added).

In sum, Knight is likely to prevail on his Fourth Amendment, Takings Clause, substantive due process, and state constitutional procedural due process claim or has, at the least, raised serious questions as to the merits of his claims. The first preliminary injunction factor weighs in favor of granting an injunction.

1 II.

2 **KNIGHT WILL SUFFER IRREPARABLE HARM**
 3 **AND THE EQUITIES SUPPORT AN INJUNCTION**

4 Knight has also shown that he will suffer “irreparable harm” without a preliminary
 5 injunction. In the Ninth Circuit, “[a]n alleged constitutional infringement will often alone constitute
 6 irreparable harm.” *Associated Gen. Contractors of Cal., Inc. v. Coal. for Econ. Equity*, 950 F.2d
 7 1401, 1412 (9th Cir. 1991) (quoting *Goldie’s Bookstore v. Superior Court*, 739 F.2d 466, 472 (9th
 8 Cir. 1984)); *see also Citicorp Servs., Inc. v. Gillespie*, 712 F. Supp. 749, 753 (N.D. Cal. 1989) (“In
 9 various cases, courts in the Ninth Circuit have presumed irreparable harm from an alleged violation
 10 of constitutional rights.”). Here, Knight has shown a likelihood of multiple constitutional violations.

11 Moreover, the loss of one’s home is considered “irreparable harm.” *Park Village Apartment*
 12 *Tenants Ass’n v. Mortimer Howard Trust*, 636 F.3d 1150, 1159 (9th Cir. 2011); *Mitchell v. U.S.*
 13 *Dep’t of Housing & Urban Dev.*, 569 F. Supp. 701, 705 (N.D. Cal. 1983); *Aitken v. City of*
 14 *Aberdeen*, 393 F. Supp. 3d 1075, 1085–86 (W.D. Wash 2019). Here, if the seizure order is not
 15 enjoined, Knight’s home will be taken and gone, and he will be homeless with serious medical
 16 conditions. This is significant, irreparable hardship. Indeed, Knight’s boat represents and contains
 17 almost all of his worldly assets and possessions. Even if the boat was not his home (it is), its seizure
 18 would cause him severe personal injury. *Lavan*, 693 F.3d at 1032 (“For many of us, the loss of our
 19 personal effects may pose a minor inconvenience. However, the loss can be devastating for the
 20 homeless.”) (quoting *Pottinger*, 810 F. Supp. at 1559).

21 On the other side of the coin, the issuance of an injunction will not appreciably harm the
 22 defendants, as it simply maintains the status quo. An injunction will not invalidate the RBRA’s
 23 regulatory programs or plans for the Bay; it will simply stop the unconstitutional taking of Knight’s
 24 boat as “marine debris.” Certainly, the hardships faced by Knight—losing one’s only real asset and
 25 home and being left to sleep on the street with serious health issues—significantly outweighs the
 26 RBRA’s unsubstantiated belief that his boat (which is only one of many on the Bay) may make
 27 some small contribution to the allegedly deleterious effect of boat anchors on sea grass if it stays
 28 longer than 10 days. Furthermore, it is always equitable and “in the public interest to prevent the

1 violation of a party’s constitutional rights.” *Hernandez v. County of Monterey*, 110 F. Supp. 3d 929,
2 958 (N.D. Cal. 2015) (citation omitted). Therefore, Knight has satisfied the final criteria for
3 issuance of a preliminary injunction. *Alliance for Wild Rockies*, 632 F.3d at 1131–32 (a preliminary
4 injunction warranted when “‘serious questions going to the merits’ and a hardship balance that tips
5 sharply toward the plaintiff can support issuance of an injunction, assuming the other two elements
6 of the *Winter* test are also met”).

7 CONCLUSION

8 The Court should grant a preliminary injunction enjoining the RBRA and its officials from
9 enforcing the “marine debris” boat removal Order against Knight and his boat.

10 DATED: November 22, 2022.

11 Respectfully submitted,

12 /s/ J. David Breemer

13 J. DAVID BREEMER

14 Attorney for Plaintiff Daniel Knight

Exhibit A

J. DAVID BREEMER, No. 215039
Email: JBreemer@pacificlegal.org
Pacific Legal Foundation
555 Capitol Mall, Suite 1290
Sacramento, California 95814
Telephone: (916) 419-7111
Facsimile: (916) 419-7747

Attorney for Plaintiff Daniel Knight

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DANIEL KNIGHT,

Plaintiff,

v.

RICHARDSON BAY REGIONAL AGENCY,
et al.,

Defendants.

No. 3:22-cv-06347-WHO

**SECOND DECLARATION OF DANIEL
KNIGHT IN SUPPORT OF MOTION
FOR PRELIMINARY INJUNCTION**

Judge: Hon. William H. Orrick

I, Daniel Knight, do hereby declare and testify:

1. I have personal knowledge of the following facts and, if called upon to do so, could competently testify to these facts.

2. I am a United States citizen, a resident of Marin County, California, and owner of a boat anchored in Richardson Bay, California.

3. I am a 65-year old, retired truck driver.

4. I live on a small, fixed income.

5. I have recently been diagnosed with staphylococcus infection, with the bacteria apparently latent in my skin. I also suffer from arthritis, which gets worse when I am exposed to cold weather.

6. I own a 35 foot sailboat, anchored in Richardson Bay, on which I live.

///

///

1 7. I initially anchored in Richardson Bay in approximately 1999, prior to the creation
2 of Defendant Richardson Bay Regional Agency (RBRA).

3 8. I have lived on a boat in the Bay continuously since I arrived in 1999. I do not own
4 any other residence or have access to any other residence. I do not have a marina berth lease. There
5 is a shortage of available marina berths in the Richardson Bay area and I could not afford a lease
6 even if one came available.

7 9. My boat is a 35-foot “Coronado” sailboat. I purchased it for \$6,000.

8 10. This boat has a working diesel motor engine, a completely rigged, functional sail
9 system, enclosed helm, and operational wheel for navigation.

10 11. I and others have periodically sailed and operated the boat for water transportation,
11 under its own power, since I acquired it.

12 12. The boat has a new, tankless water heater for hot water and showers. It has a
13 generator and electricity. There is a bed in the boat.

14 13. In October 2021, a powerful “mini-typhoon” storm impacted the Bay, and damaged
15 many boats.

16 14. My boat was one of the vessels damaged by the storm. The storm moved the boat
17 off its anchorage, beached it, moderately damaged a small part of the hull, and washed mud into
18 the vessel. However, the storm did not seriously harm the sails, engine, and other critical parts of
19 the boat. The boat was still operable after the storm.

20 15. In my opinion, much of the storm damage happened because someone removed my
21 anchorage system about two weeks prior to the storm. I was thus forced to set up and use a substitute
22 anchor system during the storm, which likely contributed to the storm’s impact in moving the boat
23 off its anchorage.

24 16. I believe that RBRA Harbor Master James Malcom (or his agents) took my original
25 anchorage system, prior to the storm, while my boat was being sailed. I hold this belief because I
26 and others with whom I am acquainted saw my anchor system lying in the Harbor Master’s boat
27 storage yard.

28 ///

1 17. As I took step to repair my boat after the storm, I was forced to live temporarily in
2 the County homeless camp. During this time, I was not on the boat as much as in the past, but I still
3 regularly visited it, worked on it, and planned on permanently reoccupying as soon as repairs were
4 complete.

5 18. When able, I paid about \$1,000 for repairs to the boat, primarily to patch a small
6 breach in the hull. In early 2022, I moved back onto the boat on a full-time basis and have lived
7 and slept there continuously and regularly since then. I am, however, often off the boat during the
8 daytime hours, returning at night.

9 19. After the 2021 storm events and repairs, I did not sail quite as much as in the past
10 due to fears that RBRA agents would again take my anchorage system while I was out to sea on
11 the boat.

12 20. Nevertheless, I still sailed and used the boat for transportation on a number of
13 occasions after the storm, including in summer of 2022, and more recently, on November 2, 2022.

14 21. On November 2, 2022, I sailed the boat with a friend for about two hours. It went
15 out into the Bay and returned under its own power without problems.

16 22. On or around August 2019, the RBRA reached an agreement (“Agreement”) with
17 Defendant San Francisco Bay Conservation and Development Commission (BCDC) to remove
18 many anchored vessels from Richardson Bay by October 2026. The boat removal plan Agreement
19 was primarily intended to protect “eel grass” on the floor of the Bay from anchor damage.

20 23. The Agreement states that “all illegally anchored vessels on Richardson Bay that
21 arrive after August 2019 will be removed along with their ground tackle no later than October 15,
22 2023.”

23 24. The Agreement between RBRA and BCDC further states that “[a]ll illegally
24 anchored vessels present on the anchorage before August 2019 will be removed from the anchorage
25 no later than October 15, 2026.” According to this timeline: (a) all unoccupied “marine debris”
26 vessels would be removed by October 15, 2021; (b) “[o]ccupied vessels that failed to enroll in the
27 Safe and Seaworthy Program shall be subject to immediate removal with their ground
28 tackle/moorings and . . . shall be removed no later than October 15, 2024”; (c) Occupied vessels

1 that enroll in the Safe and Seaworthy Program and are maintained in a seaworthy condition shall
2 be removed no later than October 15, 2026.

3 25. In June 2022, the RBRA Board of Directors adopted a Vessel Buyback program to
4 facilitate the removal of boats from Richardson Bay in accordance with the Agreement. The
5 program offers eligible participants the opportunity to sell boats anchored in Richardson Bay for
6 \$150 per foot so that the boats can be disposed of and, thus, removed from the “Eelgrass Protection
7 Zone (EPZ)” and other parts of Richardson Bay.

8 26. After adoption of the Buyback Program, James Malcolm, the Richardson Bay
9 Harbor Master, an official of the RBRA, contacted me about potentially selling my boat through
10 the Buyback Program.

11 27. I was initially interested in investigating the program because I felt threatened by
12 the RBRA’s planned removal of boats like mine under the Agreement.

13 28. I ultimately opted not to participate at this time for several reasons.

14 29. When I received the Buyback contract proposed by RBRA, it stated that the RBRA
15 would pay me \$5,250 for the boat. But I learned that one of the conditions of the contract was that
16 I could not become homeless in the nearby cities of Sausalito, San Rafael, or Navato after a sale. If
17 I did, the Buyback contract stated that the RBRA would take back any buy-back payment made to
18 me.

19 30. Condition number 3 of the contract states that a vessel owner selling a boat under
20 the Buyback Program agrees to “[n]o new overnight presence by the vessel owners or occupants in
21 any encampment or other outdoor area in the City of Sausalito, San Rafael, or Navato.”

22 31. The “Payment Conditions” page of the Buyback contract then states: “Any failure
23 to abide by [the] conditions prior to 6 months from first payment will result in failure to receive
24 final 20% payment, as well as legal proceedings to recoup funds already distributed for buy back.”
25 The contract further states: “Any failure to follow these conditions after 100% of funds have been
26 distributed will result in legal proceedings to recoup all funds previously distributed.”

27 32. I have nowhere else to live other than on my boat on Richardson Bay. I do not have
28 and cannot afford a marina berth. I do not own a boat trailer. I do not have sufficient income to rent

1 or own a home in the Bay area, and I have no available family residence in the area. Without the
2 boat anchorage on the Bay, I will immediately become homeless.

3 33. The conditions portions of the Buyback contract made clear that as soon as I sold
4 the boat and thus became homeless, I would forfeit the boat buy-back payment for failure to comply
5 with the “no homeless” condition in the contract. Therefore, participating in the program would
6 mean I would be left with no boat, no home, and no money under the Buyback Program. I could
7 not and did not agree to that.

8 34. Further, my boat is, in my opinion, worth more than the \$5,250 offered through the
9 Buyback Program. I paid a discount, below fair-market value price of \$6,000 for it years ago
10 because the former owner had to move to Alaska. I cannot acquire another boat like the one I own
11 for \$5,250 or a price in that range.

12 35. Therefore, on October 10, 2022, I sent a letter to the Harbor Master that made clear
13 I would not participate in the RBRA’s boat Buyback Program at this time.

14 36. A few days later, on or about October 14, 2022, I found a notice attached to my boat
15 entitled “Ten Day Notice to Remove Marine Debris.” The notice stated that my boat would be
16 “removed and disposed” of as “marine debris” within 10 days, by October 24, 2022, unless I left
17 the Bay.

18 37. I did not receive any administrative hearing or other opportunity to contest the
19 “marine debris” classification for my boat or the removal/disposal order before its issuance.

20 38. I was not offered just or reasonable compensation if my boat was removed as
21 “marine debris.”

22 39. My boat is not “marine debris.” It is seaworthy and has been used for sea travel on
23 numerous recent occasions, including on November 2, 2022. It has significant monetary value. It
24 is kept in a clean condition and serves as my home.

25 40. Without my boat I will suffer significant hardship. I will have no bed on which to
26 sleep, nor any shower facilities to keep my skin clean from bacteria. I will have no electricity and
27 no ability to charge and use my phone for business and personal matters. As it is almost winter, I
28 will be exposed to cold weather and believe I will be subject to increased arthritis flare-ups.

1 I declare under penalty of perjury that the foregoing is true and correct, to the best of my
2 knowledge. Attested and executed this 11th day of November, 2022, at Richardson Bay, California.


3 
4 DANIEL KNIGHT
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Exhibit B
2020–2021 Photos











Exhibit C







Exhibit D

**Agreement between the Richardson's Bay Regional Agency (RBRA) and
the San Francisco Bay Conservation and Development Commission (BCDC)**

This Agreement is made and entered into by and between the San Francisco Bay Conservation and Development Commission (BCDC or Commission) and the Richardson's Bay Regional Agency (RBRA). The parties to this Agreement are referred to herein individually as "Party" and collectively as "Parties."

Recitals

WHEREAS, the McAteer-Petris Act (Act), Government Code Sections 66600 through 66666, established the San Francisco Bay Conservation and Development Commission as the state agency charged with planning for the long-term use of the Bay; and

WHEREAS, pursuant to the Act, BCDC adopted the San Francisco Bay Plan, which has been amended from time to time consistent with the Act, and which establishes a policy that live-aboard boats should be allowed only in marinas and only if certain other requirements are met; and

WHEREAS, in April of 1984, BCDC, working with a steering committee composed of representatives of the local jurisdictions, finalized the Richardson Bay Special Area Plan to guide actions more precisely in Richardson Bay; and

WHEREAS, the Richardson Bay Special Area Plan includes the following policies regarding residential vessels and floating structures:

- (1) Vessels and floating structures used for residential purposes (i.e., houseboats and live-aboards) should be allowed only in recreational or houseboat marina berths when consistent with and in compliance with local codes, Commission policies, and public trust needs;
- (2) All anchor-outs should be removed from Richardson Bay; and
- (3) A limited number of live-aboards and houseboats should be permitted in existing or new recreational boat marinas provided (a) they are necessarily incidental to the recreational boating use; and (b) they are in compliance with the applicable local government codes, including parking requirements; Bay Commission policies; and policies of the Special Area Plan; and

WHEREAS, despite these policies, anchor-outs, houseboats, and floating homes have remained on Richardson Bay outside of marinas; and

WHEREAS, following adoption of the Richardson Bay Special Area Plan, RBRA was formed in 1985 to locally and jointly manage the waters of Richardson Bay; and

WHEREAS, RBRA was formed as a Joint Powers Agency and is comprised of: County of Marin, City of Mill Valley, Town of Tiburon, and City of Belvedere; and

WHEREAS, from time to time beginning with its formation, RBRA has removed vessels from the anchorage, but the number of vessels increased from 98 in 2008 to a high of 215 in 2014 and decreasing after that; and

WHEREAS, on February 21, 2019, the BCDC Enforcement Committee held a policy briefing and discussion on the local efforts to improve the management of vessels moored in Richardson Bay at which there were presentations on the pertinent State law and policies, from RBRA and from California Audubon on the adverse impacts to eelgrass caused by anchor outs; and

WHEREAS, in July 2019, RBRA's Board of Directors adopted Ordinance 19-1 updating anchoring and enforcement requirements for vessels on Richardson Bay; and

WHEREAS, in September and November 2019, the BCDC Enforcement Committee received a second and third briefing on the Richardson Bay matter directing staff to direct RBRA to develop and implement a management plan to address ongoing anchorage management issues; and

WHEREAS, on December 3, 2019, BCDC transmitted a letter to RBRA setting forth actions BCDC staff expected to be undertaken to address the vessels anchored in RBRA waters including: Initiation of all appropriate actions to remove from RBRA waters all marine debris, unoccupied vessels, unregistered vessels, and vessels occupied by persons who are not able to control the vessels during storm events or vessels that are endangering or threatening to endanger others; Preparation of a plan with timelines to transition all other vessels off the water within a reasonable period; Preparation of a plan for how RBRA will address and resolve the damage to natural habitat in Richardson Bay; and Monthly reporting to BCDC on the status of implementing these actions; and

WHEREAS, on June 11, 2020, RBRA's Board of Directors adopted Resolution Number 05-20, A Transition Plan for the Richardson's Bay Regional Agency Anchorage with a vision, goal, principles, and policy direction for the anchorage. The plan affirms a vision for the bay as a temporary anchorage, while providing a pathway for certain pre-existing eligible vessels that are determined by RBRA to be safe & seaworthy to remain for limited durations of time; and

WHEREAS, in 2020, the BCDC Enforcement Committee received briefings on Richardson Bay. The Committee directed BCDC staff to direct RBRA to implement its anchorage management plan including terms regarding vessel influx management, removal of noncompliant vessels within 5 years, a commitment to cooperate in a regional solution, implementation of eelgrass subtidal habitat restoration and monitoring, ongoing community enrichment and engagement measures, and progress reporting; and

WHEREAS, RBRA retained the environmental consulting firm Coastal Policy Solutions, who with the involvement of stakeholders and other interested parties, drafted an Eelgrass Protection and Management Plan (EPMP); and

WHEREAS, since 2014, RBRA efforts have reduced the number of vessels on Richardson's Bay to 88 as of the date of this Agreement; and

WHEREAS, the parties enter into this Agreement for the sole purpose of setting forth RBRA's and BCDC's agreed-upon next steps for the transition of vessels and environmental efforts on Richardson Bay and does not constitute an admission by RBRA that any of its past acts or omissions were inconsistent with the Bay Plan or the Richardson Bay Special Area Plan, violated the Act or any other law, or otherwise constituted wrongdoing;

NOW, THEREFORE, the RBRA and BCDC do agree as follows:

1. **COVID-19 Pandemic Considerations.** The parties understand that COVID-19 pandemic emergency shelter-in-place restrictions may be in place during this Agreement. RBRA shall not be required to take any action that conflicts with the guidance or orders from federal, state, or local officials. If such guidance or orders prohibit the removal of vessels as required by this Agreement, RBRA may seek extensions of time for vessel removal required in this Agreement.
2. **Richardson Bay Special Area Plan Compliance.** RBRA agrees to comply with and implement the Richardson Bay Special Area Plan (SAP) and the ordinances RBRA has issued pursuant to the SAP, as they may be amended from time to time.
3. **Eelgrass Habitat Protection.** RBRA will finalize its Draft Eelgrass Protection and Management Plan (EPMP) by December 15, 2021, and submit a copy to BCDC. If RBRA selects a boundary for the Eelgrass Protection Zone that is less protective of eelgrass than the alternatives presented in the RBRA's Draft EPMP then BCDC will consider the new boundary and inform RBRA if this Agreement must be amended to prevent the need for further BCDC oversight. Within 60 days of finalizing the EPMP, RBRA shall petition for any federal administrative action necessary to implement the EPMP's anchoring zone and Eelgrass Protection Zone/no-anchoring zone. BCDC agrees to provide letters of support for federal administrative actions consistent with the draft EPMP. RBRA will complete the administrative actions, including updating RBRA's Ordinances for consistency, by December 15, 2023, subject to extensions of time for circumstances beyond its control. Vessels will be removed from the Eelgrass Protection Zone as soon as possible, but moving boats can be done in phases based on consultation with experts selected by RBRA who are well versed in the California Eelgrass Mitigation Policy and its Implementing Guidelines (hereinafter, "CEMP") and its periodic updates. In any event, no vessels will anchor in the Eelgrass Protection Zone after October 15, 2024.
4. **Eelgrass Habitat Restoration.** During 2022, RBRA will initiate active eelgrass restoration studies within the Eelgrass Protection Zone comparing restoration scenarios such as: (1) Passive (no intervention) restoration of scour pits; (2) Restoring the bay bottom grade of scour pits by adding clean dredged sediment without planting eelgrass; (3) Planting

eelgrass in scour pits without first restoring the bay bottom grade of scour pits; and (4) Planting eelgrass in scour pits after restoring the bay bottom grade of scour pits by adding clean dredged sediment. RBRA will report its findings to BCDC.

RBRA will develop a ten-year adaptive management plan for eelgrass restoration in Richardson Bay, and submit a copy to BCDC. RBRA will begin implementing this plan by December 15, 2023. The ten-year adaptive management plan will be consistent with the Bay Plan and the Richardson Bay Special Area Plan; incorporate the best available science on eelgrass habitat restoration & the CEMP and its periodic updates; and the results of RBRA's restoration study scenarios as they are obtained. Restoration work will be done in a phased approach pursuant to the ten-year adaptive management plan. RBRA agrees to pursue grants and other funding to implement the adaptive management plan. RBRA shall implement the ten-year adaptive management plan in a timely manner, notwithstanding any funding shortfalls.

5. **Restoration Collaboration.** BCDC and RBRA agree to collaborate on the reuse of dredged materials from Schoonmaker Point Marina or other local dredging projects for use in eelgrass restoration in Richardson Bay, subject to the Dredged Material Management Office (DMMO) determination that the dredged materials are clean and suitable for this purpose.
6. **Temporary Use of Moorings.** By December 15, 2022, RBRA will install in its anchoring zone (outside of its Eelgrass Protection Zone) approximately 15 to 20 moorings such as those described in RBRA's Ecologically-based Mooring Feasibility Assessment and Planning Study. RBRA will use these moorings temporarily for vessels that relocate from the Eelgrass Protection Zone, vessels that are enrolled in the Safe and Seaworthy program, and other temporary uses as the moorings are installed. RBRA will monitor the moorings to evaluate their effectiveness at protecting subtidal resources and securing vessels. RBRA will report its findings on mooring effectiveness and mooring removal to BCDC. If RBRA wishes to retain these mooring after October 15, 2026, it must apply for and obtain a permit from BCDC. Prior to that date, this Agreement is sufficient authorization for RBRA's installation of these moorings; BCDC agrees that it will not pursue any enforcement action claiming or imposing any further permit or other authorization requirement related to such installation.
7. **Prevention of Future Subtidal Habitat Damage.** RBRA shall prevent future subtidal habitat damage by identifying and undertaking all necessary and proper measures to ensure (1) that no new vessels anchor in the Eelgrass Protection Zone after December 15, 2021; and (2) that only seaworthy vessels, as defined in RBRA's Transition Plan and with standard removable marine anchoring equipment, are allowed to anchor in the anchoring zone after October 15, 2026. If subtidal habitat damage is caused by vessels relocated from the Eelgrass Protection Zone to the anchoring zone before the ten-year adaptive management plan for eelgrass restoration is implemented, RBRA will take necessary measures to halt the damage and restore habitat conditions within a

reasonable timeframe as determined by qualified scientists selected by RBRA. Subtidal habitat damage that occurs after the ten-year adaptive management plan is implemented will be restored pursuant to the provisions of the ten-year adaptive management plan, and/or the Bay Plan and SAP, as applicable.

8. **Housing.** BCDC supports RBRA's efforts to continue to connect vessels' occupants with outreach agencies and organizations for assistance with finding shelter and encourages expansion of shelter and housing opportunities. BCDC commits to considering (1) proposals to increase the percentage of affordable marina slips available for vessels described in this agreement or their occupants for temporary discrete time periods; and (2) minor permit applications to build affordable live-aboard slips at existing Richardson Bay marinas. RBRA will provide quarterly reports to BCDC to include non-confidential information received from outreach agencies, organizations and local entities that RBRA is collaborating with related to shelter and housing opportunities and the status of housing efforts as it relates to removing all vessels described in this agreement and their occupants from Richardson Bay by October 15, 2026.

9. **Management of Vessels Arriving on the Richardson Bay Anchorage After August 2019.** All illegally anchored vessels on Richardson Bay that arrive after August 2019 will be removed along with their ground tackle no later than October 15, 2023. RBRA shall undertake reasonable efforts to prevent continued importation of derelict vessels into Richardson Bay for permanent anchorage. These efforts shall include, if warranted, legal actions against individuals involved in this activity. RBRA shall report these efforts to BCDC on a monthly basis. *As of the date of the signing of this agreement there were approximately 20 vessels in this category.*

10. **Management of Vessels on the Anchorage Before August 2019.** All illegally anchored vessels present on the anchorage before August 2019 will be removed from the anchorage no later than October 15, 2026 as outlined below. *As of the date of the signing of this agreement, there were approximately 68 vessels in this category.*
 - a. **Unoccupied Marine Debris and Other Vessels.** All unoccupied marine debris vessels and their ground tackle/moorings will be removed by October 15, 2021.

 - b. **Floating Homes.** No later than October 15, 2023, the floating homes located offshore from the Waldo Point Harbor houseboat marina and all associated ground tackle/moorings will be removed from Richardson Bay and either legally disposed of or relocated to a legal berth at an authorized houseboat marina in accordance with all applicable local, state and federal laws.

 - c. **Occupied Vessels without Safe and Seaworthy Status.** Occupied vessels that failed to enroll in the Safe and Seaworthy Program shall be subject to immediate removal with their ground tackle/moorings and all vessels shall be removed no later than October 15, 2024.

- d. **Occupied Vessels with Safe and Seaworthy Status.** The occupied vessels that enrolled in the Safe and Seaworthy Program and are maintained in a seaworthy condition shall be removed no later than October 15, 2026. Vessels and their ground tackle/moorings enrolled in the Safe and Seaworthy Program that are not maintained in a seaworthy condition shall be subject to immediate removal.
- 11. **Ground Tackle/Moorings.** Removal of ground tackle/moorings will be consistent with the CEMP and its periodic updates, as well as area-specific research as to what ground tackle will be removed, when it will be removed, and how it will be removed.
- 12. **Extensions of Time for Vessel Removal.** The RBRA and BCDC agree that so long as the overall rate of vessel removal remains consistent with the rate specified in this agreement, RBRA may elect, after consultation and approval from BCDC, to delay, to a date not to exceed October 15, 2026, removing specific vessels or individuals from the anchorage when additional services or resources are necessary to protect the health and safety of vessel occupants. Otherwise, the time periods set forth above for removal of occupied vessels shall be extended only for good cause. For purposes of this agreement, good cause may include (1) local, state, or federal orders related to pandemics or emergencies that preclude RBRA from implementing this agreement; (2) the issuance of any court order precluding the RBRA from complying with the terms of this agreement; and (3) any other factor outside RBRA's control that RBRA and BCDC agree could not have been reasonably foreseen at the time this agreement was signed.
- 13. **Commitment to Cooperation in Actions that Promote a Regional Solution to Issues Surrounding Unauthorized Vessels in Richardson Bay.** The RBRA shall:
 - a. Participate in regional efforts to address unauthorized vessels and identify housing alternatives for occupants of anchor-out vessels.
 - b. Continue to connect persons living on vessels with outreach agencies and organizations that provide assistance with finding upland housing.
 - c. Encourage expansion of housing opportunities consistent with the policies laid out in the RBRA's Transition Plan.
- 14. **Waiver.** The failure of a Party to insist upon strict adherence to any term of this Agreement on any occasion shall not be considered a waiver nor shall it deprive such party of the right to insist upon strict adherence to that term or any other term of this Agreement. Any waiver must be in writing signed by the waiving Party.
- 15. **Reporting Requirements.** In addition to any reporting requirement specified above, RBRA will provide the following reports to BCDC:

- a. **Monthly reports**, provided to BCDC staff by the 12th of each month, discussing:
 - i. **Vessel metrics.** The number, type, category, and condition of registered and unregistered vessels entering, leaving, and currently anchoring in Richardson Bay; the number of anchoring permits RBRA has issued and any permits not adhered to; the number of moorings installed and their use; the amount of ground tackle/moorings removed or left behind and how this complies with CEMP; and the number of vessels removed or moved pursuant to this agreement by category .
 - ii. **Eelgrass metrics.** Progress and results from restoration studies in the Eelgrass Protection Zone; progress on completing and implementing the 10-year adaptive management plan and how it meets the minimum requirements of the CEMP (including goals, performance standards, monitoring performance milestones, and contingency plans); findings on effectiveness of temporary moorings and their removal; new subtidal habitat damage and the RBRA's response.
 - iii. **Housing metrics.** No monthly reporting requirements.
 - iv. **Governance metrics.** BCDC's long term expectation is that the anchorage will be available to seaworthy, self-propelled vessels subject to periodic inspection. As the RBRA works towards meeting this long-term expectation the following information will be included in its governance metrics. Progress implementing the no-anchoring zone; the number of illegal anchor outs in the no-anchoring zone and in Richardson Bay; Efforts to reduce the number of illegal anchor-outs and their effectiveness; The number of vessels attempting to anchor in the no-anchoring zone; RBRA's cooperative efforts to address illegal anchor-outs and eelgrass restoration; Any changes in RBRA membership, staffing, or funding; any water quality monitoring results; Any debris and flotsam clean-up data; and any anticipated requests for extension of time.

- b. **Quarterly reports**, provided to BCDC's Enforcement Committee. RBRA staff commits to attend the Committee meeting and address any questions regarding the reporting. Quarterly reports will discuss all the above reporting requirements, and:
 - i. **Vessel metrics.** RBRA's efforts to prevent importation of derelict vessels into Richardson Bay; whether RBRA is on pace to meet the obligations of this agreement.
 - ii. **Eelgrass metrics.** RBRA's acquisition of restoration funds and how RBRA will address projected budget surplus and/or deficits; progress on the beneficial reuse of dredged materials; effectiveness of eelgrass restoration planning and implementation.
 - iii. **Housing metrics.** As described in Section 8.
 - iv. **Governance metrics.** As above.

- c. **Annual Reports**, provided to the BCDC Commission. RBRA staff commits to attend the Commission meeting and address any questions regarding the reporting. The annual report will summarize the results of the monthly and quarterly reports, and RBRA's progress towards implementing this agreement by the October 15, 2026 deadline for the removal of all illegally anchored vessels.
16. **Reservation of Rights.** The Executive Director and the Commission reserve the right to take appropriate enforcement action in the event of any failure by the RBRA to comply with the terms of this Agreement. No less than 30 days prior to issuing a Violation Report regarding compliance with this Agreement, BCDC will give written notice to the RBRA or, as appropriate, Marin County or the other member agencies, of such failure under the Agreement and the Parties will meet informally in an effort to resolve the issue without the necessity of commencing a formal enforcement action.
17. **Authority.** Each Party has the full and complete authority to execute this Agreement as set forth below. The Parties further warrant and represent that the individuals executing and delivering this Agreement have the full and complete authority and capacity to execute this Agreement.
18. **Mutual Release.** Execution and delivery of this Agreement and implementation of the terms herein constitutes a full and complete satisfaction of all claims and demands by BCDC against RBRA related to the failure to prevent Bay fill through permanent houseboats and anchor-out vessels through October 15, 2026. BCDC hereby agrees not to pursue additional enforcement related to this failure through October 15, 2026.
19. **No Admission of Liability.** This Agreement does not constitute an admission by RBRA of any violation of federal, state, or local law, ordinance or regulation or of any violation of RBRA's policies, procedures or ordinances, or of any liability or wrongdoing whatsoever. Neither this Agreement nor anything in this Agreement shall be construed to be or shall be admissible in any proceeding as evidence of liability or wrongdoing by RBRA. Nothing in this agreement constitutes mitigation required because of RBRA acts or omissions. BCDC agrees to provide letters of support for any grant applications RBRA submits to fund activities specified in this Agreement stating that this Agreement does not constitute legally required mitigation for RBRA's acts or omissions. This Agreement may be introduced, however, in any proceeding to enforce the Agreement.
20. **Governing Law.** This Agreement shall be governed by, interpreted, and construed in accordance with the laws of the State of California.
21. **Effective Date.** This Agreement is effective on the date it is signed by the representatives authorized to sign for the Parties.

Richardson's Bay Regional Agency

San Francisco Bay Conservation
And Development Commission

Stephanie Mouton-Peters, Board Chair

Lawrence J. Goldzband, Executive Director

Attachments:

- Transition Plan for the Richardson's Bay Regional Agency Anchorage
- Ecologically-based Mooring Feasibility Assessment and Planning Study by Merkel & Associates
- Draft Eelgrass Protection and Management Plan
- Photo image of each floating home and aerial image of their locations
- Current California Eelgrass Mitigation Policy and its Implementing Guidelines

Exhibit E



FOR IMMEDIATE RELEASE:

September 1, 2022

MEDIA CONTACT:

will@lh-pa.com

415-420-0905

**FIRST FOUR PAYMENTS DELIVERED TO BOAT OWNERS AS PART
OF RICHARDSON BAY REGIONAL AGENCY'S VESSEL
BUYBACK PROGRAM**

*Initiative incentivizes boat owners to transition aging vessels out of
environmentally sensitive waters*

Sausalito, CA—The [Richardson Bay Regional Agency](#) (RBRA) has delivered the first four checks to boat owners as part of the agency's Vessel Buyback program, which incentivizes removing anchored vessels from environmentally sensitive waters.

Adopted in June by the RBRA Board of Directors, the Vessel Buyback program offers eligible participants money based on the length of their boat (\$150 per foot) to move their vessels off an established [Eelgrass Protection Zone](#) (EPZ) and other parts of Richardson Bay. The program also conforms with an [Agreement](#) reached between the RBRA and the Bay Conservation and Development Commission (BCDC), which calls for removal of all illegally anchored vessels from Richardson Bay by October 2026.

"The checks delivered today are proof that we can work collaboratively with boat owners on a solution that benefits of all Richardson Bay," said RBRA Interim Executive Director Steve McGrath. "By reducing the number of boats anchored out on the water, this program will improve the health and safety of the Bay habitat, while providing greater opportunities for public recreation and increased access to the Bay for all residents. And we are offering often times better than fair value to boat owners as a way of recognizing their connection with these vessels."

Under the terms of the Vessel Buyback program, the three boat owners received 80 percent of their total payout today. The remaining 20 percent will distributed to the participants within 60 days provided they have complied with all of the guidelines of the program. The four vessels turned in measured 37, 30, 24 and 22 feet in length, meaning the owners are due to receive a total of \$5,040, \$4,650, \$3,600 and \$3,240 respectively. Additionally, a 47-foot sailboat was purchased by the RBRA via the Vessel Buyback Program which will merit a future payout of \$7,050. That check is slated to go out next week.

Rather than relying on enforcement to remove vessels, the Vessel Buyback program incentivizes vessel or floating homeowners to transfer their property to the RBRA. The RBRA will then dispose of the vessels at no cost to the owner.



There are approximately 66 vessels and floating homes anchored in Richardson Bay, in violation of RBRA regulations, which stipulates all boats have a maximum allowable stay of 72 hours. The overwhelming majority of the vessels are in the EPZ, which was established to protect the eelgrass ecosystem.

Eelgrass is a foundational element of Richardson Bay. It protects the Bay from the impacts of climate change, reduces erosion, stabilizes the shoreline and acts as a critical support function for local fisheries, waterbirds, harbor porpoises, sea lions and other marine creatures.

Anchors, chains, and other ground tackle scrape along the bay bottom, acting like a lawn mower for all plants living there. This creates “crop circles,” or barren areas where no eelgrass can grow. There is a large area of Richardson Bay without eelgrass cover that has been designated for boat anchorage.

In addition to protecting the eelgrass environment, the Vessel Buyback program will help RBRA meet the terms of its Agreement with BCDC. Under that pact between the two agencies overseeing Richardson Bay in southern Marin County, only seaworthy vessels will be allowed to anchor on a temporary basis in the Bay after October 2026.

###

The Richardson Bay Regional Agency (RBRA) is a local government agency serving Belvedere, Mill Valley, Tiburon, and unincorporated Southern Marin. RBRA is dedicated to maintaining and improving the navigational waterways, open waters, and shoreline of Richardson Bay.

Exhibit F

RICHARDSON BAY REGIONAL AGENCY VESSEL BUY BACK PROGRAM PAYMENT CONDITIONS

Below are the Terms and Conditions for participation in the RBRA Vessel Buy Back Program. Participants MUST comply with all of the following conditions for final payment of buy back (final 20% of funds) at the 60 day mark post vessel surrender.

Any failure to abide by these conditions prior to 6 months from first payment will result in failure to receive final 20% payment, as well as legal proceedings to recoup funds already distributed for buy back.

Any failure to follow these conditions after 100% of funds have been distributed will result in legal proceedings to recoup all funds previously distributed.

1. Future compliance with RBRA regulations for any temporary anchoring, such as the 72-hour time limit and only seaworthy vessels, unless otherwise expressly provided for in the agreement when an allowance is made by RBRA for relocating to a vessel outside the Eelgrass Protection Zone (EPZ). In any event, mariner must agree to comply with no anchoring in the EPZ.
2. No attempt to recover any vessels or floating homes not yet abated/demolished, either their own or those of others.
3. No new overnight presence by the vessel owners or occupants in any encampment or other outdoor area in the City of Sausalito, San Rafael, or Novato.
4. If the recipient of funds is surrendering a vessel that, is, at the time of surrender, occupied, recipient must show proof of residence for all occupants in a legal, liveaboard slip in a marina, or at an address on land.
5. Consent to hold harmless RBRA and those working on its behalf, including any disputes of vessel/floating home ownership and eligibility to receive buyback payments.
6. Failure to comply with conditions may expose program payment recipients to subsequent actions by RBRA, including but not limited to payment recovery.

J. Payment recipients:

Direct payment of funds will be made to the registered owner, verified responsible occupant(s), or other responsible party.

K. Payment Timing:

1. Initial payment: An initial amount of 80% of the buyback payment will be made available within 30 days of completion of initial vessel turn in actions, which include:
 - a. Vessel or floating home is turned in to RBRA by the owner/responsible party.

GENERAL RELEASE AND COMPROMISE AGREEMENT

THIS GENERAL RELEASE AND COMPROMISE AGREEMENT is made by Daniel L. Knight, on behalf of himself/herself/themselves and past and present partners, principals, employees, agents, servants, attorneys, insurers, representatives, affiliates, successors, heirs and assigns (collectively hereinafter referred to as VESSEL OWNER) with Richardson's Bay Regional Agency (RBRA), and any and all employees, independent contractors, contract employees, agents, personnel, officers or elected officials who are now or have been employed by or served for the RBRA whether known or unknown and whether or not involved in the incident or named in the suit for damages referred to below, all of which entities and persons are hereinafter referred to as the RBRA.

WHEREAS, RBRA entered into an Agreement with Bay Conservation and Development Commission in August 2021 _____ that requires RBRA to remove all vessels and floating homes (collectively hereinafter referred to as VESSELS) in Richardson Bay by certain dates, but in any circumstance, no later than October 15, 2026;

WHEREAS, on June 16, 2022, to alleviate enforcement costs associated with carrying out the obligations set forth in the Agreement, RBRA adopted a Buy-Back Program to encourage individuals who had VESSELS anchored in Richardson Bay to voluntarily turn in their VESSELS in exchange for compensation;

WHEREAS, OWNER's VESSELS, a 1973 Coronado S/V, with CF # CF5067FE, (VESSEL) has been anchored in Richardson Bay since _____;

WHEREAS, RBRA alleges that the VESSEL is illegally anchored in violation of RBRA ordinances and (if applicable, RBRA further alleges that the VESSEL is marine debris as set forth in Harbors and Navigations Code sections 550 and 551);

WHEREAS, VESSEL OWNER has applied to RBRA to participate in the Buy-Back Program;

WHEREAS, RBRA has determined that the VESSEL OWNER and VESSEL meet the requirements to participate in the Buy-Back Program.

NOW, THEREFORE, RBRA and the VESSEL OWNER agrees as follows:

1. PAYMENT. RBRA has determined, and VESSEL OWNER agrees, that the VESSEL is 35 linear foot measured at the waterline and RBRA has agreed to pay VESSEL OWNER \$150/linear foot based on this measurement for the voluntary turn-in of the VESSEL subject to the terms set forth in this Agreement.

RBRA agrees to pay VESSEL OWNER \$ 5,250.00 pursuant to the terms set forth in this Agreement in two installments. RBRA will make an initial payment to VESSEL OWNER of eighty percent (80%) of the total amount due or \$4,200.00 after receipt of the following:

- a. Fully executed copy of this Agreement;
- b. Vessel is turned into RBRA by the VESSEL OWNER; and
- c. VESSEL OWNER fills out and returns to RBRA fully executed Voluntary Turn-In Program (VTIP) form, if applicable, which shall be attached to this Agreement as Exhibit A.
- d. Documentation that sufficiently provides that VESSEL OWNER is housed for purposes of meeting the requirements set forth in the Buy-Back Program, which shall be attached to this Agreement as Exhibit B.

RBRA will make the second and final payment of twenty percent (20%) of the total amount due or \$ 1,050_ sixty (60) days after the first payment if the VESSEL OWNER has complied with the terms of this Agreement.

2. VESSEL RETURN. VESSEL OWNER agrees that he/she/they will within 5 days of the date of execution of this Agreement turn their VESSEL into RBRA staff for immediate removal from Richardson Bay and agree to permit RBRA to destroy the VESSEL.

3. VESSEL OWNER REPRESENTATION. VESSEL OWNER agrees that he/she/they will comply with all federal, state and local laws, including RBRA ordinances, which includes the 72-hour requirement for anchoring in Richardson Bay. VESSEL OWNER agrees that he/she/they will not bring any new vessel or return any vessels to Richardson Bay or any Marin County waters unless the vessel is seaworthy, registered in VESSEL OWNER's name, and complies with all RBRA ordinances, including the 72 hour requirement or has a legal permit.

4. PAYMENT RECOVERY. VESSEL OWNER understands that failure to comply with the conditions set forth in this Agreement may subject the VESSEL OWNER to an action for breach of this Agreement, including recovery of all funds expended by RBRA, and any other actions permissible by law.

5. RELEASE. VESSEL OWNER hereby releases and forever discharges RBRA from any and all claims, demands, causes of action, damages and liabilities of any nature whatsoever, whether or not now known, suspected or claimed, including but not limited to claims for personal injuries, property damage and violations of civil rights which VESSEL OWNER ever had, now has, or claims to have against

RBRA arising out of VESSEL OWNER's anchoring of this VESSEL or any prior vessel that VESSEL OWNER had anchored in Richardson Bay prior to the execution of this Agreement.

6. RBRA TO BE HELD HARMLESS. VESSEL OWNER shall defend, indemnify, and hold harmless RBRA, its agents, officers and employees from and against all claims, suits, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney fees arising out of, or resulting from losses to anyone who may be injured or damaged by reason of the omissions, willful misconduct, negligence or wrongful acts of VESSEL OWNER, including but not limited to any disputes related to VESSEL ownership.

7. COVENANT NOT TO SUE. VESSEL OWNER hereby covenants and agrees never to commence, assist in any way, prosecute or cause, permit or advise to be commenced or prosecuted against RBRA any action at law, suit in equity, or other proceeding based upon any claims, demands, causes of action, obligations, damages or liabilities of any nature whatsoever, including actions by insurance companies, whether or not now known, suspected or claimed, which VESSEL OWNER ever had, now has, or hereafter may have or claims to have against RBRA arising out of the VESSEL referred to and described in this Agreement or any prior vessel that VESSEL OWNER had anchored in Richardson Bay prior to the execution of this Agreement.

8. WAIVER UNDER CIVIL CODE SECTION §1542. VESSEL OWNER hereby waives the provisions of §1542 of the Civil Code of the State of California, which reads as follows:

EXECUTED on this _____ day of _____, at _____,
California.

Name (print) _____

Signature _____

INCORPORATION OF EXHIBITS. The Exhibits identified in this Agreement
are hereby incorporated by reference and made a part of this Agreement.
10. ENTIRE AGREEMENT. This Release, the Compromise Agreement and the
Exhibits contain the entire agreement between the parties hereto. The terms of this
Agreement shall be binding on the parties and not a mere receipt. None of the parties
represents, warrants, or makes any statement, representation, or warranty in connection herewith, except as expressly
set forth herein, which has been made known by the other parties or which acted as
an inducement for the execution of this Agreement. The undersigned
has carefully read the contents of this Release and signs the same

RICHARDSON BAY REGIONAL AGENCY VESSEL BUY BACK PROGRAM PAYMENT CONDITIONS

b. The Voluntary Turn-In Program (VTIP) form, required for abatement and disposal of the vessel, is completed and signed by the owner/responsible party of the vessel. This form may not be applicable to floating homes.

c. The RBRA Buyback Program Agreement is signed by the vessel or floating home owner/responsible party and RBRA.

2. Second final payment. A second and final amount of 20% of the program payment will be made available after 60 days following the vessel or floating home turn in only if the vessel/floating homeowner or occupants have complied with the terms of the RBRA Buyback Program Agreement. Failure to comply with terms of the agreement will cause the final payment to be suspended, reduced, or eliminated, and potential action by RBRA to seek recovery of payment.

Vessel Name: _____

Vessel C# (if applicable): _____

Responsible Party Name: _____

Responsible Party Signature: _____

Vessel Owner Name (if additional owner)	
Address	
City, State, Zip	
Phone	
Email Address	
CDL #	

Vessel CF #	
Make	
Type	
Length	
Color	
Vessel Location	

Vessel owner signature

Date

Vessel owner signature

Date

Witness signature

Date

SAVE AGENCY USE ONLY

Agency Name: _____

Proof of ownership documentation provided (minimum one of the following):

- ☐ Signed Certificate of Ownership (DMV Pink Slip)
☐ Completed and signed Pre-Printed DMV form 138 – Title Transfer
☐ DMV registration
☐ DMV issued Junk slip
☐ Power of Attorney/Executor – Death Certificate
☐ Marina Lien Documents
☐ Coast Guard – Documented Vessel

Authorized City or County Agency Representative Signature

Date

Printed Name

Surrendered Vessel Turn-in ProgramVessel Release of Interest and Ownership

To Whom It May Concern:

1) I/we _____
(owner(s) name(s)) hereby release all interest in the vessel listed below. I/we do not have the funds or means to remove my/our vessel.

2) I/we authorize the Richardson Bay Regional Agency
(accepting agency) to take possession of my vessel, and to abate it.

3) I/we certify that I am/we are the sole owner(s) of the vessel, and I am/we are authorized to release interest and ownership of the vessel to the Richardson Bay Regional Agency (agency).

4) I/we hereby agree to forever release and discharge the State of California and the Richardson Bay Regional Agency, and their officers, employees, and agents from any and all liabilities, claims, demands, or causes of action that any person, firm, corporation or entity may hereafter have for any injury, damage, expense, or loss to person or property arising out of the removal and destruction of this vessel.

5) I/we hereby agree that I/we am/are responsible and legally liable for any and all outstanding debts, fees, rents, leases or taxes owed against this vessel for any reason, and that the State of California and the Richardson Bay Regional Agency (agency) assume no liability or responsibility therefor.

6) Complete the following information and sign and date the following page.

Vessel Owner Name	
Address	
City, State, Zip	
Phone	
Email Address	
CDL #	

Vessel Owner Name (if additional owner)	
Address	
City, State, Zip	
Phone	
Email Address	
CDL #	

Vessel CF #	
Make	
Type	
Length	
Color	
Vessel Location	

Vessel owner signature

Date

Vessel owner signature

Date

Witness signature

Date

SAVE AGENCY USE ONLY

Agency Name: _____

Proof of ownership documentation provided (minimum one of the following):

- ☐ Signed Certificate of Ownership (DMV Pink Slip)
☐ Completed and signed Pre-Printed DMV form 138 – Title Transfer
☐ DMV registration
☐ DMV issued Junk slip
☐ Power of Attorney/Executor – Death Certificate
☐ Marina Lien Documents
☐ Coast Guard – Documented Vessel

Authorized City or County Agency Representative Signature

Date

Printed Name

RICHARDSON BAY REGIONAL AGENCY VESSEL BUY BACK PROGRAM

APPLICANT	
NAME	LAST FIRST
ADDRESS	
CITY, STATE, ZIP	
VESSEL NAME / C/P #	
VESSEL LENGTH	FEET
VESSEL OCCUPIED	Y N
IF OCCUPIED, ADDRESS OF APPLICANT AFTER SURRENDER OF VESSEL (IF DIFFERENT FROM AB	
ADDRESS	
CITY, STATE, ZIP	

By signing this application, I, the undersigned, agree with all the terms and conditions of the RBRA Buyback Program, and to obey all RBRA regulations regarding the anchorage. I understand that failure to follow the terms of the agreement or RBRA regulations may subject me to legal action and recover funds paid to me and additional civil or criminal penalties.

SIGNATURE	DATE
-----------	------

FOR RBRA USE

DATE APPLICATION RECEIVED	VESSEL ELIGIBLE	VTIP PAPERWORK COMPLETE
Y N	Y N	Y N
LENGTH VERIFIED	Y N	

ELIGIBLE FIRST PAYMENT (x \$150 x 80%)	ELIGIBLE SECOND PAYMENT (x \$150 x 20%)
DATE MADE - DATE	DATE MADE - DATE

Exhibit G

Sausalito's houseboat wars: Decades of bay battles

BILL VAN NIEKERKEN Sep. 6, 2016 Updated: Sep. 8, 2016 10:41 a.m.

[Bill Van Niekerken](#) Sep. 6, 2016

This is a carousel. Use Next and Previous buttons to navigate

Homes • Gardens • Travel • Autos • Photography • Recreation • Puzzles

THE WORLD OF
Leisure
SAN FRANCISCO CHRONICLE, SUNDAY, AUG. 12, 1951 PAGE 11



SAUSALITO'S SALTWATER SUBURB

The piers along the Sausalito waterfront are cluttered with an amazing assortment of floating structures—old potato barges, schooners, fireboats, sub chasers and ferries—and a few waterborne curios that are not as readily describable. From early vintage riverboats to the rusting hulls of wartime landing craft, they might be a nautical graveyard, but for the white wash flapping from the rigging and the warm orange lights of that glow from port-holes and windows at night.

In Sausalito, people live on anything that floats, and even a few hulls that have sighed and settled to the shallow, muddy bottom. Some live there because it's cheap, others because it's "arty" and some because they like the water and the way it rocks them to sleep. It means no land taxes, a dollar a month for water and \$15 or \$20 for

Continued on Page 7, Col. 7



TWO QUONSET HUTS—stacked—serve as the unique residence of Douglas Short, San Quentin parole officer. It has bedrooms above, living room below, barge hull.



ARTIST JEAN VARDA stands at his studio, fireplace of brick, mortar and bottle ends on board the ferryboat "Vallejo." An exuberant 58 years, he has been portraitist, ballet dancer, is now known for his abstractionist collages.



THE "SOUTH SHORE," a fat-beamed potato boat, was built over by the Merrill family for use as a week-end retreat, with a small "rental unit" in the bow.



PIER NO. 1 in the yacht harbor is lined with pleasure boats and floating homes. Left to right: balloon barge, the "Lassen," "South Shore," converted landing craft and another balloon barge. Belvedere and Tiburon are in distance.

LOYOLA FOURTANE, creator of modern jewelry, surveys the harbor from the bridge of the "Lassen," lumber schooner converted into four artists' workshops. Her studio is up steps in wheelhouse, her sitting room in captain's cabin.

6of48The August 12, 1952 Leisure section of the Chronicle featured an article on houseboats of Sausalito

For decades, a battle in the bay raged between Sausalito houseboat dwellers and government agencies.

During a recent visit to Sausalito, I was taken with the charming vessels bobbing along the shore of the tiny town at the northern end of the Golden Gate Bridge. After returning to work at 901 Mission St., I headed to The Chronicle's subterranean archive in search of articles, photos and pages that told the history of the houseboats. My search turned up a clear theme: years of conflict.

One of the earliest stories I found was a photo essay that ran in the Sunday Leisure section on Aug. 12, 1951. According to the article: "The Sausalito piers are cluttered with an amazing assortment of floating structures — old potato barges, schooners, fireboats, sub chasers and a few other waterbourne curios that are not readily describable.

"In Sausalito people live on anything that floats. Some live there because it's cheap, others because it's 'arty' and some because they like the water and the way it rocks them to sleep."

For nearly as long as folks have been converting boats into floating homes, officials have been aiming to regulate them. On Dec. 12, 1952, Sausalito City Attorney John Ehlen announced that the houseboats were floating atop the tidelands' undeveloped underwater streets and would be required to move.

These streets didn't actually exist, but the city of Sausalito had plans — and names — for when this part of the bay would be filled. Ehlen also said the houseboats would have to hook up with the new Ross sewage system. The houseboats, as well as the city of Sausalito, were at that point dumping raw sewage into the bay.

Gross.

Efforts to regulate the houseboats and lawsuits supporting the vessels were still going strong on March 1, 1959, when Ehlen made a bold proclamation.

"We've done so much barking, they think we're kidding," he said. "We're not kidding.

"On Monday, I'm ordering all 120 of those boats vacated. If they don't leave, water, gas and electric services will be cut off."

Most of the hookups were done without city permission, so "that means they're illegal, and we can take action," he said.

One of the houseboat residents summed up the opposing view succinctly: "We represent one of the last vestiges of the Sausalito that was. The Hill snobs have always fought the Wharf Rats, but I never thought they would go this far."

There would be more delays, court battles and innumerable skirmishes on the shoreline between police and residents. On June 5, 1971, however, tensions exploded.

The Coast Guard and Marin County Sheriff's Department arrived on two cutters to tow away a few houseboats. They were met by an armada consisting of a Chinese junk, a canoe, a couple of sailboats, and several rowboats, put-puts and tugs crewed by houseboat residents and their friends.

The defenders would prevail that day, but many more skirmishes and court rulings over the next three decades would change the face of Sausalito's shores.

Some court rulings, however, went the way of the houseboat dwellers, and in 2006, legislation dealt with the issue of boats not being allowed over underwater streets.

The county had often argued that the undeveloped streets were public trust

lands intended for public benefit, but SB1701 by state Sen. Carole Migden, D-San Francisco, solved the quandary with a land swap. Peace and stability, for the most part, was attained — not by moving the houseboats, but by moving the underwater streets.

Bill Van Niekerken is the library director of The San Francisco Chronicle, where he has worked since 1985. In his weekly column, From the Archive, he explores the depths of The Chronicle's vast photography archive in search of interesting historical tales related to the city by the bay.

Exhibit H

RICHARDSON BAY JOINT EXERCISE OF POWERS AGREEMENT

THIS AGREEMENT, made and entered into this 5 day of October 2000, by and between the COUNTY OF MARIN, a political subdivision of the State of California, hereinafter referred to as "COUNTY", and the CITIES OF BELVEDERE, MILL VALLEY, SAUSALITO and TIBURON, municipal corporations of the State of California, hereinafter referred to as "CITIES".

WITNESSETH:

WHEREAS, COUNTY and CITIES have jointly prepared and adopted the Richardson Bay Special Area Plan (with minor modifications as it applies to Sausalito) which sets forth policies and recommendations for the waters of Richardson Bay, portions of which fall within the jurisdictions of each of the CITIES and the COUNTY; and

WHEREAS, COUNTY and CITIES believe that the mutual exercise of certain functions within the waters of Richardson Bay would be beneficial to all parties; and

WHEREAS, COUNTY and CITIES are public entities of the State of California authorized under California law to provide police, fire and other governmental services to the inhabitants and property owners located upon and along Richardson Bay, as more particularly depicted on Exhibit "A", attached hereto and by this reference incorporated herein; and

WHEREAS, Chapter 5 of Division 7 of Title 1 of the California Government Code (commencing with Section 6500) authorizes agreements for the provision of services to the residents and property owners upon and along the area depicted on Exhibit "A" so as to maximize cost savings and to coordinate the efforts on this valuable resource;

NOW, THEREFORE, in consideration of the mutual promises and covenants hereinafter contained, the parties hereto do hereby agree as follows:

1. There is hereby created a public agency to be known as the Richardson Bay Regional Agency as a separate legal entity formed pursuant to the provisions of Article 1, Chapter 5, Division 7, Title 1 of the California Government Code relating to the joint exercise of powers common to public agencies, and for the purposes of this Agreement Agency is a public entity separate from the parties hereto.
2. The governing body of the Agency shall be constituted of five (5) members, one to be selected by the Board of Supervisors with respect to the COUNTY representative, and one to be selected by each City Council with respect to the representative of each of the CITIES. Such member appointed shall be a member of the Board of Supervisors or City Council and shall serve at the pleasure of such governmental body. The governing body shall elect from its own members a Chairman and Vice Chairman whose terms of office shall be two years. The Chairman and Vice Chairman may not be reelected to a second consecutive term in the same office. An alternate may be appointed by each member jurisdiction and such alternate may act for the member jurisdiction in the absence of the regular member of the governing body.
3. The members shall each have one vote in all matters brought before the Agency provided, however, that on any matter affecting any member CITY or COUNTY a no vote from the member of the affected CITY or COUNTY shall prohibit the Agency from taking the proposed action within the affected jurisdiction's boundaries. The no vote provided for in the precedent sentence may be cast by a member within thirty (30) days of notice of the proposed action. In the event a no vote is not cast in such period it shall be deemed waived.

4. A majority of the members of the governing body constitute a quorum for the transaction of business. No act of the governing body shall be valid or binding unless a majority of all the members concur therein.
5. The Agency shall not have any powers over any uses, zoning or subdivisions on any area within the boundaries of its member jurisdictions.
6. The governing body shall maintain and implement those provisions of the Special Area Plan (which consists of a diagram or diagrams and text containing a description of the needs and goals of the region and statement of policies and goals for the Richardson Bay area) relative to:
 - a. Mooring, dredging and navigational channel implementation including but not limited to the establishment and enforcement of permitted anchorage zones, navigational channels and fairways plans and similar activities.
 - b. Public services and facilities which by the nature of their function, size, extent and other characteristics are necessary or appropriate for inclusion in the Special Area Plan. Such facilities and services may include, but are not limited to, water based police and fire protection, sewage pump-out facilities for vessels, enforcement of a vessel sewage no discharge area when given authority by the Environmental Protection Agency, and public docks or moorings.
7. On or before May 1 of each calendar year the Agency shall establish the amount of money necessary to support its activities for the next succeeding fiscal year commencing July 1 of that year provided, however, that the opportunity to exercise a "no" vote contained in Section 3 hereof shall be given each member prior to

May 1. The parties shall contribute to the Agency among the parties hereto as follows:

<u>Agency</u>	<u>Percentage Share</u>
County	42.5%
Sausalito	35%
Tiburon	10%
Mill Valley	5%
Belvedere	7.5%

Increases in agency revenue in keeping with the cost distribution formula may be changed by a resolution of the governing board of all member jurisdictions. (Per amendment adopted 1997 by all parties.)

8. Clean-up of pre-existing conditions in the Bay shall be the responsibility of the individual jurisdictions. This includes costs of legal action taken by the individual members. Coordination of this clean-up activity is essential to the success of this Agreement.
9. Following establishment and funding of the Agency, Agency shall have power to enforce such regulations to accomplish the provisions of paragraph 6 of this Agreement as it may adopt from time to time. Costs of such enforcement shall be borne by the Agency including necessary legal costs. The RBRA Harbor Administer is designated to enforce agency ordinances and regulations including the issuance of citations for infractions in violation of RBRA Ordinances which include but are not limited to the violations listed in "Exhibit C", attached hereto and by this reference incorporated herein. (Amendment adopted 1999 by all parties).

10. The Agency shall have the power to issue citations and perform other enforcement actions in the name of the Agency.
11. The Agency shall fix and collect reasonable fees for services rendered by it from persons other than its member jurisdictions.
12. The Agency shall be strictly accountable to any party for all funds paid by them to the Agency and shall be strictly accountable to all participating bodies for all receipts and disbursements.
13. The Agency is authorized to receive gifts, donations, subventions, grants or other financial aids or funds.
14. The Agency may not obligate itself beyond the monies due under this Agreement for its support from the several parties for the current fiscal year, plus any monies on hand or irrevocably pledged to its support from other sources. No obligation contracted by the Agency shall bind CITIES or COUNTY.
15. Agency shall have the power to deliver or contract with any member hereof, or any governmental entity located within the area depicted in Exhibit "A", for the provision of police protection services.
17. This Agreement shall become effective when representatives of all of the parties have executed it and shall continue in full force and effect until terminated by an agreement executed by all parties. This Agreement supercedes the Richardson Bay Joint Exercise of Powers Agreement dated July 16, 1985, under which the member agencies have been acting until the execution of this Agreement. The member agencies hereby ratify the prior acts of the Richardson Bay Regional Agency.

18. Agency is hereby authorized in its own name to do all acts necessary for the exercise of the powers described in Paragraphs 6, 15 and 16, including but not limited to any of the following: to make and enter into contracts; to apply for and accept grants, advances and contributions; to employ agents and employees; to sue and be sued in its own name; to incur debts, liabilities or obligations; to issue bonds, execute warrants and other evidence of indebtedness; to finance costs and expenses incidental to the projects of Agency; and, to exercise jointly the common powers of the parties set forth above. Agency shall have the power of eminent domain but not the power to levy ad valorem property taxes.
19. Agency shall appoint a Treasurer from among the senior management staff of any of the member parties provided that the member agency is amenable to the same. The Treasurer shall be either the Auditor/Controller or Treasurer of the COUNTY or the Treasurer or Finance Director of one of the CITIES. The Treasurer shall serve as the depository and have custody of such books, records, funds, and accounts as may be required by reasonable accounting practice, Government Code Section 6505, or by another governmental agency. (Amendment to original JPA, approved by all parties in 1992.)
20. Regular meetings of the governing board of the Agency shall be held at such times and places as shall be established by it by resolution. All such meetings, including regular, adjourned or special meetings, shall be called, noticed and held and conducted in accordance with the provisions of the Ralph M. Brown Act, Sections 54950 through 54960 of the Government Code of the State of California.
21. Agency shall have the power and authority to issue and sell revenue bonds in accordance with Article 2, Chapter 5, Division 7, Title 1, and Chapter 6,

Division 2, Title V of the Government Code, and such other relevant provisions of law as may now or hereafter be applicable.

22. For purposes of referendum and any necessary votes on taxes on Agency-wide basis, the boundaries of Agency shall be as depicted on Exhibit "A" and as described in Exhibit "B", attached hereto and by this reference incorporated herein. Under applicable law, Agency may form improvement districts. Bond elections shall be conducted pursuant to the Uniform District Election Law and applicable provisions of the California Elections Code.
23. Agency shall have and exercise all powers conferred on local agencies by the provisions of law with respect to revenue bonds.

Revenues required to provide monies for bond interest and redemption of other bond funds in connection with revenue bonds issued by Agency shall be derived from user fees and service charges, which charges shall be determined by the governing board of the Agency.

24. COUNTY or a CITY may withdraw from Agency, which withdrawal shall have the effect of requiring either a renegotiation of this Agreement or dissolution of the Agency. Any member wishing to withdraw may do so only on July 1 of any such year, and shall provide the Agency with at least 180 days' notice in writing of its intent to withdraw. Upon dissolution of Agency funds and property shall be distributed as follows:
 - a. discharge of any liability shown on the books of the Agency;
 - b. any remaining assets to be divided according to the amount of contribution by COUNTY and CITIES.

The distribution of assets may be made in kind or assets may be sold and proceeds thereof distributed to COUNTY or CITIES, provided, however, that all facilities and rights assigned or transferred by COUNTY or CITIES to Agency shall be reconveyed to said COUNTY or CITY free and clear of all encumbrances and liens of any kind not in existence at the time of conveyance to Agency. Upon dissolution of Agency the responsibility of COUNTY or CITIES to contribute to the discharge of enforceable liabilities incurred by Agency shall be limited to the portion that the contribution made by the COUNTY or CITIES bears to the total contributions made to agency from the effective date of this Agreement to the date of dissolution.

25. In the event that liability is imposed upon the Agency by a court of competent jurisdiction by reason of the negligent or willful act or omission of it, its officers or employees, in the performance of this Agreement the money judgement shall be paid in the ratio set forth in Section 7 hereof.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement the day and year first above written.

List of Exhibits:

Exhibit A - "Key to Plan Maps"

Exhibit B - Legal Description of Richardson Bay Boundaries

Exhibit C - "RBRA Bail Schedule"

DATE: OCT - 3 2000

COUNTY OF MARIN

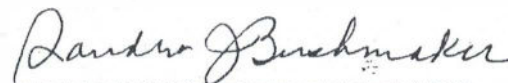
BY


Steve Kinsey
President, Board of Supervisors

CITY OF SAUSALITO

DATE: 11-1-2000

BY



CITY OF BELVEDERE

DATE: 10/5/00 BY Earl H. Anderson

TOWN OF TIBURON

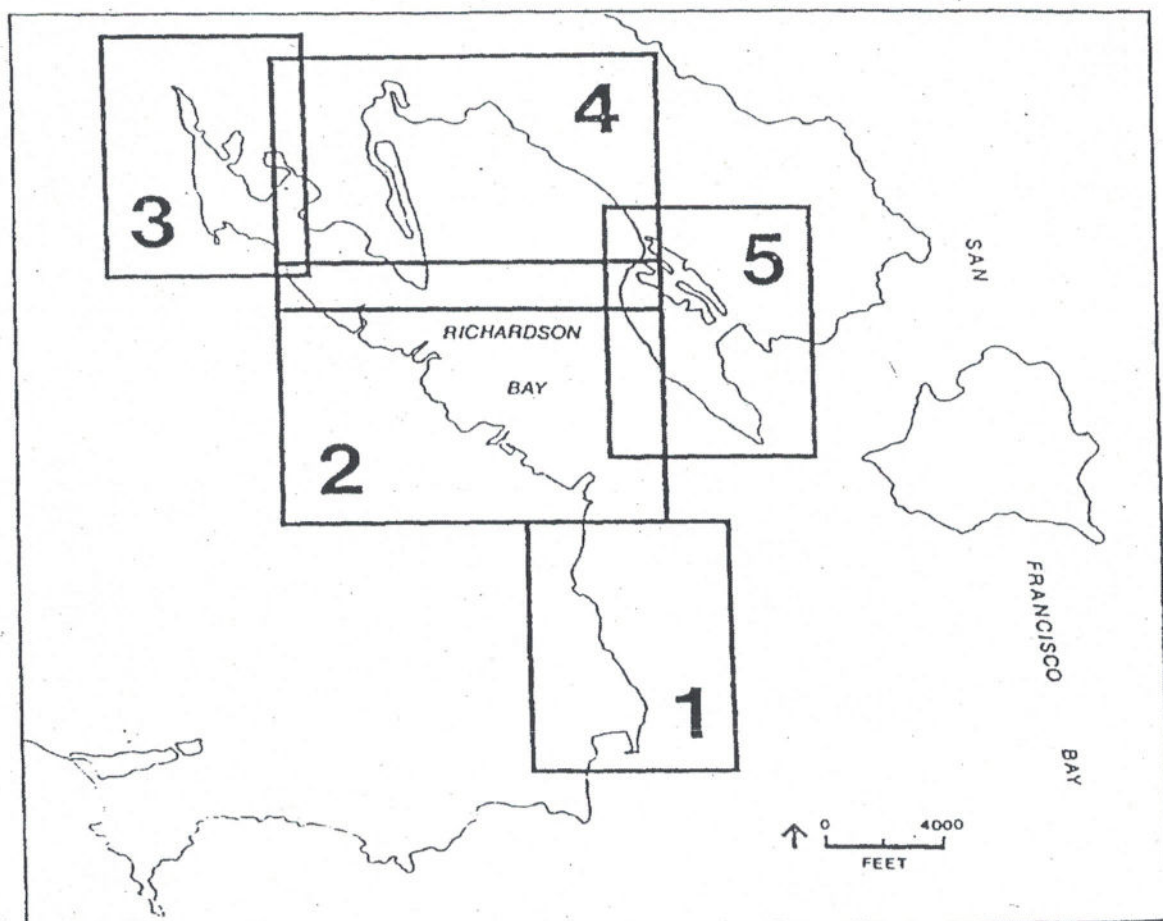
DATE: Oct 17, 2000 BY Thomas B. D.

CITY OF MILL VALLEY

DATE: Oct. 11, 2000 BY Robert Hunt

LC:mag:ss:f:RBRA:RICH.BAYJOINTEXERCISEOFPOWERSAGR.DOC

EXHIBIT A



Key to Plan Maps 1-5

EXHIBIT "B"

The boundaries of the Richardson Bay Special Area Plan are beginning at the point of intersection of the Marin/San Francisco County line and the Sausalito Shoreline at Cavallo Point, thence along a line connecting said point with the end of East Road, then along the shore side of East Road to its junction with Alexander, thence along the shore side of Alexander to its intersection with 2nd Street, along the shore side of 2nd St., to its intersection with Bridgeway, thence along the shore side of Bridgeway to its intersection with US 101, thence along U.S. 101 to its intersection with State Route 1, along the shoreside of State Route 1 (Almonte Blvd, to Miller Ave., along the shore side of Miller Ave., to its intersection with Camino Alto, thence along the shore side of Camino Alto to its intersection with East Blithedale, thence along its shoreside to its intersection with Rogue Moraes Dr., along its shore side to Hamilton Drive, thence along its shore side to its terminus, thence along a line 100 feet inland from the shoreline of Richardson Bay near the Goodman Marsh, thence along the westerly side of U.S. 101 to Seminary Drive, thence crossing U.S. 101 and following the shore side of Seminary Drive to Great Circle Drive, thence along the shore side of Great Circle Drive to Strawberry Drive, thence along Strawberry Drive to its intersection with Tiburon Blvd; thence along Tiburon Blvd. to San Rafael Ave, thence along San Rafael Ave. to West Shore Road, thence along Belvedere Ave. to its intersection with Beach Road, thence along the shore side of Beach Road to its intersection with Bellevue Ave. thence along the shore side of Bellevue Ave. to its intersection with Main Street, thence along Main Street to its intersection with Paradise Drive, thence along the shoreside of Paradise Drive to Point Tiburon; and including all water areas encompassed therein, and thence along the Tiburon Town limit line to the Marin/San Francisco County line and back to the point of beginning.

RICHARDSON BAY AL AGENCY
BAIL SCHEDULE

Violation	Type	Code Section	Total Bail
Vessel Mooring & Anchoring			
Anchoring in a non-designated area	I	3.04.010(a)	\$20 + PC
Anchoring for more than 72 hours without a permit	I	3.04.010(b)	\$50 + PC
Maintaining a private mooring without a permit	I	3.04.010(c)(1)	\$50 + PC
Installing a private mooring without a permit	I	3.04.010(c)(2)	\$50 + PC
Using a private mooring without owner's permission	I	3.04.010(c)(3)	\$50 + PC
Failure to obtain a permit for transfer of mooring	I	3.04.010(c)(5)	\$50 + PC
Living aboard a houseboat or vessel	I	3.04.020	\$100 + PC
Beaching a vessel	I	3.04.040	\$50 + PC
Vessel Speed & Safety			
Exceeding the 5 MPH speed limit west of Richardson Bay Bridge	I	4.04.010(a)	\$50
Operating a vessel in a reckless, negligent or dangerous manner	I	4.04.010(a)	\$100
Exceeding the 5 MPH speed limit within 200' of a swimmer, boater, sailboard or rowboat	I	4.04.010(b)(1)	\$100
Exceeding the 5 MPH speed limit within 200' of a beach or lifeline	I	4.04.010(b)(2)(a)	\$100
Exceeding the 5 MPH speed limit within 200' of a swimming float, diving platform or lifeline	I	4.04.010(b)(2)(b)	\$100
Exceeding the 5 MPH speed limit within 200' of a dock, way, or landing float to which vessels are made fast or used for embarking or discharging passengers	I	4.04.010(b)(2)(c)	\$100
Exceeding the 5 MPH speed limit within 200' of any home	I	4.04.010(b)(3)	\$100
Operating personal watercraft between the hours of sunset and 10 AM	I	4.04.010(c)	\$50
Entering Richardson Bay Wildlife Sanctuary between October 1 & March 31	I	4.04.010(d)	\$50
Exceeding the 5 MPH speed limit in the Strawberry Recreation Channel	I	4.04.010(e)	\$50
Environmental Protection			
Discharging of refuse	I	5.04.010	\$100 + PC
Nuisance Code/Impound			
Maintenance of a public nuisance (list of nuisance conditions is attached – bail is for each day the violation continues to exist)	I	6.04.030	\$100 + PC
Interference with work	I	6.04.090(f)	\$100
Moving, removing or tampering with an impound buoy or anchor	M	4.05.010(c)	\$500

I = Infraction M = Misdemeanor PC = Proof of Correction

Resolution 95-6, 6/21/95

fmike\bra\bailsked.doc

EXHIBIT C

Exhibit I

J. DAVID BREEMER, No. 215039
Email: JBreemer@pacificlegal.org
Pacific Legal Foundation
555 Capitol Mall, Suite 1290
Sacramento, California 95814
Telephone: (916) 419-7111
Facsimile: (916) 419-7747

Attorney for Plaintiff Daniel Knight

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DANIEL KNIGHT,

Plaintiff,

v.

RICHARDSON BAY REGIONAL AGENCY,
et al.,

Defendants.

No. 3:22-cv-06347-WHO

**DECLARATION OF
SHANNON SATTERFIELD**

Judge: Hon. William H. Orrick

I, Shannon Satterfield, do hereby declare and testify:

1. I have personal knowledge of the following facts and, if called upon to do so, could competently testify to these facts.

2. I am a United States citizen, a resident of Marin County, California.

3. I am a friend of Daniel Knight, a man who lives on a sailboat in Richardson Bay.

4. On November 2, 2022, I was on Daniel Knight's sailboat with Daniel Knight.

5. We released Knight's boat from its anchorage and then sailed the boat around Richardson Bay for approximately two hours.

6. During this trip, the sails on the boat, wheel, and other features and instruments on the boat functioned well.

7. After several hours, we returned the boat to its anchorage, under its own power, and without problems.

///

1 I declare under penalty of perjury that the foregoing is true and correct, to the best of my
2 knowledge. Attested and executed this 11th day of November, 2022, at Richardson Bay, California.

3
4 
5 SHANNON SATTERFIELD
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Exhibit J















Exhibit K

YOU ARE HEREBY NOTIFIED that the vessel or object to which this notice is attached has been determined to be **Marine Debris** as defined by **Sections 550 and 551** of the **California Harbors and Navigation Code** (see reverse).

THIS VESSEL OR OBJECT SHALL BE REMOVED AND DISPOSED OF BY THE RICHARDSON'S BAY REGIONAL AGENCY IF THE VESSEL IS NOT REMOVED FROM RICHARDSON'S BAY WITHIN 10 DAYS OF THE DATE OF THIS NOTICE.

Registered owners are required to remove vessels or objects identified as **Marine Debris** from all waters within the County of Marin. The owner of this debris/vessel may claim and recover this property upon providing proof of ownership and the payment of all costs associated with such removal including, but not limited to the costs of moving and storage.

DATE NOTICE POSTED: 10/14/2022

VESSEL NAME: NONE

DMV REG. # OR
DOCUMENTATION NUMBER: CF 5067 FE

HIN (Hull Identification Number): NOT VIEWED

DESCRIPTION: 35 FT 1973 CORONADO SLV

LOCATION: RICHARDSON BAY ANCHORAGE

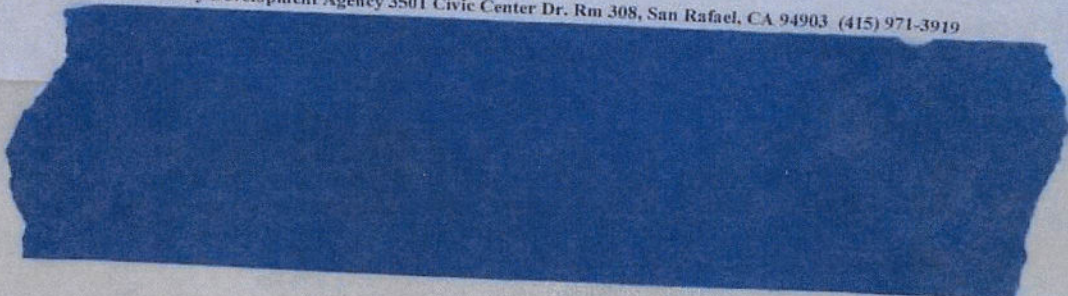
For further information contact posting staff member:

Posted by: **Jim Malcolm**
Harbormaster
(415) 971-3919

cc: Marin Sheriff's Department

POSTED ABOARD VESSEL AND MAILED TO OWNER'S ADDRESS OF RECORD

Marin County Community Development Agency 3501 Civic Center Dr. Rm 308, San Rafael, CA 94903 (415) 971-3919



UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DANIEL KNIGHT,

Plaintiff,

v.

RICHARDSON BAY REGIONAL AGENCY,
et al.,

Defendants.

No. 3:22-cv-06347-WHO

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR A
PRELIMINARY INJUNCTION**

Courtroom: 2
Judge: Hon. William H. Orrick

After holding a hearing on the Plaintiff's motion for a preliminary injunction, and upon due consideration of the papers and evidence filed with the motion, the Court finds that Plaintiff has met the requirements for issuance of a preliminary injunction under Rule 65 of the Federal Rules of Civil Procedure. The Court therefore **GRANTS** the motion.

Defendants are hereby preliminarily enjoined from enforcing the 10-day "marine debris" boat removal notice issued on or about October 14, 2022, against Plaintiff and his boat on Richardson Bay.

Dated: _____.

William H. Orrick
United States District Judge