



California Regional Water Quality Control Board
North Coast Region
Beverly Wasson, Chairperson



**Arnold
Schwarzenegger**
Governor

Alan C. Lloyd, Ph.D.
Agency Secretary

<http://www.waterboards.ca.gov/northcoast>
5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403
Phone: 1 (877) 721-9203 (toll free) • Office: (707) 576-2220 • FAX: (707) 523-0135

May 11, 2005

Mr. T. Scott Kelly
City of Ferndale
834 Main Street
Ferndale, CA 95536

Dear Mr. Kelly:

Subject: Issuance of Clean Water Act Section 401 Certification (Water Quality Certification) for the Francis Creek Bank Stabilization Project

File: Ferndale, City of – Francis Creek Bank Stabilization/Flood Hazard Mitigation
WDID No. 1B05013WNHU

This Order by the California Regional Water Quality Control Board, North Coast Region (Regional Water Board), is being issued pursuant to Section 401 of the Clean Water Act (33 USC 1341). The Order is being issued in response to your request, on behalf of the City of Ferndale, for Water Quality Certification for an erosion control and bank stabilization project on Francis Creek in Ferndale, Humboldt County. The Regional Water Board received an application and processing fee in the amount of \$1762.20 on January 7, 2005. The application was deemed complete on April 26, 2005, following submittal of a Notice of Exemption from the California Environmental Quality Act. Information describing the proposed project was noticed for public comment for a 21-day period starting on February 28, 2005, on the Regional Water Board's web site. No comments were received.

Project Description: The purpose of the project is to repair the stream bank erosion sites that were identified by mitigation monitoring that was required by the Ferndale Flood Hazard Mitigation Project. The project involves stabilizing and protecting the stream bank at six different sites along Francis Creek. One site involves reconstruction of approximately 20-feet of stacked concrete wall, backfilling behind the new wall and revegetation with native riparian vegetation. That site will be completed using hand tools and labor. The other sites involve use of heavy equipment to install 1-ton or 2-ton class rock slope protection

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(RSP) footings in 3-foot deep toe trenches along the base of the unstable stream bank sections. RSP will be placed up the slope from the footings to the bank full level. Stable RSP construction will be achieved by carefully placing the RSP so that each boulder will be in contact with other boulders in at least three points. Sites that are difficult to access will have a similar RSP toe trench but the RSP will only extend 4-feet up the bank. Coir mesh will be anchored by RSP at the 4-foot level and the mesh will extend up to the bank full level. The RSP will also extend a short distance upstream and downstream of each treatment site in order to prevent erosion at the edges of the treatment.

Receiving Water: Francis Creek, Ferndale Hydrologic Subarea No. 111.11

Filled or Excavated Area: Area Temporarily Impacted: <0.01 acre
Area Permanently Impacted: 0.11 acre

Total Linear Impacts: Length Temporarily Impacted: 0 feet
Length Permanently Impacted: 206 feet

Latitude/Longitude: 40°35'N/124°15'30"W

Federal Permit: U.S. Army Corps of Engineers Nationwide Permit No. 13 and 33

Compensatory Mitigation: None

Noncompensatory Mitigation: Noncompensatory mitigation measures include the use of Best Management Practices for sediment and turbidity control. Disturbed vegetation will be replanted using native riparian vegetation and the RSP treatments will be planted to provide additional stability. The project is planned to take place during the low flow period between June 15 and October 15, 2005. The applicant has applied for a Lake or Streambed Alteration Agreement (1600 Permit) from the California Department of Fish and Game.

CEQA Compliance: The City of Ferndale, as the lead California Environmental Quality Act (CEQA) agency, determined this project is

Categorically Exempt (Class 1, Existing Facilities) and prepared a Notice of Exemption on April 21, 2005.

Standard Conditions:

Pursuant to Title 23, California Code of Regulations, Section 3860 (23 CCR 3860), the following three standard conditions shall apply to this project:

- 1) This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section 13330 of the California Water Code and 23 CCR 3867.
- 2) This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- 3) The validity of any nondenial certification action (actions 1 and 2) shall be conditioned upon total payment of the full fee required under 23 CCR 3833, unless otherwise stated in writing by the certifying agency.

Additional Conditions:

Pursuant to 23 CCR 3859(a), the applicant shall comply with the following additional conditions:

- 1) Regional Water Board staff shall be notified at least five working days (working days are Monday – Friday) prior to the commencement of the project, with details regarding the project schedule, in order to allow staff to be present onsite during implementation, and to answer any public inquiries that may arise regarding the project.
- 2) No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature, other than that authorized by this permit, shall be allowed to enter into or

be placed where it may be washed by rainfall into waters of the State. When operations are completed, any excess material or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any surface water.

- 3) Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the United States. At no time shall the applicant use any vehicle or equipment, which leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of waters of the United States.
- 4) Best Management Practices for sediment and turbidity control shall be implemented and in place prior to and during construction.
- 5) A copy of this permit must be provided to the Contractor and all subcontractors conducting the work, and must be in their possession at the work site.
- 6) If, at any time, an unauthorized discharge to surface waters occurs, or any water quality problem arises, the project shall cease immediately and the Regional Water Board shall be notified promptly.
- 7) This Order is not transferable. In the event of any change in control of ownership of land presently owned or controlled by the Applicant, the Applicant shall notify the successor-in-interest of the existence of this Order by letter and shall forward a copy of the letter to the Regional Water Board at the above address.

To discharge dredged or fill material under this Order, the successor-in-interest must send to the Regional Water Board Executive Officer a written request for transfer of the Order. The request must contain the requesting entity's full legal name, the state of incorporation if a corporation, address, and telephone number of the person(s) responsible for contact with the Regional Water Board. The request must also describe any changes to the Project proposed by

the successor-in-interest or confirm that the successor-in-interest intends to implement the Project as described in this Order.

Water Quality Certification: I hereby issue an order [23 CCR Subsection 3831(e)] certifying that any authorized discharge from the City of Ferndale – Francis Creek Bank Stabilization Project (Facility No. 1B05013WNHU) will comply with the applicable provisions of sections 301 (“Effluent Limitations”), 302 (“Water Quality Related Effluent Limitations”), 303 (“Water Quality Standards and Implementation Plans”), 306 (“National Standards of Performance”), and 307 (“Toxic and Pretreatment Effluent Standards”) of the Clean Water Act [33 USC Subsection 1341 (a)(1)], and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003 - 0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification.

Except as may be modified by any preceding conditions, all certification actions are contingent on: a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicant’s project description, and b) compliance with all applicable requirements of the Regional Water Board's Water Quality Control Plan for the North Coast Region (Basin Plan).

Expiration: The authorization of this certification for any dredge and fill activities expires on October 15, 2006 or upon completion of the project. Conditions and monitoring requirements outlined in this certification are not subject to the expiration date outlined above, and remain in full effect and are enforceable.

Please notify Dean Prat of our staff at (707) 576-2801 prior to commencement of the project (pursuant to Additional Condition No. 1 above) so that we can answer any public inquiries about the work.

Sincerely,

Catherine E. Kuhlman
Executive Officer

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Enclosure:

State Water Resources Control Board Order No. 2003-0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification"

cc: Mr. Jarrett Brown, Spencer Engineering, 1585 Heartwood Drive, Suite F,
McKinleyville, CA 95519
U.S. Army Corps of Engineers, District Engineer, P.O. Box 4863, Eureka, CA 95502
Ms. Jane Hicks, U.S. Army Corps of Engineers, Regulatory Functions, 333 Market Street,
San Francisco, CA 94599