



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



**Arnold
Schwarzenegger**
Governor

Alan C. Lloyd, Ph.D.
Agency Secretary

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May 17, 2005

Robert Vogt
Director of Environmental Services
Pacific Lumber Company
P.O. Box 37
Scotia, CA 95565

Dear Mr. Vogt:

Subject: Issuance of Clean Water Act Section 401 Certification (Water Quality Certification)
for the PALCO – Scotia Percolation Pond

File: Pacific Lumber Company – Scotia - WDID No. 1B05058WNHU

This Order by the California Regional Water Quality Control Board, North Coast Region (hereinafter 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 the Pacific Lumber Company's request for a Water Quality Certification to construct a seasonal percolation pond on the Eel River for the Town of Scotia in Humboldt County. The Regional Water Board received an application and processing fee in the amount of \$4456 on April 27, 2005. The application was deemed complete on April 27, 2005. Information describing the proposed project was noticed for public comment for a 21-day period starting on April 6, 2005, on the Regional Water Board's web site. No comments were received.

Project Description: The proposed project is located on the gravel bar of the Eel River in Scotia. The purpose of this project is to create a seasonal percolation pond adjacent to the Eel River for disposal of effluent (treated wastewater) from the Town of Scotia Wastewater Treatment Plant. The project involves annual construction of a percolation pond in the gravel bar during the seasonal low flow period. The construction work involves grading sand and gravel on the gravel bar to build berms to create three sides of the percolation pond. The existing riverbank is used as the fourth side of the pond and will be left in its natural state. The berms created for the percolation pond will be removed and graded back into the gravel bar prior to the end of each seasonal low flow period

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such that the graded area will drain and not impound water. The proposed percolation pond will be located approximately 100 feet from the river during the seasonal low flow period. The percolation pond is constructed prior to May 15 and removed immediately prior to the rise of the river after onset of the winter rainy season.

Receiving Water: Eel River

Hydrologic Unit: Ferndale Hydrologic Subarea No. 111.11

Filled or Excavated Area: Area Temporarily Impacted: < 0.01 acre
Area Permanently Impacted: 1.84 acres are impacted annually when the pond is in place and restored prior to winter each year

Federal Permits: U.S. Army Corps of Engineers Nationwide Permit 7 (28587N)

Compensatory Mitigation: None

Noncompensatory Mitigation: Proposed noncompensatory mitigation includes the use of Best Management Practices to prevent impacts to water quality including storage of fuel and other potentially hazardous materials away from jurisdictional waters, refueling outside the stream channel, limiting vehicle access to the stream channel, and checking equipment for leaks prior to entry into the stream channel. All in-channel work related to construction and removal of the percolation pond and access road will be conducted between May 1 and October/November (at time of first significant rain event) each year. No work will be conducted in the live stream channel. The applicant has obtained a Lake or Streambed Alteration Agreement (1600 Agreement) from California Department of Fish and Game.

CEQA Compliance: The Department of Fish and Game, acting as the lead California Environmental Quality Act (CEQA) agency, prepared a Negative Declaration for the project dated February 21, 2002.

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) The Regional Water Board shall be notified in writing at least five working days (working days are Monday – Friday) prior to the commencement of grading work, with details regarding the construction schedule, in order to allow staff to be present on-site during construction, 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 stream.
- 3) Best Management Practices for sediment and turbidity control shall be implemented and in place prior to, during, and after construction in order to ensure that no silt or sediment enters surface waters.

- 4) 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.
- 5) 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.
- 6) The project site may be visited and assessed by Regional Water Board staff to document compliance with this certification.
- 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 discharge from the PALCO – Scotia Percolation Pond (Facility I.D. No. 1B05058WNHU) 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 insofar 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 upon completion of the project in October/November of 2010. 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 Lisa Bernard of our staff at (707) 576-2677 prior to construction (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"