



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

Mr. Randy Gans
RDHC, LLC
P.O. Box 1028
Eureka, CA 95502-1028

Dear Mr. Gans:

Subject: Issuance of Clean Water Act Section 401 Certification (Water Quality Certification) for the Vance Dairy/RDHC, LLC - Wetland Enhancement Project

File: Vance Dairy - Wetland Enhancement Project
WDID No. 1B05002WNHU

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 RDHC, LLC, for Water Quality Certification for a wetland enhancement project located along the west side of Salmon Creek and the north side of Hookton Road near Beatrice, Humboldt County. The Regional Water Board received an application and processing fee in the amount of \$500 on January 10, 2005. The application was deemed complete on April 5, 2005, following submittal of additional information requested by Regional Water Board staff and documentation demonstrating compliance with the California Environmental Quality Act. Information describing the proposed project was noticed for public comment for a 21-day period starting on April 22, 2005, on the Regional Water Board's web site. No comments were received.

Project Description:

The project is located on a ninety-acre portion of the applicant's 290-acre dairy property. The land affected by the proposed project is wetlands on diked former tidelands. The primary component of the proposed project is excavation of two shallow wetland ponds to enhance wetland habitat for waterfowl and cattle grazing. The existing topsoil will be stripped from the pond areas and temporarily stockpiled and ponds will be excavated with bulldozers. The ponds will be excavated to an average depth of one foot. The previously

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stripped topsoil will be placed back on the slopes and bottom of the pond excavations to replace the fertile soil and seed bank. Water elevation control structures and associated piping will be installed in each pond. Excess soil generated by the pond excavations will be hauled offsite.

Well water may be supplied to the enhanced wetland areas to maintain sufficient pond water levels. The pond areas are expected to retain existing wetland characteristics if well water is not supplied to the ponds at some point in the future.

The project also involves additional repairs to a breach in the levee along Salmon Creek that was repaired by the applicant in October 2004. The repair work was authorized by Department of the Army Nationwide Permit 13 and an emergency permit by the California Coastal Commission. Additional work is needed on the repaired section of levee in order to repair the effects of high flows in Salmon Creek during January 2005. The additional levee repair work consists primarily of replanting vegetation on the previously repaired section of levee.

Receiving Water:	Eureka Plain Hydrologic Unit No. 110.00
Filled or Excavated Area:	Area Temporarily Impacted: <0.01 acre Area Permanently Impacted: 7 acres of wetland are to be enhanced
Total Linear Impacts:	Length Temporarily Impacted: 0 feet Length Permanently Impacted: 0 feet
Federal Permit:	U.S. Army Corps of Engineers Nationwide Permit No. 13 (File No. 28529N)
Compensatory Mitigation:	None
Noncompensatory Mitigation:	Noncompensatory mitigation measures include the use of Best Management Practices for heavy equipment use. All construction will be conducted according to the Natural Resources Conservation Service's specifications for erosion control and soil compaction.

CEQA Compliance: The County of Humboldt, as the lead California Environmental Quality Act (CEQA) agency, certified a Mitigated Negative Declaration on February 7, 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 Vance Dairy Wetland Enhancement Project (Facility No. 1B05002WNHU) 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, 2007 or upon completion of the project, whichever occurs first. 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. Marty McClelland, Oscar Larson and Associates, P.O. Box 3806,
Eureka, CA 95502-3806
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