



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



Alan C. Lloyd, Ph.D.
Agency Secretary

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Arnold
Schwarzenegger
Governor

July 19, 2005

Roger and Johanna Rodoni
P.O. Box 43
Scotia, CA 95545-0043

Dear Mr. and Mrs. Rodoni:

Subject: Issuance of Clean Water Act Section 401 Certification (Water Quality Certification)
for the Lower Rock Gulch Habitat Restoration Project

File: Lower Rocky Gulch Salmonid Access and Habitat Restoration Project
WDID No. 1B05022WNHU

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), in response to your request for Water Quality Certification for the Lower Rocky Gulch Salmonid Access and Habitat Restoration Project near Bracut, Humboldt County. The Regional Water Board received your application and processing fee in the amount of \$500 on March 3, 2005. Regional Water Board staff deemed your application complete on July 12, 2005; upon our receipt of documentation demonstrating the project has complied with the California Environmental Quality Act. On March 21, 2005, we posted a notice and information describing your project on our website for a 21-day public comment period. We did not receive any public comments regarding your project.

Project Description: The primary purpose of this restoration project is to re-establish access for anadromous fish passage between Humboldt Bay and the upper reaches of Rocky Gulch. A secondary purpose of this project is to enhance and expand the estuarine and freshwater habitats in the lowermost mile of Rocky Gulch. The proposed restoration project is the second phase of a multi-phased restoration plan to restore fish access between Humboldt Bay and the upper Rocky Gulch watershed and to enhance habitat along the lower mile of the watershed.

California Environmental Protection Agency

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Heavy equipment will be used to excavate excess sediment from the existing channels and two new sections of channel totaling approximately 1,400 feet to eliminate unnatural channel straightening and ninety-degree bends. The excavated material will be used to rehabilitate the existing dikes that contain winter floods and tidal waters. A 2,500-foot section of the existing dike parallel to Old Arcata Road will be moved 50 feet away from the existing channel to create a floodplain and to increase the riparian corridor. Removal of the existing dike will result in creation of 0.9-acre of wetland and construction of the new dike will result in the filling of 0.9-acre of existing wetland. Riparian fencing, cattle crossings, and armored cattle watering access sites will be installed to reduce impacts from cattle. The project area covers approximately 1.1 miles of stream channel and approximately 26.8 acres of stream and wetland area. Construction is planned for the low flow period between July 1 and October 31, 2005.

Receiving Water: Rocky Gulch in the Eureka Plain Hydrologic Unit No. 110.00

Filled or Excavated Area: Area Temporarily Impacted: <0.01 acre
Area Permanently Impacted: 0.90

Total Linear Impacts: Length Temporarily Impacted: 950 feet
Length Permanently Impacted: 2,800 feet

Federal Permit: U.S. Army Corps of Engineers Nationwide Permit No. 27 (File No. 27835N)

Compensatory Mitigation: Compensatory mitigation is required for permanent impacts to 0.90 acre of wetlands associated with installation of a new dike. Removal of the existing dike will result in creation of 0.90 acre of new wetland. Stream channel restoration activities will result in creation of an additional 0.20 acre of wetland area. The project also includes restoration of 5.6 acres of wetland. Approximately 1,800 feet of new streambed will be created and 950 feet of stream will be restored. The project will also create 1.5 acres of additional riparian habitat and will restore 1.2 acres of riparian habitat.

Noncompensatory Mitigation: Noncompensatory mitigation measures include the use of Best Management Practices (BMPs) for heavy equipment use and sediment and turbidity control. Heavy equipment use will be

limited to designated access and staging areas. Synthetic mats and/or crushed rock may be used to reduce heavy equipment impacts to excessively wet areas. BMPs will include the use of willow baffles and other materials to protect disturbed areas from erosion. Vegetation will be replanted using native riparian and wetland plant species. The applicant has applied for a Lake or Streambed Alteration Agreement (1600 Permit) from the California Department of Fish and Game.

CEQA Compliance: The County of Humboldt, as the lead California Environmental Quality Act (CEQA) agency, adopted a Mitigated Negative Declaration (SCH#2005052089) for this project on July 5, 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) The applicant shall notify Regional Water Board staff 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) BMPs for heavy equipment use and 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) Mitigation and restoration sites shall be monitored in accordance with the monitoring plan and schedule contained in the *Biological Assessment* submitted with the application. A copy of all monitoring reports shall be submitted to the Regional Water Board annually.

- 8) 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 Lower Rocky Gulch Restoration Project (Facility No. 1A05022WNHU) 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 July 19, 2010 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 portion of the project that is subject to this Water Quality Certification (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: 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
Mr. Aldaron Laird, 980 7th Street, Suite K, Arcata, CA 95518