



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

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**Arnold  
Schwarzenegger  
Governor**

**Alan C. Lloyd, Ph.D.**  
Agency Secretary

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July 18, 2005

Mr. Fred Zurilgen  
7590 Mirabel Road  
Forestville, CA 95436

Dear Mr. Zurilgen:

**Subject:** Issuance of After-the-Fact Clean Water Act Section 401 Certification (Water Quality Certification) for the 7590 Mirabel Road Seasonal Streambank Restoration Project

**File:** 7590 Mirabel Road Seasonal Streambank Restoration Project  
WDID No. 1B05009WNSO

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). It is being issued in response to Matthew Damos's January 31, 2005 request for an After-the-Fact Clean Water Act, Section 401, Water Quality Certification. On January 31, 2005, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application from Matthew Damos, on behalf of Fred Zurilgen, requesting a retroactive Water Quality Certification and/or Waste Discharge Requirements (Dredge/Fill Projects) for the 7590 Mirabel Road Seasonal Streambank Restoration Project in Sonoma County that was completed in 2003. The Regional Water Board received a complete application and processing fee in the amount of \$500.00 on January 31, 2005. Information describing the proposed project was noticed for public comment for a 21-day period on the Regional Water Board's website. No comments were received. The proposed project will cause disturbances to the waters of the state associated with an unnamed seasonal tributary of the Russian River within the Mark West Sub Area No. 114.23, Russian River Hydrologic Unit No. 114.00.

**Project Description:** The project is at 7590 Mirabel Road, Forestville, Sonoma County (APN #083-151-022). The purpose of the project was to reduce localized erosion, restore the stream bank and stop sediment releases into the watercourse.

The project consisted of hand placed rip rap along 50 linear ft. (12 cubic yards) along one side of the stream channel that the current owner installed in 2003.

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Receiving Water: An unnamed seasonal tributary of the Russian River within the Mark West Sub Area No. 114.23, Russian River Hydrologic Unit No. 114.00.

Filled or  
Excavated Area: Total Linear Impacts: 50.0 linear feet of streambank impacted  
Length Temporarily Impacted (Restored): 0.000 feet  
Length Permanently Impacted (Not Restored): 50.0 feet

Federal Permit: U.S. Army Corps of Engineers Nationwide Permit #13  
(File No. 28735N).

State and Local  
Approvals: Since the Department of Fish and Game (DFG) does not issue after-the-fact Agreements and Bill Cox of DFG concluded that the work done was minor with no corrective work needed, a Lake or Streambed Alteration Agreement was not issued for this project (Email from Bill Cox, DFG on Feb. 3, 2004).

Compensatory  
Mitigation: Compensatory mitigation for this project will include replanting of willow sprigs and shrubs along the west side of the streambank where the rip rap is placed and eight redwoods, twelve willows, three live oaks, and three alders adjacent to the project area. Due to the fact this is an after-the-fact permit, compensatory mitigation is higher than what would have been required if a permit was issued before the project was initiated.

Non-compensatory  
Mitigation: Non-compensatory mitigation measures include standard erosion control Best Management Practices (BMPs).

CEQA Compliance: The Regional Water Board, as lead agency under California Environmental Quality Act (CEQA), has determined that this project qualifies for a categorical exemption Section 15301 (i).

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

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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 non-denial 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 business days (working days are Monday – Friday) prior to the commencement of 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) BMPs for erosion, 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. Native seeding will be done on all exposed areas post construction to reduce future potential erosion concerns.
- 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) Disturbance or removal of vegetation shall not exceed the minimum necessary to complete operations. The disturbed portions of any stream channel shall be restored to as near their original condition as possible.
- 6) If, at any time, a 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) Yearly monitoring reports for the required compensatory mitigation shall be provided to the Regional Water Board by July 15 during each calendar year for a total of five years. Reports shall include photo documentation of the mitigation area. After five years have passed, the mitigation will be evaluated for successful attainment of the final success criteria, and a decision will be made whether additional mitigation measures are necessary to insure that no net loss of wetland habitat occurs.

Reports shall be prepared by a professional consultant with in-depth experience in wetland ecosystem creation and function, as well as wetland mitigation monitoring techniques. Reports shall be submitted to the attention of staff member Andrew Jensen.

- 8) If flowing water is present in the channel at the time of construction, the work site shall be dewatered through the installation of sandbag and/or gravel cofferdams, and a by-pass pipe sufficient to handle any discernable flow changes, above and below the project reach. Installation of cofferdams and the by-pass pipe shall be performed in a manner that will minimize aquatic impact within the dewatered area.
- 9) 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.

- 10) The Applicant shall provide photos of the completed work to the appropriate Regional Water Board staff person, in order to document compliance. The Applicant shall also provide photos of the completed work areas after the first significant rainfall event in order to ensure that erosion control has been successful.

Water Quality  
Certification:

I hereby issue an order [23 CCR Subsection 3831(e)] certifying that any authorized discharge from the 7590 Mirabel Road Seasonal Streambank Restoration Project (WDID No. 1B05009WNSO) 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 (enclosed).

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 16, 2010, unless new information warrants revision of this determination before the expiration date. 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 Andrew Jensen of our staff at (707) 576-2683 prior to construction (pursuant to Additional Condition No. 1 above) so that we can answer any public inquiries about the work.

Sincerely,

Catherine 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: Ms. Sheryl Schaffner, SWRCB, Office of the Chief Counsel

Mr. Erik Spiess, SWRCB, Office of the Chief Counsel

Mr. Oscar Balaguer, SWRCB, 401 Program Manager, Water Quality Certification Unit

Mr. Tim Vendlinski, Supervisor of Wetlands Regulatory Office (WTR-8), U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105

Mr. Kevin Doble, Sonoma County Permit Resources and Management Department, 2550 Ventura Avenue, Santa Rosa, CA 95403

Ms. Jane Hicks, U.S. Army Corp of Engineers, Regulatory Functions, 333 Market Street, San Francisco, CA 94599