



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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August 25, 2005

Mr. Bill Montgomery
City of Santa Rosa Parks and Recreation
415 Steele Lane
Santa Rosa, CA 95403

Dear Mr. Montgomery:

Subject: Issuance of Clean Water Act Section 401 Certification (Water Quality Certification) for the Fountaingrove Community Park Project Phase 1, Santa Rosa, Sonoma County

File: Fountaingrove Community Park Project Phase 1, Santa Rosa, Sonoma County
WDID No. 1B03070WNSO

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). On April 8, 2003, Mr. Sean Lohmann, LSA Associates, representing the City of Santa Rosa Parks and Recreation Department, applied for a Clean Water Act (CWA) Section 401 Water Quality Certification (Certification) for the proposed Fountaingrove Community Park Project Phase 1 development. The proposed project is located on the north side of Fountaingrove Parkway within the northeast portion of the City of Santa Rosa, Sonoma County, California. On December 6, 2004, the Regional Water Board issued a Denial without Prejudice (DWOP) for the proposed project due to a lack of final California Environmental Quality Act (CEQA) documents.

On May 16, 2004 the Regional Water Board received a second application from Mr. Reed Dillingham, Dillingham Associates representing Mr. Rich Hovden, Superintendent for the City of Santa Rosa, reapplying for a Water Quality Certification and/or Waste Discharge Requirements (Dredge/Fill Projects) for the Fountaingrove Community Park Project. In addition to all the required documentation, the revised application contained a copy of the Negative Declaration for the proposed project, as requested in the December 6, 2004 DWOP.

The Regional Water Board received a processing fee in the amount of \$2250.00 on April 8, 2003. 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 causes disturbances to waters of the state associated with seasonal wetland habitat and the Santa Rosa Hydrologic Sub Area Unit No. 114.22 and the Russian River Hydrologic Unit 114.00.

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Project Description: The proposed project is located on the north side of Fountaingrove Parkway approximately 400 feet east of the Parkway's intersection with Alturia Drive, and approximately 1 mile east of its intersection with Highway 101, within the northeast portion of the City of Santa Rosa, Sonoma County, California. The purpose of the proposed project is to provide a community recreation facility adjacent to Fountaingrove Lake that will protect and enhance the site's unique natural character.

The proposed project consists of the Phase 1 of a two-phase community recreation park on a 32.82-acre site. Phase One includes construction of an access road leading from Fountaingrove Parkway into the park, and the installation of the parking areas, picnic areas, and restroom facilities.

Receiving Water: Seasonal wetland habitat and the Santa Rosa Hydrologic Sub Area Unit No. 114.22 and the Russian River Hydrologic Unit 114.00.

Filled or Excavated Area:

<u>Total Area Impacted:</u>	0.05 acre of seasonal wetland
Area Temporarily Impacted:	0.00 acre
Area Permanently Impacted:	0.05 acre

Compensatory Mitigation Overview:

<u>Total Mitigation Area:</u>	0.09 acre of seasonal wetlands
Wetland Created/Restored:	0.09 acre
Wetland Enhance:	0.00 acre
Wetland Existing (Avoided):	1.60 acres

Federal Permit: An application for U.S. Army Corps of Engineers (ACOE) Nationwide Permit (NWP) # 42 was submitted on March 21, 2003 (File No. 206801N). USACOE responded to Dr. Ross Dobberteen, LSA Associates in July 2003 informing him that the project did not comply with the requirements for a non-reporting NWP #42 but does comply with the requirements of a non-reporting NWP # 39 instead.

State and Local Approvals: According to the applicant a Lake and Streambed Alteration Agreement from the California Department of Fish and Game is not needed.

Compensatory Mitigation: The *Wetland Mitigation and Monitoring Plan for Fountain Grove Community Park Project, Santa Rosa, California, March 4, 2003*, prepared by LSA Associates Inc., was prepared in response to comments from, and through close coordination with, various regulatory agencies, including the Regional Water Board. To compensate for the loss of 0.05 acre of seasonal wetland impacts, the mitigation plan proposes creation of 0.09 acre of high quality seasonal wetlands that will mimic the characteristics of the affected wetlands. The compensatory mitigation has been designed to provide a 1.5-to-1 replacement ratio for wetland impacts associated with Phase 1, and to provide an additional 0.02-acre of created wetland habitat to be considered as available compensatory mitigation for proposed future impacts associated with Phase 2 of the project. Grading of the mitigation area will take place concurrently with Phase I construction.

Non-compensatory Mitigation:

Non-compensatory mitigation measures have been incorporated into the project to reduce the potential impacts to water quality within the wetland features on the site. Work will be completed during the dry season to avoid sediment discharges to surface waters. Mitigation measures include the preparation of a Storm Water Pollution Prevention Plan (SWPPP) and use of construction storm water erosion control Best Management Practices (BMP's).

CEQA Compliance:

The City of Santa Rosa, as the lead California Environmental Quality Act (CEQA) agency, issued a Negative Declaration on May 10, 2005 (Resolution No. 26256).

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.

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- 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) Best Management Practices 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)

Monitoring Requirements – Construction and mitigation work will be implemented as proposed in the application and the following monitoring shall occur:

- A. Wetland Mitigation: 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 wetland criteria as outlined in the U.S. Army Corps of Engineers 1987 Delineation Manual, 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.
- B. The applicant will monitor the re-vegetation site on a semi-annual basis and prepare an annual report including photo documentation as to the success of the re-vegetation. It is expected that at the end of the monitoring period, in this case 3 years, there will be at least an 80 percent survival rate.

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

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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 Fountaingrove Community Park Project Phase 1, Santa Rosa, Sonoma County (WDID No. 1B03070WNSO) 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

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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, 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

KAW:clh/082505_KAW_FountainGrove401cert

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. Oscar Balaguer, 401 Program Manager, Water Quality Certification Unit
State Water Resources Control Board, 1001 I Street, 15th Floor, Sacramento, CA 95814

Mr. Sean Lohmann, LSA Associates, Inc., 157 Park Place, Pt. Richmond, CA 94801

Ms. Jane Hicks, U.S. Army Corps of Engineers, Regulatory Branch, 333 Market Street,
San Francisco, CA 94105