



California Regional Water Quality Control Board
North Coast Region
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<http://www.waterboards.ca.gov/northcoast>
5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403
Phone: 1 (877) 721-9203 (toll free) • Office: (707) 576-2220 • FAX: (707) 523-0135

October 5, 2005

Mr. Ron Benkert
Sonoma County Water Agency
P.O. Box 11628
Santa Rosa, CA 95406

Dear Mr. Benkert:

Subject: Issuance of Clean Water Act Section 401 Certification (Water Quality Certification) for the Sonoma County Water Agency Santa Rosa Creek Diversion Project, Sonoma County

File: Sonoma County Water Agency, Santa Rosa Creek Diversion Project, Sonoma County, WDID# 1B05093WNSO

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 Sonoma County Water Agency's July 7th, 2005 request for a Clean Water Act, Section 401, Water Quality Certification.

On July 7, 2005, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application from Mr. Ron Benkert, on behalf of the Sonoma County Water Agency (Applicant), requesting a Water Quality Certification and/or Waste Discharge Requirements (Dredge/Fill Projects) for annual maintenance of a cement lined flood control channel in Santa Rosa, Sonoma County. The Regional Water Board received a processing fee in the amount of \$1338.50, and the application was deemed complete on August 23, 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 Santa Rosa Creek, near Spring Lake, Santa Rosa Hydrologic Subarea No. 14.22, Middle Russian River Hydrologic Area No. 114.20, Russian River Hydrologic Unit No. 114.00.

Project Description: The proposed project is located near Montgomery Drive and Melita Creek Drive, in Santa Rosa Creek, Santa Rosa, Sonoma County. The project as proposed involves the removal of approximately 2,448 cubic yards of sediment from the cement-lined channel utilizing heavy equipment for dredging operations and hauling away of spoils. Sediment and debris would be hauled to the approved Grossi Disposal site (U.S. Army Corps of Engineers File No. 29238N) at 6652 Petaluma Hill Road in

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Rohnert Park, Sonoma County. The Applicant has stated that the channel is currently at capacity, and the purpose of the project is to restore the creek channel to its original design flood protection capability.

The original application proposed to construct a berm across a side channel to redirect flows downstream. After consultation with the Army Corps of Engineers (ACE), the Applicant has abandoned this portion of the project. A stretch of sediment and vegetation has begun establishing itself near the portion of the channel where the Applicant had intended to install the artificial berm. This naturally occurring feature will likely serve the same purpose while also allowing for some habitat creation, thereby avoiding the need to place non-native materials in the channel for berm construction. The Applicant has withdrawn the plans to place the man-made berm in Santa Rosa Creek, below the diversion, and it is therefore not included in consideration of potential water quality certification.

Construction is projected to take approximately one week, and will be conducted annually for five years, between August 1st and October 15th of each year.

Receiving Water:	Cement lined creek channel on Santa Rosa Creek, near Spring Lake, Santa Rosa Hydrologic Subarea No. 14.22, Middle Russian River Hydrologic Area No. 114.20, Russian River Hydrologic Unit No. 114.00
Filled or Excavated Area:	<u>Total Area Impacted: 0.39 acre</u> Area Temporarily Impacted: 0.39 acre Area Permanently Impacted: none
Federal Permit:	U.S. Army Corps of Engineers Nationwide Permit 3— <i>Maintenance</i> —and 33— <i>Temporary Construction, Access, and Dewatering</i> (File Number 29560N, pending)
State and Local Approvals:	The Applicant intends to conduct this work under their existing blanket Streambed Alteration Agreement with the Department of Fish and Game (DFG Permit No. III-334-82, approved April 30, 1992).
Compensatory Mitigation Overview:	<u>Total Mitigation Plan: Riparian Enhancement—50 trees planted</u> Twenty (20) maple trees, 4-6 foot Twenty (20) live oak trees, 4-6 foot Ten (10) valley oak trees, 4-6 foot

Compensatory Mitigation: Compensatory Mitigation is required for this project. To mitigate for the impacts associated with this project, the Applicant is proposing to plant fifty (50) 4-6 foot trees consisting of twenty maples, twenty live oaks, and ten valley oaks along Santa Rosa Creek downstream of Stony Point Road. Trees will be planted manually and maintained and irrigated for a period of three years. Upon achievement of success criteria, this planting proposal should provide a canopy to a degraded riparian corridor. Establishing such a canopy will serve to shade the area, promoting growth of shrubs and grasses that require shaded environments, and serving to enhance the riparian corridor. The water quality benefits of such a riparian corridor along Santa Rosa Creek include reduced bank erosion and therefore reduced turbidity levels in the watercourse, reduced water temperatures and thereby enhanced aquatic habitat value of the creek, and filtration of nutrients such as phosphorus and nitrates.

Noncompensatory 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. Measures include the use of Best Management Practices for sediment and erosion control as described in the Bay Area Storm Water Management Agencies Association's (BASMAA) Flood Control Best Management Practices manual. Other measures include conducting work during low-flow or dry periods, and dewatering the channel if necessary using a vacuum pump truck for ponded water or a cofferdam and bypass pipe system for flowing water.

CEQA Compliance: The County of Sonoma, as the lead California Environmental Quality Act (CEQA) agency, has determined that this project qualifies for categorical exemptions Section 15301 (h)(i) *Existing Facilities* (Notice of Exemption dated November 4, 1988), pursuant to CEQA.

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) 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) Instream work shall not commence until June 15th and all work within the waterway shall be complete prior to October 15th.

- 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) 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.
- 7) 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.
- 8) 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 ensure that no net loss of wetland habitat occurs.

Reports shall be submitted to the attention of staff member Andrew Jensen.

- 9) In accordance with minimization measures outlined in the National Marine Fisheries Service (NMFS) No Effect letter for endangered salmonids dated June 29, 2005, the Applicant shall not conduct work in the channel or any areas of Santa Rosa Creek until the excavation or fill areas are dry, avoiding the need to relocate juvenile salmonids and preventing sedimentation and turbidity in wetted areas.
- 10) All spoils shall be disposed of at the approved Grossi Disposal site (U.S. Army Corps of Engineers File No. 29238N) at 6652 Petaluma Hill Road in Rohnert Park, Sonoma County or at another approved disposal area located off-site.
- 11) Construction or installation of a man-made berm in Santa Rosa Creek, either below the diversion channel or otherwise, is not covered under this certification. Any

intentions to place such a structure in the creek channel shall require a separate application and review process.

- 12) 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.

- 13) 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 the authorized discharge from the Sonoma County Water Agency's Santa Rosa Creek Diversion Project (WDID# 1B05093WNSO) 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 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

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

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