



**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

October 4, 2005

Mr. Pete Halstadt  
Mendocino County General Services Department  
841 Low Gap Road  
Ukiah, CA 95482

Dear Mr. Halstadt:

**Subject:** Issuance of Clean Water Act Section 401 Certification (Water Quality Certification) for the Upper Mill Creek Dam Repair Project, Mendocino County

**File:** Upper Mill Creek Dam Repair Project, Mendocino County  
WDID No. 1B05127WNME

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 the County of Mendocino's September 15, 2005 request for a Clean Water Act, Section 401, Water Quality Certification. On September 15, 2005, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application from Mr. Pete Halstadt, on behalf of the County of Mendocino (Applicant), requesting a Water Quality Certification and/or Waste Discharge Requirements (Dredge/Fill Projects) for the temporary repair of a damaged gate valve located within the dam of the Upper Mill Creek reservoir, just east of the city of Ukiah.

On March 7, 2005, the North Coast Regional Water Quality Control Board (Regional Water Board) received notification from the California Department of Fish and Game (DFG) that a considerable amount of sediment had been washed downstream from a failure in the release gate on the upper Talmage Dam site on Mill Creek in Ukiah, Mendocino County, California. In response to the notification, Regional Water Board staff member Paul Keiran and student interns Dannielle Gray, Kari Wester, and Kevin Oertel conducted an inspection of the site on March 16, 2005. During the inspection the above staff observed that, as reported in the complaint from DFG, the rapid release of water associated with the opening of the faulty release gate caused a considerable amount of the sediment stored behind the dam to erode and subsequently wash downstream. The release was a result of a gate valve failure, which occurred at the bottom of the top dam, which was allegedly opened by County of Mendocino staff. This caused the entire reservoir to drain rapidly, resulting in a discharge of large amounts of sediment downstream,

***California Environmental Protection Agency***

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filling in approximately 1500 linear feet of natural stream between the upper reservoir and the second reservoir downstream.

On June 15, 2005, Regional Water Board staff members John Short and Andrew Jensen met with representatives from the County of Mendocino (County), California Department of Fish and Game (DFG) and the National Marine Fisheries Service (NMFS), to discuss the discharge from the dam. Regional Board staff requested that the County should present a short-term plan to prevent additional discharges of sediment from the system as well as a long-term plan to restore and mitigate all impacts to water quality and beneficial uses of waters of the state. The plan was intended to include all feasible restoration/mitigation options, both short and long term, and then the interagency group could work collaboratively to determine which options were appropriate for implementation. As a result, a report containing short-term options was presented in the *Description of the Conceptual Design for Upper Mill Creek Dam Repair Project, August 8, 2005*, prepared by Mr. Steve Allen of Winzler and Kelly Consulting Engineers.

During this discussion, County and agency personnel recognized that with the approach of winter, heavy flows threaten to discharge additional sediment into the already impaired Mill Creek system. Additional discharges of sediment have the potential to overwhelm the Middle Reservoir, which is currently serving as an in-stream sediment catch basin, and could further impair existing steelhead populations in the lower reach of Mill Creek. In the DFG letter dated May 27, 2005, DFG recommended the County develop a Remediation Plan that, in part, addresses short-term cleanup of the sediment behind Talmage Dam for the impending wet season.

During the meeting, the group discussed the alternatives that were presented by the County and Mr. Allen of Winzler and Kelly. The options presented at that meeting include temporary repair of the damaged gate valve (Alternative A) and removal and stabilization of existing soil stored behind the dam (Alternative B). Alternative A would involve installation of a standpipe at the dam site to create a sediment basin, essentially storing the accumulated sediment behind the dam with no removal.

Upon further review of Alternative A, Regional Water Board; DFG and NOAA personnel determined that the project design presents a host of issues associated with maintenance, monitoring, determining and ensuring appropriate bypass flows, invasion of non-native species, and water temperature. In a letter dated August 26, 2005, DFG illustrated concerns that the complicated design and maintenance issues cannot be resolved in a timely manner and could not be implemented successfully prior to winter rains; thus it is not the most expeditious alternative to stabilize and winterize the Upper Talmage Dam site. Alternatively, the Regional Water Board, DFG, and NOAA prefer the implementation of Alternative B as the best short-term solution for stabilization of the Upper Talmage Dam site. Agency staff supported a project that would use bioengineering stream restoration-type principles to stabilize the reservoir site. This option seemed to be the most cost-effective solution to avoiding impacts over the winter season. Unfortunately, the County's design study did not include this option.

Considering the approaching winter season, the Regional Water Board is issuing this permit for Alternative A with recognition that this will not satisfy our responsibility to ensure a long-term restoration of state waters due to the sediment discharges during the dam failure. A proposal for the permanent restoration of the downstream impacts from the dam failure has not yet been drafted. The Regional Board recognizes the need to detain the remaining highly erosive sediment in the upper reservoir during the impending winter rains, and has therefore chosen to expedite this project approval with the understanding that it is a temporary project designed to prevent additional discharges from occurring during the 2005/06 rainy season.

The Regional Water Board received a complete application and processing fee in the amount of \$822.50 on September 15, 2005. Information describing the proposed project is being concurrently noticed for public comment for a 21-day period on the Regional Water Board's website, as per California Code of Regulations Title 23, Section 3858(a) which reads: "If an emergency requires that certification be issued in less than 21 days, public notice shall be provided as much in advance of issuance as possible, but no later than simultaneously with issuance of certification." Comments received may prompt amendment to this order.

The project proposal originally submitted for this temporary fix suggested the removal of approximately 1100 cubic yards of sediment to establish an approximate 400-foot channel section within the upper reservoir. This new channel was proposed for lining with a composite turf reinforcement mat for erosion reduction, and rock riprap was proposed to stabilize and harden the banks. Representatives from the California Department of Fish and Game, the Army Corps of Engineers, and the Regional Water Board have questioned the timing and need of this portion of the project proposal. Regional Water Board staff have determined that this portion of the project is not necessary for the purposes of this emergency repair, and it has been eliminated from the project proposal. During a teleconference between the Applicant's representative, Mr. Howard DeSheill, and Regional Board staff members John Short and Dannielle Gray, Mr. DeSheill stressed that the proposed grading, rock installation, channel lining, etcetera were being eliminated from this immediate proposal. Therefore, this order does not cover any portion of the proposed channel grading and sediment removal project outlined on page C-6 of the Mill Creek Dam Repair Project construction plan documents drafted by Winzler & Kelly Consulting Engineers, dated September 13, 2005.

The proposed project will cause disturbances to the waters of the state associated with Mill Creek, tributary to the Russian River, Ukiah Hydrologic Subarea No. 14.31, Upper Russian River Hydrologic Area No. 114.30, Russian River Hydrologic Unit No. 114.00.

Project Description: The proposed project involves the repair of an approximate 3' X 3.5' gate valve located at the base of the Upper Mill Creek Dam, off of Mill Creek Road, at mile marker 2.75 (latitude North 390 07' 39", longitude West 1230 07' 45"), two miles east of Ukiah in Mendocino County. According to the Applicant, the valve has been stuck in the open position since December 2004, resulting in severe erosion of the channel and subsequent discharge of

sediment downstream. This project is being proposed as a short-term solution to the erosion and sedimentation problem. A long-term solution will be prepared and implemented within 1 year, and will require a separate certification and additional environmental review.

To facilitate repair of the valve and contain sediment through the 2005 rainy season, the applicant is proposing to install a standpipe with a sand filter apparatus, approximately 18 feet above the existing 24" conduit outlet. The purpose of the standpipe is to restrict sediment flow downstream by slowing flow and allowing time for sediments to settle out. A gravel filter shall be constructed around the standpipe to reduce flow velocities and allow water to pond prior to gravity discharge over the top of the bar, through the repaired gate valve, and into the downstream reservoir. It is this ponding that will allow time for heavier sediments to settle out. Base flow will also be maintained through the gravel filter. This structure is a temporary installation, and is intended only for use a maximum of one year.

The applicant further intends to excavate approximately 400 cubic yards of sediment that has accumulated around the gate valve and dam, and remove the damaged valve and trash screen. Should the valve prove un-repairable, the applicant will replace it with a 24" valve, and install the new valve on the existing 24" conduit that runs through the base of the dam. As designed, the system is intended to minimize erosion of the upper reservoir, and reduce sediment washing downstream.

Mendocino County is requesting that the water quality certification and/or waste discharge requirements be issued immediately so that the loose sediment staged behind the upper dam does not mobilize downstream during the coming rains. As such, this project has been deemed an emergency and permitting will be expedited. Work shall commence as soon as all necessary permits are obtained, and be complete prior to October 31, 2005.

Receiving Water: Waters of the State associated with Mill Creek, tributary to the Russian River, Ukiah Hydrologic Subarea No. 14.31, Upper Russian River Hydrologic Area No. 114.30, Russian River Hydrologic Unit No. 114.00

Filled or Excavated Area: Total Area Impacted: 0.75 acre  
Area Temporarily Impacted: 0.70 acre

Area Permanently Impacted: 0.05 acre

Federal Permit: U.S. Army Corps of Engineers Nationwide Permit application pending, filed April 7, 2005

State and Local Approvals: The Applicant has filed an application for a Streambed Alteration Agreement with the California Department of Fish and Game (Notification No. 1600-2005-0619-3, filed September 15, 2005). Application has also been submitted to the Department of Water Resources Division of Safety of Dams (DSOD) for approval of project plans and specifications. At this time, both applications are pending approval.

Compensatory Mitigation Overview: Total Mitigation Area: **to be determined at a later date.** The Regional Water Board reserves the right to require compensatory mitigation for impacts associated with this project. However, staff recognize the urgent need to implement this project prior to impending rains to protect water quality, and so defer potential mitigation requirements to a later date when further environmental and impact review can be assessed.

Compensatory Mitigation: Compensatory Mitigation is required for this project. However, to expedite the repair work, and to protect existing beneficial uses, compensatory mitigation shall be determined after project completion. This deferment of mitigation applies to this particular project and this specific set of circumstances only, and is not a common practice of Regional Water Board staff. The Applicant will be required to mitigate for impacts associated with this project. These mitigation requirements may be included as part of the enforcement actions being taken as a consequence of the original valve malfunction incident on December 9th, 2004 that led to the draining of the reservoir and the extensive sediment discharge downstream, or may be required separately at the discretion of the Regional Water Board.

Noncompensatory Mitigation: Non-compensatory mitigation measures have been incorporated into the project to reduce the potential impacts to water quality both on site and downstream of the site. Work will be completed during the dry season to avoid sediment discharges to surface waters. The county will use erosion control Best Management Practices (BMP's) to reduce the potential for sediment and turbid discharges to surface waters. BMP's will include keeping erosion control materials onsite at all times to immediately address areas

susceptible to erosion as they are identified, silt fencing, and conducting work during the 2005 low flow season. Fish screens will be installed, and fish shall be removed from the project area by a Fisheries Biologist, as per the Applicant. The work site will be dewatered prior to start of work by installation and maintenance of a temporary cofferdam and bypass pipe system sufficiently sized to handle all discernable flow. Waters will be piped downstream to maintain fish flow for existing aquatic habitat.

CEQA Compliance:

The North Coast Regional Water Quality Control Board, as the lead California Environmental Quality Act (CEQA) agency, has determined that this project qualifies for a categorical exemption under section 15308, Actions by Regulatory Agencies for Protection of the Environment, pursuant to CEQA. This finding is based on the temporary nature of the project and the projected environmental consequences that will result from the release of more sediment downstream if no action is taken prior to the rainy season. The standpipe installation is only intended for use through one season, to retain sediment and avoid further downstream discharge that would adversely impact existing habitat.

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 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) The Applicant shall provide the Regional Water Board with a detailed construction schedule. The schedule shall identify the approximate beginning and completion date for each activity, and shall be sent via email to [dgray@waterboards.ca.gov](mailto:dgray@waterboards.ca.gov). Refer to WDID# 1B05127WNME in the subject line. The names, phone numbers, cellular phone numbers, and pager numbers of key personnel shall be included with this construction schedule.
- 3) The Applicant shall submit a proposed long-term stabilization plan to facilitate Alternative 1 as described on page 3 of the application submitted to this office, no later than March 1, 2006. This alternative described stabilization methods utilizing re-vegetation and other Best Management Practices (BMP's). The plan shall include engineered designs, a native re-vegetation plan, proposed spoil disposal sites, and a proposed construction schedule.
- 4) No later than May 1, 2006, the Applicant shall have a finalized long term stabilization design (see condition 3 above) approved by the California Department of Fish and Game and Regional Water Board staff. Associated permits shall be obtained and implementation of the design shall begin no later than July 1, 2006.
- 5) As per the applicants Streambed Alteration Agreement, the temporary standpipe and associated structures shall be removed by August 15, 2006, and all water shall be diverted through the existing sluice gate valve. The valve shall be opened to allow for maximum bypass flows.
- 6) No later than September 1, 2006, native seeding and mulching shall be completed in accordance with the

approved re-vegetation plan, and maintenance and irrigation shall be implemented.

- 7) 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.
- 8) 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. Erosion control measures and standpipe status shall be monitored during and after each storm event. Modifications, repairs, and improvements to erosion control measures shall be made whenever needed.
- 9) This certification does not allow for installation of riprap within the Upper Dam basin. Activities described on page C-6 of the plans prepared by Winzler and Kelly Consulting Engineers, dated September 13, 2005 shall be removed from the project design.
- 10) All fill material used on the site shall be clean and free of contaminants. A characterization report for all imported fill materials shall be provided to the Regional Water Board prior to the commencement of any grading work.
- 11) Instream work shall not commence until June 15th and all work within the waterway shall be complete prior to October 31, 2005.
- 12) 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.
- 13) Disturbance or removal of vegetation shall not exceed the minimum necessary to complete operations. Should vegetation disturbance be necessary, the use of hand tools

(chain saws, etc.), when feasible, shall be utilized to trim vegetation. The disturbed portions of any stream channel shall be restored to as near their original condition as possible.

- 14) 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.
- 15) 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 bypass 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. Any release of bypass water shall comply with water quality objectives contained in the Water Quality Control Plan for the North Coast Region. In particular, the Applicant shall not cause the turbidity to be increased more than 20% above naturally occurring background levels.  
**Monitoring** – When there is a discharge from the work site, daily turbidity samples shall be collected from upstream in Mill Creek and immediately downstream from any bypass discharge location. If samples show an exceedence of water quality objectives, site and/or project improvements shall be implemented immediately. Samples shall then be collected in 1/2hour intervals until compliance is achieved. If three consecutive samples show exceedence, work shall cease and Regional Water Board staff contacted as soon as possible.
- 16) 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.

- 17) 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 Upper Mill Creek Dam Repair Project (WDID No. 1B05127WNME) 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, 2006, 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 John Short of our staff at (707) 576-2063 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, SWRCB  
Ms. Corinne Gray, California Department of Fish and Game, 601 Locust Street,  
Redding, CA 96002  
U.S. Army Corps of Engineers, Regulatory Branch, 333 Market Street,  
San Francisco, CA 94105  
U.S. Army Corps of Engineers, District Engineer, P.O. Box 4863, Eureka, CA 95502  
Mr. Mike Long, U.S. Fish and Wildlife Service, Arcata Field Office, 1655 Heindon Road,  
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