



Dan Skopec.
Agency Secretary

California Regional Water Quality Control Board
North Coast Region
William R. Massey, Chairman

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Arnold
Schwarzenegger
Governor

May 9, 2006

Mr. Steve Canelis
Bohan & Canelis
P.O. Box 317
600 Austin Creek Road
Cazadero, CA 95421

Dear Mr. Canelis:

Subject: Renewal of Clean Water Act Section 401 Certification (Water Quality Certification) for Bohan and Canelis Gravel Bar Skimming in Austin Creek, Sonoma County

File: Bohan & Canelis Gravel Bar Skimming, Austin Creek, Cazadero
Sonoma County, WDID No. 1B2077WNSO

This Order by the California Regional Water Quality Control Board, North Coast Region (Regional Water Board), is being renewed pursuant to Section 401 of the Clean Water Act (33 USC 1341). This renewal is in response to Bohan and Canelis's February 17, 2005 request for a Clean Water Act, Section 401, Water Quality Certification. On that date the Regional Water Board received an application and \$500 processing fee from Mr. Steven Canelis, on behalf of Bohan and Canelis Aggregates, requesting renewal of a Water Quality Certification and/or Waste Discharge Requirements (Dredge/Fill Projects) for the continuation of gravel skimming within Austin Creek. The Regional Water Board received additional application fees of \$8,500 on January 18, 2006. The proposed project causes disturbances to waters of the state associated with Austin Creek Hydrologic Unit No. 114.12.

Project Description: Bohan and Canelis Aggregates propose to continue to mine gravel from Austin Creek, Cazadero, California in two separate phases. The first phase involves gravel skimming of four identified gravel bars, located in a continuous reach from approximately 1,940 feet upgradient of the confluence of Austin Creek and the Russian River, to a point approximately 4,820 feet upgradient of the confluence. The second phase involves and creation or enhancement of seven instream pools, located within the reach of Austin Creek beginning just below the Highway 116 bridge and extending upgradient to the upper extent of gravel bar skimming.

The pools will be dug to a maximum initial target depth of 10 feet. The following year pools will be examined to determine if the excavated pools have maintained a target depth of eight feet (As described in National Marine Fisheries Biological Opinion, File 151422SWR03SR8613). Gravel extraction will be accomplished by surface skimming of four bars parcels totaling 6.0 acres, and seven pools totaling from between 2.0-3.0 acres. The estimated volume to be excavated on a yearly basis will be 25,000 cubic yards, however the exact volume will be based on replenishment rates and allowable extraction rates as outlined in the Sonoma County Aggregate Resources Management Plan (SCARMP) and Environmental Impact Report (November 1994).

No gravel skimming operations will take place in the wetted stream. Pool creation/enhancement may take place at or below water level. Buffer zones will separate the operational areas from the low-water channel. Skimming will generally progress from south to north and will not be conducted simultaneously at multiple sites. Two stream crossings will be utilized, with a maximum of one bridge in place at any time. No gravel will be extracted if there is insufficient replenishment above the baseline elevations that were established in 1995.

Receiving Water: Austin Creek, Cazadero Hydrologic Subarea (State Hydrologic Unit Number 114.12).

Filled or
Excavated Area: Total Area Impacted: 9 acres
Area Temporarily Impacted: 8.0-9.0 acres
Area Permanently Impacted: 0 acres
Approximately 6.0 acres of gravel bar within the creek channel will be excavated.
Approximately 2.0-3.0 acres of pool creation/enhancement will be excavated.
The total volume excavated will be approximately 25,000 cubic yards per season.

Federal Permit: U.S. Army Corps of Engineers (ACOE), Clean Water Act Section 404 Individual Permit No. 263670N. The permit is scheduled to expire on December 31, 2007. Any mining performed after that date will need a renewal of the ACOE permit and an amendment of this 401 Certification.

- Compensatory Mitigation: The mining activities do not include any compensatory mitigation activities.
- Non-compensatory Mitigation: Upon completion of the skimming activities, areas disturbed by the mining operations shall be graded to ensure that no pits or depressions are left where fish entrapment may occur. Gravel extraction will cease on October 31. Temporary crossings shall be constructed using temporary bridges with gravel approach ramps that use only clean gravel, which will reduce the potential of turbid discharges to the river. Equipment will not be operated in the flowing river except as may be necessary to construct stream crossings. Any equipment entering the active stream will be preceded by an individual on foot to displace fish and wildlife from being crushed. Appropriate sediment control measures will be implemented to ensure that instream turbidity levels do not exceed water quality standards contained in the Water Quality Control Plan for the North Coast Region.
- Receiving Water: Austin Creek, Cazadero Hydrologic Subarea (State Hydrologic Unit Number 114.12).
- Filled or Excavated Area: Total Area Impacted: 9 acres
Area Temporarily Impacted: 8.0-9.0 acres
Area Permanently Impacted: 0 acres
Approximately 6.0 acres of gravel bar within the creek channel will be excavated.
Approximately 2.0-3.0 acres of pool creation/enhancement will be excavated.
The total volume excavated will be approximately 25,000 cubic yards per season.
- Compensatory Mitigation: The mining activities do not include any compensatory mitigation activities.
- CEQA Compliance: The Sonoma County Board of Supervisors issued a Notice of Determination for their Environmental Impact Report for this project on June 9, 1982.
- 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 article 6 (commencing with section 3867) of Chapter 28, Title 23 of the California Code of Regulations (CCR 23). 23 CCR 3867.
- 2) This certification action is not intended and shall not be construed to apply to 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 subsection 3855(b) of Chapter 28, CCR 23 and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- 3) This certification is conditioned upon total payment of any fee required under Chapter 28, CCR 23 and owed by the applicant.

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 working days (working days are Monday – Friday) prior to the commencement of grading 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) Instream work shall not commence until June 15th and all work within the waterway shall be complete prior to October 15th.
- 3) 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.

- 4) 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.
- 5) Extraction activities will comply with provisions in the North Coast Basin Water Quality Control Plan (Basin Plan).
- 6) The amount of gravel extracted under this certification action shall not exceed 50,000 cubic yards per year, and shall be based on replenishment rates and allowable extraction rates as outlined in the SCARMP.
- 7) Turbidity monitoring shall be conducted upstream and downstream of the mining sites during the first flood event that results in flow over the mined areas. The exact monitoring locations and timing will follow the protocol implemented during the 2006/2007 winter season.
- 8) Continuous temperature monitoring shall be conducted by the applicant based on a monitoring plan proposed by the applicant, and approved by, the Executive Officer of the Regional Water Board. A proposed plan shall be submitted to the Regional Water Board within 14 days of issuance of this Order.
- 9) In order to reduce potential impacts to riparian vegetation, no gravel skimming shall occur within 50 feet of the wetted channel. Riparian vegetation growing on the gravel bars proposed for skimming shall be removed and transplanted in areas adjacent to the outer banks of the river and along the edges of the low flow channel. Transplanted riparian vegetation shall be irrigated during the summer months to ensure survival. Planting maintenance and monitoring shall occur for at least three years, and a survival rate of not less than 75 percent shall be achieved. In addition, brief yearly reports shall and photo documentation be submitted by the

applicant, summarizing the vegetation maintenance and monitoring activities for a total of three years.

- 10) Stream habitat inventory and fisheries monitoring shall be conducted by a qualified Fisheries Biologist each year for the life of this Order. An Annual Report shall be submitted to the Regional Water Board for staff review, no later than February 1 of each year.
- 11) The extraction sites may be visited and assessed by Regional Water Board staff to document compliance with this certification.
- 12) Mining plans, cross sections, monitoring data, aerial photographs, and reports submitted to the Scientific Review Committee (SRC) shall also be submitted to the Regional Water Board. Dates of submission shall be the same as those for submission of the materials to the SRC, as spelled out in the mitigation measures contained in the Sonoma County Planning Commission staff report, dated May 17, 2001.
- 13) Best Management Practices for sediment and turbidity control shall be implemented and in place prior to, during, and after mining in order to ensure that no silt or sediment enters surface waters.
- 14) 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.
- 15) 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.
- 16) All extraction operations, extraction techniques, reclamation activities, monitoring, project impact minimization measures, and terms of conditions will be implemented as described in the NMFS Biological Opinion.
- 17) 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.

- 18) 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.
- 19) 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 Bohan and Canelis Aggregates (Facility No. 1B2077WNSO) 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 insofar 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 December 31, 2007. 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 Paul Keiran of our staff at (707) 576-2753 prior to resumption of mining activities (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: Mr. Oscar Balaguer, SWRCB, 401 Program Manager, Clean Water Act Section 401 Certification and Wetlands Unit Program

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

Mr. Dave Shiltgen, Sonoma County Permit and Resource Management Department, 2550 Ventura Avenue, Santa Rosa, CA 95403

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

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

Mr. Dick Butler, National Marine Fisheries Service, 777 Sonoma Avenue, Suite 325, Santa Rosa, CA 95404

Mr. Scott Wilson, Department of Fish and Game, Region 3, P.O. Box 47, Yountville, CA 94599