



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



Linda S. Adams
Secretary for
Environmental Protection

www.waterboards.ca.gov/northcoast
5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403
Phone: (877) 721-9203 (toll free) • Office: (707) 576-2220 • FAX: (707) 523-0135

Arnold Schwarzenegger
Governor

June 9, 2006

Mr. David Ripple
Shamrock Industries, Inc.
181 Lynch Creek Way
P.O. Box 808044
Petaluma, CA 94975-8044

Dear Mr. Ripple:

Subject: Issuance of Clean Water Act Section 401 Conditional Certification (Water Quality Certification) for the Shamrock Materials Gravel Bar Skimming in the Alexander Valley Reach of the Russian River Project, Sonoma County

File: Shamrock Materials Gravel Bar Skimming in the Alexander Valley Reach of the Russian River Project, WDID No. 1B01101WSON

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 Shamrock Material's February 8, 2005 request for a Clean Water Act, Section 401, Water Quality Certification. On February 8, 2005, the Regional Water Board received an application from Mr. David Ripple, on behalf of Shamrock Materials, Inc., requesting a Water Quality Certification and/or Waste Discharge Requirements (Dredge/Fill Projects) for the Shamrock Materials Gravel Bar Skimming in the Alexander Valley Reach of the Russian River Project (Project), Sonoma County. The Regional Water Board received an application and processing fee in the amount of \$1,762.20 on February 8, 2005. The remaining processing fee in the amount of \$10,737.80 was received on May 23, 2006.

Information describing the proposed project was noticed for public comment for a 21-day period on the Regional Water Board's website beginning on May 31, 2005. A revised public notice was posted on August 31, 2005 with a second 21-day comment period beginning on that date. Comments were received from Mr. David Herr, Mr. Brian Hines from Trout Unlimited, Ms. Karen Cooper, Ms. Patty Mohar, Ms. Sharon Marchetti and Mr. Don McEnhill with the Russian Riverkeepers, Ms. Judith Jasko, Ms. Brenda Adelman with Friends of the Russian River, and Mr. Lee Tolbert with Palomino Lakes Mutual Water Company (Enclosure 1). The above-mentioned comments were sent to Mr. David Ripple of Shamrock Materials for his review and response apart from the comments received from Mr. Tolbert. A response letter was submitted by Mr. Ripple on August 15, 2005 (Enclosure 2). Regional Water Board staff considered all comments during the preparation of this Order. The proposed project causes disturbances to Waters of the United States associated with gravel extraction and associated activities within the Russian River Hydrologic Unit No. 114.00.

California Environmental Protection Agency

Recycled Paper

Project Description: Shamrock Materials, Inc. (Shamrock), proposes to skim eight gravel bars including: (1) the Naco-West Bar (APN 115-040-003); (2) the Big Sulphur Creek Bar (APN 116-190-063); (3) the Bella Vista Ranch Bar (APN 116-190-006); (4) the All Coast Forest Products Bar (APN 116-260-016); (5) the Vimark Bar (APN 116-270-001); (6) the Ferrari/Carano Gravel Bar (APNs 116-270-040, 116-280-080, 116-310-014); (7) the Louisiana Pacific (LP) Bar (APN 117-050-017); and (8) the Field Gravel Bar (APNs 117-060-003, -038, -010, -016, -023, -025, -043) in the Upper Alexander Valley in the Russian River, near Cloverdale, California. The total project area encompasses approximately 98.3 acres of gravel bars, of which approximately 94.6 acres are located in the Russian River and approximately 3.7 acres are located in Big Sulphur Creek. Gravel extraction will be accomplished by surface skimming of the above-mentioned gravel bars above the previously established baseline in accordance with the Sonoma County Aggregate Resources Management Plan (ARM Plan). The estimated volume to be excavated in Summer 2006 will be approximately 150,000 cubic yards, based on replenishment rates and allowable extraction rates as outlined in the ARM Plan and Environmental Impact Report (November 1994). No operations are proposed in the wetted stream, or below water level. Buffer zones will separate the operational areas from the low-water channel.

Skimming generally progresses from north to south and will not be conducted simultaneously at multiple sites. Stream crossings will be utilized to access the gravel bars. The number of stream crossings and location may vary from year to year based upon the number of sites to be skimmed. Annual extensive monitoring is required including data gathering and reporting. The use permits issued by Sonoma County under the ARM Plan requires standard and site specific monitoring, including site inspections, full channel cross sections, and annual aerial photographs. No gravel will be extracted if there is insufficient replenishment above the baseline elevations that were established in 1995.

Receiving Water: Russian River and Big Sulfur Creek, Geyserville Hydrologic Subarea No. 114.25, Russian River Hydrologic Unit No. 114.00

Filled or Excavated Area: Total Area Impacted: 98.3 acres
Area Temporarily Impacted: 98.3 acres
Area Permanently Impacted: 0 acres
Approximately 98.3 acres of gravel bar within the river channel will be excavated. The volume excavated will be approximately 150,000 cubic yards during the 2006 season.

Federal Permit: U.S. Army Corps of Engineers, Clean Water Act Section 404 Individual Permit No. 21708N446. The permit is contingent upon Clean Water Act

Section 401 Water Quality Certification, and therefore is not effective until issuance of this Conditional 401 Certification.

**Compensatory
Mitigation:**

Mitigation measures include re-vegetation where riparian vegetation is removed as a result of the Project. Willow saplings, cottonwood, and other native riparian tree species found in the adjacent riparian area shall be replanted in trenches along the low-flow channel buffer, the outer riverbanks or within the upper bar buffer. The area planted will be of equal area to the area from which the vegetation is removed and be monitored each year by a qualified biologist, for a total of three years. At least 75 percent success will be achieved at the end of the three-year monitoring period, or additional plantings will be required. The replanted riparian vegetation will be irrigated through the dry season to ensure survival of the transplanted vegetation.

**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 take place between June 1 and November 1. 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.

CEQA Compliance:

The Sonoma County Board of Supervisors, as lead agency under the California Environmental Quality Act (CEQA), issued Resolution No. 96-070 and Resolution No. 01-1004 that certified the Mitigated Negative Declaration for this project on July 16, 1996 and August 14, 2001, respectively.

**Standard
Conditions:**

Pursuant to Title 23, California Code of Regulations, Section 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 California Water Code Section 13330 and article 6 (commencing with section 3867) of Chapter 28, Title 23, California Code of Regulations.
- 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 Chapter 28, Title 23, California Code of Regulations, subsection 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) This certification is conditioned upon total payment of any fee required under Chapter 28, Title 23, California Code of Regulations and owed by the Applicant.

**Additional
Conditions:**

Pursuant to Title 23 California Code of Regulations, Section 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) 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 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) 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.
- 4) Extraction activities shall comply with all provisions and prohibitions in the North Coast Basin Water Quality Control Plan (Basin Plan). Extraction activities shall not cause alterations to water temperature as identified in the Basin Plan. Nor shall activities cause bank erosion to occur at the extraction sites, as well as upstream or downstream of the extraction sites.
- 5) The amount of gravel extracted under this certification action shall not exceed 150,000 cubic yards for the 2006 season, and shall be based on replenishment rates and allowable extraction rates as outlined in the Sonoma County ARM Plan.

- 6) Gravel extraction volumes shall be recorded and submitted to the Regional Water Board for staff review no later than February 1, 2007.
- 7) Turbidity monitoring shall be conducted upstream and downstream of the extraction sites during the first significant rain event that results in flow over the extracted areas. The monitoring locations, sampling time period and frequency will follow the protocol implemented during the 2003/2004 winter season. Turbidity shall not be increased by more than 20 percent above naturally occurring background levels; as required by the Basin Plan.
- 8) Continuous temperature monitoring shall be conducted by the Applicant. The monitoring locations, sampling time period and frequency will follow the protocol implemented during the 2003/2004 winter season.
- 9) In order to reduce potential impacts to riparian vegetation, no gravel skimming shall occur within 50 feet of the wetted channel unless authorized by an individual Clean Water Act Section 401 permit. 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 for the life of this Order. A Monitoring Report shall be submitted to the Regional Water Board for staff review, no later than February 1, 2007.
- 11) The extraction sites may be inspected by Regional Water Board staff to document compliance with this certification and the Applicant shall make all reasonable accommodations for inspections.
- 12) Extraction plans, spring and fall field cross sections, fine sediment storage monitoring data, bank erosion monitoring data, spawning gravel monitoring, suspended sediment monitoring data, aerial photographs, and all other 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 extraction activities in order to ensure that no silt or sediment enters surface waters.
- 14) A copy of this Order 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 shall be implemented as described in the NMFS Biological Opinion dated May 23, 2002.
- 17) This Order is not transferable. In the event of any change in control or 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 all mined gravel bars, prior to the commencement of work and after work is completed, to the appropriate Regional Water Board staff person, in order to provide evidence of compliance with this Order and the Basin Plan.
- 20) In response to requests by Shamrock as well as staff review of the National Marine Fisheries Service (NMFS) Biological Opinion (BO) (May 23, 2002) and the technical document titled *Reasons for Providing Flow Equalization Slots in Buffer Zones on Skimmed Gravel Bars* (submitted May 12, 2006), Regional Water Board staff have determined that the installation of equalization slots within the

existing buffers of the mined gravel bars will be allowed as a component of this year's Shamrock Project, on a test basis only. Shamrock did request allowance for further modifications to the vegetated buffers and slot quantities, however this is not consistent with the NMFS BO and will not be allowed by this Order.

The slots shall be installed during the 2006 gravel extraction season and in accordance with the conditions outlined in the NMFS BO. Monitoring of the slots will provide Regional Water Board staff with the technical information required to determine the necessity for future modifications to the buffer zones.

Based on Regional Water Board staff review, Shamrock shall construct up to four equalization slots, 10-15 feet wide, on the downstream-most 20% of each bar that is mined for the 2006 season; consistent with the NMFS BO. These slots will provide wider downstream exit openings to blend flow gently back into the main channel, reducing erosion of the gravel bar, and allowing a more uniform flow distribution across the flood channel. All riparian vegetation that will be removed from the buffers during the construction of the openings shall be replanted according to the riparian re-vegetation and monitoring requirement outlined in Additional Condition 9 and the Compensatory Mitigation section above.

Water Quality
Certification:

I hereby issue an order [23 CCR Subsection 3831(e)] certifying that the authorized discharge from Shamrock Materials Gravel Bar Skimming in the Alexander Valley Reach of the Russian River Project (WDID No. 1B01101WNSO) 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 (Enclosure 3).

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 Basin Plan.

Other: If land disturbance (excluding agricultural activity) is 1 acre or more, the Applicant will need to apply for a Construction Activities Storm Water Permit prior to commencement of construction. In addition, if storm water runoff from any industrial processing area is to be discharged to any surface water, coverage under the National Pollution Discharge Elimination System (NPDES) General Permit No. CSA000001-Discharges of Storm Water Associated With Industrial Activities Excluding Construction Activities Permit will be required. Information on these permits is available at the Regional Water Board, or from the State Water Resources Control Board website at <http://www.waterboards.ca.gov/>.

Expiration: The authorization of this certification for any dredge and fill activities expires on December 31, 2006. 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 at (707) 576-2065 and in writing prior to construction (pursuant to Additional Condition No. 1 above) so that we may answer public inquiries.

Sincerely,

Catherine E. Kuhlman
Executive Officer

060906_mmj_Shamrock_GravelMining_401Cert.doc

Enclosures: 1) Public Comments
2) Shamrock Materials Response Letter dated August 15, 2005
3) 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,
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. Brian Cluer, National Marine Fisheries Service, 777 Sonoma Avenue, Suite 325,
Santa Rosa, CA 95404
Mr. Bill Cox, Department of Fish and Game, Region 3, P.O. Box 47, Yountville, CA 94599
Mr. David R. Herr, 10692 River Drive, Forestville, CA 95436
Mr. Brian Hines, Trout Unlimited, 1120 College Avenue, Santa Rosa, CA 95404
Mr. Don McEnhill, River Keepers, P.O. Box 1335, Healdsburg, CA 95448
Ms. Judith Jasko, 424 Greens Drive, Healdsburg, CA 95448
Mr. Lee Tolbert, Palomino Lakes Mutual Water Company, P.O. Box 687,

California Environmental Protection Agency

Cloverdale, CA 95425