



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



Linda S. Adams
Agency Secretary

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Arnold
Schwarzenegger
Governor

July 13, 2006

Ms. Cindy Anderson
California Department of Transportation
1657 Riverside Drive/MS #30
Redding, CA 96001

Dear Ms. Anderson:

Subject: Issuance of Clean Water Act Section 401 Certification (Water Quality Certification) for the CDOT, Tannery Gulch Slate Creek Bank Stabilization Project

File: CDOT – Tannery Gulch Slate Creek Bank Stabilization Project
WDID No. 1B06062WNTR

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), in response to your request, on behalf of the California Department of Transportation (applicant), for Water Quality Certification for activities related to the Tannery Gulch Slate Creek Bank Stabilization project located in the vicinity of Route 299 and State Route 3, Post Mile 42.2 (S3, T34N, R9W) near Weaverville, Trinity County. On May 8, 2006, the Regional Water Board received your application and an \$800.00 processing fee. On June 21, 2006, we deemed the application complete and posted information describing the project on the Regional Water Board's website for a 21-day public review and comment period. We did not receive any comments on this project.

Project Description: The purpose of the project is to control erosion along 60 linear feet of Slate Creek, where creek flows are undermining the bank that supports the highway at Tannery Gulch. The California Department of Transportation (applicant) is proposing to place rock slope protection (RSP) at the toe of the eroded embankment of Slate Creek. Presently, Slate Creek is lined with large granite rocks with a mixed conifer riparian area. The project site has a bank full depth of approximately 19 feet. Construction will occur at the pull out (post mile 42.2 on Route 3). The applicant proposes to place 48 cubic yards of ½ ton RSP along a 60 linear foot section of the bank to a height and depth of approximately 7.5 feet. A layer of geotextile fabric will underlay the RSP. The area of permanent impact is approximately 0.01 acres of streambed.

California Environmental Protection Agency

Activities are estimated to occur between July 11 and October 15 in 2006 or 2007. Project activities will be conducted over the course of one week during low flow.

The applicant will stage equipment on the adjacent county road. There are no known sensitive or listed species in the project area. All activities will be conducted outside of the normal nesting period of the Northern Spotted Owl. The project may require the removal of 3 trees that are between 2 inches and 10 inches in diameter at breast height (dbh) in order to allow for access to the toe of the slope. Alder trees will be planted in the top two feet of the RSP to provide bank stabilization and to create habitat. Planting will occur in late summer before 15 October. In addition 5 to 10 conifers will be planted on the hillside above the RSP as compensatory mitigation for the 3 trees that will be removed to allow for equipment access. There will be no excavation within the channel and no spoils will be removed from the site.

- Receiving Waters: Slate Creek associated with the Weaver Creek Hydrologic Subarea No. 106.32.
- Latitude/Longitude: 40 50' 8.52" N/ 122 51' 50.53"W
- Filled or Excavated Area: Area Temporarily Impacted: None
Area Permanently Impacted: 0.01 acre of stream bed
- Federal Permit: U.S. Army Corps of Engineers Nationwide Permit Nationwide Permit 13 for *Bank Stabilization*
- Compensatory Mitigation: Planting of 5 to 10 conifers for replacement of the 3 trees that will be removed.
- Non-compensatory Mitigation: Non-compensatory mitigation measures include implementation of Best Management Practices for sediment/ erosion control and equipment. All areas with bare soil will be reseeded and mulched. Silt fences, straw bales, fiber plants and/or fiber-rolls will be used to control sediment, as well as reseeded and mulching of bare soil for erosion prevention. The applicant has applied for a Lake or Streambed Alteration Agreement (1600 Permit) from the California Department of Fish and Game.
- CEQA Compliance: The California Department of Transportation, as the lead agency for CEQA, determined that this project will have no significant effect on the environment, and is categorically exempt from CEQA (Article 19, Class 1, Section 15301).

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 nondenial 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 applicant shall notify the Regional Water Board in writing at least five working days (working days are Monday – Friday) prior to the commencement of the project, with details regarding the schedule of operations, to allow staff the opportunity to be present onsite and to answer any public inquiries that may arise regarding the project.
- 2) All conditions listed in this Water Quality Certification must be included in the Plans and Specifications prepared by the applicant for the Contractor. All conditions shall be implemented according to the submitted application and this Water Quality Certification.
- 3) A copy of this permit must be provided to the contractor and all subcontractors conducting the work, and a copy must be in their possession at the work site. It is the applicant's responsibility to ensure that the contractor and all subcontractors are provided a copy of this permit.

- 4) Adequate BMPs for 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.
- 5) If, at any time, an unauthorized discharge to surface waters occurs, or any water quality problem arises, the project shall cease immediately and Regional Water Board staff shall be notified promptly.
- 6) 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.
- 7) When operations are completed, any excess material or debris shall be removed from the work area and disposed of properly. No rubbish shall be deposited within 150 feet of the high water mark of any stream.
- 8) If construction dewatering is found to be necessary, the applicant will use a method of water disposal other than disposal to surface waters (such as land disposal) or the applicant shall apply for coverage under the General Construction Dewatering Permit and receive notification of coverage to discharge to surface waters.
- 9) Fueling, lubrication, maintenance, storage and staging of vehicles and equipment shall be outside of waters of the United States. Fueling, lubrication, maintenance, storage and staging 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.
- 10) Project activities shall comply with provisions in the North Coast Region Water Quality Control Plan (Basin Plan).
- 11) The project site may be visited and assessed by Regional Water Board staff to document compliance with this certification.

- 12) All activities, BMPs, and associated mitigation will be conducted as described in this Permit and the application submitted by the applicant for this project.
- 13) 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.

Water Quality Certification: I hereby issue an order [23 CCR Subsection 3831(e)] certifying that any authorized discharge from the CDOT Tannery Gulch Slate Creek Bank Stabilization Project, (Facility No. 1B06062WNHU) 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.

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 July 5, 2011. 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 Diana Henriouille of our staff at (707) 576-2350 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: Ms. Jane Hicks, U.S. Army Corps of Engineers, Regulatory Functions, 333 Market Street, San Francisco, CA 94599

U.S. Army Corps of Engineers, District Engineer, P.O. Box 4863, Eureka, CA 95502

Mr. Oscar Balaguer, 401 Program Manager, Water Quality Certification Unit, SWRCB, 1001 I Street, 15th Floor, Sacramento, CA 95814