



California Regional Water Quality Control Board North Coast Region

William R. Massey, Chairman



Linda S. Adams
Agency Secretary

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

September 28, 2006

Mr. Jack Noble and Mrs. Mary Noble
P.O. Box 365
Fortuna, CA 95540

Dear Mr. and Mrs. Noble:

Subject: Issuance of Clean Water Act Section 401 Certification (Water Quality Certification) for Van Duzen River Ranch Streambank Protection Activities

File: Noble, Jack – Van Duzen River Streambank Protection Project
WDID No. 1B06078WNHU

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 for Water Quality Certification for activities related to installation of hard points for streambank protection on your Van Duzen River Ranch near Fortuna, Humboldt County. On May 24, 2006, the Regional Water Board received your application and a \$2,000.00 processing fee. On July 14, 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 received public comments on this project.

Project Description: The project is located on the Nobles' Van Duzen River Ranch, which straddles approximately three miles of the Van Duzen River, from approximately one and one-half miles upstream to one and one-half miles downstream of the confluence of Yager Creek. The primary purpose of the project is to stabilize areas of eroding streambank to reduce the risk of streambank failures that would likely result in the loss of riparian areas and agricultural land.

The project involves installation of hard points approximately every sixty-six feet, along sections of the streambank that are at risk of failing during high flow events. The approximate locations of the hard points are marked on an aerial photo that was submitted with the application for Water Quality Certification. Hard points will only be installed within the areas shown in the application. Only large rocks or large concrete riprap will be used to build the hard points.

California Environmental Protection Agency

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The size and shape of individual hard points may vary due to variations in the bank height and changes in topography along the streambank. Hard points are typically installed by excavating a shallow toe trench at the base of the streambank and backfilling the toe trench with large pieces of riprap as a foundation for the hard point. Additional riprap is then placed between the toe trench and the top of the riverbank. The hard points are approximately 25 to 30 feet wide along the top of the bank and they gradually taper to an approximately 10-foot wide point as they project into the riverbed. The tops of the hard points are usually at the top of the bank and outside waters of the United States, and the tips typically extend into waters of the United States.

The proposed hard point installation and maintenance activities are scheduled to begin no sooner than August 15th each year, when flows in the river are low, to prevent direct impacts to salmonids.

Receiving Waters: Van Duzen River in the Hydesville Hydrologic Subarea No. 111.21.

Latitude/Longitude: 40.530N/124.089W

Filled or Excavated Area: Area Temporarily Impacted: <0.1 acre
Area Permanently Impacted: 0.7 acre

Total Linear Impacts: Length Temporarily Impacted: none
Length Permanently Impacted: 500 feet

Federal Permit: U.S. Army Corps of Engineers Nationwide Permit No. 13 (File No. 300150)

Compensatory Mitigation: Compensatory mitigation is not required for this project.

Noncompensatory Mitigation: Noncompensatory mitigation measures for this project include future plantings of native riparian vegetation and the use of Best Management Practices for heavy equipment use near a waterway. The applicant has obtained a Lake or Streambed Alteration Agreement (1600 Permit) from the California Department of Fish and Game.

CEQA Compliance: The Humboldt County Planning Division, as lead agency for California Environmental Quality Act (CEQA) compliance, and the California Department of Fish and Game, as a responsible agency for CEQA, certified a Supplemental Environmental Impact Report and filed a Notice of Determination on May 13, 2004.

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 Regional Water Board staff prior to the annual commencement of the project activities, 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) A copy of this permit must be provided to all contractors and subcontractors conducting work on this project, 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.
- 3) All activities and Best Management Practices shall be implemented according to the submitted application and the conditions in this Water Quality Certification.
- 4) 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. If, at any time, an unauthorized discharge to surface waters occurs from operation, fueling, lubrication, maintenance, storage or staging activities, the project shall cease immediately and Regional Water Board staff shall be notified promptly.

- 5) Materials used for building the hard points shall consist of appropriately sized large rock or pieces of broken concrete that are primarily one-quarter ton and larger. The hard point materials shall be free of exposed steel protrusions and other residual materials such as soil or petroleum hydrocarbons.
- 6) Heavy equipment that is used to build hard points shall only be operated from the top of the streambank or from the dry gravel bar. Heavy equipment shall not enter the wet portion of the stream channel. This Water Quality Certification does not authorize installation of any temporary stream crossings.
- 7) Impacts to existing vegetation shall be minimized and limited to the extent necessary to access, install, and maintain the hard points.
- 8) The applicant shall take photographs of the project areas before and after new hard points are installed. The project areas are defined as the areas along the river bank that are marked in red on an aerial photo in the application and the river banks 150 feet upstream and 150 feet downstream of each area marked in red. Each new individual hard point and any hard points that are strengthened shall be captured in the photographs. Those photos shall provide the baseline for monitoring changes in and around the project areas over time.
- 9) The applicant shall submit a report to the Regional Water Board within 90 days after the project start date that contains a copy of the required photos. The report and photographs shall be organized in a manner that clearly indicates the location of each new hard point with respect to the project area. Each individual hard point shall have a clear and unique identification, such as a numbering or lettering

system, and corresponding map or aerial photo that will allow Regional Water Board staff to observe any changes to the project area over time.

- 10) The applicant shall inspect the project area semi-annually as described below for a minimum of five-years and shall monitor any changes in the project area over time. The applicant shall inspect and photograph the project area at least once each year during the low flow period and at least once each year when flows are above the level of ordinary high water. The applicant shall submit a report to the Regional Water Board by July 31st each year that contains the required annual photographs and a written description of the inspection results, including the date of the inspection and a description of any repairs, maintenance, or vegetation planting work that was completed in the project area that year.
- 11) Vehicle bodies, vehicle parts and other trash or metal debris that becomes exposed on dry areas on the gravel bars you own may be removed and hauled out of the river. All removed materials shall be disposed of properly and any disturbed surfaces shall be graded to match the natural surface surrounding the area.
- 12) No bark, slash, sawdust, oil or petroleum products, or other organic or earthen material, 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. If, at any time, an unauthorized discharge of bark, slash, sawdust, oil or petroleum products, or other organic or earthen material to surface waters occurs, or any water quality problem arises, the project shall cease immediately and Regional Water Board staff shall be notified promptly.
- 13) Project activities shall comply with provisions in the North Coast Region Water Quality Control Plan (Basin Plan).
- 14) The project site may be visited and assessed by Regional Water Board staff to document compliance with this certification.
- 15) 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 Van Duzen River Streambank Protection Project, (Facility No. 1B06078WNHU) 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 September 28, 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 Dean Prat of our staff at (707) 576-2801 prior to construction (pursuant to Additional Condition No. 1 above) so that we can answer any public inquiries about the work.

Sincerely,


for Catherine Kuhlman
Executive Officer

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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