



**California Regional Water Quality Control Board
North Coast Region
John W. Corbett, Chairman**



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Secretary for
Environmental Protection

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**Arnold
Schwarzenegger**
Governor

September 10, 2007

In the Matter of

Water Quality Certification

for the

**Instream Gravel Bar Skimming and Revegetation Project
Middle Reach of the Russian River
Sonoma County, California
(WDID# 1B98008WNSO)**

APPLICANT: Syar Industries, Inc.
RECEIVING WATER: Russian River Hydrologic Area No. 114.00
HYDROLOGIC AREA: Russian River Hydrologic Area No. 114.00
COUNTY: Sonoma County
FILE NAME: Syar Gravel Bar Skimming, Middle Reach Russian River

BY THE EXECUTIVE OFFICER:

On November 18, 2005, Mr. Talbot Bailey, on behalf of Syar Industries, Inc. (Applicant) filed an application for water quality certification under section 401 of the Clean Water Act (33 U.S.C. § 1341) with the California Regional Water Quality Control Board, North Coast Region (Regional Water Board) for activities associated with the Syar Instream Gravel Bar Skimming and Revegetation Project Middle Reach of the Russian River Project (Project). A fee in the amount of \$4,667.25 was received on August 29, 2005, \$500 was received on November 18, 2005, and an additional \$6,367.84 was received on September 4, 2007, for a total of \$11,535.09. The different fee payments are due to changes in amounts of gravel to be dredged since the application was originally submitted. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on June 18, 2007, and posted information describing the Project on the Regional Water Board's website. The 21 day public comment period ended August 17, 2007. Numerous comments were received, both in opposition and in support. Regional Water Board carefully considered all comments received. Overall, staff found that the project will comply with water quality objectives with the exception of discharges of wastewater associated with the gravel processing operation. The discharge of gravel processing wastewater was permitted under waste discharge requirements (Board Order No. 87-123). Since that permit was

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adopted, the Basalt Pond was determined to be waters of the US. Any discharges of wastewater to the Basalt Pond require a federal National Pollutant Discharge Elimination Permit. In addition, wastewater sample results submitted by the applicant indicate pollutant levels in excess of drinking water criteria. The discharge of this wastewater to ground water would constitute a pollution and would violate provisions of Board Order No. 87-123. Regional Board staff have addressed this issue in Water Quality Certification condition 7.

1. Project includes dredging two gravel bars in the Russian River channel. The gravel bars are identified as follows: (1) Bar 2, north bank of Russian River, at approximately river mile 33 (distance from the Pacific Ocean), and (2) Bar 13, west bank of Russian River, at approximately river mile 29, in the Middle Reach of the Russian River, near Healdsburg, California. The project is proposed to begin in late summer 2007, and end in October 2007. Syar proposes to mine 57,848 cubic yards from Bar 2, with 1,542 cubic yards of this amount to be redeposited on the head of bar as per Scientific Review Committee requirements, and 77,000 cubic yards from Bar 13, for a total dredged amount of 134,848 cubic yards of gravel. Both bars were last mined in 2002. The gravel mining was evaluated under a 1997 Environmental Impact Report/Environmental Impact Statement (EIR/EIS) certified by the State Mining and Geology Board (SMGB). Gravel extraction will be accomplished by skimming aggraded areas of each bar, defined by a plane starting one foot above the water level of the low flow channel (250-300 cfs) at the downstream end and extending longitudinally at approximately a 0.15 percent gradient up the bar until it intercepts the interior slopes of the buffer; the lateral limits of the plane are defined by a 2:1 slope along the riverbank and along the inside slopes of a buffer bordering the low flow channel.

Skimming operations will establish a final gradient devoid of isolated pockets or holes to minimize fish entrapment during subsequent high flow events. The total project area encompasses approximately 18.3 acres of gravel bars. No operations are proposed in the wetted stream, or below existing water level at the time of dredging. An instream temporary crossing will be constructed at the south end of Bar 2. The crossing will utilize gravel abutments and a 40 foot bridge span over the flowing river. This crossing will impact approximately 0.115 acres within the stream channel. The gravel abutments will be constructed of clean washed river gravel that will contribute no turbidity to the Russian River. Gravel roads are used to transport the mined gravel from the gravel bars to the processing plant. Dust is controlled by sprinkling with water from a water truck. The water used for dust control shall not contain any contaminants that are detrimental to water quality, and, this water shall not be sprinkled directly into the Russian River water, or allowed to runoff into surface waters. All disturbed areas are required to be protected from excessive sediment discharges during rain events.

The SMGB is the lead agency under the California Environmental Quality Act and National Environmental Policy Act. An independent Scientific Review Committee (SRC) was established by SMBG to assess the impacts of the mining and reclamation activities proposed by Syar on its vested instream mining sites in the Middle Reach of the Russian River (State Mine ID# 91-49-0028). The SRC is to provide objective, science-based analysis, recommendations, and peer review of Syar's annual mining and reclamation plans. Syar is to revise the annual mining and reclamation plan, if necessary, to meet the requirements of other agencies and to incorporate the recommendations of the SRC to help assure that adverse environmental impacts are minimized and performance standards are met. Sonoma County Permit and Resource Management Department (PRMD) will allow Syar to implement the mining and reclamation plans provided they include the SRC recommendations.

In addition to conditions set forth by the Regional Water Board, additional conditions are imposed by the County of Sonoma, California Department of Fish and Game, U. S. Army Corps of Engineers (ACOE), State Mining and Geology Board, National Marine Fisheries Service, and the SRC.

Annual monitoring is required including data gathering and reporting. The use permits issued by Sonoma County under the Aggregate Resource Management Plan (ARM) requires standard and site specific monitoring, including site inspections, full channel cross sections, and annual aerial photographs. Other monitoring and reporting is also required by other involved resource agencies.

Turbidity Monitoring/Limits: Applicant shall establish three (3) water quality monitoring stations at each gravel bar to be dredged: one (1) located upstream of the bar to be dredged, and two (2) located downstream of the bar to be dredged. The upstream station shall be established at a location not more than 200 feet upstream of the bar to be dredged, or located at an existing access point. The first downstream station shall be established at a location not more than 200 feet downstream from the bar to be dredged. The second downstream station shall be established at least 500 feet but not more than 1000 feet from the bar to be dredged, or located at an existing access point. Any locations outside these parameters must be approved by the Executive Officer. Representative samples (i.e., samples collected from within the direct flow path of mined areas) shall be collected within 12 hours after each storm event of the wet season that results in surface flow over mined areas. Should the mined areas become submerged for the life of this Water Quality Certification, sampling may cease. The samples shall be analyzed for turbidity and total suspended solids. Results of the analyses shall be submitted to this Regional Water Board within two (2) weeks after sample collection. The Applicant's activities shall not cause an increase in turbidity of more than 20 percent, over background turbidity levels, nor shall they result in suspended solids or stream bottom deposits in concentrations that create nuisance or adversely affect beneficial uses. Any exceedances of these limitations may result in corrective and/or enforcement actions, including increased monitoring and sample collection. The Applicant shall submit to this

Regional Water Board a map or drawing indicating the locations of the monitoring stations. This submittal is due prior to any excavation activities within the Russian River.

The dredging activity will result in temporary impacts to the beneficial uses of the Russian River as identified in the Water Quality Control Plan for the North Coast Region (Basin Plan). Some of the beneficial uses impacted by dredging activities include Water Contact Recreation; Non-contact Water Recreation; Wildlife Habitat; Warm Freshwater Habitat; Cold Freshwater Habitat; and Water Quality Enhancement. It is expected that the in-stream areas impacted by dredging activities will restore themselves over time and the long-term impact to beneficial uses will be negligible. However, in order to address temporal impacts, compensatory mitigation is required. Mitigation measures will include onsite revegetation using large riparian vegetation that is removed as a result of the project. This mitigation will be conducted in accordance with SRC recommendations, and requirements of other involved resource agencies. Additional offsite mitigation is proposed to be conducted on the southern bank of Dry Creek, approximately 500 yards from the confluence with the Russian River, on property owned by Applicant. Regional Water Board staff posted the public notice before the final restoration plan was submitted, with the understanding that a complete plan would be submitted as soon as possible. Mr. James Syar submitted a letter of commitment on July 25, 2007, to do the restoration project, and to help the Regional Water Board coordinate a proactive educational effort with property owners along the Middle and Alexander Valley Reaches of the Russian River for future restoration opportunities. The off-site restoration helps to mitigate for impacted beneficial uses and other water quality impacts. The restoration plan was submitted on August 17, 2007, and was produced by Circuit Rider Productions, Inc., and Delta Geomatics Corporation. The plan includes restoration of the riparian zone from ordinary high water mark to up and over the top of bank. The complete mitigation includes approximately 2.23 acres. The actual area that is currently free of woody vegetation and that is to receive plantings (compensatory mitigation) is approximately 1.19 acres. The area that is currently vegetated with woody vegetation, approximately 1.04 acres (preservation mitigation), is included because it is an integral part of a complete riparian zone and will benefit by the adjacent restoration. The planting component of the plan shall be started in early spring of 2008, once rainfall has moistened the soil to a depth of 10 inches or greater. Planting shall be completed by April 1, 2008, weather permitting. The plan includes planting, care and maintenance of approximately 400 native trees and shrubs. Monitoring and reporting is required for five years, as described in the plan. Additionally, removal of invasive plants such as Giant Reed (*Arundo donax*), Rattlebox (*Sesbania punicea*), and Himalayan blackberry (*Rubis discolor*) shall be done throughout the five year term. The complete offsite mitigation area (both restored area and preserve area) is to be protected in perpetuity from any type development or permanent disturbance by recordation of a deed restriction by

- May 1, 2008. This mitigation is being done to account for impacts to water quality that occur during the gravel mining project that are not being mitigated by onsite mitigation, and to offset impacts, both temporal loss and physical failure of the on-bar mitigation associated with mining that occurred in 2002
2. Non-compensatory mitigation during dredging will be achieved through the use of BMPs as described in the Storm Water Pollution Prevention Plans for Haul Road and Basalt Pond Site Area, and for Processing Facility, Revised December 2005.
 3. The following measures are proposed to be incorporated in the project to prevent, reduce or eliminate potential impacts:
 - Issuance of future Dredge/Fill Projects will be dependent on review of all monitoring results. In addition, the Water Quality Certification and/or Waste Discharge Requirements (Dredge/Fill Projects) permit may be rescinded by the Regional Water Board if violations of the North Coast Regional Water Board's Water Quality Control Plan for the North Coast Region (Basin Plan) occur. Water quality monitoring will consist of turbidity monitoring 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 be proposed by the applicant to the satisfaction and approval of the Executive Officer of the Regional Water Board.
 - Mining plans and monitoring data submitted to the County of Sonoma PRMD, Department of Fish & Game, and/or any other agency, shall also be submitted to the Regional Water Board.
 - The amount of gravel extracted under this certification action shall be based on annual aggregate replenishment rates as outlined in the ARM Plan and SRC recommendations.
 - Extraction activities will comply with all provisions contained in the Basin Plan.
 - All extraction operations, extraction techniques, reclamation activities, monitoring, project impact minimization measures, revegetation activities and terms of conditions will be implemented as described in the National Marine Fisheries Service Biological Opinion, the final Regional Water Board Order, the California Department of Fish and Game permit, Sonoma County permit, and SRC recommendations.
 - Monitoring information received may necessitate modifying the conditions of the permit to provide an adaptive management approach. Conditions and requirements within the 401 Water Quality Certification may be changed/amended by the Regional Water Board within the time period that the 401 Water Quality Certification is issued. Changes may be initiated by factors such as: observations made by or reported to the Regional Water Board, or by recommendations made by the SRC. Such modifications will not require a new permit.

4. The SMGB, as the lead agency under the California Environmental Quality Act and National Environmental Policy Act, approved an EIR/EIS in December 1997. The Regional Water Board has considered the environmental document and any proposed changes incorporated into the Project or required as a condition of approval to avoid significant effects to the environment.
5. The applicant has received a California Department of Fish and Game (DFG) Lake and Streambed Alteration Agreement, Notification Number 1600-2005-0518-3. This agreement expires December 31, 2010.
6. A federal Individual Section 404 Permit from the U.S. Army Corps of Engineers, file number 18104N, was originally issued in June 2002, and expired December 2006. The 404 Permit was extended until December 2007, and a supplemental biological opinion was issued by National Marine Fisheries Service, August 20, 2007.

Receiving Water: Russian River Hydrologic Area No. 114.00

Latitude/Longitude: Bar 2: 38.6078° North, -122.8480° West
Bar 13: 38.570° North, -122.8525° West

Filled or Excavated Area: Temporary impacts, 18.3 acres, 134,848 cubic yards

Expiration: December 31, 2007

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE REGIONAL WATER BOARD CERTIFIES THAT THE SYAR INSTREAM GRAVEL BAR SKIMMING AND REVEGETATION PROJECT MIDDLE REACH OF THE RUSSIAN RIVER PROJECT (FACILITY NO. WDID# 1B98008WNSO), as described in the application will comply with sections 301, 302, 303, 306 and 307 of the Clean Water Act, and with applicable provisions of state law, provided that Applicant complies with the following terms and conditions:

1. This certification action is subject to modification or revocation upon administrative or judicial review; including review and amendment pursuant to Water Code section 13330 and title 23, California Code of Regulations, section 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 title 23, California Code of Regulations, section 3855, subdivision (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.
4. 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).
5. The Russian River in this reach is identified on the State of California Clean Water Act Section 303(d) list as impaired for sediment, temperature, mercury, low dissolved oxygen, pathogens, pH, nitrogen, phosphorus, and specific conductance. Total Maximum Daily Load (TMDL) analyses have not been completed for the Russian River watershed sediment and temperature listings. Activities that impact the riparian zone and riparian vegetation are identified as sources contributing to increased stream temperatures and sediment. If a TMDL implementation plan is adopted prior to the expiration date of this Notice of Coverage, the Regional Water Board may revise the provisions of this Notice of Coverage to address actions identified in such action plans.
6. 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 Basin Plan.
7. The discharge of washwater from the facility to surface or ground water is prohibited. Under authority of Clean Water Act section 13260, the Applicant shall submit a revised report of waste discharge for their washwater discharge by December 31, 2007. The revised report of waste discharge shall describe an alternative disposal plan that is fully protective of ground and surface water quality.
8. Applicant shall undertake the Project in accordance with the conditions described in the application and the findings above, and shall comply with all applicable water quality standards.
9. Any change to the operation of the Project that would have a significant or material effect on the findings, conclusions, or conditions of this Order shall be submitted to the Executive Officer of the Regional Water Board for prior review and written approval.
10. Applicant shall provide Regional Water Board staff access to the Project site to document compliance with this Order.
11. Applicant shall provide a copy of this Order and attachments to the contractor and all subcontractors conducting the work, and require that copies remain in their

possession at the work site. Applicant shall be responsible for work conducted by its contractor or subcontractors.

12. If, at any time, an unauthorized discharge to surface water (including wetlands, rivers or streams) occurs, or any water quality problem arises, the associated Project activities shall cease immediately until adequate BMPs are implemented. The Regional Water Board shall be notified promptly and in no case more than 24 hours after the unauthorized discharge or water quality problem arises.
13. No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete 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 Order, shall be allowed to enter into or be placed where it may be washed by rainfall into waters of the State.
14. If construction dewatering is found to be necessary, the Applicant shall 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 prior to discharge to surface waters.
15. Fueling, lubrication, maintenance, storage and staging of vehicles and equipment shall be outside of waters of the United States and the State. Fueling, lubrication, maintenance, storage and staging of vehicles and equipment shall not result in a discharge or a threatened discharge to any waters of the State or the United States. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality.
16. BMPs for erosion, sediment and turbidity control shall be implemented and in place at commencement of, during and after any ground clearing activities, construction activities, or any other Project activities that could result in erosion or sediment discharges to surface water.
17. All conditions required by this Order shall be included in the Plans and Specifications prepared by the Applicant for the Contractor. In addition, the Applicant shall require compliance with all conditions included in this Order in the bid contract for this Project.
18. All mitigation activities shall be completed as proposed in the application.
19. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under applicable state or federal law. For the purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions constitutes a

limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Order. In response to a suspected violation of any condition of this Order, the Regional Water Board may require the holder of any federal permit or license subject to this Order to furnish, under penalty of perjury, any technical or monitoring reports the Regional Water Board deems appropriate, provided that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. In response to any violation of the conditions of this Order, the Regional Water Board may add to or modify the conditions of this Order as appropriate to ensure compliance.

20. The Regional Water Board may add to or modify the conditions of this certification, as appropriate, to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act.
21. This Order is not transferable. In the event of any change in control of ownership of the Project site 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. The successor-in-interest must send to the Regional Water Board Executive Office a written request for transfer of this Order. The request must contain the following:
 - a. requesting entity's full legal name
 - b. the state of incorporation, if a corporation
 - c. address and phone number of contact person
 - d. description of any changes to the Project or confirmation that the successor-in-interest intends to implement the Project as described in this Order.
22. The authorization of this Order for any dredge and fill activities expires on December 31, 2007. To the extent the conditions and monitoring requirements required by this Order extend beyond December 31, 2007, they do not expire and remain in effect and are enforceable.

Please contact Stephen Bargsten of our staff at (707) 576-2653 if you have any questions or need to report any violation of this Order.

Robert R. Klamt
Interim Executive Officer

Enclosure: SWRCB Order No. 2003-0017-DWQ

Original sent to: Mr. James M. Syar, Syar Industries, Inc., P.O. Box 2540, Napa, CA 94558-0524

Copies sent to: Mr. David Schiltgen, 2550 Ventura Avenue, Santa Rosa, CA 95403-2829

Mr. Mitchell Katzel, Entrix Inc./SRC, P.O. Box 41, Kenwood, CA 95452

Mr. Bill Cox, Department of Fish and Game, P.O. Box 47, Yountville, CA 94599

Mr. Bill Orme, SWRCB, Acting 401 Program Manager, Clean Water Act Section 401 Certification and Wetlands Unit Program

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