



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



Linda S. Adams
Secretary for
Environmental Protection

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**Arnold
Schwarzenegger**
Governor

September 17, 2007

In the Matter of
Water Quality Certification

for the

**ESTATE OF JOHN MAX,
RENEVAR GULCH CULVERT REPLACEMENT PROJECT
WDID NO. 1B07106WNSO**

APPLICANT: Estate of John Max
RECEIVING WATER: Renevar Gulch, within the Warm Springs Sub Area No. 114.24.
HYDROLOGIC AREA: Russian River Hydrologic Area No. 114.00
COUNTY: Sonoma County
FILE NAME: Renevar Gulch Culvert Replacement Project

BY THE EXECUTIVE OFFICER:

1. On July 9, 2007, Roger Sternberg, on behalf of the Estate of John Max (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 Renevar Gulch Culvert Replacement Project. A fee in the amount of \$750.00 was received on July 9, 2007. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on August 23, 2007, and posted information describing the Project on the Regional Water Board's website. No comments were received.
2. The proposed project is located at about 4600 Mill Creek Road, Healdsburg, Sonoma County, (APN No. 110-060-069). The latitude and longitude is 38.57125°N and -123.00689°W. The purpose of the project is the replacement of a failed culvert with a culvert that is placed on the streambed and which has a capacity to handle flows from a 100-year storm event. The existing culvert at the ranch road crossing of Renevar Gulch appears to have caused substantial channel erosion and incision downstream of the crossing. Further collapse of the culvert may lead to further incision upstream. The replacement of this culvert also precedes the filing of a Non-industrial Timber Management Plan (NTMP) on this 2,300 acre property. The NTMP

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is currently being formulated and applications will be filed with the appropriate agencies in the future.

3. The project is the replacement of an existing 36 inch by 30 foot culvert at an existing driveway fill crossing the upper reaches of Renevar Gulch. A backhoe will excavate the existing driveway embankment at the culvert location, remove the existing 36 inch by 30 foot culvert, install a new 48 inch by 80 foot culvert at grade of stream bed with a 9 inch camber, and backfill. Any excavated soils not used for backfill, will be hauled to a site where sediment delivery to creeks will not occur. 2-3 foot loose rip rap armoring at both ends of culvert will be used to the minimum extent necessary to control erosion and not exceed an area of 18 feet by 14 feet on either end. A rock dissipater will be constructed 30' upstream to catch perched fills and below the culvert to stabilize the stream channel and prevent scouring. Road dips will be installed below and above the culvert to direct water into the stream in case of culvert plugging and road flooding. Disturbed areas of the driveway embankment not covered by rip-rap will be covered by erosion control matting, staked with steel spikes every 18", and hydro-seeded with native grasses. Five big leaf maples will be planted at the crossing of Renevar Gulch or in nearby exposed areas along Renevar Gulch. Planting will reduce sediment delivery to the creek and provide creek shading. Future monitoring, maintenance and management of the site after construction are the responsibility of the landowner. An 85% survival rate of all proposed plant species after five years will be implemented. Yearly monitoring reports will be submitted detailing replanting plan status, and will include photographs from designated photo points. Work will be performed with an excavator and a dump truck from the existing driveway. No equipment will enter the stream bed. Approximately 7 cubic yards of perched fills currently delivering sediment to the creek will be removed and hauled to a site where sediment delivery will not enter creeks. Disturbance of vegetation shall not exceed the minimum necessary to complete operations. The disturbed portions of any stream channel and adjacent areas shall be restored to as near their original condition as possible.
4. The Department of Fish and Game has determined that this project is statutorily exempt from California Environmental Quality Act (CEQA) review (Section 15301 – Existing Facilities). Based on a review of the project information submitted to date, Regional Water Board staff determined that this project is categorically exempt from CEQA review (Class 1, Section 15301 – Existing Facilities) and anticipate filing a Notice of Exemption for this project.
5. Construction Best Management Practices (BMPs) will be incorporated into the final Project plans in order to reduce and control soil erosion. Work in and around waterways will be conducted during the dry season, and will include installation of construction barrier fencing to preclude equipment entry into sensitive areas, installation of silt fencing or fiber rolls to prevent sediment loss from immediate work area, topsoil salvage and reapplication, and seeding and mulching.

6. Applicant has applied for a United States Army Corps of Engineers Nationwide Permit 3, file number 400116N.
7. Applicant has applied for a California Department of Fish and Game 1602 Streambed Alteration Agreement, on May 24, 2007, Notification Number: 1600-2007-0230-3.

Receiving Water: Renevar Gulch, a tributary to Warm Springs, Sub Area No. 114.24, Russian River Bodega Hydrologic Area No. 114.00

Filled or Excavated Area: permanent impacts, 0.016 acres

Latitude/Longitude: 38. 57125° north, -123.00689° west

Expiration: October 15, 2009.

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE REGIONAL WATER BOARD CERTIFIES THAT THE RENEVAR GULCH CULVERT REPLACEMENT PROJECT (FACILITY NO. 1B07106WNSO), 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 watershed is identified on the State of California Clean Water Act Section 303(d) list. The Russian River is listed as impaired for sediment and temperature. At present, there are no watershed-specific implementation plans for these TMDLs. If TMDL implementation plans are adopted for these watersheds prior to the expiration date of this Order, the Regional Water Board may revise the provisions of this Order 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. Applicant shall construct the project in accordance with the conditions described in the application and the findings above, and shall comply with all applicable water quality standards.
8. 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.
9. Applicant shall provide Regional Water Board staff access to the project site to document compliance with this Order.
10. 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.
11. 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.
12. 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.
13. 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.

14. 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.
15. 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.
16. 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.
17. All mitigation activities shall be completed as proposed in the application.
18. 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.
19. 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.
20. 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. The successor-in-interest must send to the Regional Water Board Executive Office a written request for transfer of this Order to discharge dredged or fill material under 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.

21. The authorization of this Order for any dredge and fill activities expires on October 15, 2009. Conditions and monitoring requirements outlined in this Order are not subject to the expiration date outlined above, and remain in full 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

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Original sent to: Oliver Max, Estate of John Max, 1420 Healdsburg Ave.,
Healdsburg, CA 95448

Copies sent to: Roger Sternberg, PO Box 1211, Mendocino, CA 95460

Mr. Bill Orme, SWRCB, Acting 401 Program Manager, Clean Water
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