



**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

October 5, 2007

In the Matter of
Water Quality Certification

for the

**ALLISON LEISTEN,
MATANZAS CREEK EMERGENCY WATERSHED PROTECTION PROJECT
WDID NO. 1B07102WNSO**

APPLICANT: Sotoyome Resource Conservation District
RECEIVING WATER: Matanzas Creek, within the Santa Rosa Sub Area No. 114.22.
HYDROLOGIC AREA: Russian River Hydrologic Area No. 114.00
COUNTY: Sonoma County
FILE NAME: Matanzas Creek Emergency Watershed Protection Project

BY THE EXECUTIVE OFFICER:

1. On July 2, 2007, Sotoyome Resource Conservation District, on behalf of Allison Leisten (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 Matanzas Creek Emergency Watershed Protection Project. A fee in the amount of \$800.00 was received on July 2, 2007. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on September 12, 2007, and posted information describing the Project on the Regional Water Board's website. No comments were received.
2. The proposed project is located on Matanzas Creek in Santa Rosa, Sonoma County, California, (APN. No. 014-202-005). The latitude and longitude is 38.43927°N and -122.61977°W. The purpose of the project is to minimize further degradation of approximately 60 linear feet of stream bank that failed in the New Year's Eve storm of 2005. The bank failure, on the South bank, resulted in the loss of a backyard section and trees and now poses an emergency threat to the house foundation and other sections of the backyard.

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3. The proposed restoration project includes adding new rock revetment tied into existing rock, trimming existing root wads of fallen trees; realignment of fallen trees; anchoring the trees with concrete blocks; incorporating willow bundles 8-10 feet above the rock to replace lost shade; replacing loose rock that had been displaced by the root wad; adding loose rock for tie-in at the upstream end and replacing approximately 25 feet of damaged fence in the backyard. The project requires a culvert and clean gravel (triple washed river gravel) to be temporarily installed in the creek to direct water around the work area so a platform for heavy equipment can be constructed. Steelhead trout and California freshwater shrimp are two endangered species with potential residence in the creek area. In general, fish passage is restricted downstream in the urbanized area of Santa Rosa Creek. The National Oceanic & Atmospheric Administration/National Marine Fisheries Service (NMFS) will consult at the restoration site prior to construction activities to ensure there is minimal impact to creek habitat. Sandbag cofferdams will be placed at the upstream and downstream ends of the construction site and flow will be diverted approximately 60 feet through flexible pipes. Dewatering will be done prior to construction and a certified biologist will be onsite to relocate fish as necessary. Collected fish will be relocated to a suitable location in Matanzas Creek above or below the project site. All fish collection and relocation will be performed in compliance with NMFS established guidelines. Revegetation will consist of a minimum of three 8" to 12" willow bundles above the rock and cabled trees. Arroyo willows will not be used.
4. This project is designed to be self mitigating as the bank stabilization and planting will reduce sediment delivery to the creek, provides creek shading, and reduces threats to life and property. Future monitoring, maintenance and management of the site after construction are the responsibility of the homeowner. 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.
5. Sotoyome Resource Conservation District has determined that this project is statutorily exempt from California Environmental Quality Act (CEQA) review (Section 15269 – Emergency Projects). 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 15269 – Declared Emergency) and anticipate filing a Notice of Exemption for this project.
6. Construction Best Management Practices (BMPs) will be incorporated into the final Project plans in order to reduce and control soil erosion. All backfill will be compacted, seeded with a native grass mix and covered with erosion control fabric. 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.

7. Applicant has applied for a United States Army Corps of Engineers Nationwide Permit 37, June 21, 2007.
8. Applicant has applied for a California Department of Fish and Game 1602 Streambed Alteration Agreement, June 21, 2007,

Receiving Water: Matanzas Creek, within the Santa Rosa Sub Area No. 114.22, Russian River Hydrologic Area No. 114.00

Filled or Excavated Area: permanent impacts, 60 linear feet

Latitude/Longitude: 38.43927° north, -122. 61977° west

Expiration: October 15, 2009.

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE REGIONAL WATER BOARD CERTIFIES THAT THE MATANZAS CREEK EMERGENCY WATERSHED PROTECTION PROJECT (FACILITY NO. 1B07102WNSO), 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 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, a total maximum daily load (TMDL) has not been established to address these impairments. If a TMDL and an implementation plan are adopted for the Russian River prior to the expiration date of this Order, the Regional Water Board may revise the provisions of this Order to address actions identified in an action plan.
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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Enclosure: SWRCB Order No. 2003-0017-DWQ

Original sent to: Allison Leisten, 400 West Third St., Santa Rosa, CA 95401

Copies sent to: Kara Heckert, Sotoyome RCD, P.O. Box 11526, Santa Rosa, CA 95401

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

Ms. Kim Niemeyer, SWRCB, Office of the Chief Counsel

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

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