



**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

October 24, 2007

In the Matter of

Water Quality Certification

for the

**USDA, NRCS, Graybrook Wetland Enhancement/Restoration Project
WDID NO. 1B07097WNHU**

APPLICANT: United States Department of Agriculture, Natural Resource
Conservation Service
RECEIVING WATER: Barber Creek and Van Duzen River
HYDROLOGIC UNIT: Hydesville Hydrologic Subarea No. 111.21
COUNTY: Humboldt
FILE NAME: USDA, NRCS, Graybrook Wetland
Enhancement/Restoration Project

BY THE EXECUTIVE OFFICER:

1. On June 22, 2007, the United States Department of Agriculture (USDA), Natural Resource Conservation Service (NRCS) (Applicant) filed an application for water quality certification (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 related to a modification of linear drainages and increase in topographical diversity for habitat in the Graybrook Wetland located at 3991 Highway 36, Hydesville (40.553141 N/124.088362 W). The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on August 16, 2007, and posted information describing the project on the Regional Water Board's website. We did not receive any public comments on this project.
2. Graybrook Wetland project involves approximately 20 acres of a 58-acre wetland located within a 100 acre permanent conservation easement purchased by the applicant under the Wetland Reserve Program (WRP). The land has drainage ditches that are used to convey water to an existing water control structure. The water control structure has failed. The purpose of the proposed project is to modify the linear drainages within the basin in order to create meandering swale channels, increase habitat diversity and water retention of the existing wetland, and replace the failing water control structure.

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3. The project involves modification of linear ditches by excavating the existing ditches and creating a meandering configuration. The average depth and width of the ditches will be approximately the same as those of the existing linear ditches, 10 feet wide and approximately 1.5 feet deep. The meandering areas will create swales, which will be planted with native wetland plants. The applicant proposes to use the excavated material to create approximately 4 acres of islands within the basin for waterfowl nesting and increased habitat diversity. The six islands are to be located within the 17 acres of basin. The applicant will construct the islands at a maximum 2.5-foot height, approximately 0-6 inches above high water level, with slopes varying from 10:1 to 8:1. Soil will be compacted every 6 inches, and covered with straw to prevent erosion. The applicant will plant wetland vegetation at the base of the islands as well as within the basin area.
4. The basin area is currently approximately 5 acres; the applicant proposes to expand this area to 17 acres. The 12-acre increase includes the meandering swales. The applicant estimates that incorporating the vegetated swales will improve drainage and wetland function. The existing water control structure has a concrete wing wall with a flash board riser and removable wooden slats. The existing structure does not function properly, and overtops during storm events. The applicant proposes to replace the existing structure with a prefabricated flashboard structure. The prefabricated concrete flashboard structure is a box, 3.5 deep, 3.5 feet tall and 5 feet wide, with redwood boards installed in the front for water level adjustment.
5. The project will result in 10,000 cubic yards of soil removed for basin enlargement and swale construction; excavated soil will be used to construct the islands. Compensatory mitigation is not required for the proposed project. Noncompensatory mitigation for this project includes the use of Best Management Practices for sediment and turbidity control. Construction activities are expected to take three weeks to complete.
6. The applicant has applied for authorization from the United States Army Corps of Engineers to perform the project under Nationwide Permit Number 27 for *Aquatic Habitat Restoration, Establishment and Enhancement Activities*, pursuant to Clean Water Act, section 404.
7. The applicant is a federal agency, the USDA; NRCS has made an Environmental Assessment (EA) and Findings of No Significant Impact (FONSI) under the National Environmental Policy Act (NEPA). The Regional Water Board, as the lead agency for California Environmental Quality Act (CEQA) compliance, finds that the EA/FONSI complies with the applicable provisions of the CEQA guidelines and was appropriately circulated for public review. The EA/FONSI is being used in place of a negative declaration.

Receiving Water: Barber Creek in the Hydesville Hydrologic Subarea No. 111.21 of the Van Duzen Hydrologic Area No. 111.20

Filled or Excavated Area: Area Temporarily Impacted: None
Area Permanently Impacted: 7 acres (3 acres of swales will be meandered and 4 acres of islands will be created within the expanded basin)

Dredge Volume: 10,000 cubic yards

Latitude/Longitude: 40.553141 N/124.088362 W

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the United States Department of Agriculture, Natural Resource Conservation Service, Graybrook Wetland Enhancement/Restoration Project (WDID No. 1B07097WNHU), 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 the 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 title 23, California Code of Regulations, section 2200, and owed by the Applicant.
4. The Regional Water Board shall be notified prior to the commencement of ground disturbing activities, with details regarding the construction schedule, in order to allow staff to be present onsite during construction, and to answer any public inquiries that may arise regarding the project.
5. A copy of this Order and the application submitted by the Applicant for this certification shall be provided to all contractors and subcontractors conducting the work, and shall be in their possession at the work site.
6. All project work shall be conducted as described in this Order and in the application submitted by the Applicant. It is the Applicant's responsibility to ensure that their contractor(s) are knowledgeable of the authorized project activities, BMPs, avoidance measures and mitigation measures contained in the application submitted by the Applicant. If the Regional Water Board is not notified of a significant alteration to the project, it will be considered a violation of this Order, and the Applicant may be subject to Regional Water Board enforcement actions.
7. BMPs for erosion, sediment and turbidity control shall be implemented and in place at commencement of, during and after any ground clearing activities or any other project activities that could result in erosion or sediment discharges to surface water.

8. 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 Order, shall be allowed to enter into or be placed where it may be washed by rainfall into waters of the State. When operations are completed, any excess material or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any stream.
9. 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.
10. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete the project.
11. Prior to implementing any change to the project that may have a significant or material effect on the findings, conclusions, or conditions of this Order, the Applicant shall obtain the written approval of the Regional Water Board Executive Officer.
12. The Regional Water Board may add to or modify the conditions of this Order, as appropriate, to implement any new or revised water quality standards and implementation plans adopted and approved pursuant to the Porter-Cologne Water Quality Control Act or Section 303 of the Clean Water Act.
13. The Applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
14. 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 for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification. In response to a suspected violation of any condition of this certification, the Regional Water Board may require the holder of any federal permit or license subject to this certification 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 certification, the Regional Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.

15. 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, and the 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.

16. Except as may be modified by any preceding conditions, all certification actions are contingent on: a) the discharge being limited to and all proposed mitigation being completed in strict compliance with the Applicant's project description, and b) compliance with all applicable requirements of the Water Quality Control Plan for the North Coast Region (Basin Plan).

17. The authorization of this certification for any dredge and fill activities expires on October 24, 2012. 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.

If you have any questions or comments, please call Diana Henriouille at (707) 576-2350.

Robert R. Klamt
Interim Executive Officer

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Original to: Mr. Todd W. Golder, Range Management Specialist, United States
Department of Agriculture, Natural Resources Conservation Service,
5630 S. Broadway, Eureka, CA. 95503

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

Ms. Jane Hicks, U.S. Army Corps of Engineers, Regulatory Functions,
1455 Market Street, San Francisco, CA 94103-1398

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