



Linda S. Adams  
Secretary for  
Environmental Protection

**California Regional Water Quality Control Board  
North Coast Region  
Bob Anderson, Chairman**

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Arnold  
Schwarzenegger  
Governor

January 24, 2008

Scott and Lisa MacKenzie  
4750 Londonberry Drive  
Santa Rosa, CA 95403

Dear Mr. and Mrs. MacKenzie:

Subject: Issuance of Section 401 Water Quality Certification (after-the-fact) for MacKenzie, Creek Bank Stabilization Project, 4750 Londonberry Drive, Santa Rosa, Sonoma County

File: MacKenzie, Creek Bank Stabilization Project,  
WDID No. 1B06115WNSO

On August 14, 2006, Mr. Mario Rubio, of Robertson Engineering, Inc., on behalf of Scott and Lisa MacKenzie (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 MacKenzie, Creek Bank Stabilization project (Project). This is an after-the-fact Order, as the work has been completed prior to issuance of this Order. At this time, no enforcement action is being considered for the illegal fill activity. The Regional Water Board received all materials and fees constituting a complete application on January 23, 2008. Since this is an after-the-fact Order, there was no public comment period.

Project Description: The Project is located on the west bank of Mark West Creek at approximately 4750 Londonberry Drive, Santa Rosa, Sonoma County, (APN no. 058-202-008). The latitude and longitude is approximately 37° 47' 30" N, -122° 47' 30" W. The purpose of the Project was to restore and stabilize the creek bank to prevent further erosion. The creek bank was contoured and approximately 100 linear feet of various sized riprap was applied to the bank from toe, to top of slope; with approximately 0.03 acres of fill above, and below ordinary high water mark, respectively. Various native grasses, herbs, and trees were planted to help stabilize the slope and to provide shading and habitat.

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The applicant received authorization from the United States Army Corps of Engineers (file No. 30267N) to perform the Project under Nationwide Permits 13 and 33, pursuant to Clean Water Act, section 404, on October 10, 2006

The applicant has applied for a California Department of Fish and Game (CDFG) Streambed Alteration Agreement, on November 18, 2005, file number 1600-2005-0581-3.

The County of Sonoma Permit and Resource Management Department determined that this Project is categorically exempt from California Environmental Quality Act (CEQA) review pursuant to the Provisions of Title 14 of the California Administrative Code, Section 15269(b) because "emergency repairs to publicly or privately owned serviced facilities necessary to maintain service essential to the public health, safety, or welfare."

- Receiving Water: Mark West Creek and the Russian River Hydrologic Unit No.114.23.
- Filled or Excavated Area: Permanent impact, approximately 0.06 acre
- Federal Permit: United States Army Corps of Engineers (file No. 30267N) Nationwide Permits 13 and 33.
- Compensatory Mitigation: Area of riprap has been and will be further revegetated with native vegetation per the "Planting Plan" by Robertson Engineering, Inc., received on November 13, 2007. Additionally, plantings shall be monitored for five years, from date of issuance of this order. Yearly monitoring reports shall be submitted by December 31 of each year. Reports shall include photos, general status of project, plant counts, and survival statistics. Plants shall be replanted as necessary. Survival criteria shall be at least 80% at the end of five years.
- Latitude and Longitude: 38° 30' 17" North and -122° 44' 53" West
- CEQA Compliance: The County of Sonoma Permit and Resource Management Department determined that this Project is categorically exempt from California Environmental Quality Act (CEQA) review pursuant to the Provisions of Title 14 of the California Administrative Code, Section 15269(b) because "emergency repairs to publicly or privately owned serviced facilities

necessary to maintain service essential to the public health, safety, or welfare.”

Standard Conditions:

Project (Facility No. 1B07112WNSO), 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.

Additional Conditions:

Pursuant to 23 CCR 3859(a), the applicant shall comply with the following additional conditions:

- 1) Area of riprap has been and will be revegetated with native vegetation per the “Planting Plan” by Robertson Engineering, Inc., received on November 13, 2007. Additionally, plantings shall be monitored for five years, from date of issuance of this order. Yearly monitoring reports shall be submitted by December 31 of each year. Reports shall include photos, plant counts, and survival statistics. Plants shall be replanted as necessary. Survival criteria shall be at least 80% at the end of five years.

Water Quality Certification:

I hereby issue an Order pursuant to 23 CCR 3859 and 33 USC 1341 certifying that any discharge from the MacKenzie, Creek Bank Stabilization Project, will comply with the applicable provisions of California Code of

Regulations Water Quality Certification and the Porter-Cologne Act.

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 Quality Control Board's Water Quality Control Plan for the North Coast Region (Basin Plan).

Expiration: The authorization of this Order for any dredge and fill activities expires on December 31, 2008. To the extent the conditions and monitoring requirements required by this Order extend beyond December 31, 2008, 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.

Sincerely,

Robert R. Klamt  
Interim Executive Officer

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Original sent to: Scott and Lisa MacKenzie, 4750 Londonberry Drive, Santa Rosa, CA 95403

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

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

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

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

Mr. Mario Rubio, Robertson Engineering Inc., 2300 Bethards Drive, Suite L, Santa Rosa, CA 95405

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