



Linda S. Adams
Secretary for
Environmental Protection

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

www.waterboards.ca.gov/northcoast
5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403
Phone: (877) 721-9203 (toll free) • Office: (707) 576-2220 • FAX: (707) 523-0135



Arnold
Schwarzenegger
Governor

August 12, 2008

In the Matter of

**Notice of Coverage, Waiver of Waste Discharge Requirements for
Minor Dredging and Fill Activities
WDID NO. 1B04035WNSO**

APPLICANT: Syar Industries Inc
RECEIVING WATER: Russian River and Dry Creek
HYDROLOGIC AREA: Russian River Hydrologic Area No. 114.00
Warm Springs Hydrologic Sub Area 11.24
COUNTY: Sonoma County
FILE NAME: Syar Industries Inc. Russian River & Dry Creek Crossings

BY THE EXECUTIVE OFFICER:

1. This Notice of Coverage provides notice that certain activities are covered by the Waiver of Waste Discharge Requirements for Minor Dredging and Fill Activities (Waiver), which was adopted pursuant to California Water Code Section 13269 by the California Regional Water Quality Control Board, North Coast Region, (Regional Water Board) in Resolution R1-2007-0098. On June 15, 2008, Talbot D. Bailey, Jr., on behalf of the Syar Industries, filed an application for water quality certification under section 401 of the Clean Water Act (33 U.S.C. § 1341), and/or Waste Discharge Requirements for dredge/fill activities, with the Regional Water Quality Control Board, North Coast Region (Regional Water Board) for activities associated with the Russian River and Dry Creek Summer Crossings in Sonoma County. Completion of fee payment in the total amount of \$1,000 was received by the Regional Water Board on June 11, 2008. The Project causes temporary impacts to 0.1 acres within the Russian River, and 0.1 acres of temporary impacts within Dry Creek for a total of 0.2 acres of temporary impacts within the Warm Springs Hydrological Sub Area Unit No. 114.24.
2. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on July 18, 2008, and posted information describing the Project on the Regional Water Board's website. No comments were received.

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3. The Project consists of the construction of two separate crossings along a haul road used by Syar Industries, one over the Russian River and one over Dry Creek. The crossing of the Russian River will be located in Healdsburg directly upstream to where the Highway 101 crosses the Russian River. The latitude and longitude is 38.597778N and 122.858333W. The Dry Creek Crossing is less than a mile due south of the Russian River Crossing and is located just upstream of the confluence of Dry Creek into the Russian River at latitude and longitude 38.586389N and 122.860278W. Both crossings are on a haul road. The crossing over the Russian River will be constructed with temporary pilings and flatbed railroad cars. The pilings consist of hollow steel supports which will be placed on either side of the active low flow channel of the Russian River and filled with aggregate material from Syar's material stockpiles at the Healdsburg plant. Depending on site conditions when the crossing is constructed, clean, washed gravel may be pushed into the active channel to support the bridge pilings. Two flatbed railroad cars 80 feet in length will be placed on these supports. Approximately 3,000 to 3,500 cubic yards of gravel from Syar's material stockpiles (terrace mine material will not be used on either crossing) will be used to construct the temporary crossing and integrate it with the haul road. All above-water material used for the crossing will be removed when the crossing is removed, and moved above level of Ordinary High Water. The temporary crossing will not be placed until the flow of the Russian River is below 1000 cubic feet per second (cfs), and will be removed if the flow exceeds 1000 cfs (other than in a transient event). In no event will the temporary crossing be constructed earlier than May 15 or removed later than November 1.
4. The seasonal crossing at Dry Creek has similar construction, using temporary pilings and flatbed railroad cars. The pilings consist of hollow steel supports which will be placed on either side of the active low flow channel of Dry Creek and filled with aggregate material from Syar's material stockpiles at the Healdsburg plant. Depending on site conditions when the crossing is constructed, clean, washed gravel may be pushed into the active channel to support the bridge pilings. Two flatbed railroad cars 80 feet in length will be placed on these supports. Approximately 500 to 600 cubic yards of material from Syar's plant material stockpiles will be used to construct the temporary crossing and integrate it with haul road. This crossing will be placed and removed on the same schedule as the Russian River crossing.
5. No compensatory mitigation is proposed for this project since the impacts are temporary and will not result in a loss of wetland or riparian habitat. Non-compensatory mitigation measures include the use of clean washed river gravel, which will be moved slowly into the flow of the Russian River and Dry Creek, on an as needed basis. The applicant will hire a qualified Fisheries Biologist to be on-site during construction, to walk out in front of the area where sand and gravels are

being pushed into the flowing water. The intent is to scare any salmonids and/or other fishes out of the work area prior to discharge of the gravel material.

6. Crossings shall be removed, and all BMPs for erosion control on the approach roads shall be in place for the wet season by November 1. BMPs shall be implemented as described within the Regional Water Board industrial Storm Water permit for the processing facility and haul roads. During removal, gravel shall be graded smooth to original grade so that no impediments to flow or areas that could impound fish exist.
7. The U.S. Army Corps of Engineers issued a letter to Mr. Tal Bailey, of Syar Industries, on April 11, 1997, which stated that the associated discharge of fill material into waters of the United States for these activities is *not subject to regulation* under Section 404 of the Clean water Act (33 U.S.C. 1344), pursuant to the exemption specified at 33 CFR Part 323.4(a)(6). Regional Water Board recently verified with the U.S. Army Corps of Engineers that this exemption is still valid. This exemption is premised on the use of Best Management Practices during construction and maintenance of the haul road to assure that flow and circulation patterns and chemical and biological characteristics of waters of the United States are not impaired; that the reach of such waters is not reduced; and that any adverse effect on the aquatic environment will otherwise be minimized.
8. Applicant has applied for a California Department of Fish and Game Lake and Streambed Alteration Agreement on May 29, 2008, file number 1600-2008-0238-3.
9. The California Department of Conservation – State Mining and Geology Board, as the lead California Environmental Quality Act (CEQA) agency, prepared and Environmental Impact Report/Environmental Impact Statement pursuant to the requirements of the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA), Resolution No. 97-11, State Clearing House No. 91113040.

Receiving Water: Dry Creek and Russian River
Warm Springs Hydrologic Sub Area 114.24
Russian River Hydrologic Area No. 114.00

Filled or Excavated Area: 0.2 acres of temporary impacts

Latitude/Longitude: Russian River: 38.597778 N and 122.858333W
Dry Creek: 38.586389 N and 122.860278 W

Expiration: November 1, 2013

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE REGIONAL WATER BOARD CERTIFIES THAT SYAR INDUSTRIES INC, RUSSIAN RIVER AND & DRY CREEK CROSSINGS (Facility No. 1B08097WNSO), as described in the application, is hereby covered under the Waiver, provided that the project complies with the following terms and conditions.

1. The Russian River watershed 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.
2. Because the Project involves the discharge of waste that may affect waters of the state, the Regional Water Board has regulatory jurisdiction under Water Code Section 13260.
3. This Notice of Coverage is contingent on compliance with all applicable requirements of the North Coast Region Water Quality Control Plan (Basin Plan), except as may be modified by the specific conditions of the Water Quality Notice of Coverage.
4. Applicant shall construct the project in accordance with the conditions described in the application and the findings herein, and shall comply with all applicable water quality standards.
5. Applicant shall provide Regional Water Board staff access to the project site to document compliance with this Notice of Coverage.
6. Applicant shall provide a copy of this Notice of Coverage 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.
7. In the event of any violation or threatened violation of the conditions of this Notice of Coverage, 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 Notice of Coverage. In response to a suspected violation of any condition of this Notice of Coverage, the State Water Board may require the holder of any federal permit or license subject to this Notice of Coverage to furnish, under penalty of perjury, any technical or monitoring reports the State 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 Notice of Coverage, the State Water Board may add to or modify the conditions of this Notice of Coverage as appropriate to ensure compliance.

8. If, at any time, an unauthorized discharge to surface waters occurs, or any situation arises that compromises water quality and its beneficial uses, Applicant shall immediately cease work on the project and notify the Regional Water Board.
9. The Regional Water Board may add to or modify the conditions of this Notice of Coverage, 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.
10. This Notice of Coverage 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 Notice of Coverage 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 Notice of Coverage to discharge dredged or fill material under this Notice of Coverage. The request must contain the following:
 - i. requesting entity's full legal name
 - ii. the state of incorporation, if a corporation
 - iii. address and phone number of contact person
 - iv. description of any changes to the project or confirmation that the successor-in-interest intends to implement the project as described in this Notice of Coverage.
11. 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.
12. The authorization of this Notice of Coverage for any dredge and fill activities expire on November 1, 2013. Conditions and monitoring requirements outlined in this Notice of Coverage are not subject to the expiration date outlined above, and remain in full effect and are enforceable.

13. Any change to the operation of the Project that would have a significant or material effect on the findings, conclusions, or conditions of this Notice of Coverage must be submitted to the Executive Officer of the Regional Water Board for prior review and written approval.
14. The construction activity meets the eligibility criteria for the Waiver and, if constructed as described in the Application and in compliance with the above-listed conditions, the Project will adhere to applicable water quality standards. A monitoring and reporting program is required as described in the application. Therefore, I have determined that the Project is covered by the Waiver.
15. The following is a partial listing highlighting selected standard provisions from Resolution R1-2007-0098:
 - a. "The Applicant shall comply with all applicable provisions of the Water Quality Control Plan for the North Coast Region."
 - b. "The Applicant shall discharge only in accordance with the submitted Report of Waste Discharge or equivalent (i.e., the Application)."
 - c. "The Project shall not create a pollution contamination, or a nuisance, as defined by California Water Code Section 13050."
 - d. "There shall be no discharge of any waste not specifically regulated by waivers in Resolution R1-2007-0098."
 - e. "The Applicant shall allow Regional Water Board staff reasonable access onto the affected property for the purpose of performing an inspection to determine compliance with waiver conditions."
16. The following from Resolution R1-2007-0098 apply specifically to dredge and fill activities.

"The Applicant shall comply with the following additional conditions:

 - a. Discharges shall be non-toxic, short term, discharges to land.
 - b. The Project shall not result in a net loss of wetlands or beneficial uses.
 - c. This Notice of Coverage is valid only if operations are not being covered by General Waste Discharge Requirements."
17. Please be aware that a failure to implement the Project according to the project description and other information submitted in the Application, or violation of any of the terms contained in the Waiver and this Notice of Coverage , may result in the

revocation coverage under the Waiver and the initiation of formal enforcement proceedings as authorized by provisions of the California Water Code.

18. Enclosed is a copy of the Waiver Policy for Minor Dredging and Fill Activities.

Please contact Stephen Bargsten of our staff at (707) 576-2653 if you have any questions.

Catherine Kuhlman
Executive Officer

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Enclosure: California Regional Water Quality Control Board North Coast
Region Resolution No. R1-2007-0098

Original sent to: Mr. Talbot D. Bailey, Syar Industries Inc.,
P.O. Box 2540, Napa, CA 94558

Copies sent to: 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
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
Sonoma County Permit Resources Management Department,
2550 Ventura Avenue, Santa Rosa, CA 95403
Mr. Dick Butler, National Marine Fisheries Service,
777 Sonoma Avenue, Suite 325, Santa Rosa, CA 95404
Mr. Brian Hines, Trout Unlimited, 1120 College Avenue,
Santa Rosa, CA 95404
Mr. Don McEnhill, Russian River Keepers, P.O. Box 1335,
Healdsburg, CA 95448
Ms. Melissa Scianni, Supervisor of Wetlands Regulatory Office
(WTR-8), US. EPA, Region 9, 75 Hawthorne Street,
San Francisco, CA 94105