



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



**Linda S. Adams**  
Secretary for  
Environmental Protection

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**Arnold  
Schwarzenegger**  
Governor

May 4, 2009

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In the Matter of  
**Water Quality Certification**  
For  
**Mr. Anthony Faga**  
**Cold Creek Crossing**  
**WDID No. 1B08132WNME**

APPLICANT: Anthony Faga  
RECEIVING WATER: Cold Creek, tributary to the Russian River  
HYDROLOGIC AREA: Ukiah Hydrologic Sub Area 114.31  
Russian River Hydrologic Area 114.00  
COUNTY: Mendocino  
FILE NAME: Cold Creek Crossing

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BY THE EXECUTIVE OFFICER:

1. On August 21, 2008, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application from Mr. William Vanderwall of Vanderwall Engineering, on behalf of Anthony Faga, requesting a Water Quality Certification and/or Waste Discharge Requirements (Dredge/Fill Projects) for the Cold Creek Crossing Project (Project) located in Mendocino County. A fee in the amount of \$930 was received on the same day. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on April 13, 2009, and posted information describing the Project on the Regional Water Board's website. No comments were received.
2. The Project will result in permanent impacts to waters of the State and United States associated with Cold Creek, tributary to the Russian River, in the Ukiah Hydrologic Sub Area. 114.31, Russian River Hydrologic Area. 114.00. The project is located at 9705 Highway 20 in Ukiah, Mendocino County, California (APN 188-270-11). The latitude and longitude is 39.2056° N and 123.05328° W.
3. The Project involves creating a driveway to an existing residence by constructing an encroachment on the Highway 20 Right Of Way (ROW). The project will create a

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crossing over Cold Creek, which lies between the highway and the residence, by means of a 10 foot diameter corrugated metal pipe (CMP) culvert. The crossing will provide additional access to the existing residential house and light agricultural business (olive orchard). The owner is applying for a kennel license and a driveway is required as a condition of approval. Approximately 1,200 Cubic Yards (CY) of fill will be needed for the creek crossing. This fill will come from 3,900 CY of earth that will be removed in creating the encroachment on the Highway 20 ROW. The remaining 2,700 CY of removed fill will be deposited on an upland site and shall be seeded and straw wattles shall be placed around the perimeter to prevent erosion and sediment discharges to the creek.

The culvert shall be installed to a depth of about a foot below the creek bottom, this will allow for a foot of native gravel to be placed on the bottom of the culvert creating a more natural stream bottom that will match the existing gradient of the stream. The culvert shall have appropriately sized headwalls and wing walls on both ends of the crossing. Rock rip rap will be used to create a shallow bowl at the outflow of the culvert which will serve to dissipate some of the energy of the water and to allow some settling of sediments. Rip rap will be used to protect the banks on both sides of the creek at the inlet and the outlet of the crossing; this will be to prevent undercutting and to provide bank stabilization. The total area of impacts to the creek will be 0.08 acres.

4. Compensatory mitigation for the Project includes planting of willows within the applied rip rap and other impacted areas, planting of native shade trees within the impacted areas and nearby riparian areas to increase and reestablish shaded areas. Planted vegetation shall be monitored for five years, with yearly reports submitted to the Regional Water Board by December 31 of each year. Survival rate for re-vegetation is at least 85% at the end of five years. Irrigation for the plantings will be done as necessary to establish the plantings.
5. Non-compensatory mitigation includes the use of Best Management Practices for erosion control near a stream channel, and other methods as described in the application. All disturbed areas will be seeded with a native seed mixture and covered with straw or other erosion control material. Straw wattles will be required as specified on the grading plans. All work, related to the stream crossing, shall be performed in the dry season, when there is no water present in the stream channel. The Project is scheduled to commence in the dry season of 2009.
6. The Applicant has received a Lake or Streambed Alteration Agreement from the California Department of Fish and Game. Notification No. R1-07-0512
7. The Applicant has applied for a permit from the United States Army Corps of Engineers, to perform the project pursuant to Clean Water Act, section 404.

8. The California Department of Fish and Game, as lead California Environmental Quality Act (CEQA) agency has determined that the Project is categorically exempt from CEQA review (Class 4, Section 15304-minor alterations to the conditions of land, water and/or vegetation which do not involve removal of healthy, mature, scenic trees), and have filed a Notice of Exemption for this project on October 11, 2007.
9. 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.

Receiving Water: Cold Creek, tributary to the Russian River  
Ukiah Hydrologic Sub Area: 114.31  
Russian River Hydrologic Area: 114.00

Filled or Excavated Area: 0.08 acres

Latitude/Longitude: 39.2056° N and 123.05328° W

Expiration: October 15, 2014

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Cold Creek Crossing Project (WDID No. 1B08132WNME), 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 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. Activities that impact the riparian zone and riparian vegetation are identified as sources contributing to increased stream temperatures in the watershed. At present, there are no watershed specific total maximum daily loads (TMDLs) for this water body. If TMDLs are established and implementation plans are adopted for this watershed 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.

5. The Regional Water Board shall be notified in writing at least five working days (working days are Monday – Friday) 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.
6. 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.
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. All activities and BMPs shall be implemented according to the submitted application and the conditions in this certification.
9. A copy of this Order and the application documents 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.
10. 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.
11. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete the project.
12. 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.

13. All project work shall be conducted as described in this Order and 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.
14. 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.
15. The Applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
16. 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 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.
17. 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.

18. 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).
19. The authorization of this certification for any dredge and fill activities expires on October 15, 2014. 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 Stephen Bargsten at (707) 576-2653.

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Catherine Kuhlman  
Executive Officer

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Enclosure: State Water Resources Control Board Order No. 2003-0017-DWQ

Original to: Mr. Anthony Faga, 9705 HWY 20, Ukiah, CA 95482

Copies sent to: Mr. Bill Orme, SWRCB, 401 Program Manager, Clean Water Act

Mr. Justin Yee, U.S. Army Corps of Engineers, Regulatory  
Functions, 1455 Market Street, San Francisco, CA 94105-1398

Mr. Rick Macedo, California Department of Fish and Game,  
601 Locust Street, Redding, CA 96001

Mr. William Vanderwall, 5565 Sunrise Drive, Kelseyville, CA 95451