



**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

July 2, 2009

In the Matter of
Water Quality Certification
for the
Town of Windsor, Keiser Park Master Plan, Phase 1
WDID No. 1B09006WNSO

APPLICANT: Town of Windsor
RECEIVING WATER: Seasonal wetlands and an unnamed tributary to Starr Creek
HYDROLOGIC UNIT: Mark West Hydrologic Unit Subarea No. 114.23, Russian River Hydrologic Unit No. 114.00
COUNTY: Sonoma
FILE NAME: Town of Windsor, Keiser Park Master Plan, Phase 1
WDID No. 1B09006WNSO

BY THE EXECUTIVE OFFICER:

1. On January 20, 2009, Ms. Lee Miles Bradford of ESA Associates, on behalf of the Town of Windsor (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 the Town of Windsor, Keiser Park Master Plan, Phase 1 (Project). The proposed Project will cause temporary and permanent impacts to 0.25 acres of stream bed and bank within a tributary to Starr Creek, and seasonal wetlands, within the Mark West Hydrologic Unit Subarea No. 114.23, Russian River Hydrologic Unit No. 114.00. Fee payment was completed on April 28, 2009. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on May 7, 2009, and posted information describing the project on the Regional Water Board's website. We did not receive any public comments on this project.
2. The purpose of the Project involves the development of three play fields and a neighborhood playground, and enhancement of the existing facilities, additional parking, and improvements to site traffic circulation routes.
3. There are three phases described in the Keiser Park Master Plan. The application submitted only covers impacts within Phase 1. Future phases will require

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additional certification under section 401 of the Clean Water Act and further mitigation for any impacts to waters of the State.

4. One stormwater outfall will be modified and three additional outfalls will be added and installed within the tributary creek. Erosion control matting will be used as a preferred protection for outfalls. Rip rap will be installed around outfalls only when necessary and interplanted with willow sprigs wherever possible. Additionally, a sewer trunk line (and parallel smaller recycled water line) will be installed through the park site as part of public works improvements and will connect from Jaguar Way to Windsor River Road. The sewer alignment will begin in the southwest corner of the park site, cross the creek and will proceed north to Windsor River Road following the park road network. The installation of the sewer/water lines will be coordinated with the Phase 1 park improvements. Work will be done during the dry period, with the specific time frame being set by other resource agencies, such as NOAA Fisheries and California Department of Fish and Game.
5. Compensatory mitigation will consist of revegetation of disturbed/impacted areas of the streambed or streambank with native species of grasses, shrubs and trees. Wetlands that will be filled will be mitigated by purchasing at least 0.38 wetland mitigation creation credits from an approved local mitigation bank. The bill of sale of such a purchase must be submitted to the Regional Water Board before the Applicant causes any disturbances to waters of the State. Removed vegetation will be replaced on site in a 2:1 ratio. Annual monitoring and reporting will be necessary for five years. Planted vegetation shall have at least an 85% survival rate of thriving planted species at the end of five years. Annual reports shall be submitted to the Regional Water Board, and shall include photos of the revegetated areas, and include survival rates and a narrative summary of the status of the revegetation/mitigation effort.
6. Non-compensatory mitigation measures include the use of Best Management Practices (BMPs) to be employed during construction to minimize sediment production and prevent the movement of loose soil off-site. A Stormwater Mitigation Plan has been created to minimize construction related disturbances to water quality. All erosion control measures will be installed and in place by October 15 and maintained thereafter by the contractor or town. Silt fencing or other filters will be used to protect sensitive areas during construction activities and all areas of exposed soil will be planted with appropriate vegetation to minimize sedimentation. Additionally, all required BMPs shall be on-site and ready for timely deployment before the start of construction activities.
7. Post-construction stormwater treatment features will be incorporated to treat stormwater runoff. Using SUSMP (Standard Urban Storm Water Mitigation Plan) landscape-based features, vegetated swales and buffer strips, bio-retention areas and permeable pavers will treat pollutants created by the increase in impervious surfaces as well as detain the increase in onsite stormwater before it is discharged to the tributary creek. Post-construction stormwater treatment features shall be maintained, per SUSMP guidelines, by the Town of Windsor.

8. The Applicant has received United States Army Corps of Engineers Section 404 Nationwide Permit(s), File Number 2008-00222N, on January 13, 2009.
9. A Lake or Streambed Alteration Agreement from the California Department of Fish and Game has been applied for, Notification No. 1600-2008-0020-3.
10. The Town of Windsor, as the lead California Environmental Quality Act (CEQA) agency, has determined that this Project qualifies for an Environmental Impact Report, (State Clearinghouse number 2000032102), which was certified by the Town of Windsor pursuant to CEQA, May 22, 2008.

Receiving Water: Unnamed tributary to Starr Creek and seasonal wetlands in the Mark West Hydrologic Unit Subarea No. 114.23, Russian River Hydrologic Unit No. 114.00

Filled or Excavated Area: Area Permanently Impacted: 0.01 acres of creek bed and bank and 0.19 acres seasonal wetlands
Area Temporarily Impacted: 0.05 acres of creek bed and bank

Latitude/Longitude: 38.547210° N / 122.822002° W

Expiration: June 2, 2014

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Town of Windsor, Keiser Park Master Plan, Phase I (WDID No.1B009006WNSO), 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. 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 Order (Enclosed).
5. The Russian River is identified as impaired on the Clean Water Act Section 303(d) list. The Russian River is listed as impaired for sediment and temperature. At present, total maximum daily loads (TMDLs) have not been established 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.
6. 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.
7. 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.
8. 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.
9. All activities and BMPs shall be implemented according to the submitted application and the conditions in this certification.
10. 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.
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. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete the project.

13. 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.
14. 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.
15. 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.
16. The Applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
17. 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.
18. 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.

19. 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).

20. The authorization of this certification for any dredge and fill activities expires on June 2, 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 of our office at (707) 576-2653.

Sincerely,

Catherine Kuhlman
Executive Officer

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

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