



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

July 30, 2009

In the Matter of
Water Quality Certification
For the
Alton Preserve, LLC
Alton North Conservation Bank Project
WDID No. 1B07048WNSO

APPLICANT: Alton Preserve, LLC
RECEIVING WATER: Seasonal wetland within the Santa Rosa Hydrologic Unit
Subarea No 114.22
HYDROLOGIC UNIT: Russian River Hydrologic Unit No. 114.00
COUNTY: Sonoma
FILE NAME: Alton North Conservation Bank
WDID No. 1B07048WNSO

BY THE EXECUTIVE OFFICER:

1. On April 26, 2007, Mr. Harvey Rich, on behalf of Alton Preserve, LLC, 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 Alton North Conservation Bank Project (Project). Subsequent to submission of this application, the Project property has been deeded to and is now owned by the California Department of Fish and Game. The Project causes permanent impacts to 0.16 acres of seasonal wetland within the Santa Rosa Hydrologic Unit Subarea No 114.22, Russian River Hydrologic Area No. 114.00. A fee of \$844 was received on April 26, 2007. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on December 18, 2008, and posted information describing the project on the Regional Water Board's website. We did not receive any public comments on this project.

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2. The purpose of the Project is the construction of new and enhancement of existing wetlands to provide habitat for endangered plant species Burke's goldfields (*Lasthenia burkei*) and Sonoma sunshine (*Blennosperma bakeri*). The Project will provide partial mitigation for the Kerry Ranch development project, a future housing subdivision within the same geographic area.
3. The Project is located at 2779 Piner Road in northwest Santa Rosa, Sonoma County, California, (APN 034-042-088). The latitude and longitude is 38.472706° N and 122.780517° W.
4. Approximately 7.31 acres of vernal pool habitat will be constructed on a 23.0 acre parcel. Of this total, approximately 6.12 acres will be created habitat; the remaining habitat will be produced by enhancing existing seasonal wetland swales and modifying some of the existing depressional features within them. These vernal pools will be created and enhanced to produce habitat for stable populations of Burke's goldfields. Eighty vernal pools will be created, ranging in size from 1,427 square feet to 14,478 square feet. The pools will possess slightly concave rather than level bottoms and together with the gentle side slopes (ranging from 10:1 to 25:1) will provide broad zones over which Burke's goldfields and Sonoma sunshine can shift each year in response to changes in annual precipitation. Swales will be constructed to provide hydrologic connections among the pools and between the pools and existing swales. A single California tiger salamander (*Ambystoma californiense*)(CTS) breeding pond will be constructed. Burke's goldfields and Sonoma sunshine seed will be collected from source pools in the adjacent, existing Alton Lane Preserve. The location of the Project is within the limits of the Alton Conservation Area.
5. Compensatory mitigation for the Project includes tasks and performance goals with a Mitigation and Monitoring Plan that has been created to offset the impacts to wetlands and monitor the success of the restoration and creation efforts. 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.
6. Monitoring of the hydrologic performance and vegetation establishment and cover of the vernal pools and the Burke's goldfields colonies will extend for 10 years. Quantitative data on Burke's goldfields and Sonoma sunshine numbers and plant species cover will be collected, and semi-quantitative data will be collected on the general vegetation. All monitoring results will be provided in an annual monitoring report to the U.S. Fish and Wildlife Service, California Department of Fish and Game, and the Regional Water Board, each year for the first five years.
7. Special status plant surveys were conducted in spring of 2006 and spring of 2007. Target special-status species will be those listed in the Santa Rosa Plain Vernal Pool Ecosystem Preservation Plan (CH2M Hill 1996). The total number of Sonoma sunshine plants is estimated to be 3,919 plants on the Project site. CTS

are known to occur in vernal pools created in the northwest corner of the existing Alton Lane Preserve, and the Project is well within the migratory distance for juvenile and adult CTS.

8. The Applicant has received a Clean Water Act, section 404 nationwide permit from the U.S. Army Corps of Engineers (USACE), file number 400439N. The permit is Department of the Army Nationwide Permit 27, Aquatic Habitat Restoration, Establishment, and Enhancement Activities, pursuant to Section 404 of the Clean Water Act (33 U.S.C. Section 1344). The Project has been appended to the U.S. Fish and Wildlife Service Programmatic Biological Opinion for U.S. Army Corps of Engineers Permitted Projects that May Affect California Tiger Salamander and Three Endangered Plant Species on the Santa Rosa Plain, dated November 9, 2007.
9. A Lake or Streambed Alteration Agreement from the California Department of Fish and Game is not required for this project.
10. The North Coast Regional Water Quality Control Board as Lead Agency, has determined that the project is categorically exempt under the California Environmental Quality Act (CEQA), section 15333 – Small Habitat Restoration Projects, and has recorded a Notice of Exemption with the Office of Planning and Research, pursuant to CEQA guidelines.

Receiving Water:	Seasonal wetland within the Santa Rosa Hydrologic Unit Subarea No 114.22, Russian River Hydrologic Area No. 114.00.
Filled or Excavated Area:	Area Permanently Impacted: 0.16 acres of seasonal wetlands.
Dredge Volume:	None
Latitude/Longitude:	38.472706° N / 122.780517° W
Expiration:	July 30, 2014

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Alton North Conservation Bank Project (WDID No.1B07048WNSO), 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 July 30, 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.

Sincerely,

Catherine Kuhlman
Executive Officer

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

California Environmental Protection Agency

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