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

October 22, 2009

In the Matter of
Water Quality Certification
for
Kimberly Pfendler
Copeland Creek Bank Stabilization Project
WDID No. 1B09074WNSO

APPLICANT:	Kimberly Pfendler
RECEIVING WATER:	Copeland Creek
HYDROLOGIC AREA:	Laguna Hydrologic Subarea No. 114.21, Russian River Hydrologic Unit No. 114.00
COUNTY:	Sonoma County
FILE NAME:	Kimberly Pfendler – Copeland Creek Bank Stabilization Project

BY THE EXECUTIVE OFFICER:

1. On June 18, 2009, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application from Mr. Damon Morelli of Green Valley Consulting Engineers, on behalf of Kimberly Pfendler (Applicant), requesting Federal Clean Water Act, section 401, Water Quality Certification (certification) for activities associated with a bank stabilization project on the southern bank of Copeland Creek. A fee in the amount of $1,280.00 was paid in full. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on September 10, 2009, and posted information describing the Project on the Regional Water Board's website. No comments were received.

2. The purpose of the proposed project is to reinforce a damaged embankment and halt erosion of approximately 100 linear feet of stream bank. The erosion is undercutting the bank and threatens to deliver more sediment to the stream. The repair site is located near the intersection of Pressley, Roberts and Lichau Roads, east of the Town of Rohnert Park, latitude 38.337000° N, longitude 122.645392° W, Sonoma County. The project will cause temporary and permanent impacts to approximately 0.02 acres of waters of the State associated with Copeland Creek in the Laguna Hydrologic Subarea No. 114.21, Russian River Hydrologic Area 114.00.

3. The Applicant will slope back the eroding bank in order to maintain the current channel capacity. A three foot deep keyway will be excavated at the edge of the embankment, within the streambed, and will be filled with one quarter ton rip-rap up the side of the slope, approximately 1/3 of the way up the bank. Interstices in the rip-rap from stream bed to top of rip-rap will be filled with native soil and planted with willow poles, harvested from native trees in the vicinity. Biodegradable coconut fiber fabric will be installed on the upper slope, above the rip-rap, and planted with willows. Willow poles will also be planted upstream and downstream from the repair for a distance of at least 10 feet each way. Existing willows and vegetation on site will not be removed. All work shall be performed during the dry season, when there is no water within the channel. The project will require the use of an excavator, operated from the top of the bank above the creek.

4. Compensatory mitigation will consist of planting of native riparian vegetation in and around the repair area to help reduce erosion at and near the project site and prevent further encroachment of the creek into the surrounding property. The proposed project will also decrease the amount of sediment introduced into the creek during future storm events. All plantings shall be irrigated and managed, as necessary, for a minimum of five consecutive years immediately following planting. 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 for five years, and shall include photos of the revegetated areas, and include survival rates and a narrative summary of the status of the revegetation/mitigation effort. Continued maintenance of these facilities shall be the responsibility of the property owner.

5. 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. All erosion control measures will be installed and in place by October 15 and maintained thereafter by the contractor. All disturbed soil will be revegetated with native species or seeded with native grasses. If vegetation cannot be reestablished before expected rainfall, mulching, erosion control fabric, or other sediment control measures will be implemented. All equipment will be maintained in good working order and spill kits will be on hand during construction. No heavy equipment will be operated from within the channel. All operations, including harvesting of local willow stems, will be done with respect to all wildlife and cause the minimal possible disruption. Additionally, all required BMPs shall be on-site and ready for timely deployment before the start of construction activities.

6. The County of Sonoma Permitting and Resources Department, as lead California Environmental Quality Act (CEQA) agency, submitted a Notice of Exemption under section 15304, Minor Alterations to Land, pursuant to CEQA guidelines on October 12, 2009.

7. The Applicant has applied to the California Department of Fish and Game for a Lake and Streambed Alteration Agreement.

8. The Applicant has received an US Army Corps of Engineers Clean Water Act Section 404 Nationwide Permit, (File No. 2009-00285N), issued on September 29, 2009.

9. Because the Project involves construction that may adversely affect waters of the State, the Regional Water Board has regulatory jurisdiction under Water Code Section 13269.

Receiving Water:	Copeland Creek Laguna Hydrologic Subarea No. 114.21 Russian River Hydrologic Unit No. 114.00
Filled or Excavated Area:	0.02 acres of temporary and permanent impacts to stream bed and bank
Latitude/Longitude:	38.337000° N / 122.645392° W
Expiration:	October 22, 2014

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Kimberly Pfendler Copeland Creek Bank Stabilization Project (WDID No. 1B09074WNSO), 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 watershed is listed on the Clean Water Act Section 303(d) list 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, watershed specific 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 October 22, 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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Web link: 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 may be found at: **http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf**

Original to: Ms. Kimberly Pfendler, 765 Baywood Drive, Suite 147, Petaluma, CA 94954

Copies to: Ms. Kim Niemeyer, SWRCB, Office of the Chief Counsel
Mr. Bill Orme, SWRCB, 401Certification and Wetlands Unit Program
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Mr. Damon Morelli, Green Valley Consulting Engineers, 335 Tesconi Circle, Santa Rosa, CA 95401