



**California Regional Water Quality Control Board
North Coast Region
Geoffrey M. Hales, Chairman**



Linda S. Adams
Secretary for
Environmental Protection

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**Arnold
Schwarzenegger**
Governor

March 15, 2010

In the Matter of
Water Quality Certification
For the
City of Santa Rosa
Duer Creek Culvert Replacement – Kelly Farm
WDID No. 1B09088WNSO

APPLICANT: City of Santa Rosa
RECEIVING WATER: Duer Creek
HYDROLOGIC UNIT: Laguna Hydrologic Subarea No. 114.21, Russian River
Hydrologic Area 114.00
COUNTY: Sonoma
FILE NAME: City of Santa Rosa, Duer Creek Culvert Replacement – Kelly Farm

BY THE EXECUTIVE OFFICER:

- On July 21, 2009, the California Regional Water Quality Control Board, North Coast Region (Regional Water Board) received an application from Mr. Randy Piazza of the City of Santa Rosa (Applicant), for water quality certification (certification) under section 401 of the Clean Water Act (33 U.S.C. § 1341) for activities related to the Duer Creek Culvert Replacement – Kelly Farm Project (Project), located at 5344 Occidental Road, in the City of Santa Rosa, latitude 38.415431° N, longitude 122.807039° W, Sonoma County. The Project will cause permanent impacts to approximately 0.006 acres of waters of the State associated with the bed and banks of Duer Creek in the Laguna Hydrologic Sub Area No. 114.21, Russian River Hydrologic Unit No. 114.00. Total fees in the amount of \$640.00 have been received. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on September 21, 2009, and posted information describing the Project on the Regional Water Board’s website. We did not receive any public comments on this project.
- The purpose of the Project is to replace two damaged 12 inch diameter culverts with three 24 inch diameter, 16 foot long culverts. The existing culverts have filled with sediment and are causing water to back up around the inlets. The Project will restore the original hydrology and seasonal creek habitat to the area.

3. The Project involves removal of an existing gravel road material, excavation down to six inches below the creek bed elevation, removal of damaged culverts, placement of the new culverts in the streambed, and backfilling over the culverts. The new culverts will have flared ends that touch in order to prevent eddies from forming and eroding the surrounding area. Placement of the culverts six inches below the existing creek bed will allow them to establish a natural layer of native substrate along the bottom of the culverts and dissipate the energy caused by the transition between hard and soft surfaces. Approximately 30 cubic yards will be excavated and replaced over the new culverts. Rip rap will be installed on both sides of the newly installed culverts in order to protect the area from potential erosion. All construction activities will take place during the dry summer months of June through September.
4. Compensatory mitigation for the Project consists of installing the replacement culverts at an elevation below the natural existing creek bed for establishment of a native substrate bottom within the culverts, and revegetation of the area of any disturbance or replacement of non-native vegetation with like native grasses and plants. The project will also re-establish the original channel flow, restoring the original site hydrology and seasonal creek habitat.
5. Non-compensatory mitigation includes the use of Best Management Practices (BMPs) for sediment and turbidity control and for operation of heavy equipment near a stream channel. All erosion control measures will be installed and in place by October 15 and maintained thereafter. At a minimum, the following construction BMPs will be incorporated into the final project plans as appropriate in order to reduce and control soil erosion: work in and around waterways will be conducted during the dry season; installation of construction barrier fencing to preclude equipment entry into sensitive areas; installation of silt fencing or fiber rolls to prevent sediment loss from immediate work area; and seeding and mulching. Additionally, all required BMPs shall be on-site and ready for timely deployment before the start of construction activities
4. The Applicant has applied for authorization from the United States Army Corps of Engineers to perform the project under a Nationwide Permit (File No. 2009-00316N), pursuant to Clean Water Act, section 404.
5. The Applicant has applied for a Lake or Streambed Alteration Agreement from the California Department of Fish & Game.
6. The City of Santa Rosa Board of Public Utilities, as lead California Environmental Quality Act (CEQA) agency, has filed a Notice of Determination of Mitigated Negative Declaration with the County Clerk on February 11, 2010, pursuant to CEQA guidelines.
7. 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: Duer Creek in the Laguna Hydrologic Subarea No. 114.21, Russian River Hydrologic Area 114.00

Filled or Excavated Area: Area Permanently Impacted: 0.006 acres of creek bed and bank

Latitude/Longitude: 38.415431°N / 122.807039°W

Expiration: March 8, 2015

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the City of Santa Rosa Duer Creek Culvert Replacement at Kelly Farm (WDID No. 1B09088WNSO), 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 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.
5. 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.
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 March 15, 2015. 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

California Environmental Protection Agency

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

Original to: Mr. Randy Piazza, City of Santa Rosa Public Utilities Department, 69
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Copies sent to: Mr. Bill Orme, SWRCB, 401 Program Manager
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Ms. Stephanie Buss, California Department of Fish and Game, P.O.
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Ms. Sheri Emerson, City of Santa Rosa, 69 Stony Circle,
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