



Linda S. Adams
Secretary for
Environmental Protection

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

www.waterboards.ca.gov/northcoast
5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403
Phone: (877) 721-9203 (toll free) • Office: (707) 576-2220 • FAX: (707) 523-0135



Arnold
Schwarzenegger
Governor

October 4, 2010

In the Matter of
Water Quality Certification
For
Oakes Residence Bank Stabilization Project
WDID No. 1B10095WNSO

APPLICANT: Mr. Bill Oakes and Ms. Pam Oakes
RECEIVING WATER: Bed and bank of unnamed Creek tributary to
Atascadero Creek
HYDROLOGIC AREA: Guerneville Hydrologic Subarea No. 114.11,
Russian River Hydrologic Unit No. 114.00
COUNTY: Sonoma County
FILE NAME: Oakes Residence Bank Stabilization Project

BY THE EXECUTIVE OFFICER:

1. On August 14, 2010, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application from Mr. Kurt Kelder, on behalf of Mr. Bill Oakes and Ms. Pam Oakes (Applicant), requesting a Water Quality Certification and/or Waste Discharge Requirements (Dredge/Fill Projects) for activities associated with the Oakes Residence Bank Stabilization (Project). A fee in the amount of \$668.00 has been received. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on September 2, 2010, and posted information describing the Project on the Regional Water Board's website. The Project will cause permanent impacts to 0.01 acres of creek bed and bank.
2. Project is located on Burgundy Way, in the City of Sebastopol, latitude 38.400278°N, and longitude 122.883333°W, in Sonoma County.
3. The purpose of the project is to stabilize a failing creek bank located behind a private residence. The proposed project is limited to the stabilization of approximately 35 feet of stream bank by installing minimal riprap to prevent erosion and planting native vegetation to stabilize soil. Approximately 525 square

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feet of rip rap will be installed using an excavator at the top of bank and manual labor within the stream channel. The failing area is currently eroding and delivering sediment into an unnamed creek. Stabilization of the stream bank will decrease current erosion and sedimentation.

4. Disturbed areas of soil will be protected from erosion by application of a native grass/vegetation seed mix and appropriate erosion control BMPs. Plantings will be irrigated as necessary until established, and monitored for five years. Work will be done during the dry season. If flowing water is encountered during work, it will be made to bypass the work area by use of a coffer dam and bypass pipe. Proper precautions shall be taken to properly move any fish or animals from the work area, per California Department of Fish and Game requirements.
5. Small habitat restoration activities consist of the restoration of the disturbed bed and bank, top of bank, and surrounding area with plantings of native willows within bank and other native species at top of bank. Success criteria for plantings within the riparian restoration area will be an 85% survival rate of the plantings over a 5 year period with annual reporting submitted to the North Coast Regional Water Quality Control Board.
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. All erosion control measures will be installed and in place by October 15, or during non-construction periods as necessary, and maintained thereafter by the contractor/Applicant. 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 to prevent delivery of sediment to the drainages. All equipment will be maintained in good working order and spill kits will be on hand during construction. Equipment shall not be staged, or fueled, near waters of the State. Additionally, all required BMPs shall be on-site and ready for timely deployment before the start of construction activities.
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 Permit, NWP 13 – Bank Stabilization, on September 8, 2010.
9. The Regional Water Quality Control Board North Coast Region, as lead California Environmental Quality Act (CEQA) agency, has determined that this project meets the exemption criteria under title 14, California Code of Regulations (Section 15333 – Small Habitat Restoration Projects). The Regional Water Board has filed a Notice of Exemption in accordance with the California Code of Regulations, title 14, section 15062, with the State Clearinghouse.

10. 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: Bed and bank of unnamed Creek tributary to Atascadero Creek, Guerneville Hydrologic Subarea No. 114.11, Russian River Hydrologic Unit No. 114.00

Filled or Excavated Area: Permanent impacts to 0.01 acre of creek bed and bank

Latitude/Longitude: 38.400278°N, longitude 122.883333°W

Expiration: October 1, 2015

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Oakes Residence Bank Stabilization Project (WDID No. 1B10095WNSO), 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. Roads and bank erosion are identified as sources contributing to the sediment impairment; impacts to riparian shade are identified as contributing to temperature impairment. Actions authorized by this Order require implementation of Best Management Practices (BMPs) for sediment control at the project site, and implement enhancement of shade thus lowering temperature within the riparian zone. Accordingly, this Order is consistent with, and implements BMPS that would attenuate sediment and temperature adverse impacts.

6. The federal antidegradation policy requires that state water quality standards include an antidegradation policy consistent with the federal policy. The State Water Board established California's antidegradation policy in State Water Board Resolution No. 68-16. Resolution No. 68-16 incorporates the federal antidegradation policy where the federal policy applies under federal law. Resolution No. 68-16 requires that existing quality of waters be maintained unless degradation is justified based on specific findings. The Regional Water Board's Basin Plan implements, and incorporates by reference, both the State and federal antidegradation policies. This Order is consistent with applicable federal and State antidegradation policies, as it does not authorize the discharge of increased concentrations of pollutants or increased volumes of treated wastewater.
7. Applicant shall prioritize use of wildlife-friendly 100% biodegradable erosion control products/BMPs wherever feasible. For purposes of this Order, photodegradable synthetic products are not considered biodegradable. Applicant shall not use or allow the use of erosion control products, that contain synthetic (e.g., plastic or nylon) netting or materials for permanent erosion control (i.e., erosion control materials to be left in place for two years or after the completion date of the project). If the Applicant finds that erosion control netting or products have entrapped or harmed wildlife, the Applicant shall remove the netting or product and replace it with wildlife-friendly biodegradable products. The Applicant shall not use or allow the use of soil stabilization products that contain synthetic materials within waters of the United States or waters of the State at any time. Applicant shall remove any remaining synthetic netting or materials remaining at the end of two years, or sooner.
8. 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.
9. 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.

10. 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.
11. All activities and BMPs shall be implemented according to the submitted application and the conditions in this certification.
12. 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.
13. 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.
14. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete the project.
15. 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.
16. 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.
17. 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.
18. The Applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
19. 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.

20. 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.

21. 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).
22. The authorization of this certification for any dredge and fill activities expires on October 1, 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 at (707) 576-2653.

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: Bill and Pam Oakes, 10395 Burgundy Way, Sebastopol, CA 95472

Copies sent to: Mr. Kurt Kelder, 132 S. Cloverdale Blvd., Cloverdale, CA 95425
Mr. Richard Fitzgerald, California Department of Fish and Game,
P.O. Box 47, Yountville, CA 94599
Ms. Samantha Olson, SWRCB, Office of the Chief Counsel
Mr. Bill Orme, SWRCB, 401 Program Manager, Clean Water Act

Electronic
Copy to: Ms. Jane Hicks, U.S. Army Corps of Engineers, Regulatory
Functions, 1455 Market Street, San Francisco, CA 94105-1398