



Linda S. Adams
Secretary for
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**California Regional Water Quality Control Board
North Coast Region
Geoffrey M. Hales, Chairman**

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Arnold
Schwarzenegger
Governor

December 1, 2010

In the Matter of
Water Quality Certification
For
Sonoma County Regional Parks
FEMA Bodega Bay Projects
WDID No. 1B09098WNSO

APPLICANT: Ms. Michelle Julene, Sonoma County Regional Parks
RECEIVING WATER: Bodega Bay
HYDROLOGIC AREA: Bodega Bay Hydrologic Subarea No. 115.22,
Bodega Hydrologic Unit No. 115.00
COUNTY: Sonoma County
FILE NAME: Sonoma County Regional Parks, FEMA Bodega Bay
Projects

BY THE EXECUTIVE OFFICER:

1. On June 3, 2010, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application from Ms. Liz Ellis, of Green Valley Consulting Engineers on behalf of Sonoma County Regional Parks (Applicant), requesting Federal Clean Water Act, section 401, Water Quality Certification (certification) and/or Waste Discharge Requirements (Dredge/Fill Projects) for activities associated with the Sonoma County Regional Parks, FEMA Bodega Bay Projects (project). The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on October 7, 2010, and posted information describing the Project on the Regional Water Board's website. The proposed project will cause permanent impacts to approximately 1,310 linear feet of bank of Bodega Bay.
2. Project is located at three different sites within the Bodega Bay area. The sites include: Spud Point Marina, 1818 Westshore Road, latitude 38.327206°N, longitude 123.05663°W ; Porto Bodega/Bodega Bay Sport Fishing Center Marina, 1410 B Bay Flat Road, latitude 38.33314°N, longitude 123.0518°W ;

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Doran Beach, 201 Doran Beach Road, latitude 38.31062°N, longitude 123.05361°W, in Sonoma County.

3. The purpose of the project is to repair damage from extreme storm events during December 2005, and January, March and April 2006, which caused damage to beach protection and breakwater features at the project sites. Additionally, the project is needed to protect public resources and safety, reduce risk of future flood damage, and to limit and mitigate the impacts of erosion and further loss of public resources.
4. The project will replace missing rip-rap and embankment materials eroded by storm action. Rip-rap replacement will occur at all three sites and repair of a wooden breakwater will only occur at the Bodega Bay Sport Fishing Center. Work will be conducted from the bank to the extent possible, and contact with eelgrass beds or other sensitive areas will be avoided. Individual projects include:
 - The Spud Point Marina site will receive three segments of rip-rap and backfill totaling 500 linear feet of riprap/back fill of 512 cubic yards.
 - The Bodega Bay Sport Fishing Center will have three areas of repair, one being replacement of timber pilings and breakwater sea-wall, the other two being rip-rap and backfill replacement totaling 360 linear feet of riprap and 265 cubic yards.
 - The Doran Beach site is at, and adjacent to, the boat ramp. Repairs include concrete repairs to the boat ramp and replacement of rip-rap to adjacent embankments. Total rip-rap and backfill area will be 450 linear feet and 680 cubic yards.
5. Compensatory mitigation for the project is not necessary because project is replacing former materials and impact will be of no greater extent. Additionally, best management practices and techniques will be used to avoid impacts to water quality.
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 prior to construction, or during non-construction periods as necessary, and maintained thereafter by the contractor/Applicant. All direct impacts to undisturbed channel will be avoided by the proposed project. Use of erosion control best management practices (BMPs) will be employed. Disturbed areas of soil will be protected from erosion by appropriate erosion control BMPs. 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 received authorization (Nationwide Permit 3 – Maintenance, and NWP 13 – Bank Stabilization) to perform the project pursuant to Clean Water Act section 404 from the United States Army Corps of Engineers, file number 2009-00334, on November 22, 2010. The project does not require a Lake or Streambed Alteration Agreement from the California Department of Fish and Game. Applicant has applied to the California Coastal Commission for a Coastal development permit.
8. On May 5, 2009, the County of Sonoma approved a Mitigated Negative Declaration and filed a Notice of Determination (State Clearinghouse No. 2009032026) for the project in order to comply with the California Environmental Quality Act. The Regional Water Board has considered the environmental document and any proposed changes incorporated into the project or required as a condition of approval to avoid significant effects to the environment.
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: Bodega Bay Hydrologic Subarea No. 115.22,
Bodega Hydrologic Unit No. 115.00

Filled or Excavated Area: Permanent impacts to 1,310 linear feet of bank

Latitude/Longitude: 38.327206°N, 123.05663°W;
38.33314°N, 123.0518°W;
38.31062°N, 123.05361°W

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Sonoma County Regional Parks, FEMA Bodega Bay Projects (project). (WDID No. 1B09098WNSO), 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. Pursuant to Regional Water Board Resolution R1-2004-0087, Total Maximum Daily Load Implementation Policy Statement for Sediment-Impaired Receiving Waters within the North Coast Region (Sediment TMDL Implementation Policy), the Executive Officer is directed to "rely on the use of all available authorities, including existing regulatory standards, and permitting and enforcement tools to more effectively and efficaciously pursue compliance with sediment-related standards by all dischargers of sediment waste."
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. Due to the nature of the project and the limited timeframe for implementation, Regional Water Board is issuing this certification in less than 21 days from the posting of the public notice. Regional Water Board is regulating this project pursuant to Section 401 of the Clean Water Act (33 USC 1341) and/or Porter-Cologne Water Quality Control Act authority. Pursuant to title 23, California Code of Regulations, section 3858, if a project requires that certification be issued in less than 21 days, public notice shall be provided as much in advance of issuance as possible, but no later than simultaneously with the issuance of certification.
23. The authorization of this certification for any dredge and fill activities expires on December 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

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