



Linda S. Adams
Acting 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



Edmund G. Brown, Jr.,
Governor

January 7, 2011

In the Matter of
Water Quality Certification
(after-the-fact)
for
Colonial Park Bank Stabilization Project
WDID No. 1B06180WNSO

APPLICANT: Mr. Philip Etchell
RECEIVING WATER: Unnamed tributary to Pool Creek
HYDROLOGIC AREA: Mark West Hydrologic Subarea No. 114.23,
Russian River Hydrologic Area 114.00
COUNTY: Sonoma County
FILE NAME: Colonial Park Bank Stabilization Project

BY THE EXECUTIVE OFFICER:

1. On November 28, 2006, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application from Ms. Sandra Etchell, on behalf of Philip Etchell (Applicant), requesting Federal Clean Water Act, section 401, Water Quality Certification (certification) and/or Waste Discharge Requirements (Dredge/Fill Projects) for activities associated with Colonial Park Bank Stabilization Project (Project). This is an after-the-fact Order, as the work has been completed prior to the issuance of this Order. The Regional Water Board received all material and fees constituting a complete application on November 28, 2006. Since this is an after-the-fact Order, there was no public comment period. The Project will cause permanent impacts to 0.006 acres of seasonal unnamed creek, tributary to Pool Creek.
2. The Project is located near 440 Colonial Park Drive, Santa Rosa, Sonoma County, on the south bank of a seasonal unnamed creek, a tributary to Pool Creek, (APN. No. 059-290-015). The unnamed creek enters a controlled

California Environmental Protection Agency

Recycled Paper

drainage channel as it crosses Old Redwood Highway flowing west at approximately 38.521163° N latitude, 122.775382° W longitude. The south bank of the unnamed creek is completely armored with a high retaining wall that separates the creek from Colonial Park Mobile Home Park until the creek again meets the natural stream channel approximately 0.23 miles downstream at 38.520009° N latitude, 122.779051° W longitude.

3. The purpose of the Project was to restore and stabilize two areas of erosion occurring at the base of the retaining wall forming the perimeter of Colonial Park Mobile Home Park along the unnamed creek.
4. Area 1 is located near the west end of the retaining wall. Four cubic yards of clean fill was placed at the base of the retaining wall, erosion control material was placed over the fill, and a single layer of large rock totaling seven cubic yards was placed along a 50 foot section below the retaining wall. Starting near the base of the wall the rocks were tapered out extending 3 feet to 4 feet into the stream bed blending with the gravelly substrate of the stream.
5. Area 2 is located at the corner of the west end of the retaining wall where the unnamed creek meets the natural channel. Three cubic yards of clean fill was placed at the base of the retaining wall, erosion control material was placed over the fill, seven cubic yards of rock was placed in a 14 feet by 9 feet section of the bank beginning at the retaining wall and extending out approximately 9 feet along the southern bank.
6. Non-compensatory mitigation measures included the use of Best Management Practices (BMPs) employed during construction to minimize sediment production and to prevent the movement of loose soil off-site. No excavation occurred. Erosion control material was placed over the fill to prevent further erosion. Disturbed soil in Area 2 was revegetated with native grasses. No fertilizers or pesticides were utilized. No exposed soil remained after the rock fill was placed.
7. In-channel work was conducted during the dry season (June 15-October 31).
8. The applicant received a California Department of Fish and Game 1602 Streambed Alteration Agreement, on August 22, 2006, Notification Number 1600-2006-0658-3.
9. The applicant received After-the-Fact authorization from the United States Army Corps of Engineers (file No. 400110N) to perform the Project under Nationwide Permit 3, Bank Stabilization, pursuant to Clean Water Act, section 404, on November 1, 2006.

10. The project meets the exemption criteria under title 14, California Code of Regulations, section 15304-Minor Alterations to Land. The Regional Water Board will file a Notice of Exemption in accordance with the California Code of Regulations, title 14, section 15062 after issuance of this order.

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: Tributary creek to Pool Creek
within the Mark West Hydrologic Subarea No. 114.23,
Russian River Hydrologic Area 114.00.

Filled or Excavated Area: Permanent impacts to 0.006 acres of linear unnamed
drainage, tributary to Pool Creek

Latitude/Longitude: 38.52057° N and 122.77402° W

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Colonial Park Bank Stabilization Project, (WDID No. 1B06180WNSO), 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. Roads and bank erosion are identified as sources contributing to the sediment impairment. Removal of riparian vegetation is identified as a source contributing to temperature impairment. Actions authorized by this Order require implementation of Best Management Practices (BMPs) for sediment control at and near the project site. Accordingly, this Order is consistent with, and implements BMPs that would attenuate sediment.

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 result in a reduction of sediment entering the stream from erosion.
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. 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.
9. 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.
10. All activities and BMPs shall be implemented according to the submitted application and the conditions in this certification.
11. 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.
12. 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.
13. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete the project.
14. 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.
15. 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.
16. 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.

17. The Applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
18. 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.
19. 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.

20. 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).

21. The authorization of this certification for any dredge and fill activities expires on January 7, 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

110107_ColonialPark_BankStabilization_401

Original to: Mr. Philip Etchell, 66 Colonial Park Drive, Santa Rosa, CA 95403

Copies sent to: Ms. Sandra Etchell, 5677 Old Redwood Hwy, Santa Rosa, CA 95403
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