



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



Linda S. Adams
Acting Secretary for
Environmental Protection

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Edmund G. Brown, Jr.
Governor

February 28, 2011

In the Matter of
Water Quality Certification
For
Mendocino DOT, Bridge No. 10C0134,
Feliz Creek Bridge Replacement
WDID No. 1B10107WNME

APPLICANT: Mendocino County Department of Transportation
RECEIVING WATER: Feliz Creek
HYDROLOGIC AREA: Ukiah hydrologic subarea no. 114.31, Russian River
Hydrologic Unit No. 114.00
COUNTY: Mendocino County
FILE NAME: Mendocino DOT, Bridge No. 10C0134, Feliz Creek Bridge
Replacement, WDID No. 1B10107WNME

BY THE EXECUTIVE OFFICER:

1. On September 29, 2010, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application from Mr. Park Steiner, on behalf of Mendocino County Department of Transportation (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 Feliz Creek Bridge Replacement (Project), located in Mendocino County. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on November 10, 2010, and posted information describing the Project on the Regional Water Board's website. No comments were received. The Project will cause disturbances to approximately 100 linear feet of waters of the United States and waters of the State associated with Feliz Creek.
2. The Project is located on County Road 110, at the bridge over Feliz Creek, west of Hopland, latitude 38.972343°N, longitude 123.141943°W, in Mendocino County.
3. The purpose of the proposed project is to replace the failing bridge that was installed in 1960.

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4. The new bridge will be a three span concrete and steel cast-in-place, reinforced concrete slab bridge with two sets of center pilings, and be 96 feet long and 31 feet wide. The new bridge will be located just downstream of the existing 61-foot long bridge. The new bridge will be longer and span a greater width over the creek than the existing bridge, thus reducing hydraulic constriction impact, and impact to the stream bed. Rock slope protection will be used under each end of the new bridge, only above ordinary high water mark. The new bridge will necessitate removal of some of the native riparian vegetation. The old bridge structure will be removed, and the stream banks and stream bed will be restored with contouring and a combination of planting and natural recruitment of native plant species. Construction is planned for the dry season, when there is no flow in the creek. If there is flow in the creek, appropriate methods will be taken to bypass flow around the work area, and implement biological monitoring to minimize impacts to aquatic species.
5. Compensatory mitigation consists of the following items. The stream banks and stream bed will be restored with contouring and a combination of planting and natural recruitment of native plant species; a minimum of six root balls shall be salvaged from the site of the new bridge and re-planted at the old bridge site, along the north bank where rock slope protection currently exists; root balls shall be planted in pockets created within the rock slope protection; disturbed areas within the stream shall be restored to as near their original condition as possible. Restoration shall include re-vegetation and natural recruitment of vegetation to areas disturbed by project. Resident willow cuttings will be incorporated for added stability until other indigenous tree species re-establish. If there is indication of any significant soil loss, appropriate and expeditious remedial action will be taken. All plantings shall be monitored for a minimum of 5 consecutive years immediately following planting; planted vegetation shall have at least an 85% survival rate of thriving planted species at the end of the 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 shall document success of both the initial BMP plantings and of the subsequent natural revegetation for five years following construction, quantifying the numbers and species of colonizing plants. In the event that the revegetation is not performing up to requirements, then additional revegetation shall be required.
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. To minimize the potential of sediment movement downstream during construction activities gravel bags or similar materials will be used in conjunction with BMPs. 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 waters of the State. 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, within the stream. Additionally, all required BMPs shall be on-site and ready for timely deployment before the start of construction activities.

7. In-channel work will be conducted during the dry season (June 15-October 31).
8. The Applicant has applied for authorization from the United States Army Corps of Engineers pursuant to Clean Water Act, section 404. The Applicant has received a California Department of Fish and Game 1602 Streambed Alteration Agreement, on January 18, 2011, Notification Number: 1600-2010-0313-R1.
9. The County of Mendocino Department of Transportation, as lead California Environmental Quality Act (CEQA) agency, has filed a Notice of Determination for a Mitigated Negative Declaration with the State Clearinghouse, (State Clearinghouse No. 2010042024), on June 18, 2010, pursuant to CEQA guidelines.

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: Feliz Creek, Ukiah hydrologic subarea no. 114.31,
Russian River Hydrologic Unit No. 114.00

Filled or Excavated Area: Permanent impacts to approximately 100 linear feet of
creek bed and bank.

Latitude/Longitude: 38.972343°N, 123.141943°W

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Mendocino DOT, Bridge No. 10C0134, Feliz Creek Bridge Replacement Project (WDID No. 1B10107WNME), 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 and planting of more riparian zone shade vegetation at and near the project site. Accordingly, this Order is consistent with, and implements BMPS that would attenuate sediment and temperature adverse impacts.
5. 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.
6. 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.

7. The Regional Water Board shall be notified in writing at least five working days (working days are Monday – Friday) 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.
8. Concrete shall be allowed to cure for a time sufficient, or through the use of approved curing agents or sealers, to assure that the pH levels of any water contacting the work area shall not exceed 0.5 units of changes from normal ambient pH.
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 February 28, 2016. 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_order/s/water_quality/2003/wqo/wqo2003-0017.pdf

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Electronic Copy to: Ms. Jane Hicks, U.S. Army Corps of Engineers, Regulatory Functions, 1455 Market Street, San Francisco, CA 94105-1398
Ms. Samantha Olson, SWRCB, Office of the Chief Counsel
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