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

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Matt Rodriquez
Secretary for
Environmental Protection

Edmund G. Brown Jr.
Governor

October 4, 2011

In the Matter of

Water Quality Certification

for the

Jenner Headlands Sediment Reduction Culvert Project 2011
WDID No. 1B11156WNSO

APPLICANT:	Mr. Ralph Benson, Sonoma Land Trust
RECEIVING WATER:	Three Unnamed Tributaries
HYDROLOGIC AREA:	Russian Gulch Hydrologic Subarea No. 113.90, Mendocino Coast Hydrologic Area 113.00 and Guerneville Hydrologic Subarea No. 114.11, Russian River Hydrologic Unit 114.00
COUNTY:	Sonoma County
FILE NAME:	Jenner Headlands Sediment Reduction Project 2011

BY THE EXECUTIVE OFFICER:

1. On August 10, 2011, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application from Ms. Kara Heckert of the Sotoyome Resource Conservation District on behalf of Mr. Ralph Benson of the Sonoma Land Trust (applicant), requesting Federal Clean Water Act, Section 401, Water Quality Certification (certification) for activities associated with the Jenner Headlands Sediment Reduction Culvert Project (project). The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, Section 3858 on September 8, 2011, and posted information describing the Project on the Regional Water Board's website. No comments were received.

2. The project will cause disturbances to approximately 60 linear feet of waters of the United States and waters of the State associated with three unnamed tributaries:

two are tributaries to the Pacific Ocean, within the Russian Gulch Hydrologic Area, and one is a tributary to the Russian River Estuary.

3. The project is located north of the town of Jenner, within the Jenner Headlands Preserve (Preserve), latitude 38.453078°N, longitude 123.118569°W, in Sonoma County.

4. The primary purpose of the project is to replace three failing culverts to prevent approximately 560 cubic yards of soil/sediment from being delivered to waters of the State.

5. The project includes the replacement of three actively failing culverts. The culverts are on year-round primary access roads. Culvert replacement and restoration/best management practices will conform to the *Handbook for Forest and Ranch Roads* (1994), and the *California Department of Fish and Game Salmonid Stream Habitat Restoration Manual*, respectively. Construction will be done in the dry season when there is no flow in the creek. If there is water encountered within the work areas, appropriate methods will be taken to dewater the work area, and discharge the water to an upland area. Work will be conducted from the existing roadbed so there will be no direct impact to the native stream channels. Construction is planned for a total of one to two weeks and is tentatively expected to take place in September and October of 2011 or 2012.

6. Due to the high likelihood of failure and subsequent delivery of fine sediment into the creek system, Sotoyome Resource Conservation District (SRCD), during a recent assessment on the Jenner Headlands property, determined the following culverts need to be addressed. Site numbers were established by the SRCD.

   - **Site #130:** This site is located on Willig Drive just north of the town of Jenner and 620 feet before the Preserve boundary gate. This unnamed tributary drains through the town of Jenner and into the Russian River Estuary. The existing culvert is an undersized 24-inch diameter by 60-foot long culvert with a failing bottom. Destabilization of the road has occurred as a result of the failure. This culvert will be replaced with a 36-inch diameter by 80-foot long culvert made from 12 gauge corrugated steel, placed at stream channel gradient. The outboard fillslope of the road will be steep; therefore, the lower quarter of the fillslope will be armored with 5 cubic yards of 1-2 foot diameter rip-rap.

   - **Site #186:** This site is located on road 10.8 of the Preserve. This unnamed tributary drains directly into the East Branch Russian Gulch. The existing culvert is an undersized 48-inch diameter by 50-foot long culvert with a failed bottom and collapsed outboard fill. This culvert will be replaced with a 72-inch diameter by 70-foot long culvert made from 12 gauge corrugated steel. The

fillslope will be rebuilt to a 2:1 gradient; therefore, no rock armor will be necessary to buttress the road fill.

- **Site #187:** This site is located on road 10.8 of the Preserve directly east of Site #186. This unnamed tributary drains directly into the East Branch of Russian Gulch. The existing culvert is appropriately sized at 36-inch diameter by 20-foot long, but has a failed bottom. A three foot drop exists below the culvert. The culvert will be replaced with a 36-inch diameter by 40 foot long culvert made with 12 gauge corrugated steel. The fillslope will be rebuilt to a 2:1 gradient; therefore, no rock armor will be necessary to buttress the road fill.

7. The project will reduce sediment delivery; thus, no compensatory mitigation is required.

8. 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 river. All equipment will be maintained in good working order, shall be steam cleaned if working within the creek, 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.

9. The Applicant has received a Lake or Streambed Alteration Agreement from the California Department of Fish and Game (File No. 1600-2011-0289-R3).

10. The Applicant has received authorization from the U.S. Army Corps of Engineers (File No. 2011-00313N) to perform the project pursuant to Clean Water Act, section 404, under NWP-3, *Maintenance*.

11. The project is exempt from CEQA under California Code of Regulations, title 14, section 15061, subdivision (b). The project meets the exemption criteria under title 14, California Code of Regulations, 15333 [Small Habitat Restoration Projects]. The Sotoyome Resource Conservation District, as Lead Agency, has completed a Notice of Exemption (SCH No. 2011088028) for the project in order to comply with CEQA. 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 401 Certification 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:	Russian Gulch Hydrologic Subarea No. 113.90, Mendocino Coast Hydrologic Area 113.00 and Guerneville Hydrologic Subarea No. 114.11, Russian River Hydrologic Unit 114.00
Filled or Excavated Area:	Permanent impacts to 60-linear feet, of stream bank
Latitude/Longitude:	38.453078°N, 123.118569°W

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Jenner Headlands Sediment Reduction Culvert Project (WDID No. 1B11156WNSO), 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. 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. All disturbed or constructed areas of the project that result in bare soil, will be mulched and seeded with a native grass and wildflower mixture, and planted with native trees and shrubs. Existing mature trees will be protected in place. Further

mitigation measures will include removal of invasive/exotic vegetation from the project area, as necessary.

9. Work in the stream channel shall be confined to the low flow season, between June 15 and October 31, and is expected to take approximately two weeks. Work period may be extended by permission of the Executive Officer.

10. Revegetation/restoration will be implemented at and above top-of-bank, at all equipment access areas, and at any disturbed areas at each culvert replacement site.

11. To ensure a successful revegetation/stabilization effort, plantings shall be monitored and maintained. The Applicant is responsible for replacement planting, additional watering, weeding, invasive exotic plant eradication, or other practices to achieve these goals.

12. 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.

13. 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.

14. 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.

15. 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.

16. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete the project.

17. 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.

18. 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.

19. 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.

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

21. 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.

22. 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.

23. 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).

24. The authorization of this certification for any dredge and fill activities expires on October 4, 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.

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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: Mr. Ralph Benson, Sonoma Land Trust, 966 Sonoma Avenue, Santa Rosa, CA 95404

Ms. Kara Heckert, Sotoyome RCD, P.O. Box 11526, Santa Rosa, CA 95406