



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



Matt Rodriguez
Secretary for
Environmental Protection

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Edmund G. Brown Jr.
Governor

October 5, 2011

In the Matter of
Water Quality Certification

for the

**Barnum Property – Martin Slough Sediment Removal Project
WDID No. 1B11152WNHU**

APPLICANT: Mr. C. Robert Barnum
RECEIVING WATER: Martin Slough
HYDROLOGIC AREA: Eureka Plain Hydrologic Unit No. 110.00
COUNTY: Humboldt
FILE NAME: Barnum Property – Martin Slough Sediment Removal Project

BY THE EXECUTIVE OFFICER:

1. On August 4, 2011, Mr. C. Robert Barnum (Applicant) filed an application for water quality certification (certification) under section 401 of the Clean Water Act (33 U.S.C. § 1341) with the California Regional Water Quality Control Board, North Coast Region (Regional Water Board) for activities associated with annual removal of excess sediment from Martin Slough to reduce flooding and improve habitat for anadromous fish and wildlife (project). The project is located near the southern limits of Eureka between the Fairway Drive crossing over Martin Slough and Campton Road. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on August 26, 2011, and posted information describing the project on the Regional Water Board's website. We did not receive any public comments on this project.
2. Excessive runoff and sediment from the developed upper watershed can result in significant sediment accumulation in the low gradient reach of Martin Slough that crosses through the Applicant's property. The excess sediment reduces salmonid habitat in Martin Slough, primarily juvenile coho salmon rearing habitat, and significantly limits the channel's ability to convey stream flows through the Applicant's property. Excess sediment accumulation also increases the potential

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for winter flooding. In addition, previously constructed in-channel sediment ponds, which have doubled as wildlife habitat, have started to fill with fine sediment.

3. The project involves removal of accumulated fine sediment from approximately 900 linear feet of Martin Slough. Authorized sediment excavation areas include an approximately 550 linear foot reach between the existing pond on Martin Slough and the Applicant's property line (Reach 1) and an approximately 350 linear foot reach between the Fairway Drive culvert inlet and the confluence of Martin Slough and the East Branch tributary (Reach 2). The project also includes planting approximately 50 native riparian tree species along both streambanks within the project area.
4. A three-foot deep low-flow channel will be excavated within the Martin Slough stream channel in order to maintain adequate flows for fish passage and juvenile rearing. Sediment will be excavated using a backhoe or excavator situated above the banks of the stream channel. Heavy equipment will not be positioned within the active portion of the wetted channel. Excavated sediment will be moved to an upland location of sufficient distance from the channel to prevent the material from re-entering the slough. Sediment shall not be placed in any wetlands or formed into any type of levee or dike along any waterways. Erosion control measures consisting of native grass seed and straw mulch shall be applied to the disturbed ground surfaces adjacent to the slough. The amount of sediment removed each year may vary depending on the amount of deposition on the Applicant's property. Not more than 2,000 cubic yards of sediment shall be removed during the next five years. Sediment removal activities shall be conducted between August 15 and October 15 each year.
5. Similar sediment removal activities have been ongoing within this section of Martin Slough for over 50 years. The California Department of Fish and Game (DFG) has issued Lake or Streambed Alteration Agreements to the Applicant for previous sediment removal activities. The Applicant has applied for a new Lake or Streambed Alteration Agreement (Notification No. 1600-2010-0396-R1) from the DFG. The Applicant has also applied for authorization from the U.S. Army Corps of Engineers to complete the project pursuant to Clean Water Act, section 404.
6. The DFG will conduct visual surveys or fish sampling efforts within the sediment removal areas between August 1 and August 10 each year that sediment removal is planned.
7. The Regional Water Board, as the lead California Environmental Quality Act (CEQA) agency, has determined that this project qualifies for a Categorical Exemption, section 15333 – small habitat restoration, pursuant to CEQA.

8. Compensatory mitigation is not required. Non-compensatory mitigation measures include tree planting as described above and the use of Best Management Practices for sediment and erosion control.
9. 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, and does not otherwise authorize degradation of the waters affected by this project.
10. 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 water quality certification. Order No. 2003-0017-DWQ can be found at:
http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf.

Receiving Waters: Martin Slough in the Eureka Plain Hydrologic Unit No. 110.00

Filled or Excavated Area: Area Temporarily Impacted: 13,000 square feet of streambed
Area Permanently Impacted: None

Total Linear Impacts: Length Temporarily Impacted: None
Length Permanently Impacted: 900 linear feet of streambed

Dredge Volume: 2,000 cubic yards

Latitude/Longitude: Reach 1: Upstream 40.7660 N/124.1599 W
Downstream 40.7643 N/124.1604 W
Reach 2: Upstream 40.7618 N/124.1627 W
Downstream 40.7613 N/124.1638 W

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Barnum Property – Martin Slough Sediment Removal Project (WDID No.1B11152WNHU), 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:

All conditions of this order apply to the Applicant (and all their employees) and all contractors (and their employees), sub-contractors (and their employees), and any other entity or agency that performs activities or work on the project as related to this Water Quality Certification.

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. The validity of this certification is conditioned upon total payment of any fee required under title 23, California Code of Regulations, section 3833, and owed by the Applicant.
4. The Regional Water Board staff shall be notified annually in writing at least five working days (working days are Monday – Friday) prior to the commencement of sediment removal activities, with details regarding the project schedule, in order to allow staff to be present onsite during construction, and to answer any public inquiries that may arise regarding the project.
5. The Applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
6. The Applicant shall construct the project in accordance with the project described in the application and the findings above, and shall comply with all applicable water quality standards as detailed in the Basin Plan.
7. 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. 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 action(s).

8. 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 waters. All BMPs shall be installed properly and in accordance with the manufacturer's specifications.
9. The Applicant shall prioritize the use of wildlife-friendly biodegradable (not photo-degradable) erosion control products wherever feasible. The Applicant shall not use or allow the use of erosion control products that contain synthetic materials within waters of the United States or waters of the State at any time. The Applicant shall not use or allow the use of erosion control products that contain synthetic netting 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, personnel shall remove the netting or product and replace it with wildlife-friendly biodegradable products. The Applicant shall request approval from the Regional Water Board if an exception from this requirement is needed for a specific location.
10. Disturbance or removal of existing vegetation shall not exceed the minimum necessary to complete the project. No mature riparian trees shall be removed.
11. 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.
12. Fueling, lubrication, maintenance, storage, and staging of vehicles and equipment shall not result in a discharge or threatened discharge to any waters of the State including dry portions of the streambank and streambed. At no time shall the Applicant or its contractors allow use of any vehicle or equipment which leaks any substance that may impact water quality.
13. The Applicant shall provide a copy of this Order and State Water Resources Control Board (SWRCB) Order No. 2003-0017-DWQ to any contractor(s), subcontractor(s), and utility company(ies) conducting work on the project, and shall require that copies remain in their possession at the work site. The Applicant shall be responsible for ensuring that all work conducted by its contractor(s),

subcontractor(s), and utility companies is performed in accordance with the information provided by the Applicant to the Regional Water Board.

14. 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 including stopping work. 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.
15. The Applicant shall submit annual reports to the Regional Water Board within 60 days of completion of any annual sediment removal activities. The report shall contain a summary of the work, quantity (cubic yards) of sediment removed, linear feet of streambed excavation, and pre- and post-project photos of the area disturbed by annual sediment removal activities including the BMPs for sediment and erosion control.
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. In the event of any violation or threatened violation of the conditions of this Order, 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 for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Order. In response to a suspected violation of any condition of this certification, the State Water Board may require the holder of any federal permit or license subject to this Order to furnish, under penalty of perjury, any technical or monitoring reports the State 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 Order, the Regional Water Board may add to or modify the conditions of this Order as appropriate to ensure compliance.
18. 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.

19. 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).
20. The authorization of this certification for any dredge and fill activities expires on October 5, 2016. Conditions and monitoring requirements outlined in this Order 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 Dean Prat at (707) 576-2801.

Catherine Kuhlman
Executive Officer

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Weblink: 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 can be found at:
http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf

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Electronic
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