



**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

January 11, 2012

**In the Matter of
Water Quality Certification
For
Mr. William Hinkle
Sei Querce Creek Restoration Project
WDID No. 1B11173WNSO
Sonoma County**

APPLICANT: Mr. William Hinkle
RECEIVING WATER: Sei Querce Creek tributary to Russian River
HYDROLOGIC AREA: Geyserville Hydrologic Sub Area No. 114.25, Russian River
Hydrologic Unit No. 114.00
COUNTY: Sonoma County
FILE NAME: Sei Querce Creek

BY THE EXECUTIVE OFFICER:

1. On September 15, 2011, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application from Ms. Megan Stromberg of WRA, Inc. on behalf of Mr. William Hinkle (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 Sei Querce Creek Restoration Project (Project). The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on December 20, 2011, and posted information describing the project on the Regional Water Board's website. No comments were received.
2. The project is located at 21350 River Road, Geyserville, Assessor's Parcel Number 141-180-003, latitude 38.72648°N, longitude 122.89476°W.
3. The Project will cause disturbances to waters of the United States (U.S.) and waters of the State associated with Sei Querce Creek and two tributary streams

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that flow to the Russian River, located within the Russian River Hydrologic Unit No.114.00, Geyserville Hydrologic Sub-Area No.114.25.

4. The purpose of the Project is to restore the stream to a more natural state and involves realignment and restoration of portions of formerly modified tributaries, removal of artificial grade control structures within the stream beds and re-grading of the stream bed, improvement of a low water crossing, installation of riprap to bolster undercut tree roots, use of bioengineering stream bank stabilization, replacement of a failed on-bank timber bridge with a free-span bridge, and thorough replanting of riparian native species to reestablish the riparian corridor.
5. Compensatory mitigation is not necessary as the Project itself shall improve water quality.
6. Non-compensatory mitigation for this project includes the use of Best Management Practices for sediment and turbidity control, and for mechanized equipment use near a waterway. Additionally, various low impact development (LID) stormwater treatments will be used to treat and infiltrate stormwater runoff from replaced structures and from an outdoor livestock corral. A livestock Management Plan will also be implemented by the Applicant.
7. In-channel work will be conducted during the dry season when there is no flow or water within the creeks. If any stream flow or ponding in the channel are encountered, a dewatering approach will be taken, such as the installation of a sequential coffer dam system to intercept and divert surface water or intercepted shallow groundwater moving through near surface sediments. If needed, the dewatering would be accomplished by installing temporary coffer dams/sumps at the upstream end of the project, and pumping or using gravity flow piping of any nuisance water around the worksite to re-enter the channel below the downstream end of the project. Sediment filtering bags will be incorporated into the outlet end of the discharge line to minimize turbidity, if necessary. The dewatering system will be removed following project completion.
8. The project is exempt from CEQA under California Code of Regulations, title 14, 15333-Small Habitat Restoration Projects. 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.
9. The Applicant has received a Lake and Streambed Alteration Agreement from California Department of Fish and Game, Notification No. 1600-2011-0324-R3, on October 3, 2011.

10. The Applicant has applied for authorization from the United States Army Corps of Engineers to perform the project pursuant to Clean Water Act, section 404.

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: Sei Querce Creek within the Geyserville Hydrologic Sub Area No. 114.25, Russian River Hydrologic Unit No. 114.00.

Filled or Excavated Area: Temporary impacts to 17 linear feet of stream bed and bank
Permanent impact to 425 linear feet of stream bed and bank

Latitude/Longitude: 38.72648°N, 122.89476°W

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Sei Querce Creek Restoration Project (WDID No. 1B11173WNSO), 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. 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

5. 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 the requested Certification, the Regional Water Board may revise the provisions of that Certification to address actions identified in such action plans. Bank erosion is identified as a source contributing to the sediment impairment. Removal of riparian vegetation is identified as a source contributing to temperature impairment. Activities that will be authorized by the pending certification are designed to increase riparian vegetation and reduce sediment discharges from bank erosion. Actions authorized by this Order require implementation of Best Management Practices (BMPs) for sediment and turbidity control and planting of more riparian zone shade vegetation at and near the project site. Accordingly, this pending Order is consistent with, and implements BMPs that would attenuate sediment and temperature adverse impacts.

Accordingly, this Order is consistent with, and implements BMPs that would attenuate sediment/siltation and nutrient adverse impacts. At present, there are no watershed-specific implementation plans for these TMDLs. If TMDL implementation plans are adopted for these watersheds 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.

6. If groundwater is encountered during construction it will be discharged to an upland location where it cannot flow into Waters of the State. BMPs that may be used include: storage tanks, sediment desilting basins, and water filters. Additionally, BMPs such as the use of washed gravel, sand bags, straw, and/or silt fences will be used as necessary to control velocity of the land discharge and erosion. Groundwater shall not be discharged to waters of the State.
7. 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.”

8. 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.
9. 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 and cement containment, to ensure that materials do not enter the waterway. 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 drainages. 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.
10. 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.
11. The Regional Water Board shall be notified in writing (email is acceptable) 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.

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. All activities and BMPs shall be implemented according to the submitted application and the conditions in this Order.
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 January 11, 2017. 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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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

Original to: Mr. William Hinkle, P.O. Box 10, Geyserville, CA 94952

Copy to: Mr. Geoff Smick, WRA, Inc., 2169-G East Francisco Blvd.,
San Rafael, CA 94901