
North Coast Regional Water Quality Control Board

In the Matter of

Water Quality Certification

for

**Mendocino County Department of Transportation
Feliz Creek Dam Removal Project
WDID No. 1B12012WNME**

APPLICANT: Mendocino County Department of Transportation
RECEIVING WATER: Feliz Creek
HYDROLOGIC UNIT: Ukiah Hydrologic Subarea No. 114.31,
Russian River Hydrologic Area 114.00
COUNTY: Mendocino
FILE NAME: Mendocino County Department of Transportation
Feliz Creek Dam Removal

BY THE EXECUTIVE OFFICER:

1. On February 21, 2012, the Mendocino County Department of Transportation (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 related to the Mendocino County Department of Transportation Feliz Creek Dam Removal Project (Project). The Project involves implementing activities associated with removing a concrete dam on Feliz Creek and allowing naturalization along six to nine miles of creek upstream of the dam. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on March 13, 2012, and posted information describing the project on the Regional Water Board's website. We did not receive any public comments on this project.
2. Project is located on Feliz Creek, latitude 38.984416°N, longitude 123.165934°W, 3563 Feliz Creek Road, near Hopland, in Mendocino County. The proposed project will cause permanent impacts to approximately 0.05 acres and 150 linear

feet of bed and bank of Feliz Creek, Ukiah Hydrologic Subarea No. 114.31, Russian River Hydrologic Area 114.00. Project work is expected to take 42 working days and is tentatively scheduled for August 15-October 15, 2012.

3. The subject of this Order is removal of an old 12-foot high concrete dam on Feliz Creek, approximately four miles upstream from the confluence with the Russian River near Hopland, California. Gravels and sediment have accumulated behind the dam, filling the reservoir. The dam inhibits fish passage resulting in the loss of an estimated six to nine miles of anadromous salmonid spawning and rearing habitat (primarily steelhead). The left segment of the dam (facing downstream) is undermined and a catastrophic failure could adversely impact adjacent banks as well as a private facility above, other properties downstream, and various aquatic resources. This project will remove the dam and restore a free-flowing fluvial ecosystem by allowing stored gravel and sediments to meter back into Feliz Creek during storm events, and then on into the Russian River below. Additional project objectives include protecting the slope below the private residence from scour and erosion, and removal of two deleterious structures from the reach below the dam (an old metal tank and the old right abutment from a previous dam).

4. The Project includes the following tasks:
 - A. Remove and haul offsite portions of the reinforced concrete dam (300 cubic yards) that cannot otherwise be incorporated into streambank protection;
 - B. Remove and haul offsite the remains of a failed concrete and boulder fishway (10 cubic yards) that cannot otherwise be incorporated into streambank protection or instream habitat;
 - C. Remove and haul off-site the remains of an old concrete abutment downstream (40 cubic yards) that cannot otherwise be incorporated into streambank protection;
 - D. Remove and recycle or dispose of old metal tank;
 - E. Excavate approximately 150 feet of keyway for rock slope protection (RSP) at the site of the private residence for added protection of the swimming pool and house;
 - F. Reconstruct a new domestic water line under the stream channel as a replacement for the existing waterline located on the downstream face of the dam;
 - G. Import and place RSP along approximately 150 feet of streambank beneath the private residence (not to exceed 2,000 cubic yards). This RSP is to incorporate bundles of willow plantings within the lower area to enhance revegetation;
 - H. Once the dam is removed, v-notch and taper the downstream edge of the accumulated gravel and sediment near the thalweg, to an appropriate

- slope to minimize abrupt gravel movement in initial gravel-transport storm events;
- I. Revegetate disturbed areas with appropriate native riparian vegetation;
 - J. A historical access point to the streambed currently exists on the property approximately 100 ft. above the dam. A second temporary access point will be created approximately 600 feet above the dam to minimize disturbance and potential vibration to the nearby residence. All ingress and egress to the project site will occur from the stream bank at one of these sites, preferably the newly created temporary road.
5. The Project is being undertaken as compensatory mitigation for a previously issued Clean Water Act Section 401 Water Quality Certification, issued October 4, 2005, WDID No. 1B05127WNME. This previous Order was for repair/replacement of a failed gate valve at the base of the upper dam on Mill Creek, east of the City of Ukiah. The valve was allegedly opened by County of Mendocino staff, which caused the reservoir to drain rapidly, resulting in a discharge of large amounts of sediment downstream, filling in approximately 1,500 linear feet of natural stream between the upper reservoir and the second reservoir downstream. Because of the urgency to repair the valve, compensatory mitigation was deferred to be determined at a later date. The removal of Feliz Creek dam, the subject of this current Order (1B12012WNME), satisfies the compensatory mitigation requirements for the previous Order (1B05127WNME). Additionally, activities within the Project are for the benefit of salmonids and other aquatic creatures and create more complex habitat within Feliz Creek. Therefore, compensatory mitigation is unnecessary for this current Project.
 6. 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, file number 2012-00101N. The Applicant will obtain a Lake and/or Streambed Alteration Agreement from California Department of Fish and Game.
 7. The Mendocino County Department of Transportation, as lead California Environmental Quality Act (CEQA) agency, completed an Initial Study/Mitigated Negative Declaration and filed a Notice of Determination with the State Clearinghouse, (SCH No. 2011072017) on October 5, 2011, pursuant to CEQA guidelines.
 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, and does not otherwise authorize degradation of the waters affected by this project.

9. 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.
http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf

Receiving Water: Ukiah Hydrologic Sub Area No. 114.31
Russian River Hydrologic Area 114.00

Filled or Excavated Area: Area Permanently Impacted: 0.05 acre/ stream channel and bank of Feliz Creek.

Total Linear Impacts: Length Permanently Impacted: 150 linear feet of stream channel and bank of Feliz Creek.

Dredge Volume: 350 Cubic Yards

Latitude/Longitude: 38.984416°N/123.165934°W

Expiration: May 10, 2017

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Mendocino County Department of Transportation Feliz Creek Dam Removal Project (WDID No. 1B12012WNSO), 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 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 shall be notified annually and 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.
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 this Order 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. 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. 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. All activities and BMPs shall be implemented according to the submitted application and the conditions in this certification.
13. 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.
14. The Applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
15. If, at any time, an unauthorized discharge to surface water (including wetlands, lakes, 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.
16. 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).
17. 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.
18. 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.

19. The Applicant shall implement 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.
20. Disturbance or removal of existing vegetation shall not exceed the minimum necessary to complete the project.
21. 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 shoreline. 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.
22. 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.
23. 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.
24. 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.

25. 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).
26. The authorization of this certification for any dredge and fill activities expires on May 10, 2017. 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 Stephen Bargsten at (707) 576-2653.

Original Signed By

Matthias St. John
Executive Officer

120510_SKB_MendocinoCounty_DOTFelizCreek_DamRemoval_401

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. Larry Alexander, Mendocino DOT, 340 Lake Mendocino Drive, Ukiah, CA 95482