June 28, 2012

In the Matter of

Water Quality Certification

for

Sonoma-Marin Area Rail Transit (SMART)
Colgan Creek Bridge Repair
WDID No. 1B12039WNSO

APPLICANT:	Sonoma-Marin Area Rail Transit
RECEIVING WATER:	Copeland Creek
HYDROLOGIC UNIT:	Laguna Hydrologic Sub Area No. 114.21 Russian River Hydrologic Area 114.00
COUNTY:	Sonoma
FILE NAME:	Sonoma-Marin Area Rail Transit Colgan Creek Bridge

BY THE EXECUTIVE OFFICER:

1. On April 3, 2012, the Sonoma-Marin Area Rail Transit (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 Sonoma-Marin Area Rail Transit Colgan Creek Bridge Repair (Project). The Project involves removal and replacement of bridge piles and abutment repairs to the Colgan Creek Railroad Bridge. This is the first phase of work proposed by SMART to prepare the railroad corridor for public transit use. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on May 3, 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 Copeland Creek, approximately 450 feet north of Hearn Avenue, Santa Rosa, latitude 38.415771°N, longitude 122.721173°W, in Sonoma

County. The proposed project will cause temporary impacts to approximately 862 square feet/43 linear feet, and 6.5 square feet/15 linear feet of permanent impacts of creek bed and bank of Colgan Creek, Laguna Hydrologic Subarea No. 114.21, Russian River Hydrologic Area 114.00.

3. The work includes pile replacement under the existing railroad bridge. Two rows (bents) of existing wooden piles will be removed and replaced with one bent of steel piles. The existing wooden piles will be broken or cut below existing stream bed and the stream bed will be smoothed to existing grade by the addition of clean washed river gravel, if necessary. New steel piles will be driven into the streambed from a pile driver on the existing bridge. If there is any flow in the creek, flow will be bypassed around the construction areas with sandbag or other type of coffer dam. No turbid water will be allowed to escape the construction area, and will be pumped out and disposed of properly. Best Management Practices (BMPs) shall be used to prevent any materials from entering the creek or any other waters of the state. Impacts to any waters other than the work at the Colgan Creek Railroad Bridge are not covered by this Order.

   Additional work to be undertaken by SMART between Santa Rosa and Petaluma includes replacement of approximately 18 miles of track, replacement of three existing wood trestle bridges, re-capping and re-decking three existing wood trestle bridges, minor rehabilitation of two existing concrete bridges, and construction of an operation and maintenance yard. Some of this work is within the North Coast Regional Water Quality Control Board's region (Region 1), and the rest is within the San Francisco Bay Regional Water Quality Control Board's region (Region 2). Work is being permitted by each Regional Water Quality Control Board respectively. Work within Region 1 that will directly impact waters of the state includes the bridge repair on the Colgan Creek Railroad Bridge. The balance of the work within Region 1 will require use of the proper BMPs to prevent impacts to waters of the state. Such BMPs would include erosion control practices to prevent erosion and delivery of sediment to waters of the state; use of tarps or other materials to prevent debris from bridge work reaching waters of the state; and defining/fencing of existing wetlands to separate them from work areas to prevent detrimental impacts. This stretch of railroad has numerous seasonal wetlands and creeks within the right of way. Wetlands include 24,781 linear feet/5.27 acres of wetlands (per "SCALED WETLAND COMPARISON MAPS FOR AGENCY REVIEW", submitted by SMART on May 18, 2012, and updated on June 22, 2012) that are generally linear in shape and along the base of the railroad fill prism. Additionally, there are 10 creeks and their associated crossings. This set of maps shall be completed in the same format for the additional segments as they are opened for use by SMART. SMART has implemented avoidance measures to prevent any detrimental impacts to these various waters of the state. These measures include staking and fencing the wetlands within the right of way with permanent stakes/posts and orange sediment reduction fence material.

Other work that may require additional and separate 401 Water Quality Certifications would include Low Impact Development (LID) stormwater treatment at future station platforms and any other future facilities, replacement of culverts, pedestrian/bicycle trails, and other miscellaneous activities

SMART has stated that the rails, ties, and ballast can be replaced without disturbing these wetlands. Additionally, there will be implementation of the "*Contaminated materials handling and disposal plan for ties and treated timbers*" to assure these materials will be handled and disposed of properly.

4. Compensatory mitigation includes removal of concrete debris from below and adjacent to the project, as well as a reduction of two bents of piles to one bent of piles having a smaller area of impact within the creek.

5. SMART shall submit a Master Operations Plan (SMART MOP), covering similar items as Northwestern Pacific Railroad Company's Master Operation Plan (NWP MOP), received by the Regional Water Board on October 26, 2011. The SMART MOP shall be submitted by November 2012. Until the SMART MOP is approved by the Executive Officer, SMART will implement the NWP MOP as deemed appropriate by the North Coast Regional Water Quality Control Board Staff.

   SMART shall submit platform design packages implementing LID stormwater treatment features by November 2012.

   Both plans are subject to review and approval by the Executive Officer.

6. The Applicant has applied for authorization from the US Army Corps of Engineers for a Clean Water Act Section 404 Permit; file number SPN-2010-00441-N. The Applicant has acquired a Lake and Streambed Alteration Agreement from the California Department of Fish and Game, Agreement Number 1600-2011-0086-R3, dated July 28, 2011.

7. The Sonoma-Marin Area Rail Transit, as lead California Environmental Quality Act (CEQA) agency, has produced an Environmental Impact Report, and filed Notices of Determination with the State Clearinghouse, (SCH No. 20021122033) on 7/21/2006, 7/16/2008, and 11/16/2011, pursuant to CEQA guidelines.

8. 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:	Laguna Hydrologic Sub Area No. 114.21 Russian River Hydrologic Area 114.00
Filled or Excavated Area:	Area Permanently Impacted: 6.5 square feet of stream channel and bank Area Temporarily Impacted: 862 square feet of stream channel and bank
Total Linear Impacts:	Length Permanently Impacted: 15 linear feet of stream channel and bank Length Temporarily Impacted: 43 linear feet of stream channel and bank
Latitude/Longitude:	38.415771°N, 122.721173°W
Expiration:	June 28, 2017

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Sonoma-Marin Area Rail Transit Colgan Creek Bridge Repair (WDID No. 1B12039WNSO), 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. SMART shall submit a Master Operations Plan (SMART MOP), covering similar items as Northwestern Pacific Railroad Company's Master Operation Plan (NWP MOP), received by the Regional Water Board on October 26, 2011. The SMART MOP shall be submitted by November 2012. Until the SMART MOP is approved by the Executive Officer, SMART will implement the NWP MOP as deemed appropriate by the North Coast Regional Water Quality Control Board Staff.

   SMART shall submit platform design packages implementing LID stormwater treatment features by November 2012.

   Both plans are subject to review and approval by the Executive Officer.

6. The Russian River is identified as impaired for sediment and temperature under Clean Water Act Section 303(d). 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.

   The Laguna de Santa Rosa is identified as impaired on the Clean Water Act Section 303(d) list. The Laguna de Santa Rosa is listed as impaired for sediment, nitrogen phosphorous, dissolved oxygen, temperature and mercury. Total Maximum Daily Loads (TMDLs) for sediment and Nitrogen were established in 1995 by the North Coast Regional Water Quality Control Board in accordance with section 303(d) of the Clean Water Act, because the State of California determined that the water quality standards for the Laguna de Santa Rosa are exceeded due to excessive sediment and nitrogen. Roads and bank erosion are identified as sources contributing to the sediment impairment. Actions authorized by this Order require implementation of BMPs for sediment control at the project site.

Accordingly, this Order is consistent with, and implements portions of the Laguna de Santa Rosa TMDLs. At present, total maximum daily loads (TMDLs) have not been established for phosphorous, dissolved oxygen, temperature and mercury 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.

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.

7. 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.

8. 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.”

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.

10. 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.

11. 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.

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.

13. All activities and BMPs shall be implemented according to the submitted application and the conditions in this certification.

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

16. 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.

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. 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).

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 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.

20. 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.

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

22. 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.

23. 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.

24. 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.

25. 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.

26. 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).

27. The authorization of this certification for any dredge and fill activities expires on June 28, 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.

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Matthias St. John
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. Bill Gamlen, Sonoma-Marin Area Rail Transit District, 490 Mendocino Avenue, Suite 102, Santa Rosa, CA 95401