
North Coast Regional Water Quality Control Board

August 28, 2013

In the Matter of

Water Quality Certification

for

Harris Quarry Project
WDID No. 1B13070WNME

APPLICANT: Mr. Frank Dutra
RECEIVING WATER: Forsythe Creek and seasonal wetlands
HYDROLOGIC UNIT: Forsythe Creek Hydrologic Sub-Area, Upper Russian River
Hydrologic Area No. 114.33
COUNTY: Mendocino
FILE NAME: Harris Quarry

BY THE EXECUTIVE OFFICER:

1. On June 4, 2013, Mr. Frank Dutra (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 expansion of the existing Harris rock quarry (Project). The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on July 19, 2013, and a revised public notice on July 26, 2013, and posted information describing the Project on the Regional Water Board's website. We did not receive any public comments on the Project. The Project is located at the Harris Quarry, 16410 Highway 101, Willits, Mendocino County, at latitude 39.337114 N, and longitude 123.310697 W. The Project will cause temporary impact to bed and bank of creeks of approximately 63 linear feet, and permanent impact of approximately 1,322 linear feet. Impacts to wetlands are approximately 0.007 acres temporary impact and 0.0524 acres permanent impact.

2. The purpose of the Project is to expand the capacity of the existing quarry and construct a processing plant adjacent to the quarry under a new 30 year use permit allowing the applicant to perform these activities. The Project involves expansion of the quarry from approximately 11.5 acres to 30.6 acres, with a maximum annual in situ extraction of 200,000 cubic yards per year, for a total extraction of approximately 6,000,000 cubic yards of rock aggregate over the life of the use permit. The Project includes a processing plant near the existing quarry, reconstruction of a haul road, construction of an interconnecting haul road, and improvements to Highway 101. The improvements to Highway 101 are mitigation for expansion of the quarry to address safety concerns related to entering and exiting the quarry site, which is only accessible from Highway 101. These improvements must conform to the existing alignment of State Highway 101. The improvements to the highway will affect existing drainage channels along the highway and along the current haul/entrance road to the quarry.
3. The Project is planned to begin in the summer-fall 2013. This schedule is dependent on obtaining necessary permits and weather conditions.
4. Compensatory Mitigation for the effects of the Project on waters of the state, including impacts to linear watercourse features and seasonal wetlands, consists of three types of mitigation:
 - 1) Reconstruction of drainage channels to replace impacted constructed channels,
 - 2) Seasonal wetland mitigation site, to replace impacted seasonal wetlands, and
 - 3) Forsythe Creek mitigation site, to increase overall mitigation.

Mitigation for each of these categories is based on replacing the apparent function of these features, and the additional Forsythe Creek mitigation adds to the mitigation package. The restoration of a portion of Forsythe Creek (approximately 0.67 acres/along a 590 linear foot reach of the creek) will provide additional off-site mitigation of the waters of the state affected by the Project. This mitigation area will include stabilization and enhancement of the geometry of the stream channel, enhancement of wetland areas, and revegetation of the area with native riparian plant species. Total mitigation ratios are 2.12:1 (mitigation to impact) by area for seasonal wetlands, and 3.07:1 for impacts to linear watercourse features, not including the Forsythe Creek Enhancement Area.

5. The Project includes post-construction stormwater treatment features to remove contaminants and sediment from storm water, and to infiltrate storm water at the Project site. Features include vegetated buffer strips, vegetated/grass lined swales, and a bio-infiltration basin.

6. The Applicant has applied for authorization from the United States Army Corps of Engineers for a Clean Water Act, section 404 permit. The Applicant has also applied to California Department of Fish and Wildlife for a Streambed Alteration Agreement.
7. Mendocino County, as lead agency under California Environmental Quality Act (CEQA), certified an Environmental Impact Report, adopted a Statement of Overriding Considerations, and filed the Revised Notice of Determination with the State Clearinghouse (SCH No. 2006112087) on May 25, 2012, pursuant to CEQA.
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: Forsythe Creek and seasonal wetlands,
Forsythe Creek Hydrologic Sub-Area, Upper Russian
River Hydrologic Area No. 114.33

Filled or Excavated Area: Area Temporarily Impacted: 0.005 acres of stream
channel and 0.007 acre of wetland
Area Permanently Impacted: 0.179 acres of stream
channel and 0.052 acre of wetland

Total Linear Impacts: Length Temporarily Impacted: 63 linear feet of stream
channel
Length Permanently Impacted: 1,322 linear feet of
stream channel

Latitude/Longitude: 39.337114 N / 123.310697 W

Expiration: August 28, 2018

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Harris Quarry Project (WDID No. 1B13070WNME), 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. Monitoring and reporting shall be implemented as described in the *Mitigation and Monitoring Plan Harris Quarry Project*, dated April 2013 and revisions submitted July 2013, as well as associated subsequent submittals to the application.
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 reduce removal of riparian vegetation and reduce sediment discharges from bank erosion. Accordingly, this Order is consistent with, and implements, BMPs that would attenuate sediment and temperature adverse impacts.
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. Any water pumped from the work area shall not be discharged back to the creek; it shall be pumped to a tank or other conveyance and disposed of at a legal point of disposal.
10. Applicant shall prioritize the use of wildlife-friendly 100% biodegradable erosion control products/BMPs whenever 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. Applicant shall remove any remaining synthetic netting or materials remaining at the end of two years, or sooner.
11. BMPs shall be implemented as proposed in the application materials. 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. Severe and unseasonal rain events are becoming more frequent due to the effects of climate change. Therefore, BMPs shall be immediately available for deployment at all times to prevent discharges to waters of the state.
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. The Applicant shall provide Regional Water Board staff access to the Project site to document compliance with this certification.
14. 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.
15. 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).
16. All Project work shall be conducted as described in this Order and in the application submitted by the Applicant, and shall comply with all applicable water quality standards as detailed in the Basin Plan. 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.
17. 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.
18. Disturbance or removal of existing vegetation shall not exceed the minimum necessary to complete the Project.
19. 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.
20. 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.

21. 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.
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. 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).

23. The authorization of this certification for any dredge and fill activities expires on August 28, 2018. 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 or Gil Falcone at (707) 576-2830.

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

Original to: Mr. Frank Dutra, PO Box 1566, Willits, CA 95490

Copy to: Mr. Ted P. Winfield, Ph.D., 1455 Wagoner Drive, Livermore, CA 94550