

---

## North Coast Regional Water Quality Control Board

March 21, 2014

---

In the Matter of  
**Water Quality Certification**

**For**

**City of Santa Rosa  
Colgan Creek Restoration Phase 1 Project  
WDID 1B13141WNSO**

APPLICANT: Richard Moshier, City of Santa Rosa  
RECEIVING WATER: Lower Colgan Creek, Laguna de Santa Rosa  
HYDROLOGIC UNIT: Middle Russian River, Laguna Hydrologic Sub-area 114.21  
COUNTY: Sonoma  
FILE NAME: City of Santa Rosa Colgan Creek Restoration Phase 1 Project

---

BY THE EXECUTIVE OFFICER:

1. On November 15, 2013, Richard Moshier, City of Santa Rosa (applicant) filed an application for water quality certification (certification) under section 401 of the Clean Water Act (33 U.S.C. § 1341) with the North Coast Regional Water Quality Control Board (Regional Water Board) for activities associated with the City of Santa Rosa Colgan Creek Restoration Phase 1 Project (project). Information describing the project was noticed for public comment on the Regional Water Board's website on February 6, 2014, pursuant to Title 23, California Code of Regulations, Section 3858. We did not receive any public comments on this project.
2. The purpose of the project is to restore Colgan Creek to a naturally meandering stream, which will enhance fish and wildlife habitat and the quality of life for local citizens. The project would remove a private bridge, expand channel width, restore a meandering low flow channel, install habitat features such as log structures and constructed riffles, stabilize the banks, and establish a native riparian forest. A high flow culvert would also be added to the bridge underneath Burgess Drive. The project will employ best

management practices to prevent or reduce any discharges during and after construction.

3. The applicant provided a planting plan on March 6, 2014. A mitigation and monitoring plan (MMP) was also submitted on March 3, 2014, which details planting area maintenance, irrigation, and success criteria. The MMP also details water quality and channel stability monitoring. The applicant will provide annual reports for five years.
4. Permanent impacts to waters of the United States and state would be approximately 2.49 acres or 2,550 linear feet. 17,520 cubic yards of sediment, soil, concrete and debris would be removed. The three main goals of the project are to increase water quality, restore hydrologic function, and restore the riparian plant community. The project is expected to begin by June 15, with in-channel work ceasing by October 15. Upland restoration would continue through December 15.
5. On February 6, 2012, the City of Santa Rosa, acting as lead California Environmental Quality Act (CEQA) agency, filed a notice of determination with the state clearinghouse, determining that a mitigated negative declaration had been approved for the project. The state clearinghouse received the notice of determination on February 15, 2012. The Regional Water Board has considered the environmental document, BMPs, and any proposed changes incorporated into the project or required as a condition of approval to avoid significant effects to the environment.
6. The applicant has applied for a Clean Water Act Section 404 permit from the United States Army Corps of Engineers. The applicant has also applied for a Lake and Streambed Alteration Agreement from the California Department of Fish and Wildlife. The applicant and the applicant's contractor will prepare an application and required documents for a Construction General Permit from the State Water Resources Control Board.
7. 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. Accordingly, this Order is consistent with, and implements, BMPs that would attenuate sediment and temperature adverse impacts.
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 68-16, which incorporates the federal antidegradation policy where the federal policy applies under federal law. Resolution 68-16 requires that existing quality of waters be maintained unless degradation is justified based on specific finding. 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 Board Order 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](http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf)

Receiving Water:	Lower Colgan Creek, Middle Russian River, Laguna Hydrologic Sub-area 114.21
Filled or Excavated Area:	2.49 acres
Total Linear Impacts:	2,550 feet
Dredge Volume:	17,520 cubic yards
Latitude/Longitude:	38.4021°N/122.7333°W

**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. Regional Water Board staff shall be notified in writing at least five working days 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. No debris, soil, silt, sand, bar, slash, sawdust, 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.
6. All activities and best management practices (BMPs) shall be implemented according to the submitted application and the conditions in this certification. 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.
7. In accordance with state and federal laws and regulations, the applicant is liable and responsible for the proper disposal for project-generated waste. When handling, transporting, and disposing of project-generated waste, the applicant and their contractors shall comply with all applicable state and federal laws and regulations. When disposing of project-generated waste offsite, the applicant and its contractors shall:
  - a. Make appropriate arrangements to dispose of the material, including, but not limited to, property owner agreements, permits, licenses, and environmental clearances;
  - b. Obtain satisfactory evidence that the work in 7.a has been completed; and
  - c. Obtain a dated, signed manifest from the disposal site owner, or authorized representative, that identifies the type and quantity of disposed waste.
  - d. When disposal has been completed, provide a copy of the dated, signed manifest form(s) to the Regional Water Board.

8. 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 more 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.
9. The mitigation measures detailed in the Mitigated Negative Declaration (SCH 2010072004) are hereby incorporated by reference and are conditions of approval of this certification. Notwithstanding any more specific conditions in this certification, the applicant shall comply with all mitigation measures identified in the Mitigated Negative Declaration that are within the Regional Water Board's jurisdiction.
10. The applicant shall comply with the Planting Plan submitted on March 6, 2014 (sheets 31 and 32 of the project plans), which detail species, zones, and densities for the planting area.
11. The applicant shall implement monitoring and reporting for 5 years, as stated in the application according to the Mitigation and Monitoring Plan (MMP) submitted on March 3, 2014.
12. Disturbance or removal of existing vegetation shall not exceed the minimum necessary to complete the project.
13. 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.
14. 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 that leaks any substance that may impact water quality.
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 actions.

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. The applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
18. 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.
19. The applicant shall provide a copy of this Order and State Water Board Order 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. 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).

21. 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).
22. The authorization of this certification for any dredge and fill activities expires on March 21, 2019. 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 Kaete King at (707) 576-2848.

*Original signed by David Leland for*

---

Matthias St. John  
Executive Officer

140321\_ColganCreek\_Phase1\_401

Web link: 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: Richard Moshier, City of Santa Rosa, 69 Stony Circle, Santa Rosa, CA 95401

Copy to: David Wickens, ACOE, [David.M.Wickens@usace.army.mil](mailto:David.M.Wickens@usace.army.mil)  
Sean McNeil, City of Santa Rosa, [SMcNeil@srcity.org](mailto:SMcNeil@srcity.org)  
Stephanie Buss, DFW, [Stephanie.Buss@wildlife.ca.gov](mailto:Stephanie.Buss@wildlife.ca.gov)