CALIFORNIA
Water Boards

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GOVERNOR

MATTHEW RODRIQUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

North Coast Regional Water Quality Control Board

April 23, 2014

In the Matter of
Water Quality Certification

For

Sonoma Marin Area Rail Transit IOS1-B
Santa Rosa/Guerneville Road to Airport Boulevard
WDID 1B13136WNSO

APPLICANT:	Bill Gamlen, Sonoma Marin Area Rail Transit (SMART)
RECEIVING WATER:	Wetlands and Tributaries to Mark West Creek
HYDROLOGIC UNIT:	Middle Russian River 114.22
COUNTY:	Sonoma
FILE NAME:	Sonoma Marin Area Rail Transit IOS1-B Santa Rosa/Guerneville Road to Airport Boulevard Project

BY THE EXECUTIVE OFFICER:

1. On November 6, 2013, Bill Gamlen, SMART, (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 Sonoma Marin Area Rail Transit IOS1-B Santa Rosa/Guerneville Road to Airport Boulevard Project (project). Information describing the project was noticed for public comment on the Regional Water Board's website on February 13, 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 rehabilitate the existing rail infrastructure for SMART passenger rail service. The project will involve removal of existing rail, ties, and some of the ballast and sub-ballast. The track support prism materials will be reused, new ballast will be added, and the rails and ties will be upgraded. Four existing bridge structures will be repaired in place with no in-water work or impacts to their beds or banks. Twelve cross-track jurisdictional culverts will be replaced and eight new cross-

track culverts will be installed. Three of the new culverts will impact and connect wetlands. The project will employ best management practices to prevent or reduce any discharges during and after construction.

3. Compensatory mitigation for permanent impacts to 0.154 acres of wetlands will be the purchase of 0.20 acres of credits at an existing wetland bank in the service area. The project would begin in the 2014 construction period and last approximately one year, with no work occurring in water during the wet weather months of October 15 – May 15.

4. On April 9, 2014, SMART purchased 0.20 wetland creation credits for seasonal wetlands from the Laguna Valley Mitigation Bank to mitigate impacts caused by the filling of wetlands on the SMART IOS1-B project between mileposts 55.2 (Guerneville Road) and 59.9 (Airport Boulevard).

5. On July 19, 2006, the Board of Directors of the Sonoma-Marin Area Rail Transit District, acting as lead agency under the California Environmental Quality Act (CEQA), determined that an environmental impact report was prepared and certified for the project (SCH 2002112033). Subsequent amendments, additions, and notices of determination are available and listed on the state clearinghouse website. 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 and for a Lake and Streambed Alteration Agreement from the California Department of Fish and Wildlife.

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 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.

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

Receiving Water:	Wetlands and Tributaries to Mark West Creek, Middle Russian River 114.22
Filled or Excavated Area:	0.154 acres
Total Linear Impacts:	2601 feet
Dredge Volume:	None
Latitude/Longitude:	North End of Project 38.511075°N/122.78521°W South End of Project 38.455404°N/122.736538°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 7a 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.

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 Environmental Impact Report (SCH 2002112033) 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 Environmental Impact Report that are within the Regional Water Board's jurisdiction.

10. No in-water work may occur during the wet weather months of October 15-May 15.

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

12. 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.

13. 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.

14. 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.

15. 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.

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

17. 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.

18. 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.

19. 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).

20. 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. The authorization of this certification for any dredge and fill activities expires on April 23, 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

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Matthias St. John
Executive Officer

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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

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