
North Coast Regional Water Quality Control Board

June 25, 2015

**In the Matter of
Water Quality Certification
for
Sidmore Driveway Access Project
WDID 1B15052WNSO**

APPLICANT: Mark Sidmore
RECEIVING WATER: Unnamed Tributary
HYDROLOGIC UNIT: Lower Russian River 114.11
COUNTY: Sonoma
FILE: Sidmore Driveway Access; WDID 1B15052WNSO
ECM PIN CW-815342

BY THE EXECUTIVE OFFICER:

1. On May 14, 2015, Mark Sidmore (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 Sidmore Driveway Access Project (project). The application was deemed complete on June 23, 2015. The project is located at 15320 Canyon Two Road in Rio Nido.
2. The Project is scheduled to start as soon as possible to ameliorate safety issues associated with the failure of the existing pedestrian bridge and so that emergency repairs may be made to the existing home on the property. Under Title 23, California Code of Regulations, Section 3858(a): "The executive director or the executive officer with whom an application for certification is filed shall provide public notice of an application at least twenty-one (21) days before taking certification action on the application, unless the public notice requirement has been adequately satisfied by the applicant or federal agency. If the applicant or federal agency provides public notice, it

shall be in a manner and to an extent fully equivalent to that normally provided by the certifying agency. If an emergency requires that certification be issued in less than 21 days, public notice shall be provided as much in advance of issuance as possible, but no later than simultaneously with issuance of certification." The 401 Water Quality Certification is expected to be issued during the 21-day public comment period.

3. The purpose of the project is to provide driveway access to an existing home on the far side of the unnamed tributary. The project would involve building a 20-foot wide driveway over the tributary. A culvert will be installed in the channel and backfilled with a 2:1 slope to the culvert, which will be armored with rip rap. The tributary is culverted or has hardened banks both upstream and downstream of the project area. A limited area of open channel will remain after installation of the driveway. Past road related flood control work done upstream by other parties has diverted a major portion of this drainage to a storm drain culvert.
4. Permanent impacts to waters of the United States and state would be approximately 0.009 acre or 45 linear feet.
5. The project includes off site riparian and watershed enhancement through the purchase of 0.02 riparian credits from the East Austin Creek Conservation Bank.
6. The applicant has received Clean Water Act Section 404 authorization from the United States Army Corps of Engineers (File Number 2015-00198N). The applicant has also applied for a Lake and Streambed Alteration Agreement from the California Department of Fish and Wildlife.
7. The North Coast Regional Water Board, as lead California Environmental Quality Act (CEQA) agency, has determined that the project qualifies for a Categorical Exemption, 15303(d) New Construction, and will file a Notice of Exemption with the State Clearinghouse concurrent with issuance of the 401 Water Quality Certification, pursuant to CEQA guidelines.
8. 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.

9. 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.”
10. 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.
11. 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:	Unnamed Tributary to the Lower Russian River 114.11
Filled or Excavated Area:	0.009 acre Permanent Impact
Total Linear Impacts:	45 linear feet
Riparian and Watershed Enhancement:	0.02 acre
Dredge Volume:	None
Latitude/Longitude:	38.524419°N/122.977931°W

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Sidmore Driveway Access Project (WDID 1B15052WNSO), 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. Prior to commencing construction and at the start of each morning, all equipment will be inspected for leaks. All leaks will be repaired immediately, before the equipment is used.
2. The existing, failing foot bridge shall be removed cleanly and any debris that is dropped in the channel or in a location where it could reach the channel, shall be removed and disposed of properly.
3. 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 3.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.
4. An annual project progress report shall be submitted describing status of BMP implementation and compliance with all requirements of this certification prior to December 31, of each year following the issuance of this certification (even if no work has commenced), until the project has reached completion. The report must include the following information:
 - a. The name and WDID number of the project;
 - b. The names, qualifications, and affiliations of the persons contributing to the report;
 - c. The status, progress, and anticipated schedule for completion of project construction activities including the installation and operational status of best management practices for erosion and storm water quality treatment and the implementation and success of required mitigation;
 - d. A description of project construction delays encountered or anticipated that may affect the schedule for construction completion;

- e. A description of each incident of noncompliance during the annual monitoring period and its cause, the period of the noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
5. 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.
6. 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.
7. 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. A fee of \$200 was received for this project on May 14, 2015.
8. 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.
9. 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.
10. 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.
11. Only wildlife-friendly, 100 percent biodegradable erosion and sediment control products that will not entrap or harm wildlife shall be used. Erosion and sediment control products shall not contain synthetic (e.g., plastic or nylon) netting. Photodegradable synthetic products are not considered biodegradable. The applicant

shall request approval from the Regional Water Board if an exception from this requirement is needed for a specific location.

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 email a copy of the letter to the Regional Water Board at the following email address: NorthCoast@waterboards.ca.gov.

To discharge dredged or fill material under this Order, the successor-in-interest must email the Regional Water Board Executive Officer at NorthCoast@waterboards.ca.gov a 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 June 25, 2020. 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.

Matthias St. John
Executive Officer

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