
North Coast Regional Water Quality Control Board

August 4, 2015

**In the Matter of
Water Quality Certification**

for the

**Gravenstein Creek Culvert Replacement Project
WDID No. 1B15057WNSO**

APPLICANT: City of Santa Rosa, Mike Prinz
RECEIVING WATER: Gravenstein Creek
HYDROLOGIC UNIT: Middle Russian River Hydrologic Unit 114.21
COUNTY: Sonoma
FILE: City of Santa Rosa - Gravenstein Creek Culvert Replacement Project,
ECM PIN CW-815568

BY THE EXECUTIVE OFFICER:

1. On June 29, 2015, the 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 Gravenstein Creek Culvert Replacement Project (Project). The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on June 23, 2015, and posted information describing the Project on the Regional Water Board's website. No comments were received. The proposed Project will cause disturbances to waters of the United States and state associated with Gravenstein Creek within the Middle Russian River Hydrologic Unit 114.21. The Project is located within the city-owned Brown Farm in Sonoma County, at latitude 38.4016°N, and longitude 122.8065°W.

2. Temporary impacts to waters of the U.S. and state include approximately 20 linear feet of stream channel. The Project will result in no permanent impacts to waters of the U.S. and state.
3. The primary purpose of the Project is to replace the three existing 18-inch corrugated culverts with an embedded concrete box culvert of equal length. The proposed box culvert would facilitate fish passage and allow safe crossing for agricultural equipment.
4. The Project is planned to begin in mid-August, 2015, and continue until October 15, 2015.
5. The Applicant has obtained Clean Water Act Section 404 authorization from the United States Army Corps of Engineers under Nationwide Permit No. 18, *Minor Discharges* (File No. 2014-00303N). The Applicant has obtained a Streambed Alteration Agreement (No. 1600-2015-0194-R3) from the California Department of Fish and Wildlife.
6. On January 13, 2015, the City of Santa Rosa, as lead California Environmental Quality Act (CEQA) agency, proposed a Notice of Exemption and filed with the State Clearinghouse, pursuant to CEQA guidelines.
7. Gravenstein Creek drains into the Laguna de Santa Rosa. The Laguna de Santa Rosa watershed is included on the Clean Water Act Section 303(d) list as impaired for sediment, temperature, nitrogen, phosphorous, indicator bacteria, dissolved oxygen, and mercury. A focus on measures to reduce sediment discharges to surface waters from construction areas, and measures to avoid, minimize, and mitigate impacts on riparian zones is essential for achieving TMDL, Basin Plan, and CEQA compliance. Streambank destabilization and loss of riparian vegetation are identified as a sources contributing to sediment and temperature impairments. Activities that will be authorized by this Order are designed to reduce sediment discharges from streambank destabilization and not negatively affect water temperature through loss of riparian vegetation. Accordingly, this Order is consistent with, and implements portions of the Laguna de Santa Rosa TMDL.
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 Resources

Control Board (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. 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:	Gravenstein Creek, Middle Russian River Hydrologic Unit 114.21.
Filled or Excavated Area:	Permanent impact to waters of the state: None Temporary impact to waters of the state: None
Channel and Shoreline:	20 linear feet
Fill Volume:	None
Dredge Volume:	None
Latitude/Longitude:	38.4016° N, 122.8065° W
Expiration:	July 20, 2020

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Gravenstein Creek Culvert Replacement on Brown Farm Project (WDID No. 1B15057WNSO), 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 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 complete fee of \$200 was received on July 14, 2015.
4. 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.
5. 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.
6. 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.
7. The Applicant shall provide Regional Water Board staff access to the Project site to document compliance with this certification.

8. If, at any time, an unauthorized discharge to surface water (including wetlands, lakes, rivers or streams) occurs, or any other threat to water quality arises as a result of Project implementation, the associated Project activities shall cease immediately until the threat to water quality is otherwise abated. 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.
9. 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).
10. 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.
11. The Applicant shall provide a copy of this Order and State Water Board 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.
12. Disturbance or removal of existing vegetation shall not exceed the minimum necessary to complete the Project.
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, which leaks any substance that may impact water quality.
14. 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.
15. 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.

16. **Transfer of Property Ownership:** This Order is not transferable in its entirety or in part to any person or organization except after notice to the State Water Board in accordance with the following terms: The Applicant must notify the Regional Water Board of any change in ownership or interest in ownership of the Project area. Notification of change in ownership must include a statement that the Applicant has provided the purchaser with a copy of this Order and that the purchaser understands and accepts the Order's requirements and the obligation to implement them or be subject to administrative and/or civil liability for failure to do so. This includes complying with any long-term BMP¹ maintenance plan requirements approved by the Regional Water Board. The Applicant and purchaser must sign and date the notification and provide such notification to the Regional Water Board at least 10 days prior to the transfer of ownership and shall email a copy of the letter to the Regional Water Board at the following email address: NorthCoast@waterboards.ca.gov. The new owner, or purchaser, must also submit a written request by email to the Regional Water Board Executive Officer at NorthCoast@waterboards.ca.gov which includes a request for transfer of the Order to be named as the applicant in a revised order. The Executive Officer may issue an amendment or modification to this Order/Waste Discharge Requirements if this Order has or has not been adopted by the Regional Water Board; this Order does not have to go back to the Regional Water Board for approval.

Until such time as this Order has been modified to name the purchaser as the applicant, the Applicant shall continue to be responsible for all requirements set forth in this Order.

Transfer of Long-Term BMP maintenance: If maintenance responsibility for post-construction BMPs is legally transferred, the Applicant must submit to the State Water

¹ Best Management Practices (BMPs) is a term used to describe a type of water pollution or environmental control.

Board a copy of such documentation and must provide the transferee with a copy of a long-term BMP maintenance plan that complies with manufacturer specifications. The Applicant must provide such notification to the State Water Board with Report Type 8 at least 10 days prior to the transfer of BMP maintenance responsibility.

17. 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 following email address: NorthCoast@waterboards.ca.gov
18. 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 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.
19. 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. The authorization of this certification for any dredge and fill activities expires on July 20, 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 Jake Shannon at (707) 576-2673 or Stephen Bargsten at (707) 576-2653.

Matthias St. John
Executive Officer

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