
North Coast Regional Water Quality Control Board

November 17, 2015

In the Matter of Water Quality Certification

for

Colonial Park Creek Maintenance Project WDID 1B13075WNSO

APPLICANT: Philip Etchell, Colonial Park, Inc.
RECEIVING WATER: Unnamed Tributary and Pruitt Creek
HYDROLOGIC UNIT: Middle Russian River (114.23)
COUNTY: Sonoma
FILE NAME: Colonial Park Creek Maintenance Project; WDID 1B13075WNSO;
ECM PIN CW-796113

BY THE EXECUTIVE OFFICER:

1. On June 18, 2013, Philip Etchell, Colonial Park, Inc. (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 Colonial Park Creek Maintenance Project (project). The application was deemed complete on November 12, 2015. The project is located at 5645 Old Redwood Highway in Santa Rosa.
2. The Regional Water Board provided public notice of the application pursuant to Title 23, California Code of Regulations, Section 3858 on October 6, 2015, and posted information describing the project on the Regional Water Board's website. No comments were received.
3. The purpose of the project is to alleviate flooding of the Colonial Park mobile home park. The project will involve removing accumulated sediment and recontouring the channel bed and banks to maintain fish passage while improving channel capacity. The project will be conducted when the creek bed is completely dry. Rock toe protection and bendway weirs will be installed at three locations on Pruitt Creek near the

confluence with the unnamed tributary. Rock toe protection will also be installed in the channel in the vicinity of the storm drain outfall on the west end of the project. A flap gate will be fitted over the storm drain outfall culvert outlet to prevent backflow. A scour hole on the north bank of the creek at the location of a wooden culvert will be filled with streambed material and rock will be placed for energy dissipation.

4. Permanent fill of waters of the United States and state would be approximately 806 square feet. Degradation of ecological condition would occur along approximately 1,052 linear feet of stream where 875 cubic yards of sediment will be removed. An additional 2,250 square feet (0.05 acre) will be temporarily impacted for access.
5. The Project is scheduled to start as soon as possible to reduce the public safety issues associated with significant flooding during the coming wet season, which threatens multiple residences. Work was expected to begin in September 2015 and last approximately 6 weeks. However, due to a delay with the Initial Study/Mitigated Negative Declaration, the project has not yet commenced. With written concurrence from the Regional Water Board and permission from other permitting agencies, some limited amount of work may be done during the late fall and winter of 2015 to alleviate the immediate public safety risk associated with flooding.
6. Mitigation for the project involves removing 1,600 square feet of invasive bamboo, removal of other incidental invasive plants such as eucalyptus saplings, pampas grass, and Himalayan blackberry. Native valley oaks and Oregon ash nursery stock will be planted along approximately 220 feet of the unnamed tributary and a drip irrigation system will be installed. Acorns will also be planted at various locations along Pruitt Creek and will not be irrigated. The project will employ best management practices to avoid water quality impacts during construction.
7. The applicant received Clean Water Act Section 404 authorization from the United States Army Corps of Engineers under Nationwide Permits 31: Maintenance of Existing Flood Control Facilities, 33: Temporary Construction Access, and 41: Reshaping of Existing Drainage Ditches. The applicant has also applied for a Lake and Streambed Alteration Agreement from the California Department of Fish and Wildlife.
8. On November 12, 2015, the Sonoma County Permit and Resource Management Department approved a Mitigated Negative Declaration for the project in order to comply with the California Environmental Quality Act (CEQA). 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.
9. 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 certification, the Regional Water Board may revise the provisions of the 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 certification are designed to reduce removal of riparian vegetation and reduce sediment discharges from bank erosion. Accordingly, this certification is consistent with, and implements, BMPs that would attenuate sediment and temperature adverse impacts.

10. 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.”
11. 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 high quality waters be maintained unless degradation is justified under specific provisions. The Regional Water Board’s Basin Plan implements, and incorporates by reference, both the state and federal antidegradation policies. This Certification is consistent with applicable federal and state antidegradation policies, as it does not authorize degradation of the waters.
12. 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 and Pruitt Creek within the Middle Russian River Hydrologic Unit (114.23)
Filled or Excavated Area:	2,250 square feet (0.05 acre)
Total Linear Impacts:	1,052 linear feet
Latitude/Longitude:	38.520173°N/122.776526°W

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Colonial Park Creek Maintenance Project (WDID 1B13075WNSO), 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 certification 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. In channel work shall occur only between April 15 and October 15, unless prior written approval is received from the Regional Water Board and with the permission from other permitting agencies. Specifically, some limited amount of emergency work may be proposed during the late fall and winter of 2015 to alleviate the immediate public safety risk associated with flooding.
2. The Project mitigation shall include the following:
 - a. Irrigation for tree plantings shall be incorporated for at least the first two years of monitoring; plantings must be self-sustaining for at least two years after irrigation is halted to meet success criteria.
 - b. Monitoring shall be conducted for a period of at least five years or until success criteria have been met.
 - c. Tree plantings shall achieve 100% survival and thriving to meet success criteria.
3. The mitigation measures detailed in the Mitigated Negative Declaration 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.
4. Annual project progress reports shall be submitted describing status of BMP implementation and compliance with all requirements of this certification prior to January 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 construction storm water best management practices for 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.
 - f. A summary, including photos, demonstrating the success of the plantings for at least 5 years after being planted.
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 complete fee of \$14,202 was received for this project on September 17, 2015.
 8. This certification will be subject to annual billing during the construction phase ("Annual Active Discharge Fee") and during the monitoring phase of the project ("Annual Post Discharge Monitoring Fee"), per the current fee schedule, which can be found on our website:
http://www.swrcb.ca.gov/northcoast/water_issues/programs/water_quality_certification.shtml. These fees will be automatically invoiced to the applicant.
 9. The applicant must notify the Regional Water Board of the end of the construction phase of the project in order to request the Regional Water Board to terminate annual construction period billing and to receive a "Notice of Completion of Discharges Letter".

If the project is subject to annual monitoring fees, the applicant must also notify the Regional Water Board at the end of the monitoring period in order to request to terminate annual monitoring period billing and receive a "Notice of Project Complete Letter". Completion reports may be necessary to be submitted by applicant at the end of each of these phases. Regional Water Board staff may request site visits at the end of each phase of the project to confirm status of project and compliance with this Certification.

10. 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.
11. 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 Certification, 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.
12. 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.
13. 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 13.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.
14. 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.

15. Disturbance or removal of existing vegetation as detailed within the application shall not exceed the minimum necessary to complete the project.
16. 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.
17. 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 creekbed. 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.
18. Prior to implementing any change to the project that may have a significant or material effect on the findings, conclusions, or conditions of this Certification, 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 Certification, and the applicant may be subject to Regional Water Board enforcement actions.
19. The Regional Water Board may add to or modify the conditions of this Certification, 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.
20. The applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
21. In the event of any violation or threatened violation of the conditions of this certification, 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 certification. In response to a suspected violation of any condition of this certification, the Regional Water Board may require the holder of any federal permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the Regional 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 certification, the Regional Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance pursuant to Section 13267 of the Porter-Cologne Water Quality Control Act.

22. The applicant shall provide a copy of this certification 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.
23. 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 Certification 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 certification, the successor-in-interest must email the Regional Water Board Executive Officer at NorthCoast@waterboards.ca.gov a request for transfer of the certification. 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 certification. 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).

24. 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).

The authorization of this certification for any dredge and fill activities expires on November 17, 2020. Conditions and monitoring requirements outlined in this certification are not subject to the expiration date outlined above, and remain in full effect and are enforceable until Regional Water Board staff deems the project complete.

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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