May 9, 2016

In the Matter of

Water Quality Certification

for

Dry Creek Habitat Enhancement Miles 2 - 3 Project
WDID No. 1B12001WNSO

APPLICANT:	Sonoma County Water Agency, Grant Davis
RECEIVING WATER:	Russian River
HYDROLOGIC UNIT:	Russian River Hydrologic Unit No. 114.24
COUNTY:	Sonoma
FILE:	Dry Creek Habitat Enhancement Miles 2 - 3 Project, ECM PIN CW-775715

FINDINGS OF THE EXECUTIVE OFFICER:

1. On February 16, 2016, the Sonoma County Water Agency, Grant Davis (Applicant) filed an application for water quality certification (certification) under section 401 of the Clean Water Act (33 U.S.C. § 1341) with the California Regional Water Quality Control Board, North Coast Region (Regional Water Board) for activities associated with the Dry Creek Habitat Enhancement Miles 2 - 3 Project (Project). Information describing the Project was noticed for public comment on the Regional Water Board's website on April 12, 2016. We received no comments. The proposed Project will cause disturbances to waters of the United States associated with wetlands, creek channel and riparian on Dry Creek within the Russian River Hydrologic Unit No. 114.24. The Project is located at Reaches 2 and 8 on Dry Creek Healdsburg, Sonoma County, at approximately latitude 38.599380°N, and longitude 122.878170°W and latitude 38.676303°N, and longitude 122.941778°W respectively. No permanent

impacts to waters of the U.S. or state are proposed. Temporary impacts to waters of the U.S. and state include approximately 4.78 acres of wetlands, 1,550 linear feet of creek channel and 8.87acres of riparian.

2. The primary purpose of the Project is to construct instream and associated habitat structures to enhance available habitat for steelhead and coho salmon as a requirement of the *Russian River Biological Opinion for water supply, flood control operations, and channel maintenance* (BO), issued by the National Marine Fisheries Service to the U.S. Army Corps of Engineers, the Sonoma County Water Agency, and Mendocino County Russian River Flood Control and Water Conservation District. A total of six (6) miles of habitat enhancement is planned under the BO within the fourteen (14) miles of Dry Creek. The Regional Water Board issued a water quality certification for a demonstration phase of the Project on May 10, 2012. This second phase of the Project will include construction of riffles, backwater alcoves, side channels and ponds, as well as, bank stabilization, installation of large wood structures, boulder clusters, removal of invasive species and revegetation with native riparian species on Dry Creek reaches 2 and 8.

   The proposed Project site specific activities would include dewatering and bypass flow pumping diversions using imported barriers such as water filled bladders, gravel coffer dams, sheetpile cofferdams or other appropriate measures to isolate the work areas where water is present. Where necessary, the applicant will stockpile materials, remove of vegetation, excavate backwater and alcove areas and place boulder and log structures. Completion of construction activities would include rewatering the reaches and stabilizing disturbed areas for erosion control.

3. The Project is planned to begin on June 15, 2016, through October 15, 2017, with construction work planned to last approximately 10 months. Construction within waters is only proposed during summer low flows each year between June 15 and October 15.

4. The Project is mitigation for impacts that resulted in issuance of the Russian River Biological Opinion. The Project includes mitigation measures from the Russian River Biological Opinion and the Dry Creek Environmental Impact Report. The Project would have a net increase of up to approximately 2.8 acres of waters of the U.S. The Project will conduct restoration and evaluate the success of the Project, post-construction implementation, effectiveness and validation monitoring in accordance with the *Dry Creek Adaptive Management Plan* (Plan). The Plan includes a three-tiered approach to quantitatively evaluate and determine effectiveness of implementation of habitat enhancement elements, physical response to enhancements and if habitat enhancements are resulting in beneficial effects for salmonids. The Project will employ best management practices to prevent or reduce any discharges during and after construction.

5. The Applicant has applied for authorization from the United States Army Corps of Engineers for a Clean Water Act, section 404 permit. The Applicant has also applied to the California Department of Fish and Wildlife to obtain a Streambed Alteration Agreement.

6. On November 17, 2015, Sonoma County, as lead California Environmental Quality Act (CEQA) agency, certified an Environmental Impact Report and filed with the State Clearinghouse (SCH No. 2014052020), pursuant to CEQA guidelines.

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 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.

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. Section 131.12 of the U.S. EPA's Water Quality Standards regulations includes the "federal antidegradation policy" which emphasizes protection of instream beneficial uses, especially protection of aquatic organisms. As required by the federal antidegradation policy (40 C.F.R. §131.6(d)), each state's water quality standards must include a policy consistent with the federal antidegradation policy. The State Water Board established California's antidegradation policy in State Water Board 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. Restoration projects must conform to the state and federal antidegradation policies. This Order is consistent with applicable federal and State antidegradation policies. Restoration projects are intended for the purpose of correcting a water quality problem or

condition, which is causing, or threatens to cause, a detrimental effect on an aquatic ecosystem and beneficial uses. Although a restoration project may result in a discharge of waste to a water of the State, or a water of the United States, or both, the impacts are intended to be temporary in nature with the purpose of providing a net benefit to water quality.

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. (Weblink attached below).

Receiving Water:	Russian River, Russian River Hydrologic Unit No. 114.24
Filled or Excavated Area:	Permanent impact to waters of the U.S.: None Temporary impact to waters of the U.S.: 4.78 acres of wetlands; 1,550 Linear Feet of creek channel Temporary impact to waters of the state: 8.87 acres of riparian
Latitude/Longitude:	Reach 2 : 38.599380°N / 122.878170°W Reach 8 : 38.676303°N / 122.941778°W
Expiration:	May 9, 2021

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Dry Creek Habitat Enhancement Project (WDID No. 1B12001WNSO), 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.

TERMS AND CONDITIONS:

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. A fee of $53,762 was received for the Project on February 25, 2016. 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.

   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.

5. The Project is mitigation for impacts that resulted in issuance of the Russian River Biological Opinion. The Project includes mitigation measures from the Russian River Biological Opinion and the Dry Creek Environmental Impact Report which are hereby incorporated as conditions under this water quality certification. The Project will have a net increase of up to approximately 2.8 acres of waters of the U.S. and state including creation of riparian forest and wetland as well as, perennial stream (backwater and side channel) in currently mapped upland habitats. The Project will conduct restoration and evaluate the success of the Project, post-construction implementation, effectiveness and validation monitoring in accordance with the *Dry Creek Adaptive Management Plan* (Plan). The Plan includes a three-tiered approach to quantitatively evaluate and determine effectiveness of implementation of habitat enhancement elements, physical response to enhancements and if habitat

enhancements are resulting in beneficial effects for salmonids. The Project will employ best management practices to prevent or reduce any discharges during and after construction.

Results of annual monitoring of the mitigation areas shall be reported to the Regional Water Board annually on April 1. Reports shall summarize data collected, annual performance, any remedial action necessary and whether success criteria of the Plan are being met. The reports shall be submitted to the following email address: NorthCoast@waterboards.ca.gov

6. The Regional Water Board shall be notified at least five working days (working days are Monday – Friday) prior to the commencement of construction.

7. Under the Porter-Cologne Water Quality Control Act, each regional water board shall establish water quality objectives to ensure the reasonable protection of beneficial uses and the prevention of nuisance, in consideration of various factors including past, present and probable future beneficial uses of water (Water Code, § 13241). The implementation of restoration projects has the potential to cause discharges of waste into waters of the State and therefore must be regulated. These discharges are typically short-term (during the course of construction and/or as a result of the first storm events); but they sometimes exceed water quality objectives that are included in the Water Quality Control Plan for the North Coast Region (Basin Plan). (From the *Policy in Support of Restoration in the North Coast Region* Resolution No. R1-2015-0001 as adopted by the Regional Water Board on January 29, 2015).

8. This Order provides an allowable zone of turbidity dilution within which turbidity levels may be increased to more than 20 percent above naturally occurring background levels. During in-stream project construction activities that may cause elevated turbidity above background levels, the Applicant shall monitor turbidity levels upstream within 50 feet of project activities (i.e. natural background) and 500 feet downstream of the in-stream construction activities (point of compliance) that could increase turbidity. At a minimum, field turbidity measurements shall be collected whenever a visible increase in turbidity is observed. Monitoring frequency shall be a minimum of every two hours during in-stream work periods and when activities commence that are likely to increase turbidity levels above any previously monitored levels. If sample results at the point of compliance indicate that turbidity levels exceed 20 percent above naturally occurring background or 20 NTUs, whichever is greater, remedial actions will be implemented to reduce and maintain turbidity at or below this threshold level at the point of compliance. Potential remedial actions include halting or slowing construction activities and implementation of additional Best Management Practices (BMPs) until turbidity levels are at or below 20 percent above naturally occurring background or 20 NTUs, whichever is greater. If naturally occurring background levels are greater than 20 NTUs, turbidity levels at the point of compliance shall not exceed 20 percent above

the naturally occurring background level. A monitoring report containing all turbidity measurements shall be submitted in a tabular format to the Regional Water Board upon annual project completion. The monitoring report shall be written in a manner that clearly demonstrates compliance with all water quality monitoring requirements.

9. Non-compensatory mitigation measures include the use of Best Management Practices (BMPs) to be employed during construction to minimize sediment production and prevent the movement of loose soil off-site and cement containment, to ensure that materials do not enter the waterway. All erosion control measures will be installed and in place by October 15, or during non-construction periods as necessary, and maintained thereafter by the contractor/Applicant. All disturbed soil will be revegetated with native species or seeded with native grasses. If vegetation cannot be reestablished before expected rainfall, mulching, erosion control fabric, or other sediment control measures will be implemented to prevent delivery of sediment to the drainages. All equipment will be maintained in good working order and spill kits will be on hand during construction. Equipment shall not be staged, or fueled, near waters of the State. Additionally, all required BMPs shall be on-site and ready for timely deployment before the start of construction activities.

10. 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.

11. 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.

12. 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 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.

13. The Applicant shall provide Regional Water Board staff access to the Project site to document compliance with this certification.

14. 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.

15. Prior to implementing any change to the Project that may be a material change as defined in California Water Code section 13260(c) as a proposed change in character, location, or volume of the discharge, the Applicant shall obtain prior written approval of the Regional Water Board Executive Officer. If the Regional Water Board is not notified of the material change to the discharge, it will be considered a violation of this certification, and the Applicant may be subject to Regional Water Board enforcement action(s).

16. All Project work shall be conducted as described in this certification 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 certification, and the Applicant may be subject to Regional Water Board enforcement actions.

17. The Applicant shall provide a copy of this certification and State Water Resources Control Board (SWRCB) 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.

18. Disturbance or removal of existing vegetation shall not exceed the minimum necessary to complete the Project.

19. 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.

20. 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.

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 State 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 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 certification, the Regional Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.

22. 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 following email address: NorthCoast@waterboards.ca.gov.

    The successor-in-interest must email the Regional Water Board Executive Officer at: NorthCoast@waterboards.ca.gov a written request for the ownership change and the effective date of the change. The request must contain the following:

    i) Effective date of ownership change;
    ii) Requesting entity's full legal name;
    iii) The state of incorporation, if a corporation;
    iv) The address and phone number of contact person; and
    v) A description of any changes to the Project or confirmation that the successor-in-interest intends to implement the project as described in this certification.

23. 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. The authorization of this certification for any dredge and fill activities expires on May 9, 2021. 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.

If you have any questions or comments, please call Gil Falcone at (707) 576-2830 or Stephen Bargsten at (707) 576-2653.

Fred Blatt
for Water Boards
Fred Blatt
2016.05.09
14:59:38 -07'00'

Matthias St. John
Executive Officer

160509_GBF_dp_SCWA_DryCreek_401

Weblink: 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

Original to: Mr. Grant Davis, Sonoma County Water Agency, 404 Aviation Blvd., Santa Rosa, CA 95403

cc: Holly Costa, US Army Corps of Engineers holly.n.costa@usace.army.mil

James Mazza, US Army Corps of Engineers james.c.mazza@usace.army.mil

David Cuneo, SCWA, david@scwa.ca.gov

Aaron Aurthur, SCWA, Aaron.Aurthur@scwa.ca.gov

Tim Dodson, CDF&W, Timothy.Dodson@wildlife.ca.gov