
North Coast Regional Water Quality Control Board

September 26, 2012

In the Matter of

Water Quality Certification

for

**Austin Creek In-Stream Gravel Extraction and
Lower Austin Creek Fishery Enhancement Project
Sonoma County (WDID # 1B12006WNSO)**

APPLICANT: Austin Creek Materials
RECEIVING WATER: Austin Creek
HYDROLOGIC UNIT: Austin Creek Hydrologic Subarea No. 114.12,
Russian River Hydrologic Area 114.00
COUNTY: Sonoma
FILE NAME: Austin Creek In-Stream Gravel Extraction & Fishery Habitat
Enhancement

BY THE EXECUTIVE OFFICER:

1. On January 25, 2012, Mr. Steven Canelis of Austin Creek Materials (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 related to the in-stream gravel mining and fishery enhancement project (Project). The Project involves excavation of aggregate from Austin Creek, and enhancement of fishery habitat. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on May 21, 2012, and posted information describing the project on the Regional Water Board's website. We received one public comment on this project which was appropriately addressed. Project is located on Austin Creek, near the town of Cazadero, latitude 38.475766°N, and longitude 123.048742°W, in Sonoma County. The project will cause temporary impacts to four separate areas, approximately 1.1 acres of bed and bank of Austin Creek by removing approximately 14,935 cubic yards of aggregate, Russian River hydrologic unit, Austin Creek hydrologic subarea No. 114.12.

2. The Project includes the excavation and removal of up to 14,935 cubic yards of sand and gravel per year, from the lower reach of Austin Creek. The purposes of the project are to obtain a local source of aggregate material for construction uses and to improve salmonid habitat by increasing pool depth and complexity within the affected lower reach. Utilizing front end loaders, bulldozers and haul trucks, excavators, and/or paddlewheel scrapers to perform this work, authorized work includes redepositing sand and gravel on the bars during routine excavation operations; temporary stockpiling of sand and gravel on the bars; deep-ripping of the bars to redress compaction; fine-grading of the bars to remove pits and depressions and to attain positive slopes for drainage; placing river-run boulders, quarry rock, and large woody debris on the bars and in the low-flow channel to enhance bridge pier and bank stability and pool scour.

Excavation work will utilize a method known as "horseshoe skimming" to minimize changes in bar geomorphology. Horseshoe skimming is essentially confined to the interior portion of the bar by establishing head and lateral buffer areas that remain undisturbed. In this context, the undisturbed head buffer begins at the upstream end of the bar and extends downstream to the vertical apex (the highest point on the bar). An undisturbed lateral buffer occurs between the outer edge of the bar and the low-flow channel equal in width to 25 percent of the widest portion of the bar. The width of the low-flow channel is defined by the flow at which a water depth of one (1) foot above riffle crests is observed. An undisturbed lateral buffer occurs along the outer bank measuring ten (10) feet in width from the toe-of-slope. The remaining interior portion of the bar may be skimmed down to a reference elevation equal to one (1) foot above the groundwater table that occurs by 1 September of each year. In addition, the downstream 1/3 length of the bar may be excavated to a depth of four (4) feet below the groundwater table to create an alcove feature to increase habitat complexity for salmonids. This excavation work begins at the upstream end of the alcove and maintains a gravel plug at the downstream end to isolate the alcove work area from flowing water. Authorized discharges of dredged and fill material associated with pool excavation work establishes a pool depth of ten (10) feet, a pool width not exceeding 1/3 of the channel width, and a pool length not exceeding 1 and 1/2 of the channel width. The width of the channel is defined as the distance between the top-of-slopes of the outer banks. Details of the design are as described in National Marine Fisheries Biological Opinion, File 151422SWR03SR8613.

Project is located in a continuous reach, from approximately 1,940 feet up gradient of the confluence of Austin Creek and the Russian River, to a point approximately 4,820 feet upstream of the confluence. The estimated volume to be excavated on a yearly basis shall not exceed 25,000 cubic yards; however, the exact volume will be based on replenishment rates and allowable extraction rates as outlined in the Sonoma County Aggregate Resources Management Plan (SCARMP) and

Mitigated Negative Declaration (August 2004). Additionally, habitat structures, including logs/root wads and boulders, have been installed within this reach of Austin Creek to help create habitat for salmonids. As the creek responds to the installation of habitat structures and changes its structure, the location, position and number of habitat structures need to be optimized.

No gravel skimming operations will take place in the wetted stream. Pool creation/enhancement may take place at or below water level. Buffer zones will separate the operational areas from the low-water channel. Horseshoe Skimming will generally progress from downstream to upstream and will not be conducted simultaneously at multiple sites. Two stream crossings will be utilized, with a maximum of one bridge in place at any time. No gravel will be extracted if there is insufficient replenishment above the baseline elevations that were established in 1995.

3. Project is scheduled to start during the dry season of 2012. In-stream work should be completed by October 15, or by date determined by resource agencies.
4. Non-compensatory mitigation: Upon completion of the skimming activities, areas disturbed by the mining operations shall be graded to ensure that no pits or depressions are left where fish entrapment may occur. Gravel extraction will cease by October 15, or by date determined by resource agencies. Temporary crossings shall be constructed using temporary bridges with gravel approach ramps that use only clean gravel, which will reduce the potential of turbid discharges to the river. Equipment will not be operated in the flowing river except as may be necessary to construct stream crossings. Any equipment entering the active stream will be preceded by an individual on foot to displace fish and wildlife. Appropriate sediment control measures will be implemented to ensure that in stream turbidity levels do not exceed water quality standards contained in the Water Quality Control Plan for the North Coast Region. Riparian vegetation growing along the perimeter of, or as dense stand on each bar, or on the outer bank, will not be removed or otherwise disturbed. The landowner has developed, and agreed to a Department of Fish and Game (DFG) and National Marine Fisheries Service (NMFS) management plan for the project area. Cross section surveys of the channel will be completed and provided to all reviewing agencies by February 1st of the following year. In addition to conditions set forth by the Regional Water Board, additional conditions are imposed by the County of Sonoma, California Department of Fish and Game, U. S. Army Corps of Engineers (ACOE), State Mining and Geology Board, National Marine Fisheries Service, and the recommendations made by the SRC.
5. Compensatory mitigation is achieved through improvement of beneficial uses of Austin Creek. Beneficial uses and the methods used to achieve improvement, respectively, are:

- Cold Freshwater Habitat by creating and increasing depth of pools. Water temperature within the created/deepened pools has decreased due to entrance of cooler bar underflow into the deeper pools. Installation of log and boulder structures increases complexity and pool scour, and thus improves habitat.
- Migration of Aquatic Organisms has been improved by providing a low flow channel and deepened thalweg. Previously, migration and fish passage was hampered by lack of a well formed low flow channel.
- Spawning may have been improved by increase in fish passage.

Additional compensatory mitigation, such as bank stabilization using bioengineering techniques and/or revegetation, may be necessary if conditions develop from gravel skimming/mining activities that warrant this mitigation, or if deemed necessary by regulatory agencies.

6. The Applicant has acquired a Streambed Alteration Agreement from the California Department of Fish and Game, Notification No. 1600-2009-0143-3, on February 16, 2010, that expires on December 31, 2014. The Applicant has received a US Army Corps of Engineers Clean Water Act Section 404 Permit, File No. 2001-263670N, on October 3, 2008, that expires on December 31, 2012.
7. The Sonoma County Permit and Resource Management Department, as lead California Environmental Quality Act (CEQA) agency, filed a Mitigated Negative Declaration on August 27, 2004, with the State Clearinghouse, pursuant to CEQA guidelines.
8. 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: Austin Creek Hydrologic Subarea No. 114.12
Russian River Hydrologic Area 114.00

Filled or Excavated Area: Area Temporarily Impacted: 1.1 acres of bed and bank of Austin Creek

Latitude/Longitude: 38.475766°N, 123.048742°W

Expiration: December 31, 2012

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Austin Creek In-Stream Gravel Extraction and Lower Austin

reek Fishery Enhancement Project Sonoma County (WDID # 1B12006WNSO), 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 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. The Regional Water Board shall be notified annually and in writing at least five working days (working days are Monday – Friday) 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. 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. 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 erosion. Accordingly, this Order is consistent with, and implements, BMPs that would attenuate sediment and temperature adverse impacts.

6. 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.”
7. 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 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.
8. If necessary, Applicant shall prioritize use of wildlife-friendly 100% biodegradable erosion control products/BMPs. For purposes of this Order, photodegradable synthetic products are not considered biodegradable. Applicant shall not use or allow the use of erosion control products, that contain synthetic (e.g., plastic or nylon) netting or materials for permanent erosion control (i.e., erosion control materials to be left in place for two years or after the completion date of the project). If the Applicant finds that erosion control netting or products have entrapped or harmed wildlife, the Applicant shall remove the netting or product and replace it with wildlife-friendly biodegradable products. Applicant shall remove any remaining synthetic netting or materials remaining at the end of two years, or sooner.
9. 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.
10. All activities and BMPs shall be implemented according to the submitted application and the conditions in this certification.

11. A copy of this Order and the application documents submitted by the Applicant for this certification shall be provided to all contractors and subcontractors conducting the work, and shall be in their possession at the work site.
12. The Applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
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. 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).
15. All project work shall be conducted as described in this Order and in the application submitted by the Applicant. 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 Applicant shall provide a copy of this Order 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.
17. The Applicant shall implement the project in accordance with the project described in the application and the findings above, and shall comply with all applicable water quality standards as detailed in the Basin Plan.
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 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.
21. 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.
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 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.

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 December 31, 2012. 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.

Original Signed By Luis Rivera For

Matthias St. John
Executive Officer

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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. Steven Canelis, Austin Creek Materials, 600 Austin Creek Road, Cazadero, CA 95421

Email to: Steve@austincreek.com