



California Regional Water Quality Control Board

San Francisco Bay Region



Terry Tamminen
Secretary for
Environmental
Protection

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CJR
Arnold Schwarzenegger
Governor

July 23, 2004
File No: 2198.09 (bkw)
Site No: 02-01-C0763
ACOE No: 28288S

Ms. Ann Chaney
City of Albany
1000 San Pablo Avenue
Albany, CA 94706

Subject: Water Quality Certification for the Lower Codornices Creek Restoration Project in the City of Albany, in Alameda County

Dear Ms. Chaney:

We have reviewed the application materials submitted by the City of Albany (the Applicant) and hereby issue certification for the Applicant's project to restore a meandering creek channel and floodplain to a reach of Codornices Creek extending about one half mile east of the Union Pacific Railroad (UPRR) tracks in the City of Albany in Alameda County (Project). On July 23, 2004, the United States Army Corps of Engineers (ACOE) authorized this Project under Clean Water Act (CWA) Section 404 Nationwide Permit No. 27 (*Wetland and Riparian Restoration and Creation Activities*) and Nationwide Permit No. 33 (*Temporary Construction Access and Dewatering*) (ACOE file No. 28288S). In accordance with CWA Section 401, you have applied to this office for State water quality certification.

Project Description: The following Project description was derived from application materials received on March 30, 2004. The goal of the Project is to restore a meandering creek channel and floodplain to the Project reach of Codornices Creek. The Project includes the following components:

- Excavation and disposal of about 15,000 cubic yards of fill soils to create a meandering channel and floodplain for Codornices Creek.
- Removal and disposal of existing culverts at 4th Street, 5th Street, 6th Street, and 10th Street.
- Installation of bridges spanning the active channel of Codornices Creek at 4th Street, 5th Street and 6th Street to replace the removed culverts (Note: The 6th street culvert replacement may occur at a later date when the creek channel downstream of the Project reach has been improved to minimize downstream flooding).
- Installation of soil bio-engineering and log root wads along the recreated active channel of Codornices Creek. The bio-engineering will include toe rock and willow plantings.
- Armoring of the Creek bank with rock riprap at critical high velocity locations, including the entrance to the 6th Street Culvert and the inlet to the culvert under the UPRR tracks.
- Creation of step pools at the inlet to the restored reach of Codornices Creek, at the downstream outlet of the San Pablo Avenue culvert.
- Planting of the restored creek and floodplain with native plants and an associated temporary irrigation system.

Codornices Creek is a perennial stream that drains a 1.5 square-mile watershed that extends from the crest of the Berkeley Hills to San Francisco Bay. Land use in the watershed is predominantly urban, with residential and some commercial areas predominating upstream of the Project reach. Codornices Creek is home to a population of *Oncorhynchus mykiss*. Since there are no known barriers that completely block fish access between Codornices Creek and San Francisco Bay, the National Marine Fisheries Service (NOAA Fisheries) has concluded that it is likely that some of the fish occurring in Codornices Creek are federally-listed anadromous Central California Coast (CCC) steelhead.

Impacts: The Project will permanently impact about 3.8 acres, extending over 3,000 linear feet of Codornices Creek. Approximately 15,000 cubic yards of soil will be excavated to create a meandering channel and floodplain. Permanent Project impacts consist of 2,012 cubic yards (cy) of fill, including: 1,073 cy of willows and rock riprap, 175 cy of root wads; 35 cy of rock riprap at existing culverts; 132 cubic yards of rock for the creation of riffles and step pools; 300 cy of willow fascines; and 297 cy of bridge piers.

Mitigation: The Project is a mitigation project that will improve habitat values in Codornices Creek by restoring a meandering low flow channel, a floodplain adjacent to the active channel, and riparian vegetation. The removal of three or more culverts will remove partial barriers to fish passage in the Creek. Improved flood conveyance provided by the Project will also reduce the number of flood events capable of displacing trout from Codornices Creek to Village Creek, which does not have viable habitat for trout. During Project construction, non-native vegetation will be removed from the Project site and replaced with native vegetation along the Creek channel.

CEQA Compliance: The Project was evaluated in the *Codornices Creek Improvements Plan Initial Study/Mitigated Negative Declaration* (State Clearinghouse Number 2004032051). A Notice of Determination for the *Codornices Creek Improvements Plan Initial Study/Mitigated Negative Declaration* was filed on May 24, 2004.

Certification and General Waste Discharge Requirements: I hereby issue an order certifying that any discharge from the referenced Project will comply with the applicable provisions of sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. 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. The following conditions are associated with this certification:

1. No debris, rubbish, creosote-treated wood, soil, silt, sand, cement, concrete, or washings thereof, or other construction related materials or wastes, oil or petroleum products or other organic or earthen material shall be allowed to enter into, or be placed where it may be washed by rainfall or runoff into waters of the State. Any of these materials placed within or where they may enter Codornices Creek by the Applicant or any party working under contract, or with the permission of the Applicant shall be removed immediately. When operations are completed, any excess material shall be removed from the work area and any areas adjacent to the work area where such material may be washed into Codornices Creek. During construction, the contractor shall not dump any litter or construction debris within the riparian/stream zone. All such debris and waste shall be picked up daily and properly disposed of at an appropriate site;
2. The Applicant shall adhere to the conditions of the Section 1601 Lake and Streambed Alteration Agreement, issued by CDFG (Notification Number 1600-2004-0221-3), to the conditions

imposed by Nationwide Permit Nos. 27 and 33, issued to the Applicant by the ACOE (File No. 28288S), and to the reasonable and prudent measures and the terms and conditions of the Endangered Species Act Section 7 Consultation Biological Opinion on potential Project impacts on Central California Coast Steelhead (File Number 151422SWR04SR9261:ES), issued by the National Marine Fisheries Service (NOAA Fisheries) on July 15, 2004;

3. The Project shall be constructed as described in the Project plans prepared by Waterways Restoration Institute, dated April 26, 2004, with the following exceptions: the downstream end of the Project shall be modified to transition into the replacement culverts constructed by UPRR at the culverted crossing of the UPRR tracks; the 6th Street culvert may be removed as part of this Project; and the flow diversion system may extend as far downstream as 2nd Street;
4. All disturbed areas of bed and bank shall be stabilized and vegetated with appropriate vegetation prior to October 15, or by the end of any extension period granted to the Applicant by CDFG;
5. No equipment shall be operated in areas of flowing or standing water; no fueling, cleaning, or maintenance of vehicles or equipment shall take place within any areas where an accidental discharge to Codornices Creek may occur; construction materials and heavy equipment must be stored outside of the ordinary high water mark; all earth moving work and pouring of concrete shall be performed outside of the narrowed channel;
6. Any diversions of the active flow of Codornices Creek shall be constructed, operated, and removed as specified in the reasonable and prudent conditions and the terms and conditions of the Endangered Species Act Section 7 Consultation Biological Opinion (File Number 151422SWR04SR9261:ES) prepared for the Project by NOAA Fisheries, and in compliance with the conditions of the Lake and Streambed Alteration Agreement issued by CDFG (Notification Number 1600-2004-0221-3);
7. Cofferdams used to dewater the creek may be constructed with clean river gravel or sand bags, and may be sealed with sheet plastic. Sand bags and any sheet plastic shall be removed from the stream channel upon Project completion. Clean river gravel may be left in the channel. If the UPRR culverts are upgraded while the Project is being constructed, the flow diversion may be extended downstream of the UPRR crossing. If flood control improvements are made downstream of the UPRR crossing while the Project is being constructed, the flow diversion may be extended downstream to 2nd Street;
8. Any groundwater removed during dewatering of excavations shall not be discharged directly to the active channel of Codornices Creek; any groundwater released to Codornices Creek shall not exceed 110 percent of the ambient turbidity of Codornices Creek, if Codornices Creek turbidity is greater than 50 NTU, or 5 NTU above ambient turbidity if the ambient turbidity is less than or equal to 50 NTU; any groundwater discharged to Codornices Creek shall have a pH in the range of 6.5 to 8.5;
9. If groundwater is discharged from the Project site, the Applicant shall monitor the turbidity of the discharged water once every 15 minutes during the startup phase of any turbidity reduction equipment and at two-hour intervals after the discharged turbidity achieves steady state levels that are in compliance with Condition 8. The pH of discharged water shall be measured daily. All required monitoring measurements shall be recorded, along with a daily estimate of the volume of water discharged, and submitted to the Water Board within 7 days of the end of any month in which groundwater is discharged from the Project site;

10. Streambank areas receiving rock riprap shall be back-filled with appropriate topsoil. The topsoil fill should be placed to fill the voids in the rock riprap and provide a substrate for revegetation efforts;
11. Rock riprap shall be set below grade and keyed into the bank. Rock riprap shall be of the proper size and weight to withstand anticipated high flows in Codornices Creek;
12. The Project site shall be planted with native plants specified in Attachment 1 to this Certification;
13. No later than March 31, 2005, the Applicant shall submit a mitigation and monitoring plan (MMP) to the Executive Officer of the Regional Board for review and approval. The MMP shall include a five-year maintenance and monitoring program. The MMP shall include success criteria for vegetation survival and channel stability;
14. Plantings in mitigation areas shall be monitored for a minimum period of five years, until the success criteria specified in the MMP required by Condition 13 are achieved. If these success criteria are not achieved, dead plants must be replaced in kind, unless the Applicant determines that the site is not conducive to survival of a plant species, in which case alternate native riparian plant species may be used. Replacement plants shall be monitored for five years from the date of planting. Replacement plants shall be subject to the same performance criteria as the initial plantings;
15. To document channel and bank conditions in the Project reach, the Applicant shall establish a minimum of 1 photo-documentation point for every 400 feet of channel, a minimum of 2 photo-documentation points at each remaining culvert in the stream (to document the upstream and downstream channel conditions at each culvert), a minimum of 2 photo-documentation points at the downstream transition at the UPRR crossing, and a minimum of 2 photo-documentation points at the step pools at the upstream transition at the end of the Project reach. These photo-documentation sites shall be selected to document channel stability in the Project reach. The Applicant shall prepare site maps with the photo-documentation points clearly marked. Following construction, the Applicant shall photographically document the immediate post-construction condition of the Project reach and submit a report to the Water Board including the post-construction photographs, and the map with the locations of the photo-documentation points;
16. Within 60 days of completing construction and planting activities, the Applicant shall submit as-built plans of the Project to the Water Board;
17. The Applicant shall water all riparian plantings for a minimum of 3 years. Replacement plantings for dead shrubs, as required by Condition 14, shall be planted within one year of survival rates falling below the success criteria in the MMP. Replacement plants shall be watered for a minimum of 3 years;
18. Annual reports shall be submitted to the Water Board by December 31 during each year of the initial five-year monitoring period, summarizing each year's monitoring results, including the need for any remedial actions (e.g., re-planting, channel stabilization). The yearly reports shall compare data to previous years and detail progress towards meeting final success criteria. At the end of year five, a comprehensive final report shall be prepared that includes summaries of the monitoring data and representative photos. Annual reports and the comprehensive final report shall include photographs from the photo-documentation points specified in Condition 15. The final report will document if the site meets the final success criteria. If the criteria are not met, the report shall identify measures to be undertaken, including extension of the monitoring, maintenance, and reporting period until the criteria are met;


19. Annual reports shall include an evaluation of the geomorphic stability of the Creek channel. The evaluation shall include an assessment of any scour visible on the creek banks, a visual assessment of the channel for any signs of head cuts or nick points, and a visual assessment of any significant aggradation of the channel in the Project reach;
20. If the project reach of the Creek is not geomorphically stable at the end of year five, the Applicant shall work with the ACOE, CDFG, and the Water Board to prepare an analysis of the cause of the instability and develop remedial actions;
21. This certification action does not 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 California Code of Regulations (CCR) Title 23, Subsection 3855(b) and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought; and
22. Certification is conditioned upon full payment of the required fee as set forth in 23 CCR Section 3833. The total fee required for certification of the subject restoration project is \$500. Water Board staff received payment in full on March 30, 2004.

Please be aware that any violation of water quality certification conditions is a violation of State law and subject to administrative civil liability pursuant to California Water Code (CWC) Section 13350. Failure to respond, inadequate response, late response, or failure to meet any condition of a certification or waiver may subject the Applicant to civil liability imposed by the Water Board to a maximum of \$5,000 per day of violation or \$10 for each gallon of waste discharged in violation of this action. Any request for a report made as a condition to this action (i.e., conditions 13, 15, 18, and 19) is a formal request pursuant to CWC Section 13267, and failure or refusal to provide, or falsification of such requested report is subject to civil liability as described in CWC Section 13268.

We anticipate no further action on this request. However, should new information come to our attention that indicates a water quality problem with this Project, the Water Board may issue Waste Discharge Requirements pursuant to 23 CCR Section 3857. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to CWC Section 13330 and 23 CCR Section 3867.

Please contact Brian Wines of my staff at (510) 622-5680 or bkw@rb2.swrcb.ca.gov if you have any questions. All future correspondence regarding this Project should reference the Site Number indicated at the top of this letter.

Sincerely,


acting for Bruce H. Wolfe
Executive Officer

Ms. Chaney

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Lower Codornices Creek Restoration Project
Site No: 02-01-C0763

cc: SWRCB-DWQ, Oscar Balaguer
USACE, San Francisco District, Attn: Regulatory Branch, 333 Market Street, San Francisco, CA
94105 -2197 (file number : 28288S)
CDFG, Central Coast Region, Attn: Robert Floerke, Regional Manager, P.O. Box 47, Yountville
CA 94599 (Notification Number 1600-2004-0221-3)
National Marine Fisheries Service, Attn: Gary Stern, 777 Sonoma Avenue, Suite 325, Santa
Rosa, CA 95404
U.S. EPA, WTR-8. Mr. Tim Vendlinski, 75 Hawthorne Street, San Francisco, CA 94105

Attachment 1
Planting Pallet

Species	Container Size
Keeled Brome (<i>Bromus carinatus</i>)	1 gallon
Coyote Brush (<i>Baccharis pilularis</i>)	1 gallon
Dwarf Coyote Brush (<i>Baccharis pilularis ssp. Pilularis</i>)	1 gallon
Marsh Dacc (<i>Baccharis douglasi</i>)	1 gallon
Sticky Monkey Flower (<i>Diplacus aurantiacus</i>)	1 gallon
Grundelia (<i>Mimulus gutatus</i>)	1 gallon
-- (<i>Peroderidia Kelloggii</i>)	1 gallon
California Wild Rose (<i>Rosa californica</i>)	1 gallon
Flowering Currant (<i>Ribes glutinosum</i>)	1 gallon
Gooseberry (<i>Rubus wensiesii</i>)	1 gallon
Thimbleberry (<i>Rubus parviflorus</i>)	1 gallon
Snowberry (<i>Symphoricarpos rivularis</i>)	1 gallon
Elderberry (<i>Sambucus coerulea</i>)	1 gallon
Big Leaf Maple (<i>Acer Macrophyllum</i>)	5 gallon
California Buckeye (<i>Aesculus californica</i>)	5 gallon
White Alder (<i>Alnus rhombiflora</i>)	15 gallon
Western Cottonwood (<i>Populus fremonti</i>)	5 gallon
Coast Live Oak (<i>Quercus agrifolia</i>)	5 gallon
Red Twig Dogwood (<i>Salix laevigata</i>)	Stakes
Ninebark (<i>Physocarpus capitatus</i>)	Stakes
Red Willow (<i>Salix laevigata</i>)	Poles/Fascines
Yellow Willow (<i>Salix lasiandra</i>)	Poles/Fascines