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## San Francisco Bay Regional Water Quality Control Board

September 5, 2014  
CIWQS Place ID. 802049  
CIWQS Regulatory ID. 394367

*Sent via electronic mail, no hardcopy to follow*

Alameda County Resource Conservation District  
3585 Greenville Road, Suite #2  
Livermore, CA 94550

Attention: Leslie Koenig ([Leslie.Koenig@ca.nacdn.net](mailto:Leslie.Koenig@ca.nacdn.net))

**SUBJECT: CONDITIONAL WATER QUALITY CERTIFICATION FOR THE STONYBROOK CREEK FISH PASSAGE IMPROVEMENT PROJECT IN THE COMMUNITY OF CASTRO VALLEY, ALAMEDA COUNTY**

Dear Ms. Koenig:

The San Francisco Bay Regional Water Quality Control Board (Regional Water Board) has reviewed the application materials submitted by the Alameda County Resource Conservation District (District) for the proposed fish passage improvements on Stonybrook Creek located on Palomares Road at mileposts 8.60 and 8.75 in the community of Castro Valley (Project). The District has applied to the U.S. Army Corps of Engineers (ACOE) Regulatory Branch for a Nationwide Permit to discharge dredge and fill materials to waters of the United States pursuant to Section 404 of the Clean Water Act (CWA) (33 U.S.C. 1344). We have determined that the Project, as proposed, will not violate State water quality standards, and accordingly issue conditional CWA Section 401 water quality certification (Certification) for the proposed Project.

**Environmental Setting:** The Stonybrook Creek Watershed lies within Alameda County, about seven miles east of Hayward and is a tributary to Alameda Creek. The National Marine Fisheries Service (NMFS) is in the process of developing a recovery plan for Central California Coast steelhead, which specifically identifies addressing these fish passage barriers in Stonybrook Creek as high-priority recovery actions. With viable habitat evident along Stonybrook Creek, the primary purpose of the proposed Project is to improve current fish passage barriers located along stream crossings. The barriers are located within the lower half of Stonybrook Creek with a steep boulder/cobble type substrate. Addressing these barriers with two culvert improvement projects will progressively bring Stonybrook Creek closer to restoration of its historic steelhead habitat by opening 0.7 stream-miles of aquatic habitat upstream.

**Project Description:** The following Project description is summarized from application materials received by the Regional Water Board on December 23, 2013. The proposed Project consists of addressing two barriers through culvert improvements at milepost (MP) 8.60 and 8.75 located on Palomares Road. The proposed Project will include: a full replacement of the culvert at MP 8.60 (upstream crossing) and a culvert retrofit at MP 8.75 (downstream crossing).

DR. TERRY F. YOUNG, CHAIR | BRUCE H. WOLFE, EXECUTIVE OFFICER

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The design at the *upstream crossing* includes: removal of the existing concrete and masonry culvert while providing temporary traffic access, re-grading of the channel in the vicinity of the crossing, the placement of a new pre-cast concrete arch culvert and wing walls on cast-in-place strip footings and paving the final roadway over the new culvert. Temporary footing, re-grading, and removal of vegetation will be required for temporary equipment and road access.

The design at the *downstream crossing* includes: the installation of angled baffles throughout the box culvert and re-grading the channel to eliminate the severe boulder jam in front of the culvert inlet. The design optimizes fish passage conditions while avoiding a reduction in culvert capacity. To eliminate the boulder jam at the inlet and improve upstream fish passage, the aggraded material will be removed and the channel will be re-graded into step-pool morphology. This is intended to dissipate flow energy and provide fish passage conditions similar to the upstream channel.

**Impacts:** Based on application materials the proposed Project will permanently impact approximately 130 linear feet (0.07 acre) at MP 8.60 by removing the existing culvert and re-grading the streambed. Approximately 600 cubic yards of rock and soil will be removed and approximately 100 cubic yards of soil and rock will be placed as permanent fill.

At MP 8.75 approximately 250 linear feet (0.02 acre) will be permanently impacted by removing the boulders, re-grading the streambed and installing step pools. Approximately 1500 cubic yards of soil and rock will be removed and approximately 50 cubic yards of rock and soil will be placed as permanent fill.

A total of nine trees will be removed as a result of the proposed Project: five at MP 8.60 and four trees at MP 8.75 (please see table). Other trees will require trimming for construction access.

| Tree Species          | # of Plants Greater than 4" DBH | Total Plants in Survey Area | Proposed Mitigation Ratio |
|-----------------------|---------------------------------|-----------------------------|---------------------------|
| <b>Non-natives</b>    |                                 |                             |                           |
| Parney's cotoneaster  | 1                               | 1                           | 1:1                       |
| <b>Natives</b>        |                                 |                             |                           |
| California bay laurel | 2                               | 2                           | 9:1                       |
| Big leaf maple        | 2                               | 2                           | 9:1                       |
| White alder           | 2                               | 2                           | 9:1                       |
| Coast live oak        | 2                               | 2                           | 3:1                       |

**Mitigation:** The proposed Project is a restoration and habitat improvement project along Stonybrook Creek that will increase fish accessibility, reduce flood potential and improve water quality and sediment loads providing increased security for private landowners. On-site mitigation is proposed to replace the loss of vegetation through the establishment of native riparian vegetation along the stream corridor.

**EcoAtlas:** It has been determined through regional, state, and national studies that tracking of mitigation/restoration projects must be improved to better assess the performance of these projects, following monitoring periods that last several years. In addition, to effectively carry out the State's Wetlands Conservation Policy of no net loss to wetlands, the State needs to closely track both wetland losses and mitigation/restoration project success. Therefore, we require that

the District use the California Wetlands Form to provide Project information related to impacts and mitigation/restoration measures (see Condition No. 4 of this Certification). An electronic copy of the form and instructions can be downloaded at:

<http://www.waterboards.ca.gov/sanfranciscobay/certs.shtml>. Project information concerning impacts and mitigation/restoration will be made available at the web link:

<http://www.ecoatlas.org/regions/ecoregion/bay-delta/projects>

**California Environmental Quality Act (CEQA):** The District filed a Notice of Determination on March 19, 2014 indicating that a Mitigated Negative Declaration was prepared and approved in compliance with CEQA (State Clearinghouse Number 20140002021).

**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 waters of the State by the District or any party working under contract, or with the permission of the District shall be removed immediately. When construction is 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 waters of the State. 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 District shall adhere to the terms of Nationwide Permit(s) issued by the ACOE;
3. The District shall adhere to the conditions imposed by the California Department of Fish and Wildlife (CDFW) in the Streambed and Lake Alteration Agreement issued for the Project;
4. The District is required to use the standard California Wetlands Form to provide Project information describing impacts and restoration measures within 14 days from the date of this certification. An electronic copy of the form can be downloaded at: <http://www.waterboards.ca.gov/sanfranciscobay/certs.shtml>. The completed form shall be submitted electronically to [habitatdata@waterboards.ca.gov](mailto:habitatdata@waterboards.ca.gov) or shall be submitted as a hard copy to both (1) the Water Board (see the address on the letterhead), to the attention of EcoAtlas and (2) the San Francisco Estuary Institute, 4911 Central Avenue, Richmond, CA 94804, to the attention of EcoAtlas;
5. The Project shall be constructed in conformance with the Project description in the application materials dated December 23, 2014 and in the June 2014 plans titled *Stonybrook Creek Crossing Improvements Palomares Road at Postmiles 8.60 and 8.75 Alameda Creek Watershed Project*. Any changes to these plans must be submitted to

the Water Board's Executive Officer for review and approval before they are implemented;

6. The District shall establish a minimum of four (4) permanent photo-documentation points at the Project site(s). The District shall prepare site maps with the photo-documentation points clearly marked. Prior to implementing the Project, the District shall photo-document the condition of the Project site. Following implementation of the Project and tree planting, the District shall photographically document the immediate post-construction condition of the site and submit a report to the Water Board including the pre-construction photographs, the post-construction photographs, and the map with the locations of the photo-documentation points;
7. The District shall submit annual monitoring reports acceptable to the Water Board Executive Officer no later than January 31<sup>st</sup> of each year until the tree planting plan has been successfully completed, but for not less than a period of five years. If the tree plantings indicate that establishment of the riparian habitat is not progressing in a manner or rate consistent with that expected by the District, the annual monitoring reports shall evaluate the probable cause(s) of any problems and propose appropriate corrective measures;
8. All work performed within waters of the State shall be completed in a manner that minimizes impacts to beneficial uses and habitat; measures shall be employed to minimize disturbances along Stonybrook Creek that will adversely impact the water quality of waters of the State. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete Project implementation;
9. Erosion control measures shall be utilized throughout all phases of construction where sediment runoff from disturbed areas threatens to enter waters of the State. At no time shall silt-laden runoff be allowed to enter waters of the State;
10. Prior to the start of construction, the District shall provide a dewatering plan, including the area to be dewatered, timing of dewatering, and method of dewatering to be implemented, to the Executive Officer of the Water Board for review and approval. All temporary dewatering methods shall be designed to have the minimum necessary impacts to waters of the State to isolate the immediate work area. All dewatering methods shall be installed such that natural flow is maintained upstream and downstream of the project area. Any temporary dams or diversions shall be installed such that the diversion does not cause sedimentation, siltation, or erosion upstream or downstream of the project area. All dewatering methods shall be removed immediately upon completion of Project activities;
11. No later than 24 hours prior to the start of a likely rain event, the District shall ensure that disturbed areas that drain to waters of the State are protected with correctly installed erosion control measures (e.g., jute, straw, coconut fiber erosion control fabric, coir logs, straw, etc.). The likely rain event is defined as any weather pattern that is forecast to have a 50% or greater probability of producing precipitation in the Project area. The Water District shall obtain a daily printed copy of the precipitation forecast information (and keep for record) from the National Weather Service Forecast Office (e.g., by entering the zip code of the Project's location at <http://www.srh.noaa.gov/forecast>;
12. 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 23 CCR 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,

13. Certification is conditioned upon total payment of the full fee required in State regulations (23 CCR Section 3833). Payment in full was received December 23, 2013.

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 District 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 requirement for a report made as a condition to this action is a formal requirement pursuant to CWC Section 13267, and failure or refusal to provide, or falsification of such requirement report is subject to civil liability as described in CWC Section 13268.

If you have questions, please contact Leslie Perry at [lperry@waterboards.ca.gov](mailto:lperry@waterboards.ca.gov) or at 510-622-2312. All future correspondence regarding this Project should reference CIWQS No. 802049.

Sincerely,

Bruce H. Wolfe  
Executive Officer

*Cc via email:*

SWRCB-DWQ, Bill Orme [Stateboard401@waterboards.ca.gov](mailto:Stateboard401@waterboards.ca.gov)

U.S. EPA, Jason Brush, WTR-8 [R9-WTR8-Mailbox@epa.gov](mailto:R9-WTR8-Mailbox@epa.gov)

CDFW, Bay Delta Region, Marcia Grefsrud [mgrefsrud@wildlife.ca.gov](mailto:mgrefsrud@wildlife.ca.gov)

ACOE San Francisco Regulatory Branch, Holly Costa, [holly.n.costa@usace.army.mil](mailto:holly.n.costa@usace.army.mil)

Alameda County Flood Control & Water Conservation District, Kwablah Attigobe [kwablah@acpwa.org](mailto:kwablah@acpwa.org)