
San Francisco Bay Regional Water Quality Control Board

CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND ORDER for:

Petaluma Community Sports Fields Baseball Diamond Project, Sonoma County

Sent via electronic mail: No hard copy to follow

Effective Date: September 11, 2020

**Place ID 861697
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Order

This Clean Water Act (CWA) section 401 Water Quality Certification and Order (Order) is issued at the request of the City of Petaluma – Public Works and Utilities (Permittee) for the Petaluma Community Sports Fields Baseball Diamond Project (Project). We received the application for certification (Application) on October 1, 2019. On October 31, 2019, we issued a notice of incomplete application and requested additional information, including clarifications on the Project description, impacts, avoidance and minimization measures (AMMs), basis of design, post-construction stormwater management, and the Application fee. We received supplemental information needed to complete the application on June 16, 2020.

The Permittee has also applied to the U.S. Army Corps of Engineers (Corps), Regulatory Branch for coverage under Nationwide Permits 39 (Commercial and Institutional Developments), 41 (Reshaping Existing Drainage Ditches), and 42 (Recreation Facilities), pursuant to CWA Section 404 (33 USC 1344).

I. Project

The Project is located at 2430 East Washington Street and will impact existing seasonal wetlands and drainage tributaries to East Washington Creek in Petaluma, Sonoma County (38.2638889, -122.6122222). The Project is Phase 2 of a larger sports facility Master Plan, approved by the City Council in 2007. Phase 1 involved the construction of synthetic turf soccer/lacrosse fields and an entry road, and stormwater improvements, and was completed in 2016. Phase 3 will involve construction of two softball/soccer fields and has not been programmed or funded yet. The Project purpose for Phase 2 is to construct: 1) a Legion-sized baseball field with field lighting and bleacher seating; 2) a restroom and concession stands building; 3) pull-in street parking and an off-street parking area; and 4) stormwater runoff drainage improvements.

The Project site contains seasonal wetlands and jurisdictional drainage channels that will be unavoidably impacted by sports field fill and culverted under new parking areas. The Project will result in 5.78 acres of new or replaced impervious surfaces, including the synthetic turf fields. Low impact development (LID) facilities, such as bioretention areas and an oversized bioretention basin constructed as part of Phase 1, will be implemented and utilized in accordance with the Stormwater Control Plan (SCP), dated October 16, 2018, and supplementation information provided on June 4, 2020. The previously constructed Phase 1 project involved 2.88 acres of new or replaced impervious surface and a 0.2-acre bioretention basin. The Project will route 1.73 acres of the new or replaced impervious surface created by parking lot improvements to the Phase 1 bioretention basin, which was constructed to have adequate capacity for portions of Phase 2 impervious surfaces. The remaining 4.05 acres of new or replace impervious surfaces created by Phase 2 will be treated with bioretention facilities as described in the SCP.

II. Impacts to Waters of the State

If effective best management practices (BMPs) are not implemented during construction, waters of the State may be impacted by increased erosion and sedimentation, and/or discharging debris and other waste materials. Following construction, 5.78 acres of impervious surfaces created and replaced by the Project may impact water quality by

collecting and concentrating pollutants, including trash, in stormwater runoff and may result in hydromodification impacts from increased flows and durations.

A total of 0.32 acres of waters of the State will be permanently impacted from filling 0.25 acres of seasonal wetlands and the culverting of 0.07 acres (1,275 linear feet (LF)) of ephemeral stream channel.

III. Mitigation

During construction, the Permittee will avoid and minimize impacts to waters of the State by implementing appropriate and effective BMPs as described in the Application and in accordance with the National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit) (Order No. 2009-0009-DWQ, as amended, and as may be reissued).

To address potential post-construction impacts from discharge of stormwater runoff and associated pollutants from impervious surfaces, the Permittees will install low impact development (LID) facilities, such as bioretention basins sized to provide adequate stormwater treatment and prevent hydromodification impacts. Stormwater BMPs will be implemented as described in the Stormwater Control Plan (SCP), dated October 16, 2018, and as subsequently clarified in the Supplemental Information provided on June 4, 2020. In addition, the Permittee will ensure the implementation of alternative trash capture methods, including trash cleanups at a frequency sufficient to prevent the discharge of trash to the storm drain.

To compensate for unavoidable permanent impacts to waters of the State, the Project will implement the Habitat Mitigation and Monitoring Plan (HMMP), dated August 8, 2019. This involves creating 0.53 acres of seasonal wetlands along the southern boundary of the property where jurisdictional features proposed to be impacted by the Project currently discharge to before flowing off site. The existing 0.08 acre (1,451 LF) ephemeral stream currently existing at this location will also be enhanced through the construction of seasonal wetland floodplain habitat and native plantings throughout the reach. This mitigation area, which includes a 10-foot-wide buffer that will be fenced and include signs, will be preserved in perpetuity through a deed restriction.

IV. California EcoAtlas

Regional, state, and national studies have determined that tracking of mitigation and restoration projects must be improved to better assess the performance of these projects, following monitoring periods that last several years. To effectively carry out the State's Wetlands Conservation Policy of no net loss to wetlands, the State needs to closely track both losses and successes of mitigation and restoration projects affecting wetlands and other waters of the State. The Water Board must also track project performance in Bay Area creeks subject to routine repair and maintenance activities, such as recurring instabilities. Therefore, we adopted the digital interactive mapping tool called *EcoAtlas*.¹ *EcoAtlas* is a web-based tool that integrates maps, project plans, site conditions,

¹ Source: California Wetlands Monitoring Workgroup (CWMW), 2019. *EcoAtlas*. Accessed May 14, 2019. <https://www.ecoatlas.org>. The California Wetland Monitoring Workgroup (CWMW) provides technical oversight on the development of content and functionality of *EcoAtlas*. As a member of

restoration efforts, and other elements on a project-by-project basis based on data inputs. Accordingly, we require the Permittee to upload their Project information to *EcoAtlas* with the *Project Tracker* tool at <https://ptrack.ecoatlas.org>. The California Wetlands Monitoring Workgroup developed *EcoAtlas* and maintains detailed instructions for *Project Tracker* on its website at <https://ptrack.ecoatlas.org/instructions>.

V. California Environmental Quality Act (CEQA)

On October 20, 2010, the Permittee, as lead agency, adopted a Mitigated Negative Declaration (State Clearinghouse (SCH) No. 2008122112 for the Project and filed a Notice of Determination (NOD) at the SCH on October 21, 2010. The Water Board, as a Responsible Agency under CEQA, has reviewed the project CEQA documents and finds that the Project's significant environmental effects that are within the Water Board's purview and jurisdiction have been identified and will be mitigated to less-than-significant levels. Specifically, significant impacts pertaining to wetland and aquatic habitat and water quality will be mitigated to less-than-significant levels through implementation of mitigation measures identified in the CEQA documents and the mitigation identified above, all of which are required to be implemented and reported on by this Certification.

VI. Conditions

The Water Board independently reviewed the Project record to analyze impacts to water quality and the environment and designated beneficial uses within the Project's watershed. In accordance with this Order, the Permittee may proceed with the Project under the following terms and conditions:

General Conditions

1. The Project shall be constructed in conformance with the Project description provided in the Application, as supplemented. The Permittee shall fully comply with engineering plans, specifications, and technical reports submitted in the Application or required as part of this Order. Any changes to information provided in the Application must be submitted to the Water Board and receive Executive Officer approval before the changes may be implemented.
2. Disturbance or removal of vegetation shall be minimized. The site shall be stabilized through incorporation of appropriate BMPs, including the successful reestablishment of native vegetation to enhance wildlife habitat values, and to prevent and control erosion.
3. No equipment shall be operated in stream channels or other waters where there is flowing or standing water. Fueling, cleaning, or maintenance of vehicles or equipment during construction shall not take place within any areas where an accidental discharge to waters of the State may occur.
4. No unauthorized construction-related materials or wastes shall be allowed to enter into or be placed where they may be washed by rainfall or runoff into waters of the State. When

CWMW, San Francisco Estuary Institute provides day-to-day support and management of *EcoAtlas*, and can be contacted by email at ptrackadmin@sfei.org.

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 discharged to waters of the State.

Mitigation

5. To mitigate for 0.32 acres of permanent impacts to seasonal wetlands (0.25 acres) and ephemeral stream habitat (0.07 acres, 1,275 LF), the Permittee shall create 0.53 acres of seasonal wetlands and enhance 0.08 acres (1,451 LF) of ephemeral stream habitat on site, in accordance with the HMMP dated August 8, 2019, and incorporated herein by reference.
6. Compensatory mitigation for permanent impacts shall be constructed within one year of authorized impacts.
7. The Permittee is responsible for the required compensatory mitigation in perpetuity and a draft deed restriction was provided to the Water Board on August 10, 2020. Prior to Project construction, a finalized deed restriction shall be submitted, acceptable to the Water Board Executive Officer, and the accepted deed restriction shall be recorded.
8. The Permittee is responsible for constructing, operating, and maintaining the Project's post-construction stormwater controls for the life of the Project. This includes ensuring the implementation of trash control measures sufficient to prevent the discharge of trash to the storm drain.

Monitoring and Reporting

9. The Permittee shall input Project information to *EcoAtlas* within 14 days from the date of this Order, consistent with Certification Section IV. The Project information shall be added to the *Project Tracker* tool in *EcoAtlas* online at <https://ptrack.ecoatlas.org>. Instructions for adding information to *EcoAtlas* are available at <https://ptrack.ecoatlas.org/instructions>, or by contacting the San Francisco Estuary Institute by email to ptrackadmin@sfei.org, or the Water Board case manager listed on the cover page of this Order. The Executive Officer may grant an extension to the 14-day deadline if the Permittee submits a request in writing to the Water Board case manager listed on the cover page of this Order. The extension request may be submitted via electronic mail.
10. The Permittee shall submit an Annual Project Status Report each year by January 31 commencing the calendar year after issuance of this Certification. The Report shall reference Place ID 861697 and state whether Project construction activities have been initiated or delayed. Annual reporting shall continue until a Notice of Project Construction Completion is received (see Condition 10 below).
11. No later than 30 days after completing Project construction activities, the Permittee shall submit, acceptable to the Executive Officer, a Notice of Project Construction Completion. The Notice shall include the date Project construction activities (defined as construction of both the Project and any compensatory mitigation) were completed and reference Place ID 861697. The Notice shall be sent via email to RB2-401Reports@waterboards.ca.gov, or by mail to the attention of 401 Certifications Reports (see address on the letterhead).
12. To verify that mitigation has been successfully established, the Permittee shall monitor the mitigation area for a minimum of 5 years and in accordance with the HMMP, dated August 8,

2019. Monitoring shall consist of wetland and vegetation data collection annually during years 1-3, and 5. Photographs shall also be taken of the mitigation area, with at least two every 25 feet along the entire mitigation reach. Monitoring shall be performed by a qualified professional and shall meet the following performance criteria:

Year 1: at least 20 percent cover of target native plant species;

Year 2: at least 30 percent cover of target native plant species;

Year 3: at least 50 percent cover of target native plant species; created wetland areas shall meet the Corps 50/20 rule for hydrophytic vegetation;

Year 5: at least 70 percent cover of target native plant species; A protocol level wetland delineation, following standard Army Corps guidance, shall be conducted to verify that 0.53 acres of seasonal wetlands have been created (hydric soils criteria do not have to be met to consider wetlands successfully established, but there should be indicators that hydric soils are forming by year 5);

All Years: created wetland areas will be inundated and/or saturated for 14 consecutive days during the rainy season; no more than 30 percent cover of invasive species rated "high" by Cal-IPC.

13. The Permittee shall submit annual monitoring reports, acceptable to the Executive Officer, by January 31 following each monitoring year with the first monitoring year commencing the calendar year after completing the Project. Each annual report shall summarize each year's monitoring results, including the need for, and implementation of, any remedial actions to help meet the performance criteria. The annual reports shall compare data to previous monitoring years and describe progress towards meeting final performance criteria.
14. The final monitoring report shall document if the site meets the final performance criteria. If the final criteria are not met, the Permittee shall, in consultation with the appropriate agencies, identify remedial measures to be undertaken, including extension of the monitoring and reporting period until the criteria are met. The Permittee shall implement all remedial measures identified upon receiving written acceptance by the Executive Officer. Success of the mitigation program shall be determined by, and acceptable to, the Water Board Executive Officer.
15. Annual monitoring reports shall reference Place ID 861697 and shall be submitted via email to RB2-401Reports@waterboards.ca.gov, or by mail to the attention of 401 Certifications Reports (see the address on the letterhead).
16. Within 30 days of successfully establishing the Project's compensatory mitigation, the Permittee shall submit, acceptable to the Executive Officer, a Notice of Mitigation Monitoring Completion notifying the Water Board that mitigation has been completed. The Notice shall be submitted via email to RB2-401Reports@waterboards.ca.gov, or by mail to the attention of 401 Certifications Reports. This notification shall include the date compensatory mitigation was completed, the Project Name, and Place ID 861697.

Administrative

17. The Permittee shall grant Water Board staff or an authorized representative, upon presentation of credentials and other documents as may be required by law, permission to: (1) enter upon the Project site or compensatory mitigation site(s) where a regulated facility or activity is located or conducted, or where records are kept; (2) have access to and copy any records that are kept

and are relevant to the Project or the requirements of this Order; (3) inspect any facilities, equipment, practices, or operations regulated or required under this Order; and (4) sample or monitor for the purposes of assuring Order compliance.

18. A copy of this Order shall be provided to any consultants, contractors, and subcontractors working on the Project. Copies of this Order shall remain at the Project site for the duration of this Order. The Permittee shall be responsible for work conducted by its consultants, contractors, and any subcontractors.
19. The Permittee shall provide a signed and dated notification to the Water Board of any change in ownership or interest in ownership of the Project area at least 10 days prior to the transfer of ownership. The purchaser shall also submit a written request to the Water Board to be named as the permittee in an amended order. Until such time as this Order has been modified to name the purchaser as the permittee, the Permittee shall continue to be responsible for all requirements set forth in this Order.
20. The Permittee may transfer responsibility for long-term management of compensatory mitigation after final performance criteria are met. The Permittee shall submit documentation to the Water Board if responsibility for long-term management of compensatory mitigation is legally transferred at least 30 days prior to the transfer of long-term management responsibility.

General Compliance

21. The Permittee shall notify the Water Board of any event causing a violation of compliance with water quality standards as soon as practicable (ideally within 24 hours). Notification may be via telephone, email, delivered written notice, or other verifiable means.
22. Failure to implement the Project as proposed is a violation of this Order. Violation of this Order is a violation of state law and is subject to administrative civil liability pursuant to California Water Code (CWC section 13350. Failure to meet any condition of this Order shall constitute a violation of the Porter-Cologne Water Quality Control Act and the Clean Water Act and may subject you 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 Order.
23. In response to a suspected violation of any condition of this Order, the Water Board may require the Permittee to furnish, under penalty of perjury, any technical or monitoring reports the 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.
24. 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 California Code of Regulation title 23 (23 CCR) section 3857.
25. This Order shall continue to have full force and effect regardless of the expiration or revocation of any federal license or permit issued for the Project.

Standard Conditions

26. This Order is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to CWC section 13330 and 23 CCR 3867.

27. This Order is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a 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.

Fees

28. In accordance with 23 CCR section 2200, the Permittee shall pay an annual fee to the Water Board each fiscal year (July 1 – June 30) until Project construction activities are completed and an acceptable Notice of Project Construction Completion is received by the Water Board. If monitoring is required, the Permittee shall pay an annual fee to the Water Board until monitoring activities are completed and an acceptable Notice of Mitigation Monitoring Completion is received by the Water Board.

29. This Order is conditioned upon total payment of the full fees, including annual fees, required in State regulations (23 CCR sections 2200(a)(3) and 3833(b)(3)) and owed by the Permittee. The Application fee for this Project, \$5,796, was paid in full on June 16, 2020, and was calculated as Category A – Fill & Excavation Discharges with the dredge and fill fee calculator.

I, Michael Montgomery, Executive Officer, do hereby issue this Order certifying that any discharge from the proposed 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 Order.

If you have any questions concerning this Order, please contact Nicole Fairley of my staff at (510) 622-2424 or nicole.fairley@waterboards.ca.gov.

for Michael Montgomery
Executive Officer

Cc: SWRCB, DWQ, Stateboard401@waterboards.ca.gov
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