
San Francisco Bay Regional Water Quality Control Board

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

Petaluma River Turning Basin Floating Dock Replacement Project, Sonoma County

Effective Date: September 27, 2021

Place ID 875673
RM ID: 444485
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Table of Contents

ORDER	3
I. Project	3
II. Impacts to Waters of the State	3
III. Mitigation	3
IV. California EcoAtlas	4
V. California Environmental Quality Act (CEQA)	4
VI. Conditions	4
General Conditions	4
Mitigation	Error! Bookmark not defined.
Monitoring and Reporting	5
Administrative	6
General Compliance	7
Standard Conditions	8
Fees	8

Order

This Clean Water Act (CWA) section 401 Water Quality Certification and Order (Order) is issued at the request of the City of Petaluma (Permittee) for the Petaluma River Turning Basin Dock Replacement Project (Project). We received the application for certification (Application) on July 29, 2021.

The Permittee has also applied to the U.S. Army Corps of Engineers (Corps), Regulatory Branch for coverage under a Letter of Permission, pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403).

I. Project

The Project is located at the Petaluma River Turning Basin, adjacent to the west side of Weller Street Park at 150 Weller Street, Petaluma, Sonoma County (38.235528, -122.637222). The existing wooden floating docks are deteriorating with age and need to be replaced to remain serviceable. The Project purpose is to remove and replace the aging wooden floating docks (approximately 3,800 SF) with a new floating concrete dock of the same dimensions. To complete the dock removal and replacement, the following Project activities will be implemented.

The existing dock will be demolished and hauled off-site, then replaced with a new floating dock using either an upland-based crane located at the top of bank or a barge-mounted crane. The proposed concrete floating docks are prefabricated and will be ready to install upon delivery. New cleats will be installed every 20 feet to connect the docks to the existing piles and the existing gangway will be configured to attached to the new floating dock. No existing piles will be removed and no new pile driving is proposed as part of the Project. Construction within the river channel will be limited to removal of existing floating docks and in-kind replacement with the new floating dock structure.

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. The Project will temporarily impact a total of 0.09 acres of waters of the State.

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. These include, but are not limited to: 1) staging of materials and supplies will be restricted to the designated staging areas; 2) refueling of vehicles or equipment will be done at least 100 feet away from the river; 3) construction fencing will be placed under the direction of a biologist around any riparian and/or wetland vegetation; 4) silt fencing will be installed between the staging area and adjacent waterway; and 5) a spill prevention plan will be implemented to prevent discharge of material or liquids

into the waterway or riparian habitat area. The Project avoids and minimizes impacts to the maximum extent practicable and no additional mitigation is required.

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, 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)

The Permittee, as lead agency, determined that the project is categorically exempt from review under CEQA pursuant to CEQA Guidelines Section 15301, Existing Facilities – Class 1 and filed a Notice of Exemption with the Sonoma County Clerk on May 6, 2021. The Water Board concurs with this CEQA determination.

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. 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.

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

Rationale: *This condition is necessary to ensure compliance with the permit and applicable conditions and to ensure that the proposed work and final restoration work has been conducted in accordance with the permit and all applicable conditions (California Water Code (CWC) section 13264).*

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.

Rationale: *This condition is necessary to ensure minimization of impacts to waters of the State and to ensure successful restoration of all temporary impacts authorized (State Board Resolution No. 68-16; 40 CFR Part 131.12 (a)(1); CWC sections 13264 and 13369; Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) Ch. 3 and 4).*

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.

Rationale: *This condition is necessary to minimize adverse impacts to water quality from construction activities to the maximum extent practicable (State Board Resolution No. 68-16; 40 CFR Part 131.12 (a)(1); CWC section 13369; Basin Plan section 2.1.14).*

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 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.

Rationale: *This condition is necessary to ensure avoidance and minimization of impacts to waters of the State from construction activities (CWC section 13376 et seq.).*

Monitoring and Reporting

5. 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 at 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.

Rationale: This condition is necessary to ensure compliance with the permit and applicable conditions (CWC section 13267).

6. The Permittee shall submit a Commencement of Construction Report at least seven days prior to start of initial ground disturbance activities.

Rationale: This condition is necessary to assist in scheduling compliance inspections to ensure compliance with the permit and applicable conditions (CWC section 13267).

7. 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 were completed, post-project photographs or as-builts, and reference Place ID 875673. 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).

Rationale: This condition is necessary to ensure compliance with the permit and applicable conditions and to ensure that the proposed work and restoration work has been conducted in accordance with the permit and all applicable conditions (CWC section 13267).

Administrative

8. 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.

Rationale: This condition is necessary to assist in scheduling compliance inspections and to ensure compliance with the permit and applicable conditions (CWC section 13267).

9. 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.

Rationale: This condition is necessary to ensure compliance with the permit and applicable conditions (CWC sections 13170 and 13245).

10. 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.

Rationale: *This condition is necessary to ensure compliance with the permit and applicable conditions (CWC section 13264).*

General Compliance

11. 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.

Rationale: *This condition is necessary to minimize adverse impacts to water quality (CWC sections 13385 and 13267).*

12. 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 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.

13. 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.

Rationale: *This condition is necessary to minimize adverse impacts to water quality (CWC sections 13267 and 13383)*

14. 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.

15. 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.

Rationale: *This condition is necessary to ensure compliance with the permit and applicable conditions (CWC sections 13170 and 13245).*

Standard Conditions

16. 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.

17. 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.

Rationale: *Conditions 16 and 17 are standard conditions that “shall be included as conditions of all water quality certification actions” (23 CCR section 3860(a)).*

Fees

18. 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. Annual fees will be automatically invoiced to the Permittee. **The Permittee must notify the Water Board at Project and/or mitigation completion with a final report in order to request to terminate annual invoicing. Notification should be sent to the staff listed at the bottom of this Order and to RB2-401Reports@waterboards.ca.gov.** Water Board staff will verify conditions of the Certification have been met and may request a site visit at that time to confirm the Project’s status and compliance with this Certification.

Rationale: *This condition is a requirement of 23 CCR sections 3833(b)(3) and 2200(a)(3).*

19. 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, \$2,066, was paid in full on August 24, 2021, and was calculated as Category E – *Low Impact Discharges* with the dredge and fill fee calculator.

Rationale: *This is a standard condition that “shall be included as conditions of all water quality certification actions” (23 CCR section 3860(a)).*

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

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