STATE OF CALIFORNIA THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, GOVERNOR
DEPARTMENT OF FISH AND GAME
BAY DELTA REGION
(707) 944-5520
Mailing address:
POST OFFICE BOX 47
YOUNTVILLE CALIFORNIA 94599
Street address:
7329 SILVERADO TRAIL
NAPA CALIFORNIA 94558

August 7, 2007

Notification Number: 1600-2006-0177-3

Ron Coley / University of California, Berkeley
125 University Hall
Berkeley, CA 94720-1100

1602 LAKE AND STREAMBED ALTERATION AGREEMENT

This agreement is issued by the Department of Fish and Game pursuant to Division 2, Chapter 6 of the California Fish and Game Code:

WHEREAS, the applicant Ron Coley / University of California, Berkeley, hereafter called the Operator, submitted a signed NOTIFICATION proposing to substantially divert or obstruct the natural flow of, or substantially change the bed, channel, or bank of, or use material from the streambed or lake of the following water: Winter Creek, located in Mather Memorial Redwood Grove at the UC Botanical Gardens, in the County of Alameda, State of California; and

WHEREAS, the Department has determined that such operations may substantially adversely affect existing fish and wildlife resources including water quality, hydrology, aquatic or terrestrial plant or animal species; and

WHEREAS, the project has undergone the appropriate review under the California Environmental Quality Act; and

WHEREAS, the Operator shall undertake the project as proposed in the signed PROJECT DESCRIPTION and PROJECT CONDITIONS (attached). If the Operator changes the project from that described in the PROJECT DESCRIPTION and does not include the PROJECT CONDITIONS, this agreement is no longer valid; and

WHEREAS, the agreement shall expire on December 31, 2009; with the work to occur between June 15 and October 15; and

WHEREAS, nothing in this agreement authorizes the Operator to trespass on any land or property, nor does it relieve the Operator of the responsibility for compliance with applicable Federal, State, or local laws or ordinances. Placement, or removal, of any material below the level of ordinary high water may come under the jurisdiction of the U. S. Army Corps of Engineers pursuant to Section 404 of the Clean Water Act;

THEREFORE, the Operator may proceed with the project as described in the PROJECT DESCRIPTION and PROJECT CONDITIONS. A copy of this agreement, with attached PROJECT DESCRIPTION and PROJECT CONDITIONS, shall be provided to contractors and subcontractors and shall be in their possession at the work site.

Failure to comply with all conditions of this agreement may result in legal action.

This agreement is approved by:

Charles Armor
Regional Manager
Bay Delta Region

cc: Warden Bowers
Lieutenant Christensen

STATE OF CALIFORNIA THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, Governor
DEPARTMENT OF FISH AND GAME
CENTRAL COAST REGION
(707) 944-5520
Mailing address:
POST OFFICE BOX 47
YOUNTVILLE, CALIFORNIA 94599
Street address:
7329 SILVERADO TRAIL
NAPA, CALIFORNIA 94558

Notification Number: 1600-2006-0177-3
Winter Creek, Alameda County

Ron Coley / University of California, Berkeley
125 University Hall
Berkeley, CA 94720-1100

PROJECT DESCRIPTION and PROJECT CONDITIONS

Description

Winter Creek is a steep headwaters drainage and tributary to Strawberry Creek, located in Mather Memorial Redwood Grove at the UC Botanical Gardens above the University of California, Berkeley campus. Increased and concentrated runoff resulting from development and land use changes within the watershed over the last few years has destabilized the creek bed and banks, causing dramatic channel incision and coincident bank erosion. The channel erosion has degraded the function and character of the creek and threatens existing facilities (pathways and drainage systems) as well as institutional and natural resources (specimen trees, planting areas and sediment delivery to Strawberry Creek).

The Winter Creek Stabilization and Enhancement project is intended stabilize and enhance the creek's function and character within the botanical garden setting. The project will address systemic channel and bank instability over an approximately 460 linear foot reach of Winter Creek. The project approach is based on current watershed function characterized through technical (hydrologic and geomorphic) analyses performed in support of the project. In addition, an evaluation of constructability (equipment access, site and resource protection, temporary water diversion, etc) was utilized to help guide design development for feasible and responsive project elements.

The project approach is to re-establish a stable creek channel based on the current hydrologic conditions in the watershed. At the upstream project limits, a culvert extension will be installed to bypass the most severely eroded vertical portion of the channel. A comprehensive grading plan will be implemented to stabilize the creek banks by creating terraced and gentler bank slopes. The excess material generated from the grading effort will be used to raise the channel bed throughout the project reach. A series of step-pool and riffle sequences will be installed to reconstruct and stabilize the 'naturalized' creek bed. The step-pools and riffles are analogous with channel features found in other steep headwater stream settings. Biotechnical stabilization measures such as vegetated soil lifts and brush mats in combination with specific native planting and seeding plans will be utilized to stabilize and revegetate the banks. The restored native

riparian corridor is intended to become an additional institutional, aesthetic amenity to the Botanical Garden.

The project will involve installation of a temporary water diversion system. The temporary diversion will utilize a gravity flow system that will capture seasonal flows within the existing culvert at the upstream project limit, route the flows around the areas of work and return/ outfall the flows into the existing culvert at the downstream limits of the project. The contractor will provide a written plan for project water diversion and control including maintenance of a contingency plan throughout the construction period.

Project Elements

The stabilization project includes an extension of the existing 30-inch culvert including an outfall dissipation basin. The extension will bypass flows through the vulnerable scour and head-cut and take up approximately 10 to 12 vertical feet at the upstream limit of the project. The extension allows for a flatter and more stable longitudinal profile to be established across the project. The culvert extension will include a new headwall and clean-out access.

Grading

A comprehensive grading plan will address over-steepened banks, existing slope failures, and channel stabilization structures integrated with the channel banks. The grading will improve channel and bank stability through the establishment of flatter slopes and terrace features. The grading approach is guided by geotechnical evaluations of the banks and soil conditions.

Step Pool Structures

Twelve step-pool structures and the culvert extension dissipation basin will be constructed within the project. The structures will impact a total of 150 linear feet of channel bed and 940 square feet of channel and bank area (See Winter Creek Stabilization & Enhancement Project Drawings, PWA 2/22/06). The step-pools are rock grade control structures consisting of a crest, a cascading drop, and a pool feature which transitions into the channel design grade. The typical step-pool structure is 10 to15 feet long, measured along the channel. The crests (measured at the low flow channel) will range from 2 to 4 feet wide. The crests will be constructed with 1 - 3 foot (diameter) boulders. The crest is keyed 4-5 feet into the adjacent channel banks to capture and direct flows to the channel as well as to provide protection against flanking in larger storm events. The maximum width perpendicular to the channel of the rock structures is approximately 15 feet. The maximum fall (cascade) over each of the structures is approximately 2 feet. Grading and revegetation elements will integrate the step-pools with the channel banks.

The location and orientation of each of structures will be determined in the field through a coordinated effort between the contractor and restoration engineer.

Channel Restoration/Riffle Structures

The reconstructed channel will be raised approximately 2 to 3 feet typically along the entire project reach. Soils generated from the site grading will be utilized to raise the channel and establish the subgrade for the structures and riffle sections. Utilization of the onsite soils will limit the amount of imported fill material that will be required. The channel restoration will

impact a total of 170 linear feet (approximately) of channel bed and 2,100 square feet of channel and bank areas. The new channel bed is characterized by riffle sections and small (less than 6") drops. The channel bed will be constructed using a range of coarse cobbles sized to persist in anticipated hydraulic and geomorphic conditions.

As part of the channel reconstruction the existing footbridge will be removed and replaced to accommodate the restored/ stabilized channel.

Biotechnical Stabilization and Revegetation
Several areas of eroding channel banks, approximately 350 square feet, will be rebuilt using vegetated soil lifts. Brush mats will be used to stabilize graded and exposed channel banks. The revegetation plan includes mulching, seeding, container plants (to be determined) and live pole planting (woody riparian species). To support the establishment of the revegetation plan a temporary irrigation system will be installed and maintained for 2-3 years.

UC Botanical Garden staff will provide review and approval of the project planting and seeding lists with emphasis on species found in coastal redwood forest and native riparian plant communities. Plant and seed materials will be of local provenance to the extent possible.

Erosion Control
An erosion control plan will be developed for the project. Temporary erosion control measures (BMPs such as mulching, biodegradable fabrics and wattles, silt fencing, etc) will be incorporated with long term erosion control elements (biotechnical stabilization, planting and revegetation) to protect the disturbed areas of the project site.

Table 1 below summarizes anticipated grading and materials volumes and areas for revegetation.

Table 1. Project Elements and Anticipated Volume Calculations

Item	Estimated Volume/ Amount
Grading: Cut	1,200 cubic yards
Grading: Fill	110 cubic yards
Dissipation Basin	1 (300 square feet)
Step Pool Structures	12 (approximately 1,600 square feet)
Channel Reconstruction	170 Linear Feet (approximately 1,500 square feet)
Biotechnical Bank Reconstruction	250 linear feet
Biotechnical Bank Stabilization	100 linear feet
Revegetation (Planting and Seeding)	32,000 square feet
Erosion Control	32,000 square feet

Conditions

1. Work within the stream/riparian corridor shall be confined to the period June 15 to October 15. Revegetation work is not confined to this time period.

2. If the Operator needs more time to complete the authorized activity, the work period may be extended on a day-to-day basis by Marcia Grefsrud at mgrefsrud@dfg.ca.gov, or the Yountville office at (707) 944-5520.

3. The work period for completing the work within the stream zone, shall be restricted to periods of low or no stream flow and dry weather. Excavation for and placement of the fill shall not begin unless a no precipitation forecast is obtained covering the entire construction phase (within the area covered in this agreement) and the time necessary to implement erosion control measures. This forecast shall be documented upon request by the Department.

4. No phase of the project may be started if that phase and its associated erosion control measures cannot be completed prior to the onset of precipitation if that construction phase may cause the introduction of sediments into the stream. After any storm event, the Operator shall inspect all sites currently under construction and all sites scheduled to begin construction within the next 72 hours for erosion and sedimentation problems and take corrective action as needed. Seventy-two-hour weather forecasts from the National Weather Service shall be consulted prior to start up of any phase of the project that may result in sediment runoff to the stream, and construction plans made to meet this condition.

5. Work must be performed in isolation from the flowing stream. If there is any flow when the work is done, the operator shall construct coffer dams upstream and downstream of the excavation site and divert all flow from upstream of the upstream dam to downstream of the downstream dam. The coffer dams 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 upon project completion. Clean river gravel may be left in the stream, but the coffer dams must be breached to return the stream flow to its natural channel.

6. The Operator/Contractor shall check daily for stranded aquatic life as the water level in the dewatering area drops. All reasonable efforts shall be made to capture and move all stranded aquatic life observed in the dewatered areas. Capture methods may include fish landing nets, dip nets, buckets and by hand. Captured aquatic life shall be released immediately in the closest body of water adjacent to the work site. This condition does not allow for the take or disturbance of any state or federally listed species, or state listed species of special concern.

7. Flow diversions shall be done in a manner that shall prevent pollution and/or siltation and which shall provide flows to downstream reaches. Flows to downstream reaches shall be provided during all times that the natural flow would have supported aquatic life. Said flows shall be sufficient quality and quantity, and of appropriate temperature to support fish and other aquatic life both above and below the diversion. Normal flow shall be restored to the affected stream immediately upon completion of work at that location.

8. Silt control measures shall be utilized throughout all phases of the project where silt and/or earthen fill threaten to enter Waters of the State. Silt control structures shall be monitored for effectiveness and shall be repaired or replaced as needed. Build up of soil behind the fence shall be removed promptly and any breaches or undermined areas repaired at once.

9. All exposed/disturbed areas within the project site shall be stabilized to the greatest extent possible. Erosion control measures, such as, silt fences, straw hay bales, gravel or rock lined ditches, water check bars, and broadcasted straw shall be used where ever silt laden water has the potential to leave the work site and enter State waters. Erosion control measures shall be monitored during and after each storm event. Modifications, repairs and improvements to erosion control measures shall be made whenever it is needed.

10. Disturbed areas shall be revegetated with propagules (seeds, cuttings, divisions) of locally-collected native plants. If locally collected native plants are not available, sterile or short-lived revegetation plants shall be used (cereal barley, Regreen, Trios). Disturbed areas shall be protected with correctly installed erosion control measures (jute, straw, coconut fiber erosion control fabric, coir logs, straw).

11. A copy of this agreement must be provided to the contractor and all subcontractors who work within the stream zone and must be in their possession at the work site.

12. Building materials and/or construction equipment shall not be stockpiled or stored where they could be washed into the water or where they will cover aquatic or riparian vegetation.

13. Debris, soil, silt, bark, rubbish, creosote-treated wood, raw cement/concrete or washings thereof, asphalt, paint or other coating material, oil or other petroleum products, or any other substances which could be hazardous to aquatic life, resulting from project related activities, shall be prevented from contaminating the soil and/or entering the waters of the state. Any of these materials, placed within or where they may enter a stream or lake, by Operator or any party working under contract, or with the permission of the Operator, shall be removed immediately.

14. 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.

15. Department personnel or its agents may inspect the work site at any time.

16. The Operator is liable for compliance with the terms of this Agreement, including violations committed by the contractors and/or subcontractors. The Department reserves the right to suspend construction activity described in this Agreement if the Department determines any of the following has occurred:
    A). Failure to comply with any of the conditions of this Agreement
    B). Information provided in support of the Agreement is determined by the Department to be inaccurate.
    C). Information becomes available to the Department that was not known when preparing the original conditions of this Agreement (including, but not limited to, the occurrence of State or federally listed species in the area or risk to resources not previously observed)
    D).The project as described in the Agreement has changed or conditions affecting fish and wildlife resources change.

Any violation of the terms of this Agreement may result in the project being stopped, a citation being issued, or charges being filed with the District Attorney. Contractors and subcontractors may also be liable for violating the conditions of this agreement.

Amendments and Extension to Expiration Date

The Operator shall notify the Department before any modifications are made in the project plans submitted to the Department. Project modifications may require an amendment or a new notification. To modify the project, a written request for an amendment must be submitted to the Department (1600 Program, Post Office Box 47, Yountville, California 94599). An amendment requires a fee. The Fee Schedule can be obtained at www.dfg.ca.gov/1600 or by phone at (707) 944-5520. Amendments to the original Agreement are issued at the discretion of the Department. To modify the project, a written request for an amendment must be submitted to the Department (1600 Program, Post Office Box 47, Yountville, California 94599). There is a fee for an amendment. Amendments to the original Agreement are issued at the discretion of the Department.

To renew the Agreement beyond the expiration date, a written request for an extension must be submitted to the Department (1600 Program, Post Office Box 47, Yountville, California 94599) for consideration at least 30 days before the Agreement expiration date. An extension requires a fee. Extensions of the original Agreement are issued at the discretion of the Department.

This Agreement is transferable to subsequent owners of the project property by requesting an amendment.

Please note that you may not proceed with construction until your proposed project has undergone CEQA review and the Department signs the Agreement.

I, the undersigned, state that the above is the final description of the project I am submitting to the Department for CEQA review, leading to an Agreement, and agree to implement the conditions above required by the Department as part of that project. I will not proceed with this project until the Department signs the Agreement. I also understand that the CEQA review may result in the addition of measures to the project to avoid, minimize, or compensate for significant environmental impacts:

Operator's name (print): Mark Freiberg

Operator's signature: Mark Freiberg

Signed the 10th **day of** July **,** 2007

JARPA
Fish & Game

MAR 31 2006

1600-2006
0177-3

Rcvd. 3/31/06

SAN FRANCISCO BAY AREA

JOINT AQUATIC RESOURCE PERMIT APPLICATION

$1,390.00
33529
Phillip Williams & Assoc., Ltd

GREFSRUD
BOWERS
LT. CHRISTENSEN

Yountville

This form is for use in the following counties: San Francisco, Marin, Sonoma, Napa, Solano, Contra Costa, Alameda, Santa Clara, San Mateo

Please consult JARPA Instructions before completing the form

Copies of this form are being submitted to the following agencies:

Agency	Contact	Phone	Type of Application	Application/ Permit #	Status
☒San Francisco Bay Regional Water Quality Control Board (RWQCB)	Brian Wines	510-622-5680	Section 401 Permit		In Review
☒ US Army Corps of Engineers (Corps)	Tyson Eckerle	415-977-8462	Select One		In Review
☒CA Dept of Fish and Game (DFG)	Marcia Grefsrud	707-944-5559	Select One		In Review
☐US Environmental Protection Agency (EPA)			404 Individual		Select One
☐US Fish and Wildlife Service (FWS)			As suggested by US EPA		Select One
☐National Marine Fisheries Service (NMFS)			As suggested by US EPA		Select One
☐US Coast Guard			Section 9 Bridge		Select One
☐ San Francisco Bay Conservation and Development Commission (BCDC)			Select One		Select One
☐CA Lands Commission			Select One		Select One
☐Federal Funding Agency					Select One
☐ Lead Local Agency			CEQA		Select One
☐ Other Local Agency			Local Permit		Select One
☐ Other Local Agency			Local Permit		Select One

SECTION ONE – TO BE COMPLETED BY ALL APPLICANTS

Attach additional sheets, if needed

Box 1 Project Name **Winter Creek Permanent Stabilization Project**		**Applicant Name** **Ron Coley**	
Mailing Address 125 University Hall, Berkeley, CA 94720-1100			
Work Phone 510-643-1430	Home Phone	Fax # 510-642-7328	E-mail Address rcoley@berkeley.edu

Relationship of applicant to property:
☒ Owner ☐ Purchaser ☐ Lessee ☐ Other _____

Application is hereby made for a permit or permits to authorize the activities described herein. I certify that I am familiar with the information contained in this application, and that to the best of my knowledge and belief, such information is true, complete, and accurate. I further certify that I possess the authority to undertake the proposed activities. I hereby grant to the agencies to which this application is made, the right to enter the above-described location to inspect the proposed, in-progress or completed work. I agree to start work only after all necessary permits have been received.

Signature of applicant	Date 3/28/06

Box 2 Authorized Agent/Operator Name and Signature ***(If an agent is acting for the applicant during the permit process)***			
Greg Haet			
Mailing Address 317 UNIVERSITY HALL, BERKELEY, CA 94720-1150			
E-mail Address gjhaet@berkeley.edu			
Work Phone 510 642-4848	Home Phone	Fax # 510 643-7595	Cell Phone #

I hereby designate the above named authorized agent to act as my agent in matters related to this application for permit(s). I understand that I am bound by the actions of my agent and I understand that if a federal or state permit is issued, I, or my agent, must sign the permit.

Signature of applicant	Date 3/28/06 mo/date/year

I certify that I am familiar with the information contained in this application, and that to the best of my knowledge and belief, such information is true, complete, and accurate.

Signature of authorized agent	Date 3/30/06 mo/date/year

Box 3 Name of property owner(s), if other than applicant. **Kate Bolton**	
Mailing Address 1936 University Avenue, Berkeley, CA 94720-1380	
Work Phone 510-643-2796	Home Phone

I understand I am bound by actions of authorized agent and/or the applicant.

Signature of property owner (except public entity landowners)	Date mo/date/year

This page must be signed by the applicant, property owner and agent to be considered complete.

Box 4 Location, including street address, city, county, zip code where proposed activity will occur
MATHER GROVE, UC BERKELEY BOTANICAL GARDENS, 200 CENTENNIAL DRIVE, #5045, BERKELEY, CA 94720-5045 (ALAMEDA COUNTY)

Waterbody (if known):WINTER CREEK

Tributary to:Strawberry Creek

Latitude & longitude if known:37N52'31.01", 122W14'23.56"	Zoning Designation:
Assessors parcel number:	Section, Township, Range, USGS Quadrangle Map, Latitude/Longitude:

Box 5 Existing site conditions: Describe the existing condition of the site, including wetlands, channels, streams, ponds, seeps and ditches, and other jurisdictional features. Include information on elevations, vegetation, property use, and structures. Use additional pages if necessary. **If any portion of the proposed activity has already been initiated or completed on this property, indicate type of activity and month and year of completion, if applicable: month/year**

Winter Creek is a steep headwaters drainage and tributary to Strawberry Creek, located in Mather Memorial Redwood Grove at the UC Botanical Gardens above the University of California, Berkeley campus. Increased and concentrated runoff resulting from development and land use changes within the watershed over the last few years has destabilized the creek bed and banks, causing dramatic channel incision and coincident bank erosion. The channel erosion has degraded the function and character of the creek and threatens existing facilities (pathways and drainage systems) as well as institutional and natural resources (specimen trees, planting areas and sediment delivery to Strawberry Creek).

In late 2005 an emergency project was implemented to temporarily stabilize Winter Creek. The project consisted of the construction of a temporary extension at the culvert outfall and several stabilization structures within the creek channel.

This project will remove the temporary stabilization measures and provide a long term restoration consistent with watershed function and the institutional setting of the UC Botanical Gardens.

Box 6 Proposed project starting date: June/2007

Estimated duration of activity: 14 weeks Estimated completion date: October 2007

Will the project be constructed in stages? ☐ Yes ☒ No

Describe any anticipated activities that will take place during the rainy season (October to April)? None

Box 7 Description of the proposed project: Use as many pages as necessary to describe the project as completely as possible. Describe the area within the project site that will be used each for development features and open space. Include construction plans pertaining to the project. For additional guidance on what to include, refer to the instructions

See attached project description and drawings.

Purpose of the proposed project:

In the last 2-4 years, the site has experienced accelerated erosion, threatening not only the specimen plants and trees of the UC Botanical Garden, but also the existing storm drain culvert, the pedestrian pathway and the pedestrian footbridge. In addition, the existing creek channel is severely incised.

The proposed work is intended to provide long term, site-specific erosion protection measures as a guard against erosion at the project site. In addition, it will limit erosion-induced sediment transport to the downstream reaches of the creek. It was determined that this work was advisable by recent hydrologic and geomorphic studies (PWA, 2005) that predicted that if left untreated, the erosion will likely continue to further threaten the existing facilities, structures and vegetation.

Environmental Documents (non-CEQA): List any environmental studies, surveys, etc. that have been prepared for the project and/or the project site. Provide the date of the document and the name of the individual, firm, or agency that prepared it. Attach additional pages as needed. See instructions.

Philip Williams & Associates - Winter Creek Hydrology Calculations (2005).
Philip Williams & Associates - Winter Creek Geomorphic Assessment (2005).

Attach figures, maps, and directions to the project site. See instructions for completing the drawings. One set of original or good quality reproducible drawings must be attached to each agency. Applicants are encouraged to submit photographs of the project site, but these do not substitute for drawings. BCDC, the Corps Of Engineers and Coast Guard require at least one set of drawings on 8-1/2 x 11 inch sheets. Larger drawings may also be required. Fish and Game requires a USGS map showing project location, including distance and/or directions from the nearest city or town. Fish and Game also requires construction plans and drawings pertaining to the project. For a complete list of required drawings, refer to the instructions.

Box 8 Placement of Structures And/Or Fill Material

- Will fill be placed below the ordinary high water line for fresh waters? ☒ Yes ☐ No
- Will rock, fill, bulkhead, pilings, structures or other material be placed waterward of the mean high water line for tidal waters? ☐ Yes ☒ No
- Will fill be placed below the high tideline in tidal waters? ☐ Yes ☒ No

If applicable, number of linear feet of impact 400 feet
Amount of **total** fill - 110 cubic yards, _____ square feet, _____ acreage
Amount of fill **below the ordinary high water mark or high tide line** 110 cubic yards _____ acreage
Type of fill Soil, rock and cobbles.
Material source Project site and local quarry.

Box 9 Impacts on Wetlands

- Will the proposed project have temporary or permanent impacts to wetlands, including seasonal

wetlands, managed wetlands or on tide or submerged lands (i.e. fill, flooding, draining)? ☐ Yes ☒ No

If yes, please describe the wetlands, using additional pages as necessary. Provide one or more photographs of the existing conditions.

Not applicable.

- If a wetlands delineation has been completed, please submit it with application. ☐ Yes, Attached ☒ No
- If a geology or soils report has been prepared, please submit with application. ☐ Yes, Attached ☒ No

Box 10 Waterway Impacts

Will the project or activity involve work in the bed, bank or channel of a river, stream (including seasonal streams), or lake? ☐ No

☒ Yes 400 linear feet along the waterway are involved Number of Stream Encroachments (for Timber Harvesting Plan only)

If yes, describe existing and proposed conditions.

See attached project description.

Box 11 Potential for Impacts to Threatened and Endangered Species

List any state and/or federally listed species and/or associated habitat that occurs or may occur on the project site. If a federal or state listed species is being impacted, please provide a description and a biological assessment. ☐ Yes, Attached ☒ No

Have surveys, using US Fish and Wildlife Service protocols, for possible listed species been conducted? ☐ Yes, Attached ☒ No

Box 12 Avoidance of Impacts

Describe efforts to avoid and minimize impacts to waters of the U.S./State and provide proper protection of aquatic life. Attach an Alternatives Analysis, if prepared. (90 percent of applications to the Regional Board require an Alternatives Analysis.) See instructions.

No fish are present in Winter Creek.

Box 13 Mitigation

Describe the size, type, location, function, and values of the proposed mitigation and a time line for implementation. Describe success criteria, monitoring, and long-term funding, management, and protection of the mitigation site. Attach A Mitigation Plan, if needed. Attach additional pages as needed. See instructions and contact APPROPRIATE AGENCY staff for additional assistance.

See attached project description.

Box 14 Excavation And/Or Dredging

For Projects OUTSIDE of the San Francisco Bay, San Pablo and Suisun Bay. [Dredging Projects **in** San Francisco Bay, San Pablo Bay, and Suisun Bay, should be completed through the Dredged Material Management Office (DMMO)].

Will excavation or dredging be required in water or wetlands? ☐ Yes ☒ No

If dredging or excavation:

- Volume: _____ (cubic yards)/area_____ (acres)/_____ (linear feet of channel)
- Composition of material to be removed:
- Disposal location for excavated material:
- Method of dredging:
- Purpose of the dredging:
- Estimated future maintenance dredging required annually: _____ cubic yards
- Additional information to be provided in an attachment ☐ Yes ☐ No

Box 15 Environmental Impact Documentation	
Completed CEQA Documents Attached:	☐ Notice of Exemption ☐ Negative Declaration ☐ Mitigated Negative Declaration ☐ Draft or Final Environmental Impact Report ☐ Notice of Determination
Copies of applicable local, State, or federal permits, agreements, or other authorizations:	☐ State. Describe:
	☐ Local. Describe:
	☐ Federal. Describe:
Is documentation being prepared? ☐ Yes ☒ No Describe:	
Has any agency denied approval for the activity described herein or for any activity directly related to the activity described herein? ☒ No ☐ Yes Explain:	
Other projects List and describe other projects implemented or planned that are related to the proposed project, or that may impact the same waterbody None.	

Box 16 Public Notice Has a federal agency or the applicant provided public notice of this application for water quality certification?

Federal Agency ☐ Yes If yes, date, , and ☒ No

Applicant ☐ Yes If yes, date, , and ☒ No

If public notice has not been made, please provide the names, addresses and telephone numbers of adjoining property owners, lessees, etc. *(Note that local governments may require additional notice – consult your local government agency.)*

Name	Address	Phone number

End of Section One

Section Two – Agency Specific Requirements for Project Permitting

Box 17 Department of Fish and Game – Projects Adjacent to Creeks, Streams, Lakes, and the Bay

☐ This project does not involve this agency (no additional questions completed)

Notification Type	
☐ Timber Harvesting Plan (No.__ __)	☒ Water Application (No.__ ____)
☐ Commercial Gravel Extraction (No.____ ____)	☐ Other

Application Information			
	Name	**Address**	**Telephone/FAX**
Applicant:	RON COLEY	125 UNIVERSITY HALL, BERKELEY, CA 94720-1100	Business: 510-643-1430 Fax: 510-642-7328
Operator:	GREG HAET	317 UNIVERSITY HALL, BERKELEY, CA 94720-1150	Business: 510-642-4848 Fax: 510-643-7595
Contractor: (if known)			Business: Fax:
Contact Person: (if not applicant)			Business: Fax:
Property Owner:	KATE BOLTON	1936 UNIVERSITY AVENUE, BERKELEY, CA 94720-1380	Business: 510-643-2796 Fax: 510-642-7271
Project Name:	WINTER CREEK PERMANENT STABILIZATION PROJECT	**Project Cost:**	$600,000 (ESTIMATE)

I hereby certify that all information contained in this notification is true and correct and that I am authorized to sign this document. I understand that in the event this information is found to be untrue or incorrect, I may be subject to civil or criminal prosecution and the Department may consider this notification to be incomplete and/or cancel any Lake or Streambed Alteration Agreement issued pursuant to this notification. I understand that this notification is valid only for the project described herein and that I may be subject to civil or criminal prosecution for undertaking a project that differs from the one described herein, unless I have notified the Department of that project in accordance with Fish and Game Code Section 1602.

I understand that a Department representative may need to inspect the property where the project described herein will take place before issuing a Lake or Streambed Alteration Agreement pursuant to this notification. In the event the Department determines that a site inspection is necessary, I hereby authorize the Department to enter the property where the project described herein will take place to inspect the property at any reasonable time and certify that I am authorized to grant the Department permission to access the property.

☒ I request the Department to first contact me at (insert telephone number) __510-643-2796___ to schedule a date and time to enter the property where the project described herein will take place and understand that this may delay the Department's evaluation of the project described herein.

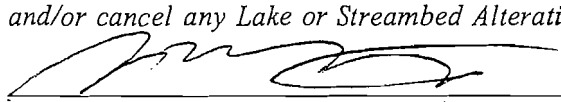
Operator or Operator's Representative Date

PROJECT QUESTIONNAIRE	Yes	Maybe/ Uncertain	No	Please explain if you responded "yes" or "maybe/uncertain"
1. Will the project or activity involve work on the bank of a river, stream, or lake?	☒	☐	☐	Regrading, stabilization and revegetation.
2. If you answered "yes" to #1, will the project or activity involve any of the following:				
a. Removal of any vegetation?	☒	☐	☐	Minimal bank vegetation will be removed during grading activities. Will be replaced and enhanced.
b. Excavation of the bank?	☒	☐	☐	Banks will be regraded, but revegetated and restored.
c. Placement of piers?	☐	☐	☒	
d. Placement of bank protection or stabilization structures or materials (e.g., gabions, rip-rap, concrete slurry/sacks)?	☒	☐	☐	Vegetated soil lifts, brush mats, vegetated rock and native plantings.
3. Will the project or activity take place in, adjacent to, or near a river that has been designated as "wild and scenic" under state or federal law?	☐	☐	☒	
4. Will the project or activity involve work in the bed or channel of a river, stream, or lake?	☒	☐	☐	Creek channel and banks will be regraded, reconstructed and stabilized.
5. Will the project or activity involve the placement of any permanent or temporary structure in a river, stream, or lake?	☒	☐	☐	Concrete headwall structure to stabilize drop inlet. Placed (flexible) rock grade control structures (step pools, riffles).
6. Will the project involve the use of material from a streambed?	☒	☐	☐	Original streambed material will be reused to the extent possible and appropriate.
7. Will the project or activity result in the disposal or deposition of debris, waste, or other material in a river, stream, or lake?	☐	☐	☒	
a. If you answered "yes" to #7, describe the material that will be disposed of or deposited in the river stream, or, lake:				
8. Will any type of equipment be used in a river, stream, or lake?	☒	☐	☐	Light earth moving equipment.
a. If you answered "yes" to #8, describe the type of equipment that will be used:	15,000 LB or 30,000 LB tracked excavator, Bobcat skid steer loader or equivalent.			

PROJECT QUESTIONNAIRE	Yes	Maybe/ Uncertain	No	Please explain if you responded "yes" or "maybe/uncertain"
9. Does the project or activity area flood or periodically become inundated with water?	☒	☐	☐	Creek bed and banks during large storm/ rainfall return events.
10. Will water need to be diverted from a river, stream, or lake for the project or activity?	☒	☐	☐	Creek flows will be temporarily diverted using a gravity system to bypass and dewater the entire project site. There is generally little or no flow in Winter Creek during summer months (ephemeral stream).
11. If you answered "yes" to #10, please answer the following:				
a. Will this be a temporary diversion?	☒	☐	☐	The temporary diversion will utilize a gravity flow system. Flows will be captured within the existing culvert, routed around the areas of work, and outfall in existing downstream culvert.
b. Will water quality be affected by the deposition of silt, an increase in water temperature, a change in the pH level, or in some other way?	☐	☐	☒	
c. Will the water be diverted by means of a dam, reservoir, or other water impoundment structure?	☐	☐	☒	
12. Will the project or activity be done pursuant to a water right application or permit?	☐	☐	☒	
13. Has a wildlife assessment or study been completed for the area where or near where the project or activity will take place? (If "yes", please attach or enclose a copy of the assessment or study.)	☐	☐	☒	
14. Will the project or activity affect fish, amphibians, insects, or other aquatic resources?	☐	☒	☐	Any wildlife encountered during the project implementation will be relocated. Contractor and crews will be educated regarding agency priorities. Fish do not inhabitat or persist in this area of the creek.
15. Will the project or activity affect terrestrial wildlife?	☐	☒	☐	Construction activities and associated disturbance may temporarily/ episodically disturb access to the creek corridor and movement of terrestrial wildlife.
16. Are any endangered or rare plant species thought or known to occur in the area where the proposed project or activity will take place?	☐	☐	☒	
17. Are any endangered or threatened				

PROJECT QUESTIONNAIRE	Yes	Maybe/ Uncertain	No	Please explain if you responded "yes" or "maybe/uncertain"
fish, bird, or animal species thought or known to occur in the area where the proposed project or activity will take place?	☐	☐	☒	
18. Have you contacted any other local, State, or federal agency regarding the project or activity?	☐	☐	☒	
a. If you answered "yes" to #18, please list the names of the agencies you have contacted:				
19. Have you applied for or obtained any permit, agreement, or other authorization for your project or activity from any government agency?	☐	☐	☒	
If you answered "yes" to #19, please list the names or describe the permit, agreement, or authorization you have applied for or obtained:				
20. Have any environmental documents pertaining to your project or activity been prepared?	☐	☐	☒	
a. If you answered "yes" to #20, please list the environmental documents that have been prepared:				

I hereby certify that all information contained in this form is true and correct and that I am authorized to sign this document. I understand that in the event this information is found to be untrue or incorrect, I may be subject to civil or criminal prosecution and the Department may consider my notification to be incomplete and/or cancel any Lake or Streambed Alteration Agreement issued pursuant to my notification.



3/30/06

Operator or Operator's Representative
Date

Box 18 Bay Conservation and Development Commission – Projects on the Shore of the San Francisco Bay or Other BCDC Areas of Jurisdiction

☒ **This project does not involve this agency (no additional questions completed)**

Does the project involve development within the primary management area of the Suisun Marsh? ☐ Yes ☐ No If "Yes", provide any relevant Duck Club number(s):	Does the project involve development within the 100-foot shoreline band around San Francisco Bay? ☐ Yes ☐ No San Francisco Bay Plan Shoreline Designation
Length of shoreline on the project site, in feet:	Length of shoreline of any adjacent property owned by the owner of the project site, in feet:
Area reserved for non-public access uses: Sq. Feet	Area reserved for public access: Sq. Feet
Total size of underwater and tidal areas of the project site: Sq. Feet	ID Number(s) of previous BCDC permit(s) issued for work on this site:

Total cost of project. **(This means the fair market value of the project, including materials, labor, machine rentals, etc.)** **$_____** **Processing Fee**

Bay Fill Information - Fill means earth or any other substance or material, including pilings or structures placed on pilings, and structures floating at some or all times and moored for extended periods such as houseboats and floating docks.

- Total Volume of solid fill to be placed in water or marsh areas: ____ cubic feet
- Area to be covered with solid fill: _____square feet
- Area to be covered with floating fill: _____sq feet
- Area to be covered with pile-supported fill: _____sq feet
- Area to be covered with cantilevered fill: _____ sq feet
- Salt pond area to be filled: _____sq feet
- Managed wetland area in the primary management
- Area of the Suisun Marsh to be filled:_____sq feet
- Area on new fill to be reserved for private, commercial, or other uses: _____ sq feet
- Area on new fill to be reserved for public access: _____ sq feet
- What is the basic purpose of the new fill in the Bay, salt pond, managed wetland, or certain waterway?

Information on Fill to be provided in an attachment

- Please specify the area of fill, in square feet, proposed to be covered in structures; used for roads; used for parking; used for pathways and sidewalks; covered with landscaping; used for piers, docks, and other maritime related purposes; placed for shoreline protection; and used for other purposes (specify uses).
- Please provide dimensions of portions of all structures to be built on new fill, including length, width, area, height and number of stories.
- Please provide one or more photographs of existing shoreline conditions.

Provide the following information to justify the proposed fill in an attachment:

BCDC can approve new fill for only five purposes: (1) accommodating a water-oriented use; (2) improving shoreline appearance; (3) providing new public access to the Bay; (4) accommodating a project that is necessary to the health, safety, or welfare of the public in the entire Bay Area; and (5) accommodating a project that is consistent with either: (1) the Suisun Marsh Preservation Act and the Suisun Marsh Protection Plan; or (2) the Suisun Marsh Local Protection Program. Please explain how the project is consistent with one or more of these purposes.

- If the fill is to be used for improving shoreline appearance or providing new public access to the Bay, please explain why it is physically impossible or economically infeasible to accomplish these goals without filling the Bay.
- Please explain how the fill will result in a stable and permanent shoreline.
- Please explain the steps that will be taken to assure that the project will provide reasonable protection to persons and property against hazards of unstable geologic or soil conditions or of flood or storm waters.
- Please provide the names, addresses, and telephone numbers of any licensed geologists, engineers, or architects involved in the project design who can provide technical information and certify to the safety of the project.

BOX 18 (CONTINUED)

- Please explain:
  1. What possible effects the proposed fill would have on the Bay Area, such as (1) any impact on the volume of Bay waters, on Bay surface area, or on the circulation of Bay water; (2) any impact on water quality; (3) any impact on the fertility of marshes or fish and wildlife resources; and (4) any impact on other physical conditions that exist within the area which would be affected by a proposed project, including land, air, water, minerals, flora, fauna, noise, or objects of historic or aesthetic significance; and
  2. How the nature, location, and extent of the proposed fill would minimize any possible harmful conditions or effects.
- Please explain how the public benefits of the project would exceed the public detriment from the loss of water or marshlands.
- For marina projects, please indicate how many berths, if any, are to be made available for live-aboard boats and explain how these live-aboard boats will contribute to public trust purposes.
- Please identify any other specific policies of the McAteer-Petris Act (California Government Code Title 7.2, especially Section 66605), the Suisun Marsh Preservation Act (California Public Resources Code Sections 29000-29612), the San Francisco Bay Plan and the Suisun Marsh Preservation Plan, and BCDC's regulations regarding minor fill for improving public access and shoreline appearance, that are relevant to and offer support for the project and explain how the project is consistent with these policies.

Shoreline Band Information - Shoreline band means the land area lying between the bay shoreline and a line drawn parallel to and 100 feet from the bay shoreline. The bay shoreline is the mean high water line, or five feet above mean sea level in marshlands.

- Types of activities to be undertaken or materials to be placed within the shoreline band
- Will the project be located within a water-oriented priority use area that is designated in the San Francisco Bay Plan? ☐ Yes ☐ No If "yes", please attach an explanation of how the project can be approved despite this inconsistency. If no, complete the questions below:
  - Total shoreline band area within project site:_____ sq feet
  - Area within shoreline band to be reserved for non-public uses:_____ sq feet
  - Area within shoreline band to be reserved for public access: _____ sq feet
- Information about the shoreline work to be provided in an attachment:
  - Please describe the area, in square feet, to be covered by structures; used for roads; used for parking; used for pathways and sidewalks; covered with landscaping; used for shoreline protection; and used for other purposes (specify uses).
  - Please identify the total number of parking spaces in the project and within the shoreline band.
  - Please provide dimensions of portions of all structures to be built within the shoreline band, including length, width, area, height, and number of stories.

Environmental Impact Documentation

- Is the project statutorily exempt from the need for environmental documentation? ☐ Yes ☐ No If "yes", please attach a statement supporting this exemption.
- Is the project categorically exempt from the need for environmental documentation? ☐ Yes ☐ No If "yes", please attach a statement supporting this exemption.
- Has a government agency other than the lead agency certified a "negative declaration" on the project? ☐ Yes ☐ No If "yes", please attach a copy of the certified negative declaration. If "no", please provide sufficient information to allow agencies to make the necessary findings regarding all applicable policies.

Has a government agency other than the lead agency, certified an environmental impact document on the project? ☐ Yes ☐ No If "yes", please attach copies of the certification and the document. also, please provide a summary of the document if it is longer than 10 pages. If "no", please provide sufficient information to allow agencies to make the necessary findings regarding all applicable policies. the certified document must be submitted prior to action on the permit.

Public Access Information

- Does public access to the shoreline or views to the bay presently exist on the site of a property contiguous to the project? ☐ Yes ☐ No

  If "yes", please attach a description of the public access. If "no", explain what is preventing public access to the shoreline.
- Will the project block public views of the bay or adversely impact present or future public access to the shoreline? ☐ Yes ☐ No

Please describe why the project will or will not affect public views or public access to the shoreline. For most large projects, identify: (1) the existing number of people or employees using the site; and (2) the existing number of cars, bicycles, and pedestrians visiting the site and the level of service of all nearby roads leading to the site. Please describe how the project will change these factors. Please describe the impact the project is expected to have on the existing use of the site and on existing public views or physical public access at the site. Please describe the impact the project is expedted to have on the public's use of existing nearby parks, public access, public parking and other recreational areas on the shoreline and the roads leading to the site.

- Do public safety considerations or significant use conflicts make it infeasible to provide new public access to the shoreline on the project site? ☐ Yes ☐ No

If "yes", please attach a description of the public safety considerations or significant use conflicts which make it infeasible to provide public access at the project site and either (1) identify an offsite area where public access to the shoreline is to be provided as part of the project and describe the proposed public access at a specified offsite location, or (2) provide an explanation as to why no offsite public access is proposed as part of the project.

- Summarize the public access to be provided as part of the total project:
- Total amount of public access _____ sq feet
- Length of waterfront public access area _____ feet
- Number of parking spaces for public access area
- Area and width reserved for view corridor (s) _____ sq feet

Detailed information about public access to be provided in an attachment: Please describe, in square feet, length and width, when appropriate, the existing and proposed public access areas and improvements, including areas used for decks, piers, pathways, sidewalks, landscaping, parking, and other public features. Please describe how the public access area facilities would be accessible to handicapped persons. Please describe the connections to existing public streets or offsite public pathways. Specify how the public access will be permanently guaranteed (e.g. dedication, deed restriction, etc.).

Disclosure Of Campaign Contributions

The following contributions of $250 or more were made by the applicant or applicant's agent to a BCDC commissioner or commissioner's alternate in the preceding twelve months to support the commissioner's or alternate's campaign for election to a local, state or federal office:

Contribution made to:_____ Contribution made by: _____ Date of contribution:

☐ No such contributions have been made

END OF FORM