



**California Regional Water Quality Control Board
North Coast Region
Beverly Wasson, Chairperson**



Alan C. Lloyd, Ph.D.
Agency Secretary

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Arnold
Schwarzenegger
Governor

August 26, 2005

Mr. David Hull
Humboldt Bay Harbor,
Recreation and Conservation District
601 Startare Drive
Eureka, CA 95501

Mr. Mike Knight
City of Eureka
531 K Street
Eureka, CA 95501

Gentlemen:

Subject: Issuance of Clean Water Act Section 401 Certification (Water Quality Certification) for the Humboldt Bay Harbor, Recreation and Conservation District and City of Eureka Cooperative Maintenance Dredging Project

File: Woodley Island Marina and City of Eureka Waterfront Maintenance Dredging (WDID No. 1A04140WNHU)

This Order by the California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board), is being issued pursuant to Section 401 of the Clean Water Act (33 USC 1341), in response to your request, on behalf of the Humboldt Bay Harbor, Recreation and Conservation District (Harbor District) and City of Eureka (applicants), for Water Quality Certification for the cooperative maintenance dredging project in Humboldt Bay. The Regional Water Board received an application and \$6,627.20 processing fee from the City of Eureka on October 1, 2004. The Regional Water Board received an application and \$11,700 processing fee from the Harbor District on October 12, 2004. We deemed the application complete on October 18, 2004, and posted information on our website describing the proposed project for a 21-day public comment period starting on October 25, 2004. Regional Water Board staff received copies of the comment letters from the California Department of Fish and Game (CDF&G) to the Harbor District regarding the Mitigated Negative Declaration for this project. Regional Water Board staff contacted CDF&G staff and provided them with additional opportunity to comment specifically on the proposed water quality certification. The U.S. Environmental Protection Agency (USEPA) also required the applicants to conduct additional sediment testing in the areas proposed for dredging.

The applicants implemented a Sampling and Analysis Plan and demonstrated that contaminant concentrations in the sediment were within acceptable limits for ocean disposal for all sediments except those in the area of the Coast Seafoods dock. Sediment from that area was not approved

California Environmental Protection Agency

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for dredging and disposal to any surface water without additional Tier III testing and approval from USEPA. On August 23, 2005, Regional Water Board staff received more comments from CDF&G staff regarding the proposed shoreline disposal location and the disposal of sediment dredged from the Coast Seafoods dock area. This Order does not authorize dredging or disposal of sediment from the Coast Seafoods dock area without prior written approval from the U.S. Environmental Protection Agency (USEPA).

CDF&G staff and USEPA staff have indicated that the applicants may proceed with the project, including shoreline disposal, but that the sediment may not be suitable for beach disposal in the future mainly due to the small grain size and the lack of studies to evaluate the effects of disposal on the near shore sea floor habitat. These agencies have stated that they will object to any future projects involving shoreline disposal. CDF&G staff suggested that the applicants should either begin working now on identifying alternative methods for sediment disposal from future projects, or else plan to use the designated Humboldt Open Ocean Disposal Site in the future. This may be the last opportunity for the applicants to thoroughly study the effects of this type of disposal. If the applicants intend to pursue shoreline disposal for future projects, Regional Water Board staff recommend that the applicants work with USEPA and CDF&G to develop a plan to monitor and study the discharge and near shore subtidal habitat during implementation of this project.

Project Description:

This dredging project will use the cutter-suction pipeline dredging method with surf zone disposal. This is the same dredging and sediment disposal method that was used in 1987 and 1998 for similar maintenance dredging projects. The cutter-suction dredge is the preferred dredging method for this type of project because it can maneuver between the docks, piers, and slips of the marina and waterfront facilities. The cutter-suction dredge is also the preferred dredging method for this area of Humboldt Bay, because it creates less turbidity around the dredging area than does the clamshell dredging method. Cutter-suction dredging involves a moveable cutter head that loosens the bottom sediments and a pipe under constant suction that draws in the loose sediments and much of the turbid water around the cutter head. The dredged material and water mixture (spoils slurry) is pumped through a semi-flexible disposal line to the surf zone of the Pacific Ocean at the designated disposal area located on the shoreline of the Samoa Peninsula. The discharge pipeline will be floated across the minimal access open water areas of Humboldt Bay and will be weighted and submerged where crossing navigable waters.

Approximately 140,000 cubic yards (including overdredge) of sediment will be dredged from within the berthing areas of the marina, and approximately 77,000 cubic yards of sediment will be

dredged from eleven City of Eureka waterfront sites. The dredging activities are scheduled to begin in November 2005. The project is expected to take 75 days to complete, with the dredging contractor working twenty-four hours per day and seven days per week. The total area affected by the Woodley Island Marina portion of the dredging project is approximately 16.14 acres. The total area affected by dredging the City of Eureka waterfront sites is approximately 11.05 acres.

Receiving Water: Humboldt Bay and Pacific Ocean

Hydrologic Unit: Eureka Plain Hydrologic Unit No. 110.00

Dredge Volume: 217,000 cubic yards

Filled or Excavated Area: Area Temporarily Impacted: 27.19 acres
Area Permanently Impacted: none

Total Linear Impacts: Length Temporarily Impacted: 0.0 feet
Length Permanently Impacted: 0.0 feet

Federal Permit: United States Army Corps of Engineers Individual Permit
(File No. 22216N)

Compensatory Mitigation: None

Noncompensatory Mitigation: Best Management Practices for turbidity control include the use of a cutter-suction dredge and ocean disposal within the surf zone during the time of year when background turbidity levels are expected to be high and dissipation of the spoils slurry is expected to be rapid.

CEQA Compliance: The Humboldt Bay Harbor Recreation and Conservation District, as the lead California Environmental Quality Act (CEQA) agency, certified a Mitigated Negative Declaration for the project on October 14, 2004.

Standard Conditions: Pursuant to Title 23, California Code of Regulations, Section 3860 (23 CCR 3860), the following three standard conditions shall apply to this project:

- 1) This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section 13330 of the California Water Code and 23 CCR 3867.
- 2) This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- 3) The validity of any nondenial certification action (actions 1 and 2) shall be conditioned upon total payment of the full fee required under 23 CCR 3833, unless otherwise stated in writing by the certifying agency.

Additional Conditions:

Pursuant to 23 CCR 3859(a), the applicant shall comply with the following additional conditions:

- 1) The applicants shall notify Regional Water Board staff by telephone, email, or in writing at least five working days (working days are Monday – Friday) prior to the commencement of dredging work, with details regarding the project schedule, in order to allow staff to be present during implementation and to answer any public inquiries that may arise regarding the project.
- 2) Sediment from Coast Seafood's dock area shall not be dredged and discharged to surface waters without prior written approval from the USEPA and Regional Water Board.
- 3) No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature, other than that authorized by this permit, shall be allowed to enter into or be placed where it may be washed by rainfall into waters of the State. When operations are completed, any excess material or debris, including concrete washings, shall be removed from the work area and disposed of properly. No rubbish shall be

deposited within 150 feet of the high water mark of any stream.

- 4) Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the United States. At no time shall the applicant use any vehicle or equipment which leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of waters of the United States.
- 5) Project activities shall comply with provisions in the North Coast Region Water Quality Control Plan (Basin Plan).
- 6) Creation of pollution, contamination, or nuisance, as defined by Section 13050 of the California Water Code, is prohibited.
- 7) The suspended sediment load of surface waters in Humboldt Bay or the Pacific Ocean shall not be altered in such a manner as to cause a nuisance or adversely affect beneficial uses.
- 8) Dredging and sediment disposal activities shall not cause the turbidity of Humboldt Bay to be increased more than 20 percent above naturally occurring background levels.
- 9) The project site may be visited and assessed by Regional Water Board staff to document compliance with this certification.
- 10) A copy of this permit must be provided to the Contractor and all subcontractors conducting the work, and must be in their possession at the work site.
- 11) Aerial photos of the surf zone disposal location and the shoreline from the mouth of the Eel River to the mouth of the Mad River shall be taken before, during, and after the project to provide visual evidence of the effects of the discharge and the natural ocean water conditions along the shoreline. Aerial photos of this stretch of shoreline shall be taken within one week prior to discharge, within two weeks after discharge begins, approximately mid way through the project and within two weeks after the discharge ends. A report containing the

aerial photos shall be submitted within 30 days of the end of the project.

- 12) If, at any time, an unauthorized discharge to surface waters occurs, or any water quality problem arises, the project shall cease immediately and the Regional Water Board shall be notified promptly.
- 13) This Order is not transferable. In the event of any change in control of ownership of land presently owned or controlled by the Applicant, the Applicant shall notify the successor-in-interest of the existence of this Order by letter and shall forward a copy of the letter to the Regional Water Board at the above address.

To discharge dredged or fill material under this Order, the successor-in-interest must send to the Regional Water Board Executive Officer a written request for transfer of the Order. The request must contain the requesting entity's full legal name, the state of incorporation if a corporation, address, and telephone number of the person(s) responsible for contact with the Regional Water Board. The request must also describe any changes to the Project proposed by the successor-in-interest or confirm that the successor-in-interest intends to implement the Project as described in this Order.

Water Quality Certification: I hereby issue an order [23 CCR Subsection 3831(e)] certifying that any authorized discharge from Humboldt Bay Harbor, Recreation and Conservation District and City of Eureka Cooperative Maintenance Dredging Project (WDID No. 1B04140WNHU) 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 [33 USC Subsection 1341 (a)(1)], and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003 - 0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification.

Except as may be modified by any preceding conditions, all certification actions are contingent on: a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicant's project description, and b) compliance with all applicable requirements of the Regional Water Board's Water Quality Control Plan for the North Coast Region (Basin Plan).

Expiration: The authorization of this certification for any dredge and fill activities expires on April 30, 2006, or upon completion of the project, whichever occurs first. Conditions and monitoring requirements outlined in this certification are not subject to the expiration date outlined above, and remain in full effect and are enforceable.

Please notify Dean Prat at (707) 576-2801 or dprat@waterboards.ca.gov prior to the start of the project (pursuant to Additional Condition No. 1 above) so that we can answer any public inquiries about the work.

Sincerely,

Catherine E. Kuhlman
Executive Officer

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Enclosure:

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"

cc: U.S. Army Corps of Engineers, District Engineer, P.O. Box 4863, Eureka, CA 95502
Ms. Jane Hicks, U.S. Army Corps of Engineers, Regulatory Functions, 333 Market Street,
San Francisco, CA 94599
Ms. Michelle Smith, 422 First Street, Suite G, Eureka, CA 95501