



**California Regional Water Quality Control Board  
North Coast Region**

**John W. Corbett, Chairman**



**Linda S. Adams**  
Secretary for  
Environmental Protection

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**Arnold  
Schwarzenegger**  
Governor

**September 7, 2007**

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In the Matter of

**Water Quality Certification**

for the

**HUMBOLDT COUNTY DPW - UPPER BEAR RIVER ROAD P.M. 2.70 EMBANKMENT  
REPAIR  
WDID NO. 1B07058WNHU**

APPLICANT: Humboldt County Department of Public Works  
RECEIVING WATER: Bear River  
HYDROLOGIC UNIT: Capetown Hydrologic Area No. 112.20  
COUNTY: Humboldt  
FILE NAME: Humboldt Co. DPW – Upper Bear River Road P.M. 2.70  
Embankment Repair

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BY THE EXECUTIVE OFFICER:

1. On May 4, 2007, the Humboldt County Department of Public Works (Applicant) filed an application for water quality certification (certification) under section 401 of the Clean Water Act (33 U.S.C. § 1341) with the California Regional Water Quality Control Board, North Coast Region (Regional Water Board) for activities related to a storm damage project that involves repairing a failed embankment on Upper Bear River Road at Post Mile 2.70 near Capetown. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on August 16, 2007, and posted information describing the project on the Regional Water Board's website. We did not receive any public comments on this project.
2. Upper Bear River Road is a rural gravel road with sections that are directly adjacent to the banks of the Bear River. Severe storm events in December 2005 and January 2006 caused Bear River to overtop its banks and flood portions of Upper Bear River Road. The high flows resulted in erosion damage to a 200 foot long section of the road shoulder and embankment. There are five 15 foot long areas of erosion within the 200 foot long section. The streambank in the erosion areas contains displaced rock slope protection (RSP) that was previously installed during emergency road repairs that were made in response to storm damage that occurred in the winter of 2002. The Regional Water Board also issued a Water Quality Certification in the

***California Environmental Protection Agency***

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*Recycled Paper*

summer of 2002 for a riparian habitat restoration project along the same section of eroding streambank that included installation of RSP, hard points, and willow and cottonwood plantings.

3. The purpose of the project is to restore the road shoulder and protect the streambank and roadway from additional erosion. The project involves installation of approximately 80 cubic yards of additional 1/2-ton RSP in the five erosion areas. Equipment used for placing the RSP will be operated from the road surface. The project does not involve any excavation within the stream channel. Existing and displaced RSP will also be picked up and reinstalled in the erosion areas. The RSP that remains stable and the existing willow and cottonwood trees within the stable RSP will not be removed.
4. The project will result in permanent impacts to a section of the streambank that was previously impacted by emergency erosion repair and riparian habitat restoration projects. Compensatory mitigation is not required for the project. Noncompensatory mitigation for this project includes the use of Best Management Practices for sediment and turbidity control and the use of heavy equipment near a waterway. The project is scheduled for the summer 2007 when the flows in Bear River are very low. Construction activities are expected to take three days to complete.
5. The Applicant has applied to the California Department of Fish and Game for a Lake or Streambed Alteration Agreement for the project.
6. The applicant has applied for authorization from the United States Army Corps of Engineers to perform the project under Nationwide Permit Number 3, pursuant to Clean Water Act, section 404.
7. The Regional Water Board, as the lead California Environmental Quality Act (CEQA) agency, has determined that this project qualifies for a Categorical Exemption, section 15301 – existing facilities, pursuant to CEQA..

Receiving Water: Bear River in the Capetown Hydrologic Area No. 112.20

Filled or Excavated Area: Area Temporarily Impacted: None  
Area Permanently Impacted: 375 square feet of streambank (0.009 acre) area that was previously impacted by emergency erosion repair and riparian habitat restoration projects

Total Linear Impacts: Length Temporarily Impacted: None  
Length Permanently Impacted: 75 linear feet of streambank area that was previously impacted by emergency erosion repair and riparian habitat restoration projects

Dredge Volume: None

Latitude/Longitude: 40.46329 N/124.30450 W

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Upper Bear River Road P.M. 2.70 Embankment Repair Project (WDID No. 1B07058WNHU), as described in the application, will comply with sections 301, 302, 303, 306 and 307 of the Clean Water Act, and with applicable provisions of state law, provided that the Applicant complies with the following terms and conditions:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330 and title 23, California Code of Regulations, section 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 title 23, California Code of Regulations, section 3855, subdivision (b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. This certification is conditioned upon total payment of any fee required under title 23, California Code of Regulations, section 2200, and owed by the Applicant.
4. The Regional Water Board shall be notified prior to the commencement of ground disturbing activities, with details regarding the construction schedule, in order to allow staff to be present onsite during construction, and to answer any public inquiries that may arise regarding the project.
5. A copy of this Order and the application submitted by the Applicant for this certification shall be provided to all contractors and subcontractors conducting the work, and shall be in their possession at the work site.
6. All project work shall be conducted as described in this Order and in the application submitted by the Applicant. It is the Applicant's responsibility to ensure that their contractor(s) are knowledgeable of the authorized project activities, BMPs, avoidance measures and mitigation measures contained in the application submitted by the Applicant. If the Regional Water Board is not notified of a significant alteration to the project, it will be considered a violation of this Order, and the Applicant may be subject to Regional Water Board enforcement actions.
7. BMPs for erosion, sediment and turbidity control shall be implemented and in place at commencement of, during and after any ground clearing activities or any other project activities that could result in erosion or sediment discharges to surface water.
8. 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 Order, 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 shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any stream.

9. If, at any time, an unauthorized discharge to surface water (including wetlands, rivers or streams) occurs, or any water quality problem arises, the associated project activities shall cease immediately until adequate BMPs are implemented. The Regional Water Board shall be notified promptly and in no case more than 24 hours after the unauthorized discharge or water quality problem arises.
10. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete the project.
11. Prior to implementing any change to the project that may have a significant or material effect on the findings, conclusions, or conditions of this Order, the Applicant shall obtain the written approval of the Regional Water Board Executive Officer.
12. The Regional Water Board may add to or modify the conditions of this Order, as appropriate, to implement any new or revised water quality standards and implementation plans adopted and approved pursuant to the Porter-Cologne Water Quality Control Act or Section 303 of the Clean Water Act.
13. The Applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
14. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under applicable State or federal law. For the purposes of section 401(d) of the Clean Water Act, the applicability of any State law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification. In response to a suspected violation of any condition of this certification, the Regional Water Board may require the holder of any federal permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the Regional 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. In response to any violation of the conditions of this certification, the Regional Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.
15. 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, and the 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.

16. Except as may be modified by any preceding conditions, all certification actions are contingent on: a) the discharge being limited to and all proposed mitigation being completed in strict compliance with the Applicant's project description, and b) compliance with all applicable requirements of the Water Quality Control Plan for the North Coast Region (Basin Plan).
17. The authorization of this certification for any dredge and fill activities expires on September 7, 2012. 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.

If you have any questions or comments please call Dean Prat at (707) 576-2801.

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Robert R. Klamt  
Interim Executive Officer

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Original to: Mr. Hank Seemann, Humboldt County Department of Public Works  
1106 Second Street, Eureka, CA 95501-0579

Copies to: 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,  
1455 Market Street, San Francisco, CA 94103-1398