



Linda S. Adams
Secretary for
Environmental Protection

**California Regional Water Quality Control Board
North Coast Region
Bob Anderson, Chairman**

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Arnold
Schwarzenegger
Governor

February 4, 2008

In the Matter of

Water Quality Certification

for the

**CRESCENT CITY – HARBOR TRAIL NORTH SEGMENT
WDID NO. 1A07153WNDN**

APPLICANT: City of Crescent City
RECEIVING WATER: Elk Creek
HYDROLOGIC UNIT: Smith River Plain Hydrologic Subarea No. 103.11
COUNTY: Del Norte
FILE NAME: Crescent City – Harbor Trail North Segment

BY THE EXECUTIVE OFFICER:

1. On September 26, 2007, the City of Crescent City (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 associated with construction of a pedestrian and bicycle trail over Elk Creek in Crescent City. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on December 27, 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. The primary purpose of the project is to complete the California Coastal Trail within the city limits of Crescent City and to link previously completed segments along the coast with future trail segments to be constructed in the Crescent City Harbor District and unincorporated areas within Del Norte County. The project will allow pedestrians and cyclists to avoid using the roadway and narrow sidewalks in the curve area south of the Highway 101 and Front Street intersection.
3. The project involves construction of a trail and 110-foot long pedestrian/bicycle bridge that will span the channel and banks of Elk Creek. The project includes acquisition of a 1.16 acre parcel near the east end of the bridge for construction of a trailhead area that includes a new public access parking lot, public restrooms, interpretive signs, and trail information.

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4. Construction of the bridge and abutments will not result in any impacts to waters of the state. Construction of a section of the trail at the east approach to the bridge abutment involves placement of approximately 30 cubic yards of fill material and approximately 10 cubic yards of rock armoring to protect the fill in an area of one-parameter wetlands located on a terrace adjacent to the creek bank. The fill and rock armoring will result in permanent impacts to 64 square feet (0.001 acre) of these wetlands. The project is not expected to result in any temporary impacts to waters of the state.
5. Compensatory mitigation is required for permanent impacts to the one-parameter wetlands. Compensatory mitigation involves construction of a bio-swale and planting 14,000 square feet with native wetland plants. The bio-swale area is located adjacent to the new trailhead and parking area. Runoff from the parking area will pass through the bio-swale before reaching Elk Creek. The bio-swale will not receive runoff from Highway 101 or the surrounding area. Noncompensatory mitigation includes the use of Best Management Practices (BMPs) for sediment and erosion control. The project is expected to take two years to complete.
6. The applicant has received authorization (File No. 300380N) from the United States Army Corps of Engineers to perform the project under Nationwide Permit No. 14, pursuant to Clean Water Act, section 404.
7. The California Department of Fish and Game has issued a Lake or Streambed Alteration Agreement for the project.
8. On January 18, 2005, the City of Crescent City adopted a mitigated negative declaration (SCH No. 2002004122056) for the project in order to comply with CEQA. The Regional Water Board has considered the environmental document and any proposed changes incorporated into the project or required as a condition of approval to avoid significant effects to the environment.

Receiving Water: Elk Creek in the Smith River Plain Hydrologic Subarea No. 103.11

Filled or Excavated Area: Area Temporarily Impacted: none
Area Permanently Impacted: 64 square feet (0.001 acre) of one parameter coastal wetlands

Total Linear Impacts: Length Temporarily Impacted: none
Length Permanently Impacted: none

Dredge Volume: None

Latitude/Longitude: 41.75444 N/124.19079 W

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Harbor Trail North Segment Project (WDID No. 1A07153WNDN), 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:

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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 in writing at least five working days (working days are Monday – Friday) 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. 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.
6. 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.
7. All activities and BMPs shall be implemented according to the submitted application and the conditions in this certification.
8. A copy of this Order and the application documents 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.
9. The mitigation measures for Biological Resources (IV) and Hydrology and Water Quality (VIII) that are detailed in Mitigation and Monitoring Program attached to the Mitigated Negative Declaration are hereby incorporated by reference and are conditions of approval of this certification. Notwithstanding any more specific conditions in this certification, the Applicant shall implement all the mitigation

measures identified in the Mitigation Monitoring and Reporting Program that are within the Regional Water Board's jurisdiction.

10. The Applicant shall implement the Mitigation Measure Monitoring and Reporting activities described in the Mitigation and Monitoring Program. A copy of the mitigation activity report shall be submitted to this agency upon project completion and no later than the expiration date of this certification.
11. 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.
12. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete the project.
13. 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.
14. All project work shall be conducted as described in this Order and 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.
15. 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.
16. The Applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
17. 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 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.

18. 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.

19. 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).
20. The authorization of this certification for any dredge and fill activities expires on February 4, 2013. 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.

Robert R. Klamt
Interim Executive Officer

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Original to: Mr. Will Caplinger, City of Crescent City, 377 J Street,
Crescent City, CA 95531

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

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