



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



Linda S. Adams
Secretary for
Environmental Protection

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Arnold Schwarzenegger
Governor

March 5, 2008

In the Matter of
Water Quality Certification
for the

**RECLAMATION DISTRICT 768 – SITE 9 LEVEE REPAIR PROJECT
WDID No. 1B06068WNHU**

APPLICANT: Reclamation District 768
RECEIVING WATER: Humboldt Bay
HYDROLOGIC UNIT: Mad River Slough and Humboldt Bay in the Eureka Plain
Hydrologic Unit No. 110.00
COUNTY: Humboldt
FILE NAME: Reclamation District 768 – Levee Repairs

BY THE EXECUTIVE OFFICER:

1. On May 17, 2006, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application from Reclamation District 768, requesting Federal Clean Water Act, Section 401, Water Quality Certification for proposed activities to repair several sections of the storm damaged levee along the Mad River Slough and the north side of Arcata Bay. The Regional Water Board provided public notice of the proposed project on July 2, 2007, and posted information describing the project on the Regional Water Board's website. The Regional Water Board did not receive any public comments and, on August 8, 2007, issued Water Quality Certification for the proposed activities.
2. On November 21, 2007, the Reclamation District 768 (Applicant) filed another 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 proposed activities to repair an additional section of the storm damage levee called Site 9. Site 9 repair activities were not included in the previous application for Water Quality Certification because the applicant believed the United States Army Corps of Engineers (USACOE) staff would authorize the Site 9 repair activities under Regional General Permit 5 (RGP 5) for emergency situations and RGP 5 already has Water Quality Certification. The USACOE decided to issue a Nationwide Permit instead of RGP 5, which triggered the need for another Water Quality Certification that authorizes the proposed levee repair activities at Site 9. The Regional Water Board provided public notice of the Site 9 application pursuant to title 23, California Code of Regulations, section 3858 on January 30, 2008, and posted information describing the project on the Regional Water Board's website. We did not receive any public comments on the project.

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3. Site 9 is approximately 900 feet long and is located along Jackson Ranch Levee, approximately 1,000 feet north of State Highway 255 and adjacent to the Mad River Slough. The storm damage was severe at Site 9 and the levee was nearly breached. The Mad River Slough has cut into the levee at Site 9, steepened the levee face, and the slough has deepened directly in front of the levee. Due to the depth of the slough and the steepness of the levee face along a portion of Site 9, the applicant's engineers have determined that the typical methods being used to repair the other portions of the levee would not be appropriate.
4. The repair method to be applied to the levee at Site 9 is use of a combination of sheet-piling and rock slope protection (RSP) to repair the slough side of the levee face. Installing sheet-piling along the steepest sections will allow the levee to have a steeper face while maintaining the integrity of the levee and avoiding any interference with the current location of Mad River Slough. Sheet piling will be used along approximately 300 feet of Site 9. Sheet piling will be installed using a barge or by heavy equipment operating from the top of the levee. Approximately 600 feet of the Site 9 levee repairs will involve the typical earth fill and RSP methods that are being used to repair the other storm damaged sections of the levee.
5. The applicant proposes to excavate approximately 700 cubic yards of levee material to prepare the damaged areas for the repairs. The applicant proposes to place approximately 2,800 cubic yards of engineered fill and approximately 2,350 cubic yards of RSP to repair Site 9. The footprint of the repaired levee will not be increased relative to the original levee footprint. The project will rely on the temporary access roads and staging areas that have already been approved as part of the overall levee repair project.
6. Activities conducted for the majority of the levee repairs include: construction of access roads, staging areas, and crossings; site preparation and debris removal; repairs to the seaward, landward and top of the levee; and maintenance, repair, or replacement of culverts and tide gates. Approximately 8,000 linear feet of existing roads will be upgraded to allow heavy equipment to access the levee. Temporary staging areas will be created adjacent to the levee access points for material and equipment storage. The temporary access roads and staging areas will be surfaced with six inches of fabric-backed road base. The road base and fabric will be removed by October 15 each year and the underlying pasture surface will be restored and reseeded.
7. Compensatory mitigation is not required for the project. Noncompensatory mitigation for the project includes timing the construction activities with low tides and the use of Best Management Practices for erosion control and operation of heavy equipment near a waterway.
8. The applicant has obtained a Coastal Development Permit from the California Coastal Commission. A Lake or Streambed Alteration Agreement from the California Department of Fish & Game is not required for this project.
9. The applicant has obtained authorization from the USACOE to perform the Site 9 levee repair project under Nationwide Permit No. 3 (File No. 400663N), pursuant to Clean Water Act, section 404.

10. 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: Mad River Slough and Humboldt Bay in the Eureka Plain Hydrologic Unit No. 110.00

Filled or Excavated Area: Area Temporarily Impacted: none
Area Permanently Impacted: 0.1 acre to restore original levee footprint

Total Linear Impacts: Length Temporarily Impacted: none
Length Permanently Impacted: 900 linear feet of shoreline to restore original levee footprint

Dredge Volume: None

Latitude/Longitude: 40.86855 N/124.14629 W

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Reclamation District 768 – Site 9 Levee Repair Project (WDID No. 1B06068WNHU), 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 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.

6. Best Management Practices (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. 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. 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.
11. 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.
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 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 March 5, 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: Ms. Lois Wallace, Reclamation District 768, 4150 Old Samoa Road,
Arcata, CA 95521

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
Mr. Jason Berrey, Pacific Affiliates, Inc., 990 W. Waterfront Drive, Eureka,
CA 95501