



**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

May 12, 2008

In the Matter of

**Water Quality Certification**

for the

**SHIVELY COMMUNITY - EEL RIVER LOW-FLOW RAILCAR BRIDGE  
WDID NO. 1B03009WNHU**

APPLICANT:	Shively Community Bridge Committee
RECEIVING WATER:	Eel River
HYDROLOGIC UNIT:	Scotia Hydrologic Subarea 111.12
COUNTY:	Humboldt
FILE NAME:	Shively Community Bridge Committee – Shively Low-Flow Railcar Crossing

BY THE EXECUTIVE OFFICER:

1. On January 31, 2008, Anthony Micheli, representing the Shively Community (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 the annual installation and removal of a railroad flatcar bridge over the Eel River near the community of Shively. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on April 2, 2008, 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 Shively Community Bridge provides a direct access route to Highway 101 for approximately four months each year during the summer low flow season. The seasonal bridge and roadway connects the community of Shively to the Avenue of the Giants, approximately one mile south of Pepperwood. The seasonal bridge provides important emergency access and saves approximately forty minutes of one-way travel time compared to the alternate routes from Shively to Highway 101.

3. Project activities include installation of boulders and logs to form bridge abutments and excavation of aggregate material from the adjacent dry gravel bar to create the roadway approach ramps to the flatcar bridge.
4. The bridge will be installed annually on June 15 and will be removed in October or November, depending on weather conditions and flows in the Eel River. CDF&G begins assessing the date of bridge removal on October 15. The date of bridge removal may be extended by CDF&G on a weekly basis if dry weather conditions continue past October 15. The California Department of Fish and Game has issued a Lake or Streambed Alteration Agreement for the project.
5. Compensatory mitigation is not required for the project. Noncompensatory mitigation includes the use of Best Management Practices (BMPs) for sediment and turbidity control and for operation of heavy equipment near a stream.
6. The applicants have obtained authorization from the United States Army Corps of Engineers to perform the project under an individual permit (File No. 269020N), 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 15302 — replacement or reconstruction, pursuant to CEQA.
8. 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.

Receiving Water: Eel River in the Scotia Hydrologic Subarea 111.12

Filled or Excavated Area: Area Temporarily Impacted: 0.25 acre of streambed  
Area Permanently Impacted: None

Total Linear Impacts: Length Temporarily Impacted: 30 linear feet  
Length Permanently Impacted: None

Dredge Volume: None

Latitude/Longitude: 40.44485 N/123.98342 W

Accordingly, based upon its independent review of the record, the Regional Water Board certifies that the Shively Community – Eel River Low-Flow Railcar Bridge Project (WDID No. 1B03009WNHU), 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. No rubbish shall be deposited within 150 feet of the high water mark of any stream.
6. All activities and BMPs shall be implemented according to the submitted application and the conditions in this certification.
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. BMPs shall also be in place when the low-flow crossing is not installed to control erosion, sediment, and turbidity in any storm water runoff originating from the dirt access road and the aggregate stockpile area that are located between the Avenue of the Giants and the west bank of the Eel River.
8. Following annual bridge removal, any aggregate materials that were excavated from the dry gravel bar and used for building approach ramps shall be returned to the borrow area and graded to ensure that runoff will drain toward the river channel in the downstream direction.
9. 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.
10. 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.

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. 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.
13. The Eel River watershed is identified on the State of California Clean Water Act Section 303(d) list as impaired for sediment and temperature. Total Maximum Daily Load (TMDL) analyses have been completed for the Eel River watershed sediment and temperature listings. Activities that impact the riparian zone and riparian vegetation are identified as sources contributing to increased stream temperatures. At present, there are no watershed-specific implementation plans for this TMDL. If a TMDL implementation plan is adopted prior to the expiration date of this Order, the Regional Water Board may revise the provisions of this Order to address actions identified in such action plans.
14. 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.
15. The Applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
16. 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.

17. 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.

18. 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).

19. The authorization of this certification for any dredge and fill activities expires on May 12, 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.

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Catherine Kuhlman  
Executive Officer

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Original to: Mr. Anthony Micheli, P.O. Box 733, Scotia, CA 95565

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 94103-1368