



**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

June 4, 2008

In the Matter of

Water Quality Certification

for the

**MACDONALD SUBDIVISION – STORM DRAIN OUTFALL
WDID NO. 1B08019WNHU**

APPLICANT:	Mr. Jack Macdonald
RECEIVING WATER:	Mill Creek
HYDROLOGIC UNIT:	Ferndale Hydrologic Subarea 111.11
COUNTY:	Humboldt
FILE NAME:	Macdonald Subdivision – Storm Drain Outfall

BY THE EXECUTIVE OFFICER:

1. On February 4, 2008, Mr. Jack Macdonald (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 installation of a storm drain outfall from a subdivision located at 1300 Rosshill Road in the City of Fortuna. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on April 23, 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 project is associated with the fifteen acre Macdonald subdivision located on an elevated terrace above Mill Creek within the city limits of the City of Fortuna. The purpose of the project is to provide a conduit for storm water runoff originating from twenty of the thirty-nine parcels within the subdivision. The culvert will be installed through wetlands that are located on the slope between the subdivision and Mill Creek.
3. Project activities include excavating a trench through the wetlands to allow for installation of an 18-inch diameter storm drain culvert. The section of trench that will be excavated through the wetland is approximately 68 feet long. The wetland topsoil will be removed from the trench alignment and stored separately during excavation activities. The topsoil will be replaced over the trench following installation of the culvert and backfill. The culvert outlet will terminate above the ground surface at a t-

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pipe energy dissipater placed on the vegetated slope above Mill Creek. The culvert outlet is located approximately 130 feet from the edge of the riparian vegetation along Mill Creek. Willows will be planted at the ends of the t-pipe outlet to provide additional energy dissipation.

4. Compensatory mitigation is not required. Noncompensatory mitigation for this project includes revegetation of all disturbed areas with a mixture of native vegetation. Noncompensatory mitigation also includes the use of Best Management Practices for heavy equipment use near a waterway and for sediment and erosion control. The project is expected to take four days to complete.
5. The Applicant has applied (File No. 300050 N) to the United States Army Corps of Engineers to perform the project under Nationwide Permit Number 39, pursuant to Clean Water Act, section 404. A Lake or Streambed Alteration Agreement from the California Department of Fish & Game is not required for this project.
6. On August 21, 2006, the City of Fortuna approved a mitigated negative declaration 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.
7. 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: Mill Creek in the Ferndale Hydrologic Subarea 111.11

Filled or Excavated Area: Area Temporarily Impacted: 1,730 square feet (0.04) acre of wetlands
Area Permanently Impacted: None

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

Dredge Volume: None

Latitude/Longitude: 40.57673 N/124.14130 W

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Macdonald Subdivision Storm Drain Outfall Project (WDID No. 1B08019WNHU), 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. 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. The Applicant shall mail a printed report to this office that contains photographs of the temporary wetland impact area and the t-pipe outfall area following installation of the storm drain pipe and outfall. The photos shall clearly show the willow plantings around the t-pipe outfall and restoration of the wetland impact area following replacement of the topsoil. The report shall be submitted within 60 days of completion of outfall installation activities.
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. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete the project.
12. 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.
13. 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.
14. 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.
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 June 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.

Catherine Kuhlman
Executive Officer

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Original to: Mr. Jack Macdonald, 1990 Holly Street, Eureka, CA 95503

Copies to: U.S. Army Corps of Engineers, District Engineer, 601 Startare Drive, Box 14, Eureka, CA 95502
Ms. Jane Hicks, U.S. Army Corps of Engineers, Regulatory Functions, 1455 Market Street, San Francisco, CA 94103-1398
Mr. Darin Tully, Whitchurch Engineering, 610 9th Street, Fortuna, CA 95540