



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



Linda S. Adams
Secretary for
Environmental Protection

www.waterboards.ca.gov/northcoast/
5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403
Phone: (877) 721-9203 (toll free) • Office: (707) 576-2220 • FAX: (707) 523-0135

Arnold Schwarzenegger
Governor

September 8, 2008

In the Matter of

Water Quality Certification

for the

**CITY OF ARCATA – ARCATA BAYLANDS FRESH WATER POND ENHANCEMENT
PROJECT
WDID NO. 1B08027WNHU**

APPLICANT:	City of Arcata, Environmental Services Department
RECEIVING WATER:	Jacoby Creek and Humboldt Bay
HYDROLOGIC UNIT:	Eureka Plain Hydrologic Unit No. 110.00
COUNTY:	Humboldt
FILE NAME:	City of Arcata – Arcata Baylands Fresh Water Pond Enhancement Project

BY THE EXECUTIVE OFFICER:

- On February 22, 2008, the City of Arcata Environmental Services Department (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 construction of four fresh water seasonal wetlands, a drainage swale and weirs. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on August 15, 2008, and posted information describing the project on the Regional Water Board's website. We did not receive any public comments on this project.
- The project involves the excavation of four seasonal wetland ponds, deepening of the ponds and installation of water control features will allow the ponds to dry during summer months. The four fresh water seasonal wetlands (ponds) are located in the vicinity of Old Arcata Road in the City of Arcata, Humboldt County. The purpose of the project is to improve and increase habitat at a Site of International Importance for Shorebirds, as listed by the Western Hemisphere

California Environmental Protection Agency

Recycled Paper

Shorebird Reserve Network. The project location is an actively grazed seasonal wetland (cattle pasture). Historically, the soil water retention has not allowed grazing for up to 7 months out of the year, depending on rainfall, the area will continue to be used for grazing upon completion of the project. This habitat benefits shorebirds using Humboldt Bay and surrounding seasonally-wet pasturelands.

3. The United States Fish and Wildlife Service have identified the Humboldt Bay salt marsh habitat area as a high priority for restoration, in order to benefit native fish, wildlife and plant communities. The applicant will restore four seasonal wetland areas that are either outside of former tidelands (seasonal wetland area #1 and #3) or near the inland margin of former tidelands (seasonal wetland areas #2 and #4). All four areas are located in or near areas that historically receive freshwater inundation from streams.
4. The project activities involves excavation of the four of the existing seasonal wetland areas (ponds) to two feet below existing surface conditions, in order to prolong the period of inundation during the rainy season. The applicant proposes to excavate each of the four seasonal wetlands to have 8:1 slopes and a depth of 24 inches. Seasonal wetland #1 will also have a contoured a small drainage swale at its base that leads to seasonal wetland #2. Seasonal Wetland #3 involves construction of a sinuous low flow channel to re-establish stream habitat connectivity on Fickle Hill Creek and prevent fish stranding.
5. Seasonal wetland #4 is located on the southeast portion of parcel 501-402-005; the wetland will fill with rain water and overflow water from an unnamed tributary that drains to south Gannon Slough. Water control features, 3X3 foot Twin Track weirs with 24 inch outflow, will be placed at the base of seasonal wetlands #2 and #4. The purpose of the weir placement is to insure wetlands dry out during the dry season preventing mosquito breeding and allow summer livestock grazing.
6. The proposed project involves 9 acres of seasonal wetlands; the applicant estimates that the excavation will generate 31,280 cubic yards of fill. This fill will be transported for use at approved locations. Construction activities are scheduled to occur only between June 15 and October 31 to avoid or minimize environmental impacts to soil, birds, and aquatic species. The project will use bulldozers, excavators, loaders, scrapers and transport vehicles for the completion of the project.
7. Compensatory mitigation is not required for the project. Noncompensatory mitigation includes the use of straw blankets, hydromulching, geotextile and silt fence for sediment control and mulch on all areas of bare soil for erosion control. Noncompensatory mitigation also includes the use of Best Management Practices for sediment and turbidity control and for operation of heavy equipment.

8. The applicant has applied to the United States Army Corps of Engineers for a Nationwide Permit (NWP) 3 for *Maintenance* and NWP 27 for *Aquatic Habitat Restoration, Establishment and Enhancement Activities* (Permit No. 274340N), pursuant to section 404 of the Clean Water Act. The Applicant has also applied for a Lake or Streambed Alteration Agreement from the California Department of Fish and Game (Notification No. R1-08-0094).
9. The City of Arcata, as lead California Environmental Quality Act (CEQA) agency completed and adopted a Mitigated Negative Declaration (SCH # 2006042056) for this project on June 19, 2006. Regional Water Board permitting associated with this project will be conditioned, in part, upon compliance with the mitigation measures specified by the City in the Mitigated Negative Declaration. 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: Jacoby Creek and Humboldt Bay in the Eureka Plan Hydrologic Unit No. 110.00.

Filled or Excavated Area: Area Temporarily Impacted: 2.6 acres of temporary construction buffer zones

Area Permanently Impacted: 9 acres of seasonal wetlands

Total Linear Impacts: Length Temporarily Impacted: 675 linear feet temporary road access

Length Permanently Impacted: None

Dredge Volume: 31,280 cubic yards

Latitude/Longitude: Pond #1 41.86 N/124.077 W
Pond #2 40.858 N/124.077 W
Pond #3 40.859 N/124.075 W
Pond #4 40.847 N/124.071 W

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the City of Arcata, Arcata Baylands Fresh Water Pond Enhancement Project (WDID No.1B08027WNHU), 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.

California Environmental Protection Agency

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. 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. 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 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.
14. The Applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
15. 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.
16. 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.

17. 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).
18. The authorization of this certification for any dredge and fill activities expires on September 8, 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 Mark Neely at (707) 576-2689.

Catherine Kuhlman
Executive Officer

090808_cew_ArcataCityof_ArcataBaylands_401cert.doc

Original to: Ms. Julie Neander, City of Arcata, Environmental Services Department,
736 F Street, Arcata, CA 95521

Copies to: U.S. Army Corps of Engineers, District Engineer, 601 Startare Drive,
Box 14, Eureka, CA 95501
Ms. Jane Hicks, U.S. Army Corps of Engineers, Regulatory Functions,
1455 Market Street, San Francisco, CA 94103-1398