



**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

January 26, 2009

In the Matter of

**Water Quality Certification**

for the

**CITY OF ARCATA – JANES CREEK CULVERT REPLACEMENT AND FISH  
PASSAGE IMPROVEMENT PROJECT  
WDID NO. 1B08140WNHU**

APPLICANT: City of Arcata, Public Works Department  
RECEIVING WATER: Janes Creek  
HYDROLOGIC UNIT: Eureka Plain Hydrologic Unit No. 110.00  
COUNTY: Humboldt  
FILE NAME: City of Arcata – Janes Creek Culvert Replacement/Fish  
Passage Project

BY THE EXECUTIVE OFFICER:

1. On September 23, 2008, the City of Arcata Public Works 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 replacing a culvert and realigning a section of Janes Creek to improve fish passage. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on October 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.
2. The City of Arcata is proposing to improve fish passage, flow capacity, and stream and riparian habitat near the confluence of Janes Creek and the north fork of Janes Creek. The project involves abandoning an existing 60-inch diameter culvert under the railroad track and installing a new 96-inch diameter culvert in a realigned section of stream channel. The new section of stream channel will be excavated in an upland area on the south side of the existing culvert that will be abandoned. Excavated material will be temporarily stockpiled in an upland area

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adjacent to the railroad track. The banks of the excavated section of stream channel will be stabilized with fabric-backed rock slope protection (RSP). Temporary sand bag coffer dams may be used to divert flows around work areas.

3. A new 96-inch diameter culvert will be placed in the realigned section of stream channel where the stream crosses under the railroad track. The new culvert will be set below the stream bottom elevation and the culvert will be partially filled with rock and gravel to provide a more natural stream bottom. RSP with concrete slurry injected into the void space will be placed around the inlet and outlet for erosion protection. A boulder weir will be installed across the realigned stream channel and downstream of the new culvert in order to maintain adequate water depth in the new culvert for fish migration. Additional project activities include installing two in-stream habitat structures, planting riparian vegetation, and placing RSP for bank stabilization.
4. Culvert abandonment activities will permanently impact 1,025 square feet and 90 linear feet of stream channel. Channel realignment activities will result in 1,085 square feet and 90 linear feet of new stream channel in an existing upland area. Dewatering activities will temporarily impact approximately 90 linear feet and 1,000 square feet of stream channel.
5. Compensatory mitigation is not required for the project. Noncompensatory mitigation includes revegetation and mulching of disturbed areas. Noncompensatory mitigation also includes the use of Best Management Practices for sediment and turbidity control and for operation of heavy equipment in a stream channel.
6. The applicant has applied for authorization from the United States Army Corps of Engineers to perform the project under Nationwide Permit Number 27, pursuant to Clean Water Act, section 404. The Applicant has obtained a Lake or Streambed Alteration Agreement from the California Department of Fish and Game (Agreement No. R1-07-0632).
7. On October 20, 2008, the City of Arcata approved a mitigated negative declaration (SCH No. 2008092074) 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.
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: Janes Creek in the Eureka Plan Hydrologic Unit No. 110.00.

Filled or Excavated Area: Area Temporarily Impacted: 1000 square feet of stream channel  
Area Permanently Impacted: 1,025 square feet of stream channel

Total Linear Impacts: Length Temporarily Impacted: 90 linear feet of stream channel  
Length Permanently Impacted: 90 linear feet of stream channel

New Stream Channel: Area Created: 1085 square feet of stream channel  
Length Created: 90 linear feet of stream channel

Dredge Volume: None

Latitude/Longitude: 40.89441 N/124.08027 W

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the City of Arcata, Janes Creek Culvert Replacement/Fish Passage Project (WDID No.1B08140WNHU), 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. 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 Applicant shall implement the mitigation measures for Biological Resources (Mitigation Measure No. 1) and Water Quality (Mitigation Measure No. 4) as described in the mitigated negative declaration for this project.
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 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 January 26, 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: Ms. Julie Neander, City of Arcata, 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