



Linda S. Adams
Secretary for
Environmental Protection

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

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

April 23, 2009

In the Matter of

Water Quality Certification

for the

**COUNTY OF LAKE, ELK MOUNTAIN ROAD PM 27.53
STORM DAMAGE REPAIR PROJECT
WDID NO. 1B09011WNLA**

APPLICANT: County of Lake
RECEIVING WATER: Unnamed creek tributary to the Eel River
HYDROLOGIC UNIT: Lake Pillsbury Hydrologic Sub-Area 111.63, Upper Main Eel
River Hydrologic Area 111.60,
Eel River Hydrologic Unit No. 111.00
COUNTY: Lake
FILE NAME: County of Lake, Elk Mountain Road PM 27.53
Storm Damage Repair

BY THE EXECUTIVE OFFICER:

1. On January 21, 2009, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application from Mr. Ken Brown, Principal Civil Engineer, on behalf of County of Lake (Applicant), requesting Federal Clean Water Act, section 401, water quality certification (certification) for proposed activities related to replacement of a storm damaged culvert with a larger capacity culvert and associated construction work. The project will cause disturbances to waters of the State and United States associated with an unnamed seasonal tributary to the Eel River, in the Lake Pillsbury Hydrologic Sub-Area 111.63, Upper Main Eel River Hydrologic Area 111.60, Eel River Hydrologic Unit No. 111.00, Lake County.
2. The project will result in permanent and temporary impacts to approximately 0.046 acres/50 feet of linear stream course. The project is located on Elk Mountain Road, Post Mile (PM) 27.53, latitude 39.408889°N, longitude 122.9808167°W. Per the applicant, the subject of this project is a storm damaged culvert inlet, outlet and

California Environmental Protection Agency

Recycled Paper

road embankment on Elk Mountain Road in Lake County. The total length of road improvement is about 110 feet. Storm debris blocked the inlet of a cross culvert causing water to overflow the road, eroded the culvert outlet and road embankment. During emergency opening the debris was removed, a temporary cross culvert installed and a deep hole around the existing culvert inlet was backfilled for public safety. The final goal is to replace the existing culvert, install a concrete headwall, place a down-drain on the outlet and restore the road embankment. The failed 12-inch and temporary 18-inch culvert will be replaced with a 42 inch HDPE culvert. The 18-inch culvert will be removed and the 12-inch culvert will be abandoned in place. A 24-foot long section of 42-inch down-drain pipe will be placed on-slope at the outlet of the new 42-inch culvert. Energy dissipation methods will be utilized at the outlet of the new down-drain.

3. The project is designed to replace eroded areas and protect these areas from further erosion and sediment delivery to the Eel River, and is considered self-mitigating.
4. Non-compensatory mitigation includes the use of Best Management Practices for sediment and turbidity control and for operation of heavy equipment near a stream channel, and other methods as described in the Application.
5. The Applicant has applied for a permit from the United States Army Corps of Engineers, to perform the project pursuant to Clean Water Act, section 404.
6. The Applicant has applied for a Lake or Streambed Alteration Agreement from the California Department of Fish and Game.
7. County of Lake, as lead California Environmental Quality Act (CEQA) agency has determined that the proposed project is Statutorily Exempt from CEQA review (Section 15269 - Emergency Projects), and have filed a Notice of Exemption for this project on February 29, 2008, with the State of California Office of Planning & Research.
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 Lake Pillsbury Hydrologic Sub-Area
111.63, Upper Main Eel River Hydrologic Area
111.60, Eel River Hydrologic Unit No. 111.00

Filled or Excavated Area: Area Permanently Impacted: 0.046 acre of stream
channel and streambank

Total Linear Impacts: Length Permanently Impacted: 50 linear feet of
stream channel and streambank

California Environmental Protection Agency

Latitude/Longitude: 39.408889°N/122.9808167°W

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the County of Lake, Elk Mountain Road PM 27.53 Storm Damage Repair Project (WDID No. 1B09011WNLA), 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 Eel River is identified as impaired on the Clean Water Act Section 303(d) list. The Eel River is listed as impaired for temperature and sedimentation/siltation. At present, total maximum daily loads (TMDLs) have not been established for this water body. If TMDLs are established and implementation plans are adopted for this watershed 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.
5. 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.
6. 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.

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.
8. All activities and BMPs shall be implemented according to the submitted application and the conditions in this certification.
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 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

California Environmental Protection Agency

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 April 23, 2014. 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 Stephen Bargsten at (707) 576-2653.

Catherine Kuhlman
Executive Officer

042309_SKB_Co_of_Lake_Elk_Mountain_Road_PM_27.53_Storm_Damage_401.doc

Enclosure: State Water Resources Control Board Order No. 2003-0017-DWQ

California Environmental Protection Agency

Original to: Mr. Ken Brown, Lake County Department of Public Works, 255 N.
Forbes St., Lakeport, CA 95453

Copies sent to: Mr. Bill Orme, SWRCB, 401 Program Manager, Clean Water Act
Section 401 Certification and Wetlands Unit Program
Ms. Kim Niemeyer, SWRCB, Office of the Chief Counsel
Ms. Jane Hicks, U.S. Army Corps of Engineers, Regulatory
Functions, 1455 Market Street, San Francisco, CA 94103-1398
Mr. Dan Wilson, California Department of Fish and Game,
P.O. Box 47, Yountville, CA 94599