



**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

August 25, 2009

In the Matter of

Water Quality Certification

for the

**HUMBOLDT COUNTY DPW – UPPER BEAR RIVER ROAD POST MILE 5.05
CULVERT REPLACEMENT
WDID No. 1B07079WNHU**

APPLICANT: Humboldt County Public Works Department
RECEIVING WATER: Unnamed Tributary to Bear River
HYDROLOGIC UNIT: Capetown Hydrologic Area No. 112.20
COUNTY: Humboldt
FILE NAME: Humboldt Co. DPW – Upper Bear River Road P.M. 5.05
Culvert Replacement

BY THE EXECUTIVE OFFICER:

1. On May 25, 2007, the Humboldt County 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 culvert replacement activities on Upper Bear River Road at Post Mile 5.05. The Applicant subsequently requested that the Regional Water Board put the application on hold while they evaluated alternative culvert repair designs. On May 28, 2009, the Applicant submitted a revised project description for culvert replacement and a request to reactivate the application for Water Quality Certification. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on July 29, 2009, and posted information describing the project on the Regional Water Board's website. We did not receive any public comments on this project.
2. Bear River is approximately 27 miles long and flows directly into the Pacific Ocean near Capetown. Upper Bear River Road is a rural road that runs along the Bear River through private property consisting mostly of farmland and ranchland. The project is located on an unnamed tributary to Bear River that flows north off

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Southmayd Ridge and into Bear River approximately one-half mile upstream of the confluence of Bear River and South Fork Bear River. The unnamed tributary is approximately 1.2-miles long with approximately 0.35 miles of the stream located below the Upper Bear River Road culvert crossing. The unnamed tributary is usually dry during the late summer and, due to the steepness of the upper watershed, it is assumed that fish habitat is not present above Upper Bear River Road. It is not known whether fish utilize the lower section below the road. It is possible that fish, such as winter steelhead, use the lower section of the stream during periods of adequate flow.

3. The existing crossing of Upper Bear River Road over the unnamed stream consists of two 30-foot long culverts that are severely deteriorated, including one 48-inch diameter culvert to pass the majority of flows and an offset 36-inch diameter culvert designed to pass high flows. A recent inspection by the Applicant indicated that these culverts showed signs of significant deterioration. It was also observed that stream flows had undermined the inlet to the 48-inch diameter culvert and channeled a tunnel through the underlying sediment and road prism. When the stream is flowing, a fair amount of water is flowing through the fill prism and exiting the fill below the culvert outlets. The outlets of the existing culverts also extend horizontally away from the road prism and are elevated approximately four feet above the streambed. If these culverts are not replaced soon, winter storms could cause a complete failure of the crossing.
4. The project involves replacing the existing culverts with one 60-inch diameter and 40-foot long culvert. An excavator will be used to remove fill from around the old culverts. The old culverts will be removed and the new culvert will be installed over a one-foot thick layer of crushed rock. The culvert will be backfilled with the excavated fill material and any remaining fill material will be trucked to an appropriate upland disposal site. Rock riprap will be placed around the inlet and outlet for erosion protection. The new culvert will be slightly longer than the existing culverts to allow for the new culvert to be installed with its outlet placed at the streambed elevation.
5. The unnamed stream is expected to be dry during the project. If surface water is present during construction, flows will be diverted around the project. If surface water diversion is necessary, the diversion will consist of a sandbag dam placed upstream of the project area and an 18-inch gravity pipe will be used to convey the water around the work area and back to the stream below the project area.
6. Due to the project location, road type, and infrequent traffic use by mainly local property owners, a temporary detour around the project area will not be provided. The proposed project is expected to take up to three days to complete and the road is expected to be closed to through traffic for one full work day. The Applicant will post notices to inform local residents of the upcoming short-term road closure.

7. Culvert replacement activities will permanently impact an additional 200 square feet and 25 linear feet of stream channel. Additional permanent impacts to the stream channel are due to the need for a longer culvert and the addition of rock riprap erosion protection around the inlet and outlet areas. Proposed culvert excavation and replacement activities will also temporarily impact 600 square feet and 60 linear feet of the stream channel. Compensatory mitigation is not required for the proposed project. Noncompensatory mitigation includes the use of Best Management Practices (BMPs) for sediment and turbidity control and for operation of heavy equipment in a stream channel. The proposed project is scheduled for construction during the summer of 2009.
8. The applicant has applied for authorization from the United States Army Corps of Engineers to perform the project under Nationwide Permit Number 3, pursuant to Clean Water Act, section 404. The Applicant has also applied to the California Department of Fish and Game for a Lake or Streambed Alteration Agreement.
9. 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.
10. 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: Unnamed Tributary to Bear River in the Capetown Hydrologic Area No. 112.20

Filled or Excavated Area: Area Temporarily Impacted: 600 square feet of stream channel
Area Permanently Impacted: 200 square feet of stream channel

Total Linear Impacts: Length Temporarily Impacted: 60 linear feet of stream channel
Length Permanently Impacted: 25 linear feet of stream channel

Dredge Volume: None

Latitude/Longitude: 40.44549 N/124.28529 W

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Humboldt County DPW – Upper Bear River Road Post Mile 5.05, Culvert Replacement Project (WDID No. 1B07079WNHU), 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.
6. Best Management Practices (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. 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.
11. 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.
12. 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.
13. The Applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
14. 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.
15. 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.

16. 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).

17. The authorization of this certification for any dredge and fill activities expires on August 25, 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 Dean Prat at (707) 576-2801.

Catherine Kuhlman
Executive Officer

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Original to: Mr. Andrew Bundschuh, Humboldt County Public Works Department,
1106 Second Street, Eureka, CA 95501-0579

Copies to: U.S. Army Corps of Engineers, District Engineer, 601 Startare Drive, Box
14, Eureka, CA 95501
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