



**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

November 5, 2009

In the Matter of

Water Quality Certification

For the

**City of Eureka – Wastewater Outfall Stabilization Project
WDID No. 1B09122WNHU**

APPLICANT:	City of Eureka
RECEIVING WATER:	Humboldt Bay and the Elk River
HYDROLOGIC UNIT:	Eureka Plain Hydrologic Subarea No. 110.00
COUNTY:	Humboldt
FILE NAME:	City of Eureka – Wastewater Outfall Stabilization Project

BY THE EXECUTIVE OFFICER:

1. On October 5, 2009, the City of Eureka (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 the protection and stabilization of a 70 foot section of existing outfall pipe located on the Elk River Spit, west of the Elk River Waste Treatment Plant at 4301 Hilfiker Lane. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on October 8, 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. Erosion of the vegetated dunes on the Elk River Spit has exposed approximately 70 feet of the outfall pipe that conveys treated effluent from the Elk River Wastewater Treatment Plant to Humboldt Bay. The exposed section of the pipe is located east of the outfall stand pipe and was previously buried in up to two feet of sand. Continued retreat of the dune face is distinctly possible, which could expose the pipeline further. Exposure of the outfall pipe increases the risk of it being damaged, particularly during the winter storm season. This pipeline is a critical facility, and interruptions in its function would likely result in uncontrolled discharges onto the Elk River Spit and into Humboldt Bay.
3. The project includes installation of rock armoring to stabilize and protect the exposed area before the coming winter season. Similar rock armoring has proven effective

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on other portions of the outfall system; including the section immediately west of the stand pipe. The proposed project consists of placing approximately 1,650 tons of rock slope protection, in accordance with California Department of Transportation specifications, over and around the outfall pipe between the stand pipe and the existing dune face approximately 145 feet to the east. Native material will be removed to expose the top half of the pipe and No. 1 backing rock and then half-ton armor rock will be installed around and on top of it, to a final subsurface width of 29 feet. The native material will then be replaced evenly over the work area. All work will occur within the unvegetated portion of the beach and equipment will be excluded from any portion of the vegetated dunes at the project site

4. A two acre parcel, located directly across from the beach access point for this project, consisting of farmed seasonal wetlands, will be used as a staging area for the project. Rubber-tired loaders will haul stone from the staging area approximately 2,000 feet through pasture lands, owned by the Applicant. A temporary ramp will be constructed to allow passage over the railroad tracks and the vehicles will then drive north along the Elk River Spit for approximately one mile to the repair site. Vegetation along the proposed path consists primarily of non-native and invasive species and all care will be taken to avoid vegetation. Disturbed ground at the staging area will be revegetated with rye and red clover to match existing conditions.
5. The proposed project includes placement of rock rip-rap immediately adjacent to the Elk River and Humboldt Bay which will result in permanent impacts to approximately 145 linear feet and 6,960 square feet of the shoreline. The proposed project will also result in temporary impacts to up to 2 acres of seasonal wetlands due to use as a staging area.
6. Compensatory mitigation is not required for the project. Noncompensatory mitigation includes the use of Best Management Practices for sediment and turbidity control and for operation of heavy equipment on the spit. Noncompensatory mitigation also includes revegetation of disturbed grounds at the staging area. The project is expected to take up to 21 days to complete.
7. The applicant has applied for authorization from the United States Army Corps of Engineers to perform the project under Nationwide Permit Number 5, pursuant to Clean Water Act, section 404. A Lake or Streambed Alteration Agreement from the California Department of Fish and Game is not required.
8. The City of Eureka, as the lead California Environmental Quality Act (CEQA) agency, has determined that this project qualifies for a Categorical Exemption, section 15269 – emergency permits, pursuant to CEQA guidelines. Regional Water Board staff have also determined that this project is categorically exempt from CEQA review pursuant to section 15269 – emergency permits.
9. 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: Humboldt Bay in the Eureka Plain Hydrologic Subarea No. 110.00

Filled or Excavated Area: Area Temporarily Impacted: 2 acre of seasonal wetlands
Area Permanently Impacted: 0.16 acre of shoreline

Total Linear Impacts: Length Permanently Impacted: 145 linear feet of shoreline

Dredge Volume: None

Latitude/Longitude: 40.767° N/ 124.202° W

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the City of Eureka – Wastewater Outfall Stabilization Project (WDID No. 1B09122WNHU), 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. Nothing in this certification shall be construed as approval of the validity of any consumptive water rights. The State Water Board has separate authority under the Water Code to investigate and take enforcement action if necessary to prevent any unauthorized or threatened unauthorized diversions of water.
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.

7. 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.
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. 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 November 5, 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: Ms. Lisa Shikany, City of Eureka, 531 K Street, Eureka, CA 95501

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
Mr. Wirt Lanning, North State Resources, 5000 Bechelli Lane, Suite 203, Redding, CA 96002