



**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 2, 2009

In the Matter of

Water Quality Certification

For the

**EUREKA BROADCASTING – ANTENNAE REPLACEMENT PROJECT
WDID NO. 1B09100WNHU**

APPLICANT:	Hugo Papstein – Eureka Broadcasting
RECEIVING WATER:	Wetlands
HYDROLOGIC UNIT:	Eureka Plain Hydrologic Unit No. 110.00
COUNTY:	Humboldt
FILE NAME:	Eureka Broadcasting – Antennae Replacement Project

BY THE EXECUTIVE OFFICER:

1. On August 5, 2009, Hugo Papstein, representing Eureka Broadcasting, Inc., (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 replacing Eureka Broadcasting’s existing radio antennae (towers) and associated guy wire anchors in the Eureka area. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on October 1, 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. The project includes replacing two radio towers that were installed in 1955 with new towers after structural reinforcement of the existing tower foundations is complete. The project also includes installation of new guy wires and associated deadman anchors. Three new deadman anchors will be installed around each tower and three new guy wires will be installed from each anchor to the tower.
3. Structural reinforcement of the existing tower foundations involves excavation to remove soil from around the perimeter of each concrete foundation to allow for installation of a six-inch thick concrete and rebar jacket around the perimeter of each

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foundation. Installation of the new deadman anchors involves excavating an approximately 18 square foot area to a depth of 6 feet and pouring concrete into a 3 foot by 3 foot by 3 foot form placed in the bottom of the excavation. During excavation activities the top layer of soil and vegetation will be removed prior to excavating deeper soils. The top soil layer will be stored separately and kept moist to facilitate revegetation of disturbed areas. After the concrete has cured the form will be removed and the guy wires will be attached to the anchors below ground surface. The anchors will be covered with approximately 3 feet of fill using previously excavated materials to restore the surface. The point of contact of each 1.25-inch diameter guy wire with the ground surface will be the only permanent impact to the wetland surface associated with installation of the new deadman anchors.

4. The concrete and rebar jackets around the existing tower foundations will result in permanent impacts to 8 square feet of wetlands in diked and farmed former tidelands. The excavations for the deadman anchors will result in temporary impacts to 108 square feet of wetlands in diked and farmed former tidelands.
5. Compensatory mitigation is required for the permanent impacts to wetlands in farmed and diked former tidelands. Compensatory mitigation consists of removal of the above ground portions of the existing concrete guy wire anchors to a depth of 18-inches below ground. Removal of the existing concrete anchors and backfilling with native materials will create 12 square feet of wetlands in diked and farmed former tidelands. Noncompensatory mitigation includes the use of BMPs for sediment and turbidity control and for operation of heavy equipment in farmed wetlands. The project is expected to start as soon as all permits are issued and is expected to take three weeks to complete.
6. The Applicant has obtained authorization from the United States Army Corps of Engineers (USACOE File No. 2009-00310N) to perform the project under Nationwide Permit No. 18, pursuant to Clean Water Act, section 404. A Lake or Streambed Alteration Agreement from the California Department of Fish and Game is not required.
7. On July 9, 2009, Humboldt County approved a Mitigated Negative Declaration (SCH No. 2009062014) 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: Diked and farmed former tidelands (wetlands) adjacent to Eureka Slough in the Eureka Plain Hydrologic Unit No. 110.00

Filled or Excavated Area: Area Temporarily Impacted: 108 square feet of wetlands
Area Permanently Impacted: 8 square feet of wetlands

Total Linear Impacts: Length Temporarily Impacted: None
Length Permanently Impacted: None

Dredge Volume: None

Latitude/Longitude: 40.80389 N/124.12621 W

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Eureka Broadcasting Antennae Replacement Project (WDID No. 1B09100WNHU), 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. The Applicant shall provide a copy of this Order and the application documents submitted for this certification to all contractors and subcontractors conducting the work, and a copy of the Order shall remain at the work site during project activities. The Applicant shall be responsible for work conducted by its contractors or subcontractors.

6. All activities and BMPs shall be implemented according to the submitted application and the conditions in this certification.
7. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete the project. No mature trees shall be removed.
8. Within 90 days of project completion the Applicant shall submit a mitigation monitoring report to this office which contains photos documenting the removal of six existing concrete anchor bases and the restoration of the surrounding ground surface to create 12 square feet of wetlands.
9. 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.
10. If, at any time, an unauthorized discharge to surface water (including wetlands, rivers or streams) occurs, or any water quality problem arises, the Applicant shall cease the associated project activities 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. Implementation of such change in the project prior to Regional Water Board notification and approval is a violation of this Order subject to enforcement action under the Water Code.
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. This certification is contingent on compliance with all applicable requirements of the North Coast Water Quality Control Plan, except as may be modified by the specific conditions of the certification.
17. The authorization of this certification for any dredge and fill activities expires on November 2, 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. Hugo Papstein, Eureka Broadcasting, Inc., 1101 Marsh Road, Eureka,
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Mr. Marty McClelland, 107 Dean Lane, Kneeland, CA 95549