



**California Regional Water Quality Control Board
North Coast Region
Geoffrey M. Hales, Acting Chairman**



Linda S. Adams
Secretary for
Environmental Protection

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**Arnold
Schwarzenegger**
Governor

January 7, 2010

In the Matter of

Water Quality Certification

for the

**HUMBOLDT BAY MUNICIPAL WATER DISTRICT – MAD RIVER OPERATIONS
WDID No. 1B03079WNHU**

APPLICANT:	Humboldt Bay Municipal Water District
RECEIVING WATER:	Mad River
HYDROLOGIC UNIT:	Blue Lake Hydrologic Area No. 109.10
COUNTY:	Humboldt
FILE NAME:	Humboldt Bay MWD – Mad River Operations

BY THE EXECUTIVE OFFICER:

1. On October 19, 2009, the Humboldt Bay Municipal Water District (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 ongoing operation, maintenance, excavation, berm construction, and protection of existing water supply structures in a two-mile reach of the Mad River between the railroad bridge in Blue Lake and the Highway 299 Bridge near Essex. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on December 14, 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 Applicant is the only water supplier in the greater Humboldt Bay area. The Applicant sells “raw” water to industrial users on the Samoa Peninsula and treated water to the cities of Arcata, Blue Lake, and Eureka, as well as the Fieldbrook, Humboldt, Manila, and McKinleyville Community Services Districts. Operation and maintenance activities include channel dredging, excavation, and the use of excavated materials to create a berm parallel to the low-flow channel between an existing rock jetty on the north bank and an existing rock weir downstream of Station 6. Excavation activities may be conducted between Stations 1 and Station 6, and in

front of Station 6, on an as needed basis when aggradation blocks the flow of water into the forebay.

3. Temporary access roads, platforms, gravel berms, and ramps may be constructed to allow the Applicant to work on pumps housed in collectors 1, 2, 4, and 5. Temporary access structures will be constructed out of the low-flow channel and during low-flow periods by moving river-run gravel material from the surrounding area using heavy equipment. Gravel berms 3- to 4-feet high, 20-feet wide, and 350-feet long are constructed adjacent to the collectors. The berms prevent the water elevation at Pump Station 6 from dropping too low for the water to flow into the pumps. A channel approximately 10-feet deep, 12-feet wide, and 300-feet long will also be excavated in the river gravel to connect Pump Station 6 with the low-flow river channel. The exact configuration of the berm and channel are based on the amount of aggraded gravel in front of the pump Station 6 and the location of the low-flow river channel.
4. The project will result in temporary impacts to approximately 750 linear feet and 1.35 acre of stream channel. The proposed project will result in less than 0.01 acre of permanent impact to the stream channel. Compensatory mitigation is not required for the proposed project. Under Section 10 of the federal Endangered Species Act (ESA), the Applicant elected to pursue an Incidental Take Permit for its Mad River activities and has an approved Habitat Conservation Plan (HCP). The purpose of the HCP is to describe conservation, mitigation, and monitoring measures that the Applicant will undertake to minimize and mitigate adverse impacts to three ESA listed salmonid species: chinook salmon, coho salmon, and steelhead trout. Noncompensatory mitigation includes the use of Best Management Practices for sediment and turbidity control and for operation of heavy equipment in the stream channel. Disturbed areas on the gravel bar where fill materials are obtained shall also be graded in such a manner that no depressions remain on the gravel bar and the bar is sloped to drain towards the wetted channel. Project activities are generally conducted on an annual basis between June 1 and October 15.
5. The Applicant has obtained authorization from the United States Army Corps of Engineers to perform the project under Individual Permit (File No. 286620N), pursuant to Clean Water Act, section 404. The Applicant has also obtained a Lake or Streambed Alteration Agreement from the California Department of Fish and Game (#00-0048).
6. On January 27, 2000, the Applicant adopted a Mitigated Negative Declaration (MND, SCH# 1999122026) for the project, in order to comply with CEQA. The Applicant adopted an addendum to the MND on January 11, 2001. 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.

7. 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: Mad River in the Blue Lake Hydrologic Area No. 109.10

Filled or Excavated Area: Area Temporarily Impacted: 1.35 acre of stream channel
Area Permanently Impacted: <0.1 acre of stream channel

Total Linear Impacts: Length Temporarily Impacted: 750 linear feet of stream channel
Length Permanently Impacted: None

Dredge Volume: None

Latitude/Longitude: Upstream : 40.90126 N/124.03051 W
Downstream : 40.90785 N/124.05851 W

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Humboldt Bay Municipal Water District's Mad River Operations (WDID No. 1B03079WNHU), 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 annually 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. Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the United States. At no time shall the applicant use any vehicle or equipment, which leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of waters of the United States.
7. All activities and BMPs shall be implemented according to the submitted application and the conditions in this certification.
8. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete the project.
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. Visual observations for increased turbidity shall be conducted whenever a project activity has the potential to increase turbidity in the Mad River. Field turbidity measurements shall be collected whenever a visible increase in turbidity is observed. Turbidity measurements shall be collected upstream (within 50 feet) of the source of turbidity (any project activities that cause a turbidity increase) and downstream (within 500 feet) of the source of turbidity. The monitoring frequency shall be a minimum of once every two hours during periods of increased turbidity or until turbidity levels are no longer increasing as a result of project activities. If turbidity levels are greater than 20 percent above background levels 500 feet downstream of the turbidity source, the distance to the downstream extent of the turbidity increase (greater than 20 percent above background) shall be determined and that distance shall be promptly reported to Regional Water Board staff.
11. A turbidity monitoring report shall be submitted to the Regional Water Board by January 1 each year. The annual report shall contain a written summary of all activities conducted during the year, all turbidity measurements that were collected in accordance with Additional Condition 10, a description of the BMPs that were used to control turbidity, photos showing project areas before implementation of annual activities, photos showing project areas following implementation of annual activities, and photos of BMPs that were used.
12. The suspended sediment load of the Mad River shall not be altered in such a manner as to cause nuisance or adversely affect beneficial uses.

13. 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.
14. 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.
15. 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.
16. 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.
17. The Applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
18. 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.
19. 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.

20. 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).
21. The authorization of this certification for any dredge and fill activities expires on January 7, 2015. 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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