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

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Arnold  
Schwarzenegger  
Governor

October 5, 2009

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In the Matter of

**Water Quality Certification**

for the

**HUMBOLDT BAY HARBOR, RECREATION, AND CONSERVTION DISTRICT  
SHELTER COVE BREAKWATER REHABILITATION  
WDID No. 1B07027WNHU**

APPLICANT: Humboldt Bay Harbor, Recreation, and Conservation District  
RECEIVING WATER: Pacific Ocean  
HYDROLOGIC UNIT: Mattole River Hydrologic Area No. 112.30  
COUNTY: Humboldt  
FILE NAME: Humboldt Bay Harbor, Recreation, and Conservation  
District, Shelter Cove Breakwater Rehabilitation Project

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BY THE EXECUTIVE OFFICER:

1. On March 16, 2007, the Humboldt Bay Harbor, Recreation, and Conservation 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 rehabilitating an existing breakwater in Shelter Cove and periodic cleaning of sand from the boat launch area. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on July 2, 2009, and posted information describing the project on the Regional Water Board's website. The Regional Water Board received comments from the State Water Resources Control Board. We did not receive any other public comments on this project.
2. Shelter Cove is a popular sport fishing destination on the southern Humboldt County coastline and the only harbor of refuge between Noyo Harbor and Humboldt Bay. The existing Shelter Cove breakwater was completed in 1970. The breakwater has settled, lost rock, and deteriorated over time as a result of wave action. The breakwater is largely under water during high tides and its effectiveness at protecting the boat launch facility has been greatly compromised. The purpose of the project is

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to restore the effectiveness of the breakwater to reduce the difficulty and risks associated with launching boats at Shelter Cove.

3. The project involves rehabilitation of the breakwater in essentially its current configuration to provide similar dimensions, level of protection, and area of protection as it did prior to reaching its existing deteriorated condition. The breakwater will be rehabilitated in sections using the existing rock and approximately 4,700 cubic yards of rock that will be imported from a local quarry. The rehabilitated breakwater is designed to be sturdier than the original to better withstand the waves.
4. The breakwater rehabilitation design includes a base layer of 6-inch rock, an under-layer of quarter-ton and half-ton rock, and an outer armor layer of 3-ton to 5-ton rock. The first section will be rehabilitated with equipment working from the shore. As each section is completed a layer of crushed rock will be placed on top of the 11-foot wide crest of the breakwater to create an accessible path. The path will allow equipment to continue moving seaward to repeat the incremental rehabilitation process. The rehabilitated breakwater will have a footprint of approximately 17,080 square feet in the intertidal zone, an increase of approximately 4,400 square feet over the existing breakwater condition. Based on an engineering analysis for the project, it is assumed that a minor amount (5%-10%) of damage will occur to the rock layer on an average of every 10 years. Damage to the armor rock will be repaired on an "as-needed" basis using the same construction methods and best management practices (BMPs) that will be used for the rehabilitation activities.
5. Natural currents and beach processes result in sand being deposited in the launch ramp area. The breakwater design and these same natural processes also result in the sand moving through the launch ramp area and out of the area to the west. Occasionally, an excessive amount of sand accumulates in the launch ramp area which makes boat launching difficult and dangerous. The Applicant proposes periodic cleaning of sand from the launch ramp area. A front-end loader or other heavy equipment may be used to remove sand from the launch ramp area and relocate the sand to the southwest (down current) side of the breakwater where it will continue its natural migration to the west toward Point Delgada and offshore. Boat ramp cleaning activities will be conducted during low tides and only on an "as-needed" basis.
6. The project will result in permanent impacts to 17,080 square feet of waters of the United States including approximately 12,680 square feet of existing breakwater footprint. Permanent impacts are intended to restore the breakwater to approximate its original footprint. The annual removal of sand from the boat ramp area could result in annual temporary impacts of up to approximately 24,000 square feet. Deposition of the removed sand on the southwest side of the breakwater will temporarily impact approximately 900 square feet of upper beach area.

7. Compensatory mitigation is not required for the project. Noncompensatory mitigation includes the use of BMPs for sediment and turbidity control and for operation of heavy equipment near water. The Applicant will also ensure that the breakwater rehabilitation is constructed to avoid unanticipated expansion of the breakwater footprint in the seaward direction and impacts to vegetated intertidal rock. Activities will also be conducted during low tides to avoid impacts to the marine environment. The rate of construction will primarily depend on the rock delivery rate which is dependent on the local rock quarry's rate of production. The quarry estimated that it will take approximately four months to produce the volume of rock needed for this project. The project is expected to take up to seven months to complete.
8. The applicant has applied for authorization from the United States Army Corps of Engineers (USACOE File No. 2007-00717N) to perform the project under individual permit, pursuant to Clean Water Act, section 404. A Lake or Streambed Alteration Agreement from the California Department of Fish is not required.
9. On November 14, 2006, the Humboldt Bay Harbor, Recreation, and Conservation District certified an Environmental Impact Report (EIR) (SCH No. 2005042024) for the project in order to comply with CEQA. The Regional Water Board has considered the environmental document. Mitigation measures contained in the EIR are incorporated into this Water Quality Certification. The project may have the following significant effects on the environment:

Biological Impact 1: The loss of the biological community on the breakwater during the time needed to allow the community to become re-established after rehabilitation is complete. This impact is considered to be an unavoidable significant temporary impact with no feasible mitigation.

Biological Mitigation 1: The Applicant will ensure that the breakwater rehabilitation is designed and constructed to avoid unanticipated expansion of the breakwater footprint in the seaward direction and impacts to vegetated intertidal rocks. The mitigation measure will not lessen the temporary loss of the biological community on the breakwater after rehabilitation is complete. The intent of this mitigation measure is to prevent unanticipated expansion of the breakwater footprint in the seaward direction beyond the design footprint and impacting vegetated intertidal rocks.

Hazardous Materials Impact 1: Potentially significant impact to marine biota and water quality from accidental release of hazardous materials to the marine environment.

Hazardous Materials Mitigation 1: Prior to proceeding with the project the Applicant must approve a hazardous materials management plan submitted by the contractor that contains control measures or Best Management Practices that address the transport, handling, and storage of fuels and other equipment fluids with emphasis

on preventing releases to the ocean or beach. The plan must also address spill prevention, cleanup and disposal of hazardous materials. The Applicant's contractor must demonstrate that it has communicated with the Humboldt County Division of Environmental Health and achieved compliance with the requirements for a hazardous materials business plan and inventory.

Hydrology Impact 1: Potentially significant temporary increase in turbidity or sedimentation caused by the deposition of maintenance dredged material onto the upper beach on the opposite side of the inner leg of the breakwater.

Hydrology Mitigation 1: The applicant shall implement the following measures intended to prevent a significant increase in turbidity or sedimentation from maintenance dredging: 1) Maintenance dredging will only be conducted during low tides while the bottom is not submerged; 2) Maintenance dredging will occur as significant deposits are noted to prevent excessive shoaling to benefit boaters and reasonably mimic the natural transport process by bypassing sediment in smaller quantities at natural times, thus avoiding a choking of the system that could result from dredging at long intervals; 3) Dredged material will be placed on the small sandy area of the beach within the high-tide zone adjacent to the southwest side of the breakwater. To filter runoff from the pile, the initial placement will be to form a one to two foot high berm at the anticipated shoreward perimeter of the pile approximately 15 to 20 feet from the bluff; 4) The location and volume of sediment bypassing will be monitored for the first five episodes by measuring beach widths west of the harbor to ensure that the sediment is not accumulating rather than being transported away by currents. If it is determined that inappropriate accumulation is occurring, this method of bypassing sediment will be discontinued until a remedy is developed or an alternative disposal method, such as disposal at an upland site, is approved; 5) If it is determined that the intent of this mitigation measure is not accomplished, the Applicant will promptly devise and implement a remedy, such as applying improved turbidity barriers. If an effective remedy cannot be devised promptly, work will cease until an effective remedy can be developed; 6) The Applicant will implement a hazardous material management plan as described in Hazardous Materials Mitigation 1; and 7) The Applicant will prepare a "maintenance dredging and disposal plan" for inclusion with permit applications for the project. The plan will incorporate the elements of Hydrology Mitigation 1 and will include grain size analysis of the sediment accumulated in the protected area of the breakwater and of the receiving area. Additionally, the plan will include detail on specific timing of maintenance dredging with respect to sediment, beach, and ocean conditions to accomplish the intent of avoiding adverse impacts to the marine environment. The plan will be prepared with appropriate assistance of a qualified coastal engineer.

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: Pacific Ocean in the Mattole River Hydrologic Area No. 112.30

Filled or Excavated Area: Area Temporarily Impacted: Up to 24,000 square feet of shoreline in the boat ramp area and up to 900 square feet of upper beach area annually.

Area Permanently Impacted: 17,080 square feet of intertidal area including approximately 12,680 square feet of existing breakwater footprint. Permanent impacts are intended to restore the breakwater to approximate its original footprint.

Total Linear Impacts: Length Temporarily Impacted: None

Length Permanently Impacted: None

Dredge Volume: None

Latitude/Longitude: 40.02431 N/124.06526 W

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Humboldt Bay Harbor, Recreation, and Conservation District - Shelter Cove Breakwater Rehabilitation Project (WDID No. 1B07027WNHU), 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. The Applicant shall not use any concrete in this project.
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. The Applicant shall implement the Mitigation Measures contained in the EIR for Biological Resources, Hazardous Materials, and Hydrology.
10. The Applicant shall implement the Biological Monitoring and Water Quality Monitoring Plans dated September 1, 2009, and the Accumulated Sediment Removal and Disposal Plan dated September 16, 2009. Monitoring reports shall be submitted to the Regional Water Board within 90 days of project completion.
11. 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.
12. 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.
13. 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.

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

19. 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).

20. The authorization of this certification for any dredge and fill activities expires on October 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.

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Catherine Kuhlman  
Executive Officer

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Original to: Mr. David Hull, Humboldt Bay Harbor, Recreation, and Conservation  
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