



Linda S. Adams  
Secretary for  
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**California Regional Water Quality Control Board  
North Coast Region  
Geoffrey M. Hales, Chairman**

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Arnold  
Schwarzenegger  
Governor

June 24, 2010

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In the Matter of

**Water Quality Certification**

for the

**CITY OF ARCATA – LOWER JACOBY CREEK ESTUARY RESTORATION AND  
GANNON SLOUGH TIDE GATE INSTALLATION AND REPAIR  
WDID NO. 1B09079WNHU**

APPLICANT: City of Arcata  
RECEIVING WATER: Jacoby Creek, Gannon Slough, and Wetlands  
HYDROLOGIC UNIT: Eureka Plain Hydrologic Unit No. 110.00  
COUNTY: Humboldt  
FILE NAME: City of Arcata – Lower Jacoby Creek Estuary, South Gannon  
Slough Tide Gate Replacement

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BY THE EXECUTIVE OFFICER:

1. On June 26, 2009, the City of Arcata (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 expansion of the estuary and floodplain along lower Jacoby Creek and restoration of estuarine channels associated with Gannon Slough. 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 project is part of the Arcata Baylands Project, a larger conservation, protection and enhancement effort in the Humboldt Bay region. The purpose of the Arcata Baylands Project is to protect, restore, and enhance freshwater, estuarine, and riparian habitats adjacent to Humboldt Bay. The Arcata Baylands Project is

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conducted on lands that are owned and managed by the City of Arcata for the conservation of coastal wetland habitats and the fish and wildlife that depend on them. Restoration and enhancement work completed to date includes construction of deep and shallow ponds for waterfowl habitat. The next phase of the Arcata Baylands Project involves restoration of channels associated with Gannon Slough and expansion of the lower Jacoby Creek floodplain and estuary. The project is designed to allow salmonids to access the Gannon Slough channel system and/or Jacoby Creek if fish are washed out of Jacoby Creek channel during flood events. Currently fish have no means of reentering Jacoby Creek after flood events due to the existing levees along the creek.

3. The Gannon Slough portion of the project involves restoring up to 17.1 acres of remnant estuarine channels associated with Gannon Slough by repairing an existing top-hinged tide gate and installing a new side-hinged tide gate with adjustable doors. The new and repaired tide gates will allow muted tidal flows to reestablish estuarine conditions in the remnant channels. The project also restores historical connectivity between fringe tidal channels at the transition between tidal and non-tidal lands (15.9 acres) by installing two 20-foot long culverts with screw gates under the existing railroad grade to connect additional remnant channels to Gannon Slough and its tributaries including Beith, Grotzman and Fickle Hill Creeks while allowing the Applicant to control flow to prevent flooding of adjacent agricultural fields.
4. The Jacoby Creek floodplain is currently constrained by levees. The Jacoby Creek portion of the project restores 15.3 acres of tidal habitat and channels associated with the Jacoby Creek estuary by constructing a new setback levee around the expanded estuary area to contain tidal floods that will drain back to Jacoby Creek and removing approximately 500 linear feet of existing levee adjacent to Jacoby Creek to allow the creek to reoccupy its floodplain. A new slough channel will be constructed between Jacoby Creek and a remnant channel of South Branch Gannon Slough to provide hydraulic connectivity during flood events. A 36-inch diameter culvert and tide gate with an adjustable auxiliary door will be installed through the new levee in order to allow flows in the constructed channel to enter the expanded estuary area during storm events. Approximately 500 linear feet of an existing drainage ditch parallel to Highway 101 will also be filled to adjacent ground elevation to prevent fish trapping problems once the estuary expansion is completed.
5. Compensatory mitigation is required for permanent impacts to 0.8 acres of grazed former tidelands associated with construction of the setback levee. Proposed compensatory mitigation includes creating 0.2 acre of tidal wetlands along the base of the new setback levee, removal of 500 linear feet of existing levee fill (0.3 acre), and removal of 0.5 acre of upland fill in order to create 0.8 acre of wetlands.

The project also includes creation of 1,394 linear feet (0.4 acre) of new channel area. Noncompensatory mitigation includes the use of Best Management Practices for sediment and turbidity control and for operation of heavy equipment in wetlands and waterways. Noncompensatory mitigation also includes mulching, seeding and revegetation of disturbed areas.

6. The Applicant has applied for authorization from the United States Army Corps of Engineers to perform the project under Nationwide Permit Numbers 3 and 27, 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.
7. On June 19, 2006, the City of Arcata approved a Mitigated Negative Declaration (SCH # 2006042056) for the Arcata Baylands Enhancement/Restoration project in order to comply with CEQA. The Regional Water Board has considered the environmental documents and any proposed changes incorporated into the project or required as a condition of approval to avoid significant impacts 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: Jacoby Creek, Gannon Slough, and wetlands in the Eureka Plain Hydrologic Unit No. 110.00

Filled or Excavated Area: Area Temporarily Impacted: None  
Area Permanently Impacted: 0.8 acres of wetlands (grazed former tidelands) and 0.1 acre of drainage channel

Total Linear Impacts: Length Temporarily Impacted: None  
Length Permanently Impacted: 500 linear feet of drainage channel

Dredge Volume: None

Created Stream Channel: Area Created: 0.4 acres of estuarine intertidal channel  
Length Created: 1, 394 linear feet of estuarine intertidal channel

Restored Wetland Areas: 17.1 acres of restored estuarine habitat in channels associated with Gannon Slough and tributaries

15.9 acres of restored hydrologic connectivity between fringe tidal channels at the transition between tidal and non-tidal lands

15.3 acres of restored tidal habitat and channels associated with Jacoby Creek estuary

Latitude/Longitude: 40.844 N/124.081 W

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the City of Arcata, Lower Jacoby Creek Estuary and Gannon Slough Tide Gate Restoration Project (WDID No.1B09079WNHU), 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, 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.

6. 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. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete the project.
9. The Applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
10. 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.
11. The Applicant shall implement the mitigation measures for Biological Resources (Mitigation Measure No. 1) and Geology and Soils (Mitigation Measure No. 4) as described in the mitigated negative declaration adopted for the Arcata Baylands Enhancement/Restoration Project on June 19, 2006.
12. The Applicant shall implement the mitigation, monitoring, and reporting measures described in the City of Arcata Monitoring Plan for Lower Jacoby Estuary/Gannon Tide Gate Project dated June 6, 2010. The Applicant shall monitor the project sites on an annual basis for a minimum of five years following completion of the project. Monitoring reports shall be submitted annually for a minimum of five years. The first annual monitoring report shall be submitted to the Regional Water Board by October 1st of the first year following completion of the project. A final monitoring report shall be submitted at the end of the five year monitoring period. If final performance monitoring indicates that the project activities have not met the performance standards, the Applicant shall submit a revised or supplemental enhancement plan to address those portions of the project that do not meet the project's goals and objectives.
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. 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 June 15, 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.

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Catherine Kuhlman  
Executive Officer

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Original to: Mr. Mark Andre, City of Arcata, 736 F Street, Arcata, CA 95521

Copies to: U.S. Army Corps of Engineers, District Engineer, 601 Startare Drive,  
Box 14, Eureka, CA 95501  
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1455 Market Street, San Francisco, CA 94103-1398