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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

July 16, 2010

In the Matter of
Water Quality Certification
for the
City of Ferndale, Wastewater Treatment Facility
WDID No. 1B09111WNHU

APPLICANT: City of Ferndale
RECEIVING WATER: Francis Creek
HYDROLOGIC UNIT: Ferndale Subarea No. 11.11
Lower Eel River Hydrologic Area 111.10
COUNTY: Humboldt
FILE NAME: City of Ferndale, Wastewater Treatment Facility,
Port Kenyon Road, Ferndale, California,
WDID No. 1B09111WNHU

BY THE EXECUTIVE OFFICER:

1. On September 17, 2009, the City of Ferndale (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 construction of upgrades at the Ferndale wastewater treatment facility (WWTF) and replacement of the existing discharge outfall structure that discharges treated effluent into Francis Creek (Project). The Applicant submitted supporting documentation on March 8, 2010, and an updated application on June 7, 2010. The Project will cause permanent impacts to approximately 0.0002 acres (7 square feet) on the bank of Francis Creek and, and temporary impacts to 0.23 acres of seasonal wetlands designated as waters of the United States within Ferndale Subarea No. 11.11, Lower Eel River Hydrologic Area 111.10. Fees of \$1,290 were paid on June 7, 2010. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on June 25, 2010, and posted information describing the Project on the Regional Water Board's website. We did not receive any public comments on the Project.

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2. The purpose of the Project is to upgrade the Ferndale WWTF to improve effluent quality and regulate discharge flows to comply with requirements to protect the beneficial uses of Francis Creek. The Project will occur within the footprint of the existing WWTF consisting of two parcels on either side of Port Kenyon Road; the northern parcel, which supports the existing oxidation pond, settling pond, disinfection system and discharge pipes; and the southern parcel which supports the existing headworks structure and various out-buildings. Approximately 5,000 cubic yards of imported fill will be placed on the southern parcel to provide for construction of a new concrete aeration basin and clarifier, various outbuildings, and perimeter fencing. Underground utility lines will be installed through adjacent seasonal wetlands to provide services to the new treatment components. A replacement outfall structure will be constructed in Francis Creek as part of the proposed upgrades, to allow discharges into Francis Creek between October 1 and May 15 each year.
3. Construction staging and utility line trenching will result in temporary impacts to a total of 0.23 acres of seasonal wetlands, which currently support agricultural uses. Permanent impacts of 0.0002 acres (7 square feet) will result from construction of the new outfall structure and riprap protection features in Francis Creek. In addition, the California Coastal Commission (CCC) has identified approximately 0.655 acres of permanent impacts to wetlands under their jurisdiction on the southern parcel from fill and construction activities.
4. Specific elements of the Project include:
 - o Installation of approximately 900 feet of 6-inch diameter water main below ground surface.
 - o Replacement of two existing outfall pipes with one new 10-inch diameter outfall pipe, and incorporating riprap protection around the pipe.
 - o Demolishing and removing existing outbuildings, concrete and structures from the southern parcel.
 - o Construction of new treatment components and building structures on the south parcel.
5. Temporary impacts to seasonal wetlands under agricultural use from underground utility line trenching and construction staging will be minimized by confining activities to the minimum area required to accomplish the required tasks. Areas impacted during construction will be restored to pre-construction elevations and seeded with one or more native grasses, including blue wildrye, California oat grass, red fescue, California brome, bentgrass, and fire reedgrass.
6. Compensatory mitigation for temporary and permanent impacts to wetlands consists of construction of 1.55 acres of newly created palustrine emergent wetlands replacing a portion of the existing sedimentation pond and aeration pond

within the existing WWTF on the northern parcel, per the *Revised Ferndale Wastewater Treatment Plant Wetland Mitigation and Monitoring Plan*, by Manhard Consulting, February 2010 (WMMP). The emergent wetland will be built where the sedimentation pond and aeration pond are currently located and planted with a range of vegetation including common sheep sorrel, white clover, ryegrass, orchard grass, bull thistle, narrowleaf plantain, sticky chickweed, and shepherd's purse. The emergent wetland will have hydraulic connectivity with Francis Creek during high flow events via an earthen overflow structure. Development of the mitigation wetland cannot be completed until treatment at the new WWTF on the southern parcel is underway. However, to compensate for temporal losses, the emergent wetland area will exhibit more functions with higher value than the existing CCC wetlands on the southern parcel.

7. Planted vegetation will be monitored for at least five years, with yearly reports submitted to the CCC and Regional Water Board. Plants may be irrigated with potable water as necessary only for initial survival and establishment. Irrigation shall be conducted in a manner which prevents any direct discharge to Francis Creek. Invasive plant species will be removed. Additional mitigation measures shall also include exclusion of cattle from near creek locations except for the express purpose of managing invasive vegetative species.
8. The new WWTF will be constructed within the existing footprint of the existing WWTF. All earth moving activities will be completed during the dry weather months (June –September). A combination of soil erosion and sediment controls will be implemented to prevent sediment from entering into Francis Creek or surrounding upland areas through the installation of silt fences, coir fiber rolls, and stockpile covers. Seeding of disturbed areas will protect the soil from erosion after construction. Work areas will be condensed minimizing the area of disturbance. Implementation of best management practices will curtail indirect impacts from the vehicle cleaning, fueling, and maintenance activities.
9. The Applicant has filed a Notice of Intent (NOI) to comply with the State General Permit for Construction Activities (WDID 112C356913). A Storm Water Pollution Prevention Plan (SWPPP) has been prepared for the Project to comply with requirements set forth under the State General Permit and Coastal Development Permit 1-09-024.
10. All aspects of the Project will comply with California Department of Fish and Game and National Marine Fisheries Service fish passage guidelines.
11. The Applicant has obtained authorization from the United States Army Corps of Engineers (Army Corps) to replace the discharge pipe in Francis Creek (File No. 2006-289-180) pursuant to Clean Water Act Section 404. In addition, under a

separate action, the Applicant has applied for authorization from the Army Corps to temporarily impact seasonal wetlands associated during construction staging and installation of underground utility lines pursuant to Clean Water Act Section 404.

12. A Lake or Streambed Alteration Agreement from the California Department of Fish and Game has been obtained, Notification No. R1-09-0244.
13. The Regional Water Board is a responsible agency for California Environmental Quality Act (CEQA) for the Project. On April 8, 2009, the City of Ferndale, as lead agency adopted a mitigated negative declaration for the Project (State Clearinghouse No. 2006062115) in order to comply with CEQA. The Regional Water Board has considered the environmental document and any proposed changes incorporated into the project required as a condition of approval to avoid significant effects to the environment. The Regional Water Board will file a Notice of Determination within five days from the issuance of this order. This order includes mitigation measures necessary to reduce or eliminate significant impacts on the environment (within Regional Water Board jurisdiction) as conditions of approval in the order section below.
14. The Lower Eel River Total Maximum Daily Loads (TMDL) for temperature and sediment was established in 2007 by the United States Environmental Protection Agency in accordance with section 303(d) of the Clean Water Act, because the State of California determined that the water quality standards for the Lower Eel River are exceeded due to excessive temperature and sediment. Roads and bank erosion are identified as sources contributing to the sediment impairment. In addition, activities that impact the riparian zone and reduce riparian vegetation are identified as sources contributing to increased stream temperatures. The primary adverse impacts associated with excessive temperature and sediment in the Lower Eel River occur to cold freshwater habitat, primarily anadromous salmonid habitat. Actions authorized by this Order require implementation of Best Management Practices (BMPs) for sediment control and minimal impacts to riparian vegetation. Accordingly, this Order is consistent with, and implements portions of the Lower Eel River TMDL.
15. The federal antidegradation policy requires that state water quality standards include an antidegradation policy consistent with the federal policy. The State Water Board established California's antidegradation policy in State Water Board Resolution No. 68-16. Resolution No. 68-16 incorporates the federal antidegradation policy where the federal policy applies under federal law. Resolution No. 68-16 requires that existing quality of waters be maintained unless degradation is justified based on specific findings. The Regional Water Board's Basin Plan implements, and incorporates by reference, both the State and federal antidegradation policies. This Order is consistent with applicable federal and State

antidegradation policies, as it does not authorize the discharge of increased concentrations of pollutants or increased volumes of treated wastewater.

Receiving Water: Francis Creek, Ferndale Subarea No. 11.11,
Lower Eel River Hydrologic Area 111.10

Filled or Excavated Area: Area Permanently Impacted:
0.0002 acres of creek bed and bank; and
0.655 acres of CCC seasonal wetland

Area Temporarily Impacted:
0.23 acres of seasonal wetland

Latitude/Longitude: 40.592759 °N / 124.25933 °W

Expiration: October 1, 2011

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the City of Ferndale, Wastewater Treatment Facility Project (WDID No. 1B09111WNHU), 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 installation and removal activities, 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 Project 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. All activities and BMPs shall be implemented according to the submitted application and the conditions in this certification.
7. 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.
8. 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.
9. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete the project.
10. The Eel River watershed is identified on the State of California Clean Water Act Section 303(d) list as impaired for sediment and temperature. Total Maximum Daily Load (TMDL) analyses have been completed for the Eel River watershed sediment and temperature listings. Activities that impact the riparian zone and riparian vegetation are identified as sources contributing to increased stream temperatures. At present, there are no watershed-specific implementation plans for this TMDL. If a TMDL implementation plan is adopted prior to the expiration date of this Order, the Regional Water Board may revise the provisions of this Order to address actions identified in such action plans
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. All mitigation measures identified in the mitigated negative declaration as necessary to protect water quality must be implemented. 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 October 1, 2011. 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 contact Lisa Bernard of our office at (707) 576-2677 or lbernard@waterboards.ca.gov.

Sincerely,

Catherine Kuhlman
Executive Officer

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Copies sent to: Mr. Bill Orme, SWRCB, 401 Program Manager, SWRCB
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