



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



**Linda S. Adams**  
Secretary for  
Environmental Protection

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**Arnold  
Schwarzenegger**  
Governor

September 7, 2010

In the Matter of

**Water Quality Certification**

for the

**HUMBOLDT COUNTY DPW – POISON OAK CREEK SEDIMENT REMOVAL FOR  
FLOOD CONTROL PROJECT  
WDID No. 1B10059WNHU**

APPLICANT:	Humboldt County Public Works Department
RECEIVING WATER:	Unnamed tributary to Poison Oak Creek and Poison Oak Creek
HYDROLOGIC UNIT:	Sequoia Hydrologic Subarea No. 111.41
COUNTY:	Humboldt
FILE NAME:	Humboldt Co. DPW – Poison Oak Creek Sediment Removal Project

BY THE EXECUTIVE OFFICER:

1. On May 25, 2010, the Humboldt County Public Works Department (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 removal of sediment (aggregate) from an unnamed tributary to Poison Oak Creek and Poison Oak Creek to reduce flooding along Dyerville Loop Road near Post Mile 2.56. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on August 6, 2010, 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 Poison Oak Creek watershed is mostly in steep terrain along the northeast side of Mail Ridge. Poison Oak Creek drops by approximately 1580 feet in elevation from its origin to Dyerville Loop Road (county road) along Camp Grant Flat. The stream gradients are very flat between the county road and the Eel River and bed load sediment tends to deposit and accumulate at the county road and downstream. The

stream channels affected by the project have a history of aggradation and flooding issues along the county road.

3. Historically, the Applicant has maintained the culvert at Post Mile 2.56 to ensure flow capacity during winter high-flow events by removing the aggraded sediment from the streambed between the railroad track and county road culverts, and extending downstream of the culvert outlet. Previous activities to reduce flooding have also included removing aggraded sediment from the streambed of the unnamed tributary to Poison Oak Creek where it runs adjacent to the county road and where flooding of the roadway occurs during moderate storm events.
4. Previous aggregate removal activities have been conducted under a Lake or Streambed Alteration Agreement (agreement) issued by the California Department of Fish and Game. Due to relatively mild winters in recent years, aggradation in the stream channels and culverts has been moderate and sediment removal has not been necessary each year. Increased aggradation has occurred in recent years and sediment removal is required again to restore flow capacity through the culverts and portions of the channels in order to reduce flooding along the county road.
5. Aggregate removed in the past was stockpiled along the east side of the Poison Oak Creek channel directly downstream of the county road. Due to the close proximity of the existing stockpile area to the streambank, the Applicant and landowner have agreed to relocate the stockpile area. The new stockpile area is located over 200 feet from Poison Oak Creek on the edge of an open field. Excavated materials will be placed directly in dump trucks and hauled to the new stockpile location during all phases of the project. The aggregate is not suitable for use by the Applicant but the material will be used onsite by the landowner.
6. The project consists of annual or less frequent channel excavation to remove aggraded sediment from the dry streambed of Poison Oak Creek and the unnamed tributary. The purpose of the project is to maintain flow capacity through existing culverts and the stream channels to reduce flooding along Dyerville Loop Road. Project activities have been divided into four phases or project areas as described below.
7. Phase 1: Phase 1 activities are located in a short section of Poison Oak Creek between the outlet of the 6-foot diameter concrete culvert under the railroad tracks and the inlet of the 6-foot diameter steel culvert under the county road. These culverts are estimated to be sixty percent blocked. Approximately 8 cubic yards of aggregate will be excavated from the stream channel to a depth equal to the concrete outflow apron attached to the culvert, approximately 36 inches below the current elevation of the streambed.

Excavation from this area will encourage downstream movement of sediment within the upstream culvert to restore its flow capacity. Excavation will be performed by a small rubber tired excavator or backhoe operated from the road shoulder.

Excavation activities will only occur during the summer when there is no water flowing in the stream. Riparian vegetation will not be removed. Phase 1 will take approximately two hours to complete. Annual excavation may be conducted although the necessity and frequency may diminish over time depending on the severity of winter storms.

8. Phase 2: The culvert under the county road is a 6-foot diameter and 80-foot long steel culvert. Sediment accumulates upstream (Phase 1 area), downstream and within the culvert to a depth of 4 feet, leaving only 2 feet or less of open culvert between the streambed and top of the culvert for passage of stream flows. Streambed elevations near the culvert outlet are equal to or only slightly lower than the top of the culvert.

Past maintenance practices involved removal of sediment from the channel of Poison Oak Creek beginning immediately downstream of the culvert and continuing downstream for approximately 300 feet. Sediment removal activities are intended to be less invasive and will reduce impacts to the channel and vegetation by limiting sediment removal to a maximum distance of 30 linear feet downstream from the culvert outlet. Approximately 135 cubic yards of aggregate will initially be excavated to a depth of 3-4 feet below the culvert invert which is approximately 8-9 feet below the current streambed elevation. This initial and unusually deep excavation is intended to encourage the downstream movement of sediment from within the upstream culverts. Once the aggraded sediment begins moving through the culvert and flow capacity is restored the need for subsequent excavation may be reduced and it may only be necessary to remove sediment to an elevation that is slightly below the invert elevation during future maintenance events.

Excavation will be performed by heavy equipment operating outside the stream channel. A backhoe may not have adequate boom reach and an excavator may be needed. Excavation activities will only occur during the summer when there is no water flowing in the stream. Disturbance to riparian vegetation will be minimized by pruning to reduce plant height and allow excavation equipment to reach over the vegetation. Phase 2 will take approximately three hours to complete.

9. Phase 3: Phase 3 activities involve additional excavation of aggraded sediment from the Poison Oak Creek channel. To minimize impacts to riparian vegetation located in the active channel, Phase 3 activities will begin approximately 120 feet downstream of the county road and excavation will continue downstream for a maximum distance of 90 linear feet. The area of excavation will be approximately 16-feet wide and to a depth of 4 feet below the streambed. As much as 215 cubic yards of aggregate will be excavated from the Phase 3 area during the initial year of implementation.

Excavation will be performed by heavy equipment operating outside the stream channel. A backhoe may not have adequate boom reach so an excavator may be needed. Excavation activities will only occur during the summer when there is no

water flowing in the stream. Disturbance to riparian vegetation will be minimized by pruning to reduce plant height to allow excavation equipment to reach over the vegetation. Phase 3 will take approximately 2 days to complete. Annual excavation from the Phase 3 stream channel area may be necessary although the need for future excavation will depend on the severity of winter storms.

10. Phase 4: Phase 4 activities involve excavation of aggraded sediment from the unnamed tributary to Poison Oak Creek immediately downstream of the railroad crossing over the unnamed tributary. Excavation will begin at the edge of the concrete apron under the crossing and will extend downstream for a maximum distance of 35 linear feet. The area of excavation will be approximately 12-feet wide and to a depth of up to 4 feet below the streambed. As much as 62 cubic yards of aggregate will be excavated from the Phase 4 area during the initial year of implementation.

Excavation will be performed by a small excavator or backhoe operated from the top of the streambank. Excavated material will be loaded directly into dump trucks and hauled to the new stockpile location. Excavation activities will only occur during the summer when there is no water flowing in the stream. Disturbance to riparian vegetation will be minimized by pruning to reduce plant height to allow excavation equipment to reach over the vegetation. Phase 4 will take approximately 4 hours to complete. Annual excavation from the Phase 4 stream channel area may be necessary although the need for future exaction will depend on the severity of winter storms.

11. Compensatory mitigation is not required for the project. Noncompensatory mitigation includes the use of Best Management Practices (BMPs) for sediment and turbidity control and for operation of heavy equipment in a stream channel. Aggregate removal activities are scheduled to begin during the summer of 2010.
12. The Regional Water Board, as the lead California Environmental Quality Act (CEQA) agency, has determined that this project is categorically exempt from CEQA review class 1, section 15301 – existing facilities, pursuant to CEQA.
13. The Applicant has applied for authorization from the United States Army Corps of Engineers to perform the project under Nationwide Permit, 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.
14. The Middle Main Eel River and Tributaries (from Dos Rios to South Fork Eel) Total Maximum Daily Load (TMDL) for temperature and sediment was established in 2005 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 pertain to cold freshwater habitat, primarily anadromous salmonid habitat. Actions authorized by this Order involve removal of excessive sediment from stream channels without removal of mature riparian vegetation. This Order also requires implementation of Best Management Practices (BMPs) for sediment control. Accordingly, this Order is consistent with, and implements portions of the Middle Main 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.

16. 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: Unnamed tributary to Poison Oak Creek and Poison Oak Creek in the Sequoia Hydrologic Subarea No. 111.41

Filled or Excavated Area: Area Temporarily Impacted: 2830 square feet of stream channel  
Area Permanently Impacted: None

Total Linear Impacts: Length Temporarily Impacted: 175 linear feet of stream channel  
Length Permanently Impacted: None

Dredge Volume: None

Latitude/Longitude: 40.33835 N/123.90016 W

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Humboldt County DPW – Poison Oak Creek Sediment Removal Project (WDID No. 1B10059WNHU), 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 and 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. 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.
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. 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.
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. 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 September 3, 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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Electronic

Copies to: U.S. Army Corps of Engineers, District Engineer, 601 Startare Drive, Box  
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