



Linda S. Adams
Secretary for
Environmental Protection

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

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Arnold
Schwarzenegger
Governor

December 7, 2010

In the Matter of

Water Quality Certification

for the

**HUMBOLDT COUNTY DPW – TOMPKINS HILL ROAD SLOPE REPAIR
WDID No. 1B10096WNHU**

APPLICANT: Humboldt County Public Works Department
RECEIVING WATER: Wetlands
HYDROLOGIC UNIT: Eureka Plain Hydrologic Unit No. 110.00
COUNTY: Humboldt
FILE NAME: Humboldt Co. DPW – Tompkins Hill Road P.M. 0.33, Slope
Repair

BY THE EXECUTIVE OFFICER:

1. On August 23, 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 installation of a rock slope buttress on the east side of Tompkins Hill Road south of Eureka. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on October 27, 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. Winter storms of 2005-2006 caused a slide above Tompkins Hill Road at Post Mile 0.33. The slide pushed dirt, trees and debris onto the road. Emergency repair work consisted of cutting down trees and clearing debris from the roadway. The project involves excavation of the slide area to accommodate installation of a rock slope buttress. The primary purpose of the project is to stabilize the hillside.
3. The rock slope buttress will be approximately 15 feet tall and extend approximately 100 feet along the roadway. Excavated material will be stockpiled in the roadway.

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Some of the excavated material will be used as structural backfill and any excess material will be hauled offsite to an appropriate upland disposal site.

4. A roadside drainage channel along the east side of Topkins Hill Road collects storm water runoff and seepage from the adjacent hillside. The drainage channel contains seasonal wetlands that will be temporarily impacted during the project. The drainage channel has been disturbed repeatedly since the 2005-2006 storm events due to the frequent maintenance that has been conducted to remove slide material that sloughs off the hillside and blocks the drainage channel and northbound lane of the roadway. The drainage channel will be reconstructed to its existing form following construction of the rock buttress and the channel will experience less frequent disturbance after the hillside is stabilized.
5. Compensatory mitigation is required for the proposed temporary impacts to 100 square feet of existing wetlands within the approximately 1-foot wide roadside drainage channel. Proposed mitigation includes restoring the drainage channel and monitoring the channel following project completion for the purpose of verifying that the drainage channel is revegetated through the natural propagation of wetland plants. If monitoring indicates that wetland vegetation does not reestablish within the drainage channel, the channel will be reassessed to determine if conditions can be modified or created to encourage wetland plant propagation. Noncompensatory mitigation will include the use of Best Management Practices (BMPs) for sediment and turbidity control. The proposed project is scheduled for construction during the summer when the drainage channel is dry.
6. The Regional Water Board, as the lead California Environmental Quality Act (CEQA) agency, has determined that this project is categorically exempt from CEQA review, section 15304 – minor alterations to land, pursuant to CEQA. The Regional Water Board will file a Notice of Exemption in accordance with the California Code of Regulations, title 14, section 15062 after issuance of this order.
7. The Applicant is planning to perform the project under the non-reporting provisions of Nationwide Permit No. 3, pursuant to Clean Water Act Section 404. A Lake or Streambed Alteration Agreement from the California Department of Fish and Game is not required.
8. 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.

9. 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: Wetlands in the Eureka Plain Hydrologic Unit No. 110.00

Filled or Excavated Area: Area Temporarily Impacted: 100 square feet of wetlands within the roadside drainage channel
Area Permanently Impacted: None

Total Linear Impacts: Length Temporarily Impacted: 100 linear feet of wetlands within the approximately 1-foot wide roadside drainage channel
Length Permanently Impacted: None

Dredge Volume: None

Latitude/Longitude: 40.675576 N/124.19726 W

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Humboldt County DPW – Tompkins Hill Road Slope Repair Project (WDID No. 1B10096WNHU), 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. 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. The reconstructed roadside drainage channel shall be monitored annually for at least three years with at least one site visit during the spring or summer months to verify natural revegetation of the drainage channel by wetland plants. A monitoring report, containing observations and photos taken throughout a three-year monitoring period, shall be submitted to this office no later than 180 days following completion of the three-year monitoring period. If monitoring indicates that natural revegetation of the drainage channel by wetland plants was unsuccessful, a revised or supplemental revegetation plan shall be submitted with the monitoring report.
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. 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.
12. 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.

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

18. 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).

19. The authorization of this certification for any dredge and fill activities expires on December 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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Original to: Mr. Doug Dinsmore, Humboldt County Public Works Department, 1106
Second Street, Eureka, CA 95501-0579

Electronic

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