



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



Linda S. Adams
Acting Secretary for
Environmental Protection

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Edmund G. Brown Jr.
Governor

April 15, 2011

In the Matter of

Water Quality Certification

for the

**CITY OF EUREKA – HALVORSON PARK SHORELINE PROTECTION PROJECT
WDID No. 1B11005WNHU**

APPLICANT: City of Eureka
RECEIVING WATER: Humboldt Bay
HYDROLOGIC AREA: Eureka Plain Hydrologic Unit No. 110.00
COUNTY: Humboldt
FILE NAME: Eureka, City of – Halvorson Park Shoreline Protection

BY THE EXECUTIVE OFFICER:

1. On January 12, 2011, the City of Eureka (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 repair of existing rock slope protection (RSP) along the Humboldt Bay Shoreline at Halvorson Park in Eureka. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on March 15, 2011, and posted information describing the project on the Regional Water Board's website. We did not receive any public comments on this project.
2. High tides have encroached above the existing RSP, destabilizing the RSP and the shoreline the RSP is protecting. Erosion has also undermined and damaged the existing trail that borders the bay. The RSP and trail damage has created a public safety concern and negatively impacts public access along the bay.
3. The project involves repair of the damaged RSP along a 35-foot long section of shoreline adjacent to the Humboldt Bay Rowing Club's boat dock. Approximately 10 cubic yards of imported RSP (high density quarry rock) will be placed to restore the damaged section of RSP. All work will be performed during low tide and no work will occur in the water. Rock will only be placed on top of existing RSP and in

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the voids within the RSP. A backhoe will be used to place a majority of the rock. Rock that cannot be placed beneath the dock with a backhoe will be placed by hand. Access to the adjacent trail and boat dock will be limited for approximately four hours during the project.

4. The project will not result in any new permanent impacts to waters of the United States. Compensatory mitigation is not required for this project. Non-compensatory mitigation measures include the use of Best Management Practices for sediment and erosion control. The proposed project is scheduled for one day of construction between April 15, 2011 and October 15, 2011.
5. The applicant has applied (File No. 2011-0011N) for authorization from the United States Army Corps of Engineers to perform the project under Nationwide Permit No. 13, pursuant to Clean Water Act, section 404. A Lake or Streambed Alteration Agreement (1600 Permit) from the California Department of Fish and Game is not required for this project. Regional Water Board staff have determined that this project is categorically exempt from CEQA review (Class 1, Section 15301 – existing facilities) and anticipate filing a Notice of Exemption for this project.
6. 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, and does not otherwise authorize degradation of the waters affected by this project.
7. 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 Waters: Humboldt Bay in the Eureka Plain Hydrologic Unit No. 110.00

Filled or Excavated Area: Area Temporarily Impacted: None
Area Permanently Impacted: 500 square feet of shoreline covered with existing damaged RSP

Total Linear Impacts: Length Temporarily Impacted: None

Length Permanently Impacted: 35 linear feet of shoreline covered with existing damaged RSP

Dredge Volume: None

Latitude/Longitude: 40.80800 N/124.15561 W

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the City of Eureka – Halvorson Park Shoreline Protection Project (WDID No.1B11005WNHU), 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:

All conditions of this order apply to the Applicant (and all their employees) and all contractors (and their employees), sub-contractors (and their employees), and any other entity or agency that performs activities or work on the project as related to this Water Quality Certification.

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 California Code of Regulations, title 23, 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 California Code of Regulations, title 23, section 2200, and owed by the Applicant.
4. The Regional Water Board shall be notified 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. All activities and BMPs shall be implemented according to the submitted application and the conditions in this certification.

6. 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.
7. 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.
8. 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.
9. 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.
10. 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.
11. The Applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
12. 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.
13. 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.

14. 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).
15. The authorization of this certification for any dredge and fill activities expires on April 15, 2016. 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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Weblink: 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 can be found at:
http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf

Original sent to: Mr. Miles Slatery, City of Eureka, 531 K Street, Eureka, CA 95501-1146

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

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