



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

August 10, 2011

In the Matter of
Water Quality Certification
for the
City of Rio Dell
WDID No. 1B11083WNHU

APPLICANT: Rio Dell, City of
RECEIVING WATER: Lower Eel River
HYDROLOGIC UNIT: Ferndale Hydrologic Subarea No. 111.11
COUNTY: Humboldt
FILE NAME: Rio Dell, City of

BY THE EXECUTIVE OFFICER:

1. On May 31 2011, The City of Rio Dell (Applicant) filed an application for water quality certification (Order) 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 the seasonal discharges of effluent (treated wastewater) from the Applicant's Wastewater Treatment Facility to a percolation pond adjacent to the Eel River. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858, on July 5, 2011 and posted information describing the project on the Regional Water Board's website. The Regional Water Board did not receive any public comments on this project.
2. The project is located on the gravel bar of the Eel River at the end of Edwards Drive in Rio Dell. The purpose of this project is to create a seasonal percolation pond adjacent to the Eel River for disposal of treated wastewater from the Applicant's Wastewater Treatment Facility. The project involves construction of a percolation pond in the gravel bar during the seasonal low flow period. The construction work includes grading sand and gravel to build berms to create three sides of the percolation pond. The existing riverbank is used as the fourth side of the pond and will be left in its natural state. The surface of the existing road at the end of Edwards Drive will be graded to improve access for vehicles

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and equipment. The berms created for the pond will be removed and graded back into the gravel bar prior to the end of each seasonal low flow period such that the graded area will drain and not impound water. The percolation pond is generally constructed prior to May 15th and removed immediately prior to the rise of the river after onset of the winter rainy season. The percolation pond has already been constructed for the 2011/2012 season and this is an after-the-fact Order. The application applies for this season as well as similar activities for a maximum of 4 more seasons.

3. The Eel River from the confluence with Outlet Creek to the mouth at the Pacific Ocean is designated as a recreational reach under both federal and California Wild and Scenic Rivers Acts. These acts require preservation of the river's free-flowing condition; anadromous and resident fisheries; and outstanding geologic, wildlife, flora and fauna, historic and cultural, visual, recreational, and water quality values. Recreational segments are generally developed, with parallel roads, bridges, and structures. All activities normally associated with public lands are permitted subject to the protection of free flowing conditions and outstanding values. Implementation of the project would not affect the free-flowing condition of the Eel River and would not affect the extraordinary qualities for which the segment was listed.
4. The Lower Eel River Total Maximum Daily Loads (TMDL) for temperature and sediment were 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 elevated water temperatures and excessive 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 water temperatures. The primary adverse impact associated with excessive temperature and sediment in the Lower Eel River is to beneficial uses associated with aquatic life, including cold freshwater habitat, primarily anadromous salmonid habitat. This Order requires implementation of Best Management Practices (BMPs) for sediment control. By requiring BMPs for sediment control, this Order is consistent with, and implements portions of the Lower Eel River Sediment TMDL.
5. Non-compensatory mitigation includes the use of BMPs to prevent impacts to water quality, including storage of fuel and other potentially hazardous materials away from jurisdictional waters, refueling outside the stream channel, limiting vehicle access to the stream channel, and checking equipment for leaks prior to entry into the stream channel. All in-channel work related to construction and removal of the percolation pond and access road will be conducted between May 1st and October/November (at time of first significant rain event) each year. No

work will be conducted in the live stream channel. The applicant has obtained a Lake or Streambed Alteration Agreement (1600 Agreement) from California Department of Fish and Game.

6. The project meets the exemption criteria under title 14, California Code of Regulations, section 15304 (g) "Minor Alterations to Land", Maintenance dredging where the spoil is deposited in a spoil area authorized by all applicable state and federal regulatory agencies. 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.

Receiving Water: Lower Eel River

Hydrologic Unit : Ferndale Hydrologic Subarea No. 111.11

Filled or Excavated Area: Area Temporarily Impacted: 0.70 acres will be impacted annually for when the pond is in place

Area Permanently Impacted: <0.01 acres.

Latitude/Longitude: Percolation Pond:
Latitude: 40°, 29', 45.3835
Longitude: 124°, 5', 36.5569

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the City of Rio Dell, (WDID No. 1B11083WNHU) 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. The Regional Water Board shall be notified annually in writing at least five working days (working days are Monday thru Friday) prior to the commencement of grading work, with details regarding the construction schedule, in order to allow staff to be present on site during construction, and to answer any public inquires that may arise regarding the project.
2. This Order is subject to modification or revocation upon administrative or judicial review; including review and amendment pursuant to California Water Code (Water Code) section 13330 and title 23, California Code of Regulations, section 3867.
3. This Order 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.

4. This Order is conditioned upon total payment of any fee required under title 23, California Code of Regulations, section 2200, and owed by the Applicant.
5. The validity of any non-denial certification action (actions 1 and 2) shall be conditioned upon total payment of the full fee required under title 23, California Code of Regulations, section 3833, unless otherwise stated in writing by the certifying agency.
6. Discharges shall not cause or threaten to cause pollution, contamination, or nuisance as defined in Water Code Section 13050.
7. Discharges shall not adversely impact human health or the environment or the beneficial uses of water set out in the Water Quality Control Plan for the North Coast Region (Basin Plan).
8. Discharges are authorized only where they do not cause or contribute to a violation or exceedence of applicable water quality standards, prohibitions, or policies in the Basin Plan, and are controlled through implementation of appropriate design and management measures for prevention and minimization of waste discharges.
9. The activities shall not cause the receiving waters to contain floating materials, including solids, liquids, foams, and scum, in concentrations that cause nuisance or adversely affect beneficial uses.
10. Activities shall not cause the turbidity of the receiving waters to be increased more than 20 percent above naturally occurring background levels.
11. Fueling, lubrication, maintenance, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to surface waters or ground water. At no time shall the discharger use vehicles or equipment that leaks any substance that might impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of the bed, channel, and bank of any waters of the State.
12. 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 state waters.

13. BMPs for sediment and turbidity control shall be implemented and in place prior to, during, and after construction in order to ensure that no silt or sediment enters waters of the State.
14. All activities and BMPs shall be implemented according to the submitted application and the conditions in this Order.
15. A copy of this Order and the application documents submitted by the Applicant shall be provided to all contractors and subcontractors conducting the work, and shall be in their possession at the work site.
16. 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.
17. 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.
18. If, at any time, an unauthorized discharge to waters of the State (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.
19. 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.
20. The Applicant shall provide Regional Water Board staff access to the project site to document compliance with this Order.
21. In the event of any violation or threatened violation of the conditions of this Order, 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 Order. In response to a suspected violation of any condition of this Order, the Regional Water Board may require the holder of any federal permit or license subject to this Order 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 Order, the Regional Water Board may add to or modify the conditions of this Order as appropriate to ensure compliance.

22. This Order is not transferable. 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.
23. 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.
24. I hereby issue an order [title 23, California Code of Regulations, subsection 3831(e)] certifying that any discharge from the Applicant Wastewater Treatment Plant Percolation Pond (WDID No. 1B11083WNHU) will comply with the applicable provisions of sections 301, 302, 303, 306, and 307 of the Clean Water Act [33 USC subsection 1341 (a) (1)], and with other applicable requirements of State law. 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 Order.
25. 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 Basin Plan.
26. The authorization of this Order for any dredge and fill activities expires on December 31, 2015. Conditions and monitoring requirements outlined in this

Order 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 Lisa Bernard at (707) 576-2677.

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

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