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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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Edmund G. Brown Jr.
Governor

January 13, 2012

In the Matter of

Water Quality Certification

for the

**City of Eureka – Hiksari Trail and Elk River Access Area Improvements Project
WDID No. 1B11187WNHU**

APPLICANT: City of Eureka
RECEIVING WATER: Wetlands
HYDROLOGIC AREA: Eureka Plain Hydrologic Unit No. 110.00
COUNTY: Humboldt
FILE NAME: Eureka, City of – Hiksari Trail/Elk River Access Area

BY THE EXECUTIVE OFFICER:

1. On October 31, 2011, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application from the City of Eureka (Applicant), requesting Federal Clean Water Act, section 401, Water Quality Certification (certification) and/or Waste Discharge Requirements (Dredge/Fill Projects) for activities associated with construction of the Hiksari Trail and Elk River Access Improvements Project. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on December 20, 2011, and posted information describing the project on the Regional Water Board's website. No comments were received.
2. The project is located along Humboldt Bay in the southwest area of Eureka. The purpose of the project is to create 1.5 miles of contiguous multiple-purpose trail to enhance coastal access for non-motorized public recreation and transportation to the Elk River Wildlife Sanctuary (ERWS), Elk River Estuary, and Humboldt Bay between Truesdale Road and Pound Road. The project is intended to encourage an appreciation of the environment and historic uses of the area, improve public

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health, increase safety for Parkway visitors, and improve native habitat values where possible. The project is scheduled for construction during the spring/summer of 2012.

3. The project includes the following nine major elements/segments:

- Truesdale Vista Point: Located between Truesdale Street and the City of Eureka's McCullens Avenue lift station is an existing dirt lot with a largely unimproved surface. Public access improvements within this element include a scenic visitor area with day use facilities and signage, upgraded parking area to accommodate 23 vehicles, new multi-purpose trailhead, 380 linear feet of trail, and an earthen observation platform for bay/wildlife viewing.
- Truesdale Park: The former City of Eureka storage yard area located south of the McCullens Avenue lift station will become an open space park with playground facilities and 425 linear feet of the multi-use trail including a trailhead to a paddling access point.
- Truesdale to Hilfiker: Improvements to the former Crowley property north of Hilfiker Lane include 650 linear feet of the multi-use trail, invasive exotic plant removal and revegetation, interpretive signs, and a slightly raised earthen platform for bay/wildlife viewing.
- Elk River Paddling Access: A paddle boat parking area with a footpath will be created at the corner of Hilfiker Lane and southwest end of the former Crowley property for access to an existing "primitive" beach launch. Improvements include picnic tables, trash receptacle/dog cleanup station, and a restroom facility. The parking area will have a permeable crushed rock surface and space for eight vehicles.
- Hilfiker Lane Trail: The multi-use trail continues for approximately 1,500 linear feet adjacent to Hilfiker Lane between the corner of Hilfiker Lane and the Hilfiker Lane Trailhead. The trail will depart from the shoreline and onto the roadway until an easement or purchase of private property allows continuation of the trail off the roadway.
- Hilfiker Lane/ERWS Trailhead: The multi-use trail continues to an existing asphalt parking lot at the south end of Hilfiker Lane where it meets the existing ERWS public trail. The existing parking lot is currently adequate for trailhead and day use area improvements. The area will be improved for day use activities with the addition of picnic tables, a trash receptacle/dog cleanup

station, and restroom facilities. Existing cyclone fencing and large boulders will be removed and replaced with more aesthetic vehicular access controls.

- Existing ERWS Trail: Surfacing improvements to the existing informal trail south of the Hilfiker Lane/ERWS Trailhead will include vegetation removal in a 16-foot wide corridor, grading, and application of trail base surfacing materials. The paved portion of the trail will consist of 10-foot wide asphalt concrete. An approximately 26-foot long and 12-foot wide bridge will be installed over a narrow finger of slough channel northwest of the railroad crossing at the south end of the ERWS. Trailside interpretive signs will be placed along the trail.
 - Riverside Footpath: South of the ERWS parking lot there is an existing footpath to the edge of Elk River which makes a loop back to the ERWS trail. Approximately 1,090 linear feet of this trail will be surfaced with a 4-foot wide crushed shale or similar surface. Trail improvements are intended to reduce off-trail travel along the river's edge.
 - Pound Road Access: An 8-foot wide asphalt trail will be developed for 255 linear feet along Pound Road. The trail will be separated from Pound Road by a raised curb from the Park-and-Ride lot to the entrance to Pro-Pacific where a crosswalk will provide access to the pedestrian/bicycle access adjacent to a new gate. Pedestrian/bicycle traffic will share Pound Road between the gate and the existing informal parking area. The existing gate adjacent to the parking area will be removed and installed on Pound Road west of the entrance to Pro-Pacific to limit vehicle access to City maintenance workers and one private land owner, and to prioritize pedestrian/bicycle use for the remainder of Pound Road
4. The Applicant has applied for authorization from the U.S. Army Corps of Engineers to complete the project under Nationwide Permit pursuant to Clean Water Act, section 404. A Lake or Streambed Alteration Agreement from the California Department of Fish and Game is not required for this project.
 5. On January 11, 2011, the City of Eureka approved a Mitigated Negative Declaration (SCH No. 2010112050) for the project in order to comply with CEQA. The Regional Water Board has considered the environmental document and any proposed changes incorporated into the project or required as a condition of approval to avoid significant effects to the environment. The project will result in 12,089 square feet of permanent impacts to jurisdictional wetlands due to direct filling associated with trail construction and improvements between the Hilfiker Lane/ERWS Trailhead and parking lot at the Pound Road Access. Compensatory mitigation is required for permanent impacts to wetlands.

6. A wetland mitigation, monitoring, and reporting plan has been prepared for the project that includes wetland creation at a 4 to 1 (wetland creation to wetland loss) ratio. Mitigation for the permanent impacts to 0.26 acre of freshwater wetland and 0.02 acres of salt marsh wetland includes onsite creation of 1.11 acre (48,356 square feet) of salt marsh wetlands. The mitigation area is located west of the southern Crowley property between existing salt marsh wetlands and trail improvements.
7. The Elk River watershed is listed on the State of California Clean Water Act Section 303(d) list as impaired for sediment. Roads are a significant source of sediment in the watershed (directly, from surface erosion, and, indirectly, by triggering landslides). In addition, activities that impact the riparian zone and reduce riparian vegetation are identified as sources contributing to increased stream temperatures. A focus on measures to reduce sediment discharges to surface waters from roads in the watershed, and measures to avoid, minimize, and mitigate impacts on riparian zones is essential for achieving TMDL compliance. Project activities are located along the estuary area of the Elk River watershed where roads and landslides are not known to be a significant source of sediment. The project is required to develop a Storm Water Pollution Prevention Plan and appropriate Best Management Practices for sediment and erosion control will be implemented.
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, and does not otherwise authorize degradation of the waters affected by this project.
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 certification.

Receiving Water: Wetlands in the Eureka Plain Hydrologic Unit No. 110.00

Filled or Excavated Area: Area Temporarily Impacted: None

Area Permanently Impacted: 0.26 acre of freshwater wetland and 0.02 acres of salt marsh wetland

Linear Impacts Length Temporarily Impacted: None
 Length Permanently Impacted: None

Dredge Volume: None

Compensatory Mitigation: onsite creation of 1.11 acre of salt marsh wetlands

Latitude/Longitude: Northern End: 40.776 N/124.194 W
 Southern End: 40.759 N/124.193 W

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the City of Eureka - Hiksari Trail and Elk River Access Area Improvements Project (WDID No.1B11187WNHU), 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 (including the off-site mitigation lands) 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 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. The validity of this certification is conditioned upon total payment of any fee required under title 23, California Code of Regulations, section 3833, 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. 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.
6. The Applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
7. The Applicant shall construct the project in accordance with the project described in the application and the findings above, and shall comply with all applicable water quality standards as detailed in the Basin Plan. 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. 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 action(s).
8. The Applicant shall implement the *Monitoring and Reporting Plan – Salt Marsh Mitigation for the Elk River Wildlife Trail Improvement Project* (MRP) submitted with the application and dated March 2011. A minimum of 1.11 acre (48,356 square feet) of salt marsh wetlands shall be created to compensate for the project's permanent impact to jurisdictional wetlands. The mitigation area shall be located west of the southern Crowley property between existing salt marsh wetlands and trail improvements. Monitoring reports shall be submitted to the Regional Water Board annually in accordance with the schedule in the MRP. If the mitigation performance standards in the MRP are not met at the end of the five-year monitoring period a corrective action plan shall be prepared and submitted as described in the MRP.
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 Applicant shall provide a copy of this Order and State Water Resources Control Board (SWRCB) Order No. 2003-0017-DWQ (web link referenced below)

to any contractor(s), subcontractor(s), and utility company(ies) conducting work on the project, and shall require that copies remain in their possession at the work site. The Applicant shall be responsible for ensuring that all work conducted by its contractor(s), subcontractor(s), and utility companies is performed in accordance with the information provided by the Applicant to the Regional Water Board.

11. 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 waters. All BMPs shall be installed properly and in accordance with the manufacturer's specifications.
12. The Applicant shall prioritize the use of wildlife-friendly biodegradable (not photo-degradable) erosion control products wherever feasible. The Applicant shall not use or allow the use of erosion control products that contain synthetic materials within waters of the State or waters of the United States at any time. The Applicant shall not use or allow the use of erosion control products that contain synthetic netting for permanent erosion control (i.e. erosion control materials to be left in place for two years or after the completion date of the project). If the Applicant finds that erosion control netting or products have entrapped or harmed wildlife, personnel shall remove the netting or product and replace it with wildlife-friendly biodegradable products. The Applicant shall request approval from the Regional Water Board if an exception from this requirement is needed for a specific location.
13. Disturbance or removal of existing vegetation shall not exceed the minimum necessary to complete the project.
14. 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. No rubbish shall be deposited within 150 feet of the high water mark of any stream.
15. Fueling, lubrication, maintenance, storage and staging of vehicles and equipment shall be outside of waters of the U.S. and the State. Fueling, lubrication, maintenance, storage and staging of vehicles and equipment shall not result in a discharge or a threatened discharge to any waters of the State or the United States. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality.

16. All imported fill material shall be clean and free of pollutants. All fill material shall be imported from a source that has the appropriate environmental clearances and permits.
17. 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.
18. 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 for the violation or threatened violation 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 certification, the State 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 State 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.
19. 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.

20. 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).

21. The authorization of this certification for any dredge and fill activities expires on January 13, 2017. 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 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 to: Mr. Miles Slatery, City of Eureka, 531 K Street, Eureka, CA 95501-1146

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