
North Coast Regional Water Quality Control Board

April 25, 2012

In the Matter of
Water Quality Certification
for

**Coast Seafoods Company – Mariculture Operations in Humboldt Bay
WDID No. 1B01140WNHU**

APPLICANT: Coast Seafoods Company
RECEIVING WATER: Eureka Plain Hydrologic Unit No. 110.00
HYDROLOGIC UNIT: Eureka Plain
COUNTY: Humboldt
FILE NAME: Coast Seafoods Company – Mariculture Activities

BY THE EXECUTIVE OFFICER:

1. On February 28, 2012, the Coast Seafoods Company (Coast/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) to continue shellfish mariculture operations in Humboldt Bay. The Regional Water Board previously issued certification to Coast on April 18, 2007 for the ongoing shellfish mariculture operations. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on March 30, 2012, and posted information describing the project on the Regional Water Board's website. We did not receive any public comments on this project.
2. Coast has been growing and harvesting shellfish in the northern portion of Humboldt Bay (also known as Arcata Bay) since the early 1950s. Coast currently owns and leases approximately 3,950 acres in Arcata Bay. Coast historically utilized as much as 1,000 acres of tidelands for its bottom culture shellfish growing operations. Historical bottom culture methods involved growing oysters directly on

the bottom of the bay and harvesting oysters with an oyster dredge. In the 1990s, at the request of various regulatory agencies, Coast began converting to off-bottom culture methods, primarily long-line culture of Pacific and Kumamoto oysters.

3. The current operational footprint that can be used for shellfish production at any one time is a maximum of 300 acres. Coast's current and proposed operations include approximately 284 acres of long-line culture, approximately 11 acres of rack-and-bag culture, and approximately 5 acres of "nursery" areas. Coast will also continue to use its "nursery" area to operate floating upwelling systems, wet storage floats, and clam rafts. Coast has terminated all bottom culture operations and any remaining bottom culture areas shall lie fallow unless the beds are converted to off-bottom culture methods and are included in the 300-acre operational footprint.
4. The long-line culture method involves hanging seeded long-lines on notched stakes that are arranged in rows on the mudflats. Long-line culture utilizes oyster cultch with oyster spat attached (collectively referred to as oyster seed). The oyster seed is prepared at Coast's hatchery in Quilcene, Washington and trucked to Humboldt Bay. Coast stacks bags of oyster seed on wood pallets in the nursery area on Gunther Island. The bags are stacked on pallets to prevent the bottom bags from silting in which suffocates the seed. After a few months in the nursery area, seed bags are collected and brought to Coast's processing plant where individual pieces of seed are braided into ropes and the ropes are bagged. The bags of long-lines are either placed on a bed or in the Arcata Channel nursery area to await planting. The notched stakes are typically made of 0.75-inch diameter PVC pipe and the long-lines hang approximately 1 foot above the bottom of the mudflats. Spacing of long-lines varies but most beds have five long lines spaced approximately 2.5 feet apart with ten-foot spacing between each group of five lines. Coast estimates that approximately 1,680 stakes are used per acre of long-line bed. With approximately 285 acres planted with long-lines, the total area of the bay floor that would be covered by the ends of all the long-line stakes is less than 0.04 acre. Coast's authorized operations are not expected to result in any increase in the area of permanent impact to waters of the United States compared to current operations.
5. Compensatory mitigation is not required for the continued mariculture operations in Arcata Bay; however, Coast will comply with operational conditions and mitigation measures required by regulatory agency approvals including the following:
 - Coast shall submit an annual report to the Harbor District describing the status of each bed.
 - Coast shall avoid vessel contact with the bay bottom, where feasible.
 - Coast shall avoid potential impacts to eelgrass due to shading by not anchoring vessels in such a way as to shade the same area of eelgrass for more than 12 hours.

- Coast shall not discharge feed, pesticides, antibiotics, or hormones into marine waters.
 - Coast shall not intentionally deposit shells onto the bay floor.
 - During December, January, and February, Coast shall visually survey beds prior to harvesting and/or planting to determine whether herring have spawned on the eelgrass, oyster culture materials, or substrate. Coast shall postpone for two weeks any harvesting or planting activities on beds where herring spawning has occurred.
 - Coast shall not engage in any dredging, hydraulic harvesting, bed cleaning, or any other activities with a hydraulic harvester.
 - Coast shall not initiate any new bottom culture.
 - Coast has removed all bat ray fencing on its owned or leased tidelands and shall not construct any new bat ray fencing.
6. On April 12, 2007, the Humboldt Bay Harbor, Recreation and Conservation District adopted a mitigated negative declaration (SCH No. 1999062069) 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.
 7. The Applicant has authorization from the United States Army Corps of Engineers to perform the project under a 10-year Individual Permit (File No. 269120N), pursuant to Clean Water Act, section 404.
 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 water quality certification.
http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf

Receiving Water: Humboldt Bay, Eureka Plain Hydrologic Unit No. 110.00

Filled or Excavated Area: Area Temporarily Impacted: None
Area Permanently Impacted: The project shall not result in any increase in the area of permanent impact to waters of the United States compared to 0.04 acre of area currently covered by the ends of all the long-line stakes

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

Dredge Volume: None

Latitude/Longitude: 40.83257 N/124.14093 W

Expiration: June 30, 2016

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Coast Seafoods Company – Mariculture Operations in Humboldt Bay (WDID No. 1B01140WNHU), 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 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 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. All activities and BMPs shall be implemented according to the submitted application and the conditions in this certification.
5. The mitigation measures detailed in the Biological Resources, Hazardous Materials, Hydrology, and Water Quality sections in the Mitigated Negative Declaration are hereby incorporated by reference and are conditions of approval of this certification. Notwithstanding any more specific conditions in this certification, the Applicant shall comply with all mitigation measures identified in the CEQA findings.
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. The Applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
8. If, at any time, an unauthorized discharge to surface water occurs or any water quality problem arises, the Applicant shall immediately cease any activities causing an unauthorized discharge or water quality problem. The Regional Water Board shall be notified promptly and in no case more than 24 hours after an unauthorized discharge or water quality problem arises. Any activities that cause an unauthorized discharge or water quality problem shall remain suspended until the Applicant is able to conduct those activities in a manner that will not result in an unauthorized discharge or water quality problem.
9. 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).
10. All project work shall be conducted as described in this Order and in the application submitted by the Applicant, and shall comply with all applicable water quality standards as detailed in the Basin Plan. 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.
11. The Applicant shall provide a copy of this Order and State Water Resources Control Board (SWRCB) Order No. 2003-0017-DWQ 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.

12. Fueling, lubrication, maintenance, storage, and staging of vehicles and equipment shall not result in a discharge or threatened discharge to any waters of the State including dry portions of the shoreline. At no time shall the Applicant or its contractors allow use of any vehicle or equipment, which leaks any substance that may impact water quality.
13. 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.
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. 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.

16. 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).
17. The authorization of this certification for any dredge and fill activities expires on June 30, 2016. 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

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