
North Coast Regional Water Quality Control Board

July 12, 2012

In the Matter of

Water Quality Certification

for the

**Union Pacific Railroad/Former G & R Metals - Site Remediation
WDID No. 1B12094WNHU**

APPLICANT: Union Pacific Railroad
RECEIVING WATER: Humboldt Bay
HYDROLOGIC AREA: Eureka Plain Hydrologic Unit No. 110.00
COUNTY: Humboldt
FILE NAME: Union Pacific Railroad/Former G & R Metals Remediation

BY THE EXECUTIVE OFFICER:

1. On May 22, 2012, the Union Pacific Railroad (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 removal of impacted soil and sediment from historical metal salvage operations at the Union Pacific Railroad Waterfront Lease Site (Former G&R Metals), 701 First Street, Eureka. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on June 20, 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. Authorized project activities are for the purpose of remedial action of the site to comply with Cleanup and Abatement Order No. R1-2002-0095 issued by the Regional Water Board on October 3, 2002. The remedial action activities are described in the *Union Pacific Railroad Company Waterfront Lease Site, Draft*

Remedial Action Plan (RAP). The RAP was approved by Regional Water Board staff on March 22, 2011. The project involves implementation of the approved RAP including demolition of an existing warehouse building, upland excavation, and excavation along the Humboldt Bay shoreline.

3. The project area consists of a waterfront area and adjacent upland area. The waterfront area includes the offshore tidal mudflat along the Humboldt Bay shoreline. The waterfront area is approximately 1 acre that is separated from the upland area by a steep embankment and a partially vegetated soil berm. The upland area is approximately 3 acres of mostly unpaved land. The upland area includes the soil berm, trees and vegetation at the shoreline, an inactive railroad spur, and a building adjacent to First Street.
4. Remedial action activities within the waterfront area involve excavating approximately 4,350 cubic yards of contaminated sediment from the tidal mudflat below the high tide line (HTL). Constituents of concern in upland soils and waterfront sediments include select metals, polychlorinated biphenyls, and polycyclic aromatic hydrocarbons. Excavation of smaller isolated areas of contaminated sediment or "hot spots" will also occur adjacent to and under the public boardwalk and pier. Contaminated sediment will be removed to depths of approximately 3 to 5 feet below the sediment surface. Any abandoned, loose, or mud-embedded debris encountered below the HTL will also be removed. Clean soil will be imported and used as backfill to replace excavated materials. A long-armed excavator operated primarily from the shoreline will be used to remove contaminated sediment and backfill excavated areas. The excavator will be placed on crane mats where it needs to be located directly on the mud flat.
5. Prior to the start of excavation below the HTL, a Portadam structure will be installed along the tidal mudflat area over the course of several tidal cycles to minimize the potential for sediment migration from the work area into Humboldt Bay and to prevent fish from being trapped within the project area. The Portadam structure consists of an impermeable geomembrane liner that is placed over a steel frame support structure. The fully installed structure will create a seal between the excavation work area and the surrounding waters of Humboldt Bay. Any excess water will be pumped to an onsite containment system, treated, and disposed to the City of Eureka sanitary sewer system. Silt fences will be installed in excavation areas where the Portadam structure cannot be used and work will only occur in those areas during low tides.
6. Eelgrass beds occur adjacent to the waterfront excavation area. The project is not anticipated to directly impact vegetated eelgrass beds. Indirect impacts to eelgrass beds will not be known until excavation activities are complete. The Applicant shall implement the *Waterfront Lease Site (Former G & R Metals) Eelgrass Monitoring*

Plan. Preconstruction eelgrass surveys will be conducted before starting any excavation activities below the HTL. Post construction surveys will be conducted within 30 days of completion of excavation below the HTL or within 30 days of the beginning of the eelgrass growing season if excavation activities are completed outside of the eelgrass growing season.

7. Excavated materials will be temporarily stockpiled in an upland area for dewatering. Stabilizing agents may be used to reduce moisture content if dewatering alone does not achieve the required limits for offsite transport and disposal. Waste characterization samples will be collected and waste materials generated from the project will be disposed at appropriate permitted landfills depending on waste characterization as described in the approved RAP. If necessary, decant water from dewatered materials will be treated to reduce solids prior to disposal to the City of Eureka sanitary sewer system.
8. Authorized excavation activities within waters of the United States will temporarily impact 0.54 acre and 600 linear feet of tidal mudflat along the Humboldt Bay shoreline and 300 square feet of wetlands adjacent to the HTL. Compensatory mitigation is not required for the project. Clean imported fill placed within waterfront excavation areas will result in a gentler sloping shoreline that is expected to recolonize and increase the area of fringe wetlands adjacent to the HTL. Noncompensatory mitigation includes the use of Best Management Practices (BMPs) for sediment and turbidity control and for operation of heavy equipment in Humboldt Bay.
9. The Applicant has applied for authorization from the United States Army Corps of Engineers to perform the project under Nationwide Permit No. 38 (File No. 2008-00212N), pursuant to Clean Water Act section 404. A Lake and/or Streambed Alteration Agreement from the California Department of Fish and Game is not required for this project. The project is scheduled to begin in August 2012 and expected to take 2 to 3 months to complete.
10. On November 14, 2011, the Humboldt Bay Harbor, Recreation, and Conservation District approved a Mitigated Negative Declaration (SCH No. 2011102003) for the project in order to comply with CEQA. BMPs to avoid significant adverse impacts to the environment have been incorporated into the project description. The Regional Water Board has considered the environmental document, BMPs, and any proposed changes incorporated into the project or required as a condition of approval to avoid significant effects to the environment.
11. 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.

12. 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 Waters: Humboldt Bay in the Eureka Plain Hydrologic Unit No. 110.00

Filled or Excavated Area: Area Temporarily Impacted: 0.54 acre of tidal mudflat and 300 square feet of wetland
Area Permanently Impacted: None

Total Linear Impacts: Length Temporarily Impacted: 600 linear feet of Humboldt Bay shoreline
Length Permanently Impacted: None

Dredge Volume: None

Latitude/Longitude : 40.8062 N/124.1649 W

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Union Pacific Railroad/Former G & R Metals Site Remediation (WDID No.1B12094WNHU), 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. The Regional Water Board staff 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. The Applicant shall provide a copy of this Order and the application documents submitted for authorization under this certification to all contractors and subcontractors conducting the work, and shall require that a copy of this Order remain in their possession at the work site. The Applicant shall also provide a copy of 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.
6. 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.
7. 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.

8. All activities and BMPs shall be implemented according to the submitted application and the conditions in this certification. 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.
9. 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 United States or waters of the State 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.
10. Disturbance or removal of existing vegetation shall not exceed the minimum necessary to complete the project.
11. The mitigation measures, and monitoring and reporting requirements detailed in the Mitigated Negative Declaration (SCH No. 2011102003) 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 Mitigated Negative Declaration that are within the Regional Water Board's jurisdiction.
12. The Applicant shall implement the *Waterfront Lease Site (Former G & R Metals) Eelgrass Monitoring Plan*.
13. 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 including stopping work. 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.
14. Fueling, lubrication, maintenance, storage and staging of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the United States. At no time shall the Applicant use any vehicle or equipment, which leaks any substance that may impact water quality.

15. Spill kits are required at each fueling location and at each location where power equipment will be working within waters of the State. In the event of an unauthorized release of fuel (spill or leak) to waters of the State, the Applicant shall immediately stop work and conduct the following measures:
 - a) notify the appropriate agencies including the Regional Water Board, CDFG, and the Office of Emergency Services (OES) at 1(800) 852-7550;
 - b) utilize the appropriate spill kits for containment and cleanup of the release;
 - c) collect samples within the immediate area of release, 50 feet downstream, and downstream to the full extent of the release if the release reaches surface waters; and,
 - d) analyze required surface water samples for all appropriate constituents including but not limited to total petroleum hydrocarbons as diesel (TPH-D), total petroleum hydrocarbons as gasoline (TPH-G), and benzene, toluene, ethylbenzene, total xylenes (BTEX).
16. Any potentially hazardous waste(s) (solids, liquids, or slurries) derived or encountered during this project shall undergo the appropriate characterization to demonstrate compliance with all applicable waste disposal laws and regulations.
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. 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).
18. 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.
19. The Applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
20. 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.

21. 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.

22. 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).
23. The authorization of this certification for any dredge and fill activities expires on July 12, 2017. 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.

Original Signed By Luis Rivera For

Matthais St. John
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. Joel Strafelda, Union Pacific Railroad, 1400 Douglas Street, Stop
1030, Omaha, NE 68179

Copy to: Mr. James Eisert, Arcadis US, Inc., 1410 Rocky Ridge Drive, Suite 330,
Roseville, CA 95661

Electronic

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