
North Coast Regional Water Quality Control Board

January 21, 2014

In the Matter of
Water Quality Certification

for

Noyo Harbor Mooring Basin Tsunami Repair Project
WDID 1B13102WNME

APPLICANT: Noyo Harbor District
RECEIVING WATER: Noyo River Tidal River Basin
HYDROLOGIC UNIT: Mendocino Coast Hydrologic Unit, Noyo River Hydrologic Area,
113.20
COUNTY: Mendocino
FILE NAME: Noyo Harbor Mooring Basin Tsunami Repair Project

BY THE EXECUTIVE OFFICER:

1. On August 2, 2013, the Noyo Harbor District (applicant) filed an application for water quality certification (certification) under section 401 of the Clean Water Act (33 U.S.C. § 1341) with the North Coast Regional Water Quality Control Board (Regional Water Board) for activities associated with the Noyo Harbor Mooring Basin Tsunami Repair Project (project). Information describing the project was noticed for public comment on the Regional Water Board's website on December 9, 2013, pursuant to Title 23, California Code of Regulations, Section 3858. We did not receive any public comments on this project.
2. The purpose of the project is to repair damage to the marina caused by the 2011 Tsunami event, state disaster number 2011-02, and restore the marina to the original configuration. The project includes removing all pilings, docks, and fingers that were damaged in the tsunami and replacing them with new pilings, docks, and fingers. The new construction would utilize pre-fabricated concrete pilings, decking, and wrapped flotation structures. The new installation will replace the footprint in the mooring basin that existed prior to the tsunami. The pilings will be removed with a vibratory hammer to break the sediment bond and minimize the likelihood of breakage during extraction. They will be removed slowly to allow sediment to slough off at or near the mud line. Extracted pilings, docks, and fingers will be staged, prior to re-use or disposal, on an asphalt deck with wattles and sand bags to prevent the discharge of sediment or debris.

DAVID M. NOREN, CHAIR | MATTHIAS ST. JOHN, EXECUTIVE OFFICER

The project will employ best management practices to prevent or reduce any discharges during and after construction.

3. An eelgrass survey will be conducted for all areas within 50 meters of the project location. The survey is scheduled to be completed in May 2014. The *Southern California Eelgrass Mitigation Policy*, referenced in the National Marine Fisheries Service's programmatic consultation, has been included in the file to identify what measures would be taken to avoid, minimize, and/or mitigate for impacts to eelgrass should eelgrass be found during the survey.
4. Temporary impacts from the project to waters of the state include .0002 acres, encompassing the footprints of the new pilings. The project is expected to begin in June 2014, and is estimated to last 35-40 working days.
5. The North Coast Regional Water Board, as lead California Environmental Quality Act (CEQA) agency, has determined that the project qualifies for a Categorical Exemption, 15269: Emergency Projects, and will file a Notice of Exemption with the State Clearinghouse concurrent with issuance of the 401 Water Quality Certification, pursuant to CEQA guidelines.
6. The applicant has applied for Rivers and Harbors Act Section 10 authorization from the United States Army Corps of Engineers (File Number 2013-00291N). Additionally, the applicant has submitted a draft Streambed Alteration Notification to the California Department of Fish and Wildlife.
7. 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 68-16, which incorporates the federal antidegradation policy where the federal policy applies under federal law. Resolution 68-16 requires that existing quality of waters be maintained unless degradation is justified based on specific finding. 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.
8. This discharge is also regulated under State Water Board Order 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: Noyo River Tidal River Basin

Filled or Excavated Area: 0.0002 acres of temporary impacts to the tidal harbor

Total Linear Impacts: 108 linear feet of temporary impacts to the tidal harbor

Dredge Volume: None

Latitude/Longitude: 39.423858°N/123.801396°W

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 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. Regional Water Board staff shall be notified in writing at least five working days 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, bar, 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.
6. All activities and best management practices (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.

7. In accordance with state and federal laws and regulations, the applicant is liable and responsible for the proper disposal for project-generated waste. When handling, transporting, and disposing of project-generated waste, the applicant and their contractors shall comply with all applicable state and federal laws and regulations. When disposing of project-generated waste offsite, the applicant and its contractors shall:
 - a. Make appropriate arrangements to dispose of the material, including, but not limited to, property owner agreements, permits, licenses, and environmental clearances;
 - b. Obtain satisfactory evidence that the work in 7.a has been completed; and
 - c. Obtain a dated, signed manifest from the disposal site owner, or authorized representative, that identifies the type and quantity of disposed waste.
8. If, after any eelgrass survey has been conducted for all areas within 50 meters of the project location, eelgrass is found, any measures identified in the *Southern California Eelgrass Mitigation Policy*, included with the application, shall be complied with. Additionally, any mitigation measures with regard to eelgrass that are required by the California Department of Fish and Wildlife, the National Marine Fisheries Service, or other applicable regulatory agencies, are hereby incorporated by reference and are conditions of approval of this certification.
9. Disturbance or removal of existing vegetation shall not exceed the minimum necessary to complete the project.
10. If, at any time, an unauthorized discharge to surface water (including wetlands, lakes, 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.
11. 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 that leaks any substance that may impact water quality.
12. 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 actions.

13. 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.
14. The applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
15. 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.
16. The applicant shall provide a copy of this Order and State Water Board Order 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.
17. 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. 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).

18. 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).

19. The authorization of this certification for any dredge and fill activities expires on January 21, 2019. 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 Kaete King at (707) 576-2848 or Stephen Bargsten at (707) 576-2653.

Original signed by David Leland for

Matthias 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: Noyo Harbor District, Attn: Kevin Michel, 19101 S. Harbor Drive, Fort Bragg, CA 95437

Copy to: Dominic MacCormack, USACE, Dominic.MacCormack@usace.army.mil