

April 7, 2014

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In the Matter of

**Water Quality Certification**

**for**

**Shively Community Bridge – Low-Flow Railcar Crossing, Eel River Project  
WDID No. 1 B03010WNHU**

APPLICANT: Mr. Marc Barsanti and Ms. Linda Vonah of the Shively Bridge  
Committee  
RECEIVING WATER: Eel River  
HYDROLOGIC UNIT: Eel River Hydrologic Unit, Scotia Hydrologic Sub-Area 111.12  
COUNTY: Humboldt  
FILE NAME: Shively Community Bridge – Low-Flow Railcar Crossing, Eel  
River Project

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BY THE EXECUTIVE OFFICER:

1. On January 24, 2014, Mr. Marc Barsanti and Ms. Linda Vonah of the Shively Bridge Committee (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 the Shively Community Bridge – Low-Flow Railcar Crossing, Eel River Project (Project). Information describing the Project was noticed for public comment on the Regional Water Board’s website on February 20, 2014. We received two (2) public comments on the Project; responses to the comments are addressed within findings and conditions of this certification. The proposed Project will cause disturbances to waters of the United States associated with the Eel River within the Scotia Hydrologic Sub-Area No. 111.12. The Project is located on Hwy 254 at approximately Post Mile 43.2, Shively, Humboldt County, at latitude 40.437778°N, and longitude 123.919167°W. The Water Quality Certification previously issued for the seasonal bridge activities expired on May 12, 2013. The Project would cause no permanent impacts to waters of the U.S. and the State. Temporary impacts to waters of the U.S. and the State Eel River channel bed and bank would be approximately 10,800 square feet (0.25 acres) and 30 linear feet.
2. The Shively Community Bridge provides a direct access route to Highway 101 for approximately four months each year during the summer low flow season. The seasonal bridge and roadway connects the community of Shively to the Avenue of the

Giants (Hwy 254), approximately one mile south of Pepperwood. The seasonal bridge provides important emergency access and saves approximately forty minutes of one-way travel time compared to the alternate routes from Shively to Highway 101.

Proposed Project activities include installation of boulders and logs to form bridge abutments and excavation of aggregate material from the adjacent dry gravel bar to create the roadway approach ramps to the flatcar bridge. Following annual bridge removal, the aggregate materials used in the approach ramps will be returned to the borrow area and graded to ensure that runoff will drain toward the river channel in the downstream direction. The proposed Project does not require vegetation removal.

The Project may temporarily impact approximately 10,800 square feet (0.25 acre) and 30 linear feet of the stream channel including the fill area of the bridge approaches and the aggregate borrow area. The Project is not anticipated to result in any permanent impacts to the stream channel.

3. Compensatory mitigation is not required for the Project. Following annual bridge removal the Project site will be restored to pre-project condition. Best Management Practices for sediment and turbidity control and operation of heavy equipment near a stream are proposed to avoid and minimize temporary impacts. Road gravel will be used to mitigate dust at the east approach to the bridge. This gravel will not be taken from the river or surrounding area. Crushed gravel placed below top of bank to control dust will be removed annually when the bridge is removed and stored appropriately above top of bank.
4. Proposed dust / loose sediment management activities include:
  - Marc Barsanti, applicant & project manager, who resides in Shively, will monitor the dust conditions and address as needed.
  - Off-site native gravel will be brought in to cover the loose silt area on the east side of the road during this short term use.
  - Signs will be posted at the beginning, middle and end of roadway to alert travelers of a potential dust situation and use common courtesy.
  - Water can be applied to the road on as needed bases for dust control if the situation deems necessary.
  - When the bridge is removed annually and pulled up onto the west bank, natural duff (ground litter, redwood needles) will be raked over the road restoring to pre-project condition to restrict any run off into river from summer use.
  - BMPs for dust, 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. BMPs shall also be in place when the low-flow crossing is not installed to control erosion, sediment, and turbidity

from any storm water runoff originating from the dirt access road and the aggregate stockpile area that are located between the Avenue of the Giants and the west bank of the Eel River.

5. The Project proposes to install the bridge on June 15 and remove it in October or November each year, depending on weather conditions and flows in the Eel River. California Department of Fish and Wildlife (CDF&W) begins assessing the date of bridge removal on October 15. The date of bridge removal may be extended by CDF&W on a weekly basis if dry weather conditions continue past October 15.
6. The Applicant has obtained authorization from the United States Army Corps of Engineers for a Clean Water Act, section 404 permit ending October 15, 2015 (File No. 2002-26902N). The Applicant has applied to the California Department of Fish and Wildlife and obtained a Streambed Alteration Agreement.
7. The North Coast Regional Water Quality Control Board, as lead California Environmental Quality Act (CEQA) agency, has determined that the project qualifies for a Categorical Exemption, 15302 (class 2) Replacement or Reconstruction, and will file a Notice of Exemption with the State Clearinghouse concurrent with issuance of the 401 Water Quality Certification, pursuant to CEQA guidelines.
8. The Eel River is identified as impaired for sediment and temperature under Clean Water Act Section 303(d). Bank erosion is identified as a source contributing to the sediment impairment. Removal of riparian vegetation is identified as a source contributing to temperature impairment. Activities that will be authorized by this Order are designed to reduce removal of riparian vegetation and reduce sediment discharges from bank erosion. Accordingly, this Order is consistent with, and implements, BMPs that would attenuate sediment and temperature adverse impacts.
9. Pursuant to Regional Water Board Resolution R1-2004-0087, Total Maximum Daily Load Implementation Policy Statement for Sediment-Impaired Receiving Waters within the North Coast Region (Sediment TMDL Implementation Policy), the Executive Officer is directed to "rely on the use of all available authorities, including existing regulatory standards, and permitting and enforcement tools to more effectively and efficaciously pursue compliance with sediment-related standards by all dischargers of sediment waste."
10. 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.

11. 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. (Weblink attached below).

Receiving Water: Eel River,  
Eel River Hydrologic Unit, Scotia Hydrologic Sub-Area  
111.12

Channel and Shoreline  
Discharge: Permanent impact to waters of the U.S. and State: None

Temporary impact to waters of the U.S. and State:  
10,800 square feet (0.25 acres) and 30 linear feet

Latitude/Longitude: 40.437778°N / 123.919167°W

Expiration: April 7, 2019

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Shively Community Bridge – Low-Flow Railcar Crossing, Eel River Project (WDID No. 1B03010WNHU), 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 shall be notified at least five working days (working days are Monday – Friday) prior to the commencement of bridge installation or removal.
5. The Project shall not take material for the roadway approach or abutments from the head of the bar or at the waterline. Following annual bridge removal the Project site shall be restored to pre-project condition. Best Management Practices for sediment and turbidity control and operation of heavy equipment near a stream shall be implemented to avoid and minimize temporary impacts.
6. Applicant shall prioritize the use of wildlife-friendly 100% biodegradable erosion control products/BMPs whenever feasible. For purposes of this Order, photodegradable synthetic products are not considered biodegradable. Applicant shall not use or allow the use of erosion control products that contain synthetic (e.g., plastic or nylon) netting or materials 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, the Applicant shall remove the netting or product and replace it with wildlife-friendly biodegradable products. Applicant shall remove any remaining synthetic netting or materials remaining at the end of two years, or sooner.
7. BMPs shall be implemented as proposed in the application materials. 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. Severe and unseasonal rain events are becoming more frequent due to the effects of climate change. Therefore, BMPs shall be immediately available for deployment at all times to prevent discharges to waters of the state. BMPs shall also be in place when the low-flow crossing is not installed to control erosion, sediment and turbidity in any storm water runoff originated from the dirt access roads and the aggregate stockpile at the Project site.
8. The Shively Community Bridge Committee shall submit a report within one month following bridge removal that contains photos of the installation and removal of the bridge of the bridge and at problem areas to demonstrate that additional and

adequate BMPs have been installed for dust, erosion, sediment and turbidity control. The report should include a brief narrative of BMPs used through the summer.

9. 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.
10. The Applicant shall provide Regional Water Board staff access to the Project site to document compliance with this certification.
11. 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.
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 action(s).
13. 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.
14. 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.
15. Disturbance or removal of existing vegetation shall not exceed the minimum necessary to complete the Project.

16. 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.
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. 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).

20. The authorization of this certification for any dredge and fill activities expires on April 7, 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 Gil Falcone at (707) 576-2830 or Stephen Bargsten at (707) 576-2653.

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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](http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf)

Original to: Mr. Marc Barsanti, 1245 Shively Flat Road, Scotia, CA 95565

cc: Ms. Linda Vonah / Shively Bridge Committee, 2280 Grass Valley Hwy 140, Auburn, CA 95603