June 5, 2015

In the Matter of

Water Quality Certification

for

Eureka Sand and Gravel Company – Mad River Aggregation Extraction at Emmerson, Christie, Johnson, Johnson/Spini & O'Neill Bars WDID No. 1B05068WNHU

APPLICANT:	Eureka Sand and Gravel Company
RECEIVING WATER:	Mad River
HYDROLOGIC UNIT:	Mad River Hydrologic Unit No. 109.00
COUNTY:	Humboldt
FILE:	Eureka Sand and Gravel Company – Emmerson, Christie, Johnson, Johnson/Spini & O'Neill Bars, CW-722136

BY THE EXECUTIVE OFFICER:

1. On March 25, 2015, the North Coast Regional Water Quality Control Board (Regional Water Board) received a letter requesting reissuance of Federal Clean Water Act, section 401, Water Quality Certification (Certification) from the Eureka Sand and Gravel Company (Applicant) to continue annual gravel (river-run aggregate) removal activities on Emmerson, Christie, Johnson, Johnson/Spini, and O'Neill bars on the Mad River. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on April 10, 2015, and posted information describing the project on the Regional Water Board's website. We received no public comments on this project.

2. The Applicant's Mad River aggregate extraction operations impact five separate gravel bars. The Emmerson Bar (40.873 N/123.991 W) covers approximately 80 acres and is located approximately 0.3 miles upstream of the Hatchery Road Bridge over the Mad River. The Christie Bar (40.892 N/124.018 W) is approximately 175 acres and is located directly south of Glendale. The Johnson Bar (40.893 N/124.020 W) covers approximately 40 acres and is located approximately one mile downstream of the Blue Lake Bar near Glendale. The Johnson/Spini Bar (40.913 N/124.065 W) is located immediately downstream of the Highway 299 bridge over the Mad River. The O'Neill Bar (40.910 N/124.075 W) is located just downstream of the Johnson/Spini

Bar and adjacent to the Applicant's concrete batch plant facility on Boyd Road in Arcata.

Aggregate extraction operations at the Christie Bar, Johnson/Spini Bar, and O'Neill Bar typically cover up to 12 acres, 10 acres and 2.5 acres, respectively. The combined maximum volume of aggregate authorized for extraction from Christie Bar, Johnson/Spini Bar, and O'Neill Bar is 80,000 cubic yards annually. Annual aggregate extraction operations at Emmerson Bar, Johnson Bar, and Blue Lake Bar (operated by GLJ Construction) will typically disturb 15 acres or less. The maximum annual volume of aggregate authorized for extraction from these three bars is 52,850 cubic yards annually. The actual volume removed and the specific areas of extraction vary from year-to-year but shall not exceed the maximum limits authorized by this Certification.

3. Existing haul roads would be used to access gravel bars and any new roads would follow the shortest possible route and be subject to consultation with Regional Water Board staff. No mature riparian vegetation shall be disturbed and no new haul roads shall be cut through mature riparian habitat. The Applicant may construct temporary channel crossings using flatcar bridges with either brow log, concrete block, or K-rail abutments, and native gravel approaches. Crossing installation and use is allowed only between July 1 and September 15. Temporary crossings shall be located to avoid potential fish spawning, holding, and rearing habitat. Heavy equipment passes through the wetted channel shall be limited to two passes per bridge installation and two passes per removal. When the final site surfaces are graded for seasonal reclamation, the operator may remove the temporary crossings and leave the bankfull channel area to the natural reclamation process, which occurs during the high flow events of the following winter. Temporary stockpiling of excavated material within the extraction area limits is allowed through October 15, whereupon stockpiles must be removed above Ordinary High Water.

4. The Applicant shall implement mitigation and impact avoidance measures during aggregate extraction processes, including: restricting heavy equipment and trucks to haul roads; excluding all machinery from the low flow channel; maintenance of vertical and horizontal offsets from the live channel; regular maintenance and inspection of equipment to prevent vehicle leaks into receiving waters; limiting temporary channel crossings; and, maintaining sufficient water depth for fish.

5. After the Applicant has removed the aggregate to the approved extraction design lines and grades, the extraction area shall be graded as necessary to leave no depressions or berms that may potentially trap fish or cause impacts to surrounding habitats. The Applicant's consultant shall conduct a site visit at the conclusion of extraction operations and provide any additional recommendations consistent with the seasonal extraction and reclamation plans.

6. River-run aggregate may be removed using a variety of extraction methods which may include skimming, trenching, alcoves, horseshoe pits, narrow skims, and excavation of wetland pits on terraces above the ordinary high water using scrapers, dozers, excavators, loaders, and dump trucks.

7. The Applicant's aggregate extraction operations have been regulated by the U.S. Army Corps of Engineers (ACOE) Individual Permit (Permit Numbers 2009-00013, 2009-00014, and 2009-00016), pursuant to Clean Water Act, Section 404. A Letter of

Modification to the Individual Permit is required for each subsequent year's extraction activities. The USACOE may regulate the Applicant's aggregate extraction activities under the Individual Permit or under the Letter of Modification.

8. The Applicant has received Lake or Streambed Alteration Agreements (Permit Nos. 1600-13-0141, 1600-13-0268, 1600-14-0025) from the California Department of Fish and Wildlife (CDFW).

9. The Applicant conducts aggregate extraction operations consistent with the *Program Environmental Impact Report (PEIR) for Gravel Removal from the Lower Mad River*. On April 2, 2009, Humboldt County Department of Community Development Services, as lead agency for CEQA, completed a Final Supplemental to the PEIR (SCH# 1990283049) and filed a Notice of Completion with the State Clearinghouse on April 7, 2009. The Regional Water Board has considered the environmental documents and any proposed changes incorporated into the project or required as a condition of approval to avoid significant effects to the environment.

10. The Mad River Total Maximum Daily Load (TMDL) for sediment and turbidity was established in 2007 by the United States Environmental Protection Agency in accordance with section 303(d) of the Clean Water Act, because the State of California determined that the water quality standards for the Mad River are exceeded due to excessive sediment and turbidity. Roads and bank erosion are identified as sources contributing to the sediment impairment. Excessive sediment and turbidity in the Mad River adversely impact cold, freshwater anadromous salmonid habitat. This Order requires implementation of Best Management Practices (BMPs) for sediment control at temporary stream crossings, as well as actions to enhance habitat for salmonids and other aquatic species, such as, alcove/wetland extractions designed to sequester silt and harbor willows. Accordingly, this Order is consistent with, and implements portions of the Mad River TMDL.

11. 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."

12. 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 Water Quality Control Plan for the North Coast Region (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.

13. 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.

Receiving Water:	Mad River in the Mad River Hydrologic Unit No. 109.00
Filled or Excavated Area:	Area Temporarily Impacted: 40 acres of stream channel annually Area Permanently Impacted: None
Total Linear Impacts:	Length Temporarily Impacted: None Length Permanently Impacted: None
Dredge Volume:	None
Latitude/Longitude:	Emmerson Bar: 40.873 N/123.991 W Christie Bar: 40.892 N/124.018 W Johnson Bar: 40.893 N/124.020 W Johnson/Spini Bar: 40.913 N/124.065 W O'Neill Bar: 40.910 N/124.075 W
Expiration:	June 1, 2020

Accordingly, based on its independent review of the record, the Regional Water Board certifies that Eureka Sand and Gravel Company – Mad River Aggregate Extraction Operations at Emmerson, Christie, Johnson, Johnson/Spini, and O'Neill Bars (WDID No. 1B05068WNHU), 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:

1. The Applicant shall provide the Regional Water Board with a Post-Extraction Report by no later than January 15 following each extraction season. For inactive years within the term of the certification when no aggregate extraction occurs, a report shall be submitted stating that operations did not occur. Regional Water Board staff may request site visits to confirm operational status and compliance with this Order.

2. The actual volume removed and the specific areas of extraction can vary from year-to-year but shall not exceed the maximum limits authorized by this Certification.

3. Aggregate extraction activities shall only occur between June 1 and October 31, unless a variance is approved by the Regional Water Board.

4. Temporary crossings shall be located to avoid potential fish spawning, holding, and rearing habitat.

5. Excavated material stockpiles shall be removed to above Ordinary High Water by October 15.

6. Impact avoidance measures and mitigation shall be implemented during aggregate extraction processes, including: restricting heavy equipment and trucks to haul roads; excluding all machinery from the low flow channel; maintenance of vertical and horizontal offsets from the live channel; regular maintenance and inspection of equipment to prevent vehicle leaks into receiving waters; limiting temporary channel crossings; and, maintaining sufficient water depth for fish.

7. Permanent haul roads shall follow existing routes to the extent possible and the Applicant shall consult with the Regional Water Board prior to construction of any new permanent haul roads. Temporary haul roads shall avoid sensitive areas such as wetlands and riparian vegetation, to the maximum extent possible.

8. BMPs for sediment and turbidity control shall be implemented prior to and during each season's extraction activities. Additionally, appropriate sediment and turbidity control BMPs shall be implemented at completion of each extraction season.

9. Upon completion of annual aggregate extraction activities, the gravel bar shall be left in a condition that is free-draining and free of depressions in order to reduce impacts to fish and wildlife species, unless a different gravel bar configuration is authorized by the ACOE.

10. 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.

11. 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.

12. This certification is conditioned upon total payment of any fee required under title 23, California Code of Regulations, section 2200, and owed by the Applicant.

13. This certification will be subject to annual billing per the current fee schedule. An Annual Active Discharge Fee will be applied any year aggregate extraction occurs. An Annual Post Discharge Monitoring Fee will be applied any year of the certification's term where aggregate extraction does not occur. These fees will be automatically invoiced to the Applicant by the State Water Resources Control Board in the fall for activities conducted during the previous calendar year. The fee payment (check payable to the State Water Resources Control Board) shall be sent to the Regional Water Board accompanied by a transmittal letter that includes the WDID number and ECM PIN for this Order, the applicable aggregate mining season (previous calendar year), and the volume of aggregate removed.

    The current fee schedule can be found on our website: http://www.waterboards.ca.gov/northcoast/water_issues/programs/water_quality_certification.shtml

14. 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 schedule for aggregate mining activities, in order to allow staff to be present onsite during construction, and to answer any public inquiries that may arise regarding the project.

15. Discharges shall not cause or threaten to cause pollution, contamination, or nuisance as defined in California Water Code Section 13050.

16. Discharges shall not adversely impact human health or the environment or the beneficial uses of water set out in the Basin Plan.

17. Discharges are authorized only where they do not cause or contribute to a violation or exceedance of applicable water quality standards, prohibitions, or policies in the Basin Plan, and are controlled through implementation of appropriate design and management measures for prevention and minimization of waste discharges.

18. Discharge of process wastewater or solids from aggregate washing activities to surface waters is prohibited.

19. Discharge of process wastewater from concrete production and washout activities to surface water or ground water is prohibited.

20. Discharge of process wastewater from asphalt production and associated air pollution control equipment to surface water or ground water is prohibited.

21. Activities shall not cause the turbidity of the receiving waters to be increased more than 20 percent above naturally occurring background levels.

22. The activities shall not cause the receiving waters to contain floating materials, including solids, liquids, foams, and scum, in concentrations that cause nuisance or adversely affect beneficial uses.

23. Fueling, lubrication, maintenance, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to surface waters or ground water. At no time shall the discharger use vehicles or equipment that leaks any substance that might impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of the bed, channel, and bank of any waters of the State.

24. 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.

25. All activities and BMPs shall be implemented according to the submitted application and the conditions and findings of this certification.

26. 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.

27. 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.

28. 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.

29. 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.

30. 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.

31. The Applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.

32. 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.

33. 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 email a copy of the letter to the Regional Water Board at the following email address: NorthCoast@waterboards.ca.gov.

    To discharge dredged or fill material under this Order, the successor-in-interest must email the Regional Water Board Executive Officer at NorthCoast@waterboards.ca.gov a 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).

34. 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 Basin Plan.

35. The authorization of this certification for any dredge and fill activities expires on June 1, 2020. 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 Jake Shannon at (707) 576-2673 or Stephen Bargsten at (707) 576-2653.

Original Signed By

_____
Matthias St. John
Executive Officer

150605_EurekaSand&GravelMad_401

Original to: Paul Kraus, Eureka Ready Mix
pkerm@suddenlinkmail.com

Electronic Copy to: James Mazza, US Army Corps of Engineers
james.c.mazza@usace.army.mil

Dan Free, NOAA/NMFS
dan.free@noaa.gov

David Manthorne, California Department of Fish and Wildlife
david.manthorne@wildlife.ca.gov