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## North Coast Regional Water Quality Control Board

July 19, 2016

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**In the Matter of**  
**Water Quality Certification**

**for**

**Humboldt County DPW – Eel River Aggregate Extraction at Worswick Bar Project**  
**WDID No. 1B02129WNHU**

APPLICANT: Humboldt County Department of Public Works  
RECEIVING WATER: Eel River  
HYDROLOGIC UNIT: Eel River within the Ferndale Hydrologic Subarea No. 111.11  
COUNTY: Humboldt County  
FILE: Humboldt County DPW – Eel River Aggregate Extraction at  
Worswick Bar Project, WDID No. 1B02129WNHU,  
ECM PIN CW-822752

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### FINDINGS BY THE EXECUTIVE OFFICER:

1. On May 12, 2016, the North Coast Regional Water Quality Control Board (Regional Water Board) received a letter from the Humboldt County Public Works Department (applicant), requesting Federal Clean Water Act, section 401, Water Quality Certification reissuance for activities associated with gravel (river-run aggregate) extraction operations on the Lower Eel River at the Worswick Bar near Fernbridge (Project). The Regional Water Board issued a water quality certification for identical activities on February 9, 2011, and no changes to the initial application are being proposed.
2. **Public Notice:** Information describing the Project was noticed for public comment on the Regional Water Board's website on June 15, 2016. We received no comments.

3. **Receiving Waters:** The proposed Project will cause disturbances to waters of the United States and the state associated with the Eel River within the Ferndale Hydrologic Subarea No. 111.11.
4. **Project Description:** The primary purpose of the Project is gravel extraction for commercial purposes. Aggregate extraction activities at Worswick Bar involve annual extraction of up to 25,000 cubic yards of river-run aggregate. The total area of the Worswick Bar subject to potential gravel removal and associated activities covers approximately 230 acres. Typically, approximately 10 acres are temporarily disturbed by annual aggregate extraction activities. The actual volume of aggregate material removed and the specific areas of extraction within the Worswick Bar vary annually based on seasonal replenishment.

River-run aggregate is typically removed using scrapers, dozers, excavators, loaders, and dump trucks. After the applicant has removed the aggregate to the approved extraction design lines and grades, the extraction area is graded as necessary to leave no depressions or berms that may potentially trap fish or cause impacts to surrounding habitats. Once the surfaces of the site are graded for seasonal reclamation, the operator removes any temporary summer crossings and leaves the bankfull channel area to the natural reclamation process which occurs during the high flow events of the following winter.

The Project is located directly upstream of the Highway 211 (Main Street) bridge over the Lower Eel River at Fernbridge. Project center is located at approximately at latitude 40.60683°N and longitude 124.19016°W.

5. **Construction Timing:** The aggregate extraction season is typically from June 1 to October 31. Temporary crossing installation and use at the Worswick Bar is allowed as early as June 15. Temporary crossings typically consist of a railroad flatcar on concrete block and clean gravel-fill abutments. Temporary crossings are located to avoid potential fish spawning, holding, and rearing habit. All temporary crossings must be removed by October 15 unless an approved river flow monitoring plan is enacted and a time extension is granted by the California Department of Fish and Game (DFG), and U.S. Army Corps of Engineers (ACOE). Temporary stockpiling of excavated material within the limits of the extraction area is allowed through October 1. After October 1, excavated materials stockpiled on the river bars must be removed on a daily basis and extraction areas must be groomed and graded to drain freely at the end of each work day. The Applicant hauls the excavated materials to their aggregate processing and stockpile area located adjacent to the Worswick Bar at 1300 Fernbridge Drive. The Applicant or their consultant will conduct a site visit at the conclusion of the extraction operation and provide any additional recommendations reflecting seasonal extraction plan and reclamation plan conformity.

6. **Project Impacts:** The Project will result in temporary impacts to approximately 10 acres of the Worswick bar, annually, on the Eel River.
7. **Mitigation for Project Impacts:** The applicant will implement mitigation and impact avoidance measures during the aggregate extraction processes, including: maintaining and inspecting equipment, maintaining sufficient water depth for fish, minimizing impacts to water quality, limiting the number of wet crossings, limiting the amount of haul roads providing access to the channel extraction areas, and using clean washed gravel and concrete blocks for construction of temporary crossings.
8. **Other Agency Actions:** The applicant's aggregate extraction operations have been regulated by the Army Corps of Engineers (ACOE) Letter of Permission (LOP) procedure pursuant to Clean Water Act, Section 404. Under LOP 2015-1, each gravel operator complies with standardized procedures and receives a site-specific LOP. A Modification to the site-specific LOP is provided in subsequent years. In addition to conditions set forth by the Regional Water Board; the California Department of Fish and Wildlife, ACOE, and National Marine Fisheries Service conduct additional regulatory review and project approval.
9. **CEQA Compliance:** On September 10, 1992, the Humboldt County Board of Supervisors certified a Program Environmental Impact Report (PEIR) for gravel removal from the Lower Eel River (SCH #1992013033); that document "describes and analyzes the potential environmental effects resulting from 13 gravel removal operations located close to one and other in the Lower Eel River watershed," and "provides an overview of the cumulative effects of removal of gravel from the bed of the Eel River near Fortuna, California."
10. **Total Maximum Daily Load:** The Lower Eel River Total Maximum Daily Loads (TMDL) for temperature and sediment 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 Lower Eel River are exceeded due to excessive temperature and sediment. Roads and bank erosion are identified as sources contributing to the sediment impairment. In addition, activities that impact the riparian zone and reduce riparian vegetation are identified as sources contributing to increased stream temperatures. The primary adverse impacts associated with excessive temperature and sediment in the Lower Eel River pertain to cold freshwater habitat, primarily anadromous salmonid habitat. Actions authorized by LOP 2015-1 require implementation of Best Management Practices (BMPs) for sediment control at temporary stream crossings, and activities intended to enhance habitat for salmonids (LOP 2015-1) and other aquatic species such as alcove/wetland extractions designed to sequester silt and harbor willows. LOP 2015 requires all riparian woody vegetation and wetlands to be

avoided to the extent possible and any disturbed woody riparian vegetation at least 2-inches diameter must be mitigated. Accordingly, this Order is consistent with, and implements portions of the Lower Eel River TMDL.

11. **California Wild and Scenic Rivers Act:** The Eel River from the confluence with Outlet Creek to the mouth at the Pacific Ocean is designated as a recreational reach under both federal and California Wild and Scenic Rivers Acts. These acts require preservation of the river’s free-flowing condition; anadromous and resident fisheries; and outstanding geologic, wildlife, flora and fauna, historic and cultural, visual, recreational, and water quality values. Recreational segments are generally developed, with parallel roads, bridges, and structures. All activities normally associated with public lands are permitted subject to the protection of free flowing conditions and outstanding values. Aggregate extraction activities would not affect the free-flowing condition of the Eel River and would not affect the extraordinary values for which the segment was listed.
  
12. **Antidegradation Policy:** 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 certification 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.  
[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)

Receiving Water:	Eel River	
Temporary Filled and/or Excavated Areas:	Excavation (areal)	10 acres annually
	Excavation (volume)	25,000 cubic yards annual maximum
Latitude/Longitude:	40.60683°N, 124.19016°W	
Certification Expiration:	July 19, 2021	

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Humboldt County DPW – Eel River Aggregate Extraction at Worswick Bar Project (WDID No. 1B02129WNHU) 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 certification apply to the Applicant (and 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.**

### **Standard Terms and Conditions**

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. An application fee of \$600 was received for the Project on May 12, 2016. 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 Certification, the applicable aggregate mining season (previous calendar year), and the volume of aggregate removed per gravel bar and the total 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](http://www.waterboards.ca.gov/northcoast/water_issues/programs/water_quality_certification.shtml)

5. The Regional Water Board shall be notified at least five working days (working days are Monday – Friday) prior to the commencement of construction.
6. Pre-extraction proposals shall be submitted at least one month prior to the proposed extraction date and will be available for the pre-extraction site inspections annually until the Certification expires. The report must include the following information:
  - a) The file name and WDID number and ECM PIN of the project;
  - b) The names, qualifications, and affiliations of the persons contributing to the report; and
  - c) The proposed extraction amounts, extraction areas, cross sections, 35% flow elevations, and anticipated schedule for completion of extraction activities including the installation and operational status of any temporary crossings;
7. Annual post-extraction reports shall be submitted no later than December 31<sup>st</sup> of the year of extraction each year until the Certification expires. A post-extraction report is required even if no extraction has occurred. The report must include the following information:
  - a) The file name and WDID number and ECM PIN of the project;
  - b) The names, qualifications, and affiliations of the persons contributing to the report;
  - c) The actual extraction amounts, map of extraction areas, and cross sections; and
  - d) A description of any incident of noncompliance with conditions of this Certification during the annual monitoring period, its cause, the period of the noncompliance including exact dates and times, and the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. If the noncompliance has not been corrected by the time of the report, include a description of the corrective steps to be taken and the anticipated timeline.
8. Only wildlife-friendly, 100 percent biodegradable erosion and sediment control products that will not entrap or harm wildlife shall be used. Erosion and sediment control products shall not contain synthetic (e.g., plastic or nylon) netting. Photodegradable synthetic products are not considered biodegradable. The Applicant shall request approval from the Regional Water Board if an exception from this requirement is needed for a specific location.

9. 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.
10. 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 certification, 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.
11. The applicant shall provide Regional Water Board staff access to the Project site to document compliance with this certification.
12. 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.
13. Prior to implementing any change to the Project that may be a material change as defined in California Water Code section 13260(c) as a proposed change in character, location, or volume of the discharge, the Applicant shall obtain prior written approval of the Regional Water Board Executive Officer. If the Regional Water Board is not notified of the material change to the discharge, it will be considered a violation of this certification, and the Applicant may be subject to Regional Water Board enforcement action(s).
14. All Project work shall be conducted as described in this certification 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 certification, and the Applicant may be subject to Regional Water Board enforcement actions.
15. The Applicant shall provide a copy of this certification 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.

16. Disturbance or removal of existing vegetation shall not exceed the minimum necessary to complete the Project.
17. 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.
18. 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 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 certification. 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 certification 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 certification, the Regional Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.
19. The Regional Water Board may add to or modify the conditions of this certification, as appropriate, to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act.
20. 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 certification by letter and shall email a copy of the letter to the following email address: [NorthCoast@waterboards.ca.gov](mailto:NorthCoast@waterboards.ca.gov).
21. The successor-in-interest must email the Regional Water Board Executive Officer at: [NorthCoast@waterboards.ca.gov](mailto:NorthCoast@waterboards.ca.gov) to request authorization to discharge dredged or fill material under this certification. The request must contain the following:
  - a) Effective date of ownership change;
  - b) Requesting entity's full legal name;

- c) The state of incorporation, if a corporation;
  - d) The address and phone number of contact person; and
  - e) A description of any changes to the Project or confirmation that the successor-in-interest intends to implement the project as described in this certification.
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 CEQA documentation, as approved herein; and
  - b) Compliance with all applicable water quality requirements and water quality control plans including the requirements of the Water Quality Control Plan for the North Coast Region (Basin Plan), and amendments thereto.
23. The authorization of this certification for any dredge and fill activities expires on July 19, 2021. 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 via e-mail at [Jacob.Shannon@waterboards.ca.gov](mailto:Jacob.Shannon@waterboards.ca.gov).

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Matthias St. John  
Executive Officer

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Original to: Robert Vogt, Humboldt County DPW  
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cc: State Water Resources Control Board  
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