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North Coast Regional Water Quality Control Board

July 20, 2016

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**In the Matter of**  
**Water Quality Certification**  
**for the**  
**Eureka Terminal Seismic Retrofit Project**

APPLICANT: Chevron, USA, Inc.  
RECEIVING WATER: Humboldt Bay  
HYDROLOGIC UNIT: Eureka Plain Hydrologic Unit, No. 110.00  
COUNTY: Humboldt  
FILES: Chevron Eureka Terminal Seismic Retrofit - Cert  
ECM PIN CW-820937; WDID No. 1B16002WNHU

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FINDINGS BY THE EXECUTIVE OFFICER:

1. On January 8, 2016, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application from Chevron USA, Inc. (Applicant), requesting federal Clean Water Act (CWA), section 401 Water Quality Certification (certification) for the Chevron Eureka Terminal Seismic Retrofit Project (Project).
2. **Public Notice:** Information describing the Project was noticed for public comment on the Regional Water Board's website on February 19, 2016. No comments were received.

3. **Receiving Waters:** The proposed Project will cause disturbances to Humboldt Bay at approximate latitude 40.778, longitude -124.196<sup>1</sup>.
4. **Project Description:** The purpose of the Project is to seismically retrofit the existing, approximately 594-foot-long trestle and approximately 152-foot-long wharf to comply with California Building Code standards for marine oil terminals, which is overseen by the California State Lands Commission (CSLC). The existing structures support a fuel transfer pipeway and CSLC has determined that the supporting structures are not seismically secure.

Phase One will occur in 2016 and involve the retrofit of the wharf unloading platform and replacement of the two westernmost trestle bays. The wharf retrofit will require the removal of approximately 31 existing timber piles, installation of four 24-inch-diameter steel piles, and installation of a 31.5-foot by 37.5-foot prefabricated concrete platform structure. The south side of bents 32 to 34 along the trestle pipeway will be removed (including six existing 14-inch-diameter treated timber piles), and two sixteen-inch-diameter steel piles and a cantilever pipeway support will be installed. Pile-driving for the wharf and all other Phase I activities will be outside of eelgrass habitat areas.

Phase two work will occur in 2017, and involve the retrofit of the trestle pipeway. The existing support system for the trestle pipeway will be replaced with a cantilever support system and will require the removal of 38 existing timber piles and installation of eighteen 16-inch-diameter steel piles. The steel piles will be placed approximately every 30 feet along the south side of the pipeway. 34 14-inch-diameter treated timber piles will be removed from underneath the pipeway.

All piles will be driven using a vibratory hammer, but an impact driver may be used if the vibratory hammer fails to drive piles to the design depth. Work within eelgrass habitat areas along the trestle shall be performed from a floating barge, allowing the barge to float above the eelgrass and avoid substrate and eelgrass impacts.

5. **Construction Timing:** Project activities are proposed to occur over a two year period beginning in 2016 and be completed by 2018.
6. **Project Impacts:** The proposed Project will result in approximately 0.0009 acres (41 square feet) of permanent impacts to Humboldt Bay as a result of new pile placement. Pile removal and installation will also result in approximately 0.004 acres (190 square feet) of temporary impacts to Humboldt Bay as a result of substrate disturbance during pile installation and removal.
7. **Mitigation for Project Impacts:** To mitigate for permanent impacts associated with placement of new piles, 69 piles comprising 74 square feet of existing fill will be removed from Humboldt Bay within the Project area.

8. **Other Agency Actions:** The Applicant has applied to the United States Army Corps of Engineers (Corps) for coverage under a Nationwide Permit pursuant to section 404 of the Clean Water Act. The National Marine Fisheries Service (NMFS) issued a Letter of Concurrence on July 12, 2016, concurring with the Corps that the Project may affect, but is not likely to adversely affect Southern Oregon/Northern California Coast coho salmon, California Coastal Chinook salmon, Northern California steelhead, and North American green sturgeon (southern distinct population segment) or their designated critical habitats. The Applicant is seeking an Incidental Take Permit from the California Department of Fish and Wildlife (CDFW) to address potential effects to special-status species from pile-driving.
9. **CEQA Compliance:** As lead agency, the Humboldt Bay Harbor Recreation and Conservation District (Harbor District) prepared a Mitigated Negative Declaration for the Project (SCH No. 2016052046). The Harbor District signed a Notice of Determination adopting the Mitigated Negative Declaration on June 23, 2016.
10. **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 *Water Quality Control Plan for the North Coast Region* (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.
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. The Order may be accessed at this web address:  
[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:	Humboldt Bay	
Filled and/or Excavated Areas:	Permanent impacts to jurisdictional waters:	0.004 acres
Latitude/Longitude:	40.778, -124.196 <sup>1</sup>	
Certification Expiration:	July 20, 2021	

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Chevron Eureka Terminal Seismic Retrofit Project (WDID No. 1B16002WNHU) 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.**

#### **Project-Specific Conditions**

1. Project in-water work shall occur only between July 1, and October 15. Exceptions to this work window are subject to the acceptance of Regional Water Board staff.
2. Project barges shall not be grounded within areas containing eelgrass.
3. The Applicant shall comply with mitigation measures outlined in the July 16, 2016, NMFS Letter of Concurrence and the CDFW Incidental Take Permit.

#### **Standard Conditions**

4. 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.
5. 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.

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<sup>1</sup> WGS84 datum

6. 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. The Project meets the low impact discharge \$200 application fee category. The Regional Water Board received \$1,201 from the Applicant on January 11, 2016. The Regional Water Board will refund \$1,001 to the Applicant.
7. This certification will be subject to annual billing during the construction phase (“Annual Active Discharge Fee”), per the current fee schedule, which can be found on our website:  
[http://www.swrcb.ca.gov/northcoast/water\\_issues/programs/water\\_quality\\_certification.shtml](http://www.swrcb.ca.gov/northcoast/water_issues/programs/water_quality_certification.shtml). This fee will be automatically invoiced to the Applicant.
8. The Applicant shall notify the Regional Water Board upon Project construction completion to request termination of the Annual Active Discharge Fee and to receive a “Notice of Completion of Discharges Letter.” The Applicant may be required to submit completion reports at the end of the construction phase. Regional Water Board staff may request a site visit to confirm Project status and compliance with this certification.
9. 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.
10. 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.
11. The Applicant is prohibited from discharging waste to waters of the state, unless explicitly authorized by this certification. For example, 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.

12. The Applicant is liable and responsible for the proper disposal, reuse, and/or recycling of all Project-generated waste in compliance with applicable state and federal laws and regulations.
13. The Applicant shall provide Regional Water Board staff access to the Project site to document compliance with this certification.
14. 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.
15. 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).
16. All Project activities shall be implemented as described in the submitted certification application package and the findings and conditions of this certification. Subsequent Project changes that could significantly impact water quality shall first be submitted to Regional Water Board staff for prior review, consideration, and written concurrence. 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.
17. 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.
18. Work in flowing or standing surface waters, unless otherwise proposed in the project description and approved by the Regional Water Board, is prohibited.
19. 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.

20. The Applicant shall not use leaking vehicles or equipment within State waters. Vehicles and equipment used within State waters shall be checked for leaks at the beginning of each work day.
21. 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.
22. 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.
23. 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).

The successor-in-interest shall 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:

- i) Effective date of ownership change;
- ii) Requesting entity's full legal name;
- iii) The state of incorporation, if a corporation;
- iv) The address and phone number of contact person; and
- v) 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.

24. Except as may be modified by any preceding conditions, all certification actions are contingent on:
- i) 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
  - ii) 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.
25. The authorization of this certification for any dredge and fill activities expires on July 20, 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 Brendan Thompson of my staff, at (707) 576-2699, or via e-mail at [Brendan.Thompson@waterboards.ca.gov](mailto:Brendan.Thompson@waterboards.ca.gov).

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Matthias St. John  
Executive Officer

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