
North Coast Regional Water Quality Control Board

September 15, 2016

In the Matter of
Water Quality Certification

for

Noyo Harbor District Boat Launch & Parking Facility Project
WDID No. 1B16245WNME

APPLICANT: Noyo Harbor District
RECEIVING WATER: Noyo River
HYDROLOGIC UNIT: Mendocino Coast Hydrologic Unit No. 113.20
COUNTY: Mendocino
FILE: Noyo Harbor District Boat Launch and Parking Facility Project,
ECM PIN CW- 823173

FINDINGS OF THE EXECUTIVE OFFICER:

1. On March 21, 2016, 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 California Regional Water Quality Control Board, North Coast Region (Regional Water Board) for activities associated with the Noyo Harbor District Boat Launch & Parking Facility Project (Project). Information describing the Project was noticed for public comment on the Regional Water Board's website on August 23, 2016. We received no comments. The proposed Project will cause disturbances to waters of the United States and state associated with the Noyo River within the Mendocino Coast Hydrologic Unit No. 113.20. The Project is located at the Noyo inner harbor boat launch facility on the Noyo River Estuary, Fort Bragg, Mendocino County, at latitude 39.423185°N, and longitude 123.803117°W. Permanent impacts to waters

of the state include approximately 377 square feet (0.008 acres) of tidal estuary mudflat wetlands. Temporary impacts to waters of the U.S. include approximately 1,866 square feet (0.04 acres) of tidal estuary wetland.

2. The primary purpose of the Project is to replace Noyo Harbor District's existing degraded boat launch ramp and wooden floating dock, repave and stripe the associated parking lot with low impact development pervious pavement and add ADA-compliant restrooms and pathway. The proposed Project would include demolishing the existing ramp and dock materials and installation of a new ramp, dock facility and rock slope protection that would disturb a total area of approximately 2,243 square feet (0.05 acres) of jurisdictional area below the high tide line. During replacement of the facility design plans have incorporated measures to avoid direct impacts to adjacent eelgrass beds.
3. The Project is planned to begin in the summer of 2017 through the fall of 2017 with construction work planned to last approximately 90 days (work window July 15 – October 15). If the project experiences funding or permitting delays the project may take place in 2018 within the same work window.
4. The proposed Project includes pre- and post-project monitoring of adjacent eelgrass beds to verify these wetlands are not impacted. The applicant will also remove approximately 377 square feet of existing debris from nearby tidal mudflat wetlands to offset the permanent impacts of the project to tidal mudflats. In the unlikely event of impacts to eelgrass the applicant shall develop a plan for mitigation at a pre-approved site and shall comply with the California Eelgrass Mitigation Policy and completely mitigate impacts to eelgrass. The applicant proposes to install pervious pavement in the parking lot area and part of the launch area in order to satisfy storm water low impact development requirements. The Project proposes to employ best management practices (BMPs) to prevent or reduce any discharges during and after construction. Specific project BMPs to avoid and minimize turbidity discharges and impacts to eelgrass include full-depth turbidity screen and in-water diver coordinated demolition.
5. The Applicant has received authorization from the United States Army Corps of Engineers for a Clean Water Act, section 404 Nationwide Permit No. 3 for Maintenance and the Rivers and Harbors Act section 10. Army Corps file Number is 2016-00099N. The Applicant has applied to the California Department of Fish and Wildlife to obtain a Streambed Alteration Agreement and the California Coastal Commission for a Coastal Development Permit.
6. 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, 15301 (c)(d) Existing Facilities, and will file a Notice of

Exemption with the State Clearinghouse concurrent with issuance of the 401 Water Quality Certification, pursuant to CEQA guidelines.

7. The Mendocino Coast Hydrologic Unit, Noyo River is identified as impaired for sediment and temperature under Clean Water Act Section 303(d). The Mendocino Coast Hydrologic Unit, Noyo River Total Maximum Daily Loads (TMDL) for sediment and was established 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 Noyo River are exceeded due to excessive 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, also listed as impaired in accordance with section 303(d) of the Clean Water Act. The primary adverse impacts associated with excessive sediment and temperature in the Noyo River pertain to cold freshwater habitat, primarily anadromous salmonid habitat. Activities authorized by this certification are designed to reduce sediment discharges. Authorized activities require implementation of BMPs for sediment and turbidity control, and implementation of impact avoidance measures as described above. Accordingly, this Order is consistent with, and implements portions of the Noyo River TMDL.
8. 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."
9. 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.
10. 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: Noyo River,
Mendocino Coast Hydrologic Unit No. 113.20

Filled or Excavated Area: Permanent impact to waters of the state:
0.008 acres (377 ft.²) tidal mudflat wetlands
Temporary impact to waters of the US:
0.04 acres (1,866 ft.²) tidal estuary wetlands

Latitude/Longitude: 39.423185°N / 123.803117°W

Expiration: September 15, 2021

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Noyo Harbor District Boat Launch & Parking Facility Project (WDID No. 1B16245WNME), 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 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.

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. A fee of \$200 Low Impact Discharge fee was received for the Project on March 2, 2016. This certification will *NOT* be subject to annual billing during the construction phase (“Annual Active Discharge Fee”) *Nor* during the monitoring phase of the Project (“Annual Post Discharge Monitoring 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
These fees will be automatically invoiced to the Applicant.

5. The proposed Project will have only temporary impacts to waters of the U.S. The Applicant proposes to restore the Project site to pre-Project conditions within one year of Project completion. The applicant shall implement the impact avoidance and minimization measures submitted on August 4, 2016 within the *Eelgrass avoidance memo* submitted by SHN. The Applicant shall implement the debris removal plan submitted on August 22, 2016, to restore approximately 377 square feet of tidal mudflat wetlands, waters of the state.

Results of monitoring of the areas shall be reported to the Regional Water Board showing results of eelgrass surveys and debris removal. The report shall summarize data collected, confirming no eelgrass impacts from pre- to post-construction and showing evidence of debris removal in tidal mudflat wetlands. The report shall be submitted to the following email address: NorthCoast@waterboards.ca.gov.

6. The Regional Water Board shall be notified at least five working days (working days are Monday – Friday) prior to the commencement of construction.
7. 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.
8. 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.
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 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.

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 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).
13. 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.
14. 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.
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 certification, 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 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. 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 .

The successor-in-interest must email the Regional Water Board Executive Officer at: NorthCoast@waterboards.ca.gov a written request for the ownership change and the effective date of the change. 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.
20. 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).

21. The authorization of this certification for any dredge and fill activities expires on September 15, 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 Gil Falcone at (707) 576-2830 or Stephen Bargsten at (707) 576-2653.

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: Mr. Jere Kleinbach, Noyo Harbor District, 19101 South Harbor Drive, Fort Bragg, CA 95437, noyohd@yahoo.com

cc: Holly Costa, US Army Corps of Engineers, holly.n.costa@usace.army.mil

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