In the Matter of

Water Quality Certification

for the

Holland Ranch Levee Repair Project

APPLICANT: Richard Holland
RECEIVING WATER: Fay Slough
HYDROLOGIC UNIT: Eureka Plain
(Basin Planning Area No. 110.00)
COUNTY: Humboldt
FILES: Holland Ranch Levee Repair Project;
ECM PIN CW-836070, WDID No. 1B170620WNHU

FINDINGS BY THE EXECUTIVE OFFICER:

1. On June 23, 2017, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application from Richard Holland (Applicant), requesting federal Clean Water Act, section 401, water quality certification (certification) for activities related to the proposed Holland Ranch Levee Repair Project (Project) in the city of Eureka, Humboldt County.

2. Public Notice: Information describing the Project was noticed for public comment on the Regional Water Board’s website on July 20, 2017. No comments were received.

3. Project Location: The Project is located at latitude/longitude 40.801189, -124.098909\(^1\), along Fay Slough near Devon Road, north of the city of Eureka (see Figure 1, Project Location).

4. Receiving Waters: The proposed Project would disturb tidal jurisdictional waters of Fay Slough. The Project location is shown below in Figures 1 and 2. Fay Slough is within the Eureka Plain Hydrologic Unit (Basin Planning Area No. 110.00).

\(^1\) WGS84 datum
Fay Slough is possible habitat for tidewater goby (*Eucyclogobius newberryi*), green sturgeon (*Acipenser mediostris*), longfin smelt (*Spirinchus thaleichthys*), pacific eulachon (*Thaleichthys pacificus*) and salmonids (coho salmon (*Oncorhynchus kisutch*), steelhead (*Oncorhynchus mykiss*), chinook salmon (*Oncorhynchus tshawytscha*), and coastal cutthroat trout (*Oncorhynchus clarkia clarkia*). The fresh water wetland ditch on the land side of the levee could provide breeding habitat for the California red-legged frog (*Rana draytonii*), a California Species of Special Concern and which is also a federally threatened species.

5. **Project Description**: The purpose of the Project is to repair a 100-foot levee section and protect the inland agricultural land from high tides, flooding, and saltwater intrusion. Approximately 180 cubic yards of riprap would be placed along 100 linear feet of eroded levee along an outside bend of Fay Slough, within the original levee footprint. This section of the levee was formerly protected by a redwood timber wall that has since deteriorated and collapsed. The approximately 50-foot levee width has been reduced by approximately 20 feet due to the force of Fay Slough directed upon the levee at the channel outside bend.

A rock keyway would be excavated two feet below the thalweg along the slough side of the levee. The levee slope would then be benched to a 1.5:1 (horizontal:vertical) slope whereupon geotextile, approximately 60 cubic yards of base material, and riprap would be placed.
Figure 1: Project Location
6. **Construction Timing:** The Project would be completed over a 10-14 day period between September 25 and October 15, 2017.

7. **Project Impacts:** The proposed Project would result in approximately 0.02 acres (100 linear feet) of permanent impacts to Fay Slough due to placement of riprap in the location of a degraded timber wall.
8. **Mitigation for Project Impacts:** The Applicant has proposed enhancing 0.03 acres (1,200 square feet, 100 linear feet) of riparian habitat by planting native coastal species along the top and land side upper portion of the levee.

9. **Avoidance and Minimization of Impacts:** All work would take place within the original levee footprint. To protect special-status aquatic species, all work would take place between August 1 and October 15. All work on the lower portion of the levee would take place at low tide to minimize turbidity impact to Fay Slough. The Applicant estimates that three low tide windows would be necessary to complete work along the lower portion of the levee. The construction period (August 1 through October 15) does not fall within the red-legged frog breeding season. The wetland ditch will not be altered by the project.

10. **EcoAtlas:** It has been determined through regional, state, and national studies that tracking of mitigation and restoration activities must be improved to better assess their performance. In addition, to effectively carry out the state’s Wetlands Conservation Policy of no net loss to wetlands, the state needs to closely track both aquatic habitat losses and the success of mitigation and restoration projects. Therefore, this certification requires the Applicant to upload impact totals and mitigation measures to a web-based project tracking system called “EcoAtlas” using the “Project Tracker” form, which can be found here: http://ptrack.ecoatlas.org. Instructions and how to request a user name and password are on the Project Tracker website. More information about EcoAtlas is available at: www.ecoatlas.org.

11. **Other Agency Actions:** The Applicant is applying to the United States Army Corps of Engineers for coverage under Nationwide Permit no. 31, *Maintenance of Existing Flood Control Facilities*, pursuant to section 404 of the Clean Water Act.

12. **CEQA Compliance:** 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, *Replacement or Reconstruction*, and will file a Notice of Exemption with the State Clearinghouse concurrent with issuance of this certification, pursuant to CEQA guidelines.

13. **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.

14. 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

<table>
<thead>
<tr>
<th>Receiving Water:</th>
<th>Fay Slough</th>
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<tbody>
<tr>
<td>Filled and/or Excavated Areas:</td>
<td>Permanent impacts to waters of the state: 0.02 acres (100 linear feet)</td>
</tr>
<tr>
<td>Latitude/Longitude:</td>
<td>40.801189, -124.098909</td>
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<tr>
<td>Certification Expiration:</td>
<td>September 22, 2022</td>
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Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Holland Ranch Levee Repair Project (WDID No. 1B170620WNHU) 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. The Applicant shall implement the Planting Plan for Holland Ranch Levee Repair (Plan), prepared by Natural Resources Management Corporation and dated August 25, 2017. Any changes to the Plan shall be subject to prior review and approval by Regional Water Board staff. The riparian planting area shall be monitored annually for no less than five years.

2. The Applicant shall not impact the wetland ditch on the inboard side of the levee.

3. All work shall be completed on or before October 15.

Project-Specific Conditions Requiring Reports

4. No later than January 31, 2018, the Applicant shall submit a Project as-built report documenting the completed Project, including the riparian plantings.
5. Annual mitigation monitoring reports shall be submitted annually, for five years. The monitoring reports shall be submitted on or before January 31, following the respective monitoring season. The first report (Year 1) shall be due January 31, 2019.

6. By October 31, 2017 the Applicant shall upload Project information to EcoAtlas using the “Project Tracker” form found at the following website: http://ptrack.ecoatlas.org/. Required information includes a Project map that may either be uploaded to EcoAtlas or created within EcoAtlas by using the “draw polygon” tool. Required mitigation monitoring reports shall be uploaded to EcoAtlas by March 1 following the certification monitoring report January 31 due date. To upload monitoring reports into EcoAtlas, use the “Files and Links” tab found on your project’s EcoAtlas page.

7. 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.” Because this Project is subject to the Annual Post Discharge Monitoring Fee, the Applicant shall notify the Regional Water Board at the end of the monitoring period to request termination of the fee and receive a “Notice of Project Complete Letter.” The Applicant may be required to submit completion reports at the end of each of these phases. Regional Water Board staff may request site visits at the end of each Project phase to confirm Project status and compliance with this certification.

**Standard Conditions**

8. 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.

9. 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.

10. 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 total application fee for the Project is $810. The Regional Water Board received $1,400 from the Applicant on June 23, 2017. A refund of $590 will be issued to the Applicant.

11. This certification will be subject to annual billing during the construction phase (“Annual Active Discharge Fee”) and 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.

12. This certification does not allow for the take, or incidental take, of any special status species. The Applicant is required, as prescribed in the state and federal endangered species acts, to consult with the appropriate agencies prior to commencement of the Project. The Applicant shall use the appropriate protocols, as approved by state and federal resource agencies, to ensure that Project activities do not adversely impact Preservation of Rare and Endangered Species, a beneficial use of Humboldt Bay and its tributaries as set forth in the Basin Plan.

13. Disturbance or removal of existing vegetation shall not exceed the minimum necessary to complete the Project.

14. This certification does not authorize drafting of surface waters. Any drafting of surface waters shall be in compliance with state water rights law and diversion requirements overseen by the State Water Resources Control Board's Division of Water Rights.

15. Herbicides and other pesticides shall not be used within the Project limits. If the Applicant has a compelling case as to why pesticides should be used, then a request for pesticide use and a BMP plan may be submitted to the Regional Water Board staff for review and acceptance.

16. 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.

17. 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.

18. 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, all excess material and debris shall be removed from the work area.

19. Except for temporary stockpiling of waste generated during demolition operations ("temporary" in this instance means generated and removed during the same working day), waste materials shall not be placed in a manner where the materials may be transported into waters of the state. Waste materials shall not be placed within 100 linear feet of state waters. Exceptions to the 100-foot limit may be granted on a case by-case basis provided the Applicant first submits a proposal that is found acceptable by Regional Water Board staff.

20. 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.

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

22. 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.

23. 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).

24. 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.

25. 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.

26. Work in flowing or standing surface waters, unless otherwise proposed in the certification application Project description and approved by the Regional Water Board, is prohibited.

27. 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.

28. The Applicant shall not use leaking vehicles or equipment within state waters or riparian areas. Vehicles and equipment used within state waters shall be checked for leaks at the beginning of each work day.

29. 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.

30. 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.

31. 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 shall email the Regional Water Board Executive Officer at: 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.

32. 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.

33. The authorization of this certification for any dredge and fill activities expires on September 22, 2022. 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.

Conditions 4-7, 15, 16, 22, 24, 29, and 31 are requirements for information and reports. Any requirement for a report made as a condition to this certification is a formal requirement pursuant to California Water Code section 13267, and failure or refusal to provide, or falsification of such required report is subject to civil liability as described in California Water Code, section 13268.

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.
Original to: Mr. Richard Holland, 3186 Lucia Ave., Eureka, CA 95502

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