North Coast Regional Water Quality Control Board

March 10, 2023

In the Matter of Water Quality Certification for the Great Redwood Trail Phase 4 Project

APPLICANT:	City of Ukiah, Andrew Stricklin
RECEIVING WATER:	Five Unnamed Tributaries to the Russian River
HYDROLOGIC UNIT:	Russian River Hydrologic Unit No. 114.31
COUNTY:	Mendocino
FILE NAME:	Great Redwood Trail Phase 4 Project; ECM PIN CW-882169; WDID 1B22090WNME

FINDINGS BY THE EXECUTIVE OFFICER:

1. On July 6, 2022, the City of Ukiah, Andrew Stricklin (Applicant) filed a draft application for water quality certification (Certification) and requested a prefiling meeting with the North Coast Regional Water Quality Control Board (Regional Water Board) for activities associated with the Great Redwood Trail Phase 4 Project (Project), an extension of the bicycle and pedestrian path within the existing North Coast Railroad Authority (NCRA) corridor through central Ukiah. The Regional Water Board deemed the draft application complete on February 3, 2023. In accordance with the 2020 Certification Rule, the Applicant filed a formal request for certification action within a reasonable time period on January 13, 2023, including a final application under section 401 of the Clean Water Act (33 U.S.C. § 1341). The Project is located in Ukiah along 1.9 miles of existing railroad tracks from Commerce Drive in the north to Taylor Drive in the south, at latitude 39.132650 °N, longitude 123.200286 °W to latitude 39.112394 °N, longitude 123.192630 °W respectfully.

2. **Public Notice:** The Regional Water Board provided 21-day public notice of the application pursuant to Title 23, California Code of Regulations, Section 3858 on February 8, 2023, and posted information describing the Project on the Regional Water Board's website. No comments were received.

3. **Receiving Waters:** The proposed Project would cause disturbances to wetlands and five unnamed tributaries to the Russian River, within the Russian River Hydrologic Unit No. 114.31.

4. **Project Description:** The primary purpose of the Project is to implement the Phase 4 segment of the Great Redwood Trail that will provide a safe and efficient bicycle and pedestrian path within the existing North Coast Railroad Authority (NCRA). The pedestrian and bicycle path will be an important linkage to and from Ukiah's main east-to-west routes.

   The Project involves extending the existing trail by 1.9 miles by constructing a 10-foot wide asphalt concrete paved pathway with 2-foot wide gravel shoulders on either side. Within the 1.9 miles of new pathway, the trail will cross five (5) drainage tributaries. Two crossings, referred to as D1 and D2, will be clear spanned with pre-manufactured bridges set in place with a crane. The deck of the clear spanned bridges will be concrete and 14-feet wide. Concrete footings will be cast in place 3 to 7 feet below grade and beyond the top of bank. The other three crossings, referred to as D3, D4, and D5, will have culvert extensions of 15 feet, 15 feet, and 20 feet respectively. The Project will improve pedestrian crosswalks, construct two ADA compliant pedestrian trail connections, install shade trees, and lighting along the pathway.

   A variety of construction equipment is anticipated to be used including graders, bulldozers, backhoes, excavators, cranes, trucks to remove dirt and deposit base and asphalt. Additionally, asphalt paving machines, compactors for base, soil, and asphalt, stripers, and concrete trucks and pumpers to pump concrete into forms may be used. Staging would occur within the railroad right-of-way, at least 50 feet away from the wetlands and the top of bank of waters.

   Phase 1 was completed in 2015, Phase 2 and Phase 3 were completed in 2019.

5. **Construction Timing:** The Project is planned to begin May 1st 2023, with construction work planned to last approximately 10 months. Work at the culvert crossings will occur when flow is nonexistent and be completed before October 15.

6. **Project Impacts:** The Project will result in total permanent impacts to approximately 0.15 acres / 49 Linear Feet of waters of the state, which includes 0.127 acres of wetlands (identified as Wetland C and Wetland D), 0.017 stream channels (identified as D3, D4, D5), and 0.023 acres riparian areas. The Project will temporarily impact approximately 0.007 acres of wetlands, waters of the state.

7. **Mitigation for Project Impacts:** Compensatory mitigation is required for the proposed impacts to waters of the state. The Project includes mitigation for the impacts to wetlands, waters of the state including creation of approximately 0.121 acres of wetlands, and restoration and enhancement of approximately 0.023 acres of wetlands. Mitigation is located west of Wetland D at 39.121537 °N, 123197461°W, west of the rail at Water D1 at 39.112468 °N, 123.192632 °W, and west of the rail at Water D5 at 39.124751 °N, 123.198798 °W.

Wetland creation will involve minor depressional grading at the culvert inlets of Wetland C and Wetland D to extend the existing wetlands. Restoration and Enhancement activities are described in *Attachment 2 Avoidance and Minimization Measures* of the application which includes removing trash and other man-made debris, planting along the banks and extending the riparian area of D1, and planting within the riparian zone along the south bank of D5. The restoration and enhancement activities total to 0.16 acres, 440 Linear Feet of riparian (Waters D1 and D5) and 0.26 acres, 445 Linear Feet of stream channel (Water D5).

Best Management Practices (BMPs) for operation of heavy equipment near a wetlands, as well as, nesting birds and habitat protection will be implemented to avoid and minimize temporary impacts.

8. **Avoidance and Minimization of Impacts:** Prior to construction activities, adjacent wetlands will be flagged or fenced to clearly delineate wetlands to be protected during construction and all crews will be informed through environmental drawings. Work at the culvert crossings will occur in the dry season when flow is nonexistent, with the exception of D4 which has a diversion plan that addresses the year-round flow, and be complete by October 15.

   Immediately east of Wetland B, Wetland C, and Wetland D are privately-owned properties including established vineyards. At these locations, the available right-of-way is limited, resulting in Project impacts to Wetland C and Wetland D. However, Wetland B was able to be avoided by aligning the trail closer to the rail. The trail was designed with minimal impact and width needed at each of the crossings.

9. **Alternatives Analysis:** The Applicant submitted a Tier 2 analysis that meets the Regional Water Board requirements. The analysis describes the City of Ukiah initially designing the trail to be on top of the existing rail. To accommodate this, the rail would have been removed, avoiding all wetlands. However, the North Coast Rail Authority indicated they would not allow the City to remove the existing rail so this alternative could not be pursued. The Project was redesigned with the pathway adjacent to the rail. The path was re-routed to the east to avoid Wetland A, which was proposed to be filled entirely in the initial 30% design.

10. **Other Agency Actions:** The Applicant has obtained authorization from the United States Army Corps of Engineers for a Nationwide Permit Number 14 for Linear Infrastructure (permit SPN-2022-00285). The Applicant has applied to the California Department of Fish and Wildlife to obtain a Streambed Alteration Agreement (permit EPIMS-MEN-32359-R1C).

11. **CEQA Compliance:** The City of Ukiah, as lead California Environmental Quality Act (CEQA) agency, has determined that the Project qualifies for a Categorical Exemption, 15304, Minor Alterations to Land, Class 4, and has filed a Notice of Exemption with the State Clearinghouse on April 18, 2022.

12. **Total Maximum Daily Load:** The Russian River is identified as impaired for sediment and temperature under Clean Water Act Section 303(d). At present, total maximum daily loads (TMDLs) have not been established for this water body. If TMDLs are established and implementation plans are adopted for this watershed prior to the expiration date of the requested certification, the Regional Water Board may revise the provisions of that certification to address actions identified in such action plans. Bank erosion is identified as a source contributing to the sediment impairment. Removal of riparian vegetation is identified as a source contributing to temperature impairment. Activities that will be authorized by this certification are designed to reduce removal of riparian vegetation and reduce sediment discharges from bank erosion. Accordingly, this certification is consistent with, and implements, BMPs that would attenuate sediment and temperature adverse impacts.

13. **Sediment TMDL Implementation Policy:** 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."

14. **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.

15. Notwithstanding any determinations by the U.S. Army Corps or other federal agency made pursuant to 40 C.F.R. section 121.9, dischargers must comply with the entirety of this certification because 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: https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/generalorders/go_wdr401regulated_projects.pdf

Receiving Water: 5 unnamed tributaries to the Russian River, Russian River Hydrologic Unit No. 114.31

Permanent impacts to waters of the state: 0.12 acres wetland
0.023 acres riparian area
0.017 acres / 49 Linear Feet stream channel

Temporary impacts to waters of the state: 0.007 acres wetland

Latitude / Longitude: Northern extent 39.132650 °N / 123.200286 °W
Southern extent 39.112394 °N / 123.192630 °W

Certification Expiration: March 9, 2028

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Great Redwood Trail Phase 4 Project (WDID No. 1B22090WNME) 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. Compensatory mitigation shall be implemented in accordance with the *Attachment 2 The Great Redwood Trail Phase 4 Project – Avoidance and Minimization Measures* submitted by the Applicant on January 13, 2023, and any subsequent revisions approved by the Executive Officer. Project mitigation includes a plan to remove trash and debris, extend wetlands with depressional grading, and plant in riparian areas as described by the plan. The Applicant proposes to monitor the revegetation to ensure 85% planting success criteria are met after 5 years which may be supplemented by appropriate volunteer riparian species. The applicant shall restore all temporary impact areas to pre-project condition. (CCR Title 23 section 3013, section 3856, Dredge or Fill Procedures section IV. A & B)

2. Mitigation success shall be subject to the review and acceptance by Regional Water Board staff, and shall not be considered successful until a minimum of five years of monitoring has occurred. Plants shall not be considered successful until irrigation has been terminated and plants are self-sustaining for a minimum of two years. (CCR Title 23 section 3013, section 3856, Dredge or Fill Procedures section IV. A & B)

Project-Specific Conditions Requiring Reports

3. Mitigation and monitoring reports shall be submitted annually for five years following mitigation implementation (Reports). Reports shall be submitted to the Regional Water Board by January 31, and detail the monitoring results from the prior calendar year. The reports shall be submitted to the following email address: NorthCoast@waterboards.ca.gov. (CA Water Code section 13267, CCR Title 23 section 3013)

   Reports shall include:

   - Year 1 report will include as-built plans for all plantings;
   - Maintenance activities performed;
   - Monitoring methods;
   - Monitoring data summarized;
   - Time-series photographs;
   - Annual performance and whether success criteria are met;
   - Recommendations for adaptive measures.

4. **Project Tracking:** Within 30 days of issuance of this Order, 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 January 31 monitoring report due date. To upload monitoring reports into EcoAtlas, use the "Files and Links" tab found on your project's EcoAtlas page. (CA Water Code section 13267)

Standard Conditions

5. 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.

6. 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.

7. 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.

An application fee of $2,417.00 was received for the Project on July 13, 2022. A project fee of $815 was received on March 7, 2023. The project qualified as category A, fill and excavation discharges in the current fee schedule. This Certification will be subject to annual billing while the project is constructed and/or monitored, per the fee schedule that is current at the time of annual billing: https://www.waterboards.ca.gov/resources/fees/water_quality/docs/dredgefillcalculator.xlsm

Annual fees will be automatically invoiced to the Applicant. **The applicant must notify the Regional Water Board at project and/or mitigation completion with a final report in order to request to terminate annual billing. Notification should be sent to the staff listed at the bottom of this Order and to NorthCoast@waterboards.ca.gov.** Regional Water Board staff will verify conditions of the Certification have been met and may request a site visit at that time to confirm status of Project and compliance with this Certification. (CCR Title 23, sections 3833(b)(3) and 2200(a)(3), CA Water Code section 13267(c))

8. The Regional Water Board shall be notified at least five working days (working days are Monday – Friday) prior to the commencement of construction. (CA Water Code section 13267)

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. (Water Quality Control Plan for the North Coast Region, Section 4.2.1, State Board Resolution No. 68-16)

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. (State Board Resolution No. 68-16, 40 CFR Part 131.12 (a)(1), CA Water Code section 13369, CCR section 3861(d)(2))

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. (Water Quality Control Plan for the North Coast Region, section 4.2.1)

12. The Applicant shall provide Regional Water Board staff access to the Project site to document compliance with this certification. (CA Water Code section 13267(c))

13. 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. (CA Water Code sections 13170 or 13245 and 13271)

14. 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). (CA Water Code section 13264)

15. 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. (CA Water Code section 13264)

16. 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. (CA Water Code sections 13170 or 13245)

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. (State Board Resolution No. 68-16, 40 CFR Part 131.12

(a)(1), Water Code section 13369, Water Quality Control Plan for the North Coast Region, section 3.3.16)

18. 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. (State Board Resolution No. 68-16, 40 CFR Part 131.12 (a)(1), CA Water Code section 13369, Water Quality Control Plan for the North Coast Region, section 3.3.16)

19. 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. (CA Water Code sections 13385, 13267)

20. 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. (CA Water Code section 13330, and CCR title 23 chapter 28, Article 6 commencing with section 3867)

21. 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. (CA Water Code section 13264)

    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.

22. 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 (CA Water Code section 13264); 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. (Water Quality Control Plan for the North Coast Region)

23. The authorization of this certification for any dredge and fill activities expires on March 9, 2028. 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 to ensure compliance with water quality objectives adopted or approved under Sections 13170 or 13245 of the CA Water Code.

Conditions 2,3,4 and 8 have 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 contact Emma Tracy of my staff, at (707) 576-2501, or via e-mail at Emma.Tracy@waterboards.ca.gov.

Jonathan Warmerdam
On Behalf Of

Digitally signed by Jonathan Warmerdam
Date: 2023.03.10 14:46:18 -08'00'

Water Boards

Valerie Quinto
Executive Officer

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cc: State Water Resources Control Board, Stateboard401@waterboards.ca.gov
EPA Region 9, R9cwa401@epa.gov
Stephen Ryan, USACE, Stephen.Q.Ryan@usace.army.mil
Kristine Gaspar, GHD, Kristine.Gaspar@ghd.com