



**California Regional Water Quality Control Board  
North Coast Region  
Bob Anderson, Chairman**



**Linda S. Adams**  
Secretary for  
Environmental Protection

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**Arnold  
Schwarzenegger**  
Governor

June 4, 2008

In the Matter of

**Water Quality Certification**

for the

**HUMBOLDT COUNTY DPW – FRESHWATER PARK SEASONAL DAM  
WDID NO. 1B07179WNHU**

APPLICANT: Humboldt County Public Works Department  
RECEIVING WATER: Freshwater Creek  
HYDROLOGIC UNIT: Eureka Plain Hydrologic Unit No. 110.00  
COUNTY: Humboldt  
FILE NAME: Humboldt Co. DPW – Freshwater Park Seasonal Dam

**BY THE EXECUTIVE OFFICER:**

1. On December 6, 2007, the Humboldt County Pubic Works Department (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 annual installation and removal of the seasonal dam at Freshwater Park near the community of Freshwater. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on March 11, 2008, and posted information describing the project on the Regional Water Board's website. We received public comments on this project.
2. The project is located within Freshwater Park, a Humboldt County park located on the west side of Freshwater-Kneeland Road, about 3.5 miles southeast of Myrtle Avenue. Humboldt County has owned and operated the park since 1939. The park's main attraction during the summer is a swimming area created by a seasonal dam that has been installed annually since the 1920s. The dam facility includes retaining walls, permanent concrete wing-walls, a concrete foundation, and removable I-beams, flashboards, and gate valve. The dam is not installed before June 15 and is removed by no later than September 30 each year.
3. Freshwater Creek provides habitat for Chinook salmon, Coho salmon and steelhead. In 2001, efforts were initiated to create a means for these fish to move freely through the dam area while the dam is in place. Humboldt County worked with local fisheries professionals, state and federal agencies, Humboldt State University, and

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local community groups to design, construct, operate and monitor a temporary fish ladder designed to allow juvenile fish to move upstream and downstream across the dam.

4. In 2006, Humboldt County received grant funding to implement a variety of environmental, recreational, and educational improvements at the park. One component of the park improvements is the construction of a permanent concrete fish ladder that will be embedded along the stream bank and attached to the concrete wing-wall of the existing dam structure. A negative declaration for the Freshwater Park Improvements Project was adopted by the Humboldt County Board of Supervisors on August 27, 2007. The Freshwater Park Improvements Project is scheduled to begin in the summer of 2008.
5. Prior to dam installation activities, a fish exclusion fence will be place approximately 50 feet upstream of the dam or in a nearby location where the channel is more confined. The purpose of this fish exclusion fence is to prevent juvenile fish from entering the construction area from the upstream direction. Silt fence is installed immediately below the dam and another silt fence is installed about 500 feet further downstream of the dam near the bridge. The purpose of these silt fences is to prevent fish from entering the construction area from the downstream direction and they also help to control fine sediment that could enter the water column during construction activities. Although most juvenile salmonids will have out-migrated before the dam installation date, it is possible for some fish to be present in the dam installation area. A qualified fisheries biologist will be present onsite during dam installation to remove and relocate fish to an appropriate area in the creek that is outside the fish exclusion area.
6. In general, dam installation and removal activities are the same each year because the creek is mostly confined by bedrock and the main flow channel does not migrate significantly in the area of the dam. The main flow channel is typically along the left bank and a gravel bar typically forms on the right bank and upstream of the foundation that supports the flashboard dam. Dam installation activities typically include minor grading of the gravel bar in the swimming area and removal of 50 to 200 cubic yards of sediment to allow heavy equipment to access the dam for installation of the steel I-beams and flashboards. A sandbag diversion dam may be installed across the flow channel upstream of the dam in order to direct flows to the flow channel along the left bank and away from the area where heavy equipment is operated during installation of the I-beams and flashboards. Hand tools are used to remove approximately 2 cubic yards of sediment from the sockets in the concrete foundation that hold the vertical I-beams that hold the flashboards. A backhoe is used to remove 1 to 5 cubic yards of sediment from the ends of a 36-inch long, 24-inch diameter corrugated metal pipe that is built into the foundation so that a gate valve can be attached to the pipe. The gate valve is used to control the flow of water through the dam.
7. A permanent diving platform is located on the left bank a short distance upstream of the dam. Three to six cubic yards of sediment is typically removed from an 8 foot by 8 foot area below the platform to create a deeper area for divers. A toddlers' pool is also established and staked off on the right bank approximately 100 feet upstream of the dam. Approximately 10 to 20 cubic yards of the gravel that was removed from the dam area is typically used to fill an approximately 30 foot by 30 foot area to create the correct depths for the shallow swimming area. In some years, approximately 10 to 20 cubic yards of gravel from previous excavation activities is

also placed along the dam's east wing-wall to fill the scoured areas that may form during high winter flow events.

8. After the first level of flashboard panels are installed, the gate valve is closed 10 to 20 percent, depending on the amount of flow in the creek, to allow the pool to slowly fill while a majority of the flows are allowed to pass downstream. As the pool fills, the fish exclusion fencing and silt fencing is removed. Once the pool is completely filled the gate valve is closed and flows go over a notched flashboard on the east end of the dam. From 2002 to 2007, flows going over the notched flashboard continued through a temporary fish ladder. The Freshwater Creek Improvement Project includes constructing a permanent fish ladder during the summer and fall of 2008. In the fall, the installation procedures are reversed for removal of the dam. The gate valve is opened gradually to allow the pool to drain slowly and the flashboards, I-beams, and gate valve are removed. The removal and installation processes typically take one to three days to complete.
9. Compensatory mitigation is not required for the dam installation project; however, as described above, Humboldt County will be implementing the Freshwater Park Improvement Project in the park that includes a variety of environmental, recreational, and educational improvements. Noncompensatory mitigation includes the use of Best Management Practices (BMPs) for sediment and turbidity control and for operation of heavy equipment in a stream channel.
10. The Applicant has applied for authorization (File No. 2007-00873) from the United States Army Corps of Engineers to perform the project under an individual permit pursuant to Clean Water Act, section 404. The Applicant has applied to the California Department of Fish and Game for a Lake or Streambed Alteration Agreement for the project.
11. On March 21, 2000, Humboldt County adopted a negative declaration (SCH No. 2000042015) for the project in order to comply with CEQA. The Regional Water Board has considered the environmental document and any proposed changes incorporated into the project or required as a condition of approval to avoid significant effects to the environment.
12. 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.

Receiving Water: Freshwater Creek in the Eureka Plain Hydrologic Unit No. 110.00

Filled or Excavated Area: Area Temporarily Impacted: 3,650 square feet (0.08 acre) of stream channel and stream bank  
Area Permanently Impacted: None

Total Linear Impacts: Length Temporarily Impacted: 200 linear feet of stream channel  
Length Permanently Impacted: None

Dredge Volume:               None

Latitude/Longitude:        40.75777 N/124.04962 W

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Freshwater Park Seasonal Dam (WDID No. 1B07179WNHU), 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:

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. This certification is conditioned upon total payment of any fee required under title 23, California Code of Regulations, section 2200, and owed by the Applicant.
4. The Regional Water Board shall be notified annually, in writing, at least five working days (working days are Monday – Friday) prior to the commencement of ground disturbing activities, with details regarding the dam installation schedule, in order to allow staff to be present onsite during construction, and to answer any public inquiries that may arise regarding the project.
5. 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 Order, 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. No rubbish shall be deposited within 150 feet of the high water mark of any stream.
6. All activities and BMPs shall be implemented according to the submitted application and the conditions in this certification.
7. The Applicant shall provide a copy of this Order and the application documents submitted for this certification to all contractors and subcontractors conducting the work, and shall require that a copy of the Order remain in their possession at the work site. The Applicant shall be responsible for work conducted by its contractors or subcontractors.

8. If, at any time, an unauthorized discharge to surface water (including wetlands, rivers or streams) occurs, or any water quality problem arises, the Applicant shall cease the associated project activities immediately until adequate BMPs are implemented. 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.
9. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete the project.
10. Prior to implementing any change to the project that may have a significant or material effect on the findings, conclusions, or conditions of this Order, the Applicant shall obtain the written approval of the Regional Water Board Executive Officer.
11. All project work shall be conducted as described in this Order and in the application submitted by the Applicant. If the Regional Water Board is not notified of a significant alteration to the project, it will be considered a violation of this Order, and the Applicant may be subject to Regional Water Board enforcement actions.
12. The Regional Water Board may add to or modify the conditions of this Order, 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.
13. The Applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
14. 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 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 Regional 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 Regional 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.
15. 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 Order by letter and shall forward a copy of the letter to the Regional Water Board at the above address.

To discharge dredged or fill material under this Order, the successor-in-interest must send to the Regional Water Board Executive Officer a written request for transfer of the Order. The request must contain the requesting entity's full legal name, the state of incorporation if a corporation, and the address and telephone number of the person(s) responsible for contact with the Regional Water Board. The request must also describe any changes to the project proposed by the successor-in-interest or confirm that the successor-in-interest intends to implement the project as described in this Order.

16. 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).
17. The authorization of this certification for any dredge and fill activities expires on October 15, 2012. 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 Dean Prat at (707) 576-2801.

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Catherine Kuhlman  
Executive Officer

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Original to: Mr. Andrew Bundschuh, Humboldt County Public Works Department,  
1106 Second Street, Eureka, CA 95501-0579

Copies to: U.S. Army Corps of Engineers, District Engineer, 601 Startare Drive, Box  
14, Eureka, CA 95502  
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1455 Market Street, San Francisco, CA 94103-1398