



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



Linda S. Adams
Secretary for
Environmental Protection

www.waterboards.ca.gov/northcoast
5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403
Phone: (877) 721-9203 (toll free) • Office: (707) 576-2220 • FAX: (707) 523-0135

**Arnold
Schwarzenegger**
Governor

June 4, 2008

In the Matter of
Water Quality Certification

for the

**HUMBOLDT COUNTY DPW – FRESHWATER PARK IMPROVEMENTS PROJECT
WDID NO. 1B08006WNHU**

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 Improvements Project

BY THE EXECUTIVE OFFICER:

1. On January 7, 2008, 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 the Freshwater Park Improvements Project 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 27, 2008, and posted information describing the project on the Regional Water Board’s website. We did not receive any public comments on this project.
2. The project is located along the section of Freshwater Creek that is 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 original earthen dam was converted to a flashboard dam in 1980 when the existing concrete sill and retaining walls were constructed. Annual flashboard dam installation and removal activities are covered under a separate water quality certification (Humboldt Co. DPW - Freshwater Park Seasonal Dam WDID No. 1B07179 WNHU).
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 during the summer months. Humboldt County worked with local fisheries professionals, state and federal agencies,

Humboldt State University, and 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. The temporary fish ladder structure met its objectives and additional design features were identified to improve its performance, but it was not intended to be a permanent solution. In 2006, Humboldt County received grant funding to implement a variety of environmental, recreational, and educational improvements at the park including installation of a permanent fish ladder.

4. The primary purpose of the Freshwater Park Improvements Project is to expand and enhance outdoor recreational opportunities for the public while providing increased environmental protection and awareness. A primary component of the project is installation of a multipurpose, integrated structure that incorporates a seasonal but permanent fish ladder, an observation platform, and an Americans with Disabilities Act compliant creek-side access ramp. The concrete fish ladder will contain two parallel concrete raceways with adjustable baffles that will allow pool widths and velocities to be adjusted for different flow rates. The creek-side access ramp will begin on the right creek bank just below the dam. One side of the access ramp will be built into the right stream bank and the other side will be supported by the fish ladder structure. The access ramp will lead to an observation platform at the downstream end of the fish ladder that will allow visitors to directly observe the fish ladder in operation. Removable stairs will be attached to the observation platform to provide access to the creek. The integrated structure will result in 1,500 square feet and 75 linear feet of permanent impacts to the stream channel and right stream bank directly below the dam.
5. Project activities include stabilization of sections of eroding stream banks, installation of four fish habitat structures, removal of non-native invasive plants from the riparian area, replanting the riparian area with native vegetation, installation of a fence to protect vegetation in the riparian zone, and removal of a portion of an earthen berm to allow high flows to access a floodplain area within the park. Recreational aspects of the park improvements project include construction of a removable boardwalk, trail, gazebo, shade canopy, and creek-side stairs. The purpose for installing stairs at specific locations along the creek is to reduce impacts to the riparian vegetation by encouraging park visitors to use designated paths along the creek bank. The creek-side stairs will consist of wood framing that is filled with clean rock in order to minimize potential impacts to the creek if the stairs are inundated or damaged during high flow events. Education aspects of the project include installation of a series of kiosks to provide information on the form and functions of the riparian zone, wildlife natural history, and resource management.
6. Compensatory mitigation is not required. Noncompensatory mitigation includes the use of Best Management Practices (BMPs) for sediment and turbidity control, for use of concrete in a stream channel, and for operation of heavy equipment in a stream channel. The park improvements project is scheduled to begin in the summer of 2008.
7. The Applicant has applied for authorization (File No. 2007-00751) 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.

8. On August 27, 2007, the Humboldt County Board of Supervisors adopted a negative declaration 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.
9. 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: 21,570 square feet (0.50 acre) of stream channel and stream banks
Area Permanently Impacted: 2,630 square feet (0.06 acre) of stream channel and stream banks

Total Linear Impacts: Length Temporarily Impacted: 925 linear feet of stream channel and stream banks
Length Permanently Impacted: 310 linear feet of stream channel and stream banks

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 Improvements Project (WDID No. 1B08006WNHU), 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 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 June 4, 2013. 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.

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
Ms. Jane Hicks, U.S. Army Corps of Engineers, Regulatory Functions,
1455 Market Street, San Francisco, CA 94103-1398