



**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

May 28, 2009

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In the Matter of

**Water Quality Certification**

for the

**BROWN'S SEEP WEEL PROECTION PROJECT – TRINITY RIVER  
WDID NO. 1A09021HU**

APPLICANT: Mr. Jerry Brown  
RECEIVING WATER: Trinity River  
HYDROLOGIC UNIT: Douglas City Hydrologic Subarea No. 106.31  
COUNTY: Trinity  
FILE NAME: Brown's Seep Well Protection Project

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BY THE EXECUTIVE OFFICER:

1. On February 9, 2009, Mr. Jerry Brown (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 placement of rock riprap around an existing seep well to protect the structure during high flows in the Trinity River. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on May 5, 2009, 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 purpose of the project is to protect an existing well during high flow events that are associated with prescribed dam releases for fishery restoration in the mainstem Trinity River. The seep well consists of a 3-foot diameter concrete casing that extends above the low flow water surface elevation. Approximately 12 cubic yards of clean rock riprap will be placed around the well casing: extending approximately 3 feet out from the casing and up the casing wall to the top rim. The rock will be placed from the rivers edge during a low flow period such that no heavy equipment will be operated in flowing or standing water.

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3. The project will result in permanent impacts to 81 square feet and 6 linear feet of stream bed surrounding the existing well casing. The project will not result in any temporary impacts.
4. Compensatory mitigation is not required for the project. 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. The project is scheduled for construction during the summer of 2009.
5. The applicant has applied for authorization from the United States Army Corps of Engineers to perform the project under nationwide permit, pursuant to Clean Water Act Section 404. The applicant has also applied to the California Department of Fish and Game for a Lake or Streambed Alteration Agreement.
6. The Regional Water Board, as the lead California Environmental Quality Act (CEQA) agency, has determined that this project qualifies for a Categorical Exemption, section 15301 – existing facilities, pursuant to CEQA.
7. 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: Trinity River in the Douglas City Hydrologic Subarea No. 106.31

Filled or Excavated Area: Area Temporarily Impacted: None  
Area Permanently Impacted: 81 square feet of stream channel

Total Linear Impacts: Length Temporarily Impacted: None  
Length Permanently Impacted: 6 linear feet of stream channel

Dredge Volume: None

Latitude/Longitude: 40.65804 N/122.92548 W

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Brown's Seep Well Protection Project (WDID No.1A09021WNTR), 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.

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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 in writing at least five working days (working days are Monday – Friday) prior to the commencement of ground disturbing activities, with details regarding the construction 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. A copy of this Order and the application documents submitted by the Applicant for this certification shall be provided to all contractors and subcontractors conducting the work, and shall be in their possession at the work site.
8. If, at any time, an unauthorized discharge to surface water (including wetlands, rivers or streams) occurs, or any water quality problem arises, the associated project activities shall cease 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. 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.
10. 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.

11. 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.
12. The Applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
13. 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.
14. 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.

15. 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).

16. The authorization of this certification for any dredge and fill activities expires on May 28, 2014. 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. Jerry Brown, 5204 Piccadilly Circle, Westminster, CA 92683

Copies to: U.S. Army Corps of Engineers, District Engineer, 601 Startare Drive,  
Box 14, Eureka, CA 95501  
Ms. Jane Hicks, U.S. Army Corps of Engineers, Regulatory Functions,  
1455 Market Street, San Francisco, CA 94103-1398