
North Coast Regional Water Quality Control Board

July 25, 2022

In the Matter of Order No. R1-2022-0032 General Water Quality Certification

for

Humboldt Redwoods State Park Watershed Restoration Program

APPLICANT: California Department of Parks and Recreation
RECEIVING WATER: Eel River
HYDROLOGIC UNIT: Eel River Hydrologic Unit 111.31
COUNTY: Humboldt
FILE: Humboldt Redwoods State Park Watershed Restoration
Program WDID No. 1B22061WNHU; CW-881012

FINDINGS BY THE EXECUTIVE OFFICER:

1. On May 3, 2022, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application from the California Department of Parks and Recreation (Applicant), requesting Federal Clean Water Act, section 401, Water Quality Certification coverage for activities associated with the Humboldt Redwoods State Park Watershed Restoration Program (Project).

The Project is located within Humboldt Redwoods State Park in Humboldt County and will cause disturbances to waters of the U.S. and waters of the state associated with the South Fork Eel River and its tributaries, within the Eel River Hydrologic Unit 111.31.

2. The Regional Water Board provided a 45-day public notice of its intent to issue General Water Quality Certification (Order) for the Project pursuant to title 23, California Code of Regulations, section 3861 on May 4, 2022, and posted information describing the Project on the Regional Water Board's website. No comments were received.
3. The primary objective of the federal Clean Water Act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters (Clean Water Act section 101(a)). To achieve the objectives of the Clean Water Act and the Porter-Cologne Water Quality Control Act, the Regional Water Board must take an active

role in promoting the implementation of restoration projects that are expected to help restore the chemical, physical, and biological integrity of the waters within the region (from the Policy in Support of Restoration in the North Coast Region Resolution No. R1-2015-0001 as adopted by the Regional Water Board on January 29, 2015).

4. The purpose of the Project is to progressively restore and rehabilitate Humboldt Redwood State Park watersheds in phases over a 30-year implementation period. Watershed restoration actions will include stream restoration, cannabis grow site cleanup, and stream crossing removal. Annual workplans shall be submitted to the Regional Water Board for review, approval, and enrollment under this Order.
5. In addition to the instream habitat restoration actions, the Project will undertake actions to restore forest health, including thinning second-growth forests to reduce stand density and alter species composition to promote growth of remaining trees, understory vegetation, and development of multi-story canopy and removing or repairing roads to reduce the potential for erosion and sedimentation into streams. These actions will accelerate development of forest characteristics more typical of late-seral forests and will prevent chronic and catastrophic sediment inputs to creeks. The Regional Water Board will regulate the Project's forestry and road remediation activities under Category F of the Categorical Waiver of Waste Discharge Requirements for Discharges Related to Timber Harvest Activities on Non-Federal Lands in the North Coast Region, Order No. R1-2014-0011. The activities that will be permitted by Category F of the Categorical Waiver include forest thinning using ground- or cable-based harvesting equipment; vegetation management and removal of invasive, non-native species using primarily hand crews; revegetation of exposed soil areas from project activities; road and watercourse crossing removal; temporary road reconstruction; and landform recovery to restore pre-logging or -cannabis cultivation topography and hydrology to pre-disturbance conditions.
6. Pursuant to title 23, California Code of Regulations, section 3861, the Regional Water Board may take a "general" certification action on discharges within its own geographic area of jurisdiction that may result from a class or classes of activities. A class of activities receiving general certification shall: 1) consist of the same or similar types of activities; 2) involve the same or similar types of discharges and possible adverse impacts requiring the same or similar certification conditions or limitations in order to alleviate potential adverse impacts to water quality; and 3) be determined by the certifying agency to more appropriately be regulated under a general certification action than under individual certification actions.
7. The Regional Water Board has determined that the discharges associated with the Applicant's habitat restoration actions are produced by similar activities, involve the same or similar certification conditions to alleviate potential adverse impacts to water quality, and are more appropriately regulated under this Order.

8. The Project activities are planned to be conducted annually from 2022 through 2052. The Regional Water Board may reissue this Order for additional five-year terms as necessary and appropriate
9. The primary purpose of this Project is ecosystem restoration and the impacts associated with it are temporary in nature. Once complete, the Project will provide a net benefit to water quality; therefore, no compensatory mitigation is required.
10. As lead agency, California Department of Parks and Recreation filed a Negative Declaration (SCH# 2022040442) with the State Clearinghouse on April 20, 2022, pursuant to the requirements of the California Environmental Quality Act (CEQA). As a responsible agency under CEQA, the Regional Water Board has considered the environmental documents prepared by the California Department of Parks and Recreation and finds that none of the conditions described in California Code of Regulations title 14, section 15162 have occurred such that preparation of additional environmental documents pursuant to CEQA is required.
11. Compensatory mitigation is not required for the proposed project activities. The Project has been designed to avoid and minimize adverse impacts and non-beneficial permanent impacts to waters of the U.S. and state. Non-compensatory mitigation for the proposed Project includes Best Management Practices for heavy equipment use in and near a waterway to prevent or reduce any discharges during and after construction.
12. The South Fork Eel River Total Maximum Daily Loads (TMDL) for sediment and temperature were established in 1999 by the United States Environmental Protection Agency in accordance with section 303(d) of the Clean Water Act, because the State of California determined that the water quality standards for the South Fork Eel River are exceeded due to excessive sediment and temperature. Roads and bank erosion are identified as sources contributing to the sediment impairment. In addition, activities that impact the riparian zone and reduce riparian vegetation are identified as sources contributing to increased stream temperatures. The primary adverse impacts associated with excessive temperature and sediment in the South Fork Eel River pertain to cold freshwater habitat, primarily anadromous salmonid habitat. This Project will not significantly decrease the amount of shade on stream channels within the watershed. Implementation of BMPs for sediment and turbidity control are also required. Accordingly, this Order is consistent with, and implements portions of the South Fork Eel River TMDL.
13. 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. Section 131.12 of the U.S. EPA's Water Quality Standards regulations includes the "federal antidegradation policy" which emphasizes protection of instream beneficial uses, especially protection of aquatic organisms. As required by the federal antidegradation policy (40 C.F.R. §131.6(d)), each state's water quality standards must include a policy consistent with the federal antidegradation policy. The State Water Board established California's antidegradation policy in State Water Board 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 Basin Plan implements, and incorporates by reference, both the state and federal antidegradation policies. Restoration projects must conform to the state and federal antidegradation policies. This Order is consistent with applicable federal and state antidegradation policies. Restoration projects are intended to correct a water quality problem or condition, which is causing, or threatens to cause, a detrimental effect on an aquatic ecosystem and beneficial uses. Although a restoration project may result in a discharge of waste to waters of the U.S. or state, the impacts are intended to be temporary in nature with the purpose of providing a net benefit to water quality.
15. 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. State Water Resources Control Board Order No. 2003-0017-DWQ can be found at: http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf

ELIGIBILITY REQUIREMENTS

Eligibility for coverage under this Order is limited to the Applicant's habitat restoration activities and additional rehabilitation activities that may be conducted to improve habitat conditions within Humboldt Redwoods State Park.

APPLICATION REQUIREMENTS

1. **Pre-Discharge Notification Requirements:** At least 30 days prior to initiation of any ground disturbing activities, the Applicant shall provide the Regional Water Board an annual workplan. For coverage under this Order, an annual workplan shall, at a minimum, include all the following information and items:
 - A full, technically accurate project description, including:
 - i. the purpose and final goal of the proposed activity,
 - ii. estimated implementation dates and project duration,
 - iii. a complete dredge and fill table (or comparable alternative),
 - iv. a quantified list of materials to be discharged to waters, and
 - v. a description of all resource protection measures and BMPs to be employed during implementation.

- Complete copies of either the application for federal license/permit being sought for the activity or any notification issued by the federal agency concerning the proposed activity if no application is required. If no federal applications or notices are issued by the federal agency, any correspondence between the Applicant and the federal agency regarding the proposed activity, shall be provided.
2. **Fee:** A check in the amount specified in California Code of Regulations, title 23, section 2200(a)(3), payable to the State Water Resources Control Board, shall be included with the application sent to the Regional Water Board. This Project qualifies for the Restoration Flat Fee category and the certification will be subject to annual billing during the construction and restoration monitoring phases of the project, per the current fee schedule, which can be found at: http://www.swrcb.ca.gov/northcoast/water_issues/programs/water_quality_certification.shtml. These fees will be automatically invoiced to the applicant.
 3. **Regional Water Board Approval:** After receiving an annual workplan, the Regional Water Board (Executive Officer) will, at its discretion, issue a Notice of Applicability to the Applicant indicating that the site-specific project may proceed under this Order, or a Notice of Exclusion indicating that the discharge will require project-specific review for certification.

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Humboldt Redwoods State Park Watershed Restoration Program (WDID No. 1B22061WNHU), 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 order apply to the Applicant (and all 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.

STANDARD 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. 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.

ADDITIONAL CONDITIONS

4. The Applicant shall prioritize the use of wildlife-friendly 100% biodegradable erosion control products and BMPs whenever feasible. For purposes of this Order, photodegradable synthetic products are not considered biodegradable. The Applicant shall not use, or allow the use of, erosion control products that contain synthetic netting or materials for permanent erosion control (erosion control materials to be left in place for two years or after the completion date of the project). If the Applicant finds that temporary erosion control netting or products have entrapped or harmed wildlife, the Applicant shall remove the netting or product and replace it with wildlife-friendly biodegradable products. Applicant shall remove any remaining synthetic netting or materials remaining at the end of two years, or sooner.
5. 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 because of climate change, therefore, BMPs shall always be available for immediate deployment to prevent discharges to waters of the state.
6. The Applicant shall provide a copy of this Order and the application documents submitted for authorization under this certification to all contractors and subcontractors conducting the work and shall require that a copy of this Order remain in their possession at the work site. The Applicant shall be responsible for all work conducted by its contractors or subcontractors.
7. 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.
8. The Applicant shall provide Regional Water Board staff access to the Project site to document compliance with this certification.
9. 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.

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. 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 action(s).
11. All Project work shall be conducted as described in this Order and in the application submitted by the Applicant and shall comply with all applicable water quality standards as detailed in the Basin Plan. 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 Applicant shall provide a copy of this Order and State Water Resources Control Board 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.
13. This Order does not preclude the need for permits which may be required by other federal, state, or local governmental agencies.
14. This Order does not authorize any act which results in the "taking" of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code §§ 2050 - 2097) or the federal Endangered Species Act (16 U.S.C. §§ 1531 - 1544). If a "take" will result from any act authorized under this certification, Applicant shall obtain authorization for the take prior to any construction or operation of the Project. The Applicant shall be responsible for meeting all requirements of the applicable Endangered Species Act for the Project authorized under this certification.
15. Disturbance or removal of existing riparian vegetation shall not exceed the minimum necessary to complete the Project.
16. 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.

17. 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.
18. In the event of any violation or threatened violation of the conditions of this Order, 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 Order. 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 Order 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 Order, the Regional Water Board may add to or modify the conditions of this Order as appropriate to ensure compliance.
19. The authorization of this certification for any dredge and fill activities expires on July 21, 2027. Conditions and monitoring requirements outlined in this Order are not subject to the expiration date outlined above and remain in full effect and are enforceable. The Regional Water Board may consider reissuing this Order for additional five-year terms as necessary and appropriate.

Please contact Jake Shannon at Jacob.Shannon@waterboards.ca.gov if you have any questions or comments.

Matthias St. John
Executive Officer

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