

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Water Quality Certification for the

WHITES GULCH DAM REMOVAL PROJECT

SOURCES: Whites Gulch Creek, tributary of the North Fork Salmon River

COUNTY: Siskiyou County

Project Description

The Salmon River Restoration Council (SRRC) has requested water quality certification for the Whites Gulch Dam Removal Project (Project). The SRRC acquired grant funding for the Project that will be completed by the Department of Fish and Game (CDFG). The Project is located on United States Forest Service (USFS) land. The objective of the Project is to remove barriers to fish migration and allow coho salmon and spring run Chinook salmon access to 1.5 miles of habitat currently blocked by dams. The Project includes the removal of two dams and relocation of an intake for a small hydroelectric project. The lower dam will be pulled apart with a long-line cable and tractor, with all equipment remaining outside the wetted channel. A cofferdam will be built by hand using rocks and gravel found in the stream. Water will be diverted at the cofferdam into the right hand portion of the channel and into an existing inlet pipe. Once dam removal is complete, the cofferdam will be removed. The CDFG and the USFS will be consulted on whether large wood or boulder-sized remnants of dam demolition should be removed or left in the stream. All smaller pieces of concrete, rebar and other debris will be removed by hand. The CDFG statewide blasting team will use explosives to demolish the seven-foot high upper dam. Cutting torches will be used to remove rebar remnants after blasting. All work will be done by hand; no equipment will be used. A new intake for the existing small hydroelectric project will be constructed approximately 600 feet upstream of the upper dam. This diversion point is upstream of a ten-foot high waterfall that is a partial barrier to adult anadromous fish migration. The new diversion will be located at a natural boulder weir and will require the construction of a two-foot high wall that will be passable by adult steelhead. A new eight-inch diversion pipe will be supported on piers for about 100 feet and then buried.

WATER QUALITY CERTIFICATION FOR FEDERAL PERMIT OR LICENSE

BY THE EXECUTIVE DIRECTOR:

1. The Federal Clean Water Act (33 U.S.C. §§ 1251-1387) was enacted “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” (33 U.S.C. § 1251(a).) Section 101 of the Clean Water Act (33 U.S.C. § 1251 (g)) requires federal agencies to “co-operate with the State and local agencies to develop comprehensive solutions to prevent, reduce and eliminate pollution in concert with programs for managing water resources.”

2. The Licensee has applied to the U.S. Army Corps of Engineers (ACOE) for Nationwide Permit number 27. This is a class of permit that the State Water Board determined requires issuance of water quality certification.
3. Section 401 of the Clean Water Act (33 U.S.C. §1341) requires every applicant for a federal license or permit which may result in a discharge into navigable waters to provide the licensing or permitting federal agency with certification that the project will be in compliance with specified provisions of the Clean Water Act, including water quality standards and implementation plans promulgated pursuant to section 303 of the Clean Water Act (33 U.S.C. § 1313). Clean Water Act section 401 directs the agency responsible for certification to prescribe effluent limitations and other limitations necessary to ensure compliance with the Clean Water Act and with any other appropriate requirement of state law. Section 401 further provides that State certification conditions shall become conditions of any federal license or permit for the project. The State Water Resources Control Board (State Water Board) has delegated this function to the Executive Director by regulation. (Cal. Code Regs., tit. 23, § 3838, subd. (a).)
4. The California Regional Water Quality Control Boards have adopted, and the State Water Board has approved, water quality control plans (basin plans) for each watershed basin in the State. The basin plans designate the beneficial uses of waters within each watershed basin and water quality objectives designed to protect those uses. Section 303 of the Clean Water Act requires the states to develop and adopt water quality standards. (33 U.S.C. § 1313.) The beneficial uses together with the water quality objectives that are contained in the basin plans constitute State water quality standards under section 303.
5. The North Coast Regional Water Quality Control Board has adopted, and the State Water Board and U.S. Environmental Protection Agency have approved, the *Water Quality Control Plan for the North Coast Region* (Basin Plan). The Basin Plan designates the beneficial uses of waters to be protected along with the water quality objectives necessary to protect those uses. Existing beneficial uses designated for the Sawyers Bar Hydrologic Subarea include municipal and domestic supply, agricultural supply, industrial service supply, freshwater replenishment, navigation, water contact recreation, non-contact water recreation, commercial and sport fishing, cold freshwater habitat, wildlife habitat, rare (rare, threatened and endangered species), migration, and spawning (spawning, reproduction, and/or early development). Industrial process water, hydropower generation, shellfish harvesting, and aquaculture are listed as potential uses. Protection of the instream beneficial uses identified in the basin plan requires maintenance of adequate instream flows as well as effluent limitations and other limitations on discharges of pollutants from point and non-point sources to the Whites Gulch Creek and its tributaries.

6. The State Water Board has reviewed and considered the plans and Project description provided by applicant. Further, the State Water Board has considered the basin plan, the existing water quality conditions and Project-related controllable factors.
7. The USFS prepared an Environmental Assessment (EA) for this Project to comply with the National Environmental Policy Act. The State Water Board has reviewed the proposed Project, the conditions incorporated into the Project to protect the environment, and the EA. The State Water Board has determined this Project is a small habitat restoration project and therefore is categorically exempt from the requirements of the California Environmental Quality Act (Cal. Code Regs., tit. 14, § 15333). A Notice of Exemption has been prepared.
8. On October 24, 2007, the State Water Board issued notice pursuant to section 3858 of the California Code of Regulations that it intended to issue water quality certification after a 21-day notice period.

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE STATE WATER BOARD CERTIFIES THAT WHITES GULCH DAM REMOVAL PROJECT will comply with sections 301, 302, 303, 306 and 307 of the Clean Water Act, and with applicable provisions of State law, provided the Salmon River Restoration Council (Applicant) complies with the following terms and conditions:

1. Applicant shall comply with the project description in the Environmental Assessment dated September 2007. Applicant shall be responsible for ensuring that the CDFG and others performing work comply with the conditions of this certification.
2. Applicant shall monitor water quality during construction and immediately report any discharge or violation of the water quality objectives to the State Water Board and North Coast Regional Water Quality Control Board.
3. Applicant shall comply with the Best Management Practices in the Environmental Assessment dated September 2007.
4. Wet concrete shall not be allowed to contact water during construction.
5. Notwithstanding any more specific conditions in this certification, the Project shall be operated in a manner consistent with all 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. The applicant shall take all reasonable measures to protect the beneficial uses of water of the Whites Gulch Creek.
6. This certification is not intended and shall not be construed to apply to issuance of any FERC license or FERC license amendment.
7. This certification 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 & Game 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 or water rights held by the Applicant, the Applicant shall obtain authorization for the take prior to any construction or operation of the Project. The Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the Project authorized under this certification.

8. 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 State Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.
9. Applicant must submit any change to the Whites Gulch Dam Removal Project, including project operation that would have a significant or material effect on the findings, conclusions, or conditions of this certification, to the Chief of the Division of Water Rights for prior review and written approval.
10. This certification is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330 and California Code of Regulations, title 23, division 3, chapter 28, article 6 (commencing with § 3867).
11. The State Water Board reserves authority to modify this certification if monitoring results indicate that the Project would violate water quality objectives or impair the beneficial uses of the Whites Gulch Creek.
12. The State 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.

ORIGINAL SIGNED BY

Dorothy Rice
Executive Director

Date: December 13, 2007