



California Regional Water Quality Control Board North Coast Region

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Agency Secretary

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Arnold
Schwarzenegger
Governor

September 25, 2006

In the Matter of Water Quality Certification for the

**BUREAU OF RECLAMATION, TRINITY RIVER RESTORATION PROGRAM –
CANYON CREEK SUITE OF REHABILITATION SITES: WDID NO. 1A06067WNTR**

U.S. ARMY CORPS OF ENGINEERS NATIONWIDE PERMIT 27 (290920N)

SOURCES: Trinity River
COUNTY: Trinity County

BY THE EXECUTIVE OFFICER:

1. On May 15, 2006, the United States Department of the Interior, Bureau of Reclamation (Reclamation) filed an application for water quality 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 Canyon Creek Suite of Rehabilitation Sites (Project). The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on July 10, 2006, and posted information describing the Project on the Regional Water Board's website. Reclamation's proposed Project consists of habitat rehabilitation activities at four discrete but related areas referred to as the Conner Creek, Valdor Gulch, Elkhorn, and Pear Tree rehabilitation areas. The Project areas are located within an approximately 6-mile section of the Trinity River between the mouth of Canyon Creek and the town of Helena. The primary purpose of the project is to improve salmonid habitat in the mainstem Trinity River by removing fossilized riparian berms and restoring alluvial processes to the river.
2. Development of riparian berms along the Trinity River is associated with the typical low flows the Trinity River has experienced since flow releases have been regulated following completion of the Trinity Dan and Lewiston Dam in 1964. The fossilized riparian berms are anchored by extensive root systems and consolidated sand deposits. The fossilized riparian berms have degraded the salmonid habitat and limited the habitat diversity by confining the channel and impeding the natural geomorphic processes that occur in an alluvial river channel. The project is designed to reestablish the geomorphic processes that existed prior to completion of the dams.
3. The removal of riparian berms involves excavation, vegetation removal, and grading in sensitive areas adjacent to the water's edge. These activities are expected to improve floodplain habitat and to allow for the development of point bars that are associated with more natural and properly functioning alluvial river channels. The intended outcome of this project is an overall improvement to the salmonid habitat in the vicinity of these project areas. The beneficial effects of the project are expected to extend beyond those areas that

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will be directly affected by the project activities by promoting more natural processes over a larger area of the river.

4. 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 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.
5. 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.
6. Impacts to waters of the United States are considered temporary because the project does not include installation of any permanent structures or fill and the primary purpose is to restore natural alluvial processes and floodplain functions to the river. The project has been designed to avoid and minimize adverse impacts and permanent impacts to waters of the United States. Mitigation measures to avoid significant environmental effects are incorporated as conditions of this permit
7. Non-compensatory mitigation measures include the use of Best Management Practices and implementation of a monitoring program to ensure there will be no net loss of wetlands as a result of the anticipated direct impacts to 6.23 acres of existing riparian wetlands. The mitigation and monitoring plan includes provisions for conducting a wetland delineation of the project area five years after project completion. New areas within the restored floodplain and along the river channel are expected to convert to riparian wetlands as the natural alluvial processes are restored to the channel. Mitigation Measure 15 in the mitigation monitoring and reporting plan contains measures for implementing additional wetland restoration activities if the wetland delineation shows that natural alluvial process and revegetation have not adequately replaced the 6.23 acres of riparian wetlands that will be directly impacted by the project. Native vegetation is expected to naturally replace affected riparian vegetation. The applicant will also replant impacted riparian vegetation with a diverse assortment of native vegetation.
8. The Regional Water Board, as lead agency under the California Environmental Quality Act (CEQA), submitted a Draft Environmental Impact Report (DEIR) (SCH# 2005102025) for the Project to the State Clearinghouse in February 2006 for a 30-day review and comment period. The Regional Water Board has reviewed and considered all the information contained in the final EIR, including public comments from interested parties, and the Basin Plan prior to deciding whether to issue water quality certification for Project. The Final EIR has been completed in compliance with CEQA, and reflects the Regional Water Board’s independent judgment and analysis. The Regional Water Board will file a Notice of Determination within five days from the issuance of this order.

Receiving Water: Trinity River in the Helena Hydrologic Subarea No. 106.15

Latitude/Longitude: Conner Creek: 40⁰45'15''N/123⁰04'00''W
Valdor Gulch: 40⁰45'53''N/123⁰05'35''W
Elkhorn: 40⁰45'53''N/123⁰06'08''W
Pear Tree: 40⁰45'57''N/123⁰06'57''W

Filled or Excavated Area: Area Temporarily Impacted: 14.1 acres of stream channel
including 6.23 acres of jurisdictional
wetlands
Area Permanently Impacted: none

Total Linear Impacts: Length Temporarily Impacted: 9,355 feet of streambank
Length Permanently Impacted: none

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE REGIONAL WATER BOARD CERTIFIES THAT THE CANYON CREEK SUITE OF REHABILITATION SITES PROJECT (FACILITY NO. 1A06067WNTR), as described in the EIR, will comply with sections 301, 302, 303, 306 and 307 of the Clean Water Act, and with applicable provisions of state law, provided that Reclamation complies with the following terms and conditions:

1. Reclamation shall notify the Regional Water Board prior to the commencement of the project, with details regarding the schedule of operations, to allow staff the opportunity to be present on-site and to answer any public inquiries that may arise regarding the project.
2. The conditions and monitoring and reporting requirements detailed in the attached CEQA findings section are hereby incorporated by reference and are conditions of approval of this certification. Notwithstanding any more specific conditions in this certification, Reclamation shall comply with all mitigation measures identified in the CEQA findings and the mitigation monitoring and reporting plan.
3. This certification is contingent on compliance with all applicable requirements of the North Coast Region Water Quality Control Plan (Basin Plan), except as may be modified by the specific conditions of the certification. .
4. Reclamation shall provide Regional Water Board staff access to the Project site to document compliance with this certification.
5. Reclamation shall provide a copy of this permit and attachments to the Contractor and all subcontractors conducting the work, and require that copies remain in their possession at the work site. Reclamation shall be responsible for work conducted by its Contractor or subcontractors.
6. If, at any time, an unauthorized discharge to surface waters occurs, or any water quality problem arises, Reclamation shall cease work on the Project immediately and notify the Regional Water Board promptly.

7. This Order is not transferable. 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.

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, 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.

8. Except as may be modified by any preceding conditions, all certification actions are contingent on: a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicant's project description, and b) compliance with all applicable requirements of the Basin Plan.
9. The authorization of this certification for any dredge and fill activities expires on September 25, 2011. 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.
10. Any change to the operation of the Project that would have a significant or material effect on the findings, conclusions, or conditions of this certification must be submitted to the Executive Officer of the Regional Water Board for prior review and written approval.
11. 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.
12. 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.
13. The validity of any nondenial certification action (actions 1 and 2) shall be conditioned upon total payment of the full fee required under title 23, California Code of Regulations, section 3833, unless otherwise stated in writing by the certifying agency.



Catherine E. Kuhlman
Executive Officer

Date: September 25, 2006

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Attachment: CEQA Findings of Fact

cc: Ms. Jane Hicks, U.S. Army Corps of Engineers, Regulatory Functions, 333 Market
Street, San Francisco, CA 94599
U.S. Army Corps of Engineers, District Engineer, P.O. Box 4863, Eureka, CA 95502