



**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

November 24, 2009

In the Matter of
Water Quality Certification
For the
United States Army Corps of Engineers
Spillway Approach Channel Erosion Repair at Warm Springs Dam Project

APPLICANT: Ms. Tessa Bernhardt, United States Army Corps of Engineers
RECEIVING WATER: Lake Sonoma
HYDROLOGIC UNIT: Warm Springs Hydrologic Sub Area No. 114.24, Russian River Hydrologic Unit No. 114.00
COUNTY: Sonoma
FILE NAME: Lake Sonoma Project, Spillway Approach at Warm Springs Dam, WDID No. 1B09093WNSO

BY THE EXECUTIVE OFFICER:

1. On August 11, 2009, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application from Ms. Tessa Bernhardt, on behalf of the United States Army Corps of Engineers (Applicant), 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 related to the Spillway Approach Channel Erosion Repair at Warm Springs Dam Project (Project), located in Sonoma County. The Project will cause permanent impacts to approximately 0.63 acres of waters of the State associated with banks of Warm Springs Dam in the Warm Springs Hydrologic Sub Area No. 114.24, Russian River Hydrologic Unit No. 114.00. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on October 22, 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 Project is located at the emergency spillway section of Warm Springs Dam, near 3333 Skaggs Springs Road, Geyserville, CA, latitude 38.72486° N and longitude 123.01014° W.

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3. The purpose of the project is to repair and replace revetment within the emergency spillway approach channel within an area of approximately 125 linear feet by 200 linear feet (0.63 acres) with geotextile material, a 6-inch thick layer of quarry stone bedding, and topped with a layer of 18-inch diameter graded stone riprap. The area of the project has already been impacted by the dam construction and this is essentially a maintenance/repair activity.
4. The Applicant will perform work when reservoir pool is at an elevation below the work area; work will not be done within the wetted portion of the reservoir. Riprap will be washed prior to placement to prevent stormwater runoff impacts. Native trees to the north and south of the worksite will not be disturbed. All fueling and maintenance activities to equipment will be done outside of the reservoir. Work will be done during the dry season.
5. Non-compensatory mitigation measures include the use of Best Management Practices (BMPs) to be employed during construction to minimize sediment production and prevent the movement of loose soil off-site. Ground disturbance will be limited to the minimum necessary and all disturbed ground will be treated with hydro-mulching, seeding or other erosion control measures. Silt fences, silt curtains and straw bales will be used to avoid delivery of sediment into sensitive areas during construction. All erosion control measures will be installed and in place by October 15 and maintained thereafter by the contractor/Applicant. Additionally, all required Best Management Practices (BMPs) shall be on-site and ready for timely deployment before the start of construction activities.
6. The United States Army Corps of Engineers, as lead National Environmental Protection Act (NEPA) agency issued a memorandum, September 18, 2009, stating that "This project falls under the provisions of 33 C.F.R Section 230.9 (b) Corps of Engineers – Procedures for Implementing NEPA which states activities at completed Corps projects that carry out the authorized project purpose, such a routine operation and maintenance, general administration, equipment purchases, custodial actions, erosion control, painting, repair, rehabilitation, replacement of existing structures and facilities such as buildings, roads, levees, groins and utilities, and installation of new building utilities, or roadways in developed areas, when considered individually and cumulatively do not have significant effects on the quality of the human environment, and categorically excluded from NEPA documentation. It has been determined that this activity is erosion control and 33 C.F.R. Section 230.9 (b) applies." This procedure is functionally equivalent to the California Environmental Quality Act (CEQA).

Receiving Water: Lake Sonoma in the Warm Springs Hydrologic Sub Area
No. 114.24, Russian River Hydrologic Unit No. 114.00

Filled or Excavated Area: Area permanently impacted: 0.63 acres of lake bank

Latitude/Longitude: 38.72486° N / 123.01014° W

Expiration: November 24, 2014

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Spillway Approach Channel Erosion Repair at Warm Springs Dam Project (WDID No. 1B09093WNSO), 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. 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 Order (Enclosed).
5. The Russian River is identified as impaired on the Clean Water Act Section 303(d) list. The Russian River is listed as impaired for sediment and temperature. At present, total maximum daily loads (TMDLs) have not been established for this water body. If TMDLs are established and implementation plans are adopted for this watershed prior to the expiration date of this Order, the Regional Water Board may revise the provisions of this Order to address actions identified in such action plans.
6. The Regional Water Board shall be notified 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.
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. No rubbish shall be deposited within 150 feet of the high water mark of any stream.

8. 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.
9. All activities and BMPs shall be implemented according to the submitted application and the conditions in this certification.
10. 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.
11. If, at any time, there is an unauthorized discharge to surface water (including wetlands, rivers or streams), 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.
12. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete the project.
13. 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.
14. 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.
15. 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.
16. The Applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
17. 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.

18. 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.

19. 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).
20. The authorization of this certification for any dredge and fill activities expires on November 24, 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 Stephen Bargsten of our office at (707) 576-2653.

Sincerely,

Catherine Kuhlman
Executive Officer

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Enclosure: State Water Resources Control Board Order No. 2003-0017-DWQ

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