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Secretary for
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**California Regional Water Quality Control Board
North Coast Region
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Arnold
Schwarzenegger
Governor

January 20, 2010

In the Matter of

Water Quality Certification

for the

**BUREAU OF RECLAMATION – TRINITY RIVER RESTORATION PROGRAM
FINE SEDIMENT MANAGEMENT ACTIVITIES
WDID NO. 1A09155WNTR**

APPLICANT: U.S. Bureau of Reclamation, Trinity River Restoration Program
RECEIVING WATER: Grass Valley Creek
HYDROLOGIC UNIT: Douglas City Hydrologic Subarea 106.31
COUNTY: Trinity
FILE NAME: Bureau of Reclamation, Trinity River Restoration Program - Fine Sediment Management Activities

BY THE EXECUTIVE OFFICER:

1. On May 18, 2009, the U.S. Bureau of Reclamation (Reclamation), Trinity River Restoration Program (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 sediment management and channel rehabilitation and for Remaining Phase 1 and Phase 2 sites. Channel habitat rehabilitation and sediment management activities will modify the mainstem Trinity River between Lewiston Dam and the North Fork Trinity River near Helena. This certification authorizes activities associated with fine sediment removal from the Hamilton Ponds located on Grass Valley Creek near the confluence with the Trinity River.
2. The Regional Water Board provided public notice of Reclamation's application for water quality certification for fine sediment management activities pursuant to title 23, California Code of Regulations, section 3858 on July 9, 2009, and posted

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information describing the project on the Regional Water Board's website. We did not receive any public comments on this project.

3. Fine sediment management activities are part of a larger effort by Reclamation to restore the anadromous fishery of the Trinity River, as described in the Secretary of Interior's 2000 Trinity River Record of Decision (ROD). The ROD sets forth prescribed flows for five water year types and acknowledged the need to ensure that the sediment flux is managed to complement the prescribed flows and mechanical channel rehabilitation components.
4. Restoration activities in the Grass Valley Creek watershed, including construction of the Upper and Lower Hamilton Ponds on Grass Valley Creek, have reduced the contribution of fine sediment to the mainstem Trinity River. The Hamilton Ponds require periodic maintenance dredging to restore their fine sediment storage capacity. The need to dredge the ponds is based on the water year and amount of sediment retained during the water year. The ponds typically retain more fine sediment in wet years than dry years. Captured fine sediment is typically dredged from an area up to 1-acre from the approximately 1.6-acre Upper Hamilton Pond.
5. Hamilton Pond fine sediment maintenance activities will consists of the following steps:
 - Inflow to the upper pond is closed by diverting Grass Valley Creek into a bypass channel. The permeability of the alluvial material ensures that some water remains in the pond during dredging activities.
 - The dredging area is isolated from the rest of the pond using a turbidity curtain.
 - Fine sediments (e.g. silt, clay, and sand) are removed from the pond using an excavator and dump truck.
 - Dredged material is placed at an upland disposal site within the Lowden Ranch site boundary.
 - The turbidity curtain is removed and flow to the pond is restored.
6. Fine sediment management activities do not include installation of any permanent structures or fill and the primary purpose is to restore aquatic habitat in the Trinity River. Due to the nature of these restoration activities, all impacts are considered temporary. Compensatory mitigation is not required. Mitigation measures to avoid significant environmental effects are incorporated as conditions of this permit. Noncompensatory mitigation for this project includes the use of Best Management Practices (BMPs) for turbidity control and heavy equipment use in a waterway.
7. Reclamation has applied for authorization (File No. 2009-00075) from the United States Army Corps of Engineers to perform the project under Nationwide Permit Number 27 pursuant to Clean Water Act, section 404. A Lake or Streambed Alteration Agreement from the California Department of Fish and Game is not required for this project.

8. The Regional Water Board, as lead agency under the California Environmental Quality Act (CEQA), submitted a Joint Environmental Document including a Draft Master Environmental Impact Report (MEIR) and Environmental Assessment/Draft EIR (EA/DEIR) (SCH# 2008032110) for the project to the State Clearinghouse on June 5, 2009 for a 45-day review and comment period. The Regional Water Board has reviewed and considered all the information contained in the Draft MEIR and EA/DEIR, including public comments from interested parties and the Basin Plan, prior to deciding whether to issue water quality certification for Project. The Regional Water Board issued the Final MEIR/EIR on August 24, 2009. The Final MEIR and EIR have been completed in compliance with CEQA, and reflect the Regional Water Board's independent judgment and analysis. Detailed CEQA findings were prepared. The Regional Water Board filed a Notice of Determination on August 25, 2009.
9. Fine sediment management activities are part of a larger project to restore the anadromous fishery of the Trinity River. The larger project encompasses a 40-mile stretch of the Trinity River from Lewiston to the North Fork Trinity River. This entire stretch is federally designated under the Wild and Scenic System to preserve its Outstandingly Remarkable Values (ORVs), which include the river's free-flowing condition, anadromous and resident fisheries, outstanding geologic resource values, scenic values, recreational values, cultural and historic values, and the values associated with water quality. This segment of the Trinity River is also classified as a Recreational River by the Bureau of Land Management (BLM) and the Shasta-Trinity National Forest. Implementation of the project would not affect the free-flowing condition of this segment of the Trinity River, would not affect the river's water quality, and would not have any effects on the ORVs for which the river is designated. The Regional Water Board has notified the California Natural Resources Agency of its intent to approve Trinity River Restoration Program projects.
10. 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: Grass Valley Creek in the Douglas City Hydrologic Subarea
106.31

Filled or Excavated Area: Area Temporarily Impacted: 1.0 acre of streambed
Area Permanently Impacted: None

Total Linear Impacts: Length Temporarily Impacted: 300 linear feet of
streamchannel
Length Permanently Impacted: None

Dredge Volume: None

Latitude/Longitude: 40.68938 N/122.85901 W

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Trinity River Restoration Program – Fine Sediment Management Activities (WDID No. 1A09155WNTR), 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 Reclamation 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. Reclamation shall notify the Regional Water Board each year prior to the commencement of any fine sediment management activities, with details regarding the schedule, in order to allow staff the opportunity to be present onsite during project activities, and to answer any public inquiries that may arise regarding the project.
5. The mitigation measures and monitoring and reporting requirements detailed in Appendix A in the MEIR and EA/EIR 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 applicable mitigation measures identified in the MMRP.
6. Turbidity levels in Grass Valley Creek shall not be increased more than 20 percent above naturally occurring background levels as a result of fine-sediment management activities.
7. Visual observations for increased turbidity shall be conducted whenever a project activity has the potential to increase turbidity in Grass Valley Creek. Field turbidity measurements shall be collected whenever a visible increase in turbidity is observed to demonstrate compliance with receiving water limitations or to identify and mitigate

for turbidity increases that exceed the receiving water limitation. Potential remedial actions to reduce turbidity levels to at or below 20 percent above naturally occurring background levels shall include halting or slowing construction activities and implementation of additional BMPs until turbidity levels are at or below 20 percent of naturally occurring background levels. When field turbidity measurements are required, field turbidity measurements shall be collected upstream within 50 feet of project activities (background) and downstream within 500 feet of the source of increased turbidity. The frequency of field turbidity measurement collection shall be a minimum of every two hours during periods of increasing turbidity, until field monitoring demonstrates compliance with receiving water limitations, and turbidity levels are no longer increasing as a result of project activities. The Regional Water Board shall be notified promptly and in no case more than 24 hours after monitoring results indicate an unauthorized increase in turbidity.

8. A monitoring report containing all water quality measurements shall be submitted in a tabular format to the Regional Water Board within 30 days of project completion. The monitoring report shall be written in a manner that clearly demonstrates compliance with all water quality monitoring requirements.
9. 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.
10. Fueling, lubrication, maintenance, storage and staging of vehicles and equipment shall be outside of waters of the United States. Fueling, lubrication, maintenance, storage and staging of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the United States. At no time shall the Applicant use any vehicle or equipment, which leaks any substance that may impact water quality. If, at any time, an unauthorized discharge to surface waters occurs from fueling, lubrication, maintenance, storage or staging activities, the project shall cease immediately and Regional Water Board staff shall be notified promptly.
11. All activities and BMPs shall be implemented according to the submitted application and the conditions in this certification.
12. Reclamation shall provide a copy of this Order and the application documents submitted for this certification to all contractors and subcontractors conducting the work, and shall require that a copy of the Order remain in their possession at the work site. Reclamation shall be responsible for work conducted by its contractors or subcontractors.

13. If, at any time, an unauthorized discharge to surface water (including wetlands, rivers or streams) occurs, or any water quality problem arises, Reclamation shall cease the associated project activities 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.
14. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete the project.
15. 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. Implementation of such change in the project prior to Regional Water Board notification and approval is a violation of this Order subject to enforcement action under the Water Code.
16. 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.
17. The Applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
18. 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.
19. 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 & 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, the 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.

20. 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.

21. This certification is contingent on compliance with all applicable requirements of the North Coast Water Quality Control Plan, except as may be modified by the specific conditions of the certification.
22. The authorization of this certification for any dredge and fill activities expires on January 20, 2015. 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.

Catherine Kuhlman
Executive Officer

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Original to: Mr. Mike Hamman, Trinity River Restoration Program, 1313 South Main Street, Weaverville, CA 96093

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

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