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**California Regional Water Quality Control Board  
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Arnold  
Schwarzenegger  
Governor

May 20, 2010

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In the Matter of

**ORDER NO. R1-2010-0028**

**GENERAL WATER QUALITY CERTIFICATION**

for the

**BUREAU OF RECLAMATION – TRINITY RIVER RESTORATION PROGRAM**

**CHANNEL REHABILITATION ACTIVITIES  
AT REMAINING PHASE 1 AND PHASE 2 SITES**

APPLICANT: U.S. Bureau of Reclamation, Trinity River Restoration Program  
RECEIVING WATER: Trinity River  
HYDROLOGIC UNIT: Trinity River Hydrologic Unit 106.00  
COUNTY: Trinity  
FILE NAME: Bureau of Reclamation, Trinity River Restoration Program – General Water Quality Certification

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BY THE EXECUTIVE OFFICER:

**A. FINDINGS**

1. On July 15, 2009, the U.S. Bureau of Reclamation, Trinity River Restoration Program (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 channel habitat rehabilitation within a 40-mile reach of the mainstem Trinity River from Lewiston Dam to the North Fork Trinity River (Project).
2. The primary purpose of the Project is to increase salmonid habitat in the mainstem Trinity River and its side channels. Channel habitat rehabilitation activities are designed to use the alluvial processes of the Trinity River to maintain and increase salmonid habitat and complexity for all life-stages over time, and to provide

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conditions suitable for reestablishing and sustaining native riparian vegetation. Channel rehabilitation activities include removal of encroaching riparian vegetation, rehabilitation of floodplain and in-channel alluvial features, construction of off-channel habitat for aquatic and riparian dependent species, coarse and fine sediment management, and rehabilitation of upland habitat. Collectively, channel rehabilitation activities are intended to meet the overarching goal of the Trinity River Restoration Program (TRRP) to create, restore, and enhance the full range of habitats for native anadromous fishes, including salmon and steelhead.

3. The Regional Water Board provided public notice of its intent to issue General Water Quality Certification (Order) for Reclamation's channel habitat rehabilitation activities pursuant to title 23, California Code of Regulations, section 3858 on January 12, 2010, and posted information describing the Project on the Regional Water Board's website. The Regional Water Board did not receive any public comments in response to the public notice.
4. Proposed channel rehabilitation activities will occur at the "Remaining Phase 1" sites and 23 additional locations referred to as the "Phase 2" sites, listed below under Eligibility Requirements. Site-specific projects eligible for authorization under this Order involve a variety of similar channel habitat rehabilitation activities.
5. 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.
6. The Regional Water Board has determined that discharges associated with Reclamation's channel habitat rehabilitation projects at the Remaining Phase 1 and Phase 2 sites 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.
7. Channel habitat rehabilitation activities at the Remaining Phase 1 and Phase 2 sites will not include installation of any permanent structures and the primary purpose of project activities is to restore aquatic habitat in the Trinity River. Due to the nature of these similar restoration activities, all impacts are considered temporary.
8. Reclamation will apply annually for authorization from the United States Army Corps of Engineers to perform channel rehabilitation activities under Nationwide Permit Number 27, pursuant to Clean Water Act, section 404.

9. The Regional Water Board acted as lead agency for a Master Environmental Impact Report (MEIR) and site specific Environmental Assessment/Environmental Impact Report (EA/EIR) (State Clearinghouse number 2008032110) for channel rehabilitation and sediment management activities for the Remaining Phase 1 and Phase 2 sites in order to comply with the California Environmental Quality Act (CEQA). The Regional Water Board certified the environmental documents on August 25, 2009 (Sawmill Rehabilitation Project WDID No. 1A09062WNTR). Proposed channel rehabilitation activities will occur at the "Remaining Phase 1" sites and 23 additional locations referred to as the "Phase 2" sites.
10. Environmental impacts associated with the Remaining Phase 1 sites have already been evaluated at the project-specific level, as described in the EA/EIR. The Remaining Phase 1 sites will be eligible for enrollment and coverage upon issuance of this Order. Phase 2 sites will be eligible for enrollment and coverage following completion of any subsequent project-specific environmental analysis to supplement the programmatic level review contained in the MEIR as necessary.
11. The rehabilitation projects are designed to avoid and minimize adverse impacts and permanent impacts to waters of the United States. Compensatory mitigation is not required for the proposed activities. Noncompensatory mitigation for the proposed projects include revegetation of disturbed areas, as appropriate, and the use of Best Management Practices for heavy equipment use in and near a waterway. Detailed CEQA findings and mitigation measures are located in Attachment 1 of this Order, and monitoring and reporting requirements (MMRP) are detailed in Appendix A in the MEIR and EA/EIR. Applicable mitigation measures to reduce or eliminate significant impacts on the environment and the MMRP are incorporated as enforceable conditions of this Order.
12. Reclamation and its Partners have been collecting scientific monitoring data to comprehensively evaluate the effectiveness of all Trinity River rehabilitation projects implemented by the TRRP. Information gained from this long-term monitoring program is incorporated into avoidance and mitigation measures of each Trinity River restoration project.
13. The 40-mile stretch of the Trinity River from Lewiston to the North Fork Trinity River is designated as a recreational reach under both federal and California Wild and Scenic Rivers Acts. These acts require preservation of the rivers free-flowing condition; anadromous and resident fisheries; and outstanding geologic, wildlife, flora and fauna, historic and cultural, visual, recreational, and water quality values. The Trinity River is designated specifically because of its Outstandingly Remarkable Value (ORV), its anadromous fishery value. Implementation of the Project would not affect the free-flowing condition of this segment of the Trinity River, would not significantly affect the river's water quality, and is planned to benefit the ORV for which the river is designated. The Regional Water Board has notified the California Natural Resources Agency of its intent to approve TRRP projects.

14. The Trinity River Total Maximum Daily Load (TMDL) for sediment was established in 2001 by the United States Environmental Protection Agency (EPA) in accordance with section 303(d) of the Clean Water Act, because the State of California determined that the water quality standards for the Trinity River are exceeded due to excessive sediment. The primary adverse impacts associated with excessive sediment in the Trinity River pertain to anadromous salmonid fish habitat, with the TRRP was designed to correct. The EPA cites the Secretary of Interior's 2000 Record of Decision (ROD) including flow regime, mainstem/watershed restoration, and adaptive management, in its TMDL implementation recommendations. This Order implements portions of the Trinity TMDL.

## **B. ELIGIBILITY REQUIREMENTS**

Eligibility for coverage under this Order is limited to Reclamation's channel rehabilitation activities at the "Remaining Phase 1" sites and "Phase 2" sites (listed below) as described in the Final MEIR/EIR, and additional channel rehabilitation activities that may be conducted to improve habitat conditions at previously constructed TRRP channel habitat rehabilitation sites.

<u>Remaining Phase 1 Sites (Upstream to Downstream)</u>	<u>Latitude/Longitude</u>
Upper Rush Creek (UR)	40.721 N/122.831 W
Lowden Ranch (LR)	40.697 N/122.853 W
Trinity House Gulch (THG)	40.694 N/122.865 W
Steel Bridge Day Use (SB)	40.672 N/122.921 W
Reading Creek (RC)	40.644 N/122.957 W
<u>Phase 2 Sites (Upstream to Downstream)</u>	
Lower Rush Creek (LRC)	40.716 N/122.836 W
Tom Lang Gulch (TLG)	40.686 N/122.871 W
Poker Bar (PB)	40.679 N/122.889 W
China Gulch (CG)	40.691 N/122.887 W
Limekiln Gulch (LKG)	40.682 N/122.902 W
McIntyre Gulch (MG)	40.666 N/122.905 W
Douglas City (DCY)	40.650 N/122.943 W
Steiner Flat Feather Edge (SFF)	40.654 N/122.955 W
Steiner Flat Campground (SFC)	40.660 N/122.955 W
Lower Steiner Flat (LSF)	40.654 N/122.968 W
Lorenz Gulch (LZG)	40.667 N/122.966 W
Dutch Creek (DCK)	40.669 N/123.024 W
Evan's Bar (EB)	40.680 N/123.028 W
Soldier Creek (SCK)	40.693 N/123.026 W
Chapman Ranch (CR)	40.697 N/123.036 W
Deep Gulch (DG)	40.703 N/123.046 W
Sheridan Creek (SHC)	40.711 N/123.047 W
Oregon Gulch (OG)	40.719 N/123.040 W
Sky Ranch (SR)	40.722 N/123.049 W

Upper Junction City (UJC)	40.726 N/123.057 W
Lower Junction City (LJC)	40.731 N/123.058 W
Upper Conner Creek (UCC)	40.749 N/123.063 W
Wheel Gulch (WGH)	40.763 N/123.077 W

### **C. APPLICATION REQUIREMENTS**

1. **Pre-Discharge Notification Requirements:** At least 30 days prior to initiation of any ground disturbing activities at any of the eligible channel habitat rehabilitation sites, Reclamation shall provide the Regional Water Board a complete application for water quality certification. The contents of a complete application for water quality certification are listed in California Code of Regulations, title 23, section 3556. Information required for a complete application may be submitted using the Regional Water Board's current application form for Water Quality Certification and/or Waste Discharge Requirements or by submitting a complete copy of Reclamation's Application for Department of Army Permit and Preconstruction Notification as submitted to the United States Army Corps of Engineers to perform channel rehabilitation activities under Nationwide Permit Number 27. At a minimum, a complete application for coverage under this Order shall include all of the following information and items:

- The name(s), address(s) and telephone number(s) of the applicant and the applicant's agent or representative.
- A full, technically accurate project description, including the purpose and final goal, of the entire proposed activity.
- Complete identification of all federal licenses/permits being sought for or applying to the proposed activity, including the federal agency, permit type and number (if applying for any license/permit other than Nationwide Permit 27), and file number assigned by the federal agency (if available).
- Complete copies of either the application for federal license/permit being sought for the activity or any notification issues 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 describing or discussing the proposed activity, shall be provided.
- Applications for Phase 2 sites shall include a copy of any final CEQA document required for the Phase 2 activities. The Regional Water Board anticipates that the MEIR portion of the joint environmental document will be used as a tiering document for project-level CEQA analyses of the Phase 2 sites. Applications submitted for the Remaining Phase 1 sites are not required to contain any additional CEQA documentation as the project-level CEQA analyses of the

proposed activities at the Remaining Phase 1 sites are contained in the EIR portion of the joint environmental document. Applications submitted for projects that are intended to improve habitat conditions at previously constructed Phase 1 sites shall include a copy of any updated environmental documents that may be required to comply with CEQA.

2. **Fee:** A check in the amount specified in California Code of Regulations, title 23, section 2200(a)(3), under Restoration Projects (viii), payable to the State Water Resources Control Board, shall be included with the application sent to the Regional Water Board.
3. **Regional Water Board Approval:** After receiving a complete application, the Regional Water Board may, at its discretion, issue a Notice of Applicability (NOA) to Reclamation, 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. The Regional Water Board will post the NOAs on the Water Quality Certification Issued page of its website.

#### **D. 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. 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.

#### **E. ADDITIONAL CONDITIONS**

4. In addition to completing the Pre-Discharge Notification Requirements, Reclamation shall notify the Regional Water Board at least five working days (working days are Monday-Friday) prior to the commencement of any ground disturbing activities authorized under this Order, 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. This Order provides an allowable zone of turbidity dilution within which turbidity levels may be increased by more than 20 percent above naturally occurring

background levels. To ensure that turbidity levels do not exceed the thresholds described above during in-river project construction activities, Reclamation shall monitor turbidity levels upstream within 50 feet of project activities (i.e. natural background) and 500 feet downstream of the in-river construction activities that could increase turbidity. Reclamation shall monitor for turbidity increases and shall collect field turbidity measurements in accordance with Mitigation Measure 4.5 -1a and Mitigation Measure 4.5-1b in the MMRP. At a minimum, field turbidity measurements shall be collected whenever a visible increase in turbidity is observed. Monitoring frequency shall be a minimum of every two hours during in-river work periods and when activities commence that are likely to increase turbidity levels above any previously monitored levels. If grab sample results indicate that turbidity levels exceed 20 NTU at 500 feet downstream from construction activities, remedial actions will be implemented to reduce and maintain turbidity at or below 20 NTU immediately downstream of the 500 linear foot zone of dilution. Potential remedial actions include halting or slowing construction activities and implementation of additional Best Management Practices (BMPs) until turbidity levels are at or below 20 NTU. If naturally occurring background levels are greater than 20 NTUs, turbidity levels downstream of the 500 linear foot zone of dilution shall not be increased by more than 20 percent above the naturally occurring background level. 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. A monitoring report containing all turbidity 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.

6. The mitigation measures detailed in Attachment 1 of this Order and the monitoring and reporting requirements detailed in Appendix A in the Final MEIR/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.
7. Reclamation shall continue to collect scientific monitoring data to comprehensively evaluate the effectiveness of all Trinity River rehabilitation projects implemented by the Trinity River Restoration Program. Reclamation shall provide annual reports to the Regional Water Board, starting at the end of 2010, that summarize TRRP implementation activities to date, monitoring results and findings, and recommendations based on their long-term monitoring and research.
8. 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.

9. 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 Reclamation 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.
10. All activities and BMPs shall be implemented according to the submitted application, conditions in this certification and the MMRP.
11. Reclamation 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. Reclamation shall be responsible for all work conducted by its contractors or subcontractors.
12. This Order covers sediment discharges and temperature impacts associated with the channel rehabilitation activities. This Order does not authorize any other discharges, for example, it does not cover discharges of hazardous material or human waste.
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, Reclamation 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. Reclamation shall provide Regional Water Board staff access to the project site to document compliance with this certification.
18. This Order does not preclude the need for permits which may be required by other federal, state or local governmental agencies.
19. 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.
20. 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, Reclamation shall obtain authorization for the take prior to any construction or operation of the Project. Reclamation shall be responsible for meeting all requirements of the applicable Endangered Species Act for the Project authorized under this certification.
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. This Order applies to activities described above during a fixed term not to exceed five years from the date of issuance. This Order expires on May 20, 2015. The Regional Water Board may consider reissuing this Order for additional five-year terms as necessary and appropriate. Conditions, monitoring requirements, and reporting requirements are not subject to the expiration date, and remain in full effect and are enforceable.

## **WATER QUALITY CERTIFICATION**

Based on an independent review of the record, the Regional Water Board certifies that the Project 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 requirements and conditions specified in this Order and the activity being limited and all proposed mitigation being completed in compliance with the applicant's project description.

Discharges from these projects are also regulated under the State Water Resources Control Board Order No. 2003-0017-DWQ, "Statewide General Waste Discharge Requirements for Dredge or Fill Discharges That Have Received State Water Quality Certification," which requires compliance with all conditions of this Order.

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Catherine Kuhlman  
Executive Officer

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Attachment 1: CEQA Findings of Fact