



**California Regional Water Quality Control Board
North Coast Region
David M. Noren, Chairman**



Matthew Rodriguez
Secretary for
Environmental Protection

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Edmund G. Brown Jr.
Governor

February 22, 2012

In the Matter of
Water Quality Certification
for

**USDI Bureau of Reclamation – Clear Lake Boat Launch Maintenance Project
WDID No. 1A11186WNMO**

APPLICANT: United States Bureau of Reclamation
RECEIVING WATER: Clear Lake Reservoir
HYDROLOGIC UNIT: Clear Lake Hydrologic Subarea No. 105.93
COUNTY: Modoc
FILE NAME: USDI BOR - Clear Lake Boat Launch Maintenance

BY THE EXECUTIVE OFFICER:

1. On October 31, 2011, the United States Bureau of Reclamation (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 maintenance of an existing boat launch facility on Clear Lake Reservoir. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on December 21, 2011, 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 involves routine maintenance of the existing boat launch surface to ensure reliable access to the lake in all types of weather conditions. The boat launch facility is currently in need of additional crushed gravel to improve the driving surface for all-weather boat launching. All-weather access to the lake is necessary for the Applicant to perform various activities related to the operation and maintenance of the Klamath Project.

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3. Maintenance activities will involve the placement of approximately 70-75 cubic yards of clean crushed gravel over a layer of geotextile fabric. Heavy equipment will be used to spread the gravel to provide an approximately 6-inch deep layer of gravel material over the 16-foot wide and 250-foot long boat launch surface. The project will result in permanent impacts to 1,600 square feet of lakebed and shoreline below the elevation of Ordinary High Water. Permanent impacts will only occur along the existing boat launch alignment. Project activities will occur during the early winter when surface water elevations in the lake are low in order to minimize the area of open water where the additional fabric and rock will be placed.
4. Compensatory mitigation is not required for the project. Non-compensatory mitigation measures include the use of Best Management Practices for sediment and turbidity control, and for the use of heavy equipment in a waterway. The project is scheduled to begin as soon as all necessary permits are obtained by the Applicant. The project is expected to take up to four days to complete.
5. The Applicant has applied for authorization from the U.S. Army Corps of Engineers to perform the project under Nationwide Permit No. 23 pursuant to Clean Water Act, section 404. A Lake or Streambed Alteration Agreement from the California Department of Fish and Game (CDFG) is not required for this federally funded project on federal lands. Regional Water Board staff have determined that this project is categorically exempt from CEQA review (Class 1, Section 15301 – existing facilities).
6. The federal antidegradation policy requires that state water quality standards include an antidegradation policy consistent with the federal policy. The State Water Board established California's antidegradation policy in State Water Board Resolution No. 68-16. Resolution No. 68-16 incorporates the federal antidegradation policy where the federal policy applies under federal law. Resolution No. 68-16 requires that existing quality of waters be maintained unless degradation is justified based on specific findings. The Regional Water Board's Basin Plan implements, and incorporates by reference, both the State and federal antidegradation policies. This Order is consistent with applicable federal and State antidegradation policies, as it does not authorize the discharge of increased concentrations of pollutants or increased volumes of treated wastewater, and does not otherwise authorize degradation of the waters affected by this project.
7. 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.

http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf

Receiving Water: Clear Lake Reservoir in the Clear Lake Hydrologic Subarea No. 105.93

Filled or Excavated Area: Area Temporarily Impacted: None
Area Permanently Impacted: 1,600 square feet of lakebed within existing rocked boat launch alignment

Total Linear Impacts: Length Temporarily Impacted: None
Length Permanently Impacted: 16 linear feet of shoreline within existing rocked boat launch alignment

Dredge Volume: None

Latitude/Longitude: 41.9249 N/121.0765 W

Expiration: February 22, 2017

Accordingly, based on its independent review of the record, the Regional Water Board certifies that United States Bureau of Reclamation – Clear Lake Boat Launch Maintenance (WDID No. 1A11186WNMO), 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:

All conditions of this order apply to the Applicant (and all their employees) and all contractors (and their employees), sub-contractors (and their employees), and any other entity or agency that performs activities or work on the project as related to this Water Quality Certification.

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.

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3. The validity this certification is conditioned upon total payment of any fee required under title 23, California Code of Regulations, section 3833, and owed by the Applicant.
4. The Regional Water Board staff shall be notified at least five working days (working days are Monday – Friday) 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.
5. The Applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
6. 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. 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 action(s).
7. The Applicant shall provide a copy of this Order and State Water Resources Control Board (SWRCB) Order No. 2003-0017-DWQ to any contractor(s), subcontractor(s), and utility company(ies) conducting work on the project, and shall require that copies remain in their possession at the work site. The Applicant shall be responsible for ensuring that all work conducted by its contractor(s), subcontractor(s), and utility companies is performed in accordance with the information provided by the Applicant to the Regional Water Board.
8. The Applicant shall construct the project in accordance with the project described in the application and the findings above, and shall comply with all applicable water quality standards as detailed in the Basin Plan.
9. 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 waters. All BMPs shall be installed properly and in accordance with the manufacturer's specifications.
10. The Applicant shall prioritize the use of wildlife-friendly biodegradable (not photo-degradable) erosion control products wherever feasible. The Applicant shall not use or allow the use of erosion control products that contain synthetic materials within waters of the United States or waters of the State at any time. The Applicant

shall not use or allow the use of erosion control products that contain synthetic netting for permanent erosion control (i.e. erosion control materials to be left in place for two years or after the completion date of the project). If the Applicant finds that erosion control netting or products have entrapped or harmed wildlife, personnel shall remove the netting or product and replace it with wildlife-friendly biodegradable products. The Applicant shall request approval from the Regional Water Board if an exception from this requirement is needed for a specific location.

11. Disturbance or removal of existing vegetation shall not exceed the minimum necessary to complete the project.
12. This certification does not authorize the Applicant to draft surface waters.
13. 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.
14. The Applicant and their contractor(s) are not authorized to discharge wastewater (e.g., water that has contacted uncured concrete, cement, asphalt, curing compounds, etc.) to surface waters, ground waters, or land. Wastewater may only be disposed of to a sanitary waste water collection system/facility (with authorization from the facility's owner or operator) or a properly-licensed disposal or reuse facility. If the Applicant or their contractor(s) propose an alternate disposal method, the Applicant or their contractor(s) shall apply for a permit from the Regional Water Board. Any plans to reuse or recycle wastewater require prior written approval from Regional Water Board staff.
15. If, at any time, an unauthorized discharge to surface water (including wetlands, lakes, rivers or streams) occurs, or any water quality problem arises, the associated project activities shall cease immediately until adequate BMPs are implemented including stopping work. 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.
16. Fueling, lubrication, maintenance, storage, and staging of vehicles and equipment shall not result in a discharge or threatened discharge to any waters of the State including dry portions of the shoreline. At no time shall the Applicant or its contractors allow use of any vehicle or equipment, which leaks any substance that may impact water quality. Fueling, lubrication, maintenance, storage, and staging of vehicles and equipment shall be at least 150 linear feet from waters of the U.S.

and the State with the exception of cranes and stationary equipment which shall only be refueled using a certified refueling company when not located at least 150 linear feet away from waters of the United States. Proper certification and documentation of fueling (field logs) shall be provided to the Regional Water Board upon request.

17. Spill kits are required at each fueling location and at each location where power equipment will be working within waters of the State. In the event of an unauthorized release of fuel (spill or leak) to waters of the State, including dry portions of the shoreline, the Applicant shall immediately stop work and conduct the following measures:
 - a) notify the appropriate agencies including the Regional Water Board, CDFG, and the Office of Emergency Services (OES) at 1(800) 852-7550;
 - b) utilize the appropriate spill kits for containment and cleanup of the release;
 - c) collect soil and/or water samples within the immediate area of release; and,
 - d) analyze required surface water samples for all appropriate constituents including but not limited to oil and grease, total petroleum hydrocarbons as diesel (TPH-D), total petroleum hydrocarbons as gasoline (TPH-G), and benzene, toluene, ethylbenzene, total xylenes (BTEX).
18. Any potentially hazardous waste(s) (solids, liquids, or slurries) derived or encountered during this project shall undergo the appropriate characterization to demonstrate compliance with all applicable waste disposal laws and regulations.
19. 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.
20. In the event of any violation or threatened violation of the conditions of this Order, 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 Order. 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 Order 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 Order, the Regional Water Board may add to or modify the conditions of this Order as appropriate to ensure compliance.

21. 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.

22. 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).
23. The authorization of this certification for any dredge and fill activities expires on February 22, 2017. Conditions and monitoring requirements outlined in this Order 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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Weblink: 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 can be found at:

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http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf

Original to: Ms. Kristen Hiatt, USDI Bureau of Reclamation, Klamath Basin Area Office,
6600 Washburn Way, Klamath Falls, OR 97603

Electronic

Copy 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