
North Coast Regional Water Quality Control Board

March 11, 2013

In the Matter of
Water Quality Certification

For

**United States Army Corps of Engineers San Francisco District
Dry Creek Reach 15 Habitat Enhancement Project
WDID No. 1B12176WNSO**

APPLICANT: United States Army Corps of Engineers, San Francisco District
RECEIVING WATER: Dry Creek
HYDROLOGIC UNIT: Dry Creek Hydrologic Subarea No. 114.24
Russian River Hydrologic Unit 114.00
COUNTY: Sonoma
FILE NAME: USCOE Dry Creek Reach 15 Habitat Restoration

BY THE EXECUTIVE OFFICER:

1. On September 14, 2012, the United States Army Corps of Engineers San Francisco District (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 related to the United States Army Corps of Engineers San Francisco District, Dry Creek Reach 15 Habitat Enhancement Project (Project). The Project involves improving habitat for salmonids within the reach of Dry Creek immediately below Warm Springs Dam. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on February 6, 2013, and posted information describing the Project on the Regional Water Board's website. We did not receive any public comments on this Project.

2. Project is located near the 9900 block of Dry Creek Road, just downstream of the bridge below Warm Springs Dam, within Dry Creek Valley, west of the town of Healdsburg, at latitude 38.719658°N, and longitude, 122.996487°W. The project will cause permanent impacts to approximately 480 feet, 3.9 acres, of bed and bank of Dry Creek and within two side channels of Dry Creek, within the Dry Creek Hydrologic Subarea No. 114.24, Russian River Hydrologic Unit No. 114.00.
3. The Project is situated along Dry Creek approximately 1,500 feet downstream of the Warm Springs Dam. The total length of the Project reach is approximately 1,650 feet; the length of actual impact to the creek and side channels is approximately 480 feet. The Project is being conducted per requirements within the 2008 National Marine Fisheries Service Biological Opinion for the Russian River Watershed (Biological Opinion) that requires fish habitat enhancement along portions of Dry Creek to aid in the recovery of Coho Salmon and Steelhead Trout. It is a mitigation project in itself. The Project has been developed to provide suitable main channel and off-channel habitats critical for juvenile Coho and Steelhead rearing. The Project is designed to improve the physical habitat of the reach for a variety of life stages for Coho, minimize impacts to flood conditions, improve channel stability, and provide sustainable enhancements to riparian vegetation and instream spawning and rearing habitat. The Project will create secondary channels to provide connected off channel habitat for Coho rearing and possible spawning during both high and low flow conditions, as well as low velocity refugia during high flows. Clean gravel/cobble will be added to the main and secondary channel for improved spawning habitat. The Project also includes removal of invasive species and replacement planting with native species. Large woody debris (LWD) and boulder habitat structures will be installed within the modified side channels to provide habitat complexity.
4. The Project will include monitoring as specified within the Biological Opinion. The Project is planned to take approximately two months to complete and will be constructed primarily during the dry season. All erosion control measures will be installed and in place by October 15, or before seasonal rains, and maintained thereafter. At a minimum, the following construction Best Management Practices (BMPs) will be incorporated into the final Project plans as appropriate in order to reduce and control soil erosion: work in and around waterways will be conducted primarily during the dry season; installation of construction barrier fencing to preclude equipment entry into sensitive areas; straw wattles, straw bales, erosion control matting, and/or seeding of disturbed soil. All permanent BMPs shall be biodegradable. Additionally, all required BMPs shall be on-site and ready for timely deployment before the start of construction activities.
5. The North Coast Regional Water Quality Control Board (Regional Water Board), as lead California Environmental Quality Act (CEQA) agency, shall file a Notice of Exemption (15333-Small Habitat Restoration Projects) for the Project, and will file it with the State Clearinghouse, pursuant to CEQA guidelines.

6. 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: Dry Creek Hydrologic Subarea No. 114.24
Russian River Hydrologic Unit No. 114.00

Filled or Excavated Area: Area Permanently Impacted: Approximately 480 feet,
3.9 acres, of bed and bank of Dry Creek

Latitude/Longitude: 38.719658°N/122.996487°W

Expiration: March 11, 2018

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the United States Army Corps of Engineers San Francisco District, Dry Creek Reach 15 Habitat Enhancement Project (WDID No. 1B12176WNSO), 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.
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 shall be notified annually and in writing 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 Russian River is identified as impaired for sediment and temperature under Clean Water Act Section 303(d). 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 the requested Certification, the Regional Water Board may revise the provisions of that Certification to address actions identified in such action plans. Bank erosion is identified as a source contributing to the sediment impairment. Removal of riparian vegetation is identified as a source contributing to temperature impairment. Activities that will be authorized by this Order are designed to reduce removal of riparian vegetation and reduce sediment discharges from bank erosion. Accordingly, this Order is consistent with, and implements, BMPs that would attenuate sediment and temperature adverse impacts.
6. Pursuant to Regional Water Board Resolution R1-2004-0087, Total Maximum Daily Load Implementation Policy Statement for Sediment-Impaired Receiving Waters within the North Coast Region (Sediment TMDL Implementation Policy), the Executive Officer is directed to “rely on the use of all available authorities, including existing regulatory standards, and permitting and enforcement tools to more effectively and efficaciously pursue compliance with sediment-related standards by all dischargers of sediment waste.”
7. 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.
8. If groundwater is encountered during construction, it will be discharged to an upland location where it cannot flow into Waters of the State. BMPs that may be used include: storage tanks, sediment desilting basins, and water filters. Additionally, BMPs such as the use of washed gravel, sand bags, straw, and/or silt fences will be used as necessary to control velocity of the land discharge and erosion. Groundwater shall not be discharged to waters of the State.

9. If necessary, Applicant shall prioritize use of wildlife-friendly 100% biodegradable erosion control products/BMPs. For purposes of this Order, photodegradable synthetic products are not considered biodegradable. Applicant shall not use or allow the use of erosion control products, that contain synthetic (e.g., plastic or nylon) netting or materials 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, the Applicant shall remove the netting or product and replace it with wildlife-friendly biodegradable products. Applicant shall remove any remaining synthetic netting or materials remaining at the end of two years, or sooner.
10. 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.
11. All activities and BMPs shall be implemented according to the submitted application and the conditions in this certification.
12. 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.
13. The Applicant shall provide Regional Water Board staff access to the Project site to document compliance with this certification.
14. 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.
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. 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).
16. 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.

17. 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.
18. The Applicant shall implement 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.
19. Disturbance or removal of existing vegetation shall not exceed the minimum necessary to complete the Project.
20. 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.
21. 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.
22. 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.
23. 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.

24. 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).
25. The authorization of this certification for any dredge and fill activities expires on March 11, 2018. 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 Stephen Bargsten at (707) 576-2653.

Original Signed By

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

Original to: Mr. Peter LaCivita, USACOE, 1455 Market Street, San Francisco, CA 94103