April 28, 2015

**In the Matter of**

**Water Quality Certification**

**for**

**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: | Bureau of Reclamation, Trinity River Restoration Program<br>Fine Sediment Management Activities<br>WDID No. 1A09155WNTR, ECM PIN CW-748342 |

BY THE EXECUTIVE OFFICER:

1. On November 21, 2014, the Bureau of Reclamation – Trinity River Restoration Program, Robin Schrock (Applicant) filed an application for reissuance of 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 the Trinity River Restoration Program Fine Sediment Management Activities Project (Project). The previous certification for these activities was issued on January 20, 2010. Information describing the Project was noticed for public comment on the Regional Water Board's website on December 12, 2014. We received no comments.

2. The proposed Project will cause disturbances to waters of the United States and the State associated with the Hamilton Ponds on Grass Valley Creek within the Trinity River Hydrologic Unit No. 106.31. The Project is located at on Grass Valley Creek near the confluence with the Trinity River, Trinity County, at latitude 40.68938°N, and longitude 122.85901°W. No permanent impacts to waters of the U.S. and the State are proposed. Temporary impacts to waters of the U.S. and the State include approximately 1.0 acre of streambed or 300 linear feet of stream channel.

3. Fine sediment management activities are part of a larger effort by the Applicant to restore native salmonids and healthy river functions to 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. The primary purpose of the Project is to restore aquatic habitat in the Trinity River by managing fine sediment that flows down Grass Valley Creek and enters the Hamilton Ponds. The proposed Project would include excavating fine sediment annually (or as needed) from the Hamilton Ponds to ensure that accumulated fine sediment does not reach the mainstem of the Trinity River where it may impact the reproductive and rearing success of native salmonids. Proposed maintenance activities include diversion of Grass Valley Creek from the ponds, isolated excavation, turbidity control Best Management Practices, and sediment removal and storage at an upland site.

   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. The Project is planned to begin in 2015 through 2020 when dredging is necessary to maintain pond capacity.

7. Compensatory mitigation is not required for the proposed project activities. The Project has been designed to avoid and minimize adverse impacts and permanent impacts to waters of the US and State. Non-compensatory mitigation for the proposed Project includes best management practices for heavy equipment use in and near a waterway to prevent or reduce any discharges during and after construction. Additionally, project impacts shall not increase turbidity levels at the point of compliance (500 linear feet downstream of the point impact) greater than 20 percent above naturally occurring background or 20 NTUs whichever is greater. Other appropriate mitigation measures identified in the Master Environmental Impact Report SCH#2008032110 finalized by the Regional Water Board on August 24, 2009, shall be incorporated into the order.

8. The Applicant has obtained authorization from the United States Army Corps of Engineers for a Clean Water Act, section 404 for these activities and anticipates continued future permit coverage. The Applicant has determined that a Lake or Streambed Alteration Agreement is not required for this project.

9. 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 initial project to the State Clearinghouse on June 5, 2009, for a 45-day review and comment period. The Regional Water Board issued the Final MEIR/EIR on August 24, 2009, and filed a Notice of Determination on August 25, 2009. The proposed Project is identical to the initial project proposed and authorized in 2009. Pursuant to California Code of Regulations, title 14, section 15177, subd. (b)(2), and section 15179, subd. (b)(2), the Regional Water Board prepared an Initial Study on the proposal and determined that the subsequent project was adequately described, analyzed and mitigated for and within the scope of the MEIR findings. On March 20, 2015, the Regional Water Board circulated the Initial Study through the state clearinghouse for 30 days to receive public comment (SCH# 2015032071). Pursuant to California Code of Regulations, title 14, section 15179, subd. (b)(1), the Regional Water Board proposes a finding that no substantial changes have occurred with respect to the circumstances under which the MEIR was certified, or that there is no new available information which was not known and could not be known at the time of the MEIR was certified. Therefore, this MEIR may be used in accordance with this article to review such a subsequent project and is considered adequate by the Regional Water Board. All mitigation measures previously identified in the MEIR are again incorporated as enforceable conditions of this Order.

10. The Trinity River is identified as impaired for sediment under Clean Water Act Section 303(d). Bank erosion is identified as a source contributing to the sediment impairment. Removal of riparian vegetation is identified as a source contributing to Sediment 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.

11. 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."

12. 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 have no effect 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.

13. Section 131.12 of the U.S. EPA's Water Quality Standards regulations includes the "federal antidegradation policy" which emphasizes protection of instream beneficial uses, especially protection of aquatic organisms. As required by the federal antidegradation policy (40 C.F.R. §131.6(d)), each state's water quality standards must include a policy consistent with the federal antidegradation policy. The State Water Board established California's antidegradation policy in State Water Board 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. Restoration projects must conform to the state and federal antidegradation policies. This Order is consistent with applicable federal and State antidegradation policies. Restoration

projects are intended for the purpose of correcting a water quality problem or condition, which is causing, or threatens to cause, a detrimental effect on an aquatic ecosystem and beneficial uses. Although a restoration project may result in a discharge of waste to a water of the State, or a water of the United States, or both, the impacts are intended to be temporary in nature with the purpose of providing a net benefit to water quality.

14. 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. (Weblink attached below).

| | |
|---|---|
| Receiving Water: | Grass Valley Creek in the Douglas City Hydrologic Subarea 106.31 |
| Filled or Excavated Area: | Permanent impact to waters of the State:<br>None<br>Temporary impact to waters of the State:<br>1.0 acre of streambed |
| Channel and Shoreline: | Permanent impact to waters of the State:<br>None<br>Temporary impact to waters of the State:<br>300 linear Feet of Grass Valley Creek |
| Latitude/Longitude: | 40.68938°N / 122.85901°W |
| Expiration: | April 28, 2020 |

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Trinity River Restoration Program Fine Sediment Management Activities Project (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 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 of 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. This certification will be subject to annual billing during the construction phase ("Annual Active Discharge Fee") and during the monitoring phase of the project ("Annual Post Discharge Monitoring Fee"), per the current fee schedule, which can be found on our website: http://www.swrcb.ca.gov/northcoast/water_issues/programs/water_quality_certification.shtml These fees will be automatically invoiced to the applicant.

5. The Applicant shall notify the Regional Water Board each year as to whether dredging activities are proposed or if no dredging will occur during that year. The Applicant shall notify the Regional Water Board prior to the commencement of any fine sediment management activities with details regarding the schedule.

6. 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, the Applicant shall comply with all applicable mitigation measures identified in the MMRP.

7. Project impacts shall not increase turbidity levels at the point of compliance (500 linear feet downstream of the point impact) greater than 20 percent above naturally occurring background or 20 NTUs whichever is greater.

   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.

Prior to conducting sediment management operations that will remove sediment from waters and discharge it to waters or uplands the Applicant shall prepare a sediment reuse plan for review and approval by the Regional Water Board.

Additionally, project impacts shall not increase turbidity levels at the point of compliance (500 linear feet downstream of the point impact) greater than 20 percent above naturally occurring background or 20 NTUs whichever is greater.

Results of annual monitoring of the mitigation measures will be reported to the Regional Water Board annually. Reports shall summarize data collected, annual performance, any remedial action necessary and whether success criteria are met.

8. Only wildlife-friendly, 100 percent biodegradable erosion and sediment control products that will not entrap or harm wildlife shall be used. Erosion and sediment control products shall not contain synthetic (e.g., plastic or nylon) netting. Photodegradable synthetic products are not considered biodegradable. The applicant shall request approval from the Regional Water Board if an exception from this requirement is needed for a specific location.

9. BMPs shall be implemented as proposed in the application materials. 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. Severe and unseasonal rain events are becoming more frequent due to the effects of climate change. Therefore, BMPs shall be immediately available for deployment at all times to prevent discharges to waters of the state.

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. The Applicant shall provide Regional Water Board staff access to the Project site to document compliance with this certification.

12. 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.

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. 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).

14. All Project work shall be conducted as described in this Order and in the application submitted by the Applicant, and shall comply with all applicable water quality standards as detailed in the Basin Plan. 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 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.

16. Disturbance or removal of existing vegetation shall not exceed the minimum necessary to complete the Project.

17. 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.

18. 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.

19. 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.

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 email a copy of the letter to the following email address: NorthCoast@waterboards.ca.gov

    To discharge dredged or fill material under this Order, the successor-in-interest must email the Regional Water Board Executive Officer at: NorthCoast@waterboards.ca.gov 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. 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).

21. The authorization of this certification for any dredge and fill activities expires on April 28, 2020. 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 Gil Falcone at (707) 576-2830 or Stephen Bargsten at (707) 576-2653.

*Original electronically signed by*

_____

Matthias St. John
Executive Officer

150428_TRRP_FineSediment_401

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: Ms. Robin Schrock, Trinity River Restoration Program, PO Box 1300, 1313 South Main Street, Weaverville, CA 96093

Mr. Brandt Gutermuth, Trinity River Restoration Program, PO Box 1300, 1313 South Main Street, Weaverville, CA 96093 bgutermuth@usbr.gov

Copy to: Holly Costa, US Army Corps of Engineers holly.n.costa@usace.army.mil

Roberta Morganstern, US Army Corps of Engineers Roberta.A.Morganstern@usace.army.mil