TO: Neil Manji, Chief
Fisheries Branch
Department of Fish and Game
830 S Street
Sacramento, CA 95814

FROM: Dorothy Rice, Executive Director
EXECUTIVE OFFICE

DATE: JUL 17 2008

SUBJECT: CLEAN WATER ACT (CWA) SECTION 401 WATER QUALITY CERTIFICATION FOR THE DEPARTMENT OF FISH AND GAME’S (DFG) 2008 FISHERIES RESTORATION GRANT PROGRAM (FRGP)

DFG has requested that the State Water Resources Control Board (State Water Board) issue a CWA section 401 Water Quality Certification (Certification) for the FRGP. A complete application for Certification was received on May 16, 2008. State Water Board staff reviewed the information submitted by DFG describing the project activities and the proposed water quality protection measures. Consultations regarding this program were also conducted with the North Coast, San Francisco Bay, and Central Coast Regional Water Quality Control Boards, and the U.S. Army Corps of Engineers.

Pursuant to Title 23, section 3838 of the California Code of Regulations, I hereby make the certification determination described in Attachment 1 for these projects.

The following additional information is also made as part of this Certification:

- Attachment 1: DFG’s Certification;
- Attachment 2: Signatory Requirement;
- Attachment 3: Project Information Sheet;
- Attachment 4: 2008 FRGP Project List; and
- Attachments 5(a) & 5(b): Project Location Maps.
If you require further assistance, please contact Darren Bradford, the staff person most knowledgeable on the subject, at (916) 341-5558 (dbradford@waterboards.ca.gov). You may also contact Bill Orme, Chief of the 401 Certification and Wetlands Protection Unit, at (916) 341-5464 (borme@waterboards.ca.gov).

Attachments (5)

cc:  (all w/attachments)

   Calvin C. Fong, Chief
   Regulatory Branch
   U.S. Army Corps of Engineers
   1455 Market Street, 16th Floor
   San Francisco, CA 94103-1398

   Dave Castanon, Chief
   Regulatory Branch
   Los Angeles District
   Ventura Field Office
   U.S. Army Corps of Engineers
   2151 Alessandro Drive, Suite 110
   Ventura, CA 93001

   John Short
   North Coast Regional Water Quality Control Board
   5550 Skylane Boulevard, Suite A
   Santa Rosa, CA 95403

   Shin-Roei Lee
   San Francisco Bay Regional Water Quality Control Board
   1515 Clay Street, Suite 1400
   Oakland, CA 94612

   Dominic Roques
   Central Coast Regional Water Quality Control Board
   895 Aerovista Place, Suite 101
   San Luis Obispo, CA 93401
ORDER FOR CLEAN WATER ACT SECTION 401
WATER QUALITY CERTIFICATION (CERTIFICATION)
FOR DEPARTMENT OF FISH AND GAME (DFG),
2008 FISHERIES RESTORATION GRANT PROGRAM (FRGP)

Project: Department of Fish and Game-2008 Fisheries Restoration Grant Program
Project (Project)

Applicant: Neil Manji, applicant
Fisheries Branch
Department of Fish and Game
830 S Street
Sacramento, CA 95814

This Certification responds to your request on behalf of DFG for water quality
certification for the subject project. Your complete application was received on
May 16, 2008.

ACTION
☐ Order for Standard Certification     ☐ Order for Denial of Certification
☒ Order for Technically Conditioned Certification     ☐ Order for Waiver of Waste Discharge Requirements

AUTHORIZATION:

This Certification conditionally certifies 64 restoration projects funded through the
FRGP’s 2008 grant cycle as listed in Attachment 4.

This Certification does not apply to the placement of any new culvert or channel liner in
any water body, unless the project has been approved in writing by the 401 Program
Manager of the appropriate Regional Water Quality Control Board (Regional Water
Board(s)). Such project will be identified by DFG in the notification submitted to the
Regional Water Board as required in Condition 4 (Notification below). The 401 Program
Manager has 30 days from the receipt of the notification to respond; otherwise the
project may proceed under this Certification.

STANDARD CONDITIONS:

1. This Certification action is subject to modification or revocation upon administrative
   or judicial review, including review and amendment pursuant to section 13330 of the
   California Water Code (CWC) and Article 6 (commencing with section 3867) of
   Chapter 28, Title 23 of the California Code of Regulations (CCR 23).

2. This Certification action is not intended and shall not be construed to apply to 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 subsection 3855(b) of
   Chapter 28, CCR 23, 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 Chapter 28, CCR 23 and owed by the applicant.

ADDITIONAL CONDITIONS:

1. Best Management Practices (BMPs)

   a. Appropriate BMPs shall be implemented throughout the project activities to help minimize sediment disturbance and suspension within the water as described in this section, and also in the Mitigated Negative Declaration (MND) for the 2008 FRGP (summarized in Attachment 2, section 11). All BMP materials shall be onsite prior to construction activity and ready for use.

   b. No work shall be conducted during the winter period (November 1-April 15), unless prior approval has been obtained from the 401 Program Manager of the appropriate Regional Water Board(s).

   c. Except for “minor actions” as described in Attachment 2, section 11, all work areas shall be effectively isolated from stream flows using suitable control measures before commencement of any in-water work. The diverted stream flow shall not be contaminated by construction activities.

   d. Structures for isolating the in-water work area and/or diverting the stream flow (e.g., coffer dam, geo-textile silt curtain) shall not be removed until all disturbed areas are cleaned and stabilized.

   e. In the event of rain, the disturbed in-water work area shall be temporarily stabilized before stream flow exceeds the capacity of the diversion structure. The disturbed streambed shall be stabilized so that the disturbed areas will not come in contact with the stream flow.

   f. All areas disturbed by project activities shall be protected from washout and erosion.

   g. For projects requiring re-vegetation of disturbed areas, native species shall be used.

   h. The discharge of petroleum products or other pollutants to surface waters that may result in violation of water quality standards is prohibited. Activities shall not cause visible oil, grease, or foam in the work area or downstream.

   i. Fueling, lubrication, maintenance, storage, and staging of vehicles and equipment shall be outside of waters of the State. Fueling, lubrication, maintenance, storage, and staging of vehicles and equipment shall not result in a discharge or a threatened discharge to any waters of the State.

   j. When a project is completed, any excess material or debris shall be removed from the work area and disposed of properly.
2. Posting

A copy of this Certification must be provided to the contractor and all subcontractors who will work at the project site, and must be in their possession at the work site. The project proponent and all contractors and subcontractors shall be familiar with all conditions of this Certification.

3. Monitoring

DFG shall provide to the State Water Resources Control Board (State Water Board) and appropriate Regional Water Board staff copies of reports documenting the following monitoring activities described in the MND for the 2008 FRGP:

a. Post-project monitoring immediately after the activity is completed to ensure that projects are completed as designed; and

b. Effectiveness monitoring on a random subset of ten percent of the projects, within one to three years after project completion.

4. Notification

No later than 15 days prior to the start of construction, or 30 days for any project involving the placement of a new culvert or a channel liner, project proponent shall submit to the 401 Program Manager of the appropriate Regional Water Board(s) a notification indicating the expected start/completion dates of project activities, project ID, and water body name(s).

For projects with placement of new culvert and channel liner, the notification shall also include the following information:

a. Describe installation activities; include any structural control details, such as structure for diverting stream flow around the in-stream excavation area, temporary rubber dam, silt curtain, and any treatment device/facility;

b. Describe the control measures or BMPs, during and post construction, to minimize impacts (e.g., habitat losses, erosion control measures, flow diversions; etc.);

c. Any compensatory mitigation required by permitting agencies.

5. Reporting

While this Certification is in effect, or until all projects have been completed or defunded, and for as long as required monitoring is occurring, DFG will submit annual reports on July 1st of each year to the 401 Program Managers of the State Water Board and the appropriate Regional Water Board(s) documenting work undertaken during the preceding year and identifying for all such work:

a. Project name and grant number as listed in Attachment 4;

b. Year of Certification;
c. Project purpose and summary work description;

d. Name(s) of affected water body(ies);

e. Latitude/longitude in decimal degrees to at least four decimals;

f. For projects completed during the year:

i. The type(s) of receiving (affected) water body(ies) (e.g., at a minimum: river/streambed, lake/reservoir, ocean/estuary/bay, riparian area, or wetland type); and

ii. The total quantity in acres of each type of receiving water body temporarily impacted, and permanently impacted;

g. Actual construction start and end-dates for each project;

h. Whether each project is on-going or completed; and

i. Required monitoring reports as described in Additional Condition #3 (Monitoring).

Notifications and annual reports shall be directed to: Program Manager, Certification and Wetlands Program: at the following State and appropriate Regional Water Board office(s):

State Water Resources Control Board
Division of Water Quality
1001 "I" Street, 15th Floor
Sacramento, CA 95814

North Coast Regional Water Quality Control Board
5550 Skylane Blvd., Suite A
Santa Rosa, CA 95403

San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

6. Violations

a. DFG or its contractor and subcontractors shall verbally report any non-compliance to the 401 Program Manager of the appropriate Regional Water Board where the project is located within 24 hours from the time when DFG or its contractor and subcontractors become aware of the circumstances.
b. DFG or its contractor and subcontractors shall report in writing to the State Water Board and appropriate Regional Water Board all violations of any terms or conditions of this Certification within seven (7) consecutive days from the time DFG becomes aware of the violation. The written report shall contain:

i. A description of the violation and its cause;

ii. The period of the violation event, including dates and times, and if the violation has not been corrected, the anticipated time the violation is expected to continue; and;

iii. Steps taken or planned to reduce, eliminate, and prevent recurrence of the violation.

c. In the event of any violation or threatened violation of the conditions of this Certification, the violation shall be subject to any remedies, penalties, processes, or sanctions as provided for under State law. For purposes of the Clean Water Act (CWA) section 401(d), the applicability of any State law authorizing remedies, penalties, processes, 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 Certification Order.

d. In response to a suspected violation of any condition of this Certification Order, the State Water Board may require the holder of any permit or license subject to this Certification to furnish, under penalty of perjury, any technical or monitoring reports the State Water Board deems appropriate, provided that the burden, including cost of the reports, shall be in reasonable relationship to the need for the reports and the benefits to be obtained from the reports.

e. In response to any violation of the conditions of this Certification Order, the State Water Board may add to or modify the conditions of this Certification as appropriate to ensure compliance.

ADMINISTRATIVE CONDITIONS:

1. The State Water Board reserves the right to suspend, cancel, or modify and reissue this Certification, after providing notice to DFG and/or responsible contractor/subcontractor, if the State Water Board determines that the project fails to comply with any of the terms or conditions of this Certification.

2. A copy of this Certification, the application, and supporting documentation must be available at the project site during construction for review by site personnel and agencies. All personnel performing work on the proposed project shall be familiar with the content of this Certification and its posted location on the project site.

3. DFG shall grant State Water Board and Regional Water Board staff, or an authorized representative, upon presentation of credentials and other documents as may be required by law, permission to enter the project site at reasonable times, to ensure compliance with the terms and conditions of this Certification and/or to determine the impacts the project may have on waters of the State.
STATE WATER BOARD CONTACT PERSON:

If you have any questions, please contact State Water Board Environmental Scientist Darren Bradford at (916) 341-5558 or via e-mail at dbradford@waterboards.ca.gov or by mail at Certification & Wetland Program, State Water Board, 1001 I St., 15th Floor, Sacramento, CA 95814.

WATER QUALITY CERTIFICATION:

I hereby issue an order certifying that discharges from the projects listed in Attachment 4 comply with the applicable provisions of Clean Water Act sections 301 (Effluent Limitations), 302 (Water Quality-Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) if all of the conditions listed in this Certification action are met. This discharge is also regulated pursuant to State Water Board Water Quality Order No. 2003-0017-DWQ. This Water Quality Certification also serves as Waste Discharge Requirements pursuant to the Porter-Cologne Water Quality Control Act (CWC section 13000 et seq.).

Except insofar as may be modified by any preceding conditions, all Certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the Project Information Sheet (Attachment 3), and (b) compliance with all applicable requirements of the Regional Water Board’s Water Quality Control Plan and the Mitigated Negative Declaration for the 2008 FRGP.

Dorothy Rice, Executive Director
State Water Resources Control Board

7-17-08

Date
SIGNATORY REQUIREMENT

All applications, reports, or information submitted to the State Water Resources Control Board (State Water Board) must be signed and certified as follows:

(a) For a corporation, by a responsible corporate officer of at least the level of vice-president.
(b) For a partnership or sole proprietorship, by a general partner or proprietor, respectively.
(c) For a municipality, or a state, federal, or other public agency, by either a principal executive officer or ranking elected official.

A duly authorized representative of a person designated in Items (a) through (c) above may sign documents if:

(a) The authorization is made in writing by a person described in Items a through c above.
(b) The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity.
(c) The written authorization is submitted to the State Water Board Executive Director.

Any person signing a document under this section shall make the following certification:
"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."
## PROJECT INFORMATION SHEET

### Applicant:
Neil Manji, applicant  
Fisheries Branch  
California Department of Fish and Game (DFG)  
830 S Street  
Sacramento, CA 95814

### Project Name:
Department of Fish and Game-2008 Fisheries Restoration Grant Program Project

### Project Location:
Various (see Attachment 4)

### Type of Project:
Fisheries Restoration Grant Program (FRGP)

### Project Description:
The 2008 Fisheries Restoration Grant Program, formally known as "The 2008 Fisheries Restoration Grant Program in Del Norte, Humboldt, Los Angeles, Marin, Mendocino, Monterey, Napa, San Luis Obispo, San Mateo, Santa Barbara, Siskiyou, Sonoma, Trinity, and Ventura Counties" (Restoration Program). The Restoration Program involves funding, in whole or in part, 113 habitat restoration action items (68 major, 3 minor, and 42 exempt items) in the 14 identified counties. Of the 68 major action items, a total of 64 projects (as listed in Attachment 4) funded through the FRGP and allied programs will be covered under this 401 Certification. DFG will apply for individual 401 Certification with the local Regional Water Quality Control Board(s) (Regional Water Board) for the remaining projects covered in the mitigated negative declaration (MND) that require 401 Certification.

### CEQA:
On June 12, 2008, DFG, as lead agency, adopted a MND (SCH# 2008052026) for the FRGP in accordance with the California Environmental Quality Act (CEQA). State Water Resources Control Board (State Water Board) staff have reviewed and considered the environmental documents and the proposed mitigation measures. The State Water Board has determined that the project will not result in any significant adverse water quality impacts.

### Federal Agency Permit(s):
FRGP operates Regional General Permit (RGP) Number 12 (Corps File Number: 27922N) issued by San Francisco District of the U. S. Army Corps of Engineers (USACE). DFG will consult the USACE Los Angeles District for the projects in Santa Barbara and San Luis Obispo Counties.

### State Agency Permit(s):
DFG-1600 permits  
Receiving Waters/ Hydrologic Units  
Refer to 2008 FRGP Project List (Attachment 4)
Impacted Waters:

Temporary Impacts
Streambed: 14 acres
Riparian: 14,971 linear feet

Permanent Impacts
Streambed: 15 acres
Riparian: 8,000 linear feet

Non-Compensatory Mitigation:
A combination of avoidance and minimization measures is proposed to offset potential effects of project construction to wetlands and waters of the U.S. All feasible and practical measures will be undertaken to avoid and/or minimize impacts to waters during construction. All restoration projects funded by FRGP will be conducted based on DFG's *California Salmonid Stream Habitat Restoration Manuals* (Flosi et al 1996, 2003 and 2006), and mitigation measures described in the MND for the 2008 FRGP.

Compensatory Mitigation:
The Restoration Program will restore salmon and steelhead-habitat. Activities will include re-vegetation, livestock exclusion fencing, riparian planting, barrier removal, bank stabilization and other bank protection structures, and decommissioning of roads and improving drainage systems on existing roads. Instream structures such as boulder clusters, wing deflectors, and log covers may also be used. Road crossings that have impeded fish migration will be replaced with bridges or culverts with natural-stream bottoms allowing fish access to additional stream reaches. Finally, other watershed improvement activities include installation of fish screens to prevent entrainment of juvenile salmon and steelhead. These actions create spawning and nursery habitat, provide escape cover and prevent fine sediments from entering streams. A gradual rebuilding of salmon and steelhead populations is expected as this program continues.

Public Notice:
In satisfaction of the public notice requirements of section 3858; Title 23, of the California Code of Regulations, which governs the State's Certification Program, a Public Notice of Application for Water Quality Certification for the subject project was posted on the State Water Board website on May 28, 2008.

Fees:
On May 16, 2008, a check from DFG in the amount of $500.00 was received by the State Water Board in payment of required fees associated with this permit application.
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**Attachment 4**

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**Project Description**

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- Project Type: Project
- Project Description: Project Description

**Program Description**

- Program Title: Program Description
- Program Type: Program
- Program Description: Program Description

**Program Budget**

- Program Title: Program Budget
- Program Type: Budget
- Program Description: Program Budget
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**Attachment A**

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Note: The mitigation activities are designed to address the identified impacts resulting from the project.
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**Note:** The table above includes details such as Date, Department, Location, Issue Date, Issue Page, Issue Time, Issue Group, Issue Code, Issue City, and Issue Type.