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GOVERNOR

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Central Valley Regional Water Quality Control Board

1 July 2016

Ms. Julian Maskeroni
FHWA Central Lands Highway Division
12300 West Dakota Avenue
Lakewood, CO 80228

CLEAN WATER ACT § 401 TECHNICALLY CONDITIONED WATER QUALITY CERTIFICATION FOR DISCHARGE OF DREDGED AND/OR FILL MATERIALS FOR THE CA FTW MODOC TRAIL PROJECT (WDID#5A25CR00051), ALTURAS, MODOC COUNTY

ACTION:

1. Order for Standard Certification
2. Order for Technically-conditioned Certification
3. Order for Denial of Certification

WATER QUALITY CERTIFICATION STANDARD CONDITIONS:

1. This Order serves as a Water Quality Certification (Certification) action that is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to § 13330 of the California Water Code and § 3867 of the California Code of Regulations (CCR).
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 23 CCR § 3855(b) of the California Code of Regulations, 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 any non-denial certification action shall be conditioned upon total payment of the full fee required § 3833 of the California Code of Regulations.
4. This Certification is no longer valid if the project (as described) is modified, or coverage under § 404 of the Clean Water Act has expired.

TECHNICALLY CERTIFICATION CONDITIONS:

In addition to the above standard conditions, the Applicant shall satisfy the following:

1. The Applicant shall notify the Central Valley Regional Water Quality Control Board (Central Valley Water Board) in writing at least **seven (7) days** in advance of the start of any work within waters of the United States. The notification shall include the name of the project and the WDID number, and shall be sent to the Central Valley Water Board Contact indicated in this Certification.
2. Except for activities permitted by the U.S. Army Corps under § 404 of the Clean Water Act, soil, silt, or other organic materials shall not be placed where such materials could pass into surface water or surface water drainage courses.
3. The Applicant shall maintain a copy of this Certification and supporting documentation (Project Information Sheet) at the Project site during construction for review by site personnel and agencies. All personnel (employees, contractors, and subcontractors) performing work on the proposed Project shall be adequately informed and trained regarding the conditions of this Certification.
4. The Applicant shall perform surface water sampling:
 - a) when performing any in-water work;
 - b) in the event that project activities result in any materials reaching surface waters; or
 - c) when any activities result in the creation of a visible plume in surface waters.

The monitoring requirements in Table 1 shall be conducted by taking a sample of the ambient conditions before work begins in the work area, and sampling during work in the work area. The sampling frequency may be modified for certain projects with written approval from Central Valley Water Board staff.

Table 1:

Parameter	Unit	Type of Sample	Minimum Sampling Frequency	Required Analytical Test Method
Turbidity	NTU	Grab ⁽¹⁾	Every 4 hours during in-water work	(2,4)
Settleable Material	mL/L	Grab ⁽¹⁾	Every 4 hours during in-water work	(2)
Visible construction related pollutants ⁽³⁾	Observations	Visual Inspections	Continuous throughout the construction period	—

- (1) Grab samples shall be taken at mid-depth and be collected at the same time each day to get a complete representation of variations in the receiving water.
- (2) Pollutants shall be analyzed using the analytical methods described in 40 Code of Federal Regulations Part 136.
- (3) Visible construction-related pollutants include oil, grease, foam, fuel, petroleum products, and construction-related, excavated, organic or earthen materials.
- (4) A hand-held field meter may be used, provided that the meter utilizes a USEPA-approved algorithm/method and is calibrated and maintained in accordance with the manufacturer's instructions. A calibration and maintenance log for each meter used for monitoring required by this Certification shall be maintained at the Project site.

As appropriate, (e.g. Lakes) Surface water monitoring shall occur at mid-depth. A surface water monitoring report shall be submitted to the Central Valley Water Board Contact indicated in this Certification within two weeks of initiation of sampling and every two weeks thereafter. In reporting the monitoring data, the Applicant shall arrange the data in tabular form so that the sampling locations, date, constituents, and concentrations are readily discernible. The data shall be summarized in such a manner to illustrate clearly whether the Project complies with Certification requirements. The report shall include surface water sampling results, visual observations, and identification of the turbidity increase in the receiving water applicable to the natural turbidity conditions specified in the turbidity criteria below.

If no monitoring is conducted, the Applicant shall submit a written statement to the Central Valley Water Board Contact indicated in the Certification stating, "No monitoring was required." with the Notice of Completion.

5. The Central Valley Water Board adopted a *Water Quality Control Plan for the Sacramento River Basin and the San Joaquin River Basin, Fourth Edition, revised April 2016* or *Water Quality Control Plan for the Tulare Lake Basin, 2nd Edition (Basin Plan)* that designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives for all waters addressed through the plan. Turbidity and settleable matter limits are based on water quality objectives contained in the Basin Plan and are part of this Certification as follows:

- a) Activities shall not cause turbidity increases in surface water to exceed:
 - i. where natural turbidity is less than 1 Nephelometric Turbidity Units (NTUs), controllable factors shall not cause downstream turbidity to exceed 2 NTU;
 - ii. where natural turbidity is between 1 and 5 NTUs, increases shall not exceed 1 NTU;
 - iii. where natural turbidity is between 5 and 50 NTUs, increases shall not exceed 20 percent;
 - iv. where natural turbidity is between 50 and 100 NTUs, increases shall not exceed 10 NTUs;
 - v. where natural turbidity is greater than 100 NTUs, increases shall not exceed 10 percent.

Except that these limits will be eased during in-water working periods to allow a turbidity increase of 15 NTUs over background turbidity. In determining compliance with the above limits, appropriate averaging periods may be applied provided that beneficial uses will be fully protected. Averaging periods may only be used with prior approval of the Central Valley Water Board staff.

- b) Activities shall not cause settleable matter to exceed 0.1 mL/L in surface waters as measured in surface waters within the work area
6. The Applicant shall notify the Central Valley Water Board immediately if the above criteria for turbidity, settleable matter, or other water quality objectives are exceeded.
 7. Refueling of equipment within the floodplain or within 300 feet of the waterway is prohibited. If critical equipment must be refueled within 300 feet of the waterway, spill prevention and countermeasures must be implemented to avoid spills. Refueling areas shall be provided with secondary containment including drip pans and/or placement of absorbent material. No hazardous materials, pesticides, fuels, lubricants, oils, hydraulic fluids, or other construction-related potentially hazardous substances should be stored within a floodplain or within 300 feet of a waterway. The Applicant must perform frequent inspections of construction equipment prior to utilizing it near surface waters to ensure leaks from the equipment are not occurring and are not a threat to water quality.
 8. The Applicant shall develop and maintain onsite a project-specific Spill Prevention, Containment and Cleanup Plan outlining the practices to prevent, minimize, and/or clean up potential spills during construction of the Project. The Plan must detail the Project elements, construction equipment types and location, access and staging and construction sequence. The Plan must also address the potential of responding to a spill or prevention of spills occurring within the Project site.
 9. The Applicant shall implement each of the mitigation measures specified in the approved Mitigated Negative Declaration for the Project, as they pertain to biology, hydrology and water quality impacts as required by § 21081.6 of the Public Resource Code and § 15097 of the California Code of Regulations.

10. 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 constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Order.
- a) If Federal Highway Administration or a duly authorized representative of the project fails or refuses to furnish technical or monitoring reports, as required under this Order, or falsifies any information provided in the monitoring reports, the applicant is subject to civil monetary liabilities, for each day of violation, or criminal liability.
 - b) In response to a suspected violation of any condition of this certification, Central Valley 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 Central Valley 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. (Water Code, §§ 1051, 13165, 13267 and 13383) In response to any violation of the conditions of this certification, the Central Valley Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.
 - c) Federal Highway Administration shall allow the staff of the Central Valley Water Board, or an authorized representative(s), upon the presentation of credentials and other documents, as may be required by law, to enter the Project premises for inspection, including taking photographs and securing copies of Project-related records, for the purpose of assuring compliance with this Certification and determining the ecological success of the Project.
11. The Applicant shall provide the Central Valley Water Board Contact indicated in this Certification a Notice of Completion (NOC) no later than 30 days after the Project completion. The NOC shall demonstrate that the project has been carried out in accordance with the project description in the Certification and in any amendments approved. The NOC shall include a map of the project location(s), including final boundaries of any on-site restoration area(s), if appropriate, and representative pre and post construction photographs. Each photograph shall include a descriptive title, date taken, photographic site, and photographic orientation.

REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON:

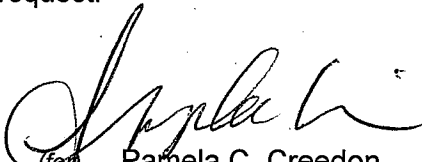
Dannas Berchtold, Engineering Associate
Central Valley Regional Water Quality Control Board
364 Knollcrest Drive, Suite 205, Redding, California 96002
dberchtold@waterboards.ca.gov
(530) 224-4783

WATER QUALITY CERTIFICATION:

I hereby issue an Order certifying that any discharge from Federal Highway Administration, CA FFTW Modoc Trail Project (WDID# 5A25CR00051) will comply with the applicable provisions of § 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") of the Clean Water Act. This discharge is also regulated under State Water Resources Control Board Water Quality Order No. 2003-0017 DWQ "Statewide General Waste Discharge Requirements For Dredged Or Fill Discharges That Have Received State Water Quality Certification (General WDRs)."

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 compliance with conditions of this Certification, the Federal Highway Administration's application package, and the attached Project Information Sheet, and (b) compliance with all applicable requirements of the *Water Quality Control Plan for the Sacramento River Basin and the San Joaquin River Basin, Fourth Edition, revised April 2016* (Basin Plan).

Any person aggrieved by this action may petition the State Water Quality Control Board to review the action in accordance with California Water Code § 13320 and California Code of Regulations, title 23, § 2050 and following. The State Water Quality Control Board must receive the petition by 5:00 p.m., 30 days after the date of this action, except that if the thirtieth day following the date of this action falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Quality Control Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.


(for) Pamela C. Creedon
Executive Officer

DB:wrb:sjs

Enclosure: Water Quality Order No. 2003-0017 DWQ

cc w/o Mr. Matt Kelley, U.S. Army Corp of Engineers, Redding
enclosures: Ms. Donna Cobb, Department of Fish and Wildlife, Region 1, Redding
U.S. Fish and Wildlife Service, Sacramento
Mr. Bill Jennings, CALSPA, Stockton

cc w/o
enclosures Mr. Bill Orme, SWRCB, Certification Unit, Sacramento
by email: U.S. EPA, Region 9, San Francisco

PROJECT INFORMATION

Application Date: 5 May 2016

Application Complete Date: 5 May 2016

Applicant: Ms. Julian Maskeroni
FHWA Central Lands Highway Division
12300 West Dakota Avenue
Lakewood, CO 80228

Project Name: CA FFTW Modoc Trail Project

Application Number: WDID No. 5A25CR00051

U.S. Army Corps File Number: SPK-2016-00090

Type of Project: Construction of a multiple use trail.

Project Location: Section 13, 24, 18, Township 42 North, Range 12, 13 East
Latitude: 41°28'36" and Longitude: -120°31'49"

County: Modoc County

Receiving Water(s) (hydrologic unit): Pit River. Pitt Hydrologic Unit-Alturas Hydrologic Subarea No. 526.52

Water Body Type: Streambed

Designated Beneficial Uses: The *Water Quality Control Plan for the Sacramento River Basin and the San Joaquin River Basin, Fourth Edition, revised April 2016* (Basin Plan) has designated beneficial uses for surface and ground waters within the region. Beneficial uses that could be impacted by the project include, but are not limited to: Municipal and Domestic Water Supply (MUN); Agricultural Supply (AGR); Industrial Supply (IND); Hydropower Generation (POW); Groundwater Recharge (GWR); Water Contact Recreation (REC-1); Non-Contact Water Recreation (REC-2); Warm Freshwater Habitat (WARM); Cold Freshwater Habitat (COLD); Preservation of Biological Habitats of Special Significance (BIOL); Rare, Threatened, or Endangered Species (RARE); Migration of Aquatic Organisms (MIGR); Spawning, Reproduction, and/or Early Development (SPWN); and Wildlife Habitat (WILD). A comprehensive and specific list of the beneficial uses applicable for the project area can be found at http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/index.shtml.

Project Description (purpose/goal): The CA FFTW Modoc Trail Project consists of the construction of approximately 2 miles of a 10-foot-wide Class 1 Path from the City of Alturas, California to the Modoc National Wildlife Refuge. The path begins at Alturas Park in the City of Alturas, California and proceeds easterly along Modoc County Road 56/McDowell Avenue (CR 56), crossing Union Pacific Railroad, and then southerly along Modoc County Road 115 (CR 115) and ending at the Modoc National Wildlife Refuge.

The Project also includes a spur that begins at the main trail at the intersection with County Road 115 and proceeds easterly along County Road 56 to the Alturas Rancheria property immediately west of the Modoc National Wildlife Refuge boundary. The Project is located entirely within Modoc County in northeastern California.

The project would result in fill to five potentially jurisdictional features, including one roadside ditch and four agricultural irrigation ditches. All five features within the project area were constructed in uplands for the purpose of irrigation. Flows from the ditches are conveyed into agricultural fields and connect via overland routes to the North and South Forks Pit River. The project will permanently impact 0.077 acre/397 linear feet and temporarily impact 0.085 acre/383 linear feet of waters of the United States.

Preliminary Water Quality Concerns: Construction activities including soil disturbance, excavation, cutting/filling, and grading activities could result in increased erosion and sedimentation and may impact surface waters with increased turbidity and settleable matter.

Proposed Mitigation to Address Concerns: The Applicant will implement Best Management Practices (BMPs) to control sedimentation and erosion. All temporary affected areas will be restored to pre-construction contours and conditions upon completion of construction activities. The Applicant will conduct turbidity and settleable matter testing during in-water work, stopping work if Basin Plan criteria are exceeded or are observed.

Fill/Excavation Area: Approximately 0.162 acre of native soil or other type of material will be excavated into 0.28 acres of waters of the United States. Approximately 784 cubic yards of clean soil or other type of material will be placed into 0.28 acres of waters of the United States.

California Integrated Water Quality System Impact Data: The Project will permanently impact 0.077 acre/397 linear feet of un-vegetated streambed from excavation activities.

Table 1: Impacts from Fill and/or Excavation Activities

Fill Type	Permanent			Temporary		
	Acres	Linear Feet	Cubic Yards	Acres	Linear Feet	Cubic Yards
Stream Channel						
Pit River	0.077	397	784	0.085	383	--
Stream Total	0.077	397	784	0.085	383	--
Total Impacts	0.077	397	784	0.085	383	--

U.S. Army Corps of Engineers Permit Number: SPK-2016-00090

United States Army Corps of Engineers Permit Type: Nationwide Permit #14 (Linear Transportation Projects)

Department of Fish and Wildlife Lake or Streambed Alteration Agreement: The Applicant is exempt from obtaining a Lake or Streambed Alteration Agreement.

Possible Listed Species: Not Applicable

Status of CEQA Compliance: The Modoc County Planning Department issued a final Notice of Determination approving a Negative Declaration on 26 April 2016 in compliance with Section 21108 or 21152 of the Public Resources Code, stating the project will not have a significant effect on the environment. Mitigation measures were made a condition of approval. A mitigation reporting or monitoring plan was adopted for this project. (State Clearinghouse Number 2016022006).

Compensatory Mitigation: The Central Valley Water Board is not requesting compensatory mitigation for the Project.

Application Fee Provided: Not Applicable