
Central Valley Regional Water Quality Control Board

6 October 2016

Mr. Justin Henwood
FHWA-CFLHD
12300 W. Dakota Avenue
Lakewood, CO 80228

AMENDED¹ CLEAN WATER ACT SECTION 401 TECHNICALLY CONDITIONED WATER QUALITY CERTIFICATION; FEDERAL HIGHWAY ADMINISTRATION, CA ERFO SHASTA NF 42N13(1) PILGRIM CREEK ROAD PROJECT (WDID#5A47CR00044a), MCCLOUD, SISKIYOU COUNTY

This Order responds to the 22 June 2016, application submitted by the Federal Highway Administration, Central Federal Lands Highway Division (Applicant) for the Water Quality Certification of a Roads and Highways project permanently impacting 0.063 acre/240 linear feet and temporarily impacting 0.615 acre/670 linear feet of waters of the United States.

This Order serves as certification of the United States Army Corps of Engineers' Nationwide Permit #14, Linear Transportation Projects, and Nationwide Permit #27, Aquatic Habitat Restoration, Establishment & Enhancement Activities under Section 401 of the Clean Water Act, and a Waste Discharge Requirement under the Porter-Cologne Water Quality Control Act.

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 Section 13330 of the California Water Code and Section 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 Section 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.

¹ The Water Quality Certification has been amended to update the project description for the McKenzie Butte Road portion of the project and to reduce the amount of permanent and temporary impacts to waters of the United States. All other conditions of the original Water Quality Certification remain unchanged.

3. The validity of any non-denial certification action shall be conditioned upon total payment of the full fee required under Section 3833 of the California Code of Regulations.
4. This Certification is no longer valid if the project (as described) is modified, or coverage under Section 404 of the Clean Water Act has expired.
5. All reports, notices, or other documents required by this Certification or requested by the Central Valley Water Board shall be signed by a person described below or by a duly authorized representative of that person.
 - a. For a corporation: by a responsible corporate officer such as (1) a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function; (2) any other person who performs similar policy or decision-making functions for the corporation; or (3) the manager of one or more manufacturing, production, or operating facilities if *authority* to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - b. For a partnership or sole proprietorship: by a general partner or the proprietor.
 - c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official.
6. Any person signing a document under Standard Condition No. 5 shall make the following certification, whether written or implied:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

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 Section 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 upstream out of the influence of the Project, and approximately 300 feet downstream of 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; where no methods are specified for a given pollutant, the method shall be approved by Central Valley Water Board staff.

⁽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, 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 approximately 300 feet downstream of the Project.
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. In-water work shall occur during periods of low flow and no precipitation.
8. Activities shall not cause visible oil, grease, or foam in the receiving water.
9. 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.

10. 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.
11. The discharge of petroleum products, any construction materials, hazardous materials, pesticides, fuels, lubricants, oils, hydraulic fluids, raw cement, concrete, asphalt, paint, coating material, drilling fluids, or other construction-related potentially hazardous substances to surface water and/or soil is prohibited. In the event of a prohibited discharge, the Applicant shall notify the Central Valley Water Board Contact within 24-hours of the discharge.
12. If installation or relocation of dry and/or wet utility lines is anticipated, the Applicant shall develop and submit Dry and Wet Utility Work Plan to the Central Valley Water Board Contact indicated in this Certification prior to commencement of dry and wet utility construction. The Dry and Wet Utility Plan must cover all phases of the certified project that will impact waters of the United States, and shall be consistent with this Certification.

The Dry and Wet Utility Plan shall include the types of dry and wet utilities to be removed and installed, method and duration of activities, structure configuration, construction materials, equipment, erosion and sediment controls, and a map or drawing indicating the location(s) of dry and wet utility work, as related to any water of the United States, in the project area.

Should the methodology for dry and wet utility work include directional drilling, the Dry and Wet Utility Plan shall incorporate a Directional Drilling Plan to address potential frac-outs. The Directional Drilling Plan shall include, but not be limited to, a description of directional drilling activities, dry and wet utility routes, crossing locations and methods, and other geotechnical considerations (i.e., surficial overburden deposits, clays and shales, bedrock formations, hydrogeology), and a reporting procedure should any level of discharge from a frac-out occur, regardless of the discharge size.

The Directional Drilling Plan must be stamped by a California Registered Geologist (PG) or Professional Engineer (PE).

13. An effective combination of erosion and sediment control Best Management Practices (BMPs) shall be implemented and adequately working during all phases of construction.

14. All areas disturbed by Project activities shall be protected from washout or erosion.
15. All temporarily affected areas shall be restored to pre-construction contours and conditions upon completion of construction activities.
16. This Certification does not allow permanent water diversion of flow from the receiving water. This Certification is invalid if any water is permanently diverted as a part of the Project.
17. The discharge of petroleum products or other excavated materials to surface water is prohibited. Activities shall not cause visible oil, grease, or foam in the receiving water. The Applicant shall notify the Central Valley Water Board as soon as practicable of any spill of petroleum products or other organic or earthen materials with written follow up within 5 days.
18. The Conditions in this water quality certification are based on the information contained in the Applicant's application and in the attached "Project Information Sheet." If the Project, as described in the application and the attached Project Information Sheet, is modified or changed, this Certification is no longer valid until amended by the Central Valley Water Board.
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 constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Order.
 - a) If FHWA-CFLHD 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, Sections 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) FHWA-CFLHD 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.

NOTIFICATIONS AND REPORTS:

20. The Applicant shall notify the Central Valley Water Board within 7 days of the project completion.
21. 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.
22. The Applicant shall submit all notifications, submissions, materials, data, correspondence, and reports in a searchable Portable Document Format (PDF). Documents less than 50 MB must be emailed to: centralvalleyredding@waterboards.ca.gov. In the subject line of the email, include the Central Valley Water Board Contact, Project name, and WDID number as shown in the subject line above. Documents that are 50 MB or larger must be transferred to a disk and mailed to the Central Valley Water Board Contact.

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 FHWA-CFLHD, CA ERFO Shasta NF 42N13(1) Pilgrim Creek Road Project (WDID# 5A47CR00044a) will comply with the applicable provisions of Section 301 ("Effluent Limitations"), Section 302 ("Water Quality Related Effluent Limitations"), Section 303 ("Water Quality Standards and Implementation Plans"), Section 306 ("National Standards of Performance"), and Section 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 FHWA-CFLHD'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 Section 13320 and California Code of Regulations, title 23, Section 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

DJB:reb

cc: Mr. Cameron Purchio, U.S. Army Corp of Engineers, Eureka
Ms. Donna Cobb, Department of Fish and Wildlife, Region 1, Redding
U.S. Fish and Wildlife Service, Sacramento
Mr. Bill Jennings, CALSPA, Stockton

cc: Mr. Bill Orme, SWRCB, Certification Unit, Sacramento
U.S. EPA, Region 9, San Francisco

PROJECT INFORMATION

Application Date: 22 June 2016

Application Deemed Complete: 26 July 2016

Applicant: Mr. Justin Henwood
FHWA-CFLHD
12300 W. Dakota Avenue
Lakewood, CO 80228

Project Name: CA ERFO Shasta NF 42N13(1) Pilgrim Creek Road Project

Application Number: WDID No. 5A47CR00044

Type of Project: Roads and Highways

Project Location: Section 27/15, Township 40 North, Range 02 West
Latitude: 41°17'17" and Longitude: -122°03'35"

County: Siskiyou County

Receiving Water(s) (hydrologic unit): Mud Creek, which is tributary to McCloud River.
McCloud River Hydrologic Unit-Upper McCloud River Hydrologic Subarea No. 505.24

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); Cold Freshwater Habitat (COLD); 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.

303(d) List of Water Quality Limited Segments: Mud Creek is the receiving water for the CA ERFO Shasta NF 42N13(1) Pilgrim Creek Road Project. Mud Creek is not listed on the 303(d) list. This project does not impact an already impaired water body. The most recent list of approved water quality limited segments is found at:
http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2010.shtml

Project Description (purpose/goal): The CA ERFO Shasta NF 42N13(1) Pilgrim Creek Road Project is located at McKenzie Butte Road (FR31) and Pilgrim Creek Road (FR13) in Shasta-Trinity National Forest (STNF). The project consists of restoring functionality to the damaged transportation facilities to provide safe public access along FR13 and FR31 within the STNF.

Both of these sites are along roads that are owned and maintained by the USFS. These roads provide access to a large land base and are used by USFS fire and emergency response crews for fire management and suppression, USFS administrative staff for resource management, and the public for dispersed recreational use. The repairs and new structures will not only re-establish access but will also be sized to handle future debris flow events.

Pilgrim Creek Road - Mud and debris flows filled in and overtopped the Pilgrim Road crossing of Mud Creek. Temporary action was taken by the STNF to remove accumulated sediments and debris from the bridge crossing and open the road to traffic. The proposed action within the identified action area will consist of constructing a similar crossing, immediately adjacent to the existing bridge. The new bridge will be constructed with an opening of sufficient size to pass future mud and debris flows. The stream channel will be re-worked to closely mimic the preexisting alignment. New approaches will be constructed to tie the new bridge into the existing roadway. After traffic has been turned onto the new bridge, the old bridge and approaches will be demolished and the area will be restored. Minor amounts of clearing and grubbing will be necessary to construct the new structure.

McKenzie Butte Road - Mud Creek overwhelmed the existing corrugated metal arch bridge, causing the stream to cut a new channel to the east of the existing structure. The road has been closed since the event. The proposed action within the identified action area consists of installing an open bottom cast-in-place concrete box culvert with a 19 foot span and a 7 foot rise in the current flowpath of Mud Creek, east of the overwhelmed metal arch bridge. No work is proposed for the existing overwhelmed metal arch bridge. No new guard rail is proposed to be installed and the road is to remain a dirt road. No vegetation is proposed to be removed. The project will permanently impact 0.016 acre/64 linear feet and temporarily impact 0.007 acre/40 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 72 cubic yards of steel, concrete and rip rap will be placed into 0.063 acres of waters of the United States.

Dredge Volume: Approximately 6,005 cubic yards of sediment and concrete will be dredged from 0.678 acres of waters of the United States.

California Integrated Water Quality System Impact Data: The Project will permanently impact 0.016 acres/64 linear feet of stream bed from fill/excavation/dredging activities.

Table 2: Impacts from Fill and Excavation Activities

Aquatic Resource Type	Temporary			Permanent					
				Physical Loss of Area			Degradation of Ecological Condition Only		
	Acres	Cubic-yards	Linear-feet	Acres	Cubic-yards	Linear-feet	Acres	Cubic-yards	Linear-feet
Riparian Zone	--	--	--	--	--	--	--	--	--
Stream Channel	0.007	--	40	0.016	--	64	--	72	--
Wetland	--	--	--	--	--	--	--	--	--

Notes
 NA Not Applicable

Table 3: Impacts from Dredging Activities

Aquatic Resource Type	Temporary			Permanent					
				Physical Loss of Area			Degradation of Ecological Condition Only		
	Acres	Cubic-yards	Linear-feet	Acres	Cubic-yards	Linear-feet	Acres	Cubic-yards	Linear-feet
Riparian Zone	--	--	--	--	6,005	--	--	--	--

Notes
 NA Not Applicable

United States Army Corps of Engineers Permit Type: Nationwide Permit #14 (Linear Transportation Projects) & #27 (Aquatic Habitat Restoration, Establishment, and Enhancement Activities).

Department of Fish and Wildlife Lake or Streambed Alteration Agreement: The Applicant did not apply for a Lake or Streambed Alteration Agreement.

Possible Listed Species: Not Applicable

Status of CEQA Compliance: This project falls within the definition of Categorical Exclusion as defined at 40 CFR 1508.4. The proposed work falls within a category of actions which do not individually or cumulatively exceed the threshold of significant adverse effects on the human environment, as provided for in the Council on Environmental Quality Regulations (40 CFR 1500-1508) and the Federal Highway Administration's Regulations (23 CFR 771.117). The project is categorically excluded from further NEPA analysis and further NEPA approvals.

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

Application Fee Provided: Not Applicable