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## Central Valley Regional Water Quality Control Board

7 June 2016

Mr. Mark List  
CA Department of Water Resources  
3310 El Camino Avenue, Suite 140  
Sacramento, CA 95821

### **CLEAN WATER ACT §401 TECHNICALLY CONDITIONED WATER QUALITY CERTIFICATION FOR DISCHARGE OF DREDGED AND/OR FILL MATERIALS FOR THE ELDER CREEK CHANNEL REHABILITATION PROJECT (WDID#5A52CR00150), GERBER, TEHAMA 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 This Certification is no longer valid if the project (as described) is modified, or coverage under § 404 of the Clean Water Act has expired.

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KARL E. LONGLEY ScD, P.E., CHAIR | PAMELA C. CREEDON P.E., BCCE, EXECUTIVE OFFICER

364 Knollcrest Drive, Suite 205, Redding, CA 96002 | [www.waterboards.ca.gov/centralvalley](http://www.waterboards.ca.gov/centralvalley)

**TECHNICAL 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 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 <sup>(1)</sup>	Every 4 hours during in-water work	(2,4)
Settleable Material	mL/L	Grab <sup>(1)</sup>	Every 4 hours during in-water work	(2)
Visible construction related pollutants <sup>(3)</sup>	Observations	Visual Inspections	Continuous throughout the construction period	—
Temperature	°F (or as °C)	Grab <sup>(1)</sup>	Every 4 hours during in-water work	(2,4)

pH	Standard Units	Grab <sup>(1)</sup>	Every 4 hours during in-water work	(2,4)
Dissolved Oxygen	mg/L & % saturation	Grab <sup>(1)</sup>	Every 4 hours during in-water work	(2,4)

<sup>(1)</sup> 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.

<sup>(2)</sup> Visible construction-related pollutants include oil, grease, foam, fuel, petroleum products, and construction-related, excavated, organic or earthen materials.

<sup>(3)</sup> 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 and San Joaquin River Basins*, Fourth Edition, revised June 2015 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, settleable matter, temperature, pH, and dissolved oxygen 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.
  - c) Activities shall not cause temperature in surface waters to increase more than 5°F above natural receiving water temperature for waters with designated COLD or WARM beneficial uses.
  - d) Activities shall not cause pH to be depressed below 6.5 nor raised above 8.5 in surface water.
  - e) Activities shall not cause dissolved oxygen to be reduced below 5.0 mg/L for waters designated with the WARM beneficial use, and 7.0 mg/L for waters designated with the COLD or SPWN beneficial uses, in surface water.
6. The Applicant shall notify the Central Valley Water Board immediately if the above criteria for turbidity, settleable matter, temperature, pH, dissolved oxygen 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. 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.
10. The Applicant shall submit a copy of the final, signed and dated Lake or Streambed Alteration Agreement issued by the California Department of Fish and Wildlife within 14 days of issuance to the Central Valley Water Board Contact indicated in this Certification.

The Applicant shall comply with all California Department of Fish and Wildlife requirements, including, but not limited to, those requirements described in the Lake or Streambed Alteration Agreement.

11. 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.
12. 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.
13. 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 California Department of Water Resources 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) California Department of Water Resources 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.

**STORM WATER QUALITY CONDITIONS:**

The Applicant shall also satisfy the following additional storm water quality conditions:

1. During the construction phase, the Applicant must employ strategies to minimize erosion and the introduction of pollutants into storm water runoff. These strategies must include the following:
  - a) the Storm Water Pollution Prevention Plan (SWPPP) must be prepared during the project planning and design phases and before construction;
  - b) an effective combination of erosion and sediment control Best Management Practices (BMPs) must be implemented and adequately working prior to the rainy season and during all phases of construction.
2. The Applicant must minimize the short and long-term impacts on receiving water quality from the Project by implementing the following post-construction storm water management practices:
  - a) minimize the amount of impervious surface;
  - b) reduce peak runoff flows;
  - c) provide treatment BMPs to reduce pollutants in runoff;
  - d) ensure existing waters of the State (e.g., wetlands, vernal pools, or creeks) are not used as pollutant source controls and/or treatment controls;
  - e) preserve and, where possible, create or restore areas that provide important water quality benefits, such as riparian corridors, wetlands, and buffer zones;
  - f) limit disturbances of natural water bodies and natural drainage systems caused by development (including development of roads, highways, and bridges);
  - g) use existing drainage master plans or studies to estimate increases in pollutant loads and flows resulting from projected future development and require incorporation of structural and non-structural BMPs to mitigate the projected pollutant load increases in surface water runoff;
  - h) identify and avoid development in areas that are particularly susceptible to erosion and sediment loss, or establish development guidance that protects areas from erosion/sediment loss;
  - i) control post-development peak storm water run-off discharge rates and velocities to prevent or reduce downstream erosion, and to protect stream habitat.
3. 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:**


George Day, Senior Water Resource Control Engineer, Central Valley Regional Water Quality Control Board, 364 Knollcrest Drive, Suite 205, Redding, California 96002, gday@waterboards.ca.gov, (530) 224-4859

**WATER QUALITY CERTIFICATION:**

I hereby issue an Order certifying that any discharge from California Department of Water Resources, Elder Creek Channel Rehabilitation Project (WDID# 5A52CR00150) 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 California Department of Water Resources' 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 and San Joaquin River*, Fourth Edition, revised June 2015 (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](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

  
(for) Pamela C. Creedon  
Executive Officer

SAZ:reb

Enclosure and cc list on next page

Enclosure: Water Quality Order No. 2003-0017-DWQ

cc w/o Mr. Matt Kelley, U.S. Army Corp of Engineers, Redding  
enclosures: Department of Fish and Wildlife, Region 2, Rancho Cordova  
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:** 15 January 2015

**Application Complete Date:** 1 April 2016

**Applicant:** Mr. Mark List  
Department of Water Resources  
3310 El Camino Ave., Suite 140  
Sacramento, CA 95821

**Project Name:** Elder Creek Channel Rehabilitation Project

**Application Number:** WDID No. 5A52CR00150

**Type of Project:** Channel clearing/Sediment Removal

**Project Location:** Section 1, Township 25 North, Range 3 West  
Latitude: 40.051° and Longitude: -122.153°

**County:** Tehama County

**Receiving Water(s) (hydrologic unit):** Elder Creek, which is tributary to the Sacramento River.  
Tehama Hydrologic Unit No.504.20 – Red Bluff HA

**Water Body Type:** Streambed, Wetland, Riparian

**Designated Beneficial Uses:** The *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins*, Fourth Edition, revised June 2015 (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); Groundwater Recharge (GWR); Water Contact Recreation (REC-1); Non-Contact Water Recreation (REC-2); Warm Freshwater Habitat (WARM); 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](http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/index.shtml).

**Project Description (purpose/goal):** The Elder Creek Channel Rehabilitation Project is located near the town of Gerber. The Action Area is located in the Elder Creek channel beginning approximately 1 mile west of State Route 99 and extending east in and around the channel for approximately 4 miles, ending 1 mile east of Tehama Road.

The Flood Control Project work, as covered by the O&M Manual, includes the following:

- The cleared channel of Elder Creek from the Sacramento River upstream for a distance of about 1.25 miles to the westerly Sacramento floodplain.

- The levees along both banks and the improved channel from the westerly Sacramento floodplain upstream about 4.1 miles to high ground (where the levee meets ground and the levee is no longer needed).
- The intermittent irrigation and drainage structures and intermittent bank protection along the levees.

The project will temporarily impact 0.04 acre/130 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, settleable matter temperature, pH and dissolved oxygen.

**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, settleable matter temperature, pH, and dissolved oxygen testing during in-water work, stopping work if Basin Plan criteria are exceeded or are observed.

**Fill/Excavation Area:** Approximately 18,779.2 cubic yards of native soil will be excavated from 4.5 acres of waters of the United States. Approximately 200 cubic yards of soil will be placed into 4.5 acres of waters of the United States.

**Dredge Volume:** N/A

**California Integrated Water Quality System Impact Data:** The Project will temporarily impact 0.04 acre/130 linear feet of wetland from fill/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
Wetlands						
Wetland		NA		0.04	130	
Wetlands Total		NA		0.04	130	
Stream Channel						
Elder Creek						
Stream Total						
Riparian Area						
Elder Creek	4.05			1.4		
Riparian Area Total	<b>4.05</b>			<b>1.4</b>		
<b>Total Impacts</b>	<b>4.05</b>			<b>1.44</b>	<b>130</b>	

**United States Army Corps of Engineers Permit Type:** Nationwide Permit #31 (Maintenance of Existing Flood Control Facilities).

**Department of Fish and Wildlife Lake or Streambed Alteration Agreement:** The Department of Water Resources applied for a Lake or Streambed Alteration Agreement on 24 December 2015.

**Possible Listed Species:** Federally-threatened Valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), Central Valley steelhead (*Oncorhynchus mykiss*), Central Valley spring-run chinook salmon (*Oncorhynchus tshawytscha*), Federally-endangered Central Valley winter-run Chinook salmon (*Oncorhynchus tshawytscha*). California Department of Fish & Wildlife (CDFW) species of special concern Central Valley fall-/late fall –run Chinook salmon (*Oncorhynchus tshawytscha*), Hardhead (*Mylopharodon conocephalus*) western pond turtle (*Actinemys marmorata*).

**Status of CEQA Compliance:** The Department of Water Resources is the Lead Agency responsible for compliance with the California Environmental Quality Act for the Elder Creek Channel Rehabilitation Project pursuant to § 21000 et seq. of the Public Resources Code. Department of Water Resources approved the Mitigated Negative Declaration on 20 August 2015. The Department of Water Resources filed a Notice of Determination with the State Clearinghouse on 21 August 2015 (State Clearinghouse Number 2015052066).

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

**Application Fee Provided:** An application fee of \$22,826.00 was submitted on 4 March 2016. A total fees of \$22,826.00 has been submitted to the Central Valley Water Board as required by § 3833(b)(3)(A) and § 2200(a)(3) of the California Code of Regulations.