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California Regional Water Quality Control Board
North Coast Region
Bob Anderson, Chairman

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Arnold
Schwarzenegger
Governor

April 18, 2008

In the Matter of

Water Quality Certification

for the

**CALIFORNIA DEPARTMENT OF FISH AND GAME – BUTTE VALLEY WILDLIFE
AREA WETLANDS MANAGEMENT
WDID NO. 1A07182WNSI**

APPLICANT:	California Department of Fish and Game
RECEIVING WATER:	Wetlands adjacent to Meiss Lake
HYDROLOGIC UNIT:	Macdoel – Dorris Hydrologic Subarea No. 105.81
COUNTY:	Siskiyou
FILE NAME:	CDFG – Butte Valley Wildlife Area Wetlands Management

BY THE EXECUTIVE OFFICER:

1. On December 18, 2007, the California Department of Fish and Game (Applicant) filed an application for water quality certification (certification) under section 401 of the Clean Water Act (33 U.S.C. § 1341) with the California Regional Water Quality Control Board, North Coast Region (Regional Water Board) for activities associated with wetlands management, levee construction, and levee maintenance at the Butte Valley Wildlife Area (BVWA) near Macdoel. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on March 14, 2008, and posted information describing the project on the Regional Water Board's website. We did not receive any public comments on this project.
2. The 13,200 acre BVWA is composed of 4,400 acres of intensively managed wetlands, 4,000 acres in Meiss Lake, and 4,800 acres of various types of habitat including cereal grain croplands, meadows, grasslands, oak and juniper woodlands, pine-fir forests and riparian areas. Meiss Lake and the BVWA are in a naturally closed basin that is adjacent to the Klamath Basin, the focal point for the Pacific Flyway. BVWA is a major migration and staging area for waterfowl, sandhill cranes and other water birds.

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3. Prior to the mid-1940s, Meiss Lake and its adjacent wetlands covered about 10,000 acres. From the mid-1940s to 1981, Meiss Lake and its adjacent wetlands were systematically diked, channeled, drained, and converted to intensive agriculture. A system of canals and pumping stations dewatered the wetlands and the former lake bed. In 1965, the U.S. Army Corps of Engineers constructed a drainage canal to allow further dewatering of Meiss Lake for flood control purposes by pumping excess floodwaters to the Klamath River. By 1981, the pre-1940s lake, its tributaries, and adjacent wetlands had been substantially altered, lost, or degraded.
4. The California Department of Fish and Game (CDF&G) acquired the BVWA in 1981 to provide habitat for threatened or endangered species, wetland habitat for resident and migratory waterfowl and other wetland-associated birds, and compatible wildlife-oriented recreation opportunities. Since 1981, the CDF&G has restored or enhanced about 5,700 acres of wetlands in the historic lakebed in addition to the current 4,000 acre Meiss Lake. Existing dikes were repaired and new dikes were constructed to provide for managed water control in the restored wetlands. The construction of nesting islands has substantially increased waterfowl production and the islands also provide loafing areas for migratory birds. Some of the seasonal wetlands are managed as moist-soil units to provide suitable wetland food plants for waterfowl and shorebirds. The BVWA resources, goals, and management objectives are described in detail in the 1996 BVWA Management Plan.
5. Currently, the BVWA intensively manages and protects more than 8,400 acres of wetlands by maintaining approximately 40 miles of dikes and levees, 31 miles of canals and channels, 325 nesting islands and more than 150 water control structures. These structures are essential for wetland management and enhancement for the benefit of waterfowl and other wetland species. The project includes structure and levee maintenance activities on an as-needed basis and installation of approximately 1400 linear feet (2 acre footprint) of new internal levee in unit 8B to control water elevation in the existing wetland. Unit 8B consists of an existing 150 acre diked wetland that has been restored and/or enhanced by CDF&G. The new levee would divide the existing wetland into two areas to allow for improved vegetation and water elevation management in the southern portion of the unit. Deeper areas and meandering channels will be excavated within the existing wetland to generate the soil material for construction of the new levee and for repair of existing levees and islands. Constructed channels are typically one to two feet deep, 15 to 30 feet wide, with 5:1 side slopes. The excavation activities are expected to enhance existing wetland values, increase wetland diversity, and in some areas the extent of existing wetlands will be increased.
6. The levee construction activities will result in approximately 2 acres of permanent impacts to wetlands that were previously restored by the applicant. Compensatory mitigation is not proposed for the project due to the location of the impacts within the intensively managed and restored wetlands in the BVWA and the large amount of wetland habitat that has already been created, enhanced and restored in the BVWA by the applicant. Noncompensatory mitigation includes the use of Best Management Practices (BMPs) for sediment and erosion control and for operation of heavy equipment in a wetland.
7. The Applicant has applied to the United States Army Corps of Engineers to perform the project under Nationwide Permit Numbers 3, 27, and 30, pursuant to Clean Water Act, section 404.

8. On June 17, 1996, the CDF&G adopted a mitigated negative declaration (SCH No. 95103085) for the Butte Valley Wildlife Area Management Plan in order to comply with CEQA. The Regional Water Board has considered the environmental document and any proposed changes incorporated into the project or required as a condition of approval to avoid significant effects to the environment.

Receiving Water: Wetlands adjacent to Meiss Lake in the Macdoel – Dorris Hydrologic Subarea No. 105.81

Filled or Excavated Area: Area Temporarily Impacted: None
Area Permanently Impacted: 2 acres of wetland

Total Linear Impacts: Length Temporarily Impacted: None
Length Permanently Impacted: none

Dredge Volume: None

Latitude/Longitude: 41.85069 N/122.08690 W

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Butte Valley Wildlife Area Wetlands Management Project (WDID No. 1A07182WNSI), as described in the application, will comply with sections 301, 302, 303, 306 and 307 of the Clean Water Act, and with applicable provisions of state law, provided that the Applicant complies with the following terms and conditions:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330 and title 23, California Code of Regulations, section 3867.
2. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to title 23, California Code of Regulations, section 3855, subdivision (b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. This certification is conditioned upon total payment of any fee required under title 23, California Code of Regulations, section 2200, and owed by the Applicant.
4. No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature, other than that authorized by this Order, shall be allowed to enter into or be placed where it may be washed by rainfall into waters of the State. When operations are completed, any excess material or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any stream.

5. All activities and BMPs shall be implemented according to the submitted application and the conditions in this certification.
6. A copy of this Order and the application documents submitted by the Applicant for this certification shall be provided to all contractors and subcontractors conducting the work, and shall be in their possession at the work site.
7. If, at any time, an unauthorized discharge to surface water (including wetlands, rivers or streams) occurs, or any water quality problem arises, the associated project activities shall cease immediately until adequate BMPs are implemented. The Regional Water Board shall be notified promptly and in no case more than 24 hours after the unauthorized discharge or water quality problem arises.
8. Prior to implementing any change to the project that may have a significant or material effect on the findings, conclusions, or conditions of this Order, the Applicant shall obtain the written approval of the Regional Water Board Executive Officer.
9. All project work shall be conducted as described in this Order and in the application submitted by the Applicant. If the Regional Water Board is not notified of a significant alteration to the project, it will be considered a violation of this Order, and the Applicant may be subject to Regional Water Board enforcement actions.
10. The Regional Water Board may add to or modify the conditions of this Order, as appropriate, to implement any new or revised water quality standards and implementation plans adopted and approved pursuant to the Porter-Cologne Water Quality Control Act or Section 303 of the Clean Water Act.
11. The Applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
12. In the event of any violation or threatened violation of the conditions of this certification, 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 certification. In response to a suspected violation of any condition of this certification, the Regional 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 Regional Water Board deems appropriate, provided that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. In response to any violation of the conditions of this certification, the Regional Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.

13. In the event of any change in control of ownership of land presently owned or controlled by the Applicant, the Applicant shall notify the successor-in-interest of the existence of this Order by letter and shall forward a copy of the letter to the Regional Water Board at the above address.

To discharge dredged or fill material under this Order, the successor-in-interest must send to the Regional Water Board Executive Officer a written request for transfer of the Order. The request must contain the requesting entity's full legal name, the state of incorporation if a corporation, and the address and telephone number of the person(s) responsible for contact with the Regional Water Board. The request must also describe any changes to the project proposed by the successor-in-interest or confirm that the successor-in-interest intends to implement the project as described in this Order.

14. Except as may be modified by any preceding conditions, all certification actions are contingent on: a) the discharge being limited to and all proposed mitigation being completed in strict compliance with the Applicant's project description, and b) compliance with all applicable requirements of the Water Quality Control Plan for the North Coast Region (Basin Plan).

15. The authorization of this certification for any dredge and fill activities expires on April 18, 2013. Conditions and monitoring requirements outlined in this certification are not subject to the expiration date outlined above, and remain in full effect and are enforceable.

If you have any questions or comments please call Dean Prat at (707) 576-2801.

Catherine Kuhlman
Executive Officer

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Original to: Mr. Harold Novick, California Department of Fish and Game, P.O. Box 249, Macdoel, CA 96058

Copies to: U.S. Army Corps of Engineers, District Engineer, P.O. Box 4863, Eureka, CA 95502

Ms. Jane Hicks, U.S. Army Corps of Engineers, Regulatory Functions, 1455 Market Street, San Francisco, CA 94103-1398

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