

J. H. 26627

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 26627)	
)	
HENWOOD ASSOCIATES, INC.,)	
)	
Applicant.))	
)	SOURCE: Green Creek
(Dynamo Pond Project, FERC No. 8142-006))	
)	COUNTY: Mono

WATER QUALITY CERTIFICATION FOR FEDERAL PERMIT OR LICENSE

BY THE EXECUTIVE DIRECTOR:

1. Henwood Associates, Inc. (Henwood) has applied to the Federal Energy Regulatory Commission for a License under the Federal Power Act (16USC §791(a), et seq.) to develop a hydroelectric power project at Dynamo Pond on Green Creek in Mono County; and to the United States Army Corps of Engineers for a permit to discharge dredged material in conjunction with construction of the Dynamo Pond project under Section 404 of the Clean Water Act (33USC §1344).
2. The Federal Clean Water Act (33USC §1251, et seq.) was enacted "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters" (33USC §1251(a)). Section 101(g) (33USC §1251(g)) requires federal agencies to "cooperate with state and local agencies to develop comprehensive solutions to prevent, reduce and eliminate pollution in concert with programs for managing water resources". Section 401 (33USC §1341) requires every applicant for a federal license or permit to provide the responsible federal agency with certification that the project will be in compliance with specified provisions of the Clean Water Act, including Section 303 ("Water Quality Standards and Implementation Plans", 33USC §1313); directs the state agency responsible for certification to prescribe effluent limitations and

other limitations necessary to ensure compliance with the Clean Water Act and with any other appropriate requirement of state law; and provides that state certification conditions shall become conditions of any federal license or permit for the project.

3. The State Water Resources Control Board (State Board) is the agency responsible for water quality certification in California (Section 13160 of the California Water Code); and has delegated this function to the Executive Director by regulation (Section 3838 of Title 23 of the California Code of Regulations).
4. On May 11, 1988, Henwood asked the State Board for certification that Henwood's Dynamo Pond project would be in compliance with state and local water quality requirements, including requirements that satisfy the specified provisions of the Federal Clean Water Act.¹
5. Certification of compliance with state and local water quality requirements is a project subject to the California Environmental Quality Act (Public Resources Code §21000, et seq., "CEQA"). The State Board as lead agency under CEQA must assess potential environmental impacts associated with a proposed project, and must prepare an Environmental Impact Report (EIR) if the project could have significant environmental consequences, or a Negative Declaration.

¹ Henwood's original request for water quality certification, made August 28, 1985, was denied without prejudice on April 30, 1987.

6. The State Board prepared, circulated for public comment, and adopted an EIR for the Dynamo Pond project. The EIR identified significant potential impacts, including potential impacts on water quality and instream beneficial uses of Green Creek. The EIR also identified mitigation measures that could avoid or reduce potential impacts to a level below significance.
7. The California Regional Water Quality Control Boards have adopted, and the State Board has approved, Water Quality Control Plans (Basin Plans) for each watershed basin in accordance with provisions of Sections 303 and 304 of the Clean Water Act, related to the establishment of water quality standards and planning (33USC §§1313, 1314). Basin Plans identify beneficial uses of the waters within each Region.
8. Protection of the chemical, physical, and biological integrity of waters of the state for instream beneficial uses identified in the Basin Plans requires maintenance of adequate stream flows as well as effluent limitations and other limitations on discharges of pollutants from point and nonpoint sources to navigable waters and their tributaries.
9. The California Regional Water Quality Control Board, Lahontan Region, has reviewed Henwood's application, and the EIR prepared for this project, for consistency with the basin plan for the project area and has made recommendations for water quality protection to the State Board.

ACCORDINGLY, THE STATE BOARD CERTIFIES THAT Henwood's Dynamo Pond project will comply with Sections 301, 302, 303, 306 and 307 of the Clean Water Act, and with applicable provisions of state law provided that Henwood

constructs and operates the Dynamo Pond project in accordance with the following terms and conditions:

1. All surface flows generated within or as a result of the project, which are discharged to surface waters or stormwater runoff conveyance systems shall not contain the following substances:
 - A. coloration that causes a nuisance or adversely affects beneficial uses;
 - B. substances in concentrations that impart undesirable tastes or odors to fish flesh or other edible aquatic organisms;
 - C. perceptible floating material including, but not limited to solids, liquids, foams, or scums which could result in degradation of water quality;
 - D. suspended or settleable material in concentrations that cause a nuisance or adversely affect beneficial uses;
 - E. oils, greases, waxes, or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water;
 - F. substances in concentrations that are toxic to, or that produce detrimental physiological responses in, human, plant, or animal life;
 - G. identifiable chlorinated hydrocarbons, organophosphates, carbamates, or other pesticide or herbicide groups in detectable concentrations;

- H. the pH shall not be depressed below 6.5 nor raised above 8.5. Changes in normal ambient pH levels shall not exceed 0.5 units in fresh waters with designated COLD or WARM beneficial uses;
 - I. coliform organisms attributable to human wastes.
2. The discharge of surface flows within or as a result of the project shall not cause the following conditions or alterations in surface waters of the East Walker River Hydrologic Unit:
- A. Turbidity levels shall not be altered so as to cause a nuisance or adversely affect beneficial uses. Increases in turbidity shall not exceed upstream levels by more than 10 percent.
 - B. The concentration of settleable material shall not be raised by more than 0.1 milliliter per liter.
 - C. The dissolved oxygen concentration, in terms of percent saturation, shall not be depressed by more than 10 percent, nor shall the minimum dissolved oxygen concentration at any time be less than 80 percent of saturation or less than 7.0 mg/l, whichever is more restrictive.
 - D. The natural receiving water temperature shall not be raised above ambient levels.
 - E. Waters shall not contain concentrations of coliform organisms attributable to human wastes. The fecal coliform concentration, based on a minimum of not less than five samples for any 30-day period, shall not exceed a log mean of 200/100 ml, nor shall more than 10 percent of total samples during any 30-day period exceed 400/100 ml.

F. The concentration of biostimulatory substances of waters shall not be altered in an amount that could promote aquatic biomass to the extent that such increases are discernible at the 90 percent significance level.

3. Best Management Practices

- A. Prior to any disturbance of existing soil conditions, the permittee or licensee shall install temporary erosion control facilities to prevent transport of eroded earthen materials and other wastes off the property into waters of the state.
- B. All areas not subject to construction but which are subject to unauthorized vehicle use shall be adequately protected from disturbance or such use by installation of barriers and signs.
- C. There shall be no significant modification of existing drainage ways or existing stream channel geometry except for the purpose of stabilization or enhancement of water quality. All modifications of the bed, channel, or bank of a stream shall require a prior written agreement with the California Department of Fish and Game.
- D. All slopes steeper than 2:1 shall be mechanically stabilized by installation of riprap, gabions, or other facilities approved by the Executive Officer of the Lahontan Regional Water Quality Control Board.
- E. All soil disturbance activities shall cease and temporary erosion control measures immediately installed if adverse weather

conditions threaten the transport of disturbed soils from the project site to waters of the state.

- F. All disturbed areas shall be adequately restabilized or revegetated. Revegetated areas shall be maintained until vegetation becomes established.
- G. Prior to October 15 of each year, the permittee or licensee shall provide permanent or temporary (if project is incomplete) stabilization of all disturbed or eroding areas through commencement of revegetation or completion of mechanical stabilization measures. Revegetation shall consist of seeding, planting, mulching, initial fertilization as needed, and initial watering as needed.
- H. Surface flows from the project site shall be controlled so as not to cause downstream erosion at any point.
- I. All surplus spoil materials shall be removed from the project site and deposited only at a legal point of disposal, or restabilized on-site in accordance with erosion control plans previously reviewed by the Lahontan Regional Water Quality Control Board.
- J. At no time shall waste earthen materials be placed in surface water drainage courses, or in such a manner as to allow the discharge of such materials to any surface water drainage course.
- K. Fresh concrete or grout shall not be allowed to contact or enter surface waters.

L. The permittee or licensee shall immediately clean up and transport to a legal site any spilled petroleum products to the maximum extent practicable.

4. General Requirements and Prohibitions

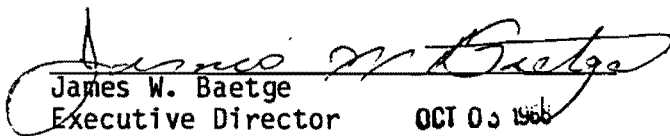
A. The discharge of oil, gasoline, diesel fuel, or any other petroleum derivative or any toxic chemical or hazardous waste is prohibited.

B. The discharge of waste shall not cause pollution or threaten pollution as defined in Section 13050 of the California Water Code.

C. Neither the treatment nor the discharge of waste shall cause a nuisance as defined in Section 13050 of the California Water Code.

5. Project Operation

Henwood shall, at all times, operate the Dynamo Pond project in accordance with the terms and conditions of Decision 1620 approving Application 26627 to appropriate waters of the state, and Water Right Permit 20256 or any license issued on Application 26627, and any subsequent Order of the State Board modifying such terms and conditions, to the extent that such terms and conditions are applicable to maintenance of the chemical, physical and biological integrity of the waters of the state or beneficial uses thereof.


James W. Baetge
Executive Director OCT 03 1966