

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

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In the Matter of Water Quality Certification for

**Four Mile and Weed Valley Reservoir Wetlands Restoration Project**

Sources: Four Mile Creek Tributary to North Fork Willow Creek thence Willow Creek  
thence Clear Lake Reservoir thence Lost River

North Fork Willow Creek Tributary to Willow Creek thence Clear Lake  
Reservoir thence Lost River

County: Modoc County

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**Project Description**

The US Modoc National Forest (USFS) project consists of reservoir maintenance and habitat improvement for three Four Mile Valley Reservoirs and for Weed Valley Reservoir. The Four Mile and Weed Valley Reservoir Wetlands Restoration Project (Project) will restore 259 and 519 acres, respectively, of seasonal wetlands within the high water mark of the reservoirs. Project activities will consist of spillway and weir repair, embankment reinforcement, dam reinforcement, and the retrofitting of the water control structure to original design or as-built specifications. The Project will also rehabilitate the reservoir bottoms to promote the habitat of endangered Lost River and Shortnose Suckers, will enhance waterfowl and other wildlife habitat, and will facilitate conversion of the vegetation in the Project area to a more diverse emergent marsh plant community.

The Four Mile Project area is within the SE $\frac{1}{4}$  of section 35, T48N, R9E, MDB&M; the SW $\frac{1}{4}$  of section 36, T48N, R9E, MDB&M; the E $\frac{1}{2}$  of section 1, T47N, R9E, MDB&M; and the N $\frac{1}{2}$  of NE $\frac{1}{4}$  section 12, T47N, R9E, MDB&M as shown on the US Geological Survey (USGS) 7.5 minute Steele Swamp Quadrangle. The reinforced concrete spillways at each of the three reservoirs (Upper, Middle, and Lower) will be repaired by restoring the concrete sill heights to the elevations that allow each reservoir to hold its design storage capacity. At the Lower Reservoir, 600 tons of erosion protection rock (riprap) will be placed along the upstream slope of the dam. The USFS also proposes to place boulders (nominal diameter of three foot) in the spillway discharge channels to create rest areas for fish during migration to and from the reservoirs.

Approximately 6,000 cubic yards (CY) of material will be excavated from the bottoms of the three reservoirs. The primary borrow site for this material will be from the Upper Reservoir. The material will be used in constructing eight nesting islands and five loafing bars (approximately 40 to 60 feet wide by 100 to 120 feet long). The nesting

islands will be one foot higher in elevation than the high water level of the reservoirs, whereas the loafing bars will be six inches lower than the high water level set by the spillway elevations. The excavated reservoir bottoms will also provide new swales and pits, thereby allowing increased drainage to these areas of the reservoirs. Excavated organic material will be used as top dressing to re-vegetate the nesting islands and loafing bars.

The Weed Valley Project area is within section 33, T48N, R10E, MDB&M; the W½ of section 34, T48N, R10E, MDB&M; and the N¼ of the NE¼ of section 3, T47N, R10E, MDB&M, as shown on the USGS 7.5 minute Weed Valley Quadrangle. Repairs will be made to the northern and southern reinforced concrete spillways and will include the retrofit of the water control structure located at the center of the dam. The concrete sills for the spillway and control structure will be reconstructed at the elevations that allow the reservoir to hold its design storage capacity. One hundred and eighty-five tons of riprap will be placed along the upstream slope of the dam about 160 feet north and 110 feet south of the water control structure. The USFS also proposes to place boulders (a nominal diameter of three foot) in the two spillway discharge channels to create rest areas for fish during migration to and from the reservoir.

Approximately 32,000 CY of material will be excavated from the bottom of the Weed Valley Reservoir. The material will be used in constructing 26 nesting islands and 13 loafing bars (specifications are the same as proposed for the Four Mile Project area). The excavated bottom will enlarge the dead storage capacity of the reservoir. The other excavation objectives are the same as described for the Four Mile Project sites.

The proposed construction is scheduled for mid-August through mid-November of 2008 when the reservoirs should be dry. Water for construction will be obtained from any pond areas in the reservoirs or from nearby sources.

## **WATER QUALITY CERTIFICATION FOR FEDERAL PERMIT OR LICENSE**

BY THE EXECUTIVE DIRECTOR:

1. The Federal Clean Water Act (33 U.S.C. §§ 1251-1387) was enacted "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." (33 U.S.C. § 1251(a).) Section 101 of the Clean Water Act (33 U.S.C. § 1251(g)) requires federal agencies to "co-operate with the State and local agencies to develop comprehensive solutions to prevent, reduce and eliminate pollution in concert with programs for managing water resources."
2. Section 401 of the Clean Water Act (33 U.S.C. §1341) requires every applicant for a federal license or permit which may result in a discharge into navigable waters to provide the licensing or permitting federal agency with certification that the project will be in compliance with specified provisions of the Clean Water Act, including water quality standards and implementation plans promulgated pursuant to section 303 of the Clean Water Act (33 U.S.C. § 1313). Section 401 of the Clean

Water Act directs the 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. Section 401 further provides that State certification conditions shall become conditions of any federal license or permit for the project. The State Water Resources Control Board (State Water Board) has delegated this function to the Executive Director by regulation. (Cal. Code Regs., tit. 23, § 3838, subd. (a).)

3. The federal agency issuing permits is the U.S. Army Corps of Engineers (ACOE). The Applicant, the U S Modoc National Forest (USFS), has applied to the ACOE for Nationwide Permits: 3, Maintenance; and 27, Wetland Restoration and Enhancement (Corps File No. SPK-2007-00720).
4. The California Regional Water Quality Control Boards have adopted, and the State Water Board has approved, water quality control plans (basin plans) for each watershed basin in the State. The basin plans designate the beneficial uses of waters within each watershed basin and water quality objectives designed to protect those uses. Section 303 of the Clean Water Act requires the states to develop and adopt water quality standards. (33 U.S.C. § 1313.) The beneficial uses together with the water quality objectives that are contained in the basin plans constitute State water quality standards under section 303.
5. The North Coast Regional Water Quality Control Board (North Coast Region) has adopted, and the State Water Board and the U.S. Environmental Protection Agency have approved, the Water Quality Control Plan for the North Coast Region (Basin Plan). The Basin Plan designates the beneficial uses of waters to be protected along with the water quality objectives necessary to protect those uses.
6. Existing beneficial uses in the North Coast Region Basin Plan designated for tributaries to the Lost River include agricultural; groundwater recharge; freshwater replenishment; contact and non-contact recreation; commercial and sport fishing; warm and cold freshwater habitat; wildlife habitat; rare, threatened, and endangered species habitat; fish migration and spawning (reproduction and development); and Native American Culture.
7. The Lost River watershed is identified on the State of California Clean Water Act Section 303(d) list as impaired for sediment and temperature. Total Maximum Daily Load (TMDL) analyses have been completed for the Lost River watershed sediment and temperature listings. At present, there are no watershed-specific implementation plans for this TMDL.
8. The State Water Board has reviewed and considered the plans and project description provided by USFS for the Project. Further, the State Water Board has considered the North Coast Region Basin Plan, the existing water quality conditions and project-related controllable factors.

9. Section 1601(d) of the California Fish and Game Code does not define the U.S. Government as an entity that is subject to the application requirements for a Streambed Alteration Agreement from the Department of Fish and Game.
10. The USFS submitted an application for section 401 water quality certification on April 18, 2008 for the Project.
11. The State Water Board is issuing a 401 water quality certification because it has determined that the USFS Project will be consistent with federal and State water quality standards. In issuing a water quality certification, the State Water Board certifies compliance with provisions of the Clean Water Act and the state's parallel Porter Cologne Water Quality Control Act, including all water quality objectives necessary to protect the designated beneficial uses of affected water bodies, as defined in the North Coast Region Basin Plan. Pursuant to the Clean Water Act, the State Water Board must analyze potential project-related environmental effects on the specified waters prior to making a determination that the proposed project will protect the designated beneficial uses of the affected water bodies as identified in the Basin Plan.
12. In accordance with the National Environmental Policy Act, in March of 2002, the US Department of Agriculture (USDA) prepared an environmental assessment for the Warm Springs and Fort Springs grazing allotment located in the Modoc and Fremont National Forest. The environmental effect was evaluated for the Four Mile/Weed Valley Reservoir Wetlands Restoration Project. The USDA 2002 assessment was a finding of no significant impact.
13. The USFS, May 3, 2007 Biological Assessment for Aquatic and Wildlife Species for the Weed Valley Wetland Project site found that the project is not likely to adversely affect the Lost River and Shortnose Suckers.
14. The State Water Board, as lead agency under the California Environmental Quality Act (CEQA), has reviewed and considered the information provided by the USFS Project and the federal environmental assessments. The USFS Project reservoirs have existed for over 40 years and the retrofit is for repair and maintenance of the spillways, weirs, control structures, and embankments. The Project will rehabilitate the reservoir bottoms to promote the habitat of endangered sucker species, will enhance waterfowl and other wildlife habitats, and will facilitate conversion of the vegetation to a more diverse emergent marsh plant community. The Project meets the categorical exemptions for an existing facility needing repair, with limited expansion and minor alteration of the land, and for the improvement of the habitat for fish and wildlife resources, per the guidelines defined under CEQA. (Cal. Code Regs., tit. 14, §§ 15301 and 15304.)
15. The State Water Board has prepared a notice for Class 1 and Class 4 Categorical Exemptions and will file a Notice of Exemption within five days from the issuance of this certification.

**ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE STATE WATER BOARD CERTIFIES THAT THE FOUR MILE AND WEED VALLEY RESERVOIR WETLANDS RESTORATION PROJECT OPERATED BY THE US MODOC NATIONAL FOREST** will comply with sections 301, 302, 303, 306, and 307 of the Clean Water Act, and with applicable provisions of State law, if the Applicant complies with the following terms and conditions during the Project activities certified herein.

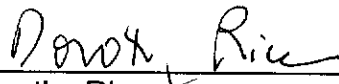
1. This certification is subject to modification or revocation upon administrative or judicial review including review and amendment pursuant to Water Code section 13330 and California Code of Regulations, title 23, division 3, chapter 28, article 6 (commencing with § 3867).
2. This certification action 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 sought a FERC license or amendment to a FERC license for a hydroelectric facility.
3. Notwithstanding any more specific conditions in this certification, the Project shall be operated in a manner consistent with all water quality standards and implementation plans adopted or approved pursuant to the Porter Cologne Water Quality Control Act or section 303 of the Clean Water Act. The USFS shall take all reasonable measures to protect the beneficial uses of water of the Lost River watershed.
4. 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 any 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 for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.
5. In response to a suspected violation of any condition of this certification, the State 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 State 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 State Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.

6. This certification does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (California Fish and Game Code, § 2050 to 2097) or the Federal Endangered Species Act (16 U.S.C., § 1531 to 1544). If a "take" will result from any act authorized under this certification or water rights held by the Applicant, the Applicant shall obtain authorization for the take prior to any construction or operation of the Project. The Applicant shall be responsible for meeting all requirements of the applicable Endangered Species Act for the Project authorized under this certification.
7. The State Water Board Executive Director and the North Coast Region Executive Officer shall be notified one week prior to the commencement of ground disturbing activities and shall be provided the construction schedule in order to allow staff to be present onsite, to answer any public inquiries during construction, and to document compliance with this certification.
8. No construction material, spoils, debris, or any other substances associated with this Project that may adversely impact water quality standards, shall be located in a manner resulting in a discharge or a threatened discharge to waters of the United States.
9. 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 not be placed within 50 feet of the high water mark of any stream or reservoir and shall not be allowed to enter into or be placed where it may be washed by rainfall into waters of the State.
10. Best Management Practices (BMPs) for erosion, sediment and turbidity control shall be implemented and be in place at commencement of, during and after any ground clearing activities or any other Project activities that could result in erosion or sediment discharges to surface water.
11. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete the Project.
12. Fresh concrete or grout that has not set shall not be allowed to contact or enter surface water.
13. Any imported rock placed in the stream channel for construction or armoring slopes shall be washed rock.
14. Oiling of roadways during construction or in association with any activity of whatever nature is not authorized by this Order.
15. All equipment using gas, oil, hydraulic fluid or other petroleum products shall be steam cleaned prior to its use in the waterway. All equipment shall be

inspected for leaks prior to use and shall be monitored for leakage. Equipment refueling shall only take place in a designated, contained area. Spill and containment equipment (oil spill booms, sorbent pads, etc.) shall be maintained onsite at all locations where such equipment is used.

16. Upon completion of the Project, all Project-generated debris, building materials, excess material, and trash shall be removed from the Project locations with disposal at appropriate waste disposal sites.
17. All BMPs described in the application for water quality certification are hereby incorporated by reference and are conditions of approval of this certification. Notwithstanding any more specific conditions in this certification, the USFS shall comply with all measures described in the application for water quality certification.
18. This certification is contingent on compliance with all applicable requirements of the Basin Plan, except as may be modified by the specific conditions of the certification.
19. The USFS shall provide a copy of this certification to the contractor and all subcontractors conducting the work, and require that copies remain in their possession at the work site. The USFS shall be responsible for work conducted by its contractor or subcontractors.
20. Any modifications of the proposed Project, including plans for off-site disposal of excavated material, may require submittal of a new Clean Water Act Section 401 Water Quality Certification application.
21. 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 State Water Board and North Coast Region shall be notified promptly, within 24 hours after the unauthorized discharge or water quality problem arises.
22. The USFS must submit any change to the Project, including Project operation, that would have a significant or material effect on the findings, conclusions, or conditions of this certification, to the Executive Director of the State Water Board for review and written approval.
23. All project work shall be conducted as described in this Order and in the application submitted by the USFS. If the State Water Board is not notified of a significant alteration to the project, it will be considered a violation of this Order, and the USFS may be subject to State Water Board enforcement actions.

24. The State Water Board may add to or modify the conditions of this certification, as appropriate, to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act.
25. The Lost River watershed is identified on the State of California Clean Water Act section 303(d) list as impaired for sediment and temperature. If a TMDL implementation plan is adopted prior to the expiration date of this Order, the State Water Board may revise the provisions of this Order to address actions identified in such action plans.
26. The State Water Board reserves authority to modify or revoke this certification if monitoring results indicate that the Project would violate water quality objectives or impair the beneficial uses.

  
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Dorothy Rice  
Executive Director

**JUN 24 2008**

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Date