

Central Valley Regional Water Quality Control Board

Keith Andrew Stone
Sequoia National Forest, Kern River Ranger District
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11 July 2016

CLEAN WATER ACT §401 TECHNICALLY CONDITIONED WATER QUALITY CERTIFICATION FOR DISCHARGE OF DREDGED AND/OR FILL MATERIALS FOR THE OSA MEADOW RESTORATION PROJECT, WDID#5C54CR00081, TULARE COUNTY

This Order responds to the 9 February 2016 application submitted by Sequoia National Forest (Applicant) for the Water Quality Certification of a habitat restoration project permanently impacting 0.41 acres of waters of the United States.

This Order serves as certification of the subject Project permitted by the United States Army Corps of Engineers' Nationwide Permit 27 under § 401 of the Clean Water Act, and a Waste Discharge Requirement under the Porter-Cologne Water Quality Control Act and State Water Resources Control Board Order 2003-0017-DWQ.

WATER QUALITY CERTIFICATION STANDARD CONDITIONS:

1. This Certification 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 Title 23 of the California Code of Regulations (23 CCR).
2. This Certification 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) 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 under 23 CCR § 3860.
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 State law and § 401 (d) of the federal 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 ensure compliance with this Certification.

WATER QUALITY CERTIFICATION GENERAL CONDITIONS:

1. Certification is valid for the duration of the Osa Meadow Restoration Project (Project) described in the attached "Project Information Sheet." This Certification is no longer valid if the Project (as summarized in the "Project Information Sheet" and described in the water quality certification application) is modified, or coverage under the project permit issued by the U.S. Army Corps of Engineers pursuant to § 404 of the Clean Water Act has expired.

2. The Applicant shall provide 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 approved amendments. 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.
3. Monitoring to evaluate the success of the Project is required following completion of Project construction. The Applicant shall provide to the Central Valley Water Board for Executive Officer approval, prior to commencement of Project construction, a copy of a Monitoring Plan that will document the following:
 - a. Function of the restored water resource;
 - b. Project purpose and goals;
 - c. Measureable performance standards appropriate to each goal;
 - d. Monitoring parameters and protocols to determine if performance standards have been met;
 - e. The timeframe and responsible party for determining attainment of performance standards; and
 - f. The appropriate monitoring schedule as needed to determine achievement of performance standards.
4. The Applicant shall implement the approved Monitoring Plan and shall provide Monitoring Reports annually, **by January 31**, for a minimum of **five years** following completion of construction. The Monitoring Report shall document status of performance standards and project goals for the previous calendar year, and shall include:
 - a. A summary of findings;
 - b. Identification and discussion of problems with achieving performance standards;
 - c. Proposed corrective measures, to be approved by the Central Valley Water Board staff; and
 - d. Monitoring data and photographs.
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 General 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.”

ADDITIONAL TECHNICALLY CONDITIONED CERTIFICATION CONDITIONS:

In addition to the standard and general conditions above, the Applicant shall satisfy the following:

1. The Applicant shall notify the Central Valley Water Board in writing **seven days** prior to beginning any in-water activities.
2. Except for activities permitted by the U.S. Army Corps of Engineers 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. All areas disturbed by Project activities shall be protected from washout or erosion.
4. 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.
5. An effective combination of erosion and sediment control Best Management Practices (BMPs) shall be implemented and adequately working during all phases of construction.
6. All temporarily affected areas shall be restored to pre-construction contours and conditions upon completion of construction activities.
7. The Applicant shall perform surface water sampling: 1) when performing any in-water work; 2) in the event that Project activities result in any materials reaching surface waters or; 3) when any activities result in the creation of a visible plume in surface waters. 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. The following monitoring shall be conducted immediately upstream out of the influence of the Project and approximately 300 feet downstream of the active work area. Sampling results shall be submitted to this office by the first day of the second month following sampling. The sampling frequency and monitoring locations may be modified for certain projects with written permission from the Central Valley Water Board Executive Officer.

Parameter	Unit	Type of Sample	Frequency of Sample
Turbidity	NTU	Grab	Every 4 hours during in-water work
Settleable Material	m/L	Grab	Same as above
pH	Standard units	Grab	Daily during concrete activity
Visible construction related pollutants	Observation	Visible Inspections	Continuous throughout the construction period

8. Activities shall not cause in surface waters:

- (a) where natural turbidity is between 0 and 5 Nephelometric Turbidity Units (NTUs), increases exceeding 1 NTU;
- (b) where natural turbidity is between 5 and 50 NTUs, increases exceeding 20 percent;
- (c) where natural turbidity is between 50 and 100 NTUs, increases exceeding 10 NTUs;
- (d) where natural turbidity is greater than 100 NTUs, increases exceeding 10 percent.

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 permission of the Central Valley Water Board Executive Officer.

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.

- 9. Activities shall not cause settleable material to exceed 0.1 ml/L in surface waters as measured in surface waters downstream from the Project.
- 10. Activities shall not cause the pH in surface waters to be depressed below 6.5 nor raised above 8.3.
- 11. 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 work area or downstream. The Applicant shall notify the Central Valley Water Board immediately of any spill of petroleum products or other organic or earthen materials.
- 12. Prior to arrival at the project site and prior to leaving the project site, construction equipment that may contain invasive plants and/or seeds shall be cleaned to reduce the spreading of noxious weeds.
- 13. The Applicant shall notify the Central Valley Water Board immediately if any of the above conditions are violated, along with a description of measures it is taking to remedy the violation.
- 14. The Applicant must obtain coverage under the NPDES General Permit for Storm Water Discharges Associated with Construction Activities issued by the State Water Resources Control Board.
- 15. The Applicant shall implement each of the mitigation measures specified in the approved Mitigated Negative Declaration as they pertain to biology, hydrology, and water quality impacts as required by § 21081.6 of the Public Resource Code and Title 14, § 15097 of the California Code of Regulations.
- 16. 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 State law and § 401 (d) of the federal 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 ensure compliance with this Certification.
- 17. If the Applicant or a duly authorized representative of the Applicant fails or refuses to furnish technical or monitoring reports, as required under this Certification, or falsifies any information

provided in the monitoring reports, the Applicant will be subject to civil liability, for each day of violation, or criminal liability.

18. In response to a suspected violation of any condition of this Certification, the Central Valley Water Board may require the Applicant to furnish, under penalty of perjury, any technical or monitoring reports the Central Valley Water Board deems appropriate, provided that the burden, including cost of the reports, shall be in reasonable relationship to the need for the reports and the benefits to be obtained from them.
19. The Applicant shall allow 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.

CENTRAL VALLEY WATER BOARD CONTACT PERSON:

Debra Mahnke, Water Resource Control Engineer
1685 E Street
Fresno, CA 93706
(559) 445-6281
debra.mahnke@waterboards.ca.gov

WATER QUALITY CERTIFICATION:

I hereby issue an order certifying that the proposed discharge from the Sequoia National Forest Osa Meadow Restoration Project, WDID 5C54CR00081, 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."

Except insofar 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, the attached "Project Information Sheet," and the Applicant's water quality certification application; and (b) compliance with all applicable requirements of the Central Valley Water Board's *Water Quality Control Plan for the Tulare Lake Basin*, Second Edition, revised January 2015.

Any person aggrieved by this action may petition the State Water Resources 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 Resources 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 Resources 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

Enclosure: Water Quality Order No. 2003-0017 DWQ
Attachment: Project Information Sheet
U. S. Forest Service Decision Memo, Osa Restoration Project

cc: Jason Brush, Supervisor, Wetlands Regulatory Office, U.S. Environmental Protection Agency,
Region 9, San Francisco (email)
Kate Dadey, Sacramento South Branch Chief, Regulatory Unit, Department of the Army, Corps
of Engineers, Sacramento
Bill Orme, Water Quality Certification Unit Chief, Division of Water Quality, State Water
Resources Control Board, Sacramento (email)
Julie Vance, Regional Manager, San Joaquin Valley-Southern Sierra Region, California
Department of Fish and Wildlife, Fresno
Mark Drew, California Trout, P.O. Box 3442, Mammoth Lakes, 93546
Leslie Mink, Plumas Corporation, P.O. Box 3880, Quincy, 95971

PROJECT INFORMATION SHEET

Application Date: 9 February 2016

Applicant: Sequoia National Forest

Applicant Representatives: Keith Andrew Stone, Sequoia National Forest
Mark Drew, California Trout

Project Name: Osa Meadow Restoration Project

Application Number: WDID 5C54CR00081

Type of Project: Meadow habitat restoration

Project Location: Approximately 10 miles northwest of the Blackrock Work Station on Forest Service Road 21S03 to 20S25, Sections 16 and 17, Township 20 South, Range 34 East, MDB&M. Latitude: 36.18077° and Longitude: -118.30578 °

Project Duration: The Project is tentatively scheduled to begin in August 2016 and be completed in October of 2016. The schedule may be adjusted to avoid or minimize environmental impacts.

County: Tulare

Receiving Water: Osa Creek, tributary to Kern River, Tulare Lake Hydrologic Basin, Kern River Hydrologic Unit #554.24, Upper Kern HA, North Fork Kern HAS
Latitude: 36° 10' 51.2", Longitude: -118° 18' 20.5"

Water Body Type: Creek

Designated Beneficial Uses: The *Water Quality Control Plan for the Tulare Lake Basin, Second Edition*, revised January 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); Industrial Supply (IND); Hydropower Generation (POW); Groundwater Recharge (GWR); Water Contact Recreation (REC-1); Non-Contact Water Recreation (REC-2); Warm Freshwater Habitat (WARM); Cold Freshwater Habitat (COLD); Preservation of Biological Habitats of Special Significance (BIOL); Rare, Threatened, or Endangered Species (RARE); 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.

Project Description: The purpose of the Project is to restore floodplain function to the meadow surrounding the headwaters of Osa Creek. Approximately 5,500 cubic yards of native soil and rock material would be excavated from one to four borrow areas (1.76 acres), located within the Project area, and moved short distances to construct two channel/gully plugs and a grade control structure, (totaling 0.97 acres of fill: 0.41 ac of wetland and 0.56 ac of non-wetland). Flows would be re-directed from the existing incised channel into an existing swale flow path on the surface of the meadow.

Preliminary Water Quality Concerns: Construction activities may impact surface waters with increased turbidity and settleable matter.

Proposed Mitigation to Address Concerns: Mitigation measures are included in Appendix A of the attached "Decision Memo," and the CEQA checklist Mitigation, Monitoring, and Reporting Program Summary. Measures include: Construction during the low flow period; flow diversion into the existing swale flow path; seeding newly disturbed areas with locally collected native seed and mulching with weed-free straw; removal, stock-piling, and re-planting of existing whole plants (riparian grasses, forbs and shrubs) that would be disturbed; removal, stock-piling, and spreading of top soil; restricting haul routes to areas of excavation or fill to minimize impact; use of tracked equipment to minimize compaction; servicing and re-fueling equipment outside of the riparian zone; and collecting monitoring data.

Fill/Excavation Area: Approximately 0.21 acres (2,298 linear feet) of un-vegetated streambed and 0.20 acres of riparian floodplain will be permanently impacted by placement of approximately 5,500 cubic yards of native soil and rock material.

Dredge Volume: None

U.S. Army Corps of Engineers Permit Number: Nationwide Permit 27

Department of Fish and Wildlife Streambed Alteration Agreement: Not required for a Federal Project on Federal land.

Status of CEQA Compliance: The Central Valley Water Board approved a Mitigated Negative Declaration on 24 June 2016 and issued a Notice of Determination (State Clearinghouse Number SCH 2016031097).

Mitigation for impacts to water quality is discussed in the "Proposed Mitigation to Address Concerns" section above and the "Compensatory Mitigation" section below.

Compensatory Mitigation: The Project will restore approximately 30 to 40 acres of wetland meadow habitat.

Application Fee Provided: Not required for a Federal Project on Federal land.