

State Water Resources Control Board

WATER QUALITY ORDER NO. 2023-0046-DWQ CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND NOTICE OF APPLICABILITY FOR ENROLLMENT UNDER STATE WATER RESOURCES CONTROL BOARD ORDER FOR RESTORATION PROJECTS STATEWIDE (ORDER WQ 2022-0048-DWQ)

Effective Date: June 12, 2023
Expiration Date: June 12, 2028
Program Type: Restoration
Project Type(s): Improvements to Stream Crossings and Fish Passage

Project: 2022 Fisheries Restoration Grant Program
Regulatory Measure ID: **451434**
WDID No: **SB23012IN**

Applicant: California Department of Fish and Wildlife

Applicant Contact: Timothy Chorey
Fisheries Restoration Grant Program Statewide Coordinator
California Department of Fish and Wildlife
1010 Riverside Parkway
West Sacramento Yolo, CA 95605
Phone: (916) 838-0760
Email: Timothy.Chorey@wildlife.ca.gov

Applicant's Agent: Rhiannon Mulligan
California Department of Fish and Wildlife
1010 Riverside Parkway
West Sacramento Yolo, CA 95605
Phone: (916) 594-3924
Email: Rhiannon.Mulligan@wildlife.ca.gov

Water Board Staff: Stephen Barlow
Environmental Scientist
1001 I Street
Sacramento, CA 95814
Phone: (916) 327-8546
Email: Stephen.Barlow@waterboards.ca.gov

Water Board Contact: If you have any questions, please contact the State Water Resources Control Board (State Water Board) Water Board Staff listed above, call (916) 341-5900, or email SB-401Application@waterboards.ca.gov.

Table of Contents

State Water Resources Control Board	1
I. Summary	3
II. Program Description	3
III. Receiving Waters Information.....	4
IV. Direct Impacts and Benefits to Waters of the State	4
V. Description of Indirect Impacts to Waters of the State.....	5
VI. Conditions	5
VII. California Environmental Quality Act (CEQA).....	7
VIII. Public Notice.....	7
IX. Fees Received.....	7
X. Water Quality Certification	7

Attachment A: Project Map

Attachment B: Receiving Waters Information

Attachment C: General Protection Measures

Attachment D: Order WQ 2022-0048-DWQ

Attachment E: **Additional** Compliance with 40 CFR Part 121.7 for Order
WQ 2022-0048-DWQ Conditions

Attachment F: CEQA Findings of Fact

I. Summary

This document serves as a Notice of Applicability (NOA) for enrollment under the State Water Board Order for restoration projects statewide (Order WQ 2022-0048-DWQ; hereafter referred to as the Order) at the request of the California Department of Fish and Wildlife (Permittee). The Order is included as Attachment D and can be accessed at the [State Water Board's Certification and Wetlands Program General Orders web page](https://www.waterboards.ca.gov/water_issues/programs/cwa401/generalorders.html#yr_2020) (https://www.waterboards.ca.gov/water_issues/programs/cwa401/generalorders.html#yr_2020). On April 24, 2023, the State Water Board received a complete Notice of Intent requesting authorization for the Permittee's 2022 Fisheries Restoration Grant Program (Program). The Permittee submitted a certification request as defined by 40 CFR section 121.5 concurrently to the State Water Board and the U.S. Army Corps of Engineers (Corps) on April 27, 2023. After reviewing the Notice of Intent, the State Water Board has determined that the Program meets requirements for enrollment under the Order.

This NOA also serves as an individual Water Quality Certification under Clean Water Act Section 401.

II. Program Description

As described in the Notice of Intent and supplemental information (hereafter referred to as the Application), which is incorporated herein by reference, the purpose of the Program is to increase populations of wild anadromous fish in coastal streams by restoring ecological function to their habitat. Sixteen (16) Individual restoration projects shall be implemented under the Program in accordance with procedures found in the most recent version of the "California Salmonid Stream Habitat Restoration Manual." The Program supports a variety of restoration activities including instream habitat improvements, unanchored large woody debris, fish screens, fish passage at stream crossings, riparian habitat restoration, and watershed and stream bank stability.

A. Program Size

The acreage and linear feet, if applicable, of aquatic and upland areas comprising the Program are shown in Table 1. The size includes access, staging, and work areas.

Table 1: Program Size

Program Areas	Acres	Linear Feet
Aquatic	28.073	57,485
Upland	1.201	n/a
Total	29.274	57,485

B. Project Locations

The Program consists of sixteen (16) individual project sites in the following counties: Mendocino, Del Norte, Monterey, Humboldt, Sonoma, and Santa Barbara. A map showing the individual project locations is found in Attachment A of this NOA.

III. Receiving Waters Information

The individual projects are located within the jurisdictions of the North Coast Water Quality Control Board and the Central Coast Regional Water Quality Control Board (collectively Regional Boards). Receiving waters and groundwater potentially impacted by this Program are listed in Attachment B. These waters are regulated in accordance with the applicable water quality control plan (Basin Plan) for the regions and other plans and policies of the California Water Boards, which may be accessed at the [State Water Board's Plans and Policies web page](http://www.waterboards.ca.gov/plans_policies/) (http://www.waterboards.ca.gov/plans_policies/).

IV. Direct Impacts and Benefits to Waters of the State

Total Program fill/excavation quantities for all direct impacts and benefits to waters of the state are summarized in Tables 2 and 3. Temporary impacts, by definition, are restored to pre-project conditions and therefore do not include a physical loss of area or degradation of ecological condition. Permanent impacts are categorized as those resulting in a physical loss in area and also those degrading ecological condition. Benefits to waters of the state include aquatic and/or riparian resources that are established, enhanced, and/or restored.

Table 2: Total Temporary and Permanent Program Impacts to Waters of the State

Aquatic Resources Type	Temp. Impact Acres	Temp. Impact Cubic Yards	Temp. Impact Linear Feet	Perm. Impact Acres	Perm. Impact Cubic Yards	Perm. Impact Linear Feet
Wetland	2.025	Not Provided	2,635	2.596	Not Provided	1,394
Riparian	8.358	Not Provided	21,352	1.119	Not Provided	4,317
Streambed/ Stream bank	2.537	Not Provided	5,727	5.0037	Not Provided	11,015
Total:	12.92	n/a	29,714	8.7182	n/a	16,726

Table 3: Total Program Benefits to Waters of the State

Aquatic Resources Type	Benefit Acres	Benefit Linear Feet
Wetland	4.539	3,519
Riparian	15.792	31,618
Streambed/ Stream bank	28.073	57485
Total:	48.404	92,622

V. Description of Indirect Impacts to Waters of the State

The State Water Board recognizes the potential for indirect impacts to waters of the state associated with the Program. Potential indirect adverse effects include but are not limited to increased sediment loading to aquatic resources from access or staging areas, introduction of invasive species into the Program area, and alteration of runoff delivery to aquatic resources in the Program area. The Program, as designed, will not have significant indirect impacts to waters of the state.

VI. Conditions

The State Water Board has independently reviewed the record of the Program to analyze impacts to water quality and designated beneficial uses within the watersheds associated with each individual project. The Program may proceed only in accordance with the following conditions.

- A. The Program may proceed only as described above in Sections II through IV and as described in the application submitted to the State Water Board by the Permittee, in accordance with the conditions in State Water Board Order WQ 2022-0048-DWQ (Attachment D) and in accordance with the General Protection Measures listed in Attachment C.

For 40 CFR § 121.7(d)(2), this condition is necessary because authorization is based on the application information submitted. This condition protects water quality by ensuring that the authorized activity is implemented as proposed and approved. Water Code section 13264 prohibits any discharge that is not specifically authorized in an order. Attachment E includes additional information regarding why the conditions set forth in State Water Board Order WQ 2022-0048-DWQ (Attachment D) are necessary to assure that any discharge under this Certification will comply with water quality requirements.

B. Compensatory Mitigation

1. No compensatory mitigation is required for permanent impacts because the Program provides restoration that includes an overall net increase in functions and/or services for each aquatic resources type proposed to be impacted.

C. Reporting and Notification Requirements

As set forth in Order (Attachment D) Section XIII.B, the NOA may specify a deadline for the annual report. An Annual Report shall be submitted to the State Water Board each year on January 15 until a Notice of Project Complete Letter is requested by and issued to the Permittee for each of the individual projects under the Program.

For 40 CFR § 121.7(d)(2), reporting and notification requirements are necessary to confirm that the requirements set by this certification are satisfied, and that the requirements are sufficient to protect beneficial uses and water quality objectives. Monitoring and reporting requirements are authorized by Water Code sections 13267 and 13383.

D. Water Quality Monitoring

1. In-Water Work or Diversions

For projects involving planned work in water or stream diversions, a dewatering plan and water quality monitoring plan shall be submitted to State Water Board staff for approval at least thirty (30) days in advance of commencement of project activity. Water quality monitoring shall be conducted in accordance with the approved plan.

The water quality monitoring plan shall include, at a minimum, the Table 4 sampling parameters. In the event that water quality sampling shows an exceedance of water quality objectives notify the State Water Board in accordance with Order (Attachment D) Section XIII.B.3.b.

Table 4: Sample Type and Frequency Requirements

Parameter	Unit of Measurement	Type of Sample	Minimum Frequency
Oil and Grease	N/A	Visual	Continuous
Dissolved Oxygen	mg/L and % saturation	Grab	Every 4 Hours
pH	Standard Units	Grab	Every 4 hours
Turbidity	NTU	Grab	Every 4 hours
Temperature	°F (or as °C)	Grab	Every 4 hours

For 40 CFR § 121.7(d)(2), water quality is protected by requiring the Permittee to develop a water quality monitoring plan to be implemented when installing diversions and performing in-water work. If the monitoring finds any degradation of water quality, the cause can be determined, and remediation can be required as necessary.

Monitoring and reporting requirements are authorized by Water Code sections 13267 and 13383. The burden of preparing these reports, including costs, are reasonable to the need and benefits of obtaining the reports. The reports confirm that the general protection measures required under this NOA are sufficient to protect beneficial uses and water quality objectives.

VII. California Environmental Quality Act (CEQA)

On November 14, 2022, the, California Department of Fish and Wildlife as lead agency, adopted an initial study/mitigated negative declaration (IS/MND) (State Clearinghouse (SCH) No. 2022090444) for the Program and filed a Notice of Determination (NOD) at the SCH on January 3, 2023. Pursuant to CEQA, the State Water Board has made Findings of Fact (Findings) which support the issuance of this NOA and are included in Attachment F.

VIII. Public Notice

The State Water Board provided public notice of the application pursuant to California Code of Regulations, title 23, section 3858 from March 2, 2023, to March 23, 2023. The State Water Board did not receive any comments during the comment period.

IX. Fees Received

An application fee of \$729 was received on January 23, 2023. The fee amount was determined as required by California Code of Regulations, Title 23, sections 3833(b)(3) and 2200(a)(3) and was calculated as Category D - Ecological Restoration and Enhancement Projects (Fee Code 85) with the dredge and fill fee calculator.

X. Water Quality Certification

I hereby issue this Notice of Applicability and water quality certification for the 2022 Fisheries Restoration Grant Program, SB23012IN, certifying that as long as all of the conditions listed in State Water Board Order WQ 2022-0048-DWQ are met, any discharge from the referenced Program will comply with the applicable provisions of Clean Water Act sections 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).

Enrollment under State Water Board Order WQ 2022-0048-DWQ serves as waste discharge requirements pursuant California Water Code section 13263.

The State Water Board will file a Notice of Determination (NOD) at the SCH within five (5) working days of issuance of this Notice of Applicability and certification.

Except insofar as may be modified by any preceding conditions, all Program actions are contingent on: (a) compliance with the conditions of this Notice of Applicability and the State Water Board Order WQ 2022-0048-DWQ and the attachments to both; and (b) compliance with all applicable requirements of Statewide Water Quality Control Plans and Policies, and the Regional Boards' Water Quality Control Plans.

Phillip Crader  Digitally signed by Phillip Crader
Date: 2023.06.12 13:49:18 -07'00' FOR
Water Boards

Date

Karen Mogus, Deputy Director
Division of Water Quality