



Linda S. Adams
Secretary for
Environmental Protection

State Water Resources Control Board

Executive Office

Tam M. Doduc, Board Chair
1001 I Street • Sacramento, California 95814 • (916) 341-5615
Mailing Address: P.O. Box 100 • Sacramento, California • 95812-0100
Fax (916) 341-5621 • <http://www.waterboards.ca.gov>



Arnold Schwarzenegger
Governor

SEP 18 2008

Ms. Erin Lutrick, Hydrologist
Inyo National Forest
351 Pacu Lane, Suite 200
Bishop, CA 93515

Dear Ms. Lutrick:

CLEAN WATER ACT (CWA) SECTION 401 WATER QUALITY CERTIFICATION FOR THE KERN PLATEAU STREAM AND RIPARIAN RESTORATION

Inyo National Forest has requested that the State Water Resources Control Board (State Water Board) issue a CWA section 401 Water Quality Certification (Certification) for the Kern Plateau Stream and Riparian Restoration. A complete application for Certification was received on July 3, 2008. State Water Board staff reviewed the information submitted by Inyo National Forest describing the project activities and the proposed water quality protection measures. Consultations regarding this program were also conducted with the Lahontan and Central Valley Regional Water Quality Control Boards and the U.S. Army Corps of Engineers.

Pursuant to Title 23, section 3838 of the California Code of Regulations, I hereby make the Certification determination described in Attachment 1 for these projects.

The following additional information is also made a part of this Certification:

- Attachment 1: Inyo National Forest's Certification;
- Attachment 2: Signatory Requirement;
- Attachment 3: Project Information Sheet;
- Attachment 4: Receiving Waters List; and
- Attachment 5(a), (b), and (c): Project Location Maps.

If you require further assistance, please contact Darren Bradford, the staff person most knowledgeable on the subject, at (916) 341-5558 (dbradford@waterboards.ca.gov).

You may also contact Bill Orme, Chief of the 401 Certification and Wetlands Protection Unit, at (916) 341-5464 (borme@waterboards.ca.gov).

Sincerely,



Dorothy Rice
Executive Director

Attachments (5)

cc: (all w/attachments)

Mr. Dave Smith, Chief
Wetlands Regulatory Office
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105

Mr. Mike Jewell, Chief
Regulatory Branch, Sacramento District
U.S. Army Corps of Engineers
1325 J Street
Sacramento, CA 95814-2922

Mr. Dave Castanon, Chief
Regulatory Branch, Los Angeles District
U.S. Army Corps of Engineers
915 Wilshire Blvd.
Los Angeles, CA 90017-3401

Ms. Debbi Bates
Central Valley Regional Water Quality Control Board
Fresno Office
1685 E Street, Suite 200
Fresno, CA 93706

Ms. Mary Dellavalle
Lahontan Regional Water Quality Control Board
Victorville Office
14440 Civic Drive, Suite 200
Victorville, CA 92392

**ORDER FOR CLEAN WATER ACT SECTION 401
WATER QUALITY CERTIFICATION (CERTIFICATION)
FOR INYO NATIONAL FOREST,
KERN PLATEAU STREAM AND RIPARIAN RESTORATION**

Project: Kern Plateau Stream and Riparian Restoration (Project)

Applicant: Erin Lutrick (Agent)
Inyo National Forest, applicant
351 Pacu Lane, Suite 200
Bishop, CA 93515

This Order responds to your request on behalf of Inyo National Forest (Forest Service) for a water quality certification for the subject project. Your complete application was received on July 3, 2008.

ACTION:

- | | |
|---|---|
| <input type="checkbox"/> Order for Standard Certification | <input type="checkbox"/> Order for Denial of Certification |
| <input checked="" type="checkbox"/> Order for Technically Conditioned Certification | <input type="checkbox"/> Order for Waiver of Waste Discharge Requirements |

AUTHORIZATION:

This Certification conditionally certifies up to 55 new rock grade and stabilization structures to be constructed and up to 100 structures to be rebuilt, repaired, or maintained as described in Attachments 3 and 4.

STANDARD CONDITIONS:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the California Water Code (CWC) and Article 6 (commencing with section 3867) of Chapter 28, Title 23 of the California Code of Regulations (CCR 23).
2. This certification action is not intended and shall not be construed to apply to 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 subsection 3855(b) of Chapter 28, CCR 23, 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 Chapter 28, CCR 23 and owed by the applicant.

ADDITIONAL CONDITIONS:

1. Best Management Practices (BMPs)

- a. Appropriate BMPs shall be implemented throughout the project activities to help minimize sediment disturbance and suspension within the water. All BMP materials shall be on site and ready for use prior to project implementation. BMPs shall be in full compliance with all specifications governing the proper design, installation, operation, and maintenance of such management practices.
- b. No work shall be conducted during the winter period (November 1-April 15), unless prior approval has been obtained from the 401 Program Manager of the appropriate Regional Water Quality Control Board (Regional Water Board).
- c. In the event of rain, the disturbed area shall be temporarily stabilized with weed-free straw or other material.
- d. All areas disturbed by project activities shall be protected from washout and erosion.
- e. For projects requiring re-vegetation of disturbed areas, native species shall be used.
- f. Complete routine maintenance if observations show that structures are not performing properly to reduce erosion.
- g. The discharge of petroleum products or other pollutants to surface waters that may result in violation of water quality standards is prohibited. Activities shall not cause visible oil, grease, or foam in the work area or downstream.
- h. Fueling, lubrication, maintenance, storage, and staging of vehicles and equipment shall be at least 100 feet from waters of the State. Fueling, lubrication, maintenance, storage, and staging of vehicles and equipment shall not result in a discharge or a threatened discharge to any waters of the State.
- i. When a project is completed, any excess material or debris shall be removed from the work area and disposed of properly.

2. Monitoring

Forest Service watershed specialists shall visit the project area the year after installation and then every two years while this Certification is in effect. Inyo National Forest will submit monitoring reports by November 1st of each monitoring year to the 401 Program Managers of the State Water Resources Control Board (State Water Board) and the appropriate Regional Water Board(s) documenting work undertaken the previous year(s). The reports, at a minimum, shall include:

- a. Project purpose and summary work description;
- b. Name(s) of affected water body(ies);

- c. Latitude/longitude in decimal degrees to at least four decimals;
- d. For projects completed during the year:
 - i. The type(s) of receiving (affected) water body(ies) (e.g., at a minimum: river/streambed, lake/reservoir, ocean/estuary/bay, riparian area, or wetland type); and
 - ii. The total quantity in square feet and linear feet of each type of receiving water body temporarily impacted, and permanently impacted;
- d. Actual construction start and end-dates for each project location;
- e. Documentation of changes in morphology or riparian vegetation structure, in writing and with repeat photo points.

Reports shall be directed to: Program Manager, Certification and Wetlands Program: at the following State and appropriate Regional Water Board office(s):

State Water Resources Control Board
 Division of Water Quality
 1001 "I" Street, 15th Floor
 Sacramento, CA 95814

Central Valley Regional Water Quality Control Board
 Fresno Office
 1685 E Street, Suite 200
 Fresno, CA 93706

Lahontan Regional Water Quality Control Board
 Victorville Office
 14440 Civic Drive, Suite 200
 Victorville, CA 92392

ADMINISTRATIVE CONDITIONS:

1. This certification shall expire upon the expiration or retraction of the Clean Water Act section 404 permit issued by the U.S. Army Corps of Engineers, or five (5) years from the date of issuance of this certification, whichever comes first.
2. The State Water Board reserves the right to suspend, cancel, or modify and reissue this certification, after providing notice to the applicant and/or responsible contractor/sub-contractor, if the State Water Board determines that the project fails to comply with any of the terms or conditions of this certification.
3. A copy of this certification, the application, and supporting documentation must be available at the project site during construction for review by site personnel and agencies. All personnel performing work on the proposed project shall be familiar with the content of this certification and its posted location on the project site.

4. The Forest Service shall grant State Water Board and Regional Water Board staff, or an authorized representative, upon presentation of credentials and other documents as may be required by law, permission to enter the project site at reasonable times, to ensure compliance with the terms and conditions of this certification and/or to determine the impacts the project may have on waters of the State.
5. The Forest Service shall notify the State Water Board within 24 hours of any noncompliance that may impact the beneficial uses of waters of the State. The notification shall include the volume and type of materials discharged and recovered, measures used to stop and contain the discharge, and measures implemented to prevent future discharges.
6. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation must be subject to any remedies, penalties, processes, or sanctions as provided for under State law.

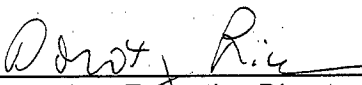
STATE WATER BOARD CONTACT PERSON:

If you have any questions, please contact State Water Board Environmental Scientist Darren Bradford at (916) 341-5558 or via e-mail at dbradford@waterboards.ca.gov or by mail at Certification & Wetlands Program, State Water Board, 1001 I Street, 15th Floor, Sacramento, CA 95814.

WATER QUALITY CERTIFICATION:

I hereby issue an order certifying that discharges from the projects as described in Attachments 3 and 4 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) if all of the conditions listed in this certification action are met. This discharge is also regulated pursuant to State Water Board Water Quality Order No. 2003-0017-DWQ which authorizes this certification to serve as Waste Discharge Requirements pursuant to the Porter-Cologne Water Quality Control Act (CWC section 13000 et seq.).

Except insofar as may be modified by any preceding conditions, all certification actions are contingent on: (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the Project Information Sheet (Attachment 3), and (b) compliance with all applicable requirements of the Regional Water Quality Control Board's Water Quality Control Plan.



Dorothy Rice, Executive Director
State Water Resources Control Board

9.18.08

Date

SIGNATORY REQUIREMENTS

*All Documents Submitted In Compliance With This Order
Shall Meet The Following Signatory Requirements:*

1. All applications, reports, or information submitted to the State Water Resources Control Board (State Water Board) must be signed and certified as follows
 - (a) For a corporation, by a responsible corporate officer of at least the level of vice- president.
 - (b) For a partnership or sole proprietorship, by a general partner or proprietor, respectively.
 - (c) For a municipality, or a state, federal, or other public agency, by either a principal executive officer or ranking elected official.

2. A duly authorized representative of a person designated in Items 1.a through 1.c above may sign documents if:
 - (a) The authorization is made in writing by a person described in Items 1.a through 1.c above.
 - (b) The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity.
 - (c) The written authorization is submitted to the State Water Board Executive Director.

3. Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

PROJECT INFORMATION SHEET

Applicant: Inyo National Forest, Applicant
351 Pacu Lane, Suite 200
Bishop, CA 93515

Project Name: Kern Plateau Stream and Riparian Restoration

Project Location: Kern Plateau, Golden Trout Wilderness, Inyo and Tulare Counties. Four of the seven project sites are on tributaries to the Kern River (Tulare County) and three are in the Cottonwood Creek watershed (Inyo County), which flows to the Owens River.

Type of Project: Stream and Riparian Restoration

Project Description: The purpose of the project is to improve meadow and stream condition, as well as aquatic habitat for Golden Trout and Mountain Yellow Legged Frog.

The project sites are on streams within meadows/wetlands where there have been negative impacts as a result of overgrazing and recreational land uses. In all cases, there has been stream head cutting, incision, and/or widening that currently threatens to extend upstream. In most cases, the stream alteration has also affected the hydrologic function of the surrounding meadow by lowering the water table. This project would construct grade control and stabilization structures and repair existing structures to help stop headcut expansion and begin returning the stream to a more natural morphology.

Restoration work will include: 1) Repair and maintain failing headcut and grade stabilizing structures in Olivas, Casa Vieja, Horseshoe, Dutch, Groundhog, and Ash Meadows; 2) Install new structures in Casa Vieja, Olivas, Bullfrog, and Groundhog Meadows; and 3) Perform headcut and grade stabilization effectiveness monitoring.

The project would consist of work at seven individual locations (See Attachments 4 and 5 for locations and project details) across the Kern Plateau. At these locations, a total of approximately 55 new structures would be constructed and up to 100 would be rebuilt, repaired, or maintained. The structures will be placed across the channel over approximately 4.2 stream miles, each structure covers approximately 5-20 feet of stream (from 50-400 square feet total ground disturbance each), for a total ground disturbance of less than ½ acre at the restoration sites. There may be up to an additional ½ acre of ground disturbance at the borrow sites for rocks and other construction material. The stream length that would be protected from current and future downcutting would be about 6.2 miles. An estimated 180 acres of meadow will be restored or protected from dewatering and

subsequent vegetation change. Willows will be planted in the project area, which will increase riparian vegetation in some areas.

California Environmental Quality Act (CEQA): Based on a review of the project information submitted to date, State Water Resources Control Board (State Water Board) staff determined that this project is categorically exempt from CEQA. (Section 15303 – Small Habitat Restoration).

Federal Agency Permit(s): The Inyo National Forest has applied for Regional General Permits (RGP)-Number 27 in the Los Angeles and Sacramento Districts of the U.S. Army Corps of Engineers.

State Agency Permit(s): N/A

Receiving Waters/
Hydrologic Units: See Attachment #4

Impacted Waters: Temporary Impacts
Streambed: 0 acres
Wetland: 0 acres

Permanent Impacts
Streambed: 0.15 acres
Wetland: 0.24 acres

All receiving waters are Waters of the U.S.

Non-Compensatory Mitigation: A combination of avoidance and minimization measures is proposed to offset potential effects of project construction to wetlands and waters of the U.S./State. All feasible and practical measures will be undertaken to avoid and/or minimize impacts to waters during construction. All restoration projects will be implemented consistent with the Best Management Practices (BMP) stated in the Forest Service (Region 5) BMP handbook and 401 Certification application.

Compensatory Mitigation: The Kern Plateau Stream and Riparian Restoration project is designed to be self mitigating as the project will prevent loss of wetlands; reduce streambank soil erosion, and improve water quality, stream function, and riparian vegetation.

Public Notice: In satisfaction of the public notice requirements of section 3858, Title 23, of the California Code of Regulations, which governs the State's Certification Program, a Public Notice of Application for Water Quality Certification for the subject project was posted on the State Water Board website on August 4, 2008.

Fees: On July 13, 2008, a check from the Inyo National Forest in the amount of \$500.00 was received by the State Water Board in payment of required fees associated with this permit application.

IMPACTED RECEIVING WATERS (STATE AND U.S.) WITHIN THE PROJECT AREA

Type of Water Body	Hydrologic Unit Code (HUC)	Name of Water Body	Area of Wetlands	Area of Streambed	Linear ft of Streambed
1. Intermittent Stream	Owens Lake 18090103	Unnamed tributary to Cottonwood Creek, then Lower Owens River – Horseshoe/Round Meadow Site (Inyo County)	600 square feet (20 structures, 10 feet wide by 3 feet linear)	360 square feet (6 feet wide by 3 feet long)	15 feet
2. Intermittent Stream	Owens Lake 18090103	Diaz Creek Dutch Meadow Site (Inyo County)	600 square feet (maintenance only of 20 structures)	360 square feet	60 feet
3. Intermittent Stream	South Fork Kern 18030002	Unnamed tributary to Mulkey Creek, then South Fork Kern River – Bullfrog Meadow Site (Tulare County)	30 square feet (1 structure, 10 feet wide by 3 feet linear)	30 square feet	10 feet
4. Intermittent Stream	Owens Lake 18090103	Ash Creek, tributary to Owens Lake - Ash Meadow Site (Inyo County)	600 square feet (maintenance only of 20 structures, may include adding more rock or logs)	360 square feet	60 feet
5. Perennial Stream	South Fork Kern 18030002	Ninemile Creek - Casa Vieja Meadow Site (Tulare County)	2,530 square feet (new structures = 10 feet wide x 15 feet long)	1,530 square feet (new structures = 6 feet wide x 15 feet long)	255 feet
6a. Intermittent Stream	South Fork Kern 18030002	Unnamed tributary to South Fork Kern River. Called "Olivas Creek" on our maps (Tulare County)	1,150 square feet	630 square feet	105 feet
6b. Perennial Stream	South Fork Kern 18030002	Kingfisher Stringer (Tulare County)	2,250 square feet	1,350 square feet	225 feet

Type of Water Body	Hydrologic Unit Code (HUC)	Name of Water Body	Area of Wetlands	Area of Streambed	Linear ft of Streambed
7. Intermittent Stream	South Fork Kern 18030002	Unnamed tributary to Golden Trout Creek Groundhog Meadow Site (Tulare County)	2,650 square feet	1,710 square feet	285 feet
Total			10,410 square feet (0.24 acres)	6,330 square feet (0.15 acres)	1,060 linear feet

FILL

Note: All work is fill work, with no dredging. The entire project is within wetlands and/or stream channels

Type of Water Body	Name of Water Body	Fill Volume (CY) and Type (all rock and log fill)	Total of Fill Surface Area (Wetland and Streambed)	Length of Fill
1. Intermittent Stream	Unnamed tributary to Cottonwood Creek, then Lower Owens River – Horseshoe/Round Meadow Site (Inyo County)	89 cubic yards	960 square feet	60 feet
2. Intermittent Stream	Diaz Creek Dutch Meadow Site (Inyo County)	89 cubic yards	960 square feet	60 feet
3. Intermittent Stream	Unnamed tributary to Mulkey Creek, then South Fork Kern River – Bullfrog Meadow Site (Tulare County)	4 cubic yards	60 square feet	10 feet
4. Intermittent Stream	Ash Creek, tributary to Owens Lake - Ash Meadow Site (Inyo County)	89 cubic yards	960 square feet	60 feet
5. Perennial Stream	Ninemile Creek - Casa Vieja Meadow Site (Tulare County)	375 cubic yards	4,060 square feet	255 feet
6a. Intermittent Stream	Unnamed tributary to South Fork Kern River. Called "Olivas Creek" on our maps (Tulare County)	170 cubic yards	1,780 square feet	105 feet
6b. Perennial Stream	Kingfisher Stringer (Tulare County)	333 cubic yards	3,600 square feet	225 feet

Type of Water Body	Name of Water Body	Fill Volume (CY) and Type (all rock and log fill)	Total of Fill Surface Area (Wetland and Streambed)	Length of Fill
7. Intermittent Stream	Unnamed tributary to Golden Trout Creek Groundhog Meadow Site (Tulare County)	393 cubic yards	4,360 square feet	285 feet
Total		1,542 cubic yards	16,740 square feet (0.39 acres)	1,060 feet