

State Water Resources Control Board

ACTION ON REQUEST FOR CLEAN WATER ACT (CWA) SECTION 401
WATER QUALITY CERTIFICATION (CERTIFICATION) FOR THE CALIFORNIA
DEPARTMENT OF FISH AND GAME 2012 FISHERIES RESTORATION GRANT PROGRAM
PROJECT
FILE NO. SB12003IN

PROJECT: California Department of Fish and Game (CDFG) – 2012 Fisheries Restoration Grant Program Project (Project)

APPLICANT: Ms. Patty Forbes
Fisheries Branch
Department of Fish and Game
830 S Street
Sacramento, CA 95814

This Certification responds to your request on behalf of CDFG for Certification of the Project. Your application was received on April 3, 2012, and was determined to be complete on April 19, 2012.

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 44 restoration projects funded through the Project grant cycle as listed in Attachment C. This Certification does not apply to the placement of any new culvert or channel liner in any water body unless the restoration project has been approved in writing by the 401 Program Manager of the appropriate Regional Water Quality Control Board (Regional Water Board). Such restoration projects will be identified by CDFG in the notification submitted to the appropriate Regional Water Board, as required in Additional Condition 3 (listed below). The 401 Program Manager of the appropriate Regional Water Board has 30 days from the receipt of the notification to respond; otherwise the restoration project may proceed under this Certification.

STANDARD CONDITIONS:

1. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to the Water Code, section 13330, and the California Code of Regulations (Cal. Code Regs.), title 23, section 3867 and following.
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 Cal. Code Regs., title 23, section 3855, subdivision (b), 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 Cal. Code Regs., title 23, and owed by the applicant.

ADDITIONAL CONDITIONS:

1. Best Management Practices (BMPs)
 - a. Appropriate BMPs shall be implemented throughout all Project restoration activities to help minimize sediment disturbance and suspension within the water as described in this section and in the Mitigated Negative Declaration (MND) for the Project. All BMP materials shall be onsite prior to construction activity and ready for use. 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 within waters of the state, including waters of United States ("waters" collectively), during the winter period (November 1 - April 15). However, work in upland areas may occur if proper control measures or BMPs are installed and maintained to prevent runoff causing erosion, turbidity, or discharge of pollutants into waters. If upland work occurs during the winter period, a written notification (e-mail is acceptable) must be submitted to the 401 Program Manager of the appropriate Regional Water Board at least seven (7) business days prior to the start of work. The notification must specify timing, location, approximate distance to nearest water body and control measures or BMPs that will be used to contain potential runoff prior to commencement of work.
 - c. Except for "minor actions" as described in the MND for the Project, all work areas shall be effectively isolated from stream flows using suitable control measures before commencement of any in-water work. The diverted stream flow shall not be contaminated by construction activities. Structures for isolating the in-water work area and/or diverting the stream flow (e.g., coffer dam, geo-textile silt curtain) shall not be removed until all disturbed areas are cleaned and stabilized.
 - d. In the event of rain, the disturbed in-water work area shall be temporarily stabilized before stream flow exceeds the capacity of the diversion structure. The disturbed streambed shall be stabilized so that the disturbed areas will not come in contact with the stream flow.

- e. All areas disturbed by individual restoration projects shall be protected from washout and erosion.
- f. For restoration projects requiring re-vegetation of disturbed areas, viable seed of native species collected within the same watershed, or the greater watershed, shall be used.
- g. Substances resulting from restoration project construction activities that could be harmful to aquatic life, including but not limited to petroleum lubricants and fuels, cured and uncured cements, epoxies, paints and other protective coating materials, Portland cement concrete or asphalt concrete, and washings and cuttings thereof, shall not be discharged to soils or waters.
- h. Fueling, lubrication, maintenance, storage, and staging of vehicles and equipment shall be outside of waters, and shall not result in a discharge or a threatened discharge to any waters.
- i. When a restoration project is completed, any excess material or debris shall be removed from the work area and disposed of properly.

2. Posting

A copy of this Certification must be provided to the contractor and all subcontractors who will work at the worksite, and must be in their possession at the worksite. The restoration project proponent and all contractors and subcontractors shall be familiar with all conditions of this Certification.

3. Notification

No later than 30 days prior to the start of construction, the restoration project proponent shall submit to the 401 Program Manager of the appropriate Regional Water Board(s) a notification indicating the expected start/completion dates of restoration project activities, project ID, and water body name(s).

For restoration projects that include placement of new culvert and channel liner, the notification shall also include the following information:

- a. Describe installation activities; include any structural control details, such as structure for diverting stream flow around the in-stream excavation area, temporary rubber dam, silt curtain, and any treatment device/facility.
- b. Describe the control measures, or BMPs, during construction and post construction, to minimize impacts (e.g., habitat losses, erosion control measures, flow diversions; etc.).
- c. Any compensatory mitigation required by permitting agencies.

4. Monitoring

CDFG shall provide to the State Water Resources Control Board (State Water Board) staff, and appropriate Regional Water Board staff, copies of reports documenting the following monitoring activities described in the Project MND:

- a. Post-project monitoring immediately after a restoration project is completed to ensure that restoration projects are completed as designed.
- b. Effectiveness monitoring on a random subset of 10 percent of the restoration projects, within one to three years after restoration project completion.

5. Reporting

While this Certification is in effect, or until all restoration projects have been completed or de-funded, and for as long as required monitoring is occurring, CDFG will submit annual reports on July 1 of each year to the 401 Program Managers of the State Water Board and the appropriate Regional Water Board(s) documenting work undertaken during the preceding year and identifying for all such work:

- a. Restoration project name and grant number as listed in Attachment C.
- b. Year of notification approval.
- c. Restoration project purpose and summary work description;
- d. Name(s) of affected water body(ies).
- e. Latitude/longitude in decimal degrees to at least four decimals.
- f. For all restoration 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).
 - ii. The total quantity in acres of each type of receiving water body temporarily impacted, and permanently impacted.
- g. Actual construction start and end-dates for each restoration project.
- h. Whether each restoration project is on-going or completed.
- i. Required monitoring reports as described in Additional Condition #4 (Monitoring). Notifications and annual 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

North Coast Regional Water Quality Control Board
5550 Skylane Blvd., Suite A
Santa Rosa, CA 95403

San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

Los Angeles Regional Water Quality Control Board
320 West 4th Street, Suite 200
Los Angeles, CA 90013

6. Violations

- a. CDFG or its contractor and subcontractors shall report by phone or e-mail any non-compliance to the 401 Program Manager of the appropriate Regional Water Board where the restoration project is located within 24 hours from the time when CDFG or its contractor and subcontractors become aware of the circumstances.
- b. CDFG or its contractor and subcontractors shall report all violations of any terms or conditions of this Certification in writing to the State Water Board and appropriate Regional Water Board within seven (7) consecutive days from the time CDFG becomes aware of the violation. The written report shall contain:
 - i. A description of the violation and its cause;
 - ii. The period of the violation event, including dates and times, and if the violation has not been corrected, the anticipated time the violation is expected to continue; and
 - iii. Steps taken or planned to reduce, eliminate, and prevent recurrence of the violation.
- c. In the event of any violation or threatened violation of the conditions of this Certification, the violation shall be subject to any remedies, penalties, processes, or sanctions as provided for under state law. For purposes of the CWA section 401(d), the applicability of any state law authorizing remedies, penalties, processes, 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.
- d. In response to a suspected violation of any condition of this Certification Order, the State Water Board may require the holder of any 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 the cost of the reports, shall be in reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
- e. In response to any violation of the conditions of this Certification Order, the State Water Board may add to or modify the conditions of this Certification as appropriate to ensure compliance with water quality standards, plans or policies.

ADMINISTRATIVE CONDITIONS:

1. The State Water Board reserves the right to suspend, cancel, or modify and reissue this Certification, after providing notice to CDFG and/or responsible contractor/sub-contractor, if the State Water Board determines that any restoration project fails to comply with any of the terms or conditions of this Certification.
2. A copy of this Certification, the application, and supporting documentation must be available at the restoration project site during construction for review by site personnel and agencies. A copy of this Certification must also be provided to the contractor and all subcontractors who will work at the restoration project site. All personnel performing work on the proposed restoration project shall be familiar with the content of this Certification and its posted location on the restoration project site.
3. CDFG shall grant State Water Board and Regional Water Board staffs, or an authorized representative, upon presentation of credentials and other documents as may be required by law, permission to enter the restoration project site at reasonable times, to ensure compliance with the terms and conditions of this Certification and/or to determine the impacts the restoration project may have on waters of the state.

STATE WATER BOARD CONTACT PERSON:

If you have any questions, please contact State Water Board Environmental Scientist Bob Solecki at (916) 341-5483, via e-mail at rsolecki@waterboards.ca.gov, or by mail at:

State Water Resources Control Board
401 Certification and Wetland Program
P.O. Box 100, Sacramento, CA 95812-2000 (by mail)
1001 I Street, 15th Floor, Sacramento, CA 95814

You may also contact Bill Orme, Chief of the Water Quality Certification Unit, at (916) 341-5464 or via e-mail at borme@waterboards.ca.gov

CALIFORNIA ENVIRONMENTAL QUALITY ACT:

CDFG is the Lead Agency responsible for compliance with the California Environmental Quality Act (CEQA; Pub. Resources Code, § 21000 et seq.). CDFG approved the Project and certified the MND for the Project on January 13, 2012 (State Clearinghouse Number 2011122047). In making its determinations and findings, the State Water Board must presume that the MND comports with the requirements of CEQA and is valid (Pub. Resources Code, § 21167.3, subd. (b)). As such, the State Water Board has reviewed and considered the environmental document and all proposed mitigation measures.

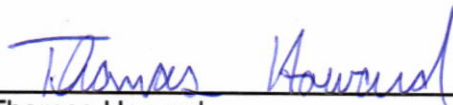
The State Water Board reviewed and evaluated the impacts to water quality identified in the MND for the Project. Impacts to water quality were determined to be less than significant because the mitigation measures adopted in Attachment E (Mitigation Measures, Monitoring and Reporting Program, from Appendix B of the MND) will assure that Project activities will be in compliance with water quality standards. The State Water Board finds that the Mitigation Measures, Monitoring and Reporting Program in the MND for the Project, along with the

conditions in the Certification, to be adequate to reduce water quality impacts to less than significant levels.

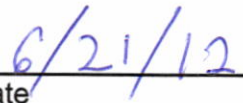
WATER QUALITY CERTIFICATION:

I hereby issue the Certification for the Project (FILE NO. SB12003IN) certifying that as long as all of the conditions listed in this Certification are met, any discharge from the referenced project 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). 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 (Wat. Code, § 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 conditions of this Certification, and (b) compliance with all applicable requirements of the Regional Water Boards' Water Quality Control Plans, all Statewide Water Quality Control Plans, and the MND for the Project.



Thomas Howard
Executive Director



Date

Attachments (5): A. Signatory Requirement
 B. Project Information Sheet
 C. Project List
 D. Project Map
 E. Mitigation Measures, Monitoring and Reporting Program