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California Regional Water Quality Control Board Central Valley Region

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24 November 2008

Mr. Paul G. Brenner
Three Rivers Levee Improvement Authority
1114 Yuba Street, Suite 218
Marysville, CA 95901

CLEAN WATER ACT §401 TECHNICALLY CONDITIONED WATER QUALITY CERTIFICATION FOR DISCHARGE OF DREDGED AND/OR FILL MATERIALS FOR THE FEATHER RIVER LEVEE REPAIR PROJECT, SEGMENT 2, (WDID#5A58CR00046) YUBA COUNTY

WATER QUALITY CERTIFICATION STANDARD CONDITIONS:

1. This certification action 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 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 23 CCR subsection 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 §3833, unless otherwise stated in writing by the certifying agency.
4. Certification is valid for the duration of the described project. Discharger shall notify the Regional Board in writing within 7 days of project completion

ADDITIONAL TECHNICALLY CONDITIONED CERTIFICATION CONDITIONS :

In addition to the four standard conditions, the applicant shall satisfy the following:

1. This certification is based on the attached Project Information sheet. Any change or modification of the project requires review and consideration of amendment of this certification. If the project changes or is modified, this water quality certification may no longer be valid.

California Environmental Protection Agency

2. Three Rivers Levee Improvement Authority (TRLIA) shall notify the Board in writing of the start of any in-water activities.
3. Except for activities permitted by the U.S. Army Corps 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.
4. The discharge of petroleum products or other excavated materials to surface waters is prohibited.
5. Activities shall not cause turbidity increases in surface waters to exceed:
 - (a) where natural turbidity is between 0 and 5 Nephelometric Turbidity Units (NTUs), increases shall not exceed 1 NTU;
 - (b) where natural turbidity is between 5 and 50 NTUs, increases shall not exceed 20 percent;
 - (c) where natural turbidity is between 50 and 100 NTUs, increases shall not exceed 10 NTUs;
 - (d) where natural turbidity is greater than 100 NTUs, increases shall not exceed 10 percent.

Except that these limits will be eased during in-water working periods to allow a turbidity increase of 15 NTU over background turbidity as measured in surface waters 300 feet downstream from the working area. In determining compliance with the above limits, appropriate averaging periods may be applied provided that beneficial uses will be fully protected.

6. Activities shall not cause settleable matter to exceed 0.1 ml/l in surface waters as measured in surface waters 300 feet downstream from the project.
7. Activities shall not cause visible oil, grease, or foam in the work area or downstream.
8. All areas disturbed by project activities shall be protected from washout or erosion.
9. All temporarily disturbed areas shall be restored to pre-existing conditions, unless this certification or other permit/agreement states otherwise.
10. For any project activities that occur in surface waters or any activities resulting in incidental deposition of material into surface waters, the following monitoring shall be conducted immediately upstream and 300 feet downstream of the work site and the results reported to this office within two weeks:

Parameter	Unit	Type of Sample	Frequency of Sample
Turbidity	NTU	Grab	Every 4 hours during in water work
Settleable Material	ml/l	Grab	Same as above.

11. TRLIA shall immediately stop work and notify Water Board staff if the above criteria for turbidity, settleable matter, oil/grease, or foam are exceeded.
12. TRLIA shall notify the Board staff immediately of any spill of petroleum products or other organic or earthen materials.
13. TRLIA shall comply with all Department of Fish and Game 1600 requirements for the project.
14. TRLIA 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. Existing agricultural operations are required to be covered by the Irrigated Lands Conditional Waiver or a Waste Discharge Requirement (WDR). TRLIA must obtain regulatory coverage under the Irrigated Lands Conditional Waiver or file a Report of Waste Discharge for parcels it owns which are irrigated and have the potential to discharge waste to surface waters.
16. TRLIA must submit a Best Management Practices (BMP) Plan, for review, to Water Board staff that addresses what practices will be utilized to prevent waste associated with agricultural operations from entering surface waters of the State. The BMP Plan shall be submitted to Central Valley Water Board staff before agricultural operations continue.
17. TRLIA shall submit notification to Water Board staff when ownership of parcels enrolled in the Irrigated Lands Regulatory Program is transferred and TRLIA shall notify new parcel owners of the Waiver or WDR they are operating under.
18. TRLIA shall submit a copy of the final U.S. Army Corps-approved Compensatory Mitigation Plan to Water Board staff.

REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON:

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WATER QUALITY CERTIFICATION:

I hereby issue an order certifying that any discharge from the Discharger project (WDID #) 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

Feather River Levee Repair Project
Segment 2

General Waste Discharge Requirements For Dredged Or Fill Discharges That Have Received State Water Quality Certification (General WDRs)".

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 applicant's project description and the attached Project Information Sheet, and (b) compliance with all applicable requirements of the Regional Water Quality Control Board's Water Quality Control Plan (Basin Plan).



PAMELA C. CREEDON
Executive Officer

Enclosure: Project Information

cc: U.S. Army Corps of Engineers, Sacramento
Mr. Dave Smith, Wetlands Section Chief (WTR-8), U.S. Environmental Protection Agency, Region 9, San Francisco
U.S. Fish & Wildlife Service, Sacramento
Mr. Bill Orme, 401 Certification and Wetlands Unit Chief, State Water Resources Control Board, Sacramento
Mr. Jeff Drongesen, Department of Fish and Game, Sacramento
Mr. Bill Jennings, CA Sportfishing Protection Alliance, Stockton
Mr. Eric Htain, EDAW, Inc., Sacramento

PROJECT INFORMATION

Application Date: 14 August 2007

Application Complete: 9 September 2008

Applicant: Mr. Paul G. Brenner
Three Rivers Levee Improvement Authority
1114 Yuba Street, Suite 218
Marysville, CA 95901

Applicant Representatives: Mr Eric Htain
EDAW, Inc.
2022 J Street
Sacramento, CA 95811

Project Name: Feather River Levee Repair Project, Segment 2

Application Number: WDID#5A58CR00046

U.S. Army Corps File Number: #SPK-2007-00578-SA

Type of Project: Levee setback and improvement

Project Location: Township 13, 14 North, Range 3 and 4 East, MDB&M. Latitude: 39.090676° and Longitude: 121.584302°

County: Yuba County

Receiving Water(s) (hydrologic unit): Plumas Lake Canal, Messick Lake, and an unnamed intermittent drainage, which are tributary to the Feather River, Sacramento Hydrologic Basin, Marysville Hydrologic Unit #515.10, Lower Bear River HA.

Water Body Type: Wetlands, Streambed

Designated Beneficial Uses: The Basin Plan for the Central Valley Regional Board has designated beneficial uses for surface and ground waters within the region. Beneficial uses that could be impacted by the project include: Municipal and Domestic Water Supply (MUN); Agricultural Supply (AGR); Industrial Supply (IND), Hydropower Generation (POW); Groundwater Recharge, Water Contact Recreation (REC-1); Non-contact Water Recreation (REC-2); Warm Freshwater Habitat (WARM); Cold Freshwater Habitat (COLD); and Wildlife Habitat (WILD).

Feather River Levee Repair Project
Segment 2

Project Description (purpose/goal): The project description is based on information contained in the following documents:

- 1) Applications for water quality certification, U.S. Army Corps (Corps) Section 404 Permit, and Department of Fish and Game (DFG) Stream Alteration Agreement
- 2) Feather River Levee Repair Project Draft Environmental Impact Report (DEIR), 3 August August 2006
- 3) Feather River Levee Repair Project Segment 2 - Wetland Delineation Maps, August 2007
- 4) Feather River Levee Repair Project Segment 2 - Biological Assessment/Essential Fish Habitat Assessment For National Marine Fisheries Service, August 2007
- 5) Feather River Levee Repair Project Segment 2 – Environmental Assessment, Appendix A Volume 1: Submittals to Reviewing and Permitting Agencies
- 6) Biological Opinions from U.S. Fish and Wildlife Service (29 September 2008) and NOAA National Marine Fisheries Service (13 December 2007)
- 7) Conceptual Mitigation Plan approved by the Corps (17 September 2008) for the Final Environmental Impact Statement

The purpose of the Feather River Levee Repair Project (FRLRP), Segment 2 is to correct identified deficiencies in the left (east) bank levee of the Feather River and the left (south) bank levee of the Yuba River, and consequently to improve flood protection for the Reclamation District (RD) 784 area of Yuba County. The proposed project involves construction of a setback levee, removing portions of the existing Feather River left bank levee, and relocation of an existing pump station along the existing levee. Approximately 5.7 miles of new setback levee will be constructed within Segment 2 to replace 6.2 miles of existing levee. The new setback levee will tie into the existing levee at the north end of Segment 1 and the south end of Segment 3. The new levee segment will generally be set back approximately 0.5 mile to the east of the existing levee, except near the northern and southern ends, where it joins the existing levee. The proposed project will be completed in two stages and will impact 10.9 acres of waters of the U.S. (6.7 acres of permanent impacts + 4.2 acres of temporary impacts). The project will also indirectly impact 56.9 acres of waters of the U.S.

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

Proposed Mitigation to Address Concerns: TRLIA will implement Best Management Practices (BMPs) to control sedimentation and erosion. All temporary affected areas will be restored to pre-construction contours and conditions upon completion of construction activities. TRLIA will conduct turbidity and settleable matter testing during in water work, stopping work if Basin Plan criteria are exceeded or are observed.

Fill/Excavation Area: 62,000 cu yards of clean borrow material will be used to fill 10.55 acres of waters of U.S. 80,000 cu yards of native soil and riparian habitat will be excavated from 0.38

acres of waters of the U.S. Of the 0.38 acres of waters of the U.S., 0.14 acres will be filled with concrete for the pump station outfall structure.

Dredge Volume: None

U.S. Army Corps of Engineers Permit Number: Individual Permit

Department of Fish & Game Streambed Alteration Agreement: TRLIA applied for a Streambed Alteration Agreement on 31 July 2007.

Possible Listed Species: Valley elderberry longhorn beetle, vernal pool fairy shrimp, and vernal pool tadpole shrimp, giant garter snake, northwestern pond turtle, Central Valley steelhead, Central Valley spring-run Chinook salmon, North American green sturgeon.

Status of CEQA Compliance: TRLIA approved the Final Environmental Impact Report for the Feather River Levee Repair Project, An Element of the Yuba-Feather Supplemental Flood Control Project, on 6 February 2007 (State Clearinghouse Number 2006062071). The Notice of Determination was filed with the Yuba County Clerk on 8 February 2007.

Compensatory Mitigation: TRLIA has coordinated with the Corps, U.S. Fish and Wildlife Service (USFWS), and NOAA National Marine Fisheries Service (NMFS) to create mitigation for impacts to waters of the U.S. and special status species.

The Corps has accepted the TRLIA conceptual mitigation plan for the purposes of the Final Environmental Impact Statement for the project. The conceptual mitigation plan includes the following mitigation for impacts to 10.9 acres (4.2 ac temporary impacts + 6.7 ac permanent impacts):

Mitigation for 4.2 acres of waters of the U.S.

- 4.2 acres of temporary impacts to waters of the U.S. associated with modifications to the floodplain drainage swale near the existing Pump Station No. 3 would provide an opportunity for the concurrent restoration and creation of 6.0 acres of open water habitat and adjacent riparian corridor.
- Construction of the proposed floodplain drainage swale and removal of the existing levee will restore a hydrological connection between the Plumas Lake/Plumas Lake Canal/Messick Lake complex and the Feather River.
- TRLIA proposes to develop a planting plan for establishment of a 50-foot-wide corridor of riparian habitat along either side of the floodplain drainage swale between the Plumas Lake Canal and the Feather River.

Mitigation for 6.7 acres of waters of the U.S.

To offset the permanent loss of 6.7 acres of waters of the U.S., TRLIA is proposing the creation of approximately 20.1 acres of waters of the U.S. (6.7 ac at a 3:1 creation ratio) within the levee setback area adjacent to Messick Lake.

Biological Opinions

U.S. Fish and Wildlife Service (USFWS) issued a Biological Opinion, which determined the project will result in the take of giant garter snake and valley elderberry longhorn beetle. The Biological Opinion contains "Reasonable and Prudent Measures" and "Terms and Conditions" to protect these species. Based on conditions in the Biological Opinion, TRLIA has purchased 49 acres of aquatic habitat and 37 acres of upland habitat at the Gilsizer Slough South Giant Garter Snake Conservation Bank to compensate for anticipated impacts to 16.2 acres of giant garter snake habitat in the levee setback area. In addition, the Biological Opinion states TRLIA has proposed to facilitate an MOA with Yuba County and USFWS, whereby Yuba County would only approve a development project when the developer can demonstrate they have coordinated with USFWS and their project complies with the Endangered Species Act.

NOAA National Marine Fisheries Service issued a Biological Opinion for the project, which determined the Feather River Levee Repair Project is not likely to adversely affect Central Valley spring-run Chinook salmon, Central Valley steelhead, North American green sturgeon, or their designated critical habitat.

The Central Valley Water Board concurs with the proposed project mitigation for permanent and temporary impacts to waters of the U.S.

Application Fee Provided: Total fees of \$23,999.50 have been submitted as required by 23 CCR §3833b(3)(A) and by 23 CCR § 2200(e).

DISTRIBUTION LIST

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