

Lahontan Regional Water Quality Control Board

November 5, 2013

Dave Ernaga, Associate Engineer
Lassen County Public Works Department
707 Nevada Street, Suite 4
Susanville, CA 96130

ORDER NO. R6T-2013-0088, FOR CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION FOR CLOVER VALLEY AND SUSAN RIVER OVERFLOW CULVERT MODIFICATION PROJECT, LASSEN COUNTY, WDID 6A181308003

The California Regional Water Quality Control Board, Lahontan Region (Water Board) has received a complete Clean Water Act (CWA) Section 401 Water Quality Certification (WQC) application and application filing fee from the Lassen County Public Works Department (Applicant) for the Clover Valley and Susan River Overflow Culvert Modification Project (Project) on State Highway 44 in Lassen County. This Order for WQC hereby assigns this Project the following reference number: Waste Discharger Identification (WDID) No. 6A181308003. Please use this reference number in all future correspondence regarding this Project.

Any person aggrieved by this action of the Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with Water Code section 13320 and California Code of Regulations (CCR), title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water 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.

PROJECT DESCRIPTION

Table of Project Information:

WDID Number	6A181308003
Applicant	Lassen County Public Works Department 707 Nevada Street, Suite 4 Susanville, CA 956130 Attn: Dave Ernaga, Associate Engineer
Agent	None
Project Name	Clover Valley and Susan River Overflow Culvert Modification Project

Table of Project Information continued:

Project Purpose and Description	The Project purpose is to improve safety and maintenance operations by widening the road embankments approaching the drainages. The road embankments will be widened approximately 12 feet and guardrails moved approximately 8 feet from the edge of pavement. Existing culverts are beveled such that the culvert bottoms extend out several feet beyond the top of the culverts. The Applicant proposes to place a cap to extend the top of the culverts even with the horizontal extent of the bottom of the culverts (eliminate the bevel). By extending the top of the culverts, the road way can be widened and the guardrails moved as described above.						
Project Type	Culvert Modification						
Project County	Lassen						
Project Address or other Locating Information	Mooney Road 3.66 and 4.51 miles southwest of intersection of Mooney Road and Highway 44						
Location Latitude/Longitude	Latitude: 40.498611, Longitude: -121.0775 Latitude: 40.487778, Longitude: -121.076111						
Hydrologic Unit(s)	Susan River Hydrologic Area 637.20						
Overall Project Area	0.39 acres						
Receiving Water(s) Name	Unnamed Minor Surface Waters						
Water Body Type(s)	Ephemeral Creek						
Designated Beneficial Uses	MUN, AGR, GWR, FRSH, REC-1, REC-2, COMM, WARM, COLD, WILD						
Potential Water Quality Impacts	Sediment discharges during construction						
Area of Water(s) within the Overall Project Area	330 sq. ft.						
Impacts of Fill to waters of the state, including waters of the U.S. (WOUS)	Waterbody Type	Permanent			Temporary		
		Sq. Ft.	Linear Feet	Cubic Yards	Acres or Sq. Ft.	Linear Feet	Cubic Yards
	<i>Lake</i>						
	<i>Riparian</i>						
	<i>Stream</i>	120	10	40			
	<i>Wetland</i>						
Impacts of Dredging (Excavation) to waters of the state, including WOUS.	Waterbody Type	Permanent			Temporary		
		Acres or Sq. Ft.	Linear Feet	Cubic Yards	Acres or Sq. Ft.	Linear Feet	Cubic Yards
	<i>Lake</i>						
	<i>Riparian</i>						
	<i>Stream</i>						
	<i>Wetland</i>						
	Total						
Federal Permit(s)	The Applicant has applied for U.S. Army Corps of Engineers (USACOE) authorization to proceed under a Nationwide Permit, pursuant to CWA section 404.						
Non-Compensatory Mitigation	The Project will be conducted during no flow conditions in fall and early winter. Sediment control BMPs will be used to prevent sediment from entering flow lines.						
Compensatory Mitigation	Project includes placement of approximately 40 cubic yards of rip-rap to fill and stabilize a scour hole that has developed in the Susan River Overflow channel. No mitigation is required for the erosion control project.						
Applicable Fees	\$1,038 (\$944 application fee + 10 linear feet of impacts to Federal Jurisdictional waters at \$9.44 per foot).						
Fees Received	\$944						

CEQA COMPLIANCE

The Water Board has determined that this Project is exempt from the California Environmental Quality Act (CEQA)(Public Resources Code Section 21000 et seq.). In accordance with Section 15301(c), the basis for CEQA exemption is "Existing Facilities" with minor alteration of existing public structures and no expansion of an existing use. A Notice of Exemption (NOE) will be filed with the State Clearinghouse concurrently with issuing this Order.

SECTION 401 WATER QUALITY CERTIFICATION**Authority**

Section 401 of the CWA (33 U.S.C., paragraph 1341) requires that any applicant for a CWA Section 404 permit, who plans to conduct any activity that may result in discharge of dredged or fill materials to WOUS, must provide to the permitting agency a certification that the discharge will be in compliance with applicable water quality standards of the state in which the discharge will originate. No Section 404 permit may be granted (or valid) until such certification is obtained. The Applicant submitted a complete application and the fees required for WQC under Section 401 for the Project. The Applicant has applied for USACOE authorization to proceed under a Nationwide Permit pursuant to CWA section 404.

CCR title 23, section 3831(e) grants the Water Board Executive Officer the authority to grant or deny WQC for projects in accordance with CWA section 401. The Project qualifies for such WQC.

Standard Conditions

Pursuant to CCR title 23, section 3860, the following standard conditions are requirements of this certification:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330 and CCR title 23, section 3867.
2. This certification action is not intended and must not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license unless the pertinent certification application was filed pursuant to CCR title 23, section 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 must be conditioned upon total payment of the full fee required under CCR title 23, section 3833, unless otherwise stated in writing by the certifying agency.

4. Neither Project construction activities nor operation of the Project may cause a violation of the Water Quality Control Plan for the Lahontan Region (Basin Plan), may cause a condition or threatened condition of pollution or nuisance, or cause any other violation of the Water Code.
5. The Project must be constructed and operated in accordance with the Project described in the application for WQC that was submitted to the Water Board. Deviation from the Project description constitutes a violation of the conditions upon which the certification was granted. Any significant changes to this Project that would have a significant or material effect on the findings, conclusions, or conditions of this certification, including Project operation, must be submitted to the Executive Officer for prior review and written approval.
6. This WQC is subject to the acquisition of all local, regional, state, and federal permits and approvals as required by law. Failure to meet any conditions contained herein or any conditions contained in any other permit or approval issued by the state of California or any subdivision thereof may result in the revocation of this certification and civil or criminal liability.
7. The Water Board may add to or modify the conditions of this certification as appropriate to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or Section 303 of the CWA, or as appropriate to coordinate the operations of this Project with other projects where coordination of operations is reasonably necessary to achieve water quality standards or protect the beneficial uses of water. Notwithstanding any more specific conditions in this certification, the Project must be constructed and operated in a manner consistent with all water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or Section 303 of the CWA.
8. This certification does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under the California Endangered Species Act (Fish and Game Code section 2050 et seq.) or the federal Endangered Species Act (16 U.S.C. sections 1531 et seq.). If a "take" will result from any act authorized under this certification, the Applicant must obtain authorization for the take prior to construction or operation of the Project. The Applicant is responsible for meeting all applicable requirements of the Endangered Species Act for the Project authorized under this certification.

Additional Conditions

Pursuant to CCR title 23, section 3859(a), the following additional conditions are requirements of this certification:

1. No debris, cement, wet concrete (or wash water therefrom), oil or petroleum product may enter into, or be placed where it may be washed from the Project site by rainfall or runoff, into waters of the state. When operations are completed, any excess material must be removed from the Project work area, and from any areas adjacent to the work area where such material may be transported into waters of the state.

2. The Applicant must immediately (within two hours) notify Water Board staff by telephone whenever an adverse condition occurs as a result of this discharge. Such a condition includes, but is not limited to, a violation of the conditions of this Order, a significant spill of petroleum products or toxic chemicals, or damage to control facilities that would cause noncompliance. A written notification of the adverse condition must be provided to the Water Board within two weeks of occurrence. The written notification must identify the adverse condition, describe the actions necessary to remedy the condition, and specify a timetable, subject to any modifications by Water Board staff, for the remedial actions.
3. The Applicant must prevent the introduction or spread of noxious/invasive weeds within the Project and staging area. Measures must include the cleaning of all equipment and gear that has been in an infested site with water heated to 120 degrees Fahrenheit or more, the use of weed-free erosion control materials (including straw), and the use of weed-free seeds and plant material for revegetation of disturbed areas.
4. Construction equipment must be monitored for leaks, and removed from service if necessary to protect water quality.
5. An emergency spill kit must be at the Project site at all times.
6. A copy of this Order must be maintained at the Project site so as to be available at all reasonable times to site operating personnel and Water Board staff.

Enforcement

1. 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, process or sanctions as provided for under state law. For purposes of CWA section 401(d), the applicability of any state law authorizing remedies, penalties, process 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.
2. In response to a suspected violation of any condition of this certification, the State Water Board or the 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 report the State Water Board or Water Board deems appropriate, provided that the burden, including costs, of the reports must be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
3. In response to any violation of the conditions of this certification, the Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.

Section 401 Water Quality Certification Requirements Granted

I hereby issue an Order certifying that any discharge from the referenced Project will comply with the applicable provisions of CWA 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), and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification" which requires compliance with all conditions of this WQC.

Except insofar as may be modified by any preceding conditions, all WQC 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 terms specified in this WQC Order, and (b) compliance with all applicable requirements of the Basin Plan.

We look forward to working with you in your efforts to protect water quality. If you have questions, please contact Bud Amorfini at (530) 542-5463 or Alan Miller, Chief, North Basin Regulatory Unit, at (530) 542-5430.


PATTY Z. KOUYOUMDJIAN
EXECUTIVE OFFICER

cc: Jason Brush, Wetlands Regulatory Office (WTR-8), US EPA, Region 9
(via email at R9-WTR8-Mailbox@epa.gov)
Bill Orme, State Water Resources Control Board, Division of Water Quality
(via email at Stateboard401@waterboards.ca.gov)
Mathew Kelly, USACE, Redding Office
(via email at matthew.p.kelley@usace.army.mil)
Tobi Freeny, California Department of Fish
(via email at Tobi.Freeny@wildlife.ca.gov)