

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ORDER NO. R5-2012-XXXX

CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS
FOR
CALIFORNIA DEPARTMENT OF TRANSPORTATION
STATE ROUTE 4
0.61 MILE WEST OF "A" STREET UNDERCROSSING
TO 0.10 MILE EAST OF HILLCREST AVENUE OVERCROSSING IN ANTIOCH
CONTRA COSTA COUNTY

WHEREAS, the California Regional Water Quality Control Board, Central Valley Region (hereinafter Central Valley Water Board), finds that:

1. Water Code section 13260(a) requires that any person discharging wastes or proposing to discharge wastes within the region that could affect the quality of waters of the State file a Report of Waste Discharge (RWD).
2. On 16 April 2012, the California Department of Transportation (hereafter "Caltrans" or "Discharger") submitted a RWD for a highway project along State Route 4 from 0.61 miles west of the "A" Street undercrossing to 0.10 miles east of the Hillcrest Avenue overcrossing in Antioch for widening of the freeway and construction of auxiliary lanes on onramps and off-ramps. The RWD requests Central Valley Water Board approval to discharge lead-contaminated soil associated with the project within the Caltrans right-of-way at the project site.
3. The Department of Toxic Substances Control (DTSC) issued a variance (No. V09HQSCD006) for these types of Caltrans projects on 1 July 2009. The waivers in the variance are for lead-contaminated soil that is not a RCRA hazardous waste, and is hazardous primarily because of aerially-deposited lead associated with exhaust emissions. The variance contains conditions including that the appropriate regional board be notified at least 30 days prior to bids, and that the soil be buried at the construction site in the Caltrans right-of-way if it meets certain criteria based on total and soluble concentrations. California regulatory thresholds for hazardous waste are 1,000 milligrams per kilogram (mg/kg) for total lead, and 5 milligrams per liter (mg/L) for extractable lead.
4. DTSC performed a risk assessment in developing their variance. The variance requires that the soil be buried at least five feet above the maximum historical water table. The soil must also be covered with at least one foot of non-hazardous soil or be placed below a pavement structure, depending on total and extractable concentrations. Soil with 1,411 mg/kg or less total lead, and 1.5 mg/L or less extractable lead based on a modified waste extraction test using de-ionized water (DI-WET) must be covered with at

least one foot of non-hazardous soil. Caltrans designates this as type Y1 material. Soil with 3,397 mg/kg or less total lead, and 150 mg/L or less extractable lead must be buried below a pavement structure. Caltrans designates this as type Y2 material.

5. The Discharger conducted a soil investigation at the project site to characterize the amount of lead contamination in the shallow soils that will be excavated as part of the project. Soil samples were collected at several locations at various depth intervals (no more than 4.5 feet) and analyzed for total and soluble lead. The RWD includes data from the investigation in two reports from March 2008 and July 2009 that use a statistical analysis to determine how the soil must be managed under the DTSC variance. Details regarding the locations, depth intervals, and concentrations for these samples are contained in the reports.
6. The Discharger collected a total of 366 soil samples from 135 hand auger borings along freeway shoulders, onramps, off ramps, and medians at the project area. The soil investigation identified type Y1 material at various locations; however, the soil with the Y1 designation was dependent on what depth would be excavated during the project at a given location.
7. The Discharger has identified a total of approximately 22,300 cubic yards of soil that will require management as type Y1 soil that will be excavated from the top one foot of the project areas where the type Y1 soil was encountered during the investigation. The Discharger proposes to bury the soil beneath the mainline and shoulder areas of the project beneath a pavement structure consisting of 1 foot of jointed plane concrete pavement, 0.35 feet of lean concrete base, and 0.70 feet of aggregate base. This exceeds the requirements of the DTSC variance that requires type Y1 soil to be buried beneath at least one foot of non-hazardous soil, and should therefore be more protective. The areas where the type Y1 soil will be excavated are shown on drawings C-25 to C-31 of the plans submitted in the RWD, and the proposed burial locations are shown on drawings C-26 to C-29.
8. The Discharger states that the anticipated depth to highest groundwater in the project area is 18.4 feet and that the soil will have greater than the required five feet of separation from groundwater.
9. On 30 June 2009, DTSC certified a Negative Declaration for their variance No. V09HQSCD006, stating that the project could not have a significant effect on the environment, and issued a Notice of Final Variance Determination stating that the variance became effective on 1 July 2009.
10. On 26 August 2004, Caltrans certified a Mitigated Negative Declaration on the project, in accordance with the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) and the State Guidelines.

11. The Central Valley Water Board notified interested agencies and persons of its intent to conditionally waive discharge requirements for this project and has provided them with an opportunity for a public hearing and an opportunity to submit their written views and recommendations.
12. The Central Valley Water Board, in a public meeting, heard and considered all comments pertaining to the conditional waiver of discharge requirements.

THEREFORE, IT IS HEREBY ORDERED, that pursuant to Water Code sections 13263(a), 13267, and 13269, the Central Valley Water Board waives waste discharge requirements for the California Department of Transportation for lead-contaminated soil from the State Route 4 project in Antioch when the following conditions are met:

1. This conditional waiver applies only to the Caltrans project at State Route 4 from 0.61 miles west of the "A" Street undercrossing to 0.10 miles east of the Hillcrest Avenue overcrossing in Antioch for the disposal of lead-contaminated soil as described in the RWD and the above Findings of this conditional waiver.
2. The Discharger shall discharge lead-contaminated soil associated with the project in accordance with all conditions listed in DTSC's variance No. V09HQSCD006.
3. All soil designated as Caltrans type Y1 material as described in Finding No. 4 of this conditional waiver that is discharged within the Caltrans right-of-way shall be buried beneath a pavement structure as described in Finding No. 7.
4. The Discharger shall record the location of the discharge, and shall maintain that portion of the Caltrans right-of-way to minimize exposure of the lead-contaminated soils to waters of the State by erosion, percolation, or other means.
5. The Discharger shall notify Central Valley Water Board staff when the excavation of the lead contaminated soil begins and when the burial of the soil under a pavement structure is completed.
6. Within **60 days** of the completion of the burial of all lead contaminated soil under a pavement structure, the Discharger shall submit a report to the Central Valley Water Board documenting the volume of lead-contaminated soil, location (including latitude and longitude of start and end point of burial location), and type of burial.
7. The discharge shall not cause or threaten to cause degradation of waters of the State, nuisance, or pollution as defined in the Water Code.
8. This conditional waiver shall expire 60 days after completion of the project, or five years from the date of issuance, whichever occurs first.

9. This action waiving waste discharge requirements is conditional and may be terminated at any time.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, 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.

I, PAMELA C. CREEDON, Executive Officer, do hereby certify the foregoing is a true, full, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on _____.

PAMELA C. CREEDON, Executive Officer

WLB