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## North Coast Regional Water Quality Control Board

October 11, 2012

Mr. Charlie Fielder, District 1 Director  
California Department of Transportation  
P.O. Box 3700  
Eureka, CA 95501-3700

Mr. John Bulinski, District 2 Director  
California Department of Transportation  
P.O. Box 496073 Redding, CA 96049-6073

Dear Mr. Fielder and Mr. Bulinski:

Subject:       **Notice of Violations**  
                  Caltrans 401 Certification Compliance Evaluation /  
                  Bridge Construction Inspections

File:            See Attachment A for project list

### **Introduction**

North Coast Regional Water Quality Control Board (Regional Water Board) staff have completed an internal audit of the Clean Water Act Section 401 Water Quality Certifications (401 Certifications) issued to the California Department of Transportation (Caltrans), including several site inspections and document reviews. Regional Water Board staff has identified many projects with compliance issues and violations of permit conditions. Several conditions may represent multiple violations, such as: lack of implementing a proposed compensatory mitigation action, failure to submit annual mitigation reports which are several months or even years late, and insufficient Best Management Practices (BMPs) at several locations throughout construction project sites.

### **Summary**

Violations have been identified on multiple projects, with some projects having multiple violations. See the list below and in Attachment A for a detailed list of projects and permit violations. There are three significant categories of chronic violations: lack of mitigation, lack of monitoring and reporting, and insufficient BMPs during construction.

**Construction**

Two bridge projects in District 2 (Highway 3 - Trinity River Bridge and Minnehaha Creek Bridge) are listed for violations of the 401 Certifications issued and National Pollution Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit) Order No. 2009-0009-DWQ. Regional Water Board staff have inspected each project three times (August 3, 2011, December 29, 2011, and August 16, 2012) and noted several violations of the 401 Certifications and Construction General Permit. In addition, staff have made several phone calls and sent several emails discussing compliance issues throughout the construction of these two bridges. Examples of pictures taken during the inspections are provided in Attachment B.

In some instances, Caltrans and the contractor have made changes in practices to address these deficiencies, such as adding or fixing BMPs and attempting to improve monitoring efforts and discharge reporting. However, each project has had an ongoing lack of compliance, and each inspection by Regional Water Board staff has unveiled a general lack of compliance in implementation of BMPs, and in monitoring and reporting requirements as required in the conditions of the applicable permits. Review of Caltrans SWPPP records, inspection memos, staff interviews and Regional Water Board inspection memos indicate that Caltrans staff has also identified many deficiencies with the contractors' compliance with the 401 Certifications and Construction General Permit.

**Lack of Mitigation Actions and/or Late Reporting**

For several projects, mitigation actions have not been completed, which may lead to additional follow up enforcement. Regional Water Board staff expects that the mitigation actions listed below shall be implemented or reported as soon as possible, and that Caltrans shall provide an update and propose an acceptable timeframe for implementation to reach compliance for each project listed below.

1. Highway 222 - Russian River Bridge Replacement Project (WDID No. 1B07108WNME) *On-Site Mitigation Requirements*
2. Highway 101 - Rio Dell Roadway Rehabilitation Project (WDID No. 1B07124WNHU)
3. Highway 101 – Redcrest Roadway Restoration (WDID No. 1B07028WNHU)
4. Highway 253 – Gino's Wall (WDID No. 1B09012WNME)
5. Highway 101 & 271 – Mendocino County, Culvert Rehabilitation Project: (WDID No. 1B08025WNME)
6. Highways 253 & 162 – Anderson Creek Bridge, Soda Creek Bridge, and Outlet Creek Bridge Project, Mendocino County (WDID No. 1B06010WNME)
7. Highway 162 – Storm Damage Repair (WDID No. 1B09087WNME)
8. Highway 128 - Storm Damage Repair (county line) (WDID No. 1B09005WNME)
9. Highway 20 - Post Mile 0.3 – 2.4 Left Turn Lane and Shoulder Widening Project (WDID NO. 1B05159WNME)
10. Highway 299 – Rock Point Passing Lanes (WDID No. 1A03165WNTR)
11. Highway 299 – China Slide Safety Project (WDID No. 1A08121WNTR)

12. Highway 101/Highway 36 - Alton Interchange (WDID No. 1B07140WNHU)
13. Highway 175 - Trimble Ditch (WDID No. 1B08001WNME)
14. Highway 1 - Tieback Retaining Wall (WDID No. 1B07151WNME)
15. Highway 161- Lost River Bridge Replacement (WDID No. 1A05144WNSI)
16. Highway 96 - Storm Damage Restoration (WDID No. 1A08018WNSI)
17. Highway 101 – Rattlesnake Creek Crossing (WDID no. 1B03169WNME)

### ***No Rainy Day (Post-Storm Event) Reports***

For those projects where no inspection was performed to comply with storm-event monitoring, the Regional Water Board does not anticipate that reports can be generated. However, Regional Water Board staff does expect an additional follow up with Caltrans management as to why these violations are continuing on multiple projects, while some projects comply.

1. Highway 3 – Trinity River Bridge (WDID No. 1A10020WNTR)
2. Highway 3 – Minnehaha Creek Bridge (WDID No. 1A10021WNTR)
3. Highway 20 – Storm Damage Repair Project (WDID No. 1B08177WNME):
4. Highway 96 – Storm Damage (Five Locations) Project (WDID No. 1B09002WNHU)
5. Highway 101 - Rio Dell Roadway Rehabilitation Project (WDID No. 1B07124WNHU)
6. Highway 253 – Storm Damage Repair Project (WDID No. 1B08162WNME)
7. Highway 299 –Culvert Rehabilitation Project (WDID No. 1B08109WNHU)
8. Highway 253 – Gino’s Wall (WDID No. 1B09012WNME)
9. Highway 128 and 253 – Culvert Rehabilitation Project Phase 1: (WDID No. 1B09135WNME)
10. Highway 36 - Storm Damage Repair (The Matterhorn) Project (WDID No. 1B10007WNHU)
11. Highway 254 – Storm Damage Project (WDID No. 1B08182WNHU)
12. Highway 175 – Storm Damage Repair Project: (WDID No. 1B09016WNME)

### **Conclusion**

Regional Water Board staff is considering follow-up enforcement actions at this time, including administrative civil liability, and will consider Caltrans’ timeliness in correcting these violations in determining the appropriate enforcement actions to take or to recommend to the Regional Water Board. However, if proper policies and practices are effectively put into place in the environmental and construction divisions and fully supported by Caltrans management, we are certain these types of violations would diminish. While some progress has been made in regards towards construction project compliance, follow through with mitigation commitments, reporting requirements, and full permit compliance should be programmatically evaluated by Caltrans and remedied immediately. We look forward to your response and helping your agency bring these programs and projects into compliance.

If you have any questions regarding this matter, please contact Mark Neely at (707) 576-2689 or [Mark.Neely@waterboards.ca.gov](mailto:Mark.Neely@waterboards.ca.gov) or Mona Dougherty at (707) 570-3761 or [Mona.Dougherty@waterboards.ca.gov](mailto:Mona.Dougherty@waterboards.ca.gov).

Sincerely,

Original Signed By

Fred J. Blatt  
Division Chief  
Nonpoint Source and Timber Harvest

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Certified-Return Receipt Requested

Attachment A - Project List  
Attachment B - Inspection Pictures

cc:

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