California Regional Water Quality Control Board
North Coast Region
Bob Anderson, Chairman

Linda S. Adams
Secretary for Environmental Protection

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Arnold Schwarzenegger
Governor

June 25, 2008

In the Matter of

Water Quality Certification

for the

CALIFORNIA DEPARTMENT OF TRANSPORTATION
CDOT – Highway 96 Storm Damage Restoration
WDID No. 1A08018WNSI

APPLICANT:	California Department of Transportation – District 2
RECEIVING WATER:	Klamath River
HYDROLOGIC AREA:	Middle Klamath River Hydrologic Area No.105.30, Ukonom Hydrologic Sub-Area No. 105.31.
COUNTY:	Siskiyou County
FILE NAME:	CDOT – Highway 96 Storm Damage Restoration

BY THE EXECUTIVE OFFICER:

1. On January 31, 2008, the California Department of Transportation (Caltrans) filed an application for water quality certification under section 401 of the Clean Water Act (33 U.S.C. § 1341) with the California Regional Water Quality Control Board, North Coast Region (Regional Water Board) for activities associated with the Highway 96 Storm Damage Restoration project (project). The Water Quality Certification fee was received on February 1, 2008. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on May 30, 2008, and posted information describing the project on the Regional Water Board's website. No comments were received.

2. The project is located from post mile (PM) 3.76 to PM 28.95 on Highway 96, which lies between Somes Bar and Happy Camp in Siskiyou County. The purpose of the project is to repair and upgrade drainage culverts along the highway that were damaged during the winter storms of 2005/2006. Caltrans will repair and upgrade seven culverts along the project, five of which are within streams that require 401 Water Quality Certification. The project will include the installation of larger and more appropriately sized culverts and the use of rock slope protection (RSP) near culvert inlets and outfalls to stabilize the embankments along Highway 96. In addition, the proposed project will include the installation of new culvert headwalls

and more accessible culverts for maintenance purposes. The project will also include the repair of a concrete apron at PM 28.95, which will provide Caltrans maintenance crews an area to remove excess debris from a chronic slide area.

3. The project will permanently impact 979 square feet of unnamed perennial drainages associated with four of the culvert repairs/upgrades. In addition, 400 square feet of the perennial drainages will be temporarily impacted for the purpose of accessing the culverts. Caltrans will utilize Best Management Practices (BMPs) to provide erosion control. The proposed project will require the use of temporary clear water diversion as a BMP to reduce sediment and prevent surface waters from coming in contact with concrete. As an additional BMP, the proposed work will be conducted between June 1st and September 30th during the summer low flow periods.

4. Caltrans proposes revegetation activities by planting a total of 5,572 square feet of willows and alders upstream and downstream of the culverts that require repairs. Replanting will occur within and beyond the footprint of the construction area; stabilization of any other disturbed area will be conducted utilizing wood, straw, or hydro mulch. Riparian areas along the perennial drainages that are affected by the construction activities will be replanted with native riparian vegetation. In addition, construction and post construction BMPs will be implemented to ensure erosion is minimized and controlled.

5. Non-compensatory mitigation measures have been incorporated into the project to reduce potential impacts to water quality, including erosion and sediment control BMPs to reduce the potential for turbid discharges to surface waters. All BMPs and control measures shall be implemented as described in the project description and in compliance with the Caltrans Construction Site Best Management Practices Manual (CCSBMPM).

6. Caltrans has applied for authorization from the United States Army Corps of Engineers (USACE) to perform the project under their Nationwide Permits No. 3 (maintenance) pursuant to Clean Water Act, section 404. Caltrans has determined that this project is categorically exempt from California Environmental Quality Act (CEQA) review [Class 1 Categorical Exemption (SCH No. 2007128199)]. In addition, Regional Water Board staff also determined that this project is categorically exempt from CEQA review (Class 1 Categorical Exemption) and anticipate filing a Notice of Exemption. Caltrans has also applied to California Department of Fish and Game for a Lake or Streambed Alteration Agreement. Construction work in all drainages will only be conducted during dry weather from the period of June 1st and September 30th. The entire project is expected to take four months to complete and is anticipated to be completed between June 1, 2009 and September 30, 2009.

Receiving Water:	Klamath River - Middle Klamath River Hydrologic Area No.105.30, Ukonom Hydrologic Sub-Area No. 105.31.
Filled or Excavated Area:	Permanent Impacts: 979 square feet – perennial drainages Temporary impacts: 400 square feet – perennial drainages
Expiration:	June 25, 2013

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE REGIONAL WATER BOARD CERTIFIES THAT THE CALTRANS – HIGHWAY 96 STORM DAMAGE RESTORATION PROJECT WDID NO. 1A08018WNSI, AS DESCRIBED IN THE APPLICATION WILL COMPLY WITH SECTIONS 301, 302, 303, 306 AND 307 OF THE CLEAN WATER ACT, AND WITH APPLICABLE PROVISIONS OF STATE LAW, PROVIDED THAT CALTRANS COMPLIES WITH THE FOLLOWING TERMS AND CONDITIONS:

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 title 23, California Code of Regulations, section 3867.

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 title 23, California Code of Regulations, 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. The validity of any nondenial certification action (actions 1 and 2) shall be conditioned upon total payment of the full fee required under title 23, California Code of Regulations, section 3833, unless otherwise stated in writing by the certifying agency.

4. Except as may be modified by any preceding conditions, all certification actions are contingent on: a) the discharge being limited and all proposed revegetation being completed in strict compliance with the Applicant's project description, and b) compliance with all applicable requirements of the Basin Plan.

5. Caltrans shall construct the project in accordance with the project described in the application and the findings above, and shall comply with all applicable water quality standards.

6. Any change in the implementation of the project that would have a significant or material effect on the findings, conclusions, or conditions of this Order must be submitted to the Executive Officer of the Regional Water Board for prior review and written approval.

7. Caltrans shall provide Regional Water Board staff access to the project site to document compliance with this order.

8. Caltrans shall provide a copy of this order and attachments to the contractor and all subcontractors conducting the work, and require that copies remain in their possession at the work site. Caltrans shall be responsible for work conducted by its contractor or subcontractors.

9. If, at any time, an unauthorized discharge to surface water (including wetlands, rivers or streams) occurs, or any water quality problem arises, the associated project activities shall cease immediately until adequate BMPs are implemented. The Regional Water Board shall be notified promptly and in no case more than 24 hours after the unauthorized discharge or water quality problem arises.

10. No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete or concrete washings, welding slag, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature, other than that authorized by this Order, shall be allowed to enter into or be placed where it may be washed by rainfall into waters of the State.

11. When operations are complete, any excess material or debris shall be removed from the work area and disposed of properly and in accordance with the Special Provisions for the project and/or Standard Specification 7-1.13, Disposal of Material Outside the Highway Right of Way. Caltrans shall submit to the Regional Water Board the satisfactory evidence provided to the Caltrans engineer by the Contractor referenced in Standard Specification 7-1.13.

12. Work in flowing or standing surface waters, unless otherwise proposed in the project description and approved by the Regional Water Board, is prohibited. If construction dewatering is found to be necessary, the Applicant shall use a method of water disposal other than disposal to surface waters (such as land disposal) or the Applicant shall apply for coverage under the General Construction Dewatering Permit and receive notification of coverage to discharge to surface waters, prior to the discharge.

13. Fueling, lubrication, maintenance, storage and staging of vehicles and equipment shall be outside of waters of the United States and the State. Fueling, lubrication, maintenance, storage and staging of vehicles and equipment shall not result in a discharge or a threatened discharge to any waters of the State or the United States. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality.

14. BMPs for erosion, sediment and turbidity control shall be implemented and in place at commencement of, during and after any ground clearing activities, construction activities, or any other project activities that could result in erosion or sediment discharges to surface water. The BMPs shall be implemented in accordance with the CCSBMPM and all contractors and subcontractors shall comply with the CCSBMPM.

15. All conditions required by this Order shall be included in the Plans and Specifications prepared by Caltrans for the Contractor. In addition, Caltrans shall require compliance with all conditions included in this Order in the bid contract for this project.

16. The Resident Engineer shall hold on-site water quality permit compliance meetings (similar to tailgate safety meetings) to discuss permit compliance, including instructions on how to avoid violations and procedures for reporting violations. The meetings shall be held at least every other week, and particularly before forecasted storm events and when a new contractor or subcontractor arrives to begin work at the site. The contractors, subcontractors and their employees, as well as any inspectors or biological monitors assigned to the project, shall be present at the meetings. Caltrans shall maintain dated sign-in sheets for attendees at these meetings, and shall make them available to the Regional Water Board on request.

17. All revegetation activities performed within the project area shall be conducted in accordance with the application package and supplemental information submitted via e-mail dated May 21, 2008.

18. All revegetation and associated maintenance efforts shall be monitored yearly, to ensure the establishment of native tree and plant species and stabilization of the stream banks. Monitoring reports shall be submitted annually and include, at a minimum, the following information: name and title of personnel conducting monitoring and/or maintenance; observation dates; vegetation summaries; site photographs; and success evaluation. Subsequent to the completion of the project, monitoring reports shall be submitted for the following five years and are due to the Regional Water Board on July 1, annually.

19. In the event of any violation or threatened violation of the conditions of this Order, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under applicable state or federal law. For the purposes of section 401(d) of the Clean Water Act, 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 Order. In response to a suspected violation of any condition of this certification, the State Water Board may require the holder of any federal permit or license subject to this Order to furnish, under penalty of perjury, any technical or monitoring reports the Regional Water Board deems appropriate, provided that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. In response to any violation of the conditions of this Order, the Regional Water Board may add to or modify the conditions of this Order as appropriate to ensure compliance.

20. The Regional Water Board may add to or modify the conditions of this Order, 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 Clean Water Act.

21. This Order is not transferable. In the event of any change in control of ownership of land presently owned or controlled by the Applicant, the Applicant shall notify the successor-in-interest of the existence of this Order by letter and shall forward a copy

of the letter to the Regional Water Board. The successor-in-interest must send to the Regional Water Board Executive Officer a written request for transfer of this Order to discharge dredged or fill material under this Order. The request must contain the following:

a. requesting entity's full legal name
b. the state of incorporation, if a corporation
c. address and phone number of contact person
d. description of any changes to the project or confirmation that the successor-in-interest intends to implement the project as described in this Order.

22. The authorization of this certification for any dredge and fill activities expires on June 25, 2013. Conditions and monitoring requirements outlined in this Order are not subject to the expiration date outlined above, and remain in full effect and are enforceable.

23. Please contact Jeremiah Puget of our staff at (707) 576-2835 or jpuget@waterboards.ca.gov if you have any questions.

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Catherine Kuhlman
Executive Officer

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Web link: 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 can be found at: http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf

Original sent to: Mr. Edward Espinoza, California Department of Transportation, P.O. Box 496073, Redding, CA 96049-6073

Copies sent to: Mr. Bill Orme, SWRCB, Acting 401 Program Manager, Clean Water Act Section 401 Certification and Wetlands Unit Program

Ms. Samantha Olson, SWRCB, Office of the Chief Counsel

Ms. Jane Hicks, U.S. Army Corps of Engineers, Regulatory Functions, 1455 Market Street, San Francisco, CA 94103-1398

Mr. Miguel Villicana, California Department of Transportation, P.O. Box 496073, Redding, CA 96049-6073