



California Regional Water Quality Control Board North Coast Region

Bob Anderson, Chairman

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**Arnold
Schwarzenegger**
Governor

Linda S. Adams
Secretary for
Environmental Protection

July 10, 2008

In the Matter of

Revised - Water Quality Certification

for the

CALIFORNIA DEPARTMENT OF TRANSPORTATION HIGHWAY 101 HIGH OCCUPANCY VEHICLE (HOV) LANE WIDENING AND IMPROVEMENTS PROJECT: STEELE LANE TO WINDSOR RIVER ROAD: WDID NO. 1B07177WNSO

APPLICANT: California Department of Transportation – District 4
RECEIVING WATER: Paulin Creek, Piner Creek, Mark West Creek, Pruitt Creek,
Poole Creek, and Windsor Creek
HYDROLOGIC AREA: Middle Russian River Hydrologic Area No. 114.20
COUNTY: Sonoma
FILE NAME: Highway 101 High Occupancy Vehicle (HOV) Lane
Widening and Improvements: Steele Lane to Windsor River
Road Project

BY THE EXECUTIVE OFFICER:

1. On December 4, 2007, the California Department of Transportation (Caltrans and Applicant) filed an application and fee of \$3,062.80 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 101 High Occupancy Vehicle (HOV) Lane Widening and Improvements: Steele Lane to Windsor River Road Project (Project). The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on February 25, 2008, and posted information describing the Project on the Regional Water Board's website. No comments were received.
2. On March 21, 2008 the Regional Water Board issued a 401 Water Quality Certification and/or Waste Discharge Requirements for the Project. Based on the United States Fish and Wildlife Service (USFWS) prepared *Amendment to the Biological Opinion on the Effects of the Proposed Three Highway 101 Lane Widening, and Improvement Projects in Sonoma County, California*, dated April 15, 2008, the California Department of Transportation (Caltrans) has requested an amendment to the previously issued 401 Water Quality Certification to reflect the

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changes in the USFWS document. Additional revisions will include changes in the due dates for the purchase of mitigation credits as well as the mitigation and monitoring plans.

3. The amendments to the Biological Opinion have altered the amount of impacts and mitigation required by the USFWS for the Project. In addition, the revised Biological Opinion also reflects that the project will be completed in three separate construction phases. Phase A will consist of all proposed improvements to the Highway. Phase B will include the ramp improvements to Airport Boulevard and Fulton Road, construction of the collector distributor roads and bridges between Airport Boulevard and Fulton Road, and all project soundwalls. Phase C will include all the final landscaping activities.
4. The Project is located along Highway 101 in Sonoma County, from Steele Lane in Santa Rosa to Windsor River Road in Windsor, between post mile (PM) 21.7 and PM 29.3. Completion of the Project will complete one of the remaining portions of the planned continuous Highway 101 HOV system, which will reduce traffic congestion, and address existing roadway and operational deficiencies. The total Project area is approximately 253 acres, including all staging areas. All of the land to be converted to transportation structure is existing State-owned right of way.
5. Phase A of the Project will consist of: widening Highway 101 from four lanes to six lanes; widening the shoulders of Highway 101; modifying and adding new drainage structures; widening, extending, and adding auxiliary lanes; modifying interchanges; modifying bridges at Mark West Creek, Poole Creek, and Pruitt Creek; realigning and reconstructing ramps; installing ramp metering, closed circuit cameras, changeable message signs, overhead signs, new traffic signals, traffic monitoring stations, and a highway advisory radio system; and constructing retaining walls and sound walls. Phase B of the project will consist of making improvements to the Airport/Fulton interchange. That phase of the project will be permitted through a separate application, and is not covered by this Order.
6. The Project will result in permanent impacts to 0.47 acres of waters of the United States, 0.392 acres of which are wetland features and 0.078 acres of which are linear features. The Project will also cause temporary impacts; 0.188 acres of waters of the United States, and 1.97 acres of waters of the State. Total temporary impacts associated with the Project are 2.152 acres.
7. The Project will result in an increase of 39.28 acres of impervious area. Caltrans will address the increases in storm water runoff and hydro-modification of the area through various means, primarily through the use of bio-strips that rely on retention and dispersion for treatment. The area of hydro-modification and storm water treatment is 56.5 acres. The biostrips will be installed in multiple soil types. Soils classified by the Natural Resources Conservation Service (NRCS) as type C and D will be amended to create "enhanced" biostrips. Enhancements will consist of amending the soils with compost to increase infiltration and retention of runoff, incorporating the compost to a depth of eight inches. Additionally, Caltrans will place a 12-inch diameter compost filter sock at the end of the biostrip furthest from the roadway, which will enhance infiltration and pollutant removal. Soils classified by NRCS as A or B soil will not be amended and will have a minimum width of ten feet perpendicular to the length of road.

8. Compensatory mitigation for loss of riparian vegetation will be obtained through revegetation proposed at Pruitt Creek. Willow trees will be planted above the ordinary high water mark (OHWM) between the drip line of the bridge and the line of State-owned right of way. Appropriate native tree species will be planted at higher elevations along the bank to provide shading and diversity, while Himalayan blackberry and other invasive species will be removed. Riparian impacts are estimated to be 0.08 acres; revegetation shall be at a 2:1 ratio resulting in the total area of revegetation mitigation to be 0.16 acres. Caltrans shall submit a final on-site mitigation and monitoring plan detailing the restoration and revegetation of the riparian habitat to the Regional Water Board by September 30th, 2008.
9. Compensatory mitigation requirements for loss of waters of the State and waters of the United States associated with the completion of the Project will be fulfilled through the purchase of off-site mitigation credits, and through on-site mitigation work. Mitigation credits will be purchased no later than seven days prior to the beginning of construction. Caltrans is pursuing the purchase of mitigation credits from a variety of mitigation banks in the project area. Credits will be purchased in the following amounts: 6.46 acres of California Tiger Salamander (CTS) dispersal habitat and 0.47 acres of waters of the United States. The USFWS Amended Biological Opinion has reduced the amount of special status plant species from 10.83 acres to 0 acres. On site work will include the replacement of several ditches (1.97 acres) throughout the project area as well as the riparian restoration described above.
10. Non-compensatory mitigation measures have been incorporated into the project to reduce potential impacts to water quality, including erosion and sediment control Best Management Practices (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).
11. On October 24, 2007, Caltrans adopted an Environmental Impact Report [EIR (State Clearing House No.2003062101)] for the Project in order to comply with the California Environmental Quality Act (CEQA). The Regional Water Board has considered the environmental document and any proposed changes incorporated into the project or required as a condition of approval to avoid significant effects to the environment.
12. The National Marine Fisheries Service issued a Biological Opinion with an Incidental Take Permit on October 19, 2007 (File Number 2007/06099:DHW). The United States Fish and Wildlife Service had issued a Biological Opinion with an Incidental Take Permit on October 18, 2007 (File Number 1-1-05-F-0300) and subsequently issued an Amendment to the Biological Opinion with an Incidental Take Permit on April 15, 2008.
13. Caltrans has applied for a Nationwide Permit Number 14: Linear Transportation Projects from The United States Army Corps of Engineers (pending), pursuant to Clean Water Act, section 404. Caltrans is also seeking a Streambed Alteration Agreement from the California Department of Fish and Game (pending).

Receiving Water: Wetlands and linear features associated with Paulin Creek, Piner Creek, Mark West Creek, Pruitt Creek, Poole Creek, and Windsor Creek, Middle Russian River Hydrologic Area No. 114.20, Russian River Hydrologic Unit No. 114.00

Filled or Excavated Area: Permanent Impacts: 0.47 acres
Temporary impacts: 2.152 acres

Expiration: July 10, 2013

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE REGIONAL WATER BOARD CERTIFIES THAT THE CALTRANS HIGHWAY 101 HIGH OCCUPANCY VEHICLE LANE WIDENING AND IMPROVEMENTS: STEELE LANE TO WINDSOR RIVER ROAD PROJECT (FACILITY NO. 1B07177WNSO), 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 the 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 mitigation 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 conditions 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, 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 application 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 Caltrans Construction Site Best Management Practices Manual (Manual) and all contractors and subcontractors shall comply with the Manual.
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. Caltrans must submit proof of purchase for all off-site mitigation within a week of the purchase, and no later than seven days prior to construction. Caltrans must purchase a minimum of 6.46 acres of CTS dispersal habitat credit and 0.47 acres of wetlands creation and preservation credit.
18. On-site mitigation shall include the restoration of 0.16 acres of riparian habitat along Pruitt Creek. Caltrans shall submit a final on-site mitigation plan for this restoration no later than September 30th, 2008, for Executive Officer approval. Additional on site mitigation shall include the relocation of 1.97 acres of wetland ditches.
19. Storm water treatment features shall be installed to treat all additional impervious surfaces due to the Project. Biostrips shall be installed adjacent to the widened roadway as described in the application. Biostrips that are installed in NRCS type C and/or D soils shall be enhanced by incorporating compost into the soil and by installing a compost filter sock at the toe of the biostrip treatment area.
20. In the event of any violation or threatened violation of the conditions of this certification, 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 certification. 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 certification to furnish, under penalty of perjury, any technical or monitoring reports the State 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 certification, the Regional Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.
21. The Regional 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 Clean Water Act.
22. 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 Office 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.

23. The authorization of this Order for any dredge and fill activity expires on July 10, 2013. Conditions and monitoring requirements outlined in this certification are not subject to the expiration date outlined above, and remain in full effect and are enforceable.

24. Please contact Jeremiah Puget of our staff at (707) 576-2835 or at JPuget@waterboards.ca.gov if you have any questions and/or comments.

Catherine Kuhlman
Executive Officer

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Weblink: 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: Ray Centeno, Caltrans District 4, 111 Grand Avenue, Oakland, CA 94612

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

Ms. Samantha Olson and Ms. Kim Niemeyer, 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

Ms. Melissa Escaron, Department of Fish and Game, P.O. Box 47, Yountville, CA 94599

Ms. Melissa Scianni – WTR-8, USEPA, 75 Hawthorne St., San Francisco, CA 94105

Amy Fesnock, Sacramento Field Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room 2605, Sacramento, CA 95815

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