



California Regional Water Quality Control Board North Coast Region

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Arnold Schwarzenegger
Governor

January 20, 2009

In the Matter of

Water Quality Certification

for the

**California Department of Transportation - District 4
Highway 101 High Occupancy Vehicle (HOV)
Central Project: North of Pepper Road in Petaluma to
Rohnert Park Expressway in Rohnert Park**

WDID No. 1B08081WNSO

APPLICANT: California Department of Transportation - District 4
RECEIVING WATER: Laguna de Santa Rosa, Copeland Creek, wetlands, and
drainage ditches
HYDROLOGIC AREA: Russian River Hydrologic Unit No. 114.00
Laguna Hydrologic Sub-Area No. 114.21
COUNTY: Sonoma
FILE NAME: CDOT - Highway 101 HOV Central Project: Petaluma to
Rohnert Park

BY THE EXECUTIVE OFFICER:

1. On May 06, 2008, the California Department of Transportation – District 4 (Caltrans) in conjunction with the Sonoma County Transit Authority (SCTA), 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 101 High Occupancy Vehicle (HOV) Central Project: North of Pepper Road in Petaluma to the Rohnert Park Expressway in Rohnert Park (project). A fee of \$500 was submitted for the project on May 28, 2008. Additional information for the project was submitted on July 16, October 08, November 21, and December 3, 2008. The Regional Water

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Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on December 09, 2008, and posted information describing the Project on the Regional Water Board's website. No comments were received.

2. The project is located along Highway 101 in Sonoma County, from the Rohnert Park Expressway overcrossing to North of Pepper Road in Petaluma, which extends from post mile (PM) 14.4 to PM 22.4. The purposes of the project are to complete one of the remaining portions of the planned continuous Highway 101 HOV system, to reduce traffic congestion, and to address existing roadway and operational deficiencies. The total project area is approximately 83 acres, including all staging areas.
3. The proposed actions for the project will consist of: widening Highway 101 from four lanes to six lanes; creating standard 10 foot outside and inside shoulders; construction of auxiliary lanes between the Highway 116 and Rohnert Park Expressway interchanges; widening bridges at the Laguna de Santa Rosa and Copeland Creek; installation of closed circuit traffic cameras, changeable message signs, and traffic monitoring stations; and on- and off-ramp improvements for the Highway 116 interchange. The proposed project is anticipated to begin in April 2009 and end in December 2011, and will take approximately 240 working days per year.
4. The project will result in permanent impacts to 0.2685 acres of waters of the United States (U.S.) and waters of the State of California (State) which includes seasonal wetlands, Copeland Creek and the Laguna de Santa Rosa. In addition, 0.03 acres of waters of the U.S. will be temporarily impacted as well as 0.28 acres of waters of the State, for a total of 0.31 acres of temporary impacts. All graded areas within the project affected by the construction activities will be appropriately stabilized. In addition, construction and post-construction Best Management Practices (BMPs) will be implemented to ensure erosion is minimized and controlled.
5. Compensatory mitigation requirements for loss of waters of the State and waters of the U.S. associated with project has been negotiated with State and Federal agencies and will be fulfilled through the purchase of off-site mitigation credits, and through on-site mitigation work. As negotiated with approving agencies, mitigation for permanent project impacts to waters of the State and waters of the U.S. require the purchase of mitigation bank credits from an approved mitigation bank at a 1:1 ratio. In accordance with the United States Fish and Wildlife Service (USFWS) revised Biological Opinion, dated April 15, 2008 the required acreage of off-site California Tiger Salamander (CTS) dispersal habitat credits purchased was 26.63 acres. Caltrans has purchased mitigation credits from multiple agency-approved mitigation banks within the region. On October 10, 2008 the Regional Water Board received information from Caltrans and SCTA regarding the purchase of the required mitigation credits from local agency-approved banks. Additionally, proof of purchase for 0.1-acres of wetland mitigation credit shall be provided by March 30, 2009.

Temporary impacts to jurisdictional waters will not exceed one year of impact and will be mitigated on-site by replanting and revegetation activities.

6. The project will result in an increase of 27 acres of impervious area. On-site storm water and hydro-modification treatment controls will primarily include the use of biostrips and/or bioswales. However, due to sensitive CTS habitat constraints within the right-of-way, Caltrans/SCTA will only be able to provide treatment of storm water runoff and hydro-modification treatment for approximately 12 acres. Therefore, Caltrans/SCTA have sought contractual agreements with the City of Santa Rosa, the Santa Rosa Fairgrounds and Sonoma County to treat storm water runoff and hydro-modification impacts at three off-site locations within the middle Russian River Hydrologic Area 114.20 to offset the project deficiencies. The Regional Water Board has concurred with the project proposal, which include retrofits to the Santa Rosa Fairgrounds Brookwood parking lot, Talbot Drive & Montgomery Drive bulbouts (City of Santa Rosa), and the Sonoma County Permit and Resource Management Department parking lot. The three projects combined will provide approximately 17 acres of storm water treatment and approximately eight acres of hydro-modification benefit.
7. 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).
8. On August 30, 2007 Caltrans certified an Environmental Assessment/Environmental Impact Report (State Clearing House No.2003062100) 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.
9. Caltrans and the SCTA have applied for authorization from the United States Army Corps of Engineers pursuant to Clean Water Act, section 404, and have sought a Biological Opinion from the USFWS. Caltrans and the SCTA have also applied for a Streambed Alteration Agreement from the California Department of Fish and Game and a Letter of Concurrence from the National Marine Fisheries Service.

Receiving Water: The Laguna de Santa Rosa, Copeland Creek, Wetlands and Drainage Swales.

Latitude/Longitude: 38.3480 N / 122.7130 W to 38.2843 N / 122.6862 W

Filled or Excavated Area: Permanent Impacts: 0.2685 acres

Temporary Impacts: 0.31 acres

Expiration: January 20, 2014

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE REGIONAL WATER BOARD CERTIFIES THAT THE CALTRANS HIGHWAY 101 HIGH OCCUPANCY VEHICLE CENTRAL PROJECT: NORTH OF PEPPER ROAD IN PETALUMA TO ROHNERT PARK EXPRESSWAY IN ROHNERT PARK (FACILITY NO. 1B08081WNSO), 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 shall 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, there is an unauthorized discharge to surface water (including wetlands, rivers or streams), 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 application and approved by the Regional Water Board, is prohibited. If construction dewatering is found to be necessary, the Applicant shall use a disposal method 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 U.S. 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 U.S. 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. 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. A copy of the project Storm Water Pollution Prevention Plan (SWPPP) shall be submitted to the attention of Regional Water Board at least 30 days prior to the start of any project activity. Construction activities are authorized only if they are adequately addressed in the current SWPPP.
18. Monthly monitoring reports shall be submitted to the appropriate Regional Water Board staff person. The monthly monitoring reports shall include at a minimum a summary of discharges, a summary of corrective actions taken (if necessary), pictures, all field sampling measurements and/or results, project status (i.e. upcoming construction schedule and disturbed soil area updates), biological monitoring reports, changes to the SWPPP. Monthly monitoring reports are due to the Regional Water Board by the 15th of each month once work on the project has been initiated.
19. Caltrans/SCTA shall purchase a minimum of an additional 0.1 acres of wetlands creation and preservation credit. Caltrans/SCTA shall submit proof of purchase for all off-site mitigation, and the proof of purchase shall be received in the Regional Water Board office no later March 30, 2009
20. On-site mitigation shall include the replanting and revegetation of 0.31 acres of temporarily impacted waters of the State. Caltrans/SCTA will mitigate temporary impacts in accordance with the application and additional information package received on December 3, 2008. Temporary impacts to waters U.S. and waters of the State will be replaced on-site and in-kind and shall not exceed the length on one year prior to replacement or restoration.

21. Caltrans/SCTA shall provide post-construction storm water treatment on-site where feasible and shall provide off-site treatment projects within the Middle Russian River Hydrologic Area 114.20 to treat an equivalent area of existing impervious surfaces to the deficit in on-site treatment. The plans for the Sonoma County Fairgrounds Brookwood parking lot, Talbot Drive & Montgomery Drive bulbouts (City of Santa Rosa), and the Sonoma County Permit and Resource Management Department parking lot off-set projects shall be submitted to the Regional Water Board for approval by the Executive Officer no later than August 01, 2009. The on-site and off-site projects shall provide a total treatment of 27 acres or at least equal to the increase in impervious surface associated with the project. All off-set projects shall be completed and fully functional prior to the completion of the Highway 101 - Central project. If additional off-set projects are necessary to meet the required storm water/hydro-modification treatment objectives, Caltrans/SCTA shall provide a proposal and final design plans to the Regional Water Board for approval by the Executive Officer.
22. Visual observations of Copeland Creek and/or the Laguna de Santa Rosa shall be conducted whenever a project activity has the potential to mobilize sediment and increase the turbidity and/or pH of Copeland Creek and/or the Laguna de Santa Rosa. In order to demonstrate compliance with receiving water limitations, field turbidity and/or pH measurements shall be collected whenever a project activity may cause turbidity and/or pH of Copeland Creek and/or the Laguna de Santa Rosa to be increased above background concentrations.
23. Whenever turbidity and/or pH in Copeland Creek and/or the Laguna de Santa Rosa is increased above background as a result of project activities, turbidity and/or pH measurements shall be collected upstream (within 50 feet) of project activities (background) and downstream (within 100 feet) of the source. The frequency of turbidity and/or pH monitoring shall be a minimum of every hour during periods of increased turbidity and/or pH and shall continue until measurements demonstrate compliance with receiving water limitations and turbidity and pH levels are no longer increasing as a result of project activities. If turbidity levels are greater than 20 percent above background, or pH levels are beyond the water quality objective (6.5 – 8.5) 100 feet downstream of the source(s), all necessary steps shall be taken to install, repair, and/or modify BMPs to control the source(s) of sediment or increased pH. In addition, the overall distance from the source(s) of turbidity or pH to the downstream extent of the increased turbidity or pH (20 percent above background / 6.5 - 8.5) shall be measured.
24. Turbidity and pH monitoring results shall be reported to appropriate Regional Water Board staff person by telephone within one hour of taking any turbidity measurement higher than 20 percent above background or pH measurements outside of 6.5 – 8.5 at a point 100 feet or more downstream of the source(s). Pictures of Copeland Creek and/or the Laguna de Santa Rosa upstream, downstream and within the

working and/or disturbed area shall be taken and submitted to the appropriate Regional Water Board staff via e-mail or fax within 24 hours of the incident.

25. Calibration logs for all field monitoring equipment shall be maintained and be available to the Regional Water Board on request.
26. When construction operations are completed, any excess material or debris shall be removed from the work area and disposed of properly. No rubbish shall be deposited within 100 feet of waters of the U.S. and/or the State.
27. All materials used for cleaning concrete from tools and equipment, and any wastes generated by this activity, shall be adequately contained to prevent contact with soil and surface water and shall be disposed of properly within a clearly designated area at least 100 feet beyond waters of the U.S. and/or the State.
28. Caltrans shall take photos of all areas disturbed by project activities, including all excess materials disposal areas, after the first rainfall event that generates visible runoff from these areas in order to demonstrate that erosion control measures have been successful. A report containing these photos shall be submitted within 60 days of the first rainfall event that generates runoff from the disturbed areas
29. Fueling, lubrication, maintenance, storage and staging of vehicles and equipment shall be outside of waters of the U.S. 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 U.S. At no time shall Caltrans use any vehicle or equipment which leaks any substance that may impact water quality.
30. 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 Order, 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 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 Order, the Regional Water Board may add to or modify the conditions of this Order as appropriate to ensure compliance.

31. 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.
32. 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.
33. The authorization of this Order for any dredge and fill activity expires on January 20, 2014. 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.
34. 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

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