



**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

January 27, 2009

In the Matter of

**Water Quality Certification**

for the

**California Department of Transportation  
Highway 162 - Storm Damage Repair Project:  
WDID No. 1B08087WNME**

APPLICANT: California Department of Transportation  
RECEIVING WATER: Tributary to the Eel River  
HYDROLOGIC AREA: Eel River Hydrologic Unit No.111.00,  
Tomki Creek Hydrologic Sub-Area No. 111.62.  
COUNTY: Mendocino  
FILE NAME: CDOT – Highway 162 – Storm Damage Repair Project

BY THE EXECUTIVE OFFICER:

1. On May 14, 2008, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application and \$500.00 fee from the California Department of Transportation (Caltrans) District 1, requesting Federal Clean Water Act (CWA), section 401, Water Quality Certification for activities related to the proposed Highway 162 – Storm Damage Repair project (project). Additional information was received by the Regional Water Board on December 18, 2008. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on December 31, 2008, and posted information describing the project on the Regional Water Board's website. No comments were received.
2. The project will cause disturbances to waters of the United States (U.S.) and waters of the State associated with the Eel River Hydrologic Unit No.111.00, and Tomki Creek Hydrologic Sub-Area No. 111.62. The proposed project is located on

**California Environmental Protection Agency**

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Highway 162 from post mile (PM) 11.0 to 12.0, in Mendocino County. The purpose of the proposed project is to repair a portion of the highway that was damaged during the 2005/2006 storm season. The proposed project will result in temporary and permanent impacts to waters of the U.S and waters of the State. Caltrans proposes to realign, reconstruct and widen approximately 0.24 mile of roadway, which requires a cut into the eastern hill slope adjacent to the roadway, and the extension of an existing concrete box culvert. The project also includes construction of a rock-lined v-ditch and two modified bioswales to reduce sediment and pollutant load to the unnamed tributaries that drain to the Eel River. The existing roadway will be obliterated where it is not incorporated into the new alignment.

3. Caltrans has determined that temporary impacts to waters of the U.S. (unnamed tributary to Eel River) would total 43.56 feet<sup>2</sup> (0.001 acres). Additionally, the extension of an existing concrete box culvert and installation of rock slope protection will permanently impact approximately 192 feet<sup>2</sup> (0.004 acres) of stream channel. Caltrans proposes offsetting the project impacts by planting 0.009 acres (390 feet<sup>2</sup>) on-site with native trees and vegetation to provide wildlife habitat, shade and sediment reduction to the unnamed tributary location at PM 11.80. All graded areas within the project affected by the construction activities will be appropriately stabilized and/or replanted with appropriate native vegetation. In addition, construction and post construction BMPs will be implemented to ensure erosion is minimized and controlled.
4. The project will result in a net increase of impervious surface area of approximately 0.18 acres. Caltrans has evaluated post-construction treatment controls to address storm water runoff in the vicinity of the project area and has proposed the construction of modified bioswales on-site. The proposed bioswales are considered modified since site constraints prevent sizing the swales to meet Caltrans bioswale standards. However, the proposed swales will provided an additional water quality benefit by reducing the velocity of runoff, thus reducing sediment and pollutant load to the unnamed tributaries within the project area.
5. Caltrans has applied for authorization from the U.S. Army Corps of Engineers (USACE) to perform the project under their Nationwide Permit No. 14 (linear transportation projects) pursuant to Clean Water Act, section 404. Caltrans has also applied for a California Department of Fish and Game Streambed Alteration Agreement. Caltrans has determined that this project is categorically exempt from California Environmental Quality Act (CEQA) review (Class 1 Categorical Exemption). In addition, Regional Water Board staff also determined that this project is categorically exempt from CEQA review (Class 1 Categorical Exemption) and anticipates filing a Notice of Exemption. The proposed project activity is scheduled to be conducted between May 2009 and October 2010, and work in all drainages will only be performed in dry weather between May 15 and October 15.

Receiving Water: Tributary to the Eel River  
Eel River Hydrologic Unit No.111.00,  
Tomki Creek Hydrologic Sub-Area No. 111.62.

Filled or Excavated Area: Permanent impacts: 192 feet<sup>2</sup> (0.004 acres)  
Temporary impacts: 43.56 feet<sup>2</sup> (0.001 acres)

Latitude/Longitude: 39.6738 N / 123.3452 W

Expiration: January 27, 2014

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE REGIONAL WATER BOARD CERTIFIES THAT THE CALTRANS – HIGHWAY 162 STORM DAMAGE REPAIR PROJECT, MENDOCINO COUNTY, WDDID NO. 1B08087WNME, 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, Caltrans shall use a method of water disposal other than disposal to surface waters (such as land disposal) or Caltrans 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 (CCSBMPM) and all contractors and subcontractors shall comply with the CCSBMPM.
15. 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.
16. 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.
17. 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. Reports shall be provided for each year of construction and a final report shall be provided subsequent to the completion of the project.
18. To compensate for the loss of waters of the State and waters of the U.S. associated with project, Caltrans will plant 0.009 acres (390 feet<sup>2</sup>) with native trees and vegetation on-site. Project restoration activities shall be conducted in accordance with the Caltrans-prepared *Conceptual Revegetation Plan, State Route 162 Storm Damage Project, Mendocino County, EA 01-47630*, dated December 2008. All graded areas within the project affected by the construction activities shall be appropriately stabilized and/or replanted with appropriate native vegetation. Monitoring reports shall be submitted annually for a five year period (pending approval of successful restoration), 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.
19. 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.

20. 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.
21. 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 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.
22. 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.
23. 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.

24. The authorization of this certification for any dredge and fill activities expires on January 15, 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.
25. Please contact Jeremiah Puget of our staff at (707) 576-2835 or [jpuget@waterboards.ca.gov](mailto: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](http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf)

Original sent to: Ms. Jennifer Olah, California Department of Transportation  
District 3, P.O. Box 911, Marysville, CA 95901-0911

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

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