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

February 27, 2009

In the Matter of

Water Quality Certification

for the

California Department of Transportation
Highway 253 – Gino's Wall
WDID No. 1B09012WNME

APPLICANT:	California Department of Transportation
RECEIVING WATER:	Unnamed Tributaries to Soda Creek, Ephemeral Drainage, and Wetland Seep
HYDROLOGIC AREA:	Mendocino Coast Hydrologic Unit 113.00, and Navarro River Hydrologic Area 113.50**.**
COUNTY:	Mendocino
FILE NAME:	CDOT - Highway 253 Gino's Wall Project

BY THE EXECUTIVE OFFICER:

1. On January 30, 2009, the California Department of Transportation 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 253 Gino's Wall project (project). A fee of $723.00 was submitted for the project on January 30, 2008. Additional information regarding project specifics was received on February 3, 2009. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on February 5, 2009, and posted information describing the Project on the Regional Water Board's website. No comments were received.

2. The project is located on Highway 253 from post mile (PM) 1.7 to 2.3, in Mendocino County. The purpose of the project is to repair and reconstruct approximately 150 feet of roadway, which is on the verge of failure. The project will result in temporary impacts to waters of the U.S and waters of the State. The proposed work includes: construction of a 160-foot long tie-back retaining wall; replacement and reconstruction of culvert inlets, culverts outlets, and associated down-drains; headwall construction; installation of rock slope protection (RSP); roadbed excavation and repaving; and wetland and riparian restoration.

3. Caltrans has determined that temporary impacts associated with construction to waters of the U.S. and waters of the State (unnamed tributaries to Soda Creek, ephemeral drainage, and wetland seep) would total 992 feet^2 (0.023 acres). The project will result in approximately 233 feet^2 (0.0053 acres) of permanent impacts to waters of the U.S. and waters of the State. Caltrans proposes revegetation and wetland and riparian restoration on-site at a 1:1 ratio to off-set project impacts. All graded areas within the project affected by the construction activities will be appropriately stabilized and/or replanted with appropriate native vegetation.

4. 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). All graded areas within the project affected by the construction activities will be appropriately stabilized and/or replanted with appropriate native vegetation.

5. Caltrans has applied for authorization from the U.S. Army Corps of Engineers to perform the project under their Nationwide Permits 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 2 Categorical Exemption). In addition, Regional Water Board staff also determined that this project is categorically exempt from CEQA review (Class 2 Categorical Exemption) and anticipates filing a Notice of Exemption.

6. The project construction activities are scheduled for June 2009 to October 2010. Work in all drainages will only be performed during dry weather between May 15 and October 15.

Receiving Water:	Unnamed Tributaries to Soda Creek, Ephemeral Drainage, and Wetland seep
Filled or Excavated Area:	Permanent Impacts: 233 feet^2 (0.0053 acres) Temporary Impacts: 992 feet^2 (0.023 acres).
Latitude/Longitude:	39.0006 N / 123.3249 W
Expiration:	February 27, 2014

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE REGIONAL WATER BOARD CERTIFIES THAT THE CALTRANS HIGHWAY 253 GINO'S WALL PROJECT (FACILITY NO. 1B09012WNME), 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. 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 and approved pursuant to the Porter-Cologne Water Quality Control Act or Section 303 of the Clean Water Act.

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

9. 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.

10. 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.

11. 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.

12. When construction operations are completed, 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.

13. 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.

14. 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. No rubbish shall be deposited within 100 feet of waters of the U.S. and/or the State.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. Caltrans shall implement compensatory mitigation in accordance with the Mitigation and Monitoring Plan dated, January 2009. On-site revegetation and wetland and riparian restoration shall be conducted on-site at a 1:1 ratio to off-set project impacts. The off-site mitigation project shall result in the restoration and enhancement of at least 0.0076 acres. Subsequent to implementation of restoration, monitoring reports documenting all mitigation activities shall be submitted to the Regional Water Board annually for a minimum of five years. Reports shall 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.

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 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.

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 February 27, 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.

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.

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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: Ms. Rebecca Loeffler, California Department of Transportation, 2389 Gateway Oaks Drive, Suite 100, Sacramento, CA 95833

Copies sent to: Mr. Lupe Jimenez, California Department of Transportation, 2389 Gateway Oaks Drive, Suite 100, Sacramento, CA 95833
Mr. Bill Orme, SWRCB, Acting 401 Program Manager, Clean Water Act Section 401 Certification & Wetlands Unit
Ms. Samantha Olson and Ms. Kim Niemeyer, SWRCB, OCC
Ms. Jane Hicks, U.S. Army Corps of Engineers, Regulatory Functions, 1455 Market Street, San Francisco, CA 94103-1398