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

July 29, 2009

In the Matter of

Water Quality Certification

for the

California Department of Transportation
Highway 253 – Storm Damage Repair Project:
WDID No. 1B08162WNME

APPLICANT:	California Department of Transportation
RECEIVING WATER:	Tributaries to the Russian River
HYDROLOGIC AREA:	Russian River Hydrologic Unit (HU) No.114.00 Ukiah sub-area 114.31.
COUNTY:	Mendocino
FILE NAME:	CDOT Hwy 253, Storm Damage Project

BY THE EXECUTIVE OFFICER:

1. On November 6, 2008, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application and $1,543 fee from the California Department of Transportation (Caltrans), requesting Federal Clean Water Act (CWA), section 401, Water Quality Certification for activities related to the proposed Highway 253, Storm Damage Repair project (project). Additional project information was received on February 5, 2009 and June 19, 2009. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on June 25, 2009, and posted information describing the project on the Regional Water Board's website. No comments were received.

2. The proposed project includes three locations along Highway 253 at post miles (PM) 8.05, PM 9.21 and PM 10.81 in Mendocino County. The purposes and objectives of the project are to repair and replace the highway subgrade and culverts to protect the roadway from erosion-related structural failures. The proposed construction activities will consist of: replacing culverts; replacing headwalls; grading drainage ditches; installing underdrains; installing culvert aprons and flared end sections;

replacing asphalt and road base; installing rock slope protection (RSP); and conducting slope revegetation and erosion control.

3. The proposed work will result in impacts to jurisdictional waters (tributaries to Feliz Creek) including 314 feet^2 (135 linear feet) of impacts associated with the work at PM 8.05 and 196 feet^2 (98 linear feet) with the work at PM 8.09. In addition, the proposed work will result in impacts to jurisdictional waters (tributaries to Robinson Creek) including 733 feet^2 (343 linear feet) of impacts associated with the work between PM 10.77 and PM 10.81. The majority of the project impacts are associated with existing culverts, roadside ditches and the installation of RSP. The proposed project will only result in approximately 0.019-acres of new permanent impacts to waters of the U.S and waters of the State. However, the permanent impacts are associated with the installation of RSP in an unstable drainage ditch, which is ultimately designed to reduce the amount of sediment in the drainage ditch and improve water quality. To avoid impacts to jurisdictional drainages, project activities will only be conducted under “no flow” conditions. Compensatory mitigation is not required.

4. Caltrans has applied for authorization from the U.S. Army Corps of Engineers (USACE) to perform the project under their Nationwide Permit No. 3 (maintenance) pursuant to Clean Water Act, section 404. In addition, Caltrans has applied to the California Department of Fish and Game for a 1602 Lake and Streambed Alteration Agreement. Caltrans has determined that this project is categorically exempt from California Environmental Quality Act (CEQA) review (Class 1 Categorical Exemption). Caltrans has determined that this project is categorically exempt from California Environmental Quality Act (CEQA) review (General Rule Categorical Exemption). 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. In addition, all project activities will only be performed during the dry weather months between May 15 and October 15.

Receiving Water:	Tributaries to Feliz Creek and Robinson Creek Russian River Hydrologic Unit No.114.00. Ukiah Hydrologic Sub-Area No. 114.31.
Filled or Excavated Area:	Permanent impacts: 0.019-acres (840 feet^2) of new permanent impacts Temporary impacts: 0.028-acres (1,245 feet^2) of temporary construction impacts
Total Linear Impact:	Permanent impacts: 295 linear feet of new permanent impacts Temporary impacts: 576 linear feet of temporary construction impacts

Dredge Volume : None

Latitude/Longitude: 39.0442 N/123.22646 W and 39.0592 N/123.2417 W

Expiration: July 29, 2014

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE REGIONAL WATER BOARD CERTIFIES THAT THE CALTRANS – HIGHWAY 253 – STORM DAMGE REPAIR PROJECT, WDID NO. 1B08162WNME, 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. The Regional Water Board shall be notified in writing each year at least five working days (working days are Monday – Friday) prior to the commencement of ground disturbing activities, with details regarding the construction schedule, in order to allow staff to be present onsite during installation and removal activities, and to answer any public inquiries that may arise regarding the project.

5. 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.

6. 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.

7. 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.

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. All activities and BMPs shall be implemented according to the submitted application and the conditions in this certification.

11. 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.

12. 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.

13. 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.

14. 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.

15. Water which has come into contact with wet concrete during construction shall be captured and disposed of in appropriate locations at least 100 linear feet beyond waters of the State. No excess concrete or concrete washings shall be allowed to contact waters of the State. In addition, all concrete contact water disposal locations as well as concrete washout basins shall have adequate BMPs in accordance with the Caltrans Construction Site Best Management Practices Manual (CCSBMPM).

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 linear feet beyond waters of the State

17. 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.

18. 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.

19. 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.

20. 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.

21. Caltrans shall take photos of all areas disturbed by project activities, including all excess materials disposal areas, after rainfall events that generate visible runoff from these areas in order to demonstrate that erosion control and revegetation measures have been successful. A brief report containing these photos shall be

submitted within 60 days of the rainfall event that generated runoff from the disturbed areas. In addition, Caltrans shall provide photos of the completed work to the appropriate Regional Water Board staff person, in order to document compliance.

22. 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.

23. 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.

24. The Russian River watershed is listed on the State of California Clean Water Act Section 303(d) list as impaired for sediment and temperature. Given that roads are a responsible source of sediment in the watershed (directly, from surface erosion, and, indirectly, by triggering landslides) a good first step can be made by focusing on reducing sediment from roads in the middle and lower portions of the watershed. Reducing road-related sediment should be made a high priority. In addition, activities that impact the riparian zone and riparian vegetation are identified as sources contributing to increased stream temperatures. At present, there are no watershed-specific implementation plans for this TMDL. If a TMDL implementation plan is adopted prior to the expiration date of this Order, the Regional Water Board may revise the provisions of this Order to address actions identified in such action plan.

25. 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.

26. The authorization of this certification for any dredge and fill activities expires on July 30, 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.

27. 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. Lupe Jimenez, 2800 Gateway Oaks Drive, Suite 100
Sacramento, CA 95833

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

U.S. Army Corps of Engineers, District Engineer,
601 Startare Drive, Box 14, Eureka, CA 95501

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