



Linda S. Adams
Secretary for
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**California Regional Water Quality Control Board
North Coast Region
Geoffrey M. Hales, Chairman**

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Arnold
Schwarzenegger
Governor

August 23, 2010

In the Matter of

Water Quality Certification

for the

**California Department of Transportation
Highway 299 –Replace Downdrain with Rock-Lined Ditch:
WDID No. 1B10015WNHU**

APPLICANT: California Department of Transportation
RECEIVING WATER: Unnamed tributary to Lupton Creek
HYDROLOGIC AREA: Redwood Creek Hydrologic Unit No.107.00,
Beaver Area, in an unidentified Hydrologic Sub-Area
No. 107.20.
COUNTY: Humboldt
FILE NAME: CDOT Hwy 299, Replace Downdrain with Rock-Lined Ditch

BY THE EXECUTIVE OFFICER:

1. On February 18, 2010, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application and \$640.00 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 299, Replace Downdrain with Rock-Lined Ditch (project). The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on April 29, 2009, and posted information describing the project on the Regional Water Board's website. No comments were received.
2. The proposed project is along Highway 299 at post mile (PM) 21.1 in Humboldt County. Caltrans proposes to replace a 36-inch diameter; 300-foot long corrugated steel pipe (CSP) downdrain with a 10-foot wide, 2-foot deep, 300-foot long rock lined ditch. Work will include excavating a trench 10 feet wide

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and 2-3 feet deep on the upland grassy shoulder of Route 299 on a steep fill slope. The purpose of the proposed project is to replace a failed culvert downdrain and prevent erosion. Sections of the existing 36-inch diameter downdrain have separated, allowing water to escape and erode the hillside. Construction techniques will be implemented to minimize disturbances and all staging will be conducted on a gravel pullout next to Highway 299. The proposed project will result in temporary minor disturbances to herbaceous upland vegetation and small shrubs, no trees will be impacted. The project will also result in permanent impacts totaling 900 sq. ft. (300 linear feet).

3. Caltrans has determined the temporary impacts to waters of the State would total approximately 900 feet² (300 linear feet). The proposed project would result in approximately 900 feet² (300 linear feet) of permanent impacts to waters of the State. Caltrans proposes to off-set the impacts to waters of the State by creating a riparian canopy over the newly constructed rock lined ditch, which will likely improve beneficial uses and reduce temperatures and sediment transport into the unnamed tributary to Lupton Creek. Willow cuttings collected from a near by source will be planted in a natural staggered pattern on 3'-8' centers to revegetate the channel for additional stability and shade. The replacement of a culvert with a vegetated rock-lined ditch will likely improve the beneficial uses in that it will reduce water velocity, thereby reducing erosion and sediment discharge. The rocky substrate also provides better habitat for reptiles and amphibians in comparison to a culverted downdrain. The project activities will not require a water diversion and will only be conducted in dry conditions between September 1 and October 15.
4. 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 Project), Nationwide Permit No. 33 (Temporary Construction, Access, and Dewatering), and Nationwide Permit No. 46 (Discharges in Ditches) pursuant to Clean Water Act, section 404. Regional Water Board staff has determined that this project is categorically exempt from CEQA review (Class 1 Categorical Exemption), and anticipates filing a Notice of Exemption.
5. The Redwood Creek watershed is identified on the State of California Clean Water Act Section 303(d) list as impaired for sediment and temperature. Total Maximum Daily Load (TMDL) analyses have been completed for the Redwood Creek watershed for the sediment listing. Roads are a significant source of sediment in the watershed (directly, from surface erosion, and, indirectly, by triggering landslides). In addition, activities that impact the riparian zone and reduce riparian vegetation are identified as sources contributing to increased stream temperatures. A focus on measures to reduce sediment discharges to surface waters from roads in the watershed, and measures to avoid, minimize,

and mitigate impacts on riparian zones is essential for achieving TMDL compliance.

6. Pursuant to Regional Water Board Resolution R1-2004-0087, *Total Maximum Daily Load Implementation Policy Statement for Sediment-Impaired Receiving Waters within the North Coast Region* (Sediment TMDL Implementation Policy), the Executive Officer is directed to “rely on the use of all available authorities, including existing regulatory standards, and permitting and enforcement tools to more effectively and efficaciously pursue compliance with sediment-related standards by all dischargers of sediment waste.”
7. The federal antidegradation policy requires that state water quality standards include an antidegradation policy consistent with the federal policy. The State Water Board established California’s antidegradation policy in State Water Board Resolution No. 68-16. Resolution No. 68-16 incorporates the federal antidegradation policy where the federal policy applies under federal law. Resolution No. 68-16 requires that existing quality of waters be maintained unless degradation is justified based on specific findings. The Regional Water Board’s Basin Plan implements, and incorporates by reference, both the State and federal antidegradation policies. This Order is consistent with applicable federal and State antidegradation policies, as it does not authorize the discharge of increased concentrations of pollutants or increased volumes of treated wastewater, and does not otherwise authorize degradation of the waters affected by this project.

Receiving Water: Unnamed Tributary to Lupton Creek-
Redwood Creek Hydrologic Unit No.107.00.

Filled or Excavated Area: Permanent impacts: 900 feet²

Total Linear Impacts: Permanent - streams 300 linear ft (900 feet²)
Temporary - streams 300 linear ft (900 feet²)

Dredge Volume : None

Fill Volume : Permanent - streams: 200 cubic yards

Latitude/Longitude: 40.9084 N / 123.8272 W

Expiration: August 23, 2015

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE REGIONAL WATER BOARD CERTIFIES THAT THE Caltrans – Highway 299 – Replace Culvert with Rock-Lined Ditch Project, WDID No. 1B10015WNHU, 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:

All conditions of this order apply to Caltrans (and all its employees) and all contractors (and their employees), sub-contractors (and their employees), and any other entity or agency that performs activities or work on the project (including the off-site mitigation lands) as related to this Water Quality Certification.

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 this certification is conditioned upon total payment of any fee required under title 23, California Code of Regulations, section 3833, and owed by the application.
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 and mitigation being completed, in strict compliance with the applicant's project description, as approved herein, and b) compliance with all applicable water quality requirements and water quality control plans including the requirements of the Basin Plan, and amendments thereto.
5. Caltrans shall revegetate the rock-lined ditch as proposed in the project application. Willow cuttings collected from a near by source will be planted in a natural staggered pattern on 3'-8' centers to revegetate the channel for additional stability and shade.
6. 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.

7. 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 requirements and Water Quality Standards as detailed in the Basin Plan.
8. Any change in the design or 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, consideration, and concurrence.
9. Caltrans shall provide a copy of this Order, associated attachments, and State Water Resources Control Board (SWRCB) Order No. 2003-0017-DWQ to the contractor, all subcontractors, and all utility companies conducting the work, and require that copies remain in their possession at the work site. Caltrans shall be responsible for work conducted by its employees, contractors, subcontractors, and utility companies.
10. 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, major concrete pours, dewatering activities, or water diversion activities with details regarding the construction schedule, in order to allow Regional Water Board staff to be present on-site during installation and removal activities, and to answer any public inquiries that may arise regarding the project. Caltrans shall provide Regional Water Board staff access to the project site to document compliance with this order.
11. The Resident Engineer (or appropriately authorized agent) 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, 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 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.
12. All activities and best management practices (BMPs) shall be implemented according to the submitted application and the conditions in this Order. BMPs for erosion, sediment, turbidity and pollutant 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, sediment, or

other pollutant discharges to waters of the State. The BMPs shall be implemented in accordance with the Caltrans Construction Site Best Management Practice Manual (CCSBMPM) and all contractors and subcontractors shall comply with the CCSBMPM. In addition, BMPs for erosion and sediment control shall be utilized year round, regardless of season or time of year. Caltrans shall stage erosion and sediment control materials at the work site. All BMPs shall be installed properly and in accordance with the manufacturer's specifications. If the project Resident Engineer elects to install alternative BMPs for use on the project, Caltrans shall submit a proposal to Regional Water Board staff for review and concurrence.

13. Caltrans shall prioritize the use of wildlife-friendly biodegradable (not photo-degradable) erosion control products wherever feasible. Caltrans shall not use or allow the use of erosion control products that contain synthetic netting for permanent erosion control (i.e. erosion control materials to be left in place for two years or after the completion date of the project). If Caltrans finds that erosion control netting or products have entrapped or harmed wildlife, personnel shall remove the netting or product and replace it with wildlife-friendly biodegradable products. Caltrans shall not use or allow the use of erosion control products that contain synthetic materials within waters of the United States or waters of the State at any time. Caltrans shall request approval from the Regional Water Board if an exception from this requirement is needed for a specific location.
14. 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 of groundwater 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 Low Threat Discharge Permit or an individual National Pollutant Discharge Elimination System (NPDES) Permit and receive notification of coverage to discharge to surface waters, prior to the discharge.
15. Caltrans is prohibited from discharging waste to waters of the State, unless explicitly authorized by this Order. For example, 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 waters of the State. In addition, none of the materials listed above shall be placed within 150 linear feet of waters of the State or where the materials may be washed by rainfall into waters of the State.
16. Herbicides and pesticides shall not be used on the project. If Caltrans has a compelling case as to why herbicides and pesticides should be used, they may submit a request along with a BMP plan to the Executive Officer of the Regional Water Board for review, consideration, and concurrence.

17. 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.
18. 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.
19. Caltrans shall implement appropriate BMPs to prevent the discharge of equipment fluids to the stream channel. The minimum requirements will include: storing hazardous materials at least 150 linear feet outside of the stream banks; checking equipment for leaks; and preventing the use of equipment with leaks in a manner that does not result in a discharge to Waters of the State.
20. Caltrans and their contractor are not authorized to discharge wastewater (e.g., water that has contacted uncured concrete or cement, or asphalt) to surface waters, ground waters, or land. Wastewater may only be disposed of to a sanitary waste water collection system/facility (with authorization from the facility's owner or operator) or a properly-licensed disposal or reuse facility. If Caltrans or their contractor proposes an alternate disposal method, Caltrans or their contractor shall apply for a permit from the Regional Water Board. Plans to reuse or recycle wastewater require written approval from Regional Water Board staff.
21. Any potentially hazardous waste(s) (solids, liquids, or slurries) derived or encountered in this project shall undergo the appropriate characterization to demonstrate compliance with all applicable waste disposal laws and regulations. If unanticipated or anticipated waste are encountered or created during the project, Caltrans shall notify the Regional Water Board immediately and at least within 24 hours. Caltrans or their contractor shall prepare applicable work plans for handling, treating, transporting, and disposing of waste. The work plans shall be prepared and signed by an engineer or geologist with the appropriate and valid California licenses.
22. Caltrans shall provide analysis and verification that placing non-hazardous waste or inert materials (which may include discarded product or recycled materials) will not result in degradation of water quality, human health, or the environment. All project-generated waste shall be handled, transported, and disposed in strict compliance with all applicable State and Federal laws and regulations. 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. In accordance with State and Federal laws and regulations, Caltrans is liable and responsible for the proper disposal of waste generated by their project.

23. All imported fill material shall be clean and free of pollutants. All fill material shall be imported from a source that has the appropriate environmental clearances and permits. The reuse of low-level contaminated solids as fill on-site shall be performed in accordance with all State and Federal policies and established guidelines and must be submitted to the Regional Water Board for review and concurrence.
24. 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.
25. The Regional Water Board may add to or modify the conditions of this Order, as appropriate, and 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.
26. This Order is not transferable. In the event of any change in control of ownership of land presently owned or controlled by Caltrans, Caltrans 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.
27. The authorization of this certification for any dredge and fill activities expires on August 23, 2015. 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.
28. Please contact our staff Environmental Specialist / Caltrans Liaison Jeremiah Puget of at (707) 576-2835 or jpuget@waterboards.ca.gov if you have any questions.

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. Garry Berrigan, California Department of Transportation,
P.O. Box 3700, Eureka, CA 95501-3700

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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