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**North Coast Regional Water Quality Control Board**

April 2, 2013

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In the Matter of

**Water Quality Certification**

for the

**California Department of Transportation  
State Route 299 – Low Gap Buttress Project  
WDID No. 1B12183WNHU**

APPLICANT: California Department of Transportation  
RECEIVING WATER: Willow Creek  
HYDROLOGIC AREA: Trinity River Hydrologic Unit No.106.00  
COUNTY: Humboldt  
FILE NAME: CDOT - HWY 299, Low Gap Buttress Project  
WDID No. 1B12183WNHU

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BY THE EXECUTIVE OFFICER:

1. On October 1, 2012, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application from the California Department of Transportation (Caltrans), requesting Federal Clean Water Act, section 401, Water Quality Certification (Certification) for activities related to the proposed State Route 299 – Low Gap Buttress Project (Project). The proposed Project would cause disturbances to waters of the United States (U.S.) associated with the Trinity River Hydrologic Unit, HU 106 (Willow Creek Hydrologic Sub-Area 106.12). The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858, on March 8, 2013, and posted information describing the Project on the Regional Water Board's website. No comments were received.
2. The Project is located in Humboldt County on State Route 299 at post mile 30.7. The Project purpose is to stabilize the existing roadway by modifying the existing upslope and downslope drainage systems. The scope of work includes:
  - Re-grading the existing upslope cut bench to facilitate drainage from the cut slope;
  - Repairing the existing horizontal drain array and collection system;
  - Placing new horizontal slope dewatering drains;
  - Installing rock lined ditches along the back of the upslope cut bench and down the cut slope;

- Abandoning the existing overside drain to Willow Creek and constructing a new roadway dike and drainage system to improve drainage conditions; and
  - Constructing a new sand trap and drainage outlet.
3. Caltrans has determined that the Project would result in approximately 0.025 acres of permanent and approximately 0.025 acres of temporary impacts to jurisdictional waters. Because the impacts are considered *de minimis*, because Caltrans has conservatively estimated the potential permanent impacts to jurisdictional waters, because project implementation would reduce sediment inputs to Willow Creek, and because a traction sand trap would be constructed to control roadway runoff pollutants, additional mitigation measures are not required.
  4. Caltrans proposes to restore impacted areas to pre-construction condition following completion of the construction activities to offset temporary impacts to waters.
  5. The Project would result in an increase of approximately 0.009 acres (400 square feet (ft<sup>2</sup>)) of impervious surface due to installation of a traction sediment trap. This Project does not incorporate post-construction stormwater treatment best management practices (BMPs) because the Project crosses an active slide area and infiltration of stormwater must be minimized to maintain stability of the roadway. The amount of added impervious surface area is not great enough to warrant compensatory off-site stormwater treatment mitigation.
  6. The proposed Project would be conducted within approximately 25 days between May 15<sup>th</sup> and October 15<sup>th</sup>. Any work performed within State waters outside of this work window shall first be subject to the acceptance of Regional Water Board staff.
  7. The Project would result in less than one acre disturbed soil area. Caltrans shall utilize BMPs to provide erosion and sediment controls and pollution prevention throughout the Project area during construction. All graded areas within the Project affected by the construction activities shall be appropriately stabilized and/or replanted with appropriate native vegetation.
  8. Caltrans has applied to the U.S. Army Corps of Engineers to perform the Project under Non-Reporting Nationwide Permit No. 14 (*linear transportation projects*) pursuant to Clean Water Act, section 404.
  9. On August 18, 2011, Caltrans, acting as lead agency, certified a Class 1 Categorical Exemption for the proposed project in order to comply with the California Environmental Quality Act (CEQA). Regional Water Board staff anticipates filing a Notice of Exemption. The Regional Water Board has considered the environmental documentation, including any proposed changes, and has incorporated any avoidance, minimization, and mitigation measures into the Project as a condition of approval to avoid significant affects to the environment.
  10. The Willow Creek watershed is within the Trinity River HU (Lower Trinity Hydrologic Unit Area (HUA)) and is listed on the Clean Water Act section 303(d) list in 2001 as impaired for sediment and temperature. Roads are a significant source of sediment in the watershed (directly, from surface erosion, and, indirectly, by triggering landslides). This Project would stabilize an active slide area and help reduce sediment inputs to Willow Creek.

11. 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 Certification 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.
12. To ensure compliance with Basin Plan Water Quality Objectives and to protect State waters, requirements to avoid, minimize, and mitigate sediment impacts are incorporated as enforceable conditions in this Certification. Stormwater runoff monitoring, sampling, and analysis will be conducted as required by the State Water Resources Control Board (SWRCB) National Pollutant Discharge Elimination System (NPDES) Permit for Storm Water Discharges from the State of California, Department of Transportation (Caltrans) Properties, Facilities and Activities Order No. 99 - 06 - DWQ. The surface water data collected will be utilized to assess the adequacy of BMPs during construction as well as site specific mitigation measures proposed to minimize impacts to the environment, including sediment and temperature impacts.
13. This discharge is also regulated under 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," which requires compliance with all conditions of this certification.

Receiving Waters:           Streams  
                                  Trinity River Hydrologic Unit, HU 106

Filled and/or  
Excavated Areas:           Permanent - Other (Waters of U.S.): .025 acres (175 linear feet)  
                                  Temporary - Other (Waters of U.S.): .025 acres (175 linear feet)

Total Linear Impacts:    Permanent - Other (Waters of U.S.): .025 acres (175 linear feet)  
                                  Temporary - Other (Waters of U.S.): .025 acres (175 linear feet)

Dredge Volume :           None

Fill Volume :               None

Latitude/Longitude:      40.9063N / 123.75018 W

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Caltrans - State Route 299 - Low Gap Buttress Project (WDID No. 1B12183WNMO), as described in the Project 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:

**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. All conditions required by this Order shall be included in the Plans and Specifications prepared by Caltrans for the Contractor. If the Plans and Specifications have been finalized prior to receipt of this Certification, Caltrans shall revise the Project Plans and Specifications to incorporate applicable conditions of this Order. Any enforcement action taken by the Regional Water Board for violations of this Order shall consider failure to revise the Plans and Specifications per this condition. In addition, Caltrans shall require compliance with all conditions included in this Order in the bid contract for this Project.
2. 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.
3. 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.
4. 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 applicant. \$1,269 was submitted by Caltrans on October 1, 2012.
5. Caltrans shall provide a copy of this order and State Water Resources Control Board (SWRCB) Order No. 2003-0017-DWQ (web link referenced below) 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.
6. All activities and BMPs shall be implemented according to the submitted application and the conditions in this certification. BMPs for erosion, sediment, 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. 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.
7. 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.
8. Herbicides and pesticides shall not be used within the Project. If Caltrans has a compelling case as to why herbicides and pesticides should be used, a proposal for their use shall first be submitted to the Executive Officer of the Regional Water Board for review and consideration. The proposal shall include a strategy for BMP implementation to prevent discharge of pesticides to State waters.
  9. 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.
  10. 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.
  11. 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.
  12. 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 first obtain authorization from the Regional Water Board. Plans to reuse or recycle wastewater require written approval from Regional Water Board staff.
  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. 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 the 2006 Standard Specification 7-1.13, *Disposal of Material Outside the Highway Right of Way*. Within 30 days of disposing of materials off-site 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.
15. 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.
16. Asphalt-concrete grindings shall not be directly exposed to storm or ground waters, except asphalt-concrete grinding may be re-used and incorporated into impervious asphalt mixes.
17. Caltrans shall perform on-site revegetation in accordance with the application and *EA 01-434700 Revegetation Plan*, dated February 21, 2013. Restoration actions shall include revegetation of temporarily impacted areas. Restoration planting shall occur in the first full planting season (November to April) subsequent to the year construction is complete and erosion control is established. Caltrans shall notify Regional Water Board staff within five working days upon completion of restoration activities.
18. 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.
19. 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.

20. Except as may be modified by any preceding conditions, all certification actions are contingent on: a) Completion of all proposed revegetation, avoidance, minimization, and mitigation measures, in strict compliance with Caltrans' project description and CEQA documentation, as approved herein; b) Project construction in accordance with the project described in the application and the findings above; and c) Compliance with all applicable water quality requirements and water quality control plans including the requirements of the Water Quality Control Plan for the North Coast Region (Basin Plan), and amendments thereto. 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 written concurrence. If the Regional Water Board is not notified of a significant alteration to the Project, it will be considered a violation of this Order, and Caltrans may be subject to Regional Water Board enforcement actions.
21. The authorization of this certification for any dredge and fill activities expires five years from the date of issuance. 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.
22. Please contact our staff Environmental Specialist / Caltrans Liaison Brendan Thompson at (707) 576-2699 or [brendan.thompson@waterboards.ca.gov](mailto:brendan.thompson@waterboards.ca.gov) if you have any questions.

Original Signed By

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Matthias St. John  
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 to: Ms. Kim Floyd, Project Manager Caltrans, PO Box 3700, Eureka, CA 95501

Copies to: Ms. Alison Kunz, Project Biologist - Caltrans, 703 B Street, Marysville, CA, 95901

Electronic Copies to: U.S. Army Corps of Engineers, Regulatory Functions - San Francisco District