
North Coast Regional Water Quality Control Board

June 19, 2013

In the Matter of
Water Quality Certification
for the
California Department of Transportation
State Route 101 - Seaside Beach Storm Damage Repair Project
WDID No. 1B12173WNME

APPLICANT: California Department of Transportation
RECEIVING WATERS: Seaside Creek, Pacific Ocean
HYDROLOGIC UNITS: Mendocino Coast Hydrologic Unit No.113.00
COUNTY: Mendocino
FILE NAME: CDOT - HWY 1, Seaside Beach Project
WDID No. 1B12173WNME

BY THE EXECUTIVE OFFICER:

1. On September 7, 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 (CWA) section 401, Water Quality Certification (certification) for activities related to the California Department of Transportation (Caltrans) State Route (SR) 1 Seaside Beach Storm Damage Repair Project (Project).
2. **Hydrologic Unit:** The proposed Project would cause disturbances to waters of the United States (U.S.) and waters of the State associated with wetlands and streams within the Ten Mile Hydrologic Sub-Area No. 113.13.
3. **Public Notice:** The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on May 6, 2013, and posted information describing the Project on the Regional Water Board's website. No comments were received.

4. **Project Purpose:** The purpose of the Project is to improve roadway safety by improving drainage and repairing storm damage to the existing retaining wall, metal beam guardrail, and roadway prism.
5. **Project Description:** The Project is located on SR 1 between post miles 70.2 and 70.8, in Mendocino County. The scope of work includes:
 - Realigning the roadway surface;
 - Constructing a soldier pile tie back wall;
 - Constructing geo-synthetic reinforced embankment; and
 - Replacing the existing metal beam guardrail.
6. **Construction Schedule:** Project implementation is expected to last approximately 230 days between May 19, 2014, and March 23, 2015.
7. **Permanent Impacts:** Project implementation would result in approximately 0.13 acres of permanent impacts to jurisdictional wetlands due to installation of a new retaining wall and reinforced embankment, and shoulder widening.
8. **Temporary Impacts:** Project implementation would result in approximately 0.21 acres of temporary impacts to jurisdictional wetlands, and approximately 0.02 acres of temporary impacts to waters of the State, due to construction staging activities.
9. **Mitigation for Permanent Impacts to Jurisdictional Wetlands:** To mitigate for 0.13 acres of permanent impacts to jurisdictional wetlands, Caltrans shall provide 0.39 acres of wetland restoration at Inglenook Fen in the Ten Mile Dunes Natural Preserve within MacKerricher State Park.
10. **Mitigation for Temporary Impacts:** To offset approximately 0.21 acres of temporary impacts to jurisdictional wetlands, and approximately 0.02 acres of temporary impacts to waters of the State, Caltrans shall restore all temporarily disturbed areas to pre-construction condition following the construction activities. To mitigate for temporal loss of wetland functions associated with temporary wetland impacts, Caltrans shall restore 0.13 acres of wetlands off-site restoration at Inglenook Fen in the Ten Mile Dunes Natural Preserve within MacKerricher State Park.
11. **Avoidance and Minimization:** To minimize impacts to aquatic resources, Caltrans shall work in jurisdictional wetlands only during the dry season (May 15 to October 15), work from the roadway whenever feasible, minimize vegetation disturbance to the greatest degree possible, and implement construction-stage pollution prevention best management practices (BMPs).

12. **Post-Construction Stormwater Treatment:** The Project will result in an increase of approximately 0.48 acres of impervious surface. Caltrans shall install a biofiltration strip to treat no less than 0.64 acres of impervious area.
13. **Disturbed Soil Area:** The Project will result in less than one acre of disturbed soil area. Caltrans shall utilize BMPs to provide erosion control 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.
14. **Utility Relocations:** Utility relocations are not needed for this project.
15. **Other Agency Actions:** Caltrans has applied to the U.S. Army Corps of Engineers to perform the Project under 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 Wildlife 1602 Streambed Alteration Agreement and a Coastal Development Permit from the County of Mendocino.
16. **CEQA Compliance:** On August 10, 2011, Caltrans, acting as lead agency, certified a Mitigated Negative Declaration for the proposed Project in order to comply with the California Environmental Quality Act (State Clearing House No. 2010122018). The Regional Water Board has considered the environmental documentation, including any proposed changes, and incorporated any avoidance, minimization, and mitigation measures into the Project as a condition of approval to avoid significant effects to the environment.
17. **TMDLs:** This Project is not within a Clean Water Act section 303(d) list watershed.
18. **Antidegradation Policy:** The federal antidegradation policy requires that State water quality standards include an antidegradation policy consistent with federal policy. The State Water Resources Control 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.
19. 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:	Seaside Creek and Pacific Ocean Mendocino Coast Hydrologic Unit No.113.13	
Filled and/or Excavated Areas:	Permanent – wetlands (U.S.)	0.12 acres
	Permanent – wetlands (State)	0.01 acres
	Temporary – wetlands (U.S.)	0.17 acres
	Temporary – wetlands (State)	0.04 acres
	Temporary – streams (US)	461 linear feet
Dredge Volume:	Permanent – 386 cubic yards	
Fill Volume:	Permanent – 1,480 cubic yards	
	Temporary – 1,826 cubic yards	
Mitigation proposed:	On-site: - Re-vegetation of all disturbed areas. Off-site: - 0.52 acres of wetland restoration at MacKerricher State Park.	
Latitude/Longitude:	39.557658N / 123.764611 W	

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Caltrans – State Route 1 Seaside Beach Project (WDID No. 1B12173WNME), as described in the application received September 7, 2012, 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 certification 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.

Project-Specific Conditions Requiring Reports

1. Caltrans shall perform off-site mitigation as proposed in the Caltrans-prepared *Seaside Beach Roadside Repair (EA 47490) Anchor Bay Drainage Repair (EA 44650) and SR 128/253 Culvert Rehabilitation (EA 37812, 37813, 37814, 37816, 37817) and Men 20 Left Turn and Shoulder Widening (EA 29200) Off-Site Wetland Mitigation at California State Parks Inglenook Fen – Ten Mile Dunes Natural Preserve, Mitigation and Monitoring Plan*, dated April 2013. Any modifications to the April 2013, mitigation plan shall first be subject to the acceptance of Regional Board staff.

Mitigation at Inglenook Fen shall result in the restoration of no less than 0.52 acres of

Project-Specific Conditions Requiring Reports (continued)

- wetlands. Caltrans shall construct the restoration project concurrent with the Seaside Beach Project. The mitigation project shall be monitored annually for five years to determine progress toward the achievement of success criteria, with the first annual monitoring report due to the Regional Water Board on January 31, after completing Project construction. The final mitigation success shall be evaluated no sooner than monitoring year five.
2. Caltrans shall submit a long-term management plan for the Inglebrook Fen mitigation prior to Project construction. The long-term management plan shall detail funding, implementation, and adaptive management responsibilities in perpetuity (i.e., before and after success criteria is met). The long-term management plan shall be subject to the acceptance of Regional Water Board staff.
 3. Caltrans shall perform on-site revegetation in accordance with the Caltrans-prepared *Seaside Beach Storm Damage Repair Project (EA 01-47490) Revised Revegetation Plan*, dated June 11, 2013. Revegetation planting shall occur in the first full planting season (November to April) subsequent to construction completion and erosion control. Revegetation monitoring reports are due January 31 of each year until success criteria are achieved.
 4. The Regional Water Board shall be notified by e-mail at least five working days prior to commencement of ground disturbing activities for each construction season.

Project-Specific Condition

5. Caltrans shall install a biofiltration strip between stations 513+40 and 515+20 to treat no less than 0.64 acres of impervious area.

Standard Conditions

6. 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, they may submit a request along with a BMP plan to Regional Water Board staff for review, consideration, and concurrence.
7. All activities and BMPs shall be implemented according to the submitted application materials (dated September 7, 2012) and the findings and conditions of this certification.
8. All conditions required by this Order shall be included in the Contract Documents 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.

Standard Conditions (continued)

9. This Order does not authorize drafting of surface waters.
10. Construction 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. All BMPs shall be installed and used in accordance with the manufacturer's specifications. If Caltrans elects to install alternative BMPs for use on the Project, then Caltrans shall first submit a proposal to Regional Water Board staff for review and acceptance.
11. Caltrans is prohibited from discharging waste to waters of the State, unless explicitly authorized by this certification. 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, shall be allowed to enter into waters of the State.

Except for temporary stockpiling of waste generated during demolition operations ("temporary" in this instance means generated and removed during the same working day), waste materials shall not 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. Exceptions to the 150-foot limit may be granted on a case-by-case basis provided Caltrans first submits a proposal in writing that is found acceptable by Regional Water Board staff.

12. 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.
13. Asphalt-concrete grindings shall not be placed in any location where it may, at any time, be directly exposed to storm or ground waters, except asphalt-concrete grinding may be re-used and incorporated into impervious asphalt mixes.
14. 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. At no time shall Caltrans use any vehicle or equipment which leaks any substance that may impact water quality.

Standard Conditions (continued)

15. 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, with the exception of plastic sheeting. Caltrans shall first request approval from the Regional Water Board if an exception from this requirement is needed for a specific location.
16. 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 necessary, then Caltrans shall use a method of water disposal other than disposal to surface waters, such as land disposal. Groundwater disposed of to land shall not enter State waters. Alternatively, Caltrans may apply for coverage under the Low Threat Discharge Permit or an individual National Pollutant Discharge Elimination System (NPDES) Permit. If Caltrans applies for coverage under either of these permits, then discharge is prohibited until Caltrans has received notification of coverage under the respective permit.
17. Fueling, lubrication, maintenance, storage and staging of vehicles and equipment shall be prohibited within waters of the State. Fueling of individual equipment types within waters of the State may be authorized if Caltrans first prepares a fueling plan that:
 - i) Identifies the specific piece of machinery that may require fueling within waters of the State;
 - ii) Provides justification for the need to refuel within State waters. The justification shall describe why fueling outside of jurisdictional waters is infeasible; and
 - iii) Includes a narrative of specific BMPs that shall be employed to prevent and capture fuel releases.

Fueling of equipment within waters of the State shall be prohibited until the fueling plan has been approved by Regional Water Board staff. The fueling plan may be submitted individually, included in the project Storm Water Pollution Prevention Plan (SWPPP), or submitted as a SWPPP amendment. If the fueling plan is included in the Notice of Intent package for coverage under the statewide construction general stormwater permit, then acceptance of the NOI does not constitute Regional Water Board staff acceptance of the fueling plan.

Standard Conditions (continued)

18. Caltrans shall provide a copy of this certification 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.
19. Caltrans shall provide access to the Project construction site upon request by Regional Water Board staff.
20. The Resident Engineer (or appropriately authorized agent) shall hold water quality permit compliance meetings (similar to tailgate safety meetings) to discuss permit compliance, including instructions on violation avoidance and violation reporting procedures. 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, and inspectors or monitors assigned to work on the Project within the next week, shall be present at the meetings. Individuals that cannot attend the meeting shall have an alternative meeting briefing. 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. Caltrans shall implement appropriate BMPs to prevent the discharge of equipment fluids to the stream channel. The minimum requirements shall include: storing hazardous materials at least 150 linear feet outside of the stream banks; checking equipment for leaks and not using equipment with leaks; and pressure washing or steam cleaning equipment to remove fluid residue on any of its surfaces prior to its entering any stream channel. Fluids and waste by-products generated by equipment washing and cleaning shall not enter State waters.
22. If an unauthorized discharge to surface waters (including wetlands, rivers or streams) occurs, or any other threat to water quality arises as a result of Project implementation, the associated Project activities shall cease immediately until the threat to water quality is otherwise abated. If there is a discharge to State waters, the Regional Water Board shall be notified no more than 24 hours after the discharge occurs.
23. 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 request authorization from the Regional Water Board. Plans to reuse or recycle wastewater

Standard Conditions (continued)

require written approval from Regional Water Board staff.

24. Concrete shall be excluded from surface water for a period of 30-days after it is poured/sprayed. During that time the concrete shall be kept moist and runoff from the concrete shall not be allowed to enter any water body. Commercial sealants may be applied to the concrete surface where difficulty in excluding flow for a long period may occur. If sealant is used, water shall be excluded from the site until the sealant is cured. If groundwater comes into contact with fresh concrete, it shall be prevented from flowing towards surface water.
25. 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.
26. The validity of 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. \$1,675 was submitted by Caltrans on September 7, 2012.
27. 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.
28. In the event of any violation or threatened violation of the conditions of this certification, 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 certification. 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 certification 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 certification, the Regional Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.

Standard Conditions (continued)

29. 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.
30. This certification 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 certification 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 certification to discharge dredged or fill material under this Order. The request must contain the following:
- i) requesting entity's full legal name;
 - ii) the state of incorporation, if a corporation;
 - iii) address and phone number of contact person; and
 - iv) a description of any changes to the project or confirmation that the successor-in-interest intends to implement the project as described in this Order.
31. Except as may be modified by any preceding conditions, all certification actions are contingent on: a) the discharge being limited, and all proposed revegetation, avoidance, minimization, and mitigation measures being completed, in strict compliance with Caltrans' project description and CEQA documentation, as approved herein, b) Caltrans shall construct the project 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.
32. The authorization of this certification for any dredge and fill activities expires on November 5, 2017. 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.

Conditions 1-4 of this certification include requirements for information and reports. Any requirement for a report made as a condition to this action is a formal

requirement pursuant to California Water Code (CWC) section 13267, and failure or refusal to provide, or falsification of such required report is subject to civil liability as described in CWC, Section 13268.

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.

Please contact our staff Environmental Specialist / Caltrans liaison, Brendan Thompson at (707) 576-2699, or via e-mail, at Brendan.Thompson@waterboards.ca.gov, if you have any questions.

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

Original to: Mr. Frank Demling, Project Manager Caltrans, 1656 Union Street, Eureka, CA 95501

Copy to: Mr. Sean Marquis, District Biologist - Caltrans, 703 B Street, Marysville, CA, 95901

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

California Department of Fish and Wildlife, Bay Delta Region

State Water Resources Control Board

Environmental Protection Agency, Region IX