
North Coast Regional Water Quality Control Board

December 4, 2013

In the Matter of
Water Quality Certification
for the
California Department of Transportation
Highway 36 PM 21.98 Debris Rack Installation Project
WDID No. 1B13062WNHU
Caltrans EA No.: 01-0C790

APPLICANT: California Department of Transportation
RECEIVING WATERS: Unnamed Tributary to Van Duzen River
HYDROLOGIC UNIT: Eel River Hydrologic Unit, Bridgeville Hydrologic Sub-Area
111.22
COUNTY: Humboldt
FILE PATH: I:\NPS\401\Caltrans\Counties\Humboldt\36\PM 21.98 Debris
Rack

BY THE EXECUTIVE OFFICER:

1. On May 20, 2013, 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) 36, Post-Mile (PM) 21.98 Rock Rack Installation Project (Project).
2. **Hydrologic Units:** The proposed project would cause disturbances to waters of the United States (U.S.) and waters of the State associated with the Eel River Hydrologic Unit (No. 111.00). The affected hydrologic sub-area is the Bridgeville Hydrologic Sub-Area, No. 111.22).
3. **Public Notice:** The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on September 27,

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 maintain the design flow of the existing culvert by minimizing debris inputs.
5. **Project Description:** The proposed Project is located on State Route (SR) 36 at post mile 21.98, in Humboldt County. A rock rack will be installed upstream of an existing culvert within an unnamed stream that carries significant volumes of rock that periodically plug the culvert. The rock rack will help catch this material before it enters and possibly obstructs the culvert flow path.
6. **Construction Schedule:** Construction was commenced and completed over an approximately two hour period on November 2, 2013, when the creek was completely dry. Because the stream was dry and the weather forecast was clear, work was allowed to commence in advance of certification issuance. The Regional Water Board has photographs of the installation on file.
7. **Permanent Impacts:** Project implementation has resulted in approximately ten square feet (0.0002 acres) of permanent fill in the creek bed of the unnamed tributary to the Van Duzen River.
8. **Temporary Impacts:** Project implementation has resulted in approximately twenty square feet (0.0005 acres) of temporary impacts as a result of excavation for the rack footing.
9. **Mitigation for Temporary and Permanent Impacts:** To mitigate for permanent impacts to the Van Duzen River tributary, Caltrans shall install between 40 and 50 willow cuttings along the Van Duzen tributary, within the Caltrans right-of-way. Planting locations will be limited to the right bank, upstream of the culvert inlet, and adjacent both banks, immediately downstream of the culvert outlet. See condition 1 of this certification for additional details.
10. **Avoidance and Minimization:** Caltrans avoided temporary impacts to the creek by working when the creek did not have standing or flowing water. Also, because the debris rack concrete footings were precast and fully cured prior to placement, pH alteration after installation is not a water quality risk.
11. **Other Agency Actions:** Caltrans reported coverage under U.S. Army Corps of Engineers non-reporting Nationwide Permit No. 14 (*linear transportation projects*), pursuant to Clean Water Act, section 404. Caltrans received a 1602 Streambed Alteration Agreement from the California Department of Fish and Wildlife on August 28, 2013, which was amended on November 1, 2013, to allow work beyond October 15.

12. CEQA Compliance: Caltrans, as lead California Environmental Quality Act (CEQA) agency, completed a Notice of Exemption (Public Resources Code 21084; 14 CCR 15300 et seq.), March 27, 2013, pursuant to CEQA guidelines.

The North Coast Regional Water Quality Control Board, has determined that the project qualifies for a Categorical Exemption, (15301-Existing Facilities), and will file a Notice of Determination with the State Clearinghouse concurrent with issuance of the 401 Water Quality Certification, pursuant to CEQA guidelines.

13. Antidegradation Policy: 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.

14. 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:	Unnamed Tributary to Van Duzen River Eel River Hydrologic Unit, Bridgeville Hydrologic Sub-Area 111.22	
Filled and/or Excavated Areas:	Permanent – State waters	10 sq. ft. (0.0002 acres)
	Temporary – State waters	None
Dredge Volume:	None	
Fill Volume:	Permanent – 12 cubic feet to State waters	
Mitigation proposed:	Planting of 40-50 willows along the banks of the Van Duzen tributary.	
Latitude/Longitude:	40° 28' 8.815" N, 123° 49' 59.817" W	

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Highway 36 PM 21.98 Rock Rack Installation Project, as described in the application received May 20, 2013, and as revised October 21, 2013, 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. To mitigate for permanent impacts to the Van Duzen River tributary, Caltrans shall:
 - i) Install 40-50 willow cuttings per the Revegetation Plan submitted by Tamara Camper of Caltrans, via e-mail on September 27, 2013 (Plan);
 - ii) Implement the mitigation exactly as proposed in the Plan;
 - iii) Install the willows in at least two of three locations identified in the Plan: the right bank adjacent the culvert inlet, just above the upper limit of rock slope protection; the right bank, immediately downstream of the culvert outlet; and the left bank, immediately downstream of the culvert outlet;
 - iv) Install the willow cuttings not later than March 2014; and
 - v) Monitor the willows for not less than five years unless. If the plantings are thriving and meeting success criteria at least three full growing seasons after installation, then Regional Water Board staff may consider granting relief from the five year monitoring period.

Any changes to the Plan must first be submitted to and found acceptable to Regional Water Board staff.

Standard Conditions |

2. All activities and BMPs shall be implemented according to the submitted application materials and the findings and conditions of this certification.
3. Caltrans is prohibited from discharging waste to waters of the State. 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.

Standard Conditions (continued)

4. 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.
5. 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.

6. Work in flowing or standing surface waters, unless approved by the Regional Water Board, is prohibited.
7. 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. The Regional Water Board received \$976 from Caltrans on May 20, 2013.
8. 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.
9. 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

Standard Conditions (continued)

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.

10. 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.
11. 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.
12. 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 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.

Standard Conditions (continued)

13. The authorization of this certification for any dredge and fill activities expires on December 4, 2018. 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.

Condition 1 of this certification includes requirements for information and reports.

Any requirement for a report made as a condition to this action is a formal requirement pursuant to CWC section 13267, and failure or refusal to provide, or falsification of such required report is subject to civil liability as described in California Water Code, 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.

Original signed by

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. David Morgan, Caltrans, District 1, 1656 Union St., Eureka, CA 95501

cc: 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