
North Coast Regional Water Quality Control Board

February 5, 2014

In the Matter of

Water Quality Certification

for the

California Department of Transportation
State Route 299, Acorn Curve Improvement Project
(Caltrans EA No. 01-0A360)
WDID No. 1B13145WNHU

APPLICANT: California Department of Transportation
RECEIVING WATER: Redwood Creek
HYDROLOGIC AREA: Beaver Hydrologic Area No. 1107.20
COUNTY: Humboldt
FILE NAME: CDOT Acorn Curve Improvement; Highway 299 PM 19.3/19.8PM

FINDINGS BY THE EXECUTIVE OFFICER:

1. On November 26, 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 State Route 299 Acorn Curve Improvement Project (Project).
2. **Hydrologic Unit:** The proposed Project would cause disturbances to jurisdictional waters that are tributary to Lacks Creek within the Beaver Hydrologic Area of the Redwood Creek Hydrologic Unit (Basin Plan Hydrologic Planning Area 1107.2)
3. **Public Notice:** The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on January 13, 2014, and posted information describing the project on the Regional Water Board's website. No comments were received.

4. **Project Description:** The proposed Project is located on State Route (SR) 299, at post-miles 19.3 and 19.8, in Humboldt County. The purpose of the Project is to improve roadway safety by widening paved shoulders, improving the superelevation, closing a 1000-foot gap between two existing westbound truck climbing lane segments, and installing centerline and shoulder rumble strips. Other project elements include:
 - Excavation to install a geo-synthetic reinforced embankment. The embankment would be built in layers by placing geo-fabric and back-filling and compacting earth material;
 - Two culverts at post-miles 19.48 and 19.72 would be replaced with the same length and diameter corrugated steel pipes; and
 - Replacement of the existing concrete drainage inlet at post-mile 19.48 and placement of rock slope protection at the outlets of both drainage outlets.
5. **Construction Duration:** Project implementation is expected to be completed in approximately eighty days between May 15, 2014, and October 15, 2014.
6. **Permanent Impacts:** Caltrans has determined that the proposed Project would result in approximately 177 square feet (0.004 acres) of permanent impacts to jurisdictional tributaries to Lacks Creek.
7. **Temporary Impacts:** All Project impacts are permanent; there are not temporary impacts.
8. **Mitigation for Permanent Impacts:** To compensate for permanent impacts to jurisdictional waters, Caltrans is proposing to use 0.0056 acres in surplus State waters restoration credit at the Lacks Creek mitigation site on Bureau of Land Management property, approximately 10 miles southeast of the town of Orick. The Lacks Creek mitigation project is being implemented as mitigation for the State Route 299 Green Point Sink Project, which Caltrans received 401 water quality certification from the Regional Water Board on June 20, 2012.
9. **Post-Construction Stormwater Treatment:** Project implementation would result in approximately 0.73 acres of new impervious surface area. Caltrans is proposing to install a traction sand trap to treat approximately 0.88 acres of stormwater runoff from impervious roadway surfaces at Station 720+50. Because traction sand traps do not treat smaller particles and soluble pollutants, the Regional Water Board is requiring Caltrans to identify and implement additional treatment opportunities within the same watershed (see condition no. 2).
10. **Disturbed Soil Area:** Project implementation would result in greater than one acre of disturbed soil area. Caltrans shall apply for coverage under the National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ) and prepare a Stormwater Pollution Prevention Plan detailing Best Management Practices

to control pollution from the Project area during construction. All disturbed areas within the Project area shall be appropriately stabilized and/or replanted with appropriate native vegetation.

11. **Utility Relocations:** Utility relocations are not included in this Project.
12. **Other Agency Actions:** Caltrans has claimed coverage under a United States Army Corps of Engineers non-reporting Nationwide Permit 14 pursuant to Clean Water Act, section 404. Caltrans has also applied to California Department of Fish and Wildlife for a Streambed Alteration Agreement.
13. **CEQA Compliance:** On October 22, 2013, Caltrans, acting as lead agency, signed a Notice of Determination pursuant to the California Environmental Quality Act (CEQA), declaring that a mitigated negative declaration had been approved for the Project.
14. **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.
15. 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.

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| Receiving Water: | Tributaries to Lacks Creek in the Beaver Hydrologic Area of the Redwood Creek Hydrologic Unit (Basin Plan Hydrologic Planning Area 1107.2) | |
| Filled and/or Excavated Areas: | Permanent – jurisdictional waters | 177 ft ² (0.004 acres) |
| | Temporary – jurisdictional waters | No temporary fill |
| Dredge Volume: | none | |
| Fill Volume: | Permanent – 31 cubic yards | |
| Mitigation proposed: | Off-site: 0.0056 waters restoration at Lacks Creek mitigation site | |
| Latitude/Longitude: | 40° 55' 28.66" N, 123° 50' 13.04" W | |

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the State Route 299 Acorn Curve Improvement Project (WDID No. 1B13145WNHU), 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 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. The Regional Water Board shall be notified in writing (e-mail is acceptable) at least five working days prior to commencement of ground disturbing activities for each construction season.
2. Prior to Project construction, Caltrans shall submit a treatment plan to treat no less than 0.29 acres of impervious area within the Redwood Creek watershed (Basin Plan Hydrologic Planning Area 1107.00). The treatment plan shall detail a vegetated-based stormwater treatment BMP sized to treat 0.36 inches of rainfall per hour from the entire contributing area. The treatment plan shall also include an implementation schedule. The required treatment amount shall be increased if Caltrans proposes a treatment location outside the Redwood Creek watershed. Project construction shall be prohibited until the treatment plan has been found acceptable to Regional Water Board staff.

Project-Specific Conditions

3. Caltrans shall install a traction sand trap at Station 720+50 to treat roadway runoff from no less than 0.88 acres of impervious area.

Standard Conditions

4. 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 and consideration of acceptance.
5. All Project elements shall be implemented according to the submitted application package and the findings and conditions of this certification. If any change to the Project could affect water quality, then Caltrans shall first submit the proposed change to Regional Water Board staff for review and consideration of concurrence. Caltrans shall not implement the proposed Project change until Water Board staff concur that

Standard Conditions (continued)

Caltrans will sufficiently avoid, minimize, or mitigate possible water quality impacts. Caltrans staff should contact the Regional Water Board if it is unsure whether a given Project change may impact water quality.

6. 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.
7. Caltrans is prohibited from discharging waste to waters of the State, unless explicitly authorized by this certification. 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, shall be allowed to enter into State waters.

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 in a manner where the materials may be transported into waters of the State. Waste materials shall not be placed within 100 linear feet of State waters. Exceptions to the 100-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.

8. Caltrans is liable and responsible for the proper disposal of Project-generated waste. Additionally, when handling, transporting, and disposing of Project-generated waste, Caltrans and their contractors shall:
 - i) Comply with all applicable State and Federal laws and regulations;
 - ii) Make appropriate arrangements to dispose of the material, including, but not limited to, property owner agreements, permits, licenses, and environmental clearances;
 - iii) Obtain satisfactory evidence that the work in 8.i has been completed; and
 - iv) Obtain a dated, signed manifest from the disposal site owner, or authorized representative, that identifies the type and quantity of disposed waste.
9. Asphalt-concrete grindings shall not be placed in any location where it may, at any time, be directly exposed to surface waters or seasonally-high ground water, except asphalt-concrete grindings may be re-used and incorporated into hot mix asphalt products or encapsulated within the roadway structural section.
10. Fueling, lubrication, maintenance, storage and staging of vehicles and equipment

Standard Conditions (continued)

shall be prohibited within waters of the State (e.g., gravel bars, seeps, ephemeral streams) and riparian areas. Caltrans shall not use leaking vehicles or equipment within State waters or riparian areas.

11. 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.
12. Caltrans shall not use or allow the use of erosion control products that contain synthetic materials within waters of the State at any time, with the exception of plastic sheeting used in water diversion or dewatering activities. Caltrans shall first request approval from the Regional Water Board if an exception from this requirement is needed for a specific location.
13. Work in flowing or standing surface waters, unless otherwise proposed in the project description and approved by the Regional Water Board, is prohibited.
14. Non-stormwater discharges are prohibited unless the discharge is first approved by the Regional Water Board and in compliance with the Basin Plan. 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.
15. This Order does not authorize drafting of surface waters.
16. Caltrans shall provide access to the Project construction site upon request by Regional Water Board staff.
17. 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

Standard Conditions (continued)

- 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. Caltrans shall maintain dated sign-in sheets for attendees at these meetings, and shall make them available to Regional Water Board staff on request.
18. 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.
 19. Uncured concrete shall not be exposed to State waters or surface waters that may discharge to State waters. Concrete sealants may be applied to the concrete surface where difficulty in excluding flow for a long period may occur. If concrete 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.
 20. Ground and surface water that has come into contact with fresh concrete, and all other wastewater, shall not be discharged to State waters or to a location where it may discharge to State waters; the wastewater shall be collected and re-used or disposed of in a manner approved by the Regional Water Board.
 21. 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 consideration of acceptance.
 22. 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 and subcontractors.
 23. 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 Caltrans. The Regional Water Board received \$963 from Caltrans on November 26, 2013.

Standard Conditions (continued)

24. 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.
25. 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.
26. 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.
27. This certification 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 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) The 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.

Standard Conditions (continued)

28. 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's 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.
29. The authorization of this certification for any dredge and fill activities expires five years from the date of this Order. 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, 2, and 5 include requirements for information and reports. Any requirement for a report made as a condition to this certification is a formal requirement pursuant to California Water Code 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 David Leland for

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: Mrs. Kim Floyd, Caltrans, District 1, 1656 Union Street, 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