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## North Coast Regional Water Quality Control Board

February 21, 2014

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**In the Matter of**  
**Water Quality Certification**  
**for the**  
**California Department of Transportation**  
**State Route 299, Collins Bar Curve Improvement Project**  
**(Caltrans EA No. 02-3E790)**  
**WDID No. 1A13120WNTR**

APPLICANT: California Department of Transportation  
RECEIVING WATER: Trinity River  
HYDROLOGIC AREA: Trinity River Hydrologic Unit No. 106.00  
COUNTY: Trinity  
FILE NAME: CDOT TRI-299 Collins Bar Curve Improvement Project PM 12.2-12.9

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### FINDINGS BY THE EXECUTIVE OFFICER:

1. On August 22, 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 Collins Bar Curve Improvement Project (Project).
2. **Hydrologic Unit:** The proposed Project would cause disturbances to jurisdictional wetlands that are tributary to the Trinity River within the Burnt Ranch Hydrologic Subarea of the Trinity River Hydrologic Unit (CalWater Number 106.00).

3. **Public Notice:** The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on December 4, 2013, 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 in Trinity County on State Route (SR) between post-miles 12.2 and 12.9, in Trinity County. The purpose of the Project is to improve roadway safety by increasing roadway width and improving roadway geometrics to accommodate larger vehicles. The primary Project elements include: Adding four-foot shoulders to each lane; constructing two sidehill viaduct bridges to allow for road widening; constructing four barrier slab structures; excavation of the hillside above the road at post mile 12.8 to create a rock catchment area; tree removal and placement of approximately 22,000 cubic yards of rock and dirt fill below the westbound lane—the fill would be obtained from the Burnt Rock Transfer Station and from on-site cut—the fill will accommodate roadway widening; and, addition of four new and seven upgraded drainage systems.
5. **Construction Duration:** Project implementation is expected to start August 15, 2014 and be completed December 20, 2015.
6. **Permanent Impacts:** Caltrans has determined that the proposed Project would result in approximately 0.006 acres (60 linear feet) of permanent impacts to jurisdictional waters created by drainage from an underdrain outlet at the lower portion of the proposed fill area.
7. **Temporary Impacts:** Caltrans has determined that the proposed Project would not result in any temporary impacts to jurisdictional waters.
8. **Mitigation for Permanent Impacts:** Mitigation is not required because the impacts are de minimis impacts to an ephemeral stream channel formed from an underdrain outlet and without wetland characteristics.
9. **Post-Construction Stormwater Treatment:** Project implementation would result in approximately 0.47 acres of new and approximately 1.7 acres of replaced impervious surface area. Caltrans shall install two biofiltration swales to treat stormwater runoff from 0.56 acres of impervious area. Caltrans shall also install five v-ditch biofiltration swales that will provide additional treatment. See Table 1, below, for a biofiltration swale summary.

**Table 1: Biofiltration Swale Summary**

Treatment Type	Post-Mile(s), approximate	Station	Eastbound , Westbound	Length (linear feet)	Impervious Area Treated (acres)
Biofiltration Swale	12.48	8+60	EB	440	0.49
Biofiltration Swale	12.51	10+88	EB	228	*
Biofiltration Swale	12.63	20+40	EB	390	*
Biofiltration Swale	12.68	24+50	EB	410	*
Biofiltration Swale	12.70	25+02	EB	52	*
Biofiltration Swale	12.87	29+15 L	WB	185	*
Biofiltration Swale	12.87	29+15 R	EB	185	0.07
*This value cannot be reliably determined because the swale is either undersized or the BMP catchment area includes a significant pervious contributing area.				<i>total:</i>	0.56

**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 (“construction general permit,” 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 needed for 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 and Incidental Take Permit for the Trinity bristle snail. The Project design has incorporated measures to mitigate for impacts to the bristle snail habitat.

**13. CEQA Compliance:** On May 23, 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. The Notice of Determination was received by the State Clearinghouse on May 31, 2013.

14. **TMDL:** The Trinity River Total Maximum Daily Load (TMDL) for sediment was established in 2001 by the United States Environmental Protection Agency in accordance with section 303(d) of the Clean Water Act, because the State of California determined that the water quality standards for the Trinity River are exceeded due to excessive sediment.

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, the Regional Water Board 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."

Roads and bank erosion are identified as sources contributing to the sediment impairment. The primary adverse impacts associated with excessive sediment in the Trinity River pertain to cold freshwater habitat, primarily anadromous salmonid habitat. The proposed Project activities include implementation of erosion and sediment control Best Management Practices and re-vegetation of disturbed areas, including vegetating previously un-vegetated areas. Accordingly, the Project is consistent with and implements the Trinity River TMDL.

15. **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.
16. 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 Water:	Trinity River in Trinity River Hydrologic Unit No. 106.00	
Filled and/or Excavated Areas:	Permanent – stream channel	342 ft <sup>2</sup> (0.008 acres, 60 linear feet)
	Temporary – jurisdictional waters	No temporary fill
Dredge Volume:	none	
Fill Volume:	Permanent – 11.15 cubic yards	
Mitigation proposed:	none	
Latitude/Longitude:	40.8032 / -123.4656194444	

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the State Route 299 Collins Bar Curve Improvement Project (WDID No. 1A13120WNTR), 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 Condition 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 Project activities, including vegetation clearing. If vegetation clearing is proposed prior to filing of a Notice of Intent for coverage under the construction general permit, then Caltrans shall be required to first submit an erosion and sediment control plan for Regional Water Board staff review and consideration of acceptance.

**Project-Specific Conditions**

2. Caltrans shall install seven compost-amended biofiltration swales within the Project limits. The swales shall be installed consistent with the information in Table 1 of this certification. The swales shall be entered into the District’s permanent stormwater treatment BMP database and monitored and maintained to ensure BMP infiltration efficacy.
3. Caltrans shall implement an onsite Planting Plan consisting of 99 big-leaf maple trees, 109 black oak trees, 71 douglas fir trees, 37 canyon live oak trees, 56 deer brush plants, and 69 mountain mahogany plants. Any change to the planting plan shall first be accepted by Regional Water Board staff. All trees shall be planted within one year of Project completion.

**Project-Specific Conditions (continued)**

4. The new fill slope shall be fully stabilized with appropriate erosion control measures by October 15.

**Standard Conditions**

5. 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.
6. All activities and BMPs shall be implemented according to the submitted application materials and the findings and conditions of this certification. Subsequent changes to the Project that could significantly impact water quality shall first be subject to review and consideration of acceptance by Regional Water Board staff. The Regional Water Board recommends Caltrans either consult Regional Water Board staff or use the best professional judgment of Caltrans environmental staff to determine if Project changes may significantly affect water quality and warrant notification to the Regional Water Board.
7. 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.
8. 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.

9. 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

**Standard Conditions (continued)**

- environmental clearances;
- iii) Obtain satisfactory evidence that the work in 9.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.
10. 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.
  11. Fueling, lubrication, maintenance, storage and staging of vehicles and equipment 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.
  12. 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.
  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 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

**Standard Conditions (continued)**

- remain in their possession at the work site. Caltrans shall be responsible for work conducted by its contractor and subcontractors.
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 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. 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.
  19. 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, with photographs, no more than 24 hours after the discharge occurs.
  20. Any 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.
  21. 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 \$944 from Caltrans on August 22, 2013.
  22. 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

### **Standard Conditions (continued)**

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.

23. 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.
24. 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.
25. 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) 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.
26. 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

**Standard Conditions (continued)**

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.

27. The authorization of this certification for any dredge and fill activities expires on March 1, 2019. 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 is a requirement for a report.** 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](mailto:Brendan.Thompson@waterboards.ca.gov), if you have any questions.

*Original signed by*

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Matthias St. John  
Executive Officer

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)

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