
North Coast Regional Water Quality Control Board

March 7, 2014

In the Matter of
Water Quality Certification
for the
California Department of Transportation
State Route 101, Del Norte Culvert and Drainage Repairs
(Caltrans EA No. 01-49910)
WDID No. 1A13142WNDN

APPLICANT: California Department of Transportation
RECEIVING WATERS: McGarvey and Wilson Creeks, Pacific Ocean, Elk Creek Wetlands
HYDROLOGIC UNITS: Smith River Hydrologic Unit No. 103.00, Klamath River Hydrologic Unit No. 105.00
COUNTY: Del Norte
FILE NAME: 140304 BJT_CDOT_DN101_CulvertDrainageRepairs.docx

FINDINGS BY THE EXECUTIVE OFFICER:

1. On November 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 Del Norte State Route 101 Culvert and Drainage Repairs Project (Project).
2. **Hydrologic Unit:** The proposed Project would cause disturbances to jurisdictional tributaries of:

- McGarvey Creek—Klamath Glen Hydrologic Sub Area (CalWater Number 105.11);
 - Elk Creek wetlands—Smith River Plain Hydrologic Sub Area (CalWater Number 103.11);
 - Wilson Creek—Klamath Glen Hydrologic Sub Area (CalWater Number 105.11); and
 - Pacific Ocean, all within the Smith River Hydrologic Unit (CalWater Number 103.00). The proposed Project would also cause disturbances to jurisdictional tributaries of Wilson Creek, within the Lower Klamath River Hydrologic Area (CalWater Number 105.10).
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 17, 2014, and posted information describing the project on the Regional Water Board’s website. No comments were received.
4. **Project Description** The proposed Project would occur at seven locations along State Route (SR) 101 between post-miles 0.95 and 23.60, in Del Norte County. The purpose of the Project is to repair compromised drainage systems. Project elements would include the following work at the designated post-miles (PM):
- **PM 0.95:** A 24-inch downdrain will be replaced, in-kind. This work would occur between September 15 and October 15;
 - **PM 15.65:** The existing 36-inch welded steel pipe would be lined with a new plastic liner. The voids between the liner and the existing pipe would be filled with grout. There will be some ground disturbance to access the site with equipment at the culvert inlet, but no vegetation or tree removal will be necessary. This work would occur between September 15 and October 15;
 - **PM 22.69:** The existing 36-inch culvert would be abandoned in place, capped and slurry or sand would be pumped into the existing pipe. A new 36-inch pipe would be placed beneath the roadway using the existing inlet and outlet locations. Rock-slope protection would not be placed at the outlet and vegetation or trees would not require removal. Work would take approximately one week;
 - **PM 23.08:** The existing 18-inch corrugated steel pipe and downdrain would be removed and a new, 24-inch culvert and inlet headwall would be placed. All work would be performed from the roadway and completed in approximately one week;
 - **PM 23.43:** The existing 42-inch welded steel pipe would be lined with a new plastic liner. The voids between the liner and the existing pipe would be filled with grout. There will be some ground disturbance to access the site with equipment at the culvert inlet, but no vegetation or tree removal will be necessary. This work would take approximately two to three days to complete; and
 - **PM 23.64:** Approximately 350-feet of an existing earthen drainage ditch, beginning at the outlet of a cross culvert at PM 26.64, would be filled with rock and planted with willow to reduce erosion along its length. This work would take approximately one week and occur between June 15 and October 15.

5. **Construction Duration:** Project implementation is expected to be completed between June 15 and October 15 of either 2014 or 2015.
6. **Permanent Impacts:** Caltrans has determined that Project implementation would result in approximately 0.04 acres (350 linear feet) of permanent impacts to jurisdictional waters, all associated with rock placement at PM 23.64.
7. **Temporary Impacts:** Caltrans has determined that the proposed Project would result in approximately 0.09 acres (230 linear feet) of temporary impacts to jurisdictional waters as a result of clearing shrubs for construction access.
8. **Mitigation for Permanent Impacts:** Caltrans shall plant 109 willows along 350 linear feet of the existing drainage ditch starting approximately at PM 26.64.
9. **Post-Construction Stormwater Treatment:** Post-construction stormwater treatment is not required because this Project will not increase the area of impervious surface.
10. **Disturbed Soil Area:** Project implementation would result in less than one acre of disturbed soil area. Caltrans shall ensure that erosion and sediment control, site housekeeping, and other appropriate pollution prevention best management practices are employed to prevent violations of water quality standards.
11. **Utility Relocations:** Utility relocations are not certified for this project.
12. **Other Agency Actions:** Caltrans has applied for coverage under United States Army Corps of Engineers Nationwide Permit No. 3, *Maintenance*, pursuant to Clean Water Act, section 404. Caltrans has also submitted a draft Streambed Alteration Agreement to the California Department of Fish and Wildlife for review.
13. **CEQA Compliance:** On October 15, 2013, the California Department of Transportation, acting as lead agency, filed a Notice of Exemption (section 15301, Existing Facilities) for the proposed Project in order to comply with the California Environmental Quality Act (CEQA). The Regional Water Board has considered the environmental documentation, and has determined that the Project is categorically exempt from CEQA and has filed a Notice of Exemption.
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.

Receiving Waters:	Tributaries to McGarvey and Wilson Creeks, Pacific Ocean, and Elk Creek Wetlands	
Filled and/or Excavated Areas:	Permanent – jurisdictional waters	0.04 acres (350 linear feet)
	Temporary – jurisdictional waters	0.09 acres (230 linear feet)
Dredge Volume:	none	
Fill Volume:	Permanent – 140 cubic yards	
Mitigation proposed:	Planting 109 willows along 350 linear feet of drainage ditch starting at PM 26.64	
Latitude/Longitude:	PM 0.95: 41.477315 N, 124.046853 W PM 15.65: 41.644394 N, 124.113810 W PM 22.69: 41.723612 N, 124.139283 W PM 23.08: 41.728930 N, 124.143215 W PM 23.43: 41.732855 N, 124.147533 W PM 23.64: 41.734507 N, 124.150677 W PM 23.87: 41.736528 N, 124.154808 W	

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Del Norte State Route 101 Culvert and Drainage Repairs Project (WDID No. 1A13142WNDN), 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. Caltrans shall plant 109 willows along 350 linear feet of the existing drainage ditch starting approximately at PM 26.64. Planting, monitoring, and reporting shall be implemented consistent with the Route-101, Post Mile 23.64 Revegetation Plan

Project-Specific Condition Requiring Reports
(Attachment A).

Project-Specific Condition

2. Project activities shall not result in tree removal.

Standard Conditions

3. All Project 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 submitted to Regional Water Board staff for prior review, consideration, and written concurrence. The Regional Water Board recommends Caltrans either consult with 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. 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.
4. 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.
5. Caltrans shall ensure that erosion and sediment control, site housekeeping, and other appropriate pollution prevention best management practices are employed to prevent violations of water quality standards.
6. 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.
7. 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,

Standard Conditions (continued)

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. 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.
10. 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.
11. 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 used in water diversion and dewatering activities. Caltrans shall first request approval from the Regional Water Board if an exception from this requirement is needed for a specific location.
12. Work in flowing or standing surface waters, unless otherwise proposed in the project description and approved by the Regional Water Board, is prohibited.
13. 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.

Standard Conditions (continued)

14. Herbicides and pesticides shall not be used within the Project limits. If Caltrans has a compelling case as to why herbicides and pesticides should be used, then a request for herbicide use and a BMP plan may be submitted to the Regional Water Board staff for review and authorization to proceed.
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 remain in their possession at the work site. Caltrans shall be responsible for work conducted by its contractor and subcontractors.
17. 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 of the discharge and area contributing to the discharge, no more than 24 hours after the discharge occurs.
18. 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.
19. 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 \$9,027 from Caltrans on November 21, 2013.
20. 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.
21. 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

Standard Conditions (continued)

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.

22. 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.
23. 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.
24. 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; and b) 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.
25. The authorization of this certification for any dredge and fill activities expires on March 31, 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 information and reports. Any requirement for information and reports 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.

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

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