
North Coast Regional Water Quality Control Board

June 11, 2014

In the Matter of

Amended Water Quality Certification

for the

California Department of Transportation Highway 299 – Whole Enchilada Safety Project WDID No. 1A12168WNTR

APPLICANT: California Department of Transportation
RECEIVING WATER: Intermittent and Perennial Streams
HYDROLOGIC AREA: Trinity River Hydrologic Unit No. 106.00
COUNTY: Trinity
FILE NAME: CDOT – Hwy 299, Whole Enchilada Safety Project
WDID No. 1A12168WNTR

FINDINGS BY THE EXECUTIVE OFFICER:

1. On August 27, 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 proposed Highway 299 Whole Enchilada Safety Project (Project). A Certification was issued to Caltrans on March 1, 2013. On February 5, 2014, Caltrans requested an amendment to the Certification to reflect current, standard conditions for Caltrans projects; the project description and impacts have not changed. This amended Certification supersedes the March 1, 2013, Certification.
2. **Hydrologic Unit:** The proposed Project will cause disturbances to waters of the United States (U.S.) and waters of the State within the Trinity River Hydrologic Unit No. 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 February 7, 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 on Highway 299 from post mile (PM) 0.4 to PM 0.9 in Trinity County. The purpose of the Project is to reduce the

number and severity of accidents by altering the road curvature. The scope of work includes removal of existing culverts, replacement of culverts, installation of culvert liners, replacement and or/ installation of culverts headwalls, and installation of down-drains, drain-inlets, and rock slope protection.

5. **Impacts:** Caltrans has determined that the proposed Project will result in 230.1 feet² (0.005 acres) of permanent impacts and 2,494 feet² (0.057 acres) of temporary impacts to jurisdictional waters. Compensatory mitigation is not required because the impacts are considered *de minimis*.
6. **Mitigation:** Caltrans proposes to mitigate for direct impacts to waters of the State through on-site restoration of temporarily impacted areas. This includes revegetation of riparian areas around the intermittent streams located within the Project area.
7. **Post-Construction Storm Water Treatment:** Project implementation will result in an increase of approximately 0.30 acres (13,070 square feet) of impervious surface. Caltrans shall construct a compost-amended biofiltration strip to treat stormwater runoff from 0.43 acres of impervious surface. Caltrans shall construct the biofiltration strip consistent with the plans included in Attachment 1 of this Water Quality Certification.
8. **Construction Timing:** The majority of the proposed Project will be conducted in summer months during low flow conditions between May 15th and October 15th. Any work performed within State waters outside of this work window shall first be subject to the acceptance of Regional Water Board staff.
9. **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
10. **Other Agency Actions:** Caltrans has received authorization from the U.S. Army Corps of Engineers to perform the Project under non-reporting Nationwide Permit no. 14, *Linear Transportation Projects*, pursuant to Clean Water Act, section 404. Caltrans has a signed California Department of Fish and Wildlife 1602 Streambed Alteration Agreement.
11. **CEQA Compliance:** Caltrans has determined that this Project is categorically exempt from California Environmental Quality Act (CEQA) review. In addition, Regional Water Board staff has determined that this Project is categorically exempt from CEQA review (Class 1 Categorical Exemption) and anticipates filing a Notice of Exemption.
12. **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 Order 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.

13. To ensure compliance with Basin Plan Water Quality Objectives and to protect State waters, requirements to avoid, minimize, and mitigate sediment impacts are incorporated as enforceable conditions in this Certification. In addition, Caltrans will be required to conduct surface water monitoring, sampling, and analysis in accordance with the conditions of this Certification. Additionally, storm water runoff monitoring, sampling, and analysis will be conducted as required by the State Water Resources Control Board (SWRCB) National Pollutant Discharge Elimination System (NPDES) Permit for Storm Water Discharges from the State of California, Department of Transportation (Caltrans) Properties, Facilities and Activities Order No. 99 – 06 – DWQ. In addition, Caltrans will be required to conduct surface water monitoring, sampling, and analysis in accordance with the conditions of this Certification. The surface water data collected will be utilized to assess the adequacy of construction Best Management Practices (BMPs) and any site-specific mitigation measures proposed to minimize impacts to State waters.
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: Streams
 Trinity River Hydrologic Unit No.106.00

Filled and/or
Excavated Areas: Permanent – streams (Waters of U.S.): 0.005 acres (230.1 feet²)
 Temporary – riparian (Waters of State): 0.057 acres (2,494 feet²)

Total Linear Impacts: Permanent – streams (Waters of U.S.): 71.6 linear feet

Dredge Volume : None

Fill Volume : 157 cubic yards

Latitude/Longitude: 04°-53'-11"N to 20"N/ 123°-35'-8"W to 40"W

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Caltrans – Highway 299 Whole Enchilada Safety Project (WDID No. 1B12168WNTR), 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 Caltrans complies with the following terms and conditions:

All conditions of this Order 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 as related to this Water Quality Certification.

1. All conditions required by this Order shall be included in the Contract Documents prepared by Caltrans for the contractor.
2. 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.
3. 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.
4. 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. \$944 was submitted by Caltrans on August 27, 2012.
5. 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.
6. The Regional Water Board shall be notified in writing (e-mail is acceptable) at least five working days (working days are Monday – Friday) prior to the commencement of:
 - i) Project initiation or resumption after seasonal shut-down; and
 - ii) Stream diversion installation and removal activities.
7. Caltrans shall provide access to the Project site upon request by Regional Water Board staff.
8. Caltrans 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. Contractors, subcontractors and their employees, and inspectors or monitors assigned to work on the Project, shall be present at the meeting before beginning work at the Project site. Caltrans shall maintain dated sign-in sheets for attendees at these meetings, and shall make them available to Regional Water Board staff on request.
9. All activities and BMPs shall be implemented according to the submitted application materials and the findings and conditions of this Order. Subsequent changes to the

Project that could significantly impact water quality shall first be subject to review and 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.

10. Construction BMPs shall be implemented and installed at commencement of, during, and after any ground clearing activities, construction activities, or any other Project activities that could result in erosion, sediment, or other pollutant discharges to waters of the State. BMPs for erosion and sediment control shall be utilized year round, regardless of season or time of year. Caltrans shall stage erosion and sediment control materials at the work site.
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 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 request approval from the Regional Water Board if an exception from this requirement is needed for a specific location.
13. Herbicides and other 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 pesticide use and a BMP plan may be submitted to Regional Water Board staff for review and acceptance.
14. Work in flowing or standing surface waters, unless otherwise proposed in the Project description and approved by the Regional Water Board, is prohibited.
15. Non-storm water 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 or discharge to a sanitary sewer. 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.
16. Caltrans is prohibited from discharging waste to waters of the State, unless explicitly authorized in 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, other than that authorized in this Certification, shall be allowed to

enter into waters of the State. In addition, none of the materials listed above shall 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.

17. If dewatering or diversion of State waters is necessary, Caltrans shall submit, subject to review and concurrence by the Regional Water Board staff, a dewatering and/or diversion plan that appropriately describe the dewatered or diverted areas and how those areas will be handled during construction. The diversion/dewatering plan shall be submitted no less than 30 days prior to conducting the proposed activity. Information submitted shall include the area or work to be diverted or dewatered and method of the proposed activity. All diversion or dewatering activities shall be designed to minimize the impact to waters of the State and maintain natural flows upstream and downstream. All dewatering or diversion structures shall be installed in a manner that does not cause sedimentation, siltation or erosion upstream or downstream. All dewatering or diversion structures shall be removed immediately upon completion of Project activities. This Certification does not authorize Caltrans to draft surface waters.
18. In-channel work shall only be conducted between May 15 and October 15. Work may be conducted outside this work window if the stream channel is dry and work is first authorized by Regional Water Board and California Department of Fish and Wildlife staff. Construction at the culvert locations shall occur only between May 15 and October 15 in order to minimize runoff during construction and to allow adequate time to restore and stabilize the site prior to onset of fall precipitation.
19. 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 of riparian areas.
20. 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 that leaks any substance that may impact water quality.
21. Caltrans shall implement appropriate BMPs to prevent the discharge of equipment fluids to the stream channel. The minimum requirements will include: storing hazardous materials at least 150 linear feet outside of the stream banks; checking equipment for leaks and preventing the use of 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 in a manner that does not result in a discharge to waters of the State.
22. 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 require written approval from Regional Water Board staff.

23. If, at any time, an unauthorized discharge to surface water (including wetlands, rivers or streams) occurs, or any water quality problem arises, the associated Project activities shall cease immediately until adequate BMPs are implemented. The Regional Water Board shall be notified promptly and in no case more than 24 hours after the unauthorized discharge or water quality problem arises.
24. 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 24.i has been completed;
 - iv) Ensure the Resident Engineer has given written permission for disposal, prior to the actual disposal; and
 - v) Obtain a dated, signed manifest from the disposal site owner, or authorized representative, that identifies the type and quantity of disposed waste.
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. 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 impervious asphalt mixes, hot-mix asphalt products, or encapsulated within the roadway structural section.
27. **Monthly Reporting Requirements:** Caltrans shall submit monthly reports to Regional Water Board staff, no later than the 15th of each month, that include all of the following information collected during the previous month:
 - i) All weekly construction stormwater inspection reports (Caltrans Form 2030);
 - ii) All corrective action summary reports (Caltrans Form 2035);
 - iii) All Rain Event Action Plans prepared pursuant to CGP requirements;
 - iv) All surface water monitoring data completed pursuant to CGP requirements; and
 - v) All Numeric Action Level exceedence reports prepared pursuant to CGP requirements.
28. Caltrans shall install a compost-amended Volumetric Retention Device (VRD) to treat stormwater from no less than 0.43 acres of impervious area. VRD, construction and compost specifications shall be consistent with the Project plans included in Attachment 1, *Biofiltration Strip and Compost Details*.

- Caltrans shall maintain the designed infiltration rate of the VRD. Caltrans shall maintain the volumetric retention area in accordance with the current and any subsequent revisions of the Maintenance Staff Guide. An infiltration test and compaction test will be conducted at three random locations within the VRD at Project completion. The infiltration and compaction test shall be repeated in the dry season of the 3rd and 5th year. The test will be conducted at three random locations within the VRD, for each test. The results of the tests shall be provided to the Regional Water Board not later than November 1st, 2015, November 1st, 2017, and November 1st, 2019.
29. Restoration actions shall be conducted in accordance with the Caltrans-prepared *On-Site Restoration and Monitoring Proposal for the Whole Enchilada Curve Improvement Project* dated December 2012 (Attachment 2, *On-Site Restoration Plan*). Restoration actions include revegetation of temporarily impacted areas. Planting and enhancement actions shall occur in the first full planting season (November to April) subsequent to the year construction is complete and erosion control is established. Caltrans shall notify Regional Water Board staff within five working days upon completion of restoration activities. As-built reports for the restoration actions are due to the Regional Water Board no later than 60 days from completion of revegetation activities. Restoration monitoring shall be conducted yearly for at least 5 years. Restoration monitoring reports shall be submitted annually to the Regional Water Board by December 31st, for years 1, 3, and 5 of the monitoring period. Caltrans may propose an alternative due date, subject to the acceptance of Regional Water Board staff.
 30. Rock slope protection energy dissipation at the inlet and outlet of the new culvert at Post Mile 0.67 shall not be increased beyond the areal extent of rock slope protection shown in the construction plans included in the application materials.
 31. In the event of any violation or threatened violation of the conditions of this Order, 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 Order. 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 Order 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 Order, the Regional Water Board may add to or modify the conditions of this Order as appropriate to ensure compliance.
 32. 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.
 33. This Order 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 Order 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 Order 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) Description of any changes to the Project or confirmation that the successor-in-interest intends to implement the Project as described in this certification.
34. 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.
35. The authorization of this certification for any dredge and fill activities expires on March 1, 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.
36. Please contact our staff Environmental Specialist / Caltrans Liaison Brendan Thompson at (707) 576-2699 or Brendan.Thompson@waterboards.ca.gov if you have any questions.

Original signed by

Matthias St. John
Executive Officer

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Attachments: 1) Biofiltration Strip and Compost Details
2) On-Site Restoration Plans

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. Chris Harvey, Caltrans – North Region Environmental, 1031 Butte Street, Redding, CA 96001

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