
North Coast Regional Water Quality Control Board

August 5, 2016

In the Matter of Water Quality Certification

for the

Federal Highways Administration
CA FLAP 36(13) California State Route 36 Improvement Project
40.453, -123.654¹
WDID No. 1B14102WNHU, ECM PIN CW-808329

APPLICANT: Federal Highway Administration (FHWA)
RECEIVING WATER: Van Duzen River
HYDROLOGIC AREA: Van Duzen River, Hydrologic Unit No. 111.20
Little Van Duzen River, Hydrologic Unit No. 111.22
COUNTY: Humboldt
FILE NAME: FHWA HUM-36-PM 36.1/40.5

FINDINGS BY THE EXECUTIVE OFFICER:

1. On February 13, 2015, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application from the Federal Highway Administration (FHWA), requesting Federal Clean Water Act, section 401, Water Quality Certification (certification) for activities related to the proposed California State Route 36 Improvement Project (Project).

¹ WGS84 datum

2. **Public Notice:** The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on July 6, 2016, and posted information describing the Project on the Regional Water Board's website. No comments were received.
3. **Receiving Waters:** The proposed Project will cause disturbances to tributaries of the Van Duzen River (Basin Planning Area 111.20) and the Little Van Duzen River (Basin Planning Area 111.22).
4. **Project Description:** The proposed Project involves curve correction and realignment of State Route 36 (SR 36) between post-miles (PMs) 36.1 and 40.5, between Bridgeville and Dinsmore along the Van Duzen River, Little Van Duzen River, Burr Creek, and tributaries thereof. The existing roadway in the Project area has narrow travel lanes with little to no shoulders, numerous excessively tight curves, excessively steep grades, limited sight distance, and several sections without a centerline. The purpose of the Project is to reduce the number and severity of vehicle accidents and upgrade the roadway to current design standards.

Two 12-foot travel lanes with 4-foot paved shoulders will be constructed throughout the Project limits. The number of curves along the roadway will be reduced from 127 to 37.

Proposed Project activities include the following:

- Removal of existing roadway and drainage systems;
 - Construction of new and upgraded drainage systems (e.g., culverts, headwalls, wingwalls, downdrains, riprap energy dissipation systems, underdrains, horizontal drains, drain inlets, ditches);
 - Roadway demolition and construction, including cut and fill earthwork;
 - Construction of earth retaining structures, including mechanically stabilized earth and soil nail walls;
 - Implementation of slide stabilization measures;
 - Construction of several rock embankments; and
 - Replacement of the Burr Creek/SR 36 culvert.
5. **Construction Timing:** The Project is expected to take three construction seasons to complete, beginning in September 2016. Tree clearing will commence in September 2016, ground disturbance will commence in April 2017, and the Project will be completed in November 2018. Work will occur during the wet season (October 15 through May 15). FHWA has proposed a winterization strategy and will avoid indirect impacts by following Best Management Practices (BMPs), including but not limited to fiber bonded matrix material application, sediment wattles, silt fencing, inlet protection, slope drains, rolled erosion control mats, and check dams. Inspections and subsequent maintenance of the BMPs will be conducted on a weekly basis.

6. **Project Impacts:** FHWA has determined that the proposed Project will result in approximately 0.70 acres of permanent impacts to jurisdictional wetlands. Project implementation will result in approximately 1,572 and 4,866 linear feet of permanent impacts to jurisdictional intermittent channels and roadside drainages, respectively. Additionally, Project implementation will result in approximately 0.36 acres of permanent impacts to riparian habitat. Permanent impacts will occur as a result of soil fill, riprap, drainage outlet and inlet structures, retaining walls, and slope buttressing.

FHWA has determined that the proposed Project will result in approximately 0.25 acres of temporary impacts to jurisdictional wetlands. Project implementation will result in approximately 404 and 297 linear feet of temporary impacts to jurisdictional intermittent channels and roadside drainages, respectively. Also, Project implementation will result in approximately 0.26 acres of temporary impacts to riparian habitat.

7. **Mitigation for Project Impacts:** Impacts to jurisdictional waters will be mitigated onsite and offsite, as summarized in the *Proposed Mitigation and Monitoring Site Plan for CA FLAP SR 36(13) California State Route 36 Improvement Project*, dated January 2015, and the *Addendum to Previous Submittal Clean Water Act Sections 404 and 401 Permit Application*, dated June 23, 2016. Mitigation activities, mitigation quantities, and Project impacts are described in detail below in Table 1, "Project Impacts and Mitigation."

Onsite Mitigation

PM 36.32

Remove a culvert and daylight 60 linear feet of an existing intermittent channel to restore natural hydrology.

PM 36.75

Remove a culvert to restore 50 linear feet of flow to an existing intermittent channel.

PM 36.91

Create 0.11 acre of wetland and remove an existing culvert at PM 36.91 to restore groundwater/ surface water interactions.

PM 36.84

Remove a culvert to restore 50 linear feet of flow to an existing intermittent channel.

PM 38.43

Remove a truck that is currently obstructing channel flow to restore 20 linear feet of stream channel.

Offsite Mitigation

Offsite mitigation will take place roughly 1 mile west of the Project location, within the Van Duzen watershed. This property is known as the Burke/Robey Peatland Property and contains rare and valuable wetland resources and habitat that support federally-listed species. Offsite mitigation actions include:

- Removal of fill material (i.e., timber from forestry practices, soil from 2-track road construction, and a car) from a large wetland and associated stream channel;
- Stabilize and restore the aforementioned channel by installation of drop structures and minor channel re-sculpting;
- Removal of a spring box and associated piping to re-establish the natural hydrology of a relict channel;
- Removal of woody debris and sediment associated with an old road crossing at the fen outfall; and
- Placement of rock and minor grading to restore hydrology between wetlands that were disconnected by the installation of a historic timber access road.

Table 1: Project Impacts and Mitigation

Feature Type	Permanent Impacts to Jurisdictional Features (linear feet or acres)	Proposed Onsite Mitigation	Proposed Offsite Mitigation
Intermittent Channels	1,572 lf	305 lf (restoration)	965 lf (restoration) 2,016 lf (enhancement)
Wetland Areas	0.70 acre	0.11 acre (restoration)	0.47 acre (restoration) 0.20 acre (seasonal wetland creation) 5.6 acres (fen preservation)
Riparian Areas	0.36 acre	0.18 acre (restoration)	0.12 acre (restoration)

8. **Post-Construction Storm Water:** This project will add a total of 2.13 acres of new impervious surface within the entire project limits. FHWA shall install 26 biofiltration strips at 26 roadside locations to treat a total of 12.32 acres of added or reworked impervious surfaces.

Table 2: Biofiltration Strip Summary

Treatment Type	From Post Mile	To Post Mile	Eastbound, Westbound	Length (linear feet)	Impervious Area Treated (acres)
Biofiltration Strip	36.07	36.15	WB	422	0.42
Biofiltration Strip	36.19	36.24	WB	264	0.31
Biofiltration Strip	36.35	36.47	WB	633	0.42
Biofiltration Strip	36.49	36.51	WB	105	0.16
Biofiltration Strip	36.66	36.67	WB	52	0.07
Biofiltration Strip	36.71	36.97	WB	1372	1.67
Biofiltration Strip	37.10	37.18	WB	422	0.49
Biofiltration Strip	37.23	37.25	WB	105	0.17
Biofiltration Strip	37.25	37.29	WB	211	0.37
Biofiltration Strip	37.36	37.47	WB	580	0.47
Biofiltration Strip	37.52	37.52	WB	60	0.05
Biofiltration Strip	37.56	37.68	WB	633	0.88
Biofiltration Strip	37.72	37.80	WB	423	0.36
Biofiltration Strip	37.86	37.95	WB	475	0.59
Biofiltration Strip	38.23	38.52	WB	1531	0.99
Biofiltration Strip	38.51	38.53	EB	106	0.17
Biofiltration Strip	38.53	38.53	WB	25	0.03
Biofiltration Strip	38.68	38.86	WB	950	0.90
Biofiltration Strip	38.91	38.92	WB	50	0.06
Biofiltration	38.98	39.09	WB	580	0.92

Strip					
Biofiltration Strip	39.21	39.37	WB	845	1.11
Biofiltration Strip	39.40	39.41	WB	40	0.04
Biofiltration Strip	39.62	39.64	WB	105	0.08
Biofiltration Strip	39.93	40.13	WB	1056	0.79
Biofiltration Strip	40.18	40.24	WB	317	0.40
Biofiltration Strip	40.37	40.45	WB	422	0.40
				<i>Total acres treated</i>	12.32

9. **Disturbed Soil Area:** Project implementation will result in greater than one acre of disturbed soil area. FHWA 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 (BMPs) to control pollution from the Project area during construction. All temporarily disturbed areas within the Project area shall be appropriately stabilized and/or replanted with appropriate native vegetation.
10. **Utility Relocations:** Utility relocations affecting jurisdictional waters are not proposed for this Project.
11. **Other Agency Actions:** FHWA has applied to the U.S. Army Corps of Engineers for an Individual Clean Water Act section 404 permit. FHWA has applied for a Section 1600 Streambed Alteration Agreement from the California Department of Fish and Wildlife. FHWA received a Biological Opinion from the U.S. Fish and Wildlife Service (USFWS) dated May 21, 2014, that discusses the Project effects on the federally threatened northern spotted owl (*Strix occidentalis caurina*). The USFWS found that the project is not likely to jeopardize the continued existence of the northern spotted owl and is not likely to result in the destruction or adverse modification of designated critical habitat for the species. FHWA received a Biological Opinion from the National Marine Fisheries Service (NMFS) dated June 27, 2014, that discusses the Project effects on the federally threatened Northern California steelhead (*Oncorhynchus mykiss*). The NMFS found that the proposed project may affect, but it is not likely to adversely affect federally threatened Northern California steelhead.

12. **CEQA Compliance:** On September 12, 2014, California Department of Transportation certified a Mitigated Negative Declaration (State Clearinghouse No. 2014072016) for the project in order to comply with the California Environmental Quality Act. The Regional Water Board has considered the environmental document.
13. **Total Maximum Daily Load:** The Van Duzen watershed is identified as impaired for sediment under Clean Water Act Section 303(d). In December 1999, the U.S. EPA established sediment Total Maximum Daily Loads (TMDLs) for the Van Duzen River. The TMDL identifies State Route 36 as a sediment delivery risk in the watershed. Excessive sediment in the Van Duzen River is particularly harmful to cold freshwater habitat, including anadromous salmonid habitat. Erosion is identified as a contributing source to sediment impairment. FHWA shall utilize appropriate erosion control, sediment control, and site management BMPs to control pollutants during construction. Drainage improvements will reduce erosion and result in a net reduction in sediment contributions to the Van Duzen River. Accordingly, this certification does not certify any activities that would contribute to Van Duzen watershed sediment impairment.
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. Order No. 2003-0017-DWQ can be found here: http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf.

Receiving Water:	Van Duzen River (Hydrologic Unit No. 111.22)	
Filled and/or Excavated Areas:	Permanent – wetlands	0.70 acres (waters of the U.S.)
	Temporary – wetlands	0.25 acres (waters of the U.S.)
	Permanent – riparian area	0.36 acres (waters of the state)
	Temporary – riparian area	0.26 acres (waters of the state)
	Permanent – intermittent channels	1,572 linear feet (waters of the U.S)
	Temporary – intermittent channels	404 linear feet (waters of the U.S.)
Latitude/Longitude:	40.453, -123.654	
Certification Expiration:	August 4, 2021	

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the California State Route 36 Improvement Project (WDID No. 1B14102WNHU), 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 FHWA complies with the following terms and conditions:

All conditions of this certification apply to FHWA (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.

Project-Specific Conditions

1. To compensate for the 0.70 acre of permanent impacts to wetlands, FHWA shall establish no less than 0.92 acres of wetlands. FHWA shall also establish 1,774 linear feet of intermittent channels and 0.30 acre of riparian areas as described in the *Revised - Waters of the U.S. and State of California Conceptual Mitigation and Monitoring Site Plan*, dated June 2016.
2. FHWA shall install 26 biofiltration strips as described in the Project application and summarized in Table 2 of this certification.

Project-Specific Conditions Requiring Reports

3. FHWA shall implement the proposed *Revised - Waters of the U.S. and State of California Conceptual Mitigation and Monitoring Site Plan*, dated June 2016 (MMP). Amendments to the MMP are subject to the review and acceptance by Regional Water Board staff. FHWA shall submit annual mitigation monitoring reports for 5 years following mitigation construction completion. Annual monitoring reports shall be submitted no later than January 31 following the respective monitoring year. Riparian areas and wetlands must meet 65% vegetative cover and not be reliant on supplemental irrigation for the final two years of the monitoring period in order to be deemed

Project-Specific Conditions Requiring Reports (continued)

successful. Post-project monitoring reports shall include the following information:

- i) A map showing the site including location of the various monitoring activities and photo points;
 - ii) Hydrology, soils, vegetation, and photographic results, as described above;
 - iii) An assessment of the monitoring results against the success criteria;
 - iv) A description of the overall site condition and any management actions taken during that year; and
 - v) Any recommended management actions to be undertaken within the site.
4. 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.
 5. FHWA shall submit a report to the Regional Water Board documenting the implemented conditions of the mitigation areas no later than 90 days from completion of construction and planting of the onsite and offsite mitigation areas. This report shall include the as-built planting plans (which will include changes in species and the final number of stems planted and amount of seed sown, if applicable). GPS data points overlain on aerial photography and photographic documentation shall be used to indicate the implemented changes and location of the planted vegetation.
 6. Work within state waters shall occur only between June 15 and October 15. Any deviation from this timeframe restriction shall be subject to prior acceptance by Regional Water Board staff.

Standard Conditions

7. Herbicides and other pesticides shall not be used within the Project limits. If FHWA has a compelling case as to why pesticides should be used, then a request for pesticide use and a BMP plan may be submitted to the Regional Water Board staff for review and acceptance.
8. All Project activities and BMPs shall be implemented according to the submitted application package 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. If the Regional Water Board is not notified of an alteration to the Project that results in an impact to water quality, it will be considered a violation of this certification, and FHWA may be subject to Regional Water Board enforcement actions.

Standard Conditions (continued)

9. All conditions required by this certification shall be included in the Contract Documents prepared by FHWA for the contractor. In addition, FHWA shall require compliance with all conditions included in this certification in the bid contract for this Project.
10. FHWA 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.
11. 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 FHWA first submits a proposal in writing that is found acceptable by Regional Water Board staff.
12. FHWA is liable and responsible for the proper disposal, reuse, and/or recycling of all Project-generated waste in compliance with applicable state and federal laws and regulations, and as described in Caltrans 2015 Standard Specifications 13-4.03D, Waste Management. Additionally, when handling, transporting, disposing, reusing, and/or recycling Project-generated waste, FHWA and their contractors shall:
 - i) Provide the Regional Water Board with a copy of the Solid Waste Disposal and Recycling Report prepared for FHWA by the contractor per Caltrans 2015 Standard Specifications 14-10.02, Solid Waste Disposal and Recycling Report. These reports shall be provided not later than January 31 for each year work is performed during the previous calendar year. A copy of the final Solid Waste Disposal and Recycling Report shall be submitted to the Regional Water Board within 30 days after being received by FHWA from the contractor.
 - ii) For waste other than solid waste, obtain evidence that waste has been appropriately disposed, reused, and/or recycled. Evidence shall include type and quantity of waste and may include, but not be limited to, property owner agreements, permits, licenses, and environmental clearances. Evidence shall be provided to the Regional Water Board upon request; and
 - iii) For waste other than solid waste, ensure the Resident Engineer has given written permission for disposal, reuse, and/or recycling, prior to the actual disposal, reuse, and/or recycling.

Standard Conditions (continued)

13. Asphalt-concrete grindings shall not be placed in any location where they 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.
14. FHWA and their contractors shall comply with the activity restrictions detailed in Caltrans 2015 Standard Specifications 13-4.03C(1), General. In addition, fueling, 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.
15. Fueling, maintenance, and/or staging of individual equipment types within waters of the State or riparian areas may be authorized if FHWA first prepares a plan for review and approval by Regional Water Board staff that:
 - i) Identifies the specific piece of machinery that may require fueling, maintenance, and/or staging within waters of the State or riparian areas;
 - ii) Provides justification for the need to refuel, maintain, or stage within State waters or riparian areas. The justification shall describe why conducting the activity outside of jurisdictional waters is infeasible; and
 - iii) Includes a narrative of specific BMPs that shall be employed to prevent discharges to State waters and riparian areas.
16. FHWA shall not use leaking vehicles or equipment within state waters or riparian areas.
17. Only 100-percent biodegradable erosion and sediment control products that will not entrap or harm wildlife shall be used. Photodegradable synthetic products are not considered biodegradable. If FHWA 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. This condition does not prohibit the use of plastic sheeting used in water diversion or dewatering activities. FHWA shall request approval from the Regional Water Board if an exception to this requirement is needed for a specific location.
18. Work in flowing or standing surface waters, unless otherwise proposed in the project description and approved by the Regional Water Board, is prohibited.
19. Non-stormwater discharges are prohibited unless the discharge is first approved by the Regional Water Board and in compliance with the Basin Plan. If dewatering of groundwater is necessary, then FHWA shall use a method of water disposal other than disposal to ground or surface waters, such as land disposal. Groundwater disposed of to land shall not enter State waters. Alternatively, FHWA may apply for coverage under

Standard Conditions (continued)

the Low Threat Discharge Permit or an individual National Pollutant Discharge Elimination System (NPDES) Permit. If FHWA applies for coverage under either of these permits, then discharge is prohibited until FHWA has received notification of coverage under the respective permit.

20. Gravel bags used within state waters shall:

- i) Comply with Caltrans 2015 Standard Specifications sections 13-5.02G and 88-1.02F;
- ii) Be immediately removed and replaced if the bags have developed or are developing holes or tears; and
- iii) Be filled only with clean washed gravel.

Exceptions to these criteria are subject to the review and acceptance of Regional Water Board staff.

21. This certification does not authorize drafting of surface waters.

22. FHWA shall provide access to the Project construction site upon request by Regional Water Board staff.

23. Initial water pollution control training described in Caltrans 2015 Standard Specifications 13-1.01D(3), Training, shall apply to all of the FHWA's employees, contractors, and sub-contractors. Initial water pollution control training topics shall include Regional Water Board 401 certification and construction general permit requirements, identification of state waters and riparian areas, and violation avoidance and discharge reporting procedures.

24. FHWA shall maintain logs of all of FHWA's staff, contractors, and sub-contractors trained pursuant to the Caltrans 2015 Standard Specifications 13-1.01D(3). The logs shall include the names of trainees, training dates, and summary of the scope of training. FHWA shall provide evidence of this documentation upon the request of the Regional Water Board.

25. 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.

26. 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

Standard Conditions (continued)

- 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.
27. 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.
 28. 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.
 29. FHWA 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. FHWA shall be responsible for work conducted by its contractor and subcontractors.
 30. The validity of this certification is conditioned upon total payment of any fee required under title 23, California Code of Regulations, section 3833, and owed by FHWA.
 31. This certification will be subject to annual billing during the construction phase ("Annual Active Discharge Fee") and during the monitoring phase of the Project ("Annual Post Discharge Monitoring Fee"), per the current fee schedule, which can be found on our website:
http://www.swrcb.ca.gov/northcoast/water_issues/programs/water_quality_certification.shtml. These fees will be automatically invoiced to FHWA.
 32. FHWA shall notify the Regional Water Board upon Project construction completion to request termination of the Annual Active Discharge Fee and to receive a "Notice of Completion of Discharges Letter." If the Project is subject to the Annual Post Discharge Monitoring Fee, then FHWA shall also notify the Regional Water Board at the end of the monitoring period to request termination of the fee and receive a "Notice of Project Complete Letter." FHWA may be required to submit completion reports at the end of each of these phases. Regional Water Board staff may request site visits at the end of each Project phase to confirm Project status and compliance with this certification.
 33. 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

Standard Conditions (continued)

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.

34. 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.
35. 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.
36. In the event of any change in control of ownership of land presently owned or controlled by FHWA, FHWA shall notify the successor-in-interest of the existence of this certification by letter and shall forward a copy of the letter to the following email address: NorthCoast@waterboards.ca.gov.

The successor-in-interest shall e-mail the Regional Water Board Executive Officer at: NorthCoast@waterboards.ca.gov to request authorization to discharge dredged or fill material under this certification. The request must contain the following:

- i) Effective date of ownership change;
- ii) Requesting entity's full legal name;
- iii) The state of incorporation, if a corporation;
- iv) The address and phone number of contact person; and
- v) A description of any changes to the project or confirmation that the successor-in-interest intends to implement the project as described in this certification.

Standard Conditions (continued)

37. Except as may be modified by any preceding conditions, all certification actions are contingent on:

- i) The discharge being limited, and all proposed revegetation, avoidance, minimization, and mitigation measures being completed, in strict compliance with the FHWA's project description and CEQA documentation, as approved herein;
- ii) FHWA shall construct the Project in accordance with the project described in the application and the findings above; and
- iii) 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.

38. 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 certification 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 certification, and FHWA may be subject to Regional Water Board enforcement actions.

39. The authorization of this certification for any dredge and fill activities expires five years from the date of this certification. Conditions and monitoring requirements outlined in this certification are not subject to the expiration date outlined above, and remain in full effect and are enforceable.

Conditions 3, 4, 5, and 6 are 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 certification, 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 Scientist, Brandon Stevens at (707) 576-2377, or via e-mail, at Brandon.Stevens@waterboards.ca.gov, if you have any questions.

Matthias St. John
Executive Officer

160804_BDS_dp_FHWA_HUM36_FLAPSR36_401

Original to: Mr. James Herlyck, FHWA, 12300 West Dakota Ave. Lakewood, CO 80228
James.Herlyck@dot.ca.gov

cc: Carol Heidsiek, U.S. Army Corps of Engineers Carol.A.Heidsiek@usace.army.mil
Gregory Schmidt, U.S. Fish and Wildlife Service Gregory.Schmidt@fws.gov
State Water Resources Control Board Stateboard401@waterboards.ca.gov
Environmental Protection Agency, Region 9 R9-WTR8-Mailbox@epa.gov
Brooke Davis, FHWA Brooke.Davis@dot.ca.gov