

EXHIBIT

C

Declaration of Kason Grady

**Prosecution Team Case-in-Chief
Confusion Hill Bypass Project**



California Regional Water Quality Control Board
North Coast Region

John W. Corbett, Chairman



John C. Lloyd, Ph.D.
Agency Secretary

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Arnold
Schwarzenegger
Governor

February 16, 2006

Ms. Susan Leroy
CDOT Eureka
1656 Union Street
Eureka, CA 95501

Dear Ms. Leroy:

Subject: Issuance of Clean Water Act Section 401 Certification (Water Quality Certification) for the Confusion Hill Bypass Project

File: CDOT - Hwy 101, Confusion Hill Bypass
WDID No. 1B05153WNME

This Order by the California Regional Water Quality Control Board, North Coast Region (Regional Water Board), is being issued pursuant to Section 401 of the Clean Water Act (33 USC 1341), in response to your request, on behalf of the California Department of Transportation (applicant), for Water Quality Certification for activities related to the Confusion Hill Bypass Project in Mendocino County. On November 29, 2005, the Regional Water Board received your application and a \$500.00 processing fee. On December 29, 2005, we sent you a letter stating the application was incomplete. You submitted additional information during the first week of January 2006, including a Notice of Determination and maps that show the area of potential impact from the project is larger than the area that was used to calculate the initial fee. On January 11, 2006, we deemed the application complete and posted information describing the project on the Regional Water Board's website for a 21-day public review and comment period. We did not receive any comments on this project. On January 12, 2006, we received an additional \$6510.00 that covers the remaining balance of the application fee.

Project Description: The project is located approximately 18.5 miles south of Garberville and 8 miles north of Leggett. Highway 101 currently bisects an ancient and active rockslide in the area known as Confusion Hill. The purpose of the project is to provide a safe and reliable transportation route around the landslide area by relocating the highway from the east side of the South Fork Eel River to the west side. Relocating the highway requires construction of two new bridges and a new section of highway between the new bridges. The existing section of highway will be de-commissioned following completion of the bypass.

California Environmental Protection Agency

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The south bridge will be a segmental, cast-in-place, pre-stressed box girder structure. The south bridge will be 43 feet wide, 1355 feet long, and 255 feet above the center of the river channel. The foundation for the south bridge will be constructed on cast-in-drilled-hole piles. The north bridge will be a cast-in-place pre-stressed box girder structure with pier shaft foundations. The north bridge will be 43 feet wide, 580 feet long, and 150 feet above the center of the river. Both bridges are designed such that all piers and associated foundations will be located above the 100-year flood elevation of the river and the new section of highway will be at least 150-feet above the river.

Temporary access roads and temporary bridges will be constructed at each end of the project to allow access for personnel and various construction equipment including cranes, drill rigs, and excavation equipment. The applicant has identified two 1.5-acre areas near each end of the project as places where activities related to construction of access roads and temporary bridges could impact waters of the United States. The temporary bridges will be constructed 3 feet above the elevation of the 100-year storm event or they will be designed to withstand the 100-year storm event and would be overtopped at the elevation of a 50-year storm event. Activities related to construction of the temporary bridges include rotating, vibrating, drilling or a combination of these methods to install sheet piles or casings and drilling holes into the bedrock to build support piers for the temporary bridges.

A seasonal temporary bridge may also be installed near the south bridge. A railroad flatcar or similar bridge deck will be placed on river rock abutments; or wooden, steel or concrete piles will be placed in the channel to support a wood deck. The river rock abutments may extend several feet into the channel. All the bridges are designed to allow for fish passage and passage for recreational boating.

A portable concrete batch plant will be located near the southern end of Route 271 at an elevation above the 100-year storm event. A concrete pipeline or "slick line" may be used to transport concrete from the batch plant. A typical slick line is made of 6-inch diameter steel pipe; a secondary containment pipe or trough would be used to contain any concrete spills. All concrete wastes and water that contacts fresh concrete must be fully contained and disposed of properly in order to prevent any discharge to surface water or ground water.

All permanent and temporary impacts to waters of the United States from this project will occur within two designated 1.5-acre areas; however, the actual area of impact to waters of the United States is anticipated to be much smaller. The area of anticipated temporary impacts to waters of the United States from access road and temporary bridge placement and removal activities will be approximately 0.16-acre at each end of the project. All support piers installed for the temporary bridges will be removed to the level of bedrock. The only area of permanent impact to waters of the United States is anticipated to be from the sections of temporary bridge piers that will remain below the top of bedrock following removal of the temporary bridges. The area of permanent impact to waters of the United States from these pier remnants will be less than 0.01 acre. The new bridges and new highway section will not permanently impact waters of the United States.

The new section of highway will be placed in a large through-cut. Approximately 385,000 cubic yards of excess earthen material will be generated by excavation of the through-cut. The applicant has identified five areas along Highway 101 near the north end of the project that are above the elevation of the 100-year storm event where permanent disposal of the excess excavation material will occur. Best Management Practices (BMPs) for sediment and turbidity control will be implemented at the disposal areas during construction activities and all the disposal areas will be planted with native shrubs upon completion of the project.

The proposed project will not affect any wetlands. Existing vegetation will be preserved to the maximum extent possible and all disturbed areas will be seeded and replanted. To compensate for potential impacts this project may have on salmonids, a culvert modification project will be implemented on Red Mountain Creek to restore fish passage and provide access to historic spawning and rearing habitat.

Receiving Waters:	South Fork Eel River in the Benbow Hydrologic Subarea No. 111.32.
Filled or Excavated Area:	Area Temporarily Impacted: 0.32 acres of stream bank and stream channel Area Permanently Impacted: 0.01 acre of stream channel
Total Linear Impacts:	Length temporarily impacted: 150 feet Length permanently impacted: none

- Federal Permit: U.S. Army Corps of Engineers Nationwide Permit No. 33
- Compensatory Mitigation: To compensate for potential impacts to salmonids as a result of the Confusion Hill Bypass project construction activities, the applicant will fund a project to improve fish passage through the culvert at Red Mountain Creek. Highway 101 crosses Red Mountain Creek at the north end of the project where the new alignment will conform to the existing alignment. During a wide range of typical stream flows, the existing culvert at Red Mountain Creek prevents salmonids from accessing historic spawning and rearing habitat located upstream of the culvert. The fish passage improvement project will incorporate National Marine Fisheries Service and California Department of Fish and Game (CDF&G) fish passage criteria. The mitigation project is subject to approval by those agencies.
- Modifications to improve fish passage through the existing culvert will likely include installation of concrete/rock weirs (baffles) in the bottom of the culvert to reduce flow velocities through the culvert. The baffles are likely to be composed of large rocks and concrete. The existing road leading to the culvert outlet will be used to gain access to through the culvert and inlet area.
- Noncompensatory Mitigation: Noncompensatory mitigation for this project includes the use of BMPs for waste handling, sediment and turbidity control, and heavy equipment use and concrete use near a waterway. The applicant has applied for a Lake or Streambed Alteration Agreement (1600 Permit) from the CDF&G.
- CEQA Compliance: The California Department of Transportation, as the lead agency for CEQA, certified an Environmental Impact Report (SCH# 200405201) for this project on December 15, 2005.
- Standard Conditions: Pursuant to Title 23, California Code of Regulations, Section 3860 (23 CCR 3860), the following three standard conditions shall apply to this project:
- 1) This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section 13330 of the California Water Code and 23 CCR 3867.
 - 2) 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 23 CCR 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

- 3) The validity of any nondenial certification action (actions 1 and 2) shall be conditioned upon total payment of the full fee required under 23 CCR 3833, unless otherwise stated in writing by the certifying agency.

Additional Conditions:

Pursuant to 23 CCR 3859(a), the applicant shall comply with the following additional conditions:

- 1) The applicant shall notify the Regional Water Board in writing at least five working days (working days are Monday – Friday) prior to the commencement of the project, with details regarding the schedule of operations, to allow staff the opportunity to be present onsite and to answer any public inquiries that may arise regarding the project.
- 2) All conditions listed in this Water Quality Certification must be included in the Plans and Specifications prepared by the applicant for the Contractor. All conditions shall be implemented according to the submitted application and this Water Quality Certification.
- 3) A copy of this permit must be provided to the contractor and all subcontractors conducting the work, and a copy must be in their possession at the work site. It is the applicant's responsibility to ensure that the contractor and all subcontractors are provided a copy of this permit.
- 4) A copy of the Storm Water Pollution Prevention Plan (SWPPP) shall be submitted to the attention of Regional Water Board staff Dean Prat at least 30 days prior to the start of the project.
- 5) The Red Mountain Creek mitigation project shall be completed by October 31, 2010. The applicant shall notify the Regional Water Board in writing at least five working days (working days are Monday – Friday) prior to the commencement of the Red Mountain Creek mitigation project, with details regarding the schedule of operations, to allow staff the opportunity to be present onsite and to answer any public inquiries that may arise regarding the project.

- 6) The Red Mountain Creek mitigation project shall comply with all conditions in this Water Quality Certification.
- 7) Adequate BMPs for sediment and turbidity control shall be implemented and in place prior to, during, and after construction in order to ensure that no silt or sediment enters surface waters.
- 8) If, at any time, an unauthorized discharge to surface waters occurs, or any water quality problem arises, the project shall cease immediately and Regional Water Board staff shall be notified promptly.
- 9) No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature, other than that authorized by this permit, shall be allowed to enter into or be placed where it may be washed by rainfall into waters of the State.
- 10) All materials used for cleaning concrete from tools and equipment, and any wastes generated by this activity, shall be adequately contained to prevent contact with soil and surface water and shall be disposed of properly.
- 11) When operations are completed, any excess material or debris shall be removed from the work area and disposed of properly. No rubbish shall be deposited within 150 feet of the high water mark of any stream.
- 12) If construction dewatering is found to be necessary, the applicant will use a method of water disposal other than disposal to surface waters (such as land disposal) or the applicant shall apply for coverage under the General Construction Dewatering Permit and receive notification of coverage to discharge to surface waters.
- 13) Fueling, lubrication, maintenance, operation, storage and staging of vehicles and equipment shall be outside of waters of the United States and shall not result in a discharge or a threatened discharge to waters of the United States. At no time shall the applicant use any vehicle or equipment, which leaks any substance that may impact water quality.

- 14) Project activities shall comply with provisions in the North Coast Region Water Quality Control Plan (Basin Plan).
- 15) The project site may be visited and assessed by Regional Water Board staff to document compliance with this certification.
- 16) All work within waters of the United States shall not commence until May 15th and shall be completed prior to October 31st.
- 17) All activities, BMPs, and associated mitigation will be conducted as described in this Permit and the application submitted by the applicant for this project.
- 18) The applicant shall take photos of all areas disturbed by project activities, including all excess materials disposal areas, after the first rainfall event that generates visible runoff from these areas in order to demonstrate that erosion control measures have been successful. A report containing these photos shall be submitted within 60 days of the first rainfall event that generates runoff from the disturbed areas.
- 19) Visual observations of the South Fork Eel River shall be conducted whenever a project activity has the potential to mobilize sediment and increase the turbidity of the South Fork Eel River. Field turbidity measurements shall be collected whenever a project activity causes turbidity of the South Fork Eel River to be increased above background concentrations in order to demonstrate compliance with receiving water limitations.

Whenever turbidity in the South Fork Eel River is increased above background as a result of project activities, turbidity measurements shall be collected upstream (within 50 feet) of project activities (background) and downstream (within 100 feet) of the source of turbidity. The frequency of turbidity monitoring shall be a minimum of every hour during periods of increased turbidity and shall continue until turbidity measurements demonstrate compliance with receiving water limitations and turbidity levels are no longer increasing as a result of project activities. If turbidity levels are greater than 20 percent above background 100 feet downstream of the source of turbidity, all necessary steps shall be taken to install, repair, and/or modify BMPs to control the source(s) of sediment and the overall distance from the source of

turbidity to the downstream extent of the increased turbidity (20 percent above background) shall be measured.

Turbidity monitoring results shall be reported to appropriate Regional Water Board staff by telephone within 1 hour of taking any turbidity measurement that shows turbidity levels are 20 percent above background 100 feet or more downstream of the source of turbidity. All recorded visual observation and all field turbidity measurements collected for the purpose of this condition shall be submitted in a report to the Regional Water Board by November 15th each year and within 45 days of project completion.

- 20) 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 at the above address.

To discharge dredged or fill material under this Order, the successor-in-interest must send to the Regional Water Board Executive Officer a written request for transfer of the Order. The request must contain the requesting entity's full legal name, the state of incorporation if a corporation, address, and telephone number of the person(s) responsible for contact with the Regional Water Board. The request must also describe any changes to the Project proposed by the successor-in-interest or confirm that the successor-in-interest intends to implement the Project as described in this Order.

Water Quality Certification: I hereby issue an order [23 CCR Subsection 3831(e)] certifying that any authorized discharge from the Confusion Hill Bypass Project, (Facility No. 1B05153WNME) will comply with the applicable provisions of sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and Implementation Plans"), 306 ("National Standards of Performance"), and 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act [33 USC Subsection 1341 (a)(1)], and with other applicable requirements of State law. 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 Water Quality Certification.

Except as may be modified by any preceding conditions, all certification actions are contingent on: a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicant's project description, and b) compliance with all applicable requirements of the Regional Water Board's Water Quality Control Plan for the North Coast Region (Basin Plan).

Expiration:

The authorization of this certification for any dredge and fill activities expires on February 16, 2011. 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.

Please notify Dean Prat of our staff at (707) 576-2801 prior to construction (pursuant to Additional Condition No. 1 above) so that we can answer any public inquiries about the work.

Sincerely,

Catherine Kuhlman
Executive Officer

021406_DLP_hwy101confusionhill401cert.doc

Enclosure:

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"

cc: Ms. Jane Hicks, U.S. Army Corps of Engineers, Regulatory Functions, 333 Market Street,
San Francisco, CA 94599
U.S. Army Corps of Engineers, District Engineer, P.O. Box 4863, Eureka, CA 95502

California Environmental Protection Agency

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STATE WATER RESOURCES CONTROL BOARD

WATER QUALITY ORDER NO. 2003 - 0017 - DWQ

**STATEWIDE GENERAL WASTE DISCHARGE REQUIREMENTS FOR
DREDGED OR FILL DISCHARGES THAT HAVE RECEIVED
STATE WATER QUALITY CERTIFICATION (GENERAL WDRs)**

The State Water Resources Control Board (SWRCB) finds that:

1. Discharges eligible for coverage under these General WDRs are discharges of dredged or fill material that have received State Water Quality Certification (Certification) pursuant to federal Clean Water Act (CWA) section 401.
2. Discharges of dredged or fill material are commonly associated with port development, stream channelization, utility crossing land development, transportation water resource, and flood control projects. Other activities, such as land clearing, may also involve discharges of dredged or fill materials (e.g., soil) into waters of the United States.
3. CWA section 404 establishes a permit program under which the U.S. Army Corps of Engineers (ACOE) regulates the discharge of dredged or fill material into waters of the United States.
4. CWA section 401 requires every applicant for a federal permit or license for an activity that may result in a discharge of pollutants to a water of the United States (including permits under section 404) to obtain Certification that the proposed activity will comply with State water quality standards. In California, Certifications are issued by the Regional Water Quality Control Boards (RWQCB) or for multi-Region discharges, the SWRCB, in accordance with the requirements of California Code of Regulations (CCR) section 3830 et seq. The SWRCB's water quality regulations do not authorize the SWRCB or RWQCBs to waive certification, and therefore, these General WDRs do not apply to any discharge authorized by federal license or permit that was issued based on a determination by the issuing agency that certification has been waived. Certifications are issued by the RWQCB or SWRCB before the ACOE may issue CWA section 404 permits. Any conditions set forth in a Certification become conditions of the federal permit or license if and when it is ultimately issued.
5. Article 4, of Chapter 4 of Division 7 of the California Water Code (CWC), commencing with section 13260(a), requires that any person discharging or proposing to discharge waste, other than to a community sewer system, that could affect the quality of the waters of the State,¹ file a report of waste discharge (ROWD). Pursuant to Article 4, the RWQCBs are required to prescribe waste discharge requirements (WDRs) for any proposed or existing discharge unless WDRs are waived pursuant to CWC section 13269. These General WDRs fulfill the requirements of Article 4 for proposed dredge or fill discharges to waters of the United States that are regulated under the State's CWA section 401 authority.

¹ "Waters of the State" as defined in CWC Section 13050(e)

IT IS HEREBY ORDERED that WDRs are issued to all persons proposing to discharge dredged or fill material to waters of the United States where such discharge is also subject to the water quality certification requirements of CWA section 401 of the federal Clean Water Act (Title 33 United States Code section 1341), and such certification has been issued by the applicable RWQCB or the SWRCB, unless the applicable RWQCB notifies the applicant that its discharge will be regulated through WDRs or waivers of WDRs issued by the RWQCB. In order to meet the provisions contained in Division 7 of CWC and regulations adopted thereunder, dischargers shall comply with the following:

1. Dischargers shall implement all the terms and conditions of the applicable CWA section 401 Certification issued for the discharge. This provision shall apply irrespective of whether the federal license or permit for which the Certification was obtained is subsequently deemed invalid because the water body subject to the discharge has been deemed outside of federal jurisdiction.
2. Dischargers are prohibited from discharging dredged or fill material to waters of the United States without first obtaining Certification from the applicable RWQCB or SWRCB.

CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on November 19, 2003.

AYE: Arthur G. Baggett, Jr.
 Peter S. Silva
 Richard Katz
 Gary M. Carlton
 Nancy H. Sutley

NO: None.

ABSENT: None.

ABSTAIN: None.


Debbie Irvin
Clerk to the Board

EXHIBIT

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Declaration of Kason Grady

**Prosecution Team Case-in-Chief
Confusion Hill Bypass Project**

STATE WATER RESOURCES CONTROL BOARD

ORDER NO. 99 - 06 - DWQ
NPDES NO. CAS000003

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT
STATEWIDE STORM WATER PERMIT
AND
WASTE DISCHARGE REQUIREMENTS (WDRs)
FOR THE
STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION (CALTRANS)**

The State Water Resources Control Board (SWRCB) finds that:

- 1. NPDES PERMIT APPLICATION:** On September 5, 1996, Caltrans, located at 1120 N Street, Sacramento, California 95814 submitted an NPDES Permit application for storm water discharges from the Caltrans highways, properties, facilities, and activities throughout the State of California for Caltrans headquarters and for the District offices including: the North Coast region (District 1), Northern Central Valley and Far Northeastern region (District 2), Sacramento area (District 3), San Francisco Bay area (District 4), Central Coast (District 5), Lower Central Valley (District 6), Los Angeles Basin (District 7), San Bernardino area (District 8), Mono/Inyo area (District 9), Middle Central Valley (District 10), San Diego area (District 11), and Orange County (District 12). The application was accepted on October 4, 1996. As part of the application, Caltrans submitted a Storm Water Management Plan (SWMP) and Monitoring Plan. The SWMP and Monitoring Plan were amended in March 1997 and again in April 1998. The application is considered an application for permit reissuance because Caltrans is currently under permit in all of the parts of the State for which a Municipal Separate Storm Sewer System (MS4) permit is currently required. The MS4 permits that Caltrans holds, the permitting agency, the adoption date, and expiration date are shown in Table 1.

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**STATE WATER RESOURCES CONTROL BOARD
901 P STREET
SACRAMENTO, CALIFORNIA
JULY 15, 1999**

**FACT SHEET
FOR
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)**

BACKGROUND

In 1972, The Federal Water Pollution Control Act [also referred to as the Clean Water Act (CWA)] was amended to provide that the discharge of pollutants to waters of the United States from any point source is unlawful, unless the discharge is in compliance with an NPDES permit. The 1987 amendments to the CWA added section 402(p) which directs that storm water discharges are point source discharges and establishes a framework for regulating municipal and industrial storm water discharges under the NPDES program. On November 16, 1990, the U.S. Environmental Protection Agency (USEPA) promulgated final regulations that establish the storm water permit requirements.

Pursuant to these regulations, storm water permits are required for discharges from a municipal separate storm sewer system (MS4) serving a population of 100,000 or more. USEPA defined MS4 to include road systems owned by states which are in an area with a population greater than 100,000. The regulations also specified a requirement for storm water permits from 11 categories of industry, including construction activities where the construction activity disturbs five acres or more.

In California, the MS4s were issued individual NPDES permits by the Regional Water Quality Control Boards (RWQCB). Caltrans is currently under permit in all of the areas of California that have been determined to require an MS4 permit with the exception of the Salinas area. Industrial activities are covered by General Permits that have been adopted by the State Water Resources Control Board (SWRCB). Caltrans currently seeks coverage under the NPDES General Permit for Construction Activities (Construction General Permit) for construction activities that are over five acres. The exception to this is in the Lake Tahoe area, where the RWQCB adopted its own Construction General Permit for projects over five acres and Waste Discharge Requirements (WDRs) for projects under five acres.



Linda S. Adams
*Secretary for
Environmental Protection*

State Water Resources Control Board

Division of Water Quality

1001 I Street • Sacramento, California 95814 • (916) 341-5537
Mailing Address: P.O. Box 1977 • Sacramento, California • 95812-1977
FAX (916) 341-5543 • Internet Address: <http://www.waterboards.ca.gov/stormwtr/index.html>



Arnold Schwarzenegger
Governor

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
GENERAL PERMIT FOR
STORM WATER DISCHARGES ASSOCIATED WITH
CONSTRUCTION ACTIVITY (GENERAL PERMIT)
WATER QUALITY ORDER 99-08-DWQ**

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8. ATTACHMENT 2: NOTICE OF INTENT FORM
9. ATTACHMENT 3: 303d LISTED WATER BODIES FOR SEDIMENTATION
10. ATTACHMENT 4: CHANGE OF INFORMATION (COI) FORM

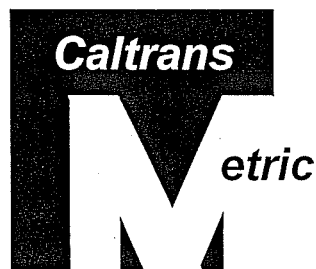
STATEWIDE STORM WATER MANAGEMENT PLAN

CTSW-RT-02-008



California Department of Transportation
Division of Environmental Analysis
1120 N Street
Sacramento, California 95814

May 2003



STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

**NOTICE TO CONTRACTORS
AND
SPECIAL PROVISIONS
FOR CONSTRUCTION ON STATE HIGHWAY IN
MENDOCINO COUNTY NEAR LEGGETT
FROM 2.9 KM SOUTH TO 0.3 KM NORTH OF RED MOUNTAIN CREEK**

DISTRICT 01, ROUTE 101

For Use in Connection with Standard Specifications Dated JULY 1999, Standard Plans Dated JULY 2004, and Labor
Surcharge and Equipment Rental Rates.

CONTRACT NO. 01-397514

01-Men-101-159.6/162.0

Federal Aid Project
ER-37B2(004)E

Bids Open: April 26, 2006
Dated: February 27, 2006

OSD

Storm Water Quality Handbooks

Project Planning and Design Guide

Storm Water Pollution Prevention Plan (SWPPP)
and Water Pollution Control Program (WPCP) Preparation Manual

Construction Site
Best Management Practices (BMPs) Manual



State of California
Department of Transportation

March 2003

EXHIBIT

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Declaration of Kason Grady

**Prosecution Team Case-in-Chief
Confusion Hill Bypass Project**

Summary of 11-29-05 Meeting with Dean Prat at North Coast Regional Quality Control Board Office

Please note that this summary is compiled from my notes on the meeting and memory.

My first notes indicate a question by Dean about the Wild and Scenic Rivers status and Susan explained that we have received a clearance letter from USFWS. Dean suggested that we attach the letter to the application package. We discussed CEQA, and his need to verify compliance with CEQA. That there is risk associated with submitting an application without CEQA being complete. The implication was that if project description is not consistent with CEQA, we could get in a situation where we would have to restart the process.

He mentioned that he does not want to see massive Disturbed Soil Area (DSA) all at once. ~Stage~ Susan explained that the earthwork would be done after the bridges.

Dean suggested that perhaps CT could set aside some funds for Water Pollution Control on jobs that CT would expend/use for situations like Van Duzen where the contractor does not want to implement the controls we feel are necessary. We could then implement the controls to keep ourselves in compliance without having to fight with the contractor about what is necessary or required.

He said something about not being that concerned about the temporary crossings, but that the care is clean equipment, keeping oil out of the river. We need to either discuss clean equipment in the project description or he can make conditions in the certification to ensure that we do not run into oil problems on the river bar. Perhaps a requirement for daily inspection logs incorporated into the specs?

Good specific project description to explain how concrete waste water will be handled. One suggestion he made was that we neutralize and use for dust control. This led to the question about how many cubic yards of concrete we expect on this job. The dilemma on concrete is that he cannot tell us how to handle it and we can't tell the contractor how to do it. We talked about using the disposal areas for spraying the concrete wastewater, but came to the conclusion that this likely would not work because the concrete work is early in the job and most of the excavation/disposal is late. If we propose percolation it's going to take longer and lots of info. This led to a discussion of lined basins. He told us about how a facility has used twin impermeable basins for their concrete waste. When the first basin reaches capacity, the second basin is utilized using the water from the first basin to wash the equipment. This serves to dewater the sludge, making it easily disposable (can add it to base), and limits the amount of water that will require disposal. Contain and recycle. This ties right in with their mantra: avoid, minimize, mitigate. We could then take the water and surface apply in amounts that do not cause runoff. Timing/volume on washout. (I wrote this down in my notes, but I'm not precisely sure what I meant other than careful planning could help make this an non issue.) Minimize the amount of water

generated.

We talked about the slick line and wondered how much water would be generated from cleaning it. We should come up with some sort of estimate and a method to handle that volume.

We then moved on to a discussion of the item we knew would be coming: Post Construction Storm Water Treatment for the new section of road. It won't fly ~ need treatment BMP's. How each discharge point is being treated. Need to show that we are not going to create gullies leading to the river. Minimize the amount of rock, maximize vegetation. He's interested in the transition from rock to vegetation to river. It was at this point that we thought a site visit may be appropriate. Looking for topo lines and discharge points to approximate flowlines. We talked about providing the drainage sheets and he suggested referencing the plan sheets to the narrative.

Susan will write a draft public notice to help move the application along.

That concludes the expansion of notes I wrote down during the meeting. Other items discussed were the general schedule of this project, the difficulty of certifying a project while we have a Notice of Violation and a Cleanup and Abatement Order pending. This indicates to me the necessity to take those actions seriously and do everything we can to comply in a timely manner. The overall mood of the meeting was very pleasant, not highly tense. We discussed again the need to send a letter to get his priorities rearranged. I discussed this with Dave Melendrez upon our return and believe that he has already had Matt Brady send an email regarding this matter. He has Caltrans projects on his desk from July, this application is behind seven others, so without the reprioritization, there is virtually no hope of getting the certification by February 20, 2006.

Susan Leroy did an excellent job of describing the project elements to Dean during the meeting. There is no way I could have come close with my current knowledge of the project. I'm sure she has additional memories of the meeting and her input should be heeded.

Alex Arévalo
District 1 NPDES Storm Water Coordinator
December 1, 2005

EXHIBIT

F

Declaration of Kason Grady

**Prosecution Team Case-in-Chief
Confusion Hill Bypass Project**

DEPARTMENT OF TRANSPORTATION

DISTRICT 1, P. O. BOX 3700

EUREKA, CA 95502-3700

PHONE (707) 441-5729

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TTY (Teletypewriter #707-445-6463)



NCRWQCB

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MAY 30 2006

May 18, 2006

<input type="checkbox"/> ED	<input type="checkbox"/> WMAnt	<input type="checkbox"/> Admin
<input type="checkbox"/> AEO	<input type="checkbox"/> Timber	<input type="checkbox"/> Legal 01-39751
<input type="checkbox"/> Reg/APS	<input type="checkbox"/> Cleanups	<input type="checkbox"/> Date

Confusion Hill Realignment

Dear Mr. Prat:

MEETING CANCELLATION:

Due to scheduling conflicts, the interagency meeting scheduled for May 24, 2006, has been canceled. The meeting has been rescheduled for June 8, 2006, from 12:00pm to 1:30pm at the Garberville Veterans Hall in Garberville. The meeting focus will remain as an open discussion regarding the physical, geologic and environmental conditions, constraints and commitments that exist and have been incorporated into the project plans, specifications and resource agency permits. Please see attached agenda for details.

We respectfully request an RSVP by June 1, 2006. I encourage you or your designee's attendance at this important meeting. Please feel free to contact me if you have any comments or questions, at (707) 441-5729.

Sincerely,

JOHN BULINSKI
Project Manager

Attachment

Agenda

Interagency Pre-Construction Meeting Confusion Hill Realignment 01-39751 – Hum-101

June 8, 2006
12:00pm – 3:00pm
Garberville Veterans Hall, Garberville CA

1. **Introduction - John Bulinski, Project Manager** **12:00pm – 12:15pm**
 - Purpose of Meeting
 - Project Summary / Status
 - Communication Protocol

2. **Environmental Permits – Resource Agencies** **12:15pm – 1:15pm**
Susan Leroy, Natural Resources
 - Archaeological Guidelines
 - Mendocino County Air Quality Management District - Meeting 30 days prior to start of construction.
 - Fish and Game - Construction Schedule, weekly status report, work windows, blasting monitoring plan, grading within floodplain, heavy equipment within floodplain, wet fords, nesting, staging, fueling.
 - RWQCB - 5 day notification, SWPPP 30 days prior to start of project, BMP implementation, dewatering, fueling, photos of disturbed areas, increase turbidity monitoring
 - Army Corps - ESA delineation, storage and staging within 100 flood elevation, work below OHW, trestles, biologist.
 - NOAA-NMFS - Qualified Biologist, project commencement date 14 days prior to implementation, worker education program, monitor in channel activities, hydro-acoustic monitoring program, biological monitoring plan, document status by January 15, water drafting specifications.

3. **MCM Presentation** **1:15pm – 1:30pm**
 - General Construction Methodology
 - Construction Schedule

BREAK 1:30pm – 1:40pm

4. **Construction Items & Considerations / Open Discussion** **1:40pm – 2:45pm**
 - **Access** - Access Roads, River Fording, North Bridge Trestle, Low Water Crossings, Staging and Storage Areas.
 - **Grading Activities** - Concrete Batch Plant, Rock Splitting/Pile Installation, Dewatering, Water Drafting, Excavation, Storm Water Pollution Prevention Plan and BMP's, and work within 100 year flood elevation.

5. **Wrap Up/Adjourn - John Bulinski, Project Manager** **2:45pm – 3:00pm**