

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ORDER NO. R5-2011-_____

CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS
FOR
CALIFORNIA DEPARTMENT OF TRANSPORTATION
INTERSTATE 80 AND STATE ROUTE 50
RICHARDS BOULEVARD TO REED AVENUE
YOLO COUNTY

WHEREAS, the California Regional Water Quality Control Board, Central Valley Region (hereinafter Central Valley Water Board), finds that:

1. California Water Code Section 13260(a) requires that any person discharging wastes or proposing to discharge wastes with the region that could affect the quality of waters of the State shall file a Report of Waste Discharge (RWD).
2. On 15 February 2011, the California Department of Transportation (hereafter "Caltrans" or "Discharger") submitted a RWD for a highway project along Interstate 80 and State Route 50 from Richards Boulevard to Reed Avenue for paving of onramps and offramps and construction of maintenance vehicle pullouts in the eastbound and westbound directions. The RWD requests Central Valley Water Board approval to discharge lead-contaminated soil associated with the project within the Caltrans right-of-way at the project site.
3. The Department of Toxic Substances Control (DTSC) issued a variance (No. V09HQSCD006) for these types of Caltrans projects on 1 July 2009. The waivers in the variance are for lead-contaminated soil that is not a RCRA hazardous waste, and is hazardous primarily because of aerially-deposited lead associated with exhaust emissions. The variance contains conditions including that the appropriate regional board be notified at least 30 days prior to bids, and that the soil be buried at the construction site in the Caltrans right-of-way if it meets certain criteria based on total and soluble concentrations. California regulatory thresholds for hazardous waste are 1,000 milligrams per kilogram (mg/kg) for total lead, and 5 milligrams per liter (mg/L) for extractable lead.
4. DTSC performed a risk assessment in developing their variance. The variance requires that the soil be buried at least five feet above the maximum historical water table. The soil must also be covered with at least one foot of non-hazardous soil or be placed below a pavement structure, depending on total and extractable concentrations. Soil with 1,411 mg/kg or less total lead, and 1.5 mg/L or less extractable lead based on a modified waste extraction test using de-ionized water (DI-WET) must be covered with at least one foot of non-hazardous soil. Caltrans designates this as type Y1 material. Soil

with 3,397 mg/kg or less total lead, and 150 mg/L or less extractable lead must be buried below a pavement structure. Caltrans designates this as type Y2 material.

5. The Discharger conducted a soil investigation at the project site to characterize the amount of lead contamination in the shallow soils that will be excavated as part of the project. Soil samples were collected at several locations at various depth intervals (no more than four feet) and analyzed for total and soluble lead. The RWD includes data from each investigation in an August 2010 *Aerially Deposited Lead Site Investigation Report* (Investigation Report) that uses a statistical analysis to determine how the soil must be managed under the DTSC variance. Details regarding the locations, depth intervals, and concentrations for these samples are contained in the Investigation Report.
6. The Discharger collected a total of 593 soil samples from 237 direct-push borings along the project area. The soil investigation identified type Y1 material at various locations; however, the soil with the Y1 designation was dependent on what depth would be excavated during the project at a given location. The Discharger has identified a total of approximately 70 cubic yards of soil (from Data Populations #17 and #20 in the Investigation Report) that will require management as type Y1 soil. The Discharger proposes to bury the soil excavated from the corresponding areas at two locations. Approximately 30 cubic yards of type Y1 soil will be buried at the gore area at the separation between Interstate 80 and State Route 50, and approximately 40 cubic yards of type Y1 soil will be buried at the gore area next to the West Capital Avenue onramp to westbound Interstate 80. Drawings showing the proposed burial locations are included in the RWD. The Discharger proposes to bury the type Y1 soil beneath a pavement structure in the gore areas consisting of 3 inches of asphalt pavement and 1.15 feet of compacted aggregate base. This exceeds the requirements of the DTSC variance that only requires type Y1 soil to be buried beneath at least one foot of non-hazardous soil. The Discharger states that the disposal locations for these soils will be more than five feet above maximum groundwater level.
7. On 30 June 2009, DTSC certified a Negative Declaration for their variance No. V09HQSCD006 stating that the project could not have a significant effect on the environment, and issued a Notice of Final Variance Determination stating that the variance became effective on 1 July 2009.
8. The Discharger provided a Caltrans form signed on 12 May 2010 determining that the highway project is categorically exempt from the California Environmental Quality Act under the Class 1 exemption given in Title 14, Section 15301 for existing facilities. The project was also found to be exempt from federal National Environmental Policy Act under Programmatic Categorical Exclusion in 23 CFR 771.117(c) (necessary due to federal funding of the project).

9. The Central Valley Water Board notified interested agencies and persons of its intent to conditionally waive discharge requirements for this project and has provided them with an opportunity for a public hearing and an opportunity to submit their written views and recommendations.
10. The Central Valley Water Board, in a public meeting, heard and considered all comments pertaining to the conditional waiver of discharge requirements.
11. Any person affected by this action of the Central Valley Water Board may petition the State Water Resources Control Board to review the action in accordance with Sections 2050 through 2068, Title 23, California Code of Regulations. The petition must be received by the State Water Resources Control Board, Office of Chief Counsel, P.O. Box 100, Sacramento, California 95812, within 30 days of the date of issuance of this conditional waiver. Copies of the laws and regulations applicable to the filing of a petition are available on the Internet at www.waterboards.ca.gov/laws_regulations/ and will be provided on request.

THEREFORE, IT IS HEREBY ORDERED, that pursuant to California Water Code Sections 13263(a), 13267, and 13269, the Central Valley Water Board waives waste discharge requirements for the California Department of Transportation for lead-contaminated soil from the Interstate 80 and State Route 50 Richards Boulevard to Reed Avenue project when the following conditions are met:

1. This conditional waiver applies only to the Caltrans project at Interstate 80 and State Route 50 Richards Boulevard to Reed Avenue for the disposal of lead-contaminated soil as described in each of the respective RWDs, associated cover letters, and the above Findings of this conditional waiver.
2. The Discharger shall discharge lead-contaminated soil associated with the project in accordance with all conditions listed in DTSC's variance No. V09HQSCD006.
3. All soil designated as Caltrans type Y1 material as described in Finding No. 4 of this conditional waiver that is discharged within the Caltrans right-of-way shall be buried beneath a pavement structure consisting of at least 3 inches of asphalt and 1.15 feet of compacted aggregate base as described in Finding No. 6.
4. The Discharger shall record the location of the discharge, and shall maintain that portion of the Caltrans right-of-way to minimize exposure of the lead-contaminated soils to waters of the State by erosion, percolation, or other means.
5. The Discharger shall submit a report to the Central Valley Water Board documenting the volume of lead-contaminated soil, location (including latitude and longitude of start and end point of burial location), and type of burial following the completion the project.

6. The discharge shall not cause or threaten to cause degradation of waters of the State, nuisance, or pollution as defined in the California Water Code.
7. This conditional waiver shall expire 60 days after completion of the project, or five years from the date of issuance, whichever occurs first.
8. This action waiving waste discharge requirements is conditional and may be terminated at any time.

I, PAMELA C. CREEDON, Executive Officer, do hereby certify the foregoing is a true, full, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on _____.

PAMELA C. CREEDON
Executive Officer

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