

## State Water Resources Control Board

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### CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION OF CALIFORNIA DEPARTMENT OF TRANSPORTATION INTERSTATE HIGHWAY 80 DONNER ROADWAY REHABILITATION PROJECT – SEGMENT 3

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**PROJECT:** Donner Segment 3 Roadway Rehabilitation Project  
U.S. Army Corps of Engineers (Corps) File No. SPK - 200100227  
State Water Resources Control Board (State Water Board)  
File Number SB. 110006IN

**APPLICANT:** Kelley Nelson  
Caltrans Associate Biologist, North Region – Dist. 3  
California Department of Transportation  
703 B Street  
Marysville, CA 95901  
(530) 741-4583

#### **ACTION:**

This Order responds to your application, dated August 23, 2011, on behalf of the California Department of Transportation (Applicant) - District 3 for Clean Water Act section 401 Water Quality Certification (Certification) for the completion of the Donner Segment 3 Roadway Rehabilitation Project (Project).

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|---|---|
| <input type="checkbox"/> Order for Standard Certification                           | <input type="checkbox"/> Order for Waiver of Waste Discharge Requirements |
| <input checked="" type="checkbox"/> Order for Technically Conditioned Certification | <input type="checkbox"/> Order for Denial of Certification                |

#### **AUTHORIZATION:**

This Order conditionally certifies the Project that was initiated under an original Certification issued on December 17, 2001, and amended on March 26, 2007 and April 18, 2008. The amended Certification expired with the expiration of the Corps' Nationwide Permit. The Project is to be continued under the Corps' reissued Nationwide Permit 14. The Project will cause

temporary impacts to 0.017 acre of waters of the state, and permanent impacts to 0.036 acre of waters of the state (a total of 257 linear feet combined) by maintaining and extending 16 road drainage channels in the Project area.

**STANDARD CONDITIONS:**

1. 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 California Code of Regulations, title 23, section 3867 and following.
2. This Certification action is not intended and shall not be construed to apply to 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 California Code of Regulations, title 23, 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.
3. This Certification is conditioned upon total payment of any fee required under California Code of Regulations, title 23, chapter 28 and owed by the Applicant.

**ADMINISTRATIVE CONDITIONS:**

4. The State Water Board reserves the right to suspend, cancel, or modify and reissue this Certification, after providing notice to the Applicant, if the State Water Board determines that activities undertaken pursuant to this Certification fail to comply with any of the terms or conditions of this Certification.
5. A copy of this Certification shall be available at all Project sites during construction for review by site personnel and agencies. All personnel performing work on the proposed Project shall be familiar with the content of this Certification and its posted location on the Project site.
6. Applicant shall grant the State Water Board, the Central Valley Regional Water Quality Control Board and Lahontan Regional Water Quality Control Board (Regional Water Boards) staff, or an authorized representative, upon presentation of credentials and other documents as may be required by law, permission to enter the Project site at reasonable times, to ensure compliance with the terms and conditions of this Certification and/or to determine the impacts the Project may have on waters of the state.
7. All conditions of the Corps' Nationwide Permit 14 for the Project are incorporated by reference into this Certification. This Certification shall expire upon the expiration or retraction of the Clean Water Act (CWA) section 404 permit.

**GENERAL DISCHARGE CONDITIONS:**

8. The Applicant shall comply with all applicable National Pollutant Discharge Elimination System permits and Waste Discharge Requirements.

9. The Applicant shall not discharge substances in concentrations toxic to human, plant, animal, or aquatic life or that produce detrimental physiological responses.
10. The Applicant shall not discharge waste classified as "hazardous" (Wat. Code §13173 and Cal. Code Regs., tit. 22, § 66261).
11. No fueling, cleaning, or maintenance of vehicles or equipment shall take place in any areas where an accidental discharge to any waters, streams, or wetlands may occur.
12. Except as expressly allowed in this Certification, the discharge, or creation of the potential for discharge, of any soil materials including fresh concrete, cement, silts, clay sand, and other organic materials to waters of the state is prohibited.

**COMPENSATORY MITIGATION:**

13. The Mitigation and Monitoring Proposal, dated January 2008 and prepared by the Applicant for this Project, is incorporated by reference into this Certification. Mitigation Measures as described in Parts 3 through 10 of the Project Mitigation and Monitoring Proposal presented by the Applicant as part of the request for the Certification, shall be implemented as planned. Any significant modifications to the Mitigation and Monitoring Proposal must be approved by the State Water Board before implementation. Certification is also conditioned upon submission to the State Water Board of a record of the in lieu fees paid to the Corps as part of the mitigation requirements.

**REPORTING:**

14. The Applicant shall submit to the State Water Board copies of Corps' CWA section 404 permit application and the California Department of Fish and Game's Streambed Alteration Agreement application prior to any discharge to waters of the state.
15. Permit Registration Documents as required under the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2010-0014-DWQ, NPDES No. CAS00002) (Construction Storm Water Permit) shall be submitted electronically to the State Water Board to obtain coverage under the Construction Storm Water Permit prior to commencement of construction. The Applicant shall notify the State Water Board staff when this submittal is complete.
16. No later than 60 days from Project construction completion, as-built plans shall be submitted to the State Water Board. These plans will identify areas where created wetlands have been installed and provide specifications of any modifications made to approved plans.
17. No later than the first June 15 after Project construction completion, the Applicant shall begin submitting annual mitigation monitoring reports to the State Water Board that assess the functional level of the prescribed mitigation measures, as established in Parts 4 and 7 of the Mitigation and Monitoring Proposal.
18. As provided in Part 4.3 of the Mitigation and Monitoring Proposal, monitoring reports shall be submitted on an annual basis to the State Water Board for a period of five (5) consecutive years. In addition, if mitigation monitoring reports indicate that monitoring

success criteria have not been achieved after five years, additional monitoring and annual reporting may be required by the State Water Board to ensure compliance with mitigation requirements.

19. Monitoring reporting requirements shall not be satisfied until the Applicant has submitted a notice of mitigation completion and final mitigation report to the State Water Board, and that letter has been accepted in writing by the Executive Director.
20. All applications, reports, or information shall be submitted to: 401 Certification and Wetlands Program Manager, State Water Resources Control Board, Division of Water Quality, 1001 I Street, 15th Floor, P.O. Box 100, Sacramento, CA 95814.
21. All information requested in this Certification, including monitoring and mitigation reporting, is pursuant to Water Code sections 13267 and 13383. Civil liability may be administratively imposed by the State Water Board for failure to furnish requested information pursuant to Water Code sections 13268 and 13385.

**VIOLATION:**

22. 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, processes, or sanctions as provided for under state or federal law. For purposes of the Clean Water Act section 401(d), the applicability of any state law authorizing remedies, penalties, processes, 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.
23. The Applicant shall notify the State Water Board within 24 hours of any noncompliance that may impact the beneficial uses of waters of the state. The notification shall include the volume and type of materials discharged and recovered, measures used to stop and contain the discharge, and measures implemented to prevent future discharges.

**CALIFORNIA ENVIRONMENTAL QUALITY ACT:**

The Department of Transportation is lead agency for compliance with the California Environmental Quality Act (CEQA) for the Donner Segment 3 Roadway Rehabilitation Project. Pursuant to section 15096 of the Guidelines for the Implementation of California Environmental Quality Act (Cal. Code Regs., tit. 14, § 15000 et seq.) the State Water Board reviewed the Mitigated Negative Declaration (MND) for the Project, which was certified on March 8, 2001 (State Clearinghouse No. 2000122038). This MND has been in effect for the implementation of the previous Segments 1 and 2 of the Donner Roadway Rehabilitation Project and for those elements of Segment 3 completed to date. No substantial change in the Project, the information available regarding the Project, or the Project's circumstances has arisen since the MND was signed in 2001 or would arise as a result of the completion of the Project.

In making its determinations and findings, the State Water Board must presume that the Project MND comports with the requirements of CEQA and is valid. (Pub. Resources Code, § 21167.3, subd. (b).) As such, the State Water Board has reviewed and considered the environmental documents and all proposed mitigation measures.

The State Water Board has determined that different or additional mitigation measures would not substantially lessen or avoid any significant effect of the Project on water quality. (Pub. Resources Code, § 21002.1, subd. (d).) The State Water Board makes the following findings:

#### Adequacy of Initial Study and Mitigated Negative Declaration

The State Water Board finds that the Initial Study and MND provided is adequate and sufficient for review of those impacts that affect resources that are subject to the State Water Boards' authority. The proposed activity would cause impacts and potential impacts to water quality, wildlife, fish, and other resources. Temporary impacts include the dredge and fill of 0.017 acre of waters of the state. Permanent impacts include dredge and fill of 0.036 acre of waters of the state. Other impacts and potential impacts include effects of stormwater runoff, upland and channel erosions, spills and leaks, and improper disposal of construction materials and waste.

#### Adequacy of Mitigation Measures

Compensatory mitigation for significant and potentially significant unavoidable water quality impacts includes development of off-site constructed wetlands. Avoidance and minimization measures for significant and potentially significant water quality impacts that will or could arise as a result of Project activities include development of a Construction Stormwater Pollution Prevention Plan (SWPPP) with accidental spill control procedures, establishment of an environmental training program, adoption of best management practices for prevention and control of erosion (as required for enrollment under the Stormwater Construction General Permit), and development of a Mitigation and Monitoring Plan.

The State Water Board finds that the Mitigation and Monitoring Proposal, dated January 2008 and approved with the previous Certification of Segment 3, adequately comprises a program for reporting on or monitoring the changes which it has either required in the Project or made a condition of approval to avoid or substantially lessen significant environmental effects for resources that are subject to the State Water Board's authority. The State Water Board also finds that these measures are fully enforceable through permit conditions, agreements, or other measures.

The State Water Board finds that these mitigation measures for significant and potentially significant water quality impacts identified in the MND, supplemented with the provisions in the Water Quality Certification Order, are adequate to reduce water quality impacts to less than significant levels. The State Water Board will file a Notice of Determination for the above referenced MND with the State Clearinghouse within five days of the adoption of this Certification Order.

#### **STATE WATER BOARD CONTACT PERSON:**

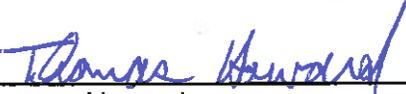
If you have any questions, please contact State Water Board Environmental Scientist Cliff Harvey at (916) 322-2514, or via e-mail at [Charvey@waterboards.ca.gov](mailto:Charvey@waterboards.ca.gov), or by mail at 401 Certification & Wetland Program, Division of Water Quality, State Water Resources Control Board, 1001 I Street, 15th Floor, Sacramento, CA 95814.

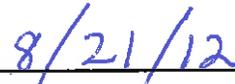
You may also contact Bill Orme, Chief of the Water Quality Certification Unit, at (916) 341-5464 or via e-mail at [borme@waterboards.ca.gov](mailto:borme@waterboards.ca.gov)

**WATER QUALITY CERTIFICATION:**

I hereby issue an order certifying that as long as all of the conditions listed in this Certification action are met, any discharge from the referenced project will comply with the applicable provisions of Clean Water Act 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). This discharge is also regulated pursuant to State Water Board Water Quality Order No. 2003-0017-DWQ which authorizes this Certification to serve as Waste Discharge Requirements pursuant to the Porter-Cologne Water Quality Control Act (Wat. Code, §13000 et seq.).

Except insofar 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 conditions of this Certification and the attachments to this Certification, and (b) compliance with all applicable requirements of the Regional Water Boards' Water Quality Control Plans, all statewide Water Quality Control Plans, and the Final MND for the Project.

  
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Thomas Howard  
Executive Director

  
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Date

**Attachments (3):**

- Attachment A: Signatory Requirements
- Attachment B: Project Information Sheet
- Attachment C: Project Area Map