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**Central Valley Regional Water Quality Control Board**

11 January 2016

Javier Almaguer  
California Department of Transportation  
855 M Street, Suite 200  
Fresno, CA 93721

**CLEAN WATER ACT §401 TECHNICALLY CONDITIONED WATER QUALITY  
CERTIFICATION; CALIFORNIA DEPARTMENT OF TRANSPORTATION, BIG TREE CREEK  
STORMWATER COMPLIANCE PROJECT, (WDID #5B05CR00066), CALAVERAS COUNTY**

**ACTION:**

1.  Order for Standard Certification
2.  Order for Technically-conditioned Certification
3.  Order for Denial of Certification

**WATER QUALITY CERTIFICATION STANDARD CONDITIONS:**

1. This Order serves as a Water Quality Certification (Certification) action that is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to § 13330 of the California Water Code and § 3867 of the California Code of Regulations (CCR).
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) of the California Code of Regulations, 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 non-denial certification action shall be conditioned upon total payment of the full fee required § 3833 of the California Code of Regulations.
4. This Certification is no longer valid if the project (as described) is modified, or coverage under § 404 of the Clean Water Act has expired. The California Department of Transportation shall notify the Central Valley Water Board within 7 days of the project completion.

5. All reports, notices, or other documents required by this Certification or requested by the Central Valley Water Board shall be signed by a person described below or by a duly authorized representative of that person.
  - a. For a corporation: by a responsible corporate officer such as (1) a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function; (2) any other person who performs similar policy or decision-making functions for the corporation; or (3) the manager of one or more manufacturing, production, or operating facilities if *authority* to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
  - b. For a partnership or sole proprietorship: by a general partner or the proprietor.
  - c. For a municipality, State, federal, or other public agency: by either a principal executive officer or ranking elected official.

6. Any person signing a document under Standard Condition No. 5 shall make the following certification, whether written or implied:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

#### TECHNICAL CERTIFICATION CONDITIONS:

In addition to the above standard conditions, The California Department of Transportation shall satisfy the following:

1. The California Department of Transportation shall notify the Central Valley Regional Water Quality Control Board (Central Valley Water Board) in writing at least **seven (7) days** in advance of the start of any work within waters of the United States. The notification shall include the name of the project and the WDID number, and shall be sent to the Central Valley Water Board Contact indicated in this Certification.
2. Except for activities permitted by the U.S. Army Corps under §404 of the Clean Water Act, soil, silt, or other organic materials shall not be placed where such materials could pass into surface water or surface water drainage courses.
3. The California Department of Transportation shall maintain a copy of this Certification and supporting documentation (Project Information Sheet) at the Project site during construction for review by site personnel and agencies. All personnel (employees, contractors, and subcontractors) performing work on the proposed Project shall be adequately informed and trained regarding the conditions of this Certification.

4. The California Department of Transportation shall perform surface water sampling:
- a) when performing any in-water work;
  - b) in the event that project activities result in any materials reaching surface waters; or
  - c) when any activities result in the creation of a visible plume in surface waters.

The monitoring requirements in Table 1 shall be conducted upstream out of the influence of the Project, and approximately 300 feet downstream of the work area. The sampling frequency may be modified for certain projects with written approval from Central Valley Water Board staff.

**Table 1:**

Parameter	Unit	Type of Sample	Minimum Sampling Frequency	Required Analytical Test Method
Turbidity	NTU	Grab <sup>(1)</sup>	Every 4 hours during in-water work	(4)
Settleable Material	mL/L	Grab <sup>(1)</sup>	Every 4 hours during in-water work	(2)
Visible construction related pollutants <sup>(3)</sup>	Observations	Visual Inspections	Continuous throughout the construction period	—

<sup>(1)</sup> Grab samples shall be taken at mid-depth and be collected at the same time each day to get a complete representation of variations in the receiving water.

<sup>(2)</sup> Pollutants shall be analyzed using the analytical methods described in 40 Code of Federal Regulations Part 136; where no methods are specified for a given pollutant.

<sup>(3)</sup> Visible construction-related pollutants include oil, grease, foam, fuel, petroleum products, and construction-related, excavated, organic or earthen materials.

<sup>(4)</sup> A hand-held field meter may be used, provided that the meter utilizes a USEPA-approved algorithm/method and is calibrated and maintained in accordance with the manufacturer's instructions. A calibration and maintenance log for each meter used for monitoring required by this Certification shall be maintained at the Project site.

As appropriate, surface water monitoring shall occur at mid-depth. A surface water monitoring report shall be submitted to the Central Valley Water Board Contact indicated in this Certification within two weeks of initiation of sampling and every two weeks thereafter. In reporting the monitoring data, the California Department of Transportation shall arrange the data in tabular form so that the sampling locations, date, constituents, and concentrations are readily discernible. The data shall be summarized in such a manner to illustrate clearly whether the Project complies with Certification requirements. The report shall include surface water sampling results, visual observations, and identification of the turbidity increase in the receiving water applicable to the natural turbidity conditions specified in the turbidity criteria below.

If no monitoring is conducted, the California Department of Transportation shall submit a written statement to the Central Valley Water Board Contact indicated in the Certification stating, "No monitoring was required" with the Notice of Completion.

5. The Central Valley Water Board adopted a *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins*, Fourth Edition, revised June 2015 (Basin Plan) or *Water Quality Control Plan for the Tulare Lake Basin, 2nd Edition* (Basin Plan) that designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives for all waters addressed through the plan. Turbidity and settleable matter limits are based on water quality objectives contained in the Basin Plan and are part of this Certification as follows:

- a) Activities shall not cause turbidity increases in surface water to exceed:
  - i. where natural turbidity is less than 1 Nephelometric Turbidity Units (NTUs), controllable factors shall not cause downstream turbidity to exceed 2 NTU;
  - ii. where natural turbidity is between 1 and 5 NTUs, increases shall not exceed 1 NTU;
  - iii. where natural turbidity is between 5 and 50 NTUs, increases shall not exceed 20 percent;
  - iv. where natural turbidity is between 50 and 100 NTUs, increases shall not exceed 10 NTUs;
  - v. where natural turbidity is greater than 100 NTUs, increases shall not exceed 10 percent.

Except that these limits will be eased during in-water working periods to allow a turbidity increase of 15 NTUs over background turbidity. In determining compliance with the above limits, appropriate averaging periods may be applied provided that beneficial uses will be fully protected. Averaging periods may only be used with prior approval of the Central Valley Water Board staff.

- b) Activities shall not cause settleable matter to exceed 0.1 mL/L in surface waters as measured in surface waters within approximately 300 feet downstream of the Project.
6. The California Department of Transportation shall notify the Central Valley Water Board immediately if the above criteria for turbidity, settleable matter or other water quality objectives are exceeded.
7. Refueling of equipment within the floodplain or within 300 feet of the waterway is prohibited. If critical equipment must be refueled within 300 feet of the waterway, spill prevention and countermeasures must be implemented to avoid spills. Refueling areas shall be provided with secondary containment including drip pans and/or placement of absorbent material. No hazardous materials, pesticides, fuels, lubricants, oils, hydraulic fluids, or other construction-related potentially hazardous substances should be stored within a floodplain or within 300 feet of a waterway. The California Department of Transportation must perform frequent inspections of construction equipment prior to utilizing it near surface waters to ensure leaks from the equipment are not occurring and are not a threat to water quality.

8. The California Department of Transportation shall develop and maintain onsite a project-specific Spill Prevention, Containment and Cleanup Plan outlining the practices to prevent, minimize, and/or clean up potential spills during construction of the Project. The Plan must detail the Project elements, construction equipment types and location, access and staging and construction sequence. The Plan must also address the potential of responding to a spill or prevention of spills occurring within the Project site.
9. Asphalt, drilling fluids, lubricants, paints, coating material, oil, petroleum products, or any other substances which could be hazardous to fish and wildlife resulting from or disturbed by project-related activities, shall be prevented from contaminating the soil and/or entering surface waters. Concrete must completely be cured before coming into contact with surface waters. Surface water that contacts wet concrete must be pumped out and disposed of at an appropriate off-site commercial facility, which is authorized to accept concrete wastes.
10. Creosote-treated wood products or any other treated wood products that are highly flammable and/or toxic to aquatic life shall not be installed in surface waters. A method of containment must be used below the bridge(s), boardwalk(s), and/or temporary crossing(s) to prevent debris from falling into the water body as feasible.
11. An effective combination of erosion and sediment control Best Management Practices (BMPs) shall be implemented and adequately working during all phases of construction.
12. All areas disturbed by Project activities shall be protected from washout or erosion.
13. All temporarily affected areas shall be restored to pre-construction contours and conditions upon completion of construction activities.
14. This Certification does not allow permanent water diversion of flow from the receiving water. This Certification is invalid if any water is permanently diverted as a part of the Project.
15. Any temporary dam or other artificial obstruction constructed shall only be built from clean materials such as sandbags, gravel bags, water dams, or clean/washed gravel which will cause little or no siltation. Stream flow shall be temporarily diverted using gravity flow through temporary culverts/pipes or pumped around the work site with the use of hoses.
16. The discharge of petroleum products or other excavated materials to surface water is prohibited. Activities shall not cause visible oil, grease, or foam in the receiving water. The California Department of Transportation shall notify the Central Valley Water Board as soon as practicable of any spill of petroleum products or other organic or earthen materials with written follow up within 5 days.
17. The California Department of Transportation shall submit a copy of the final, signed and dated Lake or Streambed Alteration Agreement issued by the California Department of Fish and Wildlife within 14 days of issuance to the Central Valley Water Board Contact indicated in this Certification.

The California Department of Transportation shall comply with all California Department of Fish and Wildlife requirements, including but not limited to those requirements described in the Lake or Streambed Alteration Agreement.

18. The California Department of Transportation shall obtain coverage under an NPDES permit for dewatering activities that result in discharges into surface water and/or shall obtain Waste Discharge Requirements (WDRs) for dewatering activities that result in discharges to land from the Central Valley Water Board.
19. The Conditions in this water quality certification are based on the information contained in the California Department of Transportation's application and in the attached "Project Information Sheet." If the Project, as described in the application and the attached Project Information Sheet, is modified or changed, this Certification is no longer valid until amended by the Central Valley Water Board.
20. The California Department of Transportation shall implement each of the mitigation measures specified in the approved Negative Declaration for the Project, as they pertain to biology, hydrology and water quality impacts as required by § 21081.6 of the Public Resource Code and § 15097 of the California Code of Regulations.
21. 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 the 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 ensure compliance with water quality standards and other pertinent requirements incorporated into this certification.
  - a) If The California Department of Transportation or a duly authorized representative of the project fails or refuses to furnish technical or monitoring reports, as required under this Order, or falsifies any information provided in the monitoring reports, the California Department of Transportation is subject to civil monetary liabilities, for each day of violation, or criminal liability.
  - b) In response to a suspected violation of any condition of this certification, Central Valley 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 Central Valley 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 (Water Code, § 1051, 13165, 13267 and 13383). In response to any violation of the conditions of this certification, the Central Valley Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.
  - c) The California Department of Transportation shall allow the staff of the Central Valley Water Board, or an authorized representative(s), upon the presentation of credentials

and other documents, as may be required by law, to enter the Project premises for inspection, including taking photographs and securing copies of Project-related records, for the purpose of assuring compliance with this Certification and determining the ecological success of the Project.

22. The California Department of Transportation shall provide evidence of all on-site and off-site compensatory mitigation requirements, including, but not limited to, the purchase of mitigation credits or payment of in-lieu fees or any combination as required by the United States Army Corps of Engineer prior to commencing construction to the Central Valley Water Board.

Compensatory mitigation must comply with the effective policy at the time of Certification, which ensures no overall net loss of wetlands for impacts to waters of the State.

Evidence of compliance with compensatory mitigation requirements includes providing a letter from the approved compensatory mitigation bank or in-lieu fee recipient. The letter must: (a) be on the compensatory mitigation bank's or in-lieu fee recipient's letterhead; (b) be signed by an authorized representative of the compensatory mitigation bank or in-lieu fee recipient; (c) indicate the United States Army Corps of Engineers' SPK number; (d) describe the Project name and location; and (e) detail the type of compensatory mitigation credits purchased or in-lieu fees paid for the Project's impacts.

23. Staff of the Central Valley Water Board has prepared total maximum daily load (TMDL) allocations that, once approved, would limit methylmercury in storm water discharges to the Sacramento-San Joaquin Delta. The Central Valley Water Board has scheduled these proposed allocations to be considered for adoption. When the Central Valley Water Board adopts the TMDL and once approved by the Environmental Protection Agency, the discharge of methylmercury may be limited from the proposed project. The purpose of this condition is to provide notice to the California Department of Transportation that methylmercury discharge limitations and monitoring requirements may apply to this project in the future and also to provide notice of the Central Valley Water Board's TMDL process and that elements of the planned construction may be subject to a TMDL allocation.

#### **STORM WATER QUALITY CONDITIONS:**

The California Department of Transportation shall also satisfy the following additional storm water quality conditions:

1. The California Department of Transportation shall comply with their General NPDES Permit Order No 2012-0011-DWQ (NPDES No. CAS 000003) issued by the State Water Resources Control Board
2. During the construction phase, the California Department of Transportation must employ strategies to minimize erosion and the introduction of pollutants into storm water runoff. These strategies must include the following:

- a) A Water Pollution Control Plan (WPCP) must be prepared during the project planning and design phases and before construction;
  - b) An effective combination of erosion and sediment control Best Management Practices (BMPs) must be implemented and adequately working prior to the rainy season and during all phases of construction.
3. The California Department of Transportation must minimize the short and long-term impacts on receiving water quality from the Project by implementing the following post-construction storm water management practices:
- a) minimize the amount of impervious surface;
  - b) reduce peak runoff flows;
  - c) provide treatment BMPs to reduce pollutants in runoff;
  - d) ensure existing waters of the State (e.g., wetlands, vernal pools, or creeks) are not used as pollutant source controls and/or treatment controls;
  - e) preserve and, where possible, create or restore areas that provide important water quality benefits, such as riparian corridors, wetlands, and buffer zones;
  - f) limit disturbances of natural water bodies and natural drainage systems caused by development (including development of roads, highways, and bridges);
  - g) use existing drainage master plans or studies to estimate increases in pollutant loads and flows resulting from projected future development and require incorporation of structural and non-structural BMPs to mitigate the projected pollutant load increases in surface water runoff;
  - h) identify and avoid development in areas that are particularly susceptible to erosion and sediment loss, or establish development guidance that protects areas from erosion/ sediment loss;
  - i) control post-development peak storm water run-off discharge rates and velocities to prevent or reduce downstream erosion, and to protect stream habitat.
4. The California Department of Transportation shall provide the Central Valley Water Board Contact indicated in this Certification a Notice of Completion (NOC) no later than 30 days after the Project completion. The NOC shall demonstrate that the project has been carried out in accordance with the project description in the Certification and in any amendments approved. The NOC shall include a map of the project location(s), including final boundaries of any on-site restoration area(s), if appropriate, and representative pre and post construction photographs. Each photograph shall include a descriptive title, date taken, photographic site, and photographic orientation

**REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON:**

George Day, Senior Water Resource Control Engineer, Central Valley Regional Water Quality Control Board, 364 Knollcrest Drive, Suite 205, Redding, California 96002, gday@waterboards.ca.gov, (530) 224-4859

**WATER QUALITY CERTIFICATION:**

I hereby issue an Order certifying that any discharge from the California Department of Transportation, Big Tree Creek Stormwater Compliance Program (WDID# 5B05CR00066) will

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comply with the applicable provisions of §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. This discharge is also regulated under 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)."

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 compliance with conditions of this Certification, The California Department of Transportation's application package, and the attached Project Information Sheet, and (b) compliance with all applicable requirements of the *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins*, Fourth Edition, revised June 2015 (Basin Plan).

Any person aggrieved by this action may petition the State Water Quality Control Board to review the action in accordance with California Water Code § 13320 and California Code of Regulations, Title 23, § 2050 and following. The State Water Quality Control Board must receive the petition by 5:00 p.m., 30 days after the date of this action, except that if the thirtieth day following the date of this action falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Quality Control Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: [http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.



(for) Pamela C. Creedon  
Executive Officer

DLW:reb

Enclosure: Water Quality Order No. 2003-0017-DWQ

cc w/o

enclosures: Ms. Mary Pakenham-Walsh, U.S. Army Corp of Engineers, Sacramento  
Department of Fish and Wildlife, Region 2, Rancho Cordova  
U.S. Fish and Wildlife Service, Sacramento  
Mr. Bill Jennings, CALSPA, Stockton

cc w/o

enclosures

by email: U.S. EPA, Region 9, San Francisco  
Mr. Bill Orme, SWRCB, Certification Unit, Sacramento

## PROJECT INFORMATION

**Application Date:** 18 September 2015

**Application Deemed Complete:** 1 January 2016

**Applicant:** California Department of Transportation  
855 M Street, Suite 200  
Fresno, CA 93721

**Project Name:** Big Tree Creek Stormwater Compliance Program

**Application Number:** WDID No. 5B05CR00066

**U.S. Army Corps File Number:**

**Type of Project:** Culvert Upgrade

**Project Location:** Section 22, Township 5 North, Range 15 East  
Latitude: 38.274° and Longitude: -120.316°

**County:** Calaveras County

**Receiving Water(s) (hydrologic unit):** Unnamed tributaries to Big Trees Creek, which is tributary to the Stanislaus River. Stanislaus River Hydrologic Unit No.534.50 – North Fork Stanislaus HA

**Water Body Type:** Streambed

**Designated Beneficial Uses:** The *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins*, Fourth Edition, revised June 2015 (Basin Plan) has designated beneficial uses for surface and ground waters within the region. Beneficial uses that could be impacted by the project include, but are not limited to: Municipal and Domestic Water Supply (MUN); Agricultural Supply (AGR); Hydropower Generation (POW); Water Contact Recreation (REC-1); Non-Contact Water Recreation (REC-2); Warm Freshwater Habitat (WARM); Cold Freshwater Habitat (COLD); and Wildlife Habitat (WILD). A comprehensive and specific list of the beneficial uses applicable for the project area can be found at [http://www.waterboards.ca.gov/centralvalley/water\\_issues/basin\\_plans/index.shtml](http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/index.shtml).

**Project Description (purpose/goal):** The Big Tree Creek Stormwater Compliance Program Project is located at approximately a half mile southwest of Big Trees State Park in Calaveras County. The project proposes to upgrade the existing 18 inch (in) diameter corrugated metal pipe (CMP) culverts at five locations. The existing culverts will be replaced with 24 in culverts at or close to the same locations. The replacement culverts will be reinforced concrete pipe (RCP). The existing drainage inlets located in the existing drainage ditch that parallels the highway on the north side will be removed and replaced with sand trap type drainage inlets. Culvert replacement will be a permanent impact; no temporary impacts are anticipated. All construction related activities will take place within the constructed area. The project will permanently impact 0.2 acre(s)/123 linear feet of waters of the United States.

**Preliminary Water Quality Concerns:** Construction activities including soil disturbance, excavation, cutting/filling, and grading activities could result in increased erosion and sedimentation and may impact surface waters with increased turbidity and/or settleable matter.

**Proposed Mitigation to Address Concerns:** The California Department of Transportation will implement Best Management Practices (BMPs) to control sedimentation and erosion. All temporary affected areas will be restored to pre-construction contours and conditions upon completion of construction activities. The California Department of Transportation will conduct turbidity and settleable matter testing during in-water work, stopping work if Basin Plan criteria are exceeded or are observed.

**Fill/Excavation Area:** Approximately 437.3 cubic yards of concrete and rock slope protection will be placed into 0.2 acres of waters of the United States.

**Dredge Volume:** N/A

**California Integrated Water Quality System Impact Data:** The Project will permanently impact 0.2 acre/123 linear feet of riparian vegetation from fill activities.

**Table 1: Impacts from Fill and/or Excavation Activities**

Fill Type	Permanent			Temporary		
	Acres	Linear Feet	Cubic Yards	Acres	Linear Feet	Cubic Yards
Riparian Area						
Riparian Area Total	0.2	123	437.3			
<b>Total Impacts</b>	<b>0.2</b>	<b>123</b>	<b>437.3</b>			

Notes  
 NA Not Applicable

**United States Army Corps of Engineers Permit Type:** Nationwide Permit #14 and #43.

**Department of Fish and Wildlife Lake or Streambed Alteration Agreement:** The California Department of Transportation applied for a Lake or Streambed Alteration Agreement on 18 September 2015.

**Possible Listed Species:** Federal and California Department of Fish & Wildlife (CDFW) species of special concern: yellow-legged frog (*Rana boylei*).

**Status of CEQA Compliance:** California Department of Transportation is the Lead Agency responsible for compliance with the California Environmental Quality Act for the Big Tree Creek Stormwater compliance Project pursuant to § 21000 et seq. of the Public Resources Code. The California Department of Transportation approved the Negative Declaration on 15 January 2015 (State Clearinghouse Number 2014081040).

**Compensatory Mitigation:** The Central Valley Water Board is not requesting compensatory mitigation for the Big Tree Creek Stormwater Compliance Project.

**Application Fee Provided:** An application fee of \$600.00 was submitted on 9 November 2015 and an additional fee of \$1,061.00 was submitted on 6 January 2016. A total fee of \$1,661.00 has been submitted to the Central Valley Water Board as required by § 3833(b)(3)(A) and § 2200(a)(3) of the California Code of Regulations.