


Lahontan Regional Water Quality Control Board

MEMORANDUM

TO: Javier Almaguer
Central Region Biology Branch Chief – Environmental Stewardship
Caltrans Environmental Division
855 M Street, Suite 200
Fresno, CA 93721
Javier.almaguer@dot.ca.gov

FROM:  ^{for} PATTY Z. KOUYOUMDJIAN
EXECUTIVE OFFICER
LAHONTAN REGIONAL WATER QUALITY CONTROL BOARD

DATE: September 1, 2015

SUBJECT: BOARD ORDER R6T-2015-0050 FOR CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION FOR CALTRANS BRIDGEPORT CULVERTS PROJECT, MONO COUNTY, WDID 6A261506004

The California Regional Water Quality Control Board, Lahontan Region (Water Board) has received a complete Clean Water Act Section 401 Water Quality Certification (WQC) application and application filing fee from Caltrans Environmental Division (Applicant) for the Bridgeport Culverts Project (Project) in Mono County. This Order for WQC hereby assigns this Project the following reference number: Waste Discharger Identification (WDID) No. 6A261506004. Please use this reference number in all future correspondence regarding this Project.

Any person aggrieved by this action of the Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water 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 or will be provided upon request.

PROJECT DESCRIPTION

Table of Project Information:

WDID Number	6A261506004						
Applicant	Javier Almaguer, Environmental Branch Chief 855 M Street, Suite 200 Fresno, CA 93721						
Agent	Dan Johnson 855 M Street, Suite 200 Fresno, CA 93721						
Project Name	Caltrans Bridgeport Culverts Project						
Project Purpose and Description	Replacement or extension of 44 culverts at 41 locations on U.S. Highway 395. Project is intended to repair or replace culverts to improve drainage, improve ease of maintenance, and achieve clear recovery zone standards.						
Project Type	Culvert replacement						
Project County	Mono						
Project Address or other Locating Information	U.S. Highway 395 between post miles 72.5 and 86.0.						
Location Latitude/Longitude	Latitude 38.257339, Longitude -119.261328						
Hydrologic Unit(s)	630.00 – East Walker River						
Overall Project Area	0.0084 acre						
Receiving Water(s) Name	Unnamed tributary to East Walker River						
Water Body Type(s)	Stream						
Designated Beneficial Uses	MUN, AGR, GWR, FRSH, REC-1, REC-2, COMM, COLD, WILD, RARE, SPWN, WQE, FLD						
Potential Water Quality Impacts	Sediment and other construction-related pollutants						
Area of Water(s) within the Overall Project Area	0.085 acre						
Impacts of Fill to Waters of the State, including Waters of the U.S.	Waterbody Type	Permanent			Temporary		
		Acres	Linear Feet	Cubic Yards	Acres	Linear Feet	Cubic Yards
	<i>Lake</i>						
	<i>Riparian</i>						
	<i>Stream</i>	0.014	129.5	157.1	0.047	506	
<i>Wetland</i>	0.005	39.5	168.5	0.036	254		
Impacts of Dredging (Excavation) to Waters of the State, including Waters of the U.S.	Waterbody Type	Permanent			Temporary		
		Acres or Sq. Ft.	Linear Feet	Cubic Yards	Acres or Sq. Ft.	Linear Feet	Cubic Yards
	<i>Lake</i>						
	<i>Riparian</i>						
	<i>Stream</i>						
	<i>Wetland</i>						
	Total	0.019	169	325.6	0.083	760	

Table of Project Information continued:

Federal Permit(s)	The applicant has applied for U.S. Army Corps of Engineers (USACE) authorization to proceed under a Nationwide Permit 14, pursuant to Clean Water Act section 404.
Non-Compensatory Mitigation	Work will be scheduled during fall, when low-flow conditions are expected. Erosion and sediment controls will be implemented in accordance with a project Storm Water Pollution Prevention Plan. Environmentally Sensitive Areas will be protected by fencing installed under the supervision of a qualified biologist. A spill response plan will be developed and spill kits will be kept on site. If flowing water is present, clear water diversions will be used isolate work areas. In some cases, a new culvert may be installed in an adjacent alignment and the old culvert decommissioned once flows can be routed through the newly-installed culvert.
Compensatory Mitigation	Compensatory mitigation will be satisfied through the USACE Sacramento District In-Lieu Fee Program within the Carson/Walker Rivers Watershed (Hydrologic Unit 1650301). Mitigation credits will be purchased at the ratio of 2.5:1 for a total of 0.0125 acres of wetland and 0.035 acres of stream habitat.
Applicable Fees	\$12,542 application fee [929 linear feet of temporary and permanent disturbance (39.5 + 254 ft. for permanent + temporary wetland impacts and 129.5 + 506 ft. for permanent + temporary stream impacts) X \$13.50/ft.]. \$600 annual active fee until project activity other than monitoring is terminated, if project duration is greater than one year.
Fees Received	\$12,542

CEQA COMPLIANCE

The Water Board has determined that this Project is exempt from the California Environmental Quality Act (Public Resources Code Section 21000 et seq.). In accordance with Section 15302, the basis for CEQA exemption is "Replacement and Reconstruction." A Notice of Exemption will be filed with the State Clearinghouse concurrently with issuing this Order.

SECTION 401 WATER QUALITY CERTIFICATION

Authority

Section 401 of the CWA (33 U.S.C., paragraph 1341) requires that any applicant for a CWA Section 404 permit, who plans to conduct any activity that may result in discharge of dredged or fill materials to waters of the U.S., must provide to the permitting agency a certification that the discharge will be in compliance with applicable water quality standards of the state in which the discharge will originate. No Section 404 permit may be granted (or valid) until such certification is obtained. The Applicant submitted a complete application and the fees required for WQC under Section 401 for the Project. The Applicant has applied for USACE authorization to proceed under Nationwide Permit No. 14 pursuant to CWA section 404.

California Code of Regulations (CCR) title 23, section 3831(e) grants the Water Board Executive Officer the authority to grant or deny WQC for projects in accordance with CWA section 401. The Caltrans Bridgeport Culverts Project qualifies for such WQC.

Standard Conditions

Pursuant to CCR title 23, section 3860, the following standard conditions are requirements of this certification:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to California Water Code section 13330 and CCR title 23, section 3867.
2. This certification action is not intended and must not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license unless the pertinent certification application was filed pursuant to CCR title 23, section 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 non-denial certification action must be conditioned upon total payment of the full fee required under CCR title 23, section 3833, unless otherwise stated in writing by the certifying agency.
4. Neither Project construction activities nor operation of the Project may cause a violation of the Water Quality Control Plan for the Lahontan Region (Basin Plan), may cause a condition or threatened condition of pollution or nuisance, or cause any other violation of the California Water Code.
5. The Project must be constructed and operated in accordance with the Project described in the application for WQC that was submitted to the Water Board. Deviation from the project description constitutes a violation of the conditions upon which the certification was granted. Any significant changes to this project that would have a significant or material effect on the findings, conclusions, or conditions of this certification, including project operation, must be submitted to the Executive Officer for prior review and written approval.
6. This WQC is subject to the acquisition of all local, regional, state, and federal permits and approvals as required by law. Failure to meet any conditions contained herein or any conditions contained in any other permit or approval issued by the State of California or any subdivision thereof may result in the revocation of this certification and civil or criminal liability.
7. The Water Board may add to or modify the conditions of this certification as appropriate to implement any new or revised water quality standards and

implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or Section 303 of the Clean Water Act, or as appropriate to coordinate the operations of this Project with other projects where coordination of operations is reasonably necessary to achieve water quality standards or protect the beneficial uses of water. Notwithstanding any more specific conditions in this certification, the Project must be constructed and operated in a manner consistent with all water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or Section 303 of the Clean Water Act.

8. This certification does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under the California Endangered Species Act (Fish and Game Code section 2050 et seq.) or the federal Endangered Species Act (16 U.S.C. sections 1531 et seq.). If a "take" will result from any act authorized under this certification, the applicant must obtain authorization for the take prior to construction or operation of the project. The Applicant is responsible for meeting all applicable requirements of the Endangered Species Act for the project authorized under this certification.

Additional Conditions

Pursuant to CCR title 23, section 3859(a), the following additional conditions are requirements of this certification:

1. No debris, cement, wet concrete (or wash water therefrom), oil or petroleum product must enter into, or be placed where it may be washed from the Project site by rainfall or runoff, into waters of the state. When operations are completed, any excess material must be removed from the Project work area, and from any areas adjacent to the work area where such material may be transported into waters of the state.
2. All dewatering waste must be disposed in a manner to prevent such waste from re-entering waters of the state.
3. The Applicant must immediately (within two hours) notify Water Board staff by telephone whenever an adverse condition occurs as a result of this discharge. Such a condition includes, but is not limited to, a violation of the conditions of this Order, a significant spill of petroleum products or toxic chemicals, or damage to control facilities that would cause noncompliance. A written notification of the adverse condition must be provided to the Water Board within two weeks of occurrence. The written notification must identify the adverse condition, describe the actions necessary to remedy the condition, and specify a timetable, subject to any modifications by Water Board staff, for the remedial actions.

4. The Applicant must prevent the introduction or spread of noxious/invasive weeds within the Project and staging area. Measures must include the cleaning of all equipment and gear that has been in an infested site with water heated to 120 degrees Fahrenheit or more, the use of weed-free erosion control materials (including straw), and the use of weed-free seeds and plant material for revegetation of disturbed areas.
5. Construction equipment must be monitored for leaks, and removed from service if necessary to protect water quality.
6. The spill response plan for the Project must be available for review by the Water Board upon request.
7. An emergency spill kit must be at the Project site at all times.
8. A copy of this Order must be maintained at the Project site so as to be available at all reasonable times to site operating personnel and Water Board staff.
9. The Applicant must provide information to the Water Board verify the purchase of mitigation credits from the USACE Sacramento District In-Lieu Fee Program within the Carson/Walker Rivers Watershed (Hydrologic Unit 1650301). Mitigation credits must be purchased by **September 30, 2016** for a total of 0.0125 acres of wetland and 0.035 acres of stream habitat.

Enforcement

1. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation must be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of Clean Water Act section 401(d), the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.
2. In response to a suspected violation of any condition of this certification, the State Water Resources Control Board (State Water Board) or the Lahontan Water Board may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring report the State Water Board or Lahontan Water Board deems appropriate, provided that the burden, including costs, of the reports must be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
3. In response to any violation of the conditions of this certification, the Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.

Section 401 Water Quality Certification Requirements Granted

I hereby issue this Order certifying that 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), 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 WQC.

Except insofar as may be modified by any preceding conditions, all WQC 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 the terms specified in this WQC order, and (b) compliance with all applicable requirements of the Basin Plan.

We look forward to working with you in your efforts to protect water quality. If you have questions, please contact Bud Amorfini at bud.amorfini@waterboards.ca.gov (530) 542-5463 or Alan Miller at alan.miller@waterboards.ca.gov (530) 542-5430.

cc (via email):

David Johnson, Caltrans
Jason Brush, Wetlands Regulatory Office (WTR-8), US EPA, Region 9
Bill Orme, State Water Resources Control Board, Division of Water Quality
Leah Fisher, U.S. Army Corps of Engineers, Sacramento District
Heidi Sickler, California Department of Fish and Game