January 30, 2018

In the Matter of

Water Quality Certification

for the

Rowes Creek Bridge (No. 10C-0123) Replacement Project
WDID No. 1B161533WNME

APPLICANT: Mendocino County Department of Transportation
RECEIVING WATER: Rowes Creek, an unnamed tributary and riparian
HYDROLOGIC UNIT: Eel River Hydrologic Unit No. 111.61
COUNTY: Mendocino
Files: Rowes Creek Bridge (No. 10C-0123) Replacement Project
ECM PIN CW-829305

FINDINGS BY THE EXECUTIVE OFFICER:

1. On October 21, 2016, the Mendocino County Department of Transportation (Applicant) filed an application for water quality certification (Certification) under section 401 of the Clean Water Act (33 U.S.C. § 1341) with the California Regional Water Quality Control Board, North Coast Region (Regional Water Board) for activities associated with the Rowes Creek Bridge (No. 10C-0123) Replacement Project (Project). The Project is located approximately six miles northwest of Willits where Sherwood Road crosses Rowes Creek, Willits, Mendocino County, at latitude 39.48116°N, and longitude 123.40889°W. The application was deemed complete on December 21, 2017.

2. Public Notice: The Regional Water Board provided 21-day public notice of the application pursuant to Title 23, California Code of Regulations, Section 3858 on January 5, 2018, and posted information describing the Project on the Regional Water Board’s website. No comments were received.
3. **Receiving Waters:** The Project will cause disturbances to waters of the state associated with Rowes Creek, an unnamed tributary and riparian within the Eel River Hydrologic Unit No. 111.61.

4. **Project Description:** The primary purpose of the Project is to replace the existing one-lane bridge that has been determined to be structurally deficient. The existing structure constructed in 1965 is 70 feet long and 20 feet wide and would be replaced by a single span, cast-in-place, pre-stressed, concrete box-girder bridge, 100 feet long by 33.5 feet wide. The new bridge will be constructed adjacent to the existing bridge to allow for limited traffic passage during construction. The proposed Project would include construction of seat abutments on spread footings and driven or drilled hole-piles. A diversion plan and work pad designs for Rowes Creek have been submitted including a series of culverts topped with *imported* cleaned spawning gravel are proposed to be installed in the active channel to allow creek flow and temporary work access during construction. All temporary access materials will be removed upon completion of the project restored to pre-project condition. Scour protection for the abutments would include 0.25 ton rock slope protection (RSP) placed to the ordinary high water mark will be interplanted with native pole plantings. After completion of the new bridge, the existing bridge would be dismantled using a crane and abutment footings will be excavated and channel banks restored. The project includes plans for containment, dismantling and disposal of the lead paint matrix to avoiding discharge to surface waters. The project also includes a 1,080 cubic foot infiltration basin that will capture and treat 100% of the volume required by the Santa Rosa LID design goal for the post-construction development condition.

5. **Construction Timing:** The Project is planned to begin in the spring of 2018 through October of 2018 with construction work planned to last approximately 160 days.

6. **Authorized Project Impacts:** Construction of the new bridge and decommissioning of the existing bridge will require temporary impacts to waters of the state that include approximately 0.06 acres or 187 linear feet of Rowes Creek due to temporary diversion, approximately 0.01 acres or 111 linear feet of an unnamed tributary (roadside ditch) and 0.06 acres of riparian vegetation clearing. Permanent impacts to waters of the state include approximately 0.05 acres of riparian vegetation and approximately 153 linear feet of creek banks.

7. **Mitigation for Project Impacts:** The proposed Project includes submittal of the *Riparian Wetland Mitigation and Monitoring and Reporting Plan* to revegetate disturbed areas, including interplanting the RSP within the riparian area and revegetating the disturbed riparian area with appropriate native plant species. The plan includes replacement at a 3:1 ratio for mature woody riparian trees (>6-inch diameter at breast height) removed due to construction. All areas temporarily impacted will be restored to pre-project condition. The Applicant also proposes to restore approximately 0.26 acres of riparian area along approximately 100 linear feet
of creek channel within the footprint of the existing bridge decommissioning the roadway approaches and replanting. The Project proposes to employ best management practices to prevent or reduce any discharges during and after construction.

8. **Project Tracking:** It has been determined through regional, state, and national studies that tracking of mitigation and restoration projects must be improved to better assess their performance. In addition, to effectively carry out the state’s Wetlands Conservation Policy of no net loss to wetlands, the state needs to closely track both aquatic habitat losses and the success of mitigation and restoration projects. Therefore, this certification requires the Applicant to upload impact totals and mitigation measures to a web-based project tracking system called “EcoAtlas” using the “Project Tracker” form, which can be found here: [http://ptrack.ecoatlas.org](http://ptrack.ecoatlas.org). Instructions and how to request a user name and password are on the Project Tracker website. More information about EcoAtlas is available at: [www.ecoatlas.org](http://www.ecoatlas.org).

9. **Avoidance and Minimization of Impacts:** The Project description includes conducting work when the creek is at annual low flow. The Plan includes installation of work pads and a temporary diversion to allow for flow through the project site and incorporates a base layer of imported clean spawning gravel similar to native sediments. The addition of RSP will be bioengineered where applicable to include plantings between the rocks to slow water flow, add habitat and shade as well as organic material to the aquatic system. The Applicant proposes to remove the existing bridge structures and restore the area with native vegetation. The Applicant also has submitted plans for the bridge removal and decommissioning that avoid and minimize the threat of a discharge to waters of the state. The project also includes a 1,080 cubic foot infiltration basin that will capture and treat 100% of the volume required by the Santa Rosa LID design goal for the post-construction development condition.

10. **Other Agency Actions:** The Applicant has applied for authorization from the United States Army Corps of Engineers for a Clean Water Act, section 404, under Nationwide Permit No. 14. The Applicant has applied to the California Department of Fish and Wildlife to obtain a Streambed Alteration Agreement.

11. **CEQA Compliance:** On April 21, 2015, Mendocino County, as lead California Environmental Quality Act (CEQA) agency, has produced an Initial Study and Proposed Mitigated Negative Declaration and filed with the State Clearinghouse (SCH No. 2015022001), pursuant to CEQA guidelines.

12. **Total Maximum Daily Load:** The Eel River is identified as impaired for sediment and temperature under Clean Water Act Section 303(d). Bank erosion is identified as a source contributing to the sediment impairment. Removal of riparian vegetation is identified as a source contributing to temperature impairment. Activities that will be
authorized by this Order are designed to reduce removal of riparian vegetation and reduce sediment discharges from bank erosion. Accordingly, this Order is consistent with, and implements, BMPs that would attenuate sediment and temperature adverse impacts.

13. **Sediment TMDL Implementation Policy:** Pursuant to Regional Water Board Resolution R1-2004-0087, *Total Maximum Daily Load Implementation Policy Statement for Sediment-Impaired Receiving Waters within the North Coast Region* (Sediment TMDL Implementation Policy), the Executive Officer is directed to “rely on the use of all available authorities, including existing regulatory standards, and permitting and enforcement tools to more effectively and efficaciously pursue compliance with sediment-related standards by all dischargers of sediment waste.”

14. **Antidegradation Policy:** The federal antidegradation policy requires that state water quality standards include an antidegradation policy consistent with the federal policy. The State Water Board established California’s antidegradation policy in State Water Board Resolution No. 68-16. Resolution No. 68-16 incorporates the federal antidegradation policy where the federal policy applies under federal law. Resolution No. 68-16 requires that existing quality of waters be maintained unless degradation is justified based on specific findings. The Regional Water Board’s *Water Quality Control Plan for the North Coast Region* (Basin Plan) implements, and incorporates by reference, both the state and federal antidegradation policies. This Certification is consistent with applicable federal and state antidegradation policies, as it does not authorize the discharge of increased concentrations of pollutants or increased volumes of treated wastewater, and does not otherwise authorize degradation of the waters affected by this Project.

15. 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. The Order may be accessed at this web address: [https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf](https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf)

<table>
<thead>
<tr>
<th>Receiving Water:</th>
<th>Rowes Creek, an unnamed tributary and riparian, Eel River Hydrologic Unit No. 111.61</th>
</tr>
</thead>
<tbody>
<tr>
<td>Filled and/or Excavated Areas:</td>
<td>Permanent impacts to waters of the state: 153 linear feet creek banks – Rowes Creek 0.05 acres Riparian</td>
</tr>
</tbody>
</table>
Temporary impacts to waters of the state:
- 187 linear feet – Rowes Creek
- 111 linear feet – unnamed tributary
- 0.06 acres Riparian

<table>
<thead>
<tr>
<th>Latitude/Longitude:</th>
<th>39.48116°N, 123.40889°W</th>
</tr>
</thead>
<tbody>
<tr>
<td>Certification Expiration:</td>
<td>January 30, 2023</td>
</tr>
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Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Rowes Creek Bridge (No. 10C-0123) Replacement Project (WDID No. 1B161533WNME) as described in the application will comply with sections 301, 302, 303, 306 and 307 of the Clean Water Act, and with applicable provisions of state law, provided that the Applicant complies with the following terms and conditions:

All conditions of this Certification apply to the Applicant (and their employees) and all contractors (and their employees), sub-contractors (and their employees), and any other entity or agency that performs activities or work on the Project as related to this Water Quality Certification.

Terms and Conditions:

Project-Specific Conditions

1. Compensatory mitigation shall be implemented in accordance with the Rowes Creek Bridge (No. 10C-0123) on Sherwood Road Replacement Project Riparian Wetland Mitigation and Monitoring Plan submitted by the Applicant on November 29, 2017, and any subsequent revisions approved by the Executive Officer. Project mitigation includes a plan to revegetate disturbed areas, including using native pole plantings within the RSP and native riparian plantings at top of bank where described in the plan along approximately 100 linear feet of stream and including approximately 0.26 acres of riparian. The Applicant proposes to monitor the revegetation to ensure 85% planting success criteria are met after 5 years, which may be supplemented by appropriate volunteer riparian species. The applicant shall restore all temporary impact areas to pre-project condition including removal of the temporary diversion and materials associated with the temporary work pad.

2. Mitigation success shall be subject to the review and acceptance by Regional Water Board staff, and shall not be considered successful until a minimum of five years of monitoring has occurred. Plants shall not be considered successful until irrigation has been terminated and plants are self-sustaining for a minimum of two years.
Project-Specific Conditions Requiring Reports

3. Mitigation and monitoring reports shall be submitted annually for five years following mitigation implementation (Reports). Reports shall be submitted to the Regional Water Board by January 31, and detail the monitoring results from the prior calendar year. The reports shall be submitted to the following email address: NorthCoast@waterboards.ca.gov. Reports shall include:
   • Year 1 report will include as-built plans for all plantings;
   • Maintenance activities performed;
   • Monitoring methods;
   • Monitoring data summarized;
   • Time-series photographs;
   • Annual performance and whether success criteria are met;
   • Recommendations for adaptive measures.

4. Project Tracking: Within 30 days of issuance of this Order, the Applicant shall upload Project information to EcoAtlas using the “Project Tracker” form found at the following website: http://ptrack.ecoatlas.org/. Required information includes a Project map that may either be uploaded to EcoAtlas or created within EcoAtlas by using the “draw polygon” tool. Required mitigation monitoring reports shall be uploaded to EcoAtlas by March 1 following the certification January 31 monitoring report due date. To upload monitoring reports into EcoAtlas, use the “Files and Links” tab found on your project’s EcoAtlas page.

Standard Conditions

5. 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 title 23, California Code of Regulations, section 3867.

6. 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 title 23, California Code of Regulations, 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.

7. The validity of this Certification is conditioned upon total payment of any fee required under title 23, California Code of Regulations, section 3833, and owed by the Applicant.
8. A fee of $4,023.00 was received for the Project on October 21, 2016. At the date, the project was deemed complete the current fee schedule indicates an application and project fee of $2,256, a refund of the difference ($1,767) will be initiated upon issuance of this Certification. This Certification will be subject to annual billing while the project is constructed and monitored per the current fee schedule: https://www.waterboards.ca.gov/resources/fees/water_quality/docs/dredgefillcalculator.xlsm
Annual fees will be automatically invoiced to the Applicant.

Applicant must notify the Regional Water Board at the end of the monitoring period with a final report in order to request to terminate annual billing. Regional Water Board staff may request site visit at the end of the Project mitigation monitoring to confirm status of Project and compliance with this Certification.

9. The Regional Water Board shall be notified at least five working days (working days are Monday – Friday) prior to the commencement of construction.

10. Only wildlife-friendly, 100-percent biodegradable erosion and sediment control products that will not entrap or harm wildlife shall be used. Erosion and sediment control products shall not contain synthetic (e.g., plastic or nylon) netting. Photodegradable synthetic products are not considered biodegradable. The Applicant shall request approval from the Regional Water Board if an exception from this requirement is needed for a specific location.

11. BMPs shall be implemented as proposed in the application materials. BMPs for erosion, sediment and turbidity control shall be implemented and in place at commencement of, during and after any ground clearing activities or any other Project activities that could result in erosion or sediment discharges to surface water. Severe and unseasonal rain events are becoming more frequent due to the effects of climate change. Therefore, BMPs shall be immediately available for deployment at all times to prevent discharges to waters of the state.

12. The Applicant is prohibited from discharging waste to waters of the state, unless explicitly authorized by this Certification. For example, 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 Certification, shall be allowed to enter into or be placed where it may be washed by rainfall into waters of the state. When operations are completed, any excess material or debris shall be removed from the work area.

13. The Applicant shall provide Regional Water Board staff access to the Project site to document compliance with this Certification.
14. If, at any time, an unauthorized discharge to surface water (including wetlands, lakes, rivers or streams) occurs, or any water quality problem arises, the associated Project activities shall cease immediately until adequate BMPs are implemented including stopping work. The Regional Water Board shall be notified promptly and in no case more than 24 hours after the unauthorized discharge or water quality problem arises.

15. Prior to implementing any change to the Project that may be a material change as defined in California Water Code section 13260(c) as a proposed change in character, location, or volume of the discharge, the Applicant shall obtain prior written approval of the Regional Water Board Executive Officer. If the Regional Water Board is not notified of the material change to the discharge, it will be considered a violation of this Certification, and the Applicant may be subject to Regional Water Board enforcement action(s).

16. All Project activities shall be implemented as described in the submitted Certification application package and the findings and conditions of this Certification. Subsequent Project changes that could significantly impact water quality shall first be submitted to Regional Water Board staff for prior review, consideration, and written concurrence. If the Regional Water Board is not notified of a significant alteration to the Project, it will be considered a violation of this Certification, and the Applicant may be subject to Regional Water Board enforcement actions.

17. The Applicant shall provide a copy of this Certification and State Water Resources Control Board (SWRCB) Order No. 2003-0017-DWQ to any contractor(s), subcontractor(s), and utility company(ies) conducting work on the Project, and shall require that copies remain in their possession at the work site. The Applicant shall be responsible for ensuring that all work conducted by its contractor(s), subcontractor(s), and utility companies is performed in accordance with the information provided by the Applicant to the Regional Water Board.

18. Fueling, lubrication, maintenance, storage, and staging of vehicles and equipment shall not result in a discharge or threatened discharge to any waters of the state including dry portions of the shoreline. At no time shall the Applicant or its contractors allow use of any vehicle or equipment, which leaks any substance that may impact water quality.

19. The Applicant shall not use leaking vehicles or equipment within State waters or riparian areas. Vehicles and equipment used within State waters shall be checked for leaks at the beginning of each workday.

20. 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 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 assure compliance with the water quality standards and other pertinent requirements incorporated into this Certification. In response to a suspected violation of any condition of this Certification, the State 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 State 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. In response to any violation of the conditions of this Certification, the Regional Water Board may add to or modify the conditions of this Certification as appropriate to ensure compliance.

21. The Regional 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.

22. 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 Certification by letter and shall email a copy of the letter to the following email address: NorthCoast@waterboards.ca.gov. The successor-in-interest shall email the Regional Water Board Executive Officer at: NorthCoast@waterboards.ca.gov to request authorization to discharge dredged or fill material under this Certification. The request must contain the following:
   i) Effective date of ownership change;
   ii) Requesting entity's full legal name;
   iii) The state of incorporation, if a corporation;
   iv) The address and phone number of contact person; and
   v) A description of any changes to the Project or confirmation that the successor-in-interest intends to implement the project as described in this Certification.

23. Except as may be modified by any preceding conditions, all Certification actions are contingent on:
   i) The discharge being limited to and all proposed mitigation being completed in strict compliance with the Applicant’s Project description and CEQA documentation, as approved herein; and
   ii) Compliance with all applicable water quality requirements and water quality control plans including the requirements of the Water Quality Control Plan for the North Coast Region (Basin Plan), and amendments thereto.
24. The authorization of this Certification for any dredge and fill activities expires on January 30, 2023. 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.

**Conditions 3 and 8 have requirement for information and reports.** Any requirement for a report made as a condition to this Certification is a formal requirement pursuant to California Water Code section 13267, and failure or refusal to provide, or falsification of such required report is subject to civil liability as described in California Water Code, section 13268.

If you have any questions or comments, please call Gil Falcone at (707) 576-2830 or Stephen Bargsten at (707) 576-2653.

Original to: Mr. James Linderman, Mendocino County Department of Transportation, 340 Lake Mendocino, Ukiah, CA 95482, lindermanj@co.mendocino.ca.us

cc: State Water Resources Control Board, Stateboard401@waterboards.ca.gov
Ms. Jennifer Siu, EPA Region 9, Siu.Jennifer@epa.gov
Ms. Holly Costa, U.S. Army Corps of Engineers, Holly.N.Costa@usace.army.mil
Ms. Connie MacGregor Carpenter, NSR Inc., carpenter@nsrnet.com
Mr. Daniel Harrington, CDFW, Daniel.Harrington@Wildlife.ca.gov