

State Water Resources Control Board

JUL 27 2016

Mr. David Ambuehl
Acting Chief Environmental Engineer
Division of Environmental Analysis
California Department of Transportation
P.O. Box 942874, MS-27
Sacramento, CA 94274-0001

Mr. Hardeep Takhar
Supervisor Transportation Engineer,
District 4
California Department of Transportation
111 Grand Avenue
Oakland, CA 94612

Dear Messrs. Ambuehl and Takhar:

TOTAL MAXIMUM DAILY LOADS (TMDLs) COMPLIANCE UNIT CREDITS; STREAM CROSSING PROJECTS IN THE NAPA RIVER AND SONOMA CREEK

The Statewide Storm Water Permit for the California Department of Transportation (Permit)¹ includes requirements to address storm water discharges into sediment-impaired surface waters subject to the Napa River and Sonoma Creek sediment TMDLs.² The sediment TMDLs include requirements for the Department to repair or replace high priority stream crossings in the two watersheds. Per the Permit, the Department is generally granted one compliance unit for every one-acre of land treated by storm water treatment or controls. The Permit alternatively allows compliance units to be granted for the Department's financial participation in projects through local agreements.

For the two above-listed TMDLs, the State Water Resources Control Board (State Water Board) will grant TMDL compliance unit credits based on the total financial contribution provided for each stream crossing project through the existing local Fish Passage Forum cooperative implementation effort.³ The granting of compliance units in this manner is in accordance with Attachment IV, section I. B. 4 of the Statewide Permit, providing one compliance unit for each \$88,000 that the Department contributes through a cooperative agreement. Accordingly, the Department must report the total amount of funding contributed to such projects in accordance with the Permit reporting requirements, Attachment IV, section III. A. 3.

¹ NPDES Statewide Storm Water Permit for State of California Department of Transportation, Order 2012-0011-DWQ as amended by Orders WQ 2014-0006-EXEC, WQ 2014-0077-DWQ, and WQ 2015-0036-EXEC.

² TMDL for Sediment in the Napa River, Resolution No. R2-2009-0064; TMDL for Sediment in the Sonoma Creek, Resolution No. R2-2008-0103.

³ The September 21, 2007 MOU creates the Fish Passage Forum, a nationally recognized fish habitat partnership that addresses restoration of fish passages for anadromous salmonids in coastal watersheds, including the Napa River and Sonoma Creek watershed.

The rationale for the granting of compliance unit credits in the manner specified above is as follows:

- The Permit contains requirements for the Department to implement activities within TMDL watersheds to achieve a minimum of 1650 compliance unit credits per year;
- A compliance unit is defined within the Permit as one compliance unit credit per acre from which the storm water runoff is retained, treated, or otherwise controlled prior to discharge to the subject surface waters; and
- The State Water Board acknowledges the high project cost (estimated at \$4 million per fish passage) and the small footprint of the project area (about 0.5 acre per fish passage), and determines that it is unreasonable to apply the existing Permit crediting criteria to the subject restoration projects.

Therefore, the State Water Board interprets the intent of the Permit allowance of compliance unit credits through cooperative implementation efforts or agreements as the appropriate mechanism to determine compliance for this type of project. The State Water Board will consider the granting of compliance unit credits for other similar projects that address TMDLs throughout the state, on a case-by-case basis.

If you have any questions regarding this matter, please contact Ms. Jenny Chen of my staff at (916) 341-5570 or jenny.chen@waterboards.ca.gov.

Sincerely,



Jonathan Bishop, Chief Deputy Director
State Water Resources Control Board

cc: Gilbert A. Ogaz, California Department of Transportation, Division of Environmental Analysis
Thomas Mumley, San Francisco Regional Water Quality Control Board (via email)