

Lahontan Regional Water Quality Control Board

February 6, 2015

Eric Akana, Project Manager
Caltrans Environmental Management Office
1031 Butte Street, MS 30
Redding, CA 96001

BOARD ORDER R6T-2015-0003, FOR CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION FOR MILE HIGH CONCRETE FLUME REPLACEMENT PROJECT, MODOC COUNTY, WDID 6A251412003

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 the Caltrans Environmental Management Office in Redding (Applicant) for the Mile High Concrete Flume Replacement Project (Project) in Modoc County. This Order for WQC hereby assigns this Project the following reference number: Waste Discharger Identification (WDID) No. 6A251412003. 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	6A251412003
Applicant	Eric Akana, Project Manager Caltrans Environmental Management Office 1031 Butte Street, MS 30 Redding, CA 96001
Agent	Chelsea Tran-Wong, Associate Planner Caltrans Environmental Management Office 1031 Butte Street, MS 30 Redding, CA 96001
Project Name	Mile High Concrete Flume Replacement Project

KIMBERLY COX, CHAIR | PATTY Z. KOLOYOUMDJIAN, EXECUTIVE OFFICER

Table of Project Information continued:

Project Purpose and Description	Replace existing open concrete flume and inlet structure, which is degraded and causing erosion. The flume passes water under State Route 299 at post mile 52.96 and the existing open inlet structure is also a safety concern for motorists. The Applicant proposes to replace the degraded concrete flume with a down drain constructed of 12-inch corrugated steel pipe and replace the inlet structure with an appropriate drain inlet and grated cover. The new structure will eliminate the existing erosion occurring under the flume and prevent debris and other material from entering the drainage system. The replacement structure will be constructed within the existing footprint of the current flume.						
Project Type	Permanent Diversion Structures						
Project County	Modoc						
Project Address or other Locating Information	State Route 299 at post mile 52.96. Approximately 5 miles west of Cedarville.						
Location Latitude/Longitude	Latitude: 41.54744 Longitude: -120.24672						
Hydrologic Unit(s)	Hydrologic Unit, 641.20						
Overall Project Area	0.0004 acres						
Receiving Water(s) Name	Unnamed tributary to Cedar Creek						
Water Body Type(s)	Creek						
Designated Beneficial Uses	MUN, AGR, GWR, FRSH, REC-1, REC-2, COMM, COLD, WILD, SPWN						
Potential Water Quality Impacts	Discharge of sediment, concrete, and organic debris.						
Area of Water(s) within the Overall Project Area	17.5 square feet (0.0004 acres)						
Impacts of Fill to Waters of the State, including Waters of the U.S. (WOUS)	Waterbody Type	Permanent			Temporary		
		Acres	Linear Feet	Cubic Yards	Acres	Linear Feet	Cubic Yards
	<i>Lake</i>						
	<i>Riparian</i>						
	<i>Stream</i>	0.0004	10	0.2			
	<i>Wetland</i>						
Impacts of Dredging (Excavation) 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>						
	<i>Wetland</i>						
	Total	0.0004	10	0.2			
Federal Permit(s)	The applicant has applied for U.S. Army Corps of Engineers (USACOE) authorization to proceed under a non-reporting Nationwide Permit 3, pursuant to Clean Water Act section 404.						

Non-Compensatory Mitigation	Project will be constructed from the roadway during low flows. Water depth is expected to be approximately 1 inch and the water will be diverted around the work area through a flexible plastic hose. Accumulated sediment will be captured and transported to an appropriate disposal location. Construction site and staging area BMPs will be used in accordance with Caltrans protocols.
Compensatory Mitigation	None – replacing of existing structure in kind
Applicable Fees	\$200
Fees Received	\$1,097 (\$897 to be refunded)

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 United States, 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 USACOE authorization to proceed under Nationwide Permit No. 3 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 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 Water Quality Certification 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, concrete (or wash water therefrom), oil or petroleum products may 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. The Applicant must immediately 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.
3. The Applicant must ensure that necessary measures to prevent the introduction or spread of noxious/invasive weeds within the Project and staging areas. These measures may include the treatment of onsite infestations, the cleaning of all equipment and gear that has been in an infested site with water heated to at least 120° Fahrenheit, 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.
4. Wetland areas near Project area and staging area that will be avoided must be protected by colored construction fencing or equivalent barriers
5. Construction equipment must be clean and free from oil, grease and loose metal material, monitored for leaks, and removed from service if necessary to protect water quality.
6. All vehicles and equipment carrying accessory fueling containers must have a spill kit on board.

7. The Applicant must permit Water Board staff or its authorized representative upon presentation of credentials:
 - a. Entry onto Project premises, including all areas on which surface water fill or mitigation is located or in which records are kept.
 - b. Access to copy any record required to be kept under the terms and conditions of this Order.
 - c. Inspection of any treatment equipment, monitoring equipment, or monitoring method required by this Order.
 - d. Sampling of any discharge or surface water covered by this Order.
8. The Contractor, if used, must be provided this WQC and made aware of all conditions herein.

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 Board or the 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 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 an 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 (530) 542-5463 or Alan Miller at (530) 542-5430.



PATTY Z. KOUYOUMDJIAN
EXECUTIVE OFFICER

Enclosure: Notice of Exemption

cc: Jason Brush, Wetlands Regulatory Office (WTR-8), US EPA, Region 9
(via email at R9-WTR8-Mailbox@epa.gov)
Bill Orme, State Water Resources Control Board, Division of Water Quality
(via email at Stateboard401@waterboards.ca.gov)
Leah Fisher, U.S. Army Corps of Engineers
(via email at Leah.M.Fisher@USACE.army.mil)
Tobi Freeny, California Department of Fish and Wildlife
(via email at Tobi.Freeny@wildlife.ca.gov)

Notice of Exemption

To: Office of Planning and Research
PO Box 3044
1400 Tenth Street, Room 222
Sacramento, CA 95812-3044

From: California Regional Water Quality
Control Board, Lahontan Region
2501 Lake Tahoe Blvd.
South lake Tahoe, California 96150

Project Title: Mile High Concrete Flume Replacement Project

Project Location – Specific:

Lassen County; Latitude: 41.54744; Longitude: -120.24672

Project Location – City: Cedarville (nearest)

Project Location - County: Modoc

Description of Project: The Project will replace a degraded open concrete flume with a down drain constructed of 12-inch corrugated steel pipe. The current structure is failing and causing erosion on a slope above the roadway. The inlet structure is also a safety hazard. The project will mitigate existing erosion and alleviate safety hazards.

Name of Public Agency Approving Project: California Regional Water Quality Control Board, Lahontan Region

Name of Person or Agency Carrying Out Project: Caltrans Environmental Management Office, 1031 Butte Street, Redding, CA 96001

Exempt Status: (check one)

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: 15302(c), Replacement or Reconstruction.
- Statutory Exemptions. State code number:

Reasons why project is exempt:

The RWQCB, Lahontan Region finds that this project, as permitted, will not have a significant effect on the environment and shall, therefore, be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15302.

Responsible Agency Contact Person: Bud Amorfini

Area Code/Telephone/Extension: **(530) 542-5463**

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature: Patty J. Kayoumdjian Date: 2-6-2015 Title: Executive Officer, Lahontan Region

Signed by Responsible Agency

Date received for filing at

Signed by Applicant

OPR: _____