



State Water Resources Control Board

**WATER QUALITY ORDER NO. 2023-0048-DWQ] CLEAN WATER ACT SECTION
401 WATER QUALITY CERTIFICATION AND ORDER**

Effective Date: June 15, 2023
Expiration Date: June 15, 2028
Project: Marin State Route 1 Capital Preventive Maintenance Project
(EA04-1J960; Project)
Project Type: Roads and Highways
Program Type: Fill/Excavation

Identifiers:
WDID No: **SB23021IN**
Place ID: **888096**
Reg. Meas. ID: **452496**

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I. Summary

This Clean Water Act (CWA) section 401 water quality certification and waste discharge requirements (hereinafter Order) is issued at the request of the California Department of Transportation (Caltrans), District 4 (hereinafter Permittee) for the Marin State Route 1 Capital Preventive Maintenance Project (Project). The application was received on March 30, 2023. State Water Board staff issued a notice of incomplete application on May 1, 2023, and the Permittee responded to the request for further information on May 31, 2023. The application was deemed complete on June 2, 2023.

The Permittee submitted a certification request as defined by 40 CFR section 121.5 concurrently to the State Water Board and the U.S. Army Corps of Engineers (Corps) on March 30, 2023. The reasonable period of time to act ends on July 27, 2023.

II. Findings

- A.** This Order is adopted pursuant to section 401 of the CWA and the California Porter-Cologne Water Quality Control Act (Wat. Code § 13000, et seq.). Notwithstanding any determinations made by the Corps or other federal agency, dischargers must comply with the entirety of this Order because the Order also serves as waste discharge requirements in accordance with State Water Board Water Quality General Order No. 2003-0017-DWQ. Discharges to waters of the state are prohibited except if expressly authorized. (Wat. Code, § 13264.)
- B.** In the event of any violation or threatened violation of the conditions of this Order, the violation or threatened violation shall be subject to any remedies, penalties, process, or sanctions as provided for under state and federal law, including the Porter-Cologne Water Quality Control Act and the CWA.
- C.** In response to a suspected violation of any condition of this Order, the State Water Board may require the holder of this Order 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.
- D.** This Order and all conditions contained herein continue to have full force and effect regardless of the expiration or revocation of any federal license or permit issued for the Project.
- E.** This Order does not provide coverage under the National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ; NPDES No. CAS000002) (Construction General Permit).
- F.** This Order does not authorize any act which results in the take of a threatened, endangered or candidate species, which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act

(Fish & Wildlife Code, sections 2050-2097) or the federal Endangered Species Act (16 U.S.C. sections 1531-1544). If a “take” will result from any act authorized under this Order held by the Permittee, the Permittee must obtain authorization for the take prior to any construction or operation of the portion of the Project that may result in a take. The Permittee is responsible for meeting all requirements of the applicable endangered species act for the Project authorized under this Order.

- G.** This Order includes monitoring and reporting requirements pursuant to Water Code sections 13383 and 13267. The burden of preparing these reports, including costs, are reasonable to the need and benefits of obtaining the reports. The reports confirm that the best management practices (BMPs) required under this Order are sufficient to protect beneficial uses and water quality objectives. The reports related to accidental discharges also ensure that corrective actions, if any, that are necessary to minimize the impact or clean up such discharges can be taken as soon as possible. The anticipated costs are minimal as the reporting obligations require only visual monitoring and notification reporting.

III. Project Purpose and Description

Project Purpose: The purpose of the Project is to preserve and extend the life of the existing pavement along State Route (SR) 1 in Marin County. The Project is also needed to repair and upgrade SR 1 facilities to meet current Caltrans standards and comply with Design Information Bulletin 81-02: Capital Preventative Maintenance Guidelines.

Project Description: Caltrans proposes the Project to repair two portions of SR 1 in Marin County. The repairs to be performed under this Project include pavement resurfacing, curb ramp upgrades, culvert replacements, and shoulder and guardrail repair/replacement.

Project Location

County: Marin

Nearest Cities: Valley Ford, Tomales, Marshall, Pt Reyes, Olema

Zip Codes: 94946, 94956, 94952, 94952, 94971

Central Latitude: 38.01276 and Longitude: -122.76723

Maps showing the Project location are found in Attachment A of this Order.

IV. Project Impact and Receiving Waters Information

The Project is located within the jurisdiction of the North Coast Regional Water Quality Control Board and San Francisco Bay Regional Water Quality Control Board (collectively Regional Water Boards). Receiving waters and groundwater potentially impacted by this Project are protected in accordance with the applicable water

quality control plans (Basin Plans). The plan for each region and other plans and policies may be accessed at the [State Water Resources Control Board's Plans and Policies Web page](http://www.waterboards.ca.gov/plans_policies/) (http://www.waterboards.ca.gov/plans_policies/). The Basin Plans include water quality standards, which consist of existing and potential beneficial uses of waters of the state, water quality objectives to protect those uses, and the state and federal antidegradation policies.

It is the policy of the State of California that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. This Order promotes that policy by requiring discharges to meet maximum contaminant levels designed to protect human health and ensure that water is safe for domestic use.

Project impact and receiving waters information can be found in Attachment B of this Order. Table 1 of Attachment B shows the receiving waters and beneficial uses of waters of the state impacted by the Project. Table 2 of Attachment B shows individual impact location and quantities.

V. Description of Direct Impacts to Waters of the State

The Project is expected to temporarily impact 0.33 acre and permanently impact 0.03 acre of waters of the State. Temporary impacts will result from construction access and may include temporary fill at the construction site. Permanent impacts will result from pavement widening, guardrail installation, increased culvert size, and the placement of rock slope protection, headwalls, and flared end sections at culverts.

Construction activities will not substantially affect drainage functions because nearly all work will be conducted when drainages are dry. All disturbed areas will be restored to appropriate grades and contours and reseeded with a native seed mix following construction.

Total Project fill/excavation quantities for all impacts are summarized in Tables 1 and 2. Permanent impacts are categorized as those resulting in a physical loss in area and those degrading ecological condition.

Table 1: Total Project Fill/Excavation Quantity for Temporary Impacts¹

Aquatic Resources Type	Acres	Linear Feet
Riparian Zone	0.2559	900
Stream Channel	0.0225	607
Wetland	0.0565	535

Table 2: Total Project Fill/Excavation Quantity for Loss and Permanent Degradation of Ecological Condition Impacts

Aquatic Resources Type	Acres	Linear Feet
Riparian Zone	0.0267	285
Stream Channel	0.0005	11
Wetland	0.0035	63

VI. Description of Indirect Impacts to Waters of the State

The State Water Board recognizes the potential for indirect impacts to waters of the state associated with the Project. The following activities are of particular concern for water quality: hauling and storage of material and equipment, equipment movement within and to/from the sites, drainage work, grading and contouring, pavement widening, and concrete work near drainage facilities. Ground disturbance would be limited to the extent feasible. The potential indirect impacts are adequately reduced through adherence to this Order and mitigation measures in the Permittee’s application and in the sections below.

VII. Avoidance and Mitigation

Projects receiving authorization from the State Water Board must demonstrate that Project design has first avoided and minimized impacts to waters to the maximum extent practicable. Adequate avoidance and minimization measures are required by the Project’s Initial Study Mitigated Negative Declaration (IS/MND) and Caltrans’ most current “Construction Site Best Management Practices (BMP) Manual.”

Avoidance and minimization measures (BIO-1 to BIO-13) and (WQ-1 to WQ-3) provided in the IS/MND would reduce the extent of temporary and permanent

¹ Includes only temporary direct impacts to waters of the state and does not include area of temporary disturbance which could result in a discharge to waters of the state. Temporary impacts, by definition, are restored to pre-project conditions and therefore do not include a physical loss of area or degradation of ecological condition.

impacts on jurisdictional aquatic features resulting from construction. Attachment C of this Order includes a discussion of these mitigation measures.

The Project qualified as a tier 2 Project and the Project is the least environmentally damaging practicable alternative (State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State, section IV.A.1.h).

VIII. Compensatory Mitigation

The Permittee is required to provide compensatory mitigation for direct and indirect impacts, described in section IX.I. of this Order.

IX. Conditions

The State Water Board has independently reviewed the record of the Project to analyze impacts to water quality and designated beneficial uses within the watersheds associated with the Project. This Order provides reasonable assurance that the Project authorized under this Order will comply with state and federally approved water quality requirements, provided that the following conditions are adhered to.

Specific information required by 40 CFR § 121.7(d) are provided below each condition, or set of conditions, in italic text. These conditions are generally required to comply with the state's Anti-Degradation Policy (State Board Resolution No. 68-16), which requires that any "activity which produces or may produce a waste or increased volume or concentration of waste and which discharges or proposes to discharge to existing high quality waters will be required to meet waste discharge requirements which will result in the best practicable treatment or control of the discharge necessary to assure that (a) a pollution or nuisance will not occur and (b) the highest water quality consistent with maximum benefit to the people of the state will be maintained." All Regional Board Water Quality Control Plans incorporate the state's Anti-Degradation Policy by reference. The state Anti-Degradation Policy incorporates the federal Antidegradation Policy (40 CFR § 131.12 (a)(1)), which requires "existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected." According to U.S. EPA, dischargers of dredged or fill material comply with the federal Antidegradation Policy by complying with U.S. EPA's section 404(b)(1) Guidelines. The State Water Board adopted a modified version of U.S. EPA's section 404(b)(1) Guidelines in the Dredge or Fill Procedures (State Supplemental Guidelines).

A. Impacts to Waters of the State

Impacts to waters of the state shall not exceed quantities shown in Tables 1 and 2.

This condition protects water quality by ensuring that the impacts to waters are not greater than what is proposed in the application. Larger impacts lead to a

greater potential for adverse impacts on water quality. Water Code section 13264 prohibits any discharge that is not specifically authorized in this Order.

B. Reporting and Notification Requirements

The following section details the reporting and notification types and timing of submittals. Requirements for the content of these reporting and notification types are detailed in Attachment D, including specifications for photo and map documentation during the Project. Written reports and notifications must be submitted using the Reporting and Notification Cover Sheet located in Attachment D, which must be signed by the Permittee or an authorized representative.

1. Project Reporting

- a. Monthly Reporting:** The Permittee must submit a Monthly Report to the State Water Board every month after the effective date of this Order. Monthly reports shall be submitted by the 15th day of the month until a Notice of Project Complete Letter is issued to the Permittee.
- b. Annual Reporting:** The Permittee shall submit an Annual Report each year on the anniversary of the effective date of this Order. Annual reporting shall continue until a Notice of Project Complete Letter is issued to the Permittee.

2. Project Status Notifications

- a. Commencement of Construction:** The Permittee shall submit a Commencement of Construction Report at least seven (7) days prior to start of initial ground disturbance activities and, if applicable, corresponding Waste Discharge Identification Number (WDID#) issued under the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ; NPDES No. CAS000002).
- b. Request for Notice of Completion of Discharges Letter:** The Permittee shall notify State Water Board staff that post-construction monitoring is required and that active Project construction, including any mitigation and permittee responsible compensatory mitigation, is complete. This notification shall be submitted to State Water Board staff within thirty (30) days following completion of all Project construction activities.
- c. Request for Notice of Project Complete Letter:** The Permittee shall submit a Request for Notice of Project Complete Letter when construction and/or any post-construction monitoring is complete, and no further Project activities will occur. This request shall be submitted to State Water Board staff within thirty (30) days following completion of all Project activities. Upon approval of the request, the State Water Board staff shall

issue a Notice of Project Complete Letter to the Permittee which will end the post discharge monitoring period and associated annual fees. Completion of post-construction monitoring shall be determined by State Water Board staff and shall be contingent on successful attainment of restoration and mitigation performance criteria.

3. Conditional Notifications and Reports:

The following notifications and reports are required as appropriate.

a. Accidental Discharges of Hazardous Materials²:

Following an accidental discharge of a reportable quantity of a hazardous material, sewage, or an unknown material, the following applies (Water Code, Section 13271):

- i. As soon as (A) the Permittee has knowledge of the discharge or noncompliance, (B) notification is possible, and (C) notification can be provided without substantially impeding cleanup or other emergency measures then:
 - a. First call – 911 (to notify local response agency)
 - b. Then call – Office of Emergency Services (OES) State Warning Center at: (800) 852-7550 or (916) 845-8911
 - c. Lastly, follow the required OES procedures as set forth in the [Office of Emergency Services' Accidental Discharge Notification Web Page](https://www.caloes.ca.gov/office-of-the-director/operations/response-operations/fire-rescue/hazardous-materials/spill-release-reporting/) (https://www.caloes.ca.gov/office-of-the-director/operations/response-operations/fire-rescue/hazardous-materials/spill-release-reporting/)
- ii. Following notification to OES, the Permittee shall notify State Water Board, as soon as practicable (ideally within twenty-four (24) hours). Notification may be delivered via written notice, email, or other verifiable means.

² "Hazardous material" means any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. "Hazardous materials" include, but are not limited to, hazardous substances, hazardous waste, and any material that a handler or the administering agency has a reasonable basis for believing that it would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment. (Health & Saf. Code, § 25501.)

- iii. Within five (5) working days of notification to the State Water Board, the Permittee must submit an Accidental Discharge of Hazardous Material Report.

The reports related to accidental discharges also ensure that corrective actions, if any, that are necessary to minimize the impact or clean up such discharges can be taken as soon as possible. The anticipated costs are minimal as the reporting obligations require only visual monitoring and notification reporting.

Conditions related to notifications, monitoring, and reporting are necessary to ensure compliance with water quality requirements because if this project is not implemented as approved in this Order, adverse impacts on water quality and beneficial uses could occur.

b. Violation of Compliance with Water Quality Standards

- i. The Permittee shall notify the State Water Board of any event causing a violation of compliance with water quality standards. Notification may be delivered via written notice, email, or other verifiable means.
- ii. This notification must be followed within three (3) working days by submission of a Violation of Compliance with Water Quality Standards Report.

c. In-Water Work and Diversions

- i. The Permittee shall notify the State Water Board within three (3) working days following the completion of in-water work. An In-Water Work/Diversions Water Quality Monitoring Report must be submitted to State Water Board staff.

d. Modifications to Project

Project modifications may require an amendment of this Order. The Permittee shall give advance notice to State Water Board staff if Project implementation as described in the application materials is altered in any way or by the imposition of subsequent permit conditions by any local, state, or federal regulatory authority by submitting a Modifications to Project Report. The Permittee shall inform State Water Board staff of any Project modifications that will interfere with the Permittee's compliance with this Order.

The State Water Board has the authority to investigate the quality of any waters of the state within its jurisdiction under Water Code section 13267 and to require monitoring and reporting under Water Code section 13383.

The burden of preparing these reports, including costs, are reasonable to the need and benefits of obtaining the reports.

e. Transfer of Property Ownership

This Order is not transferable in its entirety or in part to any person or organization except after notice to the State Water Board in accordance with the following terms:

- i. The Permittee must notify the State Water Board of any change in ownership or interest in ownership of the Project area by submitting a Transfer of Property Ownership Report. The Permittee and purchaser must sign and date the notification and provide such notification to the Water Board at least ten (10) working days prior to the transfer of ownership. The purchaser must also submit a written request to the State Water Board to be named as the permittee in a revised order.
- ii. Until such time as this Order has been modified to name the purchaser as the permittee, the Permittee shall continue to be responsible for all requirements set forth in this Order.

f. Transfer of Long-Term BMP Maintenance

If maintenance responsibility for post-construction BMPs is legally transferred, the Permittee must submit to the State Water Board a copy of such documentation and must provide the transferee with a copy of a long-term BMP maintenance plan that complies with manufacturer or designer specifications. The Permittee must provide such notification to the State Water Board with a Transfer of Long-Term BMP Maintenance Report at least ten (10) days prior to the transfer of BMP maintenance responsibility.

The reports confirm that the BMPs required under this order are sufficient to protect beneficial uses and water quality objectives.

C. Water Quality Monitoring

1. General

If surface water is present, continuous visual monitoring shall be conducted during active construction to detect accidental discharge of construction related pollutants (e.g., oil and grease, turbidity plume, or uncured concrete).

This condition protects water quality by requiring the Permittee to visually monitor for obvious signs of water quality degradation. Monitoring and reporting requirements are authorized by Water Code sections 13267 and

13383. The anticipated costs are minimal as the reporting obligations require only visual monitoring.

2. In-Water Work or Diversions

Water quality monitoring shall be in conformance with Caltrans Standard Specifications 13-1.01D(5)(b) including stormwater sampling and analysis when work occurs in water.

For projects involving planned work in water or stream diversions, a water quality monitoring plan shall be submitted to State Water Board staff for approval at least thirty (30) days in advance of any discharge to the affected water body. Water quality monitoring shall be conducted in accordance with the approved plan.

Work in waters must not cause exceedances of water quality objectives; accordingly, these conditions require implementation of best practicable treatments and controls to prevent pollution and nuisance, and to maintain water quality. (Wat. Code, § 13263.) Consistent with the Dredge or Fill Procedures, section IV.A.2.c, water quality monitoring plans are required for any in-water work.

3. Accidental Discharges/Noncompliance

Upon occurrence of an accidental discharge, the Permittee shall determine whether the discharge includes hazardous materials or will cause or contribute to an exceedance of water quality objectives, and if so, notify the State Water Board as outlined above and in Attachment D. State Water Board staff may require additional water quality monitoring based on the discharge constituents and/or related water quality objectives and beneficial uses.

This notification ensures that corrective actions required to minimize the impact or clean up such discharges can be taken as soon as possible. Monitoring and reporting requirements are authorized by Water Code sections 13267 and 13383.

4. Post-Construction

The Permittee shall visually inspect the Project site between October 30 and April 15 following each rain event that results in half (0.5) inch of rainfall or more in forty-eight (48) hours to ensure excessive erosion, stream instability, or other water quality pollution is not occurring in or downstream of the Project site. If water quality pollution is occurring, contact the State Water Board staff member overseeing the Project within three (3) working days. The State Water Board may require the submission of a Violation of Compliance with Water Quality Standards Report. Additional permits may be required to carry out any necessary site remediation.

This condition is necessary to ensure compliance with water quality requirements because it ensures that the Permittee has implemented the Project as proposed and approved, that temporary impact sites have been restored, and the Project area is stable. Monitoring and reporting requirements are authorized by Water Code sections 13267 and 13383.

D. Standard Conditions

1. This Order is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330, and California Code of Regulations, Title 23, chapter 28, Article 6 commencing with section 3867.
2. This Order is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license, unless the pertinent certification application was filed pursuant to subsection 3855(b) of chapter 28, Title 23 of the California Code of Regulations, and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. This Order is conditioned upon total payment of any fee required under title 23 of the California Code of Regulations.

These standard conditions are necessary to assure that any discharge authorized under the Order will comply with water quality requirements. Water quality requirements include state regulatory requirements for point source discharges into waters of the United States. California Code of Regulations, title 23, Chapter 28 sets forth regulations pertaining to water quality certification for point source discharges to waters of the United States. This condition was included to comply with section 3860, which sets forth conditions that must be included in water quality certifications. This fee requirement condition is also consistent with California Code of Regulations, sections 3861(c)(4) and 3833(b), which requires payment of fees by project proponents.

E. General Compliance

1. Permitted actions must not cause a violation of any applicable water quality standards, including impairment of designated beneficial uses for receiving waters as adopted in the Basin Plans by any applicable Regional Water Board or any adopted water quality control plan or policy of State Water

Board. The source of any such discharge must be eliminated as soon as practicable.

This condition is necessary to implement water quality requirements because waste discharge requirements must implement all applicable water quality control plans. (Wat. Code, § 13263.)

2. The Project must conform to the engineering plans, specifications, and technical reports submitted with the application materials.

This condition protects water quality by ensuring that the Project is implemented as proposed and approved. (Wat. Code, § 13264.) Deviations from the approved plans and practices could result in adverse impacts to water quality.

3. The Permittee shall adhere to all requirements in the mitigation monitoring and reporting program (MMRP), which is incorporated herein by reference and any additional measures as outlined in Attachment C, CEQA Findings of Fact.

This condition protects water quality by requiring that the Permittee implements the mitigation measures in the Project's MMRP. These mitigation measures are designed in part to protect water quality and beneficial uses. (Cal. Code of Regs., tit. 14, § 15097.)

F. Administrative

1. Signatory requirements for all document submittals required by this Order are presented in Attachment E.

This condition is authorized by Water Code sections 13383 and 13267, which requires any person discharging waste that could affect the quality of waters to provide to the State Water Board, under penalty of perjury, any technical or monitoring program reports as required by the State Water Board. The signatory requirements are consistent with 40 C.F.R. section 122.22.

2. **Site Access:** The Permittee shall grant State Water Board staff, North Coast and San Francisco Bay Regional Water Board staff or an authorized representative (including an authorized contractor acting as a Water Board representative), upon presentation of credentials and other documents as may be required by law, permission to:
 - a. Enter upon the Project or compensatory mitigation site(s) premises where a regulated facility or activity is located or conducted, or where records are kept.
 - b. Have access to and copy any records that are kept and are relevant to the Project or the requirements of this Order.

- c. Inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order.
- d. Sample or monitor for the purposes of assuring Order compliance.

This condition is necessary because inspections may be necessary to ensure the Order requirements are being complied with. (Wat. Code, § 13267.)

- 3. The Permittee shall be responsible for work conducted by its consultants, contractors, and any subcontractors. A copy of this Order shall be provided to any consultants, contractors, and subcontractors working on this Project. Copies of this Order shall remain at the Project site for the duration of this Order. All personnel performing work on the Project shall be familiar with the content of this Order and its posted location at the Project site.

This condition is required to assure that any authorized discharge will comply with the terms and conditions of the Order.

- 4. **Lake and Streambed Alteration Agreement:** If issued, the Permittee shall submit a signed copy of the California Department of Fish and Wildlife's Lake and Streambed Alteration Agreement to the State Water Board prior to any discharge to waters of the state.

This condition is required pursuant to California Code of Regulations section 3856(e).

- 5. **Coastal Development Permit:** If issued, the Permittee shall submit a signed copy of the Coastal Development Permit to the State Water Board prior to any discharge to waters of the state.

This condition is required pursuant to California Code of Regulations section 3856(e).

G. Construction Conditions

1. Dewatering

- a. All temporary dewatering/diversion methods shall be designed to isolate the immediate work area and to have the minimum necessary impacts to waters of the state.

This condition protects water quality by requiring the Permittee to minimize the Project's footprint in waters. (Dredge or Fill Procedures, Section IV.B.1.)

- b. All dewatering/diversion facilities shall be installed such that natural flow is maintained upstream and downstream of Project areas.

This condition protects water quality by requiring Permittee to maintain streamflow upstream and downstream of the Project area while diversions

are in place. Stream flow is important for maintaining beneficial uses and water quality parameters such as dissolved oxygen and temperature. (Dredge or Fill Procedures, Section IV.B.1.)

- c. Any temporary dams or diversions shall be installed such that the dewatering/diversion does not cause sedimentation, siltation, or erosion upstream or downstream of Project areas.

This condition protects water quality by requiring that diversions do not affect flow velocity or rate and do not affect natural sediment transport functions of streams. Sedimentation or erosion related to diversions could cause long term instability of the Project reach and lead to short- and long-term impacts to water quality and beneficial uses. (Dredge or Fill Procedures, Section IV.B.1.)

- d. All dewatering/diversion methods shall be removed as soon as practicable upon completion of dewatering/diversion activities.

This condition is necessary to protect water quality because the longer that diversions and dewatering equipment are in place, the greater the potential for them to fail, be overwhelmed, or otherwise cause water quality degradation. (Dredge or Fill Procedures, Section IV.B.1.)

- e. In the event of rain, any in-water work area shall be temporarily stabilized before stream flow overtops or overwhelms the diversion structure. The stream bed shall be stabilized so that the disturbed areas will not encounter stream flow.

This condition protects water quality by requiring the Permittee to stabilize the streambed behind diversions before they are overwhelmed. If stream flow is allowed over exposed and non-stabilized work areas, this would lead to erosion of the site, downstream sedimentation, and long-term instability of the project reach that could lead to further degradation of water quality and beneficial uses. (Dredge or Fill Procedures, Section IV.B.1.)

- f. The Permittee shall not use or allow the use of erosion control products that contain synthetic materials within waters of the state at any time, except for plastic sheeting used in water diversion and dewatering activities. The Permittee shall request approval from the State Water Board prior to use if an exception to this requirement is needed for a specific location.

This condition protects water quality by limiting the use of synthetic materials. Synthetic, non-biodegradable materials used in erosion control products are persistent in the environment. When they do break down, they break down into smaller and smaller pieces of the original material, which can have adverse effects on water chemistry and fauna. Synthetics should be avoided wherever possible due to their potential effects on

water quality and the environment. (Dredge or Fill Procedures, Section IV.B.1.)

- g.** All work performed within waters of the state shall be completed in a manner that minimizes impacts to beneficial uses.

This condition protects water quality by requiring the Permittee to minimize impacts to beneficial uses of waters of the state. (Dredge or Fill Procedures, Section IV.B.1.)

2. Dust Abatement:

Dust abatement chemicals added to water can be hazardous to wildlife and, if allowed to enter streams, detrimental to water quality. Therefore, dust abatement activities shall be conducted so that sediment or dust abatement chemicals are not discharged into waters of the state. Dust abatement products or additives that are known to be detrimental to water quality or wildlife shall not be used, unless specific management needs are documented, and product-specific application plans are approved by State Water Board staff.

This condition protects water quality by ensuring that the Permittee does not discharge sediment or other wastes into waters while performing dust suppression activities. (Dredge or Fill Procedures, Section IV.B.1.)

3. Site Management

- a.** Disturbance or removal of vegetation shall not exceed the minimum necessary to complete Project implementation.

Removal of vegetation within and adjacent to waters results in higher water quality degradation through erosion, decreased shading, decreased riparian buffering, decreased allochthonous nutrient and habitat inputs, and other pathways. Limiting this vegetation removal to the minimum necessary to complete the Project is protective of water quality. (Dredge or Fill Procedures, Section IV.B.1.)

- b.** Where temporary or permanent impacts have not been approved, construction vehicles must not enter waters of the state.

Vehicles operating within waters that are outside of the approved Project boundary will lead to water quality impacts that were not proposed and which are not authorized by this Order. Water quality is protected by restricting this activity. (Wat. Code, § 13264, Dredge or Fill Procedures, Section IV.A.2.d.)

- c.** When no longer needed, all construction-related equipment, materials, and temporary BMPs shall be removed from Project sites.

The longer equipment and other unneeded materials are left on a project site the higher the likelihood of a leak, spill, or other unintended impact.

Removing these materials as soon as they are no longer needed is protective of water quality. (Dredge or Fill Procedures, Section IV.B.1.)

- d. All imported riprap, rocks, and gravel that are used shall be pre-washed.

Imported rock materials have the potential to harbor unwanted and detrimental invasive species, pathogens, sediments, compounds, etc. Requiring these materials to be washed before being brought to, and used on, site is protective of water quality. (Dredge or Fill Procedures, Section IV.B.1.)

4. Hazardous Materials

- a. Any maintenance or refueling of vehicles or equipment shall be done in the rest stop staging areas, when possible, or in a designated area with secondary containment located at least fifty (50) feet away from waters of the state.
- b. Vehicles not in use and stationary equipment (motors, pumps, generators, etc.) shall be positioned over drip pans or other types of containment.
- c. The Permittee shall develop a spill prevention and cleanup plan, and appropriate spill control and clean up materials shall be maintained onsite at all locations where spills may occur. Construction personnel must be familiar with the plan and how to use the cleanup materials or kits.
- d. Raw cement, concrete (or washing thereof), asphalt, drilling fluids, lubricants, paints, coating material, oil, petroleum products, or any other substances which could be hazardous resulting from or disturbed by Project-related activities, shall be prevented from contaminating the soil and/or entering waters of the state.
- e. Onsite containment for storage of chemicals classified as hazardous shall include secondary containment.

These conditions prohibiting discharge of materials detrimental to water quality or hazardous to aquatic life are consistent with the Dredge or Fill Procedures, Appendix A, Subpart H, which requires actions to minimize and avoid adverse effects, including actions concerning the location, the material, and controlling the material after the discharge (§ 230.70 et seq.).

5. Invasive Species and Soil Borne Pathogens

- a. Imported fill material must be free of weed and invasive species' seeds and live plants.
- b. Equipment and machinery used in Project construction shall be inspected and cleaned of non-native invasive vegetation prior to use onsite.

These conditions are necessary to implement water quality requirements because waste discharge requirements must implement all applicable water quality control plans, consider beneficial uses, and prevent nuisance. (Wat. Code, § 13263.)

6. Stabilization/Erosion Control

- a. Erosion and sediment control materials shall be onsite prior to the start of construction and always kept onsite so they are immediately available for installation in anticipation of rain events.
- b. The Permittee shall implement an effective combination of erosion and sediment control measures during all periods of construction, both during and after construction.
- c. Sediment control structures shall be maintained for effectiveness at least forty-eight (48) hours before a rain event and shall be repaired or replaced as needed. Buildup of soil behind silt fences shall be removed and any breaches or undermined areas repaired.
- d. The grading, stabilization, and re-vegetation will be phased to limit the amount of exposed/denuded soils such that these areas can be stabilized within twenty-four (24) hours after the first prediction of rain during the five (5) day forecast, or within twenty-four (24) hours after final grading of the phased area.
- e. All erosion control wattles, and similar erosion control materials must be biodegradable and weed free.
- f. Project related activities must cease immediately during a rain event; equipment, and materials within waters of the state shall be removed from those waters; and the site must be stabilized to prevent impacts to water quality and minimize erosion and runoff from the site.
- g. Erosion control blankets, liners with berms, and/or other erosion control measures shall be used for any stockpile of excavated material to control runoff resulting from precipitation and prevent material from contacting or entering surface waters.

Discharges that are not covered under the State Water Board's Stormwater Construction General Permit are required to comply with the conditions in this section be consistent with California Code of Regulations, section 3861(d)(2), which prohibits discharges that violate any water quality objectives adopted or approved under sections 13170 or 13245 of the Water Code. These stabilization and erosion control conditions are necessary to implement water quality requirements because unauthorized sedimentation or erosion can could cause long term instability and lead to impacts to water quality and beneficial uses. (Dredge or Fill Procedures, Section IV.B.1.)

- h. Construction material, debris, rubbish, spoils, soil, silt, sawdust, rubbish, steel, welding slag, welding rods, waste material, waste containers,

other organic or earthen material, or any other substances which could be detrimental to water quality or hazardous to aquatic life that is discharged as a result of Project related activities shall be prevented from entering waters of the state. Spoils from excavations shall not be stored in waters of the state.

This condition prohibits discharge of materials detrimental to water quality or hazardous to aquatic life are consistent with the Dredge or Fill Procedures, Appendix A, Subpart H, which requires actions to minimize and avoid adverse effects, including actions concerning the location, the material, and controlling the material after the discharge (§ 230.70 et seq.).

- i. Environmentally sensitive areas and environmentally restricted areas, including any avoided waters of the state, must be clearly identified in the field for exclusion prior to the start of construction. Such identification must be properly maintained until construction is completed and the soils have been stabilized. Equipment, materials, or any other substances or activities that may impact waters of the state outside of the limits of Project disturbance are prohibited.

This condition is necessary to assure that the Project discharge will comply with state discharge prohibitions that protect beneficial uses and water quality objectives. A description and delineation of impact sites is necessary to assure that the discharge from the Project will comply with water quality objectives established for surface waters (Cal. Code of Regs., tit. 23, § 3856(h); Dredge or Fill Procedures section IV.A.1(c).

- j. Bridges, culverts, dip crossings, or other structures must be installed so that water and in-stream sediment flow is not impeded. Appropriate design criteria, practices and materials must be used in areas where access roads intersect waters of the state.

This condition protects water quality by requiring Permittee to maintain streamflow upstream and downstream of the Project area while diversions are in place. Stream flow is important for maintaining beneficial uses and water quality parameters such as dissolved oxygen and temperature. (Dredge or Fill Procedures, Section IV.B.1.)

- k. Temporary materials placed in any water of the state must be removed as soon as construction is completed at that location and all temporary roads must be removed or re-contoured and restored according to approved re-vegetation and restoration plans.

These types of activities commonly require grading, construction, excavation, and vegetation removal, and may result in erosion and increased sediment loads, turbidity, etc., that adversely affect water quality. This condition is required to assure that the discharges from

such activities do not exceed water quality objectives established in Basin Plans, including water quality objectives for oil and grease, pH, sediment, settleable materials, temperature, and turbidity. (Dredge or Fill Procedures, Section IV.B.1.)

- i.** A method of containment must be used below any temporary bridge, trestle, boardwalk, and/or other stream crossing structure to prevent any debris or spills from falling into the waters of the state. Containment must be maintained and kept clean for the life of the temporary crossing structure.

This condition prohibits discharge of materials detrimental to water quality or hazardous to aquatic life are consistent with the Dredge or Fill Procedures, Appendix A, Subpart H, which requires actions to minimize and avoid adverse effects, including actions concerning the location, the material, and controlling the material after the discharge (§ 230.70 et seq.).

- m.** Unless authorized for restoration, material excavated to prepare a site for placement of the permitted fill material must be properly disposed of in an upland area. The disposal site must be located at a sufficient distance away from flowing or standing water such that the excavated material does not erode or move in any way into any water of the state.

This condition prohibits discharge of materials detrimental to water quality or hazardous to aquatic life are consistent with the Dredge or Fill Procedures, Appendix A, Subpart H, which requires actions to minimize and avoid adverse effects, including actions concerning the location, the material, and controlling the material after the discharge (§ 230.70 et seq.).

- n.** For any excavation, including utility line trenches, the top six to twelve (6 to 12) inches of topsoil shall be removed and stockpiled separately during construction. Following installation, the topsoil shall be replaced and seeded with native vegetation.

This condition prohibits discharge of materials detrimental to water quality or hazardous to aquatic life are consistent with the Dredge or Fill Procedures, Appendix A, Subpart H, which requires actions to minimize and avoid adverse effects, including actions concerning the location, the material, and controlling the material after the discharge (§ 230.70 et seq.).

- o.** Any structure, including but not limited to, culverts, pipes, piers, and coffer dams, placed within a stream where fish (as defined in Fish and Game Code section 45) exist or may exist, must be designated, constructed, and maintained such that it does not constitute a barrier to upstream or downstream movement of aquatic life, or cause an avoidance reaction by fish due to impedance of their upstream or

downstream movement. This includes, but is not limited to, maintaining the supply of water, and maintaining flows at an appropriate depth, temperature, and velocity to facilitate upstream and downstream fish migration. If any structure results in a long-term reduction in fish movement, the Permittee shall be responsible for restoration of conditions as necessary (as determined by the State Water Board) to secure passage of fish across the structure.

This condition is required to assure that they do not create physical barriers to fish passage and spawning activities. (Water Quality Control Plan for the San Francisco Region, section 2.1.10.)

7. Culvert Construction or Maintenance

- a.** Cured in Place Pipe (CIPP) is prohibited where it could cause detrimental physiological responses to human, plant, animal, or aquatic life, or cause discharges to waters of the state that do not comply with water quality objectives or goals.
- b.** Replacement of culverts acting as grade control structures is prohibited. A vertical gap between the outlet of the culvert and the immediate downstream invert of the stream channel indicates that the culvert likely functions as a grade control structure.
- c.** Projects proposing to replace culverts must repair any existing scour or headcutting actively discharging sediment, caused by prior culvert design.
- d.** The replaced or maintained culvert shall be in alignment with the stream channel upstream and downstream of the culvert.
- e.** Any replacement culvert or culvert that is to be left in place by a repair or maintenance Project must be placed at a gradient and orientation that will not result in erosional scour at the outlet.
- f.** Replacement of a culvert with a similarly sized culvert is allowable only where there is no visual indication that the existing culvert is undersized. Visual indications of undersized culverts include but are not limited to sediment aggradation upstream of the culvert; evidence of flow over the top of the culvert (e.g., erosional rills in dirt road surfaces or erosion of shoulders adjacent to paved road surfaces), erosion of the fill cell between the culvert and the road surface, scour pools at the culvert outlet, or erosion of creek banks immediately downstream of the culvert.
- g.** Culverts with solid bottoms (e.g., cylindrical culverts or box culverts) may be replaced with arch culverts or free-span bridges, if the existing culvert is not acting as a grade control structure.
- h.** The culvert must not be located in a meander bend of the stream channel.
- i.** Replacement culverts must be sized to convey a one hundred (100)-year flow event with debris, without pressurizing flow passing through the

culvert. The one hundred (100)-year flow event should be modeled under climate change projections, if available.

(Conditions related to culverts and other instream structures are required to assure that they do not result in adverse impacts related to hydromodification. Water Quality Control Plan for the San Francisco Region, section 4.26.7.) Failure to comply with these conditions may trigger bank failure, channel incision, or headcutting along the channel thalweg, creating excess sediment and barriers to fish passage. These impacts can impair beneficial uses including fish migration, fish spawning, wildlife habitat, cold freshwater habitat, preservation of rare and endangered species, and warm freshwater habitat (Water Quality Control Plan for the San Francisco Region, sections 2.1).

8. Toxic and Hazardous Materials

- a.** Activities permitted under this Order shall not discharge toxic substances in concentrations that produce detrimental physiological responses to human, plant, animal, or aquatic life.
- b.** Discharge of unset cement, concrete, grout, damaged concrete spoils, or water that has contacted uncured concrete or cement, or related washout to surface waters, ground waters, or land is prohibited. If concrete washout is necessary at the site, washout containment shall be used to prevent any discharge. Wastewater may only be disposed by delivery to a sanitary wastewater collection system/facility (with authorization from the facility's owner or operator) or a properly licensed disposal or reuse facility.
- c.** Appropriate BMPs must be implemented throughout Project activities to prevent and control potential leaks/spills/drainage of potentially hazardous materials such as: non-petroleum hydraulic fluid; epoxies; paints and other protective coating materials; cement concrete or asphalt concrete; and washings and cuttings thereof.
- d.** Activities permitted under this Order shall not discharge waste classified as "hazardous" as defined in California Code of Regulations title 22, section 66261 and Water Code section 13173. Appropriate BMPs for hazardous substances shall be specified by the Permittee and shall be approved by State Water Board staff prior to Project discharges. These BMPs shall include, at a minimum:
 - i.** All personnel handling fuels and other hazardous materials shall be properly trained.
 - ii.** Adequate spill prevention and cleanup equipment and materials shall be present onsite at all times during Project implementation.
 - iii.** All mechanized equipment shall be maintained in good operating order and inspected on a regular basis.

- iv. All onsite fuel trucks or fuel containers shall be stored in an area where risk of contamination of water bodies by leaks or spills is minimized.
 - v. All equipment shall be fueled, maintained, and/or parked overnight in an upland area at least fifty (50) feet from any delineated waters of the state.
 - vi. Hazardous materials, including chemicals, fuels, and lubricating oils, shall not be stored within one hundred (100) feet of any delineated waters of the state, and shall be stored in appropriate containers with appropriate secondary containment.
 - vii. Pumps or other stationary equipment operating within one hundred (100) feet of a waterbody or wetland shall utilize appropriate secondary containment systems to prevent spills.
 - viii. Any spills or leaks of hazardous materials, chemicals, fuels, lubricants or any other potential pollutants shall be promptly and completely treated using appropriate materials and equipment.
 - ix. Spill containment supplies shall be on site in all work areas in sufficient quantities to allow immediate remediation of fuel, oil, hydraulic fluid or similar leaks and spills.
 - x. A staging area for equipment and vehicle fueling and storage shall be designated at least one hundred (100) feet away from waters of the state, in a location where fluids or accidental discharges cannot flow into waters of the state.
- e. Projects that create new or affect existing wetland areas shall be designed to include features or management measures to reduce the production of methylmercury in the wetland, including minimizing the wetting and drying of soils by keeping wetlands flooded and sediment control measures to reduce the transport of total mercury or methylmercury out of the wetland.

These conditions prohibit discharge of materials detrimental to water quality or hazardous to aquatic life are consistent with the Dredge or Fill Procedures, Appendix A, Subpart H, which requires actions to minimize and avoid adverse effects, including actions concerning the location, the material, and controlling the material after the discharge (§ 230.70 et seq.).

D. Temporary Impact Restoration

1. The Permittee shall restore all areas of temporary impacts to waters of the state and all Project site upland areas of temporary disturbance which could result in a discharge to waters of the state in accordance with the "Marin State Route 1 Capital Preventive Maintenance Project Mitigation and Monitoring Plan" dated May 2023, approved through the issuance of this Order and incorporated herein by reference.

The restoration plan shall be submitted to State Water Board staff for review and approval prior to initiating temporary impacts. Temporary impacts to waters of the state are not authorized and shall not occur until a restoration plan has been approved by State Water Board staff.

2. Total required Project restoration information for temporary impacts is summarized in Table 3.

Table 3: Required Project Restoration Quantity for Temporary Impacts

Aquatic Resource Type	Units	Quantity to be Restored
Stream Channel	Acres	0.0225
Wetland	Acres	0.0565
Riparian Zone	Acres	0.2559

These conditions are necessary to comply with water quality requirements because temporarily impacted areas that are not restored could become permanently impacted and contribute to long-term degradation of water quality. (Dredge or Fill Procedures section IV. A.2(d) & B.4.)

E. Compensatory Mitigation for Permanent Impacts:

Compensatory mitigation is required for permanent physical loss and permanent ecological degradation of a water of the state and may include mitigation for temporary impacts that result from temporal loss of function.

Final Compensatory Mitigation Plan:

The Permittee shall provide compensatory mitigation (see Table 4) for impacts to waters of the state in accordance with Estero Americano Coastal Preserve Mitigation Project (Compensatory Mitigation Plan) dated March 2023 and incorporated herein by reference and approved through the issuance of this Order. Any deviations from, or revisions to, the Compensatory Mitigation Plan must be pre-approved by State Water Board staff. The monitoring period shall continue until the Water Board staff determines that performance standards have been met. This may require the monitoring period to be extended.

Table 4: Total Required Project Compensatory Mitigation Quantity for Permanent Degradation of Ecological Condition

Aquatic Resource Type	Mitigation Type	Units	Est.	Re-est.	Reh.	Enh.	Pres.
Wetland	Permittee-Responsible	Acres				0.0035	
Stream Channel	Permittee-Responsible	Acres				0.0005	
Riparian Habitat	Permittee-Responsible	Acres				0.027	

This condition is necessary to ensure compliance with Executive Order W-59-93 that requires no net loss of the structure or function of California’s wetland resources and the Dredge or Fill Procedures, Section B.1.b.

X. Public Notice

The State Water Board provided public notice of the application pursuant to California Code of Regulations, title 23, section 3858 from April 10, 2023, to May 8, 2023. The State Water Board received one (1) comment. The comment requested clarification regarding the Project’s location. Staff provided additional information that resolved the comment.

XI. California Environmental Quality Act (CEQA)

On August 14, 2020, Caltrans, as lead agency, adopted an IS/MND (State Clearinghouse (SCH) No. 2020029081) for the Project and filed a Notice of Determination (NOD) at the SCH on September 9, 2020. Pursuant to CEQA, the State Water Board has made Findings of Fact (Findings) which support the issuance of this Order and are included in Attachment C.

XII. Fees Received

An application fee of \$2,734 was received on April 28, 2023. The fee amount was determined as required by California Code of Regulations, Title 23, sections 3833(b)(3) and 2200(a)(3) and was calculated as Category A - Fill & Excavation Discharges (Fee Code 84) with the dredge and fill fee calculator.

XIII. Conclusion

I hereby issue the Order for the Marin State Route 1 Capital Preventive Maintenance Project, SB23021IN, certifying that as long as all of the conditions listed in this Order are met, 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). This Order also serves as waste discharge requirements in accordance with State Water Board Water Quality General Order No. 2003-0017-DWQ.

Authorization is contingent on: (a) compliance with the conditions of this Order and the attachments to this Order; and (b) compliance with all applicable requirements of Statewide Water Quality Control Plans and Policies, and the Regional Water Boards' Water Quality Control Plans.

Date

Phillip Crader  Digitally signed by Phillip Crader FOR
Date: 2023.06.15 09:33:54 -07'00'

Karen Mogus, Deputy Director
Division of Water Quality