

State Water Resources Control Board

AMENDED WATER QUALITY ORDER WQ 2024-0052-DWQ CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND ORDER

All changes to this Clean Water Act section 401 Certification and Order issued on May 31, 2024, are shown as additions in underline, and deletions in ~~strike through~~.

Effective Date: Upon Deputy Director's Signature
Expiration Date: Five Years from Effective Date
Project: Napa County State Route 121 Repair and Restoration Project
EA 04-0Q790 (Project)
Project Type: Roads and Highways
Program Type: Fill/Excavation
Identifiers:
WDID No: **SB24042IN**
USACE No: **2023-00565**
Federal Lic: **RGP 33 Permit**
Place ID: **894434**
Reg. Meas. ID: **456567**
Applicant: California Department of Transportation (Caltrans), District 4
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E. JOAQUIN ESQUIVEL, CHAIR | ERIC OPPENHEIMER, EXECUTIVE DIRECTOR

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I. Summary

This grant of Clean Water Act (CWA) section 401 certification with conditions (Order) is issued at the request of the California Department of Transportation (Caltrans), District 4 (hereinafter Permittee) for the Project. The initial application was received on February 28, 2024. A complete application was submitted on April 30, 2024, as verified by Water Board staff.

Pursuant to Section IV.D., the Project is subject to the requirements set forth in sections IV.A and IV.B of the State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State.

II. Findings

- A.** This Order is adopted pursuant to Clean Water Act section 401 and the California Porter-Cologne Water Quality Control Act (Wat. Code § 13000, et seq.). Notwithstanding any determinations made by the U.S. Army Corps of Engineers (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 when in accordance with Water Code section 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 Clean Water Act and the Porter-Cologne Water Quality Control Act.
- C.** In response to a suspected violation of any condition of this Order, the Water Board may require the holder of this Order to furnish, under penalty of perjury, any technical or monitoring reports the Water Boards deem 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 WQ 2022-0057-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 & G. Code, §§ 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 13267 and 13383. 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 of 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 this Project is to stabilize streambank failures caused by heavy seasonal rainfall and prevent further erosion and deterioration of the slopes and embankments along State Route 121.

Project Description: The Permittee proposes activities at three separate locations (labeled 1, 3, and 4) along State Route 121 that impact waters of the state.

Location 1

Rock Slope Protection (RSP). The Project proposes to maintain the existing RSP embankment stabilization at this location, which will be replaced in-kind. The RSP will be placed against the excavated slope, on top of RSP filter fabric, and covered with native soil and hydroseed.

Culvert Replacement. The Project proposes to replace the existing 18-inch corrugated metal pipe with an 18-inch alternative pipe culvert.

Temporary Construction Easement. A 233-square-foot temporary construction easement (TCE) will be acquired along the eastern edge of the Caltrans right of way (ROW), including portions of Sarco Creek. The TCE will allow access for temporary construction equipment as necessary.

Temporary Creek Diversion. The work area is anticipated to be dry during construction. As a precautionary measure, a temporary creek diversion system will be used at the culvert replacement and directly upstream (Location No. 1 PM 13.37). A gravel berm cofferdam will be placed in the creek bed upstream and downstream of the culvert outfall. A temporary diversion pipe will be used to divert any flow around or through the construction area to provide a dry work area and to discharge the water downstream, as needed.

Revegetation and Erosion Control. Erosion control materials and native seed will be applied to all temporarily disturbed areas.

Riparian Tree Trimming. Minor vegetation removal is anticipated for construction access, culvert replacement, and RSP installation activities. Tree trimming may

occur as well; however, due to the size and location of the trees, no permanent impacts are expected.

Location 3

Sheet Pile Wall. The Project proposes to install a 35-foot sheet pile wall along the northbound lane. The top of the sheet pile wall will be flush with the slope embankment. Some backfilling behind the sheet pile wall will be necessary. The backfill material will be either excavation fill material or structural backfill material, either of which will be compacted to a minimum of 90% relative compaction, in compliance with the most recent Caltrans Standard Specifications.

Revegetation and Erosion Control. Erosion control materials and native seed will be applied to all temporarily disturbed areas.

Riparian Tree Trimming. Minor vegetation removal is anticipated for construction access and sheet-pile installation activities. Tree trimming may occur as well; however, due to the size and location of the trees no permanent impacts are expected.

Location 4

RSP. The Project proposes to install up to 8.9 cubic yards of RSP at the northbound embankment to repair the slip out and erosion. The RSP will be placed seven feet from the edge of the travel way and extend up to eight feet eastward and downslope. Prior to RSP placement, loose debris will be removed, followed by excavating two feet below the failure plane boundaries, and RSP filter fabric will be installed.

Temporary Construction Access. A 2,232-square-foot TCE will be acquired along the eastern edge of the ROW, including portions of Capell Creek. The TCE will be used for the RSP placement and maintenance work as necessary.

Revegetation and Erosion Control. Erosion control materials and native seed will be applied to all temporarily disturbed areas. A biofiltration strip will be used as a temporary BMP for treating stormwater runoff along the sloped creek bank adjacent to State Route 121.

Riparian Tree Trimming. A small number of roots may be cut back from riparian trees at Location 4; however, due to the size and location of the tree, no permanent impacts are expected.

Project Location:

County: Napa

Assessor's Parcel Number(s):

Location 1: 033-230-002-000

Location 3: 032-170-015-000; 032-480-024; 032-490-019-000

Location 4: 032-480-008-000; 032-170-013-000

Section, Township, Range, MDB&M:

Location 1: S20 T6N R3W Mount George Quad

Location 3: S28 T7N R3W Capell Valley Quad

Location 4: S29 T7N R3W Capell Valley Quad

Latitude and Longitude:

Location 1: 38.354147, -122.217744

Location 3: 38.417944, -122.205694

Location 4: 38.428250, -122.209944

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 Central Valley 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 the regions 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. Table 1 of Attachment B shows the receiving waters and beneficial uses of waters of the state impacted by the Project. Tables 2 and 3 of Attachment B include individual impact locations and quantities.

V. Description of Direct Impacts to Waters of the State

Direct impacts to waters of the state include placement of fill, including RSP, culvert replacement, and sheet pile wall with backfill material, and grading from construction associated with slope and embankment stabilization.

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

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

Aquatic Resources Type	Acres	Cubic Yards	Linear Feet
Riparian Zone	0.0623 0.0933	2.2	225
Stream Channel	0.0098	50.1	155

Table 2: Total Project Fill/Excavation Quantity for Permanent Physical Loss of Area Impacts

Aquatic Resources Type	Acres	Cubic Yards	Linear Feet
Riparian Zone	0.0040	14.3	51
Stream Channel	0.0004	5.1	16

VI. Description of Indirect Impacts to Waters of the State

The Water Board recognizes the potential for indirect impacts to waters of the state associated with the Project. Potential indirect impacts for all locations include short-term erosion of banks, siltation of receiving waters during construction, and introduction of pollutants to receiving waters during construction.

The conditions set forth in section VIII will avoid and minimize the indirect impacts to waters of the state.

VII. Avoidance and Mitigation

The Permittee will lessen or avoid direct and indirect impacts to waters of the state by limiting construction activities to the Project footprint and designated access routes, clearly delineating Project work areas and environmentally sensitive areas with exclusion fencing, and implementing these Caltrans BMPs:

BIO 1: Environmentally Sensitive Area Designation

BIO 2: Designated Biologist

BIO 3: Worker Environmental Awareness Training for Construction Personnel

BIO 4: Limited Operation Period – In-Water Construction Activities

BIO 5: Limit Vegetation Removal

¹ Includes only temporary direct impacts to waters of the state and does not include area of temporary disturbance outside of waters of the state, which could still result in a discharge of wastes 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.

- BIO 6: Restore and Revegetate Temporarily Disturbed Areas Onsite
- BIO 7: Compensatory Mitigation – Wetlands and Other Waters of the United States
- BIO 8: Compensatory Mitigation – Riparian Vegetation
- BIO 10: Weed-Free Construction Equipment and Vehicles
- BIO 11: Weed Control During Construction
- BIO 12: Weed-Free Erosion Control and Revegetation Treatments
- BIO 16: Salvage Species from Dewatered Areas
- BIO 24: Containment Measures/Construction Site BMPs.

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. Conditions

The Water Board has independently reviewed the record of the Project to analyze impacts to water quality and designated beneficial uses within the watershed of 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:

A. Impacts to Waters of the State

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

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 C, 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 C, which must be signed by the Permittee or an authorized representative.

1. Project Reporting

- a. **Quarterly Reporting:** The Permittee must submit a Quarterly Report to the Water Board. The Quarterly Report is due on the first of the month beginning after the first quarter of active construction. Quarterly reporting shall continue until the Water Board issues a Notice of Project Complete Letter to the Permittee.
- b. **Annual Reporting:** The Permittee shall submit an Annual Report each year on the anniversary of the Order Effective Date. Annual reporting shall continue until the Water Board issues a Notice of Project Complete Letter to the Permittee.

2. Project Status Notifications

- a. **Commencement of Construction:** The Permittee shall submit a Commencement of Construction Report at least seven 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 WQ 2022-0057-DWQ; NPDES No. CAS000002).
- b. **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 Water Board staff within 30 days following completion of all Project activities. Upon approval of the request, the 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 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 (Wat. Code, § 13271):

- i. As soon as (A) 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)

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.)

- 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 the Water Board, as soon as practicable (ideally within 24 hours). Notification may be delivered via written notice, email, or other verifiable means.
 - iii. Within five business days of notification to the Water Board, the Permittee must submit an Accidental Discharge of Hazardous Material Report.
- b. Violation of Water Quality Standards**
- i. The Permittee shall notify the Water Board of any event causing a violation of water quality standards. Notification may be delivered via written notice, email, or other verifiable means.
 - ii. This notification must be followed within three business days by submission of a Violation of Water Quality Standards Report.
- c. In-Water Work and Diversions**
- i. The Permittee shall notify the Water Board at least 48 hours prior to initiating work in water or stream diversions. Notification may be delivered via written notice, email, or other verifiable means.
 - ii. Within 3 business days following completion of work in water or stream diversions, an In-Water Work/Diversions Water Quality Monitoring Report must be submitted to Water Board staff.
- d. Modifications to Project**
- Project modifications may require an amendment of this Order. The Permittee shall give advance notice to 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 Water Board staff of any Project modifications that will interfere with the Permittee's compliance with this Order. Notification may be made in accordance with conditions in the certification deviation section of this Order.
- 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 Water Board in accordance with the following terms:

- i. The Permittee must notify the 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 days prior to the transfer of ownership. The purchaser must also submit a written request to the 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 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 Water Board with a Transfer of Long-Term BMP Maintenance Report at least ten days prior to the transfer of BMP maintenance responsibility.

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, uncured concrete).

2. In-Water Work or Diversions

For projects involving planned work in water or stream diversions, a water quality monitoring plan shall be submitted to Water Board staff for approval at least 30 days in advance of any discharge to the affected water body. Water quality monitoring shall be conducted in accordance with the approved plan. If water quality sampling shows an exceedance of water quality objectives notify the Water Boards in accordance with section VIII.B.3.

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 Water Board in accordance with the Conditional Notifications and Reports section VIII.B.3. Water Board staff may require additional water quality

monitoring based on the discharge constituents and/or related water quality objectives and beneficial uses.

4. Post-Construction

For one year after construction, The the Permittee shall visually inspect the Project site between October 30 and April 15 following each rain event that results in 0.5 inch or more of rainfall in 48 hours to ensure excessive erosion, stream instability, or water quality pollution is not occurring in or downstream of the Project site. If erosion control measures have failed or water quality pollution is occurring, contact the Water Board staff member overseeing the Project within three business days. The Water Board may require the submission of a Violation of Water Quality Standards Report. Additional permits may be required to carry out any necessary site remediation.

D. General Conditions

1. This action 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. **Fees:** This Order is conditioned upon total payment of any fee required under title 23 of the California Code of Regulations.

The total fee amount (application and impact) required by the California Code of Regulations, title 23, sections 3833(b)(3) and 2200(a)(3), Category A Fee Code 84, is \$2,985. The fee total of \$2,985 was received on March 28, 2024.

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 applicable Water Board water quality control plan or policy. The source of any such discharge must be eliminated as soon as practicable.
2. The Project must conform to the engineering plans, specifications, and technical reports submitted with the application materials. Water Code

section 13264 prohibits any discharge that is not specifically authorized in this Order.

3. The Permittee shall adhere to all requirements in the State Route 121 Repair and Restoration Project Mitigation and Monitoring Plan, which is incorporated herein by reference.

F. Administrative

1. Signatory requirements for all document submittals required by this Order are presented in Attachment D of this Order.
2. **Site Access:** The Permittee shall grant Water Board staff, Central Valley Regional Water Quality Control Board and San Francisco Regional Water Quality Control 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 purpose of assuring Order compliance.
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.

G. Construction Conditions

1. All materials and supplies necessary for implementing these construction conditions must be on-site and ready for use at the start of the construction activity and must remain in supply and ready for implementation throughout the construction process. All non-structural BMP materials (e.g., training documents, compliance tracking procedures) must be ready for use at the start of construction.
2. Construction material, debris, rubbish, spoils, soil, silt, sawdust, 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.
3. 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 are 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.
 4. The number of access routes, number and size of staging areas, and the total area of the activity must be limited to the minimum necessary to achieve the Project goal. Routes and work area boundaries must be clearly demarcated.
 5. 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.
 6. 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.
 7. 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.
 - ~~8. Topsoil: For any excavation, including utility line trenches, the top six 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.~~
 8. ~~9.~~ 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 Water Board) to secure passage of fish across the structure.

9. ~~40.~~ **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 Water Board staff.

10. ~~41.~~ **Use of Mechanized Equipment:** Activities permitted under this Order shall be conducted in a manner that minimizes ground disturbance, soil compaction, rutting and other mechanical impacts. Equipment shall be operated and maintained in a manner that reduces the risk of spills or the accidental exposure of fuels or hazardous materials to water bodies or wetlands. Appropriate Project specific BMPs shall be specified by the Permittee and shall be approved by Water Board staff prior to Project discharges.

11. ~~42.~~ **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 100-year flow event with debris, without pressurizing flow passing through the culvert. The 100-year flow event should be modeled under climate change projections, if available.

12.43. 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 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 on site 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 on-site 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 100 feet from any delineated waters of the state.
 - vi. Hazardous materials, including chemicals, fuels, and lubricating oils, shall not be stored within 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 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 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.

13.44. Invasive Species and Soil Borne Pathogens

- a. The Permittee is responsible for ensuring that all Project personnel follow proper weed control practices, and that appropriate weed prevention measures are included in Project plans.
- b. Any straw, hay or other unprocessed plant material used for any purpose must be certified or documented as being weed free.
- c. Soil borne pathogens are any nematodes, or any bacterial, protozoan, viral or fungal pathogens that can cause disease or death to native plants, agricultural crops, or ornamental plants (e.g., *Phytophthora ramorum*, the cause of sudden oak syndrome, and *Phytophthora lateralis*, the cause of Port Orford cedar root disease). Any equipment entering or leaving the Project area from an area of known soil borne pathogen infestation shall be thoroughly cleaned using methods appropriate for the known pathogen before entering or leaving the Project area. The fungus that causes Valley Fever, *Coccidioides spp.*, is not considered a soil borne pathogen in this certification.

14.15. Work in Delineated Waters of the State

- a. Work in waters of the state must not cause or contribute to an exceedance of water quality objectives in the receiving waters. Work in delineated waters commences at the onset of the regulated activity and continues until the activity is finished and all restoration of the affected work area is complete. The term “work” means any ground disturbing activities in any delineated waters of the state that are permitted under this Order, regardless of the presence or absence of flowing or standing water.
- b. Temporary diversions or impoundments of water, cofferdams, or similar structures installed for the purpose of temporary dewatering work areas shall be performed according to the dewatering plan provided by the Permittee, including appropriate monitoring for water quality upstream and downstream of diversion structures as required in the Monitoring section of this Order.
- c. All surface waters, including ponded waters, shall be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to waters of the state.
- d. Except for the following conditions, equipment must not be operated in standing or flowing waters without site specific approval from Water Board staff:
 - i. All construction activities must be effectively isolated from water flows to the greatest extent possible. This may be accomplished by working in the dry season or dewatering the work area in the wet season. When work in standing or flowing water is required, structures for isolating the in-water work area and/or diverting the water flow must not be contaminated by construction activities. All open flow temporary diversion channels must be lined with filter fabric or other appropriate liner material to prevent erosion. Structures used to isolate the in-water work area and/or diverting the water (e.g., coffer dam, geotextile silt curtain) must not be removed until all disturbed areas are stabilized.
 - ii. Cofferdams and water barrier construction must be adequate to prevent seepage into or from the work area to the greatest extent feasible.
 - iii. Flow diversions must be conducted in a manner that prevents pollution and/or siltation and in a manner that restores pre-project flows (except for variation in flows due to seasonality, upstream diversions, etc.) upon completion of the activity. Diverted flows must be of sufficient quality and quantity, and of appropriate temperature, to support existing fish and other aquatic life both above and below the diversion. Diversions must be designed, installed, and maintained to reduce erosion. Pre-project flows must be restored to the affected surface water body upon completion of work at that location.

- e. If groundwater dewatering is required for the Project, the Permittee shall consult with the Water Board to determine if additional permits are required. If additional Water Board permits relating to dewatering are required, the designated Water Board staff contact must be notified and copied on pertinent correspondence pertaining to those other required permits.
- f. All temporary dewatering methods shall be designed to have the minimum necessary impacts to waters of the state. All dewatering methods shall be installed such that natural flow is maintained upstream and downstream of the diversion area. Any temporary dams or diversions shall be installed such that the diversion does not cause sedimentation, siltation, or erosion upstream or downstream of the diversion area. All dewatering methods shall be removed immediately upon completion of activities for which diversions are needed.
- g. All temporary dewatering activities are subject to the work-in-water reporting and monitoring conditions presented in the Monitoring Section of this Order.

15.46- Stormwater

If the Project is required to obtain coverage under the Construction General Permit, the Permittee shall comply with the requirements in the Construction General Permit. Generally, coverage under the Construction General Permit is required for construction activity resulting in a land disturbance of one acre or more, or less than one acre but is part of a larger common plan of development or sale that results in a land disturbance of one acre or more. Covered activities are described with additional detail in the Construction General Permit. Compliance with the Construction General Permit constitutes compliance with Erosion and Sediment Control Conditions 16.a.i-ii and Stormwater Management Conditions 16.b.i-ii, below.

If the Project is not required to obtain coverage under the Construction General Permit, Project plans shall include the appropriate erosion and sediment control and stormwater management conditions described below.

a. Erosion and Sediment Control

- i. No later than 24 hours prior to the start of a likely rain event, the Permittee shall ensure that disturbed areas that drain to waters of the state are protected with correctly installed erosion control measures (e.g., jute, straw, coconut fiber erosion control fabric, coir logs, straw) or revegetated with propagules (seeds, cuttings, divisions) of locally collected native plants. The likely rain event is defined as any weather pattern that is forecast to have a 50 percent or greater probability of producing precipitation in the Project area. The Permittee shall obtain daily a printed copy of the precipitation forecast information (and keep for their record) from the National Weather Service Forecast Office.

- ii. The timing for installation of the post-construction stormwater BMP subdrains, soils, mulch, and plants shall be scheduled to ensure that the installed bioretention areas do not receive runoff from exposed or disturbed areas that have not been landscaped. The constructed post-project stormwater BMPs shall not receive site runoff until all Project landscaping is planted, and effective erosion control measures implemented to ensure that the stormwater features are protected from sediment accumulation.

b. Stormwater Management

- i. Disturbed areas must be temporarily stabilized to prevent erosion and accidental discharge into waters of the state no later than 24 hours prior to any likely precipitation event. A likely precipitation event is any weather pattern that is forecast to have a 50 percent probability of producing precipitation in the Project area, as predicted by the National Weather Service. If commencement of a precipitation event is predicted to begin less than 24 hours after the forecast is issued, temporary stabilization of the disturbed in-water work areas must begin immediately.
- ii. No individual construction activity that could discharge sediment or other pollutants may be initiated if that activity and its associated erosion control measures cannot be completed prior to the onset of precipitation. After any rain event, the Permittee shall inspect all sites currently under construction and all sites scheduled to begin construction within the next 72 hours for erosion and sedimentation problems and take corrective action as needed. Prior to start-up of any phase of the project that may result in sediment-laden runoff to the project site the Permittee shall consult weather forecasts from the National Weather Service, and construction plans made to meet this condition.

H. Temporary Impact Restoration

1. The Permittee submitted the State Route 121 Repair and Restoration Project Draft Mitigation and Monitoring Plan dated February 2024, as part of a complete application. The Permittee shall provide a final restoration plan for review and approval by Water Board staff. Impacts to waters of the state are not authorized and shall not occur until a final plan has been approved by Water Board staff. Upon approval (in writing) by Water Board staff, the Permittee shall implement the approved plan to 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.
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
Riparian Zone/Stream channel	Acres	<u>0.0721</u> 0.1034

I. Compensatory Mitigation for Permanent Impacts:

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

1. Compensatory Mitigation Plan:

- a. The Permittee submitted the State Route 121 Repair and Restoration Project Draft Mitigation and Monitoring Plan dated February 2024, as part of a complete application. The final compensatory mitigation plan shall include all plan elements related to permittee-responsible compensatory mitigation as outlined in the State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State and the State Supplemental Dredge or Fill Guidelines, Subpart J – Compensatory Mitigation for Losses of Aquatic Resources.

2. Permittee-Responsible Compensatory Mitigation Responsibility

- a. Permittee responsible compensatory mitigation shall be completed within one year of authorized impacts.
- b. The Permittee is responsible for the required compensatory mitigation in perpetuity. However, the Permittee may transfer the compensatory mitigation requirements associated with long-term management when the following conditions have been met:
 - i. Performance standards are met.
 - ii. A Transfer Agreement to a third party has been approved by Water Board staff.
 - iii. An endowment fund has been provided by the Permittee to a third party for management in perpetuity of the mitigation site.
 - iv. A conservation easement, deed restriction, or other appropriate restrictive covenant for the mitigation site has been recorded and approved by Water Board staff.
- c. Transfer of Long-Term Permittee-Responsible Compensatory Mitigation and Management Responsibility
 - i. A transfer agreement shall be submitted from an authorized representative of the new party (transferee) for acceptance by Water Board staff. This agreement shall demonstrate acceptance and understanding of the responsibility to comply with and fully satisfy the required compensatory mitigation and long-term management

conditions. Failure to comply with the mitigation conditions and associated requirements may subject the transferee to enforcement by the Water Board.

- ii. Notification of transfer of responsibilities meeting the above condition must be provided to the Water Board staff. A draft transfer agreement shall be submitted to Water Board staff no less than 30 days prior to the transfer of the mitigation responsibility. A final transfer agreement shall be submitted to Water Board staff within 30 days of the completion of the transfer.

3. Total Required Compensatory Mitigation

- a. The Permittee is required to provide compensatory mitigation for the authorized impact to riparian zone/stream channel by onsite permittee-responsible mitigation.
- b. Total required Project compensatory mitigation information for permanent physical loss of area and degradation of ecological condition is summarized in Table 4.

Table 4: Total Required Project Compensatory Mitigation Quantity for Permanent Physical Loss of Area and Degradation of Ecological Condition

Aquatic Resource Type	Mitigation Type	Units	Minimum Quantity to be Enhanced
Riparian Zone/Stream channel	Permittee-Responsible	Acres	$\frac{0.037}{0.109}$

J. Certification Deviation

- 1. Minor modifications of Project locations or predicted impacts may be necessary as a result of unforeseen field conditions, necessary engineering re-design, construction concerns, or similar reasons. Some of these prospective Project modifications may have impacts on water quality. Some modifications of Project locations or predicted impacts may qualify as Certification Deviations as set forth in Attachment E. For purposes of this Certification, a “Certification Deviation” is a Project locational or impact modification that does not require an immediate amendment of the Order, because the Water Board has determined that any potential water quality impacts that may result from the change are sufficiently addressed by the Order conditions and the CEQA Findings. After the termination of construction, this Order will be formally amended to reflect all authorized Certification Deviations and any resulting adjustments to the amount of water resource impacts and required compensatory mitigation amounts.

2. A Project modification shall not be granted a Certification Deviation if it would require changes to the Order conditions such that the Project no longer qualifies for a categorical exemption. In this case a supplemental environmental review and different Order will be required.

IX. Public Notice

The Water Board complied with its applicable public notice requirements. The Water Board provided public notice of the application pursuant to California Code of Regulations, title 23, section 3858 from May 1, 2024, to May 22, 2024. The Water Board did not receive any comments during the comment period.

X. California Environmental Quality Act (CEQA)

The issuance of this Order and the activities described herein meet the exemption criteria under California Code of Regulations, Title 14, section(s) 15300 et seq. Categorically Exemption Class 1(d) pertaining to Existing Facilities. Additionally, the Water Board concludes that no exceptions to the CEQA exemption apply to the activities approved by this Order.

The Water Board will file a Notice of Exemption with the State Clearinghouse within five business days from the issuance of this Order.

XI. Petitions for Reconsideration

Any person aggrieved by this action may petition the Water Board to reconsider this Order in accordance with California Code of Regulations, title 23, section 3867. A petition for reconsideration must be submitted in writing and received within 30 calendar days of the issuance of this Order.


XII. Water Quality Certification

I hereby issue the Order for the Napa County State Route 121 Repair and Restoration Project EA 04-0Q790, SB24042IN, 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 discharge is also regulated pursuant to Water Board Water Quality Order No. 2003-0017-DWQ which authorizes this Order to serve as Waste Discharge Requirements pursuant to the Porter-Cologne Water Quality Control Act (Wat. Code, § 13000 et seq.).

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
Date: 2024.10.29 10:33:39 -07'00'
Water Boards

Phillip Crader, Deputy Director
Division of Water Quality