

FOR CONTRACT NO.: 03-0E9304

INFORMATION HANDOUT

WATER QUALITY

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION**

**WDID NO. 5A04CR00189
NPDES PERMIT NO. CAS 000003**

PERMITS

**UNITED STATES ARMY CORPS OF ENGINEERS
NON-REPORTING NATIONWIDE 404 PERMIT**

ROUTE: 03-But-70-3.3/6.1



Linda S. Adams
Secretary for
Environmental
Protection

California Regional Water Quality Control Board Central Valley Region

Katherine Hart, Chair

415 Knollcrest Drive, Suite 100, Redding, California 96002
(530) 224-4845 • Fax (530) 224-4857



Arnold
Schwarzenegger
Governor

21 July 2010

Mr. Martin Villanueva
California Department of Transportation
703 B Street
Marysville, CA 95901

CLEAN WATER ACT §401 TECHNICALLY CONDITIONED WATER QUALITY CERTIFICATION FOR DISCHARGE OF DREDGED AND/OR FILL MATERIALS FOR THE STATE ROUTE 70 PASSING LANE PROJECT (WDID#5A04CR00189), GRIDLEY, BUTTE COUNTY

ACTION:

1. Order for Standard Certification
2. Order for Technically-conditioned Certification
3. Order for Denial of Certification

WATER QUALITY CERTIFICATION STANDARD CONDITIONS:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and §3867 of Title 23 of the California Code of Regulations (23 CCR).
2. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. The validity of any non-denial certification action shall be conditioned upon total payment of the full fee required under 23 CCR §3833, unless otherwise stated in writing by the certifying agency.
4. Certification is valid for the duration of the described project. Caltrans shall notify the Central Valley Water Board in writing within 7 days of project completion.

ADDITIONAL TECHNICALLY CONDITIONED CERTIFICATION CONDITIONS:

In addition to the four standard conditions, Caltrans shall satisfy the following:

1. Caltrans shall notify the Central Valley Water Board in writing 7 days in advance of the start of any in-water activities.
2. Except for activities permitted by the U.S. Army Corps under §404 of the Clean Water Act, soil, silt, or other organic materials shall not be placed where such materials could pass into surface water or surface water drainage courses.
3. All areas disturbed by project activities shall be protected from washout or erosion.
4. Caltrans shall maintain a copy of this Certification and supporting documentation (Project Information Sheet) at the Project site during construction for review by site personnel and agencies. All personnel (employees, contractors, and subcontractors) performing work on the proposed project shall be adequately informed and trained regarding the conditions of this Certification.
5. An effective combination of erosion and sediment control Best Management Practices (BMPs) must be implemented and adequately working during all phases of construction.
6. All temporarily affected areas will be restored to pre-construction contours and conditions upon completion of construction activities.
7. Caltrans shall perform surface water sampling: 1) When performing any in-water work; 2) In the event that project activities result in any materials reaching surface waters or; 3) When any activities result in the creation of a visible plume in surface waters. The following monitoring shall be conducted immediately upstream out of the influence of the project and 300 feet downstream of the active work area. Sampling results shall be submitted to this office within two weeks of initiation of sampling and every two weeks thereafter. The sampling frequency may be modified for certain projects with written permission from the Central Valley Water Board.

Parameter	Unit	Type of Sample	Frequency of Sample
Turbidity	NTU	Grab	Every 4 hours during in water work
Settleable Material	ml/l	Grab	Same as above.
Visible construction related pollutants	Observations	Visible Inspections	Continuous throughout the construction period

8. Activities shall not cause turbidity increases in surface water to exceed:
- (a) where natural turbidity is less than 1 Nephelometric Turbidity Units (NTUs), controllable factors shall not cause downstream turbidity to exceed 2 NTU;
 - (b) where natural turbidity is between 1 and 5 NTUs, increases shall not exceed 1 NTU;
 - (c) where natural turbidity is between 5 and 50 NTUs, increases shall not exceed 20 percent;
 - (d) where natural turbidity is between 50 and 100 NTUs, increases shall not exceed 10 NTUs;
 - (e) where natural turbidity is greater than 100 NTUs, increases shall not exceed 10 percent.

Except that these limits will be eased during in-water working periods to allow a turbidity increase of 15 NTU over background turbidity as measured in surface waters 300 feet downstream from the working area. In determining compliance with the above limits, appropriate averaging periods may be applied provided that beneficial uses will be fully protected. Averaging periods may only be assessed by prior permission of the Central Valley Water Board.

9. Activities shall not cause settleable matter to exceed 0.1 ml/l in surface waters as measured in surface waters 300 feet downstream from the project.
10. The discharge of petroleum products or other excavated materials to surface water is prohibited. Activities shall not cause visible oil, grease, or foam in the work area or downstream. Caltrans shall notify the Central Valley Water Board immediately of any spill of petroleum products or other organic or earthen materials.
11. Caltrans shall notify the Central Valley Water Board immediately if the above criteria for turbidity, settleable matter, oil/grease, or foam are exceeded.
12. Caltrans shall comply with all Department of Fish and Game 1600 requirements for the project.
13. The California Department of Transportation shall comply with their General NPDES Permit Order No 99-06-DWQ (NPDES No. CAS 000003) issued by the State Water Resources Control Board.
14. The Conditions in this water quality certification are based on the information in the attached "Project Information." If the information in the attached Project Information is modified or the project changes, this water quality certification is no longer valid until amended by the Central Valley Water Board.
15. 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 law and section 401 (d) of the federal Clean Water Act. The applicability of any State law authorizing remedies, penalties, process, or sanctions for the violation or threatened violation constitutes a limitation necessary to ensure compliance into this Order.

- a. If Caltrans or a duly authorized representative of the project fails or refuses to furnish technical or monitoring reports, as required under this Order, or falsifies any information provided in the monitoring reports, the applicant is subject to civil, for each day of violation, or criminal liability.
- b. In response to a suspected violation of any condition of this Order, the Central Valley Water Board may require Caltrans to furnish, under penalty of perjury, any technical or monitoring reports the Central Valley Water Board deems appropriate, provided that the burden, including cost of the reports, shall be in reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
- c. Caltrans shall allow the staff(s) of the Central Valley Water Board, or an authorized representative(s), upon the presentation of credentials and other documents, as may be required by law, to enter the project premises for inspection, including taking photographs and securing copies of project-related records, for the purpose of assuring compliance with this certification and determining the ecological success of the project.

ADDITIONAL STORM WATER QUALITY CONDITIONS:

Caltrans shall also satisfy the following additional storm water quality conditions:

1. During the construction phase, Caltrans must employ strategies to minimize erosion and the introduction of pollutants into storm water runoff. These strategies must include the following:
 - (a) the Storm Water Pollution Prevention Plan (SWPPP) must be prepared during the project planning and design phases and before construction;
 - (b) an effective combination of erosion and sediment control Best Management Practices (BMPs) must be implemented and adequately working prior to the rainy season and during all phases of construction.
2. Caltrans must minimize the short and long-term impacts on receiving water quality from the State Route 70 Passing Lane Project by implementing the following post-construction storm water management practices:
 - (a) minimize the amount of impervious surface;
 - (b) reduce peak runoff flows;
 - (c) provide treatment BMPs to reduce pollutants in runoff;
 - (d) ensure existing waters of the State (e.g., wetlands, vernal pools, or creeks) are not used as pollutant source controls and/or treatment controls;
 - (e) preserve and, where possible, create or restore areas that provide important water quality benefits, such as riparian corridors, wetlands, and buffer zones;
 - (f) limit disturbances of natural water bodies and natural drainage systems caused by development (including development of roads, highways, and bridges);
 - (g) use existing drainage master plans or studies to estimate increases in pollutant loads and flows resulting from projected future development and require

- incorporation of structural and non-structural BMPs to mitigate the projected pollutant load increases in surface water runoff;
- (h) identify and avoid development in areas that are particularly susceptible to erosion and sediment loss, or establish development guidance that protects areas from erosion/ sediment loss;
 - (i) control post-development peak storm water run-off discharge rates and velocities to prevent or reduce downstream erosion, and to protect stream habitat.
3. Caltrans must ensure that all development within the project provides verification of maintenance provisions for post-construction structural and treatment control BMPs. Verification shall include one or more of the following, as applicable:
- (a) the developer's signed statement accepting responsibility for maintenance until the maintenance responsibility is legally transferred to another party; or
 - (b) written conditions in the sales or lease agreement that require the recipient to assume responsibility for maintenance; or
 - (c) written text in project conditions, covenants and restrictions for residential properties assigning maintenance responsibilities to a home owner's association, or other appropriate group, for maintenance of structural and treatment control BMPs; or
 - (d) any other legally enforceable agreement that assigns responsibility for storm water BMP maintenance.
4. Staff of the Central Valley Water Board has prepared total maximum daily load (TMDL) allocations that, once approved, would limit methylmercury in storm water discharges to the Sacramento-San Joaquin Delta. The Central Valley Water Board has scheduled these proposed allocations to be considered for adoption. When the Central Valley Water Board adopts the TMDL and once approved by the Environmental Protection Agency, the discharge of methylmercury may be limited from the proposed project. The purpose of this condition is to provide notice to Caltrans that methylmercury discharge limitations and monitoring requirements may apply to this project in the future and also to provide notice of the Central Valley Water Board's TMDL process and that elements of the planned construction may be subject to a TMDL allocation.

REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON:

Scott A. Zaitz, R.E.H.S., Redding Branch Office, 415 Knollcrest Drive, Suite 100, Redding, California 96002, szaitz@waterboards.ca.gov, (530) 224-4784

WATER QUALITY CERTIFICATION:

I hereby issue an order certifying that any discharge from California Department of Transportation, State Route 70 Passing Lane Project (WDID# 5A04CR00189) will comply with the applicable provisions of §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") of the Clean Water Act. This discharge is also regulated under State Water Resources Control Board Water Quality Order No. 2003-0017 DWQ "Statewide General

Waste Discharge Requirements For Dredged Or Fill Discharges That Have Received State Water Quality Certification (General WDRs)".

Except insofar as may be modified by any preceding conditions, all certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with Caltrans project description and the attached Project Information Sheet, and (b) compliance with all applicable requirements of the Regional Water Quality Control Board's Water Quality Control Plan (Basin Plan).



(for) PAMELA C. CREEDON
Executive Officer

SAZ: knr

Enclosure: Project Information

cc: Ms. Leah Fisher, U.S. Army Corp of Engineers, Sacramento
U.S. Fish and Wildlife Service, Sacramento
Department of Fish and Game, Region 2, Rancho Cordova
Mr. Bill Jennings, CALSPA, Stockton

cc by email: Mr. Dave Smith, U.S. EPA, Region 9, San Francisco
Mr. Bill Orme, SWRCB, Certification Unit, Sacramento

PROJECT INFORMATION

Application Date: 27 April 2010

Applicant: Caltrans, Attn: Mr. Martin Villanueva

Applicant Representatives: Not Applicable

Project Name: State Route 70 Passing Lane Project

Application Number: WDID No. 5A04CR00189

U.S. Army Corps File Number: Nationwide Permit No. 23 (Approved Categorical Exclusions)

Type of Project: Construct a passing lane on State Route 70.

Project Location: The project is located on State Route 70 in Butte County, between Post Miles 3.3 and 6.1, beginning approximately 0.7 miles south of E. Gridley Road to 0.5 miles north of Cox Lane, Section 26 & 35, Township 17 & 18 North, Range 3 East, MDB&M. Latitude: 39°22'27" and Longitude: -121°36'43"

County: Butte County

Receiving Water(s) (hydrologic unit): Unnamed roadside drainages, tributary to Wyman Ravine, which is tributary to Feather River River. Marysville Hydrologic Unit-Lower Feather River Hydrologic Area No. 515.40

Water Body Type: Wetlands, Vernal Pools

Designated Beneficial Uses: The Basin Plan for the Central Valley Water Board has designated beneficial uses for surface and ground waters within the region. Beneficial uses that could be impacted by the project include: Agricultural Supply (AGR); Industrial Supply (IND), Hydropower Generation (POW); Groundwater Recharge, Water Contact Recreation (REC-1); Non-Contact Water Recreation (REC-2); Warm Freshwater Habitat (WARM); Cold Freshwater Habitat (COLD); Warm Freshwater Migration (MIGR); Cold Freshwater Migration (MIGR); Warm & Cold Water Spawning (SPWN); and Wildlife Habitat (WILD).

Project Description (purpose/goal): The State Route 70 Passing Lanes Project will extend the existing northbound and southbound passing lanes through the E. Gridley Road intersection to improve operational efficiency and safety for local traffic and out-of-town travelers. To enable through-traffic, commuters, and truck traffic to maintain a steady flow, this project will also add turn pocket lanes to enable safer turning movements and to allow local traffic and farm machinery access to their private driveways, field, and local streets that connect into the highway.

Preliminary Water Quality Concerns: Construction activities may impact surface waters with increased turbidity and settleable matter.

Proposed Mitigation to Address Concerns: Caltrans will implement Best Management Practices (BMPs) to control sedimentation and erosion. All temporary affected areas will be restored to pre-construction contours and conditions upon completion of construction activities. Caltrans will conduct turbidity and settleable matter testing during in-water work, stopping work if Basin Plan criteria are exceeded or are observed.

Fill/Excavation Area: Project implementation will permanently impact 0.085 acre of Seasonal Wetlands, 0.048 acre of Perennial Wetlands, 0.54 acre of Vernal Pools, and impact 0.24 acre of Agricultural ditches.

Dredge Volume: Not Applicable

U.S. Army Corps of Engineers Permit Number: Nationwide Permit # 23

Department of Fish and Game Streambed Alteration Agreement: Not Applicable

Possible Listed Species: Vernal pool fairy shrimp, and vernal pool tadpole shrimp.

Status of CEQA Compliance: Caltrans signed an Environmental Initial Study on 27 February 2008 approving a Negative Declaration stating the project will not have a significant effect on the environment.

Caltrans signed a Categorical Exemption on 29 February 2008, stating the project will not have a significant effect on the environment as defined by NEPA and is excluded from the requirements to prepare an Environmental Assessment or Impact Statement, and has considered unusual circumstances pursuant to 23 CFR 771.117(b), Section 6004.

Compensatory Mitigation: Caltrans, in cooperation with the Butte County Association of Governments, will create a total of 4.7 acres of vernal pool habitat at Caltrans' Singer Creek Property. A portion of those created acres, 0.92, will be used to mitigate impacts to Waters of the U.S. for the Butte 70 Passing Lanes Project. This mitigation will satisfy the USACE policy of "no net loss" of wetlands or special aquatic site resources.

Caltrans purchased 5.64 acres of vernal pool preservation credits from the Caltrans Cottonwood Multi-Project Conservation Area, for the unavoidable impacts to 0.133 acre of jurisdictional wetlands and 2.40 acres of vernal pools for the purchase price of \$250,000.00. The Compensatory Mitigation Site is located in Chico, Section 33, Township 24 North, Range 1 West, Tehama County.

Application Fee Provided: Certification fees of \$3,172.00 was submitted as required by 23 CCR §3833b(3)(A) and by 23 CCR §2200(e). A remaining certification fee of \$14,191.00 was received on 1 July 2010 as required by 23 CCR §3833b(2)(A) and by 23 CCR § 2200(e).

STATE WATER RESOURCES CONTROL BOARD

WATER QUALITY ORDER NO. 2003 - 0017 - DWQ

**STATEWIDE GENERAL WASTE DISCHARGE REQUIREMENTS FOR
DREDGED OR FILL DISCHARGES THAT HAVE RECEIVED
STATE WATER QUALITY CERTIFICATION (GENERAL WDRs)**

The State Water Resources Control Board (SWRCB) finds that:

1. Discharges eligible for coverage under these General WDRs are discharges of dredged or fill material that have received State Water Quality Certification (Certification) pursuant to federal Clean Water Act (CWA) section 401.
2. Discharges of dredged or fill material are commonly associated with port development, stream channelization, utility crossing land development, transportation water resource, and flood control projects. Other activities, such as land clearing, may also involve discharges of dredged or fill materials (e.g., soil) into waters of the United States.
3. CWA section 404 establishes a permit program under which the U.S. Army Corps of Engineers (ACOE) regulates the discharge of dredged or fill material into waters of the United States.
4. CWA section 401 requires every applicant for a federal permit or license for an activity that may result in a discharge of pollutants to a water of the United States (including permits under section 404) to obtain Certification that the proposed activity will comply with State water quality standards. In California, Certifications are issued by the Regional Water Quality Control Boards (RWQCB) or for multi-Region discharges, the SWRCB, in accordance with the requirements of California Code of Regulations (CCR) section 3830 et seq. The SWRCB's water quality regulations do not authorize the SWRCB or RWQCBs to waive certification, and therefore, these General WDRs do not apply to any discharge authorized by federal license or permit that was issued based on a determination by the issuing agency that certification has been waived. Certifications are issued by the RWQCB or SWRCB before the ACOE may issue CWA section 404 permits. Any conditions set forth in a Certification become conditions of the federal permit or license if and when it is ultimately issued.
5. Article 4, of Chapter 4 of Division 7 of the California Water Code (CWC), commencing with section 13260(a), requires that any person discharging or proposing to discharge waste, other than to a community sewer system, that could affect the quality of the waters of the State,¹ file a report of waste discharge (ROWD). Pursuant to Article 4, the RWQCBs are required to prescribe waste discharge requirements (WDRs) for any proposed or existing discharge unless WDRs are waived pursuant to CWC section 13269. These General WDRs fulfill the requirements of Article 4 for proposed dredge or fill discharges to waters of the United States that are regulated under the State's CWA section 401 authority.

¹ "Waters of the State" as defined in CWC Section 13050(e)

6. These General WDRs require compliance with all conditions of Certification orders to ensure that water quality standards are met.
7. The U.S. Supreme Court decision of *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers*, 531 U.S. 159 (2001) (the *SWANCC* decision) called into question the extent to which certain “isolated” waters are subject to federal jurisdiction. The SWRCB believes that a Certification is a valid and enforceable order of the SWRCB or RWQCBs irrespective of whether the water body in question is subsequently determined not to be federally jurisdictional. Nonetheless, it is the intent of the SWRCB that all Certification conditions be incorporated into these General WDRs and enforceable hereunder even if the federal permit is subsequently deemed invalid because the water is not deemed subject to federal jurisdiction.
8. The beneficial uses for the waters of the State include, but are not limited to, domestic and municipal supply, agricultural and industrial supply, power generation, recreation, aesthetic enjoyment, navigation, and preservation and enhancement of fish, wildlife, and other aquatic resources.
9. Projects covered by these General WDRs shall be assessed a fee pursuant to Title 23, CCR section 3833.
10. These General WDRs are exempt from the California Environmental Quality Act (CEQA) because (a) they are not a “project” within the meaning of CEQA, since a “project” results in a direct or indirect physical change in the environment (Title 14, CCR section 15378); and (b) the term “project” does not mean each separate governmental approval (Title 14, CCR section 15378(c)). These WDRs do not authorize any specific project. They recognize that dredge and fill discharges that need a federal license or permit must be regulated under CWA section 401 Certification, pursuant to CWA section 401 and Title 23, CCR section 3855, et seq. Certification and issuance of waste discharge requirements are overlapping regulatory processes, which are both administered by the SWRCB and RWQCBs. Each project subject to Certification requires independent compliance with CEQA and is regulated through the Certification process in the context of its specific characteristics. Any effects on the environment will therefore be as a result of the certification process, not from these General WDRs. (Title 14, CCR section 15061(b)(3)).
11. Potential dischargers and other known interested parties have been notified of the intent to adopt these General WDRs by public hearing notice.
12. All comments pertaining to the proposed discharges have been heard and considered at the November 4, 2003 SWRCB Workshop Session.
13. The RWQCBs retain discretion to impose individual or general WDRs or waivers of WDRs in lieu of these General WDRs whenever they deem it appropriate. Furthermore, these General WDRs are not intended to supersede any existing WDRs or waivers of WDRs issued by a RWQCB.

IT IS HEREBY ORDERED that WDRs are issued to all persons proposing to discharge dredged or fill material to waters of the United States where such discharge is also subject to the water quality certification requirements of CWA section 401 of the federal Clean Water Act (Title 33 United States Code section 1341), and such certification has been issued by the applicable RWQCB or the SWRCB, unless the applicable RWQCB notifies the applicant that its discharge will be regulated through WDRs or waivers of WDRs issued by the RWQCB. In order to meet the provisions contained in Division 7 of CWC and regulations adopted thereunder, dischargers shall comply with the following:

1. Dischargers shall implement all the terms and conditions of the applicable CWA section 401 Certification issued for the discharge. This provision shall apply irrespective of whether the federal license or permit for which the Certification was obtained is subsequently deemed invalid because the water body subject to the discharge has been deemed outside of federal jurisdiction.
2. Dischargers are prohibited from discharging dredged or fill material to waters of the United States without first obtaining Certification from the applicable RWQCB or SWRCB.

CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on November 19, 2003.

AYE: Arthur G. Baggett, Jr.
Peter S. Silva
Richard Katz
Gary M. Carlton
Nancy H. Sutley

NO: None.

ABSENT: None.

ABSTAIN: None.


Debbie Irvin
Clerk to the Board



DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO CA 95814-2922

REPLY TO
ATTENTION OF

August 25, 2010

Regulatory Division (SPK-2010-00358)

Susan Bauer
State of California
Department of Transportation, District 3
703 B Street, P.O. Box 911
Marysville, California 95901

Dear Ms. Bauer:

We are responding to your March 26, 2010, request for a Department of the Army permit for the State Route 70 Passing Lanes Project (03-0E9304). This 2.4-mile long project involves activities, including the discharge of dredged or fill material into Waters of the United States to; extend the existing north bound and south bound passing lanes, add turn pocket lanes, and complete associated work required for the project. The project is located on State Route 70 from Post Mile (PM) 3.3 to PM 6.1, Section 35, Township 18 North, Range 3 East, MDB&M Survey, Latitude 39.374593°, Longitude -121.608278°, south of the town of Oroville, Butte County, California.

Based on the information you provided, the proposed activities in approximately 0.92 acres of Waters of the United States, located in the areas identified in the attached *Caltrans' Impacts Mapping, Sheets 1-15*, dated June 2010, are authorized by Nationwide Permit Number 23, Approved Categorical Exclusions. Your work must comply with the general terms and conditions listed on the enclosed Nationwide Permit 23 information sheets and the following special conditions:

Special Conditions:

1. All terms and conditions of the July 21, 2010 Section 401 Water Quality Certification are expressly incorporated as conditions of this permit.
2. We understand the State of California, Department of Transportation (Caltrans) is the National Environmental Policy Act (NEPA) lead federal agency for this project, and as such, will ensure the authorized work complies with the National Environmental Policy Act, the Endangered Species Act, the National Historical Preservation Act and any other applicable federal laws. This authorization is contingent upon the permittee implementing all actions necessary to comply with these requirements.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify the appropriate Caltrans and U.S. Army Corps of Engineers Regulatory offices of what you have found. Caltrans acting as the lead Federal agency for this project may consult as appropriate to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register, pursuant to 36 CFR Part 800, as amended 8/05/2004.
4. This Corps permit does not authorize you to take an endangered species, in particular vernal pool tadpole shrimp (*Lepidurus packardii*) and vernal pool fairy shrimp (*Branchinecta lynchi*), or designated critical habitat. In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (e.g., an Endangered Species Act Section 10 permit, or a Biological Opinion under Endangered Species Act Section 7, with "incidental take" provisions with which you must comply). To ensure your project complies with the Federal Endangered Species Act, you must implement all of the mitigating measures identified in the enclosed U.S. Fish and Wildlife Service (USFWS) letter of concurrence #81420-2008-F-0414, dated January 17, 2008, including those ascribed to the California Department of Transportation (Caltrans) therein. If you are unable to implement any of these measures, you must immediately notify the appropriate Caltrans office, the U.S. Army Corps of Engineers Regulatory office, and the appropriate USFWS office so that Caltrans acting as the lead Federal agency for this project may consult as appropriate, prior to initiating the work, in accordance with Federal law.
5. To mitigate for the permanent loss of 0.54 acres of vernal pools, 0.085 acres of seasonal wetlands, and 0.048 acres of perennial wetlands, you shall purchase 0.54 acres of created vernal pool credits, 0.085 acres of created seasonal wetlands credits, and 0.048 acres of created perennial wetlands credits at a Corps approved wetland mitigation bank. The selected mitigation bank shall include the area of the permitted project within its service area. Evidence of this purchase shall be provided to this office prior to proceeding with any activity otherwise authorized by this permit. Or, you shall submit a check in the amount of \$208,950.00 payable to the National Fish and Wildlife Foundation (NFWF). The *Lower Feather* Hydrologic Unit Code, #18020106, must be indicated in the in-lieu fee agreement in order to insure the proper location of future mitigation. Prior to proceeding with any activity otherwise authorized by this permit, we must receive notification from you that your in-lieu fees have been deposited into NFWF's Sacramento District Wetlands Conservation Fund.
6. To mitigate for 2.82 acres of direct and indirect effects authorized by this permit, you shall purchase 2.82 acres of vernal pool preservation credits at a Corps or USFWS approved wetland/conservation mitigation bank. The selected mitigation bank shall include the area of the permitted project within its service area. Evidence of this purchase shall be provided to this office prior to proceeding with any activity otherwise authorized by this permit.
7. To mitigate for the loss of approximately 24, 200 linear feet of Waters of the U.S. (vegetated roadside ditches), you shall re-create approximately 24, 200 linear feet of vegetated roadside ditches on-site. The impacted roadside ditches shall be replaced with vegetated biofiltration swales/strips where practicable, in accordance with Caltrans specifications, as indicated on the attached *Biofiltration Map Sheet*, dated June 23, 2010.

8. All equipment staging, including Temporary Construction Areas (TCA's), shall take place within Caltrans approved areas within the project boundary. Prior to construction implementation, you shall ensure all equipment staging, TCA's, demolition and excavation, off pavement detours, borrow and fill areas, and upland disposal areas have been evaluated under National Environmental Policy Act, Section 401 and 404 of the Clean Water Act, Section 7 of the Endangered Species Act and Section 106 of the National Historical Preservation Act and all required permits have been obtained.
9. Prior to proceeding with any activity otherwise authorized by this permit, you shall install Environmentally Sensitive Area (ESA) fencing and employ appropriate water quality protection measures and/or Best Management Practices (BMP's) identified on the enclosed Caltrans' *Impacts Mapping, Sheets 1-13*, dated June 2010, to ensure unauthorized fills and unforeseen impacts to Waters of the U.S. are avoided. All fencing surrounding avoidance areas shall allow unrestricted visibility of these areas to discourage vandalism, destruction or disturbance. An example of fencing includes high-visibility orange plastic or similar type.
10. Temporary fills, access roads and/or work structures shall be removed in their entirety and the affected areas returned to pre-construction elevations, contours and conditions within 30 days of activity completion. The affected areas must be revegetated with appropriate native trees, shrubs and/or seed mix, using techniques or other methods approved by Caltrans.
11. You shall follow Caltrans specifications and standards described in the Storm Water Pollution Prevention Plan (SWPPP) and/or Water Pollution Control Plan (WPCP), to prevent erosion and sedimentation during and after construction. Construction work within Waters of the U. S. shall be performed when the flows are at their seasonal low or when they have ceased and the areas are dry, typically late summer through early fall. Between construction seasons all equipment and materials, with the exception of ESA fencing, will be removed from Waters of the U.S. and all disturbed areas will be stabilized to prevent erosion and sedimentation.
12. You shall have a biological monitor, who is familiar with aquatic resources and buffer habitat, monitor all construction activities within special aquatic sites, including vernal pools and wetlands, and within 100 feet of avoided waters. The monitor shall ensure unauthorized activities do not occur within avoided Waters of the U.S. during project implementation. The monitor shall have the authority to stop work immediately, if unauthorized activities occur.
13. You shall notify the Sacramento District, Regulatory Division Office immediately if any of the above conditions are violated or unauthorized activities occur, and shall provide a description of measures taken to remedy the violation.
14. The Permittee is responsible for all work authorized herein. To ensure that involved contractors are aware of the terms, conditions and limitations of this authorization, the permittee shall post a copy of the permit authorization and associated drawings at the project site during all phases of construction to ensure that contractors are aware of the terms and conditions of the authorization.

15. To ensure avoidance and minimization measures are successful and temporary fills have been removed, you shall take pre-construction, numbered and dated, photographs of the affected Waters of the U.S. no more than one year **prior** to construction impact. You shall take post-construction, numbered and dated, photographs of the affected Waters of the U.S. within 30 days **after** construction impact. You shall submit the photographs within 30 days after construction completion. The camera positions and view angles of pre- and post-photographs shall be identical and taken from designated locations documented on the plan drawing(s).
16. You shall notify this office of the start of the authorized work within seven (7) calendar days of initiating construction activities. Along with this notification, you shall submit a copy of the project construction/work schedule or similar report.
17. You must allow representatives from the Corps of Engineers to inspect the authorized activity and any mitigation, preservation, or avoidance areas at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.
18. You shall notify this office of any proposed modifications to the project, including revisions to any of the work plans or documents cited in this authorization, for review and approval prior to construction work associated with the proposed modification.
19. You must sign the enclosed *Compliance Certification* form and return it to this office within 30 days after completion of the authorized work in Waters of the U.S.

This verification is valid for two years from the date of this letter or until the Nationwide Permit is modified, reissued, or revoked, whichever comes first. All of the existing NWP's are scheduled to be modified, reissued, or revoked prior to March 18, 2012. It is incumbent upon you to remain informed of changes to the NWP's. We will issue a public notice when the NWP's are reissued. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant NWP is modified or revoked, you will have twelve (12) months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this nationwide permit. Failure to comply with the General Conditions of this Nationwide Permit, or the project-specific Special Conditions of this authorization, may result in the suspension or revocation of your authorization.

We appreciate your feedback. At your earliest convenience, please tell us how we are doing by completing the customer survey on our website under *Customer Service Survey*.

Please refer to identification number SPK-2010-00358 in any correspondence concerning this project. If you have any questions, please contact Ms. Leah Fisher at our California South Branch Office, 1325 J Street, Room 1480, Sacramento, CA 95814-2922, email leah.m.fisher@usace.army.mil, or telephone 916-557-6639.

For more information regarding our program, please visit our website at www.spk.usace.army.mil/regulatory.html.

Sincerely,



Paul M. Maniccia
Chief, California South Branch

Enclosures:

- 1) *State Historic Preservation Office, Letter of Concurrence*, dated August 18, 2010
- 2) *Technically Conditioned Water Quality Certification*, dated July 21, 2010
- 3) *Compliance Certification Form*

*****Please attach the following items previously enclosed in our July 19, 2010 verification letter:**

- 1) *Caltrans' Impacts Mapping, Sheets 1-15*, dated June 2010
- 2) *Caltrans' Biofiltration Map Sheet*, dated June 23, 2010
- 3) *USFWS, Letter of Concurrence #81420-2008-F-0414*, dated June 4, 2010
- 4) *NWP 23, Summary Sheet*

Copy furnished without enclosures:

California Regional Water Quality Control Board, Storm Water and Water Quality Certification Unit,
Central Valley Region, 11020 Sun Center Drive #200, Rancho Cordova, California 95670-6114
U.S. Fish and Wildlife Service, Endangered Species Division, 2800 Cottage Way, Suite W2605,
Sacramento, California 95825-3901
National Marine Fisheries Service, Regional Administrator, 650 Capitol Mall, Suite 8-300,
Sacramento, California 95814-4706
California Department of Fish and Game, 1701 Nimbus Road, Rancho Cordova, California
95670-4504
State of California, Office of Historic Preservation, 1725 23rd Street, Suite 100, Sacramento,
California 95816-7100
Eva Begley, State of California, Department of Transportation, North Region 2800 Gateway
Oaks Drive, Suite 100, MS #19 Sacramento, California 95833

COMPLIANCE CERTIFICATION

Permit File Number: SPK-2010-00358

Nationwide Permit Number: 23, Approved Categorical Exclusions

Permittee: Susan Bauer
State of California
Department of Transportation, District 3
703 B Street, P.O. Box 911
Marysville, California 95901

County: Butte

Date of Verification: August 25, 2010

Within 30 days after completion of the activity(s) authorized by this permit, sign this certification form and return it; along with the items identified in Special Condition #14, to the following address:

U.S. Army Corps of Engineers
Regulatory Division
1325 J Street, Room 1480
Sacramento, California 95814-2922
DLL-CESPK-RD-Compliance@usace.army.mil
FAX: (916) 557-6877

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with the terms and conditions of the permit your authorization may be suspended, modified, or revoked. If you have any questions about this certification, please contact the Corps of Engineers.

* * * * *

I hereby certify that the work authorized by the above-referenced permit, including all the required mitigation, was completed in accordance with the terms and conditions of the permit verification.

Signature of Permittee

Date