

**FOR CONTRACT NO.: 01-378124  
PROJECT ID: 0100000132**

# **INFORMATION HANDOUT**

## **WATER QUALITY**

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
NORTH COAST REGION**

**BOARD ORDER NO. 2003-0017-DWQ  
WDID NO. 1B11189WNME**

## **PERMITS**

**UNITED STATES ARMY CORPS OF ENGINEERS**

**Permit No.: 2009-00447N**

**NON-REPORTING NATIONWIDE 404 PERMIT**

## **AGREEMENTS**

**CALIFORNIA DEPARTMENT OF FISH AND GAME**

**NOTIFICATION NO.1600-2011-0276-R1**

**ROUTE: 01-Men-128, 253-Var**



**California Regional Water Quality Control Board  
North Coast Region  
David M. Noren, Chairman**



Matthew Rodriquez  
Secretary for  
Environmental Protection

www.waterboards.ca.gov/northcoast  
5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403  
Phone: (877) 721-9203 (toll free) • Office: (707) 576-2220 • FAX: (707) 523-0135

Edmund G. Brown, Jr.  
Governor

February 22, 2012

In the Matter of

**Water Quality Certification**

for the

**California Department of Transportation  
Highway 128 and 253 – Culvert Rehabilitation Project Phase Two:  
WDID No. 1B11189WNME**

APPLICANT:	California Department of Transportation
RECEIVING WATER:	Wetlands and intermittent, ephemeral and perennial streams
HYDROLOGIC AREA:	Russian River Hydrologic Unit No.114.00 Mendocino Coast Hydrologic Unit No. 113.00
COUNTY:	Mendocino
FILE NAME:	CDOT - HWY 128/253, Culvert Rehab Project Phase 2 WDID No. 1B11189WNME

BY THE EXECUTIVE OFFICER:

- On November 02, 2011, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application from the California Department of Transportation (Caltrans), requesting Federal Clean Water Act (CWA), section 401, Water Quality Certification for activities related to the proposed Highways 128 and 253 Culvert Rehabilitation (52 Culverts) Project Phase Two. The proposed project will cause disturbances to waters of the U.S. and waters of the State associated with intermittent, ephemeral and perennial streams located within the Russian River Hydrologic Unit No.114.00 (Ukiah Hydrologic Sub-Area 114.31) and Mendocino Coast Hydrologic Unit No. 113.00 (Navarro River Hydrologic Area 113.50). The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on November 30, 2011, and posted information describing the project on the Regional Water Board's website. No comments were received.

**California Environmental Protection Agency**

*Recycled Paper*

2. The project is Phase Two of a three-phase culvert rehabilitation project within Mendocino County. A total of 274 culverts will be repaired or replaced as part of the entire rehabilitation project. The purpose of Phase Two is to upgrade or repair 52 culverts. A 401 Certification is required for six of the culverts located along Highway 128, and 12 of the culverts located along Highway 253. The proposed project will be conducted at various locations along Highway 128 from post mile (PM) 48.61 to PM 50.29 and from PM 3.3 to PM 13.26 along Highway 253. Activities proposed by Caltrans include: abandoning culverts, installing new culverts, rock slope protection, headwalls, and downdrains; excavating areas adjacent to and beneath the roadway; and paving the roadway.
3. Caltrans has determined that the total project permanent impacts to watercourses identified as other waters of the US will be 0.007 acres (213 linear feet). The temporary project impacts to watercourses identified as other waters of the U.S. will be approximately 0.113 acres (2,232 linear feet). In addition, the temporary impacts to wetlands identified as waters of the U.S. and State will total approximately 0.06 acres. The permanent impacts to wetlands identified as waters of the U.S. and State will total approximately 0.002 acres. Phase One construction activities will cumulatively result in approximately 0.6 acres of disturbed soil area (DSA).
4. Caltrans proposes to mitigate for Phase Two permanent impacts to 0.007 acres of Waters of the US and Waters of the State by funding the Robinson Creek Phase 3 Riparian Restoration Project (mitigation project) to be managed and monitored through the Mendocino County Resource Conservation District (MCRCD). The mitigation project would result in 1.8 acres of mitigation credit. Caltrans proposes to mitigate impacts for Phase 1 at a 3:1 ratio. Therefore, Caltrans will debit 0.021 acres of credit from the mitigation project, leaving 1.38 acres of remaining mitigation credit. Work on the mitigation project will be concurrent with work on the Caltrans Phase Two project. Phase Two temporary impacts to wetlands and Other Waters of the US will be mitigated on-site, through native re-vegetation as appropriate for each location. Phase Two permanent impacts to 0.002 acres of wetlands were mitigated in the Phase One Project through purchase of 0.1 acres of wetland creation credit from the Desmond Mitigation Bank in Sonoma County.
5. Project activities will be conducted between May 15<sup>th</sup> and October 15<sup>th</sup>; however, work within flowing drainages will be limited to between June 15<sup>th</sup> and October 15<sup>th</sup>. The work is anticipated to take 120 days. Caltrans' contractor will be required to implement Best Management Practices (BMPs) for construction and post-construction phases of the project to provide erosion and sediment control and pollution prevention throughout the project area. All graded areas within the project affected by the construction activities will be appropriately stabilized and

BMPs will be implemented to ensure erosion and potential pollution is minimized and controlled.

6. Caltrans has applied for authorization from the United States Army Corps of Engineers to perform the project under their Nationwide Permits No. 3 (maintenance projects) pursuant to Clean Water Act, section 404. In addition, Caltrans has applied to the California Department of Fish and Game (CDFG) for a 1602 Lake and Streambed Alteration Agreement. On June 14, 2005, Caltrans certified a Negative Declaration (State Clearing House No. 2005042089) for the project in order to comply with the California Environmental Quality Act. The Regional Water Board has considered the environmental document and any proposed changes incorporated into the project or required as a condition of approval to avoid significant effects to the environment.
7. The Navarro River watershed is listed on the Clean Water Act Section 303(d) list as impaired for sediment and temperature. In December 2000, the U.S. EPA established sediment and temperature Total Maximum Daily Loads (TMDLs) for the Navarro River Watershed. The Russian River watershed is listed on the State of California Clean Water Act Section 303(d) list as impaired for sediment and temperature. Roads are a significant source of sediment in the watershed (directly, from surface erosion, and, indirectly, by triggering landslides). In addition, activities that impact stream bed, banks, and floodplains and reduce riparian vegetation are identified as sources contributing to increased stream temperatures. Such projects may involve removal of vegetation and/or channel alteration, and also have potential to increase sediment loads. A focus on measures to reduce sediment discharges to surface waters from roads in the watershed, and measures to avoid, minimize, and mitigate impacts on riparian zones is essential for achieving TMDL compliance. Accordingly, this Order is consistent with, and implements portions of the Navarro River TMDLs.
8. Pursuant to Regional Water Board Resolution R1-2004-0087, *Total Maximum Daily Load Implementation Policy Statement for Sediment-Impaired Receiving Waters within the North Coast Region* (Sediment TMDL Implementation Policy), the Executive Officer is directed to "rely on the use of all available authorities, including existing regulatory standards, and permitting and enforcement tools to more effectively and efficaciously pursue compliance with sediment-related standards by all dischargers of sediment waste."
9. Pursuant to Regional Water Board Resolution R1-2012-0013, *Implementation of the Water Quality Objective for Temperature in the North Coast Region* (Temperature Implementation Policy), Regional Water Board staff are directed to address factors that contribute to elevated water temperatures when issuing 401 certifications or WDRs (permits) for individual projects. Any permit should be

consistent with the assumptions and requirements of temperature shade load allocations in areas subject to existing temperature TMDLs, including EPA-established temperature TMDLs, as appropriate. If applicable, any permit or order should implement similar shade controls in areas listed as impaired for temperature but lacking a TMDL and region-wide as appropriate and necessary to prevent future impairments and to comply with the intrastate temperature objective.

10. The federal antidegradation policy requires that state water quality standards include an antidegradation policy consistent with the federal policy. The State Water Board established California's antidegradation policy in State Water Board Resolution No. 68-16. Resolution No. 68-16 incorporates the federal antidegradation policy where the federal policy applies under federal law. Resolution No. 68-16 requires that existing quality of waters be maintained unless degradation is justified based on specific findings. The Regional Water Board's Basin Plan implements, and incorporates by reference, both the State and federal antidegradation policies. This Order is consistent with applicable federal and State antidegradation policies, as it does not authorize the discharge of increased concentrations of pollutants or increased volumes of treated wastewater, and does not otherwise authorize degradation of the waters affected by this project.
11. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification," which requires compliance with all conditions of this certification.

Receiving Waters: Wetlands and intermittent, ephemeral and perennial streams  
Russian River Hydrologic Unit No.114.00  
Ukiah Hydrologic Sub-Area 114.31  
Mendocino Coast Hydrologic Area No.113.00  
Navarro River Hydrologic Area 113.50

Filled and/or  
Excavated Areas: Permanent – streams (Waters of U.S.): 0.007 acre (305 ft<sup>2</sup>)  
Permanent – wetlands (Waters of U.S.): 0.002 acre (90 ft<sup>2</sup>)  
Temporary – streams (Waters of U.S.): 0.113 acre (4,922 ft<sup>2</sup>)  
Temporary – wetlands (Waters of U.S.): 0.06 acre (2,613 ft<sup>2</sup>)

Total Linear Impacts: Permanent- streams (Waters of U.S.): 213 linear feet  
Temporary - streams (Waters of U.S.): 2,232 linear feet

Dredge Volume : None

Fill Volume : 175.91 cubic yards

Latitude/Longitude: HWY 128 - 38.8748 N / 123.1023 W to 38.8600 N /  
123.0819 W  
HWY 253 - 39.0173 N / 123.1323 W to 39.0696 N /  
123.2136 W

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Caltrans – Highway 128 and 253 – Culvert Rehabilitation Project (WDID No. 1B11189WNME), as described in the application will comply with sections 301, 302, 303, 306 and 307 of the Clean Water Act, and with applicable provisions of state law, provided that the Caltrans complies with the following terms and conditions:

**All conditions of this order apply to Caltrans (and all its employees) and all contractors (and their employees), sub-contractors (and their employees), and any other entity or agency that performs activities or work on the project (including the off-site mitigation lands) as related to this Water Quality Certification.**

1. This certification action is subject to modification or revocation upon administrative or judicial review; including review and amendment pursuant to Water Code section 13330 and title 23, California Code of Regulations, section 3867.
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 title 23, California Code of Regulations, section 3855, subdivision (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 this certification is conditioned upon total payment of any fee required under title 23, California Code of Regulations, section 3833, and owed by the applicant.
4. All conditions required by this Order shall be included in the Plans and Specifications prepared by Caltrans for the Contractor. In addition, Caltrans shall require compliance with all conditions included in this Order in the bid contract for this project.
5. Caltrans shall provide a copy of this order and State Water Resources Control Board (SWRCB) Order No. 2003-0017-DWQ (web link referenced below) to the contractor and all subcontractors conducting the work, and require that copies

- remain in their possession at the work site. Caltrans shall be responsible for work conducted by its contractor or subcontractors.
6. The Regional Water Board shall be notified in writing each year at least five working days (working days are Monday – Friday) prior to the commencement of ground disturbing activities, water diversion activities or construction activities with details regarding the construction schedule, in order to allow Regional Water Board staff to be present on-site during installation and removal activities, and to answer any public inquiries that may arise regarding the project. Caltrans shall provide Regional Water Board staff access to the project site to document compliance with this order.
  7. The Resident Engineer (or appropriately authorized agent) shall hold on-site water quality permit compliance meetings (similar to tailgate safety meetings) to discuss permit compliance, including instructions on how to avoid violations and procedures for reporting violations. The meetings shall be held at least every other week, before forecasted storm events, and when a new contractor or subcontractor arrives to begin work at the site. The contractors, subcontractors and their employees, as well as any inspectors or monitors assigned to the project, shall be present at the meetings. Caltrans shall maintain dated sign-in sheets for attendees at these meetings, and shall make them available to the Regional Water Board on request.
  8. All activities and best management practices (BMPs) shall be implemented according to the submitted application and the conditions in this certification. BMPs for erosion, sediment, turbidity and pollutant control shall be implemented and in place at commencement of, during, and after any ground clearing activities, construction activities, or any other project activities that could result in erosion, sediment, or other pollutant discharges to waters of the State. The BMPs shall be implemented in accordance with the Caltrans Construction Site Best Management Practice Manual (CCSBMPM) and all contractors and subcontractors shall comply with the CCSBMPM. In addition, BMPs for erosion and sediment control shall be utilized year round, regardless of season or time of year. Caltrans shall stage erosion and sediment control materials at the work site. All BMPs shall be installed properly and in accordance with the manufacturer's specifications. If the project Resident Engineer elects to install alternative BMPs for use on the project, Caltrans shall submit a proposal to Regional Water Board staff for review and concurrence.
  9. Caltrans shall prioritize the use of wildlife-friendly biodegradable (not photo-degradable) erosion control products wherever feasible. Caltrans shall not use or allow the use of erosion control products that contain synthetic netting for permanent erosion control (i.e. erosion control materials to be left in place for two

years or after the completion date of the project). If Caltrans finds that erosion control netting or products have entrapped or harmed wildlife, personnel shall remove the netting or product and replace it with wildlife-friendly biodegradable products. Caltrans shall not use or allow the use of erosion control products that contain synthetic materials within waters of the United States or waters of the State at any time. Caltrans shall request approval from the Regional Water Board if an exception from this requirement is needed for a specific location.

10. Work in flowing or standing surface waters, unless otherwise proposed in the project description and approved by the Regional Water Board, is prohibited. If construction dewatering of groundwater is found to be necessary, Caltrans shall use a method of water disposal other than disposal to surface waters (such as land disposal) or Caltrans shall apply for coverage under the Low Threat Discharge Permit or an individual National Pollutant Discharge Elimination System (NPDES) Permit and receive notification of coverage to discharge to surface waters, prior to the discharge.
11. Caltrans is prohibited from discharging waste to waters of the State, unless explicitly authorized by this Order. For example, no debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete or concrete washings, welding slag, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature, other than that authorized by this Order, shall be allowed to enter into waters of the State. In addition, none of the materials listed above shall be placed within 150 linear feet of waters of the State or where the materials may be washed by rainfall into waters of the State.
12. Caltrans shall submit, subject to review and concurrence by the Regional Water Board staff, a dewatering and/or diversion plan that appropriately describe the dewatered or diverted areas and how those areas will be handled during construction. The diversion/dewatering plans shall be submitted no later than 30 days prior to conducting the proposed activity. Information submitted shall include the area or work to be diverted or dewatered and method of the proposed activity. All diversion or dewatering activities shall be designed to minimize the impact to waters of the State and maintain natural flows upstream and downstream. All dewatering or diversion structures shall be installed in a manner that does not cause sedimentation, siltation or erosion upstream or downstream. All dewatering or diversion structures shall be removed immediately upon completion of project activities. The in-channel work will only be conducted between July 1 and October 15. This Order does not authorize Caltrans to draft surface waters.
13. Fueling, lubrication, maintenance, storage and staging of vehicles and equipment shall be outside of waters of the U.S. and the State. Fueling, lubrication, maintenance, storage and staging of vehicles and equipment shall not result in a

discharge or a threatened discharge to any waters of the State or the U.S. At no time shall Caltrans use any vehicle or equipment which leaks any substance that may impact water quality.

14. Caltrans shall implement appropriate BMPs to prevent the discharge of equipment fluids to the stream channel. The minimum requirements will include: storing hazardous materials at least 150 linear feet outside of the stream banks; checking equipment for leaks and preventing the use of equipment with leaks; pressure washing or steam cleaning equipment to remove fluid residue on any of its surfaces prior to its entering any stream channel in a manner that does not result in a discharge to waters of the State.
15. If, at any time, an unauthorized discharge to surface water (including wetlands, rivers or streams) occurs, or any water quality problem arises, the associated project activities shall cease immediately until adequate BMPs are implemented. The Regional Water Board shall be notified promptly and in no case more than 24 hours after the unauthorized discharge or water quality problem arises.
16. Caltrans and their contractor are not authorized to discharge wastewater (e.g., water that has contacted uncured concrete or cement, or asphalt) to surface waters, ground waters, or land. Wastewater may only be disposed of to a sanitary waste water collection system/facility (with authorization from the facility's owner or operator) or a properly-licensed disposal or reuse facility. If Caltrans or their contractor proposes an alternate disposal method, Caltrans or their contractor shall request authorization from the Regional Water Board. Plans to reuse or recycle wastewater require written approval from Regional Water Board staff.
17. Caltrans shall provide analysis and verification that placing non-hazardous waste or inert materials (which may include discarded product or recycled materials) will not result in degradation of water quality, human health, or the environment. All project-generated waste shall be handled, transported, and disposed in strict compliance with all applicable State and Federal laws and regulations. When operations are complete, any excess material or debris shall be removed from the work area and disposed of properly and in accordance with the Special Provisions for the project and/or Standard Specification 7-1.13, Disposal of Material Outside the Highway Right of Way. Within 30 days of disposing of materials off-site Caltrans shall submit to the Regional Water Board the satisfactory evidence provided to the Caltrans Engineer by the Contractor referenced in Standard Specification 7-1.13. In accordance with State and Federal laws and regulations, Caltrans is liable and responsible for the proper disposal of waste generated by their project.

18. All imported fill material shall be clean and free of pollutants. All fill material shall be imported from a source that has the appropriate environmental clearances and permits. The reuse of low-level contaminated solids as fill on-site shall be performed in accordance with all State and Federal policies and established guidelines and must be submitted to the Regional Water Board for review and concurrence.
  
19. Only clean washed spawning gravel (0.5" – 4") with a cleanliness value of at least 85, using the Cleanness Value Test Method for California Test No. 227 will be placed in the streams. Gravel bag fabric shall be nonwoven polypropylene geotextile (or comparable polymer) and shall conform to the following requirements:
  - Mass per unit area, grams per square meter, min ASTM Designation: D 5261 – 270
  - Grab tensile strength (25-mm grip), kilonewtons, min. ASTM Designation: D4632\* 0.89
  - Ultraviolet stability, percent tensile strength retained after 500 hours, ASTM Designation: D4355, xenon arc lamp method 70 or appropriate test method for specific polymer
  - Gravel bags shall be between 600 mm and 800 mm in length, and between 400 mm and 500 mm in width.
  - Yarn used in construction of the gravel bags shall be as recommended by the manufacturer or bag supplier and shall be of a contrasting color. Gravel shall be between 0.5" – 4" in diameter, and shall be clean and free from clay balls, organic matter, and other deleterious materials. The opening of gravel-filled bags shall be secured to prevent gravel from escaping. Gravel-filled bags shall be between 13 kg and 22 kg in mass.
  - Caltrans shall request approval from the Regional Water Board if an exception from this requirement is needed for a specific location.
  
20. In order to demonstrate compliance with receiving water limitations and water quality objectives surface water monitoring shall be conducted. When conducting surface water monitoring Caltrans shall establish discharge, upstream (background) and downstream monitoring locations to demonstrate compliance with applicable water quality objectives. The downstream location shall be no more than 100 feet from the discharge location.
  - A. Surface water monitoring shall be conducted whenever a project activity is conducted within waters of the State (including but not limited to stream diversions, pile installation, and cofferdam installation or removal). Measurements and observations shall be collected from each sampling location four times daily.

- B. Surface water monitoring shall be conducted immediately when any project activity has mobilized sediment or other pollutants resulting in a discharge and/or has the potential to alter background conditions within waters of the State (including but not limited to storm water runoff, concrete discharges, leaks, and spills.). The continuing frequency is contingent upon results of field measurements and applicable water quality objectives.

Surface water monitoring field measurements shall be taken for pH and turbidity. In addition, visual observations of each location shall be documented daily for each established monitoring location and monitoring event and include the estimate of flow, appearance of the discharge including color, floating or suspended matter or debris, appearance of the receiving water at the point of discharge (occurrence of erosion and scouring, turbidity, solids deposition, unusual aquatic growth, etc), and observations about the receiving water, such as the presence of aquatic life. If a project activity has reached a steady state and is stable then Caltrans may request a temporary reprieve from this condition from the Regional Water Board until an activity or discharge triggers the monitoring again.

21. Whenever, as a result of project activities (in-stream work or a discharge to receiving waters), downstream measurements exceed any water quality objective 100 feet downstream of the source(s) all necessary steps shall be taken to install, repair, and/or modify BMPs to control the source(s). The frequency of surface water monitoring shall increase to hourly and shall continue until measurements demonstrate compliance with water quality objectives for each parameter listed below and measured levels are no longer increasing as a result of project activities. In addition, the overall distance from the source(s) to the downstream extent of the exceedence of water quality objectives shall be measured.

Monitoring results shall be reported to appropriate Regional Water Board staff person by telephone within 24 hours of taking any measurements that exceed the limits detailed below (only report turbidity if it is higher than 20 NTU).

pH	<6.5 or >8.5 (any changes >0.5 units)
turbidity	20% above natural background

Monitoring results and upstream and downstream pictures within the working and/or disturbed area and discharge location shall be taken and submitted to the appropriate Regional Water Board staff within 24 hours of the incident. All other monitoring data documenting compliance with water quality objectives shall be reported on a monthly basis and is due to the Regional Water Board by the 15<sup>th</sup> of the following month.

22. Post Storm Event Reports:

- Once the project has begun ground-disturbing activities, and subsequent to a qualifying rain event that exceeds 0.5-inches of precipitation, Caltrans shall inspect the project within 24 hours and take photos of all discharge locations, and disturbed areas, including all excess materials disposal areas, in order to demonstrate that erosion control and revegetation measures are present and have been installed appropriately and are functioning effectively. A brief report containing these photos, corrective actions (if necessary), and any surface water monitoring results collected pursuant to this Order or the Construction General Permit (SWRCB Order 2009-009 DWQ) shall be submitted to the Regional Water Board within 10 days after the end of the qualifying rain event. Inspections are required daily during extended rain events. Once the project site is stable, in a steady state (channel- ground- or vegetation-disturbing activities have ceased), and has demonstrated sufficient and effective erosion and sediment control, Caltrans may request a reprieve from this condition from the Regional Water Board. At least one post-construction inspection is required to demonstrate sufficient and effective erosion and sediment control and compliance with the Basin Plan.
  - Rain events are periods of precipitation that that are separated by more than 48-hours of dry weather. Rainfall amounts may be taken from on-site rain gauges, from the nearest California Data Exchange Center station (<http://cdec.water.ca.gov>), or by a custom method or station approved by Regional Water Board staff.
23. Caltrans proposes to mitigate for Phase Two permanent impacts to 0.007 acres of Waters of the US and Waters of the State by funding the Robinson Creek Phase 3 Riparian Restoration Project (mitigation project) to be managed and monitored through the Mendocino County Resource Conservation District (MCRCD). The mitigation project would result in 1.8 acres of mitigation credit. Caltrans proposes to mitigate impacts for Phase 1 at a 3:1 ratio. Therefore, Caltrans will debit 0.021 acres of credit from the mitigation project, leaving 1.38 acres of remaining mitigation credit. Work on the mitigation project will be concurrent with work on the Caltrans Phase Two project. Phase Two temporary impacts to wetlands and Other Waters of the US will be mitigated on-site, through native re-vegetation as appropriate for each location. Phase Two permanent impacts to 0.002 acres of wetlands were mitigated in the Phase One Project through purchase of 0.1 acres of wetland creation credit from the Desmond Mitigation Bank in Sonoma County. Mitigation monitoring reports are due to the Regional Water Board annually on December 31, with the first report due December 31, 2013.

24. 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 applicable state or federal law. For the purposes of section 401(d) of the 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 assure compliance with the water quality standards and other pertinent requirements incorporated into this Order. In response to a suspected violation of any condition of this certification, the State Water Board may require the holder of any federal permit or license subject to this Order to furnish, under penalty of perjury, any technical or monitoring reports the State Water Board deems appropriate, provided that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. In response to any violation of the conditions of this Order, the Regional Water Board may add to or modify the conditions of this Order as appropriate to ensure compliance.
25. The Regional Water Board may add to or modify the conditions of this Order, as appropriate, to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act.
26. This Order is not transferable. In the event of any change in control of ownership of land presently owned or controlled by the Applicant, the Applicant shall notify the successor-in-interest of the existence of this Order by letter and shall forward a copy of the letter to the Regional Water Board. The successor-in-interest must send to the Regional Water Board Executive Officer a written request for transfer of this Order to discharge dredged or fill material under this Order. The request must contain the following:
  - a. requesting entity's full legal name
  - b. the state of incorporation, if a corporation
  - c. address and phone number of contact person
  - d. description of any changes to the project or confirmation that the successor-in-interest intends to implement the project as described in this Order.
27. Except as may be modified by any preceding conditions, all certification actions are contingent on: a) the discharge being limited, and all proposed revegetation, avoidance, minimization, and mitigation measures being completed, in strict compliance with Caltrans' project description and CEQA documentation, as approved herein, b) Caltrans shall construct the project in accordance with the project described in the application and the findings above, and c) compliance with all applicable water quality requirements and water quality control plans including the requirements of the Water Quality Control Plan for the North Coast Region

(Basin Plan), and amendments thereto. Any change in the design or implementation of the project that would have a significant or material effect on the findings, conclusions, or conditions of this Order must be submitted to the Executive Officer of the Regional Water Board for prior review, consideration, and written concurrence. If the Regional Water Board is not notified of a significant alteration to the project, it will be considered a violation of this Order, and Caltrans may be subject to Regional Water Board enforcement actions.

28. The authorization of this certification for any dredge and fill activities expires on February 22, 2017. Conditions and monitoring requirements outlined in this Order are not subject to the expiration date outlined above, and remain in full effect and are enforceable.
29. Please contact our staff Environmental Specialist / Caltrans Liaison Jeremiah Puget of at (707) 576-2835 or [jpuget@waterboards.ca.gov](mailto:jpuget@waterboards.ca.gov) if you have any questions.



Catherine Kuhlman  
Executive Officer

120222\_JJP\_CDOT\_Hwy128&253\_CulvertRehab\_phase2\_401Cert

- Web link: State Water Resources Control Board Order No. 2003-0017 -DWQ, General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification can be found at:  
[http://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/water\\_quality/2003/wqo/wqo2003-0017.pdf](http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf)
- Original to: Mr. James McIntosh, Caltrans – North Region Environmental,  
1656 Union Street, Eureka, CA 95501
- Copies to: Mr. Dana York, Caltrans – North Region Environmental,  
1656 Union Street, Eureka, CA 95501
- Electronic Copies to: U.S. Army Corps of Engineers, Regulatory Functions - San Francisco District

**DEPARTMENT OF THE ARMY REGIONAL GENERAL PERMIT 16  
FOR THE REHABILITATION OR REPLACEMENT OF CULVERTS  
ALONG STATE ROUTES 128 AND 253**

**PERMITTEE:** Ms. Grace Kim Tell, California Department of Transportation (Caltrans) District 1

**PERMIT NO.:** 2009-00447N

**ISSUING OFFICE:** San Francisco District

**NOTE:** The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate District or Division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below:

**PROJECT DESCRIPTION:**

This Regional General Permit (RGP) authorizes the rehabilitation and/or replacement of approximately 274 deteriorated culverts and installation of standard drainage inlet and outlet structures located in Mendocino County along State Routes (SR) 128 and 253. Culvert sizes range from 18" to 6' by 12' box culverts. Some drainage work will be completed at inlets and outlets, and minor vegetation removal may be performed to improve water flow. Minor grading may also be performed at various locations when deemed necessary to prevent water buildup at inlets and/or outlets. Either half-width construction or jacking construction methods would be utilized. Some specific designs may call for modifying the ends of the culvert with a headwall, a flared end section, an inlet structure, or a downdrain. Rock slope protection may also be commonly required. Temporary flow diversions on perennial streams would also be required. Authorization also includes off-pavement work pads for construction at inlets and outlets that cannot be reached with equipment from the road. Work shall be completed in accordance with the plans and drawings titled, "USACE File #2009-00447N, State Routes 128 and 253 Culvert Replacement, March 28, 2012, Figures 1 to 4."

Impacts to wetlands and waters of the U.S. associated with each culvert replacement will vary depending on specific site conditions associated with each culvert replacement. The upper limit of authorized discharge of fill material into wetlands and waters of the U.S. would be 0.05 acre for an individual culvert replacement. Over the life of the RGP no more than 1.0 acre of permanent impact to wetlands and waters of the U.S. associated with culvert replacements will be authorized.

**PROJECT LOCATION:** Mendocino County, California

**PERMIT CONDITIONS:**

**GENERAL CONDITIONS:**

1. The time limit for completing the work authorized ends on June 15, 2017.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. You must allow representatives from this office to inspect the authorized activity 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.
6. You understand and agree that, if future operations by the United States require the removal, relocation or other alteration of the structure or work authorized herein, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, you will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

**SPECIAL CONDITIONS:**

1. Two annual reports are required. The first annual report (advanced notice) will contain a work plan for the coming year. This report shall be submitted prior to April 1 of each year. Along with other information this plan will include work locations, any proposed off-pavement work pad locations and size, estimates of impact to jurisdictional wetlands and/or to other Waters of the U.S. (in mapped format), construction methods, and proposed work timeframes. Specific project drawings for each culvert replacement including any required rock slope protection, any culvert modifications, or grading plans shall be provided. Additionally, a Wetland Delineation Report for proposed culvert repair locations shall be provided. Compensatory mitigation for unavoidable impacts to wetlands and Waters of the U.S. shall occur through restoration, riparian planting, or enhancement of the Navarro River and/or its tributaries. Compensatory mitigation may also be provided through the purchase of credits at a Corps approved mitigation bank. The compensatory mitigation plan for impacts associated with the upcoming year shall be provided with the work plan for the upcoming year. A copy of the Regional Water Quality Control Board 401 Certification for the proposed culvert replacements shall also be provided. A Historic Property Survey Report shall also be provided with the work plan. Approval of the work plan shall be contingent on appropriately proposed compensation for anticipated impacts and demonstration of successful implementation of the previously proposed mitigation. The second annual report would summarize work completed in the previous year and will provide a running summary of mitigation efforts, including post-construction monitoring outlined in special condition 10. The second annual report shall be submitted prior to December 1 of each year.
2. You shall not begin work until specific written authorization is provided by USACE upon review of the advanced notice.
3. To remain exempt from the prohibitions of Section 9 of the Endangered Species Act, the non-discretionary Terms and Conditions for incidental take of federally-listed Species shall be fully implemented as stipulated in the National Marine Fisheries Service Biological Opinion (enclosure 1) entitled, "*Highways 128 and 253 Culvert Rehabilitation Project, Mendocino County, California*" (pages 1-40) dated January 4, 2005, amended on January 10, 2007 and the United States Fish and Wildlife Service (enclosure 2) Biological Opinion entitled, "*Formal Consultation on the Proposed Replacement of Deteriorated Culverts on State Routes 128 and 253, in Mendocino County, California*" (pages 1-34) dated April 15, 2005. Project authorization under this permit is conditional upon compliance with the mandatory terms and conditions associated with incidental take. Failure to comply with the terms and conditions for incidental take, where a 'take' of a federally-listed species occurs, would constitute an unauthorized take and non-compliance with the authorization for your project. The USFWS and NMFS are, however, the authoritative federal agency for determining compliance with the incidental take statement and for initiating appropriate enforcement actions or penalties under the Endangered Species Act.
4. The USFWS concurred with the determination that the project was not likely to adversely affect tidewater goby, bald eagle, northern spotted owl, and designated critical habitat for this species. This concurrence was premised, in part, on project work restrictions outlined in enclosure 3. These work restrictions are incorporated as special conditions to this authorization for your project to ensure unauthorized incidental take of species and loss of

critical habitat does not occur.

5. Work will be conducted during the dry season (June 15 to October 15) to minimize potential impacts to any wet or running watercourses, when feasible. If work is occurring in a perennial creek or outside of the dry season then the waterway shall be de-watered.
6. Off-pavement work pads shall also be located outside of USACE jurisdictional wetlands and waters of the U.S.
7. Prior to any culvert rehabilitation a Section 401 water quality certification from the North Coast, Regional Water Quality Control Board shall be provided specifically authorizing the proposed culvert replacement.
8. Prior to any work on a culvert located within the jurisdiction of the California Coastal Commission, concurrence that the work will comply with California's Coastal Zone Management Act must be provided.
9. No fill shall be placed below the ordinary high water mark of the Navarro River or Rancheria Creek to ensure these rivers on the Nationwide Rivers Inventory are not adversely affected by project implementation.
10. The area immediately upstream and downstream of each culvert replacement shall be monitored post-construction at years 1, 3, and 5 to qualitatively assess channel conditions surrounding the work area. Photographs and a brief summary of conditions shall be provided with the annual summary of completed work. Any finding of channel instability (e.g. migrating headcuts, RSP failure, or bank erosion) shall be documented and remediation measures shall be proposed and submitted to USACE for review. After receiving approval from USACE, the proposed measures shall be implemented.

**FURTHER INFORMATION:**

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:
  - ( ) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. Section 403).
  - ( x ) Section 404 of the Clean Water Act (33 U.S.C. Section 1344).
  - ( ) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. Section 1413).
2. Limits of this authorization:
  - a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.
  - b. This permit does not grant any property rights or exclusive privileges.
  - c. This permit does not authorize any injury to the property or rights of others.
  - d. This permit does not authorize interference with any existing or proposed Federal project.
3. Limits of Federal Liability: In issuing this permit, the Federal Government does not assume any liability for the following:
  - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
  - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
  - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.



**CALIFORNIA DEPARTMENT OF FISH AND GAME**  
NORTHERN REGION  
601 LOCUST STREET  
REDDING, CALIFORNIA 96001

RECEIVED

MAR 05 2012

D. F. G. – EUREKA



**LAKE OR STREAMBED ALTERATION AGREEMENT**

NOTIFICATION No. 1600-2011-0276-R1

Numerous Streams in the Russian and Navarro River Watersheds

**20 Encroachments**

Mr. Sebastian Cohen representing the Dept. of  
Transportation (Caltrans)

CULVERT REHABILITATION PROJECT; STATE HIGHWAYS 128 & 253; RUSSIAN  
AND NAVARRO RIVER WATERSHEDS

This Lake or Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Game (DFG) and Mr. Sebastian Cohen (Permittee), representing the California Department of Transportation (Caltrans).

**RECITALS**

WHEREAS, pursuant to Fish and Game Code (FGC) section 1602, Permittee notified DFG on October 17, 2011 that Permittee intends to complete the project described herein.

WHEREAS, pursuant to FGC section 1602, DFG has determined that the project could substantially adversely affect existing fish or wildlife resources and has included measures in the Agreement necessary to protect those resources.

WHEREAS, Permittee has reviewed the Agreement and accepts its terms and conditions, including the measures to protect fish and wildlife resources.

NOW THEREFORE, Permittee agrees to complete the project in accordance with the Agreement.

## PROJECT LOCATION

Project locations vary over a large area on State Highways 128 and 253 within the Russian and Navarro River watersheds in Mendocino County. The table below includes specific geograph information on each project site:

Table 1. U.S. Geological Survey Quad Map, Section, Township, and Range

Culvert No.	Route	Milepost (PM)	Longitude	Latitude	Township	Range	Section
1	128	48.61	-123.1023747	38.87487224	12N	11W	20
2	128	48.89	-123.0986578	38.87287285	12N	11W	21
3	128	49.15	-123.0951367	38.87060518	12N	11W	21
4	128	49.46	-123.0927621	38.86718405	12N	11W	21
5	128	49.72	-123.0888462	38.8652789	12N	11W	28
6	128	49.95	-123.0860317	38.86310197	12N	11W	28
7	128	50.29	-123.081978	38.86006303	12N	11W	28
8	253	3.3	-123.3229274	39.01728733	13N	13W	5
9	253	3.67	-123.3191166	39.017992	13N	13W	5
10	253	3.7	-123.3186181	39.01943359	13N	13W	5
11	253	3.76	-123.318532	39.01990643	13N	13W	5
12	253	7.35	-123.3183745	39.02077045	13N	13W	5
13	253	7.4	-123.2681067	39.03521281	14N	13W	35
14	253	7.62	-123.267342	39.03556278	14N	13W	35
15	253	8.87	-123.2644466	39.03684722	14N	13W	26
16	253	9.6	-123.261681	39.05065929	14N	13W	23
17	253	10.2	-123.2508671	39.04837281	14N	13W	26
18	253	10.41	-123.2453533	39.05207889	14N	13W	24
19	253	13.27	-123.2447635	39.05522506	14N	13W	24
20	253	13.36	-123.213683	39.06960193	14N	12W	17

## PROJECT DESCRIPTION

The project involves 20 encroachments: a culvert rehabilitation project that will replace and/or upgrade existing drainage culvert crossings on non-fish bearing streams most of which are ephemeral. Some vegetation will be removed as a result of this project.

## PROJECT IMPACTS

Existing fish or wildlife resources the project could substantially adversely affect include: downstream populations of steelhead (*Oncorhynchus mykiss*), coho salmon (*O. kisutch*), foothill yellow-legged frog (*Rana boylei*) and other aquatic and riparian species.

The adverse effects the project could have on the fish or wildlife resources identified above include: direct and/or incidental take, impede up- and/or down-stream migration, damage to spawning and/or rearing habitat and potential cumulative impacts.

## **MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES**

### **1. Administrative Measures**

Permittee shall meet each administrative requirement described below.

- 1.1 Documentation at Project Site. Permittee shall make the Agreement, any extensions and amendments to the Agreement, and all related notification materials and California Environmental Quality Act (CEQA) documents, readily available at the project site at all times and shall be presented to DFG personnel, or personnel from another state, federal, or local agency upon request.
- 1.2 Providing Agreement to Persons at Project Site. Permittee shall provide copies of the Agreement and any extensions and amendments to the Agreement to all persons who will be working on the project at the project site on behalf of Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.
- 1.3 Notification of Conflicting Provisions. Permittee shall notify DFG if Permittee determines or learns that a provision in the Agreement might conflict with a provision imposed on the project by another local, state, or federal agency. In that event, DFG shall contact Permittee to resolve any conflict.
- 1.4 Project Site Entry. Permittee agrees that DFG personnel may enter the project site at any time to verify compliance with the Agreement.

### **2. Avoidance and Minimization Measures**

To avoid or minimize adverse impacts to fish and wildlife resources identified above, Permittee shall implement each measure listed below.

- 2.1 Except where otherwise stipulated in this Agreement, all work shall be in accordance with the forms, work plans, biological reports and maps submitted with Notification No. 1600-2011-0276, as modified or amended on October 17, 2011.
- 2.2 All work within the bed, bank and channel shall be confined to the period June 15 through October 15 of each year. Work may be conducted in or near the stream during the late season work period October 15 through November 1, provided adherence to all conditions in this Agreement and a) – c) below.
  - a) The Permittee shall complete any unfinished encroachment work, including erosion control measures, within 24 hours of DFG directing the Permittee to do so.

- b) Prior to any work at a site, the Permittee shall stock-pile erosion control materials at the site. All bare mineral soil exposed in conjunction with crossing construction, deconstruction, maintenance or repair or removal shall be treated for erosion immediately upon completion of work on the crossing, and prior to the onset of precipitation capable of generating runoff.
  - c) When a 7-day National Weather Service forecast of rain includes a minimum of 5 consecutive days with any chance of precipitation, 3 consecutive days with a 30% or greater chance of precipitation, or 2 consecutive days of 50% or greater chance of precipitation, the Permittee shall finish work underway at encroachment and refrain from starting any new work at encroachment prior to the rain event.
- 2.3 No fill material shall be placed within a stream except as specified in this Agreement.
- 2.4 All heavy equipment (including parts e.g., buckets) that will be entering the stream channel shall be free of materials deleterious to aquatic life including oil, grease, hydraulic fluid, soil and other debris. Cleaning of equipment shall take place outside of the channel and prior to entering the water.
- 2.5 Any equipment or vehicles driven and/or operated within or adjacent to the stream channel shall be checked and maintained in a manner which prevents materials that, if introduced to water, could be deleterious to aquatic life, wildlife, or riparian habitat.
- 2.6 Disturbance or removal of vegetation shall not exceed the minimum necessary to complete operations. The disturbed portions of any stream channel or lake margin within the high water mark of the stream or lake shall be restored to as near their original condition as possible. Restoration shall include re-vegetation of areas stripped or exposed by project activities. Slash pack, rock, or other erosion protection suitable to DFG shall be placed in areas where vegetation cannot reasonably be expected to become reestablished.
- 2.7 Adequate and effective erosion and siltation control measures shall be used to prevent sediment or turbid or silt-laden water from entering streams. Where needed, the Permittee shall use native vegetation or other treatments including native slash, jute netting, straw wattles, and geotextiles to protect and stabilize soils.
- 2.8 All bare mineral soil exposed in conjunction with crossing construction, deconstruction, maintenance or repair, shall be treated for erosion prior to the onset of precipitation capable of generating run-off or the end of the yearly work period, whichever comes first. Restoration shall include using native slash or seeding and mulching of all bare mineral soil exposed in conjunction with

encroachment work. Erosion control shall consist of at least 2 to 4 inches of certified weed-free straw mulch and 100 lbs/acre equivalent barley seed for native mixes. No annual (Italian) ryegrass (*Lolium multiflorum*) shall be used.

- 2.9 Encroachments and associated structures, fills, and other exposed soils shall be armored as needed to protect fill, abutments, and the stream channel and banks from erosion.
- 2.10 All large woody debris (LWD) excavated during crossing construction or deconstruction shall be used on site or at other locations throughout the property for streambed and bank stabilization or erosion control. LWD shall be sufficiently anchored or keyed-in to resist movement during high flows and placed in a manner that prevents undercutting of streambanks.
- 2.11 The Permittee shall provide site maintenance including, but not limited to, re-applying erosion control to minimize surface erosion and ensuring drainage structures, streambeds and banks remain sufficiently armored and/or stable.
- 2.12 Structures and associated materials not designed to withstand high seasonal flows shall be removed to areas above the ordinary high water mark before such flows occur or the end of the yearly work period, whichever comes first.
- 2.13 Refueling of equipment and vehicles and storing, adding or draining lubricants, coolants or hydraulic fluids shall not take place within or adjacent to any stream. All such fluids and containers shall be disposed of properly. Heavy equipment parked within or adjacent to the stream shall use drip pans or other devices (e.g., absorbent blankets, sheet barriers or other materials) as needed to prevent soil and water contamination.
- 2.14 All activities performed in the field which involve the use of petroleum or oil based substances shall employ absorbent material designated for spill containment and clean up activity on site for use in case of accidental spill. Clean-up of all spills shall begin immediately. The Permittee shall immediately notify the State Office of Emergency Services at 1-800-852-7550. DFG shall be notified by the Permittee and consulted regarding clean-up procedures.
- 2.15 No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other organic or earthen material from construction work, or associated activity of whatever nature shall be allowed to enter into, or be placed where it may be washed by rainfall or runoff into Waters of the State. When operations are completed, any excess materials or debris shall be removed from the work area. (Not applicable to material installed permanently or temporarily as part of the project activities).

- 2.16 Upon DFG determination that turbidity/siltation levels resulting from project related activities constitute a threat to aquatic life, activities associated with the turbidity/siltation, shall be halted until effective Department approved control devices are installed, or abatement procedures are initiated.
- 2.17 Installation or modification of culverts shall be such that water flow is not impaired and upstream or downstream passage of all aquatic life-forms is assured at all times.
- 2.18 Equipment shall not operate in a live (flowing) stream or wetted channel except as may be necessary to construct and remove in-stream structures to catch and contain water (i.e., cofferdams) to divert stream flow and isolate the work site, or as otherwise specifically provided for in this Agreement.
- 2.19 Where flowing water is present during operations:
- a) Cofferdams shall be installed to divert stream flow and isolate and dewater the work site, and to catch any sediment-laden water and minimize sediment transport downstream. Cofferdams shall be constructed of non-polluting materials including sand bags, rock, and/or plastic tarps. Mineral soil shall not be used in the construction of cofferdams.
  - b) Flowing water shall be cleanly bypassed and/or prevented from entering the work area through pumping or gravity flow, and cleanly returned to the stream below the work area. Flow diversions shall be done in a manner that shall prevent pollution and/or siltation and provides flows to downstream reaches.
  - c) The Responsible Party shall remove any turbid water and sediment present in the work area prior to restoring water flow through the project site, and place them in a location where they cannot enter the Waters of the State.

SITE-SPECIFIC MEASURES:

State Highway 253 Projects:

- 2.20 At milepost (PM) 13.27 on Highway 253, remove perched fill that currently exists along the channel immediately downstream of the existing culvert outfall re-contour banks to minimize erosion and sediment delivery.
- 2.21 At PM 10.41 on Highway 253, set new culvert outlet to grade if possible. Existing culvert discharges above grade ("shotgun").
- 2.22 At PM 7.40 on Highway 253, significant erosion issues need to be addressed. Existing culvert discharges onto and saturates a vertical slope exacerbating erosion and sediment delivery. Modify current plans to include a down-drain, a

large rock curtain or other measure(s) approved by DFG that fully address this issue.

- 2.23 At PM 3.67 on Highway 253, ensure that project implementation includes measures to keep out of the nearby bank and channel of Soda Creek. Prior to commencing construction, install environmental sensitive area (ESA) barrier fencing and instruct workers to avoid entering stream bank and channel area.
- 2.24 At PM 3.70 on Highway 253, ensure that project implementation includes measures to keep out of the nearby bank and channel of Soda Creek. Prior to commencing construction, install environmental sensitive area (ESA) barrier fencing and instruct workers to avoid entering stream bank and channel area.
- 2.25 At PM 3.76 on Highway 253, ensure that project implementation includes measures to keep out of the nearby bank and channel of Soda Creek. Prior to commencing construction, install environmental sensitive area (ESA) barrier fencing and instruct workers to avoid entering stream bank and channel area.
- 2.26 At PM 3.30 on Highway 253, protect the large interior live oak (*Quercus wizlizenii*) that is growing near the existing culvert outlet by minimizing branch removal and ground disturbance under the tree's drip-line.

#### State Highway 128 Projects

- 2.27 At PM 48.61 on Highway 128, protect the following habitat features: a) the 14-inch (estimated trunk diameter) interior live oak that is growing immediately downstream of the existing culvert outlet and b) the pool that is shaded by the above referenced oak.
- 2.28 At PM 48.89 on Highway 128, protect oak trees that are growing near the existing culvert outlet. Install ESA fencing if necessary to ensure oak tree protection.
- 2.29 At PM 49.46 on Highway 128, ensure that project implementation includes measures to keep out of the nearby bank and channel of Edwards Creek. Prior to commencing construction, install environmental sensitive area (ESA) barrier fencing and instruct workers to avoid entering stream bank and channel area.
- 2.30 At PM 49.72 on Highway 128, work will be required within the bank and channel of Edwards Creek. Minimize disturbance to the Edwards Creek channel and adhere to Measure 2.19 above if surface water exists in Edwards Creek during construction.
- 2.31 At PM 50.29 on Highway 128, protect, if feasible, protect the existing 16-inch (estimated trunk diameter) Pacific madrone tree (*Arbutus menziesii*) that is growing near the existing culvert inlet. If this madrone tree will be removed, replant using a

minimum 3:1 replacement ratio and monitor plantings as disclosed in the environmental documents for this project.

### 3. Reporting Measures

Permittee shall meet each reporting requirement described below.

- 3.1 Permittee shall notify the Department, in writing, at least five (5) days prior to initiation of construction (project) activities and at least five (5) days prior to completion of construction (project) activities. Notification shall be faxed to the Department at (707) 441-2021, Attn: Rick Macedo, Staff Environmental Scientist, or via e-mail at [rmacedo@dfg.ca.gov](mailto:rmacedo@dfg.ca.gov).

### CONTACT INFORMATION

Any communication that Permittee or DFG submits to the other shall be in writing and any communication or documentation shall be delivered to the address below by U.S. mail, fax, or email, or to such other address as Permittee or DFG specifies by written notice to the other.

#### To Permittee:

Mr. Sebastian Cohen  
Caltrans  
1656 Union Street  
Eureka, California 95501  
Office Phone: 707-441-2097  
E-Mail: [sebastiancohen@dot.ca.gov](mailto:sebastiancohen@dot.ca.gov)

#### To DFG:

Department of Fish and Game  
Region 1  
619 Second Street  
Eureka, California 95501  
Attn: Lake and Streambed Alteration Program – Laurie Harnsberger  
Notification #1600-2011-0276-R1  
Fax: 441-2021  
Email: [lharnsberger@dfg.ca.gov](mailto:lharnsberger@dfg.ca.gov)

### LIABILITY

Permittee shall be solely liable for any violations of the Agreement, whether committed by Permittee or any person acting on behalf of Permittee, including its officers,

employees, representatives, agents or contractors and subcontractors, to complete the project or any activity related to it that the Agreement authorizes.

This Agreement does not constitute DFG's endorsement of, or require Permittee to proceed with the project. The decision to proceed with the project is Permittee's alone.

## **SUSPENSION AND REVOCATION**

DFG may suspend or revoke in its entirety the Agreement if it determines that Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, is not in compliance with the Agreement.

Before DFG suspends or revokes the Agreement, it shall provide Permittee written notice by certified or registered mail that it intends to suspend or revoke. The notice shall state the reason(s) for the proposed suspension or revocation, provide Permittee an opportunity to correct any deficiency before DFG suspends or revokes the Agreement, and include instructions to Permittee, if necessary, including but not limited to a directive to immediately cease the specific activity or activities that caused DFG to issue the notice.

## **ENFORCEMENT**

Nothing in the Agreement precludes DFG from pursuing an enforcement action against Permittee instead of, or in addition to, suspending or revoking the Agreement.

Nothing in the Agreement limits or otherwise affects DFG's enforcement authority or that of its enforcement personnel.

## **OTHER LEGAL OBLIGATIONS**

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from obtaining any other permits or authorizations that might be required under other federal, state, or local laws or regulations before beginning the project or an activity related to it.

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from complying with other applicable statutes in the FGC including, but not limited to, FGC sections 2050 et seq. (threatened and endangered species), 3503 (bird nests and eggs), 3503.5 (birds of prey), 5650 (water pollution), 5652 (refuse disposal into water), 5901 (fish passage), 5937 (sufficient water for fish), and 5948 (obstruction of stream).

Nothing in the Agreement authorizes Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, to trespass.

## **AMENDMENT**

DFG may amend the Agreement at any time during its term if DFG determines the amendment is necessary to protect an existing fish or wildlife resource.

Permittee may amend the Agreement at any time during its term, provided the amendment is mutually agreed to in writing by DFG and Permittee. To request an amendment, Permittee shall submit to DFG a completed DFG "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the corresponding amendment fee identified in DFG's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

## **TRANSFER AND ASSIGNMENT**

This Agreement may not be transferred or assigned to another entity, and any purported transfer or assignment of the Agreement to another entity shall not be valid or effective, unless the transfer or assignment is requested by Permittee in writing, as specified below, and thereafter DFG approves the transfer or assignment in writing.

The transfer or assignment of the Agreement to another entity shall constitute a minor amendment, and therefore to request a transfer or assignment, Permittee shall submit to DFG a completed DFG "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the minor amendment fee identified in DFG's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

## **EXTENSIONS**

In accordance with FGC section 1605(b), Permittee may request one extension of the Agreement, provided the request is made prior to the expiration of the Agreement's term. To request an extension, Permittee shall submit to DFG a completed DFG "Request to Extend Lake or Streambed Alteration" form and include with the completed form payment of the extension fee identified in DFG's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5). DFG shall process the extension request in accordance with FGC 1605(b) through (e).

If Permittee fails to submit a request to extend the Agreement prior to its expiration, Permittee must submit a new notification and notification fee before beginning or continuing the project the Agreement covers (Fish & G. Code, § 1605, subd. (f)).

## **EFFECTIVE DATE**

The Agreement becomes effective on the date of DFG's signature, which shall be: 1) after Permittee's signature; 2) after DFG complies with all applicable requirements under the California Environmental Quality Act (CEQA); and 3) after payment of the applicable FGC section 711.4 filing fee listed at [http://www.dfg.ca.gov/habcon/ceqa/ceqa\\_changes.html](http://www.dfg.ca.gov/habcon/ceqa/ceqa_changes.html).

## **TERM**

This Agreement shall expire five years after the date the Agreement is fully executed, unless it is terminated or extended before then. All provisions in the Agreement shall remain in force throughout its term. Permittee shall remain responsible for implementing any provisions specified herein to protect fish and wildlife resources after the Agreement expires or is terminated, as FGC section 1605(a)(2) requires.

### **EXHIBITS**

None

## **AUTHORITY**

If the person signing the Agreement (signatory) is doing so as a representative of Permittee, the signatory hereby acknowledges that he or she is doing so on Permittee's behalf and represents and warrants that he or she has the authority to legally bind Permittee to the provisions herein.

**AUTHORIZATION**

This Agreement authorizes only the project described herein. If Permittee begins or completes a project different from the project the Agreement authorizes, Permittee may be subject to civil or criminal prosecution for failing to notify DFG in accordance with FGC section 1602.

**CONCURRENCE**

The undersigned accepts and agrees to comply with all provisions contained herein.

**FOR SEBASTIAN COHEN**

Sebastian Cohen 3/1/12  
Name Date  
Title Project Manager

**FOR DEPARTMENT OF FISH AND GAME**

 T. LABANA 3/6/12  
Name Curt Babcock Date  
Environmental Program Manager

*for*

Prepared by: Rick Macedo  
Staff Environmental Scientist  
2-13-12