



Linda S. Adams
Secretary for
Environmental Protection

California Regional Water Quality Control Board

San Francisco Bay Region

1515 Clay Street, Suite 1400, Oakland, California 94612
(510) 622-2300 • Fax (510) 622-2460
<http://www.waterboards.ca.gov/sanfranciscobay>



Arnold Schwarzenegger
Governor

Date: **AUG 08 2006**
File No.: 2158.04 (BT)
Site No.: 02-21-C0425

Mr. Jit S. Pandher
California Department of Transportation
P.O. Box 23660
Oakland, CA. 94623-0660

SUBJECT: MODIFICATION TO CONDITIONAL WATER QUALITY CERTIFICATION FOR CALTRANS STATE HIGHWAY 101/580 HOV LANE GAP CLOSURE PROJECT, CORTE MADERA/SAN RAFAEL, MARIN COUNTY

Dear Mr. Pandher:

The Clean Water Act (CWA) Section 401 water quality certification issued to the California Department of Transportation (Department) on March 11, 2005, for building new high-occupancy vehicle (HOV) lanes along U.S. Route 101 (US 101) between Lucky Drive in Corte Madera and San Pedro Road in San Rafael, is hereby modified to include the installation of a 1.25 mile long pedestrian/bike path. The Department has been informed by the U.S. Army Corps of Engineers (ACOE) that the Project will be authorized by an amendment to the existing ACOE Individual Permit.

Project Description: The project would provide a continuous HOV lane in both directions along the US 101 corridor in Marin County and is located between Lucky Drive in Corte Madera to the south, and North San Pedro Road to the north (Project).

Modification to Project Description: The Project is hereby modified to include the installation of a 1.25 mile long pedestrian/bike path (trail) between Mission Avenue at Stevens Place, and Los Ranchitos Road at US 101, post mile 86.0, in San Rafael. Activities associated with trail installation include: extension of an existing 14 foot wide by 8 foot tall box culvert on Irwin Creek; placement of a concrete barrier at the edge of the shoulder of US 101; and, the addition of two biofiltration swales.

Impacts: The Project before modification would impact approximately 0.15 acre (1,334 linear feet) of riparian habitat along Irwin Creek as a result of widening US 101 between Anderson Drive and Lincoln Avenue. The Project would also impact approximately 0.036 (218 linear feet) of other unnamed drainages in the San Rafael Yacht Harbor area. The Project modification will result in approximately 0.02 acres of permanent and 0.02 acres of temporary impacts to Irwin Creek as a result of box culvert extension to accommodate the trail.

California Environmental Protection Agency

Mitigation: The Department will purchase one 0.1 acre unit of credit at Burdell Mitigation Bank to compensate for the additional 0.04 acres of temporary and permanent impacts to Irwin Creek. The Department will also restore approximately 0.45 acres of riparian habitat along 1,200 feet of Irwin Creek.

CEQA Compliance: The Department, as the California Environmental Quality Act (CEQA) lead agency, filed a Notice of Determination for an EIS/R (Environmental Impact Statement/Report) on December 3, 1999, that the Project is in compliance with CEQA. An Addendum to the EIS/R was filed by the Department in June 2006, in compliance with CEQA.

Certification and General Waste Discharge Requirements: I hereby issue an order certifying that any discharge from the referenced Project will comply with the applicable provisions of sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003 - 0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification. The following conditions are associated with this certification:

1. The Department shall adhere to all conditions of the water quality certification entitled, "*Conditional Water Quality Certification for Caltrans State Highway 101/580 HOV Lane Gap Closure Project, Corte Madera/San Rafael, Marin County,*" issued to the Department on March 11, 2005, with the exception of condition number 5 (certification included as Attachment A);
2. The Department shall implement the post-construction stormwater treatment measures, as described in the letter with attachments submitted to the Board on June 6, 2006 entitled, "*Amendment to the permit for the Water Quality Certification, Rte. 101 Puerto Suello Hill HOV Gap Closure Project, San Rafael in Marin County (Site No. 02-21-C0425);* and
3. The Department shall comply with the deadlines for provision of stormwater treatment included in the "*Alternate Stormwater Treatment Proposal Work Plan*" submitted to the Board on August 4, 2006 (plan included as Attachment B);

Please be aware that any violation of water quality certification conditions is a violation of State law and subject to administrative civil liability pursuant to California Water Code (CWC) Section 13350. Failure to respond, inadequate response, late response, or failure to meet any condition of a certification or waiver may subject the Applicant to civil liability imposed by the Water Board to a maximum of \$5,000 per day of violation or \$10 for each gallon of waste discharged in violation of this action. Any request for a report made as a condition to this action (e.g., conditions 11 and 12) is a formal request pursuant to CWC Section 13267, and failure or refusal to provide, or falsification of such requested report is subject to civil liability as described in CWC Section 13268.

We anticipate no further action on this request. However, should new information come to our attention that indicates a water quality problem with this Project, the Water Board may issue Waste Discharge Requirements pursuant to 23 CCR Section 3857. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to CWC Section 13330 and 23 CCR Section 3867.

Please contact Brendan Thompson of my staff at (510) 622-2506 or BThompson@waterboards.ca.gov if you have any questions. All future correspondence regarding this Project should reference the Site Number indicated at the top of this letter.

Sincerely,


For Bruce H. Wolfe
Executive Officer

Attachments: A- March 11 2005 Conditional Water Quality Certification
B- Stormwater Treatment Work Plan

cc (w/ attachments): ~~Keith Lichten~~, RWQCB
~~Hardeep Takhar~~, Caltrans
SWRCB-DWQ, Oscar Balaguer
Hal Durio, USACE, San Francisco

Attachment A

March 2005 Water Quality Certification for Marin HOV Gap Closure Project



California Regional Water Quality Control Board

San Francisco Bay Region

401



C. Lloyd, Ph.D.
Agency Secretary

1515 Clay Street, Suite 1400, Oakland, California 94612
(510) 622-2300 • Fax (510) 622-2460
<http://www.waterboards.ca.gov/sanfranciscobay>

Arnold Schwarzenegger
Governor

Date: MAR 11 2005
File: 2158.04 (FG)
Site No: 02-21-C0425

Mr. Sotero Angeles
Project Engineer
Caltrans, District 4
111 Grand Avenue, Mail PO Box 23660
Oakland, CA 94612-0660

SUBJECT: CONDITIONAL WATER QUALITY CERTIFICATION FOR CALTRANS
STATE HIGHWAY 101/580 HOV LANE GAP CLOSURE PROJECT, CORTE
MADERA/SAN RAFAEL, MARIN COUNTY

Dear Mr. Sotero:

We have reviewed and hereby issue a conditional water quality certification for the above project.

You have applied to the U.S. Army Corps of Engineers (Corps) for an individual permit pursuant to Section 404 of the Clean Water Act (CWA). Correspondingly, you have also applied to the Regional Water Quality Control Board (Water Board) for a Clean Water Act Section 401 water quality certification that the project will not violate State water quality standards. Your application was deemed complete on March 9, 2005.

Project: The proposed project would close the gap between the existing high occupancy vehicle (HOV) lanes, and provide a continuous HOV lane in both directions along the U.S. Route 101 (US 101) corridor in Marin County. The Marin 101 HOV Gap Closure Project is located between Lucky Drive in Corte Madera to the South and North San Pedro Road in San Rafael to the north.

Impacts: The proposed project will impact approximately 0.15 acre (1,334 linear feet) of riparian habitat along Irwin Creek as a result of widening US 101 between Anderson Drive and Lincoln Avenue. Caltrans proposes to relocate the portion of the Irwin Creek that exists within the project area to accommodate the proposed railroad right of way. The proposed project would also impact approximately 0.036 acre (218 linear feet) of other unnamed drainages in the San Rafael Yacht Harbor area.

Mitigation: To compensate for these impacts, Caltrans proposes to restore approximately 0.45 acre of riparian habitat along 1,200 feet of the low quality riparian zone associated with Irwin Creek (including the realigned section of Irwin Creek).

Caltrans will restore portions of Irwin Creek by:

1. Removing the culverts through these portions of the Creek;
2. Removing existing non-native vegetation from the mitigation area;
3. Laying back the channel bank and replanting the area with appropriate native riparian vegetation; and,
4. Installing large woody material collected on site to provide slope protection for some portions of the Creek.

Caltrans will monitor the site for five years to ensure that the planted material survives.

CEQA Compliance: The California Department of Transportation, as the California Environmental Quality Act (CEQA) Lead Agency, filed a Notice of Determination (Environmental Impact Report) on April 21, 2000, that the Project is in compliance with CEQA.

Certification: I hereby issue an order certifying that with the incorporation of the following conditions, any discharge from the applicant's proposed project described in its application will comply with the applicable provisions of Sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and Implementation Plans"), 306 ("National Standards of Performance"), and 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003 - 0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification. The following conditions are associated with this certification:

1. The applicant shall comply with all terms and Conditions of the Corps' Permit and any permits or approvals from other agencies;
2. No equipment shall be operated in stream channels or other waters where there is flowing or standing water;
3. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete operations. The Project site shall be stabilized as necessary through incorporation of appropriate Best Management Practices, including the successful reestablishment of native vegetation as appropriate, to enhance wildlife habitat values, and to prevent and control erosion and sedimentation;
4. The Project shall implement and maintain adequate erosion and sediment control measures during and after construction as required by the State's Construction Activities Storm Water General Permit to control the release of sediment to waters of the State, and to storm drains discharging into waters of the State;

5. The project shall also implement the post construction stormwater pollution prevention measures, as described in the "Fact Sheet for Marin Gap Closure Project" submitted to the Water Board on December 6, 2004;
6. No debris, soil, silt, sand, cement, concrete, or washings thereof, or other construction related materials or wastes, oil or petroleum products or other organic or earthen material 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 material shall be removed from the work area and any areas adjacent to the work area where such material may be washed into waters of the State;
7. The Project shall be constructed as described in the application materials and summarized herein. Any additional work or variation from the described work which may result in additional or increased impacts to waters of the State (including quantity or quality of water or habitat) is not authorized, unless approved in writing by the Executive Officer prior to implementation. Note: Obtaining Executive Officer approval may require from several days to several weeks from the date of notification;
8. The "Habitat Mitigation and Monitoring Plan" (Irwin Creek Mitigation Project; November 2004) shall be implemented;
9. Mitigation monitoring reports acceptable to the Executive Officer shall be submitted annually for five years beginning one year after completion of construction of the mitigation site. The reports shall describe the results of monitoring performed during the previous year and progress towards achieving the performance standards and project objectives. They shall also describe any problem(s) encountered during the year, and explain actions taken or proposed to address the problem(s). Reports shall be submitted to the Executive Officer under cover letter signed by the Applicant committing to implementation of appropriate action to address any problems;
10. A final mitigation report, acceptable to the Executive Officer, shall be submitted at the end of five years monitoring period indicating whether performance standards have been met. Additional requirements may be imposed at that time if success standards have not been met to the satisfaction of the Executive Officer;
11. The applicant shall maintain a copy of this Water Quality Certification at the Project site so as to be available at all times to site operating personnel;
12. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section 13330 of the California Water Code (CWC) and Section 3867 of Title 23 of the California Code of Regulations (23 CCR);

13. This certification action does not 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 California Code of Regulations (CCR) Title 23, Subsection 3855(b) and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought; and,
14. Certification is conditioned upon total payment of the full fee required in State regulations (23 CCR Section 3833). The total fee for this certification is \$8,260. The applicant has paid \$2,250; the remaining balance of \$6,010 is due before this certification is effective.

Please be aware that any violation of water quality certification conditions is subject to administrative civil liability pursuant to CWC Section 13350. Failure to meet any condition of a certification may subject you to civil liability imposed by the Regional Board to a maximum of \$5,000 per day of violation or \$10 for each gallon of waste discharged in violation of this certification. Any request for a report made as a condition to this action is a formal request pursuant to CWC Section 13267, and failure or refusal to provide, or falsification of such requested report is subject to civil liability as described in CWC Section 13268.

We anticipate no further action on this request. Should new information come to our attention that indicates a water quality problem with this project, the Regional Board may issue Waste Discharge Requirements pursuant to 23 CCR Section 3857.

If you have any questions, please contact Mr. Farhad Ghodrati of my staff at (510) 622-2331, e-mail fg@waterboards.ca.gov.

Sincerely,



 Bruce H. Wolfe
Executive Officer

cc: 401 Program Manager, SWRCB-DWQ
John Yeakel, U.S. Army Corps of Engineers
U.S. EPA, WTR-8

Attachment B

Alternate Stormwater Treatment Proposal Work Plan

Marin 101 HOV Gap Closure - Puerto Suello Hill Segment
 Alternate Stormwater Treatment Proposal Work Plan

| DATE OF SUBMITTAL OR ACTION | OPTION 1 - MARIN CIVIC CENTER PARKING LOT | OPTION 2 - OTHER OFF SITE LOCATION | HOV GAP CLOSURE / TRAIL - PUERTO SUELLO HILL SEGMENT |
|--|--|--|--|
| December 1, 2006 | Feasibility Analysis Obtain agreement between Caltrans, TAM and Marin County Obtain agreement with RWQCB that option is acceptable | | |
| January 15, 2007 March 2007 | | If feasibility analysis requires additional treatment BMP locations, other locations will be identified by this date | Begin Construction |
| June 1, 2007 | Local agency to obtain any necessary permits; Submit to RWQCB Draft (30%) Design Parameters of treatment BMP (including plans, calculations, design details and related information) | Local agency to obtain any necessary permits; Submit to RWQCB Draft (30%) Design Parameters of treatment BMP (including plans, calculations, design details and related information) | |
| June 1, 2008 September 1, 2008 December 2008 | Submit to RWQCB Final Design Parameters of treatment BMP (including plans, calculations, design details and related information) Begin Construction End Construction | Submit to RWQCB Final Design Parameters of treatment BMP (including plans, calculations, design details and related information) Begin Construction End Construction | End Construction |