

# INFORMATION HANDOUT

For Contract No. 04-3G7404

Identified by  
Project ID 04120001681

## PERMITS

California Coastal Commission (9 pages)

Cal-OSHA, Mining and Tunneling Unit, Underground Classification (2 pages)

United States Army Corps of Engineers

Non-Reporting Nationwide 404 (12) pages

## WATER QUALITY

California Regional Water Quality Control Board

North Coast Region, San Francisco Bay Section, Los Angeles Region, Lahontan Region, Santa Ana Region, Central Valley Region, Central Coast, or Colorado River Basin  
Board Order No. [2009-0009-DWQ](#) as amended by [2010-0014-DWQ](#)  
NPDES Permit No. CAS 000002

## AGREEMENTS

California Department of Fish and Wildlife

Notification No. 1600-2010-0150-R3



# Notice of Final Action on a Coastal Permit

## Sonoma County Permit and Resource Management Department

2550 Ventura Avenue, Santa Rosa, CA 95403  
(707) 565-1900 FAX (707) 565-1103

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Date: April 25, 2011  
File: PLP11-0007  
Applicant: California Department of Transportation (Caltrans)  
Address: State Highway 1 postmile SON 29.9 and SON 40.13,  
Timber Cove  
City, State, Zip: 111 Grand Avenue, Oakland, CA 94623  
Planner: Gary Helfrich

This notice is being distributed to the Coastal Commission and those who requested notice. The following project is located within the Coastal Zone. A project decision has been completed.

Project Description: Request to: (1) Replace an existing 36-inch diameter culvert with a 108-inch diameter culvert, install rock slope protection and install an improved drainage inlet structure at Timber Gulch on Highway 1 at postmile SON 29.9, and (2) Replace an existing 36-inch diameter culvert with a 54-inch diameter culvert, install rock slope protection and install an improved drainage inlet structure at Warren Creek on Highway 1 at postmile SON 40.13; Supervisorial District No. 5

Project Location: State Highway 1 postmile SON 29.9 and SON 40.13, Timber Cove

Assessor's Parcel Number: Various

X  APPROVED by the Board of Zoning Adjustments on April 7, 2011.

Conditions of Approval: See attached.

Findings: The project, as described in the application and as conditioned, conforms with the plans, policies, requirements and standards of the Sonoma County Coastal Program. Specifically:

1. The project, as described in the application and accompanying materials and as conditioned, is consistent with the Goals, Objectives and Policies of Sonoma County General Plan 2020.
2. The project, as described in the application and accompanying materials and as conditioned, conforms with the plans, policies, requirements and standards of the Sonoma County Local Coastal Program. In this specific case, replacement of failing and undersized culverts is necessary to maintain Highway 1, which is a critical transportation corridor connecting the public to the coast and residents of coastal Sonoma County to surrounding areas.
3. The project represents the least environmentally damaging feasible project, has a public service purpose, and is incidental as defined by Section 30233(a)(5) of the Coastal Act.
4. The proposed project is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act (commencing with Section 30200).
5. A Mitigated Negative Declaration has been prepared, and mitigation measures have been incorporated into the project that will mitigate impacts to a less than significant level.

X  Appealable. The decision may be appealed in writing to the Sonoma County Board of Supervisors within ten (10) calendar days. The decision of the Board of Supervisors is appealable to the State Coastal Commission within ten (10) working days.

Address:  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2219



*Studies, Professionally Qualified Staff (PQS) shall be notified to make an evaluation of the find and report to PRMD-Project Review staff. Caltrans PQS may consult and/or notify the appropriate tribal representative from tribes known to Caltrans PQS and the PRMD to have interests in the area. Artifacts associated with prehistoric sites include humanly modified stone, shell, bone or other cultural materials such as charcoal, ash and burned rock indicative of food procurement or processing activities. Prehistoric domestic resources include hearths, firepits, or house floor depressions whereas typical mortuary resources are represented by human skeletal remains. Historic artifacts potentially include all by-products of human land use greater than 50 years of age including trash pits older than fifty years of age. When contacted, Caltrans PQS shall visit the site to determine the extent of the resources and to develop and coordinate proper protection/mitigation measures in compliance with Caltrans Programmatic Agreement and 36 CFR 800.13. PRMD Project Review staff may visit the site with Caltrans PQS. Caltrans PQS and PRMD may refer the mitigation/protection plan to designated tribal representatives for review and comment. No work shall commence until a protection/mitigation plan is reviewed and approved by PRMD - Project Review staff. Mitigations may include avoidance, removal, preservation and/or recordation in accordance with Federal and California law. Archaeological evaluation and mitigation shall be at the Caltrans sole expense.*

*If human remains are encountered, all work must stop in the immediate vicinity of the discovered remains and Caltrans PQS, PRMD staff, and the County Coroner must be notified immediately so that an evaluation can be performed. If the remains are deemed to be Native American, The Native American Heritage Commission must be contacted by the Coroner so that a "Most Likely Descendant" can be designated and the appropriate provisions of the California Government Code and the California Public Resources Code will be followed."*

Mitigation Monitoring: Caltrans shall be responsible for monitoring construction activities, and shall inform PRMD staff of archeological resources and/or human remains that are discovered on the project site.

9. This permit shall be subject to revocation or modification by PRMD if (a) the department finds that there has been non-compliance with any of the conditions or (b) the department finds that the use for which this permit is here by granted constitutes a nuisance. Any such revocation shall be preceded by a public hearing noticed and heard pursuant to Section 26-92-120 and 26-92-140 of the Sonoma County Code.

In any case where a Coastal Permit has not been used within two (2) years after the date of granting thereof, or for such additional period as may be specified in the permit, such permit shall become automatically void and of no further effect provided, however, that upon written request by the applicant prior to the expiration of the two year period the permit approval may be extended for not more than one (1) year by the authority which granted the original permit pursuant to Section 26-92-130 of the Sonoma County Code.

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200



May 19, 2011

Jeffrey Jensen  
Stefan Galvez  
Caltrans District 4  
111 Grand Ave.  
P.O. Box 23660  
Oakland, CA 94623-0660

Applicant: Caltrans

Projects: (1) Replace existing 36-inch diameter culvert with 108-inch diameter culvert, install rock slope protection and install an improved drainage inlet structure at Timber Gulch; and (2) Replace existing 36-inch diameter culvert with a 54-inch diameter, install rock slope protection and install an improved drainage inlet structure at Warren Creek

Location: Highway 1, Salt Point Park area (Warren Creek, PM SON 40.13), and Fort Ross area (Timber Gulch, P.M. SON 29.9), Sonoma County

Coastal Commission Permit/Appeal 2-SON-11-029

Local Govt. Coastal Development Permit No: County Permit PLP11-0007

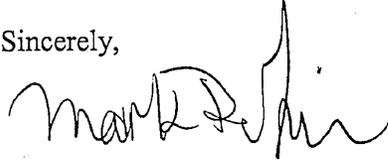
If a nationwide permit, NWP number: \_\_\_\_\_

The Coastal Commission staff has received your request to identify Commission jurisdiction for the purposes of processing an individual, nationwide, general or regional permit from the Army Corps of Engineers (Corps). Pursuant to the federal Coastal Zone Management Act (CZMA), the Corps cannot issue a permit for an activity, either in or out of the coastal zone, that affects land and water uses or natural resources of the coastal zone until the applicant has complied with the requirements of Section 307(c)(3)(A) of the CZMA. (16 USC Section 1456[c][3][A].) The applicant can meet these requirements by receiving a Commission concurrence with either (1) a consistency certification prepared by the applicant or (2) a showing that the activity does not affect the coastal zone. Alternatively, the applicant can satisfy these requirements by the issuance of a Commission approved coastal development permit. Since the Commission cannot delegate federal consistency authority to local governments, a coastal development permit issued by a local agency does not replace the requirement for a consistency certification. However, if an activity is within the Ports of San Diego, Long Beach, Los Angeles, or Port Hueneme and is identified in the Commission certified Port Master Plan, then no consistency certification is necessary.

The Coastal Commission staff has reviewed the information submitted for the above-referenced project, and has made the following determination:

**The Coastal Commission declines to assert federal consistency jurisdiction, due to the fact that: (1) these projects have received locally issued coastal development permits (with conditions) from Sonoma County (on the Consent Agenda) and are located within an area where such permits are appealable to the Coastal Commission; (2) the permits were not appealed; and (3) with the conditions imposed on the permit by the County, the project does not raise significant concerns over protection of coastal resources.**

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Delaplaine". The signature is fluid and cursive, with a prominent vertical stroke on the right side.

MARK DELAPLAINE  
Manager, Energy, Ocean Resources, and  
Federal Consistency Division

cc: CCC Caltrans Liaison (Tami Grove)  
North Central District (Ruby Pap)  
U.S. Army Corps of Engineers, S.F. District



# COUNTY OF SONOMA

## PERMIT AND RESOURCE MANAGEMENT DEPARTMENT

2550 Ventura Avenue, Santa Rosa, CA 95403-2829  
(707) 565-1900 FAX (707) 565-1103

June 3, 2013

State Dept of Transportation  
Attn Jeffrey Jensen  
P O Box 23660  
Oakland CA 94623-0660

Re: PLP11-0007; State Highway 1 postmile SON 29.9 and SON 40.13  
APN: 109-120-006, -009, and 109-040-001, -002

This letter is in reference to your request for a one-year extension of time in order to meet conditions of a previously approved Coastal Permit to: 1) replace an existing 36-inch diameter culvert with a 108-inch diameter culvert, install rock slope protection and install an improved drainage inlet structure at Timber Gulch on Highway 1 at postmile SON 29.9; and 2) replace an existing 36-inch diameter culvert with a 54-inch diameter culvert, install rock slope protection and install an improved drainage inlet structure at Warren Creek on Highway 1 at postmile SON 40.13.

Notice of the County's intent to waive the hearing requirement for the requested extension was posted for 10 days and no protests were received. Pursuant to Section 26C-343(d) of the Sonoma County Code, no public hearing is required and the one-year extension of time for the Coastal Permit is approved. This approval will now expire on April 14, 2014.

The Coastal Permit time extension approval is based on a determination by the Permit and Resource Management Department that the use will not be detrimental to the health, safety or welfare of adjacent land uses or properties because:

1. The project, as described in the application and accompanying materials and as conditioned, is consistent with the Goals, Objectives and Policies of Sonoma County General Plan 2020.
2. The project, as described in the application and accompanying materials and as conditioned, conforms with the plans, policies, requirements and standards of the Sonoma County Local Coastal Program. In this specific case, replacement of failing and undersized culverts is necessary to maintain Highway 1, which is a critical transportation corridor connecting the public to the coast and residents of coastal Sonoma County to surrounding areas.
3. The project represents the least environmentally damaging feasible project, has a public service purpose, and is incidental as defined by Section 30233(a)(5) of the Coastal Act.
4. The proposed project is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act (commencing with Section 30200).

The Coastal Permit time extension approval is based on a determination by the Permit and Resource Management Department that the use will not be detrimental to the health, safety or welfare of adjacent land uses or properties. A Mitigated Negative Declaration was previously prepared and adopted for the

project. A review of the project determined that there was (1) No new information, (2) No changes in the project, and (3) The use must comply with the application form, proposal statement, and site plan submitted to this department and as modified by the enclosed Conditions of Approval. Any modifications of the use, expansion or alteration shall be submitted for review and approval by the Department of Permit and Resource Management, Project Review Division, in advance of the proposed change and may, at the discretion of the department, require a new Coastal Permit with or without a public hearing.

This decision may be appealed to in writing, along with an appeal fee, within 10 (ten) calendar days of the date of this letter to the Sonoma County Board of Zoning Adjustments per Section 26C-347 of the Sonoma County Zoning Ordinance.

If you have any questions, feel free to contact me at 707-565-1352 or at [Misti.Harris@sonoma-county.org](mailto:Misti.Harris@sonoma-county.org). Please refer to your file number (PLP11-0007) and site address when making inquiries.

Sincerely,



Misti Harris  
Project Planner

:bp

Enclosure: Conditions of Approval dated June 3, 2013

c: File No. PLP11-0007  
Coastal Commission, San Francisco Office  
Coastal Commission, Santa Cruz Office  
Robert Solotar, [robert.solotar@dot.ca.gov](mailto:robert.solotar@dot.ca.gov)



8. All plans prepared for use by Caltrans and/or contractors shall have the following note printed on plan sheets:

*"In the event that archaeological resources such as pottery, arrowheads, midden or culturally modified soil deposits are discovered at any time during grading scraping or excavation within the property, all work shall be halted in the vicinity of the find and Caltrans Office of Cultural Resource Studies, Professionally Qualified Staff (PQS) shall be notified to make an evaluation of the find and report to PRMD-Project Review staff. Caltrans PQS may consult and/or notify the appropriate tribal representative from tribes known to Caltrans PQS and the PRMD to have interests in the area. Artifacts associated with prehistoric sites include humanly modified stone, shell, bone or other cultural materials such as charcoal, ash and burned rock indicative of food procurement or processing activities. Prehistoric domestic resources include hearths, firepits, or house floor depressions whereas typical mortuary resources are represented by human skeletal remains. Historic artifacts potentially include all by-products of human land use greater than 50 years of age including trash pits older than fifty years of age. When contacted, Caltrans PQS shall visit the site to determine the extent of the resources and to develop and coordinate proper protection/mitigation measures in compliance with Caltrans Programmatic Agreement and 36 CFR 800.13. PRMD Project Review staff may visit the site with Caltrans PQS. Caltrans PQS and PRMD may refer the mitigation/protection plan to designated tribal representatives for review and comment. No work shall commence until a protection/mitigation plan is reviewed and approved by PRMD - Project Review staff. Mitigations may include avoidance, removal, preservation and/or recordation in accordance with Federal and California law. Archaeological evaluation and mitigation shall be at the Caltrans sole expense.*

*If human remains are encountered, all work must stop in the immediate vicinity of the discovered remains and Caltrans PQS, PRMD staff, and the County Coroner must be notified immediately so that an evaluation can be performed. If the remains are deemed to be Native American, The Native American Heritage Commission must be contacted by the Coroner so that a "Most Likely Descendant" can be designated and the appropriate provisions of the California Government Code and the California Public Resources Code will be followed."*

Mitigation Monitoring: Caltrans shall be responsible for monitoring construction activities, and shall inform PRMD staff of archeological resources and/or human remains that are discovered on the project site.

9. This permit shall be subject to revocation or modification by PRMD if (a) the department finds that there has been non-compliance with any of the conditions or (b) the department finds that the use for which this permit is here by granted constitutes a nuisance. Any such revocation shall be preceded by a public hearing noticed and heard pursuant to Section 26C-335 and 26C-335.2 of the Sonoma County Code.

A Coastal Permit was issued on April 14, 2011. In accordance with Section 26C-348 of the Sonoma County Code, the applicant submitted a written request for a one-year extension of time prior to the permit expiration date. Therefore, this Coastal Permit will now expire on April 14, 2014, and is not eligible for any additional extensions of time.

DEPARTMENT OF INDUSTRIAL RELATIONS  
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH  
MINING AND TUNNELING UNIT  
2211 Park Towne Circle, Suite 2  
Sacramento, California 95825



Telephone (916) 574-2540  
FAX (916) 574-2542

April 29, 2010

Department of Transportation  
PO Box 23660  
Oakland, CA 94623

Attention: Joseph Peterson

Subject: Underground Classification No.: C172-097-10T  
Timber Gulch Culvert Replacement Project

Mr. Peterson:

The information provided to this office relative to the above project has been reviewed. On the basis of this analysis, Underground Classification of "Potentially Gassy with Special Conditions" has been assigned to the tunnel identified on your submittal. Please retain the original Classification for your records and deliver a true and correct copy of the Classification to the tunnel contractor(s) for posting at the job site.

When the contractor who will be performing the work is selected, please advise them to notify this office to schedule the mandated Prejob Conference with the Division prior to commencing any activity associated with boring of the tunnel.

Please be informed that whenever an employee enters any bore or shaft being constructed under 30 inches in diameter, the Mining and Tunneling Unit then has immediate jurisdiction over that job. Please contact the Mining and Tunneling Unit prior to entering such spaces.

If you have any questions on this subject, please contact this office at your earliest convenience.

Sincerely,

A handwritten signature in cursive script that reads "John R. Leahy".

John R. Leahy  
Senior Engineer

cc: Rich Brockman  
File



State of California

Department of Industrial Relations

DIVISION OF OCCUPATIONAL SAFETY AND HEALTH  
MINING AND TUNNELING UNIT

# Underground Classification

C172-097-10T

DEPARTMENT OF TRANSPORTATION

(NAME OF TUNNEL OR MINE AND COMPANY NAME)

PO Box 23660, Oakland, CA 94623

of

(MAILING ADDRESS)

TIMBER GULCH CULVERT REPLACEMENT PROJECT

at

(LOCATION)

\*\*\* POTENTIALLY GASSY with Special Conditions\*\*\*

has been classified as

(CLASSIFICATION)

as required by the California Labor Code Section 7955.

The Division shall be notified if sufficient quantities of flammable gas or vapors have been encountered underground. Classifications are based on the California Labor Code Part 9, Tunnel Safety Orders and Mine Safety Orders.

\*\*\*SPECIAL CONDITIONS\*\*\*

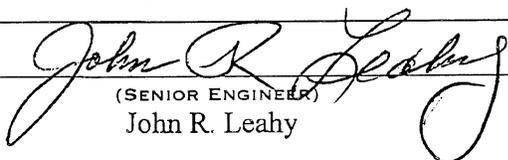
1. A Certified Gas Tester shall perform pre-entry and continuous monitoring of the underground environment to measure Oxygen and detect explosive, flammable, and toxic gasses whenever an employee is working in the underground environment.
2. Mechanical ventilation shall provide for continuous exhaust of fumes and air at any time an employee is working in the underground environment. The primary ventilation fans must be located outside of the underground environment and shall be reversible by a single switch near the fan location.
3. The Division shall be notified immediately if any **Flammable Gas** or **Petroleum Vapor** exceeds 5% of the Lower Explosive Limit.
4. All utilities that may be in conflict with the project shall be identified and physically located (potholed) prior to the start of project operations.

The 108-inch diameter by 88 feet long tunnel bore located under Route 1 at Post Mile 29.9, approximately 2.5 miles south of Fort Ross State Park, Fort Ross, Sonoma County.

This classification shall be conspicuously posted at the place of employment.

April 29, 2010

Date

  
(SENIOR ENGINEER)  
John R. Leahy





DEPARTMENT OF THE ARMY  
SAN FRANCISCO DISTRICT, U.S. ARMY CORPS OF ENGINEERS  
1455 MARKET STREET  
SAN FRANCISCO, CALIFORNIA 94108-1398

AUG 18 2010

Regulatory Division

SUBJECT: File Number SPN-2010-00161 N

Jeffrey Jensen  
Chief, Office of Biological Sciences and Permits  
California Department of Transportation  
PO Box 23660  
Oakland, California 94623-0660

Dear Mr. Jensen:

This letter is written in response to your submittal of March 23, 2010, concerning Department of the Army authorization for the Timer Gulch Culvert Replacement Project. The project is located on State Route 1 at Post Mile 29.9, 6 miles north of Jenner, in Sonoma County, California.

The project involves replacing a 3-foot diameter corrugated metal culvert under State Route 1 with a 9-foot diameter steel pipe. The culvert being replaced is 88-feet long and conveys water from Timber Gulch under State Route 1 to the Pacific Ocean to the west. The culvert length will not be extended, however a new headwall, wingwalls, and rock slope protection will be added to the inlet and outlet of the culvert. The size of the culvert is being increased to accommodate debris that is currently being trapped on the east side of the roadway at the smaller culvert opening. As a result of the debris restricting flows, there has been extensive scouring and erosion upstream of the culvert, increasing the risk of roadway failure in the area. Increasing the size of the culvert in the area will establish more natural flows under the roadway and reduce the scouring.

The pipe will be installed via trenchless method of pipe ramming. The method uses pneumatic percussive blows to drive the pipe into the ground similar to pile driving. The pipe end is left open and spoil material is typically removed by compressed air or water jetting.

A headwall will be installed at the inlet with wingwalls to prevent further erosion. The headwalls and wingwalls combined at the inlet will be 53.5 feet wide and 18 feet high. 123 cubic yards of rock slope protection will be placed at the culvert inlet and 739 cubic yards of rock slope protection will be placed at the culvert outlet to protect against erosion in the long-term. The rock slope protection at the outlet will be slid through the pipe and dropped from the outlet. The stone will then be placed by a crane in the southbound lane of the highway.

Based on a review of the information you submitted, your project qualifies for authorization under Department of the Army Nationwide Permit 14 – Linear Transportation Projects (72 Fed. Reg. 11092, March 12, 2007), pursuant to (choose) Section 404 of the Clean Water Act (33 U.S.C. Section 1344). See Enclosure 1. All work shall be completed in accordance with the plans and drawings titled “Timber Gulch Culvert Repair on State Route 1, Post Mile 29.9”, dated August 11, 2010.

The project must be in compliance with the General Conditions cited in Enclosure 2 for this Nationwide Permit authorization to remain valid. Non-compliance with any condition could result in the suspension, modification or revocation of the authorization for your project, thereby requiring you to obtain an Individual Permit from the Corps. This Nationwide Permit authorization does not obviate the need to obtain other State or local approvals required by law.

This verification is valid until the NWP is modified, reissued, or revoked. All of the existing NWPs 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 NWPs. We will issue a public notice when the NWPs are reissued. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant nationwide permit is modified or revoked, you will have twelve 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. Upon completion of the project and all associated mitigation requirements, you shall sign and return the Certification of Compliance, Enclosure 3, verifying that you have complied with the terms and conditions of the permit.

This authorization will not be effective until you have obtained a Section 401 water quality certification from the North Coast Regional Water Quality Control Board (RWQCB). If the RWQCB fails to act on a valid request for certification within two months after receipt of a complete application, the Corps will presume a waiver of water quality certification has been obtained. You shall submit a copy of the certification to the Corps prior to the commencement of work.

This authorization will not be effective until you have obtained a concurrence from the California Coastal Commission or S.F. Bay Conservation and Development Commission that your certification that your project will comply with California's Coastal Zone Management Act. If the Commission fails to act on a valid request for concurrence with your certification within six months after receipt, the Corps will presume a concurrence has been obtained. You shall submit a copy of the concurrence to the Corps prior to the commencement of work.

To ensure compliance with this Nationwide Permit authorization, the following special conditions shall be implemented:

1. Prior to the start of construction, you shall provide our office a frac-out or spill contingency plan for the culvert pipe ramming activity.
2. You shall keep a vacuum truck on-site or at the nearby staging area to clean up any drilling fluid spills from the pipe ramming activity. Any contaminated soil material resulting from a frac-out or spill shall be removed and disposed of at a Class 2 landfill.
3. You shall notify the Corps in writing of the anticipated start and stop dates of construction, at least 5 days prior to the initiation of construction.
4. If there are any changes in the project design, materials, or construction methods prior to construction, those modifications must be approved by the Corps in writing.
5. Environmentally sensitive areas shall be clearly delineated on the construction plans and demarcated in the field with high-visibility fencing prior to commencement of construction activities. ESA fencing shall be properly maintained throughout the duration of the project. The ESA shall be off limits to construction activity and personnel at all times.
6. During construction, erosion control materials, including silt fences, erosion control blankets/mats, and sandbags will be on hand and utilized as deemed necessary.
7. No debris, oil, petroleum products or other organic material resulting from construction activities shall be allowed to enter or be placed where it may be washed by rainfall or runoff into areas subject to the jurisdiction of the Corps.
8. Following project construction, disturbed areas including access points, staging and equipment storage areas, etc. shall be returned to pre-project conditions. This shall include, but is not necessarily limited to, grading to establish pre-project contours, removal of debris and seeding or planting disturbed areas with vegetation adapted to local conditions.
9. In the event of any unanticipated discoveries of potential cultural/historic resources, you shall immediately halt work in the vicinity of the discovery and contact the appropriate regulatory authorities. You shall complete consultation pursuant to 36 CFR 800 to the satisfaction of the State Historic Preservation Officer prior to resuming work.

Should you have any questions regarding this matter, please call Andrea Meier of our Regulatory Division at 415-503-6798. Please address all correspondence to the Regulatory Division and refer to the File Number at the head of this letter. If you would like to provide comments on our permit review process, please complete the Customer Survey Form available online at <http://per2.nwp.usace.army.mil/survey.html>.

Sincerely,

A handwritten signature in cursive script that reads "Jane M. Hicks" followed by the word "for" written in a smaller, simpler script.

Jane M. Hicks  
Chief, Regulatory Division

Enclosures

Copy furnished with enclosures:

CA DFG, Yountville, CA  
CA RWQCB, Santa Rosa, CA

## Enclosure 1.

14. *Linear Transportation Projects.* Activities required for the construction, expansion, modification, or improvement of linear transportation projects (e.g., roads, highways, railways, trails, airport runways, and taxiways) in waters of the United States. For linear transportation projects in non-tidal waters, the discharge cannot cause the loss of greater than 1/2-acre of waters of the United States. For linear transportation projects in tidal waters, the discharge cannot cause the loss of greater than 1/3-acre of waters of the United States. Any stream channel modification, including bank stabilization, is limited to the minimum necessary to construct or protect the linear transportation project; such modifications must be in the immediate vicinity of the project.

This NWP also authorizes temporary structures, fills, and work necessary to construct the linear transportation project. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to preconstruction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

This NWP cannot be used to authorize non-linear features commonly associated with transportation projects, such as vehicle maintenance or storage buildings, parking lots, train stations, or aircraft hangars. *Notification:* The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if: (1) The loss of waters of the United States exceeds 1/10 acre; or (2) there is a discharge in a special aquatic site, including wetlands. (See general condition 27.) (Sections 10 and 404)

**Note:** Some discharges for the construction of farm roads or forest roads, or temporary roads for moving mining equipment, may qualify for an exemption under Section 404(f) of the Clean Water Act (see 33 CFR 323.4).

## Enclosure 2. Nationwide Permit General Conditions

**Note:** To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as appropriate, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP.

1. *Navigation.* (a) No activity may cause more than a minimal adverse effect on navigation.  
(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.  
(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, 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, the permittee 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.

2. *Aquatic Life Movements.* No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions.

3. *Spawning Areas.* Activities in spawning areas during spawning seasons must be avoided to the

maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. *Migratory Bird Breeding Areas.* Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. *Shellfish Beds.* No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48.

6. *Suitable Material.* No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

7. *Water Supply Intakes.* No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. *Adverse Effects From Impoundments.* If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. *Management of Water Flows.* To the maximum extent practicable, the preconstruction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the preconstruction

course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. *Fills Within 100-Year Floodplains.* The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. *Equipment.* Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. *Soil Erosion and Sediment Controls.* Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.

13. *Removal of Temporary Fills.* Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. *Proper Maintenance.* Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety.

15. *Wild and Scenic Rivers.* No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and

Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).

16. *Tribal Rights.* No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

17. *Endangered Species.* (a) No activity is authorized under any NWP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

(c) Non-federal permittees shall notify the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction

notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have "no effect" on listed species or critical habitat, or until Section 7 consultation has been completed.

(d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific regional endangered species conditions to the NWPs.

(e) Authorization of an activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the U.S. FWS or the NMFS, both lethal and non-lethal "takes" of protected species are in violation of the ESA. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. FWS and NMFS or their world wide Web pages at <http://www.fws.gov/> and <http://www.noaa.gov/fisheries.html> respectively.

18. *Historic Properties.* (a) In cases where the district engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified

properties. For such activities the preconstruction notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties which the activity may have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

(d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete preconstruction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.5(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed.

(e) Prospective permittees should be aware that section 110(k) of the NHPA (16 U.S.C. 470b- 2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely

affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, explaining the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

19. *Designated Critical Resource Waters.* Critical resource waters include, NOAA-designated marine sanctuaries, National Estuarine Research Reserves, state natural heritage sites, and outstanding national resource waters or other waters officially designated by a state as having particular environmental or ecological significance and identified by the district engineer after notice and opportunity for public comment. The district engineer may also designate additional critical resource waters after notice and opportunity for comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWP 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, and 50 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWP 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with general condition 27, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

20. *Mitigation.* The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal:

- (a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).
- (b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.
- (c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed  $\frac{1}{10}$  acre and require preconstruction notification, unless the district engineer determines in writing that some other form of mitigation would be more environmentally appropriate and provides a projectspecific waiver of this requirement. For wetland losses of  $\frac{1}{10}$  acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered.
- (d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation, such as stream restoration, to ensure that the activity results in minimal adverse effects on the aquatic environment.
- (e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of  $\frac{1}{2}$  acre, it cannot be used to authorize any project resulting in the loss of greater than  $\frac{1}{2}$  acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as

necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWPs.

(f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the establishment, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required. Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(g) Permittees may propose the use of mitigation banks, in-lieu fee arrangements or separate activityspecific compensatory mitigation. In all cases, the mitigation provisions will specify the party responsible for accomplishing and/or complying with the mitigation plan.

(h) Where certain functions and services of waters of the United States are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.

21. *Water Quality.* Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA Section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The

district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

**22. Coastal Zone Management.** In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

**23. Regional and Case-By-Case Conditions.** The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

**24. Use of Multiple Nationwide Permits.** The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/4-acre.

**25. Transfer of Nationwide Permit Verifications.** If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature: "When the structures or work

authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."

(Transferee) \_\_\_\_\_  
(Date) \_\_\_\_\_

**26. Compliance Certification.** Each permittee who received an NWP verification from the Corps must submit a signed certification regarding the completed work and any required mitigation. The certification form must be forwarded by the Corps with the NWP verification letter and will include:

- (a) A statement that the authorized work was done in accordance with the NWP authorization, including any general or specific conditions;
- (b) A statement that any required mitigation was completed in accordance with the permit conditions; and
- (c) The signature of the permittee certifying the completion of the work and mitigation.

**27. Pre-Construction Notification.** (a) **Timing.** Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, as a general rule, will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity:

- (1) Until notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the

district or division engineer, or  
(2) If 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 17 that listed species or critical habitat might be affected or in the vicinity of the project, or to notify the Corps pursuant to general condition 18 that the activity may have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or Section 106 of the National Historic Preservation (see 33 CFR 330.4(g)) is completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee cannot begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) **Contents of Pre-Construction Notification.** The PCN must be in writing and include the following information:

- (1) Name, address and telephone numbers of the prospective permittee;
- (2) Location of the proposed project;
- (3) A description of the proposed project, the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to

determine the need for compensatory mitigation. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the project and when provided result in a quicker decision.);

(4) The PCN must include a delineation of special aquatic sites and other waters of the United States on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters of the United States, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, where appropriate;

(5) If the proposed activity will result in the loss of greater than  $\frac{1}{10}$  acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(6) If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, for non-Federal applicants the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act; and

(7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

(c) *Form of Pre-Construction*

*Notification:* The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is a PCN and must include all of the information required in paragraphs (b)(1) through (7) of this general condition. A letter containing the required information may also be used.

(d) *Agency Coordination:* (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the project's adverse environmental effects to a minimal level.

(2) For all NWP 48 activities requiring pre-construction notification and for other NWP activities requiring preconstruction notification to the district engineer that result in the loss of greater than  $\frac{1}{2}$ -acre of waters of the United States, the district engineer will immediately provide (e.g., via facsimile transmission, overnight mail, or other expeditious manner) a copy of the PCN to the appropriate Federal or state offices (U.S. FWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Office (THPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will then have 10 calendar days from the date the material is transmitted to telephone or fax the district engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the preconstruction notification. The district engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each preconstruction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will

consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5. (3) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act. (4) Applicants are encouraged to provide the Corps multiple copies of pre-construction notifications to expedite agency coordination. (5) For NWP 48 activities that require reporting, the district engineer will provide a copy of each report within 10 calendar days of receipt to the appropriate regional office of the NMFS. (e) *District Engineer's Decision:* In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If the proposed activity requires a PCN and will result in a loss of greater than  $\frac{1}{10}$  acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for projects with smaller impacts. The district engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed work are minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the district engineer will notify the permittee and include any conditions the district engineer deems necessary. The district engineer must approve any compensatory mitigation proposal before the permittee commences work. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will

expeditiously review the proposed compensatory mitigation plan. The district engineer must review the plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the district engineer to be minimal, the district engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP.

If the district engineer determines that the adverse effects of the proposed work are more than minimal, then the district engineer will notify the applicant either: (1) That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (2) that the project is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level; or (3) that the project is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period. The authorization will include the necessary conceptual or specific mitigation or a requirement that the applicant submit a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level. When mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan.

*28. Single and Complete Project.* The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

**Enclosure 3.**

Permittee: Jeffrey Jensen  
Chief, Office of Biological Sciences and Permits  
California Department of Transportation  
111 Grand Avenue  
PO Box 23660  
Oakland, California 94623-0660

File Number: SPN-2010-00161 N

**Certification of Compliance  
for  
Nationwide Permit**

"I hereby certify that the work authorized by the above referenced File Number and all required mitigation have been completed in accordance with the terms and conditions of this Nationwide Permit authorization."

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(Permittee)

---

(Date)

Return to:

Andrea Meier  
U.S. Army, Corps of Engineers  
San Francisco District  
Regulatory Division, CESP-OR-R  
1455 Market Street  
San Francisco, CA 94103-1398



Linda S. Adams  
Secretary for  
Environmental Protection

**California Regional Water Quality Control Board  
North Coast Region  
Geoffrey M. Hales, Chairman**

[www.waterboards.ca.gov/northcoast](http://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



Arnold  
Schwarzenegger  
Governor

October 06, 2010

In the Matter of

**Water Quality Certification**

for the

**California Department of Transportation  
Highway 1 - Timber Gulch Culvert Project  
WDID No. 1B10072WNSO**

APPLICANT: California Department of Transportation  
RECEIVING WATER: Timber Gulch Creek  
HYDROLOGIC AREA: Mendocino Coast Hydrologic Unit No.113.00  
(Undefined Hydrologic Sub-Area 113.90)  
COUNTY: Sonoma  
FILE NAME: CDOT - Hwy 1, Timber Gulch Culvert Project

BY THE EXECUTIVE OFFICER:

1. On June 15, 2010, 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 Highway 1- Timber Gulch Culvert Project (project). The proposed project will cause disturbances to Waters of the United States (U.S.) and Waters of the State associated with intermittent coastal stream located within the Mendocino Coast Hydrologic Unit No.113.00 (Undefined Hydrologic Sub-Area 113.90). The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on September 14, 2010, 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 proposed project will cause disturbances to waters of the United States (U.S.) and waters of the State associated with Timber Gulch Creek, a coastal tributary. The proposed project is located on Highway 1 at post mile (PM) 29.9, in Sonoma County. The purpose of the proposed project is to replace the existing culvert that was damaged in the 2005/2006 wet season and has significantly degraded due to scour. Caltrans proposes replacing the current 48-inch diameter corrugated metal pipe culvert with a 108-inch diameter steel pipe culvert. Additionally, Caltrans proposed to install new headwalls, wingwalls, and rock slope protection (RSP) with the new culvert. The newly proposed structure is designed to pass larger debris flows and prevent additional erosion and scour.
3. The proposed project will result in temporary and permanent impacts to waters of the U.S and waters of the State. The scope of work proposed may require the installation of a water diversion and may require dewatering activities. Construction will also include vegetation clearing, excavation, concrete work and the construction of temporary access road.
4. Caltrans has determined that temporary impacts to waters of the U.S. would total 312 ft<sup>2</sup> (154 linear feet) and permanent impacts would total 1,261 ft<sup>2</sup> (216 linear feet). Caltrans will utilize Best Management Practices (BMPs) to provide erosion control and pollution prevention throughout the project area during construction and demolition. In addition, all graded areas within the project affected by the construction activities will be appropriately stabilized and/or replanted with appropriate native vegetation. In addition, construction and post construction BMPs will be implemented to ensure erosion is minimized and controlled.
5. Caltrans proposes to mitigate the project impacts by purchasing credits to the California State Parks Willow Creek Watershed Restoration Program and conducting on-site revegetation. The off-site mitigation at Willow Creek (tributary to the Russian River) will consist of funding the restoration of 0.09 acres (3,920 ft<sup>2</sup>) of waters of the State within the watershed.
6. Caltrans has applied for authorization from the United States Army Corps of Engineers to perform the project under their Nationwide Permits No. 14 (linear transportation projects) pursuant to Clean Water Act, section 404. Caltrans has also applied for a California Department of Fish and Game Streambed Alteration and a Coastal Development Permit. Caltrans has determined that this project is categorically exempt from California Environmental Quality Act (CEQA) review (Class 2 Categorical Exemption). In addition, Regional Water Board staff also determined that this project is categorically exempt from CEQA review and anticipate filing a Notice of Exemption.

7. The majority of proposed project activity is scheduled to begin in August 2011 through October 15, 2011. The entire project is expected to take approximately 30 working days to complete; however, the proposed in-channel work will only be conducted between dry seasons, when flows are low.
8. 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.

Receiving Water: Timber Gulch Creek  
Mendocino Coast Hydrologic Unit No. 113.00  
Undefined Hydrologic Sub-Area 113.00

Filled or Excavated Area: Temporary - streams 312 feet<sup>2</sup>  
Permanent – streams 0.3 acres (1,261 feet<sup>2</sup>)

Total Linear Impacts: Temporary - streams 154 linear ft  
Permanent - streams 216 linear ft

Dredge Volume: None

Fill Volume: Permanent - streams: 1,059 cubic yards of rock

Latitude/Longitude: 38.5014 N / 123.2074 W

Expiration: October 6, 2015

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE REGIONAL WATER BOARD CERTIFIES THAT THE Caltrans – Highway 1 – Timber Gulch Culvert Project, WDID No. 1B10072WNSO 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 Caltrans complies with the following terms and conditions:

1. 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.
2. 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.
3. 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.
4. 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 application.
5. Except as may be modified by any preceding conditions, all certification actions are contingent on: a) the discharge being limited, and all proposed revegetation and mitigation being completed, in strict compliance with the applicant's project description, as approved herein, and b) compliance with all applicable water quality requirements and water quality control plans including the requirements of the Basin Plan, and amendments thereto.
6. 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.
7. Caltrans shall construct the project in accordance with the project described in the application and the findings above, and shall comply with all applicable water quality requirements and Water Quality Standards as detailed in the Basin Plan.
8. 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 concurrence.

9. Caltrans shall provide a copy of this Order, associated attachments, and State Water Resources Control Board (SWRCB) Order No. 2003-0017-DWQ to the contractor, all subcontractors, and all utility companies conducting the work, and require that copies remain in their possession at the work site. Caltrans shall be responsible for work conducted by its employees, contractors, subcontractors, and utility companies.
10. 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, major concrete pours, dewatering activities, or water diversion 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.
11. 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.
12. All activities and best management practices (BMPs) shall be implemented according to the submitted application and the conditions in this Order. 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.

13. 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.
14. 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.
15. Caltrans shall submit, subject to approval 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.
16. Surface water monitoring shall be conducted whenever a project activity is conducted within waters of the State (e.g. installing and operating stream diversions, RSP placement, discharges from project activities). Surface water monitoring shall be conducted when any project activity has, or has the potential to, mobilize sediment and/or alter background conditions within waters of the State. In order to demonstrate compliance with receiving water limitations and applicable water quality standards, field measurements shall be collected whenever a project activity may alter background conditions.

17. Caltrans shall establish effluent, upstream (background) and downstream monitoring locations to demonstrate compliance with all applicable water quality objectives as detailed in the Basin Plan. The downstream location shall be no more than 50 feet from the effluent location. Field measurements shall be taken from each location four times daily for flow, pH, temperature, dissolved oxygen, total dissolved solids, turbidity and specific conductance. In addition, visual observations shall be made four times daily and include the appearance of the discharge including color, turbidity, 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. Measurements shall be collected from each sampling location four times daily while work is being conducted within waters of the State.
  
18. Whenever, as a result of project activities, downstream measurements exceed the following water quality objectives, appropriate measurements shall be collected from all monitoring locations every hour during the period of increase, and shall continue until measurements demonstrate compliance with receiving water limitations and the water quality parameters are no longer increasing as a result of project activities.

pH	<0.5 or >0.5 (any changes >0.5 units)
temperature	>0.5°F above background
dissolved oxygen	<7 milligrams per liter (mg/L)
total dissolved solids	20% above natural background
turbidity	20% above natural background
specific conductance	>300 micromhos @ 77°F

If any measurements are beyond the water quality objectives 50 feet downstream of the source(s), all necessary steps shall be taken to install, repair, and/or modify BMPs to control the source(s). In addition, the overall distance from the source(s) to the downstream extent of the exceedance shall be measured.

Monitoring results shall be reported to appropriate Regional Water Board staff person by telephone within one hour of taking any measurements that exceed the limits detailed above (turbidity only if it is higher than 20 NTU as well). Upstream and downstream pictures within the working and/or disturbed area shall be taken and submitted to the appropriate Regional Water Board staff via e-mail or fax within 24 hours of the incident. All other monitoring data 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.

19. 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.
20. Herbicides and pesticides shall not be used on the project. If Caltrans has a compelling case as to why herbicides and pesticides should be used, they may submit a request along with a BMP plan to the Executive Officer of the Regional Water Board for review, consideration, and concurrence.
21. 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.
22. 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.
23. 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 in a manner that does not result in a discharge to Waters of the State.
24. 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 apply for a permit from the Regional Water Board. Plans to reuse or recycle wastewater require written approval from Regional Water Board staff.

25. Any potentially hazardous waste(s) (solids, liquids, or slurries) derived or encountered in this project shall undergo the appropriate characterization to demonstrate compliance with all applicable waste disposal laws and regulations. If unanticipated or anticipated waste are encountered or created during the project, Caltrans shall notify the Regional Water Board immediately and at least within 24 hours. Caltrans or their contractor shall prepare applicable work plans for handling, treating, transporting, and disposing of waste. The work plans shall be prepared and signed by an engineer or geologist with the appropriate and valid California licenses.
26. 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. 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.
27. 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.
28. 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.
29. Caltrans shall conduct on-site revegetation activities in accordance with the application for water quality certification. In addition, at least 30 days prior to starting construction Caltrans shall provide proof of purchase of the 0.09 acres of mitigation credits for the Willow Creek streambed habitat restoration project.
30. 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.
31. The Regional Water Board may add to or modify the conditions of this Order, as appropriate, and 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.
32. This Order is not transferable. In the event of any change in control of ownership of land presently owned or controlled by Caltrans, Caltrans 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.
33. The authorization of this certification for any dredge and fill activities expires on September 23, 2015. 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.
34. 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.

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Catherine Kuhlman  
Executive Officer

Ms. Lilian Acorda, California Department of Transportation

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 sent to: Ms. Lilian Acorda, California Department of Transportation,  
P.O. Box 23660, Oakland, CA 94623-0660

cc sent to: Mr. Cyrus Vafai, California Department of Transportation,  
P.O. Box 23660, Oakland, CA 94623-0660

ECC sent to: Ms. Jane Hicks, U.S. Army Corps of Engineers, Regulatory  
Functions, 1455 Market Street, San Francisco, CA 94103-1398

***California Environmental Protection Agency***



State of California – The Natural Resources Agency

ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF FISH AND GAME

Bay Delta Region  
Post Office Box 47  
Yountville, California 94599  
(707) 944-5520  
[www.dfg.ca.gov](http://www.dfg.ca.gov)



August 26, 2010

Jeffrey G. Jensen  
California Department of Transportation  
111 Grand Avenue  
Oakland, CA 94623

Subject: Final Lake or Streambed Alteration Agreement  
Notification No. 1600-2010-0150-R3  
State Route 1 Timber Gulch Culvert Replacement

Dear Mr. Jensen:

Enclosed is the final Streambed Alteration Agreement ("Agreement") for the Route 1 Timber Gulch Culvert Replacement ("Project"). Before the Department may issue an Agreement, it must comply with the California Environmental Quality Act ("CEQA"). In this case, the Department, acting as a lead agency, determined you project is exempt from CEQA and filed a notice of exemption ("NOE") on August 26, 2010.

Under CEQA, filing a NOE starts a 35-day period within which a party may challenge the filing agency's approval of the project. You may begin your project before the 35-day period expires if you have obtained all necessary local, state, and federal permits or other authorizations. However, if you elect to do so, it will be at your own risk.

If you have any questions regarding this matter, please contact Melissa Escaron, Staff Environmental Scientist, at (707)339-0334 or [mescaron@dfg.ca.gov](mailto:mescaron@dfg.ca.gov).

Sincerely,

  
for Scott Wilson  
Environmental Program Manager  
Bay Delta Region

cc: Melissa Escaron  
Warden Stinson  
Captain Riske

**CALIFORNIA DEPARTMENT OF FISH AND GAME**  
BAY DELTA REGION  
POST OFFICE BOX 47  
YOUNTVILLE, CALIFORNIA 94599  
(707) 944-5520  
[WWW.DFG.CA.GOV](http://WWW.DFG.CA.GOV)



**STREAMBED ALTERATION AGREEMENT**  
NOTIFICATION NO. 1600-2010-0150-3  
Timber Gulch

CALIFORNIA DEPARTMENT OF TRANSPORTATION  
STATE ROUTE 1 TIMBER GULCH CULVERT REPLACEMENT

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Game (DFG) and California Department of Transportation (Permittee) as represented by Jeffrey G. Janson.

**RECITALS**

WHEREAS, pursuant to Fish and Game Code (FGC) section 1602, Permittee notified DFG on April 14, 2010 that Permittee intends to complete the project described herein.

WHEREAS, pursuant to FGC section 1603, 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**

The Project is located along State Route 1 at post mile 29.9, six miles north of the city of Jenner in Sonoma county. Latitude 38.5014185, Longitude: -123.2074227.

## **PROJECT DESCRIPTION**

Caltrans proposes replace an undersized 88-foot long, 3-foot diameter culvert with a 9-foot diameter culvert. The culvert conveys Timber Gulch flows under State Route 1. The undersized culvert is causing debris collection at the inlet thereby restricting downstream flow. As a result of the restricted flow, extensive scouring and erosion has occurred at the inlet.

The new culvert will be installed using the pipe ramming technique which requires the use of an insertion pit and receiving pit. The pit will be excavated as necessary to achieve a depth of 4 feet.

A concrete head wall (13.5 feet long x 6 feet high) and wing wall (20-feet long x 18-feet high) will be installed to prevent further erosion. Rock Slope Protection will be placed at the inlet (68 cubic yards) and outlet (739 cubic yards) to prevent future erosion of the roadway embankment.

Construction will take approximately 30 days to complete.

## **PROJECT IMPACTS**

Existing fish or wildlife resources the project could substantially adversely affect include: Riparian habitat.

The adverse effects the project could have on the fish or wildlife resources identified above include: Temporarily increased erosion and sedimentation within the riparian corridor and removal of riparian vegetation.

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

### **1. Administrative Measures**

Permittee (Caltrans and/or its Designee) 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 Resident Engineers, 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 (Caltrans and/or its Designee) shall implement each measure listed below.

- 2.1 Permittee shall designate a biologist to conduct a pre-construction survey for sensitive species including foothill yellow legged frogs and red tree voles. If construction activities stop for a period of one week or more, a new pre-construction survey shall be completed no more than 24 hours prior to the re-initiation of construction activities.
- 2.2 Permittee shall flag and avoid any tree vole nests encountered.
- 2.3 All work within the Timber Gulch riparian zone shall be limited to the period between June 15 and October 15.
- 2.4 Permittee shall store native material removed for the construction of the insertion and receiving pits. Permittee shall use stored native material to restore pit locations to the pre-existing streambed countours.
- 2.5 Permittee shall conduct all work according to the project description stated above as well as the plans submitted to DFG that are not in conflict with the above stated project description. Permittee shall notify the DFG of any modifications made to the plans submitted to DFG that pertain to impacts to the Timber Gulch riparian zone.
- 2.6 Permittee shall be in compliance with Migratory Bird Treaty Act (MBTA) and Fish and Game Code 3503. To avoid potential impacts to nesting birds, Permittee shall remove vegetation or install

exclusion measures during the time period of August 15 to February 15. If construction activities that have the potential to violate MBTA and Fish and Game Code 3503 are scheduled during the nesting season, focused surveys for active nests shall be conducted within 72 hours of said construction activities. If active nests are identified, a 50-foot no-work buffer for non-raptors and a 300-foot no-work buffer for raptors shall be established. If active nests are found, Caltrans shall consult with DFG and the United States Fish and Wildlife Service (USFWS) regarding appropriate action to comply with the MBTA of 1918 and the Fish & Game Code of California.

- 2.7 Permittee shall allow any wildlife encountered during the course of construction to leave the construction area unharmed. This authorization does not allow for the trapping, capture, or relocation of any other state or federally listed species.
- 2.8 This authorization does not allow for the removal of any trees within the riparian zone. If the project changes such that tree removal becomes necessary, the Permittee shall consult with the DFG.
- 2.9 If any state or federal listed species, or state species of special concern, are observed during project surveys, Permittee shall submit California Natural Diversity Data Base (CNDDDB) forms to the CNDDDB for all preconstruction survey data within five working days of the sightings, and provide DFG Region 3 with copies of the CNDDDB forms and survey maps.
- 2.10 Permittee shall install, monitor and maintain high-visibility Environmentally Sensitive Area fencing. Fencing shall be monitored and maintained on a daily basis, to protect sensitive resources. Permittee shall remove as little vegetation as is necessary to conduct construction activities.
- 2.11 Permittee shall have readily available, at all times, plastic sheeting or visquine and will cover exposed spoil piles and exposed areas to prevent these areas from losing loose soil into the stream. These covering materials shall be applied when it is evident rainy conditions threaten to erode loose soils into the stream.
- 2.12 Permittee shall not operate equipment or vehicles in water-covered portions of the stream or where wetland vegetation, riparian vegetation, or aquatic organisms may be destroyed, except as otherwise provided for in this Agreement and as necessary to complete authorized work.

- 2.13 Permittee shall locate staging and storage areas for equipment, materials, fuels, lubricants and solvents, outside of the riparian area. Stationary equipment such as motors, pumps, generators, compressors and welders, located within or adjacent to the creek will be positioned over drip pans. Any equipment or vehicles driven and/or operated within or adjacent to the creek will be checked and maintained daily, to prevent leaks of materials that if introduced to water could be deleterious to aquatic life. Vehicles will be moved away from the creek prior to refueling and lubrication.
- 2.14 Permittee shall prevent raw cement/concrete or washings thereof, asphalt, straw, paint or other coating material, oil or other petroleum products, or any other substances related to project activities which could be hazardous to aquatic life, wildlife, or riparian habitat from contaminating the soil and/or entering the waters of the State. Permittee may be subject to a citation for placing materials where they may enter the creek.
- 2.15 Permittee shall not dump any litter or construction debris within the within the project area. All such debris and waste shall be picked up daily and properly disposed of at an appropriate site.
- 2.16 Any materials placed in seasonally dry portions of the creek, that could be washed downstream or could be deleterious to aquatic life, wildlife, or riparian habitat shall be removed by Permittee prior to inundation by high flows.

## 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:

Jeffrey G. Jensen  
111 Grand Ave.  
Oakland, Ca 94623  
(510) 622-8729  
Jeffrey\_jensen@dot.ca.gov

To DFG:

Department of Fish and Game  
Bay Delta Region  
7329 Silverado Trail  
Attn: Lake and Streambed Alteration Program – Melissa Escaron  
Notification #1600-2010-0150-R3  
mescaron@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 on December 31, 2013, 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.

#### **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 JEFFREY G. JENSEN REPRESENTING  
CALIFORNIA DEPARTMENT OF  
TRANSPORTATION**

  
\_\_\_\_\_  
Jeffrey G. Jensen

3/17/10  
\_\_\_\_\_  
Date

**FOR DEPARTMENT OF FISH AND GAME**

  
\_\_\_\_\_  
Scott Wilson  
Environmental Program Manager

August 26, 2010  
\_\_\_\_\_  
Date

Prepared by: Melissa Escaron  
Staff Environmental Scientist  
July 12, 2010

DEPARTMENT OF INDUSTRIAL RELATIONS  
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH  
MINING AND TUNNELING UNIT  
2211 Park Towne Circle, Suite 2  
Sacramento, California 95825



Telephone (916) 574-2540  
FAX (916) 574-2542

April 29, 2010

Department of Transportation  
PO Box 23660  
Oakland, CA 94623

Attention: Joseph Peterson

Subject: Underground Classification No.: C172-097-10T

Timber Gulch Culvert Replacement Project

Mr. Peterson:

The information provided to this office relative to the above project has been reviewed. On the basis of this analysis, Underground Classification of "Potentially Gassy with Special Conditions" has been assigned to the tunnel identified on your submittal. Please retain the original Classification for your records and deliver a true and correct copy of the Classification to the tunnel contractor(s) for posting at the job site.

When the contractor who will be performing the work is selected, please advise them to notify this office to schedule the mandated Prejob Conference with the Division prior to commencing any activity associated with boring of the tunnel.

Please be informed that whenever an employee enters any bore or shaft being constructed under 30 inches in diameter, the Mining and Tunneling Unit then has immediate jurisdiction over that job. Please contact the Mining and Tunneling Unit prior to entering such spaces.

If you have any questions on this subject, please contact this office at your earliest convenience.

Sincerely,

A handwritten signature in cursive script that reads "John R. Leahy".

John R. Leahy  
Senior Engineer

cc: Rich Brockman  
File



State of California

Department of Industrial Relations

DIVISION OF OCCUPATIONAL SAFETY AND HEALTH  
MINING AND TUNNELING UNIT

# Underground Classification

C172-097-10T

DEPARTMENT OF TRANSPORTATION

(NAME OF TUNNEL OR MINE AND COMPANY NAME)

PO Box 23660, Oakland, CA 94623

of

(MAILING ADDRESS)

TIMBER GULCH CULVERT REPLACEMENT PROJECT

at

(LOCATION)

\*\*\* POTENTIALLY GASSY with Special Conditions\*\*\*

has been classified as

(CLASSIFICATION)

as required by the California Labor Code Section 7955.

The Division shall be notified if sufficient quantities of flammable gas or vapors have been encountered underground. Classifications are based on the California Labor Code Part 9, Tunnel Safety Orders and Mine Safety Orders.

\*\*\*SPECIAL CONDITIONS\*\*\*

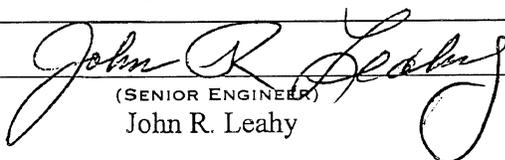
1. A Certified Gas Tester shall perform pre-entry and continuous monitoring of the underground environment to measure Oxygen and detect explosive, flammable, and toxic gasses whenever an employee is working in the underground environment.
2. Mechanical ventilation shall provide for continuous exhaust of fumes and air at any time an employee is working in the underground environment. The primary ventilation fans must be located outside of the underground environment and shall be reversible by a single switch near the fan location.
3. The Division shall be notified immediately if any **Flammable Gas** or **Petroleum Vapor** exceeds 5% of the Lower Explosive Limit.
4. All utilities that may be in conflict with the project shall be identified and physically located (potholed) prior to the start of project operations.

The 108-inch diameter by 88 feet long tunnel bore located under Route 1 at Post Mile 29.9, approximately 2.5 miles south of Fort Ross State Park, Fort Ross, Sonoma County.

This classification shall be conspicuously posted at the place of employment.

April 29, 2010

Date

  
(SENIOR ENGINEER)  
John R. Leahy





State of California – The Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Bay Delta Region  
7329 Silverado Trail  
Napa, CA 94558  
(707) 944-5500  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

**EDMUND G. BROWN JR.**, Governor  
**CHARLTON H. BONHAM**, Director



October 25, 2013

Lilian Acorda  
California Department of Transportation  
111 Grand Avenue  
Oakland, CA 94623

Subject: Extension of Lake or Streambed Alteration Agreement  
Notification No. 1600-2010-0150-R3  
Timber Gulch, Route 1 Sonoma County

Dear Ms. Acorda:

The California Department of Fish and Wildlife ("Department") received your request to extend Streambed Alteration Agreement ("Agreement") and extension fee, for the above referenced Agreement. The Department hereby grants your request to extend the Agreement from December 31, 2013 to December 31, 2016. All other conditions in the original Agreement remain in effect. This is a one time extension only.

Copies of the original Agreement and this letter must be readily available at project worksites and must be presented when requested by a Department representative or other agency with inspection authority.

If you have any questions regarding this matter, please contact Melissa Escaron, Staff Environmental Scientist, at (925)786-3045 or [Melissa.escaron@wildlife.ca.gov](mailto:Melissa.escaron@wildlife.ca.gov).

Sincerely,

Craig J. Weightman  
Environmental Program Manager  
Bay Delta Region

cc: Lieutenant Jones  
Warden Reed

FOR DEPARTMENT USE ONLY

Date Received	Fee Enclosed	Approved?	Date Approved	Expiration Date
7/10/13	\$ 224 <sup>00</sup>	<input type="checkbox"/> Yes <input type="checkbox"/> No		



✓ # 082-271668  
 CA Dept.  
 of Transportation

STATE OF CALIFORNIA  
 DEPARTMENT OF FISH AND WILDLIFE



**REQUEST TO EXTEND  
 LAKE OR STREAMBED ALTERATION AGREEMENT**

Complete EACH field and attach additional pages if necessary. Please refer to the fee schedule and submit the correct fee with extension request.

**1. APPLICANT REQUESTING EXTENSION**

If the applicant is a business, agency, or utility, please include the name of the applicant's representative, who should be an employee of the applicant.

Name	Lilian Acorda - Project Manager		
Business/Agency	California Department of Transportation (Caltrans) - District 4		<b>Fish &amp; Game</b>
Street Address	111 Grand Avenue, Mail Station 8E		
City, State, Zip	Oakland, CA 94623-0660		
Telephone	510 286-4927	Fax	(510) 286-6031
Email	Lilian-Acorda@dot.ca.gov		

JUL 10 2013

Yountville

**2. PROJECT INFORMATION**

Agreement number	1600-2010-0150-R3
Original expiration date	August 26, 2013
New expiration date requested	August 26, 2016

Specify: 1) the work that has been completed; 2) the work that needs to be completed; and 3) the amount of time needed to complete the work.

No work has been completed. The original project design remains unchanged.

CalTrans proposes to replace a damaged culvert.

To prevent total closure of SR-1, the culvert replacement will be done in several stages:

- 1) One side of the curve of the road, over the Timber Gulch, will be widened and the roadbed moved over to that area
- 2) Water from the stream will be pumped out and around the construction site.
- 3) The other side of the curve will be excavated and the portion of the culvert underlying that portion will be replaced.
- 4) Excavated material will then be replaced over the new culvert
- 5) The roadway will be moved back over the new culvert

Continued on additional page(s)

REQUEST TO EXTEND LAKE OR STREAMBED ALTERATION AGREEMENT

2. PROJECT INFORMATION, continued.

Specify the reason(s) for the extension request

- 6) The opposite side of the road curve will be excavated and the portion of the culvert underlying the road will be replaced.
- 7) With completion of replacement of the culvert, the complete whole roadway will be reestablished over its original site.

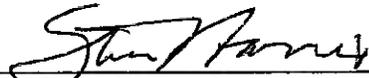
The lack of funding prevented initiation of the original project. Funding has been reestablished for the project and the project is expected to proceed. The project is expected to begin in 3013 and be completed in 2014. The majority of proposed project activity is scheduled for August through October. The entire project is expected to take approximately 30 working days to complete; however, the proposed in-channel work will only be conducted between dry seasons, when flows are low.

Continued on additional page(s)

**Note: The Department may not process this extension request until the extension fee has been received.**

3. SIGNATURE

I hereby certify that to the best of my knowledge the information in this extension request ("request") is true and correct and that I am authorized to sign this request as, or on behalf of, the applicant. I understand that if any information in this request is found to be untrue or incorrect, the Department may suspend processing this request. I understand also that if any information in this request is found to be untrue or incorrect, I and/or the applicant may be subject to civil or criminal prosecution.



Signature of Applicant or Applicant's Authorized Representative

9 Jul 13

Date

Steven Harris

Print Name

**Note: If approved, a copy of this form must be available at the work site with the original agreement.**