

FOR CONTRACT NO.: 05-493704

PROJECT ID: 0500000577

INFORMATION HANDOUT

WATER QUALITY

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

CENTRAL COAST REGION

WATER QUALITY CERTIFICATION NO. 32710WQ02

PERMITS

UNITED STATES ARMY CORPS OF ENGINEERS

NON-REPORTING NATIONWIDE 404 PERMIT

FILE NO. SPN-2010-00044 S

CALIFORNIA COASTAL COMMISSION

NOTICE OF PERMIT WAIVER EFFECTIVENESS

COASTAL DEVELOPMENT PERMIT (CDP) WAIVER 3-09-038-W

AGREEMENTS

CALIFORNIA DEPARTMENT OF FISH AND GAME

FINAL LAKE OR STREAMBED ALTERATION AGREEMENT

NOTIFICATION NO. 1600-2010-0004-R4

ENCROACHMENT PERMITS

U. S. DEPARTMENT OF AGRICULTURE FOREST SERVICE

SPECIAL USE PERMIT

AUTHORIZATION ID: MRD1122

ROUTE: 1-Mon-0.9



Linda Adams
Secretary for
Environmental
Protection

California Regional Water Quality Control Board

Central Coast Region

Internet Address: <http://www.waterboards.ca.gov/centralcoast/>
895 Aerovista Place, Suite 101, San Luis Obispo, California 93401
Phone (805) 549-3147 • FAX (805) 543-0397



Arnold
Schwarzenegger
Governor

April 20, 2010

Karen Bewley
Karen_bewley@dot.ca.gov
California Department of Transportation
50 Higuera Street
San Luis Obispo CA, 93405

BY ELECTRONIC AND REGULAR MAIL

Dear Ms. Bewley:

WATER QUALITY CERTIFICATION NUMBER 32710WQ02 FOR THE SILVER SPUR CREEK CULVERT REPLACEMENT PROJECT, MONTEREY COUNTY

Thank you for the opportunity to review your January 13, 2010 water quality certification application for the Silver Spur Creek Culvert Replacement Project. The application was completed on March 4, 2010. The project proposes to replace an existing double 36-inch diameter corrugated metal pipe (CMP) culvert under Highway 1 at post mile 0.9 with a 60-inch diameter high-density polyethylene (HDPE) pipe, and proposes to insert an 18-inch diameter HDPE pipe into the inlet of another existing 36-inch diameter CMP culvert, backfill, and seal it with cement-slurry. The new HDPE pipe will be 77 feet in length and at an elevation shallower than the existing culvert. The down drain system of this culvert will have an outlet diameter of 48-inches. The project will discharge to Silver Spur Creek. We have determined the project, including proposed mitigation measures, will comply with water quality standards and other appropriate requirements, as defined by Title 23, Section 3831(v) of the California Code of Regulations. Your application demonstrates: (a) you will take all practicable measures to avoid impacts, (b) where unavoidable temporary impacts take place, you will restore waters and vegetation to pre-project conditions as quickly as practicable, and (c) where unavoidable permanent impacts take place, the project will result in no net loss of wetland, riparian area, or headwater functions, including onsite habitat, habitat connectivity, floodwater retention, and pollutant removal.

The Executive Officer hereby grants water quality certification, subject to the following conditions:

SPECIAL CONDITIONS:

1. The project shall be carried out as described in the application, including all proposed time schedules.

California Environmental Protection Agency



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2. The project area discharge shall not exceed 0.0155 acres.
3. All proposed mitigation, monitoring, and Best Management Practices shall be implemented in the manner and at the time(s) described in the application package.
4. Prior to implementation of any modifications to the project or mitigation measures, the Water Board and other interested agencies shall be notified in writing.
5. The discharge shall not do any of the following: (a) directly or indirectly destabilize a bed of a receiving water, (b) contribute to significant cumulative effects, (c) cause pollution, contamination, or nuisance (as defined by Water Code section 13050), (d) adversely affect candidate, threatened, or endangered species, (e) degrade water quality or beneficial uses, (f) be toxic, (g) include hazardous substances (as defined by Water Code section 13050) or designated waste (as defined by Water Code section 13173).

STANDARD CONDITIONS:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the California Water Code and section 3867 of Title 23 of the California Code of Regulations (23 CCR).
2. This certification action is not intended 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 per 23 CCR subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license was being sought.
3. The validity of any non-denial certification action shall be conditioned upon total payment of the fee required under 23 CCR section 3833, unless otherwise stated in writing by the certifying agency.
4. This certification is subject to the acquisition of all local, regional, state, and federal permits and approvals as required by law. Failure to meet any conditions contained herein or any the conditions contained in any other permit or approval issued by the State of California or any subdivision thereof may result in the revocation of this Certification and civil or criminal liability.
5. In the event of a violation or threatened violation of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For 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 certification.

6. In response to a suspected violation of any condition of this certification, the Water Board may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the Water Board deems appropriate, provided that the burden, including costs, of the reports shall have a reasonable relationship to the need for the reports and the benefits obtained from the reports.

Per California Code of Regulations Section 3857, we anticipate no further action on your application. Should new information come to our attention that indicates a water quality problem, we may reassess the conditions of this certification or issue Waste Discharge Requirements.

If you have questions please contact **Jennifer Epp** at (805) 594-6181 or via email at jepp@waterboards.ca.gov or Phil Hammer at (805) 549-3882. Please mention the above certification number in all future correspondence pertaining to this project.

Sincerely,



for Roger W. Briggs
Executive Officer

S:\Section 401 Certification\Certifications\Monterey\Silver Spur Culvert Replacement_final.doc

cc:

Matthew W. Vandersande
U.S. Army Corps of Engineers
Ventura Office
Regulatory Section
2151 Allesandro Drive, Suite 110
Ventura, CA 93001

U.S. Army Corps of Engineers
San Francisco District
Regulatory Section
1455 Market Street, Floor 16
San Francisco, CA. 94103-1398

California Department of Fish and Game
Lake and Streambed Alteration
1234 East Shaw Street
Fresno, CA 93710

401 Program Manager
State Water Resources Control Board
Division of Water Quality
Stateboard401@waterboards.ca.gov

R9-WTR8-Mailbox@epa.gov



California Regional Water Quality Control Board

Central Coast Region



Alan C. Lloyd, Ph.D.
Secretary for
Environmental
Protection

Internet Address: <http://www.waterboards.ca.gov/centralcoast/>
895 Aerovista Place, Suite 101, San Luis Obispo, California 93401
Phone (805) 549-3147 • FAX (805) 543-0397

Arnold
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Governor

SECTION §401 WATER QUALITY CERTIFICATION APPLICATION FORM

Applications for Water Quality Certification shall be filed in accordance with Sections 3830 through 3869 of Title 23 of the California Code of Regulations. Provide detailed information for all categories that apply to the project and include the conditions under which work will be conducted. **All applicants must fill out Sections 1-4, 9, 10 and 15 or the application will be deemed incomplete.** Attach additional sheets as necessary. Responses by references should indicate the specific document and page number (include copies). **Indicate by "NA" all sections that do not apply, along with an explanation of why the project is exempt from the section.**

1. APPLICANT/AGENT INFORMATION

a) Applicant: California Department of Transportation (Karen Bewley) Address: 50 Higuera Street San Luis Obispo, Ca 93401 Phone No.: (805) 542-4791 Fax No.: (805) 549-3233 E mail address: karen_bewley@dot.ca.gov	b) Applicant's Representative: Address: Phone No.: Fax No.: E mail address:
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2. PROJECT DESCRIPTION*

a) Project Title: Silver Spur Culvert Replacement
b) Purpose/Goal: The purpose of this project is to restore proper function including drainage flow through the culvert and prevent undermining of the highway.
c) Project Activities: Caltrans proposes to replace a double pipe culvert under Highway 1 at post mile (PM) 0.9 in Monterey County. The existing culverts are deteriorated and undersized. One of the culverts would be backfilled and abandoned. Inside the other culvert a new smaller pipe would be placed and the void would be backfilled. This pipe needs to remain operational to convey subsurface flow. To convey larger flows, Caltrans proposes to install a 63" plastic pipe above the existing culverts. Rock slope protection (RSP) and gabion baskets would be placed at the culvert outlet to dissipate hydraulic energy and prevent erosion.
d) Proposed Schedule (start-up, duration, and completion dates): The project would be constructed during the dry season (May 1-October 31). They are expected to be approximately 39 working days within the Water Board's jurisdiction. Construction is anticipated to occur between 2010 and 2012, depending on project funding.

* If, during the course of the project, the project description should change, the Regional Water Quality Control Board shall receive a written update as soon as changes are known.

3. PROJECT SITE DESCRIPTION

a) Project Location (Attach a road map of the site with waters clearly indicated and a 7.5 minute topographic map with the site outlined):

The proposed project is located just north of the Monterey, San Luis Obispo County line along State Route 1 at Post Mile 0.9.

City or Area: unincorporated, Big Sur coast County: Monterey
 Longitude/Latitude: 121.35°, 35.80° Township/Range: 24S, 06E

b) Area Type/Description (check as appropriate):

- Urban Residential Recreation
 Agriculture Open Space Wildlife Corridor
 Migratory Pathway Spawning Habitat
 Threatened/Endangered Species Habitat Other

Threatened/Endangered Species Habitat is outside the Water Board’s jurisdiction. There is a single seacliff buckwheat plant located within the project limits. This plants serves as a host plant for the federally endangered Smith’s blue butterfly (*Euphilotes enoptes smithi*). Please refer to attached Biological Opinion for avoidance and minimization measures.

4. IMPACTED WATER BODIES

a) Name(s) of Receiving Water Body(ies)*: Silver Spur Creek

b) Indicate in ACRES and LINEAR FEET (where appropriate) the proposed waters to be impacted and identify the impacts(s) as permanent and/or temporary for each water body type listed below:

Streambed:	_____0.0035__ permanent,	_____0.012_____ temporary ACRES
	_____38.03__ permanent,	_____138.15_____ temporary LINEAR FEET
Riparian:	_____ permanent,	_____ temporary ACRES
	_____ permanent,	_____ temporary LINEAR FEET
Lake/Reservoir:	_____ permanent,	_____ temporary ACRES
	_____ permanent,	_____ temporary LINEAR FEET
Ocean/Estuary/Bay:	_____ permanent,	_____ temporary ACRES
	_____ permanent,	_____ temporary LINEAR FEET

Acres of wetlands determined by the U.S. Army Corps of Engineers to be jurisdictional.

Jurisdictional Wetland:	_____ permanent,	_____ temporary ACRES
	_____ permanent,	_____ temporary LINEAR FEET

In addition to wetlands described above, include acres of additional wetlands beyond those determined by the U.S. Army Corps of Engineers to be jurisdictional. **

Wetland:	_____ permanent,	_____ temporary ACRES
	_____ permanent,	_____ temporary LINEAR FEET

c) Indicate in CUBIC YARDS the volume of dredged material: N/A

Indicate in CUBIC YARDS the volume and in ACRES or LINEAR FEET the area of fill material: The project would place approximately 3.23 cubic yards of RSP and gabions within the Water Board’s jurisdiction.

Total area of disturbance within the waterbody: 0.0155 acres 176.18 linear feet (if appropriate)

d) Indicate type(s) of material proposed to be dredged***: N/A

*All receiving water bodies are identified in the *Water Quality Control Plan, Central Coast Basin Region* (Basin Plan). Any unnamed/unidentified waters must be extended to an identifiable tributary.

** Whether “navigable” or not, The State and Regional Water Boards have jurisdiction over *all* waters of the state. This includes all wetlands, even those that do not fall under the jurisdiction of the Army Corps of Engineers. Whether navigable or not, an area is determined to be a wetland if it is delineated as such in accordance with the physical criteria (soils, vegetation, hydrology / line of ordinary high-water) included in current Army Corps of Engineers regulatory protocols.

*** In addition to soil types, applicants must determine if dredged soils are contaminated. Please attach chemical analyses if appropriate.

5. WATER QUALITY SAMPLING

<p>a) What is the potential for pollutant releases resulting from the entire proposed project? (e.g. increased peak or stormwater run-off; increased run-off of urban pollutants such as nutrients, pesticides, petrochemicals; refer to CEQA guidelines, appendix G for other potential pollutant releases)</p> <p>Permanent impacts to water quality are not anticipated. The project would not increase impervious surface or run-off. Temporary adverse affects to water quality may result from construction.</p>
<p>b) Has water quality sampling occurred? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>If yes, what parameters were sampled? Please provide the data.</p>
<p>c) Is water quality sampling planned? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>If no, why not? If yes, what parameters will be sampled?</p> <p>Caltrans staff will perform visual inspections on the water bodies to monitor the water quality before, during, and after construction. Caltrans does not anticipate any significant temporary impacts to water quality because of standard implementation of BMPs as defined in the Water Pollution Control Plan (WPCP) and National Pollutant Discharge Elimination System (NPDES). The WPCP would include (at a minimum) the following Construction Site BMPs: temporary concrete washout, temporary checkdam, temporary fiber roll, straw mulch, temporary drain inlet protection, stock pile protection, temporary construction site entrance, and construction site management. After construction is complete, erosion control (duff, fiber rolls, native seed) will be used to prevent sediment form entering Silver Spur Creek.</p>

6. DEWATERING OPERATIONS – Describe the method used to remove ground water and divert surface water if necessary to implement the proposed project. Please attach a diagram with description.

<p>a) Discharge to Surface Water – Include name of receiving water body, estimated volume, flow rates, and management measures proposed: N/A</p>
<p>b) Discharge to Retention Ponds – Include Location (on-site or off-site) and Control Measures: N/A</p>
<p>c) Diversion of State Waters – Include Location (on-site or off-site) and Control Measures: Silver Spur Creek is typically perennial, although flows during the dry season are quite low. Therefore, a diversion will likely be necessary to complete the project. The contractor is required to design a diversion plan with appropriate BMPs that must be approved by the Caltrans’ resident engineer.</p>

7. WASTE DISCHARGE – Projects that include waste treatment systems (e.g. septic/leachfields) should fill out this section. Discharge from any system associated with the project should be described.

<p>a) Describe nature and composition of waste. Include projected volume (in GPD) and source (such as industrial, household, agriculture, or other):</p>
<p>b) Location of Treatment and Disposal System*:</p>
<p>c) Proposed Method of Treatment:</p>

* Attach map if necessary

8. FEDERAL LICENSES/PERMITS

<p>a) Federal Agency(ies): U.S. Army Corps of Engineers Yes <input checked="" type="checkbox"/> Other Agency? _____</p>
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File No.(s) (if known) _____

b) U.S. Army Corps of Engineers Permit Type(s) (please provide permit number(s) if known):
 Nationwide Permit No.(s): 3 Regional General Permit No.(s) _____
 Individual Permit _____ Other _____

c) Does the project require any Federal Application(s), Notification(s) or Correspondence?
 Yes (attach copy(ies)) No (attach explanation)

d) Does the project require a Federal Energy Regulatory Commission (FERC) license or amendment to a FERC license?
 Yes (attach application copy) No

9. OTHER LICENSES/PERMITS/AGREEMENTS

a) Please list all other local or state required regulatory approvals (e.g. Department of Fish and Game Streambed Alteration Agreement, County Grading permit etc.) Submit final or draft copy if available.

Agency	License/Permit/Agreement	Approval Date
Ca. Department of Fish and Game	1602 Streambed Alteration Agreement	Pending

10. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) – The Regional Board is required to comply with CEQA before approving a project. 401 Certification will NOT be granted without CEQA compliance.

Indicate CEQA Document (submit final or draft copy).

Categorical Exemption (Mitigated) Negative Declaration Environmental Impact Report

State Clearinghouse File No.: _____

Has the document been certified/approved, or has a Notice of Exemption been filed? Yes

If yes, date of approval/filing: 11/21/2008 If no, expected approval/filing date: _____

Lead Agency: Caltrans

11. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) MITIGATION

Describe all mitigation measures required for CEQA relating to the following:

****This project does not have the potential for any significant adverse impacts to environmental resources and therefore does not require any mitigation. Please refer to Box 13 for avoidance and minimization measures.****

Biological Resources _____

Septic Systems _____

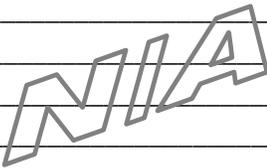
Soil Erosion / Grading _____

Water Supply / Groundwater _____

Water Quality / Hydrology _____

Riparian _____

Wetlands _____



Wildlife _____

12. COMPENSATORY MITIGATION

a) Indicate in ACRES and LINEAR FEET (where appropriate) the total quantity of waters proposed to be Created, Restored and/or Enhanced for purposes of providing Compensatory Mitigation:

Water Body Type	Preserved	Created	Restored	Enhanced
Jurisdictional Wetlands				
All additional Wetlands				
Streambed				
Riparian				
Lake/Reservoir				
Ocean/Estuary/Bay				

NIA

b) If contributing to a Mitigation or Conservation Bank, indicate the administrator, dollar amount, acreage, and water body type (omit if not applicable):

Bank Administrator _____
 \$ _____ for _____ acres of _____ (water body type)

NIA

c) Other Mitigation (omit if not applicable):

d) Location of Compensatory Mitigation Site(s) (attach map of suitable quality and detail):

City or Area _____ County _____

Longitude / Latitude _____ Township / Range _____

13. OTHER ACTIONS/BEST MANAGEMENT PRACTICES (BMPs)

Briefly describe or reference other actions or BMPs to be implemented to avoid and/or minimize impacts to waters, including preservation of habitats, erosion control measures, project scheduling, flow diversions, etc.

The contractor would be required to prepare a Water Pollution Control Program (WPCP) prior to beginning construction. The WPCP would include (at a minimum) the following Construction Site BMPs: temporary concrete washout, temporary checkdam, temporary fiber roll, straw mulch, temporary drain inlet protection, stock pile protection, temporary construction site entrance, and construction site management. After construction is complete erosion control (duff, fiber rolls, native seed) will be used to prevent sediment from entering Silver Spur Creek.

There is an existing Seacliff buckwheat plant, which provides habitat for the Smith's Blue Butterfly, located within the area of disturbance. A USFWS Service-approved biologist will conduct pre-construction surveys and relocate a single seacliff buckwheat plant and its associated duff to a location that contains suitable habitat and will not be affected by project activities.

Along with seeding and upland planting outside the Water Board's jurisdiction, the proposed project would plant 11 California bays and 20 willows adjacent to the creek to restore riparian functions. Please refer to attached planting plan. A landscaping contractor would maintain the plantings for a one-year plant establishment. Plant establishment entails: plant installation, watering, replacement of any failed plants, and weed control.

14. PAST/FUTURE PROPOSALS BY THE APPLICANT

Briefly list/describe any projects carried out in the last 5 years or planned for implementation in the next 5 years that are in any way related to the proposed activity or may impact the same receiving body of water. Include estimated adverse impacts.

No Caltrans projects were carried out in the last five years or are planned for the next five years that are in any way related to Silver Spur.

15. SIGNATURE

I hereby certify under penalty of perjury that the information provided in this application and in any attachments are true and accurate to the best of my knowledge.

Applicant's Signature (or Agent)

Date

Please forward the completed application and applicable supplemental information to:

**California Regional Water Quality Control Board
Central Coast Region
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401
Attn. 401 Coordinator**

Should you have any questions regarding the water quality certification process, please contact our office at (805) 549-3147 or visit our website at <http://www.waterboards.ca.gov/centralcoast/>



DEPARTMENT OF THE ARMY
SAN FRANCISCO DISTRICT, U.S. ARMY CORPS OF ENGINEERS
1455 MARKET STREET
SAN FRANCISCO, CALIFORNIA 94103-1398

REPLY TO

FEB 5 - 2010

Regulatory Division

SUBJECT: File Number SPN-2010-00044 S

Ms. Karen Bewley
California Department of Transportation
50 Higuera Street
San Luis Obispo, California 93401

Dear Ms. Bewley:

This letter is written in response to your submittal of January 12, 2010, requesting Department of the Army authorization for the Silver Spur Creek Culvert Replacement Project. This project is located on State Route 1 just north of the Monterey/San Luis Obispo County line at highway post mile 0.9, Latitude 35.803453 North and Longitude -121.349305 West.

The project will replace a double pipe culvert system under State Route 1 on Silver Spur Creek. The existing culvert system has deteriorated and is undersized. One of the culverts will be backfilled and abandoned. Inside the other culvert, a new smaller pipe will be laid and the backfilled to maintain subsurface flows to the down drain during construction. Construction crews will then install a 63-inch plastic pipe above the existing culverts. Due to the shallow bedrock at the location, the new culverts will be installed using the cut and cover method that will require an open trench. Approximately 131 cubic yards of rock slope protection (RSP) and gabion baskets will be placed at the culvert outlet to dissipate hydraulic energy and prevent erosion. Of that, 3.23 cubic yards of RSP will be placed below the ordinary high water mark of Silver Spur Creek. Temporary impacts include ground clearing and excavation required to replace the culvert, provide construction access and staging. Approximately 0.012 acres of temporary impacts will occur to Silver Spur Creek. Permanent impacts include the placement of the new headwall at the inlet and the new gabion dissipater at the outlet into waters of the U.S. Approximately 0.0035 acres of Silver Spur Creek will be permanently impacted.

Based on a review of the information you submitted, your project qualifies for authorization under Department of the Army Nationwide Permit 3 for Maintenance (72 Fed. Reg. 11092, March 12, 2007), pursuant to 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 "Project Plans for Construction on State Highway in Monterey County about 9.0 Miles South of Gorda at 3.5 Miles North of San Carpoforo Creek Bridge", dated November 4, 2009.

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 authorization will remain valid for two years from the date of this letter unless the Nationwide Permit is modified, suspended or revoked. If you have commenced work or are under contract to commence work prior to the suspension, or revocation of the Nationwide Permit and the project would not comply with the resulting Nationwide Permit authorization, you have twelve (12) months from that date to complete the project under the present terms and conditions of the 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.

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

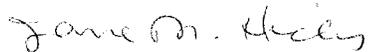
1. Corps permit does not authorize you to take an endangered species. In order to legally take a listed species, you must have a separate authorization under the Endangered Species Act (ESA) (e.g., an ESA Section 10 permit or a Biological Opinion (BO) under ESA Section 7 with "incidental take" provisions with which you must comply). The U.S. Fish and Wildlife Service (FWS) BO dated November 6, 2008 for the Highway 1 Culvert Repair Project at Post Mile 0.9, contains mandatory terms and conditions to implement the reasonable and prudent measures to avoid "incidental take". The project was appended to the Programmatic Biological Opinion for Highway Management Activities that Affect Smith's Blue Butterfly (FWS no. 1-8-07-F-68). Your authorization under this Corps permit is conditional upon your compliance with all of the mandatory terms and conditions associated with incidental take authorized by the attached BO, whose terms and conditions are incorporated by reference in this permit. Failure to comply with the terms and conditions associated with incidental take of the BO, where a take of the listed species occurs, would constitute an unauthorized take and it would also constitute non-compliance with this Corps permit. The FWS is the appropriate authority to determine compliance with the terms and conditions of its BO and with the ESA.

2. 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). You shall submit a copy of the certification to the Corps prior to the commencement of work.

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. During construction, erosion control materials, including silt fences, erosion control blankets/mats, and sandbags will be on hand and utilized as deemed necessary.
6. Environmentally sensitive areas (ESA) 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.
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. 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 SHPO prior to resuming work.
9. Mitigation for impacts to waters of the U.S., including wetlands, shall be accomplished by revegetating temporarily impacted areas with appropriate locally collected native upland forbs and grasses adapted for the site's conditions and shall follow the "Planting and Irrigation Plan and Details PI-1", dated November 23, 2009.
10. You shall provide a post-construction report 45 days after the completion of construction activities. The report shall include a description and photos of the site prior to construction and the condition of the site after construction.

Should you have any questions regarding this matter, please call Andrea Meier of our Regulatory Division at 415-503-6798 or email her at andrea.j.meier@usace.army.mil. 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,



Jane M. Hicks
Chief, Regulatory Division

Enclosures

Copy furnished without enclosures:

US FWS, Ventura, CA
CA CC, Santa Cruz, CA
CA DFG, Fresno, CA
CA RWQCB, San Luis Obispo, CA

Nationwide Permit 3 - Maintenance

(a) The repair, rehabilitation, or replacement of any previously authorized, currently serviceable, structure, or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3, provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized. This NWP authorizes the repair, rehabilitation, or replacement of those structures or fills destroyed or damaged by storms, floods, fire or other discrete events, provided the repair, rehabilitation, or replacement is commenced, or is under contract to commence, within two years of the date of their destruction or damage. In cases of catastrophic events, such as hurricanes or tornadoes, this two-year limit may be waived by the district engineer, provided the permittee can demonstrate funding, contract, or other similar delays.

(b) This NWP also authorizes the removal of accumulated sediments and debris in the vicinity of and within existing structures (e.g., bridges, culverted road crossings, water intake structures, etc.) and the placement of new or additional riprap to protect the structure. The removal of sediment is limited to the minimum necessary to restore the waterway in the immediate vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend further than 200 feet in any direction from the structure. This 200 foot limit does not apply to maintenance dredging to remove accumulated sediments blocking or restricting outfall and intake structures or to maintenance dredging to remove accumulated sediments from canals associated with outfall and intake structures. All dredged or excavated materials must be deposited and retained in an upland area unless otherwise specifically approved by the district engineer under separate authorization. The placement of riprap must be the minimum necessary to protect the structure or to ensure the safety of the structure. Any bank stabilization measures not directly associated with the structure will require a separate authorization from the district engineer.

(c) This NWP also authorizes temporary structures, fills, and work necessary to conduct the maintenance activity. 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. (d) This NWP does not authorize maintenance dredging for the primary purpose of navigation or beach restoration. This NWP does not authorize new stream channelization or stream relocation projects. *Notification:* For activities authorized by paragraph (b) of this NWP, the permittee must submit a preconstruction notification to the district engineer prior to commencing the activity (see general condition 27). Where maintenance dredging is proposed, the preconstruction notification must include information regarding the original design capacities and configurations of the outfalls, intakes, small impoundments, and canals. (Sections 10 and 404)

Note: This NWP authorizes the repair, rehabilitation, or replacement of any previously authorized structure or fill that does not qualify for the Clean Water Act Section 404(f) exemption for maintenance.

Enclosure 3

Permittee: Ms. Karen Bewley
California Department of Transportation
50 Higuera Street
San Luis Obispo, California 93401

File Number: SPN-2010-00044 S

**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."

(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

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 800.3(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 110k of the NHPA (16 U.S.C. 470h-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 activity specific 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.

(i) 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.

(j) 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 $\frac{1}{3}$ -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.

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
FAX: (831) 427-4877
WEB: WWW.COASTAL.CA.GOV

**NOTICE OF PERMIT WAIVER EFFECTIVENESS**

Date: December 16, 2009
To: Caltrans District 5, attention: Ryelle Leverett
From: Dan Carl, Central Coast District Manager 
Katie Morange, Coastal Planner
Subject: Coastal Development Permit (CDP) Waiver 3-09-038-W

Please note that CDP Waiver 3-09-038-W was reported to the California Coastal Commission on December 11, 2009 and became effective as of that date. CDP Waiver 3-09-038-W allows for:

Abandonment of one existing culvert; partial fill of an existing 36-inch culvert and placement of a new 18-inch pipe within it; installation of a new 63-inch culvert; removal of existing inlet risers; and a new outlet energy dissipater, all of which would occur at two locations on Highway 1 (Post Mile 0.3 (Pepperwood Gulch) and Post Mile 0.9 (Silver Spur Creek)) in the Big Sur area of unincorporated Monterey County.

Please be advised that CDP Waiver 3-09-038-W only authorizes the development as proposed and described in the Commission's files; any changes to the proposed and described project may require a CDP to account for the changes or a CDP for the entire project. If you have any questions, please contact Katie Morange in the Central Coast District Office at the address and phone number above.





DEPARTMENT OF FISH AND GAME

Charlton H. Bonham, Director

Central Region
1234 East Shaw Avenue
Fresno, California 93710
(559) 243-4005
<http://www.dfg.ca.gov>



September 12, 2011

Lisa Schicker
California Department of Transportation
Caltrans District 5
50 Higuera Street
San Luis Obispo, California 93401

Subject: Final Lake or Streambed Alteration Agreement
Notification No. 1600-2010-0004-R4
SR 1 Silver Spur Culvert Replacement Project
05-MON-1 PM .9 EA 05- 493701

Dear Ms Schicker:

Enclosed is the final Streambed Alteration Agreement (Agreement) for the SR 1 Silver Spur Culvert Replacement Project (Project). Before the Department of Fish and Game (Department) may issue an Agreement, it must comply with the California Environmental Quality Act (CEQA). In this case, the Department, acting as a Responsible Agency, filed a Notice of Determination (NOD) on the same date it signed the Agreement. The NOD was based on information contained in the Mitigated Negative Declaration the Lead Agency prepared for the Project.

Under CEQA, filing an NOD starts a 30-day period within which a party may challenge the filing agency's approval of the Project. You may begin your Project before the 30-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 Laura Peterson-Diaz, Environmental Scientist, at (559) 243-4014, extension 225, or lpdiaz@dfg.ca.gov.

Sincerely,

Jeffrey R. Single, Ph.D.
Regional Manager

Enclosures

cc: Laura Peterson-Diaz
Department of Fish and Game

CALIFORNIA DEPARTMENT OF FISH AND GAME
REGION 4 - CENTRAL REGION
1234 East Shaw Avenue
Fresno, California 93710



STREAMBED ALTERATION AGREEMENT
NOTIFICATION No. 1600-2010-0004-R4
Silver Spur Creek, Monterey County

CALIFORNIA DEPARTMENT OF TRANSPORTATION
CALTRANS DISTRICT 5
Lisa Schicker
50 Higuera Street
San Luis Obispo, California 93401

SR 1 SILVER SPUR CULVERT REPLACEMENT PROJECT
05-MON-1 PM .9 EA 05- 493701

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Game (DFG) and California Department of Transportation Caltrans District 5 (Permittee) as represented by Lisa Schicker acting on behalf of Permittee.

RECITALS

WHEREAS, pursuant to Fish and Game Code (FGC) section 1602, Permittee notified DFG on January 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 at Post Mile (PM) 0.9 of State Route (SR) 1 on Silver Spur Creek, in Section 32 of Township 24 South, Range 6 East in Monterey County, State of California; Latitude 35.80°, Longitude -121.35°, United States Geological Survey (USGS) map Burros Mountain.

PROJECT DESCRIPTION

The Project is limited to:

- The existing culverts are deteriorated and undersized. This Project would restore proper functioning drainage through the culvert and prevent undermining of the highway. The culverts cannot be replaced at grade. Instead, one of the culverts would be backfilled and abandoned. Inside the other culvert a new smaller pipe would be placed and the void would be backfilled. This pipe needs to remain operational to convey subsurface flow. To convey larger flows, Caltrans proposes to install a 63-inch plastic pipe above the existing culverts.
- The Project would permanently impact approximately 634 square feet of riparian vegetation by placing 131 cubic yards of rock slope protection (RSP) and gabion baskets to dissipate hydraulic energy and prevent erosion.
- The Project would have temporary impacts to 53.5 linear feet (1,252 square feet in area) and permanent impacts to 38 linear feet (634 square feet in area) of riparian vegetation dominated by California bay laurel.
- The Project would require the removal of six trees over 4 inches in diameter at breast height (DBH) including three California bay laurels (*Umbellularia californica*) 8 to 12 inches DBH and three willows (*Salix sp.*) 4 to 8 inches DBH.
- There is an existing Seacliff buckwheat plant (habitat for the Smith's blue butterfly) located within the area of disturbance. The plant, soil and duff will be relocated.
- Work will occur in the wetted portion of the channel so a water diversion plan will be required.
- Equipment used will include an excavator, crane, grader, loader, and other similar equipment.

PROJECT IMPACTS

This Agreement is intended to avoid, minimize, and mitigate adverse impacts to the fish and wildlife resources that occupy the area of Silver Spur Creek, and the immediate adjacent riparian habitat. Absent implementation of the protective measures required by this Agreement, the following species and habitat types could potentially be impacted within the area covered by this Agreement: Federal endangered Smith's blue butterfly (*Euphilotes enoptes smithi*), as well as birds, mammals, fish, reptiles, amphibians, invertebrates and plants that comprise the local riparian ecosystem.

MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES

1. Administrative Measures

Permittee shall meet each administrative requirement described below.

- 1.1. Documentation at Project Site: Permittee shall make the Agreement, any extensions and amendments to the Agreement, and all related notification materials and California Environmental Quality Act (CEQA) documents, readily available at the Project site at all times and shall be presented to DFG personnel or personnel from another State, Federal, or local agency upon request.
- 1.2. Providing Agreement to Persons at Project Site: Permittee shall provide copies of the Agreement and any extensions and amendments to the Agreement to all persons who will be working on the Project at the Project site on behalf of Permittee; including but not limited to contractors, subcontractors, inspectors, and monitors.
- 1.3. Notification of Conflicting Provisions: Permittee shall notify DFG if Permittee determines or learns that a provision in the Agreement might conflict with a provision imposed on the Project by another local, State, or Federal agency. In that event, DFG shall contact Permittee to resolve any conflict.
- 1.4. Project Site Entry: Permittee agrees that DFG personnel may enter the Project site at any time to verify compliance with the Agreement.
- 1.5. Legal Obligations: This Agreement does not exempt the Permittee from complying with all other applicable local, State and Federal law, or other legal obligations.
- 1.6. Unauthorized "Take": This Agreement does not authorize the "take" (defined in Fish and Game Code Section 86 as to hunt, pursue, catch, capture, or kill; or attempt to hunt, pursue, catch, capture, or kill) of State- or Federal-listed threatened or endangered species. Any such "take" shall require separate permitting as may be required.
- 1.7. Water Diversion: To the extent that the Provisions of this Agreement provide for the diversion of water, they are agreed to with the understanding that the Permittee possesses the legal right to so divert such water.
- 1.8. Trespass: To the extent that the Provisions of this Agreement provide for activities that require the Permittee to trespass on another owner's property, they are agreed to with the understanding that the Permittee possesses the legal right to so trespass.
- 1.9. Construction/Work Schedule: The Permittee shall submit a **construction/work schedule** to DFG (mail, or fax to (559) 243-4020, with

reference to Agreement 1600-2010-0004-R4) prior to beginning any activities covered by this Agreement. The Permittee shall also notify DFG upon the completion of the activities covered by this Agreement.

- 1.10. **Training:** Prior to starting any activity within the stream, all employees, contractors, and visitors who will be present during Project activities shall have received training from a qualified individual on the contents of this Agreement, the resources at stake, and the legal consequences of non-compliance. A **training sign-in sheet** for the employees and contractors shall be provided to DFG and shall include the date of the training and who gave the training.

2. **Avoidance and Minimization Measures**

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

- 2.1. **Construction/Work Hours:** All non-emergency work activities during the construction phase will be confined to daylight hours.
- 2.2. **Flagging/Fencing:** Prior to any activity within the lake or creek, the Permittee shall identify the limits of the required access routes and encroachment into the stream. These "work area" limits shall be identified with brightly colored flagging/fencing. Work completed under this Agreement shall be limited to this defined area only. Flagging/fencing shall be maintained in good repair for the duration of the Project. All areas beyond the identified work area limits shall be considered Environmentally Sensitive Areas (ESA) and shall not be disturbed.
- 2.3. **Listed Species:** This Agreement does not allow for the "take," or "incidental take," of any State- or Federal-listed threatened or endangered species.
 - 2.3.1. The Permittee affirms that no "take" of listed species will occur as a result of this Project and will take prudent measures to ensure that all "take" is avoided. The Permittee acknowledges that they fully understand that they do not have "incidental take" authority. If any State- or Federal-listed threatened or endangered species occur within the proposed work area or could be impacted by the work proposed, and thus "taken" as a result of Project activities, the Permittee is responsible for obtaining and complying with required State and Federal threatened and endangered species permits or other written authorization before proceeding with this Project.
 - 2.3.2. Liability for any "take," or "incidental take," of such listed species remains the separate responsibility of the Permittee for the duration of the Project.

- 2.3.3. The Permittee shall immediately notify DFG of the discovery of any such rare, threatened, or endangered species prior to and/or during construction.
- 2.3.4. No Seacliff buckwheat shall be trimmed or removed without appropriate regulatory agency approval. If Seacliff buckwheat will be impacted, then Caltrans shall provide the Department with a Biological Opinion or other documentation from the United States Fish and Wildlife Service (USFWS) authorizing the Operator to transplant, remove, or otherwise impact Seacliff buckwheat which are considered habitat for the Federal endangered Smith's blue butterfly.
- 2.4. Fish and Wildlife: If any fish or wildlife is encountered during the course of construction, said fish and wildlife shall be allowed to leave the construction area unharmed.
- 2.4.1. An approved biologist shall perform **general wildlife surveys** of the Project area (including access routes and storage areas) prior to Project construction start with particular attention to evidence of the presence of the species listed above and shall report any possible adverse affect to fish and wildlife resources not originally reported. If the survey shows presence of any wildlife species which could be impacted, Caltrans shall contact the Department and mitigation, specific to each incident, shall be developed. If any State- or Federal-listed threatened or endangered species are found within the proposed work area or could be impacted by the work proposed, a new Agreement and/or a 2081(b) State Incidental Take Permit may be necessary and a new CEQA analysis may need to be conducted, before work can begin.
- 2.4.2. To protect nesting birds, no construction shall be completed from March 1 through July 31 unless the following **avian surveys** are completed by a qualified biologist:
- **Raptors**: Survey for nesting activity of raptors within a 0.5-mile radius of the construction site. Surveys shall be conducted at appropriate nesting times and concentrate on trees with the potential to support raptor nests. If any active nests are observed, these nests and nest trees shall be designated an ESA and protected (while occupied) during Project construction.
 - **Other Avian Species**: Survey riparian areas for nesting activity within a 0.25-mile radius of the defined work area two (2) to three (3) weeks before construction begins. If any nesting

activity is found, the Permittee shall contact the Department and mitigation, specific to each incident, shall be developed.

2.5. Vegetation: The disturbance or removal of vegetation shall not exceed the minimum necessary to complete operations and shall only occur within the defined work area. Precautions shall be taken to avoid other damage to vegetation by people or equipment. Vegetation or material removed from the riparian area shall not be stockpiled in the streambed or on its banks without measures to ensure its stability, preventing accidental discharge into the stream.

2.5.1. For this Project, three (3) California bay laurels (*Umbellularia californica*) DBH eight (8) to 12 inches and three (3) willows (*Salix sp*) DBH four (4) to eight (8) inches will be removed. Riparian trees and shrubs with a DBH of four (4) inches or greater that are damaged or removed shall be replaced by replanting like species at a 3:1 ratio (replaced to lost). Mitigation for heritage trees 24-inches or greater shall require replanting of like species at a 10:1 ratio. (see Revegetation under Compensation below)

2.6. Vehicles and Equipment: Any equipment or vehicles driven and/or operated within or adjacent to the stream shall be checked and maintained daily to prevent leaks of materials that, if introduced to water, could be deleterious to aquatic and terrestrial life.

2.6.1. Vehicles shall not operate in the channel at any time, except that a backhoe or similar equipment operated from a bridge or along the top of the bank may extend toward the channel to facilitate placing of RSP or other fill material.

2.6.2. Construction vehicle access to the stream's banks and bed shall be limited to predetermined ingress and egress corridors on existing roads. All other areas adjacent to the work site shall be considered an ESA and shall remain off-limits to construction equipment. Vehicle corridors and the ESA shall be identified by the Permittee's resident engineer in consultation with the Department representative.

2.7. Staging and storage areas: Staging and storage areas for equipment, materials, fuels, lubricants, and solvents shall be located outside of the stream channel and banks, and to the extent possible, on previously disturbed ground. Stationary equipment such as motors, pumps, generators, compressors and welders, located within or adjacent to the stream, shall be positioned over drip-pans. Vehicles shall be moved away from the stream prior to refueling and lubrication.

- 2.8. Pollution: The Permittee and all contractors shall be subject to the water pollution regulations found in the Department of Fish and Game Code Sections 5650 and 12015.
- 2.8.1. Raw cement, concrete or washings thereof, asphalt, drilling fluids or lubricants, paint or other coating material, oil or other petroleum products, or any other substances which could be hazardous to fish or wildlife resulting from or disturbed by Project-related activities, shall be prevented from contaminating the soil and/or entering the "Waters of the State."
- 2.8.2. All Project-generated debris, building materials, and rubbish shall be removed from the stream and from areas where such materials could be washed into the stream.
- 2.8.3. In the event that a spill occurs, all Project activities shall immediately cease until cleanup of the spilled materials is completed. DFG shall be notified immediately by the Permittee of any spills and shall be consulted regarding cleanup procedures.
- 2.9. Structures: The Permittee shall confirm that all structures are designed (i.e., size and alignment), constructed and maintained such that they shall not cause long-term changes in water flows that adversely modify the existing upstream or downstream stream bed/bank contours or increase sediment deposition or cause significant new erosion.
- 2.10. Fill: Rock, gravel, and/or other materials shall not be imported into or moved within the stream, except as otherwise addressed in this Agreement. Only on-site materials and clean imported fill shall be used to complete the Project. Fill shall be limited to the minimal amount necessary to accomplish the agreed activities. Excess and temporary fill material shall be moved off-site at Project completion.
- 2.11. Spoil: Spoil storage sites shall not be located within the stream, where spoil will be washed into the stream, or where it will cover aquatic or riparian vegetation. Rock, gravel, and/or other materials shall not be imported into or moved within the bed or banks of the stream, except as otherwise addressed in this Agreement.
- 2.12. Erosion: No work within the banks of the stream will be conducted during or immediately following large rainfall events, or when there is water flowing within the channel. All disturbed soils within the Project site shall be stabilized to reduce erosion potential, both during and following construction. Temporary erosion control devices, such as straw bales, silt fencing, and sand bags, may be used as appropriate to prevent siltation of the stream. Any installation of non-erodible materials not described in the original Project description shall be coordinated with DFG. Coordination

may include the negotiation of additional Agreement Provisions for this activity.

2.13. **Turbidity:** Turbid water shall not be discharged into the stream, or created within the stream. The Permittee's ability to minimize siltation shall be the subject of preconstruction planning and feature implementation. Precautions to minimize siltation may require that the work site be isolated so that silt or other deleterious materials are not allowed to pass to downstream reaches. The placement of any structure or materials in the stream for this purpose, not included in the original Project description, shall be coordinated with DFG. If it is determined that silt levels resulting from Project-related activities constitute a threat to aquatic life, activities associated with the siltation shall be halted until effective DFG-approved control devices are installed, or abatement procedures are initiated.

2.14. **Restoration:** Excess material must be removed from the Project site, pursuant to Department of Transportation Standard Specifications Section 7-1.13

2.14.1. All disturbed soils and new fill, including recontoured slopes and all other cleared areas, shall be revegetated with riparian vegetation or other plants, as appropriate to prevent erosion. If the Project causes any exposed slopes or exposed areas on the stream banks, these areas shall be seeded with a blend of a minimum of three (3) locally native grass species and covered with a protective layer of weed-free straw or mulch. One (1) or two (2) sterile non-native perennial grass species may be added to the seed mix provided that amount does not exceed 25 percent of the total seed mix by count. Locally native wildflower and/or shrub seeds may also be included in the seed mix. The seeding shall be completed as soon as possible, but no later than November 15 of the year construction ends. A **seed mixture** shall be submitted to DFG for approval prior to application. At the discretion of DFG, all exposed areas where seeding is considered unsuccessful after 90 days shall receive appropriate soil preparation and a second application of seeding, straw, or mulch as soon as is practical on a date mutually agreed upon.

3. **Compensatory Measures**

To compensate for adverse impacts to fish and wildlife resources identified above that cannot be avoided or minimized, Permittee shall implement each measure listed below.

3.1. **Revegetation.** As indicated in the Project description, three (3) California bay laurels (*Umbellularia californica*) DBH eight (8) to 12 inches and three (3) willows (*Salix sp*) DBH four (4) to eight (8) inches will be removed from the Project area, the Permittee therefore shall develop a **Revegetation Plan**

for the site and submit it to DFG for approval prior to commencement of the proposed work. All Plans shall specifically address what, where, when and how replacement shrubs and trees will be planted.

- 3.1.1. What species and the number of trees both removed and to be planted should be identified. Native riparian trees and shrubs (e.g., cottonwood, willow, sycamore, valley oak, etc.) between four (4) to 25-inches DBH shall be replaced in-kind at a ratio of 3:1, and trees greater than 25-inches DBH shall be replaced at a ratio of 10:1.
- 3.1.2. Where should be on-site whenever possible.
- 3.1.3. When should be the first suitable season after construction is complete.
- 3.1.4. How should include layout, monitoring, and maintenance to ensure a minimum of 70 percent survival for the plantings after five (5) years.

4. Monitoring and Reporting Measures

Permittee shall meet each reporting and monitoring requirement described below.

4.1. Monitoring Obligations of the Permittee:

- 4.1.1. The Permittee shall have primary responsibility for monitoring compliance with all protective measures included as "Measures" in this Agreement. Protective measures must be implemented within the time periods indicated in the Agreement. DFG shall be notified immediately if monitoring reveals that any of the protective measures were not implemented during the period indicated in this program, or if it anticipates that measures will not be implemented within the time period specified.
- 4.1.2. The Permittee (or the Permittee's designee) shall ensure the implementation of the Measures of the Agreement, and shall monitor the effectiveness of these Measures. DFG shall be notified immediately if any of the protective measures are not providing the level of protection that is appropriate for the impact that is occurring, and recommendations, if any, for alternative protective measures.

4.2. Reporting Obligations of the Permittee:

- 4.2.1. The Permittee shall submit the following Reports described in the Measures above to DFG:

- Construction/work schedule (Measure 1.9).
- Employees and contractors training sign-in sheet (Measure 1.10).
- Results of general wildlife surveys (Measure 2.4.1).
- Results of avian surveys if construction is scheduled during the nesting season (Measure 2.4.2).
- The seed mixture to be used post Project for erosion control (Measure 2.14.1).
- If required, a Revegetation Plan (Measure 3.1).

4.2.2. A Final Project Report shall be submitted to DFG within 30 days after the Project is completed. The final report shall summarize the Project construction, including any problems relating to the protective measures of this Agreement and how the problems were resolved. "Before and after" photo documentation of the Project site shall be included.

VERIFICATION OF COMPLIANCE:

DFG may verify compliance with protective measures to ensure the accuracy of Caltrans' monitoring and reporting efforts at any point in time it is deemed necessary. DFG may, at its sole discretion, review relevant Project documents maintained by the Permittee, interview Permittee employees and agents, inspect the Project area, and take other actions to assess compliance with or effectiveness of protective measures for the Project.

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 United States mail, fax, or email, or to such other address as Permittee or DFG specifies by written notice to the other.

To Permittee:

California Department of Transportation (Caltrans)
 District 5
 Lisa Schicker
 50 Higuera Street
 San Luis Obispo, California 93401
 (805) 549-3628
lisa.schicker@dot.ca.gov

To DFG:

Department of Fish and Game
Region 4 - Central Region
1234 East Shaw Avenue
Fresno, California 93710
Attn: Lake and Streambed Alteration Program – Laura Peterson-Diaz
Notification Number 1600-2010-0072-R4
Phone: (559) 243-4017, extension 225
Fax: (559) 243-4020
lpdiaz@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 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.

TERM

This Agreement shall remain in effect for five (5) years beginning on the date signed by DFG, 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.

CEQA COMPLIANCE

In approving this Agreement, the Department is independently required to assess the applicability of CEQA. The features of this Agreement shall be considered as part of the overall Project description. The Permittee's concurrence signature on this Agreement serves as confirmation to DFG that the activities that shall be conducted under the terms of this Agreement are consistent with the Project described in Notification No. 2010-0072-R4. Caltrans, as CEQA Lead agency submitted an Initial Study with Proposed Mitigated Negative Declaration in May 2006, State Clearinghouse No. 2011041034, for SR 1 Silver Spur Culvert Replacement Project. A copy of the Notice of Determination for the Project has been provided and is on file with the Section 1602 Notification. DFG, as a CEQA Responsible Agency, shall make findings and submit a Notice of Determination to the State Clearinghouse upon signing this Agreement.

EXHIBITS

The document(s) listed below is included as an exhibit to the Agreement and incorporated herein by reference.

A. Figure 1. Project Location USGS Quad Map.

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.

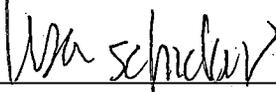
AUTHORIZATION

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.

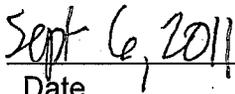
CONCURRENCE

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

FOR CALIFORNIA DEPARTMENT OF TRANSPORTATION

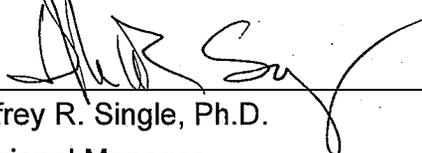


Lisa Schicker
District Biologist

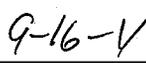


Date

FOR DEPARTMENT OF FISH AND GAME



Jeffrey R. Single, Ph.D.
Regional Manager



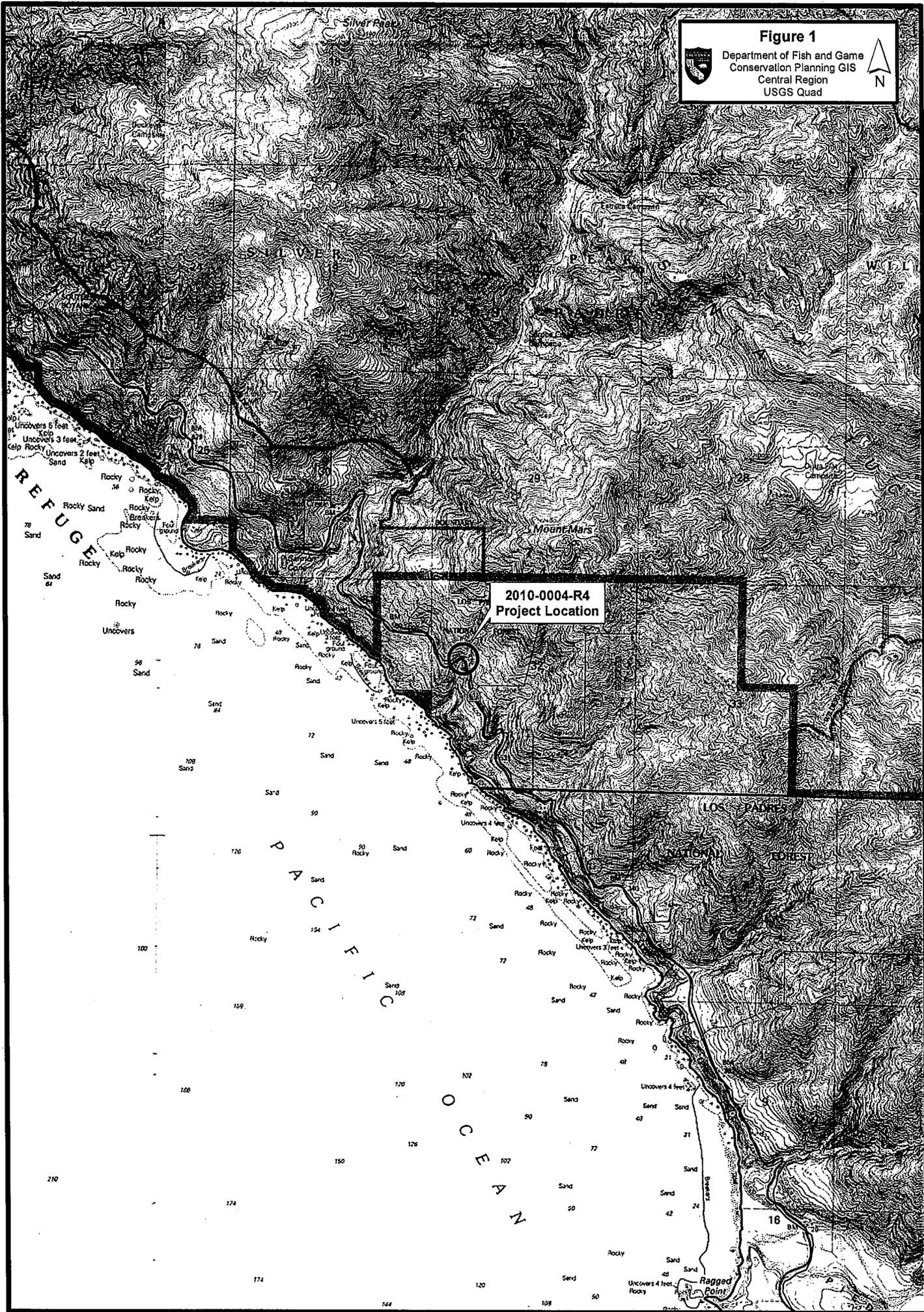
Date

Prepared by: Laura Peterson-Diaz
Environmental Scientist

Figure 1

Exhibit A

Figure 1
Department of Fish and Game
Conservation Planning GIS
Central Region
USGS Quad



Authorization ID: MRD1122
Contact ID: CALTRANS,SLO
Expiration Date: 12/31/2021
Use Code: 753

FS-2700-4 (10/09)
OMB No. 0596-0082

**U.S. DEPARTMENT OF AGRICULTURE
FOREST SERVICE**

SPECIAL USE PERMIT

Authority: Federal Land Policy and Management Act of 1976

CALIFORNIA STATE, DEPARTMENT OF TRANSPORTATION of District 5, 50 Higuera Street, SAN LUIS OBISPO, CA 93401-5415 (hereinafter "the holder") is authorized to use or occupy National Forest System lands in the Los Padres National Forest, Monterey Ranger District of the National Forest System, subject to the terms and conditions of this special use permit (the permit).

This permit covers **0.13 acres** or N/A miles in Sec. 32, T. 24 S., R. 6 E., MT. DIABLO MERIDIAN ("the permit area"), as shown on the maps and drawings attached as Appendix A, B, and C. This permit is issued for the purpose of:

Extending the existing road right of way to allow replacement and ongoing maintenance of two culverts on State Route 1, Big Sur Coast Highway. The Pepperwood Gulch project is located at post mile 0.3 and includes 4,000 square feet (.09 acre) of additional right of way (Appendix B). The Silver Spur Creek project is located at post mile 0.9 and includes 1,742 square feet (.04 acre) of additional right of way (Appendix C).

Appendix A – Area Map

Appendix B – Pepperwood Gulch Engineering Drawings

Appendix C – Silver Spur Creek Engineering Drawings

TERMS AND CONDITIONS

CALTRANS will comply with all requirements of the Big Sur Coast Highway Management Plan, the Natural Environment Study prepared for each project, and the project restoration plan.

CALTRANS will implement requirements of other agencies, including CA Dept. of Fish and Game, CA State Historic Preservation Officer, CA Coastal Commission, US Army Corps of Engineers, Regional Water Quality Control Board, and USFWS established for Highway 1 management activities.

I. GENERAL TERMS

A. AUTHORITY. This permit is issued pursuant to Federal Land Policy and Management Act of 1976 and 36 CFR Part 251, Subpart B, as amended, and is subject to their provisions.

B. AUTHORIZED OFFICER. The authorized officer is the Forest or Grassland Supervisor or a subordinate officer with delegated authority.

C. TERM. This permit shall expire at midnight on **12/31/2021**, approximately **ten years** from the date of issuance.

D. RENEWAL. This permit is not renewable. Prior to expiration of this permit, the holder may apply for a new permit that would renew the use and occupancy authorized by this permit. Applications for a new permit must be submitted at least 6 months prior to expiration of this permit. Renewal of the use and occupancy authorized by this permit shall be at the sole discretion of the authorized officer. At a minimum, before renewing the use and occupancy authorized by this permit, the authorized officer shall require that (1) the use and occupancy to be authorized by the new permit is consistent with the standards and guidelines in the applicable land management plan; (2) the type of use and occupancy to be authorized by the new permit is the same as the type of use and occupancy authorized by this permit; and (3) the holder is in compliance with all the terms of this permit. The authorized officer may prescribe new terms and conditions when a new permit is issued.

E. AMENDMENT. This permit may be amended in whole or in part by the Forest Service when, at the discretion of the authorized officer, such action is deemed necessary or desirable to incorporate new terms that may be required by law, regulation, directive, the applicable forest land and resource management plan, or projects and activities implementing a land management plan pursuant to 36 CFR Part 215.

F. COMPLIANCE WITH LAWS, REGULATIONS, AND OTHER LEGAL REQUIREMENTS. In exercising the rights and privileges granted by this permit, the holder shall comply with all present and future federal laws and regulations and all present and future state, county, and municipal laws, regulations, and other legal requirements that apply to the permit area, to the extent they do not conflict with federal law, regulation, or policy. The Forest Service assumes no responsibility for enforcing laws, regulations, and other legal requirements that fall under the jurisdiction of other governmental entities.

G. NON-EXCLUSIVE USE. The use or occupancy authorized by this permit is not exclusive. The Forest Service reserves the right of access to the permit area, including a continuing right of physical entry to the permit area for inspection, monitoring, or any other purpose consistent with any right or obligation of the United States under any law or regulation. The Forest Service reserves the right to allow others to use the permit area in any way that is not inconsistent with the holder's rights and privileges under this permit, after consultation with all parties involved. Except for any restrictions that the holder and the authorized officer agree are necessary to protect the installation and operation of authorized temporary improvements, the lands and waters covered by this permit shall remain open to the public for all lawful purposes.

H. ASSIGNABILITY. This permit is not assignable or transferable.

II. IMPROVEMENTS

A. LIMITATIONS ON USE. Nothing in this permit gives or implies permission to build or maintain any structure or facility or to conduct any activity, unless specifically authorized by this permit. Any use not specifically authorized by this permit must be proposed in accordance with 36 CFR 251.54. Approval of such a proposal through issuance of a new permit or permit amendment is at the sole discretion of the authorized officer.

B. PLANS. All plans for development, layout, construction, reconstruction, or alteration of improvements in the permit area, as well as revisions to those plans must be prepared by a professional engineer, architect, landscape architect, or other qualified professional based on federal employment standards acceptable to the authorized officer. These plans and plan revisions must have written approval from the authorized officer before they are implemented. The authorized officer may require the holder to furnish as-built plans, maps, or surveys upon completion of the work.

C. CONSTRUCTION. Any construction authorized by this permit shall commence by **11/1/2011** and shall be completed by **11/1/2012**.

III. OPERATIONS.

A. PERIOD OF USE. Use or occupancy of the permit area shall be exercised at least **365 days** each year.

B. CONDITION OF OPERATIONS. The holder shall maintain the authorized improvements and permit area to standards of repair, orderliness, neatness, sanitation, and safety acceptable to the authorized officer and consistent with other provisions of this permit. Standards are subject to periodic change by the authorized officer when deemed necessary to meet statutory, regulatory, or policy requirements or to protect national forest resources. The holder shall comply with inspection requirements deemed appropriate by the authorized officer.

C. INSPECTION BY THE FOREST SERVICE. The Forest Service shall monitor the holder's operations and reserves the right to inspect the permit area and transmission facilities at any time for compliance with the terms of this permit. The holder's obligations under this permit are not contingent upon any duty of the Forest Service to inspect the permit area or transmission facilities. A failure by the Forest Service or other governmental officials to inspect is not a justification for noncompliance with any of the terms and conditions of this permit.

IV. RIGHTS AND LIABILITIES

A. LEGAL EFFECT OF THE PERMIT. This permit, which is revocable and terminable, is not a contract or a lease, but rather a federal license. The benefits and requirements conferred by this authorization are reviewable solely under the procedures set forth in 36 CFR Part 251, Subpart C, and 5 U.S.C. 704. This permit does not constitute a contract for purposes of the Contract Disputes Act, 41 U.S.C. 601. The permit is not real property, does not convey any interest in real property, and may not be used as collateral for a loan.

B. VALID OUTSTANDING RIGHTS. This permit is subject to all valid outstanding rights. Valid outstanding rights include those derived under mining and mineral leasing laws of the United States. The United States is not liable to the holder for the exercise of any such right.

C. ABSENCE OF THIRD-PARTY BENEFICIARY RIGHTS. The parties to this permit do not intend to confer any rights on any third party as a beneficiary under this permit.

D. SERVICES NOT PROVIDED. This permit does not provide for the furnishing of road or trail maintenance, water, fire protection, search and rescue, or any other such service by a government agency, utility, association, or individual.

E. RISK OF LOSS. The holder assumes all risk of loss associated with use or occupancy of the permit area, including but not limited to theft, vandalism, fire and any fire-fighting activities (including prescribed burns), avalanches, rising waters, winds, falling limbs or trees, and other forces of nature. If authorized temporary improvements in the permit area are destroyed or substantially damaged, the authorized officer shall conduct an analysis to determine whether the improvements can be safely occupied in the future and whether rebuilding should be allowed. If rebuilding is not allowed, the permit shall terminate.

F. DAMAGE TO UNITED STATES PROPERTY. The holder has an affirmative duty to protect from damage the land, property, and other interests of the United States. Damage includes but is not limited to fire suppression costs, damage to government-owned improvements covered by this permit, and all costs and damages associated with or resulting from the release or threatened release of a hazardous material occurring during or as a result of activities of the holder or the holder's heirs, assigns, agents, employees, contractors, or lessees on, or related to, the lands, property, and other interests covered by this permit. For purposes of clause IV.F and section V, "hazardous material" shall mean (a) any hazardous substance under section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9601(14); (b) any pollutant or contaminant under section 101(33) of CERCLA, 42 U.S.C. § 9601(33); (c) any petroleum product or its derivative, including fuel oil, and waste oils; and (d) any hazardous substance, extremely hazardous substance, toxic substance, hazardous waste, ignitable, reactive or corrosive materials, pollutant, contaminant, element, compound, mixture, solution or substance that may pose a present or potential hazard to human health or the environment under any applicable environmental laws.

1. The holder shall avoid damaging or contaminating the environment, including but not limited to the soil, vegetation (such as trees, shrubs, and grass), surface water, and groundwater, during the holder's use or occupancy of the permit area. If the environment or any government property covered by this permit becomes damaged during the holder's use or occupancy of the permit area, the holder shall immediately repair the damage or replace the damaged items to the satisfaction of the authorized officer and at no expense to the United States.

2. The holder shall be liable for all injury, loss, or damage, including fire suppression, prevention and control of the spread of invasive species, or other costs in connection with rehabilitation or restoration of natural resources associated with the use or occupancy authorized by this permit. Compensation shall include but not be limited to the value of resources damaged or destroyed, the costs of restoration, cleanup, or other mitigation, fire suppression or other types of abatement costs, and all administrative, legal (including attorney's fees), and other costs. Such costs may be deducted from a performance bond required under clause IV.I.

3. The holder shall be liable for damage caused by use of the holder or the holder's heirs, assigns, agents, employees, contractors, or lessees to all roads and trails of the United States to the same extent as provided under clause IV.F.1, except that liability shall not include

reasonable and ordinary wear and tear.

G. HEALTH, SAFETY, AND ENVIRONMENTAL PROTECTION. The holder shall promptly abate as completely as possible and in compliance with all applicable laws and regulations any activity or condition arising out of or relating to the authorized use or occupancy that causes or threatens to cause a hazard to public health or the safety of the holder's employees or agents or harm to the environment (including areas of vegetation or timber, fish or other wildlife populations, their habitats, or any other natural resources). The holder shall prevent impacts to the environment and cultural resources by implementing actions identified in the operating plan to prevent establishment and spread of invasive species. The holder shall immediately notify the authorized officer of all serious accidents that occur in connection with such activities. The responsibility to protect the health and safety of all persons affected by the use or occupancy authorized by this permit is solely that of the holder. The Forest Service has no duty under the terms of this permit to inspect the permit area or operations and activities of the holder for hazardous conditions or compliance with health and safety standards.

H. INDEMNIFICATION OF THE UNITED STATES. The holder shall indemnify, defend, and hold harmless the United States for any costs, damages, claims, liabilities, and judgments arising from past, present, and future acts or omissions of the holder in connection with the use or occupancy authorized by this permit. This indemnification provision includes but is not limited to acts and omissions of the holder or the holder's heirs, assigns, agents, employees, contractors, or lessees in connection with the use or occupancy authorized by this permit which result in (1) violations of any laws and regulations which are now or which may in the future become applicable, and including but not limited to those environmental laws listed in clause V.A of this permit; (2) judgments, claims, demands, penalties, or fees assessed against the United States; (3) costs, expenses, and damages incurred by the United States; or (4) the release or threatened release of any solid waste, hazardous waste, hazardous materials, pollutant, contaminant, oil in any form, or petroleum product into the environment. The authorized officer may prescribe terms that allow the holder to replace, repair, restore, or otherwise undertake necessary curative actions to mitigate damages in addition to or as an alternative to monetary indemnification.

V. RESOURCE PROTECTION

A. COMPLIANCE WITH ENVIRONMENTAL LAWS. The holder shall in connection with the use or occupancy authorized by this permit comply with all applicable federal, state, and local environmental laws and regulations, including but not limited to those established pursuant to the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq., the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq., the Oil Pollution Act, as amended, 33 U.S.C. 2701 et seq., the Clean Air Act, as amended, 42 U.S.C. 7401 et seq., CERCLA, as amended, 42 U.S.C. 9601 et seq., the Toxic Substances Control Act, as amended, 15 U.S.C. 2601 et seq., the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. 136 et seq., and the Safe Drinking Water Act, as amended, 42 U.S.C. 300f et seq.

B. VANDALISM. The holder shall take reasonable measures to prevent and discourage vandalism and disorderly conduct and when necessary shall contact the appropriate law enforcement officer.

C. PESTICIDE USE. Pesticides may not be used outside of buildings to control undesirable woody and herbaceous vegetation (including aquatic plants), insects, rodents, fish, and other pests and weeds without prior written approval from the authorized officer. A request for

approval of planned uses of pesticides shall be submitted annually by the holder on the due date established by the authorized officer. The report shall cover a 12-month period of planned use beginning 3 months after the reporting date. Information essential for review shall be provided in the form specified. Exceptions to this schedule may be allowed, subject to emergency request and approval, only when unexpected outbreaks of pests or weeds require control measures that were not anticipated at the time an annual report was submitted. Only those materials registered by the U.S. Environmental Protection Agency for the specific purpose planned shall be considered for use on National Forest System lands. Label instructions and all applicable laws and regulations shall be strictly followed in the application of pesticides and disposal of excess materials and containers.

D. ARCHAEOLOGICAL-PALEONTOLOGICAL DISCOVERIES. The holder shall immediately notify the authorized officer of all antiquities or other objects of historic or scientific interest, including but not limited to historic or prehistoric ruins, fossils, or artifacts discovered in connection with the use and occupancy authorized by this permit. The holder shall leave these discoveries intact and in place until directed otherwise by the authorized officer. Protective and mitigative measures specified by the authorized officer shall be the responsibility of the holder.

E. NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION. In accordance with 25 U.S.C. 3002(d) and 43 CFR 10.4, if the holder inadvertently discovers human remains, funerary objects, sacred objects, or objects of cultural patrimony on National Forest System lands, the holder shall immediately cease work in the area of the discovery and shall make a reasonable effort to protect and secure the items. The holder shall immediately notify the authorized officer by telephone of the discovery and shall follow up with written confirmation of the discovery. The activity that resulted in the inadvertent discovery may not resume until 30 days after the authorized officer certifies receipt of the written confirmation, if resumption of the activity is otherwise lawful, or at any time if a binding written agreement has been executed between the Forest Service and the affiliated Indian tribes that adopts a recovery plan for the human remains and objects.

F. PROTECTION OF HABITAT OF THREATENED, ENDANGERED, AND SENSITIVE SPECIES. The location of sites within the permit area needing special measures for protection of plants or animals listed as threatened or endangered under the Endangered Species Act (ESA) of 1973, 16 U.S.C. 1531 et seq., as amended, or identified as sensitive or otherwise requiring special protection by the Regional Forester under Forest Service Manual (FSM) 2670, pursuant to consultation conducted under section 7 of the ESA, may be shown on the ground or on a separate map. The map shall be attached to this permit as an appendix. The holder shall take any protective and mitigative measures specified by the authorized officer. If protective and mitigative measures prove inadequate, if other sites within the permit area containing threatened, endangered, or sensitive species or species otherwise requiring special protection are discovered, or if new species are listed as threatened or endangered under the ESA or identified as sensitive or otherwise requiring special protection by the Regional Forester under the FSM, the authorized officer may specify additional protective and mitigative measures. Discovery of these sites by the holder or the Forest Service shall be promptly reported to the other party.

G. CONSENT TO STORE HAZARDOUS MATERIALS. The holder shall not store any hazardous materials at the site without prior written approval from the authorized officer. This approval shall not be unreasonably withheld. If the authorized officer provides approval, this permit shall include, or in the case of approval provided after this permit is issued, shall be amended to include specific terms addressing the storage of hazardous materials, including the

specific type of materials to be stored, the volume, the type of storage, and a spill plan. Such terms shall be proposed by the holder and are subject to approval by the authorized officer.

H. CLEANUP AND REMEDIATION

1. The holder shall immediately notify all appropriate response authorities, including the National Response Center and the authorized officer or the authorized officer's designated representative, of any oil discharge or of the release of a hazardous material in the permit area in an amount greater than or equal to its reportable quantity, in accordance with 33 CFR Part 153, Subpart B, and 40 CFR Part 302. For the purposes of this requirement, "oil" is as defined by section 311(a)(1) of the Clean Water Act, 33 U.S.C. 1321(a)(1). The holder shall immediately notify the authorized officer or the authorized officer's designated representative of any release or threatened release of any hazardous material in or near the permit area which may be harmful to public health or welfare or which may adversely affect natural resources on federal lands.

2. Except with respect to any federally permitted release as that term is defined under Section 101(10) of CERCLA, 42 U.S.C. 9601(10), the holder shall clean up or otherwise remediate any release, threat of release, or discharge of hazardous materials that occurs either in the permit area or in connection with the holder's activities in the permit area, regardless of whether those activities are authorized under this permit. The holder shall perform cleanup or remediation immediately upon discovery of the release, threat of release, or discharge of hazardous materials. The holder shall perform the cleanup or remediation to the satisfaction of the authorized officer and at no expense to the United States. Upon revocation or termination of this permit, the holder shall deliver the site to the Forest Service free and clear of contamination.

I. CERTIFICATION UPON REVOCATION OR TERMINATION. If the holder uses or stores hazardous materials at the site, upon revocation or termination of this permit the holder shall provide the Forest Service with a report certified by a professional or professionals acceptable to the Forest Service that the permit area is uncontaminated by the presence of hazardous materials and that there has not been a release or discharge of hazardous materials upon the permit area, into surface water at or near the permit area, or into groundwater below the permit area during the term of the permit. This certification requirement may be waived by the authorized officer when the Forest Service determines that the risks posed by the hazardous material are minimal. If a release or discharge has occurred, the professional or professionals shall document and certify that the release or discharge has been fully remediated and that the permit area is in compliance with all federal, state, and local laws and regulations.

VI. LAND USE FEE AND ACCOUNTING ISSUES

A. LAND USE FEES. The use or occupancy authorized by this permit is exempt from a land use fee or the land use fee has been waived in full pursuant to 36 CFR 251.57 and Forest Service Handbook 2709.11, Chapter 30.

B. MODIFICATION OF THE LAND USE FEE. The land use fee may be revised whenever necessary to reflect the market value of the authorized use or occupancy or when the fee system used to calculate the land use fee is modified or replaced.

C. FEE PAYMENT ISSUES.

1. Crediting of Payments. Payments shall be credited on the date received by the deposit facility, except that if a payment is received on a non-workday, the payment shall not be credited until the next workday.

2. Disputed Fees. Fees are due and payable by the due date. Disputed fees must be paid in full. Adjustments will be made if dictated by an administrative appeal decision, a court decision, or settlement terms.

3. Late Payments

(a) Interest. Pursuant to 31 U.S.C. 3717 et seq., interest shall be charged on any fee amount not paid within 30 days from the date it became due. The rate of interest assessed shall be the higher of the Prompt Payment Act rate or the rate of the current value of funds to the Treasury (i.e., the Treasury tax and loan account rate), as prescribed and published annually or quarterly by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletins. Interest on the principal shall accrue from the date the fee amount is due.

(b) Administrative Costs. If the account becomes delinquent, administrative costs to cover processing and handling the delinquency shall be assessed.

(c) Penalties. A penalty of 6% per annum shall be assessed on the total amount that is more than 90 days delinquent and shall accrue from the same date on which interest charges begin to accrue.

(d) Termination for Nonpayment. This permit shall terminate without the necessity of prior notice and opportunity to comply when any permit fee payment is 90 calendar days from the due date in arrears. The holder shall remain responsible for the delinquent fees.

4. Administrative Offset and Credit Reporting. Delinquent fees and other charges associated with the permit shall be subject to all rights and remedies afforded the United States pursuant to 31 U.S.C. 3711 et seq. and common law. Delinquencies are subject to any or all of the following:

(a) Administrative offset of payments due the holder from the Forest Service.

(b) If in excess of 60 days, referral to the Department of the Treasury for appropriate collection action as provided by 31 U.S.C. 3711(g)(1).

(c) Offset by the Secretary of the Treasury of any amount due the holder, as provided by 31 U.S.C. 3720 et seq.

(d) Disclosure to consumer or commercial credit reporting agencies.

VII. REVOCATION, SUSPENSION, AND TERMINATION

A. REVOCATION AND SUSPENSION. The authorized officer may revoke or suspend this permit in whole or in part:

1. For noncompliance with federal, state, or local law.

2. For noncompliance with the terms of this permit.
3. For abandonment or other failure of the holder to exercise the privileges granted.
4. With the consent of the holder.
5. For specific and compelling reasons in the public interest.

Prior to revocation or suspension, other than immediate suspension under clause VI.B, the authorized officer shall give the holder written notice of the grounds for revocation or suspension. In the case of revocation or suspension based on clause VII.A.1, 2, or 3, the authorized officer shall give the holder a reasonable time, typically not to exceed 90 days, to cure any noncompliance.

B. IMMEDIATE SUSPENSION. The authorized officer may immediately suspend this permit in whole or in part when necessary to protect public health or safety or the environment. The suspension decision shall be in writing. The holder may request an on-site review with the authorized officer's supervisor of the adverse conditions prompting the suspension. The authorized officer's supervisor shall grant this request within 48 hours. Following the on-site review, the authorized officer's supervisor shall promptly affirm, modify, or cancel the suspension.

C. APPEALS AND REMEDIES. Written decisions by the authorized officer relating to administration of this permit are subject to administrative appeal pursuant to 36 CFR Part 251, Subpart C, as amended. Revocation or suspension of this permit shall not give rise to any claim for damages by the holder against the Forest Service.

D. TERMINATION. This permit shall terminate when by its terms a fixed or agreed upon condition, event, or time occurs without any action by the authorized officer. Examples include but are not limited to expiration of the permit by its terms on a specified date and termination upon change of control of the business entity. Termination of this permit shall not require notice, a decision document, or any environmental analysis or other documentation. Termination of this permit is not subject to administrative appeal and shall not give rise to any claim for damages by the holder against the Forest Service.

E. RIGHTS AND RESPONSIBILITIES UPON REVOCATION OR TERMINATION WITHOUT RENEWAL. Upon revocation or termination of this permit without renewal of the authorized use, the holder shall remove all structures and improvements, except those owned by the United States, within a reasonable period prescribed by the authorized officer and shall restore the site to the satisfaction of the authorized officer. If the holder fails to remove all structures and improvements within the prescribed period, they shall become the property of the United States and may be sold, destroyed, or otherwise disposed of without any liability to the United States. However, the holder shall remain liable for all costs associated with their removal, including costs of sale and impoundment, cleanup, and restoration of the site.

VIII. MISCELLANEOUS PROVISIONS

A. MEMBERS OF CONGRESS. No member of or delegate to Congress or resident commissioner shall benefit from this permit either directly or indirectly, except to the extent the authorized use provides a general benefit to a corporation.

B. CURRENT ADDRESSES. The holder and the Forest Service shall keep each other informed of current mailing addresses, including those necessary for billing and payment of land use fees.

C. SUPERSEDED PERMIT. This permit supersedes a special use permit designated N/A.

D. SUPERIOR CLAUSES. If there is a conflict between any of the preceding printed clauses and any of the following clauses, the preceding printed clauses shall control.

E. NOXIOUS WEED AND EXOTIC PLANT PREVENTION AND CONTROL. The holder shall be responsible for the prevention and control of noxious weeds and exotic plants arising from the authorized use. For purposes of this clause, noxious weeds and exotic plants include those species recognized as such by Federal, State, or local agency. The holder shall follow prevention and control measures required by Federal, State, or local agency. When determined to be necessary by the authorized officer, the holder shall develop a plan for noxious weed and exotic plant prevention and control. These plans must have prior written approval from the authorized officer and, upon approval, shall be attached to this permit as an appendix.

This permit is accepted subject to the conditions set out above.

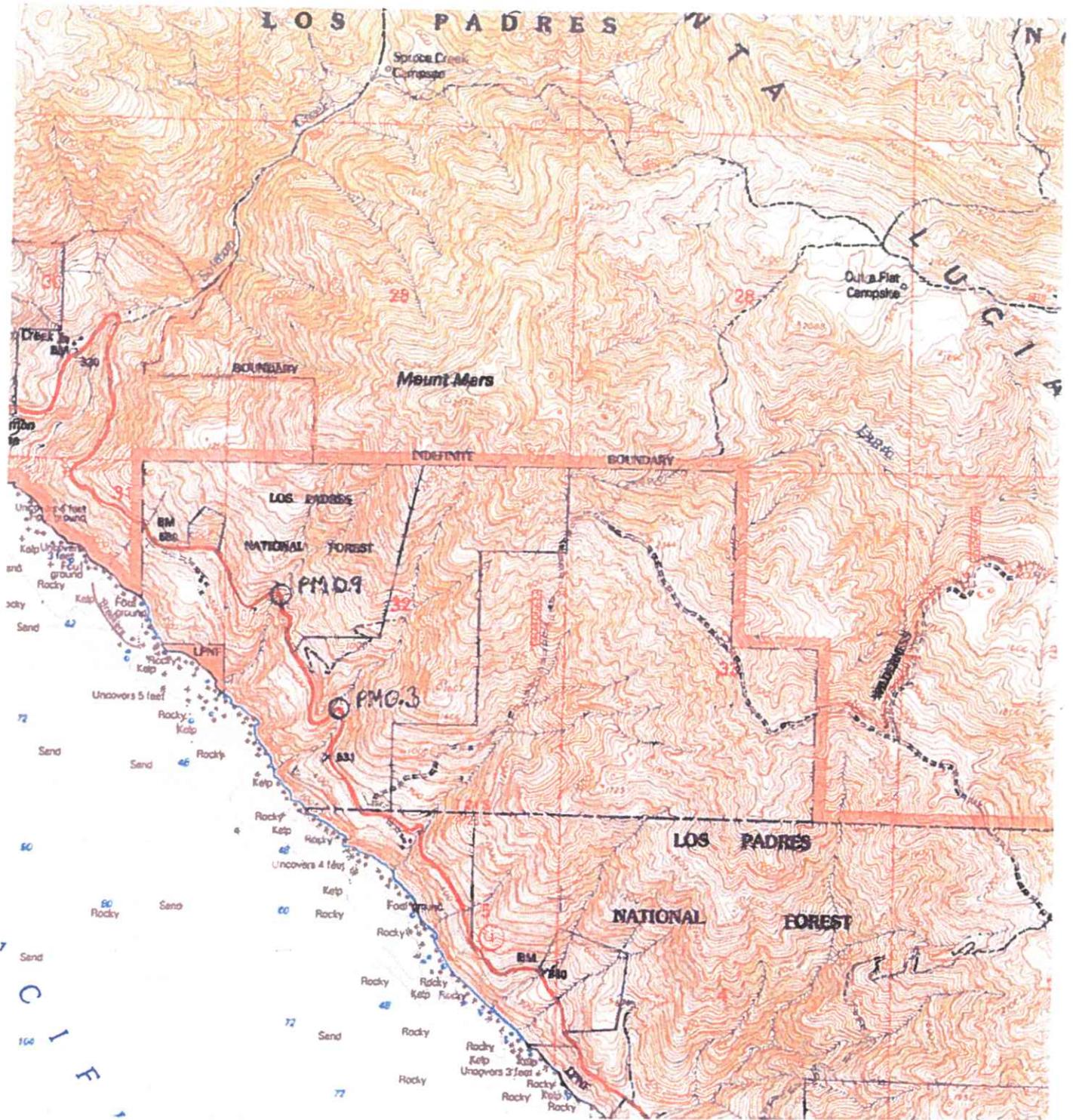
CALIFORNIA STATE, DEPT. OF TRANSPORTATION	U.S. DEPARTMENT OF AGRICULTURE Forest Service
By: NICHOLAS G. DUMAS	By: PEGGY HERNANDEZ
	
Title: Assistant Central Region Chief Right of Way	Title: Forest Supervisor
Date: 9-6-2011	Date: 9/9/11

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond, to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0082. The time required to complete this information collection is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and, where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.

The Privacy Act of 1974 (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552) govern the confidentiality to be provided for information received by the Forest Service.



APPENDIX A – Area Map

Special Use Permit MRD1122 CALTRANS

State Route 1 Big Sur Coast Highway, Sec. 32, T24S, R6E, MDM

Extended Right of Way for Culvert Replacements at PM 0.3 and PM 0.9

Monterey Ranger District, Los Padres National Forest, September 2011



APPENDIX B – Pepperwood Gulch Engineering Drawings
 Special Use Permit MRD1122 CALTRANS
 State Route 1 Big Sur Coast Highway, Sec. 32, T24S, R6E, MDM
 Extended Right of Way for Culvert Replacement at PM 0.3
 Monterey Ranger District, Los Padres National Forest, September 2011

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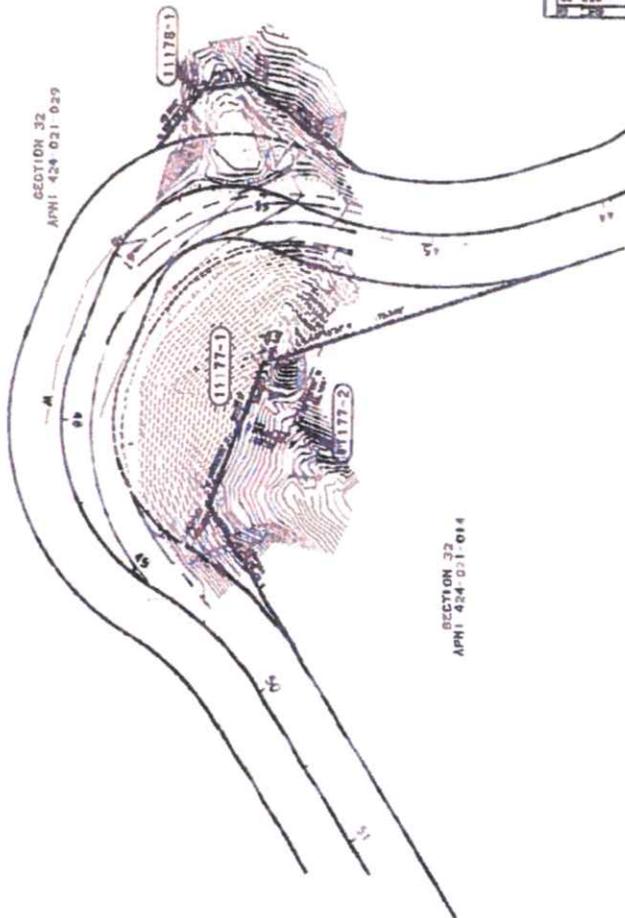
DEPARTMENT OF TRANSPORTATION

**STATE HIGHWAY
ROUTE 1**

**IN MONTEREY COUNTY
T. 24 S., R. 6 E., M.D.B. & M.**

SECTION 32
APN: 424 021 029

SECTION 32
APN: 424 021 014



STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION AND HIGHWAYS
DEPARTMENT OF TRANSPORTATION

**RIGHT OF WAY
APPRAISAL INDEX MAP
MAP NO.**

PROJECT NO. 11177-1
SHEET NO. 1

PARCEL	OWNER	ACRES	SECTION	TOWNSHIP	RANGE	M.D.B. & M.	REMARKS
11177-1	32	24 S.	6 E.	MDM	...
11177-2	32	24 S.	6 E.	MDM	...

APPENDIX C – Silver Spur Creek Engineering Drawings
 Special Use Permit MRD1122 CALTRANS
 State Route 1 Big Sur Coast Highway, Sec. 32, T24S, R6E, MDM
 Extended Right of Way for Culvert Replacement at PM 0.9
 Monterey Ranger District, Los Padres National Forest, September 2011