

FOR CONTRACT NO.: 06-0E0704

INFORMATION HANDOUT

PERMITS INFORMATION

California Regional Water Quality Control Board (RWQCB) Permit 401

California Department of Fish and Game (F&G) Permit 1600

And

Army Corps of Engineers (ACOE) Permit 404



California Regional Water Quality Control Board Central Valley Region

Katherine Hart, Chair



Linda S. Adams
Acting Secretary for
Environmental Protection

1685 E Street, Fresno, California 93706
(559) 445-5116 • Fax (559) 445-5910
<http://www.waterboards.ca.gov/centralvalley>

Edmund G. Brown Jr.
Governor

15 June 2011

Garth Fernandez
California Department of Transportation
2015 E. Shields, St. #100
Fresno, CA 93726

CLEAN WATER ACT §401 TECHNICALLY CONDITIONED WATER QUALITY CERTIFICATION FOR DISCHARGE OF DREDGED AND/OR FILL MATERIALS FOR THE SR 99 REHABILITATION FROM AVENUE 152 TO ELK BAYOU BRIDGE PROJECT, WDID#5C54CR00033, TULARE COUNTY

WATER QUALITY CERTIFICATION STANDARD CONDITIONS:

1. This Certification is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and §3867 of Title 23 of the California Code of Regulations (23 CCR).
2. This Certification is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR § 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. The validity of any non-denial certification action shall be conditioned upon total payment of the full fee required under 23 CCR §3833, unless otherwise stated in writing by the certifying agency.
4. Certification is valid for the duration of the SR 99 Rehabilitation from Avenue 152 to Elk Bayou Bridge Project (Project) described in the attached "Project Information Sheet." This Certification is no longer valid if the Project (as summarized in the "Project Information Sheet" and described in the water quality certification application) is modified, or coverage under the project permit issued by the U.S. Army Corps of Engineers pursuant to § 404 of the Clean Water Act has expired. The California Department of Transportation (Discharger) shall notify the Central Valley Regional Water Quality Control Board (Central Valley Water Board) in writing within seven days of Project completion.
5. All reports, notices, or other documents required by this Certification or requested by the Central Valley Water Board shall be signed by a person described below or by a duly authorized representative of that person.

California Environmental Protection Agency

- a. For a corporation: by a responsible corporate officer such as (1) a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function; (2) any other person who performs similar policy or decision-making functions for the corporation; or (3) the manager of one or more manufacturing, production, or operating facilities if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - b. For a partnership or sole proprietorship: by a general partner or the proprietor.
 - c. For a municipality, State, federal, or other public agency: by either a principal executive officer or ranking elected official.
6. Any person signing a document under Standard Condition No. 5 shall make the following certification, whether written or implied:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

ADDITIONAL TECHNICALLY CONDITIONED CERTIFICATION CONDITIONS:

In addition to the six standard conditions, the Discharger shall satisfy the following:

1. The Discharger shall notify the Central Valley Water Board in writing seven days prior to beginning any in-water activities.
2. Except for activities permitted by the U.S. Army Corps of Engineers under §404 of the Clean Water Act, soil, silt, or other organic materials shall not be placed where such materials could pass into surface water or surface water drainage courses.
3. All areas disturbed by Project activities shall be protected from washout or erosion.
4. The Discharger shall maintain a copy of this Certification and supporting documentation (Project Information Sheet) at the Project site during construction for review by site personnel and agencies. All personnel (employees, contractors, and subcontractors) performing work on the proposed Project shall be adequately informed and trained regarding the conditions of this Certification.
5. An effective combination of erosion and sediment control Best Management Practices (BMPs) shall be implemented and adequately working during all phases of construction.
6. All temporarily affected areas shall be restored to pre-construction contours and conditions upon completion of construction activities.

7. The Discharger shall perform surface water sampling: 1) When performing any in-water work; 2) In the event that Project activities result in any materials reaching surface waters or; 3) When any activities result in the creation of a visible plume in surface waters. The following monitoring shall be conducted immediately upstream out of the influence of the Project and approximately 300 feet downstream of the active work area. Sampling results shall be submitted to this office by the first day of the second month following sampling. The sampling frequency and monitoring locations may be modified for certain projects with written permission from the Central Valley Water Board.

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

8. Activities shall not cause:
- (a) where natural turbidity is between 0 and 5 Nephelometric Turbidity Units (NTUs), increases exceeding 1 NTU;
 - (b) where natural turbidity is between 5 and 50 NTUs, increases exceeding 20 percent;
 - (c) where natural turbidity is between 50 and 100 NTUs, increases exceeding 10 NTUs;
 - (d) where natural turbidity is greater than 100 NTUs, increases exceeding 10 percent.

In determining compliance with the above limits, appropriate averaging periods may be applied provided that beneficial uses will be fully protected. Averaging periods may only be used with prior permission of the Central Valley Water Board.

9. Activities shall not cause settleable material to exceed 0.1 ml/L in surface waters as measured in surface waters downstream from the Project.
10. The discharge of petroleum products or other excavated materials to surface water is prohibited. Activities shall not cause visible oil, grease, or foam in the work area or downstream. The Discharger shall notify the Central Valley Water Board immediately of any spill of petroleum products or other organic or earthen materials.
11. The Discharger shall notify the Central Valley Water Board immediately if any of the above conditions are violated, along with a description of measures it is taking to remedy the violation.
12. The Discharger shall comply with all California Department of Fish and Game Code § 1600 requirements for the Project.

13. The Discharger must obtain coverage under the NPDES General Permit for Storm Water Discharges Associated with Construction Activities issued by the State Water Resources Control Board for any project disturbing an area of one acre or greater.
14. In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation shall be subject to any remedies, penalties, process, or sanctions as provided for under State law and § 401 (d) of the federal Clean Water Act. The applicability of any State law authorizing remedies, penalties, process, or sanctions for the violation or threatened violation constitutes a limitation necessary to ensure compliance with this Certification.
15. If the Discharger or a duly authorized representative of the Discharger fails or refuses to furnish technical or monitoring reports, as required under this Certification, or falsifies any information provided in the monitoring reports, the Discharger will be subject to civil liability, for each day of violation, or criminal liability.
16. In response to a suspected violation of any condition of this Certification, the Central Valley Water Board may require the Discharger to furnish, under penalty of perjury, any technical or monitoring reports the Central Valley Water Board deems appropriate, provided that the burden, including cost of the reports, shall be in reasonable relationship to the need for the reports and the benefits to be obtained from them.
17. The Discharger shall allow staff of the Central Valley Water Board, or an authorized representative(s), upon the presentation of credentials and other documents, as may be required by law, to enter the Project premises for inspection, including taking photographs and securing copies of project-related records, for the purpose of assuring compliance with this Certification and determining the ecological success of the Project.

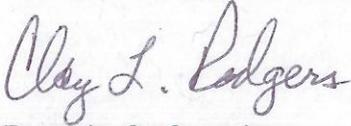
CENTRAL VALLEY WATER BOARD CONTACT PERSON:

Debra Mahnke, Water Resource Control Engineer
1685 E Street
Fresno, CA 93706
(559) 445-6281
dmahnke@waterboards.ca.gov

WATER QUALITY CERTIFICATION:

I hereby issue an order certifying that the proposed discharge from the SR 99 Rehabilitation from Avenue 152 to Elk Bayou Bridge Project, WDID# 5C54CR00033, will comply with the applicable provisions of §301 ("Effluent Limitations"), §302 ("Water Quality Related Effluent Limitations"), §303 ("Water Quality Standards and Implementation Plans"), §306 ("National Standards of Performance"), and §307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act. This discharge is also regulated under State Water Resources Control Board Water Quality Order No. 2003-0017 DWQ "Statewide General Waste Discharge Requirements For Dredged Or Fill Discharges That Have Received State Water Quality Certification."

Except insofar as may be modified by any preceding conditions, all certification actions are contingent on (a) the discharge being limited to and all proposed mitigation being completed in strict compliance with the Discharger's project description, the attached "Project Information Sheet," and the Discharger's water quality certification application; and (b) compliance with all applicable requirements of the Central Valley Water Board's *Water Quality Control Plan for the Tulare Lake Basin*, Second Edition, revised January 2004.



for Pamela C. Creedon
Executive Officer

Enclosure: Water Quality Order No. 2003-0017 DWQ
Attachment: Project Information Sheet

cc: Jason Brush, Supervisor, Wetlands Regulatory Office, U.S. Environmental Protection Agency, Region 9, San Francisco (email)
Paul Maniccia, Chief, Sacramento South Branch, Regulatory Unit, Department of the Army, Corps of Engineers, Sacramento
Bill Orme, Water Quality Certification Unit Chief, Division of Water Quality, State Water Resources Control Board, Sacramento (email)
Jeffrey Single, Regional Manager, San Joaquin Valley-Southern Sierra Region, California Department of Fish and Game, Fresno

PROJECT INFORMATION SHEET

Application Date: 11 April 2011

Applicant: California Department of Transportation

Applicant Representatives: Garth Fernandez, Project Manager

Project Name: SR 99 Rehabilitation from Avenue 152 to Elk Bayou Bridge Project

Application Number: WDID# 5C54CR00033

Type of Project: Freeway rehabilitation

Project Location: Sections 12 and 19, Township 21 South, Range 24 East, MDB&M.
Latitude: 36° 06' 39.14" and Longitude: -119° 19' 22.12"

Project Duration: November 2011 through November 2012

County: Tulare

Receiving Water: North and South Branches of the Tule River, Overflows #1 and #2 of the Tule River, Porter Slough, Tulare Lake Hydrologic Basin, South Valley Floor Hydrologic Unit #558.20, Tule Delta HA

Water Body Type: Un-vegetated streambed

Designated Beneficial Uses: The *Water Quality Control Plan for the Tulare Lake Basin*, Second Edition, revised January 2004 designates beneficial uses for surface and ground waters within the region. Beneficial uses that could be impacted by the Project include: Agricultural Supply; Industrial Process Supply, Groundwater Recharge, Water Contact Recreation; Non-Contact Water Recreation; Warm Freshwater Habitat; Wildlife Habitat; and Rare, Threatened or Endangered Species Habitat.

Project Description: The Project will rehabilitate the existing pavement on State Route 99 and widen the median and outside shoulders. Bridge shoulders will be widened on five bridges requiring widening of two bridges and extension of three culverts.

Preliminary Water Quality Concerns: Potential for increased erosion and increased sedimentation in streambeds.

Proposed Mitigation to Address Concerns: Work will be completed during dry conditions. Best management practices will be used to protect the streambeds where bridge work will be done.

Fill/Excavation Area: Approximately 80 cubic yards of concrete will be placed in 0.014 acres of un-vegetated streambed.

Dredge Volume: None

U.S. Army Corps of Engineers Permit Number: Nationwide Permit #14

Department of Fish and Game Streambed Alteration Agreement: The Discharger applied for a Streambed Alteration Agreement on 21 March 2011.

Status of CEQA Compliance: California Department of Transportation determined the Project is Categorical Exempt and issued a Notice of Exemption on 20 July 2010.

The Central Valley Water Board concurs that this project meets the Categorical Exemption, under Title 14, Section 15301 of the California Code of Regulations (CCR), which exempts repair, maintenance, or minor alteration of existing public structures involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

Compensatory Mitigation: None

Application Fee Provided: Total fees of \$1,349.00 have been submitted as required by 23 CCR §3833(b)(3)(A) and by 23 CCR §2200(e).

STATE WATER RESOURCES CONTROL BOARD

WATER QUALITY ORDER NO. 2003 - 0017 - DWQ

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

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

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

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

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

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

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

CERTIFICATION

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

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

NO: None.

ABSENT: None.

ABSTAIN: None.


Debbie Irvin
Clerk to the Board



California Natural Resources Agency
DEPARTMENT OF FISH AND GAME
Central Region
1234 East Shaw Avenue
Fresno, California 93710
(559) 243-4005
<http://www.dfg.ca.gov>

EDMUND G. BROWN, Jr., Governor
JOHN McCAMMAN, Director



June 20, 2011

Garth Fernandez
California Department of Transportation
Caltrans District 6
2015 East Shields Avenue, Suite 100
Fresno, California 93726

Subject: Final Lake or Streambed Alteration Agreement
Notification No. 1600-2011-0079-R4
South Branch of the Tule River and
North Branch of the Tule River - Tulare County
SR 99 Pavement Rehabilitation and Shoulder Widening
06-TUL-99 PM 19.8-25.0 EA 06-0E070

Dear Mr. Fernandez:

Enclosed is the final Streambed Alteration Agreement (Agreement) for the SR 99 Pavement Rehabilitation and Shoulder Widening (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, determined your Project is exempt from CEQA and filed a Notice of Exemption (NOE) on the same date it signed the Agreement.

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

If you have any questions regarding this matter, please contact 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

Conserving California's Wildlife Since 1870

NOTICE OF EXEMPTION

To: Office of Planning and Research
Post Office Box 3044
Sacramento, California 95812-3044

From: California Department of Fish and Game
Central Region
1234 East Shaw Avenue
Fresno, California 93710

County Clerk
County of Tulare

Project Title: Agreement 2011-0079-R4; SR 99 Rehabilitation and Shoulder Widening

Project Location (Specific): The work authorized by this Agreement will occur on State Route (SR) 99 at Post Mile (PM) 21.5 where it crosses the South Branch of the Tule River and at PM 22.7 where it crosses the North Branch of the Tule River, in the County of Tulare, State of California; Township 21 South, Range 24 East, Sections 12 and 24, Mount Diablo meridian.

Project Location (City and County): Tulare County

Description of Project: The proposed Project will rehabilitate the existing pavement, cold plane and pave ramps and crack, seat and overlay the existing southbound lanes of SR 99 PM 19.8 to 25.0. The southbound median shoulders would be widened to 5 feet and the outside shoulders would be widened to 10 feet, the current standard. In order to accomplish this, Caltrans will need to widen the bridges which will be accomplished with the use of cantilevered extensions of the shoulders. No bridge widening will occur below the Ordinary High Water Mark except at the wing wall locations where the channel side slopes meet the existing abutments of the bridge and will not go into the channel. All work shall be done between September 1 and February 14 when the channel is dry. No trees shall be removed do to planed construction activities.

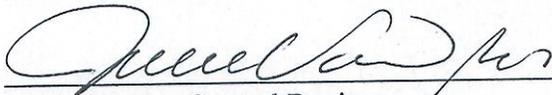
Name of Public Agency Approving Project: California Department of Fish and Game (Central Region)

Name of Agency Carrying Out Project: California Department of Transportation (Caltrans)

Exempt Status (Class and Guidelines Section): Categorically Exempt under Section 15301 Existing Facilities Class 1 - Maintenance, repair, and minor alterations of an existing structure.

Reasons Why Project is Exempt: The project meets the Class 1 Exemption because it consists of restoring the existing facilities (SR 99) involving minimal expansion of shoulders to meet current safety standards.

Lead Agency Contact Person: Laura Peterson-Diaz **Phone:** (559) 243-4017, ext. 225

Signature:  **Date:** 6/27/11
Title: Regional Manager, Central Region

Date received for filing at OPR: _____

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



STREAMBED ALTERATION AGREEMENT
NOTIFICATION No. 1600-2011-0079-R4
South Branch of the Tule River and
North Branch of the Tule River - Tulare County

CALIFORNIA DEPARTMENT OF TRANSPORTATION
CALTRANS DISTRICT 6
Garth Fernandez
2015 East Shields Avenue, Suite 100
Fresno, California 93726

SR 99 PAVEMENT REHABILITATION AND SHOULDER WIDENING
06-TUL-99 PM 19.8-25.0 EA 06-0E070

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Game (DFG) and California Department of Transportation Caltrans District 6 (Permittee) as represented by Garth Fernandez acting on behalf of Permittee.

RECITALS

WHEREAS, pursuant to Fish and Game Code (FGC) section 1602, Permittee notified DFG on August 2, 2010, that Permittee intends to complete the Project described herein.

WHEREAS, pursuant to FGC section 1603, DFG has determined that the Project could substantially adversely affect existing fish or wildlife resources and has included measures in the Agreement necessary to protect those resources.

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

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

PROJECT LOCATION

The Project is located along State Route (SR) 99 at Post Mile (PM) 21.5 where it crosses the South Branch of the Tule River and at PM 22.7 where it crosses the North Branch of the Tule River, in the County of Tulare, State of California; Township 21 South, Range 24 East, Sections 12 and 24, United States Geological Survey (USGS) map Tipton, Mount Diablo meridian.

PROJECT DESCRIPTION

The Project is limited to:

- Rehabilitate the existing Portland Concrete Cement pavement, cold plane and pave ramps and crack, seal and overlay the existing southbound lanes of SR 99 between PM 19.8 to 25.0. The southbound median shoulders would be widened to 5 feet and the outside shoulders would be widened to 10 feet, the current standard.
- In order to accomplish this, Permittee will need to widen the bridges which will be accomplished with the use of cantilevered extensions of the shoulders. No bridge widening will occur below the Ordinary High Water Mark except at the wing wall locations where the channel side slopes meet the existing abutments of the bridge and will not go into the channel.
- South Branch of the Tule River (PM 21.5) – Extension of the top slabs of the 25 cell Reinforced Concrete Box, replacing the tops of the existing wing walls. Total cut and fill would be one cubic yard. Shoulder widening at this location will require an additional 6 inches on the outside shoulder and 2 feet on the median side.
- North Branch of the Tule River (PM 22.7) – Project will require widening a four span bridge. No wing wall work will occur at this location. Shoulder widening at this location will require an additional 2 feet 2 inches on the outside shoulder and no widening is anticipated on the median side.
- Construction activities will occur at both these locations when the channel is dry.
- All work with heavy equipment will be done from the bank and only scaffolding will be in the channel bottom.
- Construction equipment that will be used includes: backhoe, crane, asphalt paver, tractor trailer, concrete truck, striping truck, scrapers, air compressor, drill, and grouter.
- No work will occur in DFG 1600 jurisdiction at either Signal Creek or Porter Slough (PM 42.6) which are both within the Project limits or at Elk Bayou which is just north of the Project area.
- The culvert at PM 23.2 which Permittee also calls Porter Slough and the two Tule River "Overflow" culverts at PM 21.9 and 22.1 no longer have even a remnant of bed, bank or channel past the culvert which goes under SR 99. Therefore, these locations have been deemed non-jurisdictional.

- All work shall be done between September 1 and February 14, to completely avoid potential impacts to Swainson's hawks and/or golden eagles that could nest within a half a mile of the project.

PROJECT IMPACTS

This Agreement is intended to avoid, minimize, and mitigate adverse impacts to the fish and wildlife resources that occupy the area of the South Branch of the Tule River, the North Branch of the Tule River and Porter Slough, 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: State threatened Swainson's hawk (*Buteo swainsoni*), fully protected golden eagle (*Aquila chrysaetos*), and Federal endangered and State threatened San Joaquin kit fox (*Vulpes macrotis mutica*) 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 FGC Section 86 as to hunt, pursue, catch, capture, or kill; or attempt to hunt, pursue, catch, capture, or kill) of State or federally 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 1600-2011-0079-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 federally 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 federally 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 Federally 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.
- 2.4. Swainson's Hawk (SWHA) Specific Measures: To completely avoid possible "take" of SWHA, which could potentially nest in the vicinity of the Project, Permittee shall limit work to a construction window of between September 1 and February 14.
- 2.5. San Joaquin Kit Fox (SJKF) Specific Measures:
- 2.5.1. Although it is unlikely an SJKF fox den will be found within the Project impact area (PIA) which only extends a few feet from the current edge of pavement, SJKF could den within the standard buffer distance. **Focused SJKF Surveys:** Surveys shall be conducted by a qualified biologist no less than 14 days and no more than 30 days prior to the beginning of ground disturbance and/or construction activities or any Project activity likely to impact SJKF. Surveys should identify SJKF habitat features on the Project site and evaluate use by SJKF and, if possible, assess the potential impacts to SJKF by the proposed activity. The status of all dens should be determined and mapped. Written results of preconstruction surveys must be received by the United States Fish and Wildlife Service (USFWS) and DFG within five (5) days after survey completion and prior to the start of ground disturbance and/or construction activities. If the preconstruction survey reveals an atypical, known or natal pupping den USFWS and DFG should be contacted immediately. For purposes of this Agreement, the following definitions and clarifications shall apply with respect to SJKF:

- "Known den" - Any existing natural den or manmade structure that is being used, or has been used at any time in the past, by a SJKF. Evidence of use may include historical records, past or current radiotelemetry or spotlighting data, SJKF sign such as tracks, scat, and/or prey remains, or other reasonable proof that a given den is being or has been used by a SJKF.
- "Potential Den" - Any subterranean hole within the species' range that has entrances of appropriate dimensions for which available evidence is insufficient to conclude that it is being used or has been used by a SJKF. Potential dens shall include the following: (1) any suitable subterranean hole; or (2) any den or burrow of another species (e.g., coyote, badger, red fox, or ground squirrel) that otherwise has appropriate characteristics for SJKF use.
- "Natal or Pupping Den" - Any den used by SJKF to whelp and/or rear their pups. Natal/pupping dens may be larger with more numerous entrances than dens occupied exclusively by adults. These dens typically have more SJKF tracks, scat, and prey remains in the vicinity of the den, and may have a broader apron of matted dirt and/or vegetation at one or more entrances.
- "Atypical Den" - Any manmade structure which has been or is currently being occupied by a SJKF. Atypical dens may include pipes, culverts, and diggings beneath concrete slabs and buildings.

2.5.2. The configuration of exclusion zones around the SJKF dens shall have a radius measured outward from the entrance or cluster of entrances. The following radii are minimums, and if they cannot be followed the USFWS and DFG must be contacted prior to disturbance: Atypical den, 50 feet; Potential den, 50 feet; Known den, 100 feet; Natal/pupping den, USFWS and DFG must be contacted for further guidance. Exclusion zones should be maintained until all construction related or operational disturbances have been terminated. At that time, all fencing, stakes and flagging shall be removed to avoid attracting subsequent attention to the dens. Construction and other Project activities should be prohibited or greatly restricted within these exclusion zones. Only essential vehicle operation on existing roads and foot traffic should be permitted. Otherwise, all construction, vehicle operation, material storage, or any other type of surface-disturbing activity shall be prohibited within the exclusion zones.

- 2.5.3. Disturbance to all SJKF dens (including "potential" dens) and buffer zones around the dens shall be prohibited without consultation with DFG and written direction on how to properly proceed.
- 2.5.4. To minimize temporary disturbances, all Project-related vehicle traffic should be restricted to established roads, construction areas, and other designated areas. These areas should be included in preconstruction surveys and, to the extent possible, should be established in locations disturbed by previous activities to prevent further impacts. Project-related vehicles should observe a 20-mile-per-hour speed limit in all Project areas, except on county roads and State and Federal highways; this is particularly important at night when SJKF are most active. To the extent possible, nighttime construction should be minimized. Off-road traffic outside of designated Project areas should be prohibited. Always check under vehicles or equipment before starting.
- 2.5.5. To prevent inadvertent entrapment of SJKF or other animals during the construction phase of a Project, all excavated, steep-walled holes or trenches more than two feet deep should be covered at the close of each working day by plywood or similar materials, or provided with one or more escape ramps constructed of earth fill or wooden planks. Before such holes or trenches are filled, they should be thoroughly inspected for trapped animals. If at any time a trapped animal is discovered, escape ramps or structures should be installed immediately to allow the animal to escape, or DFG should be contacted immediately for advice.
- 2.5.6. SJKF are attracted to den-like structures such as pipes and may enter stored pipe becoming trapped or injured. All construction pipes, culverts, or similar structures with a diameter of four inches or greater shall be capped or otherwise covered prior to being left overnight. If an animal is found in a pipe, all potential disturbance activities shall be suspended immediately and the animal(s) left to leave of their own accord.
- 2.5.7. All food-related trash items such as wrappers, cans, bottles, and food scraps should be disposed of in closed containers and removed at least once a week from a construction or Project site.
- 2.5.8. No firearms, cats, dogs or other pets shall be allowed on the Project site at any time.
- 2.5.9. Any contractor, employee, or agency personnel who inadvertently kills or injures a SJKF shall immediately report the incident to their representative. This representative shall contact DFG immediately by calling State Dispatch at (916) 445-0045. Dispatch will then

contact the local warden or biologist as needed. DFG and USFWS shall both be notified in writing within three (3) working days of the accidental death or injury to a SJKF during Project-related activities. Notification must include the date, time, and location of the incident or of the finding of a dead or injured animal and any other pertinent information.

2.6. 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.

2.6.1. An approved biologist shall perform **general wildlife surveys** of the Project area (including access routes and storage areas) no more than 14 days before the onset of any ground-disturbing activities 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, Permittee shall contact DFG and mitigation, specific to each incident, shall be developed. If any State or federally 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.

2.6.2. Bats: No bats shall be disturbed without specific notice to and consultation with DFG. **Pre-construction bat surveys** by a qualified biologist shall be performed to determine if bat species are utilizing the bridges or box culverts for roosting. If bats are using the existing structure as a roosting site, exclusion of these bats shall take place a minimum of four (4) weeks prior to construction. If after four (4) weeks exclusion measures are unsuccessful and bat species still utilize the bridge for roosting, Permittee shall contact DFG and mitigation shall be developed in consultation with DFG.

2.7. 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.

2.7.1. No native riparian trees, shrubs or oak trees shall be removed or impacted as a result of planned construction activities for this Project.

2.8. 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.

2.8.1. Construction vehicle access to the stream's banks and bed shall be limited to periods when the channel is dry and 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 DFG representative.

2.9. 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.

2.10. Pollution: The Permittee and all contractors shall be subject to the water pollution regulations found in FGC sections 5650 and 12015.

2.10.1. 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."

2.10.2. 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.

2.10.3. 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.

2.11. 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.

- 2.12. 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.
- 2.13. 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.
- 2.14. 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.
- 2.15. 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.
- 2.16. Restoration: Excess material must be removed from the Project site, pursuant to Department of Transportation Standard Specifications Section 7-1.13. 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:** The Notification states that no trees need to be removed for the implementation of this Project. If any native riparian trees or shrubs greater than four (4) inches in diameter at breast height (DBH) is/are accidentally damaged or removed from the Project area due to unplanned construction activities, the Permittee shall develop a **Revegetation Plan** for the site and immediately submit it to DFG for approval. 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 removed and to be planted should be identified. Native riparian trees and shrubs (e.g., willow, cottonwood, sycamore, valley oak, etc.) between four 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, or at the nearest location that can be protected in perpetuity.

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. The final two (2) of the five (5) years should be without irrigation.

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 (**all surveys shall be submitted before the commencement of ground-disturbing activities**):

- Construction/work schedule (Measure 1.9).
- Employee and contractor training sign-in sheet (Measure 1.10).
- Results of focused SJKF surveys (Measure 2.5.1).
- Results of general wildlife surveys (Measure 2.6.1).
- Pre-construction bat surveys (Measure 2.6.3).
- The seed mixture to be used post-Project for erosion control (Measure 2.16).

- 4.2.2. If required, a Revegetation Plan (Measure 3.1).
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 Permittee's' 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 6
Patricia Moyer
2015 East Shields Avenue, Suite 100
Fresno, California 93726
(559) 243-8196
Fax: (559) 243-8215
patricia_ann_moyer@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 No. 1600-2010-0109-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, DFG 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. 2011-0079-R4. Permittee, as CEQA Lead Agency, signed a Class 1 Categorical Exemption on July 20, 2010. DFG, as a CEQA Responsible Agency, shall submit a Notice of Exemption to the State Clearinghouse upon signing this Agreement. DFG's concurrence with Permittee's CEQA Determination is based upon the Permittee's commitment to full implementation of the Measures of 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

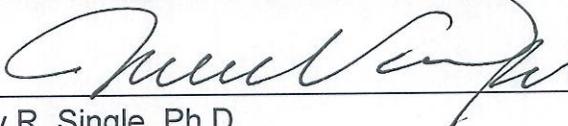


Garth Fernandez
Project Manager

6/17/2011

Date

FOR DEPARTMENT OF FISH AND GAME



Jeffrey R. Single, Ph.D.
Regional Manager

06/27/11

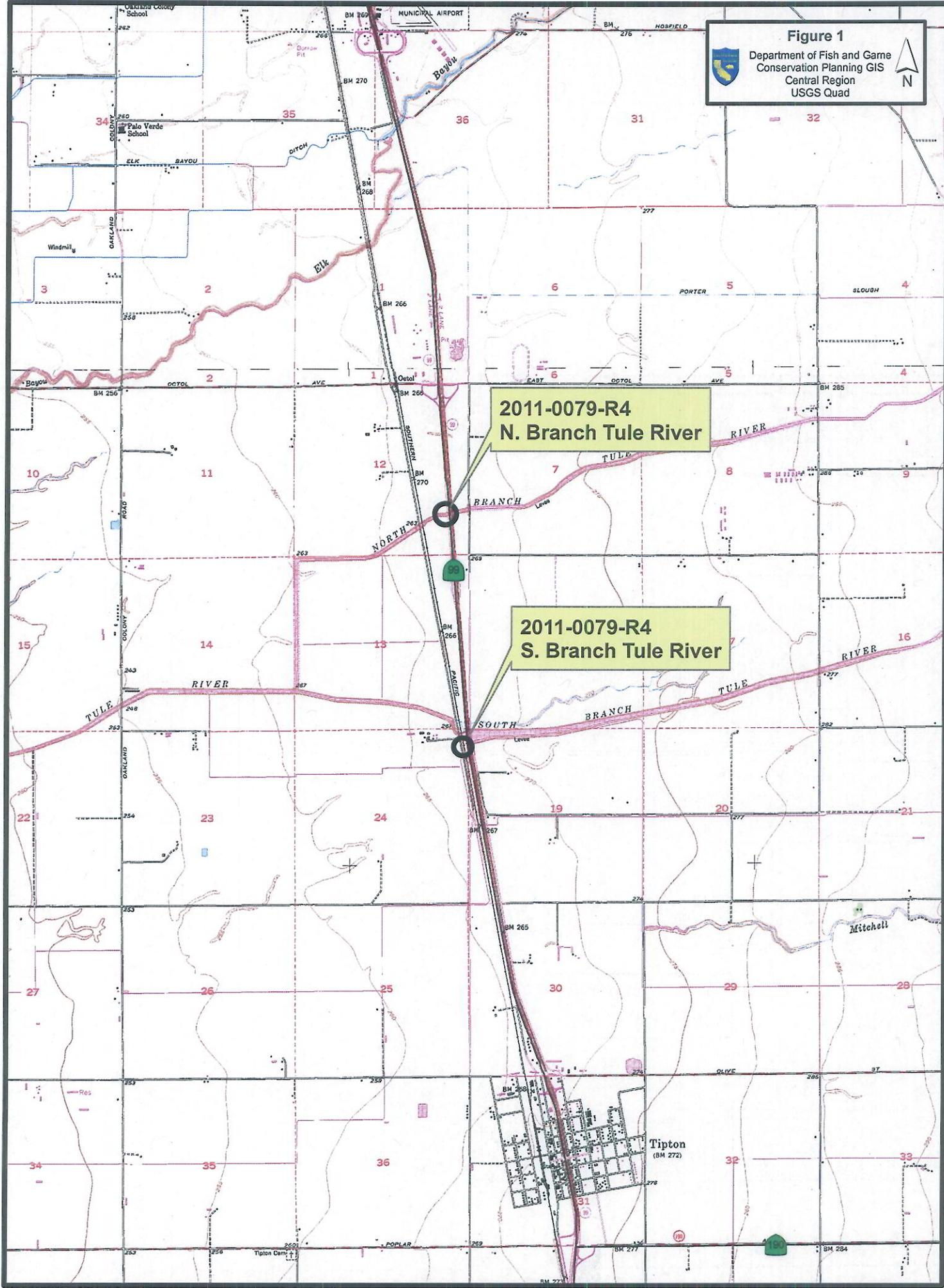
Date

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



Nationwide Permit # 14 Application

Project Information

Date: 4 April 2011

District No: 6

Project Title: SR 99 Rehabilitation

County: Tulare

Project EA: 06-0E0700

Route: 99

Post Miles: 19.8-25.0

Project Manager: Garth Fernandez

Phone No.: (559) 243-8012

Project Biologist/Contact: Patricia A. Moyer

Phone No.: (559) 243-8305

7.5-Minute Quadrangle Name: Tipton

Waterway/Watershed: Tule River

Project Description

The California Department of Transportation (Caltrans) is proposing to widen roadway and bridge shoulders, rehabilitate by overlaying the existing southbound lanes of State Route (RS) 99 between the Post Mile (PM) 19.8-25.0, in Tulare County, California. The proposed project includes bridge and culvert work in 3 waterways under the jurisdiction of the Army Corps of Engineers: The South Branch of the Tule River, PM 21.5, the North Branch of the Tule River, PM 22.7 and Porter Slough, PM 23.20. The proposed project would require a 4 span bridge widening of the North Branch of the Tule River Bridge, an extension of the top slabs of the Reinforced Concrete Box culvert at the South Branch of the Tule River and extension of the top slabs and abutment walls of the RCB culvert at Porter Slough. Work would be done during the dry season to avoid working in the water and to avoid de-watering operations as well as water quality impacts. All work would occur on the side of the channel and only scaffolding would be in the channel bottom. Construction would start in November 2011.

Purpose and Need

The purpose of the proposed project is to widen the existing bridge deck to accommodate a shoulder widening to bring the project area up to current transportation standards.

Project Schedule

A State Categorical Exemption (attached) for the proposed SR 99 Rehabilitation project was completed in 20 July 2010.

The project contract will be awarded and approved in June 2011.

Construction activities are expected to begin in November 2011 and end in November 2012. Construction activities will be conducted by a contractor under the authority of the Department of Transportation, Central Region office, at 2015 East Shields, Suite 100; Fresno, California; 93726. The estimated total cost for this project is \$8,000,000.

Construction

Equipment used for this type of project would typically include a backhoe, crane, asphalt paver, tractor trailer, concrete truck, striping truck, scraper, air compressor, drill and grouter.

Work in the creek bed will be limited to the minimum amount actually needed for the construction of the project.

The contractor is required to develop and submit to the Caltrans Resident Engineer a written Water Pollution Control Program. This Program will identify the Best Management Practices (BMP's) that will be followed during the work. All construction work including parking and maintenance of equipment, project access, logistics, storage of materials, and other project-related activities will be subject to these BMP's.

Lead Federal Agency

The proposed project receives federal funding and Caltrans has been designated the Federal Lead Agency through NEPA delegation by the Federal Highway Administration.

Federal Endangered Species Act (FESA)

The proposed project will not affect any federally listed special-status species.

Essential Fish Habitat Consultation (EFH)

There is no Essential Fish Habitat in the project area.

Permit Being Requested (check one that applies)

Reporting Nationwide Permit (NWP) Non-Reporting NWP

A Nationwide Permit #14 has been completed

Corps Authority Information

Section 10:

Section 10 of the Rivers and Harbors Act requires authorization from the Secretary of the Army, acting through the Army Corps of Engineers (ACOE), for the construction of any structure in or over any navigable water of the United States. The South Branch of the Tule River, North Branch of the Tule River and Porter Slough are not considered navigable waterways.

Section 404:

A Section 404 permit is required from the ACOE when a project requires fill or other modification of waters of the U. S. Caltrans proposes to permanently excavate a total of 22 cubic yards of the waters of the United States in the South Branch of the Tule River, the North

Branch of the Tule River and Porter Slough. There will be no permanent fill in any of the waterways. During construction, there will be less than 1/10 acre of temporary impact to waters of the U. S. in the form of construction activities and access into the river bottom.

All temporary disturbances to waters of the U. S. will be restored to pre-project conditions.

Minimal Impact Criteria

The project should result in minimum permanent impact to the aquatic environment.

The project construction will be scheduled for the dry season. Before construction activities begin, the contractor is required to develop and submit to Caltrans a written Water Pollution Control Program. This Program will identify the Best Management Practices (BMP's) that will be followed during the work.

Temporary disturbance to the waterways will be limited to that actually necessary for construction of the project and access of equipment to the work area. Any portion of the river and slough banks temporarily reconfigured for access will be returned to pre-existing elevation, slope and contour.

Any spills of hazardous materials shall be cleaned up immediately. Such spills shall be reported to the ACOE and the resource agencies.

Permit Compliance Information

Compliance with Nationwide General Conditions:

1. Navigation: Since the waterways are not a navigable river, this action will not have an adverse affect on navigation.
2. Proper Maintenance: The maintenance of the bridges will be the responsibility of Caltrans.
3. Soil Erosion and Sedimentation Controls: This project will be designed and BMP's used to avoid soil erosion and sedimentation.
4. Aquatic Life Movements: No disruption of aquatic life movement will take place as a result of this project, because the project will be constructed during the dry season when there is no water in the channels and because the project, once constructed, will not result in an impact to the flow of water.
5. Equipment: All equipment used in the streambeds to construct the project will be promptly removed after project completion.
6. Regional and Case-by-Case Conditions: The project will comply with any regional or case specific conditions added by the ACOE or the State in its 401 Certification.
7. Wild and Scenic Rivers: There are no wild and scenic rivers within the project area.

8. Tribal Rights: There are no tribal rights issues within the project area.
9. Water Quality: A 401-certification package has been completed and submitted to the State Regional Water Quality Control Board.
10. Coastal Zone Management: Does not apply to this project.
11. Endangered Species: The above activities will not affect any federally or state listed special-status species. No critical habitat will be affected.
12. Historic Properties: There are no historic properties listed, or eligible for listing, in the National Register of Historic Places within the project area.
13. Notification: A NWP # 14, non emergency project does not require a pre-construction notification if there are less than 1/10 acre permanent and temporary impacts. This project will have less than 1/10 acre of permanent and temporary impacts.
14. Compliance Certification: Caltrans will submit a signed certification regarding the completed work to ACOE.
15. Use of Multiple Nationwide Permits: Caltrans is only applying for a NWP # 14 for this project.
16. Water Supply Intakes: There will be no discharge of dredged or fill material in the proximity of a public water supply intake.
17. Shellfish Beds: There are no areas of concentrated shellfish production within the project area.
18. Suitable Material: Fill will consist only of native soil derived from the same project and rock imported from a commercial site meeting Caltrans material standards.
19. Mitigation: This project has been designed and will be scheduled to avoid and minimize permanent impacts to waters of the United States. Temporary impacts will be kept to the minimum necessary to complete the project. Temporary impacts, such as cutting the banks to create access ramps to the channel bottom, will be reversed to bring the channel back to its pre-existing slopes and contours.
20. Spawning Areas: There are no spawning areas within the project area.
21. Management of Water Flows: The project is designed as not to restrict or impede the passage of normal or expected high water flows. The structure and will withstand expected high flows.

22. Adverse Effects From Impoundment: No impoundment is expected as a result of this project. Caltrans intends to construct during periods of no or minimal flows. If unexpected flows develop, and if necessary, Caltrans will either suspend the work or divert water through the project site away from construction activities. Normal downstream flows will be maintained.
23. Waterfowl Breeding Areas: There are no waterfowl breeding areas within the project area.
24. Removal of Temporary Fills: Any temporary fill used in this project will be removed and the fill area will be returned to pre-existing elevation and contour. Any disturbed banks will be returned to original slopes and compacted.
25. Designated Critical Waters: There are no designated critical resource waters within the project area.
26. Fills within 100-Year Floodplains: Caltrans Hydraulics Department conducted a field investigation and provided a Hydraulic Evaluation for Advanced Planning Study (dated December 1, 2005). This report determined that the nature of the project would have no significant impact upon the water surface elevations and scour.

Nationwide Permit Requested

Nationwide Permit # 14: Linear Transportation Project

NWP # 14 authorizes activities required for the construction, expansion, modification, or improvement of linear transportation projects in waters of the United States. A Categorical Exclusion was signed for this project on 7/20/2010 (Enclosed).

Project Impact Information [Area Affected (acres)]

Wetlands (permanent):	none
Wetlands (temporary):	none
Waters of the US (permanent):	less than 1/10 acre (0.04 hectare)
Waters of the US (temporary):	less than 1/10 acre (0.04 hectare)
Linear extent of impact within ACOE jurisdiction:	100 feet (33 meters)

Project Mitigation Information

The project is designed not to restrict or impede the passage of normal or expected high water flows.

This project will be constructed to avoid and minimize adverse effects to waters of the U.S. Temporary impacts will be kept to the minimum necessary to complete the project

Before construction activities begin, the contractor is required to develop and submit to Caltrans a written Water Pollution Control Program identifying the Best Management Practices (BMP's) that will be employed during the work.

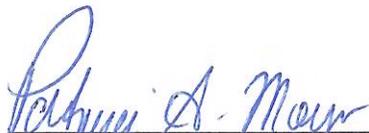
Any temporary fill used for access ramps into the channels will be removed and the fill area will be returned to pre-existing condition. Any disturbed banks will be returned and compacted to original slope, elevation and contour.

No trees will be removed. No vegetation outside the State right-of-way is to be removed.

Any spills of hazardous materials shall be cleaned up immediately. If they present a potential hazard to waters of the U. S. and/or wildlife, such spills shall be reported to the ACOE and the resource agencies.

Based on the information provided above, I hereby certify that this project qualifies for a nationwide permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the U.S. Rivers and Harbors Act (33 U.S.C. 406) and that the District of the Engineer of the U.S. Army Corps of Engineers.

Prepared By:



Date:

4/7/2011

Patricia Ann Moyer, Associate Environmental Planner/Biologist
California Department of Transportation
Southern San Joaquin Valley Environmental Management Branch

Approved By:



Date:

4/7/11

Zachary Parker, Branch Chief
California Department of Transportation
Central Region Biology Branch

Attachments:

- A: Biological Technical Report
- B: Federal and State Categorical Exclusion/Exemption
- C: Copy of the Regulatory Guidance Letter 87-10
- D: Project Construction Plans/Aerial Map with Construction Details
- E: USGS 7.5' Tipton Quadrangle Topographic Map