

INFORMATION HANDOUT

WATER QUALITY

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

WDID No. 1B09148WNHU

PERMITS

**STATE OF CALIFORNIA DEPARTMENT OF FISH AND GAME
NOTIFICATION NO. 1600-2009-0425-R1**

**UNITED STATES ARMY CORPS OF ENGINEERS
NON-REPORTING NATIONWIDE 404 PERMIT**

CONSULTATIONS

UNITED STATES FISH AND WILDLIFE SERVICE

MATERIALS INFORMATION

OPTIONAL DISPOSAL SITE MAP



Linda S. Adams
Secretary for
Environmental Protection

California Regional Water Quality Control Board North Coast Region

Geoffrey M. Hales, Acting Chairman



Arnold
Schwarzenegger
Governor

www.waterboards.ca.gov/northcoast

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

March 23, 2010

In the Matter of

Water Quality Certification

for the

**California Department of Transportation
Highway 36 – Storm Damage Repair (The Matterhorn) Project:
WDID No. 1B09148WNHU**

APPLICANT: California Department of Transportation
RECEIVING WATER: Unnamed tributaries to The Van Duzen River
HYDROLOGIC AREA: Eel River Hydrologic Unit (HU) No.111.00
Bridgeville Hydrologic Sub-Area 111.22
COUNTY: Humboldt
FILE NAME: CDOT - Hwy 36, Storm Damage Repair (The Matterhorn)
Project

BY THE EXECUTIVE OFFICER:

1. On December 17, 2009, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application from the California Department of Transportation (Caltrans), requesting Federal Clean Water Act (CWA), section 401, Water Quality Certification for activities related to the proposed Highway 36 Storm Damage Repair (The Matterhorn) Project (project). The proposed project will cause disturbances to waters of the United States (U.S.) and waters of the State associated with intermittent and ephemeral tributaries to the Van Duzen River located within the Eel River Unit No.111.00, and Bridgeville Hydrologic Sub-Area No. 111.22. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on March 2, 2010, and posted information describing the project on the Regional Water Board's website. No comments were received.

California Environmental Protection Agency

Recycled Paper

2. The project is located on Highway 36 from post mile (PM) 39.40 to 39.56, in Humboldt County. The purpose of the project is to modify the elevation and alignment of a section of the Highway that has shifted due to an earth flow. Caltrans proposes: installing three drainage systems; abandoning one drainage system; installing rock slope protection; installing an underdrain; relocating utilities; excavating areas adjacent to and beneath the roadway; and paving the roadway. The project will result in temporary and permanent impacts to waters of the U.S and waters of the State.
3. Caltrans has determined the temporary impacts to waters of the U.S. and State would total approximately 1,581 feet² (869 linear feet). The project will result in 552 feet² (275 linear feet) of permanent impacts to waters of the U.S., and 1,005 feet² (590 linear feet) of permanent impacts to waters of the State. Caltrans will offset the impacts to waters of the U.S and State by routing the flow of water at PM 39.50 back into the historic drainage channel, which will likely improve beneficial uses and reduce sediment transport into the Van Duzen River. By reconnecting the headwater drainage to the historic channel, flows will be restored to approximately 650 linear feet (1,300 feet²) of waters of the State. Therefore, compensatory mitigation is not required for the proposed project.
4. Caltrans will utilize Best Management Practices (BMPs) to provide erosion control and pollution prevention throughout the project area during construction. All graded areas within the project affected by the construction activities will be appropriately stabilized and/or replanted with appropriate native vegetation. Caltrans has evaluated implementing post-construction storm water treatment at the site and determined that implementing them within the project area was not feasible.
5. The project will be conducted in summer months during low flow conditions; however, a water diversion may be required. The proposed project activity is scheduled to be conducted between May 15th, 2010 and October 15th, 2010. The entire project is expected to take 50 days to complete. The proposed in-channel work will only be conducted between July 16th and October 14th.
6. Caltrans has applied for authorization from the United States Army Corps of Engineers to perform the project under their Nationwide Permits No. 14 (linear transportation projects) pursuant to Clean Water Act, section 404. In addition, Caltrans has applied to the California Department of Fish and Game (CDFG) for a 1602 Lake and Streambed Alteration Agreement. Caltrans has determined that this project is categorically exempt from California Environmental Quality Act (CEQA) review (Class 2 Categorical Exemption). In addition, Regional Water Board staff also determined that this project is categorically exempt from CEQA review (Class 2 Categorical Exemption) and has filed a Notice of Exemption.

Receiving Water: Intermittent and ephemeral tributaries to the Van Duzen River
Eel River Hydrologic Unit No.111.00
Bridgeville Hydrologic Sub-Area 111.22

Filled or Excavated Area: Permanent impacts: 552 feet² new permanent impacts to waters of U.S
Permanent impacts: 1,005 feet² new permanent impacts to waters of State
Temporary impacts: 1,581 feet² of temporary construction impacts

Total Linear Impact: Permanent impacts: 279 linear feet of new permanent impacts to water of U.S.
Permanent impacts: 590 linear feet new permanent impacts to waters of State
Temporary impacts: 869 linear feet of temporary construction impacts

Dredge Volume : None

Latitude/Longitude: 40.3927 N / 123.6261 W

Expiration: March 23, 2015

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE REGIONAL WATER BOARD CERTIFIES THAT THE CALTRANS – HIGHWAY 36 – STORM DAMAGE REPAIR (THE MATTERHORN) PROJECT, WDI NO. 1B09148WNHU, AS DESCRIBED IN THE APPLICATION WILL COMPLY WITH SECTIONS 301, 302, 303, 306 AND 307 OF THE CLEAN WATER ACT, AND WITH APPLICABLE PROVISIONS OF STATE LAW, PROVIDED THAT CALTRANS COMPLIES WITH THE FOLLOWING TERMS AND CONDITIONS:

1. This certification action is subject to modification or revocation upon administrative or judicial review; including review and amendment pursuant to Water Code section 13330 and title 23, California Code of Regulations, section 3867.
2. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to title 23, California Code of Regulations, section 3855, subdivision (b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

3. The validity of any nondenial certification action (actions 1 and 2) shall be conditioned upon total payment of the full fee required under title 23, California Code of Regulations, section 3833, unless otherwise stated in writing by the certifying agency.
4. The Regional Water Board shall be notified in writing each year at least five working days (working days are Monday – Friday) prior to the commencement of ground disturbing activities, water diversions, and significant concrete pours, with details regarding the construction schedule, in order to allow staff to be present onsite during installation and removal activities, and to answer any public inquiries that may arise regarding the project.
5. Except as may be modified by any preceding conditions, all certification actions are contingent on: a) the discharge being limited and all proposed revegetation being completed in strict compliance with the Applicant's project description, and b) compliance with all applicable requirements of the Basin Plan.
6. Caltrans shall construct the project in accordance with the project described in the application and the findings above, and shall comply with all applicable water quality standards.
7. Any change in the implementation of the project that would have a significant or material effect on the findings, conclusions, or conditions of this Order must be submitted to the Executive Officer of the Regional Water Board for prior review and written approval.
8. Caltrans shall provide Regional Water Board staff access to the project site to document compliance with this order.
9. Caltrans shall provide a copy of this order and attachments to the contractor and all subcontractors conducting the work, and require that copies remain in their possession at the work site. Caltrans shall be responsible for work conducted by its contractor or subcontractors.
10. All activities and BMPs shall be implemented according to the submitted application and the conditions in this certification.
11. All conditions required by this Order shall be included in the Plans and Specifications prepared by Caltrans for the Contractor. In addition, Caltrans shall require compliance with all conditions included in this Order in the bid contract for this project.
12. BMPs for erosion, sediment and turbidity control shall be implemented and in place at commencement of, during and after any ground clearing activities, construction activities, or any other project activities that could result in erosion or sediment

- discharges to surface water. The BMPs shall be implemented in accordance with the Caltrans Construction Site Best Management Practices Manual (CCSBMPM) and all contractors and subcontractors shall comply with the CCSBMPM.
13. Caltrans shall take photos of all areas disturbed by project activities, including all excess materials disposal areas, after rainfall events that generate visible runoff from these areas in order to demonstrate that erosion control and revegetation measures are present and have been installed appropriately and successfully in accordance with the CCSBMPM. A brief report containing these photos shall be submitted within 60 days of the rainfall event that generated runoff from the disturbed areas. In addition, Caltrans shall provide photos of the completed work to the appropriate Regional Water Board staff person, in order to document compliance.
 14. Caltrans shall utilize wildlife-friendly 100% biodegradable erosion control products. Photodegradable synthetic products are not considered biodegradable. Caltrans shall not use or allow the use of permanent erosion control products that contain synthetic (e.g., plastic or nylon) netting or materials. Permanent erosion control products are considered to be products left in place for two years or more or after the project is completed. If Caltrans finds that erosion control netting or products have entrapped or harmed wildlife at the site, the product shall be removed and replaced with wildlife-friendly biodegradable products. Caltrans shall not use or allow the use of soil stabilization products that contain synthetic materials within waters of the United States or waters of the State at any time.
 15. The Resident Engineer shall hold on-site water quality permit compliance meetings (similar to tailgate safety meetings) to discuss permit compliance, including instructions on how to avoid violations and procedures for reporting violations. The meetings shall be held at least every other week, and particularly before forecasted storm events and when a new contractor or subcontractor arrives to begin work at the site. The contractors, subcontractors and their employees, as well as any inspectors or biological monitors assigned to the project, shall be present at the meetings. Caltrans shall maintain dated sign-in sheets for attendees at these meetings, and shall make them available to the Regional Water Board on request.
 16. If, at any time, an unauthorized discharge to surface water (including wetlands, rivers or streams) occurs, or any water quality problem arises, the associated project activities shall cease immediately until adequate BMPs are implemented. The Regional Water Board shall be notified promptly and in no case more than 24 hours after the unauthorized discharge or water quality problem arises.
 17. No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete or concrete washings, welding slag, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature,

other than that authorized by this Order, shall be allowed to enter into or be placed where it may be washed by rainfall into waters of the State.

18. Water which has come into contact with wet concrete during construction shall be captured and disposed of in appropriate locations at least 100 linear feet beyond waters of the State. No excess concrete or concrete washings shall be allowed to contact waters of the State. In addition, all concrete contact water disposal locations as well as concrete washout basins shall have adequate BMPs in accordance with the CCSBMPM.
19. All materials used for cleaning concrete from tools and equipment, and any wastes generated by this activity, shall be adequately contained to prevent contact with soil and surface water and shall be disposed of properly within a clearly designated area at least 100 linear feet beyond waters of the State
20. When operations are complete, any excess material or debris shall be removed from the work area and disposed of properly and in accordance with the Special Provisions for the project and/or Standard Specification 7-1.13, Disposal of Material Outside the Highway Right of Way. Caltrans shall submit to the Regional Water Board the satisfactory evidence provided to the Caltrans engineer by the Contractor referenced in Standard Specification 7-1.13.
21. Work in flowing or standing surface waters, unless otherwise proposed in the project description and approved by the Regional Water Board, is prohibited. If construction dewatering of groundwater is found to be necessary, Caltrans shall use a method of water disposal other than disposal to surface waters (such as land disposal) or the Caltrans shall apply for coverage under the Low Threat Discharge Permit or an individual National Pollutant Discharge Elimination System (NPDES) Permit and receive notification of coverage to discharge to surface waters, prior to the discharge.
22. If a water diversion is utilized as described in the application Caltrans shall notify the Regional Water Board at least five days prior to utilizing the diversion. If the diversion is utilized during construction the following water quality monitoring shall be conducted as follows. Caltrans shall establish effluent, upstream (background) and downstream monitoring locations to demonstrate compliance with all applicable water quality objectives. The downstream location shall be no more than 50 feet from the effluent location. Field measurements shall be taken from each location four times daily for flow, pH, temperature, dissolved oxygen, total dissolved solids, turbidity and specific conductance. In addition, visual observations shall be made four times daily and include the appearance of the discharge including color, turbidity, floating or suspended matter or debris, appearance of the receiving water at the point of discharge (occurrence of erosion and scouring, turbidity, solids deposition, unusual aquatic growth, etc), and observations about the receiving

water, such as the presence of aquatic life. Measurements shall be collected from each sampling location four times daily while the diversion is being utilized.

23. Whenever, as a result of project activities, downstream measurements exceed the following water quality objectives:

pH	<6.5 or >8.5 (any changes >0.5 units)
temperature	1°F above natural background
dissolved oxygen	<7 milligrams per liter (mg/L)
total dissolved solids	>100 mg/L
turbidity	20% above natural background
specific conductance	>175 micromhos @ 77°F

Appropriate measurements shall be collected from all monitoring locations every hour during the period of increase, and shall continue until measurements demonstrate compliance with receiving water limitations and the water quality parameters are no longer increasing as a result of project activities. If any measurements are beyond the water quality objectives 50 feet downstream of the source(s), all necessary steps shall be taken to install, repair, and/or modify BMPs to control the source(s). In addition, the overall distance from the source(s) to the downstream extent of the exceedance shall be measured.

24. Monitoring results shall be reported to appropriate Regional Water Board staff person by telephone within one hour of taking any measurements that exceed the limits in condition 23 (turbidity only if it is higher than 20 NTU as well). Pictures of the tributary upstream, downstream and within the working and/or disturbed area shall be taken and submitted to the appropriate Regional Water Board staff via e-mail or fax within 24 hours of the incident. All other monitoring data shall be reported on a monthly basis and is due to the Regional Water Board by the 15th of the following month.

25. Calibration logs for all field monitoring equipment shall be maintained and be available to the Regional Water Board on request.

26. Fueling, lubrication, maintenance, storage and staging of vehicles and equipment shall be outside of waters of the United States and the State. Fueling, lubrication, maintenance, storage and staging of vehicles and equipment shall not result in a discharge or a threatened discharge to any waters of the State or the United States. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality.

27. In the event of any violation or threatened violation of the conditions of this Order, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under applicable state or federal law. For the purposes of section 401(d) of the Clean Water Act, the applicability of any state law

authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Order. In response to a suspected violation of any condition of this certification, the State Water Board may require the holder of any federal permit or license subject to this Order to furnish, under penalty of perjury, any technical or monitoring reports the State Water Board deems appropriate, provided that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. In response to any violation of the conditions of this Order, the Regional Water Board may add to or modify the conditions of this Order as appropriate to ensure compliance.

28. The Regional Water Board may add to or modify the conditions of this Order, as appropriate, to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act.
29. The Van Duzen River watershed is listed on the State of California Clean Water Act Section 303(d) list as impaired for sediment. Given that roads are a responsible source of sediment in the watershed (directly, from surface erosion, and, indirectly, by triggering landslides) a good first step can be made by focusing on reducing sediment from roads in the watershed. Reducing road-related sediment should be made a high priority. If a TMDL implementation plan is adopted prior to the expiration date of this Order, the Regional Water Board may revise the provisions of this Order to address actions identified in such action plan.
30. This Order is not transferable. In the event of any change in control of ownership of land presently owned or controlled by the Applicant, the Applicant shall notify the successor-in-interest of the existence of this Order by letter and shall forward a copy of the letter to the Regional Water Board. The successor-in-interest must send to the Regional Water Board Executive Officer a written request for transfer of this Order to discharge dredged or fill material under this Order. The request must contain the following:
 - a. requesting entity's full legal name
 - b. the state of incorporation, if a corporation
 - c. address and phone number of contact person
 - d. description of any changes to the project or confirmation that the successor-in-interest intends to implement the project as described in this Order.
31. The authorization of this certification for any dredge and fill activities expires on March 23, 2015. Conditions and monitoring requirements outlined in this Order are not subject to the expiration date outlined above, and remain in full effect and are enforceable.

32. Please contact Jeremiah Puget of our staff at (707) 576-2835 or jpuget@waterboards.ca.gov if you have any questions.


Catherine Kuhlman
Executive Officer

100323_JJP_CDOT_Hwy36_Matterhorn_401cert

Web link: State Water Resources Control Board Order No. 2003-0017 -DWQ, General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification can be found at:
http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf

Original sent to: Mr. Dana York, CDOT, P.O. Box 3700, Eureka, CA 95501-3700

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

U.S. ACE, District Engineer, 601 Startare Drive, Box 14,
Eureka, CA 95501

Ms. Carol Wilson, CDOT, P.O. Box 3700, Eureka, CA 95501-3700

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

RECEIVED

MAR 24 2010

D. F. G. – EUREKA



LAKE OR STREAMBED ALTERATION AGREEMENT
NOTIFICATION No. 1600-2009-0425-R1
Unnamed Tributaries to the Van Duzen River
4 Encroachments

Mr. Frank Demling representing the California Department of Transportation
THE MATTERHORN

This Lake or Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Game (DFG) and the California Department of Transportation (Permittee) as represented by Mr. Frank Demling.

RECITALS

WHEREAS, pursuant to Fish and Game Code (FGC) section 1602, Permittee notified DFG on December 16, 2009 that Permittee intends to complete the project described herein.

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

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

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

PROJECT LOCATION

The project is located on Unnamed Tributaries to the Van Duzen River, tributary to the Eel River, in the County of Humboldt, State of California; Section 8, Township 1N, Range 3E; Humboldt Base and Meridian, in the Larabee Valley 7.5-minute quadrangle, U.S. Geological Survey (USGS) map.

PROJECT DESCRIPTION

The project is limited to: removing one failing permanent culvert, and installing one permanent over-side drain, two new permanent culverts, and two new under-drains comprised of rock and perforated pipe.

PROJECT IMPACTS

Existing fish or wildlife resources the project could substantially adversely affect include: populations of Chinook salmon (*Oncorhynchus tshawytscha*), coho salmon (*O. kisutch*), steelhead (*O. mykiss*), and other aquatic and riparian species.

The adverse effects the project could have on the fish or wildlife resources identified above include: increased sedimentation from construction, which may result in direct and/or incidental take and/or damage to spawning and rearing habitat downstream.

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 Except where otherwise stipulated in this Agreement, all work shall be in accordance with the forms, work plans, maps and drawings submitted with Notification No. 1600-2009-0425-R1 as modified as of December 16, 2010.

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 All work within the bed, bank and channel shall be confined to the period June 1 through October 15 of each year and when the affected channel reach is void of surface water. Work may be conducted in or near the stream during the late season work period October 15 through November 1, provided adherence to all conditions in this Agreement and a) – e) below.
- a) The affected channel reach is void of surface water.
 - b) The Permittee shall complete any unfinished encroachment work, including erosion control measures, within 24 hours of DFG directing the Permittee to do so.
 - c) Prior to any work at a site, the Permittee shall stock-pile erosion control materials at the site. All bare mineral soil exposed in conjunction with crossing construction, deconstruction, maintenance or repair or removal shall be treated for erosion immediately upon completion of work on the crossing, and prior to the onset of precipitation capable of generating runoff.
 - d) Road construction leading directly into or out of a proposed stream crossing shall only be performed when soils are sufficiently dry so that sediment is not discharged into streams.
 - e) When a 7-day National Weather Service forecast of rain includes a minimum of 5 consecutive days with any chance of precipitation, 3 consecutive days with a 30% or greater chance of precipitation, or 2 consecutive days of 50% or greater chance of precipitation, the Permittee shall finish work underway at encroachment and refrain from starting any new work at encroachment prior to the rain event.
- 2.2 No fill material shall be placed within a stream except as specified in this Agreement.
- 2.3 All heavy equipment (including parts i.e.; buckets) that will be entering the flow of a watercourse shall be free of materials deleterious to aquatic life including oil, grease, hydraulic fluid, soil and other debris. Cleaning of equipment shall take place outside of the channel and prior to entering the water.
- 2.4 Any equipment or vehicles driven and/or operated within or adjacent to the stream channel shall be checked and maintained in a manner which prevents materials that, if introduced to water, could be deleterious to aquatic life, wildlife, or riparian habitat.
- 2.5 Disturbance or removal of vegetation shall not exceed the minimum necessary to complete operations. The disturbed portions of any stream channel or lake margin within the high water mark of the stream or lake shall be restored to as near their

- original condition as possible. Restoration shall include re-vegetation of areas stripped or exposed by project activities. Slash pack, rock, or other erosion protection suitable to DFG shall be placed in areas where vegetation cannot reasonably be expected to become reestablished.
- 2.6 Adequate and effective erosion and siltation control measures shall be used to prevent sediment or turbid or silt-laden water from entering streams. Where needed, the Permittee shall use native vegetation or other treatments including native slash, jute netting, straw wattles, and geotextiles to protect and stabilize soils.
 - 2.7 All bare mineral soil exposed in conjunction with crossing construction, deconstruction, maintenance or repair, shall be treated for erosion prior to the onset of precipitation capable of generating run-off or the end of the yearly work period, whichever comes first. Restoration shall include using native slash or seeding and mulching of all bare mineral soil exposed in conjunction with encroachment work. Erosion control shall consist of at least 2 to 4 inches of certified weed-free straw mulch and 100 lbs/acre equivalent barley seed. No annual (Italian) ryegrass (*Lolium multiflorum*) shall be used.
 - 2.8 Encroachments and associated structures, fills, and other exposed soils shall be armored as needed to protect fill, abutments, and the stream channel and banks from erosion.
 - 2.9 All LWD excavated during crossing construction or deconstruction shall be used on site or at other locations throughout the property for streambed and bank stabilization or erosion control. LWD shall be sufficiently anchored or keyed-in to resist movement during high flows and placed in a manner that prevents undercutting of streambanks.
 - 2.10 The Permittee shall provide site maintenance including, but not limited to, re-applying erosion control to minimize surface erosion and ensuring drainage structures, streambeds and banks remain sufficiently armored and/or stable.
 - 2.11 Structures and associated materials not designed to withstand high seasonal flows shall be removed to areas above the ordinary high water mark before such flows occur or the end of the yearly work period, whichever comes first.
 - 2.12 Refueling of equipment and vehicles and storing, adding or draining lubricants, coolants or hydraulic fluids shall not take place within or adjacent to any stream. All such fluids and containers shall be disposed of properly. Heavy equipment parked within or adjacent to the stream shall use drip pans or other devices (i.e., absorbent blankets, sheet barriers or other materials) as needed to prevent soil and water contamination.

- 2.13 All activities performed in the field which involve the use of petroleum or oil based substances shall employ absorbent material designated for spill containment and clean up activity on site for use in case of accidental spill. Clean-up of all spills shall begin immediately. The Permittee shall immediately notify the State Office of Emergency Services at 1-800-852-7550. DFG shall be notified by the Permittee and consulted regarding clean-up procedures.
- 2.14 No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other organic or earthen material from construction work, or associated activity of whatever nature shall be allowed to enter into, or be placed where it may be washed by rainfall or runoff into Waters of the State. When operations are completed, any excess materials or debris shall be removed from the work area. (Not applicable to material installed permanently or temporarily as part of the project activities).
- 2.15 Upon DFG determination that turbidity/siltation levels resulting from project related activities constitute a threat to aquatic life, activities associated with the turbidity/siltation, shall be halted until effective Department approved control devices are installed, or abatement procedures are initiated.
- 2.16 The disturbed portions of any stream channel and adjacent areas shall be restored to as near their original condition as possible. Crossings shall emulate the natural streambed elevation, substrate and flow velocity to the extent feasible.

SITE-SPECIFIC CONDITONS:

- 2.17 When existing crossings are removed, all fill shall be excavated down to the original stream channel and outwards, horizontally, as wide as or wider than the natural channel to form a channel as close as feasible to the natural stream grade and alignment. The restored stream bank slope shall be no steeper than a 2:1 slope (horizontal:vertical) or original ground. The natural slope shall be stabilized to prevent slumping and to minimize soil erosion that could lead to sediment deposition into Waters of the State. Excavated fill shall be placed in stable areas where it cannot enter or erode into a stream.
- 2.18 The new permanent culverts shall extend lengthwise completely beyond the toe of fill. Additionally, the culverts and outfall structures shall be aligned with the stream channel, as wide as or wider than the channel width, and shall be placed with the bottom set at or slightly below the natural streambed elevation. If permanent culverts cannot be set to grade, they shall have downspouts and/or energy dissipators below the outfall as needed to effectively control erosion. If half-round downspouts (flumes) are used, they shall be placed in line with the culvert, sized larger than the culvert and of sufficient size to accommodate entire anticipated stream flow. Downspouts shall be securely attached to the culvert and staked or otherwise anchored to the fill slope, and shall not be cut or otherwise modified to create a hinge.

- 2.19 The culvert inlets and outlets shall be armored as needed to prevent erosion of the fill and stream banks. Armoring shall consist of rock riprap or other non-erodible materials and shall be designed and installed to remain in place during periods of high flow events. Armoring shall extend at least as high as the top of the culvert, and shall prevent bank erosion by extending a sufficient distance from the culvert inlet and outlet as wing walls.
- 2.20 Rock used to protect slopes (RSP) and construct under-drains shall be clean, competent for the application, and sized and properly installed to resist washout.

3. Reporting Measures

Permittee shall meet each reporting requirement described below.

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

CONTACT INFORMATION

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

To Permittee:

Mr. Frank Demling representing the California Department of Transportation
1656 Union Street
Eureka, California 95501
Office Phone: 707-441-6554
Fax: 707-441-5775

To DFG:

Department of Fish and Game
Region 1
619 Second Street
Eureka, California 95501
Attn: Lake and Streambed Alteration Program – Laurie Harnsberger
Notification #1600-2010-0318-R1
Fax: (707) 441-2021
Email: lharnsberger@dfg.ca.gov

LIABILITY

Permittee shall be solely liable for any violations of the Agreement, whether committed by Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents or contractors and subcontractors, to complete the project or any activity related to it that the Agreement authorizes.

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

SUSPENSION AND REVOCATION

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

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

ENFORCEMENT

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

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

OTHER LEGAL OBLIGATIONS

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

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from complying with other applicable statutes in the FGC including, but not limited to, FGC sections 2050 et seq. (threatened and endangered species), 3503

(bird nests and eggs), 3503.5 (birds of prey), 5650 (water pollution), 5652 (refuse disposal into water), 5901 (fish passage), 5937 (sufficient water for fish), and 5948 (obstruction of stream).

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

AMENDMENT

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

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

TRANSFER AND ASSIGNMENT

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

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

EXTENSIONS

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

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

EFFECTIVE DATE

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

TERM

This Agreement shall expire on March 1, 2015, unless it is terminated or extended before then. All provisions in the Agreement shall remain in force throughout its term. Permittee shall remain responsible for implementing any provisions specified herein to protect fish and wildlife resources after the Agreement expires or is terminated, as FGC section 1605(a)(2) requires.

AUTHORITY

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

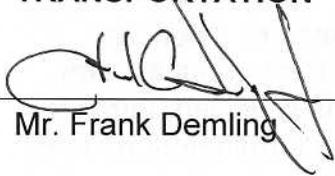
AUTHORIZATION

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

CONCURRENCE

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

**FOR THE CALIFORNIA DEPARTMENT OF
TRANSPORTATION**

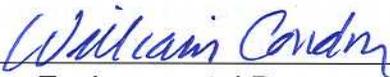


Mr. Frank Demling

3-15-2010

Date

FOR DEPARTMENT OF FISH AND GAME



Acting Environmental Program Manager

3/26/10

Date

Prepared by: Teri Moore
Environmental Scientist
March 9, 2010



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

MAR - 1 2010

Regulatory Division

SUBJECT: File No. 2009-00468N

Mr. Frank Demling
California Department of Transportation
District 1
Post Office Box 3700
Eureka, California 95502

Dear Mr. Demling:

This letter responds to your submittal of December 16, 2009, concerning Department of the Army authorization to complete storm damage restoration along Route 36 (between PM 39.40 and PM 39.56), located two miles west of Dinsmore and about 16-miles east of Bridgeville, Humboldt County, California. Caltrans requests authorization to repair damage caused by 2005 and 2006 winter storms that resulted in impairment of the roadway.

During the winter of 2005-2006, several storm events damaged the highway facilities and caused measurable increase in earth flow from an ancient and active landslide located near PM 39.50 on Route 36. The earth flow caused major highway settlement, causing the highway alignment to shift both horizontally and vertically. This resulted in a reduction in vertical sight distance at PM 39.50. The shift in highway alignment has also disrupted the engineered roadway drainage causing periodic ponding of water on the highway shoulder that is causing additional damage.

To correct these problems, three new drainage systems would be installed and one existing structure would be abandoned. The roadway profile would be modified and areas adjacent to the roadway would be excavated. This work would restore rainy season drainage function to the roadway between PM 39.40 and 39.56 and minimize future degradation. Public safety would be improved for those using the roadway. Project construction work will be performed in general accordance with the plans and drawings entitled: "Environmental Study Map," "Utility Conflict Map-sheets 1 and 2," "Dewatering Plan," and "Typical Cross Section," all dated January 5, 2010. Also, the following plans would be used: "Project Plans for Construction on Highway 36, Humboldt County, near Dinsmore and 1.0 Mile West of Van Duzen River Bridge," sheets 1-10, all dated April 11, 2008.

Based on a review of the information you submitted and an inspection of the project site conducted by Corps personnel, your project qualifies for authorization under Department of the Army Nationwide Permit (NWP) 14 for *Linear Transportation Projects* and NWP 33 for *Temporary Construction, Access, and Dewatering* (72 Fed. Reg. 11092, Mar. 12, 2007), pursuant to Section 404 of the Clean Water Act (33 U.S.C. § 1344). Section 404 generally regulates the

discharge of dredged and fill material below the plane of ordinary high water in non-tidal waters of the United States, below the high tide line in tidal waters of the United States, and within the lateral extent of wetlands adjacent to these waters.

The project must be in compliance with the Terms and General Conditions of the NWP's cited in Enclosure 1 and any Special Conditions specified in this letter for the NWP authorization to remain valid. Non-compliance with any Term or Condition could result in the revocation of the NWP authorization for your project, thereby requiring you to obtain an Individual Permit from the Corps of Engineers (Corps). Upon completion of the project and all associated mitigation and monitoring requirements, you shall sign and return the statement cited in Enclosure 2, certifying all work complies with the Terms and Conditions of the NWP's. Project authorization under the NWP's does not obviate any requirement to obtain other Federal, State, or local approvals necessitated by law.

Project authorization will remain valid for a period of two (2) years from the date of this letter, unless the NWP's are modified, suspended, or revoked. If the project has commenced or is under contract to commence construction prior to any modification, suspension, or revocation of the NWP's and the project could not comply with any newly issued NWP, you shall have twelve (12) months from that expiration date to complete the project under the present Terms and Conditions of this NWP authorization.

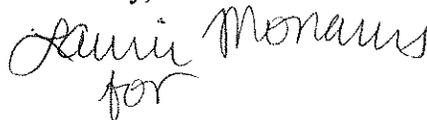
Project authorization will not be effective until you have obtained Section 401 water quality certification from the Regional Water Quality Control Board (RWQCB), North Coast Region and a coastal zone consistency concurrence from the California Coastal Commission (CCC). You shall submit a copy of the certification and consistency concurrence to the Corps prior to the commencement of work. You shall comply with any condition of certification and consistency concurrence required by RWQCB and CCC, and you shall consider such conditions to be an integral part of the NWP authorization for your project. If the RWQCB fails to act on a valid request for certification within two (2) months after receipt of a complete application, the Corps may a waiver of water quality certification has been obtained. If the CCC fails to act on a valid request for a consistency concurrence within six (6) months after receipt of a complete application, the Corps may presume a consistency concurrence has been obtained.

To ensure compliance with the NWP authorization and to further minimize adverse impacts to water quality and other aquatic resources, the project is subject to the following Special Conditions:

1. All minimization measures identified in your Categorical Exemption dated June 30, 2008, shall be implemented.
2. Best Management Practices will be implemented to minimize turbidity and downstream sedimentation.

You may refer any questions on this matter to Carol Heidsiek of our Regulatory staff by telephone at 707-443-0855. All correspondence should be addressed to the Regulatory Division, Eureka Field Office, 601 Startare Drive, Box 14, Eureka, California 95501, referencing 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 our website: <http://www.per2.nwp.usace.army.mil/survey.html>.

Sincerely,

A handwritten signature in cursive script that reads "Laurie Monauris".

for
Jane M. Hicks
Chief, Regulatory Division

Enclosures

Copies Furnished (w/o encls):

US NMFS, Arcata, CA
CA CC, Eureka, CA
CA DFG, Eureka, CA
CA RWQCB, Santa Rosa, CA



United States Department of the Interior

FISH AND WILDLIFE SERVICE



Arcata Fish and Wildlife Office
1655 Heindon Road
Arcata, California, 95521
Phone: (707) 822-7201 FAX: (707) 822-8411

In Reply Refer To:
File #: 81331-2008-I-0016
File #: 8-14-2008-3393

JUN 25 2008

Dana York, Environmental Senior
Environmental Services, Branch E-2
California Department of Transportation
1656 Union Street
P.O. Box 3700
Eureka, California 95502

Dear Mr. York:

Subject: Informal Consultation on Road Repair Activities along California Highway 36 at Post Mile 39.5, Humboldt County, California

This letter responds to your request, dated June 23, 2008, and received June 24, 2008, for informal consultation with the U.S. Fish and Wildlife Service (Service) regarding proposed storm-damage repair activities at post mile (PM) 39.5, California State Highway 36 (Highway 36), Humboldt County, California. In a biological assessment, dated June, 2008, the California Department of Transportation (Caltrans) determined that the proposed storm-damage repair activities may affect but would not likely adversely affect the federally threatened northern spotted owl (*Strix occidentalis caurina*). In addition, Caltrans has determined that the proposed storm-damage repair activities would not affect critical habitat for the northern spotted owl. This response is prepared in accordance with the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) (Act), and its implementing regulations (50 CFR § 402).

This consultation is based on information provided in the June, 2008, biological assessment, species information from the California Department of Fish and Game's Natural Diversity Database, and information in our files. The project description contains a complete description of the proposed action and its effects on the above species and critical habitat and is hereby incorporated by reference. A complete administrative record for this consultation is on file in this office.



Caltrans, with financial assistance from the Federal Highway Administration's Emergency Relief Funding Program, proposes to conduct roadway repairs at PM 39.5 along Highway 36, where the highway crosses an ancient landslide. During the winter of 2005-06, several storm events caused a measurable increase in earth flow within this slide, causing the highway to shift horizontally and vertically. In addition, the slide caused a culvert under the highway to fail, resulting in damming of water and further de-stabilization of the slope and highway at this location. Road repair activities would include: excavation and leveling of the slope and roadway; installation of a 450-foot long under-drain; installation of two drop inlets, two 24-inch cross culverts, and rock rip-rap; vegetation removal, including a stand of seven Douglas-fir (*Pseudotsuga menziesii*) trees with diameter-at-breast-height (dbh) >11 inches (range from 15 inches to 35 inches dbh); and resurfacing and re-striping of the roadway. Pile-driving and blasting would not occur. Excavation would be conducted by an excavator, front-end loader, and/or bulldozer working from the roadway. Excavated material suitable for re-use would be stockpiled onsite, and any remaining excavated material would be transported to an approved stockpile or disposal facility. Traffic would be detoured into the opposite existing traffic lane during construction. Road repair activities would occur during daylight hours and could occur at night. Repairs are scheduled to begin after July 15, 2008, and would take approximately 30-45 days to complete. Vegetation removal would take approximately three days to complete, and a biological monitor would be present on-site during vegetation removal activities. The biological monitor would not broadcast vocalizations of northern spotted owls in order to determine possible presence of northern spotted owls on-site, but would observe the trees for the presence of northern spotted owls during vegetation removal. If a northern spotted owl were observed in the trees to be removed, vegetation removal activities would cease and the Service would be contacted to determine how to proceed.

The proposed project area occurs within the range of the northern spotted owl. The nearest occurrence record of northern spotted owls occurs approximately 0.5 mile east-northeast of the proposed project site. In addition, at least 30 spotted owl territories (pairs or territorial birds) occur within 10 miles of the proposed project, a distance that is within the range of dispersal capabilities of juvenile northern spotted owls from natal territories. Critical habitat unit CA-37 is located approximately 1.5 miles east of the proposed project area. The proposed project area occurs within range and forested land consisting of non-native annual grassland and second-growth Douglas-fir trees, with over-story species that include California bay (*Umbellularia californica*), big-leaf maple (*Acer macrophyllum*), Pacific madrone (*Arbutus menziesii*), canyon live oak (*Quercus chrysolepi*), Oregon (white) oak (*Quercus garryana*), and tan oak (*Lithocarpus densiflorus*). Most of the trees in vicinity of the proposed project are densely populated and small in diameter. Habitat at the proposed project sites is not suitable for nesting by northern spotted owls, and is marginal as roosting and dispersal habitat for adult and juvenile northern spotted owls.

Concurrence

Northern Spotted Owl

The Service concurs with your determination that the proposed road repair activities may affect but are not likely to adversely affect the northern spotted owl, based on the following factors:

1. The nearest northern spotted owl territory occurs approximately 0.5 mile from the proposed project. However, suitable nesting habitat for the species does not occur at the proposed road repair site.
2. Heavy equipment would be used for repairs; however, excessive noise generating activities (i.e., pile-driving, blasting) will not occur during the proposed road repair activities. In addition, road repair activities would occur near the end of the breeding season of northern spotted owls, thereby minimizing possible adverse effects of noise on nesting adults.
3. No suitable nesting habitat will be removed.
4. Although seven Douglas-fir trees will be removed, and these trees could serve as marginal roosting and dispersal habitat for adult and juvenile northern spotted owls, this represents a miniscule fraction of the habitat available to adult and juvenile spotted owls near the proposed project. In addition, the trees to be removed occur along the edge of the highway. Therefore, it is unlikely that adult and juvenile northern spotted owls utilize the proposed project area.

Critical Habitat for the Northern Spotted Owl

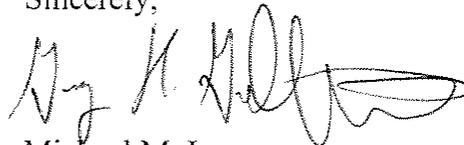
The Service concurs with your determination that the proposed road repair activities will not affect northern spotted owl critical habitat, because designated critical habitat does not occur at the proposed project area and will not be altered by the proposed activities.

Conclusion

This concludes informal consultation on the proposed road repairs along Highway 36 at PM 39.5. Unless new information reveals that the proposed action: (1) may affect listed species in a manner, or to an extent, not considered in your correspondence; (2) the action is modified in a manner that causes an effect on the listed species or critical habitat not considered in your correspondence; or (3) a new species is listed or critical habitat is designated that may be affected by the proposed action, no further action pursuant to the Act is necessary.

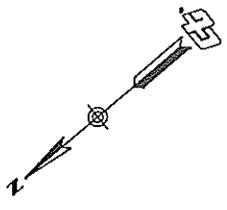
Please contact staff biologist Bill McIver at (707) 822-7201 should you have further questions regarding this consultation.

Sincerely,

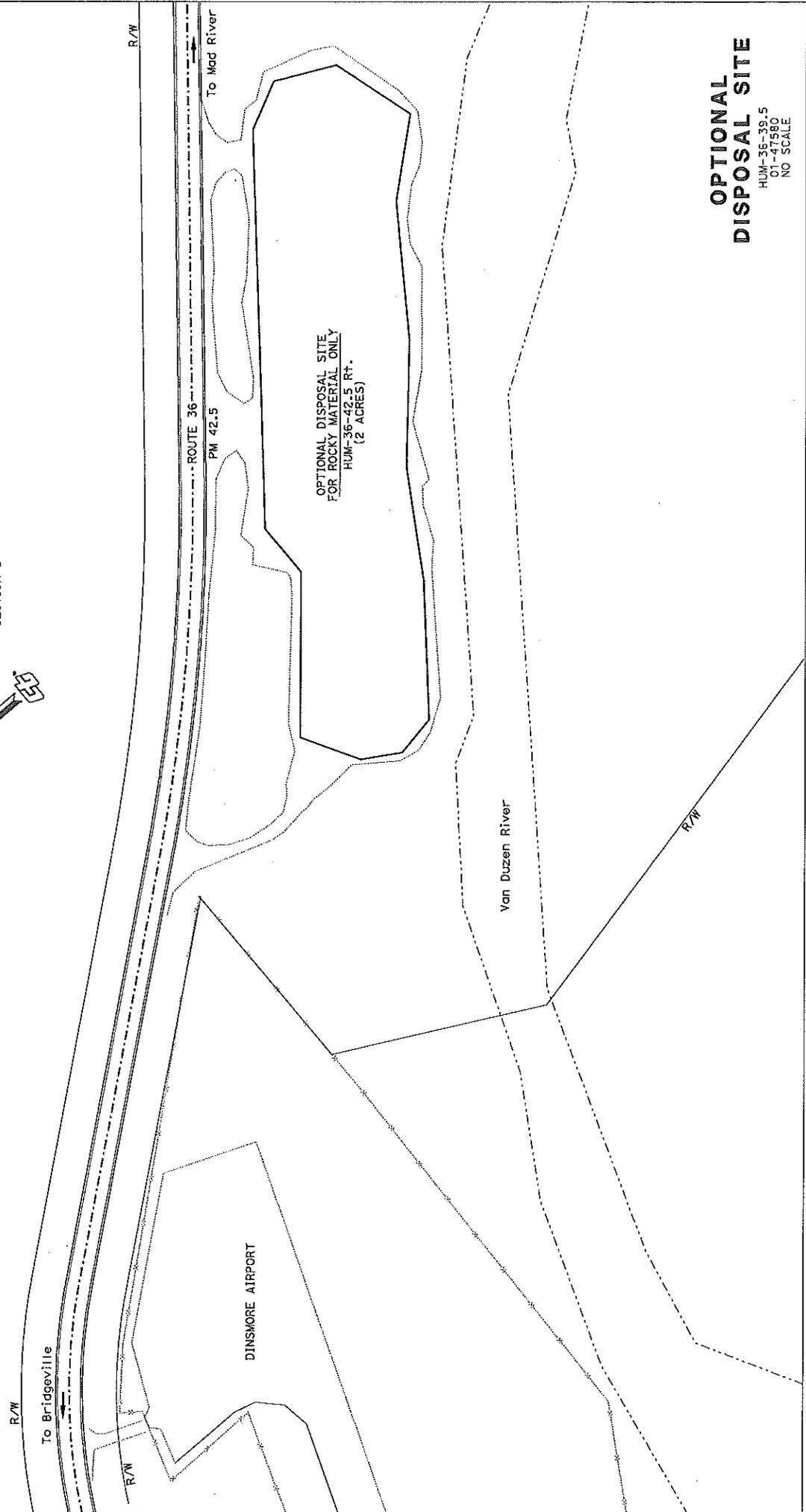
(For) 
Michael M. Long
Field Supervisor

NOTES:

- 1. OPTIONAL DISPOSAL SITE PERMITTED FOR NATURALLY OCCURRING ROCKY MATERIAL ONLY.
- 2. ALL ASPHALT CONCRETE REMOVED WILL BECOME THE PROPERTY OF THE CONTRACTOR.
- 3. FOR COMPLETE RIGHT OF WAY DATA, SEE RIGHT OF WAY RECORD MAPS AT DISTRICT OFFICE.



T-1N., R-5E.,
SECTION 3



R/W

ROUTE 36
PM 42.5

To Mad River

OPTIONAL DISPOSAL SITE
FOR ROCKY MATERIAL ONLY
HUM-36-42.5 RT.
(2 ACRES)

Van Duzen River

R/W

To Bridgeville

R/W

DINSMORE AIRPORT

**OPTIONAL
DISPOSAL SITE**

HUM-36-39.5
01-47580
NO SCALE