
North Coast Regional Water Quality Control Board

February 26, 2014

California Department of Transportation
Attn: Mr. Charlie Fielder, District 1 Director
1656 Union Street
Eureka, CA 95501-2229
charlie.fielder@dot.ca.gov

Dear Mr. Fielder:

Subject: Notice of Violation, Caltrans State Route 101 Willits Bypass Project

**File: Highway 101—Willits Bypass Project
WDID No. 1B10019WNME**

We find that the California Department of Transportation's (Caltrans) implementation of the Highway 101 Willits Bypass (Project) has resulted in violations of its Clean Water Act Section 401 Water Quality Certification (Certification), and the Caltrans statewide storm water permit (Order No. 99-06-DWQ), which requires Caltrans to comply with the terms of the Statewide Construction General Permit (CGP) (Order No. 2009-0009-DWQ). The violations are detailed below. This Notice of Violation (NOV) requires Caltrans to improve best management practices and to submit documents to the North Coast Regional Water Quality Control Board (Regional Water Board) not later than one week from the date of this letter.

Background

The Water Quality Control Plan for the North Coast Region (Basin Plan) and Project Certification includes the following turbidity and pH water quality objectives for inland surface waters:

- *Turbidity shall not be increased more than 20 percent above naturally occurring background levels (page 3-3.00); and*
- *The pH shall not be depressed below 6.5 nor raised above 8.5. Changes in normal ambient pH levels shall not exceed 0.5 units within the range of 6.5 to 8.5 (page 3-4.00)*

Caltrans has installed automated upstream and downstream water quality monitoring stations throughout the Willits Bypass Project area for the purpose of detecting construction storm water quality effects on receiving waters. The stations record various in-stream water quality parameters at 15-minute intervals. Water quality monitoring stations¹ at South Haehl Creek detected ten consecutive daily exceedances of the turbidity water quality objective between February 7, 2014 and February 17, 2014. Additionally, consistent pH objectives exceedances were detected on February 8 and 9, 2014.

Caltrans provided photo-documentation of the South Haehl Creek construction zone that document widespread ineffectiveness and failure of erosion and sediment control best management practices (BMPs) (see Attachment A). Given the significant turbidity exceedances at the Project site and BMP performance, the Regional Water Board has concluded that there was an inadequate level of site preparation and erosion and sediment controls in place within the South Haehl Creek watershed prior to the onset of the rain event that began on February 7, 2014.

A California Department of Fish and Wildlife staff person documented adult steelhead (*Oncorhynchus mykiss*) and Southern Oregon/Northern California coho salmon (*Oncorhynchus kisutch*) in the lower reaches of Haehl Creek on February 11, 2014, and two coho redds in upper Haehl Creek on February 13, 2014. Excessive sediment inputs harm fish nursery habitat by either filling gravel voids needed for spawning or by smothering redds. Steelhead are a federally-threatened species and the Southern Oregon/Northern California coho salmon are both state and federally-threatened species. The Regional Water Board believes that habitat for these species may be significantly impacted by construction storm water discharges at South Haehl Creek.

Violations

Caltrans has violated Certification condition 20, which requires that Caltrans comply with all applicable water quality requirements and Water Quality Standards as detailed in the Basin Plan. Additionally, Provision VI.C of the CGP requires that storm water discharges do not cause or contribute to violations of Basin Plan water quality standards. Caltrans exceeded Basin Plan water quality objectives for turbidity, daily, between February 7, 2014 and February 17, 2014, and for pH on February 8 and 9, 2014.

Caltrans has also violated the Basin Plan prohibition of discharge and/or the placement or disposal of "soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature into any stream or watercourse in the basin in quantities deleterious to fish, wildlife, or other beneficial uses."

¹ Upstream water quality monitoring station "WQ01" is at approximately 39.376870°N, 123.326000°W; downstream water quality monitoring station "WQ03" is at approximately 39.37710°N, 123.328000°W.

Certification condition 54 requires that monthly monitoring reports include photographs related to water quality monitoring events. The January 2014 monthly monitoring report omitted daily inspection photographs that had been provided in all preceding monthly reports. The Regional Water Board finds these daily inspection photographs helpful to assess Caltrans's monitoring activities and considers them a required component of the monthly monitoring reports. This NOV allows Caltrans to come into compliance with condition 54 by including omitted photographs in a re-submitted January 2014 monthly monitoring report.

Required Actions

The Regional Water Board is very concerned that previous and future discharges of sediment may significantly impact receiving water(s) and their beneficial uses, particularly spawning habitat for listed aquatic species. As such, this NOV requires that you take immediate action to implement effective pollution prevention measures. Additionally, Caltrans shall submit inspection reports, corrective action summaries, and rain event action plans, pursuant to CGP provision IV.G. These documents will help the Regional Water Board assess the necessary level of pollution prevention and site preparation in advance of the rain events.

Caltrans shall provide the following for Regional Water Board staff review, not later than one week from the date of this letter:

1. Documentation of repaired and improved BMPs, and a plan to provide additional BMPs as appropriate

Caltrans must improve site conditions and upgrade erosion and sediment control BMPs within the South Haehl Creek watershed to prevent or minimize future sediment discharges. For example:

- Only bonded fiber matrix and fiber rolls were provided on many of the slopes; this proved to be inadequate. You must apply additional and/or an upgraded level of erosion control, such as erosion control blankets or straw and tackifier on all slopes;
- Many of the slopes, such as the left bank-slope immediately upstream of the temporary South Haehl Creek culvert, appeared to be uncompacted and/or to consist of unconsolidated fill material—slopes such as these must be properly finished prior to erosion and sediment control application; and
- Site drainage appeared to be inadequately planned in some areas. For instance, storm water from the low-grade, mainline area south of South Haehl Creek was not properly routed to existing basins—instead, water appeared to channelize and erode down the construction access roadway and pool above the temporary culvert, whereupon it appeared to overwhelm BMPs and discharge to the creek. Caltrans must improve drainage plans, structures, and measures for this and similar areas, as appropriate.

Caltrans must submit photographs and a narrative detailing all BMP improvement work performed within the South Haehl Creek Project watershed since February 7, 2014. Also include a proposal to improve upon existing BMPs to prevent recurrences of water quality standard exceedences.

2. Active Treatment System (ATS)

CGP Attachment E, requirement E.8, provides that “The Regional Water Board may require Risk Level 3 dischargers to implement additional site-specific sediment control requirements if the implementation of the other requirements in this section are not adequately protecting the receiving waters.” Due to the severity of the site discharge, ineffectiveness of current BMPs, and the important sensitive downstream special-status aquatic species habitat, Caltrans may need to install and operate an Active Treatment System (ATS) to treat sediment-laden storm water from the South Haehl Creek Project watershed to avoid exceedences of Basin Plan water quality objectives and prohibitions. If Caltrans chooses to operate an ATS system, the plan shall include the approximate date an ATS system would be installed and begin operation. The plan shall also certify that the ATS will be installed and operated consistent with criteria in Attachment F of the CGP.

3. Weekly storm water inspection reports

Submit all weekly construction storm water inspection reports (Caltrans Form 2030) detailing inspections performed on or after Monday, January 20, 2014, and on or before Tuesday, February 25, 2014.

4. Corrective action summary reports

Submit all corrective action summary reports (Caltrans Form 2035) prepared between Monday, January 20, 2014, and Tuesday, February 25, 2014.

5. Rain Event Action Plans

Submit the Project Rain Event Action Plans prepared in anticipation of the February 7, 2014, and February 25-27, 2014, rain events.

6. Monthly Monitoring Report

Submit a revised January 2014, monthly monitoring report that includes photographs taken during the daily observations and inspections. Include these photographs in all future monthly monitoring reports.

Please be aware that the Regional Water Board may take enforcement actions for violation of conditions of the Certification and CGP, but not limited to assessment of civil liabilities of up to \$10,000 per violation and per day of discharge (Water Code section 13385).

If you have any questions, please contact Mona Dougherty at Mona.Dougherty@waterboards.ca.gov or (707) 570-3761.

Sincerely,

Original signed by

Fred J. Blatt
Division Chief
Non-Point Source and Timber Harvest Division

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Enclosure: Attachment A

cc:

Ms. Melissa Scianni, USEPA Scianni.Melissa@epamail.epa.gov
Mr. Greg Gholson, USEPA Gholson.Greg@epa.gov
Ms. Jane Hicks, U.S. Army Corps Jane.M.Hicks@usace.army.mil
Ms. Laurie Monarres, U.S. Army Corps Laurie.A.Monarres@usace.army.mil
Ms. Sahrye Cohen, U.S. Army Corps Sahrye.E.Cohen@usace.army.mil
Mr. Tom Daugherty, National Marine Fisheries Service Tom.Daugherty@noaa.gov
Mr. Stephen Bargsten, Regional Water Board Stephen.Bargsten@waterboards.ca.gov
Mr. Brendan Thompson, Regional Water Board Brendan.Thompson@waterboards.ca.gov
Mr. Nathan Jacobsen, Regional Water Board Nathan.Jacobsen@waterboards.ca.gov
Mr. David Leland, Regional Water Board David.Leland@waterboards.ca.gov
Ms. Diana Henriouille, Regional Water Board Diana.Henriouille@waterboards.ca.gov
Ms. Jayne Nordstrom, Caltrans Jayne.Nordstrom@dot.ca.gov
Mr. Geoffrey Wright, Caltrans Geoffrey.Wright@dot.ca.gov
Mr. David Melendrez, Caltrans David.Melendrez@dot.ca.gov
Ms. Susan Tappan, Caltrans Susan.Tappan@dot.ca.gov
Mr. Walt Dragaloski, Caltrans Walt.Dragaloski@dot.ca.gov
Mr. Raguparan Thangavelautham, Caltrans, Raguparan.Thangavelautham@dot.ca.gov
Ms. JoAnn Dunn, CDFW JoAnn.Dunn@wildlife.ca.gov
Mr. Neil Manji, CDFW Neil.Manji@wildlife.ca.gov
Mr. Curt Babcock, CDFW Curt.Babcock@wildlife.ca.gov