

# **INFORMATION HANDOUT**

**For Contract No. 01-0A9904**

**At 01-Hum-96-R6.2/6.6**

**Identified by**

**Project ID 0112000001**

## **PERMITS**

United States Army Corps of Engineers

Non-Reporting Nationwide 404

## **WATER QUALITY**

California Regional Water Quality Control Board, Central Valley Region

Board Order No. WDID No. 1B15133WNHU

## **AGREEMENTS**

California Department of Fish and Wildlife

Notification No. 1600-2015-0409-R1

## **MATERIALS INFORMATION**

Cut Slope Recommendations, Dated August 11, 2015

Nonpotable Water Source

## **PERMITS**

United States Army Corps of Engineers

Non-Reporting Nationwide 404

**U. S. Army Corps of Engineers  
South Pacific Division**



**Nationwide Permit Pre-Construction Notification (PCN) Form**

This form integrates requirements of the U. S. Army Corps of Engineers Nationwide Permit Program within the South Pacific Division (SPD), including General and Regional Conditions. You MUST fill out all boxes related to the work being done. Fillable boxes in this form expand if additional space is needed.

<b>Box 1 Project Name</b> Sugar Bowl Ranch Curve Project			
<b>Applicant Name</b> Troy Arseneau		<b>Applicant Title</b> Project Manager	
<b>Applicant Company, Agency, etc.</b> California Department of Transportation		<b>Applicant's internal tracking number</b> (if any) EA 01-0A990; EFIS Number 0112000001	
<b>Mailing Address</b> 1656 Union Street, Eureka, CA 95501			
Work Phone with area code (707) 441-5877	Mobile Phone with area code	Home Phone with area code	Fax # with area code (707) 441-5733
E-mail Address Troy.Arseneau@dot.ca.gov	Relationship of applicant to property: <input type="checkbox"/> Owner <input type="checkbox"/> Purchaser <input type="checkbox"/> Lessee <input checked="" type="checkbox"/> Other: Caltrans PM		
Application is hereby made for verification that subject regulated activities associated with subject project qualify for authorization under a U.S. Army Corps of Engineers Nationwide Permit or Permits as described herein. I certify that I am familiar with the information contained in this application and, that to the best of my knowledge and belief, such information is true, complete, and accurate. I further certify that I possess the authority to undertake the proposed activities. I hereby grant to the agency to which this application is made the right to enter the above-described location to inspect the proposed, in-progress, or completed work. I agree to start work <u>only</u> after all necessary permits have been received and to comply with all terms and conditions of the authorization.			
<b>Signature of applicant</b> 			Date (mm/dd/yyyy) 09/10/2015

If anyone other than the person named as the Applicant will be in contact with the U. S. Army Corps of Engineers representing the Applicant regarding this project during the permit process, Box 2 MUST be filled out.

<b>Box 2 Authorized Agent/Operator Name</b> Allison Kunz		<b>Agent/Operator Title</b> Project Biologist	
<b>Agent/Operator Company, Agency, etc.</b> California Department of Transportation		E-mail Address Allison.Kunz@dot.ca.gov	
Mailing Address 703 B Street, Marysville, CA 95901			
Work Phone with area code (530) 741-4103	Mobile Phone with area code	Home Phone with area code	Fax # with area code (530) 741-4457
I hereby authorize the above named authorized agent to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application. I understand that I am bound by the actions of my agent and I understand that if a federal or state permit is issued, I, or my agent, must sign the permit.			
<b>Signature of applicant</b> 			Date (mm/dd/yyyy) 09/10/2015
I certify that I am familiar with the information contained in this application, and that to the best of my knowledge and belief, such information is true, complete, and accurate.			
<b>Signature of authorized agent</b> 			Date (mm/dd/yyyy) 9/10/15

## Non-Reporting Nationwide Permit 14

<b>Box 3 Name of property owners(s), if other than applicant:</b> Construction of the proposed project will occur within Caltrans right-of-way.		
<b>Owner Title</b>	<b>Owner Company, Agency etc.</b>	
Mailing Address		
Work Phone with area code	Mobile Phone with area code	Home Phone with area code

<b>Box 4 Name of contractor(s) (if known):</b> The contractor is unknown at this time.		
<b>Contractor Title</b>	<b>Contractor Company, Agency, etc.</b>	
Mailing Address		
Work Phone with area code	Mobile Phone with area code	Home Phone with area code

<b>Box 5 Site Number <u>1</u> of <u>1</u>. Project location(s), including street address, city, county, state, zip code where proposed activity will occur:</b> State Route 96 in Humboldt County, approximately 6 miles north of Willow Creek.	
<b>Name of Waterbody(ies)</b> (if known, otherwise enter "an unnamed tributary to"): an unnamed tributaries to Tributary to what known, downstream waterbody: Trinity River	
Latitude & Longitude (D/M/S, DD, or UTM with Zone): 41.003 & -123.6489	Section, Township, Range: Township 07N, Range 05E, Sections 5, 6, 7, and 8
County Assessor parcel number (include county name): Most work will be done within Caltrans right-of-way. Also on APN: 522-101-12, 13.	USGS Quadrangle map name: Hoopa
Watershed (HUC and watershed name <sup>1</sup> ): 180102111206/Trinity River Hydrologic Unit <small><sup>1</sup><a href="http://water.usgs.gov/GIS/regions.html">http://water.usgs.gov/GIS/regions.html</a></small>	Size of permit area or project boundary:  10 acres <span style="float: right;">linear feet</span>
Directions to the project location and other location descriptions, if known: From Santa Rosa: travel north on SR 101 for approximately 225 miles. Take exit for CA-299 east for 38 miles. Turn left onto CA-96 north for approximately 6 miles.	
Access limitations or restrictions (if any): None	

## Non-Reporting Nationwide Permit 14

### **Box 6 Nature of Activity** (Description of project, include all features):

Caltrans proposes to realign curves, widen shoulders, construct rail element walls, remove and replace culverts, place centerline and shoulder rumble strips, install guardrail, and overlay with a Bonded Wear Course on State Route 96 between post miles R6.2-6.6 in Humboldt County. Work will occur at one (1) location within the Caltrans right of way and on adjacent privately owned property. A temporary construction easement will be required.

Curve realignment will occur primarily on the west side of the road. Cut-slope excavation for the realignment is expected at one location within the project limits. Two (2) rail element walls (175 and 325 foot long) will be constructed at each end of the realignment. Approximately 465 linear feet of guardrail will be installed. Three (3) existing culverts will be replaced. One (1) existing culvert will be lined with a high density polyethylene slipliner. Two (2) existing drainage inlets will be replaced. Both the eastbound and westbound shoulders will be widened to four feet.

The maximum depth of excavation will be approximately 125 feet. Approximately 51,000 cubic yards of excess material will be removed and hauled to the Hoopa Valley Aggregates Disposal Site where it will be relinquished to the Hoopa Valley Tribe. Vegetation and tree removal will be required for the realignment as well as to facilitate access by construction equipment and personnel. One-way reversing traffic control will also be required during construction. Staging will be located on paved roadway, existing pullouts, and private property within the project limits.

### **Scope of Work**

- PM R6.2-6.6: PM R6.2-6.6: Reconstruct and widen the existing roadway to provide 4-foot shoulders, restripe roadway, install asphalt concrete dikes, shoulder backing, and centerline and shoulder rumble strips
- PM R6.3-R6.40: Realign curves.
- PM R6.36-R6.39 & PM 6.43-6.47: Construct overside drains, and construct two (2) bioswales.
- PM R6.29-R6.33 & R6.46-6.58: Install guardrail.
- PM R6.25: Remove existing 24-inch corrugated metal pipe and replace in kind with a 24-inch APC.
- PM R6.31: Replace existing 18-inch culvert with 24-inch corrugated metal pipe, construct new culvert inlet and outlet, construct downdrain, install bicycle-proof grate, place rock energy dissipater at downdrain outlet.
- PM R6.37: Line existing 48-inch culvert with high density polyethylene slipliner, replace flared end section of culvert inlet with a headwall.
- PM R6.46: Replace existing 24-inch culvert with 36-inch corrugated metal pipe, construct new flared end section of culvert inlet and outlet, place rock energy dissipater at culvert outlet.

Construction will occur in the summer and early fall and have a duration of approximately two years. Construction is programmed for 2016.

### **Project Purpose** (Description of the reason or purpose of the project):

The purpose of this project is to reduce the frequency and severity of collisions on State Route 96. This project is needed because there have been 8 recorded collisions in the most recent five-year period.

### **Reason(s) for discharge into Waters of the United States** (Description of why dredged and/or fill material needs to be placed in Waters of the United States):

Replacement, repair, or maintenance of existing drainage facilities and roadway.

## Non-Reporting Nationwide Permit 14

**Proposed discharge of dredge and/or fill material.** Indicate total surface area in **acres** and **linear feet** (where appropriate) of the proposed impacts to Waters of the United States, indicate water body type (tidal wetland, non-tidal wetland, riparian wetland, ephemeral stream/river, intermittent stream/river, perennial stream/river, pond/lake, vegetated shallows, bay/harbor, lagoon, ocean, etc.), and identify the impact(s) as permanent and/or temporary for each requested Nationwide Permit<sup>1</sup>:

<sup>1</sup>Enter the intended permit number(s). See Nationwide Permit regulations for permit numbers and qualification information:  
<http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/NationwidePermits.aspx>

Water Body Type	Requested NWP Number: 14 (non-reporting)				Requested NWP Number:				Requested NWP Number:			
	Permanent		Temporary		Permanent		Temporary		Permanent		Temporary	
	Area	Length	Area	Length	Area	Length	Area	Length	Area	Length	Area	Length
Other	0.009	48	0.01	50								
<b>Total:</b>	<b>0.009</b>	<b>48</b>	<b>0.01</b>	<b>50</b>								

Total volume (in cubic yards) and type(s) of material proposed to be dredged from or discharged into Waters of the United States:

Material Type	Total Volume Dredged	Total Volume Discharged
Rock Slope Protection (RSP)		39 cubic yards
Clean spawning gravel		
River rock		
Soil/Dirt/Silt/Sand/Mud		
Concrete		
Structure		
Stumps/Root wads		
Other:		
<b>Total:</b>		<b>39 cubic yards</b>

Activity requires a written waiver to exceed specified limits of the Nationwide Permit?  YES  NO  
 If yes, provide Nationwide Permit number and name, limit to be exceeded, and rationale for each requested waiver:

Activity will result in the loss of greater than 1/2-acre of Waters of the United States?  YES  NO  
 If yes, provide an electronic copy (compact disc) or multiple hard copies (7) of the complete PCN for appropriate Federal and State Pre-discharge Notification (See General Condition #31, Pre-construction Notification, Agency Coordination, Section 2 and 4):

Describe direct and indirect effects caused by the activity and how the activity has been designed (or modified) to have minimal adverse effects on the aquatic environment (See General Condition #31, Pre-construction Notification, District Engineer's Decision, Section 1):

A potential indirect impact to waters of the U. S. associated with the project could include a temporary degradation of water quality. In order to avoid potential impacts to water quality, erosion control and soil stabilization measures will be implemented in accordance with Caltrans'

## Non-Reporting Nationwide Permit 14

Best Management Practices (BMPs). These BMPs could include, but are not limited to, the use of silt fences, fiber rolls, and the application of fiber matrix on unfinished slopes. Disturbed soils will also be treated with an erosion control seed mixture. To protect water quality, in-water work (work below the ordinary high water mark of the unnamed seasonal tributary) will be restricted to the dry/low flow season (May 15 to October 15).

Potential cumulative impacts of proposed activity (if any): To avoid and/or minimize impacts to waters of the U. S. the following measures would be incorporated into the project: use of clean fill, Best Management Practices (BMPs) for slope stabilization and erosion control. These BMPs could include, but are not limited to, the use of silt fences, fiber rolls, and the application of fiber matrix on unfinished slopes. Disturbed soils will also be treated with an erosion control seed mixture. The majority of the work would be done during the dry/low flow season (May 15 to October 15). Any work conducted outside of that time period would be limited to when the channel is dry (no flowing water).

## Non-Reporting Nationwide Permit 14

Drawings and figures (see each U. S. Army Corps of Engineers District's Minimum Standards Guidance):

Vicinity map:  Attached (or mail copy separately if applying electronically)

To-scale Plan view drawing(s):  Attached (or mail copy separately if applying electronically)

To-scale elevation and/or Cross Section Drawings(s):  Attached (or mail copy separately if applying electronically)

Numbered and dated pre-project color photographs:  Attached (or mail copy separately if applying electronically)

Sketch drawing(s) or map(s):  Attached (or mail copy separately if applying electronically)

Has a wetland/waters of the U.S. delineation been completed?

Yes, Attached<sup>2</sup> (or mail copy separately if applying electronically)  No

If a delineation has been completed, has it been verified in writing by the Corps?

Yes, Date of approved jurisdictional determination (m/d/yyyy): \_\_\_\_\_ Corps file number: \_\_\_\_\_  No

<sup>2</sup>If available, provide ESRI shapefiles (NAD83) for delineated waters

For proposed discharges of dredged material resulting from navigation dredging into inland or near-shore waters of the U.S. (including beach nourishment), please attach<sup>3</sup> a proposed Sampling and Analysis Plan (SAP) prepared according to Inland Testing Manual (ITM) guidelines (including Tier I information, if available), or if disposed offshore, a proposed SAP prepared according to the Ocean Disposal Manual.

<sup>3</sup>Or mail copy separately if applying electronically

Is any portion of the work already complete?  YES  NO

If yes, describe the work:

### Box 7 Authority:

Is Section 10 of the Rivers and Harbors Act applicable?:  YES  NO

Is Section 404 of the Clean Water Act applicable?:  YES  NO

Is the project located in U. S. Army Corps of Engineers property or easement?:  YES  NO

If yes, has Section 408 process been initiated?:  YES  NO

Would the project affect a U. S. Army Corps of Engineers structure?:  YES  NO

If yes, has Section 408 process been initiated?:  YES  NO

Is the project located on other Federal Lands (USFS, BLM, etc.)?:  YES  NO

Is the project located on Tribal Lands?:  YES  NO

**Box 8** Is the discharge of fill or dredged material for which Section 10/404 authorization is sought part of a larger plan of development?:  YES  NO

If discharge of fill or dredged material is part of development, name and proposed schedule for that larger development (start-up, duration, and completion dates):

Not applicable.

Location of larger development (if discharge of fill or dredged material is part of a plan of development, a map of suitable quality and detail of the entire project site should be included):

Not applicable.

### Box 9 Measures taken to avoid and minimize impacts to waters of the United States:

To avoid and/or minimize impacts to waters of the U. S. the following measures would be incorporated into the project: use of clean fill, Best Management Practices (BMPs) for slope

## Non-Reporting Nationwide Permit 14

stabilization and erosion control. These BMPs could include, but are not limited to, the use of silt fences, fiber rolls, and the application of fiber matrix on unfinished slopes. Disturbed soils will also be treated with an erosion control seed mixture. The majority of the work would be done during the dry/low flow season (May 15 to October 15). Any work conducted outside of that time period would be limited to when the channel is dry (no flowing water).

**Box 10 Proposed Compensatory Mitigation** related to fill/excavation and dredge activities. Indicate in **acres** and **linear feet** (where appropriate) the total quantity of Waters of the United States proposed to be created, restored, enhanced and/or preserved for purposes of providing compensatory mitigation. Indicate water body type (tidal wetland, non-tidal wetland, riparian wetland, ephemeral stream/river, intermittent stream/river, perennial stream/river, pond/lake, vegetated shallows, bay/harbor, lagoon, ocean, etc.) or non-jurisdictional (uplands<sup>1</sup>). Indicate mitigation type (permittee-responsible on-site/off-site, mitigation bank, or in-lieu fee program). If the mitigation is purchase of credits from a mitigation bank, indicate the bank to be used, if known:

<sup>1</sup> For uplands, please indicate if designed as an upland buffer.

Site Number	Water Body Type	Created		Restored		Enhanced		Preserved		Mitigation Type
		Area	Length	Area	Length	Area	Length	Area	Length	
1	Other					0.02	98			On-site restoration of disturbed areas.
<b>Total:</b>										

If no mitigation is proposed, provide detailed explanation of why no mitigation would be necessary:  
**Not applicable.**

If permittee-responsible mitigation is proposed, provide justification for not utilizing a Corps-approved mitigation bank or in-lieu fee program: **Not applicable.**

Has a draft/conceptual mitigation plan been prepared in accordance with the April 10, 2008 Final Mitigation Rule<sup>2</sup> and District Guidelines?

<sup>2</sup>[http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/mitig\\_info.aspx](http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/mitig_info.aspx)

<sup>3</sup>**Sacramento and San Francisco Districts**-[http://www.spk.usace.army.mil/organizations/cespk-co/regulatory/pdf/Mitigation\\_Monitoring\\_Guidelines.pdf](http://www.spk.usace.army.mil/organizations/cespk-co/regulatory/pdf/Mitigation_Monitoring_Guidelines.pdf)

<sup>4</sup>**Los Angeles District**-[http://www.spl.usace.army.mil/regulatory/mmg\\_2004.pdf](http://www.spl.usace.army.mil/regulatory/mmg_2004.pdf)

<sup>5</sup>**Albuquerque District**-[http://www.spa.usace.army.mil/reg/mitigation/SPA%20Final%20Mitigation%20Guidelines\\_OLD.pdf](http://www.spa.usace.army.mil/reg/mitigation/SPA%20Final%20Mitigation%20Guidelines_OLD.pdf)

Yes, Attached (or mail copy separately if applying electronically)     No

If no, a mitigation plan must be prepared and submitted, if applicable.

Mitigation site(s) Latitude & Longitude (D/M/S, DD, or UTM with Zone):	USGS Quadrangle map name(s):
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Assessor Parcel Number(s):	Section(s), Township(s), Range(s):
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Other location descriptions, if known:

Directions to the mitigation location(s):

## Non-Reporting Nationwide Permit 14

### Box 11 Threatened or Endangered Species and Essential Fish Habitat

Please list any federally-listed (or proposed) threatened or endangered species or critical habitat (or proposed critical habitat) within the project area (include scientific names (e.g., Genus species), if known):

a. None. Please see the Natural Environment Study for information regarding species considered during studies for this project.

b.

c.

d.

e.

f.

Have surveys, using U.S. Fish and Wildlife Service/NOAA Fisheries protocols, been conducted?

Yes, Report attached (or mail copy separately if applying electronically)  No

Has a biological assessment or evaluation been completed for the proposed project?

Yes, Report attached (or mail copy separately if applying electronically)  Not attached

Has Section 7 consultation been initiated by another federal agency?

Yes, Initiation letter attached (or mail copy separately if applying electronically)  No

Has Section 10 consultation been initiated for the proposed project?

Yes, Initiation letter attached (or mail copy separately if applying electronically)  No

Has the USFWS/NOAA Fisheries issued a Biological Opinion?

Yes, Attached (or mail copy separately if applying electronically)  No

If yes, list date Opinion was issued (m/d/yyyy):

Is the project located within Essential Fish Habitat (EFH)?  Yes  No

<sup>1</sup>[http://swr.nmfs.noaa.gov/hcd/HCD\\_webContent/EFH/index\\_EFH.htm](http://swr.nmfs.noaa.gov/hcd/HCD_webContent/EFH/index_EFH.htm)

### Box 12 Historic Properties and Cultural Resources

Are any cultural resources of any type known to exist on-site?  YES  NO

Please list any known historic properties listed, or eligible for listing, on the National Register of Historic Places:

a. None.

b.

c.

d.

e.

f.

Has a cultural resource records search been conducted?

Yes, Report attached (or mail copy separately if applying electronically)  No

Has a cultural resource pedestrian survey been conducted for the site?

Yes, Report attached (or mail copy separately if applying electronically)  No

Has another federal agency been designated the lead federal agency for Section 106 consultation?

Yes, Designation letter/email attached (or mail copy separately if applying electronically)  No

Has Section 106 consultation been initiated by another federal agency?

Yes, Initiation letter attached (or mail copy separately if applying electronically)  No

Has a Section 106 MOA or PA been signed by another federal agency and the SHPO?

Yes, Attached (or mail copy separately if applying electronically)  No

If yes, list date MOA or PA was signed (m/d/yyyy):

## Non-Reporting Nationwide Permit 14

**Box 13 Section 401 Water Quality Certification:**

Applying for certification?  Yes, Attached (or mail copy separately if applying electronically)  No  
 Not Applicable (projects proposed for authorization under RHA Section 10 only)

Certification issued? (including Programmatically)?

Yes, Attached (or mail copy separately if applying electronically)  No

Certification waived?  Yes, Attached (or mail copy separately if applying electronically)  No

Certification denied?  Yes, Attached (or mail copy separately if applying electronically)  No

Exempted Activity?  Yes  No

Agency concurrence?  Yes, Attached  No

If exempt, state why:

**Box 14 Coastal Zone Management Act**

Is the project located within the Coastal Zone?  Yes  No (If no, proceed to Box 15)

If yes, applying for a coastal commission-approved Coastal Development Permit?

Yes, Attached (or mail copy separately if applying electronically)  No

If no, applying for separate CZMA-consistency certification?

Yes, Attached (or mail copy separately if applying electronically)  No

Permit/Consistency issued?  Yes, Attached (or mail copy separately if applying electronically)  No

Exempt?  Yes  No

Agency concurrence?  Yes, Attached  No

If exempt, state why:

**Box 15** List of other certification or approval/denials received from other federal, state, or local agencies for work described in this application:

Agency	Type Approval <sup>4</sup>	Identification Number	Date Applied	Dated Approved	Date Denied
NCRWQCB	401 Water Quality Cert	Pending	September 2015		
CDFW	1602 Agreement	Pending	September 2015		

<sup>4</sup>Would include but is not restricted to zoning, building, and flood plain permits

## Non-Reporting Nationwide Permit 14

### Nationwide Permit General Conditions (GC) checklist:

(<http://www.gpo.gov/fdsys/pkg/FR-2012-02-21/pdf/2012-3687.pdf>)

Check	General Condition	Rationale for compliance with General Condition
<input checked="" type="checkbox"/>	1. Navigation	The proposed project will not have an adverse impact on navigation.
<input checked="" type="checkbox"/>	2. Aquatic Life Movements	The proposed project will not disrupt the life cycle movements of aquatic life.
<input checked="" type="checkbox"/>	3. Spawning Areas	This project will not affect spawning areas.
<input checked="" type="checkbox"/>	4. Migratory Bird Breeding Areas	The project will not affect migratory breeding areas.
<input checked="" type="checkbox"/>	5. Shellfish Beds	The project will not occur in areas of concentrated shellfish populations.
<input checked="" type="checkbox"/>	6. Suitable Material	All materials used for the construction of the proposed project will comply with Caltrans materials standards.
<input checked="" type="checkbox"/>	7. Water Supply Intakes	The proposed project will not occur in the proximity of a public water supply intake.
<input checked="" type="checkbox"/>	8. Adverse Effects from Impoundments	The proposed project will not result in the impoundment of water.
<input checked="" type="checkbox"/>	9. Management of Water Flows	The proposed project will maintain pre-construction flow conditions. The project will not permanently restrict or impede the passage of normal or expected high flows, and will withstand expected high flows.
<input checked="" type="checkbox"/>	10. Fills Within 100-Year Floodplains	The proposed project is not within 100-Year Floodplain.
<input checked="" type="checkbox"/>	11. Equipment	The contractor will take measures to minimize soil disturbance by heavy equipment during construction.
<input checked="" type="checkbox"/>	12. Soil Erosion and Sediment Controls	Appropriate soil erosion and sediment controls will be used and maintained during construction. Exposed soils and areas of work below the ordinary high water mark will be stabilized at the earliest possible date.
<input checked="" type="checkbox"/>	13. Removal of Temporary Fills	Temporary fills are not expected to be needed during the construction of this project, but if they become necessary they will be removed in their entirety upon project completion. The affected areas will be returned to their preexisting elevation and reseeded with native species as appropriate.
<input checked="" type="checkbox"/>	14. Proper Maintenance	The project will be constructed in accordance with Caltrans codes and standards, and will be properly maintained by Caltrans Maintenance.
<input checked="" type="checkbox"/>	15. Single and Complete Project	The proposed project is a single and complete project.
<input checked="" type="checkbox"/>	16. Wild and Scenic Rivers	The proposed project will not take place in or near a river designated as a Wild and Scenic River.
<input checked="" type="checkbox"/>	17. Tribal Rights	The construction of this project will not impair reserved tribal rights.
<input checked="" type="checkbox"/>	18. Endangered Species	See Box 11 above
<input checked="" type="checkbox"/>	19. Migratory Bird and Bald and Golden Eagle Permits	The proposed project will comply with this condition
<input checked="" type="checkbox"/>	20. Historic Properties	See Box 12 above
<input checked="" type="checkbox"/>	21. Discovery of Previously Unknown Remains and Artifacts	The proposed project will comply with this condition.
<input checked="" type="checkbox"/>	22. Designated Critical Resource Waters	The proposed project will not take place in or near Designated Critical Resource Waters.
<input checked="" type="checkbox"/>	23. Mitigation	See Box 10 above
<input checked="" type="checkbox"/>	24. Safety of Impoundment Structures	The proposed project will comply with this condition.

## Non-Reporting Nationwide Permit 14

<input checked="" type="checkbox"/>	25. Water Quality	See Box 13 above
<input checked="" type="checkbox"/>	26. Coastal Zone Management	See Box 14 above
<input checked="" type="checkbox"/>	27. Regional and Case-by-Case Conditions	The proposed project will comply with any case-by-case conditions.
<input checked="" type="checkbox"/>	28. Use of Multiple Nationwide Permits	The Applicant is aware that if total proposed acreage of impact exceeds acreage limit of NWP with highest specified acreage, no NWP can be issued.
<input checked="" type="checkbox"/>	29. Transfer of Nationwide Permit Verifications	The Applicant is aware of this permit transfer requirement.
<input checked="" type="checkbox"/>	30. Compliance Certification	The Applicant is aware of this compliance certification requirement.
<input checked="" type="checkbox"/>	31. Pre-Construction Notification	The applicant is aware of the pre-construction notification requirements.

## Non-Reporting Nationwide Permit 14

### **San Francisco District (SPN) in California:**

#### **A. General Regional Conditions that apply to all NWP's in the Sacramento, San Francisco, and Los Angeles Districts:**

1. Is pre-construction notification (PCN) required?  Yes  No

If yes, then in accordance with General Condition 31, the appropriate U.S. Army Corps of Engineers (Corps) District shall be notified using either the South Pacific Division PCN Checklist or a signed application form (ENG Form 4345) with an attachment providing information on compliance with all of the General and Regional Conditions. The PCN Checklist and application form are available at:

<http://www.spn.usace.army.mil/regulatory/index.html>. In addition, the PCN shall include:

- a. A written statement describing how the activity has been designed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States; and
- b. Drawings, including plan and cross-section views, clearly depicting the location, size and dimensions of the proposed activity as well as the location of delineated waters of the U.S. on the site. The drawings shall contain a title block, legend and scale, amount (in cubic yards) and area (in acres) of fill in Corps jurisdiction, including both permanent and temporary fills/structures. The ordinary high water mark or, if tidal waters, the mean high water mark and high tide line, should be shown (in feet), based on National Geodetic Vertical Datum (NGVD) or other appropriate referenced elevation. All drawings for projects located within the boundaries of the Los Angeles District shall comply with the most current version of the Map and Drawing Standards for the Los Angeles District Regulatory Division (available on the Los Angeles District Regulatory Division website at: [www.spl.usace.army.mil/regulatory/](http://www.spl.usace.army.mil/regulatory/)); and
- c. Numbered and dated pre-project color photographs showing a representative sample of waters proposed to be impacted on the project site, and all waters proposed to be avoided on and immediately adjacent to the project site. The compass angle and position of each photograph shall be documented on the plan-view drawing required in subpart b of this regional condition.

If yes, is the PCN attached?  Yes  No  Not Applicable

2. Is the activity located in an area designated as Essential Fish Habitat (EFH) by the Pacific Fishery Management Council (i.e., all tidally influenced areas - Federal Register dated March 12, 2007 (72 FR 11092)).  
 Yes  No

If yes, notification pursuant to General Condition 31 is required. The PCN shall include an EFH assessment and extent of proposed impacts to EFH. Examples of EFH habitat assessments can be found at:

<http://www.swr.noaa.gov/efh.htm>.

3. Are any other Federal agencies involved?  Yes  No

If yes, for activities in which the Corps designates another Federal agency as the lead for compliance with Section 7 of the Endangered Species Act (ESA) of 1973 as amended (50 CFR Part 402.07), Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act (EFH) (50 CFR 600.920(b)) and/or Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended (36 CFR 800.2(a)(2)), the lead Federal agency shall provide all relevant documentation to the appropriate Corps demonstrating any previous consultation efforts, as it pertains to the Corps Regulatory permit area (for Section 7 and EFH compliance) and the Corps Regulatory area of potential effect (APE) (for Section 106 compliance). For activities requiring a PCN, this information shall be submitted with the PCN. If the Corps does not designate another Federal agency as the lead for ESA, EFH and/or NHPA, the Corps will initiate consultation for compliance, as appropriate.

## Non-Reporting Nationwide Permit 14

4. Is the project located within a waterbody supporting any federally-listed threatened or endangered fish species?  
 Yes  No

If yes, unless determined to be impracticable by the Corps, the permittee shall design all road crossings to ensure that the passage and/or spawning of fish is not hindered. In these areas, the permittee shall employ bridge designs that span the stream or river, including pier- or pile-supported spans, or designs that use a bottomless arch culvert with a natural streambed.

5. Will the permittee complete the construction of any compensatory mitigation required by special condition(s) of the NWP verification before or concurrent with commencement of construction of the authorized activity?  
 Yes  No

If no, then the proposed activity may not be in compliance with Regional Condition 10, unless construction of compensatory mitigation prior to or concurrent with commencement of construction of the authorized activity is specifically determined impracticable by the Corps.

Will the mitigation involve use of a mitigation bank or in-lieu fee program?  Yes  No

If yes, then the permittee shall submit proof to the Corps of payment prior to commencement of construction of the authorized activity.

6. Will the activity result in the loss of greater than 300 linear feet of intermittent and/or ephemeral streams for NWPs 29, 39, 40, 42, 43, 44, 51, and 52 or result in the loss of greater than 500 linear feet along the bank for NWP 13?  Yes  No

If yes, is the applicant requesting a waiver of the linear foot limit?  Yes  No  Not Applicable

If yes, then the request shall include the following:

- a. A narrative description of the stream. This should include known information on: volume and duration of flow; the approximate length, width, and depth of the water body and characters observed associated with an Ordinary High Water Mark (e.g. bed and bank, wrack line, or scour marks); a description of the adjacent vegetation community and a statement regarding the wetland status of the associated vegetation community (i.e. wetland, non-wetland); surrounding land use; water quality; issues related to cumulative impacts in the watershed, and; any other relevant information; and
- b. An analysis of the proposed impacts to the waterbody in accordance with General Condition 31 and Regional Condition 3; and
- c. Measures taken to avoid and minimize losses, including other methods of constructing the proposed project; and
- d. A compensatory mitigation plan describing how the unavoidable losses are proposed to be compensated, in accordance with 33 CFR Part 332.

### **B. SPN Regional Conditions to be applied across the entire San Francisco District:**

1. Is the project located within the **San Francisco Bay diked baylands** (undeveloped areas currently behind levees that are within the historic margin of the Bay)? Diked historic baylands are those areas on the Nichols and Wright map below the 5-foot contour line, National Geodetic Vertical Datum (NGVD) (see Nichols, D.R., and N. A. Wright. 1971. Preliminary map of historic margins of marshland, San Francisco Bay, California. U.S. Geological Survey Open File Map, Figure 1 on the Public Notice for Federal Register Notice Announcing the Reissuance of the Nationwide Permits and the San Francisco District Regional Conditions: <http://www.spn.usace.army.mil/regulatory/nwp/2012/final%20NWPs.pdf>)?  Yes  No

## Non-Reporting Nationwide Permit 14

If yes, notification pursuant to General Condition 31 is required. The PCN must include an explanation of how avoidance and minimization of losses of waters or wetlands are taken into consideration to the maximum extent practicable (see General Condition 23(a)).

2. Is the project located within the **Santa Rosa Plain** (<http://www.spn.usace.army.mil/regulatory/srp/srpmmap.pdf>)?  
 Yes  No

If yes, notification pursuant to General Condition 31 is required. The PCN must include an explanation of how avoidance and minimization of losses of waters or wetlands are taken into consideration to the maximum extent practicable (see General Condition 23(a)).

3. Will the proposed project impact **Eelgrass Beds**?  Yes  No

If yes, notification pursuant to General Condition 31 is required. The PCN must include a compensatory mitigation plan, habitat assessment, and extent of proposed-project impacts to Eelgrass Beds.

### C. SPN Regional Conditions to be applied to specific Nationwide Permits (NWP):

#### NWP 3:

Will excavation equipment operate from an upland site?  Yes  No

If no, an explanation as to need to place equipment in waters of the U.S. must be included in the PCN.

Will work occur within a special aquatic site?  Yes  No

If yes, an explanation why the special aquatic site cannot be avoided, as well as impact minimization measures, must be included in the PCN.

#### NWP 11:

Are temporary structures proposed in wetlands or vegetated shallow water areas?  Yes  No

If yes, notification pursuant to General Condition 31 is required. The PCN shall include the type of habitat and aerial extent affected by the structure(s).

#### NWP 12:

Will excess material removed from any trenching that is not used for backfilling of the trench be disposed of at an upland site?  Yes  No

Does the proposed project include construction of substation facilities?  Yes  No

If yes, NWP 12 cannot be used to authorize this project.

#### NWP 13:

Will more than 300 linear feet of bank be stabilized?  Yes  No

If yes, notification pursuant to General Condition 31 is required. The PCN shall address the effect of the bank stabilization on the stability of the opposite side of the waterway's bank, and on the adjacent property upstream and downstream of the activity.

Will wetland vegetation or submerged, rooted, aquatic plants be removed from an area greater than 0.1 acre or 300 linear feet?  Yes  No

If yes, notification pursuant to General Condition 31 is required and shall include vegetation type and extent of removal.

Will excess material excavated from a toe trench be disposed of in an upland location?  Yes  No

If yes, the PCN shall include the location of the disposal site.

Will additional fill extend beyond the original shoreline in excess of one cubic yard per running foot?

Yes  No

## Non-Reporting Nationwide Permit 14

Will bank stabilization incorporate structures or modifications beneficial to fish and wildlife?  Yes  No  
If no, the applicant shall demonstrate why the structures or modifications were not considered practicable.

### NWP 14:

Will the proposed project fill greater than 300 linear feet of a jurisdictional waterway?  Yes  No  
If yes, notification pursuant to General Condition 31 is required. The PCN shall address the effect of the activity on the stability of the opposite side of the waterway's bank, and on the adjacent property upstream and downstream of the activity.

Is the proposed project to construct taxiways or runways?  Yes  No  
If yes, NWP 14 cannot be used to authorize this project.

Has this NWP been used to authorize previous project segments within the same linear transportation project?  
 Yes  No

If yes, justification must be provided demonstrating that the cumulative impacts of the proposed and previously authorized project segments do not result in more than minimal impacts to the aquatic system.

Has any new or additional bank stabilization required for the crossing incorporated structures or modifications beneficial to fish and wildlife?  Yes  No

If no, the applicant shall demonstrate why they were not considered practicable. Bottomless and embedded culverts are encouraged over traditional culvert stream crossings.

### NWP 23:

Use of this NWP requires notification pursuant to General Condition 31. Please refer to Regional Conditions for additional information on PCN requirements.

### NWP 27:

The PCN shall include documentation of a review of the project's impacts to demonstrate that at the conclusion of work the project would result in a net increase of aquatic function. The documentation must also include a review of the project's impacts on adjacent properties or structures and must also discuss cumulative impacts associated with the project.

### NWP 29:

Will the activity result in the replacement of wetlands or waters of the U.S. with impervious surfaces?  
 Yes  No

If yes, the residential development shall incorporate low impact development concepts to the extent practicable, and a description of those concepts proposed shall be included with the PCN. Additional information on concepts and definitions are available at the following website: <http://www.epa.gov/owow/NPS/lid>

Is the proposed project located within the San Francisco Bay diked baylands (Figure 1 on the Public Notice for Federal Register Notice Announcing the Reissuance of the Nationwide Permits and the San Francisco District Regional Conditions: <http://www.spn.usace.army.mil/regulatory/nwp/2012/final%20NWPs.pdf>)?  
 Yes  No

If yes, NWP 29 cannot be used to authorize this project.

### NWP 33:

Are access roads designed to be the minimum width necessary?  Yes  No  Not Applicable (N/A)

Are access roads designed to minimize changes to the hydraulic flow characteristics of waterways and degradation of water quality for project implementation?  Yes  No  N/A

Will the road(s) be properly stabilized and maintained during and after construction?  Yes  No  N/A

Will fill be placed to minimize encroachment of equipment within waters of the U.S.?  Yes  No  N/A

## Non-Reporting Nationwide Permit 14

Will vegetative disturbance be minimized?  Yes  No  N/A

Will borrow material be taken from an upland source, where feasible?  Yes  No  N/A

If no to any of the above, NWP 33 cannot be used to authorize the project.

Will the proposed project result in stream channelization?  Yes  No  N/A  
If yes, NWP 33 cannot be used to authorize the project.

### NWP 35:

Use of this NWP requires notification pursuant to General Condition 31. Please refer to Regional Conditions for additional information on PCN requirements.

### NWP 39

Will the activity result in the replacement of wetlands or waters of the U.S. with impervious surfaces?  
 Yes  No

If yes, the commercial or institutional development shall incorporate low impact development concepts to the extent practicable, and a description of those concepts proposed shall be included with the PCN. Additional information on concepts and definitions are available at the following website: <http://www.epa.gov/owow/NPS/lid>

Is the proposed project located within the San Francisco Bay diked baylands (Figure 1 on the Public Notice for Federal Register Notice Announcing the Reissuance of the Nationwide Permits and the San Francisco District Regional Conditions: <http://www.spn.usace.army.mil/regulatory/nwp/2012/final%20NWPs.pdf>)?  
 Yes  No

If yes, NWP 39 cannot be used to authorize the project.

### NWP 40:

Will work impede flows during high volume events of a perennial or intermittent watercourse?  Yes  No  
If yes, NWP 40 cannot be used to authorize the project.

### NWP 41:

If the Corps determines that there will be a detrimental impact to aquatic habitat, compensatory mitigation may be required.

Will fill material be re-deposited, re-graded, and/or discharged, or will channel lining be installed?  
 Yes  No

If yes, notification pursuant to General Condition 31 is required. The PCN shall include a statement demonstrating the need for the project and an explanation of the project's benefit to water quality.

### NWP 42:

Are buildings proposed in waters of the U.S.?  Yes  No

If yes, the applicant must demonstrate that there is no on-site practicable alternative less environmentally damaging as defined by the Section 404(b)(1) guidelines.



U S Army Corps of  
Engineers  
Sacramento District

# Nationwide Permit Summary

33 CFR Part 330; Issuance of Nationwide  
Permits – March 19, 2012

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

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

This NWP cannot be used to authorize non-linear features commonly associated with transportation projects, such as vehicle maintenance or storage buildings, parking lots, train stations, or aircraft hangars.

**Notification:** The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if: (1) the loss of waters of the United States exceeds 1/10-acre; or (2) there is a discharge in a special aquatic site, including wetlands. (See general condition 31.) (Sections 10 and 404)

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

## A. Regional Conditions

### 1. Regional Conditions for California, excluding the Tahoe Basin

[http://www.spk.usace.army.mil/Portals/12/documents/regulatory/nwp/2012\\_nwps/2012-NWP-RC-CA.pdf](http://www.spk.usace.army.mil/Portals/12/documents/regulatory/nwp/2012_nwps/2012-NWP-RC-CA.pdf)

### 2. Regional Conditions for Nevada, including the Tahoe Basin

[http://www.spk.usace.army.mil/Portals/12/documents/regulatory/nwp/2012\\_nwps/2012-NWP-RC-NV.pdf](http://www.spk.usace.army.mil/Portals/12/documents/regulatory/nwp/2012_nwps/2012-NWP-RC-NV.pdf)

### 3. Regional Conditions for Utah

[http://www.spk.usace.army.mil/Portals/12/documents/regulatory/nwp/2012\\_nwps/2012-NWP-RC-UT.pdf](http://www.spk.usace.army.mil/Portals/12/documents/regulatory/nwp/2012_nwps/2012-NWP-RC-UT.pdf)

### 4. Regional Conditions for Colorado.

[http://www.spk.usace.army.mil/Portals/12/documents/regulatory/nwp/2012\\_nwps/2012-NWP-RC-CO.pdf](http://www.spk.usace.army.mil/Portals/12/documents/regulatory/nwp/2012_nwps/2012-NWP-RC-CO.pdf)

## B. Nationwide Permit General Conditions

**Note:** To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer.

Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR §§ 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR § 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

### 1. Navigation.

(a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters,

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[www.flickr.com/photos/sacramentodistrict](http://www.flickr.com/photos/sacramentodistrict)

the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

- 2. **Aquatic Life Movements.** No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species.
- 3. **Spawning Areas.** Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.
- 4. **Migratory Bird Breeding Areas.** Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.
- 5. **Shellfish Beds.** No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.
- 6. **Suitable Material.** No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).
- 7. **Water Supply Intakes.** No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.
- 8. **Adverse Effects From Impoundments.** If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.
- 9. **Management of Water Flows.** To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).
- 10. **Fills Within 100-Year Floodplains.** The activity must comply with applicable FEMA-approved state or local floodplain management requirements.
- 11. **Equipment.** Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.
- 12. **Soil Erosion and Sediment Controls.** Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.
- 13. **Removal of Temporary Fills.** Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.
- 14. **Proper Maintenance.** Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.
- 15. **Single and Complete Project.** The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.
- 16. **Wild and Scenic Rivers.** No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).
- 17. **Tribal Rights.** No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
- 18. **Endangered Species.**
  - (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.
  - (b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the district engineer with the appropriate documentation to

demonstrate compliance with those requirements. The district engineer will review the documentation and determine whether it is sufficient to address ESA compliance for the NWP activity, or whether additional ESA consultation is necessary.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that might be affected by the proposed work or that utilize the designated critical habitat that might be affected by the proposed work. The district engineer will determine whether the proposed activity “may affect” or will have “no effect” to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps’ determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have “no effect” on listed species or critical habitat, or until Section 7 consultation has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

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

(e) Authorization of an activity by a NWP does not authorize the “take” of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with “incidental take” provisions, etc.) from the U.S. FWS or the NMFS, The Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word “harm” in the definition of “take” means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. FWS and NMFS or their world wide web pages at <http://www.fws.gov/> or <http://www.fws.gov/ipac> and <http://www.noaa.gov/fisheries.html> respectively.

19. **Migratory Birds and Bald and Golden Eagles.** The permittee is responsible for obtaining any “take” permits required under the U.S. Fish and Wildlife Service’s regulations governing compliance with the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act. The permittee should contact the appropriate local office of the U.S. Fish and Wildlife Service to determine if such “take” permits are required for a particular activity.

20. **Historic Properties.**

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

(b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will review the documentation and determine whether it is sufficient to address section 106 compliance for the NWP activity, or whether additional section 106 consultation is necessary.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of Section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified

historic properties on which the activity may have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

(d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR §800.3(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

**21. Discovery of Previously Unknown Remains and Artifacts.** If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

**22. Designated Critical Resource Waters.** Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or

ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWP 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, and 52 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with general condition 31, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

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

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse effects of the proposed activity are minimal, and provides a project-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in minimal adverse effects on the aquatic environment.

(2) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered.

- (3) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) – (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)).
- (4) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan only needs to address the baseline conditions at the impact site and the number of credits to be provided.
- (5) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan.
- (d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation, such as stream rehabilitation, enhancement, or preservation, to ensure that the activity results in minimal adverse effects on the aquatic environment.
- (e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any project resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWPs.
- (f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the restoration or establishment, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required. Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to establish a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or establishing a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.
- (g) Permittees may propose the use of mitigation banks, in-lieu fee programs, or separate permittee-responsible mitigation. For activities resulting in the loss of marine or estuarine resources, permittee-responsible compensatory mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.
- (h) Where certain functions and services of waters of the United States are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.
- 24. Safety of Impoundment Structures.** To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.
- 25. Water Quality.** Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA Section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.
- 26. Coastal Zone Management.** In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.
- 27. Regional and Case-By-Case Conditions.** The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

**28. Use of Multiple Nationwide Permits.** The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

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

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

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(Transferee)

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(Date)

**30. Compliance Certification.** Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and any required compensatory mitigation. The success of any required permittee responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

- (a) A statement that the authorized work was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;
- (b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and
- (c) The signature of the permittee certifying the completion of the work and mitigation.

**31. Pre-Construction Notification.**

(a) **Timing.** Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification

(PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

- (1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or
- (2) 45 calendar days have passed from the district engineer’s receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or in the vicinity of the project, or to notify the Corps pursuant to general condition 20 that the activity may have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is “no effect” on listed species or “no potential to cause effects” on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or Section 106 of the National Historic Preservation (see 33 CFR 330.4(g)) has been completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee’s right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2)..

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

- (1) Name, address and telephone numbers of the prospective permittee;
- (2) Location of the proposed project;

(3) A description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause, including the anticipated amount of loss of water of the United States expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the project and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

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

(5) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse effects are minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

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

(7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants the PCN must state which historic property

may be affected by the proposed work or include a vicinity map indicating the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

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

(d) Agency Coordination:

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

(2) For all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States, for NWP 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52 activities that require pre-construction notification and will result in the loss of greater than 300 linear feet of intermittent and ephemeral stream bed, and for all NWP 48 activities that require pre-construction notification, the district engineer will immediately provide (e.g., via email, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (U.S. FWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Office (THPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to telephone or fax the district engineer notice that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure the net adverse environmental effects to the aquatic environment of the proposed activity are minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where

there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(3) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(4) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

### C. District Engineer's Decision

1. In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. For a linear project, this determination will include an evaluation of the individual crossings to determine whether they individually satisfy the terms and conditions of the NWP(s), as well as the cumulative effects caused by all of the crossings authorized by NWP. If an applicant requests a waiver of the 300 linear foot limit on impacts to intermittent or ephemeral streams or of an otherwise applicable limit, as provided for in NWPs 13, 21, 29, 36, 39, 40, 42, 43, 44, 50, 51 or 52, the district engineer will only grant the waiver upon a written determination that the NWP activity will result in minimal adverse effects. When making minimal effects determinations the district engineer will consider the direct and indirect effects caused by the NWP activity. The district engineer will also consider site specific factors, such as the environmental setting in the vicinity of the NWP activity, the type of resource that will be affected by the NWP activity, the functions provided by the aquatic resources that will be affected by the NWP activity, the degree or magnitude to which the aquatic resources perform those functions, to the extent that aquatic resource functions will be lost as a result of the NWP activity (e.g., partial or complete loss), the duration of the adverse effects (temporary or permanent), the importance of the aquatic resource functions to the region (e.g., watershed or ecoregion), and mitigation required by the district engineer. If an appropriate functional assessment method is available and practicable to use, that assessment method may be used by the district engineer to assist in the minimal adverse effects determination. The district engineer may add case-specific special conditions to the NWP authorization to address site-specific environmental concerns.

2. If the proposed activity requires a PCN and will result in a loss of greater than 1/10- acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for projects with smaller impacts. The district engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining

whether the net adverse environmental effects to the aquatic environment of the proposed activity are minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the district engineer will notify the permittee and include any activity-specific conditions in the NWP verification the district engineer deems necessary. Conditions for compensatory mitigation requirements must comply with the appropriate provisions at 33 CFR 332.3(k). The district engineer must approve the final mitigation plan before the permittee commences work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the proposed compensatory mitigation plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the district engineer to be minimal, the district engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP, including any activity-specific conditions added to the NWP authorization by the district engineer.

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

### D. Further Information

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.

2. NWP's do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.
3. NWP's do not grant any property rights or exclusive privileges.
4. NWP's do not authorize any injury to the property or rights of others.
5. NWP's do not authorize interference with any existing or proposed Federal project.

#### E. Definitions

**Best management practices (BMPs):** Policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural.

**Compensatory mitigation:** The restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

**Currently serviceable:** Useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.

**Direct effects:** Effects that are caused by the activity and occur at the same time and place.

**Discharge:** The term "discharge" means any discharge of dredged or fill material.

**Enhancement:** The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

**Ephemeral stream:** An ephemeral stream has flowing water only during, and for a short duration after, precipitation events in a typical year. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.

**Establishment (creation):** The manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area.

**High Tide Line:** The line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in

which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

**Historic Property:** Any prehistoric or historic district, site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria (36 CFR part 60).

**Independent utility:** A test to determine what constitutes a single and complete non-linear project in the Corps regulatory program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

**Indirect effects:** Effects that are caused by the activity and are later in time or farther removed in distance, but are still reasonably foreseeable.

**Intermittent stream:** An intermittent stream has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.

**Loss of waters of the United States:** Waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the United States is a threshold measurement of the impact to jurisdictional waters for determining whether a project may qualify for an NWP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and services. The loss of stream bed includes the linear feet of stream bed that is filled or excavated. Waters of the United States temporarily filled, flooded, excavated, or drained, but restored to pre-construction contours and elevations after construction, are not included in the measurement of loss of waters of the United States. Impacts resulting from activities eligible for exemptions under Section 404(f) of the Clean Water Act are not considered when calculating the loss of waters of the United States.

**Non-tidal wetland:** A non-tidal wetland is a wetland that is not subject to the ebb and flow of tidal waters. The definition of a wetland can be found at 33 CFR 328.3(b). Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line).

**Open water:** For purposes of the NWP, an open water is any area that in a year with normal patterns of precipitation has water flowing or standing above ground to the extent that an ordinary high water mark can be determined. Aquatic vegetation within the area of standing or flowing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. Examples of “open waters” include rivers, streams, lakes, and ponds.

**Ordinary High Water Mark:** An ordinary high water mark is a line on the shore established by the fluctuations of water and indicated by physical characteristics, or by other appropriate means that consider the characteristics of the surrounding areas (see 33 CFR 328.3(e)).

**Perennial stream:** A perennial stream has flowing water year-round during a typical year. The water table is located above the stream bed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow.

**Practicable:** Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

**Pre-construction notification:** A request submitted by the project proponent to the Corps for confirmation that a particular activity is authorized by nationwide permit. The request may be a permit application, letter, or similar document that includes information about the proposed work and its anticipated environmental effects. Pre-construction notification may be required by the terms and conditions of a nationwide permit, or by regional conditions. A pre-construction notification may be voluntarily submitted in cases where pre-construction notification is not required and the project proponent wants confirmation that the activity is authorized by nationwide permit.

**Preservation:** The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

**Re-establishment:** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions.

**Rehabilitation:** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

**Restoration:** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: re-establishment and rehabilitation.

**Riffle and pool complex:** Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a coarse substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.

**Riparian areas:** Riparian areas are lands adjacent to streams, lakes, and estuarine-marine shorelines. Riparian areas are transitional between terrestrial and aquatic ecosystems, through which surface and subsurface hydrology connects riverine, lacustrine, estuarine, and marine waters with their adjacent wetlands, non-wetland waters, or uplands. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality. (See general condition 23.)

**Shellfish seeding:** The placement of shellfish seed and/or suitable substrate to increase shellfish production. Shellfish seed consists of immature individual shellfish or individual shellfish attached to shells or shell fragments (i.e., spat on shell). Suitable substrate may consist of shellfish shells, shell fragments, or other appropriate materials placed into waters for shellfish habitat.

**Single and complete linear project:** A linear project is a project constructed for the purpose of getting people, goods, or services from a point of origin to a terminal point, which often involves multiple crossings of one or more waterbodies at separate and distant locations. The term “single and complete project” is defined as that portion of the total linear project proposed or accomplished by one owner/developer or partnership or other association of owners/developers that includes all crossings of a single water of the United States (i.e., a single waterbody) at a specific location. For linear projects crossing a single or multiple waterbodies several times at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies, and crossings of such features cannot be considered separately.

**Single and complete non-linear project:** For non-linear projects, the term “single and complete project” is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers. A single and complete non-linear project must have independent utility (see definition of “independent utility”). Single and complete non-linear projects may not be “piecemealed” to avoid the limits in an NWP authorization.

**Stormwater management:** Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.

**Stormwater management facilities:** Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and best management practices, which retain water for a period of time to control runoff and/or improve the quality (i.e., by reducing the concentration of nutrients, sediments, hazardous substances and other pollutants) of stormwater runoff.

**Stream bed:** The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed.

**Stream channelization:** The manipulation of a stream's course, condition, capacity, or location that causes more than minimal interruption of normal stream processes. A channelized stream remains a water of the United States.

**Structure:** An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.

**Tidal wetland:** A tidal wetland is a wetland (i.e., water of the United States) that is inundated by tidal waters. The definitions of a wetland and tidal waters can be found at 33 CFR 328.3(b) and 33 CFR 328.3(f), respectively. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line, which is defined at 33 CFR 328.3(d).

**Vegetated shallows:** Vegetated shallows are special aquatic sites under the 404(b)(1) Guidelines. They are areas that are permanently inundated and under normal circumstances have rooted aquatic vegetation, such as seagrasses in marine and estuarine systems and a variety of vascular rooted plants in freshwater systems.

**Waterbody:** For purposes of the NWP, a waterbody is a jurisdictional water of the United States. If a jurisdictional wetland is adjacent – meaning bordering, contiguous, or neighboring – to a waterbody determined to be a water of the United States under 33 CFR 328.3(a)(1)-(6), that waterbody and its adjacent wetlands are considered together as a single aquatic unit (see 33 CFR 328.4(c)(2)). Examples of “waterbodies” include streams, rivers, lakes, ponds, and wetlands.

## San Francisco District Regional Conditions

### A. General Regional Conditions that apply to all NWP's in the Sacramento, San Francisco, and Los Angeles Districts:

1. When pre-construction notification (PCN) is required, the permittee shall notify the U.S. Army Corps of Engineers, San Francisco District (Corps) in accordance with General Condition 31 using either the South Pacific Division Preconstruction Notification (PCN) Checklist or a signed application form (ENG Form 4345) with an attachment providing information on compliance with all of the General and Regional Conditions. In addition, the PCN shall include:
  - a. A written statement describing how the activity has been designed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States;
  - b. Drawings, including plan and cross-section views, clearly depicting the location, size and dimensions of the proposed activity, as well as the location of delineated waters of the U.S. on the site. The drawings shall contain a title block, legend and scale, amount (in cubic yards) and area (in acres) of fill in Corps jurisdiction, including both permanent and temporary fills/structures. The ordinary high water mark or, if tidal waters, the mean high water mark and high tide line, should be shown (in feet), based on National Geodetic Vertical Datum (NGVD) or other appropriate referenced elevation. All drawings for activities located within the boundaries of the Los Angeles District shall comply with the September 15, 2010 Special Public Notice: *Map and Drawing Standards for the Los Angeles District Regulatory Division*, (available on the Los Angeles District Regulatory Division website at: [www.spl.usace.army.mil/regulatory/](http://www.spl.usace.army.mil/regulatory/)); and
  - c. Numbered and dated pre-project color photographs showing a representative sample of waters proposed to be impacted on the site, and all waters of the U.S. proposed to be avoided on and immediately adjacent to the activities site. The compass angle and position of each photograph shall be identified on the plan-view drawing(s) required in subpart b of this Regional Condition.
2. The permittee shall submit a PCN, in accordance with General Condition 31, For all activities located in areas designated as Essential Fish Habitat (EFH) by the Pacific Fishery Management Council (i.e., all tidally influenced areas - Federal Register dated March 12, 2007, 72 C.F.R. 11,092, in which case the PCN shall include an EFH assessment and extent of proposed impacts to EFH. Examples of EFH habitat assessments can be found at: <http://www.swr.noaa.gov/efh.htm>.
3. For activities in which the Corps designates another Federal agency as the lead for compliance with Section 7 of the Endangered Species Act (ESA) of 1973 as amended, 16 U.S.C. §§ 1531-1544, Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act (EFH), 16 U.S.C. § 1855(b)(4)(B) and/or Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended, 16 U.S.C. §§ 470-470h, the lead Federal agency shall provide all relevant documentation to the appropriate Corps demonstrating any previous consultation efforts, as it pertains to the Corps Regulatory permit area (for Section 7 and EFH compliance) and the Corps Regulatory area of potential effect (APE) (for Section 106 compliance). For activities requiring a PCN, this information shall be submitted with the PCN. If the Corps does not designate another Federal agency as the lead for ESA, EFH and/or NHPA, the Corps will initiate consultation for compliance, as appropriate.

4. For all activities in waters of the U.S. that are suitable habitat for Federally-listed fish species, the permittee shall design all road crossings to ensure that the passage and/or spawning of fish is not hindered. In these areas, the permittee shall employ bridge designs that span the stream or river, including pier- or pile-supported spans, or designs that use a bottomless arch culvert with a natural stream bed unless determined to be impracticable by the Corps.
5. The permittee shall complete the construction of any compensatory mitigation required by special condition(s) of the NWP verification before or concurrent with commencement of construction of the authorized activity, except when specifically determined to be impracticable by the Corps. When mitigation involves use of a mitigation bank or in-lieu fee program, the permittee shall submit proof of payment to the Corps prior to commencement of construction of the authorized activity.
6. Any requests to waive the 300 linear foot limitation for intermittent and ephemeral streams for NWPs 21, 29, 39, 40, 42, 43, 44, 50, 51 and 52, or to waive the 500 linear foot limitation along the bank for NWP 13, must include the following:
  - a. A narrative description of the stream. This should include known information on: volume and duration of flow; the approximate length, width, and depth of the waterbody and characteristics observed associated with an Ordinary High Water Mark (e.g. bed and bank, wrack line or scour marks); a description of the adjacent vegetation community and a statement regarding the wetland status of the adjacent areas (i.e. wetland, non-wetland); surrounding land use; water quality; issues related to cumulative impacts in the watershed, and; any other relevant information;
  - b. An analysis of the proposed impacts to the waterbody, in accordance with General Condition 31;
  - c. Measures taken to avoid and minimize losses to waters of the U.S., including other methods of constructing the proposed activity(s); and
  - d. A compensatory mitigation plan describing how the unavoidable losses are proposed to be offset, in accordance with 33 CFR 332.

**B. General Regional Conditions that apply to all NWPs in the San Francisco District:**

1. Notification to the Corps (in accordance with General Condition No. 31) is required for any activity permitted by NWP if it will take place in waters or wetlands of the U.S. that are within the **San Francisco Bay diked baylands** (see figure 1) (undeveloped areas currently behind levees that are within the historic margin of the Bay. Diked historic baylands are those areas on the Nichols and Wright map below the 5-foot contour line, National Geodetic Vertical Datum (NGVD) (see Nichols, D.R., and N. A. Wright. 1971. Preliminary map of historic margins of marshland, San Francisco Bay, California. U.S. Geological Survey Open File Map)). The notification shall explain how avoidance and minimization of losses of waters or wetlands are taken into consideration to the maximum extent practicable (see General Condition 23).
2. Notification to the Corps (in accordance with General Condition No. 31) is required for any activity permitted by NWP if it will take place in waters or wetlands of the U.S. that are within the **Santa Rosa Plain** (see figure 2). The notification will explain how avoidance and minimization of losses of waters or wetlands are taken into consideration to the maximum extent practicable in accordance with General Condition No. 23.
3. Notification to the Corps (in accordance with General Condition No. 31), including a compensatory mitigation plan, habitat assessment, and extent of proposed-project impacts

to Eelgrass Beds are required for any activity permitted by NWP if it will take place within or adjacent to **Eelgrass Beds**.

**C. Regional Conditions that apply to specific NWPs in the San Francisco District:**

**3. MAINTENANCE:**

1. To the extent practicable, excavation equipment shall work from an upland site (e.g., from the top of the bank, the road bed of the bridge, or culverted road crossing) to minimize adding fill into waters of the U.S. If it is not practicable to work from an upland site, or if working from the upland site would cause more environmental damage than working in the stream channel, the excavation equipment can be located within the stream channel but it must minimize disturbance to the channel (other than the removal of accumulated sediments or debris). As part of the notification to the Corps (in accordance with General Condition No. 31), an explanation as to the need to place excavation equipment in waters of the U.S. is required, as well as a statement of any additional necessary fill (e.g., cofferdams, access road, fill below the OHW mark for a staging area, etc.).
2. If the activity is proposed in a special aquatic site, the notification to the Corps (in accordance with General Condition No. 31) shall include an explanation of why the special aquatic site cannot be avoided, and the measures to be taken to minimize impacts to the special aquatic site.

**11. TEMPORARY RECREATIONAL STRUCTURES:**

1. Notification to the Corps (in accordance with General Condition No. 31) is required if any temporary structures are proposed in wetlands or vegetated shallow water areas (e.g. in eelgrass beds). The notification shall include the type of habitat and areal extent affected by the structures.

**12. UTILITY LINE ACTIVITIES:**

1. Excess material removed from a trench, associated with utility line construction, shall be disposed of at an upland site away from any wetlands or other waters of the U.S. so as to prevent this material from being washed into aquatic areas.
2. This NWP permit does not authorize the construction of substation facilities. Utility line substations can usually be constructed in uplands.

**13. BANK STABILIZATION:**

1. Notification to the Corps (in accordance with General Condition No. 31) is required for all activities stabilizing greater than 300 linear feet of channel. Where the removal of wetland vegetation (including riparian wetland trees, shrubs and other plants) or submerged, rooted, aquatic plants over a cumulative area greater than 1/10 acre or 300 linear feet is proposed, the Corps shall be notified (in accordance with General Condition No. 31). The notification shall include the type of vegetation and extent (e.g., areal dimension or number of trees) of the proposed removal. The notification shall also address the effect of the bank stabilization on the stability of the opposite side of the streambank (if it is not part of the stabilization activity), and on adjacent property upstream and downstream of the activity.
2. This permit allows excavating a toe trench in waters of the U.S., and, if necessary, to use the material for backfill behind the stabilizing structure. Excess material is to be disposed of in a manner that will have only minimal impacts to the aquatic environment. The notification to the Corps (in accordance with General Condition No. 31) shall include location of the disposal site.
3. For man-made banks, roads, or levees damaged by storms or high flows, the one cubic yard per running foot limit is counted only for that additional fill which encroaches (extends) beyond the pre-flood or pre-storm shoreline condition of the waterway. It is not counted for

the fill that would be placed to reconstruct the original dimensions of the eroded, man-made shoreline.

4. For natural berms and banks, the one cubic yard per running foot limit applies to any added armoring.
5. To the maximum extent practicable, any new or additional bank stabilization must incorporate structures or modifications beneficial to fish and wildlife (e.g., soil bioengineering or biotechnical design, root wads, large woody debris, etc.). Where these structures or modifications are not used, the applicant shall demonstrate why they were not considered practicable.

**14. LINEAR TRANSPORTATION PROJECTS:**

1. Notification to the Corps (in accordance with General Condition No. 31) is required for all projects filling greater than 300 linear feet of channel. For projects involving greater than 300 linear feet of bank stabilization, the project proponent shall address the effect of the bank stabilization on the stability of the opposite side of the streambank (if it is not part of the stabilization activity), and on adjacent property upstream and downstream of the activity.
2. This permit does not authorize construction of new airport runways and taxiways.
3. If this NWP has been used to authorize previous project segments within the same linear transportation project, justification must be provided demonstrating that the cumulative impacts of the proposed and previously authorized project segments do not result in more than minimal impacts to the aquatic system.
4. To the maximum extent practicable, any new or additional bank stabilization required for the crossing must incorporate structures or modifications beneficial to fish and wildlife (e.g., soil bioengineering or biotechnical design, root wads, large woody debris, etc.). Where these structures or modifications are not used, the applicant shall demonstrate why they were not considered practicable. Bottomless and embedded culverts are encouraged over traditional culvert stream crossings.

**23. APPROVED CATEGORICAL EXCLUSIONS:**

1. Use of this NWP requires notification to the Corps (in accordance with General Condition No. 31). The notification shall include the following:
  - a. A copy of the Federal Categorical Exclusion (Cat/Ex) document signed by the appropriate federal agency. If the Cat/Ex is signed by a state or local agency representative instead of by a federal agency representative, then copies of all documentation authorizing alternative agency signature shall be provided.
  - b. Written description of Corps authority (e.g., Section 10 of the Rivers and Harbors Act and/or Section 404 of the Clean Water Act.);
  - c. a list of conditions described in the Cat/Ex and/or attachments outlining measures that must be taken prior to, during, or after project construction to minimize impacts to the aquatic environment;
  - d. a copy of the jurisdictional delineation performed by qualified specialists showing the project limits and the location (delineated boundaries) of Corps jurisdiction within the overall project limits;
  - e. map(s) showing the locations of potentially permanent and temporary project impacts to areas within Corps jurisdiction;

- f. a clear and concise description of all project impacts including, but not necessarily limited to:
    - 1. quantification and description of permanent project impacts to areas within Corps jurisdiction,
    - 2. quantification and description of temporary impacts to areas within Corps jurisdiction, and
    - 3. linear extent of Corps jurisdiction affected by the project;
  - g. a general description of activities covered by the Cat/Ex that do not require Corps authorization but are connected or related to the activities in Corps jurisdiction;
  - h. a complete description of any proposed mitigation and/or restoration including, but not necessarily limited to, locations of any proposed planting, short- and long-term maintenance, proposed monitoring, success criteria and contingency plans;
  - i. written justification of how the project complies with the Nationwide Permit Program including less than minimal impact to the aquatic environment and compliance with the General Conditions.
  - j. For Federal Highway Administration (FHWA) Cat/Ex projects, the notification should describe how activities described in the Cat/Ex meet the description of the Cat/Ex project published in the August 28, 1987 Federal Register part 771.117 (a)(b)(c) and (d) (Volume 52, No. 167) or any updated version published in the Federal Register.
2. Only activities specifically described in the Cat/Ex project description will be covered by the NWP 23 authorization. If other activities not described in the Cat/Ex project description will be performed (e.g., dewatering, slope protection, etc.), these activities must receive separate NWP authorizations.
  3. Notification to the Corps (in accordance with General Condition 31) must include a copy of the signed Cat/Ex document and final agency determinations regarding compliance with Section 7 of the Endangered Species Act (ESA), Essential Fish Habitat (EFH) under the Magnusen-Stevens Act, and Section 106 of the National Historic Preservation Act.

**27. Aquatic Habitat Restoration, Establishment, and Enhancement Activities**

1. Notification to the Corps (in accordance with General Condition 31) must include documentation of a review of project impacts to demonstrate that at the conclusion of the work that the project would result in a net increase in aquatic function. Additionally, the documentation must include a review of project impacts on adjacent properties or structures and must also discuss cumulative impacts associated with the project.

**29. Residential Developments:**

1. When discharge of fill results in the replacement of wetlands or waters of the U.S. with impervious surfaces, to ensure that the authorized activity does not result in more than minimal degradation of water quality (in accordance with General Condition 25), the residential development shall incorporate low impact development concepts (e.g. native landscaping, bioretention and infiltration techniques, and constructed green spaces) to the extent practicable. A description of the low impact development concepts proposed in the project shall be included with the permit application. More information including low impact development concepts and definitions is available at the following website:  
<http://www.epa.gov/owow/NPS/lid/>.
2. Use of this NWP is prohibited within the San Francisco Bay diked baylands (undeveloped areas currently behind levees that are within the historic margin of the Bay. Diked historic baylands are those areas on the Nichols and Wright map (see figure 1) below the 5-foot

contour line, National Geodetic Vertical Datum (NGVD) (see Nichols, D.R., and N. A. Wright. 1971. Preliminary map of historic margins of marshland, San Francisco Bay, California. U.S. Geological Survey Open File Map)).

### **33. TEMPORARY CONSTRUCTION, ACCESS, AND DEWATERING:**

1. Access roads shall be designed to be the minimum width necessary and shall be designed to minimize changes to the hydraulic flow characteristics of the stream and degradation of water quality (in accordance with General Conditions 9 and 25). The following Best Management Practices (BMPs) shall be followed to the maximum extent practicable to ensure that flow and circulation patterns of waters are not impaired and adverse effects on the aquatic environment will be kept to a minimum:
  - a. The road shall be properly stabilized and maintained during and following construction to prevent erosion.
  - b. Construction of the road fill shall occur in a manner that minimizes the encroachment of trucks, tractors, bulldozers, or other heavy equipment within waters of the United States (including adjacent wetlands) that lie outside the lateral boundaries of the fill itself.
2. Vegetative disturbance in the waters of the U.S. shall be kept to a minimum.
3. Borrow material shall be taken from upland sources whenever feasible.
4. Stream channelization is not authorized by this NWP.

### **35. MAINTENANCE DREDGING OF EXISTING BASINS:**

1. Use of this NWP will require notification to the Corps (in accordance with General Condition No. 31). The notification information should be provided on the Consolidated Dredging-Dredged Material Reuse/Disposal Application. This application and instructions for its completion can be found on our web site at: <http://www.spn.usace.army.mil/conops/applications.html>. The information must include the location of the proposed upland disposal site. A jurisdictional delineation of the proposed upland disposal site prepared in accordance with the current method required by the Corps may also be required.
2. The U.S. Coast Guard will be notified by the permittee at least 14 days before dredging commences if the activity occurs in navigable waters of the U.S. (Section 10 waters).
3. The permittee will be required to provide the following information to the Corps:
  - a. Dredge Operation Plan: Submit, for approval by this office, no earlier than 60 calendar days and no later than 20 calendar days before the proposed commencement of dredging, a plan which includes the following: **Corps file number**, a copy of the dredging contract or description of the work under which the contractor will do the permitted work; name and telephone numbers of the dredging contractor's representative on site; proposed dredging start and completion dates; quantity of material to be removed; dredging design depth and typical cross section including overdepth; and date of last dredging episode and design depth. The Dredge Operational Plan shall also provide the following information: The controls being established to insure that dredging operations occur within the limits defined by the basin or channel dimensions and typical channel section.
  - b. Pre-Dredge Survey: Submit no earlier than 60 calendar days and no later than 20 calendar days before commencement of dredging, a survey with accuracy to one-tenth foot that delineates and labels the following: areas to be dredged with overdepth allowances; existing depths; estimated quantities to be dredged to the design depth; and

estimated quantities for overdepth dredging. **All surveys shall be signed by the permittee to certify their accuracy. Please include the Corps file number.**

- c. Solid Debris Management Plan: Submit no earlier than 60 calendar days and no later than 20 calendar days before commencement of work, a plan which describes measures to ensure that solid debris generated during any dredging operation is retained and properly disposed in areas not under Corps jurisdiction. **At a minimum, the plan shall include the following: source and expected type of debris; debris retrieval method; Corps file number; disposal method and site; schedule of disposal operations; and debris containment method to be used, if floatable debris is involved. (Please note that failure to provide all of the information requested in a, b, and c above may result in delays to your project. When your Dredge Operation Plan has been approved, you will receive a written authorization to commence with your project.)**
  
- d. Post-Dredge Survey: Submit, **within 30 days of the last disposal activity** (“last” is defined as that activity after which no further activity occurs for 15 calendar days), a survey with accuracy to one-tenth foot that delineates and labels the areas dredged and provides the dredged depths. **Also, include the Corps file number, actual dates of dredging commencement and completion, actual quantities dredged for the project to the design depth, and actual quantities of overdepth.** The permittee shall substantiate the total quantity dredged by including calculations used to determine the volume difference (in cubic yards) between the Pre- and Post-Dredge Surveys and **explain any variation in quantities greater than 15% beyond estimated quantities or dredging deeper than is permitted (design plus overdepth allowance). All surveys shall be accomplished by a licensed surveyor and signed by the permittee to certify their accuracy.** A copy of the post dredge survey should be sent to the National Ocean Service for chart updating:  
NOAA/National Ocean Service,  
Nautical Data Branch  
N/CS26, SSMC3, Room 7230  
1315 East-West Highway  
Silver Spring, Maryland 20910-3282.
  
- e. **The permittee or dredge contractor shall inform this office when: 1) a dredge episode actually commences, 2) when dredging is suspended (suspension is when the dredge contractor leaves the dredge site for more than 48 hours for reasons other than equipment maintenance), 3) when dredging is restarted, and 4) when dredging is complete. Each notification should include the Corps file number.** Details for submitting these notifications will be provided in the verification letter (to whom and how).

### **39. Commercial and Institutional Developments:**

- 1. When discharge of fill results in the replacement of wetlands or waters of the U.S. with impervious surfaces, to ensure that the authorized activity does not result in more than minimal degradation of water quality (in accordance with General Condition 25), the commercial and institutional development shall incorporate low impact development concepts (e.g. native landscaping, bioretention and infiltration techniques, and constructed green spaces) to the extent practicable. A description of the low impact development concepts proposed in the project shall be included with the permit application. More information including low impact development concepts and definitions is available at the following website: <http://www.epa.gov/owow/NPS/lid/>.
  
- 2. Use of this NWP is prohibited within the San Francisco Bay diked baylands (undeveloped areas currently behind levees that are within the historic margin of the Bay. Diked historic baylands are those areas on the Nichols and Wright map (see figure 1) below the 5-foot

contour line, National Geodetic Vertical Datum (NGVD) (see Nichols, D.R., and N. A. Wright. 1971. Preliminary map of historic margins of marshland, San Francisco Bay, California. U.S. Geological Survey Open File Map)).

**40. AGRICULTURAL ACTIVITIES:**

1. This NWP does not authorize discharge of fill into the channel of a perennial or intermittent watercourse that could impede high flows. This limitation does not apply to watercourses that flow only when there is an irregular, extraordinary flood event.

**41. RESHAPING EXISTING DRAINAGE DITCHES:**

1. Compensatory mitigation may be required if the Corps determines there will be a detrimental impact to aquatic habitat.
2. Notification to the Corps (in accordance with General Condition 31) is required if the applicant proposes to re-grade, discharge, install channel lining, or redeposit fill material.
3. The notification to the Corps (in accordance with General Condition 31) shall include an explanation of the project's benefit to water quality and a statement demonstrating the need for the project.

**42. RECREATIONAL FACILITIES:**

1. If buildings are proposed to be built in waters of the United States, including wetlands, the applicant must demonstrate that there is no on-site practicable alternative that is less environmentally damaging as defined by the Section 404(b)(1) guidelines.





## **WATER QUALITY**

California Regional Water Quality Control Board, North Coast Region

Board Order No. WDID No. 1B15133WNHU

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## North Coast Regional Water Quality Control Board

November 20, 2015

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### In the Matter of Water Quality Certification

for

**State Route 96 Sugar Bowl Ranch Curve Project  
41.003, -123.6489<sup>1</sup>  
WDID No. 1B15133WNHU, ECM PIN CW-816418  
Caltrans EA No. 01-0A900, EFIS No. 01-1200-0001**

APPLICANT: California Department of Transportation  
RECEIVING WATER: Trinity River  
HYDROLOGIC AREA: Hoopa Hydrologic Sub Area No. 116.11  
COUNTY: Humboldt  
FILE NAME: CDOT Highway 96 PM R 6.2-6.6 Sugar Bowl Ranch Curve  
Realignment Project

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#### FINDINGS BY THE EXECUTIVE OFFICER:

1. On September 28, 2015, 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, section 401, Water Quality Certification (certification) for activities related to the proposed State Route 96 Sugar Bowl Ranch Curve Project (Project).

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<sup>1</sup> WGS84 datum

2. **Receiving Waters:** The proposed Project would cause disturbances to tributaries of the Trinity River (Basin Planning Area No. 116.11, Hoopa Hydrologic Sub Area).
3. **Public Notice:** The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on August 6, 2015, and posted information describing the Project on the Regional Water Board's website. No comments were received.
4. **Project Description:** The purpose of the Project is to reduce the frequency and severity of collisions by improving curve radii and increasing shoulder width through the Project area. The Project area is on State Route 96 (SR 96) through Humboldt County between post-miles (PM) 6.2 and 6.6. The scope of the proposed work includes realigned curves, widened shoulders, three culvert replacements, and installation of a bonded wear course road surface overlay. Caltrans is proposing the following activities at these specific locations:
  - PM 6.2-6.6: Reconstruct and widen the existing roadway to provide 4-foot shoulders, restripe roadway, install asphalt concrete dikes, shoulder backing, and centerline and shoulder rumble strips;
  - PM R6.3-R6.40: Realign curves
  - PM R6.36-R6.39 and PM 6.43-6.47: Construct overside drains and two biofiltration swales;
  - PM R6.29-R6.33 and R6.46-6.58: Construct guardrail;
  - PM R6.25: Remove existing 24-inch corrugated metal pipe and replace in-kind with a 24-inch culvert;
  - PM R6.31: Replace existing 18-inch culvert with a 24-inch corrugated metal pipe culvert, construct new culvert inlet and outlet, construct a downdrain, and place rock energy dissipation (riprap) at the downdrain outlet;
  - PM R6.37: Line the existing 48-inch culvert with a high density polyethylene slipliner, and replace the flared-end section of the culvert inlet with a headwall; and
  - PM 6.46: Replace the existing 24-inch culvert with a 36-inch corrugated metal pipe, construct new flared-end sections at culvert inlet and outlet, and place riprap at the culvert outlet.

The maximum depth of Project excavation would be approximately 125 feet. Approximately 51,000 cubic yards of excess material would be removed and hauled to the Hoopa Valley Aggregates Disposal Site. Vegetation and tree removal would be required for the realignment as well as to facilitate access by construction equipment and personnel. One-way reversing traffic control would also be required during construction. Staging would be located on paved roadway, existing pullouts, and private property within the Project limits.

5. **Construction Timing:** The Project is expected to require 70 days of construction. The Project is proposed to begin in the spring of 2016, and be completed in the fall of 2017.
6. **Project Impacts:** The proposed Project would result in approximately 48 linear feet (0.009 acres) of permanent impacts to jurisdictional waters due to placement of riprap. The proposed Project would result in approximately 50 linear feet (0.007 acres) of temporary impacts to jurisdictional waters due to culvert construction activities. The proposed Project may also result in removal of two white alders for construction access.

Project implementation would result in approximately 0.24 acres of new and approximately 0.76 acres of reworked impervious surface. Storm water runoff from roadway impervious surfaces carries pollutants such as petroleum hydrocarbons and metals.

7. **Mitigation for Project Impacts:** To compensate for 48 linear feet (0.009 acres) of permanent impacts to jurisdictional waters, Caltrans is proposing to remove invasive Himalayan blackberry and plant native sword fern (*Polystichum munitum*) on 0.046 acres at PM R6.37. Caltrans shall revegetate temporarily impacted areas.
8. **Disturbed Soil Area:** Project implementation would result in greater than one acre of disturbed soil area. Caltrans shall apply for coverage under the National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ) and prepare a Stormwater Pollution Prevention Plan detailing best management practices (BMPs) to control pollution from the Project area during construction. All temporarily disturbed areas within the Project area shall be appropriately stabilized and/or replanted with appropriate native vegetation.
9. **Utility Relocations:** Utility relocations affecting jurisdictional waters are not proposed for this Project.
10. **Other Agency Actions:** Caltrans has applied for coverage under a non-reporting U.S. Army Corps of Engineers Nationwide Permit No. 14, *Linear Transportation Projects*, pursuant to section 404 of the Clean Water Act. Caltrans has applied for a Section 1600 Streambed Alteration Agreement from the California Department of Fish and Wildlife.
11. **CEQA Compliance:** On April 22, 2015, Caltrans signed a Notice of Determination approving a Mitigated Negative Declaration for the Project (State Clearinghouse No. 2015021063) in order to comply with the California Environmental Quality Act.
12. **Total Maximum Daily Load:** The Project is within the Lower Trinity River hydrologic area. The Lower Trinity River watershed is included on the Clean Water Act section

303(d) list as impaired for sediment and temperature. The TMDL identifies Caltrans facilities as a contributor to sediment in the watershed and recommends implementation of erosion control measures set forth in the Caltrans statewide National Pollutant and Discharge Elimination System storm water permit and implementation of routine maintenance measures to minimize sediment delivery. Caltrans would be required to obtain coverage under the statewide construction general permit to control sediment delivery during construction. The Project certification would include a requirement to install a biofiltration swale to capture roadway pollutants after construction is completed.

**13. Antidegradation Policy:** The federal antidegradation policy requires that State water quality standards include an antidegradation policy consistent with the federal policy. The State Water Board established California's antidegradation policy in State Water Board Resolution No. 68-16. Resolution No. 68-16 incorporates the federal antidegradation policy where the federal policy applies under federal law. Resolution No. 68-16 requires that existing quality of waters be maintained unless degradation is justified based on specific findings. The Regional Water Board's Basin Plan implements, and incorporates by reference, both the State and federal antidegradation policies. This certification is consistent with applicable federal and State antidegradation policies, as it does not authorize the discharge of increased concentrations of pollutants or increased volumes of treated wastewater, and does not otherwise authorize degradation of the waters affected by this Project.

14. This discharge is also regulated under 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," which requires compliance with all conditions of this certification. A weblink to this Order is included at the end of this certification.

Receiving Water:	Lower Trinity River (Hoopa Hydrologic Sub Area No. 116.11)	
Filled and/or Excavated Areas:	Permanent – jurisdictional waters	48 linear feet (0.009 acres)
	Temporary – jurisdictional waters	50 linear feet (0.007 acres)
Dredge Volume:	none	
Latitude/Longitude:	41.003, -123.6489	

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the State Route 96 Sugar Bowl Ranch Curve Project (WDID No. 1B15133WNHU), 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:

**All conditions of this certification apply to Caltrans (and all its employees) and all contractors (and their employees), sub-contractors (and their employees), and any other entity or agency that performs activities or work on the Project as related to this Water Quality Certification.**

### **Project-Specific Conditions**

1. To compensate for approximately 48 linear feet (0.009 acres) of permanent impacts to jurisdictional waters, Caltrans shall remove invasive Himalayan blackberry and plant native sword fern (*Polystichum munitum*) on 0.046 acres at PM R6.37. In addition, Caltrans shall replace white alders removed during construction activities at a 3:1 ratio.

### **Project-Specific Conditions Requiring Reports**

2. Caltrans shall implement the *Simple Revegetation Plan (Plan)*, dated September 2015. Upon completion of mitigation construction, Caltrans shall submit a report with photos documenting the completed restoration activities no later than January 1, 2018. Additionally, Caltrans shall submit monitoring reports on years 1, 3, and 5, following the revegetation completion date. The monitoring reports shall include photos, plant counts, and success criteria for survival counts consistent with the revegetation plan. Monitoring reports shall use the following performance and success criteria for survival counts from the *Plan*:
  - i) Year 1: At least 70% of installed container plants will be alive in monitoring year 1, with at least 3 surviving plants (including volunteers) being white alder;
  - ii) Year 3: At least 60% of installed container plants will be alive in monitoring year 3, with at least 3 surviving plants (including volunteers) being white alder; and
  - iii) Year 5: At least 50% of installed container plants will be alive in monitoring year 5, with at least 2 surviving plants (including volunteers) being white alder.

### **Standard Conditions**

3. Herbicides and other pesticides shall not be used within the Project limits. If Caltrans has a compelling case as to why pesticides should be used, then a request for pesticide use and a BMP plan may be submitted to the Regional Water Board staff for review and acceptance.
4. All Project activities and BMPs shall be implemented according to the submitted application package and the findings and conditions of this certification. Subsequent changes to the Project that could significantly impact water quality shall first be submitted to Regional Water Board staff for prior review, consideration, and written

### **Standard Conditions (continued)**

concurrency. If the Regional Water Board is not notified of an alteration to the Project that results in an impact to water quality, it will be considered a violation of this certification, and Caltrans may be subject to Regional Water Board enforcement actions.

5. All conditions required by this certification shall be included in the Contract Documents prepared by Caltrans for the contractor. In addition, Caltrans shall require compliance with all conditions included in this certification in the bid contract for this Project.
6. Caltrans is prohibited from discharging waste to waters of the State, unless explicitly authorized by this certification. For example, no debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete or concrete washings, welding slag, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature, shall be allowed to enter into State waters.
7. Except for temporary stockpiling of waste generated during demolition operations ("temporary" in this instance means generated and removed during the same working day), waste materials shall not be placed in a manner where the materials may be transported into waters of the State. Waste materials shall not be placed within 100 linear feet of State waters. Exceptions to the 100-foot limit may be granted on a case-by-case basis provided Caltrans first submits a proposal in writing that is found acceptable by Regional Water Board staff.
8. Caltrans is liable and responsible for the proper disposal, reuse, and/or recycling of all Project-generated waste in compliance with applicable State and Federal laws and regulations, and as described in Caltrans 2010 Standard Specifications 13-4.03D, Waste Management. Additionally, when handling, transporting, disposing, reusing, and/or recycling Project-generated waste, Caltrans and their contractors shall:
  - i) Provide the Regional Water Board with a copy of the Solid Waste Disposal and Recycling Report prepared for Caltrans by the contractor per Caltrans 2010 Standard Specification 14-10.02A(1), Submittals. These reports shall be provided not later than January 31 for each year work is performed during the previous calendar year. A copy of the final Solid Waste Disposal and Recycling Report shall be submitted to the Regional Water Board within 30 days after being received by Caltrans from the contractor.
  - ii) For waste other than solid waste, obtain evidence that waste has been appropriately disposed, reused, and/or recycled. Evidence shall include type and quantity of waste and may include, but not be limited to, property owner agreements, permits, licenses, and environmental clearances. Evidence shall be provided to the Regional Water Board upon request; and
  - iii) For waste other than solid waste, ensure the Resident Engineer has given

**Standard Conditions (continued)**

written permission for disposal, reuse, and/or recycling, prior to the actual disposal, reuse, and/or recycling.

9. Asphalt-concrete grindings shall not be placed in any location where they may, at any time, be directly exposed to surface waters or seasonally high ground water, except asphalt-concrete grindings may be re-used and incorporated into hot mix asphalt products or encapsulated within the roadway structural section.
10. Caltrans and their contractors shall comply with the activity restrictions detailed in Caltrans 2010 Standard Specifications 13-4.03C(1). In addition, fueling, maintenance, storage and staging of vehicles and equipment shall be prohibited within waters of the State (e.g., gravel bars, seeps, ephemeral streams) and riparian areas.
11. Fueling, maintenance, and/or staging of individual equipment types within waters of the State or riparian areas may be authorized if Caltrans first prepares a plan for review and approval by Regional Water Board staff that:
  - i) Identifies the specific piece of machinery that may require fueling, maintenance, and/or staging within waters of the State or riparian areas;
  - ii) Provides justification for the need to refuel, maintain, or stage within State waters or riparian areas. The justification shall describe why conducting the activity outside of jurisdictional waters is infeasible; and
  - iii) Includes a narrative of specific BMPs that shall be employed to prevent discharges to State waters and riparian areas;
12. Caltrans shall not use leaking vehicles or equipment within State waters or riparian areas.
13. Only 100-percent biodegradable erosion and sediment control products that will not entrap or harm wildlife shall be used. Photodegradable synthetic products are not considered biodegradable. If Caltrans finds that erosion control netting or products have entrapped or harmed wildlife, personnel shall remove the netting or product and replace it with wildlife-friendly biodegradable products. This condition does not prohibit the use of plastic sheeting used in water diversion or dewatering activities. Caltrans shall request approval from the Regional Water Board if an exception to this requirement is needed for a specific location.
14. Work in flowing or standing surface waters, unless otherwise proposed in the project description and approved by the Regional Water Board, is prohibited.
15. Non-stormwater discharges are prohibited unless the discharge is first approved by the

### **Standard Conditions (continued)**

Regional Water Board and in compliance with the Basin Plan. If dewatering of groundwater is necessary, then Caltrans shall use a method of water disposal other than disposal to ground or surface waters, such as land disposal. Groundwater disposed of to land shall not enter State waters. Alternatively, Caltrans may apply for coverage under the Low Threat Discharge Permit or an individual National Pollutant Discharge Elimination System (NPDES) Permit. If Caltrans applies for coverage under either of these permits, then discharge is prohibited until Caltrans has received notification of coverage under the respective permit.

16. Gravel bags used within State waters shall:

- i) Comply with Caltrans 2010 Standard Specifications sections 13-5.02G and 88-1.02F;
- ii) Be immediately removed and replaced if the bags have developed or are developing holes or tears; and
- iii) Be filled only with clean washed gravel.

Exceptions to these criteria are subject to the review and acceptance of Regional Water Board staff.

17. This certification does not authorize drafting of surface waters.

18. Caltrans shall provide access to the Project construction site upon request by Regional Water Board staff.

19. Initial water pollution control training described in Caltrans 2010 Standard Specifications 13-1.01D(2), Training, shall apply to all Caltrans employees, contractors, and sub-contractors. Initial water pollution control training topics shall include Regional Water Board 401 certification and construction general permit requirements, identification of state waters and riparian areas, and violation avoidance and discharge reporting procedures.

20. Caltrans shall maintain logs of all Caltrans staff, contractors, and sub-contractors trained pursuant to the Caltrans 2010 Standard Specifications 13-1.01D(2). The logs shall include the names of trainees, training dates, and summary of the scope of training. Caltrans shall provide evidence of this documentation upon the request of the Regional Water Board.

21. If an unauthorized discharge to surface waters (including wetlands, rivers or streams) occurs, or any other threat to water quality arises as a result of Project implementation, the associated Project activities shall cease immediately until the threat to water quality is otherwise abated. If there is a discharge to State waters, the Regional Water

### **Standard Conditions (continued)**

Board shall be notified no more than 24 hours after the discharge occurs.

22. Uncured concrete shall not be exposed to State waters or surface waters that may discharge to State waters. Concrete sealants may be applied to the concrete surface where difficulty in excluding flow for a long period may occur. If concrete sealant is used, water shall be excluded from the site until the sealant is cured. If groundwater comes into contact with fresh concrete, it shall be prevented from flowing towards surface water.
23. Ground and surface water that has come into contact with fresh concrete, and all other wastewater, shall not be discharged to State waters or to a location where it may discharge to State waters; the wastewater shall be collected and re-used or disposed of in a manner approved by the Regional Water Board.
24. All imported fill material shall be clean and free of pollutants. All fill material shall be imported from a source that has the appropriate environmental clearances and permits. The reuse of low-level contaminated solids as fill on-site shall be performed in accordance with all State and Federal policies and established guidelines and must be submitted to the Regional Water Board for review and consideration of acceptance.
25. Caltrans shall provide a copy of this certification and State Water Resources Control Board (SWRCB) Order No. 2003-0017-DWQ (web link referenced below) 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 and subcontractors.
26. The validity of this certification is conditioned upon total payment of any fee required under title 23, California Code of Regulations, section 3833. The total application fee is \$200. The Regional Water Board received \$200 from Caltrans on September 29, 2015.
27. This certification will be subject to annual billing during the construction phase ("Annual Active Discharge Fee") and during the monitoring phase of the Project ("Annual Post Discharge Monitoring Fee"), per the current fee schedule, which can be found on our website:  
[http://www.swrcb.ca.gov/northcoast/water\\_issues/programs/water\\_quality\\_certification.shtml](http://www.swrcb.ca.gov/northcoast/water_issues/programs/water_quality_certification.shtml). These fees will be automatically invoiced to Caltrans.
28. Caltrans shall notify the Regional Water Board upon Project construction completion to request termination of the Annual Active Discharge Fee and to receive a "Notice of Completion of Discharges Letter." If the Project is subject to the Annual Post Discharge Monitoring Fee, then Caltrans shall also notify the Regional Water Board at the end of the monitoring period to request termination of the fee and receive a "Notice of Project

### **Standard Conditions (continued)**

Complete Letter.” Caltrans may be required to submit completion reports at the end of each of these phases. Regional Water Board staff may request site visits at the end of each Project phase to confirm Project status and compliance with this certification.

29. 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.
30. 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 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 certification. 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 certification 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 certification, the Regional Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.
31. 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.
32. This certification is not transferable. In the event of any change in control of ownership of land presently owned or controlled by Caltrans, Caltrans shall notify the successor-in-interest of the existence of this certification 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 certification to discharge dredged or fill material under this certification. The request must contain the following:
  - i) Requesting entity’s full legal name;
  - ii) The state of incorporation, if a corporation;

**Standard Conditions (continued)**

- iii) The address and phone number of contact person; and
- iv) A description of any changes to the project or confirmation that the successor-in-interest intends to implement the project as described in this certification.

33. Except as may be modified by any preceding conditions, all certification actions are contingent on:

- i) The discharge being limited, and all proposed revegetation, avoidance, minimization, and mitigation measures being completed, in strict compliance with Caltrans's project description and CEQA documentation, as approved herein;
- ii) Caltrans shall construct the Project in accordance with the project described in the application and the findings above; and
- iii) Compliance with all applicable water quality requirements and water quality control plans including the requirements of the Water Quality Control Plan for the North Coast Region (Basin Plan), and amendments thereto.

Any change in the design or implementation of the Project that would have a significant or material effect on the findings, conclusions, or conditions of this certification must be submitted to the Executive Officer of the Regional Water Board for prior review, consideration, and written concurrence. If the Regional Water Board is not notified of a significant alteration to the project, it will be considered a violation of this certification, and Caltrans may be subject to Regional Water Board enforcement actions.

34. The authorization of this certification for any dredge and fill activities expires five years from the date of this certification. Conditions and monitoring requirements outlined in this certification are not subject to the expiration date outlined above, and remain in full effect and are enforceable.

**Condition 2 is a requirement for information and reports.** Any requirement for a report made as a condition to this certification is a formal requirement pursuant to California Water Code section 13267, and failure or refusal to provide, or falsification of such required report is subject to civil liability as described in California Water Code, Section 13268.

The Regional Water Board may add to or modify the conditions of this certification, 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.

Please contact our staff Environmental Scientist, Brandon Stevens at (707) 576-2377, or via e-mail, at [Brandon.Stevens@waterboards.ca.gov](mailto:Brandon.Stevens@waterboards.ca.gov), if you have any questions.

 Digitally signed by Fred Blatt  
for  Date: 2015.11.20 15:08:16  
-08'00'

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Matthias St. John  
Executive Officer

151120\_BDS\_dp\_CDOT\_SugarBowlRanchCurve\_401

Original to: Mr. Troy Arseneau, Caltrans, District 1, 1656 Union Street, Eureka, CA 95501  
[Troy.Arseneau@dot.ca.gov](mailto:Troy.Arseneau@dot.ca.gov)

cc: Holly Costa, U.S. Army Corps of Engineers [Holly.N.Costa@usace.army.mil](mailto:Holly.N.Costa@usace.army.mil)  
Richard Lis, California Department of Fish and Wildlife [Richard.Lis@wildlife.ca.gov](mailto:Richard.Lis@wildlife.ca.gov)  
State Water Resources Control Board [Stateboard401@waterboards.ca.gov](mailto:Stateboard401@waterboards.ca.gov)  
Environmental Protection Agency, Region 9 [R9-WTR8-Mailbox@epa.gov](mailto:R9-WTR8-Mailbox@epa.gov)  
Allison Kunz, Caltrans [Allison.Kunz@dot.ca.gov](mailto:Allison.Kunz@dot.ca.gov)

## **AGREEMENTS**

California Department of Fish and Wildlife

Notification No. 1600-2015-0409-R1



California Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Region 1 - Northern  
601 Locust Street  
Redding, CA 96001  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

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



November 24, 2015

Mr. Troy Arseneau  
California Department of Transportation  
1656 Union Street  
Eureka, CA 95501

Subject: Final Lake or Streambed Alteration Agreement  
Notification No. 1600-2015-0409-R1  
Sugar Bowl Ranch Curve Project

Dear Mr. Arseneau:

Enclosed is the final Streambed Alteration Agreement (Agreement) for the Sugar Bowl Ranch Curve Project (Project). Before the California Department of Fish and Wildlife (Department) may issue an Agreement, it must comply with the California Environmental Quality Act (CEQA). In this case, the Department, acting as a responsible agency, filed a Notice of Determination (NOD) within five working days of signing the Agreement. The NOD was based on information contained in the Mitigated Negative Declaration prepared by the lead agency.

Under CEQA, the filing of an NOD triggers a 30-day statute of limitations period during which an interested party may challenge the filing agency's approval of the Project. You may begin the Project before the statute of limitations 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 Richard Lis, Senior Environmental Scientist Specialist at 530-225-2142 or [Richard.Lis@wildlife.ca.gov](mailto:Richard.Lis@wildlife.ca.gov).

Sincerely,

A handwritten signature in blue ink that reads "Richard Lis".

Richard Lis  
Senior Environmental Scientist Specialist

**Notice of Determination**

**TO:**  Office of Planning and Research **FROM:** California Department of Fish and Wildlife  
Region 1 - Northern  
601 Locust Street  
Redding, CA 96001  
Contact: Richard Lis  
Phone: (530) 225-2142

*For U.S. Mail:*  
P.O. Box 3044  
Sacramento, CA 95812-3044

**Street Address:**  
1400 Tenth Street  
Sacramento, CA 95814

**LEAD AGENCY (if different from above):**  
Caltrans  
703 B Street  
Marysville, CA 95901  
Contact: Adele Pommerenck  
Phone: (530) 741-4215

**SUBJECT: Filing of Notice of Determination pursuant to § 21108 of the Public Resources Code**

State Clearinghouse Number: 2015022045

Project Title: Lake or Streambed Alteration Agreement No. 1600-2015-0409-R1

Project Location: The project is located along State Route 96, between post mile 6.2 and 6.6, approximately 6.2 miles north of the town of Willow Creek and south of the town of Hoopa, in the County of Humboldt, State of California. Location is at T7N, R5E, sec's. 5, 6, 7, and 8, Humboldt Meridian.

Project Description: The project's primary elements are to realign curves, widen shoulders, construct rail element walls, remove and replace culverts, install guardrail and repave the section of highway 96 between post mile 6.2 and 6.6.

This is to advise that the California Department of Fish and Wildlife (CDFW), acting as  the lead agency /  a responsible agency approved the above-described project on the date signed below and has made the following determinations regarding the above described project:

1. The project  will /  will not have a significant effect on the environment. (This determination is limited to effects within CDFW's jurisdiction when CDFW acts as a responsible agency.)
  2.  An environmental impact report (EIR) /  A negative declaration /  A timber harvesting plan was prepared for this project pursuant to CEQA.
  3. Mitigation measures  were /  were not made a condition of CDFW's approval of the project.
  4. A Statement of Overriding Considerations  was /  was not adopted by CDFW for this project.
  5. Findings  were /  were not made by CDFW pursuant to Public Resources Code § 21081(a). CDFW did, however, adopt findings to document its compliance with CEQA.
  6. Compliance with the environmental filing fee requirement at Fish and Game Code § 711.4 (check one):
    - Payment is submitted with this notice.
    - A copy of a receipt showing prior payment is on file with CDFW.
    - A copy of the CEQA Filing Fee No Effect Determination Form signed by CDFW is attached to this notice.
- Lead Agency certification: CDFW, as Lead Agency, has made the final EIR with comments and responses and record of project approval, or the Negative Declaration, available to the General Public at the CDFW office identified above.
- Responsible Agency statement: The final EIR, Negative Declaration, or THP that was prepared by the Lead Agency for this project is available to the General Public at the office location listed above for the Lead Agency. CDFW's record of decision is available at the CDFW office identified above.

Signed: Michael R. Harris  
Michael R. Harris  
Habitat Conservation Planning Supervisor  
Northern Region

Date: 12-1-15

Date Received for filing at OPR:

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE  
CEQA FINDINGS FOR THE  
AGREEMENT REGARDING PROPOSED LAKE OR STREAMBED ALTERATION  
No. 1600-2015-0409-R1**

**Introduction**

The California Environmental Quality Act (CEQA) (Public Resources Code Section 21000, *et seq.*) and the State CEQA Guidelines (Guidelines) (Section 15000, *et seq.*, Title 14, California Code of Regulations) require that no public agency shall approve or carry out a project for which a mitigated negative declaration (MND) has been completed that identifies one or more significant effects, unless the agency makes the following finding as to each significant effect:

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

As the lead agency for the project, the California Department of Transportation (Caltrans) adopted the MND for the Project on April 29, 2015. Caltrans found that the Project will not result in significant environmental effects with the mitigation measures required in, or incorporated into the Project.

The California Department of Fish and Wildlife (CDFW) is issuing a Lake or Streambed Alteration Agreement (Agreement) to the project applicant, Mr. Troy Arseneau representing Caltrans. The project is located on along State Route 96, between post mile 6.2 and 6.6, approximately 6.2 miles north of the town of Willow Creek and south of the town of Hoopa, in the County of Humboldt, State of California. Location is at T7N, R5E, sec's. 5, 6, 7, and 8, Humboldt Meridian.

Because CDFW is issuing the Agreement, it is a "responsible agency" under CEQA for the Project. As a CEQA Responsible Agency, CDFW is required by Guidelines § 15096 to review the environmental document certified by the lead agency approving the projects or activities addressed in the Agreement and to make certain findings concerning a project's potential to cause significant, adverse environmental effects. However, when considering alternatives and mitigation measures approved by the lead agency, a responsible agency is more limited than the Lead Agency. In issuing the Agreement, CDFW is responsible only for ensuring that the direct or indirect environmental effects addressed in the Agreement are adequately mitigated or avoided. Consequently, the findings adopted or independently made by CDFW with respect to the approval of Agreements regarding proposed Lake or Streambed Alterations are more limited than the findings of the lead agency funding, approving, or carrying out the project activities addressed in such Agreements.

**Findings**

CDFW has considered the MND adopted by Caltrans. CDFW has independently concluded that the Agreement should be issued under the terms and conditions specified therein. In this regard, CDFW hereby adopts any findings of Caltrans as set forth in the MND and record of project approval, insofar as those findings pertain to the project's impacts on biological resources.

Signature: Michael R. Harris  
Michael R. Harris  
Habitat Conservation Planning Supervisor  
Northern Region

Date: 12-1-15

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE**  
NORTHERN REGION  
601 LOCUST STREET  
REDDING, CA 96001



**STREAMBED ALTERATION AGREEMENT**  
NOTIFICATION NO. 1600-2015-0409-R1  
Unnamed intermittent stream and unnamed ephemeral  
intermittent drainages, all tributaries to Trinity River.

CALIFORNIA DEPARTMENT OF TRANSPORTATION  
Sugar Bowl Ranch Curve Project

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Wildlife (DFW) and the California Department of Transportation (Permittee) as represented by Mr. Troy Arseneau.

## **RECITALS**

WHEREAS, pursuant to Fish and Game Code (FGC) section 1602, Permittee notified DFW on September 29, 2015 that Permittee intends to complete the project described herein;

WHEREAS, pursuant to FGC section 1603, DFW 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 96, between post mile 6.2 and 6.6, approximately 6.2 miles north of the town of Willow Creek and south of the town of Hoopa, in the County of Humboldt, State of California. Location is at T7N, R5E, sec's. 5, 6, 7, and 8, Humboldt Meridian.

## PROJECT DESCRIPTION

The project's primary elements are to realign curves, widen shoulders, construct rail element walls, remove and replace culverts, install guardrail and repave the section of highway 96 between post mile 6.2 and 6.6. Drainages and tributaries subject to 1600 jurisdiction occur at the following post miles: 6.37 and 6.46.

### Drainage 1 (6.25) and Drainage 2 (6.31)

The drainages at PM 6.25 and 6.31 receive road runoff and overland sheet flow and the culvert crosses beneath the State Route 96 in an existing corrugated metal pipe. The inlets, outlets, and culvert pipe will be replaced or rebuilt. At PM 6.31 rock slope protection will be installed to dissipate energy of water. The drainages are dry in the summer and no diversion of water will be necessary. There will be no temporary or permanent loss of stream channel or riparian vegetation.

### Intermittent Watercourses (6.37 and 6.46)

This unnamed ephemeral stream crosses beneath the highway at PM 6.37 through an existing corrugated metal pipe 4 ft. in diameter; this culvert will be left in place and lined with a slip-liner and the flared inlet will be replaced with a headwall. The culvert at PM 6.46 will be replaced with a 36 inch diameter corrugated metal pipe, and the inlet and outlet will be reconstructed, with rock slope protection installed to dissipate energy of water. This portion of the project will result in the permanent loss of 306 sq. ft. of stream channel due to the installation of 36 cubic yards of rock slope protection being installed. There will be approximately 2400 sq. ft. of temporary impacts due to construction with potentially 2000 sq. ft. of impacts at PM 6.37 due to the addition of soil on the upper bank within the riparian zone, currently primarily occupied by *Rubus armeniacus* (Himalayan blackberry); the remaining 400 sq. ft. are due to associated temporary construction area impacts.

## PROJECT IMPACTS

Project impacts are of the following:

intermittent & ephemeral stream ch. perm. loss = 306 sq. ft.

intermittent & ephemeral stream riparian temporary loss = approx. 2400 sq. ft.

## 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 DFW 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 DFW 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, DFW shall contact Permittee to resolve any conflict.
- 1.4 **Project Site Entry.** Permittee agrees that DFW personnel may enter the project site at any time, after notifying the Resident Engineer, to verify compliance with the Agreement.

## **2. Avoidance and Minimization Measures**

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

### **PROJECT TIMING**

- 2.1 **General Work Period for Stream Channel and Banks** All work on the stream banks or within the stream channel, shall be confined to the period commencing May 15, and ending October 15, of any year in which this Agreement is valid when there is no stream flow. If weather conditions permit, and the stream remains in low flow conditions or dry, the Permittee may perform work within the stream channel or on the banks after October 15, provided a written request is made to the Department at least 5 days before the proposed work period variance. Written approval from the Department for the proposed work period variance must be received by the Permittee prior to the start or continuation of work after October 15.
- 2.2 **Required Measures for Work after October 15.** If work is performed within the

stream channel or on the banks after October 15, the Permittee shall do all of the following:

- a. Stage erosion and sediment control materials at the work site.
- b. Monitor the seventy-two (72) hour forecast from the National Weather Service.
- c. When the 72-hour forecast indicates a probability of precipitation of 60% or greater, or at the onset of any precipitation, ground disturbing activities shall cease and erosion control measures shall be implemented to stabilize exposed soils and prevent the mobilization of sediment into the stream channel or adjacent wetland or riparian areas.

#### **HABITAT AND SPECIES PROTECTION**

- 2.3 **Delineating Limits of Work.** Prior to initiating vegetation or ground disturbing Project activities, Permittee shall clearly delineate the limits of the work area including Environmentally Sensitive Areas. Permittee shall restrict all Project activities to the designated work area and shall maintain all fencing, stakes and flags until the completion of Project activities.
- 2.4 **Minimize Loss of Riparian Vegetation.** Removal of existing riparian vegetation shall not exceed the minimum necessary to complete operations.
- 2.5 **Take of State Threatened or Endangered Species.** This Agreement does not authorize the take of any State threatened or endangered species. If the project could result in the "take" of a state listed threatened or endangered species, the Permittee has the responsibility to obtain from the Department, a California Endangered Species Act Permit (CESA 2081 Permit). The Department may formulate a management plan that will avoid or mitigate take. If appropriate, contact the Department CESA coordinator at (530) 225-2300.
- 2.6 **Installation of Environmentally Sensitive Area (ESA) Fencing.** ESA fencing shall be installed, if needed, as the first order of work and in accordance with the Project plans and drawings. Inspection of the ESA fencing installation will be conducted by the Environmental Construction Liaison to ensure proper placement.
- 2.7 **ESA Fencing Shown on Project Plans.** If it is determined that ESA fencing is needed, then it shall consist of temporary orange construction fence or other highly visible material that clearly delineates the limits of Environmentally Sensitive Areas which shall be clearly shown on the Project plans and

drawings. The Permittee shall ensure that the contractor, subcontractors, and all personnel working on the Project are instructed on the purpose of the ESA fencing and understand the limits of the work area.

- 2.8 Vegetation Removal Period and Nesting Birds. Removal of trees and shrubs from the work area shall take place between September 1 and February 15 to avoid impacts to nesting birds. Take of migratory birds will be avoided during construction activities. In no case shall active nests with eggs or young be removed during construction.
- 2.9 Materials for Rock Slope Protection. RSP and energy dissipation materials shall consist of clean (i.e. quarry run or equivalent) rock, competent for the application, sized and properly installed to resist washout. RSP slopes shall be supported with competent boulders keyed into a footing trench with a depth sufficient to properly seat the footing course boulders and prevent instability (typically at least 1/3 diameter of footing course boulders). Excavation spoils shall not be side-cast into the channel nor is any manipulation of the substrate of the channel authorized except as herein expressly provided.
- 2.10 Executive Order 13112 requires federal agencies to prevent and control the introduction and spread of invasive species, therefore all equipment shall be washed pre – and post - construction to prevent the spread of any noxious weeds. All areas left disturbed at the end of construction will be seeded and mulched to help prevent the establishment of invasive weeds (see section 2.25 below).

#### PETROLEUM, CHEMICAL AND OTHER POLLUTANTS

- 2.11 Storage of Materials. All construction-related materials and equipment shall be stored at a local Caltrans maintenance yard or in designated staging areas located outside of the floodplain in upland areas located within Caltrans right-of-way.
- 2.12 Work Adjacent to Watercourses. As part of the proposed construction activities, heavy equipment (drilling trucks, backhoe, excavator, etc.) may be required to work within and/or adjacent to perennial watercourses. Therefore, there is potential for chemical contamination as a result of a leak or spill of petroleum or hydraulic products into a channel. Measures will be taken to avoid or minimize potential chemical contamination, which will include no staging, storage and re-fueling of vehicles and equipment within 100 feet of any watercourse. In the event of a leak or spill, the project shall cease immediately and the Hoopa Valley Tribe Riparian Review Committee and CDFW shall be notified.

- 2.13 Refueling. Refueling and vehicle maintenance shall be performed at least 100 feet from streams or other water bodies unless approved in writing by DFW. If equipment must be washed, washing will occur where the water cannot flow into a creek channel.
- 2.14 Use of Equipment Prohibited in Live Streams. No equipment or machinery shall be operated within any flowing stream.
- 2.15 Maintenance and Inspection of Equipment to Prevent Leaks. Any equipment or vehicles driven and/or operated within or adjacent to the stream channel shall be checked and maintained daily to prevent leaks of materials that, if introduced to water, could be deleterious to aquatic life, wildlife, or riparian habitat.
- 2.16 Drip Pans. Stationary equipment such as motors, pumps, generators, and welders that contain deleterious materials, located adjacent to the stream channel shall be positioned over drip pans, for any part of the equipment that drips fluids.
- 2.17 Pollution of Waters of the State Prohibited. No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete or washings thereof, asphalt, paint or other coating material, oil or petroleum products or other organic or earthen material from any construction, or associated activity of whatever nature shall be allowed to enter into, or 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. No rubbish shall be deposited within 150 feet of the high water mark of any stream or lake.
- 2.18 Disposal of Waste Water from Concrete Mixing and Application Operations. Water that has been in contact with uncured concrete shall be contained in a sealed concrete washout facility or other impervious container and shall not be discharged to surface or ground waters.
- 2.19 Fluid Spill Response. In the event of an unexpected fluid spill, the equipment operator will immediately stop work and contain the escaping fluids and mitigate any further potential fluid loss. Any fluid that should leak onto the ground will be collected by placing absorbent pads and absorbent material. These used pads and material will then be placed in 55 gallon drums for disposal.
- 2.20 Spill Containment, Clean up and Discharge Notification. All construction activities performed in or near the stream shall have absorbent materials designated for spill containment and clean-up activities on-site for use in an accidental spill. In the event of a discharge, the Permittee shall immediately

notify the California Emergency Management Agency at 1-800-852-7550 and immediately initiate clean-up activities. DFW shall be notified by the Permittee and consulted regarding clean-up procedures.

## **EROSION AND SEDIMENT CONTROL**

- 2.21 **Erosion Control Measures Required.** The project shall, at all times, feature adequate erosion and sediment control devices to prevent the degradation of water quality.
- 2.22 **Installation and Maintenance of Best Management Practices.** Soils exposed by project operations shall be treated to prevent sediment runoff and transport. Erosion control measures shall include the proper installation and maintenance of approved Best Management Practices (BMPs) and may include applications of seed, certified weed-free straw, compost, fiber, stabilizing emulsion and mulch, or combinations thereof.
- 2.23 **Soil Stabilization and Sediment Prevention.** Soils adjacent to the stream channel that are exposed by project operations shall be adequately stabilized when rainfall is reasonably expected during construction, and immediately upon completion of construction, to prevent the mobilization of such sediment into the stream channel or adjacent riparian areas. National Weather Service forecasts shall be monitored by the Permittee to determine the chance of precipitation.
- 2.24 **Erosion Control Seeding.** Prior to the end of construction, all disturbed areas shall be stabilized and reseeded with a suitable cover crop (such as winter wheat) that will not persist on site. A regionally appropriate California native seed mix shall be applied during the first or second year to provide succession from the erosion control cover crop for the establishment of native plants.
- 2.25 **Spill Prevention Plan.** Temporary construction site BMPs shall be implemented using a Spill Prevention Plan (SPP) which will be kept on site, along with all materials and equipment necessary to implement the SPP should it be needed. The temporary BMPs are aimed at reducing erosion and subsequent sediment transport, and preventing accidental spills during construction and may include check dams, straw bales, hydraulic mulch, sediment traps, concrete washouts, fiber rolls, and temporary Hot Mix Asphalt (HMA) dikes.
- 2.26 **Temporary Fill.** Temporary fills will be removed within 30 days after completion of work at a given location and/or prior to the onset of the rain season, and in accordance with the Section 401 and 404 Clean Water Act requirements. These areas will be returned to their pre-construction contours, and treated with erosion control seed mix.

### 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 On-site Riparian Restoration. Riparian vegetation on the project site primarily occurs on the inlet side of the stream channels at 6.37 and 6.46. The outlets have very little riparian vegetation growing due to the heavy canopy of the forest above. Current riparian vegetation consists of a high canopy of *Alnus rhombifolia* (white alder), and an understory of *Rubus armeniacus* (Himalayan blackberry), *Polystichum munitum* (sword fern) and scattered annual grasses. The temporary loss of approximately 400 sq. ft. of riparian vegetation, shall be mitigated with the avoidance of the *Alnus rhombifolia*, however if the possible 1 to 2 trees are cut, they will be replaced at a ratio of 3:1. Additionally, there may be soil added to the upper bank of the inlet at 6.37 in an area that will be 2000 sq. ft. at a maximum, if this soil is added on site, approximately 20 plants of *Polystichum munitum* will be planted and established. The Permittee shall replant and establish approximately 2400 sq. ft of riparian vegetation through on site planting of temporarily disturbed sites.

3.2 On-site Stream Channel Restoration: To compensate for permanent loss of 306 sq. ft. of intermittent stream channel habitat, the Permittee shall examine the site for restoration potential and plant with riparian species that are deemed suitable for the site. If the Permittee determines that this site cannot, or would not, benefit from replanting then Permittee shall describe the reasons for this determination in the planting plan.

### 4. Reporting Measures

Permittee shall meet each reporting requirement described below.

4.1 Planting Plan, Monitoring, and Reporting. Permittee shall submit a proposed planting plan prior to completion of construction activities that consists of: (a) species to be planted; (b) type of reproductive element for each species (pole cuttings, seed, container stock, etc.); (c) justification for use of species; (d) quantity of plants to be planted; (e) proposed areas to be planted; (f) plan for planting and dates; and (g) plan to ensure that *Phytophthora tentaculata* is not transmitted to site, if container stock is used. Within one month of the completion of all planting, the Permittee shall submit a map of the site and photographic monitoring of the planting site, with notations on the map of photographs and

view. At the end of three years the DFW will review this project with the Permittee, to determine if the site has met restoration success. This site is part of a pilot project to determine the level of monitoring necessary to verify that successful growth and establishment of riparian vegetation can be completed by the Permittee; and can occur on small restoration sites, which are revegetated with specific criteria, in areas where supplemental irrigation is unlikely to be needed.

If this site fails to meet expected revegetation success, then a remediation plan will be required to be prepared and submitted to DFW for review and approval for implementation. If a remediation plan is needed, then DFW will consult with the Permittee to determine the level of future monitoring necessary to bring the site up to conditions that meet compliance for successful establishment of native plants.

#### **CONTACT INFORMATION**

Any communication that Permittee or DFW 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 DFW specifies by written notice to the other.

To Permittee:

Mr. Troy Arseneau  
Project Manager  
Department of Transportation  
1656 Union Street  
Eureka, CA 95501  
Fax: (707) 441-5733  
Email: [troy.arseneau@dot.ca.gov](mailto:troy.arseneau@dot.ca.gov)  
ec: [allison.kunz@dot.ca.gov](mailto:allison.kunz@dot.ca.gov)

To DFW:

Department of Fish and Wildlife  
Northern Region  
601 Locust Street  
Redding, CA 96001  
Attn: Lake and Streambed Alteration Program – Dr. Richard Lis  
Notification #1600-2015-0409-R1  
Fax: (530) 225-2267  
Email: [richard.lis@wildlife.ca.gov](mailto:richard.lis@wildlife.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 DFW'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**

DFW 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 DFW 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 DFW 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 DFW to issue the notice.

## **ENFORCEMENT**

Nothing in the Agreement precludes DFW 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 DFW'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**

DFW may amend the Agreement at any time during its term if DFW 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 DFW and Permittee. To request an amendment, Permittee shall submit to DFW a completed DFW "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the corresponding amendment fee identified in DFW'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 DFW 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 DFW a completed DFW "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the minor amendment fee identified in DFW'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 DFW a completed DFW "Request to Extend Lake or Streambed Alteration" form and include with the completed form payment of the extension fee identified in DFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5). DFW 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 DFW's signature, which shall be: 1) after Permittee's signature; 2) after DFW 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.DFW.ca.gov/habcon/ceqa/ceqa\\_changes.html](http://www.DFW.ca.gov/habcon/ceqa/ceqa_changes.html).

## **TERM**

This Agreement shall expire on December 31, 2018, 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**

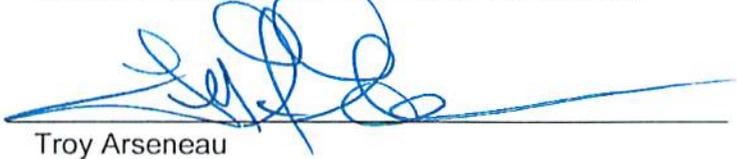
This Agreement authorizes only the project described herein. If Permittee begins or

completes a project different from the project the Agreement authorizes, Permittee may be subject to civil or criminal prosecution for failing to notify DFW in accordance with FGC section 1602.

**CONCURRENCE**

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

**FOR DEPARTMENT OF TRANSPORTATION**



Troy Arseneau  
Project Manager

11/23/15

Date

**FOR DEPARTMENT OF FISH AND WILDLIFE**



Michael R. Harris  
Habitat Conservation Planning Supervisor

12-1-15

Date

Prepared by: Richard Lis, Ph.D.  
Senior Environmental Scientist--Specialist

## **MATERIALS INFORMATION**

Cut Slope Recommendations, Dated August 11, 2015

# Memorandum

*Serious drought  
Help save water!*

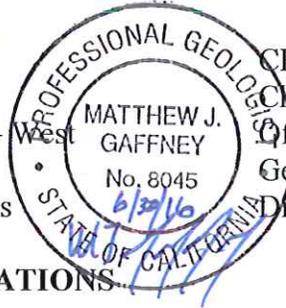
To: MR. JOHN MARTIN  
Senior Transportation Engineer  
District 03 North Region Division of Engineering

Date: August 11, 2015

Attention: Travis Gurney

File: 01-HUM 96 PM 6.2-6.6  
01-0A990  
Efis#0112000001  
Curve Realignment

From: MATTHEW GAFFNEY *MG*  
Engineering Geologist  
Office of Geotechnical Design – West  
Geotechnical Services  
Division of Engineering Services



CHRISTOPHER RISDEN *CR*  
Chief, Branch B  
Office of Geotechnical Design – West  
Geotechnical Services  
Division of Engineering Services

Subject: CUT SLOPE RECOMMENDATIONS

## 1. Executive Summary

This report provides cut slope recommendations for the proposed project on State Route (SR) 96 in Humboldt County to realign the curve at post mile (PM) 6.2 to PM 6.6.

The existing cut slopes expose thinly foliated, fresh to intensely weathered, very soft to moderately hard phyllite/shale, with massive, moderately weathered, moderately hard sandstone. Rockfall at this location has not been a persistent problem.

Groundwater was encountered approximately 67 feet into the southern portion of the cut slope in horizontal boring R-14-002. It is recommended that dewatering be performed on the slope before excavation.

The proposed project will cut between stations (Sta) 350+00 to 353+25. The cut at its maximum is 130 feet high and up to 75 feet horizontally from the southbound edge of pavement.

During excavation for the cut, a Geologist from the Office of Geotechnical Design should be on site to evaluate if additional post-excavation scaling will be necessary, to perform a kinematic analysis of the cut slope, and to help determine locations needing additional stabilization.

## 2. Introduction

The California Department of Transportation (Caltrans) has proposed improvements to Route 96 in Humboldt County to reduce accidents at this location. The project proposes to realign the roadway by cutting into the existing cut slope on the west side, southbound direction, of SR 96. Figure 1 presents the location of the cut. This road segment comprises 450 feet (Sta. 349+75 to

MR. JOHN MARTIN  
Attn: Travis Gurney  
August 6, 2015  
Page 2

353+25) of curving two-lane roadway with trees and steep slopes cut into the bedrock above the Trinity River. (Figures 2 and 3 show the existing geology and topographic map, respectively).

### **3. Relevant Reports and Investigation**

The following reports, maps and other resources were reviewed to assist in the assessment of site conditions:

#### Maps:

Wagner, D.L., and Saucedo, G.J. 1987, Geologic map of the Weed Quadrangle, California, 1:250,000, California Division of Mines and Geology:  
[http://ngmdb.usgs.gov/Prodesc/proddesc\\_521.htm](http://ngmdb.usgs.gov/Prodesc/proddesc_521.htm).

#### Air Photos:

Google Earth

#### As-builts:

1933: 01-443104-HUM-96-0.6/11.4.

### **4. Description of Project and Existing Facilities**

#### **4.1 Project Description**

The alternative (PM 6.2-6.6) incorporates a larger radius curve, increases tangent lengths, improves superelevation transitions and increases paved shoulder widths to 4-feet. This alternative will include 12-foot lanes and 4-feet.

#### **4.2 SR 96 Existing Facilities**

The curve location is approximately 6.2 miles north of Willow Creek, which is at the junction of SR 299 and SR 96. The existing roadway is a two lane road with 12-foot wide lanes, with non-standard shoulders. At the north end of the curve, there is a pullout that is 120 feet by 30 feet and to the south there is an 80 by 20-foot pullout. Figure 2 presents the plan view of the existing alignment and proposed improvements.

### **5. Physical Setting**

#### **5.1 Climate**

Willow Creek's climate is warm during summer when temperatures tend to be in the low 70's and cool during winter with temperatures in the 40's. July is warmest with an average maximum

MR. JOHN MARTIN  
Attn: Travis Gurney  
August 6, 2015  
Page 3

temperature of 74.1° F, and the coldest month is December with an average minimum temperature of 43.0° F. The annual average precipitation is 54.5 inches. Winter months tend to be wetter than summer months, with December having an average yearly high rainfall of 9.38 inches.<sup>1</sup>

## **5.2 Topography and Drainage**

The project site is within the Six Rivers National Forest, 1,000 feet south of the Sugarbowl Ranch road, and 2,100 feet west of the Trinity River. The Trinity River flows through an incised valley with steep wooded hills that reach to 1,800 feet in elevation. The river flows north until it reaches the Klamath River, which flows to the Pacific Ocean.

The roadway elevation is 720 feet. On the upslope side of the road the existing cut slopes are 0.5 horizontal (H) to 1 vertical (V) (0.5H:1V) and rise to an elevation of 1,500 feet.

Existing drainage for the road follows the base of the slope on the west side of the roadway, flows south through a poorly defined ditch, then drains to the east under the roadway off Caltrans Right-of-Way.

## **5.3 Man-made and Natural Features of Engineering and Construction Significance**

The existing cut slopes expose moderately hard, moderately weathered, intensely fractured steep sloped mudstone, which locally has been phyllite has weathered to mudstone. The orientation of the laminated bedding that is exposed at the surface is 330° and 5° with a dip between 10° and 30° to the west/west-southwest. These rocks form steep wooded slopes.

The proposed cut is up to 120 feet high and catches 70 feet from the toe of the existing slope. We expect the excavation to be conducted by dozer, which can access the cut on an old logging road that starts from the pullout at the south end of the project.

Hydraulics staff in District 1 should recommended design for gutter capacity, sediment, any inlet structures, and the new proposed culvert.

## **5.4 Regional Geology**

The project site is located at the border of the Coast Range and the Klamath Mountain Provinces of California. The lithologies and age relationships within the Klamath Mountains indicate repeated accretion, beginning in early to middle Paleozoic and continuing through the Mesozoic, island arc terranes, with their associated sedimentary units, to the leading western edge of the North American plate. The site is underlain by the Galice Formation (Figure 2) which is an

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<sup>1</sup> <http://www.idcide.com/weather/ca/willow-creek.htm>

MR. JOHN MARTIN  
Attn: Travis Gurney  
August 6, 2015  
Page 4

interbedded mudstone, graywacke, and conglomerate ranging in texture from weakly slaty to phyllitic.<sup>2</sup>

### **5.5 Site Geology**

Based on the horizontal borings and geologic mapping the site is underlain by mildly metamorphosed, moderately hard, intensely fractured mudstone, shale, sandstone and phyllite of the Galice Formation.<sup>3</sup>

### **5.6 Seismicity**

This area of California is on the western edge of North American Plate and located east of the southern portion of the Juan de Fuca Plate. This region is referred to as the Mendocino Triple Junction and the Cascadia Subduction Zone. This zone is responsible for the volcanic activity of the Pacific Northwest from Mt Lassen to Mt Rainier, and for the numerous earthquakes that have hit the this region.

### **5.7 Soils Survey Mapping**

The project is underlain by soil classified as Clallam-Hugo-Holland families association, deep, and 35 to 70 percent slopes. This soil is classified as Hydraulic Soil B which when wet has a moderate infiltration rate. These soils can be moderately deep to deep with fine to coarse grained and are moderately well drained. These soils have a moderate rate of water transmission.<sup>4</sup> (The USDA, NRCS, Custom Soil Resource Report for Sonoma County, California; 2012, can be supplied upon request.)

### **5.8 Naturally Occurring Asbestos (NOA)**

We do not expect to encounter NOA at the site. The core recovered during geotechnical drilling did not show evidence of NOA, along with no NOA witnessed during surface mapping at the site. Published maps of this area also show no evidence of NOA in this area.<sup>5</sup>

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<sup>2</sup> Department Of The Interior U.S. Geological Survey; 1987; Open-File Report 87-257; Geologic map of the Redding 1X2 degree quadrangle, Shasta, Tehama, Humboldt, and Trinity Counties, California by L. A. Fraticelli, J. P. Albers, W. P. Irwin, M. C. Blake, Jr.

<sup>3</sup> California Division of Mines and Geology; 1987; Geologic map of the Weed quadrangle, California, 1:250,000; by Wagner, D.L., and Saucedo, G.J.

<sup>4</sup> United States Department of Agriculture; Natural Resources Conservation Service; 2015; Custom Soil Resource Report for Humboldt and Del Norte Area, California (<http://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>)

<sup>5</sup> State Of California, Department Of Conservation Division Of Mines And Geology; 2000; A General Location Guide For Ultramafic Rocks In California-Areas More Likely To Contain Naturally Occurring Asbestos, Open-File Report 2000-19

MR. JOHN MARTIN  
Attn: Travis Gurney  
August 6, 2015  
Page 5

## **6. Geotechnical Exploration**

### **6.1 Geologic Mapping**

On June 24, 2014, the staff from the Office of Geotechnical Design-West conducted site investigations. During the visit the slope stability, rock type, density and orientation of fractures, evidence for rockfall (rockfall pitting) on the road surface, locations of seeps, and construction considerations were evaluated. The rock at the site was poorly exposed, due to the forest of the Pacific Northwest. Plant matter and soil cover the ground making mapping of the bedrock difficult. There were few locations where the rock was exposed. It was highly weathered, intensely fractured laminated shale to phyllite. The beds have an orientation of between 330° and 5° with a dip between 10° and 30° to the west.

### **6.2 Drilling and Sampling**

Two horizontal borings were advanced: R-15-001 and R-15-002 (Boring Locations are presented in Figure 3 and are in Attachment A). Core samples from each horizontal boring began at approximately 4 feet into the slope face. Core recovered during the sampling had poor to very poor rock quality designation (RQD); therefore no samples were analyzed for unconfined compression, point load, etc. The poor RQD could also have contributed to the poor drill fluid circulation, and loss of drilling fluid, that we experienced at numerous depths during drilling.

### **6.3 Seismic Refraction Survey**

A seismic survey was not done for this location.

## **7. Geologic Conditions**

### **7.1 Site Geology**

#### **7.1.1 Lithology**

Mapping was conducted on June 24, 2014 and the week of January 5, 2015. On the northern end of the proposed cut, about 15 feet up the face of the slope there is a 25 to 35 feet wide flat area. This location could have been a small slide, or an embankment for an old logging road. In the center of the cut, about 100 west of the road, and at the southern end of the cut another logging roads exist. The laminated bedding that was noted on the west facing slope is highly weathered, intensely fractured laminated shale to phyllite. Up slope, next to the logging road, a block of sandstone was found embedded in roots.

MR. JOHN MARTIN  
Attn: Travis Gurney  
August 6, 2015  
Page 6

### **7.1.2 Structure**

The Weed Quadrangle has bedding and foliation dipping in varying directions.<sup>6</sup> Locally the beds have an orientation of the of 330° and 5° with a dip between 10° and 30° generally to the west. Within the project area, the bedding of the rock is laminated and at varying depths the shale had been metamorphosed to phyllite with slickensides. In the northern boring (R-15-001), sandstone was encountered within the top 4 of the boring. The rock core samples, which were collected during drilling, had a poor to very poor RQD. This poor RQD could have been the cause of loss of drilling fluid at various depths during drilling.

### **7.2 Native Slope Stability**

Existing slopes are 0.5H:1V to the crown of the slope, then flatten out to 2H:1V. SR 96 was originally built in the 1933 (plans are in Attachment B). The slopes have held up well, as shown by the lack of slide or rockfall and by the trees that are well established on the slope face.

### **7.3 Soils**

The soils at the project site are thin, especially on the slopes, and are composed of organic matter and are weathered portions of the underlain bedrock. During drilling rock was encountered inches below the surface. The soil profile will not affect the cut parameters.

### **7.4 Groundwater and Surface water**

Horizontal boring R-15-001 did not encounter groundwater. R-15-002 encountered groundwater at approximately 68 feet into the face of the slope. The water was flowing from the borehole at 15 gallons per minute (gpm), and slowed to 10 gpm after an hour. The surface runoff drains in a ditch at the base of the slope, south then under SR 96 to the east.

### **7.5 Erosion**

Erosion at the site is not a persistent problem. Site soils are thin and the bedrock, although fractured, has held up very well over time. Despite the heavy rainfall of the region, no gullying or rilling at the site was noted.

### **7.6 Seismicity**

The dominant geologic structure in the area is the Mendocino Triple Junction. From this point north the Cascadia Fault Zone, Big Lagoon-Bald Mountain Fault, Trinidad Fault and the McKinleyville Fault control the seismic activity in this portion of northern California and

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<sup>6</sup> Wagner, et al; Geologic map of the Weed quadrangle, California.

MR. JOHN MARTIN  
 Attn: Travis Gurney  
 August 6, 2015  
 Page 7

Oregon. Figure 4 presents the Regional Fault Map. These reverse faults are active and have been the source of numerous historic earthquakes. Fault data is listed in Table 2.

Table 2: Fault Data

<b>Fault Name</b>	<b>Distance: Miles</b>	<b>Fault ID:</b>	<b>Fault Type:</b>	<b>Maximum Magnitude (MMax):</b>	<b>Deterministic Acceleration *</b>
Big Lagoon - Bald Mtn	11.8	9	Reverse	7.5	0.60g
Trinidad	17.6	21	Reverse	7.5	0.32g
McKinleyville	19.8	29	Reverse	7.2	0.27g

\* Acceleration based on a shear wave velocity of 560m/s

## 8. Geotechnical Analysis and Design

### 8.1. Cuts and Excavations

#### 8.1.1 Cut Slopes

Present cut slopes have slope ratios around 0.5:1, and flattening to 1:1 to 2:1 past the crown of the slope, with the exception of 351+25 where the slope above has a 15 feet 4:1 bench, and then continues to rise with of slope of 1:1. A majority of these cuts are over 80 years old, according to as-built drawings (Contract# 1933; 01-443104 and are presented in Attachment B). The present condition and appearance of the cut slopes are thought to be fairly similar to the original cut faces, with the exception of some small localized sloughs, as well as the long-term raveling of localized periodic rockfall outside of the proposed cut area. To the south of the proposed cut, there is a flat area about 15 feet above the road. This could be small landslide or an embankment for an old logging road. Even though this area is potentially landslide deposits or fill, the slope-face has held up over time, and is very stable.

Examination of the existing cuts in the Galice Formation in and near the project area, together with seismic refraction results, from 2 miles north, indicates that the rock is sufficient, particularly at depth, to stably support cut slope ratios of 0.5:1. Therefore, in an effort to reduce excavation quantities, a cut slope utilizing the 0.5:1 ratio should be sufficient to accommodate the project. Above the proposed cut, there is a slope ratio of 2:1, which, based on field observations, is flat enough to prevent failure of the soil and weaker overburden.

#### 8.1.2 Overwintering of Cut Slopes

The slopes of the existing cuts have been stable for nearly 80 years even with the high rainfall that occurs in the Pacific Northwest. The cuts should remain stable over the winter. A geologist from Office of Geotechnical Design should be present during excavation to confirm cuts stability.

MR. JOHN MARTIN  
Attn: Travis Gurney  
August 6, 2015  
Page 8

### **8.1.3 Rippability**

During field mapping the rock was highly weathered, intensely fractured laminated shale to phyllite. The horizontal borings drilled for the cut had RQD that was poor to very poor of the same laminate shale to phyllite.

Based on field observations, and rock core that was obtained during the geotechnical drilling, we anticipate that ripping can be used, and no blasting will be required.

### **8.1.4 Rockfall**

Rockfall presently occurs from localized zones outside of the proposed cut area. The catchment areas in the cut area, and along SR 96, are nonstandard width, some as narrow as 1 foot. During the field mapping we did not witness evidence of rockfall: e.g. drainage ditch full of rocks, pitting in the roadway, face of slope having gouges, etc.

We anticipate the 5-foot shoulder and the 4-foot drainage to be sufficient catchment for the small amount of rockfall in the cut area.

### **8.1.5 Post-Construction Sloughing and Erosion Potential and Control**

The majority of the proposed cut slopes are not expected to present any significant erosion problems due to the predominantly rocky nature expected of the new faces. The tops of some of these cuts, however, may expose surfaces composed predominantly of soil that may be moderately to highly erosive in places. Based on the significant resistance to erosion provided by the grass cover on the top surfaces of existing cut slopes, any such potential erosion could likely be mitigated by applying hydroseed mulch or other similar erosion prevention product to the tops of the proposed cut slopes.

## **8.2 Potential Project Impacts on Man-made and Natural Features**

### **8.2.1 Altered Stability**

Excavation of the sliver cuts should be done without decreasing slope stability. We recommend the following:

- Construction monitoring to review the construction process and identify areas that will need scaling to reduce the risk of rockfall
- Post construction scaling and investigation to locate areas having the potential for rockfall.

MR. JOHN MARTIN  
Attn: Travis Gurney  
August 6, 2015  
Page 9

### **8.2.3 Slope Ratio Effects**

The rocks are moderately hard and the rock masses are stable on steep cut slopes. No evidence of adverse bedding or fracturing was noted. Proposed cuts will be as steep as existing. No impacts from proposed sloped ratios are expected.

### **8.2.4 Stabilization Effects and Construction Easements**

The cut slope should be stable upon the completion of the excavation, but during the construction, a geologist should be onsite to perform a kinematic analysis of the cut slope to help determine locations needing additional stabilization.

Excavation equipment has access from north and south via a flat area or old logging road.

### **8.2.5 Project Impacts on Offsite Features/Facilities**

The project as proposed will not impact offsite features and facilities.

## **9. Geotechnical Recommendations**

- Prior to construction, the horizontal drains should be installed to dewater the subsurface.
- We recommend top-down excavation of the proposed cuts, using a method that minimally impacts traffic. The use of a dozer for ripping is the preferred method, via the existing logging road.

#### **Attachments:**

Attachment A - Horizontal Boring Records

Attachment B - 1933 AS-Built Plans of proposed cut portion of SR 96

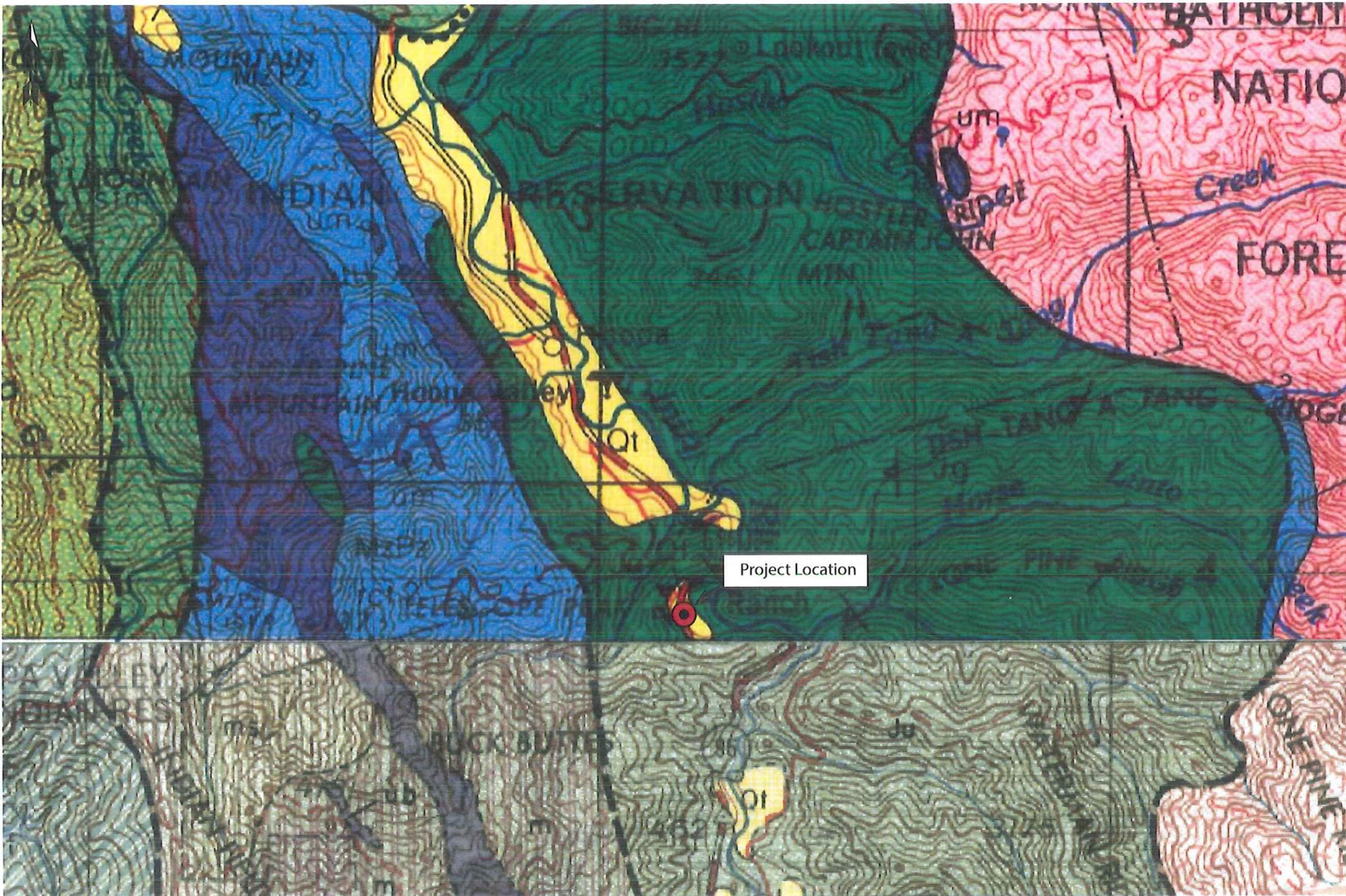
If you have any questions or require further information, please contact Matthew Gaffney at (510)622-1777 or Chris Risdén at (510) 622-8757.

c: TPokrywka, CNarwold, LJones, CRisdén, KGallagher, Daily File

MGaffney/mm



<b>SCALE</b> 			<b>DIVISION OF ENGINEERING SERVICES GEOTECHNICAL SERVICES GEOTECHNICAL DESIGN - WEST - BRANCH B</b>	<b>LOCATION MAP</b>	
			<b>PM. 6.2-6.6</b>	<b>JULY 2015</b>	<b>FIGURE 1</b>



**Explanation**

- Q1 Terrace Deposits
- KJF Franciscan Complex
- ss sandstone
- s/m South Fork Mountain Schist
- Ju Galice Formation
- q/zd Dioritic rocks
- um Ultramafic-gabbroic rocks

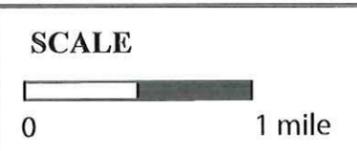
**Western Paleozoic and Triassic Belt**

- wd Undifferentiated
- rc Rattlesnake Creek Terrane

**Map Symbols**

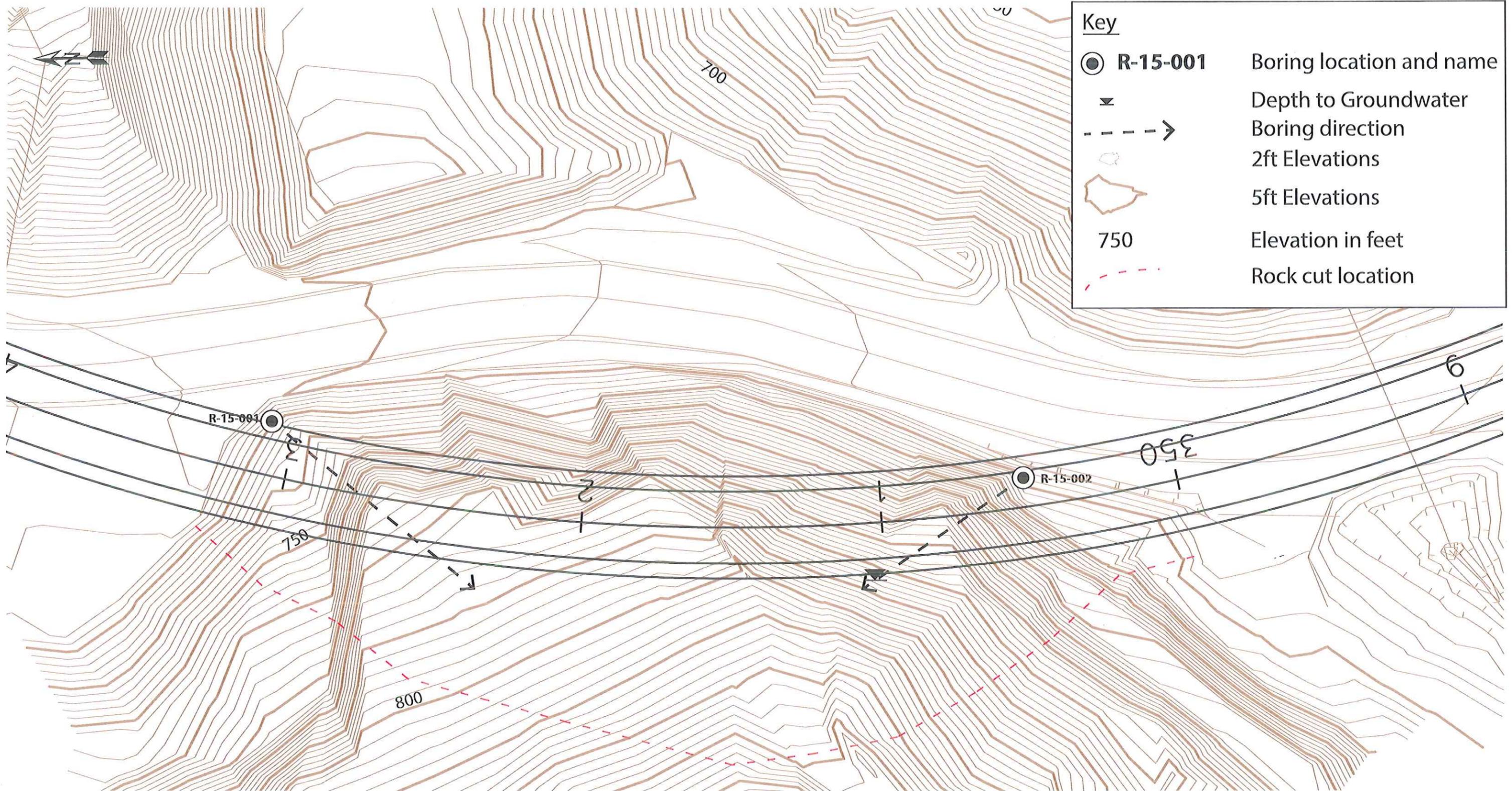
- Project Locations
- Fault-Solid where well located; dashed where approximately located or inferred
- Thrust fault-barbs on upper plate; dashed where approximately located or inferred

Reference:  
 CGS, Division of Mines and Geology, 1987,  
 Geologic Map of the of the Weed Quadrangle, CA, 1:250,000,  
 D.L. Wagner and G.J. Saucedo.  
  
 California Geological Survey, 1962, Geologic Atlas of California Map No. 011,  
 1:250,000 scale, Compilation by: Rudolph G. Strand



**DIVISION OF  
 ENGINEERING SERVICES  
 GEOTECHNICAL SERVICES  
 GEOTECHNICAL DESIGN - WEST - BRANCH B**

<b>GEOLOGY</b>	
<b>01-HUM-96</b>	<b>0112000001</b>
<b>PM. 6.2-6.6</b>	<b>JULY 2015</b>
<b>FIGURE 2</b>	



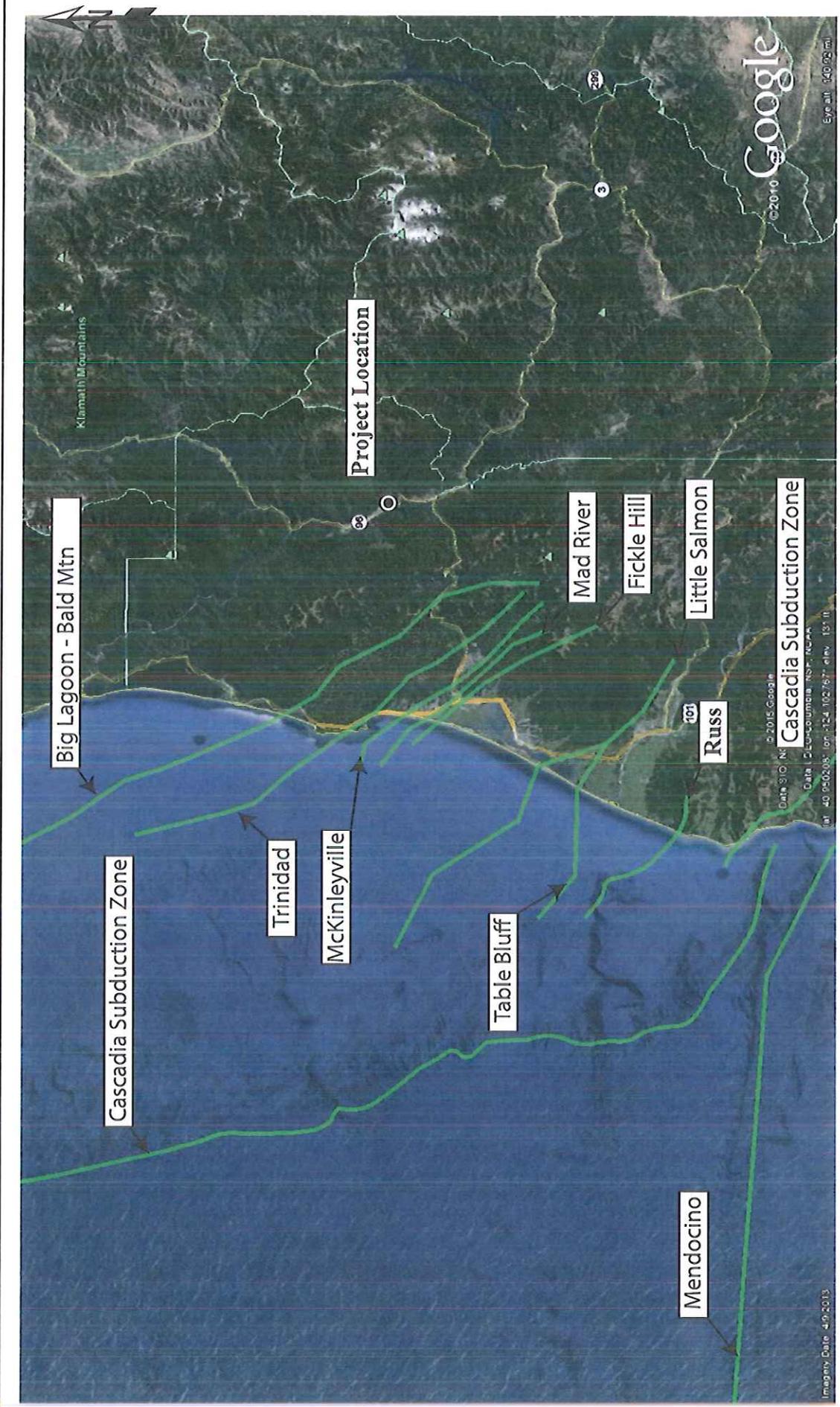
Key	
● R-15-001	Boring location and name
≡	Depth to Groundwater
- - - ->	Boring direction
○	2ft Elevations
○	5ft Elevations
750	Elevation in feet
- - - -	Rock cut location



**DIVISION OF  
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 GEOTECHNICAL SERVICES  
 GEOTECHNICAL DESIGN - WEST - BRANCH B

TOPOGRAPHIC MAP	
04-HUM-96	0112000001
PM. 6.2-6.6	JULY 2015

**FIGURE 3**



<p><b>SCALE</b></p>  <p>0 20 miles</p>		<p><b>DIVISION OF ENGINEERING SERVICES GEOTECHNICAL SERVICES GEOTECHNICAL DESIGN - WEST - BRANCH B</b></p>	<p><b>REGIONAL FAULT MAP</b></p>
<p>04-HUM-96</p>	<p>0112000001</p>	<p>04-HUM-96</p>	<p>PM. 6.2-6.6</p>
<p>JULY 2015</p>	<p>0112000001</p>	<p>JULY 2015</p>	<p>FIGURE 4</p>

## **Attachment A**

LOGGED BY <b>M Gaffney</b>	BEGIN DATE <b>1-9-15</b>	COMPLETION DATE <b>1-13-15</b>	BOREHOLE LOCATION (Lat/Long or North/East and Datum) <b>4539481.4 ft / 445386.4 ft</b>	HOLE ID <b>R-15-001</b>
DRILLING CONTRACTOR <b>Crux Subsurface, Inc.</b>	BOREHOLE LOCATION (Offset, Station, Line) <b>11' Rt Sta 353+11</b>		SURFACE ELEVATION <b>798 ft</b>	
DRILLING METHOD <b>Rotary Wash</b>	DRILL RIG <b>Burely 4000</b>		BOREHOLE DIAMETER <b>3.8 in</b>	
SAMPLER TYPE(S) AND SIZE(S) (ID) <b>HQ Core</b>	SPT HAMMER TYPE		HAMMER EFFICIENCY, ERI	
BOREHOLE BACKFILL AND COMPLETION <b>Backfilled</b>	GROUNDWATER READINGS	DURING DRILLING	AFTER DRILLING (DATE)	TOTAL DEPTH OF BORING <b>100.3 ft</b>

ELEVATION (ft)	DEPTH (ft)	Material Graphics	DESCRIPTION	Sample Location	Sample Number	Blows per 6 in.	Blows per foot	Recovery (%)	RQD (%)	Moisture Content (%)	Dry Unit Weight (pcf)	Shear Strength (tsf)	Drilling Method	Casing Depth	Remarks
	0		GRAVELLY SILT (ML); loose; grayish brown; moist; some coarse, angular GRAVEL ; little fine SAND.												
797.96	5		SANDSTONE BOULDERS, hard, 24 inches.		1			94							
			SANDSTONE BOULDERS, hard, 12 inches.		2			60							
797.91	10				3			100							
					4			100							
797.87	15				5			38							
797.83	20		SEDIMENTARY ROCK (MUDSTONE); fine grained; greenish black; fresh; hard; moderately fractured; Some quartz infilling.		6			83	0						
797.78	25				7			10	0						
797.74	30				8			3	0						
797.69	35				9			13	0						
797.65	40		SEDIMENTARY ROCK (GRAYWACKE); laminated; greenish black; slightly weathered; hard; intensely fractured; Slatey Appearance; (NATIVE).		10			10	0						

(continued)

5 BR - STANDARD 01-HUM-96 PM 6.2-6.58.GPJ CALTRANS LIBRARY (FEB 2013).GLB 4/21/15



Department of Transportation  
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 Geotechnical Services  
 Office of Geotechnical Design - West

REPORT TITLE <b>BORING RECORD</b>				HOLE ID <b>R-15-001</b>	
DIST. <b>01</b>	COUNTY <b>HUM</b>	ROUTE <b>096</b>	POSTMILE <b>D6.2/6.6</b>	PROJECT ID <b>0112000001</b>	
PROJECT OR BRIDGE NAME <b>Sugarbowl Curve Correction</b>					
BRIDGE NUMBER		PREPARED BY <b>M Gaffney</b>		DATE <b>4-1-15</b>	SHEET <b>1 of 3</b>

4 BR - STANDARD 01-HUM-96 PM 6.2-6.58.GPJ CALTRANS LIBRARY (FEB 2013),GLB 4/21/15

ELEVATION (ft)	DEPTH (ft)	Material Graphics	DESCRIPTION	Sample Location	Sample Number	Blows per 6 in.	Blows per foot	Recovery (%)	RQD (%)	Moisture Content (%)	Dry Unit Weight (pcf)	Shear Strength (tsf)	Drilling Method	Casing Depth	Remarks
	40		SEDIMENTARY ROCK (Graywacke) (continued).		11			20	0						
					12			10	0						
797.61	45				13			3	0						
					14			0	0						
797.56	50		(MUDSTONE); rip-up clast.		15			73	0						
					16			60	0						
797.52	55		SEDIMENTARY ROCK (MUDSTONE); fine grained; laminated; light greenish gray; intensely weathered; hard; intensely fractured; some foliation.		17			5	0						
			Light brown; decomposed; Rock fabric remains but decomposed to clay.		18			20	0						
797.48	60				19			30	0						
			Light greenish gray.		20			0	0						
797.39	70				21			3	0						
			Dark gray; moderately weathered; very intensely fractured; I <sub>p</sub> =6.		22			27	0						
797.35	75				23			7	0						
			Decomposed; Rock fabric remains but decomposed to clay.		24			7	0						
797.30	80														
797.26	85														

(continued)



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 Office of Geotechnical Design - West

REPORT TITLE				HOLE ID	
<b>BORING RECORD</b>				<b>R-15-001</b>	
DIST.	COUNTY	ROUTE	POSTMILE	PROJECT ID	
01	HUM	096	D6.2/6.6	0112000001	
PROJECT OR BRIDGE NAME					
<b>Sugarbowl Curve Correction</b>					
BRIDGE NUMBER		PREPARED BY		DATE	SHEET
		<b>M Gaffney</b>		4-1-15	2 of 3

5 BR - STANDARD 01-HUM-96 PM 6.2-6.58.GPJ CALTRANS LIBRARY (FEB 2013).GLB 4/21/15

ELEVATION (ft)	DEPTH (ft)	Material Graphics	DESCRIPTION	Sample Location	Sample Number	Blows per 6 in.	Blows per foot	Recovery (%)	RQD (%)	Moisture Content (%)	Dry Unit Weight (pcf)	Shear Strength (tsf)	Drilling Method	Casing Depth	Remarks	
797.21	90		SEDIMENTARY ROCK (Mudstone) <i>(continued)</i> .		25			7	0							
			Slight foilation.		26			3	0							
					27			20	0							
797.17	95				28			60	0							
					29			13	0							
797.13	100			Bottom of borehole at 100.3 ft bgs												
797.08	105		This Boring Record was developed in accordance with the Caltrans Soil & Rock Logging, Classification, and Presentation Manual (2010) except as noted on the Soil or Rock Legend or below.													
797.04	110															
797.00	115															
796.95	120															
796.91	125															
796.87	130															
796.82	135															



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REPORT TITLE <b>BORING RECORD</b>				HOLE ID <b>R-15-001</b>	
DIST. <b>01</b>	COUNTY <b>HUM</b>	ROUTE <b>096</b>	POSTMILE <b>D6.2/6.6</b>	PROJECT ID <b>0112000001</b>	
PROJECT OR BRIDGE NAME <b>Sugarbowl Curve Correction</b>					
BRIDGE NUMBER		PREPARED BY <b>M Gaffney</b>		DATE <b>4-1-15</b>	SHEET <b>3 of 3</b>

LOGGED BY <b>M Gaffney</b>	BEGIN DATE <b>1-14-15</b>	COMPLETION DATE <b>1-15-15</b>	BOREHOLE LOCATION (Lat/Long or North/East and Datum) <b>4539444.9 ft / 445382.3 ft</b>	HOLE ID <b>R-15-002</b>
DRILLING CONTRACTOR <b>Crux Subsurface, Inc.</b>			BOREHOLE LOCATION (Offset, Station, Line) <b>3' Lt Sta 350+21.8</b>	SURFACE ELEVATION <b>788 ft</b>
DRILLING METHOD <b>Rotary Wash</b>			DRILL RIG <b>Burely 4000</b>	BOREHOLE DIAMETER <b>3.8 in</b>
SAMPLER TYPE(S) AND SIZE(S) (ID) <b>HQ Core</b>			SPT HAMMER TYPE	HAMMER EFFICIENCY, ERI
BOREHOLE BACKFILL AND COMPLETION <b>Backfilled</b>			GROUNDWATER READINGS	TOTAL DEPTH OF BORING <b>75.0 ft</b>
			DURING DRILLING <b>68.5 ft</b>	AFTER DRILLING (DATE)

ELEVATION (ft)	DEPTH (ft)	Material Graphics	DESCRIPTION	Sample Location	Sample Number	Blows per 6 in.	Blows per foot	Recovery (%)	RQD (%)	Moisture Content (%)	Dry Unit Weight (pcf)	Shear Strength (tsf)	Drilling Method	Casing Depth	Remarks
	0		SEDIMENTARY ROCK (MUDSTONE); fine grained; laminated; dark gray; moderately weathered; moderately soft; very intensely fractured; (NATIVE).												
787.91	5		Roots present.		1			47	0						
787.83	10		Partially healed with calcite.		2			373	0						
787.74	15				3			0	0						
787.65	20				4			2	0						
787.56	25				5			0	0						
787.48	30				6			40	0						
787.39	35		Light greenish gray. METAMORPHIC ROCK (PHYLLITE); light greenish gray; moderately weathered; moderately soft; intensely fractured; (NATIVE).		7			10	0						
787.00	40				8			2	0						

(continued)

I:\BR-STANDARD 01-HUM-96 PM 6.2-6.58.GPJ CALTRANS LIBRARY (FEB 2013).GLB 4/21/15



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REPORT TITLE  
**BORING RECORD**

DIST. <b>01</b>	COUNTY <b>HUM</b>	ROUTE <b>096</b>	POSTMILE <b>D6.2/6.6</b>
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HOLE ID  
**R-15-002**

PROJECT ID  
**0112000001**

PROJECT OR BRIDGE NAME  
**Sugarbowl Curve Correction**

BRIDGE NUMBER	PREPARED BY <b>M Gaffney</b>
---------------	---------------------------------

DATE <b>4-1-15</b>
-----------------------

SHEET <b>1 of 2</b>
------------------------

I:\BR - STANDARD 01-HUM-06 PM 6.2-6.58.GPJ CALTRANS LIBRARY (FEB 2013).GLB 4/21/15

ELEVATION (ft)	DEPTH (ft)	Material Graphics	DESCRIPTION	Sample Location Sample Number	Blows per 6 in.	Blows per foot	Recovery (%)	RQD (%)	Moisture Content (%)	Dry Unit Weight (pcf)	Shear Strength (tsf)	Drilling Method	Casing Depth	Remarks
	40		METAMORPHIC ROCK (Phyllite) (continued).	8			2	0						
787.21	45		Decomposed.	9			80	0						
			Intensely weathered; soft.	10			10	0						
787.13	50			11			7	0						
787.04	55		SEDIMENTARY ROCK (MUDSTONE); fine grained; laminated; dark gray; slightly weathered; moderately hard; intensely fractured; (NATIVE).	12			17	0						
786.95	60			13			2	0						
786.87	65			14			17	0						
786.78	70			15			7	0						
786.69	75		Bottom of borehole at 75.0 ft bgs Hole Pressure grouted to stop water from flowing. This Boring Record was developed in accordance with the Caltrans Soil & Rock Logging, Classification, and Presentation Manual (2010) except as noted on the Soil or Rock Legend or below.											
786.60	80													
786.52	85													



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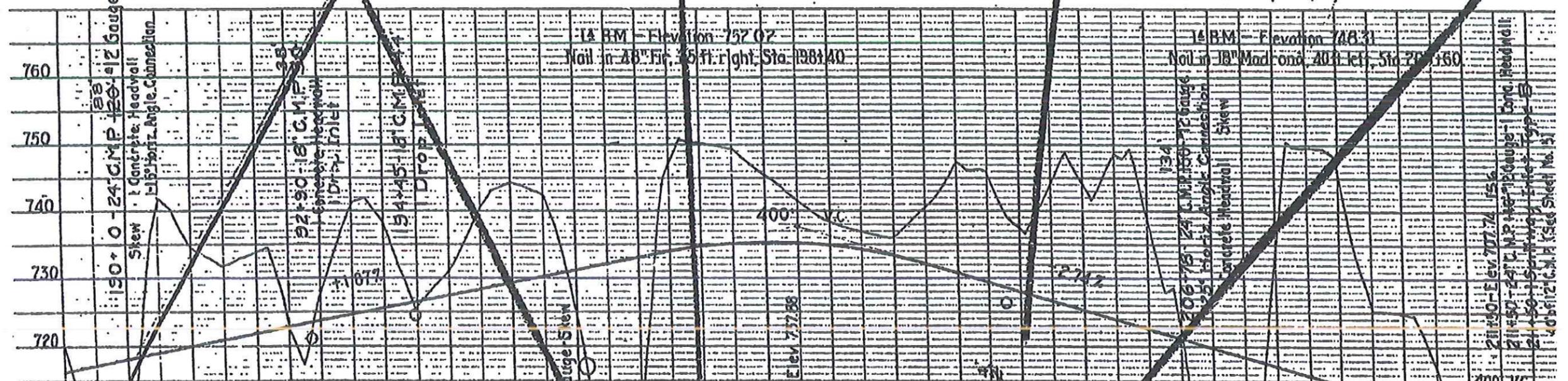
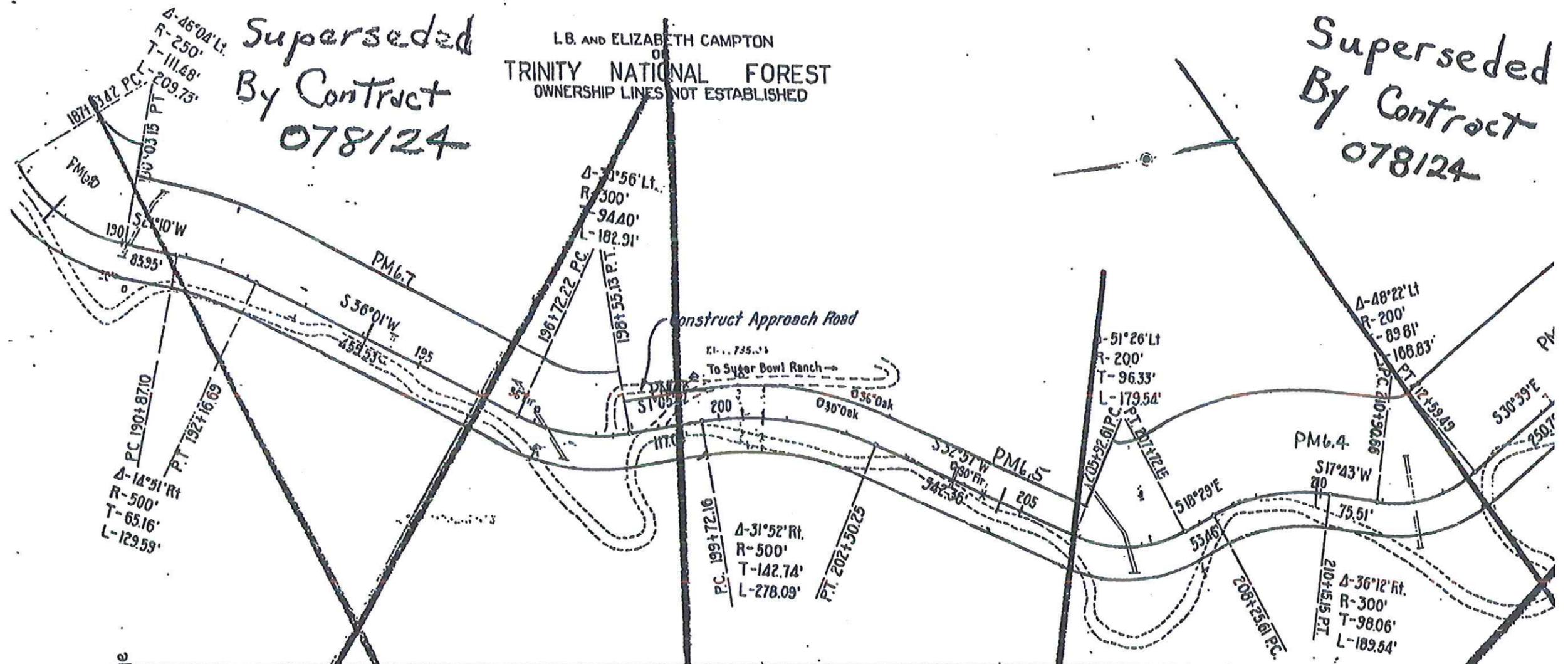
REPORT TITLE <b>BORING RECORD</b>				HOLE ID <b>R-15-002</b>	
DIST. <b>01</b>	COUNTY <b>HUM</b>	ROUTE <b>096</b>	POSTMILE <b>D6.2/6.6</b>	PROJECT ID <b>0112000001</b>	
PROJECT OR BRIDGE NAME <b>Sugarbowl Curve Correction</b>					
BRIDGE NUMBER		PREPARED BY <b>M Gaffney</b>		DATE <b>4-1-15</b>	SHEET <b>2 of 2</b>

## **Attachment B**

Superseded  
By Contract  
078124

L.B. AND ELIZABETH CAMPTON  
TRINITY NATIONAL FOREST  
OWNERSHIP LINES NOT ESTABLISHED

Superseded  
By Contract  
078124



## **MATERIALS INFORMATION**

Nonpotable Water Source,

Dated November 2014

# **NONPOTABLE WATER SOURCE**

November 2014

Hoopa Valley Aggregates and Ready Mix Enterprises

Cal Pack Road, Hoopa, California, 95546

530-625-4017