

IV. PERMITS

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CENTRAL VALLEY FLOOD PROTECTION BOARD

3310 El Camino Ave., Rm. 151
SACRAMENTO, CA 95821
(916) 574-0609 FAX: (916) 574-0682
PERMITS: (916) 574-0685 FAX: (916) 574-0682

RECEIVED

NOV 05 2010

CITY OF CHICO
BDSD / CPSD

NOV 4 2010

Permit No. 18632 BD

City of Chico
PO Box 3420
c/o Bob Greenlaw
Chico, California 95927

Enclosed is your approved Central Valley Flood Protection Board Encroachment Permit Conditions.

Under the Standard General Condition Four (4) of the permit, you are required to accomplish the work under direction and supervision of the Department of Water Resources; therefore, you must advise the Department at 3310 El Camino Avenue, Sacramento, California 95821, attention Lorraine Pendlebury, telephone (916) 574-0609, at least ten days prior to starting your project. An addressed postcard is enclosed for your convenience.

Please note that the permit grants the work proposed in your application. This permit, in addition to the twelve (12) standard conditions, includes special conditions, which may place limitations on or require modifications to your project. You are advised to read all conditions prior to starting the project. Commencing any work under this permit shall constitute an acceptance of the provisions of the permit and an agreement to perform accordingly. This permit does not relieve you from the responsibility for obtaining authorization from any State, local, or federal agencies for your proposed project.

Please refer to your permit number when communicating with this office. For further information, contact Michael Petersen at (916) 574-0685.

Sincerely,

Gary Lemon, Acting Chief
Floodway Protection Section
Central Valley Flood Protection Board

Enclosure

STATE OF CALIFORNIA
THE RESOURCES AGENCY
THE CENTRAL VALLEY FLOOD PROTECTION BOARD

PERMIT NO. 18632 BD

This Permit is issued to:

City of Chico
PO Box 3420
c/o Bob Greenlaw
Chico, California 95927

To widen existing bridge by 49-feet to the north side, for a total width of 81-feet, the new section will be approximately 124-feet-long supported by two abutments and 3 piers, each consisting of 10 rows of 15-inch-diameter pre-stressed driven piles across Dead Horse Slough. The project is located in Chico on State Route 32 just east of Forest Avenue (Section 19&30, T22N, R2E, MDB&M, Dead Horse Slough, Butte County).

NOTE: Special Conditions have been incorporated herein which may place limitations on and/or require modification of your proposed project as described above.

(SEAL)

Dated: NOV 4 2010


Executive Officer

GENERAL CONDITIONS:

ONE: This permit is issued under the provisions of Sections 8700 – 8723 of the Water Code.

TWO: Only work described in the subject application is authorized hereby.

THREE: This permit does not grant a right to use or construct works on land owned by the Sacramento and San Joaquin Drainage District or on any other land.

FOUR: The approved work shall be accomplished under the direction and supervision of the State Department of Water Resources, and the permittee shall conform to all requirements of the Department and The Central Valley Flood Protection Board.

FIVE: Unless the work herein contemplated shall have been commenced within one year after issuance of this permit, the Board reserves the right to change any conditions in this permit as may be consistent with current flood control standards and policies of The Central Valley Flood Protection

Board.

SIX: This permit shall remain in effect until revoked. In the event any conditions in this permit are not complied with, it may be revoked on 15 days' notice.

SEVEN: It is understood and agreed to by the permittee that the start of any work under this permit shall constitute an acceptance of the conditions in this permit and an agreement to perform work in accordance therewith.

EIGHT: This permit does not establish any precedent with respect to any other application received by The Central Valley Flood Protection Board.

NINE: The permittee shall, when required by law, secure the written order or consent from all other public agencies having jurisdiction.

TEN: The permittee is responsible for all personal liability and property damage which may arise out of failure on the permittee's part to perform the obligations under this permit. If any claim of liability is made against the State of California, or any departments thereof, the United States of America, a local district or other maintaining agencies and the officers, agents or employees thereof, the permittee shall defend and shall hold each of them harmless from each claim.

ELEVEN: The permittee shall exercise reasonable care to operate and maintain any work authorized herein to preclude injury to or damage to any works necessary to any plan of flood control adopted by the Board or the Legislature, or interfere with the successful execution, functioning or operation of any plan of flood control adopted by the Board or the Legislature.

TWELVE: Should any of the work not conform to the conditions of this permit, the permittee, upon order of The Central Valley Flood Protection Board, shall in the manner prescribed by the Board be responsible for the cost and expense to remove, alter, relocate, or reconstruct all or any part of the work herein approved.

SPECIAL CONDITIONS FOR PERMIT NO. 18632 BD

THIRTEEN: All work approved by this permit shall be in accordance with the submitted drawings and specifications except as modified by special permit conditions herein. No further work, other than that approved by this permit, shall be done in the area without prior approval of the Central Valley Flood Protection Board.

FOURTEEN: The permittee shall maintain the permitted encroachment(s) and the project works within the utilized area in the manner required and as requested by the authorized representative of the Department of Water Resources or any other agency responsible for maintenance.

FIFTEEN: The permittee shall contact the Department of Water Resources by telephone, (916) 574-0609, and submit the enclosed postcard to schedule a preconstruction conference. Failure to do so at least 10 working days prior to start of work may result in delay of the project.

SIXTEEN: The permittee shall provide supervision and inspection services acceptable to the Central Valley Flood Protection Board. A professional engineer registered in the State of California shall certify that all work was inspected and performed in accordance with submitted drawings, specifications, and permit conditions.

SEVENTEEN: Upon completion of the project, the permittee shall submit as-built drawings to: Department of Water Resources, Flood Project Inspection Section, 3310 El Camino Avenue, Suite LL30, Sacramento, California 95821.

EIGHTEEN: The Central Valley Flood Protection Board and Department of Water Resources shall not be held liable for any damages to the permitted encroachment(s) resulting from flood fight, operation, maintenance, inspection, or emergency repair.

NINETEEN: The permittee may be required, at permittee's cost and expense, to remove, alter, relocate, or reconstruct all or any part of the permitted encroachment(s) if removal, alteration, relocation, or reconstruction is necessary as part of or in conjunction with any present or future flood control plan or project or if damaged by any cause. If the permittee does not comply, the Central Valley Flood Protection Board may remove the encroachment(s) at the permittee's expense.

TWENTY: The permittee should contact the U.S. Army Corps of Engineers, Sacramento District, Regulatory Branch, 1325 J Street, Sacramento, California 95814, telephone (916) 557-5250, as compliance with Section 10 of the Rivers and Harbors Act and/or Section 404 of the Clean Water Act may be required.

TWENTY-ONE: The permittee shall be responsible for repair of any damages to the project levee and other flood control facilities due to construction, operation, or maintenance of the proposed project.

TWENTY-TWO: The permittee is responsible for all liability associated with construction, operation, and maintenance of the permitted facilities and shall defend, indemnify, and hold the Central Valley Flood Protection Board and the State of California; including its agencies, departments, boards, commissions, and their respective officers, agents, employees, successors and assigns (collectively, the "State"), safe and harmless, of and from all claims and damages arising from the project undertaken pursuant to this permit, all to the extent allowed by law. The State expressly reserves the right to supplement or take over its defense, in its sole discretion

TWENTY-THREE: The permittee shall defend, indemnify, and hold the Central Valley Flood Protection Board and the State of California, including its agencies, departments, boards, commissions, and their respective officers, agents, employees, successors and assigns (collectively, the "State"), safe and harmless, of and from all claims and damages related to the Central Valley Flood Protection Board's approval of this permit, including but not limited to claims filed pursuant to the California Environmental Quality Act. The State expressly reserves the right to supplement or take over its defense, in its sole discretion.

TWENTY-FOUR: If the project, or any portion thereof, is to be abandoned in the future, the permittee or successor shall abandon the project under direction of the Central Valley Flood Protection Board and Department of Water Resources, at the permittee's or successor's cost and expense.

TWENTY-FIVE: No construction work of any kind shall be done during the flood season from November 1 to April 15 without prior approval of the Central Valley Flood Protection Board.

TWENTY-SIX: All cleared trees and brush shall be completely burned or removed from the floodway, and downed trees or brush shall not remain in the floodway during the flood season from November 1 to April 15.

TWENTY-SEVEN: No material stockpiles, temporary buildings, or equipment shall remain in the floodway during the flood season from November 1 to April 15.

TWENTY-EIGHT: The new bridge shall have at least the same waterway area and vertical clearance as the replaced bridge.

TWENTY-NINE: The soffit of the bridge shall be no lower than that of the replaced bridge.

THIRTY: Bridge piers and bents placed within the floodway to support a widened portion of an existing bridge shall be constructed in line with the existing bents and piers.

THIRTY-ONE: Temporary staging, formwork, stockpiled material, equipment, and temporary buildings shall not remain in the floodway during the flood season from November 1 to April 15.

THIRTY-TWO: Trees, brush, sediment, and other debris shall be kept cleared from the bridge site and disposed of outside the floodway to maintain the design flow capacity and flowage area.

THIRTY-THREE: All fencing, gates and signs removed during construction of this project shall be replaced in kind and at the original locations. If it is necessary to relocate any fence, gate or sign, the permittee is required to obtain written approval from the Central Valley Flood Protection Board prior to installation at a new location.

THIRTY-FOUR: All temporary fencing, gates and signs shall be removed upon completion of the project.

THIRTY-FIVE: Backfill material for excavations shall be placed in 4- to 6-inch layers and compacted to at least the density of the adjacent, firm, undisturbed material.

THIRTY-SIX: Density tests by a certified materials laboratory will be required to verify compaction of backfill within the floodway and channel banks.

THIRTY-SEVEN: The permittee shall be responsible for all damages due to settlement, consolidation, or heave from any construction-induced activities.

THIRTY-EIGHT: In the event existing revetment on the channel banks is disturbed or displaced, it shall be restored to its original condition upon completion of the proposed installation.

THIRTY-NINE: All debris generated by this project shall be disposed of outside the floodway.

FORTY: The work area shall be restored to the condition that existed prior to start of work.

FORTY-ONE: In the event that bank erosion or channel scour injurious to the adopted plan of flood control occurs at or adjacent to the permitted encroachment(s), the permittee shall repair the eroded area and propose measures, to be approved by the Central Valley Flood Protection Board, to prevent further erosion.

FORTY-TWO: If the permitted encroachments result(s) in an adverse hydraulic impact, the permittee shall provide appropriate mitigation measures, to be approved by the Central Valley Flood Protection Board, prior to implementation of mitigation measures.

FORTY-THREE: The mitigation measures approved by the CEQA lead agency and the permittee are found in its Mitigation Monitoring Program (MMP) adopted by the CEQA lead agency. The permittee shall implement all such mitigation measures.

FORTY-FOUR: A letter from the Department of the Army dated September 24, 2010, which is

attached to this permit as Exhibit A, is in reference to this project.

REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. Army Engineer District, Sacramento
Corps of Engineers
1325 J Street
Sacramento, California 95814-2922

Flood Protection and Navigation Section (18632)

SEP 24 2010

Mr. Jay Punia, Executive Officer
Central Valley Flood Protection Board
3310 El Camino Avenue, Room 151
Sacramento, California 95821

Dear Mr. Punia:

We have reviewed a permit application by the City of Chico (application number 18632). This project includes widening an existing bridge by 49 feet to the north side, for a total width of 81 feet. The new section will be approximately 124 feet long, supported by two abutments and 30 pre-stressed 15 inch diameter piles across Dead Horse Slough. The proposed project is located in Chico, on State Route 32 just east of Forest Avenue, at 39.7397°N 121.8030°W NAD83, Butte County, California.

The District Engineer has no comments or recommendations regarding flood control because the proposed work does not affect a federally constructed project.

A file (SPK-2010-01115) has been opened because a Section 10 and/or Section 404 permit may be required. Please advise the applicant to contact the U.S. Army Corps of Engineers, Sacramento District, Regulatory Division, 1325 J Street, Sacramento, California 95814, telephone (916) 557-5250.

A copy of this letter is being furnished to Mr. Don Rasmussen, Chief, Flood Project Integrity and Inspection Branch, 3310 El Camino Avenue, Suite LL30, Sacramento, CA 95821.

Sincerely,

A handwritten signature in black ink, appearing to read "Meegan G. Nagy". The signature is written in a cursive style and is enclosed within a hand-drawn circle.

Meegan G. Nagy, P.E.
Chief, Flood Protection and Navigation Section

State Inspector should contact:

Permittee's Name _____ Telephone _____

Address _____

I am requesting a pre-construction meeting with an inspector under the approved Permit

No. _____. I am also requesting a start date of _____ for the work
under this permit.

Applicant's Signature

Date

PLACE
STAMP
HERE

DWR
DIV OF FLOOD MGMT
FPIS CHIEF
3310 EL CAMINO AVE. STE 200
SACRAMENTO CA 95821-6340

(Blank)



North Central Region
1701 Nimbus Road, Suite A
Rancho Cordova, CA 95670-4599
916-358-2900
<http://www.dfg.ca.gov>

RECEIVED

SEP 30 2010

CITY OF CHICO
BDSO / CPSD

September 23, 2010

City of Chico
Bob Greenlaw
411 Main Street, 2nd Floor
Chico, CA 95927

Subject: Final Lake or Streambed Alteration Agreement
Notification No. 1600-2010-0122 -R2
State Route 32 Road Widening Project

Dear Mr. Greenlaw:

Enclosed is the final Streambed Alteration Agreement ("Agreement") for the State Route 32 Road Widening Project ("Project"). Before the Department of Fish and Game ("Department") may issue an Agreement, it must comply with the California Environmental Quality Act ("CEQA"). In this case, the Department, acting as a responsible agency, filed a notice of determination ("NOD") on the same date it signed the Agreement. The NOD was based on information contained in the State Route 32 Road Widening Project Final Environmental Impact Report the City of Chico (lead agency) prepared for the Project.

Under CEQA, filing a NOD starts a 30-day period within which a party may challenge the filing agency's approval of the project. You may begin your project before the 30-day period expires if you have obtained all necessary local, state, and federal permits or other authorizations. However, if you elect to do so, it will be at your own risk.

If you have any questions regarding this matter, please contact Gary Hobgood, Staff Environmental Scientist at 916-983-6920 or ghobgood@dfg.ca.gov.

Sincerely,

Kent Smith
Regional Manager

cc: Brooks Taylor
Gallaway Consulting, Inc.

btaylor@gallawayconsulting.net

Gary Hobgood

ghobgood@dfg.ca.gov

CALIFORNIA DEPARTMENT OF FISH AND GAME
NORTH CENTRAL REGION
1701 NIMBUS ROAD, SUITE A
RANCHO CORDOVA, CA 95670



Streambed Alteration Agreement
Notification No. 1600-2010-0122 -R2
Dead Horse Slough, South Fork Dead Horse Slough
City of Chico, Capital Project Services Department
State Route 32 Road Widening Project

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Game (DFG) and City of Chico (Permittee) as represented by Bob Greenlaw.

RECITALS

WHEREAS, pursuant to Fish and Game Code (FGC) section 1602, Permittee notified DFG on July 28, 2010 that Permittee intends to complete the project described herein.

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

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

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

PROJECT LOCATION

The project is located at Dead Horse Slough, South Fork Dead Horse Slough and four unnamed ephemeral streams, in the County of Butte, State of California; Latitude 39.737182, Longitude -122.8169069.

PROJECT DESCRIPTION

The proposed project will widen and improve approximately 2.6 miles of SR 32, beginning at the southbound SR 99 ramps at the west end of the project corridor and extending 1,400 feet east past Yosemite Drive. State Route 32 will be widened from two to three lanes in each direction from the east side of the SR 99 interchange to just east of Fir Street. The roadway will then be widened from two to four lanes (two in each direction) from Fir Street to 1,400 ft east of Yosemite Drive, where the roadway width will transition down from four lanes to the existing two lanes.

The existing structure at Dead Horse Slough will be widened to the north to accommodate the additional traffic lanes and widened shoulders. The existing structure is a four span reinforced concrete slab that is 123.5 feet long and 32.5 feet wide. The

structure will be widened by 49 feet; the new structure width will be 81.5 feet. The railings on the existing structure will be upgraded to current standards. The structure widening will be constructed in one phase, with the new bridge constructed to the north and joined to the existing structure with a closure pour. Both the existing and proposed abutments will be protected from scour with rock slope protection. A Location Hydraulic Study has been completed, and the existing bridge exceeds Caltrans freeboard requirements. If there is water present within the channel, dewatering will be required when the concrete is poured for the piles. However, the bridge will be constructed in the summer months when the channel will be dry.

The existing 6 ft x 8 ft box culvert on South Fork Dead Horse Slough just east of Bruce Road will either be lengthened or replaced to accommodate the roadway widening. Additionally, four smaller culverts which support unnamed ephemeral streams will be lengthened to accommodate the road widening.

A detailed project description is provided in the notification materials submitted to DFG. The notification, together with all supporting documents submitted with the notification, including the 65% construction plan set, the **State Route 32 Widening Project Final Environmental Impact Report** (including the Mitigation Monitoring Program), dated May 2010, the **State Route 32 Widening Project Natural Environment Study**, dated November 2006, the State Route Mitigation sales agreement, **California Regional Water Quality Control Board Central Valley Region - Section 401 Water Quality Certification Application Form**, dated July 12, 2010, the **Biological Opinion** (Service file No. 81420-2008-F-0104-2) issued by the U.S. Fish and Wildlife Service and the **California Endangered Species Act Consistency Determination No. 2080-2010-039-02** is hereby incorporated into this agreement to describe the location, features, avoidance measures and mitigation measures of the proposed project.

PROJECT IMPACTS

Existing fish or wildlife resources the project could substantially adversely affect include: Butte County meadowfoam, vernal pool invertebrates, giant garter snake, valley elderberry longhorn beetle, Chinook salmon, Central Valley Steelhead trout, Western Pond Turtle; cliff swallows; warm water fish species, amphibians, and other aquatic and terrestrial plant and wildlife species.

The adverse effects the project could have on the fish or wildlife resources identified above include: loss of natural bed or bank; relocation of stream channel; change in contour of bed, channel or bank; change in gradient of bed, channel or bank; change in channel cross-section (confinement or widening); loss of bank stability during construction; increase of bank erosion during construction; change in composition of channel materials (Large Woody Debris or substrate particle size); soil compaction or other disturbance to soil layer; debris transport impedance (from culverts and bridges); increased turbidity; short-term release of contaminants (e.g., incidental from construction); loss or decline of riparian and/or emergent marsh habitat; loss or decline of instream woody material; change to, or loss or decline of natural bed substrate; construction pits and trenches that can capture terrestrial organisms; disruption to

nesting birds and other wildlife: direct take of terrestrial species; disturbance from project activity; to migration corridors, loss of wildlife connectivity to water source; loss or impediment of terrestrial animal species travel routes due to permanent structures; or loss or impediment of terrestrial animal species travel routes due to temporary structures (e.g., survey tape, sandbags, erosion protection materials etc.).

STREAM ZONE DEFINED

The Stream Zone comprises all components of a stream, including the channel, bed, banks, and floodplains. The Stream Zone is the land, including vegetation, that bounds a lake or the channel of a stream and that defines the lateral extent of their waters.

MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES

1. Administrative Measures

Permittee shall meet each administrative requirement described below.

- 1.1 Documentation at Project Site. Permittee shall make the Agreement, any extensions and amendments to the Agreement, and all related notification materials and California Environmental Quality Act (CEQA) documents, readily available at the project site at all times and shall be presented to DFG personnel, or personnel from another state, federal, or local agency upon request.
- 1.2 Providing Agreement to Persons at Project Site. Permittee shall provide copies of the Agreement and any extensions and amendments to the Agreement to all persons who will be working on the project at the project site on behalf of Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.
- 1.3 Notification of Conflicting Provisions. Permittee shall notify DFG if Permittee determines or learns that a provision in the Agreement might conflict with a provision imposed on the project by another local, state, or federal agency. In that event, DFG shall contact Permittee to resolve any conflict.
- 1.4 Project Site Entry. Permittee agrees that DFG personnel may enter the project site to verify compliance with the Agreement. DFG personnel may only enter the project site when it is safe to do so. When appropriate, DFG personnel shall contact the Permittee prior to entering the construction area.
- 1.5 Authorized Work. The notification, together with all supporting documents submitted with the notification, is hereby incorporated into this agreement to describe the location and features of the proposed project. The Permittee agrees that all work shall be done as described in the notification and supporting documents, incorporating all project modifications, wildlife resource protection features, mitigation measures, and provisions as described in this agreement.

Where apparent conflicts exist between the notification and the provisions listed in this agreement, the Permittee shall comply with the provisions listed in this agreement. The Permittee further agrees to notify DFG of any modifications made to the project plans submitted to DFG. At the discretion of DFG, this agreement will be amended to accommodate modifications to the project plans submitted to DFG and/or new project activities.

2. Avoidance and Minimization Measures

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

- 2.1 Work Period. Except as provided below, the time period for completing the work within the stream zone shall be restricted to periods of low stream flow and dry weather and shall be confined to the period of May 1 to October 1. Construction activities shall be timed with awareness of precipitation forecasts and likely increases in stream flow. Construction activities within the stream zone shall cease until all reasonable erosion control measures, inside and outside of the stream zone, have been implemented prior to all storm events. Revegetation, restoration and erosion control work is not confined to this time period. This provision does not apply to work on the roadway and the bridge deck above the stream zone. The work period may be extended as conditioned in provision 2.2 below.
- 2.2 Work Period Extensions. At DFG's discretion, the work period may be extended based on the extent of the work remaining, on site conditions and reasonably anticipated future conditions. If the Permittee finds more time is needed to complete the authorized activity, the Permittee shall submit a written request for a work period time extension to DFG. The work period extension request shall provide the following information: 1) Describe the extent of work already completed; 2) Provide specific detail of the activities that remain to be completed within the stream zone; and 3) Detail the actual time required to complete each of the remaining activities within the stream zone. The work period extension request should consider the effects of increased stream conditions, rain delays, increased erosion control measures, limited access due to saturated soil conditions, and limited growth of erosion control grasses due to cool weather. Photographs of the work completed and the proposed work areas are helpful in assisting DFG in its evaluation. Time extensions are issued at the discretion of DFG. DFG will have ten calendar days to approve the proposed work period extension. DFG reserves the right to require additional measures designed to protect natural resources.
- 2.3 Stream Diversions / Dewatering. Work in the flowing stream is not anticipated. If work in the flowing stream is required, the Permittee must submit a "clean water" diversion plan to DFG. DFG will review the proposed water diversion method. DFG will have ten calendar days to approve the plan or provide the requirements for that approval. If DFG does not respond within 10 days, the plan shall be automatically approved.

- 2.4 Bird Nests. It is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird except as otherwise provided by the Fish and Game Code. No trees that contain active nests of birds shall be disturbed until all eggs have hatched and young birds have fledged without prior consultation and approval of a Department representative. It is recommended that the trees that are identified for removal, be removed during the non-nesting period of September 16 to February 28. If tree removal must occur during the period of March 1 and September 15, a qualified biologist shall conduct a pre-construction survey for bird nests or nesting activity within 500 feet of the project area. If any active nests or nesting behaviors are found, the Department must be notified prior to further action. The Permittee may be required to create exclusion zones of 75 to 500 feet depending on the species observed. The exclusion zone must be maintained until birds have fledged or nest is abandoned. The survey results shall be provided to the Department prior to removing any trees.
- 2.5 Cliff Swallows. No active cliff swallow nests shall be disturbed until all eggs have hatched and young birds have fledged without prior consultation and approval of a Department representative. If swallow nesting is likely, the Permittee shall submit for review and approval a Cliff Swallow Management Plan. The Cliff Swallow Management plan should be submitted for review well before the start of swallow breeding activity (mid-March). The Cliff Swallow Management plan should consider the use of netting and/or daily removal of nest material with high-pressure water spray. DFG will have ten calendar days to approve the Cliff Swallow Management plan. If DFG does not reply within ten days, the Cliff Swallow Management plan shall be implemented as submitted.
- 2.6 Vegetation Removal. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete operations. Except for the trees specifically identified for removal in the notification, no native trees with a trunk diameter at breast height (DBH) in excess of four (4) inches shall be removed or damaged without prior consultation and approval of a Department representative. Using hand tools (clippers, chain saw, etc.), trees may be trimmed to the extent necessary to gain access to the work sites. All cleared material/vegetation shall be removed out of the riparian/stream zone.
- 2.7 Butte County Meadowfoam, Minimization, Mitigation, and Monitoring Measures.

Permittee shall install visible protective wildlife safe construction fencing to protect environmentally protected area on the project site where construction equipment and personnel shall be excluded to protect vernal pool habitat. The fencing shall be monitored daily and kept in good working condition for the duration of the Project;

Permittee has purchased 0.917 acres of BCM mitigation credits, from the Dove Ridge Mitigation Bank, Butte County, for temporary impacts to 0.183 acre of indirect impacts and 0.0001 acre of direct impacts (1 plant) to BCM;

Following construction, Permittee shall return each site to pre-Project conditions, remove all construction debris (including protective fencing, barriers, flagging, and construction mats), and reseed each site with an approved erosion control seed mix as needed as prescribed in a Service and DFG-approved plan.

- 2.8 Sediment Control. Precautions to minimize turbidity/siltation shall be taken into account during project planning and implementation. This may require the placement of silt fencing, coir logs, coir rolls, straw bale dikes, or other siltation barriers so that silt and/or other deleterious materials are not allowed to pass to downstream reaches. Passage of sediment beyond the sediment barrier(s) is prohibited. If any sediment barrier fails to retain sediment, corrective measures shall be taken. The sediment barrier(s) shall be maintained in good operating condition throughout the construction period and the following rainy season. Maintenance includes, but is not limited to, removal of accumulated silt and/or replacement of damaged silt fencing, coir logs, coir rolls, and/or straw bale dikes. The Permittee is responsible for the removal of non-biodegradable silt barriers (such as plastic silt fencing) after the disturbed areas have been stabilized with erosion control vegetation (usually after the first growing season). Upon Department determination that turbidity/siltation levels resulting from project related activities constitute a threat to aquatic life, activities associated with the turbidity/siltation shall be halted until effective Department approved control devices are installed or abatement procedures are initiated.
- 2.9 Pollution Control. Utilize Best Management Practices (BMPs) to prevent spills and leaks into water bodies. If maintenance or refueling of vehicles or equipment must occur on-site, use a designated area and/or a secondary containment, located away from drainage courses to prevent the runoff of storm water and the runoff of spills. Ensure that all vehicles and equipment are in good working order (no leaks). Place drip pans or absorbent materials under vehicles and equipment when not in use. Ensure that all construction areas have proper spill clean up materials (absorbent pads, sealed containers, booms, etc.) to contain the movement of any spilled substances. Any other substances which could be hazardous to aquatic life, resulting from project related activities, shall be prevented from contaminating the soil and/or entering the waters of the state. Any of these materials, placed within or where they may enter a stream or lake by the Applicant or any party working under contract or with the permission of the Permittee, shall be removed immediately. DFG shall be notified immediately by the Permittee of any spills and shall be consulted regarding clean-up procedures.

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 Site Restoration. All exposed/disturbed areas and access points within the stream zone left barren of vegetation as a result of the construction activities shall be

restored using locally native grass seeds, locally native grass plugs and/or a mix of quick growing sterile non-native grass with locally native grass seeds. Seeded areas shall be covered with broadcast straw and/or jute netted (monofilament erosion blankets are not authorized).

4. Reporting Measures

Permittee shall meet each reporting requirement described below.

- 4.1 The Permittee shall notify DFG within two working days of beginning work within the stream zone of Dead Horse Slough, South Fork Dead Horse Slough and four unnamed ephemeral streams. Notification shall be submitted as instructed in Contact Information section below. Email notification is preferred.
- 4.2 Upon completion of the project activities described in this agreement, the work area within the stream zone shall be digitally photographed. Photographs shall be submitted to DFG within two days of completion. Photographs and project commencement notification shall be submitted as instructed in Contact Information section below. Email submittal is preferred.

CONTACT INFORMATION

Any communication that Permittee or DFG submits to the other shall be in writing and any communication or documentation shall be delivered to the address below by U.S. mail, fax, or email, or to such other address as Permittee or DFG specifies by written notice to the other. Refer to the project's Notification Number when submitting documents to DFG.

To Permittee:

City of Chico
Bob Greenlaw
411 Main Street, 2nd Floor
Chico, CA 95927

bgreenla@ci.chico.ca.us

To DFG:

Department of Fish and Game
North Central Region
1701 Nimbus Road, Suite A
Rancho Cordova, CA 95670
Attn: Lake and Streambed Alteration Program – Gary L. Hobgood
Notification #1600-2010-0122 R2
Fax: 916-358-2912
ghobgood@dfg.ca.gov

LIABILITY

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

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

SUSPENSION AND REVOCATION

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

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

ENFORCEMENT

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

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

OTHER LEGAL OBLIGATIONS

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

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from complying with other applicable statutes in the FGC including, but not limited to, FGC sections 2050 et seq. (threatened and endangered species), 3503 (bird nests and eggs), 3503.5 (birds of prey), 5650 (water pollution), 5652 (refuse

disposal into water), 5901 (fish passage), 5937 (sufficient water for fish), and 5948 (obstruction of stream).

The Permittee shall notify DFG where conflicts exist between the provisions of this agreement and those imposed by other regulatory agencies. Unless otherwise notified, the Permittee shall comply with the provision that offers the greatest protection to water quality, species of special concern and/or critical habitat.

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

AMENDMENT

DFG may amend the Agreement at any time during its term, provided the amendment is mutually agreed to in writing by Permittee and DFG.

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

TRANSFER AND ASSIGNMENT

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

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

EXTENSIONS

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

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

EFFECTIVE DATE

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

TERM

This Agreement shall expire 5 years from the date the agreement has been signed by both parties, unless it is terminated or extended before then. All provisions in the Agreement shall remain in force throughout its term. Permittee shall remain responsible for implementing any provisions specified herein to protect fish and wildlife resources after the Agreement expires or is terminated, as FGC section 1605(a)(2) requires.

AUTHORITY

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

AUTHORIZATION

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

CONCURRENCE

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

FOR CITY OF CHICO



Bob Greenlaw

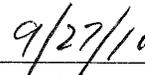


Date

FOR DEPARTMENT OF FISH AND GAME



Kent Smith
Regional Manager



Date

Prepared by: Gary L. Hobgood
Staff Environmental Scientist



California Regional Water Quality Control Board Central Valley Region

Katherine Hart, Chair

415 Knollcrest Drive, Suite 100, Redding, California 96002
(530) 224-4845 • Fax (530) 224-4857



Arnold
Schwarzenegger
Governor

Linda S. Adams
Secretary for
Environmental
Protection

7 October 2010

Mr. Bob Greenlaw
City of Chico
P.O. Box 3420
Chico, CA 95927

RECEIVED

OCT 11 2010

**CITY OF CHICO
BDS/D/CPD**

CLEAN WATER ACT §401 TECHNICALLY CONDITIONED WATER QUALITY CERTIFICATION FOR DISCHARGE OF DREDGED AND/OR FILL MATERIALS FOR THE STATE ROUTE 32 ROAD WIDENING PROJECT (WDID#5A04CR00193), CHICO, BUTTE COUNTY

ACTION:

1. Order for Standard Certification
2. Order for Technically-conditioned Certification
3. Order for Denial of Certification

WATER QUALITY CERTIFICATION STANDARD CONDITIONS:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and §3867 of Title 23 of the California Code of Regulations (23 CCR).
2. This certification 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 23 CCR subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. The validity of any non-denial certification action shall be conditioned upon total payment of the full fee required under 23 CCR §3833, unless otherwise stated in writing by the certifying agency.
4. Certification is valid for the duration of the described project. City of Chico shall notify the Central Valley Water Board in writing within 7 days of project completion.

ADDITIONAL TECHNICALLY CONDITIONED CERTIFICATION CONDITIONS:

In addition to the four standard conditions, City of Chico shall satisfy the following:

1. City of Chico shall notify the Central Valley Water Board in writing 7 days in advance of the start of any in-water activities.
2. Except for activities permitted by the U.S. Army Corps under §404 of the Clean Water Act, soil, silt, or other organic materials shall not be placed where such materials could pass into surface water or surface water drainage courses.
3. All areas disturbed by project activities shall be protected from washout or erosion.
4. City of Chico shall maintain a copy of this Certification and supporting documentation (Project Information Sheet) at the Project site during construction for review by site personnel and agencies. All personnel (employees, contractors, and subcontractors) performing work on the proposed project shall be adequately informed and trained regarding the conditions of this Certification.
5. An effective combination of erosion and sediment control Best Management Practices (BMPs) must be implemented and adequately working during all phases of construction.
6. All temporarily affected areas will be restored to pre-construction contours and conditions upon completion of construction activities.
7. City of Chico shall perform surface water sampling: 1) When performing any in-water work; 2) In the event that project activities result in any materials reaching surface waters or; 3) When any activities result in the creation of a visible plume in surface waters. The following monitoring shall be conducted immediately upstream out of the influence of the project and 300 feet downstream of the active work area. Sampling results shall be submitted to this office within two weeks of initiation of sampling and every two weeks thereafter. The sampling frequency may be modified for certain projects with written permission from the Central Valley Water Board.

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

8. Activities shall not cause turbidity increases in surface water to exceed:
- (a) where natural turbidity is less than 1 Nephelometric Turbidity Units (NTUs), controllable factors shall not cause downstream turbidity to exceed 2 NTU;
 - (b) where natural turbidity is between 1 and 5 NTUs, increases shall not exceed 1 NTU;
 - (c) where natural turbidity is between 5 and 50 NTUs, increases shall not exceed 20 percent;
 - (d) where natural turbidity is between 50 and 100 NTUs, increases shall not exceed 10 NTUs;
 - (e) where natural turbidity is greater than 100 NTUs, increases shall not exceed 10 percent.

Except that these limits will be eased during in-water working periods to allow a turbidity increase of 15 NTU over background turbidity as measured in surface waters 300 feet downstream from the working area. In determining compliance with the above limits, appropriate averaging periods may be applied provided that beneficial uses will be fully protected. Averaging periods may only be assessed by prior permission of the Central Valley Water Board.

9. Activities shall not cause settleable matter to exceed 0.1 ml/l in surface waters as measured in surface waters 300 feet downstream from the project.
10. The discharge of petroleum products or other excavated materials to surface water is prohibited. Activities shall not cause visible oil, grease, or foam in the work area or downstream. City of Chico shall notify the Central Valley Water Board immediately of any spill of petroleum products or other organic or earthen materials.
11. City of Chico shall notify the Central Valley Water Board immediately if the above criteria for turbidity, settleable matter, oil/grease, or foam are exceeded.
12. City of Chico shall comply with all Department of Fish and Game 1600 requirements for the project.
13. City of Chico must obtain coverage under the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities issued by the State Water Resources Control Board for any project disturbing an area of 1 acre or greater.
14. The Conditions in this water quality certification are based on the information in the attached "Project Information." If the information in the attached Project Information is modified or the project changes, this water quality certification is no longer valid until amended by the Central Valley Water Board.
15. In the event of any violation or threatened violation of the conditions of this Order, the violation or threatened violation shall be subject to any remedies, penalties, process, or sanctions as provided for under State law and section 401 (d) of the federal Clean Water Act. The applicability of any State law authorizing remedies, penalties, process, or sanctions for the violation or threatened violation constitutes a limitation necessary to ensure compliance into this Order.

- a. If City of Chico or a duly authorized representative of the project fails or refuses to furnish technical or monitoring reports, as required under this Order, or falsifies any information provided in the monitoring reports, the applicant is subject to civil, for each day of violation, or criminal liability.
- b. In response to a suspected violation of any condition of this Order, the Central Valley Water Board may require City of Chico to furnish, under penalty of perjury, any technical or monitoring reports the Central Valley Water Board deems appropriate, provided that the burden, including cost of the reports, shall be in reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
- c. City of Chico shall allow the staff(s) of the Central Valley Water Board, or an authorized representative(s), upon the presentation of credentials and other documents, as may be required by law, to enter the project premises for inspection, including taking photographs and securing copies of project-related records, for the purpose of assuring compliance with this certification and determining the ecological success of the project.

ADDITIONAL STORM WATER QUALITY CONDITIONS:

City of Chico shall also satisfy the following additional storm water quality conditions:

1. During the construction phase, City of Chico must employ strategies to minimize erosion and the introduction of pollutants into storm water runoff. These strategies must include the following:
 - (a) the Storm Water Pollution Prevention Plan (SWPPP) must be prepared during the project planning and design phases and before construction;
 - (b) an effective combination of erosion and sediment control Best Management Practices (BMPs) must be implemented and adequately working prior to the rainy season and during all phases of construction.
2. City of Chico must minimize the short and long-term impacts on receiving water quality from the State Route 32 Road Widening Project by implementing the following post-construction storm water management practices:
 - (a) minimize the amount of impervious surface;
 - (b) reduce peak runoff flows;
 - (c) provide treatment BMPs to reduce pollutants in runoff;
 - (d) ensure existing waters of the State (e.g., wetlands, vernal pools, or creeks) are not used as pollutant source controls and/or treatment controls;
 - (e) preserve and, where possible, create or restore areas that provide important water quality benefits, such as riparian corridors, wetlands, and buffer zones;
 - (f) limit disturbances of natural water bodies and natural drainage systems caused by development (including development of roads, highways, and bridges);
 - (g) use existing drainage master plans or studies to estimate increases in pollutant loads and flows resulting from projected future development and require incorporation of structural and non-structural BMPs to mitigate the projected pollutant load increases in surface water runoff;

- (h) identify and avoid development in areas that are particularly susceptible to erosion and sediment loss, or establish development guidance that protects areas from erosion/ sediment loss;
 - (i) control post-development peak storm water run-off discharge rates and velocities to prevent or reduce downstream erosion, and to protect stream habitat.
3. City of Chico must ensure that all development within the project provides verification of maintenance provisions for post-construction structural and treatment control BMPs. Verification shall include one or more of the following, as applicable:
- (a) the developer's signed statement accepting responsibility for maintenance until the maintenance responsibility is legally transferred to another party; or
 - (b) written conditions in the sales or lease agreement that require the recipient to assume responsibility for maintenance; or
 - (c) written text in project conditions, covenants and restrictions for residential properties assigning maintenance responsibilities to a home owner's association, or other appropriate group, for maintenance of structural and treatment control BMPs; or
 - (d) any other legally enforceable agreement that assigns responsibility for storm water BMP maintenance.
4. Staff of the Central Valley Water Board has prepared total maximum daily load (TMDL) allocations that, once approved, would limit methylmercury in storm water discharges to the Sacramento-San Joaquin Delta. The Central Valley Water Board has scheduled these proposed allocations to be considered for adoption. When the Central Valley Water Board adopts the TMDL and once approved by the Environmental Protection Agency, the discharge of methylmercury may be limited from the proposed project. The purpose of this condition is to provide notice to City of Chico that methylmercury discharge limitations and monitoring requirements may apply to this project in the future and also to provide notice of the Central Valley Water Board's TMDL process and that elements of the planned construction may be subject to a TMDL allocation.

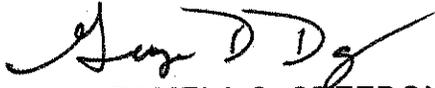
REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON:

Scott A. Zaitz, R.E.H.S., Redding Branch Office, 415 Knollcrest Drive, Suite 100, Redding, California 96002, szaitz@waterboards.ca.gov, (530) 224-4784

WATER QUALITY CERTIFICATION:

I hereby issue an order certifying that any discharge from City of Chico, State Route 32 Road Widening Project (WDID# 5A04CR00193) will comply with the applicable provisions of §301 ("Effluent Limitations"), §302 ("Water Quality Related Effluent Limitations"), §303 ("Water Quality Standards and Implementation Plans"), §306 ("National Standards of Performance"), and §307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act. This discharge is also regulated under State Water Resources Control Board Water Quality Order No. 2003-0017 DWQ "Statewide General Waste Discharge Requirements For Dredged Or Fill Discharges That Have Received State Water Quality Certification (General WDRs)".

Except insofar as may be modified by any preceding conditions, all certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with City of Chico's project description and the attached Project Information Sheet, and (b) compliance with all applicable requirements of the Regional Water Quality Control Board's Water Quality Control Plan (Basin Plan).



(for) PAMELA C. CREEDON
Executive Officer

SAZ: knr

Enclosure: Project Information

cc: Mr. Brian Vierra, U.S. Army Corp of Engineers, Sacramento
U.S. Fish and Wildlife Service, Sacramento
Department of Fish and Game, Region 2, Rancho Cordova
Mr. Bill Jennings, CALSPA, Stockton
Mr. Brooks Taylor, Gallaway Consulting, Chico

cc by email: Mr. Dave Smith, U.S. EPA, Region 9, San Francisco
Mr. Bill Orme, SWRCB, Certification Unit, Sacramento

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PROJECT INFORMATION

Application Date: 23 July 2010

Applicant: City of Chico, Attn: Mr. Bob Greenlaw

Applicant Representatives: Gallaway Consulting, Attn: Mr. Brooks Taylor

Project Name: State Route 32 Road Widening Project

Application Number: WDID No. 5A04CR00193

U.S. Army Corps File Number: Nationwide Permit No. 14 (Linear Transportation Projects)

Type of Project: Widening of State Route 32 Bridge

Project Location: Section 25, Township 22 North, Range 01 East, MDB&M.
Latitude: 39°44'14" and Longitude: -121°49'01"

County: Butte County

Receiving Water(s) (hydrologic unit): Dead Horse Slough, which is tributary to Sacramento River. Colusa Basin Hydrologic Unit-Butte Basin Hydrologic Area No. 520.40

Water Body Type: Wetlands, Riparian, Streambed

Designated Beneficial Uses: The Basin Plan for the Central Valley Water Board has designated beneficial uses for surface and ground waters within the region. Beneficial uses that could be impacted by the project include: Agricultural Supply (AGR); Groundwater Recharge, Water Contact Recreation (REC-1); Warm Freshwater Habitat (WARM); Cold Freshwater Habitat (COLD); Warm Freshwater Spawning (SPWN); Cold Freshwater Migration (MIGR); and Wildlife Habitat (WILD).

Project Description (purpose/goal): The State Route 32 Road Widening Project consists of widening the existing structure at Dead Horse Slough (Bridge No. 12-0135) to accommodate the additional traffic lanes and widened shoulders. The existing structure is a four span reinforced concrete slab that is 123.5 feet long and 32.5 feet wide. The structure will be widened by 49 feet; the new structure width will be 81.5 feet. The railings on the existing structure will be upgraded to current standards. The structure widening will be constructed in one phase, with the new bridge constructed to the north and joined to the existing structure with a closure pour. Both the existing structure and proposed abutments will be protected from scour with rock slope protection.

The existing 6' X 8' box culvert on South Fork Dead Horse Slough just east of Bruce Road will either be lengthened or replaced to accommodate the roadway widening. Additionally, four smaller culverts that support unnamed ephemeral streams will be lengthened to accommodate the road widening.

Preliminary Water Quality Concerns: Construction activities may impact surface waters with increased turbidity and settleable matter.

Proposed Mitigation to Address Concerns: City of Chico will implement Best Management Practices (BMPs) to control sedimentation and erosion. All temporary affected areas will be restored to pre-construction contours and conditions upon completion of construction activities. City of Chico will conduct turbidity and settleable matter testing during in-water work, stopping work if Basin Plan criteria are exceeded or are observed.

Fill/Excavation Area: Project implementation will permanently impact 0.276 acres of jurisdictional wetlands, 0.202 acres of riparian, and 0.013 acres of un-vegetated streambed. Project implementation will temporarily impact 0.01 acres of un-vegetated streambed.

Dredge Volume: Not Applicable

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

Department of Fish and Game Streambed Alteration Agreement: City of Chico applied for a Streambed Alteration Agreement on 23 September 2010.

Possible Listed Species: Based on the habitat suitability assessment conducted by ICF International, the following Federal Threatened or Endangered species have potential to occur in the project area: giant garter snake, vernal pool fairy shrimp, valley elderberry longhorn beetle (VELB) and vernal pool tadpole shrimp.

Status of CEQA Compliance: The City of Chico issued a final Notice of Determination approving a Mitigated Negative Declaration on 7 July 2010 in compliance with Section 21108 or 21152 of the Public Resources Code. A mitigation-monitoring program was adopted for this project, along with a statement of Overriding Consideration. Mitigation measures were made a condition of approval. (State Clearinghouse Number 2007022045).

Compensatory Mitigation: City of Chico paid fees required by U.S. Army Corps of Engineers and purchased 0.493 acres of vernal pool creation credits from Stillwater Plains Mitigation Bank, Inc. at a cost of \$73,950. The City of Chico purchased 2.34 acres of vernal pool preservation credits on 4 January 2010, from Dove Ridge Mitigation Bank at a cost of \$222,300. In addition the City of Chico purchased 4.836 acres of giant garter snake habitat preservation from Gilsizer Slough South GGS Conservation Bank, in Sutter County for the purchase price of \$145,080.

Impacts to Valley Elderberry Longhorn Beetle will be mitigated for through the transplantation of 11 elderberry shrubs to the River Ranch VELB Conservation Bank mitigation bank at a cost of \$38,500.

Application Fee Provided: Total fees of \$5,534 have been submitted as required by 23 CCR §3833b(3)(A) and by 23 CCR §2200(e).

STATE WATER RESOURCES CONTROL BOARD

WATER QUALITY ORDER NO. 2003 - 0017 - DWQ

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

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

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

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

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

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

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

CERTIFICATION

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

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

NO: None.

ABSENT: None.

ABSTAIN: None.


Debbie Irvin
Clerk to the Board

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