

## State Water Resources Control Board

---

CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION FOR  
CALIFORNIA DEPARTMENT OF TRANSPORTATION STATE ROUTE 138 WIDENING PROJECT  
PHASE 1, SAN BERNARDINO, CALIFORNIA  
U.S. ARMY CORPS OF ENGINEERS FILE NUMBER SPL-2009-00607  
FILE NO. SB13004IN, REGULATORY MEASURE 394308

---

**PROJECT:** California Department of Transportation (Caltrans) –State Route 138 Widening Project–Phase 1 (Project)

**APPLICANT:** Scott Quinnell  
California Department of Transportation, District 8  
464 West 4<sup>th</sup> Street  
San Bernardino, California 92401

This Water Quality Certification (Certification) responds to your request on behalf of Caltrans for Certification for the Project. Your application for the Project was received on July 29, 2013, and was deemed complete on December 10, 2013. The State Water Resources Control Board (State Water Board) provided public notice of your application pursuant to title 23, California Code of Regulations, section 3858 on December 10, 2013 and posted information describing the Project on the State Water Board website from December 10, 2013 to December 31, 2013. Full fees of \$59,000 were received on December 4, 2013.

Signatory requirements for all notifications and reports required in this certification are found in Attachment A.

**ACTION:**

- |   |   |
|---|---|
| <input type="checkbox"/> Order for Standard Certification                           | <input type="checkbox"/> Order for Denial of Certification                |
| <input checked="" type="checkbox"/> Order for Technically Conditioned Certification | <input type="checkbox"/> Order for Waiver of Waste Discharge Requirements |

**AUTHORIZATION:**

The proposed Project consists of widening State Route 138 from two lanes to four lanes with a median left turn lane and realignment of portions of the mainline to improve traffic operation and safety. The Project location includes the highway segment from the Interstate 15/State Route 138 interchange, in San Bernardino County to the State Route 138/Acorn Road interchange near the City of Phelan (see Attachment C, Project Area Map). The Project is approximately 13 miles long and extends from Post Mile (PM) 15.2 to PM 2.2. Project activities involve horizontal realignment, pavement rehabilitation, drainage improvements, turning lanes, traffic system management, wildlife crossings, bridge improvements, structure widening, and an addition of a vista point. Project Information is summarized in Attachment B.

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

The Project occurs within three watersheds: the Mojave Hydrologic Unit (HU), the El Mirage Hydrologic Area (HA), and the Santa Ana River HU. The watersheds are located within the Lahontan Regional Water Quality Control Board's (Lahontan Regional Water Board) and the Santa Ana Regional Water Quality Control Board's (Santa Ana Regional Water Board) jurisdiction. Due to the Project affecting waters within multiple Regional Water Board jurisdictions the State Water Board has responsibility for the Project.

Water bodies impacted by the Project include Cajon Creek, Sheep Creek, and multiple unnamed ephemeral streams. This Water Quality Certification applies to all aspects of the Project except for impacts to Sheep Creek and non-federal waters of the state in that vicinity. Impacts to those non-federal waters will be addressed separately through Waste Discharge Requirements.

Impacts related to construction and operations of the Project include permanent fill impacts to 1.486 acres of waters of the U.S. and temporary fill impacts of 0.200 acres of waters of the U.S.

Details of anticipated project impacts are presented in Attachment D.

#### **STANDARD CONDITIONS:**

1. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the Water Code and article 6 (commencing with section 3867) of chapter 28, title 23 of the California Code of Regulations.
2. This Certification action is not intended and shall not be construed to apply to 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 subsection 3855(b) of chapter 28, title 23 of the California Code of Regulations, and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. This Certification is conditioned upon total payment of any fee required under chapter 28, title 23 of the California Code of Regulations and owed by the applicant.

#### **ADDITIONAL CONDITIONS:**

1. The Applicant Proposed Measures (APMs) as described in the Initial Study/Mitigated Negative Declaration (IS/MND) pertaining to water quality and protection of the beneficial uses of waters of the U.S. are incorporated into this Certification and shall be implemented in this Project in accordance with this Certification.
2. Caltrans shall not cause or contribute to an exceedance of any water quality objectives contained in regional and statewide water quality control plans and policies.
3. Caltrans shall obtain coverage, and notify staff upon enrollment, under the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction Activities (Order 2009-0009-DWQ as amended by 2010-0014-DWQ and 2012-0006-DWQ) (Construction Storm Water Permit, or CGP). The applicant shall also notify the designated staff contact when changes to the enrollment are made and when a request for Notice of Termination is submitted.
4. Best Management Practices (BMPs)
  - a) Appropriate BMPs shall be implemented and maintained throughout Project activities to minimize sediment disturbance to and suspension within surface waters as described in this

Certification, the Project Storm Water Pollution Prevention Plans (SWPPPs), and the Project Initial Study and Addenda.

- b) All BMP materials shall be on site prior to construction activity and ready for use throughout construction. BMPs shall be in full compliance with all specifications governing their proper design, installation, operation, and maintenance of such management practices throughout their useful life.
- c) Substances resulting from construction activities that could be harmful to aquatic life shall not be discharged to waters of the U.S., including but not limited to, petroleum lubricants and fuels; cured and uncured cements; epoxies, paints and other protective coating materials; Portland cement, concrete, or asphalt concrete; and washings and cuttings thereof.
- d) Concrete washout devices will be implemented to contain any concrete waste discharged within the project area.
- e) Vehicles shall not be driven or equipment operated in waters of the U.S. on the Project site, except as necessary to complete the proposed Project.
- f) Fueling, lubrication, maintenance, storage, and staging of vehicles and equipment shall be outside of waters of the U.S., and shall not result in a discharge or a threatened discharge to waters of the U.S.
- g) A daily log shall be maintained to note the presence and absence of waste releases from vehicles and equipment within or adjacent to waters of the U.S. Copies of the daily log shall be available on site. Daily visual inspections for waste releases of all vehicles and equipment parked or operating within 50 feet of waters of the U.S. shall be conducted before the vehicles or equipment are operated for the work day. Spillage and leaks shall be reported in the daily log when they occur. Presence of any spillage from leaks shall be reported in the daily log and contaminated soils shall be removed immediately from the site and disposed of at an approved area or facility. State Water Board and/or the appropriate Regional Water Board staff may request this information at any time.
- h) Any waste releases from vehicles or equipment of five gallons or more shall be reported to the State Water Board and the appropriate Regional Water Board within 24 hours with an explanation of how the spillage was remedied.
- i) For areas of temporary disturbance, the contours of disturbed areas shall be restored to pre-Project conditions and viable seed of native species collected in the Mojave HU, El Mirage HA, and the Santa Ana River HU. HUs and HAs shall be used for habitat restoration of disturbed areas. If Caltrans is unable to obtain enough viable native seed from these watersheds, it will obtain authorization from State Water Board staff to expand the source area to use ecologically viable seed sources from outside the Mojave HU, El Mirage HA, and the Santa Ana HU.
- j) Any trash, excess material or other debris shall be removed from the work area and disposed of properly and on a daily basis. Also, no rubbish shall be deposited within 100 feet of waters of the U.S.
- k) All ground disturbance activities shall employ appropriate washout and erosion control BMPs to protect waters of the U.S.
- l) Any straw or hay used for BMPs or any purpose must be certified as weed free.
- m) The limits of Project disturbance shall be clearly identified in the field with highly visible markers such as construction fencing, flagging or similar practices prior to commencement of construction activities within waters of the U.S. Such identification shall be properly maintained until construction is completed and soils have been stabilized. Equipment, materials, or any other substances or activities that impact waters outside of the permit limits (as shown on the permit maps/drawings), is prohibited. This requirement is only waived if all waters of the U.S. are avoided on site, and if no off-site waters are located within 100 feet of the Project site.

- n) Design and placement of bio-swales, as required under Mitigation Measure SW-3 from the Project IS/MND, shall at least be sufficient to minimize or eliminate any cumulative effects due to increased storm water runoff rates and volumes. Bio-swales shall at least be able to retain and infiltrate runoff volumes and rates caused by the Project which would otherwise exceed existing volumes and rates.
- o) Construction entrances and exits will be protected to prevent tracking of soil onto adjoining roadways.

#### 5. Flow Diversions during in-water construction

- a) All work areas shall be effectively isolated from stream flows using suitable control measures before commencement of any in-water work. The diverted stream flow shall not be contaminated by construction activities. Structures for isolating the in-water work area and/or diverting the stream flow (e.g., cofferdam, geo-textile silt curtain) shall not be removed until all disturbed areas are cleaned of debris and stabilized.
- b) All bridges, culverts, or other channel crossing structures shall be installed so that water flow is not impaired. Bottoms of temporary culverts shall be placed at stream channel grade and bottoms of permanent culverts shall be placed at or below stream channel grade.
- c) Disturbed in-water work areas must be temporarily stabilized to prevent erosion at least 48 hours prior to the predicted commencement of a rainfall event with greater than a 50 percent probability of occurrence, as predicted by the National Oceanic and Atmospheric Administration (NOAA) - National Weather Service. If the predicted commencement of such a rainfall event is less than 48 hours after the prediction, temporary stabilization of the disturbed in-water work areas must begin immediately.
- d) In the event of rain, the in-water work area shall be temporarily stabilized before streamflow exceeds the capacity of the diversion structure. The streambed shall be stabilized so that the disturbed areas will not come in contact with the streamflow.
- e) Cofferdams and water barrier construction shall be adequate to prevent seepage into or from the work area. Cofferdams or water barriers shall not be made of earth or other substances subject to erosion or that contain pollutants. When dewatering is necessary to create a temporary dry construction area, the water shall be pumped through a sediment-settling device before it is returned to the water body. The enclosure and the supportive material shall be removed when the work is completed, and removal shall proceed from downstream to upstream.
- f) Flow diversions shall be done in a manner that shall prevent pollution and/or siltation and provide flows to downstream reaches. Said flows shall be of sufficient quality and quantity, and of appropriate temperature, to support fish or other aquatic life normally present both above and below the diversion. Diversions shall be engineered, installed, and maintained to ensure resistance to washout and erosion of the water body. All open flow temporary diversion channels will be lined with filter fabric or plastic to prevent channel erosion and sediment transport. Normal flows shall be restored to the affected stream immediately upon completion of work at that location. All flow diversion facilities shall be removed and the site restored to pre-project conditions.
- g) If dewatering is required for groundwater control, Caltrans shall consult with the appropriate Regional Water Board to determine if additional permits are required.

## 6. Surface Water Monitoring

Surface water monitoring shall be implemented when: (1) in-water work is performed; (2) Project activities result in any materials reaching surface waters; or (3) Project activities result in the creation of a visible plume in surface waters. Monitoring of the water quality objectives listed below in subsection 7(a) through 7(e) shall be conducted immediately upstream out of the influence of the Project and within 300 feet downstream of the active work area. Overnight monitoring of affected stream reaches after each day's work is not required.

### a) When in-water work is performed:

- i) sampling frequency shall be at least once prior to scheduled activities and then every four hours during the activity; and
- ii) turbidity measurements must be collected within one hour after barrier installation and within one hour after barrier removal

### b) When Project activities result in any materials reaching surface waters or the creation of a visible plume in surface waters

- i) sampling frequency shall be immediately after a discharge reaches surface waters or a visible plume is created in surface waters, and every 4 hours until objectives in Conditions 7(a) through 7(e) below are met.

Results of the analysis shall be submitted to the State and Regional Water Boards within two weeks of initiation of sampling and every two weeks thereafter. A map or drawing indicating the locations of the sampling points must be included with each submittal.

If the concentrations of parameters in the monitoring samples collected exceed the limits described below, then this must be reported to State Water Board staff within 24 hours of occurrence or discovery (via email or phone) and Caltrans shall propose measures that will allow surface waters to meet water quality objectives set forth in the Water Quality Control Plan for the Santa Ana Region (Santa Ana River Basin Plan) and the Water Quality Control Plan for the Lahontan Region (Lahontan Region Basin Plan). Any violations of these limits may result in corrective and/or enforcement actions, including increased monitoring and sample collection.

## 7. Constituent measurements must comply with the following limits as specified in the Regional Board Basin Plans:

### a) pH

- i. For waters of the U.S. subject to the Lahontan Region Basin Plan, in fresh waters with designated beneficial uses of COLD or WARM, changes in normal ambient pH levels shall not exceed 0.5 pH units. For all other waters of the Region, the pH shall not be depressed below 6.5 nor raised above 8.5. The Regional Board recognizes that some waters of the Region may have natural pH levels outside of the 6.5 to 8.5 range. Compliance with the pH objective for these waters will be determined on a case-by-case basis.
- ii. For waters of the U.S. subject to the Santa Ana River Basin Plan, pH shall not be depressed below 6.5 or raised above 8.5 as a result of controllable water quality factors.

### b) Temperature

- i. For waters of the U.S. subject to the Lahontan Region Basin Plan, the natural receiving water temperature of all waters shall not be altered unless it can be demonstrated to the satisfaction of the Regional Board that such an alteration in temperature does not adversely affect the water for beneficial uses. For waters designated WARM, water temperature shall not be altered by more than five degrees Fahrenheit (5°F) above or below the natural temperature. For waters designated COLD, the temperature shall not be altered. Temperature objectives for COLD interstate waters and WARM interstate waters

are as specified in the "Water Quality Control Plan for Control of Temperature in The Coastal and Interstate Waters and Enclosed Bays and Estuaries of California" including any revisions. This plan is summarized in Chapter 6 (Plans and Policies) of the Lahontan Region Basin Plan, and included in Appendix B.

- ii. For waters of the U.S. subject to the Santa Ana River Basin Plan, waters designated WARM shall not be raised above 90°F June through October or above 78°F during the rest of the year as a result of controllable water quality factors. For waters designated COLD, water temperature shall not be increased by more than 5°F above the natural temperature as a result of controllable water quality factors.

c) Dissolved Oxygen

- i. For waters of the U.S. subject to the Lahontan Region Basin Plan, the dissolved oxygen concentration, as percent saturation, shall not be depressed by more than 10 percent, nor shall the minimum dissolved oxygen concentration be less than 80 percent of saturation.

For waters with the beneficial uses of COLD, COLD with SPWN, WARM, and WARM with SPWN, the minimum dissolved oxygen concentration shall not be less than that specified in Table 3-6 of the Lahontan Region Basin Plan.

- ii. For waters of the U.S. subject to the Santa Ana Basin Plan, the dissolved oxygen content of surface waters shall not be depressed below 5 milligrams per liter (mg/l) for waters designated WARM, or 6mg/l for waters designated COLD, as a result of controllable water quality factors. In addition, waste discharges shall not cause the median dissolved oxygen concentration to fall below 85 percent of saturation or the 95th percentile concentration or fall below 75 percent of saturation within a 30-day period.

d) Turbidity

- i. For waters of the U.S. subject to the Lahontan Region Basin Plan, waters shall be free of changes in turbidity that cause nuisance or adversely affect the water for beneficial uses. Increases in turbidity shall not exceed natural levels by more than 10 percent.

- ii. For waters of the U.S. subject to the Santa Ana Basin Plan:

- 1) Where natural turbidity is between 0 and 5 Nephelometric Turbidity Units (NTU), increases shall not exceed 20 percent.
- 2) Where natural turbidity is between 50 and 100 NTU, increases shall not exceed 10 NTU.
- 3) Where natural turbidity is greater than 100 NTU, increases shall not exceed 10 percent.

e) Suspended Materials

- i. For waters of the U.S. subject to the Lahontan Region Basin Plan, waters shall not contain suspended materials in concentrations that cause nuisance or that adversely affects the water for beneficial uses. For natural high quality waters, the concentration of total suspended materials shall not be altered to the extent that such alterations are discernible at the 10 percent significance level.

- ii. For waters of the U.S. subject to the Santa Ana Basin Plan:

Settleable solids are deleterious to benthic organisms and may cause anaerobic conditions to form. Suspended solids can clog fish gills and interfere with respiration in aquatic fauna. They also screen out light, hindering photosynthesis and normal aquatic plant growth and development.

Inland surface waters shall not contain suspended or settleable solids in amounts which cause a nuisance or adversely affect beneficial uses as a result of controllable water quality factors.

## **CERTIFICATION DEVIATIONS**

Minor modifications of Project locations or predicted impacts may be necessary as a result of unforeseen field conditions, necessary engineering re-design, construction concerns, or similar reasons. Some of these prospective Project modifications may have impacts on waters resources.

Some modifications of Project locations or predicted impacts may qualify as Certification Deviations. For purposes of this Certification, a "Certification Deviation" is a Project locational or impact modification that does not require an immediate amendment of the Certification, because the State Water Board has determined that any potential water resource impacts that may result from the change are sufficiently addressed by the Certification conditions and the Project IS/MND.

Project modifications that warrant or necessitate changes to Certification conditions that are not addressed by existing environmental documents will require an amendment to this Certification and do not qualify for the Certification Deviation procedures set forth in Attachment E.

After the termination of construction, this Certification will be amended to reflect all authorized Certification Deviations and any resulting adjustments to the amount of water resource impacts and required compensatory mitigation amounts.

## **COMPENSATORY MITIGATION CONDITIONS:**

1. To compensate for temporary and permanent impacts to waters of the U.S., Caltrans shall implement each measure listed below.
2. Caltrans shall prepare and implement a Mitigation and Monitoring Plan (MMP) consistent with Compensatory Mitigation Conditions 3 through 5 to compensate for temporary and permanent impacts to waters of the U.S. The MMP shall include all measures to restore waters of the U.S. back to pre-Project conditions due to temporary impacts as well as conceptual-level compensatory mitigation measures for permanent impacts. Approval of Compensatory mitigation ratios for permanent impacts will be a separate process from approval of the MMP.
3. Caltrans shall submit an MMP to the State Water Board and Regional Water Boards within 120 days of issuance of this Certification.
4. The MMP must be approved by State Water Board staff prior to the start of Project construction within waters of the U.S.
5. Temporary impacts. For project-wide temporary impacts to 0.200 acre and 307 linear feet of waters of the U.S., on-site in-kind restoration of waters of the U.S. at a 1:1 ratio shall be provided. Implementation of these plans shall be conducted according to the following conditions:
  - a. Non-native/invasive plant species. Caltrans will develop or adopt a plan to control and limit the establishment of non-native and invasive plant species for all on-site restoration of temporary disturbance before the start of construction. Such plans shall be subject to approval by State Water Board staff, and shall be implemented throughout the construction and restoration phases of the project.
  - b. Caltrans shall complete the post-construction restoration steps for temporary impacts to waters of the U.S. within 30 days following completion of Project activity at individual restoration locations. This period may be extended to accommodate proper planting times. If restoration is not initiated within two years of the impacts, additional mitigation will be required to offset temporal loss of waters of the U.S. These timelines may be extended and approved by State Water Board staff if satisfactory progress can be demonstrated to State Water Board staff.

- c. Performance measures for all restoration of temporary disturbance, including disturbance to waters, shall, at a minimum, be as described in the Construction General Permit. Project specific performance measures, which shall be subject to State Water Board staff approval, shall be developed and incorporated into the project restoration plans before the onset of construction.
  - d. Monitoring. The restoration of temporary impacts shall be maintained and monitored for a five year period or until performance standards are met, whichever is later. Maintenance, monitoring, and reporting shall be conducted following a prescribed schedule to assess progress and identify potential problems with the restoration. Remedial action (e.g., additional planting, weeding, erosion control, use of container stock, supplemental watering, etc.), if necessary, shall be implemented by qualified restoration specialists during the maintenance and monitoring period to ensure the success of the restoration. At the end of the initial five year maintenance and monitoring period, if the restoration fails to meet the performance measures developed in accordance with condition 6.d above, maintenance and monitoring will be extended until the criteria are met or unless otherwise approved by State Water Board staff.
  - e. Monitoring reports shall be submitted to the State and the appropriate Regional Water Board for each temporary impact site. All reports shall include the following:
    - i. The file number of this Certification: SB130041N.
    - ii. Appropriate data and documentation regarding pre- and post-construction conditions (with supporting photographic documentation) for each site where temporary impacts to waters of the U.S. were permitted.
    - iii. A summary of Project compliance (including noncompliance and corrective actions taken to achieve compliance during construction).
    - iv. Annual reports shall be provided by January 31 of each year for 5 years or until all long-term performance standards have been met, as verified by State Water Board staff.
    - v. Timelines may be extended and approved by State Water Board staff if progress satisfactory to the State Water Board has been made.
6. Permanent impacts. To compensate for 1.486 acres and 15,951 linear feet of permanent impacts to waters of the U.S., Caltrans shall provide compensatory mitigation before the start of construction as described below:
- a) For impacts in the Santa Ana Watershed, compensation shall be achieved through purchase of credits at the Riverside-Corona Resource Conservation District (RCRCD) In-Lieu Fee (ILF) Program. For impacts in the Mojave Watershed, compensation shall be achieved through purchase of credits at the Inland Empire Resource Conservation District (IERCD) ILF Program.
  - b) Prior to purchasing the appropriate number and resource type of credits from the sponsor, Caltrans shall obtain approval from the State Water Board that the compensatory mitigation site(s) satisfies compensatory mitigation requirements and adequately replaces the lost functions and values of waters of the U.S. impacted by the Project in accordance with this Certification.
7. Mitigation Site Agreements: Compensatory mitigation site agreements for ILF proposed programs must:
- a) clearly indicate the party or parties responsible for the implementation, performance, and long-term management of the compensatory mitigation project(s).

- b) contain a provision expressing the sponsor's agreement to assume responsibility for Caltrans compensatory mitigation requirements as specified herein, once Caltrans has secured the appropriate compensatory mitigation from the sponsor and the State Water Board has received documentation of the transaction.
  - c) be provided to, and approved by, State Water Board staff.
- 8. Responsibilities. Caltrans shall retain responsibility for providing the compensatory mitigation until the appropriate compensatory mitigation has been secured from a sponsor and the State Water Board has received documentation that confirms that the sponsor has accepted the responsibility for providing the required compensatory mitigation. This documentation may consist of a letter or form signed by the sponsor, with the file number and a statement indicating the number and resource type of credits that have been secured from the sponsor. Copies of this documentation will be retained in the administrative records for both the permit and the instrument.
- 9. Non-compliance with compensatory mitigation. If the sponsor fails to provide the required compensatory mitigation, the State Water Board may pursue measures against the sponsor to ensure compliance. This condition must be made a part of Caltrans agreement with the mitigation sponsor.
- 10. Timing. All compensatory mitigation shall be acquired or secured and approved by State Water Board staff prior to the start of Project construction. Any delay in acquiring or securing compensatory mitigation shall require approval from State Water Board staff and may result in higher mitigation ratio requirements to offset the additional temporal loss of waters of the United States.
- 11. If Caltrans does not provide full, adequate compensatory mitigation approved by State Water Board staff prior to the start of Project construction, Caltrans will be in violation of this Certification and subject to administrative civil liabilities under Water Code, section 13385. Under Water Code section 13385, both the State and Regional Water Boards can impose administrative civil liabilities for any violation of a water quality certification issued pursuant to Section 401 of the Clean Water Act. Timelines may be extended and approved by State Water Board staff if progress satisfactory to the State Water Board has been made.
- 12. "Start of Project construction" defined. For the purpose of this Certification, "start of Project construction" means to engage in a program of on-site construction, including site clearing, grading, dredging, landfiling, changing equipment, substituting equipment, or even moving the location of equipment specifically designed for a stationary source in preparation for the fabrication, erection or installation of the building components of the stationary source within waters of the U.S.

#### **Violations:**

- 1. Caltrans, or its contractor or subcontractors, shall verbally report any noncompliance to the Certification Program Manager of the State Water Board within 24 hours of the time when Caltrans or its contractor or subcontractors, become aware of the circumstances of noncompliance.
- 2. Caltrans or its contractor or subcontractors, shall report all violations of any terms or requirements of this Order in writing to the State Water Board and/or its contractor or subcontractors, the appropriate Regional Water Board within seven (7) consecutive days from the time Caltrans, or its contractors or subcontractors, becomes aware of the violation. The written report shall contain:
  - a) A description of the violation and its cause.

- b) The period of the violation event, including dates and times, and if the violation has not been corrected, the anticipated time the violation is expected to continue.
  - c) Steps taken or planned to reduce, eliminate, and prevent recurrence of the violation.
3. In the event of any violation or threatened violation of the requirements of this Order, the violation shall be subject to any remedies, penalties, processes, or sanctions as provided for under State law.
  4. In response to a suspected violation of any requirement of this Order, the State Water Board or appropriate Regional Water Board may require the holder of any permit or license subject to this Certification to furnish, under penalty of perjury, any technical or monitoring reports the State Water Board or appropriate Regional Water Board deems appropriate, provided that the burden, including the cost of the reports, shall be in reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
  5. In response to any violation of the requirements of this Order, the State Water Board may add to or modify the requirements of this Order as appropriate to ensure compliance.

#### **ADMINISTRATIVE CONDITIONS:**

1. The State Water Board reserves the right to suspend, cancel, or modify and reissue this Certification, after providing notice to Caltrans and/or responsible contractor/sub-contractor, if the State Water Board determines that Caltrans or its agents fail to comply with any of the terms or requirements of this Certification.
2. A copy of this Certification, the application, and supporting documentation must be available at the Project site during construction for review by site personnel and agencies. All personnel performing work on the proposed Project shall be familiar with the content of this Certification and its posted location on the Project site.
3. Caltrans shall grant State Water Board and the appropriate Regional Water Board staff, or an authorized representative, upon presentation of credentials and other documents as may be required by law, permission to enter the Project site at reasonable times, to ensure compliance with the terms and requirements of this Certification and/or to determine the impacts the Project may have on waters of the U.S.

#### **STATE WATER BOARD CONTACT PERSON:**

If you have any questions, please contact State Water Board Environmental Scientist Bob Solecki at (916) 341-5483, via e-mail at [robert.solecki@waterboards.ca.gov](mailto:robert.solecki@waterboards.ca.gov), or by mail at:

State Water Resources Control Board  
 401 Certification & Wetland Program  
 P.O. Box 100, Sacramento, CA 95812-2000 (by mail)  
 1001 I St., 15<sup>th</sup> Floor, Sacramento, CA 95814. (by hand delivery)

You may also contact Bill Orme, Chief of the Water Quality Certification Unit, at (916) 341-5464 or via e-mail at [bill.orme@waterboards.ca.gov](mailto:bill.orme@waterboards.ca.gov).

## **CALIFORNIA ENVIRONMENTAL QUALITY ACT:**

State Water Board staff reviewed and evaluated the significant and potentially significant individual Project impacts to water quality identified in the *Draft State Route 138 Widening Project Initial Study [With Proposed Mitigated Negative Declaration]/Environmental Assessment* prepared by Caltrans (lead agency) and published in March, 2010 (State Clearinghouse Number 2010031104) and the Final *State Route 138 Widening Project Initial Study [With Proposed Mitigated Negative Declaration]/Environmental Assessment* published in June, 2012 (the "IS/MND")

Caltrans approved the IS/MND on June 29, 2012, followed by a Notice of Determination (NOD), which was filed at the SCH by Caltrans on July 9, 2012. Caltrans prepared an "Environmental Commitments Record," dated November 19, 2013, and listed all CEQA project mitigation measures and reporting responsibilities, in compliance with Public Resources Code section 21081.6 and California Code of Regulations, title 14, section 15097 (Attachment F). The mitigation measures and other conditions that are imposed on the Project through this 401 Certification action are being required pursuant to the State Water Board's authority under the Porter-Cologne Water Quality Control Act, not under CEQA. Therefore a CEQA mitigation monitoring and reporting program is not required for these conditions.

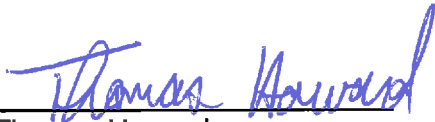
### **CEQA Findings on Individual Impacts**

The State Water Board's CEQA findings of facts for the Project are provided in Attachment G. The Applicant Proposed Measures (APMs) as described in the IS/MND pertaining to water quality and protection of the beneficial uses of waters of the U.S. are incorporated into this Certification and shall be implemented in this Project in accordance with this Certification. The State Water Board finds these mitigation measures for potentially significant individual Project water quality impacts as identified in the initial study, along with the measures proposed in the application for Certification and supplemental application materials, the conditions in the Certification, and information in the attachments to the Certification, to be adequate to reduce impacts within the State Water Board's authorities to less than significant levels.

**WATER QUALITY CERTIFICATION:**

I hereby issue the Certification for Phase 1 of the State Route 138 Widening Project (FILE NO. SB13004IN) certifying that as long as all of the conditions listed in this Certification are met, any discharge from the referenced Project will comply with the applicable provisions of the Clean Water Act sections 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). This discharge is also regulated pursuant to State Water Board Water Quality Order No. 2003-0017-DWQ which authorizes this Certification to serve as Waste Discharge Requirements pursuant to the Porter-Cologne Water Quality Control Act (Wat. Code, § 13000 et seq.).

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 the conditions of this Certification and the attachments to this Certification, and (b) compliance with all applicable requirements of Statewide Water Quality Control Plans and Policies, the Regional Water Boards' Water Quality Control Plans and Policies, and the IS for the Caltrans State Route 138 Widening Project.



Thomas Howard  
Executive Director

1/15/14  
Date

**Attachments (7):**

- A. Signatory Requirements
- B. Project Information
- C. Project Area Map
- D. Project Impact Details
- E. Certification Deviation Procedures
- F. Project Environmental Commitments
- G. CEQA Findings of Fact