

## State Water Resources Control Board

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### NOTICE OF APPLICABILITY OF WATER QUALITY ORDER 2004-0004-DWQ GENERAL WASTE DISCHARGE REQUIREMENTS FOR THE STATE ROUTE - 138 WIDENING PROJECT (WDID# SB140001IN), SAN BERNARDINO COUNTY

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**PROJECT:** California Department of Transportation (Caltrans) - State Route 138 Widening Project

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

This Notice of Applicability (NOA) responds to your request on behalf of Caltrans to seek coverage under the State Water Resources Control Board (State Water Board) Water Quality Order No. 2004-0004-DWQ (General Order) for the subject project.

#### AUTHORIZATION

On April 20, 2016, Caltrans submitted a Notice of Intent (NOI) requesting coverage under State Water Board Water Quality Order No. 2004-0004-DWQ for the State Route 138 Widening Project (Project). After reviewing the NOI and supplemental material submitted by Caltrans, the State Water Board has determined that the Project qualifies for enrollment under Water Quality Order No. 2004-0004-DWQ for the temporary and permanent fill of waters of the state shown in Table 1. This project has been assigned a State Water Board tracking number of WDID# SB140001IN.

To comply with State law, this project may proceed as described in the NOI and supplemental project information submitted to the State Water Board by Caltrans, and in concordance with the conditions of the General Order.

A copy of the General Order is enclosed. You can also find the General Order on the State Water Board's website at:

[http://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/water\\_quality/wqo04.shtml](http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/wqo04.shtml).

You should familiarize yourself with the contents of the General Order. The Project must proceed in accordance with the requirements contained in this NOA and the General Order. Coverage under the General Order is no longer valid if the Project as described is modified.

#### PROJECT DESCRIPTION AND BACKGROUND INFORMATION

Caltrans is responsible for the design, construction, management, and maintenance of the State's highway system, including freeways, bridges, maintenance facilities, and related properties. Phase I of the 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. 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.

On January 15, 2014, the State Water Board issued Caltrans a Clean Water Act Section 401 Water Quality Certification for California Department of Transportation State Route 138 Widening Project Phase 1, San Bernardino, California (401 certification) for project-related activities taking place in or impacting waters of the United States. Because the Project affects waters within multiple regions, the State Water Board has responsibility for the Project. The 401 certification notes that "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." This NOA applies to impacts to Sheep Creek and non-federal waters of the state in that vicinity (collectively referred to as "Sheep Creek bridge project").

On March 7, 2014 Caltrans submitted a report of waste discharge requirements (WDRs) for the State Route 138 Widening Project Phase 1. Construction in non-federal waters of the state on the State Route 138 Widening Project Phase 1 occurred without WDRs between June 29, 2015 and July 14, 2015 and all work ceased on the State Route 138 Widening Project Phase 1 on August 26, 2015. This NOA applies to the remaining impacts to complete the State Route 138 Widening Project Phase 1 and does not apply to the unauthorized activities in non-federal waters of the state conducted by Caltrans prior to August 26, 2015. On January 14, 2016 the California Regional Water Quality Control Board, Lahontan Region issued a proposed Cleanup and Abatement Order (CAO) naming Caltrans District 8 as the responsible party for unauthorized discharges of waste to waters of the state from Phase 1 of the California Highway 138 Widening Project at Sheep Creek (Proposed Cleanup and Abatement Order NO. R6V-2016-PROP).

## **PROJECT SCHEDULE**

Construction is planned to resume in June 2016 with completion expected by December 1, 2017.

## **PROJECT LOCATION**

The Project's location in San Bernardino County includes the highway segment from the Interstate 15/State Route 138 interchange to the State Route 138/Acorn Road interchange near the City of Phelan. The Project is approximately 13 miles long and extends from Post Mile (PM) 15.2 to PM 2.2. This NOA applies to locations associated with the Sheep Creek bridge project portion of the larger State Route 138 Widening Project Phase 1.

## **PROJECT IMPACTS MITIGATION AND COMPENSATORY MITIGATION**

### **Receiving Waters and Beneficial Uses**

The Water Board uses the Water Quality Control Plan for the Lahontan Region (Basin Plan) with other laws and regulations to protect the quality of the waters of the state within the Lahontan Region. The Basin Plan sets forth water quality standards for the surface waters and groundwaters of the Region, which include designated beneficial uses as well as narrative and numerical objectives that must be maintained or attained to protect those uses. The Basin Plan can be accessed via the Lahontan Regional Water Quality Control Board's website at [http://www.waterboards.ca.gov/lahontan/water\\_issues/programs/basin\\_plan/references.shtml](http://www.waterboards.ca.gov/lahontan/water_issues/programs/basin_plan/references.shtml).

The Sheep Creek project is located within the Mojave Hydrologic Unit 628.00, El Mirage Hydrologic Area 628.10. The designated beneficial uses of surface waters within the Unit/El Mirage Hydrologic Area include MUN, AGR, GWR, FRSH, REC-1, REC- 2, WARM, WILD, and RARE. Drainage Systems 1, 2, 3, 4, and 6 are located within the Antelope Hydrologic Unit 626.00, Rock Creek Hydrologic Area 626.80. The designed beneficial uses of surface waters within the Rock Creek Hydrologic Area are MUN, AGR, GWR, REC-1, REC-2, WARM, and WILD.

#### Project Impacts

The Project will permanently fill 0.0383 acres of streambed. Table 1 shows the impact quantities at each impact site. Attachment E shows the impact locations.



**Table 1**

WDR Jurisdictional Delineation Report Drainage ID to Caltrans Drainage ID Chart										
JD Report Figure 2 Drainage ID #	Caltrans Plan Sheet Drainage System ID #	Temporary Area Impacts to Waters of the state (acres)	Permanent Area Impacts to Waters of the state (acres)	Temporary Length Impacts to Waters of the state (feet)	Permanent Length Impacts to Waters of the state (feet)	Watershed	Caltrans Plan Sheet Station #	Permit	Jurisdictional Waters	
									Waters of the State	Waters of the US
Sheep Creek	n/a	0.0620	0.0139	226	48	El Mirage	54+0810	WDR Permit	Y	N
58	6	0	0.0066	0	25	Rosamond Rogers	161+89	WDR Permit	Y	N
59	5	0	0.0043	0	13	Rosamond Rogers	151+80	WDR Permit	Y	N
59a	5	0	0	0	0	Rosamond Rogers	150+00	WDR Permit	Y	N
59b	4	0	0.0041	0	15	Rosamond Rogers	151+00	WDR Permit	Y	N
60	3	0	0.0022	0	15	Rosamond Rogers	138+35	WDR Permit	Y	N
61	2	0	0.0028	0	17	Rosamond Rogers	135+66	WDR Permit	Y	N
62	1	0	0.0044	0	23	Rosamond Rogers	128+95	WDR Permit	Y	N
	Total	0.0620	0.0383	226	156					

#### Mitigation Measures

Project activities have the potential to increase erosion and expose waters of the state to pollutant sources common to construction activities. All Project impacts are considered to be of fill; there are no dredge/excavation impacts. Best management practices (BMPs) will be installed to reduce erosion and avoid sedimentation or other degradation of water quality. 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 A).

#### Compensatory Mitigation

For compensatory mitigation involving restoration and enhancement, the Mitigation Ratio is 3:1. For compensatory mitigation involving preservation, the Mitigation Ratio is 5:1. Permanent impacts for the Sheep Creek bridge project will be mitigated off site through an approved mitigation bank or in-lieu fee program. Caltrans is currently in negotiations with the Transitions Habitat Conservancy located in San Bernardino County to fulfill compensatory mitigation requirements. The NOI included a draft compensatory mitigation plan outlining the proposed compensatory mitigation. Caltrans must provide a final compensatory mitigation plan for State



Water Board approval that contains all plan requirements as stated in the General Order by August 1, 2016. Any additional compensatory mitigation quantities outlined in Caltrans final compensatory mitigation plan may be used to offset the impact quantities in the initial report of waste discharge requirements submitted to the State Water Board on March 7, 2014 for the State Route 138 Widening Project Phase 1.

#### STATEMENT OF FINDINGS

##### 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 as the 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, which was filed at the State Clearinghouse by Caltrans on July 9, 2012.

##### CEQA Findings on Individual Impacts

The State Water Board's CEQA findings of facts for the Project are provided in Attachment B. The Applicant Proposed Measures as described in the IS/MND pertaining to water quality and protection of the beneficial uses of waters of the state are incorporated into this NOA and shall be implemented in this Project in accordance with this NOA. 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 NOI and supplemental application materials, the conditions in the General Order, and the information in the attachments to this NOA, to be adequate to reduce water quality impacts covered by this NOA to less than significant levels.

#### CONDITIONS OF APPROVAL

Caltrans must comply with the requirements specified in the Water Quality Order No. 2004-0004-DWQ. Failure to comply with the requirements of the Water Quality Order and the conditions of this NOA may result in an enforcement action taken by the State or Regional Water Board. Caltrans must also comply with all other State and Federal laws that apply to this project. Upon completion of the project, the discharger must submit a Notice of Termination requesting to be relieved of the requirements of the General Order.

In addition, Caltrans must implement the mitigation and minimization measures proposed in the NOI and in the supplemental material Caltrans submitted. These measures include actions that are designed to avoid impacts to sensitive species. By August 1, 2016 Caltrans must provide a final compensatory mitigation plan for State Water Board approval that contains all plan requirements as stated in the General Order. If State or Federal sensitive species are found on the project site then Caltrans must immediately contact Brian Dailey at the State Water Board's office.

If you have any questions regarding this Notice of Applicability please contact Brian Dailey at (916) 341-5462 or [Brian.Dailey@waterboards.ca.gov](mailto:Brian.Dailey@waterboards.ca.gov).

JUN 02 2016

Sincerely,



Thomas Howard  
Executive Director

Attachment A – Environmental Commitments Record  
Attachment B – CEQA Findings of Fact  
Attachment C – Signatory Requirement  
Attachment D – Water Quality Order 2004-0004-DWQ  
Attachment E – Jurisdictional Delineation Maps

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