

# Commenter Key

<u>Comment Type</u>	<u>Comment Category</u>
Contractor Comments	CC-1
Contractor Comments	CC-1
Economic Comments	EC-1
No to the Project	GOC-1



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**Comment Type**

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**Comment Category**

<b>In Support of the Project</b>	<b>GSC-1</b>
<b>In Support of the Project</b>	<b>GSC-1</b>
<b>In Support of the Project</b>	<b>GSC-1</b>
<b>In Support of the Project</b>	<b>GSC-1</b>
<b>In Support of the Project</b>	<b>GSC-1</b>
<b>In Support of the Project</b>	<b>GSC-1</b>
<b>In Support of the Project</b>	<b>GSC-1</b>
<b>In Support of the Project</b>	<b>GSC-1</b>
<b>In Support of the Project</b>	<b>GSC-1</b>
<b>In Support of the Project</b>	<b>GSC-1</b>
<b>In Support of the Project</b>	<b>GSC-1</b>
<b>Compliance with Clean Water Act</b>	<b>LCC-1</b>
<b>Compliance with Clean Water Act</b>	<b>LCC-1</b>
<b>Mitigation vs. Adjacent Land Use</b>	<b>MPC-1</b>
<b>Mitigation vs. Adjacent Land Use</b>	<b>MPC-1</b>
<b>Mitigation vs. Adjacent Land Use</b>	<b>MPC-1</b>
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<b>Mitigation vs. Adjacent Land Use</b>	<b>MPC-1</b>
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<b>Mitigation vs. Adjacent Land Use</b>	<b>MPC-1</b>

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**Comment Type**

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**Comment Category**

<b>Mitigation vs. Adjacent Land Use</b>	<b>MPC-1</b>
<b>Mitigation vs. Adjacent Land Use</b>	<b>MPC-1</b>
<b>Mitigation vs. Adjacent Land Use</b>	<b>MPC-1</b>
<b>Mitigation vs. Adjacent Land Use</b>	<b>MPC-1</b>
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<b>Mitigation vs. Adjacent Land Use</b>	<b>MPC-1</b>
<b>Mitigation vs. Adjacent Land Use</b>	<b>MPC-1</b>
<b>Mitigation vs. Adjacent Land Use</b>	<b>MPC-1</b>
<b>TMDL</b>	<b>MPC-10</b>
<b>Lack of Detail</b>	<b>MPC-11</b>
<b>Net Loss of Wetland</b>	<b>MPC-12</b>
<b>Net Loss of Wetland</b>	<b>MPC-12</b>





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**Comment Type**

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**Comment Category**

Fish Mitigation and Habitat Enhancement	MPC-3
Fish Mitigation and Habitat Enhancement	MPC-3
Fish Mitigation and Habitat Enhancement	MPC-3
Fish Mitigation and Habitat Enhancement	MPC-3
Fish Mitigation and Habitat Enhancement	MPC-3
Fish Mitigation and Habitat Enhancement	MPC-3
Fish Mitigation and Habitat Enhancement	MPC-3
Fish Mitigation and Habitat Enhancement	MPC-3
Mitigation Lands Purchase	MPC-4
Mitigation Credits & Preservation	MPC-5

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**Comment Type**

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**Comment Category**

Mitigation Credits & Preservation	MPC-5
Long Term Management Plan	MPC-6
Work Plan, Contingency Plan	MPC-7
Work Plan, Contingency Plan	MPC-7
Work Plan, Contingency Plan	MPC-7

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**Comment Type**

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**Comment Category**

Long Term Financial Assurances	MPC-8
Long Term Financial Assurances	MPC-8
Establish Baseline	MPC-9
Unannounced Public Inspections	PAC-1
Public Comment Period & Meeting	PCPC-1
Public Comment Period & Meeting	PCPC-1
Public Comment Period & Meeting	PCPC-1
Public Comment Period & Meeting	PCPC-1
Public Comment Period & Meeting	PCPC-1
Public Comment Period & Meeting	PCPC-1
Public Comment Period & Meeting	PCPC-1
Public Comment Period & Meeting	PCPC-1
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Public Comment Period & Meeting	PCPC-1
Public Comment Period & Meeting	PCPC-1
Public Comment Period & Meeting	PCPC-1
Public Comment Period & Meeting	PCPC-1
Public Comment Period & Meeting	PCPC-1
Public Comment Period & Meeting	PCPC-1
Public Comment Period & Meeting	PCPC-1



<b>Comment Type</b>	<b>Comment Category</b>
Haul Roads, Staging Areas, Water Sources/Disposal, Concrete Batch	PIC-1
Haul Roads, Staging Areas, Water Sources/Disposal, Concrete Batch	PIC-1
Haul Roads, Staging Areas, Water Sources/Disposal, Concrete Batch	PIC-1
Haul Roads, Staging Areas, Water Sources/Disposal, Concrete Batch	PIC-1
Haul Roads, Staging Areas, Water Sources/Disposal, Concrete Batch	PIC-1
Haul Roads, Staging Areas, Water Sources/Disposal, Concrete Batch	PIC-1
Haul Roads, Staging Areas, Water Sources/Disposal, Concrete Batch	PIC-1
Haul Roads, Staging Areas, Water Sources/Disposal, Concrete Batch	PIC-1
Haul Roads, Staging Areas, Water Sources/Disposal, Concrete Batch	PIC-1
Haul Roads, Staging Areas, Water Sources/Disposal, Concrete Batch	PIC-1
Downsize the Bypass	PIC-10
Consturction Impacts	PIC11
Construction Impacts	PIC-11



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**Comment Type**

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**Comment Category**

Oil Well Hill	PIC-2
Floodplain Analysis, Cumulative Impacts	PIC-3

<u>Comment Type</u>	<u>Comment Category</u>
Floodplain Analysis, Cumulative Impacts	PIC-3
Waste Water Disposal	PIC-4
Cumulative Impacts to WWTP and Outlet Creek	PIC-5
Cumulative Impacts to WWTP, Bent 24 & WWTP Effluent Flow	PIC-5
Cumulative Impacts to WWTP and Outlet Creek	PIC-5
Excessive Fill	PIC-6

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**Comment Type**

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**Comment Category**

Excessive Fill	PIC-6
Temporary Impacts to Wetlands	PIC-7

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**Comment Type**

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**Comment Category**

Temporary Impacts to Wetlands	PIC-7
Shortened Viaduct	PIC-8
Prevent Excessive Violations	PIC-9

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**Comment Type**

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**Comment Category**

Prevent Excessive Violations	PIC-9
Antiquated Design	PPC-1

## Comment Type

## Comment Category

Tight Diamond Intechanges	PPC-2
Potential Wetland Enhancement Area	PWEC-1
Careful Not Rushed Regulatory Decision	REC-1
Careful Not Rushed Regulatory Decision	REC-1
Careful Not Rushed Regulatory Decision	REC-1
Careful Not Rushed Regulatory Decision	REC-1
Careful Not Rushed Regulatory Decision	REC-1
Careful Not Rushed Regulatory Decision	REC-1
Careful Not Rushed Regulatory Decision	REC-1
Careful Not Rushed Regulatory Decision	REC-1
Semaphore Grass	SGC-1
Toxics from Storm Water & Viaduct	SWC-1
Toxics from Storm Water & Viaduct	SWC-1
Toxics from Storm Water & Viaduct	SWC-1
Toxics from Storm Water & Viaduct	SWC-1
Toxics from Storm Water & Viaduct	SWC-1
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Toxics from Storm Water & Viaduct	SWC-1
Toxics from Storm Water & Viaduct	SWC-1

## Comment Type

## Comment Category

Toxics from Storm Water & Viaduct	SWC-1
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Toxics from Storm Water & Viaduct	SWC-1
Toxics from Storm Water & Viaduct	SWC-1
Toxics from Storm Water & Viaduct	SWC-1
Toxics from Storm Water & Viaduct	SWC-1
Surface Water Monitoring	SWMC-1

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**Comment Type**

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**Comment Category**

Surface Water Monitoring	SWMC-1
Construction Monitoring	SWMC-2

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**Comment Type**

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**Comment Category**

<b>Construction Monitoring</b>	<b>SWMC-2</b>
<b>Traffic and LEDPA</b>	<b>TVC-1</b>

**Comment Type**

**Comment Category**

Trucks in Town

TVC-2

Trucks in Town

TVC-2

# Attachment 1

## **Response to Comments on the Public Notice for Clean Water Act Section 401 Water Quality Certification and General Waste Discharge Requirements related to California Department of Transportation - Highway 101, Willits Bypass Project WDID No. 1B10019WNME**

On April 29, 2010, the North Coast Regional Water Quality Control Board (Regional Water Board) opened a public comment period for California Department of Transportation (Caltrans) proposed Highway 101 Willits Bypass project. Regional Water Board staff received letters from 75 individuals or groups in response to the subject notice of Water Quality Certification and Waste Discharge Requirements. Of those 75, 27 were in favor of the proposed project, while 48 raised various objections. Because many of the same comments were described in different letters, Regional Water Board staff grouped comments together where appropriate, and provided one response. In order to identify where a particular comment was addressed in this response to comments, please review the attached spreadsheet.

### **Mitigation Plan Comment 1 (MPC-1) - Mitigation Area vs. Adjacent Land Use**

How will the mosaic of mitigation habitats be constructed and maintained with adjacent parcels being managed for agriculture and not wetland mitigation?

### **Response to Mitigation Plan Comment 1 (RMPC-1)**

Wetlands created pursuant to the Mitigation and Monitoring Proposal (MMP), dated June 2010, will be constructed on the offsite mitigation parcels in upland areas that are not currently jurisdictional wetlands under the Clean Water Act, Section 404. Wetland creation will be achieved through grading of high areas that are surrounded by the existing jurisdictional wetlands, as determined through Section 404 and verified by the United States Army Corps of Engineers (U.S. ACE). Additional wetland creation measures include planting native wetland plant species and monitoring for successful establishment and adequate hydrology. If these created wetlands accumulate sediment from seasonal flooding or other nonpoint source activities, such as grading, the MMP has an adaptive management component that will be triggered and actions will be taken to ensure that the wetlands achieve the success criteria set out in the MMP. Any adaptive management actions taken by Caltrans or the land managers retained to maintain the wetlands and/or mitigation parcels will be undertaken in coordination with resource agencies.

The adaptive management plan (Chapter 12) in the MMP presents a general framework and process for addressing unforeseen threats to the success of the MMP, identifying and implementing appropriate responses to those threats, and assessing the effectiveness of those responses. Adaptive management will be performed as needed by the land manager for each offsite mitigation parcel, under coordination with the stakeholder resource agencies.

In areas where development of an incompatible use adjacent to mitigation sites cannot be avoided, potential negative impacts must be evaluated and remediation steps planned and implemented. Remediation efforts may include:

- • Implementation of buffer zones within the mitigation site, where feasible, to separate sensitive biological resources on the mitigation site from adjacent development.
- • Installation of cattle barriers.
- • Installation of storm water pollution prevention measures.
- • Increase in mowing and weeding schedules.
- • Increase in irrigation or water storage capacity during plant establishment period.

### **Mitigation Plan Comment 2 (MPC-2) - Natural Succession and Land Management**

How will the process of natural succession for streams and riparian areas and stream geomorphology be addressed in conjunction with the concept of highly functional habitats? How will these habitats be maintained given the ecological processes within Little Lake Valley?

### **Response to Mitigation Plan Comment 2 (RMPC-2)**

The Regional Water Board agrees with the commenter and we raised this issue to Caltrans in our May 13, 2010, letter as a significant issue for the long term management of the mitigation lands. The Regional Water Board requested in its May 13, 2010 letter that *“Caltrans should provide information on how wetlands, streams and floodplains will interact, and have plans prepared to deal with the local hydrology and inevitable changes in stream characteristics as ecological succession occurs. Regional Water Board staff recommends conducting stream reach assessments and then utilizing them to determine the ultimate ecological / watershed goals of the proposed mitigation plan”*.

For general management of the off-site mitigation parcels, a short-term maintenance plan and long-term management plan have been developed as part of the final MMP. The overall adaptive management strategy will be to evaluate and work within the constraints of the normal conditions (e.g., ongoing sedimentation due to upstream land use) and natural processes (e.g., meandering creek beds) of the mitigation sites. These normal conditions and natural processes create a dynamic environment. The mitigation parcels will be allowed to conform to the dynamic environment, responding to the normal conditions and natural processes. Adaptive management actions will avoid creating situations that require recurring intervention to redirect or compete with the Valley’s normal conditions and natural processes (e.g., removal of large woody debris and gravel from streams).

Natural recruitment and succession, and changes in type of habitat will be accepted as part of this approach. For example, if a wet meadow is flooded by beaver activity downstream and changes into an emergent marsh, adaptive management to interfere with this change would not be considered prudent because such a change constitutes a landscape evolution or natural succession. In this scenario, specific actions by the land manager to reduce the flooding would not be warranted.

Similarly, if stream channel erosion is the result of lateral channel migration, adaptive management steps would not include trying to confine the channel to its original path, but may include further assessment to determine appropriate restoration options for bank stabilization, such as biotechnical bank stabilization. Another example of where adaptive management will respect the normal conditions and natural processes is where a stream begins to meander into a Baker's meadowfoam population and washes out some of the plants. The creek would not be redirected back to its previous bed and held there by artificial devices. Instead, the area of Baker's meadowfoam would be lost due to the meandering creek bed as part of the natural processes of the site.

If adaptive management becomes necessary to address unforeseen situations with this dynamic environment, adaptive management actions will avoid creating conditions that require recurring intervention to redirect or compete with Little Lake Valley's normal conditions and natural processes.

### **Mitigation Plan Comment 3 (MPC-3) - Fish Migration/Passage and Habitat Creation and Enhancement**

How do the stream passage projects increase the natural functions of the stream channels within the bypass footprint, and mitigate and provide a net benefit for listed salmonids? How do improvements to Haehl, Ryan, and Upp Creeks mitigate for impacts to Baechtel, Broaddus, and Mill Creeks?

### **Response to Mitigation Plan Comment 3 (RMPC-3)**

#### *Fish Migration/Passage*

Stabilization of both creek channels that pass through the interchange areas (Haehl and Upp Creeks) will consist of grade control structures located downstream of the culvert, at appropriate heights and intervals, for the distance necessary to stabilize the natural stream gradient. Fish passage design elements will comply with guidelines established by the National Marine Fisheries Service (NMFS) and the California Department of Fish and Game (CDFG). The removal of the Upp Creek culvert along existing 101 and the stabilization of stream channel at the Haehl Creek interchange would likely reduce sediment input into the creeks as well as improve the beneficial use of the creeks for migration by anadromous salmonids. Regional Water Board staff recognizes that the Upp Creek and Haehl Creek interchanges were primarily designed with the bypass

structure in mind; however, they will benefit salmonids because they were designed in accordance with NMFS and CDFG requirements to help fish passage and control sediment discharge. In addition, Caltrans worked closely with NMFS, CDFG, and Regional Water Board staff at these locations to ensure that all concerns raised by the agencies were addressed. As for the Ryan Creek passage barrier, Regional Water Board staff is satisfied that this is an appropriate mitigation for impacts to listed salmonids, especially when considered in conjunction with the cumulative benefits of additional barrier removal (located further upstream) which is being planned by Mendocino County.

Caltrans has designed the project to minimize the number of permanent structures that will be constructed in creek channels. Bent 24, which is associated with the viaduct structure at the confluence of Baechtel and Broaddus Creeks, will be the only permanent bridge piling that will be constructed in the creek channel during Phase 1. All other creek crossings will consist of clear-span bridges, precluding the need for the construction and placement of permanent bridge piers within creek channels at these crossings. During construction of both project phases, a number of temporary piles to support trestles for the temporary access road and falsework construction also will be needed during project construction; however, these will be removed following construction of each phase of the project. The permanent and temporary piles that will be placed in the creek channels during construction of Phases 1 and 2 will not affect the migration pathway for upstream and downstream migrants.

In addition to enhancement and preservation of habitat on off-site mitigation parcels, Caltrans will implement stream restoration and fish passage improvements on Haehl and Upp Creeks where they cross the project footprint. Caltrans has also committed, as part of its mitigation plan, to providing the design for the North and South Fork locations of the Ryan Creek fish passage project, as well as construct the South Fork location to mitigate impacts on salmonids and jurisdictional waters of the United States. These fish passage improvements on Ryan and Upp Creeks will improve access to upstream spawning and rearing habitat for coho and Chinook salmon and steelhead relative to current conditions. Improvements to fish passage will help offset the temporary effects associated with project construction by potentially increasing the productivity of listed salmonids in these creeks through increased spawning success.

There is general agreement among CDFG's Northern Region staff that Ryan Creek is a high priority for fish passage improvement. Ryan Creek was also identified as the Number 1 priority for passage improvement in Mendocino County in an inventory of road crossings on the State Highway system in Caltrans District 1 (Lang 2005). Ryan Creek ranked as the Number 2 priority within all of District 1. Ryan Creek is the first Outlet Creek tributary located immediately downstream from Little Lake Valley. Providing access to spawning and rearing habitat that is currently obstructed on Ryan Creek will directly benefit coho salmon populations in the Middle-Upper Eel River Recovery Unit and the Outlet Creek HSA. Identifying and treating passage barriers is

consistent with the Recovery Strategy for California Coho Salmon and is identified as a Level D task (will directly contribute to recovery of coho salmon) for the Outlet Creek HSA.

#### *Habitat Creation and Enhancement*

Fish migration habitat will be further improved by the inclusion of approximately 1,700 linear feet of riparian plantings along the east bank of Baechtel Creek between where the viaduct would cross Baechtel Creek and where East Commercial Street currently crosses the creek, and along approximately 1,400 linear feet of the north bank of Mill Creek before Mill Creek passes under the Western Pacific railroad tracks.

Approximately, six miles (measured along both sides of the stream banks) of riparian habitat will be created or enhanced along Category I, II, and III streams within the offsite mitigation parcels. Long stream reaches that would benefit from riparian plantings are present along both Davis and Outlet Creeks. Consultations with Craig Martz and Scott Harris of CDFG and Tom Daugherty of NMFS on April 18, 2008, indicated a preference for Category I riparian mitigation to occur on Outlet Creek, as it supports populations of all three listed fish species (salmonid and steelhead) potentially affected by the bypass project. Therefore, Caltrans has proposed approximately 10,000 linear feet of riparian vegetation to provide shade on Outlet Creek.

Additional mitigation includes restoration to areas along Outlet Creek and Berry Creek that are undergoing bank erosions or that have large headcuts. These areas were identified in an erosion assessment conducted in May 2010. The erosion assessment consists of an inventory of sediment contributing sites within the mitigation parcels and a prioritization of those restoration efforts. The recommended treatments for these sites include bio-engineered bank stabilization efforts to reduce sediment input, reconnect the streams with their adjacent floodplains, and further improve fish habitat.

#### **Mitigation Plan Comment 4 (MPC-4) – Mitigation Lands Purchase**

Caltrans must provide proof that all mitigation lands have been purchased without any restrictions that prohibit the land manager from complying with the United States Environmental Protection Agency (USEPA) and USACE joint 2008 Compensatory Mitigation for Losses of Aquatic Resources (Federal Mitigation Rule).

#### **Response to Mitigation Plan Comment 4 (RMPC-4)**

The federal rule for Compensatory Mitigation for Losses of Aquatic Resources (federal mitigation rule) does not apply to the Regional Water Board. However, the Water Quality Certification is conditional upon Caltrans obtaining the necessary rights to all of the properties necessary to conduct the creation and enhancement of wetlands set forth in the MMP. The water quality certification requires that at least 90 days prior to conducting any channel- ground- or vegetation-disturbing activities, Caltrans shall

acquire by fee title or conservation easement and permanently preserve all the mitigation lands identified in the Final MMP, dated June 8, 2010. Caltrans must maintain the properties for the benefit of the natural resources and prohibit any activities on the mitigation lands (e.g., dredging, filling, or removing any vegetation within or adjacent to streams and wetlands) that would interfere with the enhancement and preservation of those natural resources used as mitigation.

#### **Mitigation Plan Comment 5 (MPC-5) - Mitigation Credits and Preservation**

Caltrans has double counted the mitigation credits for preservation and enhancement and has not adequately made a case for preservation in accordance with the Federal Mitigation Rule.

#### **Response to Mitigation Plan Comment 5 (RMPC-5)**

Regional Water Board staff recognizes that Caltrans double counted credits (acres) for preservation and enhancement. However, as noted in the Regional Water Board public notice dated April 29, 2010, the mitigation would result in the purchase and/or preservation of approximately 2,100 acres of land within Little Lake Valley. For example, in the MMP Caltrans stated a total of 2,230 acres of wetland mitigation area; however, this is the combination enhancement and preservation. The Regional Water Board will not credit the double counting of these acres and considers preservation in perpetuity a mandatory component of compensatory mitigation for this project. The numbers presented in the public notice and in the Water Quality Certification do not include the double counting error. The Regional Water Board has determined that the real and true amount of land approximately 1,011 acres of wetlands, 108 acres of riparian areas, and 17 acres of streams are adequate to perform compensatory mitigation measures for the project.

Also see response RMPC-5.

#### **Mitigation Plan Comment 6 (MPC-6) - Long Term Management Plan**

We agree with the Regional Board's comments in their May 13, 2010 letter that the Long Range Management Plan portion of the MMP needs to contain specific vegetation, wildlife, water, and geomorphic objectives. Without specific objectives and goals, along with the current, potential and capable conditions for the mitigation lands it is impossible to determine if the entire watershed scale enhancement, preservation, restoration, or rehabilitation mitigation efforts that the Federal Mitigation Rule requires, are achieving success. Instead of proving the necessary specific science-based objectives and goals, Caltrans provides a list of Land Manager responsibilities that includes only a vague list of conceptual tasks. Without an agreement with the land manager the MMP is only a plan with no assurance of implementation.

**Response to Mitigation Plan Comment 6 (RMPC-6)**

Regional Water Board staff agrees that commitment by land managers to conduct activities consistent with the goals of the MMP is a key factor in successful mitigation. Condition 6 of the Water Quality Certification states that, Caltrans will be held ultimately responsible for the mitigation in both short term and long term. However, the Water Quality Certification is conditioned (Conditions 15 and 16) upon the land manager complying with all conditions within the water quality certification and shall submit confirmation to the Regional Water Board that they approve the final MMP, associated plans, PAR, long term endowment, and acceptance of all conditions. In addition, the mitigation requirements of the Water Quality Certification do not expire and remain fully enforceable.

Caltrans has revised the Long Term Management Plan (Chapter 11) for the Final MMP to include site assessments with monitoring components for hydrology, geomorphology, habitat, vegetation, water quality, and adjacent development and/or conflicting land use. In addition, Caltrans provides an outline for dynamic changes in the environment that may warrant adaptive management. For example, Appendix J of the Final MMP provides an inventory off sites that are likely to produce excessive sediment and a prioritization of restoration actions for these sites. Additionally, the long term management plan discussed the long term monitoring of these sites to assess their stability and potential sediment delivery to the Outlet Creek HSA. However, Caltrans recognizes that not all erosion may be negative to the ecosystem and anticipates natural succession as part of the long term restoration process. For example, meandering streams may cause bank erosion and may threaten Baker's Meadowfoam populations, but are ultimately a result of the stream finding is appropriate equilibrium with sediment supply and water discharges.

Condition 10 of the Water Quality Certification requires Caltrans to conduct baseline assessments for the purpose of developing the appropriate success criteria, grazing management plan, and long term management plan for mitigation actions. Caltrans will be conducting additional site-specific baseline surveys (water quality, geomorphology, fish habitat, and vegetation) in conjunction with the recommendations of the U.S. EPA, U.S. ACE, CDFG, and Regional Water Board. The purpose of the surveys is to further understand the potential and capable conditions for the mitigation lands. This baseline information will be used to determine the most appropriate goals and objectives for the mitigation lands, and will be utilized to show both enhancement of the mitigation lands, and potentially problematic areas within the mitigation lands, to ensure a successful long term management approach. This information will be critical for the long term managers to understand the potential and proper functioning conditions of the mitigation lands.

**Mitigation Plan Comment 7 (MPC-7) - Work Plan and Contingency Plan**

We agree with the Regional Water Board that the mitigation work plan must contain a contingency plan with clear direction for the land manager should the mitigation actions begin to fail. The MMP must be detailed in its explanation of Short Term Mitigation.

**Response to Mitigation Plan Comment 7 (RMPC-7)**

While Regional Water Board staff believes that it would be a good idea to have a contingency plan for the mitigation work plan, it is not necessary because the water quality certification requires compliance with the performance standards and success criteria set out in the MMP and water quality certification. If the mitigation work fails to meet the criteria, Caltrans and the land manager will be responsible for redoing the work until the mitigation is successful.

What is more critical than a contingency plan is ensuring that the land manager has ample funds to deal with problems should they arise. Funds to cover reasonably foreseeable set-backs to mitigation (e.g. plant mortality during the short-term establishment period, especially after irrigation is removed) as well as unforeseeable problems that would require remedial action have been budgeted into the endowment costs. These contingency funds will allow the land manager to respond promptly to get the mitigation back on track toward success. Conditions 15 and 16 of the Water Quality Certification ensure that the selected long term managers shall approve the MMP, property analysis record (PAR), and long term endowment prior to Caltrans initiating any ground, channel, or vegetation disturbing activities.

**Mitigation Plan Comment 8 (MPC-8) – Long Term Financial Assurances**

How can we be assured that the funds to maintain fish passage and keep the floodplain from expanding because of deposition of material will be adequate? Agreements for land manager duties are not in the MMP. Unless exact details of the transfer of lands, the amount of money provided to develop an agreement and when it would be available, the amount of money in the endowment and when that money would be available there is no way to judge whether the agreement will guarantee that the mitigation land management agency will have the resources to accomplish the goals.

**Response to Mitigation Plan Comment 8 (RMPC-8)**

A PAR was used to calculate the endowment amount that will cover the costs of the long-term management. To calculate the endowment amount, the PAR takes into account all of the day-to-day maintenance activities, all monitoring and reporting, and includes contingency funds. To further ensure that the amount of the endowment provided will be adequate to carry out the long-term management outlined in the MMP, Caltrans projected a low return rate of 2% to avoid under estimating the sum of the

principal to be invested. Based on the PAR calculation, the endowment sum is \$15,287,504. The endowment will be transferred to CDFG and invested prior to the beginning of any management activities that it is required to fund. Also, Conditions 15 and 16 of the Water Quality Certification require that the selected long term managers shall approve the MMP, PAR, and long term endowment prior to Caltrans initiating any ground, channel, or vegetation disturbing activities.

Also see comment response RMPC-7.

### **Mitigation Plan Comment 9 (MPC-9) – Establish Baseline**

The plan must establish a baseline for which preservation and enhancement can be measured. This baseline needs to be in all areas that are impacted and must include measurements taken during every season of the year. There must also need explanation of what the desired condition is.

### **Response to Mitigation Plan Comment 9 (RMPC-9)**

Regional Water Board staff agrees with the comment and have requested additional baseline studies in a letter to Caltrans dated May 13, 2010. Within the Final MMP, Caltrans did provide reference to local watershed studies such as the *Outlet Creek Basin Assessment* (CDFG, Coastal Watershed Planning and Assessment Program, 2008) as well as several other published documents from various sources. Baseline information presented in Chapter 5 of the draft MMP was determined to be too general to fully describe the proper functioning conditions of the proposed mitigation lands. Condition 10 of the Water Quality Certification requires Caltrans to implement a robust Monitoring and Reporting Program (MRP) that will includes baseline assessments for the purpose of developing the proper success criteria for mitigation actions. Caltrans is currently continuing to gather more detailed and site specific baseline information that can be used to measure the level of enhancement achieved at the mitigation sites. Site specific baseline studies will be conducted prior to mitigation implementation for invasive plants, plant communities (species richness, diversity, and native plants), erosion potential sites, water quality, riparian shade, and benthic-macroinvertebrates (BMI).

Baseline data, the following constituents will be monitored:

- Flow rate
- pH
- Temperature
- Total Dissolved Solids (TDS)
- Turbidity
- Specific Conductance (SC)

- Total Settleable Solids (TSS)
- Total and Dissolved Metals
- Oil and grease.

Monitoring will also include visual observations of the appearance of the stream flow including color, floating or suspended matter or debris, presence of aquatic life, etc.

During baseline assessment, construction, success criteria monitoring, and post-construction monitoring data for pH, temperature, TDS, turbidity, and SC will be collected continuously and during select precipitation events. An additional parameter may be added to the constituent list if dust palliatives are used on haul roads (i.e. Methylene Blue Activated Substances).

The following physical channel characteristics will be assessed:

- Cross sectional water depth
- Wetted channel width
- Bankfull width
- Substrate characteristics
- Canopy cover
- Gradient
- Sinuosity
- LWD.

The following biological assessments will be conducted for benthic macroinvertebrate sampling (bioassessment):

- Taxa richness
- Taxa composition
- Percent tolerant/intolerant organisms
- Functional feeding group analysis
- Abundance.

Chemical and physical habitat data will be used to assist in interpreting BMI community responses to construction (point-source) and mitigation (non-point source) activities. These data will be used to establish an index of biological integrity (IBI) that can be compared to the baseline condition (pre-project) as well as to regional index sites to monitor the success of channel restoration and enhancement efforts.

### **Mitigation Plan Comment 10 (MPC-10) – TMDL**

We are very concerned about TMDL limitations on Outlet Creek and would like to see continuous monitoring for turbidity and temperature. We want to be sure there is adequate fish passage and that the fish's food sources are not adversely affected.

**Response to Mitigation Plan Comment 10 (RMPC-10)**

The Eel River watershed is listed on the Clean Water Act section 303(d) list as impaired for sediment and temperature. In 2004, the U.S. EPA established sediment and temperature total maximum daily loads (TMDLs) for the Upper Main Eel River and tributaries (including Tomki Creek, Outlet Creek and Lake Pillsbury). Roads are a responsible source of sediment in the watershed (directly, from surface erosion, and, indirectly, by triggering landslides). In addition, activities that impact the riparian zone and reduce riparian vegetation are identified as sources contributing to increased stream temperatures. A focus on measures to reduce sediment discharges to surface waters from roads in the watershed, and measures to avoid, minimize, and mitigate impacts on riparian zones is essential for achieving TMDLs.

Pursuant to Regional Water Board Resolution R1-2004-0087, *Total Maximum Daily Load Implementation Policy Statement for Sediment-Impaired Receiving Waters within the North Coast Region* (Sediment TMDL Implementation Policy), the Executive Officer is directed to “rely on the use of all available authorities, including existing regulatory standards, and permitting and enforcement tools to more effectively and efficaciously pursue compliance with sediment-related standards by all dischargers of sediment waste.”

To ensure compliance with sediment, temperature and other related water quality objectives within the Basin Plan, and consistent with the U.S. EPA-established TMDLs, adequate wetland and riparian protection and adequate measures and actions to avoid, minimize, and mitigate the sediment and temperature impacts associated with the proposed project will be incorporated as enforceable conditions of the water quality certification. In addition, Caltrans will be required to conduct surface water monitoring, sampling, and analysis in accordance with the conditions of the water quality certification. Additionally, storm water runoff monitoring, sampling, and analysis will be conducted as required by the State Water Resources Control Board (SWRCB) National Pollutant Discharge Elimination System (NPDES) Permit for Storm Water Discharges from the State of California, Department of Transportation (Caltrans) Properties, Facilities and Activities. The surface water data collected will be utilized to assess the adequacy of BMPs during construction as well as site specific mitigation measures proposed to minimize impacts to the environment, including sediment and temperature impacts.

The MRP required by Condition 10 of the Water Quality Certification requires that Caltrans used the data gathered from the baseline assessment, construction monitoring, and post-construction monitoring efforts to develop a TMDL compliance plan for the bypass alignment and the off-site mitigation lands.

To fully develop a watershed approach the mitigation must include a nexus to address the temperature and sediments impairments. The nexus relates how the proposed

mitigation will implement additional measures to reduce stream temperatures and excessive sediment inputs into the watershed. For sediment, Caltrans has prepared an assessment of all the erosion sites located within the off-site mitigation lands, which includes the inventory, prescription, and prioritization of restoration actions that will reduce erosion and sediment delivery within the watershed. In addition, the bypass structure has been designed to reduce erosion and sediment delivery to the maximum extent practicable (MEP). For temperature impairment, the most practical way to reduce stream temperatures is to provide riparian vegetation in all areas feasible within the project limits, including bypass alignment and off-site mitigation lands (maximum site potential shade). In addition, baseline surveys will be conducted to find all areas that benefit from riparian plantings to achieve maximum site potential shade, and percent effective shade (shade on water). Additionally, the current land management practices of stream alteration and cattle grazing have potentially negative side effects on water. Therefore, the proposed grazing management plan, which is geared towards the enhancement and protection of natural resources, will be implemented to improve the overall health of the watershed.

Also, see responses RMPC-3, RSWMC-1, RMPC-12.

#### **Mitigation Plan Comment 11 (MPC-11) – Lack of Detail**

Commenter supports the decision to reject the mitigation plan and wants the mitigation plan to include additional details prior to approval.

#### **Response to Mitigation Plan Comment 11 (RMPC-11)**

A considerable amount of detail was added to the MMP, dated June 2010. This detail includes additional success criteria, more detailed description of mitigation actions, additional requirements for baseline studies, water quality and bioassessment monitoring, a grazing plan, long-term management plan, endowment amount, and identification of the property owner, land manager, endowment holder, and CE holder/compliance monitor.

In addition, the Condition 10 of the Water Quality Certification requires the baseline studies be conducted to provide the adequate information regarding the existing conditions of the mitigation parcels. The MRP is designed to collect data and provide reports that assess the biological, chemical, physical characteristics and conditions of resources within the jurisdiction of the Regional Water Board for both the bypass alignment and the associated mitigation lands. It is necessary to establish baseline conditions of surface waters to verify the establishment and enhancement of wetlands, riparian areas, and waters of the U.S. and State within the mitigation lands.

Baseline data will be used to demonstrate that the bypass, both during and after construction, is in compliance with the Basin Plan, California's antidegradation policy in

State Water Board Resolution No. 68-16, and the U.S. EPA established sediment and TMDLs for the Upper Main Eel River and tributaries (including Tomki Creek, Outlet Creek and Lake Pillsbury).

The primary objectives of the MRP include, but are not limited to:

- A. Assessing the biological, chemical, and physical environmental characteristics within the bypass alignment, and within the mitigation lands;
- B. Assessing the overall health and evaluating trends in receiving water quality;
- C. Assessing the potential biological, chemical, physical impacts, both during and after construction, of the bypass alignment;
- D. Determining and revising site specific performance standards and success criteria for the biological, chemical, and physical environmental characteristics within the bypass alignment, and within the mitigation lands;
- E. Evaluating the effectiveness of BMPs, mitigation measures, and avoidance measures;
- F. Evaluating activities that results in or may result in violations of MRP and the Water Quality Certification that may warrant additional BMPs or stop work orders;
- G. Identifying sources of pollutants;
- H. Assessing compliance with water quality objectives and TMDLs;
- I. Measuring and assessing the reductions or prevention in pollutant loads; and
- J. Verifying and successful repair within the bypass alignment and enhancement of the mitigation lands.

The data collection and evaluation will be broken down into four separate phases for the bypass alignment and mitigation lands (with multiple tasks per phase). Data collection and evaluation may necessitate revisions to the MRP as trends and comparisons are established. This MRP requires the collection and evaluation of data to supplement the Final MMP for the short term and long term mitigation plans.

Also, see responses RMPC-1 through RMPC-10, and RMPC-12.

### **Mitigation Plan Comment 12 (MPC-12) – Net Loss of Wetlands**

Wetland enhancement does not adequately mitigate the permanent net lost of wetlands.

### **Response to Mitigation Plan Comment 12 (RMPC-12)**

During the project planning process Caltrans assessed over 6,000 acres of land within Little Lake Valley to identify potential mitigation for the impacts of the bypass project and contacted the property owners requesting that they consider selling land to Caltrans for mitigation. Caltrans received responses from willing sellers of 3,157 acres, of which only minor wetland creation was feasible. At the request of the Regional Water Board, Caltrans expanded their search to approximately 11,000 acres outside Little Lake

Valley. Caltrans received responses from land owners willing to sell 2,700 acres, with little opportunity for wetland creation. Caltrans was able to identify approximately 24 acres of wetland creation. Conditions 7 of the Water Quality Certification requires Caltrans to obtain control of all of the area necessary for the creation of the 24 acres of wetlands, as proposed in its mitigation and monitoring proposal.

Prior to the beginning of ground disturbing project construction activities, known populations of wetlands plant species to be affected by construction either will be salvaged for transportation to adjacent on-site locations or salvaged for relocation to off-site mitigation parcels, where the harvested material will be used to topdress created wetlands. Off-site mitigation actions for wetlands creation will require site preparation, including grading uplands and modifying local hydrology; seeding graded areas; planting wetlands species; and monitoring for successful wetland establishment.

After the creation of approximately 24 acres of wetlands, the project would still result in a loss of approximately 29 acres of wetlands. State of California Executive Order W-59-93 directs all state agencies to “*ensure no overall net loss and long term net gain in the quantity, quality and permanence of wetlands acreage and values in California...*” Executive Order W-59-93 also directs all state agencies “to encourage partnerships to make restoration, landowner incentive programs, and cooperative planning efforts the primary focus of wetland conservation.” After several years of meetings and planning with Caltrans, the U.S. EPA, U.S. FWS, U.S. ACE, NMFS, CDFG, Mendocino County Resource Conservation District (MCRCD), Willits Environmental Center (WEC) and Regional Water Board collectively agreed to an ecologically designed watershed approach to mitigate for the permanent impact to wetlands wetlands. The watershed approach would involve providing a significant improvement to the ecological functions and values of wetlands off-site of the project, but still within the Little Lake Valley. (The project is planned in the west-central portion of the Little Lake Valley.) The resource agencies collectively agreed that the mitigation should be focused within Little Lake Valley, because it hosts a variety of unique ecological features, including the presence of several rare, threatened, and endangered species (e.g. anadromous fish and Baker’s Meadowfoam).

This watershed approach mitigation strategy would combine habitat creation, restoration, enhancement, and preservation, which is consistent with the U.S. EPA and U.S. ACE new Compensatory Mitigation Rule released on April 10, 2008. Caltrans proposed enhancing approximately 1,011 acres of existing wetlands in combination with the 24 acres created, the 53 acres preserved for a total of approximately 1,088 acres of wetlands secured in perpetuity. Wetland enhancement actions include: filling in man-made drainage ditches to increase the residence time of surface waters within the wetland area; implementing a grazing management plan to reduce the impacts from cattle; and removing invasive species to promote the health and natural recruitment of native wetland species. The mitigation site preservation and site protection instruments would be a combination of fee title purchase, conservation easement, or other deed

restriction. Condition 8 of the Water Quality Certification requires Caltrans to acquire by fee title, easement, or deed restriction and permanently preserve all the mitigation lands identified in the MMP, dated June 2010.

The Federal Mitigation Rule (33 CFR Part 332.3) discusses the considerations for the watershed mitigation approach which include water quality and watershed impairments. The Eel River watershed is listed on the Clean Water Act section 303(d) list as impaired for sediment and temperature. In 2004, the U.S. EPA established sediment and temperature TMDLs for the Upper Main Eel River and tributaries (including Tomki Creek, Outlet Creek and Lake Pillsbury). Therefore, to fully develop a watershed approach the mitigation must include a nexus to address the temperature and sediments impairments.

The nexus relates how the proposed mitigation will implement additional measures to reduce stream temperatures and excessive sediment inputs into the watershed. For sediment, Caltrans has prepared an assessment of all the erosion sites located within the off-site mitigation lands, which includes the inventory, prescription, and prioritization of restoration actions that will reduce erosion and sediment delivery within the watershed. In addition, the bypass structure has been designed reduce erosion and sediment delivery to the MEP. For temperature impairment, the most practical way to reduce stream temperatures is to provide riparian vegetation in all areas feasible within the project limits, including bypass alignment and off-site mitigation lands (maximum site potential shade). In addition, baseline surveys will be conducted to find all areas that benefit from riparian plantings to achieve maximum site potential shade, and percent effective shade (shade on water). Additionally, the current land management practices of stream alteration and cattle grazing have potentially negative side effects on water. Therefore, the proposed grazing management plan, which is geared towards the enhancement and protection of natural resources, will be implemented to improve the overall health of the watershed.

#### **Legal Compliance Comment 1 (LCC-1)**

There is no justification for Caltrans to avoid their legal responsibilities to meet the requirements of the Clean Water Act; Caltrans has requested permits from the resources agencies with any legal compliance based only on their promise to comply at a later date. We trust that the Regional Water Board will insist that those who propose to destroy public natural resources are required to comply with the law.

#### **Response to Legal Compliance Comment 1 (RLCC-1) - Clean Water Act Compliance**

It is beyond our regulatory purview to comment generally on Caltrans' legal compliance. However, with the issuance of the Water Quality Certification, we do find that the

project, including all required mitigation, will comply with state law as regards impacts to water quality.

The Water Quality Certification is conditional upon Caltrans meeting all of the requirements set forth therein, stating that no channel, ground or vegetative disturbing activities are allowed until Caltrans has: obtained all the required mitigation lands; provided specific work plan details; provided additional planting and creek restoration plans; geologic reports and reclamation plans for Oil Well Hill; the MMP approved by the land manager and recalculated the property assessment record and long term endowment; and perform an impact assessment of the contractors proposed haul road on the 100-floodplain to verify the road will have no additional impacts. In addition, the Water Quality Certification is conditional upon Caltrans revising the performance standards and success criteria, grazing plan, long term management plan, and developing a TMDL compliance plan. The Regional Water Board staff finds that the recent changes incorporated in the MMP, dated June 2010, the conditions within the Water Quality Certification, and MRP are sufficient to protect and enhance wetlands, streams, and the water quality within the bypass footprint as well as the mitigation lands.

**Regulatory Evaluation Comment 1 (REC-1) - Careful Not Rushed Regulatory Decision**

Public regulatory agencies must avoid expedited review and make careful decisions. They must not favor economic growth at the expense of poor planning, which could in turn lead to long term environmental and economic damage. The issues related to the mitigation plan must be resolved prior to issuing the permit.

**Response to Regulatory Evaluation Comment 1 (REC-1)**

Comment noted. See also response to RLCC-1, above.

**Surface Water Monitoring Comment 1 (SWMC-1) – Surface Water Monitoring**

There is no monitoring plan for the aquatic system as part of the MMP. Snorkel counts should be completed annually in streams and macro-invertebrate surveys should be established.

**Response to Surface Water Monitoring Comment 1 (RSWMC-1)**

The MMP, dated June 2010, included a Surface Water Monitoring and Reporting Program (SWMRP); however, Regional Water Board staff found the program to be incomplete in its development. Therefore, the Regional Water Board will contain a MRP that includes Bioassessment (benthic macroinvertebrate sampling), chemical, physical and biological monitoring components. Regional Water Board staff worked closely with

the U.S. EPA, U.S. ACE, and Caltrans to develop a comprehensive and complete MRP. The data collection and evaluation will be broken down into four separate phases for the bypass alignment and mitigation lands (with multiple tasks per phase).

### **Phase I - Baseline Evaluation and Reporting (Bypass Alignment)**

#### Baseline Tasks

- a) Collect baseline water quality data for stream reaches along the bypass alignment
- b) Collect baseline bioassessment data for bypass alignment
- c) Collect baseline wetland data for bypass alignment
- d) Prepare and submit reports that evaluate data sets to assess the baseline biological, physical, and chemical properties
- e) Incorporate data evaluation, revised success criteria, and revised management plans into MMP

### **Phase I - Baseline Evaluation and Reporting (Mitigation Lands)**

#### Baseline Tasks

- f) Collect baseline water quality data for mitigation lands
- g) Collect baseline bioassessment data for mitigation lands
- h) Collect baseline wetland data for off-site mitigation lands
- i) Prepare and submit reports that evaluate data sets to assess the biological, physical, and chemical properties
- j) Incorporate data evaluation, revised success criteria, and revised management plans into MMP

### **Phase II - Construction Compliance Monitoring and Reporting (Bypass Alignment)**

#### Construction Compliance Tasks

- a) Conduct water quality monitoring within the stream reaches along the bypass alignment
- b) Submit monthly reports on construction compliance
- c) Annual Report summary on construction compliance

### **Phase II - Construction Compliance Monitoring and Reporting (Mitigation Lands)**

#### Construction Compliance Tasks

- d) Conduct water quality monitoring within the mitigation lands
- e) Annual qualitative status reports on progress of plantings, and mitigation construction compliance, and mitigation trends and progress

### **Phase III - Repair Success (Bypass Alignment) – Evaluating and Measuring Success**

#### Repair Monitoring Tasks

- a) Conduct water quality monitoring within the stream reaches along the bypass alignment to verify repair success

- b) Collect bioassessment data within the stream reaches along the bypass alignment to verify repair success
- c) Collect wetland data for bypass to verify repair success
- d) Annual reporting on compliance and mitigation progress
- e) Final Mitigation Report verifying success.

### **Phase III - Mitigation Land Enhancement (Mitigation Lands) – Evaluating and Measuring Success**

#### Enhancement Monitoring Tasks

- f) Conduct water quality monitoring within the mitigation lands to verify repair and enhancement success
- g) Collect bioassessment data for the mitigation lands to verify repair and enhancement success
- h) Collect wetland data for the mitigation lands to verify repair and enhancement success
- i) Annual reporting on compliance and mitigation progress
- j) Final Mitigation Report verifying success.

### **Phase IV - Long Term Total Maximum Daily Load (TMDL) compliance for the Bypass.**

#### TMDL and Long Term Management Tasks

- a) Once success has been achieved for the on-site repair areas, Caltrans shall develop TMDL Compliance Plan and Long Term Management Plan.

### **Phase IV - Long Term Total Maximum Daily Load (TMDL) compliance for the Mitigation Lands.**

#### TMDL and Long Term Management Tasks

Baseline data will be collected for all mitigation sites prior to the start of soil disturbing activities. This data collection effort will include at a minimum the following information:

Water quality parameters (continuous monitoring):

- Flow (cfs)
- pH
- Temperature
- Dissolved oxygen
- Total dissolved solids
- Turbidity
- Specific conductance

Water quality parameters (precipitation event monitoring):

- Total settleable solids
- Total nitrogen

- Nitrate and nitrite
- Biochemical Oxygen Demand
- Total Kjeldahl Nitrogen (TKN)
- Total phosphorus
- Dissolved phosphorous
- Total and dissolved metals
- Hardness
- Fecal coliform
- Enterococcus
- Total organic carbon (except on-site mitigation sites).

Physical channel characteristics:

- Cross sectional water depth
- Wetted channel width
- Bankfull width
- Substrate characteristics
- Canopy cover
- Gradient
- Sinuosity
- LWD.

Benthic macroinvertebrate sampling (bioassessment):

- Taxa richness
- Taxa composition
- Percent tolerant/intolerant organisms
- Functional feeding group analysis
- Abundance.

Chemical and physical habitat data will be used to assist in interpreting benthic macroinvertebrate (BMI) community responses to construction (point-source) and mitigation (non-point source) activities. These data will be used to establish an index of biological integrity (IBI) that can be compared to the baseline condition (pre-project) as well as to regional index sites to monitor the success of channel restoration and enhancement efforts.

Although annual snorkel count surveys would provide useful information with respect to species occurrence and relative abundance in the project area over time, these surveys would not allow Caltrans or the resource agencies to determine whether any observed differences in annual monitoring results were the result of the project or environmental conditions unaffected by the project. For example, while observed differences in the abundance of young-of-the-year steelhead during annual snorkel counts could be the result of the project, they also may be a result of the timing, duration, or magnitude of

flows that occurred during the previous spawning season or a result of differences in the number of adult steelhead returning from the ocean to spawn the previous winter – the latter two being conditions that are clearly unrelated to the project. While monitors would clearly see differences in species abundances from year to year, monitors would not be able to determine what caused those differences.

As stated above, the subsequent phases of the MRP will require Caltrans to adequately verify the success of the mitigation with data collected during the baseline assessments. Once the resource agencies have determined that the mitigation actions are successful, Caltrans will be required to use the data gathered to develop and fine tune the appropriate long term management plans for the bypass alignment and off-site mitigation lands.

### **Surface Water Monitoring Comment 2 (SWMC-2) – Construction Monitoring**

Given Caltrans past history of violations for discharges and lack of monitoring they should not be allowed to execute the monitoring themselves and should hire qualified third party.

### **Response to Surface Water Monitoring Comment 2 (RSWMC-2)**

Condition 49 of the Water Quality Certification will require that Caltrans retain a qualified water quality monitor. The water quality monitor(s) shall be knowledgeable of and have experience with the Basin Plan, and surface water monitoring procedures, protocols, quality assurance, and quality control protocols. The water quality monitor(s) shall be responsible for monitoring project activities and/or channel- ground- or vegetation disturbing activities that result in or have the potential to result in a discharge to waters of the State. The water quality monitor(s) shall be approved by Regional Water Board staff shall make requests and provide recommendations to the Caltrans Resident Engineer, Construction Storm Water Coordinator, and Environmental Construction Liaison.

The water quality monitor shall be on-site daily while Project activities are occurring including all pile installation, dewatering, channel- vegetation- or ground-disturbing activities that may affect water quality to: (1) document compliance with water quality standards and this certification; (2) record the results of all required surface water monitoring; (3) evaluate the effectiveness of BMPs, mitigation measures, and avoidance measures; (4) alert key construction staff of precipitation forecasts; and (5) make stop work recommendations for activities that results in or may result in violations of this certification. The water quality monitor(s) shall prepare daily written observation and inspection records summarizing: oversight activities and compliance inspections; recommendations; monitoring and sampling results; and discharges.

During construction of the Bypass water quality monitoring will be performed at 17 locations, at least, to assess the impacts and measure compliance with the Water Quality Certification.

Water quality parameters (continuous monitoring):

- Flow (cfs)
- pH
- Temperature
- Dissolved oxygen
- Total dissolved solids
- Turbidity
- Specific conductance

Water quality parameters (precipitation event monitoring):

- Total settleable solids
- Total and dissolved metals
- Hardness
- Oil and Grease

### **Storm Water Comment 1 (SWC-1) - Toxics from Storm Water & Viaduct**

The bypass project will result in additional toxic substances entering the stream channels, especially from viaduct. How will the project mitigate for these toxic substances?

### **Response to Storm Water Comment 1 (RCWC-1)**

The project will result in an increase of approximately 38 new acres of impervious surface in the Little Lake Valley. The total area of impervious surface that will exist within the project limits will be 49 acres (including new and existing impervious surface) when the project is completed. Caltrans will provide permanent post-construction storm water treatment for approximately 43 acres of impervious surface, which is more than the amount of impervious area being added. In accordance with the National Pollutant Discharge Elimination System (NPDES) Permit for Storm Water Discharges from the State of California, Department of Transportation Properties, Facilities, and Activities [Caltrans Storm Water Permit (Order No. 99 – 06 – DWQ)], the project has been designed to reduce discharges of storm water to the Maximum Extent Practicable (MEP). Storm water runoff and modifications to the local hydrograph will be controlled primarily through the use of low impact development (LID) best management practices (BMPs) such as bio-strips, bio-swales, and shallow vegetated detention basins that rely on infiltration and dispersion. In addition, where feasible, Caltrans will install and maintain traction sand traps within drain inlets along the roadway to reduce sediment delivery to Outlet Creek HSA.

For safety reasons, storm water drainage from the viaduct structure will be routed to deck drains and/or scupper drains. There is no treatment prior to these drainage appurtenances draining directly below. This represents a relatively small volume of storm water. Although they do not discharge directly to receiving waters, they will be discharging into the wetlands. Impacts to these wetlands are being addressed by the mitigation strategy set forth in the MMP for the creation, enhancement and preservation of wetlands.

During construction of the viaduct, temporary erosion control measures will be taken to prevent storm water discharges into the wetlands and surface waters, including the installation of Temporary Hydraulic Mulch (Bonded Fiber Matrix). Also, temporary BMPs will be used during the Construction phase. The BMPs are to be implemented in order to minimize the potential for sediments and pollutants from entering any water bodies. Caltrans will be required to implement a MRP as part of the project implementation. The MRP will establish baseline water quality conditions prior to the beginning of construction. The MRP will continue during construction and extend to one year after construction. Data will be analyzed to determine any potential impacts to water quality and proposed additional BMPs, if necessary, to improve water quality.

Although the project will create approximately 38 new acres of additional impervious surface, it will result in the treatment of storm water from approximately 43 acres. Approximately five acres will remain untreated. Because storm water from approximately eleven acres of impervious surface previously went untreated, and now this amount is lessened to five acres, this project arguably results in a net benefit to water quality because of the improved storm water treatment that it provides.

### **Project Impact Comments 1 (PIC-1) - Haul Roads and Staging Areas, Water Sources / Disposal, “Wicking” and Compacting, and Concrete Batch Plant**

Water quality impacts have not been described or mitigated. These include those related to: Haul Roads and Staging Areas; Water Quality, Quantity, Source and Disposal, “Wicking” and compaction; Concrete Batch Plant; Oil Well Hill; and Upp Creek and Haehl Creek Culvert Repairs.

### **Response to Project Impact Comments 1 (RPIC-1)**

#### *Haul Roads and Staging Areas*

The proposed haul roads and staging area locations have been identified in the Final EIS/EIR and in the application for water quality certification. For several years resource agency staffs (including Regional Water Board staff) have discussed the haul road scenarios with Caltrans. The impacts to waters of the State associated with the haul roads and staging areas will be mitigated on-site by restoring the areas subsequent to

the completion of the bypass. The restoration actions include revegetation and monitoring for successful plant establishment and surface hydrology.

During construction, the haul roads and staging areas will be stabilized to minimize temporary impacts. The contract between Caltrans and its contractor will contain provisions that specifically require that BMPs be implemented to address water quality impacts by requiring Caltrans to include all conditions of this order in the Plans and Specifications prepared for the Contractor. In addition, Caltrans shall require compliance with all conditions included in this Order in the bid contract for this project.

In addition, the Water Quality Certification requires Caltrans to:

- Submit a technical floodplain analysis that demonstrates the proposed haul road will not impact the 100-floodplain;
- Implement BMPs to the MEP with Best Available Technology Economically Achievable (BAT) and Best Conventional Pollutant Control Technology (BCT) to reduce or eliminate pollutants in storm water runoff in accordance with the Caltrans Storm Water Permit (Order No. 99 – 06 – DWQ), and the SWRCB NPDES General Permit and Waste Discharge Requirements for Discharges of Storm Water Runoff Associate with Construction and Land Disturbance Activities (Construction General Permit or CGP, Order No. 2009-0009 DWQ); and
- Comply with all applicable conditions within the water quality certification that requires surface water motoring and sampling and strict compliance with the water quality standards within the Basin Plan.

Additionally, Caltrans will implement a Surface Water Monitoring and Reporting Program that will collect water quality data prior to construction, during construction, and after construction. Collected water quality data will be analyzed to assess and improve BMP performance and re-vegetation efforts after construction.

#### *Water Quantity*

Caltrans will not be allowed to draft surface waters for this project. Water would have to come from other sources, including municipalities, groundwater or other private sources. Issues of water supply are outside of the Regional Water Board's jurisdiction.

#### *Construction Dewatering and Water Disposal*

Construction dewatering may be required at several locations within the project limits, including construction of Bent 24 at the confluence of Baechtel and Broaddus Creek. Currently, construction dewatering with discharges directly to receiving waters is not permitted. That would change if the Low Threat Discharge basin plan amendment approved by the Regional Water Board last year is approved by the State Board and the Office of Administrative Law. That amendment and the permit adopted to implement

that permit, Order No. R1-2009-0045, General NPDES Permit No CA0024901, Waste Discharge Requirements for Low Threat Discharges to Surface Waters in the North Coast Region, would allow discharges of water from the dewatering of construction sites where sediment and naturally occurring parameters (e.g. naturally occurring metals or salts, temperature, pH, etc.) in area groundwater are the only pollutants of concern and do not exceed water quality objectives in the Basin Plan or California Toxics Rule (CTR). A groundwater characterization study is required as part of Permit coverage. Note the Permit states: "The discharge duration, flow rate, and volume must be disclosed and evaluated in relation to the receiving flow rate and characteristics in order for the Regional Water Board to determine if the discharge will have a low threat to water quality"

### *“Wicking” and Compacting*

There will be wick drains placed under the abutments and roadway fills north of the viaduct to accelerate settlement. The wick drains will be placed to a depth of eighty feet. The areas where the wick drains are being placed and areas south of the viaduct where there will be no wick drains will have additional weight on the subsurface soils. That additional weight will not create a barrier to water movement. The subsurface water table will maintain equilibrium and remain stable on both sides of the embankment in all areas of the project.

### *On-Site Concrete Batch Plant*

No discharges would be allowed from on-site concrete batch plants. Any batch plant would be required to comply with either the Caltrans Storm Water Permit or the State Water Board Construction General Permit. Either would require best management practices to ensure that storm water discharges from the site were not contaminated by pollutants from the batch plant. A concrete batch plant may also require compliance with additional regulatory requirements, such as a permit from the local Air Quality Management District.

### **Project Impact Comments 2 (PIC-2) - Oil Well Hill**

Water quality impacts have not been described or mitigated related to the borrow site at Oil Well Hill.

### **Response to Project Impact Comments 2 (RPIC-2)**

The location of the potential borrow site is within the impact footprint of the project, and thus incorporated in the impact and mitigation discussions in Sections 1.10.4, 2.3.5., 2.4.2., 3.7., 3.15., and 3.17. of the FEIS/EIR and permit applications. Oil Well Hill is within the Outlet Creek HSA and Caltrans has limited the potential material extraction areas to avoid dredging or filling waters of the State. A Geotechnical Design Report for

Oil Well Hill was done by a Licensed Professional Geologist dated, December 23, 2009, and a Seismic Investigation at Oil Well Hill by a Professional Certified Engineering Geologist was performed as well, dated April 20, 2007.

Caltrans has determined that additional permanent treatment BMPs could be implemented at this location during and after borrow source activities are complete. If Oil Well Hill is used as a borrow site the Contractor will be required to install temporary and permanent treatment BMPs to treat storm water runoff from the existing roadway adjacent to the borrow site. The contractor prepared SWPPP must designate construction BMPs to be implemented at the Oil Well Hill proposed borrow site. The Regional Water Board must approve the SWPPP prior to the beginning of project construction. In addition, storm water monitoring will be required by the Construction General Permit for both visible and non-visible pollutants.

Although Caltrans obtained an exemption from the Surface Mining and Reclamation Act, the Water Quality Certification will have conditions requiring Caltrans to submit a Reclamation Plan and conduct storm water and surface water monitoring to ensure the protection of Waters of the State and compliance with the Basin Plan.

### **Project Impact Comments 3 (PIC-3) – Floodplain Analysis, Cumulative Impacts**

Caltrans must recalculate the cumulative impacts to the Federal Emergency Management Agency (FEMA) 100-year floodplain to include the final designs of the bypass footprint, haul roads, Willits Wastewater Treatment Plant (WWTP) and recent local development.

### **Response to Project Impact Comments 3 (RPIC-3)**

The proposed project encroaches upon the 100-year floodplain. The design includes two elevated structures, which make up the floodway viaduct. The purpose of this design feature is to span the floodway. The Willits Bypass Floodplain Evaluation Report, dated September 2006, indicates that project will not increase the base flood elevation of the floodway, and does not constitute a significant floodplain encroachment as defined in 23 CFR 650.105(q).

Section 3.19.7 of the FEIS/FEIR considered cumulative impacts from the entire bypass project, planned improvements to the WWTP, and recent local developments. The FEIS/FEIR explained that WWTP improvements would include constructing ponds within the Little Lake Valley floodplain that would require mitigation to avoid impacts to the floodplain. The FEIS/FEIR further stated that although construction of the bypass within the floodplain would have minimal impacts related to additional impervious surface area or to beneficial floodplain values because of the relatively small areas involved, “[t]he City of Willits and Caltrans are coordinating and sharing information to ensure that our hydraulic analyses use the same base conditions and that the projects

*do not cumulatively increase the floodplain elevations in the Little Lake Valley. If the WWTP project precedes construction of the Willits Bypass, the baseline conditions for the bypass will be modified and the effects reassessed".* This language essentially reflects the existing legal requirement, pursuant to the California Environmental Quality Act (CEQA), that supplemental or subsequent analysis may be required should changes to the proposed project or the surrounding circumstances, i.e., the baseline condition(s) of the floodplain substantially changes. (Pub. Resources Code, § 21166; Cal. Code Regs., tit. 14, § 15162).

Once a CEQA document has been fully approved by a lead agency, as has occurred here with Caltrans acting as lead agency, a responsible agency such as the Regional Board is bound by the document even where the responsible agency has misgivings about the adequacy of the document. (Discussion following Cal. Code Regs., tit. 14, § 15052.) A responsible agency may only step into the lead agency role and/or prepare a supplemental environmental document in the following limited circumstances: (1) subsequent changes to the project require substantial revisions to the environmental document due to new or increased environmental impacts; (2) there is new information that renders the environmental document inadequate; (3) changes to the surrounding circumstances require substantial revisions to the environmental document due to new or increased environmental impacts. (Cal. Code Regs, tit. 14, §§ 15052, 15162.) None of these circumstances currently exist with respect to this project and the associated FEIR/FEIS.

First, since the FEIR/FEIS was approved by the lead agency, the Regional Board has been presented with no information that changes have occurred to the project which requires substantial revisions to the environmental document. Second, the Regional Board has been presented with no new information that requires substantial revisions to the FEIR/FEIS. Third, although section 3.19.7 of the FEIR/FEIS contemplates the need for additional analyses should the environmental baseline of the floodplain change in the future, the floodplain has yet to be modified as part of the proposed WWTP and the baseline conditions of the floodplain remain the exactly same as they were when the FEIR/FEIS was adopted. A memorandum produced by Caltrans, dated August 2, 2010, confirms that the 2006 analysis is still adequate since baseline conditions have not changed. Accordingly, without an actual change to the baseline conditions, it would be premature to require additional analysis at this time and would violate CEQA's clear guidance on the preparation of a supplemental or subsequent environmental document by a responsible agency.

In addition, the Water Quality Certification for the WWTP includes compensatory mitigation that includes wetland creation through floodplain modifications. It has been concluded that the mitigation included as part of the WWTP will actually reduce the floodplain, which should further reduce impacts on floodplain from viaduct. Additionally, the August 2, 2010 memo from Caltrans confirms that the Little Lake Valley Floodplain Hydrology and Hydraulic Assessment for the City of Willits Wastewater Treatment Plant,

dated August, 2008, will reduce the base floodplain elevation and not results in a cumulative impact to the floodplain.

#### **Project Impact Comments 4 (PIC-4) – Wastewater Disposal**

Caltrans proposed to use drive through water washes on-site for invasive species control. How will wastewater from invasive species control be handled?

#### **Response to Project Impact Comments 4 (RPIC-4)**

The water quality certification will require that wastewater from invasive species control and equipment washing must be disposed of at an appropriately permitted facility or comply with the proper NPDES requirements for discharges. Wastewater from vehicle cleaning will not be allowed for on-site use for any purposes (e.g. dust control) unless Caltrans can demonstrate to the satisfaction of the Regional Water Board that the wastewater has been adequately treated for potential pollutants and invasive species.

#### **Project Impact Comments 5 (PIC-5) – Cumulative Impacts to the WWTP and Outlet Creek**

Will the bypass footprint and mitigation have cumulative impacts on the WWTP and will the viaduct interfere with the biological process of the City of Willits created wetlands? Will dewatering the confluence of Baechtel and Broaddus Creeks interfere with the City's ability to meet their effluent stream flow ratio? What are the cumulative impacts to Outlet Creek as the first rains wash create runoff from the viaduct and the WWTP is preparing to discharge?

#### **Response to Project Impact Comments 5 (RPIC-5)**

The proposed project encroaches upon the 100-year floodplain. The design includes two elevated structures, which make up the floodway viaduct. The purpose of this design feature is to span the floodway. A floodplain evaluation report concludes that project will not increase the base flood elevation of the floodway, and does not constitute a significant floodplain encroachment as defined in 23 CFR 650.105(q). CEQA requires that previously approved land use documents, including, but not limited to, general plans, specific plans, and local coastal plans, may be used in cumulative impact analysis.

Last year, the City of Willits also received permits from the U.S. ACE and the Regional Water Board for dredge and fill activities associated with construction of a wastewater treatment wetland at the WWTP which is within the floodplain. To mitigate potential impacts to the floodplain, the City of Willits created additional floodplain area by creating approximately 24 acres of seasonal wetlands. These seasonal wetlands will be created by removing and maintaining riparian berms, planting native wetland plant species and

allowing floodwaters to that were once confined to the channel by the riparian berms to overtop inundate the newly created seasonal wetland area. Therefore, this project will not have any impact on the floodplain. Accordingly, construction of the WWTP will not cumulatively contribute to any additional impacts associated with the project. See RPIC-3, above.

Furthermore, because this is a regulated floodplain, development in this area is restricted, and it is not likely that there would be any further development within this area that would cumulatively contribute to a significant effect on the floodplain. Based on the size of the cities wetland creation sites, the height of the viaduct and the seasonal aspect of the sun, it is not likely that the viaduct will affect the wetland creation sites enough to prevent the City of Willits from meeting compliance with their proposal. In addition, only a portion of the viaduct that is over the newly created wetlands will discharge directly to the wetlands below. The City's wetland creation proposal includes an adaptive management element, and should any problems arise with the proposed creation site they will be managed accordingly. Additionally, the Regional Water Board and U.S.ACE are the regulatory agencies that will verify compliance with the proposed mitigation and evaluate the mitigation reports to verify whether success is being achieved or is being hindered by the bypass or other constraints.

The Water Quality Certification for the bypass will require that the construction of the haul road must meet a set of guidelines that will involve addressing seasonal conditions and meeting all permit requirements. The Contractor will be required to submit a floodplain analysis that models the haul road in the existing floodplain demonstrating the haul road will not affect the 100-year floodplain.

Caltrans will only be allowed to work at the confluence of Baechtel and Broaddus Creeks between June 15<sup>th</sup> and October 15<sup>th</sup>. The Water Quality Certification will condition that Caltrans provide the City of Willits with their schedule for work in this area to avoid conflicts and potential cumulative impacts to the area during construction. In addition, the WWTP is prohibited by the basin plan to discharge to Outlet Creek from May 15<sup>th</sup> to September 30<sup>th</sup>, and typically does not discharge until later in the fall (depending on flows). Therefore, the construction of the viaduct should not interfere with the ability of the WWTP to meet the requirements under their individual NPDES permit.

Currently, the WWTP can discharge 3.0 million gallons per day (a per month average). The upgraded WWTP will be authorized to discharge up to 4.0 million gallons per day (a per month average) or 10% of the flow within Outlet Creek and a weekly average of 500 lbs/day of Total Suspended Solids. Storm water discharges associated with the viaduct represent a fraction of both the existing and future point source discharges to Outlet Creek. The estimated water quality volume discharged by the viaduct structure for a design storm of 2 years is 121,487 gallons. This represents 0.015% of discharges to Outlet Creek during the 2 year design storm. The estimated water quality volume

discharged by the viaduct structure for a design storm of 2 years is 121,487 gallons. This represents 0.015% of discharges to Outlet Creek during the 2 year design storm.

Also see response RSWC-1.

### **Project Impact Comments 6 (PIC-6) – Excessive Fill**

Fill will be placed for the second phase of the bypass. Reasons provided for the need to place this fill are inadequate.

### **Response to Project Impact Comments 6 (RPIC-6)**

The Willits Bypass project is a four-lane grade separated freeway project to improve interregional traffic operation, improve safety, and provide a level of service rating of C or better. The project is being phased due to financial constraints. The Final EIS/EIR and Project Report discuss the possibility of phasing the project due to funding. Section 2.2 of the FEIS/R states, “Upon environmental approval and appropriation of funding, Caltrans could design and construct all or part of the proposed project depending on funding availability. In an effort to balance potential funding limitations and the need for the project, the Willits bypass could be constructed in phases, whereby a functional interim facility would be constructed initially, and completion of the full facility would occur at a later date when additional funding is available.”

Phase I consists of a four-lane interchange at the south end of the project conforming to an interim two-lane freeway before crossing East Hill Road. The interim two-lane freeway will utilize the southbound lanes of the ultimate four-lane freeway. The northern terminus of the project contains a two-lane grade separated interchange configured to allow the full four-lane ultimate interchange to use the existing roadway and structures.

Caltrans has evaluated the construction scenarios for completing Phase I of the project with the reduced amount of fill necessary for Phase I, as compared to the current proposal which includes the amount of fill necessary to construct Phase II. The evaluation indicated that additional project impacts to wetlands, streams, and riparian areas would result within and beyond the current bypasses alignment and possibly to the potential borrow site of Oil Well Hill. With the four-lane fill in place, design criteria for the Phase I structures will simplify Phase II design and minimize impacts in Phase II construction.

### **Project Impact Comments 7 (PIC-7) – Temporary Impacts to Wetlands**

Wherever fill material is ultimately transported to the area below the viaduct which is sensitive wetland will be dewatered, significantly disturbed and severely compacted. Because there is no plan for returning the texture of the soil to pre-construction state, the construction areas identified under the viaduct will be permanently compacted. This

is a cumulative impact to the floodway and there will be impacts to water quality from the time restriction made to the floodplain.

### **Response to Project Impact Comments 7 (RPIC-7)**

Caltrans is required by the U.S. ACE, Regional Water Board, and CDFG to successfully restore all temporary impacts to wetlands in accordance with the requirements presented in the final MMP. The restoration efforts will include re vegetation of native wetland species as well as monitoring of the surface hydrology and inundation period. In addition, the Water Quality Certification will require the success criteria for: wetland creation, restoration and enhancement success to include:

- Hydrology [i.e., ground water level fluctuation (discharge and recharge), inundation (depth, duration and frequency), soil saturation, drainage patterns, erosion and deposition]
- Nutrient removal/transformation
- Sediment/toxicant retention
- Absolute percent coverage of wetland plants
- Absolute percent cover of native plant species
- Species richness
- Absolute percent coverage of invasive species
- California Rapid Assessment Method (CRAM) score.

Therefore, the interaction of surface waters and ground water and soil saturation will be assessed. Restored or created wetlands will be monitored annually for at least 5 years. If success criteria are not met then additional actions or mitigation measures will be required by the resource agencies.

For cumulative impacts to the floodplain see responses RPIC-3 and RPIC-5.

### **Project Impact Comments 8 (PIC-8) – Shortened Viaduct**

Before 2007 funding constraints were imposed the viaduct (Alternative J1T) was to begin about ¼ mile south of Center Valley Road. Doesn't the LEDPA need to be reexamined? A supplemental environmental document should be required for impacts to water quality and the floodplain.

### **Response to Project Impact Comments 8 (RPIC-8)**

The structure commonly called the “viaduct” is a bridge spanning the floodway/floodplain. It was determined during the LEDPA analysis that the viaduct was not needed south of Center Valley Road and was eliminated before the Final EIS/EIR was finalized. The viaduct is as long as the longest viaduct discussed in the Draft

EIS/EIR alternatives. Accordingly, no supplemental environmental document pursuant to CEQA needs to be drafted.

For impacts to the floodplain, see responses RPIC-3 and RPIC-5.

### **Project Impact Comments 9 (PIC-9) – Prevent Excessive Violations**

Add mechanism to SWPPP to prevent another project that fails to comply with water quality conditions and requirements, like the 150 Confusion Hill violations. All contractors should be required to attend water quality training class. Contractors should be notified that they will be held liable for violations. Biological/water quality monitor should have stop-work authority (Water Agency wants to meet monitor).

### **Response to Project Impact Comments 9 (RPIC-9)**

The bypass project will at all times be required to feature adequate erosion and sediment control devices to prevent the degradation of water quality. Soils exposed by project operations will be treated to prevent sediment runoff and transport. Erosion control measures will include the proper installation and maintenance of BMPs pursuant to the Caltrans Storm Water Permit, and the Construction General Permit. In addition, Caltrans must comply with all applicable conditions within the Water Quality Certification that requires surface water motoring and sampling and strict compliance with the water quality standards within Basin Plan. Additional conditions of the certification will require that:

- Caltrans retain a water quality monitor dedicated to the project (also see response RSWMC-2);
- The Resident Engineer shall hold on-site water quality permit compliance meetings (similar to tailgate safety meetings) to discuss permit compliance, including instructions on how to avoid violations and procedures for reporting violations. The meetings shall be held at least every other week, and particularly before forecasted storm events and when a new contractor or subcontractor arrives to begin work at the site.
- Caltrans shall conduct an environmental awareness and compliance training program for all contractors, sub-contractors and Caltrans staff working on the project. The training program shall present the environmental regulations and various permit conditions that Caltrans and the contractors shall comply with and the applicable measures established for the project to minimize impacts to water quality and avoid sensitive resources, habitats, and species.

Regional Water Board staff is pleased to know that the Mendocino County Water Agency would like to take a proactive and supportive role in this and other such projects. Cooperation with environmental compliance awareness, water quality

sampling, trainings, and construction inspections could all be coordinated between the State and County agencies throughout this and other projects within the region.

### **Project Impact Comments 10 (PIC-10) – Downsize the Bypass**

Scaling down the bypass would accomplish the main goals without so much damage.

### **Response to Project Impact Comments 10 (PIC-10)**

Alternatives resulting in less than a four-lane freeway have been considered during the development of the project. General Response 1.10 in Volume 2 of the Final EIS/EIR addresses the suggestion of a two-lane bypass. Transportation System Management (TSM) alternatives were also considered and discussed in Section 3.6.1 of the Draft EIS/EIR. TSM alternatives seek ways to use the existing facilities in lieu of an entirely new route. As elaborated upon in the environmental documents, the purpose and need would not be met with either the two lane or TSM alternatives. Numerous additional alternatives were considered during the scoping of the project. None of the alternatives reviewed would result in fewer environmental impacts than the identified LEDPA Modified J1T while still meeting the purpose and need.

### **Project Impact Comment 11 (PIC-11) – Construction Impacts**

Construction activities and heavy equipment will threaten wetlands and salmonid streams.

### **Response to Project Impact Comment 11 (RPIC-11)**

During construction, water quality effects will be minimized through provisions in the construction contract. Contractors will be required to prepare and implement a program to effectively control water pollution during the construction of the bypass project, in compliance with Caltrans Standard Specifications Section 7-1.01G—Water Pollution and Contract Special Provisions. This program will consist of the development of a SWPPP, which requires that the bypass project meet standards and objectives to minimize water quality impacts during construction. The SWPPP will be submitted to Regional Water Board before any construction activities begin. The SWPPP will include appropriate Caltrans construction BMPs to reduce the potential for sediment and contaminants from entering creeks. Potential BMPs for inclusion in the project's SWPPP are listed below with detailed descriptions available online at <http://www.dot.ca.gov/hq/construc/stormwater/manuals.htm> (additional BMPs could be implemented as necessary to minimize potential effects on water quality).

- preservation of existing vegetation
- hydroseeding
- silt fencing

- gravelbag barriers
- stabilized construction entrance/exit
- stabilized construction roadway
- dewatering operations
- paving and grinding operations
- temporary stream crossings
- clear water diversion
- material delivery and storage
- stockpile management
- spill prevention and control
- solid waste management
- hazardous waste management
- concrete waste management
- sanitary/septic waste management
- liquid waste management.

The contractor will be required to implement appropriate BMPs to prevent the discharge of equipment fluids to the stream channel. The minimum requirements will include: storing hazardous materials outside of the stream banks; checking equipment for leaks and preventing the use of equipment with leaks; pressure washing equipment to remove fluid residue on any of its surfaces prior to its entering the live channel (if equipment is needed in the channel to establish a flow diversion); maintaining spill response material and suitably trained personnel at the project site; responding immediately to any fluid releases and applying containment booms and absorbent materials as appropriate; and notifying the Regional Water Board of releases and discharges. For minor accidental releases of equipment fluid to the dewatered channel, the contractor will be required to remove and properly dispose of contaminated material.

In addition, Caltrans shall submit the SWPPP in an electronic format using the Storm Water Multi-Application Reporting and Tracking System (SMARTS). <http://smarts.waterboards.ca.gov/>. The SWPPP, updates to the SWPPP, and monitoring reports regarding the regulation or storm water will be available to the public via this website. In addition, the public may view inspections reports and facility information related to the Section 401 Water Quality Certification at the California Intergraded Water Quality System (CWIQS) at [http://www.waterboards.ca.gov/water\\_issues/programs/ciwqs/](http://www.waterboards.ca.gov/water_issues/programs/ciwqs/)

All disturbed soil areas, including non structural slopes, will be stabilized with revegetation and erosion control measures. Disturbed slopes will be re-vegetated in accordance with plans developed by the Caltrans District Landscape Architect and the Revegetation Specialist or otherwise stabilized. Permanently impacted areas such as cut and fill slopes adjacent to the roadway along interchange ramps, as well as median between the inside roadway shoulders will be re-vegetated with native plants

appropriate to Little Lake Valley. Steeper embankment slopes located at structures approaches will be protected with RECP (Netting) blanketing materials and all final slopes will be stabilized and re-vegetated with local topsoil and native grass seed which is included in the Erosion Control (Bonded Fiber Matrix) application. In addition, finished slopes and ditches constructed greater than 1:3 (V:H) will be stabilized with Rolled Erosion Control Product (Netting). Upon completion of construction of the Floodway Viaduct structure, the entire disturbed area will be regarded to pre-construction conditions and re-vegetated with Erosion Control (Bonded Fiber Matrix). Prior to the application of Erosion Control (Bonded Fiber Matrix), Local Topsoil will be collected/harvested and stockpiled prior to construction and placed back on all areas to receive permanent erosion control measures such as Erosion Control (Bonded Fiber matrix) in the re-vegetation effort, once the project has been completed. Bio-swales will be constructed and re-vegetated as part of Treatment BMPs at drainage outlet areas prior to run-off off site of the project. Turf Reinforcement Mat (TRM) along with Erosion Control (Bonded Fiber Matrix) will be utilized to line the inlet channel at Center Valley Rd.

Also, see responses RSWMC-1 and RSWMC-2.

### **Project Impact Comment 12 (PIC-12) – Permanent Fill Area**

All re-vegetation must have an 80% success rate. Efforts must continue until success is achieved with no time limitation.

### **Response to Project Impact Comment 12 (RPIC-12)**

The comment was made with respect to the permanent fill area. For areas along the bypass that need to be re/vegetated with erosion control to stabilize fill slopes Caltrans typically requires 70 percent coverage of applied erosion control products. Condition 56 of the Water Quality Certification requires Caltrans to provide yearly slope evaluation and erosion control monitoring reports for up to 10 years subsequent to the completion of the bypass project. Caltrans shall provide at least 80 percent coverage of established erosion control of all exposed areas along the bypass. If the new bypass project has slope failures, excessive erosion, or causes other water quality degradation corrective actions will be required to mitigate the impacts. To clarify, established erosion control is vegetation growth, not applied erosion control product.

Temporary impact areas will be repaired once construction of the Willits Bypass is complete. The yearly performance standards and final success criteria are set up to acknowledge that plant mortality is a normal and expected occurrence in any re-planting effort. The final success criteria for riparian areas are expected to be met by year 10, however, if the criteria are not met by year 10 this does not absolve Caltrans of the obligation to meet the criteria. If the yearly performance standards do not show a trend toward meeting the final success criteria in year 10, adaptive management actions will

have already been implemented to get the mitigation back on track to meet success criteria. Monitoring and adaptive management will continue until final success criteria are met regardless of the year. The same approach applies to wetland areas.

### **General Opposition Comments 1 (GOC-1) – No to the Project**

Commenter's who oppose the bypass in general.

### **Response to General Opposition Comments 1 (RGOC-1)**

Comments noted. Areas commented on that are outside of the Regional Water Board's regulatory jurisdiction include: general opposition; noise; impacts to bees and local pollinators; sink holes; traffic; farmland; and former Highway 101 relinquishment.

### **Requests for an Additional Public Comment Period 1 (PCPC-1) – Public Comment Period and Meeting**

Commenter's request that the Regional Water Board open an additional public comment after the application is deemed complete and hold a public meeting. Several commenters' raised concerns that the mitigation approach was not fully disclosed to the public.

### **Response to Requests for an Additional Public Comment Period 1 (PCPC-1)**

As required by the California Code of Regulations title 23, chapter 28, section 3858 the Executive Officer is required to provide a public notice for at least 21 days, unless the Federal Agency or Application has provided an adequate notice period. On March 16, 2010, the U.S. ACE provided a 30 day public comment period, which adequately covers the responsibilities of the Regional Water Board. However, on April 29, 2010, the Regional Water Board issued a public notice for the project as well. In addition, based on a public request the Regional Water Board extended the comment period by six days, and has considered all comments received up to June 16, 2010.

### **Economic Comments 1 (EC-1)**

In California's current financial crisis is this project the best use of limited funds? This project should be redesigned to something with a more practical price tag.

### **Response to Economic Comments 1 (REC-1)**

Comment noted. This issue is outside of the Regional Water Board regulatory jurisdiction.

**Project Planning Comments 1 (PPC-1) – Antiquated Design**

Decade old plans and ideas are not being looked at from a 2010 perspective. Peak oil, climate change and economic cataclysm were not in the picture when these plans were originally made.

**Response to Project Planning Comments 1 (RPPC-1)**

Comment noted.

**Project Planning Comments 2 (PPC-2) – Tight Diamond Interchanges**

Caltrans should be required to actually design “tight diamond” interchanges as they promised in the Final EIS/EIR.

**Response to Project Planning Comments 2 (RPPC-2)**

The DEIS/EIR dated May 2002 states in section 5.6.4 Mitigation Measures, subsection FP-4 the project will consist of tight diamond interchanges rather than the larger spread diamond interchanges. The current vernacular for the two types of diamond interchanges are now compact diamond and spread diamond interchanges. The compact diamond interchange replaces the tight diamond. The current Modified J1T Alignment uses compact diamond interchanges, the same intersection design as the tight diamond interchanges.

**Public Access Comment (PAC-1) – Unannounced Public Inspections**

Please require and allow public access for periodic unannounced site inspections.

**Response to Public Access Comment (PAC-2)**

For safety and liability reasons only authorized personnel will be allowed to enter the construction sites. Authorized resource agency personnel may enter the project site at any time to verify compliance with permit conditions and regulations. Regional Water Board staff frequently performs unannounced inspections of sites and facilities to verify compliance. In accordance with CalOSHA regulations everyone on the project site must be wearing the required personal protection equipment and it is State policy that these inspectors are maintain yearly HAZWOPER (health and safety) training. For the safety of everyone, all visitors must contact the Resident Engineer’s office to make arrangements to read the Code of Safe Practices and receive a briefing on the current operations before entering the project. Construction zones can be very dangerous if one does not know how to properly maneuver around the sites and heavy equipment.

**Potential Wetland Enhancement 1 (PEC-1)**

Commenter suggested specific areas in the watershed that have potential wetland enhancement opportunities.

**Response to Potential Wetland Enhancement 1 (PEC-1)**

Comment noted. These areas may provide potential wetland mitigation opportunities and would require further evaluation. These locations may provide useful mitigation for future projects.

Also see response RMPC-11.

**Traffic Volume Comments 1 (TVC-1) – Traffic and LEDPA**

Decisions on the LEDPA utilized numbers from the mid 90's. Traffic projections have not borne out. Caltrans website shows that traffic numbers have decreased since 1992. The decision to use Level C as the criteria for accepting alternatives is unnecessary and precludes any two lane options or in town at grade solutions. A two-lane alternative would remove the slow-down currently experienced by through traffic in Willits. The traffic problem is not as bad as Caltrans has described and this project does not meet LEDPA.

**Response to Traffic Volume Comments 1 (TVC-1)**

Comment noted. The Regional Water Board is not a signatory agency to LEDPA. Modified Alternative J1T was determined by Caltrans, FHWA, U.S. EPA and the U.S. ACE to be the LEDPA/Preferred Alternative because it would have the least overall impact to the natural and community resources, while still meeting the purpose and need for the project. A Record of Decision was issued for the proposed project based upon the purpose and need on December 18, 2009 by the Federal Highway Administration.

**Traffic Volume Comments 2 (TVC-2) – Trucks in Town**

There have never been any assurances that truck traffic associated with construction of the bypass will not go through town.

**Response to Traffic Volume Comments 2 (TVC-2)**

Comment noted. This issue is outside of the Regional Water Board regulatory jurisdiction.

**Contractor Comments 1 (CC-1) – Bar Problem Contractors**

Contractors with poor track records of environmental compliance should be barred from the project.

**Response Contractor Comments 1 (CC-1)**

Comment noted. As the permit applicant and holder Caltrans has the ultimate responsibility on projects and is subject to liability for actions taken by its contractors.

**Semaphore Grass Comment 1 (SGC-1)**

The commenter discussed the impacts to North Coast Semaphore Grass (NCSG) related to the project and the lack of appropriate mitigation pursuant to the California Endangered Species Act (CESA).

**Response to Semaphore Grass Comment 1 (RSGC-1)**

A Supplemental Environmental Impact Report was prepared pursuant to the California Environmental Quality Act. The draft report was signed on November 15, 2009. Comments were received during the circulation period, which ended January 19, 2010. The Final Supplemental EIR was completed in May 2010, with potential impacts to NCSG determined to be less than significant after mitigation. The mitigation proposal will protect and manage over 1,900 acres of habitat and include preservation of North Coast semaphore grass.

Measures will be taken to minimize and fully mitigate project impacts. As part of avoidance and minimization measures, North Coast semaphore grass seed and rhizomes will be salvaged from the impact area prior to project construction and transplanted within the bypass alignment to an unaffected area. In addition, Caltrans is coordinating with CDFG and USFWS on a 2-year study to characterize hydrology (i.e., groundwater), soils (i.e., moisture and temperature), and cultural (i.e., land use) conditions at Arkelian, Frost, Goss, Lusher, and MGC Plasma North offsite mitigation parcels and the Huffman impact parcel for use in determining the potential to actively expand these occurrences. Data collected relating to the soil dry down curve at the occurrence sites will be of particular interest. Based on qualitative observations made during March 2010 abundance surveys, expansion at the occurrences seem possible as there appears to be unoccupied habitat available at the boundaries of the occurrences that could accommodate expansion. Land management practices, such as low intensity livestock grazing and limited mowing, also may allow expansion of North Coast semaphore grass.

As part of mitigation efforts, five existing North Coast semaphore grass populations in Little Lake Valley that occur at the Arkelian, Frost, Goss, Lusher, and MGC Plasma North offsite mitigation parcels will be placed in preserves as part of project mitigation. A total of 5.094 acres of occupied habitat has been identified at these preserves. The soil and hydrologic conditions favored by north coast semaphore grass are currently being evaluated to better understand the groundwater, soil moisture, soil temperature, soil profile, and soil density conditions under which NCSG grows. The evaluation is also intended to provide an understanding of the characteristics of areas adjacent to NCSG populations that may be used for implementing minimization measures (e.g., transplantation and seeding) for NCSG impacts at and for determining expansion potential at existing NCSG populations that will be preserved. Caltrans has developed a work plan in coordination with the CDFG and U.S. USFWS) to provide supplemental data for NCSG. During March 11—26, 2010, NCSG populations were identified, mapped, stratified (into stands), and surveyed for abundance. Simultaneously, 69 shallow soil pits were excavated within and adjacent to NCSG stands at five separate occurrences in Little Lake Valley as part of general habitat characterization efforts. Soil, hydrologic, and other site characteristics were documented at each of the pit sites. These data have been used to develop monitoring methods to collect more detailed soils and hydrology data. In addition to the soil and hydrologic data collected during general habitat characterization surveys, data were also collected on NCSG rooting depth. Knowledge of the root zone will help define the depth at which soil moisture and soil temperature monitoring sensors will be installed. The results of the detailed soil and hydrologic monitoring will be presented in annual monitoring reports to be submitted to the resource agencies for review in September 2010 and September 2011.

### **General Support Comments 1 (GSC-1) – In Support of Conditional Permit**

Commenter's who support the Regional Water Board issuing a conditional permit for the bypass. Commenter's also support the ecologically designed mitigation approach and restoration efforts for the benefit of salmonids. Commenter's who urge the Regional Water Board to give this project as much attention as possible in order to get it approved.

### **Response to General Support Comments 1 (RGSC-1)**

Comment noted. Collectively the State and Federal resource agencies have spent an incalculable amount of staff time on the Caltrans-proposed Highway 101 Willits Bypass Project over past decades. The purpose of the resource agencies' involvement in the process is to aid Caltrans in appropriately avoiding, minimizing and mitigating significant impacts to the environment associated with the proposed Project. In addition, over the past several months Regional Water Board staff (Caltrans liaison) has been dedicated full time to this project to expedite meetings with State and Federal agencies, conduct document reviews, and provide additional planning efforts to assist Caltrans in meeting

their goal. Subsequent to the incomplete letters issued by the U.S.EPA and U.S. ACE, the Regional Water Board also issued an incomplete letter reiterating the issues identified by the Federal agencies. However, Regional Water Board staff also provided additional suggestions on how to improve the project what type of information would be useful for the permitting agencies to receive in order to approve the project.

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