

California Regional Water Quality Control Board
North Coast Region

NOTICE OF PUBLIC HEARING AND NOTICE OF ISSUANCE OF A COMPLAINT

Administrative Civil Liability Compliant No. R1-2007-0059

for
Violations of Clean Water Act, Section 401, Water Quality Certification
and Storm Water Permit

In the Matter of
California Department of Transportation
Confusion Hill Bypass Project
WDID No. 1B05153WNME

Mendocino County

On July 17, 2007, the California Regional Water Quality Control Board, North Coast Region (Regional Water Board), Executive Officer issued Administrative Civil Liability Complaint No. R1-2007-0059 (Complaint) to the California Department of Transportation (Discharger). The Complaint assesses civil liabilities under Water Code section 13385, subdivision (a)(1), (2), and (4) for alleged violations of a Water Quality Certification issued for the Confusion Hill Bypass project and the State Water Board's National Pollutant Discharge Elimination System (NPDES) Permit for Storm Water Discharges from the State of California, Department of Transportation Properties, Facilities and Activities, Order No. 99-06-DWQ.

Opportunity for Settlement Without a Public Hearing

A thirty-day public comment period has commenced beginning on the date of this notice. This matter may be settled without a hearing if no significant comments are received during the comment period and if the Discharger waives the hearing and agrees to pay the full amount of proposed civil liability. The Executive Officer will consider comments received and either finalize the settlement or take other appropriate action.

Public Hearing Procedures

If the Discharger expresses intent to contest the Complaint by not waiving the hearing, the Regional Water Board will hold a public hearing on this matter on September 12-13, 2007 at 9:00 a.m., or as announced in the Regional Water Board's summary agenda to be mailed on or about August 22, 2007. The meeting is scheduled to be held at the Regional Water Board office at 5550 Skylane Boulevard, Suite A, Santa Rosa, California. At the hearing, the Regional Water Board will consider whether to affirm, reject, or modify the proposed civil liability, or take other enforcement action.

Kim Niemeyer, staff counsel with the State Water Resources Control Board, Office of Chief Counsel, regularly advises the Regional Water Board. With regard to this matter, however, Ms. Niemeyer has been assisting Regional Water Board staff in the

prosecution of this matter. Ms. Niemeyer has not provided and will not provide advice to the Regional Water Board in connection with this matter before the Regional Water Board's final action.

The Discharger and interested persons must submit to the Regional Water Board office at 5550 Skylane Boulevard, Suite A, Santa Rosa, California, 95403, written copies of all technical reports, testimony, and other evidentiary material that it would like the Regional Water Board to consider concerning this issue by 5:00 p.m. on August 17, 2007. This written material will be made available to the Regional Water Board members and all interested persons.

Written material received after the above date will not be accepted, except at the discretion of the Regional Water Board Chair. Untimely written material will not be accepted or incorporated into the administrative record if doing so would prejudice the Discharger or the Regional Water Board staff. The Chair may choose to modify this rule upon a showing of severe hardship (California Code of Regulations, title 23, sections 648.1 and 648.4).

All those who plan to testify at the hearing must submit written statements to the Regional Water Board by August 19, 2007. The statements should provide the name of the witness, their qualifications (if an expert), and the scope of their intended testimony. Testimony at the above-scheduled hearing may summarize or explain timely submitted or late-accepted written evidence, but shall not add new evidence. The time constraints for oral testimony or comments will be set by the Regional Water Board Chair and usually will allow no more than ten minutes each for Regional Water Board staff and the Discharger and three minutes each for other interested persons. A timer may be used and speakers are expected to honor the time limits. Where speakers can be grouped by affiliation or interest, such groups will be expected to select a spokesperson and not be repetitive.

Document Review

The Complaint is available for review on the Regional Water Board web site at <http://water100.waterboards.ca.gov/rb1/orders/com/s.asp>. That document as well as the other evidentiary documents and files may be inspected or copied at the Regional Water Board office on Mondays through Fridays from 8:00 a.m. to 5:00 p.m. Appointments are recommended for file review. Appointments can be made by calling (707) 576-2220. For further information, please contact Regional Water Board staff member Mona Dougherty at (707) 570-3761 or at mdougherty@waterboards.ca.gov.

Catherine E. Kuhlman
Executive Officer

July 19, 2007