

California Regional Water Quality Control Board
North Coast Region

NOTICE OF PUBLIC HEARING AND NOTICE OF ISSUANCE OF A COMPLAINT

Administrative Civil Liability Complaint No. R1-2008-0054

For

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

In the Matter of

California Department of Transportation
Hardscrabble Creek Bridge Replacement Project
WDID No. 1A06056WNDN

Del Norte County

On September 30, 2008, the California Regional Water Quality Control Board, North Coast Region (Regional Water Board), Assistant Executive Officer issued Administrative Civil Liability Complaint No. R1-2008-0054 (Complaint) to the California Department of Transportation (Caltrans)(Discharger) for violations of its Clean Water Act section 401 Water Quality Certification and the NPDES Construction Stormwater Permit on its Hardscrabble Creek Bridge Replacement Project. The Complaint assesses civil liabilities of \$60,000 under Water Code section 13385, subdivision (a)(1), (2), and (4) for alleged violations of a Water Quality Certification issued for the Hardscrabble Creek Bridge Replacement 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 Assistant Executive Officer will consider comments received and will 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 December 11, 2008 at 8:30 a.m., or as announced in the Regional Water Board's summary agenda to be mailed on or about October 1, 2008. 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.

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 October . 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 October 30, 2008. 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.

At the hearing, the Regional Water Board will be advised by Samantha Olson, Staff Counsel of the State Water Resources Control Board's Office of Chief Counsel. The Regional Water Board's Enforcement Team will be advised by Kim Niemeyer, Staff Counsel of the State Water Resources Control Board, Office of Chief Counsel. The Enforcement Team is considered a party for the purposes of this proceeding, and like any other party in an enforcement matter, is bound by the rules governing ex parte communications with the Regional Water Board and its advisors. Kim Niemeyer is currently advising the Regional Water Board in other, unrelated matters, but will not be advising the Regional Water Board in this matter. Any person objecting to the procedure or representatives in this matter must notify Samantha Olson by 5 p.m. on October 30, 2008 at 916-327-8235.

Document Review

The Complaint is available for review on the Regional Water Board web site at:

http://water100.waterboards.ca.gov/rb1/adopted_orders/

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 Diana Henriouille at (707) 576-2350 or at DHenriouille@waterboards.ca.gov.

Luis Rivera
Assistant Executive Officer

September 30, 2008