

DEPARTMENT OF TRANSPORTATION**DISTRICT 1**

PO BOX 3700
EUREKA, CA 95502
PHONE (707) 445-6445
FAX (707) 445-6314
TTY 711
www.dot.ca.gov/dist1



*Serious drought.
Help save water!*

July 9, 2014

Lieutenant Colonel John C. Morrow
District Engineer
United States Army Corps of Engineers
1455 Market Street
San Francisco, CA 94130-1398

Dear Lt. Col. Morrow:

Thank you for meeting with us today to discuss your July 8, 2014 Letter of Modification for Corps Permit No. 1991-194740N for the Willits Bypass Project. As discussed, Caltrans remains committed to implementing both the Willits Bypass Project and the Willits Bypass Mitigation Project. Caltrans recognizes that the Mitigation Project schedule has lagged for specific reasons discussed in previous meetings and communications, but is taking the following extraordinary and aggressive steps to further accelerate the Mitigation Project work to bring it more concurrent with the Bypass construction.

Your July 8, 2014, letter listed three conditions to lift the suspension for all construction activities. Caltrans believes it can presently satisfy all of them, as follows:

Condition No. 1

Fencing, water lines and grazing exclusion on all 404 mitigation parcels

- Caltrans is currently completing the installation of fencing, water lines and grazing exclusion on the mitigation properties under a contract change order. Archaeological identification/testing is occurring ahead of the contractor to remain in compliance with Section 106 of the National Historic Preservation Act. Barring any unforeseen archaeological discoveries, fencing, water line and grazing exclusion can be completed by August 2, 2014. Caltrans will notify the Corps immediately if any schedule impacts occur. This expedited completion was accomplished by re-focusing work to the Section 404 parcels and the redirection of Caltrans construction project funds to mitigation tasks discussed in our June 27, 2014 letter.

Condition No. 2

Receipt of the documentation for initiation of seed collection and plant propagation

- Caltrans has accelerated the seed collection and plant propagation work by developing four separate service contracts. A contract for seed collection was awarded and work

began on June 23, 2014, and a contract for plant propagation work was awarded on July 8, 2014. Bids will be opened for the off-site seed collection contract on July 14, 2014, and the off-site plant propagation contract should be awarded by July 31, 2014. Documentation for initiation of seed collection and plant propagation is being transmitted separately to Sahrye Cohen, USACE Project Manager.

- In order to accelerate planting of the compensatory wetland mitigation lands, Caltrans requests approval from the USACE to secure commercially available, genetically appropriate seed and propagated plant species as identified on the target species list provided by the USACE.

Due to a limited supply of available plant material that is derived from the MMP local area (Eel River Watershed), Caltrans requests the Corps' concurrence on the use of commercially available target plant species collected from outside of the Eel River watershed. Caltrans proposes that target plant species collected from the California Coast Ranges from approximately the Monterey Bay area northward to the Oregon border are ecologically adapted to environmental conditions in the Little Lake Valley.

Based on this proposed collection range, a number of native plant nurseries were dropped from consideration for providing source material, assuming that plant material provided by these nurseries would have been collected from the general geographic location of the nursery. The following nurseries located in southern California, the Central Valley, and Sierra Nevada were dropped from consideration as nurseries potentially providing suitable material for the Willits Bypass mitigation:

El Nativo Growers, Floral Native Nursery, Las Pilitas Nursery, Tree of Life Nursery, S&S Seeds, as well as the following nurseries identified by the California Native Plant Link Exchange: Intermountain Nursery, Shasta Wildflowers project, Theodore Payne Foundation, Bitterroot Restoration, Sierra Valley Farms, and Comstock Seeds.

The following nurseries are therefore currently considered as potential sources of commercially available target species seeds or container plants:

Elkhorn Nursery (Moss Landing, Monterey County),
Freshwater Farms (Eureka, Humboldt County),
Native Revival Nursery (Aptos, Santa Cruz County),
North Coast Native Nursery (Petaluma, Sonoma County)
Rana Creek Design Nursery (Carmel Valley, Monterey County),
Central Coast Wilds (Santa Cruz, Santa Cruz County),
Native Here Nursery (Berkeley, Alameda County),
Watershed Nursery (Richmond, Contra Costa County)

Pacific Coast Seed (Livermore, Alameda County)
Cal Flora Nursery (Fulton, Sonoma County)
Gold Rush Nursery (Soquel, Santa Cruz County), and
East Bay Wilds (Castro Valley, Alameda County)

These native plant nurseries are currently under consideration as potential suppliers of the target plant species seeds or container plants, assuming that the plant material provided by these nurseries would have been collected from the general geographic location of the nursery. Upon Caltrans and USACE agreement on the proposed target plant species collection range, Caltrans would begin contacting the potential vendors to confirm that the commercially available target plant species have actually been collected from within the agreed collection range. No plant species from outside of the agreed collection range would be acquired.

- Please note that Caltrans will expeditiously seek approval from CDFW and the NCRWQCB to use those seed/plant sources to accelerate and implement wetland creation work this year.
- Depending on the abundance of source material available, the ability to use these alternate sources of plant material could allow Caltrans to increase the amount of mitigation acreage to be implemented this year.

Implement wetland establishment work this year

- Caltrans will proceed with the grading, site preparation and seeding of approximately 3 - 5 acres of wetland establishment mitigation work this year. Again, this will be subject to no unforeseen archaeological discoveries as we proceed. Seeding this year will allow the seed a chance to establish and provides an opportunity to observe the hydrology of the site before propagated plants are put in the ground next season.
- This represents an expedited schedule, moving wetland mitigation formerly planned for 2015 into this year.
- Because of the accelerated seed collection and propagation work described above, Caltrans can begin creating a bank of appropriate seeds and plants immediately, allowing for much larger areas of plant establishment beginning next year.

Additional accelerated mitigation work

- Caltrans is proceeding with performing headcut erosion control repairs this year at the Benbow, Lusher and at three locations on the Outlook Creek mitigation areas.
- Caltrans is also initiating noxious weed/invasive plant species removal across the mitigation parcels this year.

Condition No. 3

Receipt of a revised project description reducing fill in wetlands or a detailed Mitigation and Monitoring Plan

- Caltrans commits to working intensely and collaboratively with the Corps to update and expand the MMP to address the additional acres of wetland establishment and rehabilitation for temporal losses as described in your letter dated July 8, 2014. Within reason, we endeavor together to complete this plan and obtain approval by April 1, 2015 (8 months).
- Caltrans commits to completing another, current evaluation of the project design to see if there are any opportunities to reduce permanent fill of wetlands to reduce, to any extent possible, the permanent impacts to wetlands. We can commit to completing this evaluation by October 1, 2014 (2 months).

Financial considerations

- As previously communicated to the USACE, \$54.07 million has been programmed and allocated for the Mitigation Project. Caltrans has taken extraordinary steps within its financial and legal constraints as a public agency to advance critical components of the Mitigation Project:

Purchase of mitigation properties	\$14.7 M
CCO #55 & #75 for fencing, water lines	3.3 M
Service contracts for seed/plant propagation	4.0 M

To-date, \$22 million is committed contractually to mitigation work, representing over 40% of the allocated mitigation budget. Coincidentally, about 40% of the Bypass construction is currently complete.

Lt. Col. John C. Morrow
July 9, 2014
Page 5

Caltrans commits to these actions with mutual agreement to resume Bypass construction immediately. As Caltrans has explained in meetings and its June 27, 2014 letter, it is in the public interest, reduces environmental impacts and reduces the economic impact to taxpayers to lift the suspension for all construction work. The Corps should also grant the requested modification of the Section 404 permit to allow use of borrow material from the Mendocino Forest Products site, since fill from that source is environmentally preferable and needed immediately to avoid adding another year of construction to the complete the project. Stopping work and leaving the Bypass half-built, or unnecessary additional years of construction, is environmentally unstable and poses undue risk and impacts to resources.

Caltrans is committed to completing the needed Bypass and fulfilling our mitigation. The current permit suspension is costing the State of California approximately \$100,000 per day and has, at this point, rendered Caltrans unable to proceed with essentially any construction of the bypass. Caltrans is already working at an accelerated pace during its limited construction window, and is soon approaching a point where an extra year of work on the project may be unavoidable. A prompt and affirmative response to reinstate the permit is much appreciated.

Caltrans looks forward to working intensely and productively with the Corps to make sure that the work discussed in this letter, and implementation of the rest of the mitigation plan, proceeds in a more mutually-acceptable manner.

Sincerely,



CHARLES FIELDER
District Director

Lt. Col. John C. Morrow
July 9, 2014
Page 6

- c: Congressman Jared Huffman
United States Attorney, San Francisco
Jane Hicks, Chief, Regulatory Branch, USACE San Francisco District
Melissia Scianni, U.S. Environmental Protection Agency, Region 9
Joyce Ambrosius, North-Central Coast Office, National Marine Fisheries Service
Tom Dougherty, National Marine Fisheries Service
Vince Mammano, California Division Administrator, Federal Highway Administration
Peter Southworth, Deputy Secretary and General Counsel, CalSTA
Matthias St. John, Executive Director, North Coast Regional Water Quality Control Board
Brendan Thompson, NCRWQCB
Neil Manji, Region 1 Manager, California Department of Fish & Wildlife
Curt Babcock, Environmental Program Manager, CDFW
Phil Dow, Executive Director, Mendocino Council of Governments
Malcolm Dougherty, Caltrans Director