

Willits Bypass Mitigation and Monitoring Plan For Temporal Loss to Wetland Functions

Amendment 1 to the January 2012 Willits Bypass Project Mitigation and Monitoring Proposal

1. Introduction

In the summer of 2013, the California Department of Transportation (Caltrans), in conjunction with the Federal Highway Administration (FHWA), began construction of the Willits Bypass Project (project), a new section of U.S. Highway 101 (US 101) to bypass the city of Willits in Mendocino County. The project has resulted in unavoidable impacts on federal Clean Water Act (CWA) Section 404 jurisdictional wetlands and other waters of the United States (i.e., aquatic resources) in and adjacent to the project's right-of-way.

Mitigation for impacts to jurisdictional Waters of the United States (Waters of the US) associated with the project was delayed from the schedule presented in the January 2012 Willits Bypass Project Mitigation and Monitoring Proposal (2012 MMP). To offset the additional temporal loss through the period ending June 31, 2014, 5.727 acres of wetland creation credit and 9.015 acres of wetland rehabilitation credit of compensatory mitigation is required (letter from the USACE dated July 10, 2014). Caltrans provided Ms. Sahrye Cohen a revised mitigation implementation schedule via email on September 12, 2014.

This amendment to the 2012 MMP establishes how the temporal loss mitigation components of wetland creation and wetland rehabilitation will be met. For detailed information regarding the Bypass project overview, jurisdictional resource impact avoidance and minimization, and agency collaboration, please see Chapter 1 of 2012 MMP.

2. Objectives

In an effort to offset additional functional loss to aquatic resources due to a delayed schedule of mitigation implementation (as presented in the 2012 MMP) additional compensatory mitigation in the form of 5.727 acres of wetland establishment credit and 9.015 acres of wetland rehabilitation credit has been required.

With this amendment to the 2012 MMP Caltrans is proposing a reduction in the permanent placement of fill into Waters of the US at the Willits Bypass Northern Interchange by 3.9 acres, thereby reducing the amount of required establishment credits by 3.9 acres. Given that 3.9 acres

of permanent fill in Waters of the US can be avoided, it is understood the remaining amount of wetland creation needed to account for additional functional loss is 1.83 acres.

Caltrans proposes three actions to effectively offset temporal losses to aquatic function due to delayed mitigation implementation:

1. Supplemental to the wetland establishment area provided under the 2012 MMP, approximately 1.83 acres of additional Group 1 wetland establishment will be performed at the Caltrans-owned Niesen parcel, at the area of the Northern Interchange (see attached map, Attachment 1). This supplemental establishment of wetland acreage in combination with the proposed 3.9 acre reduction of permanent wetland fill is intended to fully satisfy the wetland establishment required by the additional temporal loss compensatory mitigation.
2. Caltrans previously purchased eighty-five (85) acres of wetland property which Caltrans refers to as Watson South. Rehabilitation (Rehab) Type 1 will be implemented in 2015 as part of the mitigation project, providing 4.25 acres of the wetland rehabilitation credit. Watson South will become Mitigation Unit (MU) T1-2 (see Attachment 2).
3. Quantified baseline studies performed on Caltrans mitigation properties (Baseline Vegetation Monitoring Results for Willits Bypass Project Off-site Wetland Rehabilitation Sites, August 2013, Caltrans) have shown that many sizable MU's proposed under the 2012 MMP for a Rehab Type 3 actually meet the minimum threshold criteria for the next higher crediting rehabilitation approach—a Rehab Type 4 or Rehab Type 5. In seeking to develop additional mitigation credit Caltrans proposes to rehabilitate the MU's T3-1, T3-3, T3-5, T3-6, and T3-8 (totaling 65.3 acres) as a Rehab Type 4, thereby providing for a net gain of 6.53 acres of wetland rehabilitation credit. MU's T3-1, T3-3, T3-5, T3-6, and T3-8 will become MU's T4-7, T4-8, T4-9, T4-10, and T4-11 respectively (see Attachment 3).

In implementing the mitigation actions listed above, three of the six mitigation objectives from the 2012 MMP will be applicable—objectives 1, 2 and 6.

Mitigation Objective 1: Establish wetlands that are high-quality and self-sustaining.

Performance standards to measure this objective are as listed in Table 9-1, Chapter 9 of the 2012 MMP.

Mitigation Objective 2: Rehabilitate wetlands on offsite properties to improve aquatic wetland functions and promote fully functional, unmanaged wetland vegetation communities with respect to the current circumstances of Little Lake Valley. Performance standards to measure this objective are as listed in Tables 9-5 and 9-6, Chapter 9 of the 2012 MMP.

Mitigation Objective 6: Manage invasive plants in established wetlands and rehabilitated areas on the offsite mitigation properties. The invasive plant performance standards (by mitigation type) used to measure this objective, are listed in Tables 9-1, 9-5 and 9-6, Chapter 9 (of the 2012 MMP).

For detailed information with regard to sensitive biological resources within the project footprint, project impacts, determination of mitigation ratios, and mitigation goals and objectives, please see Chapter 2 of the 2012 MMP.

3. Site Selection

All compensatory mitigation actions will be located on Caltrans-owned parcels within the Little Lake Valley of California. Site selection for the implementation of mitigation actions is based upon the location of the impact site—within the Little Lake Valley. Additional factors considered were - available properties under Caltrans' ownership, data from baseline studies, and contiguity with other mitigation properties and with other habitats.

For detailed information mitigation site selection, please see Chapter 3 of the 2012 MMP and the Baseline Vegetation Monitoring Results for Willits Bypass Project Off-site Wetland Rehabilitation Sites, August 2013 (2013 Baseline Survey).

4. Site Protection Instruments

Caltrans has already purchased the offsite mitigation properties. A conservation easement (CE) will be placed over the properties and will be held by the California Department of Fish and Wildlife (CDFW). The CE will provide protection, in perpetuity, of the conservation values for which the properties were purchased. The CE will be tailored to ensure that the level of protection is sufficient, while retaining the flexibility to carry out the necessary maintenance and management measures. Caltrans will record a CE within 24 months of the effective date of the Willits Bypass Project Incidental Take Permit Amendment (or by March 21, 2016).

5. Baseline

As part of the 2009 Feasibility Study seeking wetland establishment (i.e. creation) sites, Caltrans previously performed wetland delineations and other technical studies at the Niesen and Watson parcels (Chapter 5, Section 5.3, 2012 MMP). These previous studies positively indicate that wetlands can be successfully established at Niesen. Through a redesign of the Northern Interchange, the wetland establishment area proposed at Niesen under the 2012 MMP can now be expanded to provide an additional 1.83 acres of created wetland habitat.

Located contiguous to the Rehab Type 1 proposed under the 2012 MMP at the Watson mitigation parcels (APN's # 037-250-05 and 037-221-30), the Watson South parcel (85 acres in size) is also characterized by perennially flooded marsh habitat. Therefore Watson South is proposed to be added to the mitigation project as Rehab Type 1 wetland mitigation. Baseline vegetation studies will be performed in the summer of 2015 to ensure Watson South meets the 2012 MMP threshold criteria for Rehab Type 1 (i.e. greater than or equal to 60% relative cover by target species, or greater than or equal to 50% relative cover by FACW and OBL species at time of baseline).

The 2013 Baseline Survey was performed to ensure MU's proposed under the 2012 MMP met their respective rehabilitation type threshold criteria. Survey results demonstrated that MU's T3-1, T3-3, T3-5, T3-6, and T3-8 not only met their own threshold, but also met the criteria for executing a Rehab Type 4 or Rehab Type 5.¹

The baseline study revealed the following threshold results:

- MU T3-1 (19.6 acres), 17% relative cover by target species;
- MU T3-3 (10.4 acres), 6% relative cover by target species;
- MU T3-5 (11.7 acres), 1% relative cover by target species;
- MU T3-6 (13 acres), 14% relative cover by target species, and
- MU T3-8 (10.6 acres), 15% relative cover by target species.

¹ As per the 2012 MMP, the threshold parameter for a rehabilitation approach under Rehab Type 3 is less than or equal to 40% relative cover by target species, while the threshold for a Rehab Type 4/5 approach is less than or equal to 20% relative cover by target species.

For additional detail regarding valley-wide, project footprint and offsite mitigation parcel conditions of hydrology, geology and geomorphology, please see Chapter 5 of the 2012 MMP.

6. Determination of Credits

Wetland establishment actions proposed to offset temporal functional loss is proposed to credit at the rate of the 2012 MMP Group 1 wetland establishment—1.0 credit per acre of wetland created (established).

- This amendment documents that the Northern Interchange will be redesigned (post 2012 MMP) to avoid the permanent placement of fill onto 3.9 wetland acres, thereby reducing the compensatory mitigation requirement of 5.727 acres of establishment credit to 1.827 acres of establishment. The additional compensatory wetland establishment proposed in this MMP Amendment totals 1.83 acres.

Based upon the 2012 MMP determination of credits, Rehab Type 1 was granted 0.05 credit per acre, Rehab Type 3 was granted 0.2 credit per acre, and Rehab Type 4 or 5 was granted 0.3 credit per acre.

- Compensatory mitigation rehabilitation on Watson South will equal 85 acres of Rehab Type 1 for 4.25 acres of rehabilitation credit.
- Because they meet they threshold criteria for the next higher crediting rehabilitation approach, 65.3 acres of Rehab Type 3 (specifically MU's T3-1, T3-3, T3-5, T3-6, and T3-8, as proposed under the 2012 MMP) will *instead* be constructed as Type 4 Rehab to become T4-7, T4-8, T4-9, T4-10 and T4-11 respectively, resulting in a net credit gain (over rehab actions proposed in 2012 MMP) of 6.53 acres of credit—to total 10.78 acres of additional rehabilitation credit.

This wetland rehabilitation effort will construct approximately 10.78 acres of rehabilitation credit, compensating for the rehabilitation component of the required temporal loss compensatory mitigation. Excess rehabilitation credit (of 1.765 acres) will remain available for future use, as applicable.

Please see Chapter 6 of the 2012 MMP for background project detail regarding summary impacts to Waters of the US, summary mitigation actions, and the determination of credits.

7. Work Plan

Wetland establishment actions at the Niesen parcel will occur under Mitigation Contract #3 which is scheduled to award in 2015, and is projected to construct the wetland in the summer of 2015. Attachment 1 provides plansheets and cross-sections for the proposed additional wetland creation at Niesen.

Fencing of Watson South to eliminate cattle grazing was completed in early November, 2014. Baseline vegetation surveys will be performed during the summer of 2015. See Attachment 2.

Upgraded wetland rehabilitation actions will be performed under Mitigation Contract #3 and #4, which are scheduled to award fall 2015. Invasive plant eradication will occur in 2016, prior to fall 2016 mitigation plantings. See Attachment 4.

Wetland planting palettes will be developed from the list of target wetland species as identified by USACE. See attached Table 7.5 (as revised May 2013).

For specific details relative to wetland establishment (creation) actions and location, and rehabilitation actions (by type and location) please see Chapter 7 of the 2012 MMP.

8. Maintenance Plan

See Chapter 8 of the 2012 MMP.

9. Performance Standards

Performance standards by mitigation type will conform to those listed in Chapter 9 of the 2012 MMP, or as amended in future consultation with USACE.

Invasive species will be managed to meet performance criteria. See attached Table 2-1 (as revised May 2013).

10. Monitoring Requirements

Monitoring requirements by mitigation type will conform to those listed in Chapter 10 of the 2012 MMP.

11. Long Term Management

The responsible parties are described: Caltrans will ensure all necessary mitigation funding will be provided by establishing a non-wasting endowment. Caltrans will be responsible for executing all CEs and agreements in a timely manner. CDFW will be the CE holder, and compliance monitor. The Mendocino County Resource Conservation District (MCRCD) will be the future property owner and Land Manager, upon the mitigation unit(s) meeting success criteria, and with the approval of the MCRCD Board. The National Fish and Wildlife Foundation will hold and manage the endowment account.

12. Adaptive Management

Adaptive Management will be in conformance with Chapter 12 of the 2012 MMP.

13. Financial Assurances

Costs associated with short-term and long-term mitigation implementation, management and monitoring will be funded by Caltrans. During the short-term, Caltrans will remain responsible to implement, manage and monitor the mitigation. Perpetuity (long-term) mitigation maintenance and management will however be funded by Caltrans through a non-wasting endowment. A property analysis record (PAR) has been previously developed in partnership with the MCRCD, and approved by the CDFW, to ensure that the endowment amount fully funds all proposed mitigation for the long term.

As seen in the PAR previously submitted, the Annual Ongoing Cost for Long Term management of approximately 2,000 acres of mitigation lands was calculated to be \$332.00 per acre. Temporal loss mitigation will add approximately 87 acres^[1] to the total acreage of the Bypass Mitigation Project, thus increasing the project's estimated operating budget by approximately \$29,000 per year. To generate the additional revenue needed, \$725,000 will be added to the non-wasting endowment (\$725,000 @ a 4% capitalized rate of return = \$29,000) to cover the necessary costs to manage the temporal loss mitigation in perpetuity.

^[1] This includes 85 acres of Rehab Type 1 on Watson South and an approximate additional 2 acres of wetland creation at Niesen. The properties that contain MU's T3-1, T3-3, T3-5, T3-6, and T3-8, herein proposed to be constructed as Rehab Type 4, are already funded for long-term management within the PAR under the 2012 MMP prescription.

The additional funding needed to fully fund the mitigation project's Initial and Capital costs and Long-Term Endowment has been secured and will be encumbered this current fiscal year, which ends on June 30, 2015. Caltrans secured the additional mitigation funding through an administrative Program Change Request, which provides the authority necessary to use the Right of Way Annual Allocation. Any additional costs exceeding this year's annual allocation will be presented to the CTC for increase in the current year allocation.