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## Lahontan Regional Water Quality Control Board

March 25, 2022

File: CEQA  
San Bernardino County

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Governor's Office of Planning & Research

Mar 25 2022

STATE CLEARINGHOUSE

### **Comments on the Initial Study with Proposed Mitigated Negative Declaration, US-395 Mill & Overlay, San Bernardino County, California Department of Transportation District 08-SBd-395 (PM R3.9 – 49.0) EA 08-1G640 PN 0816000046, State Clearinghouse No. 2022020572**

Lahontan Regional Water Quality Control Board (Water Board) staff received the Initial Study with Proposed Mitigated Negative Declaration (IS/MND) for the above-referenced project (Project) on February 24, 2022. The IS/MND, prepared by California Department of Transportation (Caltrans), was submitted in compliance with provisions of the California Environmental Quality Act (CEQA), in order to solicit input on the potential impacts to the environment and ways in which those significant effects are proposed to be avoided or mitigated. Water Board staff, acting as a responsible agency, is providing these comments to specify the scope and content of the environmental information germane to our statutory responsibilities pursuant to CEQA Guidelines, California Code of Regulations, title 14, section 15096. Based on our review of the IS/MND, we recommend that if asphalt grindings will be used on site, the grindings be covered or otherwise encapsulated so as to not be transported offsite and discharged to a surface water resource. Our comments and list of potential permitting requirements are outlined below.

#### **PROPOSED PROJECT**

The Project is to mill and overlay pavement and install shoulder delineators and posts along US Highway 395 (US-395) between post-mile (PM) R3.9/11.2 and PM 16.6/35.5. The Project proposes pavement preservation, curb ramp upgrades, pull box and pedestrian pushbutton replacements, installation of changeable message sign (CMS),

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installation of aircraft speed enforcement signs and markings, installation of bicycle, signage, and pavement markings, upgrades to existing concrete dikes, and the addition of vehicle detection loops placed throughout the project area as needed. The full Project extent on US-395 is from PM 3.9-49.0.

## **WATER BOARD'S AUTHORITY**

All groundwater and surface waters are considered waters of the State. Surface waters include streams, lakes, ponds, and wetlands, and may be ephemeral, intermittent, or perennial. All waters of the State are protected under California law. State law assigns responsibility for protection of the quality of waters of the State in the Lahontan Region to the Lahontan Water Board. Some waters of the State are also waters of the United States. The Federal Clean Water Act (CWA) provides additional protection for those waters of the State that are also waters of the United States.

The *Water Quality Control Plan for the Lahontan Region* (Basin Plan) contains policies that the Water Board uses with other laws and regulations to protect the quality of waters of the State within the Lahontan Region. The Basin Plan sets forth water quality standards for surface water and groundwater of the Region, which include designated beneficial uses as well as narrative and numerical objectives which must be maintained or attained to protect those uses. The Basin Plan can be accessed via the Water Board's web site at [http://www.waterboards.ca.gov/lahontan/water\\_issues/programs/basin\\_plan/references.shtml](http://www.waterboards.ca.gov/lahontan/water_issues/programs/basin_plan/references.shtml).

## **COMMENTS ON THE PROPOSED PROJECT**

Based on our review of the IS/MND, we recommend that the following issues be considered and addressed in applicable sections of the final environmental document.

1. Page 24 of the IS/MND, Section X, Hydrology and Water Quality – Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality.

The Lahontan Water Board supports the beneficial reuse of asphalt and concrete grindings as road base so long as the grindings are covered and encapsulated by clean fill materials, asphalt, or concrete. Asphalt waste is petroleum-based and has the potential to degrade water quality. The use of asphalt waste in fill materials or on shoulders where there is a potential for transport and discharge to a surface water resource, either a natural/unaltered waterbody or an engineered channel that discharges to a natural water, is a violation of the California Water Code. If asphalt grindings will be used on site, we request that the grindings be covered or otherwise encapsulated so as to not be transported offsite and discharged to a surface water resource.

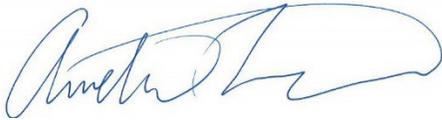
## PERMITTING REQUIREMENTS

A number of activities associated with the proposed Project may have the potential to impact waters of the State and, therefore, may require permits issued by either the State Water Board or Lahontan Water Board. The required permits may include the following.

1. Construction of the Project will result in excavation in and discharge of fill to waters within the Mojave River (HA), Middle Mojave (HA) and Harper Valley Hydrologic Subarea. Caltrans will be required to obtain either (1) a CWA, section 401 water quality certification for impacts to federal waters and/or (2) dredge and fill waste discharge requirements for impacts non-federal waters of the State, both of which are issued by the Lahontan Water Board. As part of that permitting process, Caltrans will be required to avoid and minimize, to the extent possible, direct and indirect impacts to waters of the State. Information regarding these permits including application forms can be found online at [http://www.waterboards.ca.gov/lahontan/water\\_issues/programs/clean\\_water\\_act\\_401/index.shtml](http://www.waterboards.ca.gov/lahontan/water_issues/programs/clean_water_act_401/index.shtml). Early consultation with Water Board staff is highly encouraged.
2. Land disturbance of more than 1-acre will require a CWA, section 402(p) storm water permit, including a National Pollutant Discharge Elimination System (NPDES) General Construction Storm Water Permit, Water Quality Order (WQO) 2009-0009-DWQ, obtained from the State Water Board. The project specific SWPPP required by the permit must fully identify and describe both construction and post-construction BMPs that will be incorporated into the Project. The IS/MND should fully describe the post-construction BMPs that will be used and show the locations of these features on Project maps and site plans.
  - a. The SWPPP should be applicable to all areas of the Project including construction areas, access roads to and through the site, equipment staging, and stockpile locations.
  - b. The Project shall not result in an exceedance of any applicable water quality objective (WQO) for the receiving water. For this Project, the receiving waters are Mojave River, Harper Dry Lake, the surrounding tributaries, and emergent wetlands. The primary water quality parameters potentially affected by the Project include chemical constituents (as defined by California Code of Regulations, title 22), oil and grease, pH, suspended materials, temperature, and turbidity. Numeric and narrative WQOs for these parameters in surface waters and groundwater are outlined in Chapter 3 of the Basin Plan.
  - c. Temporary BMPs must be implemented for all components of the Project until such time that vegetation has been restored to pre-Project conditions or permanent post-construction BMPs are in place and functioning.

- d. All excess soil excavated as part of the Project that is not used onsite should be stockpiled in an upland location such that it will not be transported by wind or water into a surface water. An adequate combination of sediment and erosion control BMPs must be implemented and maintained to temporarily stabilize the stockpiled soils until such time that they are reused and/or permanently stabilized.
3. Water diversion and/or dewatering activities may be subject to discharge and monitoring requirements under either NPDES General Permit, Limited Threat Discharges to Surface Waters, Board Order R6T-2014-0049, or General Waste Discharge Requirements for Discharges to Land with a Low Threat to Water Quality, WQO-2003-0003, both issued by the Lahontan Water Board. Information regarding these permits, including application forms, can be downloaded from our web site at <http://www.waterboards.ca.gov/lahontan/>. Early consultation with Water Board staff is highly encouraged.

Thank you for the opportunity to comment. If you have any questions regarding this letter, please contact me at (760) 243-444 ([andrew.robinson@waterboards.ca.gov](mailto:andrew.robinson@waterboards.ca.gov)) or Jan Zimmerman, Senior Engineering Geologist, at (760) 241-7376 ([jan.zimmerman@waterboards.ca.gov](mailto:jan.zimmerman@waterboards.ca.gov)).



Andrew Robinson  
Environmental Scientist

cc: California Department of Fish and Wildlife  
State Clearinghouse (SCH 2022020572)