

ZAYO'S PRINEVILLE TO RENO PROJECT

CONSTRUCTION NONCOMPLIANCE REPORT

Incident Date:	<u>11/18/2024</u>	Report No.:	<u>2</u>
Date Submitted:	<u>11/19/24</u>	Location:	<u>MP M29.1-29.7</u>
Level:	<u>1</u>	Relevant Plan/Measure:	<u>CUL-1c / NTP Amendment 3</u>
Current Land Use:	<u>US 395 ROW</u>	Sensitive Resources:	<u>Cultural Site P-25-001323/XL 1982-038.</u>

Description of Incident:

In the Construction and Environmental Monitoring meeting on 18-Nov-2024, Stantec reported that all of the RFIs submitted to that date had been approved by CPUC and Caltrans. RBC, the construction contractor, took to mean that all pending requests for approval had been granted. Unfortunately, the then-pending NTP Amendment 3 request for approval got conflated with the approved RFIs—RBC assumed NTP Amendment 3 had been approved with the RFIs. Based on that understanding and per the NTP Amendment 3 plan, RBC initiated the bore under US 395 designed to avoid the ESA associated with the area. (NTP Amendment 3 has since been approved by CPUC on 21-Nov-2024.)

Stantec Construction Inspector Christian Hernandez-Campos discovered the HDD operation in progress, but by then the bore was more than 50% complete. After conferring with RBC, Stantec agreed to allow completion of the bore because pulling out at that point and leaving a 6-inch-diameter empty bore would have risked the structural integrity of the highway, particularly given that significant rainfall was forecast for the remainder of the week.

Pertinent Plans/Permits/Environmental measures:

We believe this is Level 1 Noncompliance incident: An action that deviates from Project requirements or results in the partial implementation of the mitigation measures but does not impact, or have the potential to impact, environmental resources (i.e., work outside of approved work limits, where the incident is within a previously disturbed area). The entry and exit locations of the bore are in previously disturbed portions of the ROW and are devoid of sensitive resources. There were no complications associated with the HDD operation such as frac-outs.

No permits or environmental protection measures were violated beyond the communication protocol failure and the premature construction at the subject location prior to approval of NTP Amendment #3.

Initial notification of this incident was provided to CPUC on 19-Nov-2024 via email.

Proposed Resolution:

Zayo's project team, including Stantec and RBC, will revisit the difference between RFI approvals and other approvals to ensure understanding that approval of RFIs does not necessarily provide the final go-ahead for construction. Since NTP Amendment #3 was the final of the three anticipated NTP Amendments, it is unlikely that conflation of NTPs and RFIs will occur again. Regardless, we will make sure everyone on Zayo's project team understands that full approval to proceed with construction at a site may require more than one level or source of approval, and construction shall not proceed until it is clear that all required approvals have been obtained.

Recommended timeline for follow-up:

Assuming approval by CPUC of the above-proposed resolution, next Stantec team meeting on 2-Dec-2024, subsequent tailboard meetings, and next Zayo team meeting on 5-Dec-2024.

Approvals	Date	Name (print)	Signature	Comments
CPUC Project Manager (if applicable)	12/09/2024	Connie Chen	<i>connie chen</i>	Although the bore was not within and area with known sensitive resources, it was within the 1,000 foot buffer in an area not covered by a CPUC NTP at the time.
Zayo Project Manager (if applicable)	11/26/2024	Dan Barcomb	Dan Barcomb	Digitally signed by Dan Barcomb Date: 2024.11.26 15:57:40 -08'00'

Prepared by: Steven Towers Date: 11/26/24

Noncompliance Level	Example
A Level 1 noncompliance incident is an action that deviates from Project requirements or results in the partial implementation of the environmental measures but has not caused, nor has the potential to cause, impacts on environmental resources.	<ul style="list-style-type: none"> i. Failure to implement adequate dust control measures, resulting in no impact on resources ii. Improperly installed, repaired, or maintained erosion or sediment control devices (with no resultant harm to sensitive resources or release of sediment to waters) iii. Inadvertent minor incursion into exclusion area, resulting in no harm to sensitive biological or cultural resources iv. Work outside the approved work limits where the incident is within a previously disturbed area, such as a gravel lot
A Level 2 noncompliance incident is an action that deviates from Project requirements or environmental measures and has caused, or has the potential to cause, minor impacts on environmental resources.	<ul style="list-style-type: none"> i. Work without appropriate permit(s) or approval ii. Failure to properly maintain an erosion or sediment control structure, but the structure remains functional, and results in minor impacts on resources (e.g., water courses) iii. Working outside of approved hours iv. Repeated documentation of Level 1 incidents
A Level 3 noncompliance incident is an action that deviates from Project requirements and has caused, or has the potential to cause, immediate and major impacts on environmental resources. These actions are not in compliance with the APMS, environmental measures, permit conditions, approval requirements (e.g., minor Project changes, NTP), and/or violate local, state, or federal law.	<ul style="list-style-type: none"> i. Construction activities occurring in an exclusion zone with direct impacts to sensitive or endangered species, cultural resources, human remains, or an archaeological site ii. Imminent danger or documented impact to a sensitive or threatened and endangered species iii. Repeated deviations from required environmental measures/requirements that have been documented as Level 2 incidents iv. Improper installation of erosion or sediment control structures resulting in substantial sedimentation or impacts to water quality or putting sensitive resources at risk