



Central Valley Regional Water Quality Control Board

CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND ORDER

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|---------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|----------------|
| Effective Date: | 30 October 2020 | Reg. Meas. ID: | 420854 |
| Expiration Date: | 29 October 2025 | Place ID: | 846437 |
| Program Type: | Restoration | WDID No.: | 5A48CR00156 |
| Project Type: | Ecological Aquatic/Stream/Habitat Restoration | USACE No.: | SPK-2013-00085 |
| Project: | Prospect Island Tidal Habitat Restoration Project (Project) | Regional General Permit #16 | |
| Applicant: | Department of Water Resources | | |
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Water Board Contact Person: If you have any questions, please call Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) Staff listed above or (916) 464-3291 and ask to speak with the Water Quality Certification Unit Supervisor.

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I. Order

This Clean Water Act (CWA) section 401 Water Quality Certification action and Order (Order) is issued at the request of Department of Water Resources (hereinafter Permittee) for the Project. This Order is for the purpose described in application and supplemental information submitted by the Permittee. The application was received on 13 April 2018. Central Valley Water Board staff issued a notice of incomplete application and the Permittee responded to the request for application information on the following dates:

Date of Notice of Incomplete Application: **19 September 2018**

Date all requested information was received: **19 August 2019**

Central Valley Water Board staff issued a Denial on 8 October 2018. Central Valley Water Board staff received a request to reopen the application on 3 June 2019. The application was deemed complete on 20 August 2019. The Permittee submitted a request to withdraw the Project application on 8 November 2019 and Central Valley Water Board staff issued the withdrawal request on 12 November 2019. On 18 September 2020, the Permittee submitted a request to reopen the application.

II. Public Notice

The State Water Board provided public notice of the application pursuant to California Code of Regulations, title 23, section 3858 from 26 April 2019 to 17 May 2019. The Central Valley Water Board did not receive any comments during the comment period.

III. Project Purpose

The purpose of the Project is to restore approximately 1,056 acres of tidal freshwater emergent wetlands, restore approximately 350.1 acres of stream channel habitat, and create approximately 123.2 acres of stream channel habitat on Prospect Island.

IV. Project Description

The 1,684-acre Project consists of repairing Minor Slough eastern levee, dewatering, installing turbidity curtains, constructing temporary access roads and staging areas, removing debris and infrastructure, plugging a flap gate culvert with concrete, creating an internal cross levee breach, redistributing native soil to create swales, berms, and habitat islands for wetland habitat, redistributing native soil to construct breach velocity dissipation features, constructing an overflow weir, and breaching Minor Slough levee at two locations.

V. Project Location

County: Solano

Nearest City: Liberty Island, Rio Vista

Sections 8, 9, 15, 16, 17, 20, 21, 28, 29, 32, Township 05 North, Range 03 East, MDB&M.

Latitude: 38.25342°N and Longitude: 121.6569°W

Maps showing the Project location are found in Attachment A of this Order.

VI. Project Impact and Receiving Waters Information

The Project is located within the jurisdiction of the Central Valley Water Board. Receiving waters and groundwater potentially impacted by this Project are protected in accordance with the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, Fifth Edition, May 2018 (Basin Plan). The plan for the region and other plans and policies may be accessed at the [State Water Resources Control Board's Plans and Policies Web page](http://www.waterboards.ca.gov/plans_policies/) (http://www.waterboards.ca.gov/plans_policies/). The Basin Plan includes water quality standards, which consist of existing and potential beneficial uses of waters of the state, water quality objectives to protect those uses, and the state and federal antidegradation policies.

It is the policy of the State of California that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. This Order promotes that policy by requiring discharges to meet maximum contaminant levels designed to protect human health and ensure that water is safe for domestic use.

Permitted actions through this Order will increase the amount of tidally inundated wetland and stream channel habitat within the Project boundary compared to existing conditions. Sediment in Sacramento-San Joaquin Delta is enriched with mercury due to historical mercury and/or gold mining and ongoing deposition from the Sacramento River. The Project boundary likely has deposits of mercury-containing sediments. Studies have shown that inundation and cycles of wetting and drying can cause methylmercury production. Therefore, the Project is expected to create additional methylmercury within the Delta.

Methylmercury is a bioaccumulative neurotoxin that is harmful to humans and wildlife when ingested at elevated levels over a sustained period. The Sacramento-San Joaquin Delta at Minor Slough is identified on the Clean Water Act Section 303(d) List as impaired by mercury because of elevated methylmercury concentrations in fish that, when consumed, pose a risk to wildlife and humans.

On 22 April 2010, the Central Valley Water Board adopted the Delta Mercury Control Program (DMCP), an amendment to the Sacramento River and San Joaquin River Basin Plan that implements a program to address mercury and methylmercury impairments in the Delta and Yolo Bypass. The DMCP includes fish-tissue objectives and methylmercury allocations for National Pollutant Discharge Elimination System (NPDES) wastewater facilities, municipal storm water, agricultural lands, wetlands, and open water in the Delta and Yolo Bypass.

Project impact and receiving waters information can be found in Attachment B. Table 1 of Attachment B shows the receiving waters and beneficial uses of waters of the

state impacted by the Project. Individual impact location and quantity is shown in Table 2 of Attachment B.

VII. Description of Direct Impacts to Waters of the State

California EcoRestore (EcoRestore) is a habitat initiative that replaced the Bay Delta Conservation Plan that identifies 30,000 acres of priority restoration projects located in the Delta, Yolo Bypass, and Suisun Marsh. EcoRestore is a result of pre-existing regulatory requirements to improve the overall health of the Delta ecosystem.

EcoRestore will accelerate and implement a comprehensive suite of habitat restoration actions to support the long-term health of the Sacramento-San Joaquin Delta's native fish and wildlife species. The EcoRestore project includes twenty-four individual projects that are scheduled to break ground between 2015 and 2024. Prospect Island Tidal Habitat Restoration Project is identified as an EcoRestore project.

To prepare the site, a portion of the levee along Miner Slough on the south property will be repaired by temporarily placing approximately 6,600 cubic yards of clean soil and rock or by installing a temporary sheet pile cut-off wall. Existing agricultural drainage ditches on the north property will be dewatered by installing temporary pumps, powered by diesel generators. Additionally, temporary drainage ditches in the south property will be excavated to drain water to the north property.

Portions of wetland and stream channel habitat within the Project boundary will be cleared, grubbed, excavated, and graded to facilitate temporary construction access and staging, and to prepare for the construction of the channel network. Temporary access roads and ramps will be constructed by placing clean, imported fill. The fill will be re-used on site following construction of restoration features. All excess and unusable debris will be removed and properly disposed of offsite. The channel network, habitat islands, eastern toe berm, eastern intertidal bench, breach velocity dissipation features, and a high stage overflow weir will be constructed by redistributing native soil in wetland and stream channel habitat onsite, including filling and blocking agricultural ditches with native soil and plugging a flap gate culvert with concrete after dewatering the area. The weir will be armored with rock and pre-cast concrete block mats to prevent future scour.

Levees will be breached at three locations: an internal cross levee that will allow flow between the north and south property, one along Miner Slough in the north property, and one along Miner Slough in the south property at the location of the formerly repaired breach. Temporarily impacted areas will be hydroseeded with a native seed mix.

The Project will temporarily impact 350.1 acres of stream channel habitat, temporarily impact 1,056.4 acres of wetland habitat, and permanently impact 44.1 acres of wetland habitat from redistributing native soil and breaching levees. The Project will result in a net beneficial gain of approximately 79.2 acres of aquatic resource habitat and improve the quality of wetland habitat.

Dewatering will occur within the Project area. Wet concrete will be placed into stream channel and wetland habitat in dry conditions, after completely dewatering the area.

Total Project fill/excavation quantities for all impacts are summarized in Tables 1 and 2. Permanent impacts are categorized as those resulting in a physical loss in area and also those degrading ecological condition.

Table 1: Total Project Fill/Excavation Quantity for Temporary Impacts¹

| Aquatic Resources Type | Acres | Cubic Yards | Linear Feet |
|------------------------|---------|-------------|-------------|
| Stream Channel | 350.1 | | |
| Wetland | 1,056.4 | | |

Table 2: Total Project Fill/Excavation Quantity for Permanent Physical Loss of Area Impacts

| Aquatic Resources Type | Acres | Cubic Yards | Linear Feet |
|------------------------|-------|-------------|-------------|
| Wetland | 44.1 | | |

VIII. Description of Indirect Impacts to Waters of the State – Not Applicable

IX. Avoidance and Minimization

To minimize the potential effects of construction on water quality and resources, the Permittee shall implement all measures required as described in the Order. According to the Permittee, the following measures will be in place during construction activities to avoid, reduce, and minimize impacts to waters of the state:

Best Management Practices (BMPs) for Short-term Silt and Turbidity Impacts:

- The boundaries of the work site will be designated by the Engineer by flagging and staking or other similar method for showing exact location of work and areas that may be occupied by the Contractor. The Contractor and the Contractor's employees shall not leave the work area, without prior written approval. If the Contractor or the Contractor's employees disturb such flagging, it shall be replaced by the Contractor as directed at no additional expense to the Permittee.
- A comprehensive site dewatering plan will be prepared.
- Upland areas associated with staging activities shall be covered by a Stormwater Pollution Prevention Plan (SWPPP), including, but not limited to:

¹ Includes only temporary direct impacts to waters of the state and does not include area of temporary disturbance which could result in a discharge to waters of the state. Temporary impacts, by definition, are restored to pre-project conditions and therefore do not include a physical loss of area or degradation of ecological condition.

1. Settleable solids, oils, grease, concrete wash water, excess concrete and grout shall be contained to prevent their release into the environment. Flocculents may be used on solids that do not readily settle, as long as they do not degrade water quality.
2. Use BMPs for on-site erosion control and sediment capture during construction, such as use of vegetated buffers, hay wattles or bales, sandbags, silt screens, or other erosion control measures to intercept runoff from construction, excavation, or staging areas to adjacent waterbodies. BMPs described by Caltrans Storm Water Quality Handbooks, Construction Site Best Management Practices Manual dated March 2003 are generally acceptable to the Department.
3. Minimize erosion during stormy weather at the work site by using BMPs.
4. Use BMPs for post construction erosion control, such as seeding.
5. Areas of disturbance with slopes toward a stream or drainage shall be stabilized to reduce erosion potential. Exposed areas shall be stabilized with temporary mulching or other methods during and after land disturbance activities to control erosion.
6. Construction activities are allowed in dry stream channels and drainages. Construction activities shall not be conducted in stream channels or drainages during a rain event or in flowing or standing water.
7. All wastewater or wash water, including water generated during hydrostatic pipeline testing, drilling, and grouting operations, shall be clean before discharging into the environment.
8. Spoil and spoil piles shall be graded to minimize water induced erosion from the piles and adjacent native soil material.
 - A Spill Prevention, Control, and Response Plan shall be developed by the construction contractor. The Plan would include:
 - i. A vehicle inspection and fueling plan.
 - ii. BMPs for spill prevention and containment.
 - iii. Locations and uses of spill prevention materials, cleanup kits, and equipment.
 - iv. Qualification and reporting requirements for a federal reportable spill (40 Code of Federal Regulations (CFR) 110) including contact information for the Regional Water Quality Control Board and the California Department of Toxic Substances Control (DTSC).
 - BMPs to minimize potential water quality impacts from potential spills shall include, but not be limited to, the following:
 - i. Areas for storage, mixing, and loading of herbicides shall be located where accidental spills to nearby waterbodies cannot occur.

- ii. Applicators shall be trained in proper spill response, and rapidly report any spill to the appropriate agencies.
- iii. Applicators shall maintain on-site (near herbicide storage and loading equipment) appropriate initial spill-response items (e.g., absorbent materials).

BMPs for Aquatic Herbicides:

In order to minimize off-target spray drift and impacts to water quality from herbicide application, aerial pesticide application by helicopter shall be preferred (over fixed wing aircraft). In addition, all appropriate, standard BMPs for aerial application of pesticides shall be followed, including but not limited to, the following:

1. Applicators shall develop an application plan, including maps of the site showing general spotter and flight plans with application areas clearly indicated, to be approved by the Lead Agency, before any application of herbicides.
2. Applicators shall adhere strictly to proper mixing and application guidelines as presented on herbicide labels and in product instructions.
3. Application of herbicides on levee vegetation shall not take place by air and otherwise avoided unless necessary, when it would be executed using spot application techniques.
4. Herbicide application by air shall only take place during the in-water work window from July 1 to October 31 of any one year, to reduce potential impacts to migrating fish species of concern.
5. Applicators shall maintain records of herbicide applications—including dates, times, weather conditions, amount of herbicide applied, problems experienced, etc.— in addition to or as required by federal, state, and/or local agencies.
6. Spraying shall always be halted when flying over levees, adjacent waterbodies (e.g., Miner Slough, Deep Water Ship Channel (DWSC)), and agricultural fields.
7. Aerial application would occur only during light winds, non-gusty, relatively cool weather conditions.
8. Application would involve the use of appropriate spray nozzles, nozzle configurations, and nozzle orientations that minimize atomization of herbicide mixtures and production of fine droplets that tend to drift.
9. Herbicide tanks would not be operated at excessively high pressures.
10. If conditions require the use of aerial spray by fixed-wing aircraft, pilots shall be instructed to include an appropriate spray buffer (in addition to the width of the levee) where, to the extent possible, no herbicides would be directly applied (subject to overriding safety concerns).

X. Compensatory Mitigation

No compensatory mitigation was required for the permanent impacts to 44.1 acres of wetland habitat. The Project will result in a net beneficial gain of wetland and stream channel habitat.

XI. California Environmental Quality Act (CEQA)

On 19 August 2019, the Department of Water Resources, as lead agency, certified an environmental impact report (EIR) (State Clearinghouse (SCH) No. 2013052056) for the Project and filed a Notice of Determination (NOD) at the SCH on 19 August 2019. Pursuant to CEQA, the Central Valley Water Board has made Findings of Facts (Findings) which support the issuance of this Order and are included in Attachment C.

XII. Petitions for Reconsideration

Any person aggrieved by this action may petition the State Water Board to reconsider this Order in accordance with California Code of Regulations, title 23, section 3867. A petition for reconsideration must be submitted in writing and received within 30 calendar days of the issuance of this Order.

XIII. Fees Received

An application fee of \$400.00 was received on 20 April 2018. The fee amount was determined as required by California Code of Regulations, Title 23, sections 3833(b)(3) and 2200(a)(3) and was calculated as category D - Ecological Restoration and Enhancement Projects (fee code 85) with the dredge and fill fee calculator.

XIV. Conditions

The Central Valley Water Board has independently reviewed the record of the Project to analyze impacts to water quality and designated beneficial uses within the watershed of the Project. In accordance with this Order, the Permittee may proceed with the Project under the following terms and conditions:

A. Authorization

Impacts to waters of the state shall not exceed quantities shown in Tables 1 and 2.

B. Reporting and Notification Requirements

The following section details the reporting and notification types and timing of submittals. Requirements for the content of these reporting and notification types are detailed in Attachment D, including specifications for photo and map documentation during the Project. Written reports and notifications must be submitted using the Reporting and Notification Cover Sheet located in

Attachment D, which must be signed by the Permittee or an authorized representative.

The Permittee must submit all notifications, submissions, materials, data, correspondence, and reports in a searchable Portable Document Format (PDF). Documents less than 50 MB must be emailed to:

centralvalleysacramento@waterboards.ca.gov

In the subject line of the email, include the Central Valley Water Board Contact, Project name, and WDID No. Documents that are 50 MB or larger must be transferred to a disk and mailed to the Central Valley Water Board Contact.

1. Project Reporting

- a. **Monthly Reporting:** The Permittee must submit a Monthly Report to the Central Valley Water Board on the 1st day of each month beginning the month after the submittal of the Commencement of Construction Notification. Monthly reporting shall continue until the Central Valley Water Board issues a Notice of Project Complete Letter to the Permittee.
- b. **Annual Reporting:** The Permittee shall submit an Annual Report each year on the 1st day of November, one year after the effective date of this Order. Annual reports shall continue until a Notice of Project Complete Letter is issued to the Permittee.

2. Project Status Notifications

- a. **Commencement of Construction:** The Permittee shall submit a Commencement of Construction Report at least seven (7) days prior to start of initial ground disturbance activities and include the corresponding Waste Discharge Identification Number (WDID#) issued under this Order. Additionally, if applicable, the Report shall also include the Enrollee number issued for coverage under the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ; NPDES No. CAS000002).
- b. **Request for Notice of Completion of Discharges Letter:** The Permittee shall submit a Request for Notice of Completion of Discharges Letter following completion of active Project construction activities, including any required restoration and permittee-responsible mitigation. This request shall be submitted to the Central Valley Water Board staff within thirty (30) days following completion of all Project construction activities. Upon acceptance of the request, Central Valley Water Board staff shall issue a Notice of Completion of Discharges Letter to the Permittee which will end the active discharge period.
- c. **Request for Notice of Project Complete Letter:** The Permittee shall submit a Request for Notice of Project Complete Letter when construction and/or any post-construction monitoring is complete, and no further Project activities will occur. Completion of post-construction monitoring

shall be determined by Central Valley Water Board staff and shall be contingent on successful attainment of restoration and mitigation performance criteria. This request shall be submitted to Central Valley Water Board staff within thirty (30) days following completion of all Project activities. Upon approval of the request, the Central Valley Water Board staff shall issue a Notice of Project Complete Letter to the Permittee which will end the post discharge monitoring period.

3. Conditional Notifications and Reports:

The following notifications and reports are required as appropriate.

a. Accidental Discharges of Hazardous Materials²

Following an accidental discharge of a reportable quantity of a hazardous material, sewage, or an unknown material, the following applies (Water Code, Section 13271):

- i. As soon as (A) Permittee has knowledge of the discharge or noncompliance, (B) notification is possible, and (C) notification can be provided without substantially impeding cleanup or other emergency measures then:
 - first call – 911 (to notify local response agency)
 - then call – Office of Emergency Services (OES) State Warning Center at:(800) 852-7550 or (916) 845-8911
 - Lastly, follow the required OES, procedures as set forth in the [Office of Emergency Services' Accidental Discharge Notification Web page](http://www.caloes.ca.gov/FireRescueSite/Documents/CalOES-Spill_Booklet_Feb2014_FINAL_BW_Acc.pdf)
(http://www.caloes.ca.gov/FireRescueSite/Documents/CalOES-Spill_Booklet_Feb2014_FINAL_BW_Acc.pdf)
- ii. Following notification to OES, the Permittee shall notify Central Valley Water Board, as soon as practicable (ideally within 24 hours). Notification may be delivered via written notice, email, or other verifiable means.

² "Hazardous material" means any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. "Hazardous materials" include, but are not limited to, hazardous substances, hazardous waste, and any material that a handler or the administering agency has a reasonable basis for believing that it would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment. (Health & Safety Code, Section 25501.)

- iii. Within five (5) working days of notification to the Central Valley Water Board, the Permittee must submit an Accidental Discharge of Hazardous Material Report.

b. Violation of Compliance with Water Quality Standards: The Permittee shall notify the Central Valley Water Board of any event causing a violation of compliance with water quality standards. Notification may be delivered via written notice, email, or other verifiable means.

- i. This notification must be followed within three (3) working days by submission of a Violation of Compliance with Water Quality Standards Report.

c. In-Water Work and Diversions:

- i. The Permittee shall notify the Central Valley Water Board at least forty-eight (48) hours prior to initiating work in water or stream diversions. Notification may be delivered via written notice, email, or other verifiable means.
- ii. Within three (3) working days following completion of work in water or stream diversions, an In-Water Work/Diversions Water Quality Monitoring Report must be submitted to Central Valley Water Board staff.

d. Modifications to Project

Project modifications may require an amendment of this Order. The Permittee shall give advance notice to Central Valley Water Board staff if Project implementation as described in the application materials is altered in any way or by the imposition of subsequent permit conditions by any local, state or federal regulatory authority by submitting a Modifications to Project Report. The Permittee shall inform Central Valley Water Board staff of any Project modifications that will interfere with the Permittee's compliance with this Order. Notification may be made in accordance with conditions in the certification deviation section of this Order.

e. Transfer of Property Ownership:

This Order is not transferable in its entirety or in part to any person or organization except after notice to the Central Valley Water Board in accordance with the following terms:

- i. The Permittee must notify the Central Valley Water Board of any change in ownership or interest in ownership of the Project area by submitting a Transfer of Property Ownership Report. The Permittee and purchaser must sign and date the notification and provide such notification to the Central Valley Water Board at least 10 days prior to the transfer of ownership. The purchaser must also submit a written request to the Central Valley Water Board to be named as the permittee in a revised order.

- ii. Until such time as this Order has been modified to name the purchaser as the permittee, the Permittee shall continue to be responsible for all requirements set forth in this Order.

f. Transfer of Long-Term BMP Maintenance:

If maintenance responsibility for post-construction BMPs is legally transferred, the Permittee must submit to the Central Valley Water Board a copy of such documentation and must provide the transferee with a copy of a long-term BMP maintenance plan that complies with manufacturer or designer specifications. The Permittee must provide such notification to the Central Valley Water Board with a Transfer of Long-Term BMP Maintenance Report at least 10 days prior to the transfer of BMP maintenance responsibility.

C. Water Quality Monitoring

1. General:

If surface water is present continuous visual surface water monitoring shall be conducted during active construction periods to detect accidental discharge of construction related pollutants (e.g. oil and grease, turbidity plume, or uncured concrete). Sampling is not required in a wetland where the entire wetland is being permanently filled, provided there is no outflow connecting the wetland to surface waters. The Permittee shall perform surface water sampling:

- a. when performing any in-water work;
- b. during the entire duration of temporary surface water diversions;
- c. in the event that the Project activities result in any materials reaching surface waters; or
- d. when any activities result in the creation of a visible plume in surface waters.

2. Accidental Discharges/Noncompliance:

Upon occurrence of an accidental discharge of hazardous materials or a violation of compliance with a water quality standard, Central Valley Water Board staff may require water quality monitoring based on the discharge constituents and/or related water quality objectives and beneficial uses.

3. In-Water Work or Diversions:

During planned in-water work or during the entire duration of temporary water diversions, any discharge(s) to waters of the state shall conform to the following water quality standards:

- a. Waters shall not contain oils, greases, waxes, or other materials in concentrations that cause nuisance, result in a visible film or coating on

the surface of the water or on objects in the water, or otherwise adversely affect beneficial uses.

- b. Activities shall not cause pH to be depressed below 6.5 nor raised above 8.5 in surface water.
- c. Activities shall not cause turbidity increases in surface water to exceed:
 - i. where natural turbidity is less than 1 Nephelometric Turbidity Units (NTUs), controllable factors shall not cause downstream turbidity to exceed 2 NTU;
 - ii. where natural turbidity is between 1 and 5 NTUs, increases shall not exceed 1 NTU;
 - iii. where natural turbidity is between 5 and 50 NTUs, increases shall not exceed 20 percent;
 - iv. where natural turbidity is between 50 and 100 NTUs, increases shall not exceed 10 NTUs;
 - v. where natural turbidity is greater than 100 NTUs, increases shall not exceed 10 percent.

In determining compliance with the above limits, appropriate averaging periods may be applied provided that beneficial uses will be fully protected. Averaging periods may only be used with prior permission of the Central Valley Water Board Executive Officer.

For Delta waters, the general objectives for turbidity apply subject to the following: except for periods of storm runoff, the turbidity of Delta waters shall not exceed 50 NTUs in the waters of the Central Delta and 150 NTUs in other Delta waters.

Sampling during in-water work or during the entire duration of temporary water diversions shall be conducted in accordance with Table 3 sampling parameters.³ The sampling requirements in Table 3 shall be conducted upstream out of the influence of the Project, and approximately 300 feet downstream of the work area.

³ Pollutants shall be analyzed using the analytical methods described in 40 Code of Federal Regulations Part 136; where no methods are specified for a given pollutant, the method shall be approved by Central Valley Water Board staff. Grab samples shall be taken between the surface and mid-depth and not be collected at the same time each day to get a complete representation of variations in the receiving water. A hand-held field meter may be used, provided the meter utilizes a U.S. EPA-approved algorithm/method and is calibrated and maintained in accordance with the manufacturer's instructions. A calibration and maintenance log for each meter used for monitoring shall be maintained onsite.

The sampling frequency may be modified for certain projects with written approval from Central Valley Water Board staff. An In-Water Work and Diversion Water Quality Monitoring Report, as described in Attachment D, shall be submitted within two weeks on initiation of in-water construction, and every two weeks thereafter. In reporting the data, the Permittee shall arrange the data in tabular form so that the sampling locations, date, constituents, and concentrations are readily discernible. The data shall be summarized in such a manner to illustrate clearly whether the Project complies with Order requirements. The report shall include surface water sampling results, visual observations, and identification of the turbidity increase in the receiving water applicable to the natural turbidity conditions specified in the turbidity criteria in XIV.C.3.

If no sampling is required, the Permittee shall submit a written statement stating, "No sampling was required" within two weeks on initiation of in-water construction, and every two weeks thereafter.

Table 3: Sample Type and Frequency Requirements

| Parameter | Unit of Measurement | Type of Sample | Minimum Frequency |
|------------------------------------------------------|---------------------|--------------------|-----------------------------------------------|
| pH | Standard Units | Grab | Every 4 hours |
| Turbidity | NTU | Grab | Every 4 hours |
| Visible construction related pollutants ⁴ | Observations | Visual Inspections | Continuous throughout the construction period |

D. Standard

1. This Order is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330, and California Code of Regulations, Title 23, Chapter 28, article 6 commencing with sections 3867-3869, inclusive. Additionally, the Central Valley Water Board reserves the right to suspend, cancel, or modify and reissue this Order, after providing notice to the Permittee, if the Central Valley Water Board determines that: the Project fails to comply with any of the conditions of this Order; or, when necessary to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act (Water Code, section 13000 et seq.) or federal Clean Water Act section 303 (33 U.S.C. section 1313). For purposes of Clean Water Act section 401(d), the condition

⁴ Visible construction-related pollutants include oil, grease, foam, fuel, petroleum products, and construction-related, excavated, organic or earthen materials.

constitutes a limitation necessary to assure compliance with water quality standards and appropriate requirements of state law.

2. This Order is not intended and shall not be construed to apply to any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license, unless the pertinent certification application was filed pursuant to subsection 3855(b) of chapter 28, Title 23 of the California Code of Regulations, and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. This Order is conditioned upon total payment of any fee required under Title 23 of the California Code of Regulations and owed by the Permittee.
4. In the event of any violation or threatened violation of the conditions of this Order, the violation or threatened violation shall be subject to any remedies, penalties, process, or sanctions as provided for under state and federal law. For purposes of Clean Water Act, section 401(d), the applicability of any state law authorizing remedies, penalties, processes, or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Order.

E. General Compliance

1. Failure to comply with any condition of this Order shall constitute a violation of the Porter-Cologne Water Quality Control Act and the Clean Water Act. The Permittee and/or discharger may then be subject to administrative and/or civil liability pursuant to Water Code section 13385.
2. Permitted actions must not cause a violation of any applicable water quality standards, including impairment of designated beneficial uses for receiving waters as adopted in the Basin Plans by any applicable Regional Water Board or any applicable State Water Board (collectively Water Boards) water quality control plan or policy. The source of any such discharge must be eliminated as soon as practicable.
3. In response to a suspected violation of any condition of this Order, the Central Valley Water Board may require the holder of this Order to furnish, under penalty of perjury, any technical or monitoring reports the Water Boards deem appropriate, provided that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. The additional monitoring requirements ensure that permitted discharges and activities comport with any applicable effluent limitations, water quality standards, and/or other appropriate requirement of state law.

4. The Permittee must, at all times, fully comply with engineering plans, specifications, and technical reports submitted to support this Order; and all subsequent submittals required as part of this Order. The conditions within this Order and Attachments supersede conflicting provisions within Permittee submittals.
5. This Order and all of its conditions contained herein continue to have full force and effect regardless of the expiration or revocation of any federal license or permit issued for the Project. For purposes of Clean Water Act, section 401(d), this condition constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements of state law.
6. The Permittee shall adhere to all requirements in the mitigation monitoring and reporting program (MMRP) which is incorporated herein by reference and any additional measures as outlined in Attachment C, CEQA Findings of Fact.
7. **Construction General Permit Requirement:** The Permittee shall obtain coverage under the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ; NPDES No. CAS000002), as amended, for discharges to surface waters comprised of storm water associated with construction activity, including, but not limited to, demolition, clearing, grading, excavation, and other land disturbance activities of one or more acres, or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres.
8. **Delta Regional Monitoring Program (RMP):** Delta waterways are listed Clean Water Act (CWA) Section 303(d) waterbodies as impaired for chlordane, chlorpyrifos, DDT, diazinon, dieldrin, group A pesticides, invasive species, mercury, PCBs, and unknown toxicity. The Delta RMP was created to coordinate the Delta-wide monitoring, reporting, and assessment of water quality necessary for understanding delta water quality conditions and trends. The current Delta RMP Monitoring Design places a focus on monitoring for constituents that are causing significant impairment in the Delta and include pesticides and toxicity, nutrients, and mercury. Monitoring is occurring now at various locations throughout the Delta. Data used from these monitoring studies will be used by the Central Valley Water Board to inform its existing control programs such as the Delta Mercury Control Program, and to inform the development of future control programs.

Permitted actions through this Order will restore and maintain additional wetland and stream channel habitat in the Delta, which have the potential to affect the methylation of mercury both within the wetland, stream channel, and the subsequent discharges to the Sacramento-San Joaquin Delta.

In August 2018, the Permittee submitted a Delta RMP Participation Plan (Plan) that addresses multiple restoration and other projects in the Delta and Yolo Bypass, including the Prospect Island Tidal Habitat Restoration Project. The Executive Officer approved this Plan on 16 August 2018. The Permittee shall maintain continued adequate participation in the Delta RMP pursuant to this approved Plan to maintain compliance with this Order.

F. Administrative

1. Signatory requirements for all document submittals required by this Order are presented in Attachment E of this Order.
 2. This Order does not authorize any act which results in the taking of a threatened, endangered or candidate species or any act, which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & Wildlife Code, sections 2050-2097) or the federal Endangered Species Act (16 U.S.C. sections 1531-1544). If a “take” will result from any act authorized under this Order held by the Permittee, the Permittee must comply with the California Endangered Species Act and federal Endangers Species Act prior to any construction or operation of the portion of the Project that may result in a take. The Permittee is responsible for meeting all requirements of the applicable endangered species act for the Project authorized under this Order.
 3. The Permittee shall grant Central Valley Water Board staff, or an authorized representative (including an authorized contractor acting as a Water Board representative), upon presentation of credentials and other documents as may be required by law, permission to:
 - a. Enter upon the Project or compensatory mitigation site(s) premises where a regulated facility or activity is located or conducted, or where records are kept.
 - b. Have access to and copy any records that are kept and are relevant to the Project or the requirements of this Order.
 - c. Inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order.
 - d. Sample or monitor for the purposes of assuring Order compliance.
 4. A copy of this Order shall be provided to any consultants, contractors, and subcontractors working on the Project. Copies of this Order shall remain at the Project site for the duration of this Order. The Permittee shall be responsible for work conducted by its consultants, contractors, and any subcontractors.
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5. A copy of this Order must be available at the Project site(s) during construction for review by site personnel and agencies. All personnel performing work on the Project shall be familiar with the content of this Order and its posted location at the Project site.
6. **Lake or Streambed Alteration Agreement:** The Permittee shall submit a signed copy of the California Department of Fish and Wildlife's Lake or Streambed Alteration Agreement or other authorization letter to the Central Valley Water Board immediately upon receipt and prior to any discharge to waters of the state.

G. Construction

1. Dewatering

- a. The Permittee shall develop and maintain on-site a Surface Water Diversion and/or Dewatering Plan(s). The Plan(s) must be developed prior to initiation of any water diversions. The Plan(s) shall include the proposed method and duration of diversion activities and include water quality monitoring conducted, as described in section XIV.C.3, during the entire duration of dewatering and diversion activities. The Plan(s) must be consistent with this Order and must be made available to the Central Valley Water Board staff upon request.
- b. For any temporary dam or other artificial obstruction being constructed, maintained, or placed in operation, sufficient water shall at all times be allowed to pass downstream, to maintain beneficial uses of waters of the state below the dam. Construction, dewatering, and removal of temporary cofferdams shall not violate section XIV.C.3.
- c. The temporary dam or other artificial obstruction shall only be built from clean materials such as sandbags, gravel bags, water dams, or clean/washed gravel which will cause little or no siltation. Stream flow shall be temporarily diverted using gravity flow through temporary culverts/pipes or pumped around the work site with the use of hoses.
- d. Dewatering will occur within the Project area.
- e. This Order does not allow permanent water diversion of flow from the receiving water. This Order is invalid if any water is permanently diverted as a part of the project.
- f. The Permittee shall work with the Central Valley Water Board to obtain coverage under an NPDES permit for dewatering activities that result in discharges into surface water.
- g. The Permittee shall work with the Central Valley Water Board to obtain coverage under Waste Discharge Requirements (WDRs) for dewatering activities that result in discharges to land.

2. Directional Drilling – Not Applicable

3. Dredging – Not Applicable**4. Fugitive Dust**

Dust abatement activities can cause discharges of sediment to streams and uplands through application of water or other fluids. Dust abatement chemicals added to water can be hazardous to wildlife and, if allowed to enter streams, detrimental to water quality. Therefore, dust abatement activities shall be conducted so that sediment or dust abatement chemicals are not discharged into waters of the state. Dust abatement products or additives that are known to be detrimental to water quality or wildlife shall not be used, unless specific management needs are documented, and product-specific application plans are approved by Central Valley Water Board staff.

5. Good Site Management “Housekeeping”

- a. The Permittee shall develop and maintain onsite a project-specific Spill Prevention, Containment and Cleanup Plan outlining the practices to prevent, minimize, and/or clean up potential spills during construction of the Project. The Plan must detail the Project elements, construction equipment types and location, access and staging and construction sequence. The Plan must be made available to the Central Valley Water Board staff upon request.
- b. Refueling of equipment within the floodplain or within 300 feet of the waterway is prohibited. If critical equipment must be refueled within 300 feet of the waterway, spill prevention and countermeasures must be implemented to avoid spills. Refueling areas shall be provided with secondary containment including drip pans and/or placement of absorbent material. No hazardous materials, pesticides, fuels, lubricants, oils, hydraulic fluids, or other construction-related potentially hazardous substances should be stored within a floodplain or within 300 feet of a waterway. The Permittee must perform frequent inspections of construction equipment prior to utilizing it near surface waters to ensure leaks from the equipment are not occurring and are not a threat to water quality.
- c. All materials resulting from the Project shall be removed from the site and disposed of properly.

6. Hazardous Materials

- a. The discharge of petroleum products, any construction materials, hazardous materials, pesticides, fuels, lubricants, oils, hydraulic fluids, raw cement, concrete or the washing thereof, asphalt, paint, coating material, drilling fluids, or other substances potentially hazardous to fish and wildlife resulting from or disturbed by project-related activities is prohibited and shall be prevented from contaminating the soil and/or entering waters of

the state. In the event of a prohibited discharge, the Permittee shall comply with notification requirements in sections XIV.B.3.a and XIV.B.3.b.

- b. Wet concrete will be placed into wetland and stream channel habitat after the area has been completely dewatered.
- c. Concrete must be completely cured before coming into contact with waters of the United States and waters of the state. Surface water that contacts wet concrete must be pumped out and disposed of at an appropriate off-site commercial facility, which is authorized to accept concrete wastes.

7. Invasive Species and Soil Borne Pathogens

Prior to arrival at the project site and prior to leaving the project site, construction equipment that may contain invasive plants and/or seeds shall be cleaned to reduce the spread of noxious weeds.

8. Roads

- a. The number of access routes, number and size of staging areas, and the total area of the activity must be limited to the minimum necessary to achieve the project goal. Routes and work area boundaries must be clearly demarcated.
- b. Bridges, culverts, dip crossings, or other structures must be installed so that water and in-stream sediment flow is not impeded. Appropriate design criteria, practices and materials must be used in areas where access roads intersect waters of the state.
- c. Temporary materials placed in any water of the state must be removed as soon as construction is completed at that location, and all temporary roads must be removed or re-contoured and restored according to approved re-vegetation and restoration plans.
- d. Any structure, including but not limited to, culverts, pipes, piers, and coffer dams, placed within a stream where fish (as defined in California Fish and Game Code section 45) exist or may exist, must be designed, constructed, and maintained such that it does not constitute a barrier to upstream or downstream movement of aquatic life, or cause an avoidance reaction by fish due to impedance of their upstream or downstream movement. This includes, but is not limited to, maintaining the supply of water and maintaining flows at an appropriate depth, temperature, and velocity to facilitate upstream and downstream fish migration. If any structure results in a long-term reduction in fish movement, the discharger shall be responsible for restoration of conditions as necessary (as determined by the Water Board) to secure passage of fish across the structure.

- e. A method of containment must be used below any temporary bridge, trestle, boardwalk, and/or other stream crossing structure to prevent any debris or spills from falling into the waters of the state. Containment must be maintained and kept clean for the life of the temporary stream crossing structure.

9. Sediment Control

- a. Except for activities permitted by the United States Army Corps of Engineers under Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act, soil, silt, or other organic materials shall not be placed where such materials could pass into surface water or surface water drainage courses.
- b. Silt fencing, straw wattles, or other effective management practices must be used along the construction zone to minimize soil or sediment along the embankments from migrating into the waters of the state through the entire duration of the Project.
- c. The use of netting material (e.g., monofilament-based erosion blankets) that could trap aquatic dependent wildlife is prohibited within the Project area.
- d. During Project construction, the Permittee shall implement reasonable and feasible practices to control erosion of mercury-containing soils and minimize discharges of mercury and methylmercury. The goal is to minimize erosion of the mercury-containing soils in order to protect beneficial uses in the Yolo Bypass and to reduce mercury and methylmercury loads moving downstream.

10. Special Status Species

Pacific lamprey, river lamprey, North American green sturgeon, Sacramento splittail, delta smelt, longfin smelt, chinook salmon, Central Valley steelhead, conservancy fairy shrimp, longhorn fairy shrimp, vernal pool fairy shrimp, vernal pool tadpole shrimp, valley elderberry longhorn beetle, Delta green ground beetle, Lange's metalmark butterfly, California red-legged frog, California tiger salamander, western pond turtle, California legless lizard, giant garter snake, redhead, least bittern, white-tailed kite, northern harrier, Swainson's hawk, golden eagle, California black rail, Ridgway's rail, greater sandhill crane, mountain plover, California least tern, western yellow-billed cuckoo, western burrowing owl, short-eared owl, loggerhead shrike, Least Bell's vireo, bank swallow, yellow warbler, salt marsh common yellowthroat, yellow-breasted chat, grasshopper sparrow, song sparrow, Suisun song sparrow, tricolored blackbird, yellow-headed blackbird, salt marsh harvest mouse, western red bat, San Joaquin kit fox, American badger, and California ringtail.

11. Stabilization/Erosion Control

- a. All areas disturbed by Project activities shall be protected from washout and erosion.
- b. Hydroseeding shall be performed with California native seed mix.

12. Storm Water

- a. During the construction phase, the Permittee must employ strategies to minimize erosion and the introduction of pollutants into storm water runoff. These strategies must include the following:
 - i. An effective combination of erosion and sediment control Best Management Practices (BMPs) must be implemented and adequately working prior to the rainy season and during all phases of construction.

H. Site Specific – Not Applicable**I. Total Maximum Daily Load (TMDL) – Not Applicable****J. Mitigation for Temporary Impacts**

1. The Permittee shall restore all areas of temporary impacts, including Project site upland areas, which could result in a discharge to waters of the state to pre-construction contours and conditions upon completion of construction activities as described in a restoration plan. The restoration plan shall be submitted for written acceptance by Central Valley Water Board staff within 90 days of issuance of this Order. The restoration plan shall provide the following: a schedule; plans for grading of disturbed areas to pre-project contours; planting palette with plant species native to the Project area; seed collection location; invasive species management; performance standards; and maintenance requirements (e.g. watering, weeding, and replanting).
2. The Central Valley Water Board may extend the monitoring period beyond requirements of the restoration plan upon a determination by Executive Officer that the performance standards have not been met or are not likely to be met within the monitoring period.
3. If restoration of temporary impacts to waters of the state is not completed within 360 days of the impacts, compensatory mitigation may be required to offset temporal loss of waters of the state.
4. Total required Project compensatory mitigation information for temporary impacts is summarized in Table 4. [Establishment (Est.), Re-establishment (Re-est.), Rehabilitation (Reh.), Enhancement (Enh.), Preservation (Pres.), Unknown].

Table 4: Required Project Mitigation Quantity for Temporary Impacts by Method

| Aquatic Resource Type | Mitigation Type | Units | Est. | Re-est. | Reh. | Enh. | Pres. | Unknown |
|-----------------------|-----------------------|-------|------|---------|------|------|-------|---------|
| Stream Channel | Permittee Responsible | Acres | | 350.1 | | | | |
| Wetland | Permittee Responsible | Acres | | 1,056.4 | | | | |

K. Compensatory Mitigation for Permanent Impacts:

Compensatory Mitigation is for permanent physical loss and permanent ecological degradation of a water of the state.

1. Final Compensatory Mitigation Plan – Not Applicable
2. Compensatory Mitigation Plan – Not Applicable
3. Irrevocable Letter of Credit – Not Applicable
4. Permittee-Responsible Compensatory Mitigation Responsibility – Not Applicable
5. Purchase of Mitigation Credits by Permittee for Compensatory Mitigation – Not Applicable
6. Total Required Compensatory Mitigation – Not Applicable

L. Ecological Restoration and Enhancement

The quantity of waters of the state permanently gained by the Project is shown in Table 5.

Table 5: Total Ecological Restoration and Enhancement Quantity

| Aquatic Resource Type | Restoration Type | Units | Est. | Re-est. | Reh. | Enh. | Pres. | Unknown |
|-----------------------|-----------------------|-------|-------|---------|------|------|-------|---------|
| Stream Channel | Permittee-Responsible | Acres | 123.2 | | | | | |

M. Certification Deviation

1. Minor modifications of Project locations or predicted impacts may be necessary as a result of unforeseen field conditions, necessary engineering re-design, construction concerns, or similar reasons. Some of these prospective Project modifications may have impacts on water quality. Some modifications of Project locations or predicted impacts may qualify as

Certification Deviations as set forth in Attachment F. For purposes of this Certification, a "Certification Deviation" is a Project locational or impact modification that does not require an immediate amendment of the Order, because the Central Valley Water Board has determined that any potential water quality impacts that may result from the change are sufficiently addressed by the Order conditions and the CEQA Findings. After the termination of construction, this Order will be formally amended to reflect all authorized Certification Deviations and any resulting adjustments to the amount of water resource impacts and required compensatory mitigation amounts.

2. A Project modification shall not be granted a Certification Deviation if it warrants or necessitates changes that are not addressed by the Order conditions or the CEQA environmental document such that the Project impacts are not addressed in the Project's environmental document or the conditions of this Order. In this case a supplemental environmental review and different Order will be required.

XV. Water Quality Certification

I hereby issue the Order for the Prospect Island Tidal Habitat Restoration Project, WDID# 5A48CR00156, certifying that as long as all of the conditions listed in this Order are met, any discharge from the referenced Project will comply with the applicable provisions of Clean Water Act sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards).

The Central Valley Water Board will file a Notice of Determination (NOD) at the SCH within five (5) working days of issuance of this Order.

Except insofar as may be modified by any preceding conditions, all Order actions are contingent on: (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the conditions of this Order and the attachments to this Order; and, (b) compliance with all applicable requirements of Statewide Water Quality Control Plans and Policies, the Regional Water Boards' Water Quality Control Plans and Policies.

Original Signed By Adam Laputz for:

Patrick Pulupa, Executive Officer
Central Valley Regional Water Quality Control Board

- Attachment A:** Project Maps
- Attachment B:** Receiving Waters, Impacts, and Mitigation Information
- Attachment C:** CEQA Findings of Facts
- Attachment D:** Report and Notification Requirements
- Attachment E:** Signatory Requirements
- Attachment F:** Certification Deviation Procedures

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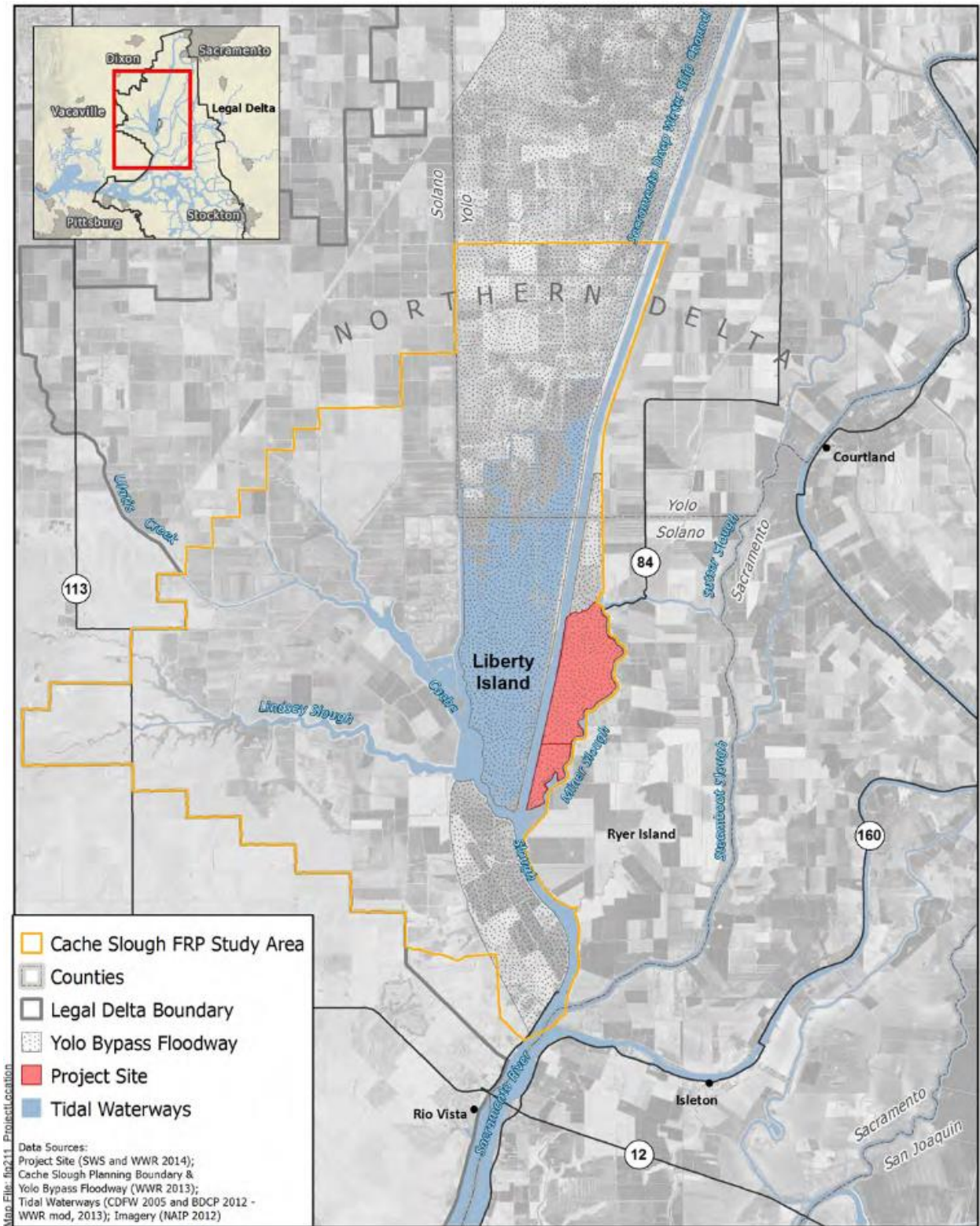


Figure 1 – Project Location Map

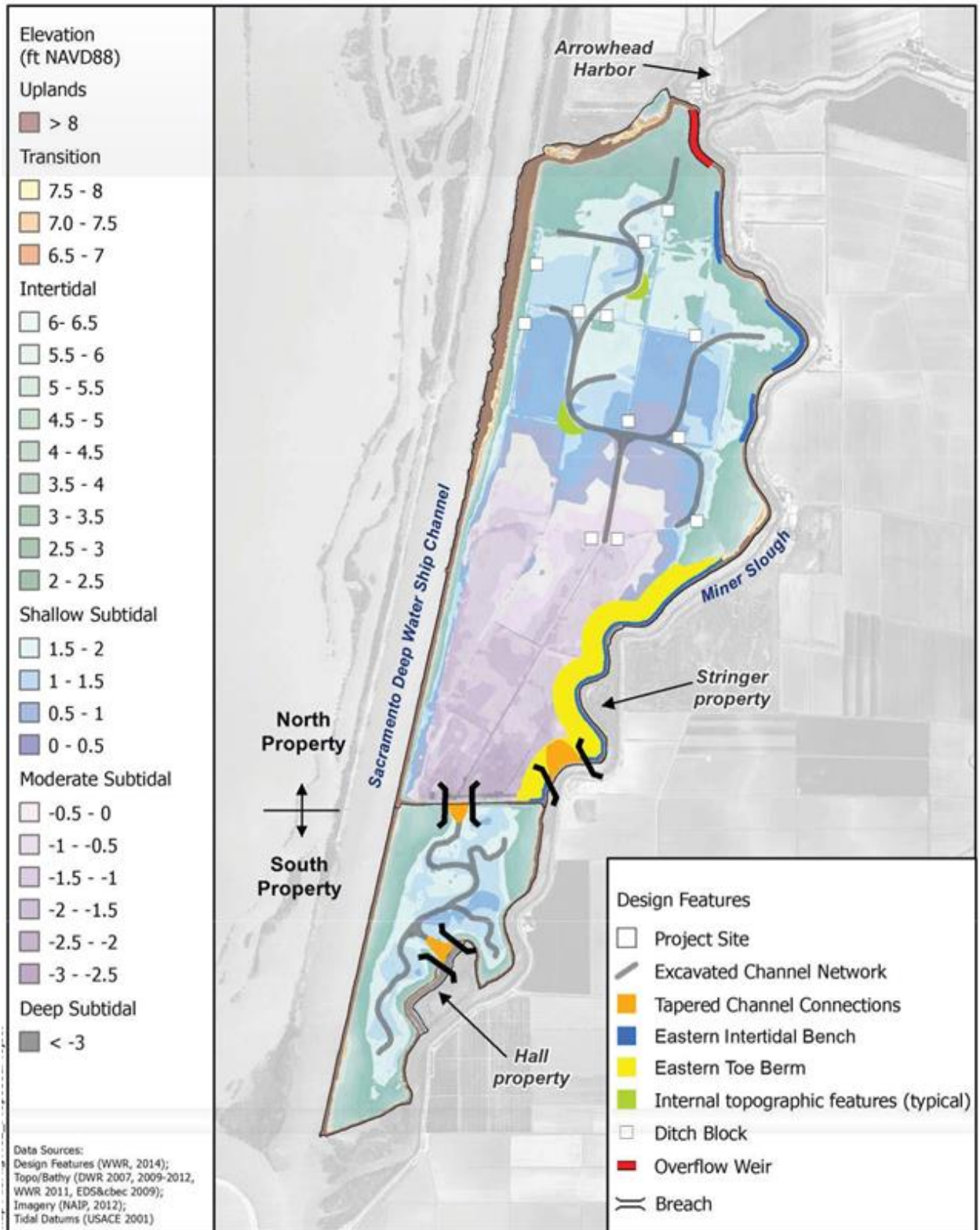


Figure 2 – Site Impact Map

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Receiving Waters, Impacts and Mitigation Information

The following table shows the receiving waters associated with each impact site.

Table 1: Receiving Water(s) Information

| Impact Site ID | Waterbody Name | Impacted Aquatic Resources Type | Water Board Hydrologic Units | Receiving Waters | Receiving Waters Beneficial Uses | 303d Listing Pollutant | California Rapid Assessment Method ID |
|----------------|---------------------------------------------------------|---------------------------------|-----------------------------------------|------------------------------|---------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|---------------------------------------|
| Wetland | Unnamed tributaries to the Sacramento-San Joaquin Delta | Wetland | 510.00 Sacramento Delta Hydrologic Unit | Sacramento San Joaquin Delta | MUN, AGR, PROC, IND, REC-1, REC-2 WARM, COLD, MIGR, SPWN, WILD, NAV | Chlordane, Chlorpyrifos, DDT, Diazinon, Dieldrin, Group A Pesticides, Invasive Species, Mercury, PCBs, Toxicity | N/A |
| Stream Channel | Miner Slough, Cache Slough, and Sacramento River | Stream Channel | 510.00 Sacramento Delta Hydrologic Unit | Sacramento San Joaquin Delta | MUN, AGR, PROC, IND, REC-1, REC-2 WARM, COLD, MIGR, SPWN, WILD, NAV | Chlordane, Chlorpyrifos, DDT, Diazinon, Dieldrin, Group A Pesticides, Invasive Species, Mercury, PCBs, Toxicity | N/A |

Individual Direct Impact Locations

The following tables show individual impacts.

Table 2: Individual Temporary Fill/Excavation Impact Information

| Impact Site ID | Latitude | Longitude | Indirect Impact Requiring Mitigation? | Acres | Cubic Yards | Linear Feet |
|----------------|-------------|--------------|---------------------------------------|---------|-------------|-------------|
| Wetland | 38.266015°N | 121.655746°W | No | 350.1 | | |
| Stream Channel | 38.266015°N | 121.655746°W | No | 1,056.4 | | |

Table 3: Individual Permanent Fill/Excavation Impact Information

| Impact Site ID | Latitude | Longitude | Indirect Impact Requiring Mitigation? | Acres | Cubic Yards | Linear Feet |
|----------------|-------------|--------------|---------------------------------------|-------|-------------|-------------|
| Stream Channel | 38.266015°N | 121.655746°W | No | 44.1 | | |

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A. Environmental Review

On 19 August 2019, the Department of Water Resources, as lead agency, certified a Final Environmental Impact Report (FEIR) (State Clearinghouse (SCH) No. 2013052056) for the Project and filed a Notice of Determination (NOD) at the SCH on 19 August 2019. The Central Valley Water Board is a responsible agency under CEQA (Public Resources Code, section 21069) and in making its determinations and findings, must presume that the Department of Water Resources' certified environmental document comports with the requirements of CEQA and is valid. (Public Resources Code, section 21167.3). The Central Valley Water Board has reviewed and considered the environmental document and finds that the environmental document prepared by the Department of Water Resources addresses the Project's water quality impacts. (California Code of Regulations, Title 14, section 15096, subd. (f).) The environmental document includes the mitigation monitoring and reporting program (MMRP) developed by the Department of Water Resources for all mitigation measures that have been adopted for the Project to reduce potential significant impacts. (Public Resources Code, section 21081.6, subd. (a)(1); California Code of Regulations, Title 14, section 15091, subd. (d).)

B. Incorporation by Reference

Pursuant to CEQA, these Findings of Facts (Findings) support the issuance of this Order based on the Project FEIR, the application for this Order, and other supplemental documentation.

All CEQA project impacts, including those discussed in subsection C below, are analyzed in detail in the Project FEIR which is incorporated herein by reference. The Project FEIR is available at: 3500 Industrial Blvd., 2nd Floor, West Sacramento, CA 95691.

Requirements under the purview of the Central Valley Water Board in the MMRP are incorporated herein by reference.

The Permittee's application for this Order, including all supplemental information provided, is incorporated herein by reference.

C. Findings

The FEIR describes the potential significant environmental effects to water quality. Having considered the whole of the record, including comments received after the public review process, the Central Valley Water Board makes the following findings:

- (1) Findings regarding impacts that will be mitigated to a less than significant level. (Public Resources Code, section 21081, subd. (a)(1); California Code of Regulations, Title 14, section 15091, subd. (a)(1).)

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.

a.i. Potential Significant Impact:

The Project will result in less than significant impacts with mitigation to short-term construction-related water quality impacts such as increases in turbidity and/or mobilization of contaminants from dredging and excavation of levee breaches, and effects from application of aquatic herbicides.

a.ii. Facts in Support of Finding:

Mitigation Measure 3.2-1.1

A site dewatering plan shall be developed by the construction contractor and submitted to Department of Water Resources (DWR) for approval prior to commencement of construction activities. The site dewatering plan shall include items such as the following:

1. Detailed description of work to be performed to control surface water at the Project site.
2. Detailed description of methods, installation and details of the dewatering systems proposed to be used.
3. Drawings showing the detailed layout of dewatering systems including pumps, ditches, berms, discharge lines, BMPs, and barriers to shield or divert flow.
4. Supporting design information including design calculations prepared by a California Registered Civil Engineer, type of systems, sizes, capacities, proposed number and layout of pumps, depths, filters, other needed equipment, and power supply.
5. Information related to backup pumping systems, backup power systems, and warning systems to protect against power failure, system failure, and high groundwater.
6. Information related to operation, maintenance, monitoring, removal, decommissioning pumps, and system abandonment procedures.
7. Information related to discharge, including methods to monitor turbidity and water treatment if necessary.
8. Provisions for handling significant rainfall events (greater than 0.5 in predicted in a 24-hour period as described in the SWPPP). This shall also include procedures to be followed prior to the forecasted significant rain events.
9. Provisions for handling emergency situations such as power outages, equipment failures, pumping system shutdowns and the proposed response.

10. Information on schedule and sequencing of dewatering activities.
11. Information on dewatering operations shall be coordinated with other construction operations including placement of compacted soil, removal and placement of pipe, and other miscellaneous items.

Mitigation Measure 3.2-1.2

Upland areas of the Project associated with staging activities shall be covered by a SWPPP. All contractors working in a capacity that could increase the potential for adverse water quality impacts would receive training regarding the need to minimize impacts. Contractors would also be familiar with general storm water construction-site BMPs for the protection of water quality. The SWPPP may include, but would not be limited to, the following:

1. Use of vegetated buffers, hay wattles or bales, sandbags, silt screens, or other erosion control measures to intercept runoff from construction, excavation, or staging areas to adjacent waterbodies.
2. BMPs for staging of construction supplies and waste management.

Mitigation Measure 3.2-1.3

A Spill Prevention, Control, and Response Plan shall be developed by the construction contractor and submitted to DWR for approval prior to commencement of construction activities. Spill prevention and cleanup kits, equipment, and materials shall always be in close proximity to locations of hazardous materials (e.g., at fueling and staging areas) and conveniently located to allow rapid response. Prior to entering the work site, all field personnel would be informed of the location of the spill prevention and cleanup kits and appropriately trained in spill prevention, hazardous material control, and spill cleanup. The work site would be routinely inspected to verify that the Plan is properly implemented. The Plan would include:

1. A vehicle inspection and fueling plan.
2. BMPs for spill prevention and containment.
3. Locations and uses of spill prevention materials, cleanup kits, and equipment.
4. Qualification and reporting requirements for a federal reportable spill (CFR, Title 40, Section 110) including contact information for the Central Valley Water Board and the California DTSC.

Mitigation Measure 3.2-2.1

1. Appropriate turbidity control measures (e.g., silt curtains) shall be required during all dredging operations. Selection of appropriate turbidity control measures would consider tidal forces in Miner Slough and would be designed to be robust and effective. Turbidity measures would be in place 1–2 days prior to commencement of dredging operations and would be

positioned slightly above the bottom sediments allowing aquatic species to escape entrapment.

2. The cycle time of the ascending loaded dredging bucket shall be limited to a velocity that reduces the potential to wash sediment out of the bucket.
3. The number of bites performed per cycle shall be limited to one to reduce sediment re-suspension from opening and closing the dredging bucket.

Mitigation Measure 3.2-3.1

BMPs shall be employed in order to minimize potential impacts to water quality from accidental spills. All contractors working shall receive training regarding the need to minimize impacts. Contractors shall be experienced and compliant in the environmentally safe application of herbicides. BMPs shall include, but not be limited to, the following:

1. Areas for storage, mixing, and loading of herbicides shall be located where accidental spills to nearby waterbodies cannot occur.
2. Applicators shall be trained in proper spill response, and rapidly report any spill to the appropriate agencies.
3. Applicators shall maintain on-site (near herbicide storage and loading equipment) appropriate initial spill-response items (e.g., absorbent materials).

Mitigation Measure 3.2-3.2

In order to minimize off-target spray drift and impacts to water quality from herbicide application, aerial pesticide application by helicopter shall be preferred (over fixed wing aircraft). In addition, all appropriate, standard BMPs for aerial application of pesticides shall be followed, including but not limited to, the following:

1. Applicators shall develop an application plan—including maps of the Project site showing general spotter and flight plans with application areas clearly indicated—to be approved by the Lead Agency, before any application of herbicides.
2. Applicators shall adhere strictly to proper mixing and application guidelines as presented on herbicide labels and in product instructions.
3. Application of herbicides on levee vegetation shall not take place by air and otherwise avoided unless necessary, when it would be executed using spot application techniques.
4. Herbicide application by air shall only take place during the in-water work window from July 1 to October 31 of any one year, in order to reduce potential impacts to migrating fish species of concern.
5. Applicators shall maintain records of herbicide applications—including dates, times, weather conditions, amount of herbicide applied, problems

experienced, etc.—in addition to or as required by federal, state, and/or local agencies.

6. Spraying shall at all times be halted when flying over levees, adjacent waterbodies (e.g., Miner Slough, DWSC), and agricultural fields.
 7. Aerial application would occur only during light winds, non-gusty, relatively cool weather conditions.
 8. Application would involve the use of appropriate spray nozzles, nozzle configurations, and nozzle orientations that minimize atomization of herbicide mixtures and production of fine droplets that tend to drift.
 9. Herbicide tanks would not be operated at excessively high pressures.
 10. If conditions require the use of aerial spray by fixed-wing aircraft, pilots shall be instructed to include an appropriate spray buffer (in addition to the width of the levee) where, to the extent possible, no herbicides would be directly applied (subject to overriding safety concerns).
- (2) Findings regarding mitigation measures which are the responsibility of another agency. (Public Resources Code, section 21081, subd. (a)(2); California Code of Regulations, Title 14, section 15091, subd. (a)(2)).

There are changes or alterations that are within the responsibility and jurisdiction of another public agency and not the jurisdiction of the Central Valley Water Board. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

a.i. Potential Significant Impact:

The Project will result in less than significant impacts with mitigation to aquatic biological resources, and wetland and terrestrial biological resources.

a.ii. Facts in Support of Finding:

Aquatic Biological Resources

Mitigation Measure 3.3-3.1

Pile driving activities shall be conducted using vibratory hammers, where feasible, to minimize sound attenuation from pile driving activities. If in-water pile driving activities become necessary, underwater sound monitoring shall be performed to ensure that peak sound pressure does not exceed 206 decibels and accumulated sound exposure level does not exceed 187 decibels at 10 meters. If work is performed at a time when special-status fish less than 2 grams are expected near the Project site, accumulated sound exposure levels shall not exceed 183 decibels at 10 meters. Underwater sound reduction measures shall be implemented as needed to ensure that sound levels do not exceed the above thresholds. Sound reduction measures may include impact cushions, pipe caissons, bubble curtains, fabric barriers, and limiting operational hours and impact frequency.

Mitigation Measure 3.3-3.2

DWR shall consult with CDFW and United States Fish and Wildlife Service (USFWS) before conducting any in-water work during the month of July. DWR shall determine the extent of Delta Smelt presence in the Cache Slough Complex and Miner Slough by evaluating catch and distribution data from CDFW's 20 mm Survey and Summer Townet Survey. The results shall be sent to USFWS and CDFW representatives to determine the extent of allowable in-water work.

20 mm Survey Stations 724 and 726 are located in Miner Slough at the lower and upper ends of Prospect Island and shall be used to determine Delta Smelt abundance in Miner Slough during July construction activities. Summer Townet Survey Station 715, just downstream of Miner Slough in Cache Slough; Station 723, just upstream from Miner Slough in the DWSC; and Station 716, just upstream from Miner Slough in Lindsey Slough, shall be used to determine Delta Smelt abundance in the vicinity of Miner Slough when the 20 mm Survey is not active.

Mitigation Measure 3.3-7.1:

To minimize mortality due to the dewatering process, a Fish Rescue Plan shall be prepared by DWR for approval by state and federal fish agencies (CDFW, USFWS, National Marine Fisheries Service (NMFS)). Development of the Fish Rescue Plan shall include consideration of numerous sampling methods (seines, electrofishing, traps) and events, performed during and potentially after initial site dewatering. Fish would be captured alive and transported to nearby suitable habitat for release. The fish rescue would occur under the direction of CDFW.

Wetland and Terrestrial Biological Resources

Mitigation Measure 3.4-3.1

Potential short-term impacts to individual high value trees for nesting and roosting would be minimized during final design by avoidance and protection measures, as specified in Mitigation Measures 3.4-14.1 and 3.4-17.1. A map of high value trees for nesting to be protected will be made available to on-site construction management.

Mitigation Measure 3.4-4.1

Mitigation shall include conducting pre-construction surveys for special-status plants. If special-status plants are found within the affected footprint, preservation methods such as transplantation, salvage, or seed collection and dispersal would be considered and shall be implemented if deemed necessary to avoid a significant impact to the local population through consultation with CDFW. Herbicide application practices shall include following all application recommendations for the herbicide to be applied, and

refraining from applying product under wind conditions which would increase the likelihood for drift.

Mitigation Measure 3.4-10.1

This mitigation measure includes the following:

1. Require construction personnel to receive USFWS and CDFW-approved worker environmental awareness training to recognize giant garter snake and its habitat.
2. Install exclusion fencing around all staging areas.
3. Survey the site at least 24 hours prior to the initiation of ground-disturbing activities in suitable giant garter snake habitat. This survey shall be conducted by a USFWS and CDFW-approved biologist in suitable giant garter snake habitat. Surveys shall be repeated if a lapse in construction activity of two weeks or greater occurs. If giant garter snake is encountered during ground-disturbing activities, activities at that specific location shall cease until appropriate corrective measures, in concurrence with USFWS and CDFW coordination, have been completed or it has been determined that individual giant garter snakes would not be harmed. Sightings shall be reported to USFWS and CDFW.
4. Implement ground disturbing construction activity within giant garter snake habitat between May 1 and October 1. This is the active period for giant garter snake and direct mortality is lessened, because giant garter snakes are expected to actively move and avoid danger. DWR would contact the USFWS and CDFW to determine if additional measures are necessary to minimize and avoid take for work between October 2 and April 30.
5. Vehicle speeds shall not exceed 15 miles per hour (MPH) to avoid hitting giant garter snakes and other special-status wildlife.
6. Remove temporary fill and construction debris after construction completion, and, wherever feasible, restore disturbed areas to pre- Project conditions.

Mitigation Measure 3.4-12.1

Prior to implementing restoration activities and/or scheduled dewatering, a qualified biologist would survey areas in or adjacent to suitable western pond turtle aquatic habitat. Western pond turtles found in harm's way would be moved by a qualified biologist to a safe location outside of the work area in a manner consistent with applicable CDFW regulations. A qualified biologist would conduct periodic monitoring of suitable western pond turtle aquatic habitat until ground-disturbing/dewatering activities have ceased in those areas.

Mitigation Measure 3.4-14.1

In order to minimize potential construction related impacts to special-status and migratory birds over the construction period, this mitigation measure includes the following:

1. Site preparation and construction activities should take place outside of nesting season (February 15– August 15) to avoid take via disturbance or destruction of nests or mortality of individuals. If work begins before this period and continues uninterrupted throughout the nesting season, the consistent disturbance may deter birds from nesting at the site and prevent take.
2. If work must take place during March 15 – August 15, a pre-construction survey would be conducted within 14 days prior to the initiation of construction activity by a qualified biologist to identify nesting Swainson’s Hawks within 0.5 mi of the construction footprint. If active Swainson’s Hawk nests are found, appropriate non-disturbance buffers and avoidance measures would be developed in coordination with CDFW to avoid disturbance of nesting Swainson’s Hawks based on individual bird behavior and construction-related disturbance that occurs. Surveys shall be repeated if a lapse in construction of 14 days or greater occurs. Surveys would be repeated annually if work takes place during subsequent nesting seasons.
3. If work must take place during April 1–August 31, a pre-construction survey would be conducted within 14 days prior to the initiation of construction activity to identify nesting raptors within 500 ft, and other nesting birds within 100 ft of the construction footprint. Appropriate non-disturbance buffers would be established until nestlings have fledged. Surveys shall be repeated if a lapse in construction of 14 days or greater occurs during the nesting season. Surveys would be repeated annually if work takes place during subsequent nesting seasons.
4. If work must take place during March 15–August 15 and use of non-disturbance buffers is infeasible, a qualified biologist shall be on-site to monitor active nests. Monitoring requirements would be established in coordination with CDFW. Monitors would have authority to stop work if it appears that Swainson’s Hawk nests are disturbed by construction activity, and CDFW would be contacted for further guidance.
5. Remove or trim the minimal number of trees to satisfy the Project design. Trimming and removal would take place August 15 to February 15, outside of nesting season.
6. If construction activity results in take of individual birds or their nests, appropriate mitigation would be determined in coordination with CDFW.
7. Vehicle speed limits shall not exceed 15 MPH to avoid striking birds.

8. Remove temporary fill and construction debris after construction completion, and, wherever feasible, restore disturbed areas to pre-project conditions.

Mitigation Measure 3.4-17.1

In order to minimize potential construction related impacts to western red bats over the construction period, this mitigation measure includes the following:

1. Confine clearing of vegetation to only those areas necessary to facilitate construction activities and no greater.
 2. A pre-construction survey shall be conducted by a qualified biologist to identify roosting western red bats during the maternity season (May through August). If roosting bats are present, construction activities that involve the removal of mature riparian trees, snags, and remnant structures suitable for roosting shall be timed to avoid bat maternity season (May through August).
 3. Wherever feasible the Project design and implementation would avoid potential roosting habitat especially large mature trees like cottonwood and sycamore.
 4. Coordinate with CDFW on measures to minimize impacts to individuals.
- (3) Findings regarding significant water quality or supply impacts being authorized due to specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers that cannot feasibly be mitigated to a less than significant level. (Public Resources Code, section 21081, subd. (a)(3); California Code of Regulations, Title 14, section 15091, subd. (a)(3).)

Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the FEIR.

a.i. Significant Effects:

The Project will result in significant and unavoidable short-term impacts to perennial aquatic habitats and wetland communities from site preparation.

a.ii. Facts in Support of Finding:

DWR, in determining whether or not to approve the Project, balanced the biological, water quality, human health, and geological benefits against the unavoidable short-term impact to perennial aquatic habitats and wetland communities and finds that the Project cannot be implemented in a way that accomplishes the fundamental project purpose or any of the specific objectives of the Project without resulting in the significant and unavoidable impact. Based on the following determinations, DWR finds that the significant and unavoidable short-term environmental impact to perennial aquatic

habitats and wetland communities is acceptable because the long-term ecological benefits of the Project far outweigh the significant and unavoidable short-term ecological impact. In the long-term, the Project would have net beneficial ecological and other effects.

DWR also finds that:

- The habitat restoration activities of the Project would restore tidal connection to Prospect Island, in partial fulfillment of the 8,000-acre tidal habitat restoration obligations of DWR contained within Reasonable and Prudent Alternative (RPA) 4 of the United States Fish and Wildlife Service Delta Smelt Biological Opinion for long-term coordinated operations of the State Water Project (SWP) and the federal Central Valley Project (CVP) (USFWS 2008). Because salmonid rearing habitat would be restored, it would also be consistent with RPA I.6.1 of the NMFS Salmonid Biological Opinion for the SWP and CVP operations (NMFS 2009).
- DWR must operate in a complex regulatory environment, conforming to multiple federal and state requirements that sometimes conflict. In many respects, DWR is required by Federal or State laws to take certain actions, including the aforementioned tidal habitat restoration obligations, and noncompliance is not a legally feasible option.
- The Project would have significant long-term benefits to aquatic, terrestrial (western pond turtle), and avian (foraging and migratory birds) biological resources by restoring tidal habitat and improving seasonal water temperatures for aquatic species. The Project would have beneficial effects to human health by reducing environmental hazards. Beneficial geological impacts would also help to reverse existing land subsidence, offset future subsidence, and promote resiliency.
- The only significant and unavoidable environmental impact assessed is short-term, concerning impacts to perennial aquatic habitats and wetland communities from site dewatering necessary to allow construction access and invasive aquatic plant species control.

D. Statement of Overriding Considerations

The Department of Water Resources FEIR identifies certain significant impacts to the environment that cannot be avoided or substantially lessened with the application of feasible mitigation measures or feasible alternatives. Because there are significant and unavoidable impacts the Central Valley Water Board provides this Statement of Overriding Considerations in compliance with CEQA. (Public Resources Code, section 21081, subd (b); California Code of Regulations, Title 14, section 15093.)

The significant and unavoidable impacts and the benefits related to implementing the Prospect Island Tidal Habitat Restoration Project are disclosed in the Department of Water Resources FEIR, CEQA Findings of Fact, and Statement of

Overriding Considerations. The unavoidable impacts to water quality are discussed in subsection C above.

The Central Valley Water Board has considered the economic, legal, social, technological, and other benefits of the Project against its significant unavoidable impacts to water quality and finds that the specific economic, legal, social, and technological benefits of implementing the Project outweigh the significant and unavoidable impacts to water quality.

E. Determination

The Central Valley Water Board has reviewed and considered the environmental document and supplemental information provided by the Department of Water Resources and has reached its own conclusion to approve this Project. The Central Valley Water Board will file a NOD with the SCH within five (5) working days from the issuance of this Order. (California Code of Regulations, Title 14, section 15096.)

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REPORTS AND NOTIFICATION REQUIREMENTS

I. Report Submittal Instructions

- A.** Check the box on the Report and Notification Cover Sheet next to the report or notification you are submitting. **(See your Order for specific reports required for your Project)**
- **Part A (Monthly & Annual Reports):** These reports will be submitted monthly and annually until a Notice of Project Complete Letter is issued.
 - **Part B (Project Status Notifications):** Used to notify the Central Valley Water Board of the status of the Project schedule that may affect Project billing.
 - **Part C (Conditional Notifications and Reports):** Required on a case by case basis for accidental discharges of hazardous materials, violation of compliance with water quality standards, notification of in-water work, or other reports.
- B.** Sign the Report and Notification Cover Sheet and attach all information requested for the Report Type.
- C.** Electronic Report Submittal Instructions:
- Submit signed Report and Notification Cover Sheet and required information via email to: centralvalleysacramento@waterboards.ca.gov and cc: Angela.Nguyen-Tan@waterboards.ca.gov
 - Include in the subject line of the email:
ATTN: Angela Nguyen-Tan; Project Name; and WDID No. 5A48CR00156

II. Definition of Reporting Terms

- A. Active Discharge Period:** The active discharge period begins with the effective date of this Order and ends on the date that the Permittee receives a Notice of Completion of Discharges Letter or, if no post-construction monitoring is required, a Notice of Project Complete Letter. The Active Discharge Period includes all elements of the Project including site construction and restoration, and any Permittee responsible compensatory mitigation construction.
- B. Request for Notice of Completion of Discharges Letter:** This request by the Permittee to the Central Valley Water Board staff pertains to projects that have post construction monitoring requirements, e.g. if site restoration was required to be monitored for 5 years following construction. Central Valley Water Board staff will review the request and send a Completion of Discharges Letter to the Permittee upon approval. This letter will initiate the post-discharge monitoring period and a change in fees from the annual active discharge fee to the annual post-discharge monitoring fee.
- C. Request for Notice of Project Complete Letter:** This request by the Permittee to the Central Valley Water Board staff pertains to projects that either have completed post-construction monitoring and achieved performance standards or have no post-construction monitoring requirements, and no further Project activities are planned. Central Valley Water Board staff will review the request and send a Project Complete Letter to the Permittee upon approval. Termination of annual invoicing of fees will correspond with the date of this letter.
- D. Post-Discharge Monitoring Period:** The post-discharge monitoring period begins on the date of the Notice of Completion of Discharges Letter and ends on the date of the Notice of Project Complete Letter issued by the Central Valley Water Board staff. The Post-Discharge Monitoring Period includes continued water quality monitoring or compensatory mitigation monitoring.
- E. Effective Date:** 30 October 2020

IV. Map/Photo Documentation Information

When submitting maps or photos, please use the following formats.

A. Map Format Information:

Preferred map formats of at least 1:24000 (1" = 2000') detail (listed in order of preference):

- **GIS shapefiles:** The shapefiles must depict the boundaries of all project areas and extent of aquatic resources impacted. Each shape should be attributed with the extent/type of aquatic resources impacted. Features and boundaries should be accurate to within 33 feet (10 meters). Identify datum/projection used and if possible, provide map with a North American Datum of 1983 (NAD83) in the California Teale Albers projection in feet.

- **Google KML files** saved from Google Maps: My Maps or Google Earth Pro. Maps must show the boundaries of all project areas and extent/type of aquatic resources impacted. Include URL(s) of maps. If this format is used include a spreadsheet with the object ID and attributed with the extent/type of aquatic resources impacted.
 - **Other electronic format** (CAD or illustration format) that provides a context for location (inclusion of landmarks, known structures, geographic coordinates, or USGS DRG or DOQQ). Maps must show the boundaries of all project areas and extent/type of aquatic resources impacted. If this format is used include a spreadsheet with the object ID and attributed with the extent/type of aquatic resources impacted.
 - Aquatic resource maps marked on paper **USGS 7.5-minute topographic maps** or **Digital Orthophoto Quarter Quads (DOQQ)** printouts. Maps must show the boundaries of all project areas and extent/type of aquatic resources impacted. If this format is used include a spreadsheet with the object ID and attributed with the extent/type of aquatic resources impacted.
- B. Photo-Documentation:** Include a unique identifier, date stamp, written description of photo details, and latitude/longitude (in decimal degrees) or map indicating location of photo. Successive photos should be taken from the same vantage point to compare pre/post construction conditions.

V. Report and Notification Cover Sheet

Project: Prospect Island Tidal Habitat Restoration Project
Permittee: Department of Water Resources
WDID: 5A48CR00156
Reg. Meas. ID: 420854
Place ID: 846437
Order Effective Date: 30 October 2020
Order Expiration Date: 29 October 2025

VI. Report Type Submitted

A. Part A – Project Reporting

Report Type 1 Monthly Report
Report Type 2 Annual Report

B. Part B – Project Status Notifications

Report Type 3 Commencement of Construction
Report Type 4 Request for Notice of Completion of Discharges Letter
Report Type 5 Request for Notice of Project Complete Letter

C. Part C – Conditional Notifications and Reports

Report Type 6 Accidental Discharge of Hazardous Material Report
Report Type 7 Violation of Compliance with Water Quality Standards Report
Report Type 8 In-Water Work/Diversions Water Quality Monitoring Report
Report Type 9 Modifications to Project Report
Report Type 10 Transfer of Property Ownership Report
Report Type 11 Transfer of Long-Term BMP Maintenance Report

“I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.”

Print Name¹

Affiliation and Job Title

Signature

Date

¹STATEMENT OF AUTHORIZATION (include if authorization has changed since application was submitted)

I hereby authorize _____ to act in my behalf as my representative in the submittal of this report, and to furnish upon request, supplemental information in support of this submittal.

Permittee's Signature

Date

***This Report and Notification Cover Sheet must be signed by the Permittee or a duly authorized representative and included with all written submittals.**

A. Part A – Project Reporting

1. Report Type 1 - Monthly Report

- a. Report Purpose** - Notifies Central Valley Water Board staff of the Project status and environmental compliance activities on a monthly basis.
- b. When to Submit** - On the 1st day of each month after the submittal of the Commencement of Construction Notification until a Notice of Project Complete Letter is issued to the Permittee.
- c. Report Contents** -
 - i. Construction Summary
Describe Project progress and schedule including initial ground disturbance, site clearing and grubbing, road construction, site construction, and the implementation status of construction storm water Best Management Practices (BMPs). Best Management Practices (BMPs) is a term used to describe a type of water pollution or environmental control. If construction has not started, provide estimated start date.
 - ii. Event Summary
Describe distinct Project activities and occurrences, including environmental monitoring, surveys, and inspections.
 - iii. Photo Summary
Provide photos of Project activities. For each photo, include a unique site identifier, date stamp, written description of photo details, and latitude/longitude (in decimal degrees) or map indicating location of photo. Successive photos should be taken from the same vantage point to compare pre/post construction conditions.
 - iv. Compliance Summary
 - List name and organization of environmental surveyors, monitors, and inspectors involved with monitoring environmental compliance for the reporting period.
 - List associated monitoring reports for the reporting period.
 - Summarize observed incidences of non-compliance, compliance issues, minor problems, or occurrences.
 - Describe each observed incidence in detail. List monitor name and organization, date, location, type of incident, corrective action taken (if any), status, and resolution.

2. Report Type 2 - Annual Report

- a. **Report Purpose** - Notify the Central Valley Water Board staff of Project status during both the active discharge and post-discharge monitoring periods.
- b. **When to Submit** - Annual reports shall be submitted each year on the 1st day of December. Annual reports shall continue until a Notice of Project Complete Letter is issued to the Permittee.
- c. **Report Contents** - The contents of the annual report shall include the topics indicated below for each project period. Report contents are outlined in Annual Report Topics below.

During the Active Discharge Period

- **Topic 1: Construction Summary**
- **Topic 2: Mitigation for Temporary Impacts Status**

During the Post-Discharge Monitoring Period

- **Topic 2: Mitigation for Temporary Impacts Status**

i. Annual Report Topic 1 - Construction Summary

When to Submit - With the annual report during the Active Discharge Period.

Report Contents - Project progress and schedule including initial ground disturbance, site clearing and grubbing, road construction, site construction, and the implementation status of construction storm water best management practices (BMPs). If construction has not started, provide estimated start date and reasons for delay.

- 1) Map showing general Project progress.
- 2) If applicable:
 - a) Summary of Conditional Notification and Report Types 6 and 7 (Part C below).
 - b) Summary of Certification Deviations. See Certification Deviation Attachment for further information.

ii. Annual Report Topic 2 - Mitigation for Temporary Impacts Status

When to Submit - With the annual report during both the Active Discharge Period and Post-Discharge Monitoring Period.

Report Contents -

- 1) Planned date of initiation and map showing locations of mitigation for temporary impacts to waters of the state and all upland areas of

temporary disturbance which could result in a discharge to waters of the state.

- 2) If mitigation for temporary impacts has already commenced, provide a map and information concerning attainment of performance standards contained in the restoration plan.

B. Part B – Project Status Notifications

1. Report Type 3 - Commencement of Construction

- a. **Report Purpose** - Notify Central Valley Water Board staff prior to the start of construction.
- b. **When to Submit** - Must be received at least seven (7) days prior to start of initial ground disturbance activities.
- c. **Report Contents** -
 - i. Date of commencement of construction.
 - ii. Anticipated date when discharges to waters of the state will occur.
 - iii. Project schedule milestones including a schedule for onsite compensatory mitigation, if applicable.
 - iv. Construction Storm Water General Permit WDID No.

2. Report Type 4 - Request for Notice of Completion of Discharges Letter

- a. **Report Purpose** - Notify Central Valley Water Board staff that post-construction monitoring is required and that active Project construction, including any mitigation and permittee responsible compensatory mitigation, is complete.
- b. **When to Submit** - Must be received by Central Valley Water Board staff within thirty (30) days following completion of all Project construction activities.
- c. **Report Contents** -
 - i. Status of storm water Notice of Termination(s), if applicable.
 - ii. Status of post-construction storm water BMP installation.
 - iii. Pre- and post-photo documentation of all Project activity sites where the discharge of dredge and/or fill/excavation was authorized.
 - iv. Summary of Certification Deviation discharge quantities compared to initial authorized impacts to waters of the state, if applicable.
 - v. An updated monitoring schedule for mitigation for temporary impacts to waters of the state and permittee responsible compensatory mitigation during the post-discharge monitoring period, if applicable.

3. Report Type 5 - Request for Notice of Project Complete Letter

- a. Report Purpose** - Notify Central Valley Water Board staff that construction and/or any post-construction monitoring is complete, or is not required, and no further Project activity is planned.
- b. When to Submit** - Must be received by Central Valley Water Board staff within thirty (30) days following completion of all Project activities.
- c. Report Contents** -
 - i. Part A: Mitigation for Temporary Impacts
 - 1) A report establishing that the performance standards outlined in the restoration plan have been met for Project site upland areas of temporary disturbance which could result in a discharge to waters of the state.
 - 2) A report establishing that the performance standards outlined in the restoration plan have been met for restored areas of temporary impacts to waters of the state. Pre- and post-photo documentation of all restoration sites.
 - ii. Part B: Post-Construction Storm Water BMPs and Monitoring
 - 1) Date of storm water Notice of Termination(s), if applicable.
 - 2) Report status and functionality of all post-construction BMPs.

C. Part C – Conditional Notifications and Reports

1. Report Type 6 - Accidental Discharge of Hazardous Material Report

- a. Report Purpose** - Notifies Central Valley Water Board staff that an accidental discharge of hazardous material has occurred.
- b. When to Submit** - Within five (5) working days of notification to the Central Valley Water Board of an accidental discharge. Continue reporting as required by Central Valley Water Board staff.
- c. Report Contents** -
 - i. The report shall include the OES Incident/Assessment Form, a full description and map of the accidental discharge incident (i.e. location, time and date, source, discharge constituent and quantity, aerial extent, and photo documentation). If applicable, the OES Written Follow-Up Report may be substituted.
 - ii. If applicable, any required sampling data, a full description of the sampling methods including frequency/dates and times of sampling, equipment, locations of sampling sites.
 - iii. Locations and construction specifications of any barriers, including silt curtains or diverting structures, and any associated trenching or anchoring.

2. Report Type 7 - Violation of Compliance with Water Quality Standards Report

- a. **Report Purpose** - Notifies Central Valley Water Board staff that a violation of compliance with water quality standards has occurred.
- b. **When to Submit** - The Permittee shall report any event that causes a violation of water quality standards within three (3) working days of the noncompliance event notification to Central Valley Water Board staff.
- c. **Report Contents** - The report shall include: the cause; the location shown on a map; and the period of the noncompliance including exact dates and times. If the noncompliance has not been corrected, include: the anticipated time it is expected to continue; the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance; and any monitoring results if required by Central Valley Water Board staff.

3. Report Type 8 - In-Water Work and Diversions Water Quality Monitoring Report

- a. **Report Purpose** - Notifies Central Valley Water Board staff of the start and completion of in-water work. Reports the sampling results during in-water work and during the entire duration of temporary surface water diversions.
- b. **When to Submit** – At least forty-eight (48) hours prior to the start of in-water work. Within three (3) working days following the completion of in-water work. Surface water monitoring reports to be submitted two (2) weeks on initiation of in-water construction and during entire duration of temporary surface water diversions. Continue reporting in accordance with the approved water quality monitoring plan or as indicated in XIV.C.3.
- c. **Report Contents** - As required by the approved water quality monitoring plan or as indicated in XIV.C.3.

4. Report Type 9 - Modifications to Project Report

- a. **Report Purpose** - Notifies Central Valley Water Board staff if the Project, as described in the application materials, is altered in any way or by the imposition of subsequent permit conditions by any local, state or federal regulatory authority.
- b. **When to Submit** - If Project implementation as described in the application materials is altered in any way or by the imposition of subsequent permit conditions by any local, state or federal regulatory authority.
- c. **Report Contents** - A description and location of any alterations to Project implementation. Identification of any Project modifications that will interfere with the Permittee's compliance with the Order.

5. Report Type 10 - Transfer of Property Ownership Report

- a. Report Purpose** - Notifies Central Valley Water Board staff of change in ownership of the Project or Permittee-responsible mitigation area.
- b. When to Submit** - At least 10 days prior to the transfer of ownership.
- c. Report Contents** -
 - i. A statement that the Permittee has provided the purchaser with a copy of this Order and that the purchaser understands and accepts:
 - 1) the Order's requirements and the obligation to implement them or be subject to administrative and/or civil liability for failure to do so; and
 - 2) responsibility for compliance with any long-term BMP maintenance plan requirements in this Order. Best Management Practices (BMPs) is a term used to describe a type of water pollution or environmental control
 - ii. A statement that the Permittee has informed the purchaser to submit a written request to the Central Valley Water Board to be named as the permittee in a revised order.

6. Report Type 11 - Transfer of Long-Term BMP Maintenance Report

- a. Report Purpose** - Notifies Central Valley Water Board staff of transfer of long-term BMP maintenance responsibility.
- b. When to Submit** - At least 10 days prior to the transfer of BMP maintenance responsibility.
- c. Report Contents** - A copy of the legal document transferring maintenance responsibility of post-construction BMPs.

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SIGNATORY REQUIREMENTS

All Documents submitted in compliance with this Order shall meet the following signatory requirements:

- A.** All applications, reports, or information submitted to the Central Valley Water Quality Control Board (Central Valley Water Board) must be signed and certified as follows:
 - 1.** For a corporation, by a responsible corporate officer of at least the level of vice-president.
 - 2.** For a partnership or sole proprietorship, by a general partner or proprietor, respectively.
 - 3.** For a municipality, or a state, federal, or other public agency, by either a principal executive officer or ranking elected official.

- B.** A duly authorized representative of a person designated in items 1.a through 1.c above may sign documents if:
 - 1.** The authorization is made in writing by a person described in items 1.a through 1.c above.
 - 2.** The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity.
 - 3.** The written authorization is submitted to the Central Valley Water Board Staff Contact prior to submitting any documents listed in item 1 above.

- C.** Any person signing a document under this section shall make the following certification:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.”

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CERTIFICATION DEVIATION PROCEDURES

I. Introduction

These procedures are put into place to preclude the need for Order amendments for minor changes in the Project routing or location. Minor changes or modifications in project activities are often required by the Permittee following start of construction. These deviations may potentially increase or decrease impacts to waters of the state. In such cases, a Certification Deviation, as defined in Section M of the Order, may be requested by the Permittee as set forth below:

II. Process Steps

- A. Who may apply:** The Permittee or the Permittee's duly authorized representative or agent (hereinafter, "Permittee") for this Order.
- B. How to apply:** By letter or email to the 401 staff designated as the contact for this Order.
- C. Certification Deviation Request:** The Permittee will request verification from the Central Valley Water Board staff that the project change qualifies as a Certification Deviation, as opposed to requiring an amendment to the Order. The request should:
1. Describe the Project change or modification:
 - a. Proposed activity description and purpose;
 - b. Why the proposed activity is considered minor in terms of impacts to waters of the state;
 - c. How the Project activity is currently addressed in the Order; and,
 - d. Why a Certification Deviation is necessary for the Project.
 2. Describe location (latitude/longitude coordinates), the date(s) it will occur, as well as associated impact information (i.e., temporary or permanent, federal or non-federal jurisdiction, water body name/type, estimated impact area, etc.) and minimization measures to be implemented.
 3. Provide all updated environmental survey information for the new impact area.
 4. Provide a map that includes the activity boundaries with photos of the site.
 5. Provide verification of any mitigation needed according to the Order conditions.
 6. Provide verification from the CEQA Lead Agency that the proposed changes or modifications do not trigger the need for a subsequent environmental document, an addendum to the environmental document, or a supplemental EIR. (Cal. Code Regs., tit. 14, §§ 15162-15164.)
-

D. Post-Discharge Certification Deviation Reporting:

1. Within 30 calendar days of completing the approved Certification Deviation activity, the Permittee will provide a post-discharge activity report that includes the following information:
 - a. Activity description and purpose;
 - b. Activity location, start date, and completion date;
 - c. Erosion control and pollution prevention measures applied;
 - d. The net change in impact area by water body type(s) in acres, linear feet and cubic yards;
 - e. Mitigation plan, if applicable; and,
 - f. Map of activity location and boundaries; post-construction photos.

E. Annual Summary Deviation Report:

1. Until a Notice of Completion of Discharges Letter or Notice of Project Complete Letter is issued, include in the Annual Project Report (see Construction Notification and Reporting attachment) a compilation of all Certification Deviation activities through the reporting period with the following information:
 - a. Site name(s);
 - b. Date(s) of Certification Deviation approval;
 - c. Location(s) of authorized activities;
 - d. Impact area(s) by water body type prior to activity in acres, linear feet and cubic yards, as originally authorized in the Order;
 - e. Actual impact area(s) by water body type in, acres, linear feet and cubic yards, due to Certification Deviation activity(ies);
 - f. The net change in impact area by water body type(s) in acres, linear feet and cubic yards; and
 - g. Mitigation to be provided (approved mitigation ratio and amount).