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## Central Valley Regional Water Quality Control Board

4 April 2025

Michael Bessette  
Sutter Butte Flood Control Agency  
1445 Butte House Road, Suite B – PO Box M  
Yuba City, CA 95992  
[M.Bessette@sutterbutteflood.org](mailto:M.Bessette@sutterbutteflood.org)

### **ORDER AMENDING CLEAN WATER ACT SECTION 401 TECHNICALLY CONDITIONED WATER QUALITY CERTIFICATION; SUTTER BUTTE FLOOD CONTROL AGENCY, TUDOR FLOOD RISK REDUCTION PROJECT (WDID#5A51CR00137A1), SUTTER COUNTY**

This Order responds to the 24 March 2025 request for an amendment of the Tudor Flood Risk Reduction Project (Project) Section 401 Water Quality Certification (WDID#5A51CR00137). The original Water Quality Certification (Certification) was issued on 6 March 2024. The requested amendment is hereby approved. The original Certification is therefore amended as described below. Please attach this document to the original Certification.

#### **AMENDMENT:**

Sutter Butte Flood Control Agency is requesting to amend the compensatory mitigation requirement in the certification.

The Certification is amended as shown below:

#### **K. Compensatory Mitigation for Permanent Impacts:**

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

##### **1. Final Compensatory Mitigation Plan:**

The Permittee shall provide compensatory mitigation for impacts to waters of the state in accordance with the compensatory mitigation plan dated 24 March 2025 and incorporated herein by reference. Any deviations from, or revisions to, the Compensatory Mitigation Plan must be pre-approved by Central Valley Water Board staff. The monitoring period shall continue until the Central Valley Water Board staff determines that performance

standards have been met. This may require the monitoring period to be extended.

## **2. Purchase of Mitigation Credits by Permittee for Compensatory Mitigation**

- a. A copy of the fully executed agreement for the purchase of mitigation credits shall be provided to the Central Valley Water Board within 180 days of impacts to waters of the state. The Permittee shall notify the Central Valley Water Board if additional time is needed to provide the fully executed agreement for the purchase of mitigation credits.
- b. The Permittee shall retain responsibility for providing compensatory mitigation and long-term management until Central Valley Water Board staff have received documentation of the credit purchase and the transfer agreement between the Permittee and the seller of credits.

## **3. Total Required Compensatory Mitigation**

- a. The Permittee is required to provide compensatory mitigation for the authorized impact to 0.02 acre of stream channel habitat by purchasing 0.09 Giant Garter Snake (GGS) credits at the pending Drumheller Slough Mitigation Bank.
- b. Total required Project compensatory mitigation information for permanent physical loss of area is summarized in Table 5. [Establishment (Est.), Re-establishment (Re-est.), Rehabilitation (Reh.), Enhancement (Enh.), Preservation (Pres.), Unknown].

## **4. Irrevocable Letter of Credit**

- a. The Permittee shall establish in favor of the Central Valley Water Board, an irrevocable letter of credit in an amount sufficient to pay for the cost of the Permittee's required compensatory mitigation under this Order within 30 days of issuance of this Order. The Permittee shall prepare a draft letter of credit and submit it to the Central Valley Water Board staff for written acceptance. The letter of credit shall allow the Central Valley Water Board to immediately draw on the letter of credit if the Central Valley Water Board staff determines in its sole discretion that the Permittee has failed to meet its mitigation obligations.
- b. If the Permittee is unable to establish a letter of credit, it shall arrange a different security instrument with Central Valley Water Board staff within 30 days of issuance of this Order.
- c. The Permittee shall finalize and execute the security instrument within sixty (60) days after the Central Valley Water Board staff approves the draft security instrument. The Permittee shall have a security instrument in place until the Permittee has completed the required compensatory mitigation and achieved all performance standards.

- d. If the Permittee has not completed the required compensatory mitigation and achieved all performance standards within sixty (60) days prior to the security instrument’s expiration date, the Permittee shall obtain an extension or a new security instrument. The new security instrument shall be subject to Central Valley Water Board staff acceptance following the same procedure described in the conditions above.

**Table 5: Total Required Project Compensatory Mitigation Quantity for Permanent Physical Loss of Area**

Aquatic Resource Type	Mitigation Type	Units	Est.	Re-est.	Reh.	Enh.	Pres.	Unknown
Unknown	Mitigation Bank Credits	Acres						0.09

**APPLICATION FEE RECEIVED:**

No fee was required for this amendment. Total fees of \$2,985.00 for the original Certification were received on 6 February 2024. The fee amount was determined as required by California Code of Regulations, title 23, sections 3383(b)(3) and 2200(a)(3), as was calculated as category A - Fill & Excavation Discharges (fee code 84) with the dredge and fill fee calculator.

**CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD CONTACT:**

Nicholas Savino, Environmental Scientist  
 11020 Sun Center Drive, Suite 200  
 Rancho Cordova, CA 95670-6114  
[Nicholas.Savino@waterboards.ca.gov](mailto:Nicholas.Savino@waterboards.ca.gov)  
 (916) 464-4920

**WATER QUALITY CERTIFICATION:**

I hereby issue an Order amending the existing Clean Water Act, Section 401 Technically Conditioned Water Quality Certification for the Tudor Flood Risk Reduction Project (WDID#5A51CR00137A1). All other conditions and provisions of the original Water Quality Certification and any previously approved amendments remain in full force and effect, except as modified based on the conditions of this Order. Failure to comply with the terms and conditions of the original Water Quality Certification, previously approved amendments, or of this Order may result in suspension or revocation of the Water Quality Certification.

*Original Signed by Anne Walters for:*  
 Patrick Pulupa  
 Executive Officer

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**[via email only]**

Kyler J Walsh (SPK-2023-00371)  
United States Army Corps of Engineers  
Sacramento District Office Regulatory Division  
[Kyler.J.Walsh@usace.army.mil](mailto:Kyler.J.Walsh@usace.army.mil)

United States Environmental Protection Agency  
[R9CWA401@epa.gov](mailto:R9CWA401@epa.gov)

Alexander L. Funk  
California Department of Fish and Wildlife, Region 2  
[Alexander.Funk@wildlife.ca.gov](mailto:Alexander.Funk@wildlife.ca.gov)

CWA Section 401 WQC Program  
Division of Water Quality  
State Water Resources Control Board  
[StateBoard401@waterboards.ca.gov](mailto:StateBoard401@waterboards.ca.gov)

Bjorn Gregersen  
ECORP Consulting, Inc.  
[BGregersen@ecorpconsulting.com](mailto:BGregersen@ecorpconsulting.com)

Dustin Sanoski  
Central Valley Flood Protection Board  
[Dustin.Sanoski@CVFlood.ca.gov](mailto:Dustin.Sanoski@CVFlood.ca.gov)