Central Valley Regional Water Quality Control Board

CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND ORDER

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Effective Date: 3 March 2025

Expiration Date: 2 March 2030

Program Type: Fill/Excavation

Project Type: Outfall Structures

Project: Butte Slough Outfall Gates (BSOG) Repair Project (Project)

Applicant: California Department of Water Resources

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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 California Department of Water Resources (hereinafter Permittee) for the Project. This Order is for the purpose described in application submitted by the Permittee. The application was received on 3 July 2024. The application was deemed complete on 19 July 2024.

II. Public Notice

The Regional Water Board provided public notice of the application pursuant to California Code of Regulations, title 23, section 3858 from 5 July 2024 to 26 July 2024. The Central Valley Water Board did not receive any comments during the comment period.

III. Project Purpose

The purpose of the proposed activity is to implement maintenance repairs necessary to restore the safe operability and function of Butte Slough Outfall Gates.

IV. Project Description

The proposed activity involves restoring the function of Butte Slough Outfall Gates (BSOG) to maintain flood and agriculture water flow in Butte Slough through targeted maintenance repairs and replacing the inlet catwalk to extend the functional life of the existing BSOG.

Ground disturbance impacts will be minimal, consisting of staging, access, and laydown areas within the project footprint. These areas will be cleared/grubbed of vegetation prior to offloading/storing equipment at the Project area. One small sandbar willow (*Salix exigua*) will be removed on the southern bank of the outlet portion of the Project area to accommodate equipment access to be used to install the cofferdam.

Outlet Headwall

To ensure safe flood control positive closure, the outfall gates will be improved in-place to resist both lateral and rotational movement from exterior loads thereby reinforcing the continued full functionality of the flap gates to provide complete closure as required. Activities to stabilize the outlet headwall will consist of backfilling the scour area beneath the outlet concrete headworks and applying a lightweight concrete slurry to protect exposed timber piles against future scour.

Laydown Area and Staging Activities

Laydown and staging areas will be cleared/grubbed of vegetation prior to offloading/storing equipment in the project area.

Inlet Catwalk

To ensure safe access and operability of the inlet slide gate apparatus, a new catwalk supported by a system of foundation piles will be installed to replace the existing walk. Activities to improve the inlet catwalk include the following:

- Removing the existing catwalk and support framing which is presently attached directly to the pipes at the inlet side, unloading excess deflection or torsional forces on the pipe ends.
- Installing four new support piles; and
- Erecting a new catwalk system to provide safe accessibility to operate the slide gates.

V. Project Location

Address: The project site can be accessed via the following directions: head north on CA-99, then then turn left onto CA-20 west for about 6 miles. Follow Butte Road and Pass Road to Marty Road for about 9 miles until reaching the project site.

Counties: Sutter and Colusa

Assessor's Parcel Number(s): 015-250-016-000 and 015-250-017-000, Colusa County; 08-140-017, 08-140-020, and 08-140-021, Sutter County

Nearest City: Meridian

Section 35, Township 16 North, Range 1 West, MDB&M.

Latitude: 39.195171° and Longitude: -121.93597°

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, February 2019 (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/). 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.

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

Implementation of the project will result in a maximum of 0.06 acre of permanent impacts and 0.01 acres of temporary impacts to other waters of the United States.

Total Project fill/excavation quantities for all impacts are summarized in Tables 1 through 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 Impacts[1]

Aquatic Resources Type	Acres	Cubic Yards	Linear Feet
Stream Channel	0.01		

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

Aquatic Resources Type	Acres	Cubic Yards	Linear Feet
Stream Channel	0.06		

VIII. 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:

- Before any work occurs within the Project area, including equipment staging and vegetation removal, a qualified biologist (familiar with the resources in the area) will conduct a mandatory environmental awareness training. The training will be provided to all construction personnel (contractors and subcontractors), briefing them on the need to avoid and minimize effects on sensitive biological resources within the Project area and the penalties for not complying with applicable federal and State laws and permit requirements. The biologist will inform all construction and maintenance personnel about the life history and habitat requirements of special-status species with potential

[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.

for occurrence on-site, and the terms and conditions of the biological opinion or other authorizing document (e.g., letter of concurrence).

- Use existing staging sites, maintenance toe roads, and levee crown roads to the extent practicable for staging and access to avoid affecting previously undisturbed areas. Limit the number of access routes and the size of staging and work areas to the minimum necessary to conduct the activity.
- Where feasible and practicable clearly mark work area limits (e.g., with flagging or fencing), including access roads; staging and equipment storage areas; stockpile areas; equipment fueling areas; and other areas where construction activities will occur. Work will occur only within the marked limits.
- The amount of revetment and similar materials used for bank protection and other maintenance activities will be limited to the amount necessary to meet maintenance obligations and ensure proper flood protection system integrity and function.
- Remove temporary fill, construction debris, and refuse, and properly dispose of these materials following completion of any maintenance activities.
- Habitats, including aquatic, will be restored to pre-project conditions wherever feasible.
- All in-water work will occur between June 15 to November 1 to minimize potential for anadromous special-status fish to be present during in-water construction activities.
- In-water construction work will be conducted only in dry, dewatered areas behind sheet pile cofferdams and all within one season (anticipated to be 2025). All construction equipment used for in-water work will be cleaned and free of invasive species. The cofferdams will be constructed around both sides of the BSOG facility, prior to any in-water soil-disturbing activities. The Sacramento River cofferdam will be constructed to an elevation high enough to avoid flooding during the construction period. Sutter Maintenance Yard staff will control the stage elevations downstream of the BSOG facility during the entirety of construction to avoid flooding the cofferdam on the Butte Slough side.
- A qualified biologist will be onsite or on call during in-water construction activities. If a sensitive species is encountered during construction, activities will cease (where safely and mechanically possible) until appropriate corrective measures have been completed or it has been determined that the species will not be harmed.
- A dewatering plan will be prepared and submitted by the Permittee prior to commencing dewatering activities. Pump intakes will be fitted with appropriately sized National Marine Fisheries Service (NMFS)-approved fish screens (according to the NMFS Fish Screening Criteria for Anadromous Salmonids [1997]), to prevent fish from becoming entrained.

- If erosion control fabrics are used, products with plastic monofilament or cross-joints in the netting that are bound/stitched (such as straw wattles, fiber rolls, or erosion control blankets), which could trap wildlife, will not be used.
- Inspect under all vehicles and heavy equipment for the presence of wildlife before the start of each workday when equipment is staged overnight. Additionally look for wildlife in all pipes, culverts, and similar structures that have been stored on-site for one or more nights before being buried, capped, or moved.
- Cover all excavated, steep-walled holes or trenches with appropriate covers (thick metal sheets or plywood) at the end of each workday. Covers will be placed to ensure that trench edges are fully sealed. Alternatively, such trenches may be furnished with one or more escape ramps constructed of earth fill or wooden planks to provide escape ramps for wildlife.
- Ensure that all project related trash items, such as wrappers, cans, bottles, and food scraps, are collected in closed containers, removed from maintenance sites each day, and disposed of at an appropriate off-site location to minimize attracting wildlife to work areas.
- The Permittee and the construction contractor will prepare and implement the following measures to minimize water quality degradation, including from accidental spills, turbidity, erosion, and sedimentation:
    - A Water Quality Control Plan will be developed by the contractor prior to the start of construction and implemented throughout construction. A copy of the plan will be available at all times on the construction site.
    - The Water Quality Control Plan will include spill prevention and contingency measures, including measures to prevent or clean up spills of hazardous materials used for equipment operation, and emergency procedures for responding to spills. It will be updated as needed to reflect changes in on-site hazardous materials. In addition, spill control materials will be available on-site and available for deployment during all phases of work.
    - The Water Quality Control Plan will also identify Best Management Practices (BMPs) for preventing or minimizing the discharge of sediments and other potential contaminants that have the potential to affect beneficial uses or lead to a violation of water quality objectives. The plan will identify and specify (but is not limited to) the use of an effective combination of appropriate temporary and/or between season erosion and sediment control BMPs for use on the Project area, spill prevention and contingency measures, waste disposal, and emergency contacts and responsibilities. The erosion control will include measures for construction, long-term management, and stabilizing soils, if necessary, before the onset of winter. BMPs may include the careful use of grading management techniques, silt fences, silt or turbidity

curtains, berms, sandbags, and revegetation.

- A dewatering plan will be developed and designed so that any potential discharges to surface water will meet the water quality objectives of the Central Valley Water Board. The dewatering plan will include measures to minimize turbidity of discharge water and details on the approach to season the channel before reestablishing flows so that flushing flows do not cause surging of sediments downstream.
- The erosion control plan will identify specific measures for construction, long-term management, and stabilizing soils, if necessary, before the onset of winter. BMPs for erosion control, as set forth in the erosion control plan and further defined by the Permittee, will be implemented. Such BMPs may include the careful use of grading management techniques, silt fences, silt or turbidity curtains, berms, sandbags, and revegetation.
- The Water Quality Control Plan will include inspection, monitoring, and reporting measures to ensure water quality objectives are met during construction and long-term management. BMPs are expected to be fully effective. Notwithstanding, the Permittee or its contractor will evaluate BMP effectiveness during construction. If the quantity or quality of the BMPs needs to be addressed, the Permittee or its contractor will implement improvements within 24 hours after the initial discovery of before the onset of an expected storm event.
- Turbidity measurements will be taken daily up and downstream of the work areas, as well as at any other discharge points, during project activities with potential to degrade water quality, such as pile driving and discharge to surface waters. If measurements have a weekly average of 50 Nephelometric Turbidity Units (NTUs) above baseline (upstream), the following steps will be taken (EPA 2022):
    - Keeping site safety precautions in mind, immediately take steps to prevent further discharge, including stopping work if necessary.
    - Determine if dewatering and/or other controls for discharge are operating effectively and if they may be causing turbid conditions.
    - Make necessary adjustments, repairs, or replacements to dewatering or other discharging mechanisms to lower turbidity levels below the benchmark or to prevent/remove a visible turbidity plume or water sheen.

IX. Compensatory Mitigation

The Permittee has agreed to provide compensatory mitigation for direct impacts, described in section VII for permanent impacts.

X. California Environmental Quality Act (CEQA)

On 20 February 2025, the California Department of Water Resources, as lead agency, adopted an Initial Study/Mitigated Negative Declaration (IS/MND) (State Clearinghouse (SCH) No. 2024061069) for the Project and filed a Notice of Determination (NOD) at the SCH on 21 February 2025. 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.

XI. 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.

XII. Fees

A. An application fee of $2,985.00 was received on 18 July 2024. 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 A - Fill & Excavation Discharges (fee code 84) with the dredge and fill fee calculator.

B. Annual Fees: This Certification is subject to annual billing based on the fee schedule in effect at the time of billing. Annual billing will continue until the Project, including monitoring, is complete and the Water Board receives an acceptable request for a Notice of Project Complete Letter (see Attachment D). Invoices are usually sent out at the end of each calendar year.[2]

To stop annual billing, the Permittee must request a Notice of Project Complete Letter from the Water Board. Water Board staff will verify if the conditions of the Certification are met and may conduct a site visit to confirm compliance.

For more information on fees, visit the State Water Board's Water Quality Fees website (https://www.waterboards.ca.gov/resources/fees/water_quality/), under Water Quality Certification (WQC) Program Fees.

XIII. 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

[2] Annual invoices are issued for projects active for any amount of time in the current fiscal year (1 July – 30 June).

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 through 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** – Not Applicable
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 corresponding Waste Discharge Identification Number (WDID No.) issued 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 Materials[3]:

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

[3] "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.)

Office of Emergency Services' Accidental Discharge Notification Web page (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.

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, dewatering activities, or during the installation of removal 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 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.

Sampling during in-water work or during the entire duration of temporary water diversions shall be conducted in accordance with Table 3 sampling parameters.[4] 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.

The sampling frequency and/or monitoring locations 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 XIII.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
Turbidity	NTU	Grab	Every 4 hours
Visible construction related pollutants[5]	Observations	Visual Inspections	Continuous throughout the construction period

[4] 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.

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

4. Mercury

Prior to construction activities, the Permittee shall submit a mercury sampling plan for Central Valley Water Board staff approval. The plan shall include procedures and descriptions of locations and frequency for aqueous methylmercury and sediment total mercury sampling.

Aqueous methylmercury sampling shall occur prior to construction and after construction is complete, at sampling points located upstream outside of the influence of the project, a minimum 300 feet downstream from the project area, and at one location in the middle of the project area. Prior to the submittal of the commencement of construction notification, the Permittee shall consult with Central Valley Water Board staff to establish the specific aqueous methylmercury monitoring locations. Aqueous methylmercury sampling shall occur at the same locations throughout the sampling period.

Sampling for total mercury in sediment shall occur prior to construction activities for excavated material that will be placed as fill into waters of the state, and after construction activities are complete in areas that contain fine grained sediments (grain size less than 63 microns) that will be inundated. Samples must be representative of the entire depth and volume to be excavated. Prior to the submittal of the commencement of construction notification, the Permittee shall consult with Central Valley Water Board staff to establish the specific total mercury sediment monitoring locations. If the median concentration of total mercury on fine grained sediments (grain size less than 63 microns) is greater than 0.1 mg/kg [dry weight], the Permittee shall submit for Executive Officer approval a mercury-contaminated sediment management plan. The mercury-contaminated sediment management plan shall describe actions the Permittee will implement to isolate, remove, and/or prevent downstream transport of mercury-contaminated sediments once flows are reestablished in the graded areas. The Permittee is required to implement the plan upon Executive Officer approval.

After each sampling event, the Permittee shall submit the laboratory results to Central Valley Water Board staff and upload the results to the California Environmental Data Exchange Network's website CEDEN - California Environmental Data Exchange Network (http://www.ceden.org/). Water Quality Monitoring Templates for data submittal can be found on the same website.

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 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. **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.

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 Endangered 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.

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 to the Central Valley Water Board immediately upon execution 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 XIII.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 XIII.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. If water is present, the area must be dewatered prior to start of work.

e. Dewatering will occur within the Project area.

f. 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.

g. 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.

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 XIII.B.3.a and XIII.B.3.b.

b. No wet concrete will be placed into stream channel habitat.

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. Post-Construction Storm Water Management- Not Applicable

9. 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.

10. 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.

11. Special Status Species

The following Special Status Species have the potential to occur near or within the Project: Chinook Salmon, Steelhead, Green Sturgeon, Heartscale, Wooly Rose-mallow, Western Pond Turtle, Swainson’s Hawk, White-tailed Kite, Bald Eagle, Yellow-breasted Chat, Tricolored Blackbird, Modesto Song Sparrow, and Western Red Bat.

12. 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.

13. 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)

The Sacramento-San Joaquin Delta Methylmercury Total Maximum Daily Loads (TMDL) is an action plan to restore clean water that has been contaminated by mercury and has experienced or has the potential to produce methylmercury within waters of the state. Section 303(d) of the federal Clean Water Act requires that states identify water bodies -- bays, rivers, streams, creeks, and coastal areas -- that do not meet water quality standards, and the pollutants that impair them. TMDLs examine specific water quality problems, identify sources of pollutants, and specify actions that create solutions. They are adopted by the Regional Water Board as amendments to our Region's Basin Plan. A copy of the Sacramento-San Joaquin Delta Methylmercury TMDL is located on the Central Valley Water Board website at: Sacramento-San Joaquin Delta Methylmercury TMDL - TMDL Projects | Central Valley Regional Water Quality Control Board (https://www.waterboards.ca.gov/rwqcb5/water_issues/tmdl/central_valley_projects/delta_hg/).

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 in accordance with the 401 Application dated 3 July 2024 and incorporated herein by reference.

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 90 days of the impacts, compensatory mitigation may be required to offset temporal loss of waters of the state.

K. Compensatory Mitigation for Permanent Impacts:

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

1. Compensatory Mitigation Plan

The Permittee shall provide compensatory mitigation for impacts to waters of the state in accordance with the Water Quality Certification Application Continuation (Compensatory Mitigation Plan) dated 3 July 2024 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 prior to the initiation of in water work.

b. The Permittee shall retain responsibility for providing the compensatory mitigation and long-term management until Central Valley Water Board staff has 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 stream channel by purchasing 0.06 mitigation credits from the Bullock Bend Mitigation Bank.

b. Total required Project compensatory mitigation information for permanent physical loss of area is summarized in Table 4. [Establishment (Est.), Re-establishment (Re-est.), Rehabilitation (Reh.), Enhancement (Enh.), Preservation (Pres.), Unknown].

Table 4: 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
Stream Channel	Mitigation Bank Credits	Acres						0.06

L. 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.

XIV. Water Quality Certification

I hereby issue the Order for the Butte Slough Outfall Gates (BSOG) Repair Project, WDID # 5A51CR00148, 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).

This discharge is also regulated pursuant to State Water Board Water Quality Order No. 2003-0017-DWQ which authorizes this Order to serve as Waste Discharge Requirements pursuant to the Porter-Cologne Water Quality Control Act (Water Code, section 13000 et seq.).

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 Anne Walters 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
Attachment G: Compliance with Code of Federal Regulations

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Attachment A – Project Maps

Figure 1: BSOG Vicinity Map

Figure 1. BSOG Vicinity Map

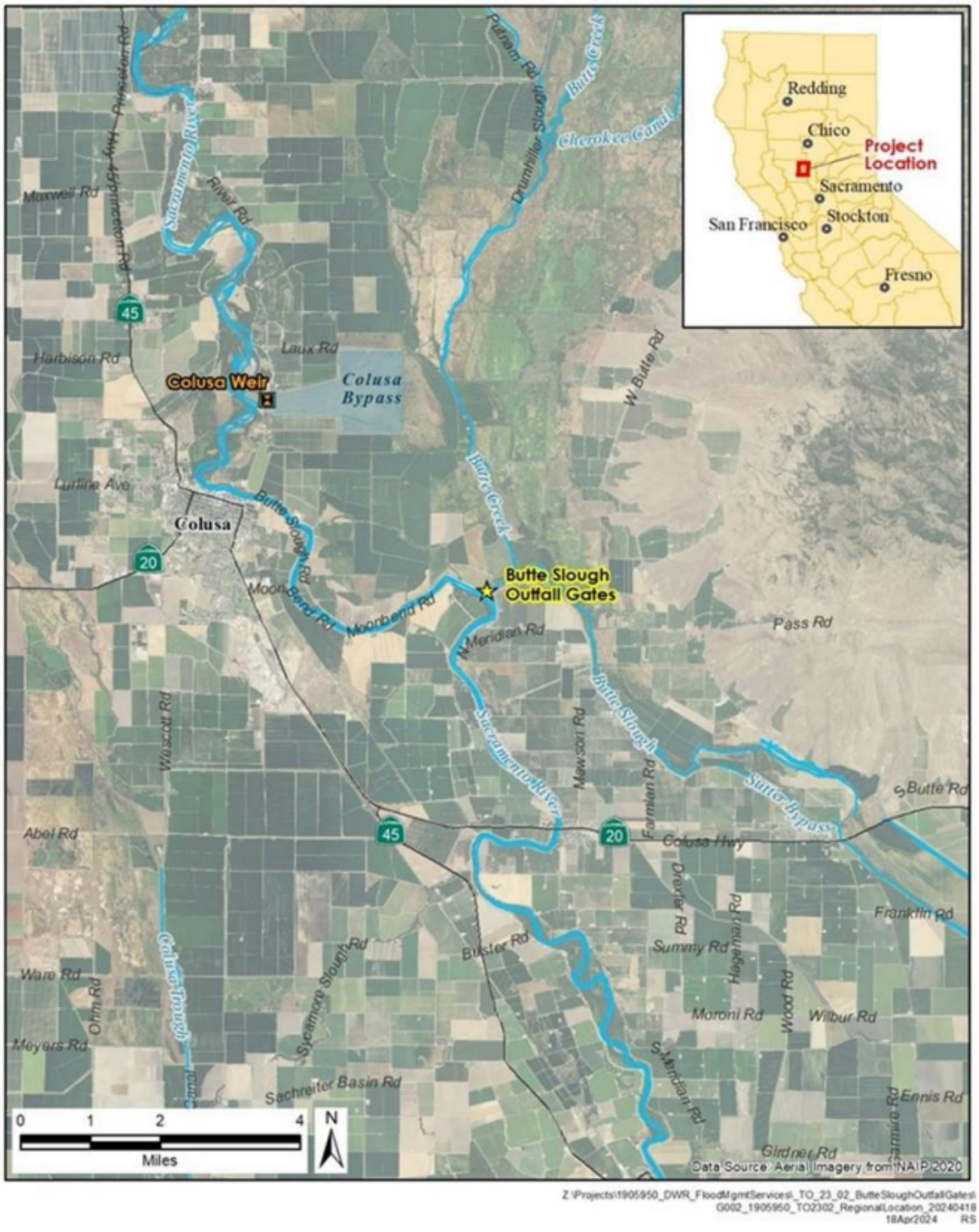
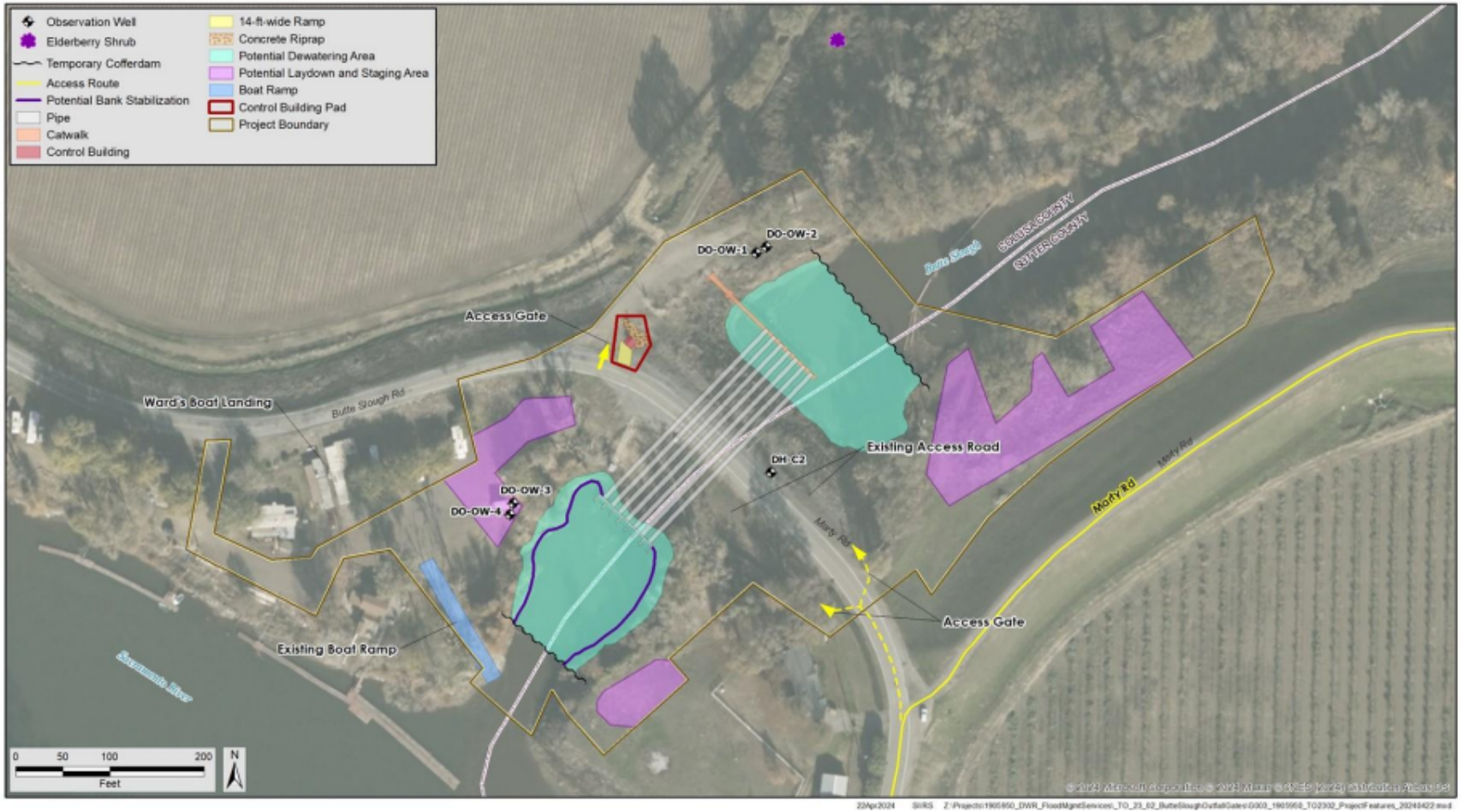


Figure 2: Proposed Project Area

Figure 2. Proposed Project Area

Figure 3: Project Features

Figure 3. Project Features



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Attachment B – 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 (CRAM) ID
Butte Slough Impacts	Butte Slough	Stream	520.40	Sacramento River	AGR, REC-1, WARM, COLD, MIGR, SPWN, WILD	Dichlorvos, DDT (Dichlorodiphenyltrichloroethane), Dieldrin, Mercury, Oxygen, Dissolved, PCBs (Polychlorinated biphenyls), Toxicity	

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
Butte Slough Impacts	39.195171°	-121.93597°	No	0.01		

Table 3: Individual Permanent Fill/Excavation Impact Information

Impact Site ID	Latitude	Longitude	Indirect Impact Requiring Mitigation?	Acres	Cubic Yards	Linear Feet
Butte Slough Impacts	39.195171°	-121.93597°	No	0.06		

Compensatory Mitigation Information

The following table(s) show individual compensatory mitigation information and locations.

Mitigation Bank Compensatory Mitigation Site Information

Table 4: Mitigation Bank

Mitigation Bank Name:	Bullock Bend Mitigation Bank
Website:	Bullock Bend Mitigation Bank - WES (wesmitigation.com) (https://wesmitigation.com/projects/bullock-bend-mitigation-bank/)
Mitigation Bank Contact Name:	Amanda Dwyer
Phone:	(925) 783-9924
Email:	ADwyer@westervelt.com
Mitigation Location - County:	Yolo
Latitude:	38.912969°
Longitude:	-121.812240°

Table 5: Mitigation Type Information

Aquatic Resource Credit Type	Acres	Linear Feet	Number of Credits Purchased
Stream Channel	0.06		TBD

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Attachment C – CEQA Findings of Fact

A. Environmental Review

On 20 February 2025, the California Department of Water Resources, as lead agency, adopted an Initial Study/Mitigated Negative Declaration (IS/MND) (State Clearinghouse (SCH) No. 2024061069) for the Project and filed a Notice of Determination (NOD) at the SCH on 21 February 2025. 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 California Department of Water Resources' adopted 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 California Department of Water Resources addresses the Project's water resource impacts. (California Code of Regulations, title 14, section 15096, subd. (f).) The environmental document includes the mitigation monitoring and reporting program (MMRP) developed by California 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 15074, subd. (d).)

B. Incorporation by Reference

Pursuant to CEQA, these Findings of Facts (Findings) support the issuance of this Order based on the Project IS/MND, 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 Final IS/MND which is incorporated herein by reference. The Project IS/MND is available at: SCH Number 2024061069 (https://ceqanet.opr.ca.gov/Project/2024061069).

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, are incorporated herein by reference.

C. Findings

The IS/MND describes the potential significant environmental effects to water resources that were mitigated in the IS/MND. Having considered the whole of the record, including comments received during the public review process, the Central Valley Water Board makes the following findings:

> *Mitigation measures have been required in the Project which avoid or mitigate to a less than significant level the potentially significant environmental effect as described in the IS/MND.*

a.i. Less than Significant with Mitigation Incorporated:

With proposed mitigation measures, the project is unlikely to have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.

a.ii. Facts in Support of Finding:

Special Status Fish

The BSOG facility was constructed in 1935. Since that time, most of the spring-run Chinook salmon population has used the Sutter Bypass as their main migration route through the area.

In summer and fall (during proposed in-water work windows), little to no water is released from the BSOG facility and into the Sacramento River. There is limited space for fish to enter Butte Slough from the Sacramento River as the culverts are covered with flap gates that do not completely open. Most, if not all, of the summer and fall runoff and agricultural water flows are directed down Sutter Bypass where it meets the Sacramento River near Verona.

No major changes are being made to the BSOG facility that will change its function or operations (e.g., no change in flows or water management activities). Project-related pile driving, concrete slurry backfill, cofferdam establishment, and dewatering activities could potentially impact special-status fish. Construction of improvements to the inlet and outlet structures would require installing sheet pile cofferdams on each side of the levee, followed by temporary dewatering of the construction areas. Cofferdam dewatering for construction will be accomplished with engine-driven dewatering pumps and either trench sumps, pit sumps, groundwater wells, or a combination of these methods. Drawdown rates will be established to reduce and/or avoid bank collapse. Water from dewatering efforts would be used for construction water with the remaining balance being pumped back into Butte Slough and/or the Sacramento River. Upon completion of construction, the dewatering wells would be capped and abandoned in compliance with applicable regulations. Dewatering activities could adversely affect water quality in waterways to which excess water would be discharged if the discharge water includes high levels of sediment or disturbs sediment in receiving waters.

Sheet piles would be installed on both sides of the BSOG facility to isolate the in-water work area for dewatering. Sheet piles for the cofferdams will be driven primarily using a vibratory pile driver hammer. An impact pile driver would only be used if resistant soil layers are encountered. Hydroacoustic impacts on fish from pile installation can potentially cause damage ranging from behavioral (i.e., a fish leaving feeding or spawning sites) to physical (body tissue damage and/or death) (Transportation Research Board 2011). In

addition, once sheet pile installation is completed, fish may become trapped in the isolated area behind the cofferdams. While the project is in construction and cofferdams are installed, fish outside the project site would be able to access the Sacramento River via the Sutter Bypass. Sheet piles on the Sacramento River side would be removed following construction.

Although it is anticipated that most sheet pile installation would occur using equipment staged on the banks, it is possible that up to two temporary construction pads may need to be constructed adjacent to the bank in Butte Slough and/or the Sacramento River to facilitate installation of the sheet pile beyond the crane's reach. This activity and other construction activities would disturb soils and could mobilize sediment into the Sacramento River and/or Butte Slough, producing temporary increases in turbidity and sedimentation downstream of the construction site. Potential impacts could include periods of localized, high suspended-sediment concentrations which could cause clogging and abrasion of gill filaments in fish and reduce feeding opportunities for sight-feeding fish. Accidental spills or seepage of hazardous materials could also occur, causing a significant impact to fish species and their environment.

Additionally, project work could potentially involve bank stabilization if slope instability occurs during dewatering. Bank stabilization would involve altering slopes below OHWM if needed to avoid further erosion, though slopes would be designed to restore pre-project angles and maintain/create habitat where plants may colonize the banks and further aid in bank stability. This alteration of slope would have a less-than-significant impact on the total amount of protected waters below OHWM (which includes designated critical habitat for Chinook-Central Valley spring-run ESU, Chinook-Sacramento River winter-run ESU, steelhead-California Central Valley DPS, and green sturgeon-southern DPS; and EFH for groundfish and Chinook salmon) as original bank locations and slopes would be maintained to the furthest extent possible.

Construction activities in and adjacent to the waterways have the potential to substantial adverse impacts on special-status fish present in or downstream of the project site. Therefore, this impact is considered significant.

Mitigation Measures BIO-1, BIO-2, and BIO-3 will be implemented to address this impact.

Mitigation Measure BIO-1: Minimize Impacts on Special-status Fish and other Sensitive Biological Resources

DWR and its construction contractor(s) will implement the following measures to minimize impacts on special-status fish and other sensitive resources on and adjacent to the project site:

- All project personnel working on the project site will attend a worker environmental awareness training program before beginning on-site work. The awareness training will be presented by a qualified

biologist with knowledge of sensitive biological resources known or with potential to occur on the project site. The awareness training will address applicable Federal and State laws and regulations; sensitive habitats on and adjacent to the project site; biology, habitat needs, and distribution of special-status species on and adjacent to the project site; regulatory status of each resource and its associated protections; measures required to avoid and reduce impacts to these resources during project construction; potential penalties for non-compliance; and procedures to be followed if dead or injured wildlife are found during project activities. Upon completion of the orientation, employees will sign a form stating that they attended the program and understand all required measures. No untrained personnel will be allowed to work onsite.

- Use existing staging sites, maintenance toe roads, and levee crown roads to the extent practicable for staging and access to avoid affecting previously undisturbed areas. Limit the number of access routes and the size of staging and work areas to the minimum necessary to conduct the activity.
- Where feasible and practicable clearly mark work area limits (e.g., with flagging or fencing), including access roads, staging and equipment storage areas, stockpile areas, equipment fueling areas, and other areas where construction activities will occur. Work will occur only within the marked limits.
- The amount of revetment and similar materials used for bank protection and other maintenance activities will be limited to the amount necessary to meet maintenance obligations and ensure proper flood protection system integrity and function.
- Remove temporary fill, construction debris, and refuse, and properly dispose of these materials following completion of any maintenance activities.
- Habitats, including aquatic, will be restored to pre-project conditions wherever feasible.
- All in-water work will occur between 15 June to 31 October to minimize potential for anadromous special-status fish to be present during in-water construction activities.
- In-water construction work will be conducted only in dry, dewatered areas behind sheet pile cofferdams and all within one season (anticipated to be 2025). All construction equipment used for in-water work will be cleaned and free of invasive species. The cofferdams will be constructed on both sides of the BSOG facility, prior to any in-water soil-disturbing activities. The Sacramento River cofferdam will be constructed to an elevation high enough to avoid

flooding during the construction period. Sutter Maintenance Yard staff will control the stage elevations downstream of the BSOG facility during the entirety of construction to avoid flooding the cofferdam on the Butte Slough side.

- A fish rescue plan will be developed and implemented by the Permittee after plan approval by the California Department of Fish and Wildlife (CDFW) and NMFS and prior to cofferdam installation. The plan will reference and implement adapted fish relocation measures defined in the CDFW California Salmonid Stream Habitat Restoration Manual (Flosi et al. 1998). Fish trapped inside the cofferdam will be rescued before the cofferdam is completely drained as removing or excluding fish during installation is difficult and not feasible. Qualified biologists will capture fish within the cofferdam areas and relocate as specified in the fish rescue plan.
- A qualified biologist will be onsite or on call during in-water construction activities. If a sensitive species is encountered during construction, activities will cease (where safely and mechanically possible) until appropriate corrective measures have been completed or it has been determined that the species will not be harmed.
- A dewatering plan will be prepared by the Permittee and submitted to CDFW and NMFS prior to commencing dewatering activities. The dewatering plan will be implemented by DWR during all dewatering activities, and pump intakes will be fitted with appropriately sized NMFS-and/or CDFW-approved fish screens to prevent fish from becoming entrained. The dewatering plan will address fish rescue measures (consistent with CDFW/NMFS) and water quality/discharge measures consistent with objectives of the Central Valley Water Board.
- If erosion control fabrics are used, products with plastic monofilament or cross-joints in the netting that are bound/stitched (such as straw wattles, fiber rolls, or erosion control blankets), which could trap wildlife, will not be used.
- Inspect under all vehicles and heavy equipment for the presence of wildlife before the start of each workday when equipment is staged overnight. All pipes, culverts, and similar structures that have been stored on-site for one or more nights will be inspected for wildlife before being buried, capped, or moved.
- Cover all excavated, steep-walled holes or trenches with appropriate covers (thick metal sheets or plywood) at the end of each workday. Covers will be placed to ensure that trench edges are fully sealed. Alternatively, such trenches may be furnished with

one or more escape ramps constructed of earth fill or wooden planks to provide escape ramps for wildlife.

- Ensure that all project-related trash items, such as wrappers, cans, bottles, and food scraps, are collected in closed containers, removed from maintenance sites each day, and disposed of at an appropriate off-site location to minimize attracting wildlife to work areas.

Mitigation Measure BIO-2: Minimize Underwater Sound Pressure from Pile Driving with Impact Hammer

DWR and its construction contractor(s) will implement the following measures to minimize impacts on special-status fish from underwater sound pressure:

- If an impact hammer is needed to drive piles, noise levels will not exceed the following threshold levels established by the United States Fish and Wildlife Services (USFWS) and NMFS (for fish greater than 2 grams):
    - Peak pressure = 206 decibels.
    - Accumulated SEL = 187 decibels.
- To comply with the thresholds, DWR will employ the following measures:
    - Use of an impact hammer cushion block.
    - Hammers will be used only during daylight hours and will initially be used at low energy levels and reduced impact frequency.
    - Applied energy and frequency will be gradually increased until necessary full force and frequency are achieved.
- If noise thresholds are not met using the above measures, the Permittee will consult with CDFW and NMFS and one or both of the following mitigation measures may be implemented as feasible:
    - A bubble curtain may be implemented, surrounding the pile to be driven.
    - Shortening the daily duration of pile-driving activities.
    - A qualified biologist will be present to monitor pile driving and compliance with regulatory permit terms and conditions of permits. If any injury or mortality to fish is observed, CDFW and/or NMFS will be immediately notified, and in-water pile driving will cease temporarily until the issue is resolved to comply with the thresholds.

Mitigation Measure BIO-3: Prepare and Implement a Water Quality Control Plan

The Permittee and its construction contractor(s) will implement the following measures to minimize impacts on special-status fish from water quality degradation, including accidental spills, turbidity, erosion, and sedimentation. The measures will be included in a Water Quality Control Plan that will be developed by the contractor prior to the start of construction and implemented throughout construction. A copy of the plan will be available at all times on the construction site and will address the following measures:

- Spill prevention and contingency measures, including measures to prevent or clean up spills of hazardous materials used for equipment operation, and emergency procedures for responding to spills. Measures will be updated as needed to reflect changes in on-site hazardous materials. In addition, spill control materials will be available on-site and available for deployment during all phases of work.
- BMPs for preventing or minimizing the discharge of sediments and other potential contaminants that have the potential to affect beneficial uses or lead to a violation of water quality objectives will be implemented by the Permittee and the construction contractor(s). The plan will identify and specify (but is not limited to) the use of an effective combination of appropriate temporary and/or between season erosion and sediment control BMPs for use on the project site, spill prevention and contingency measures, waste disposal, and emergency contacts and responsibilities. Erosion control will include measures for construction, long-term management, and stabilizing soils, if necessary, before the onset of winter. BMPs may include the careful use of grading management techniques, silt fences, silt or turbidity curtains, berms, sandbags, and revegetation.
- A dewatering plan will be developed and implemented that is designed so that any potential discharges to surface water will meet the water quality objectives of the Central Valley Water Board. The dewatering plan will include measures to minimize turbidity of discharge water and details on the approach to season the channel before reestablishing flows so that flushing flows do not cause surging of sediments downstream.
- Erosion control measures for construction, long-term management, and stabilizing soils, if necessary, before the onset of winter. Additional BMPs for erosion control will include the careful use of grading management techniques, silt fences, silt or turbidity curtains, berms, sandbags, and revegetation. These erosion control

BMPs will be implemented by the Permittee and its construction contractor(s) prior and during construction-related activities.

- Inspection, monitoring, and reporting measures to ensure Central Valley Water Board water quality objectives are met during construction and long-term management. BMPs are expected to be fully effective. Notwithstanding, the Permittee or its construction contractor will evaluate BMP effectiveness during construction. If the quantity or quality of the BMPs needs to be addressed, the Permittee or its contractor will implement improvements within 24 hours after the initial discovery or before the onset of an expected storm event.
- Turbidity measurements will be taken daily upstream and downstream of the work areas, as well as at any other discharge points, during project activities with potential to degrade water quality, such as pile driving and discharge to surface waters. If measurements have a weekly average of 50 Nephelometric Turbidity Units (NTUs) above baseline (upstream), the following steps will be taken (EPA 2022):
    - Keeping site safety precautions in mind, immediately take steps to prevent further discharge, including stopping work if necessary.
    - Determine if dewatering and/or other controls for discharge are operating effectively and if they may be causing turbid conditions.
    - Make necessary adjustments, repairs, or replacements to dewatering or other discharging mechanisms to lower turbidity levels below the benchmark or to prevent/remove a visible turbidity plume or water sheen.

Special-status Plants

Two special-status plant species, heartscale and wooly rose-mallow, have been documented at the project site or have moderate potential to occur on the site, and therefore have the potential to be directly impacted through trampling or other damage inflicted during ground-disturbing activities, including pre-construction staging, equipment movement (both work equipment and workers' automobiles coming to/from the project site, construction activities, and post-construction cleanup and revegetation. Therefore, this impact is considered significant.

Mitigation Measures BIO-1 and BIO-4 will be implemented to address this impact.

Mitigation Measure BIO-1 See Attachment C, Section C.(1)a.ii. Special Status Fish, above

Mitigation Measure BIO-4: Minimize Impacts on Special-status Plants

The Permittee will implement the following measures to identify areas on and adjacent to the project site that support special-status plants:

- Prior to any project ground disturbance, a qualified botanist will be retained to perform focused surveys for special-status plants. These surveys will serve to document the presence/absence of these species in and adjacent to (within 100 feet, where appropriate) proposed impact areas, including new construction access routes. These surveys will be conducted in accordance with CDFW Protocols for Surveying and Evaluating Effects on Special-Status Native Plant Populations and Sensitive Natural Communities (2018) or other current protocols. These guidelines require that special-status plant surveys be conducted at the proper time of year when target species are both evident and identifiable. Surveys will be scheduled to coincide with known blooming periods, and/or during appropriate developmental periods that are necessary to identify the plant species of concern.
- If any special-status plant species are found within 100 feet of proposed impact areas during the surveys, these plant species will be avoided to the greatest extent possible and one the following will be implemented:
    - Any special-status plant species that are identified in or adjacent to the construction areas, but not proposed to be disturbed, will be protected by flagging, signage, orange construction fence, and/or silt fence as appropriate based on-site conditions to limit the effects of project-related activities and material stockpiles on any special-status plant species.
    - If project-related activities would result in the loss of greater than 10% of a population or occupied habitat for a special-status plant species, a mitigation plan will be developed that describes a program to transplant, salvage, cultivate, and re-establish the species at suitable sites (if feasible). Alternatively, mitigation could be satisfied through off-site preservation or via payment to an in-lieu fee program, if available.
    - If the mitigation plan is chosen, it would include means and methods to propagate affected special-status plants via vegetative or reproductive means (e.g., harvesting of seed or seed bank through topsoil collection, salvaging and transplanting or collecting of cuttings), as appropriate for the species, and transplant at suitable receiving sites as close to the existing population as possible. Propagation and

transplantation would occur prior to construction. The receiving location would be evaluated and chosen based on similarity to conditions at the transplant source location, to the extent feasible. Site conditions to consider when choosing a receiving site would include aspect, substrate, hydrology, associated species, and canopy cover. The transplanted plants would be monitored for at least one year following construction.

- If the preservation option is chosen, preservation areas may include undisturbed areas of the site that will be preserved and managed in perpetuity, offsite mitigation lands, or a combination of both. The preserved habitat will be of equal or greater habitat value to the areas affected in terms of soil features, extent of disturbance, vegetation structure, and contain extant populations of the same or greater size as the area affected. The actual level of mitigation may vary depending on the sensitivity of the species, its prevalence in the area, the location of the occurrence, and the current state of knowledge about overall population trends and threats to its survival; however, at a minimum, the species and habitat will be replaced at a minimum 1:1 ratio (individuals or acreage of occupied habitat).

Special-status Reptiles

Project implementation may result in the loss or disturbance of individual and active nests of western pond turtle. Nest disturbance resulting from project construction has the potential to cause loss of eggs or hatchlings and dewatering could result in direct injury or mortality to any juvenile or adult turtles in vicinity of the project site. The loss or disturbance of active nests and/or mobile juveniles or adults in the Butte Slough and surrounding area is considered significant.

Mitigation Measures BIO-1 and BIO-5 will be implemented to address this impact.

Mitigation Measure BIO-1 See Attachment C, Section C.(1)a.ii. Special Status Fish, above.

Mitigation Measure BIO-5: Minimize Impacts on Western Pond Turtle

The Permittee and its construction contractor(s) will implement the following measures to minimize impacts on western pond turtle:

- Ground disturbance (e.g., grading, disking, road construction or similar activities that could disturb or crush western pond turtles and their nests) will be avoided, if possible, within 200 feet of potentially suitable western pond turtle nesting or aquatic habitat,

as determined by a qualified biologist. This 200-foot buffer, or another buffer approved in consultation with CDFW, will be marked in the field by a qualified biologist using temporary fencing, high-visibility flagging, or other means that are equally effective in clearly delineating the buffers.

- Project activities that could result in ground disturbance will not occur within the buffer to the extent feasible. If such activities must occur in buffers, a buffer of reduced width will be established (in consultation with CDFW) by a qualified biologist, marked, and avoided during maintenance activities in that location. All ground-disturbing project activities occurring within the buffer will be monitored by a qualified biologist who would be either on-call or on-site, as appropriate to reduce impacts.
- If western pond turtles are observed in the project area, the Permittee will stop work within approximately 200 feet of the turtle, and a qualified biologist will be notified immediately. If possible, the turtle will be allowed to leave on its own and the qualified biologist will remain in the area until the biologist deems his or her presence no longer necessary to ensure that the turtle is not harmed. Alternatively, the qualified biologist may capture and relocate the turtle, unharmed and with prior CDFW approval, to suitable downstream habitat at least 200 feet away. If the turtle does not voluntarily leave the project area and cannot be captured and relocated unharmed, project activities within approximately 200 feet of the turtle will not resume, and CDFW will be consulted to identify the next steps, if needed.
- If Project proponent would like to relocate northwestern pond turtle away from the Project area, Project proponent shall prepare a Relocation Plan. The Plan shall include, but not be limited to:
    - a discussion of the species and habitat features;
    - a schedule for survey and monitoring species presence;
    - methods to capture, handle, and relocate individuals or habitat features out of the Project area;
    - names and qualifications of biologists who will handle the species, including the appropriate handling authorization;
    - specifications for Wildlife Exclusion fencing, if appropriate, which may be installed to exclude the wildlife species from the Project area;
    - details regarding the use of coverboards which will be employed accessory to the exclusion fencing;
    - description and maps of where the salvaged individuals or

habitat features will be relocated to; and • identification of a wildlife rehabilitation center or veterinary facility where injured individuals of the will be taken.

- The Plan should also provide Project proponent's plan to respond to an atypical detection of individual(s), such as being detected under construction vehicles, being detected inside construction materials (pipes), being detected in an uncovered pit, etc. Project proponent shall move wildlife to the nearest suitable habitat outside of the Project area. Project proponent shall maintain a Wildlife Relocation Record that includes, at a minimum: the date of capture and of relocation; the method of capture, location of relocation in relation to the Project area; and the number, age-class and species captured and relocated. The Wildlife Relocation Record shall also quantify the number and species of Project- and relocation-related mortality.

Special-status Birds

Project implementation could result in the loss or disturbance of active nests of special-status bird species such as Swainson's hawk, white-tailed kite, bald eagle, yellow-breasted chat, tricolored blackbird, and Modesto song sparrow. Although western yellow-billed cuckoo nests in the region, the project site and adjacent riparian areas do not provide suitable nesting habitat for this species. In addition to special-status species, common resident and migratory bird species could nest on and adjacent to the project site. The nests of nearly all native birds are protected under the CFGC and/or the Migratory Bird Treaty Act. Nest disturbance resulting from project construction has the potential to cause nest abandonment or the loss of eggs or chicks as a result of reduced parental care, and removal of nesting vegetation could result in direct nest destruction.

Project activities will temporarily disturb foraging habitat for special-status birds with potential to occur on or immediately adjacent to the project site, but these impacts would be minor, given the small area (seven trees total) that would be affected and the temporary nature of the disturbance. Habitat of similar foraging quality is present in the immediate environs and project-related disturbance of foraging habitat would be a minor impact and would not have a substantial adverse effect on any special-status species. However, the loss or disturbance of active nests is considered significant.

Mitigation Measures BIO-1 and BIO-6 will be implemented to address this impact.

Mitigation Measure BIO-1 See Attachment C, Section C.(1)a.ii. Special Status Fish, above.

Mitigation Measure BIO-6: Minimize Impacts on Nesting Birds

The Permittee and its construction contractor(s) will implement the following measures to minimize impacts on nesting birds:

- If project activities that could affect suitable habitat for nesting birds cannot be conducted outside of the nesting season (1 January through 15 September, dependent on specific species), the Permittee will complete pre-activity surveys for nesting birds (including raptor and passerine nests and heron and egret rookeries). Surveys will be conducted by a qualified biologist. Surveys will be conducted within suitable nesting habitat that could be affected by project activities (e.g., construction area, staging areas, access routes) and will include a 500-foot buffer area (or larger area if required by established survey protocol) surrounding these areas. Where appropriate, pre-activity surveys will follow established survey protocols or guidelines. These protocols include:
    - Bald Eagle Nesting Territory Survey Form and Instructions (CDFG 2010)
    - Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015 (CDFW 2015)
    - Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (SHTAC 2000).
- If no established survey protocol exists, the qualified biologist will complete surveys within 1 week of the start of on-site project activity, or within 2 weeks of restart of the activity after the activity has lapsed. If no nesting birds are detected during pre-activity surveys, no additional mitigation measures are required.
- If nesting birds are identified by a qualified biologist on or adjacent to the project site, the Permittee will establish an avoidance buffer for project activities that would potentially affect the nesting birds. Alternatively, a qualified biologist may determine that a buffer is not required to avoid adverse effects on nesting birds, based on the specific project activities to be conducted, species present, nest stage, and nest location. If required, buffers will be marked in the field by a qualified biologist using temporary fencing, high-visibility flagging, or other means that are equally effective in clearly delineating the buffers. Project activities will not occur within the buffer, and the buffer will be expanded if the nesting pair or their young exhibit agitated behavior. If project activities that may impact special-status nesting birds are required within the avoidance buffer, the activities will be monitored by a qualified biologist either continuously or periodically during work, as determined by the qualified biologist. The qualified biologist will be empowered to stop

project activities that, in the biologist's opinion, threaten to cause nest disturbance or abandonment. If project activities are stopped, the qualified biologist will consult with CDFW (and USFWS if appropriate) to determine appropriate measures that the Permittee will implement to avoid adverse effects. Buffers will be maintained until there is no longer a threat of disturbance to the sensitive biological resource (e.g., young have fledged, individuals have moved out of the area), as determined by a qualified biologist.

Special-status Mammals

While the project site does contain riparian habitat preferred for roosting by western red bat and other protected bat species, the site is subject to high levels of human disturbance and only a small patch of potential roosting habitat occurs on the project site. This small amount of potential roosting habitat is unlikely to support colonial roosting, including maternity roosting. If roosting occurs onsite, it is likely to be limited to a relatively small number of individual bats that may occasionally day-roost within the project area. Project-related tree removal may directly impact roosting bats and other project activities may indirectly impact roosting bats through any vibration, loud noises, or other disturbance that may cause individuals to awaken during daylight hours, leaving them disoriented and vulnerable to prey attack. Consequently, the impact to roosting bats is considered significant.

Mitigation Measures BIO-1 and BIO-7 will be implemented to address this impact.

Mitigation Measure BIO-1 See Attachment C, Section C.(1)a.ii. Special Status Fish, above.

Mitigation Measure BIO-7: Minimize Impacts on Special-status Bats DWR and its construction contractor(s) will implement the following measures to minimize impacts on special-status bats:

- If project activities that could affect suitable habitat for occupied bat roosts cannot be conducted outside of the maternity season (April 1 through August 31, dependent on specific species; Johnston et al. 2004), DWR will complete pre-activity surveys for roosting bats. Surveys will be conducted by a qualified biologist. Surveys will be conducted within suitable roosting habitat that could be affected by project activities (e.g., construction area, staging areas, access routes) and will include a 500-foot buffer area surrounding these areas.
- The qualified biologist will complete surveys within 1 week before the start of the activity, or within 2 weeks before restart of the activity after the activity has lapsed. If no roosting bats are detected during pre-activity surveys, no additional mitigation measures are required.

- If roosting bats are identified by a qualified biologist in or adjacent to the project site, the Permittee will establish an avoidance buffer for project activities that would potentially affect the bats. Alternatively, a qualified biologist may determine that a buffer is not required to avoid adverse effects on roosting bats, based on the specific project activities to be conducted and location of the roost in relation to those activities.
- If required, buffers will be marked in the field by a qualified biologist using temporary fencing, high-visibility flagging, or other means that are equally effective in clearly delineating the buffers. Project activities will not occur within the buffer, and the buffer will be expanded if the roosting bats exhibit agitated behavior. If project activities that may impact roosting bats are required within the avoidance buffer the activities will be monitored by a qualified biologist either continuously or periodically during work, as determined by the qualified biologist. The qualified biologist will be empowered to stop project activities that, in the biologist's opinion, threaten to cause unanticipated and/or unpermitted adverse effects on special-status wildlife (e.g., nest abandonment). If project activities are stopped, the qualified biologist will consult with CDFW to determine appropriate measures that the Permittee will implement to minimize adverse effects. For example, tree removal would not occur during periods when roosting bats are most vulnerable (i.e., during maternity and wintering periods) and removal may occur in a staged process over several days to allow roosting individuals to relocate. Buffers will otherwise be maintained until there is no longer a threat of disturbance to the roosting bats (e.g., young have fledged, individuals have moved out of the area), as determined by a qualified biologist.

b.i. Less than Significant with Mitigation Incorporated:

With proposed mitigation measures, the project is unlikely to have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations or by CDFW or USFWS.

b.ii. Facts in Support of Finding:

The California Natural Diversity Database (CNDDB) identifies Great Valley Mixed Riparian Forest on the Sacramento River side of the project site (CDFW 2023b). No Great Valley Mixed Riparian Forest habitat is designated on the Butte Slough side of the project. Seven trees and associated understory along and near the Sacramento River and Butte Slough banks would be impacted or removed as part of the project construction activities, with two occurring below the OHWM. Riparian trees are considered a natural sensitive community and provide shade and important ecological functions for

fish and reduction of this vegetation below OHWM would also cause an impact to designated critical habitat for Chinook-Central Valley spring-run ESU, Chinook-Sacramento River winter-run ESU, steelhead- California Central Valley DPS, and green sturgeon-southern DPS, and EFH for groundfish and Chinook salmon. While one tree planned for removal below the OHWM provides shade to a portion of the Sacramento River channel, it does not meet the definition of shaded riverine aquatic (SRA) habitat (as defined in USFWS 1992) as the underlying substrate is not natural and is instead armored with rock. When flows vary within the channel to fall below the OHWM, the bank is protected from eroding due to the armored bank. In addition, the habitat along the southern bank of the BSOG outlet is not a mature riparian community and instead is immature scrub/shrub habitat However, the proposed impacts to riparian vegetation would be a significant impact.

Mitigation Measures BIO-1 and BIO-8 will be implemented to address this impact.

Mitigation Measure BIO-1 See Attachment C, Section C.(1)a.ii. Special Status Fish, above.

Mitigation Measure BIO-8: Minimize Impacts of Vegetation Removal

DWR and its construction contractor(s) will implement the following measures to minimize impacts of vegetation removal:

- Limit clearing of vegetation and blading for temporary vehicle access to the minimum necessary; especially minimize the clearing of native riparian vegetation and native oaks to the extent practicable.
- Where feasible and consistent with project requirements, avoid removal of native trees with a trunk greater than 4 inches in diameter at breast height. Work will be done in a manner that ensures, to the extent feasible, that living native riparian vegetation within the project footprint is avoided and left undisturbed, where this can reasonably be accomplished without compromising project construction and maintenance requirements.
- Disturbed soil areas will be stabilized using appropriate erosion control BMPs during and at the completion of construction activities for all phases of work. If hydroseeding is used to cover disturbed areas, native grass/forb/herbaceous plant, sterile rye, or other non-invasive seed mixes will be used.
- A certified arborist will be present to supervise tree removal and trimming to preserve tree health and ensure that appropriate methods are used. Any riparian habitat that is removed along the Sacramento River and/or Butte Slough will be replaced, with replacement to occur onsite. Native willows, oaks, and/or other

native plantings will be replanted on bank slopes in or near the project area. In areas where rip rap will be replaced or installed, native willows and/or other native trees and shrubs plantings will be incorporated into the voids/gaps. Lifts of riprap/soil mixes will be placed above the OHWM and where feasible (dependent upon slope and other factors) on the Butte Slough and Sacramento Riverbanks near the project site. Plantings will be incorporated into the rip rap/soil mix after construction is complete or during the final stages of construction.

- A mitigation and monitoring plan will be developed and implemented to ensure that there is no net long-term loss of shaded riverine aquatic habitat and other riparian habitat. Proposed mitigation habitat will be created at or near the site. The Permittee will coordinate with the appropriate regulatory agencies regarding compensation numbers/amount, locations, and details. If the Permittee cannot create on-site mitigation, off-site mitigation may be used with agency approval, including at existing and approved mitigation/conservation banks or at other approved sites including the Permittee managed restoration and/or multi-benefit projects.

c.i. Less than Significant with Mitigation Incorporated:

With proposed mitigation measures, the project is unlikely to have a substantial adverse effect on State or Federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.

c.ii. Facts in Support of Finding:

The project site does not support Federally protected wetlands, marsh, vernal pool, or coastal wetlands as defined by Section 404 of the CWA. However, construction activities would take place below the OHWM of State and Federally protected waters and the project is subject to USACE and Central Valley Water Board regulation under Sections 404 and 401 of the CWA. There would be no permanent loss of protected waters, but construction activities would temporarily affect approximately 1.5 acres of open water in Butte Slough, potentially degrading water quality on and downstream of the project site. This impact would be significant.

Mitigation Measures BIO-1 and BIO-3 will be implemented to address this impact.

Mitigation Measure BIO-1 See Attachment C, Section C.(1)a.ii. Special Status Fish, above.

Mitigation Measure BIO-3 See Attachment C, Section C.(1)a.ii. Special Status Fish, above.

d.i. Less than Significant with Mitigation Incorporated:

With proposed mitigation measures, the project is unlikely to conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.

d.ii. Facts in Support of Finding:

The Permittee is not subject to local laws or ordinances unless specifically authorized by the Legislature. Colusa and Sutter counties both have policies in their respective General Plans to avoid removal of native oak trees if possible. If oak trees are removed, replanting onsite is preferred over offsite. Due to the site size limitations and safe access between the structure's two sides along Butte Slough Road/the levee, at least two oak trees on the Butte Slough side of the project would need to be trimmed to allow access to the structure and new boat ramp. Minor trimming or limbing of additional oak tree(s) may be necessary around the project site and staging area for vehicle access. Minor oak tree trimming at the project site would not conflict with General Plan policies protecting those trees. However, if on-site circumstances change and/or trimming leads to death or accidental felling of an oak tree, this impact would be significant.

Mitigation Measure BIO-8 will be implemented to address this potential impact.

Mitigation Measure BIO-8 See Attachment C, Section C.(1)b.ii. above.

e.i. Less than Significant with Mitigation Incorporated:

With proposed mitigation measures, the project is unlikely to cause a substantial adverse change in the significance of a historical resource pursuant to California Code of Regulations (CCR) Section 15064.5.

e.ii. Facts in Support of Finding:

The California Register of Historical Resources (CRHR) includes resources listed in or formally determined eligible for listing in the National Register of Historic Places (NRHP), as well as some California Historical Landmarks and Points of Historical Interest. Properties of local significance that have been designated under a local preservation ordinance (local landmarks or landmark districts) or that have been identified in a local historical resources inventory may be eligible for listing in the CRHR and are presumed to be significant resources for the purposes of CEQA, unless a preponderance of evidence indicates otherwise (California PRC Section 5024.1, 14 CCR Section 4850). The eligibility criteria for listing in the CRHR are similar to those for NRHP listing but focus on importance of the resources to California history and heritage.

The BSOG facility has been assigned two primary numbers, P 51-000233 and P 06-000699, because it was recorded in both Sutter and Colusa counties, respectively. P-51-000233 includes the outfall gates, part of the Butte Slough

Levee, and an additional resource near the BSOG facility called Butte Slough Historic Site #1, which was recorded in 2012 by the Permittee (DWR 2012). In 2013, AECOM recorded an update to P-51-000233 (AECOM 2013). In 2012, P-06-000699 was assigned to the BSOG facility, and a portion of the Butte Slough Levee that extends into Colusa County, along the Sacramento River. AECOM recorded and evaluated the resource (P-06-000699) in 2013 and recommended it as ineligible for the NRHP/CRHR because of a lack of historical significance (AECOM 2013; OHP 2023). The evaluation also stated the BSOG may be potentially eligible as part of a larger district related to the SRFCP, but such an assessment was beyond the scope of the project. The State Historic Preservation Office concurred with the finding of ineligibility in 2015 (OHP 2023).

Since it has been more than 5 years since the last evaluation, GEI re-visited the BSOG facility for the purposes of this project to assess its current condition and to reassess it for the CRHR. GEI found no major changes to the resource, and it is in generally good condition. The previous evaluation of non-eligibility also appears to remain valid. The BSOG facility does not meet CRHR criteria. The resource on its own has not made a significant contribution to the broad patterns of history within the context of flood management, and thus, does not appear to be eligible under CRHR Criterion 1. Research did not reveal any important individuals to be associated with the resource and, therefore, the BSOG facility does not appear to meet CRHR Criterion 2. The resource is a standard flood control feature and does not exhibit any unique design or construction methods and does not meet CRHR Criterion 3. Under Criterion 4, the resource is not likely to yield information important in prehistory or history. In addition, the resource has lost integrity over time. In summary, the BSOG facility does not meet CRHR criteria as an individual resource because of a lack of historical significance and integrity. Because the BSOG facility does not meet eligibility requirements for the CRHR, it is not considered a historical resource for the purposes of CEQA. Therefore, there would be no impact.

No archaeological resources were identified in the project site during the investigation. However, P-51- 000233, the Butte Slough Outfall Gates (Sutter County), has a discontiguous archaeological component. This portion of the resource, as plotted, overlaps with the easternmost staging area by approximately 10 feet. No evidence of this component of the resource was identified within the project site during the pedestrian survey. This may be because only an edge, and thus likely most sparse portion of the site, overlaps with the project site, the surface portions of the site have been removed, or mis-plotted by the information center, for example. P-51-000233 is being recommended as not eligible for listing in the CRHR for built environment resources, but the archaeological component of the resource has not been evaluated. For purposes of the project, this component of P-51-000233 is being considered as eligible for listing in the CRHR.

During project-related, ground-disturbing activities, this historic component of resource P-51-000233 could be substantially impacted. Therefore, this potential impact is considered significant.

Mitigation Measure CR-1 will be implemented to address this impact.

Mitigation Measure CR-1: Protect the Archaeological Resource P-51-000233 Historic Component through Exclusion Fencing

To protect any possible damage to this component of P-51-000233, exclusion fencing will be placed 20 feet from the NWIC plotted boundary of the site prior to use of the area as a staging area. No vehicle traffic or placement of materials will occur past the exclusion fencing. This will protect any surface or near-surface portions of the resource that may exist within the Area of Potential Effect (APE).

Though unlikely, it is possible buried historical or archaeological resources are present on the project site. If encountered during project-related, ground-disturbing activities, these resources could be substantially impacted. The cultural resources inventory and evaluation study prepared for the project identified one archaeological-historical resource overlapping the project site through record searches. Therefore, this potential impact is considered significant.

Mitigation Measures CR-2 and CR-3 will be implemented to address this impact.

Mitigation Measure CR-2: Address Previously Known Historical, Archaeological, and Tribal Cultural Resources through Worker Environmental Awareness Program Training

Cultural resources awareness training, as part of an overall Workers Environmental Awareness Program (WEAP), will be conducted for all construction personnel by a cultural resources specialist who meets the SOI's Professional Qualifications Standards (36 CFR Part 61; 48 Federal Register 44716). The training will be conducted before any stages of physical project implementation and construction. Native American representatives from interested Native American Tribes will be encouraged to participate in the training.

The WEAP training will include information on the potential kinds of pre-contact Native American and historic-era cultural materials that could be encountered, how to identify buried faunal and human remains, and how to identify anthropogenic soils (e.g., midden soils). The WEAP training will also include a summary of the relevant laws concerning cultural resources and human remains, along with a summary of the following protocols to follow if workers encounter cultural resources or human remains.

Mitigation Measure CR-3: Address Previously Known Historical, Archaeological, and Tribal Cultural Resources through Monitoring of

Ground-disturbing Activities

Because of the sensitivity for archaeological resources in native soils, project-related, ground-disturbing activities conducted in native soils will be monitored by either a SOI-qualified archaeologist or supervised by a Secretary of the Interior qualified archaeologist or Tribal monitor, if available. Construction activities to be monitored will be restricted to work in native soils and where soils are able to be viewed; for example, installation of pilings that will not expose soils need not be monitored. Monitors will have the ability to temporarily stop work to inspect possible archaeological finds. Daily monitoring logs by all monitors will be kept with information regarding the type of work monitored, location of monitoring, time of monitoring, and whether archaeological/Tribal resources were encountered. All monitoring logs will be submitted to the Permittee on a weekly or biweekly basis.

During project activities and continuing consultation with Native American Tribes, it is possible that previously undiscovered archaeological resources meeting criteria for inclusion of the CRHR may be identified. Therefore, this potential impact is considered potentially significant.

Mitigation Measure CR-4 will be implemented to address this potential impact.

Mitigation Measure CR-4: Address Previously Undiscovered Historical, Archaeological, and Tribal Cultural Resources

If buried or previously unidentified historic properties or archaeological resources are discovered during project construction, all work within a 100-foot-radius of the find will cease. The Permittee will retain a professional archaeologist meeting the Secretary of the Interior's Professional Standards for Archaeologists to assess the discovery and recommend what, if any, further treatment, or investigation is necessary for the find. Interested Native American Tribes will also be contacted. Any necessary treatment/investigation will be developed in coordination with interested Native American Tribes providing recommendations and with the Permittee and will be completed before project activities continue in the vicinity of the find.

f.i. Less than Significant with Mitigation Incorporated:

With proposed mitigation measures, the project is unlikely to cause a substantial adverse change in the significance of an archaeological resource pursuant to CCR Section 15064.5.

f.ii. Facts in Support of Finding:

As used in California PRC Section 21083.2, the term "unique archaeological resource" refers to an archaeological artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following

criteria:

contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information,

has a special and particular quality such as being the oldest of its type or the best available example of its type, or

is directly associated with a scientifically recognized important prehistoric or historic event or person.

No archaeological resources were found on the project site during the pedestrian survey or in the records search. Ground disturbance expected to occur during construction-related activities is limited in extent. The depth of ground disturbance within the project site would vary, with minimal disturbance expected within the equipment staging areas. Smaller, discreet areas would experience disturbance to greater depths (up to 4 feet within dewatered areas) for repairs, but these areas would be very limited in areal extent. Therefore, the likelihood of encountering cultural resources during project construction is low. Nevertheless, the possibility remains that archaeological resources may be discovered during project-related ground-disturbing activities. Therefore, this potential impact is considered potentially significant.

Mitigation Measure CR-4 will be implemented to address this potential impact.

Mitigation Measure CR-4 See Attachment C, Section C.(1)e.ii. above.

g.i. Less than Significant with Mitigation Incorporated:

With proposed mitigation measures, the project is unlikely to disturb any human remains, including remains interred outside of dedicated cemeteries.

g.ii. Facts in Support of Finding:

No human remains are known to have been discovered in the project vicinity, and there is no indication from the records searches or pedestrian survey that human remains are present on the project site. Therefore, it is not anticipated that human remains, including those interred outside of dedicated cemeteries, would be discovered during ground-disturbance activities on the project site. However, in the event that human remains, including those interred outside of formal cemeteries and including associated items and materials, are discovered during subsurface activities, the human remains, and associated items and materials could be inadvertently damaged. Therefore, this potential impact is considered potentially significant.

Mitigation Measure CR-5 will be implemented to address this potential impact.

Mitigation Measure CR-5: Avoid Potential Effects on Undiscovered Burials.

The Permittee and its construction contractors will implement the following protocol to reduce or avoid potential impacts related to undiscovered

burials. In accordance with the California Health and Safety Code, if human remains are found, all excavation work will be halted in the immediate area and the Colusa and Sutter counties Coroner(s) be notified to determine the nature of the remains. The county Coroner is required to examine all discoveries of human remains within 48 hours of receiving notice of a discovery on private or State lands (California Health and Safety Code, Section 7050.5[b]). If the Coroner determines that the remains are pre-contact Native American (i.e., not modern, and earlier than Euro-American incursion in the area), they must contact the NAHC by telephone within 24 hours of making that determination (California Health and Safety Code, Section 7050.5[c]).

Once notified by the Coroner, the NAHC will identify the person it believes is the Most Likely Descendant (MLD) of the Native American remains. With permission of the legal landowner, the MLD may visit the site and make recommendations regarding the treatment and disposition of the human remains and any associated grave goods. This visit should be conducted with 24 hours of the MLD's notification by the NAHC (PRC Section 5097.98[a]). If a satisfactory agreement for treatment of the remains cannot be reached, any of the parties may request mediation by the NAHC (PRC Section 5097.94[k]). Should mediation fail, the landowner or landowner's representative must reinter the remains and associated items with appropriate dignity on the property in a location not subject to further subsurface disturbance (PRC Section 5097.98[b]).

h.i. Less than Significant with Mitigation Incorporated:

With proposed mitigation measures, the project is unlikely to violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality.

h.ii. Facts in Support of Finding:

Construction of project components would result in temporary and short-term disturbance of soil. Exposed soil could be exposed to rainfall during storm events. Rainfall of sufficient intensity on these disturbed areas could result in storm water runoff conveying sediment to into Butte Slough and the Sacramento River, resulting in degradation of water quality.

Construction activities and operation of construction equipment would involve the use of contaminants and hazardous materials such as fuels, lubricants, hydraulic fluids, and coolants. Use and onsite storage of these hazardous materials could result in contamination of surface or groundwater through accidental release or unsafe storage and handling practices. The release of these hazardous materials directly affects groundwater quality or the water quality in Butte Slough and the Sacramento River.

Dewatering activities also have potential to degrade water quality. Sheet pile driving used for creation of cofferdams has potential to cause an increase in

surface water turbidity through the stirring of sediment on both sides of the BSOG facility in Butte Slough and possibly the Sacramento River. It's anticipated that some localized soil instability or bank destabilization may occur within the shoreline of the dewatering areas because of existing bank slope conditions.

Discharge of dewatering effluent during construction has the potential to alter turbidity levels at the discharge sites, likely Butte Slough, or the Sacramento River, because water pumped from the dewatering area could have higher levels of turbidity or could increase turbidity at the discharge site due erosion resulting from the velocity of water being discharged.

Changes in turbidity levels would depend on where and how dewatering effluent is discharged. Temporary water quality impacts during construction, including impacts associated with the exposure of disturbed areas to storm events, dewatering effluent, and accidental releases of hazardous materials would be considered significant.

Mitigation Measures BIO-3 and HWQ-1 will be implemented to address this impact.

Mitigation Measure BIO-3 See Attachment C, Section C.(1)a.ii. Special Status Fish, above.

Mitigation Measure HWQ-1: Obtain Coverage and Comply with Requirements of the General Order for Limited Threat Discharges to Surface Water.

Construction and operations involving dewatering would be subject to Central Valley Water Board Waste Discharge Requirement (WDR) R5-2016-0076-01 requirements for managing wastewater produced during dewatering activities. To obtain coverage under this General Order, which also serves as the NPDES Permit, the Discharger must submit a complete Notice of Intent and provide samples for analysis to determine the quality of the discharge (using tiers) and assign appropriate controls that would apply to the permit. The Permittee or its contractor(s) will submit a separate Notice of Intent under the General Order for applicable construction and/or operation activities.

D. Determination

The Central Valley Water Board has determined that the Project, when implemented in accordance with the MMRP and the conditions in this Order, will not result in any significant adverse water resource impacts. (California Code of Regulations, title 14, section 15096, subd (h).)

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Attachment D – Reports and Notification Requirements

I. Copies of this form

In order to identify your project, it is necessary to include a copy of the Project specific Cover Sheet below with your report; please retain for your records. If you need to obtain a copy of the Cover Sheet, you may download a copy of this Order as follows:

A. Central Valley Regional Water Quality Control Board's Adopted Orders Web page (https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/401_wqcerts/)

B. Find your Order based on the County, Permittee, WDID No., and/or Project Name.

II. 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 Reports):** These reports will be submitted monthly 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: Carter.Cook@waterboards.ca.gov.
- Include in the subject line of the email:
  ATTN: Carter Cook; Project Name; and WDID No. 5A51CR00148.

III. 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.

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:

3 March 2025

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. <u>Photo-Documentation:</u>

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: Butte Slough Outfall Gates (BSOG) Repair Project
Permittee: California Department of Water Resources
WDID: 5A51CR00148
Reg. Meas. ID: 457580
Place ID: 895538
Order Effective Date: 3 March 2025
Order Expiration Date: 2 March 2030

VI. Report Type Submitted

A. Part A – Project Reporting

Report Type 1 ☐ Monthly Report
Report Type 2 ☐ Annual Report- Not Applicable

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 Name[1]	**Affiliation and Job Title**

Signature	**Date**

[1]STATEMENT 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 effective date of this Order 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 – Not Applicable

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.
      v. Proof of purchase of compensatory mitigation for permanent impacts from the mitigation bank or in-lieu fee program.
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: Permittee Responsible Compensatory Mitigation

1) A report establishing that the performance standards outlined in the compensatory mitigation plan have been met.

2) Status on the implementation of the long-term maintenance and management plan and funding of endowment.

3) Pre- and post-photo documentation of all compensatory mitigation sites.

4) Final maps of all compensatory mitigation areas (including buffers).

iii. Part C: Post-Construction Storm Water BMPs

1) Date of storm water Notice of Termination(s), if applicable.

2) Report status and functionality of all post-construction BMPs.

3) Dates and report of visual post-construction inspection during the rainy season as indicated in XIII.C.4.

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 XIII.C.3.

c. Report Contents - As required by the approved water quality monitoring plan or as indicated in XIII.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 working 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 working 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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Attachment E – 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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Attachment F – 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 XIII.L. 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 Water Quality Certification 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 towaters 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

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Attachment G - Compliance with Code of Federal Regulations, Title 40, Section 121.7, Subdivision (d)

The purpose of this Attachment is to comply with Code of Federal Regulations, title 40, section 121.7, subdivision (d), which requires all certification conditions to provide an explanation of why the condition is necessary to assure that any discharge authorized under the certification will comply with water quality requirements and a citation to federal, state, or tribal law that authorizes the condition. This Attachment uses the same organizational structure as Section XIII of the Order, and the statements below correspond with the conditions set forth in Section XIII. The other Order Sections are not “conditions” as used in Code of Federal Regulations, title 40, section 121.7.

I. General Justification for Section XIII Conditions

Pursuant to Clean Water Act section 401 and California Code of Regulations, title 23, section 3859, subdivision (a), the Central Valley Water Board, when issuing water quality certifications, may set forth conditions to ensure compliance with applicable water quality standards and other appropriate requirements of state law. Under California Water Code section 13160, the State Water Resources Control Board is authorized to issue water quality certifications under the Clean Water Act and has delegated this authority to the executive officers of the regional water quality controls boards for projects within the executive officer’s region of jurisdiction. (California Code of Regulations, title 23, section 3838.)

The conditions within the Order are generally required pursuant to the Central Valley Water Board’s Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, Fifth Edition, February 2019 (Basin Plan), which was adopted and is periodically revised pursuant to Water Code section 13240. 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. For instance, the Basin Plan includes water quality objectives for chemical constituents, oil and grease, pH, sediment, suspended material, toxicity and turbidity, which ensure protection of beneficial uses.

The State Water Board’s Antidegradation Policy, “Statement of Policy with Respect to Maintaining High Quality Waters in California,” Resolution No. 68-16, requires that the quality of existing high-quality water be maintained unless any change will be consistent with the maximum benefit to the people of the state, will not unreasonably affect present or anticipated future beneficial uses of such water, and will not result in water quality less than that prescribed in water quality control plans or policies. The Antidegradation Policy further requires best practicable treatment or control of the discharge necessary to assure that pollution or nuisance will not occur and the highest water quality consistent with maximum benefit to the people of the state will be maintained. The Basin Plan incorporates this Policy. The state Antidegradation Policy incorporates the federal Antidegradation Policy (40 C.F.R. section 131.12 (a)(1)), which requires "[e]xisting instream water uses and the level of water quality

necessary to protect the existing uses shall be maintained and protected."

The State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State (Dredge or Fill Procedures), adopted pursuant to Water Code sections 13140 and 13170, authorize approval of dredge or fill projects only if the demonstrations set forth in Section IV.B.1 of the Dredge or Fill Procedures have been satisfied.

California Code of Regulations, title 23, sections 3830 et seq. set forth state regulations pertaining to water quality certifications. In particular, section 3856 sets forth information that must be included in water quality certification requests, and section 3860 sets forth standard conditions that shall be included in all water quality certification actions.

Finally, Water Code sections 13267 and 13383 authorize the regional and state boards to establish monitoring and reporting requirements for persons discharging or proposing to discharge waste.

II. Specific Justification for Section XIII Conditions

A. Authorization

Authorization under the Order is granted based on the application submitted. The Permittee is required to detail the scope of project impacts in a complete application pursuant to California Code of Regulations, title 23, section 3856, subdivision (h). Pursuant to Water Code section 13260, subdivision (c), each person discharging waste, or proposing to discharge waste shall file a report of waste discharge relative to any material change or proposed change in the character, location, or volume of the discharge. Pursuant to Water Code section 13264, subdivision (a), the Permittee is prohibited from initiating the discharge of new wastes, or making material changes to the character, volume, and timing of waste discharges authorized herein without filing a report required by Water Code section 13260 or its equivalent for certification actions under California Code of Regulations, title 23, section 3856.

B. Reporting and Notification Requirements

1. Project Reporting

2. Project Status Notifications

The reporting and notification conditions under Sections B.1 and B.2 are required to provide the Central Valley Water Board necessary project information and oversight to ensure project discharges are complying with applicable Basin Plan requirements. These monitoring and reporting requirements are consistent with the Central Valley Water Board’s authority to investigate the quality of any waters of the state and require necessary monitoring and reporting pursuant to Water Code sections 13267 and 13383. Water Code section 13267 authorizes the regional boards to require any

person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste to provide technical or monitoring program reports required by the regional board. Water Code section 13383 authorizes the regional boards to establish monitoring, inspection, entry, reporting, and other recordkeeping requirements, as authorized by Water Code section 13160, for any person who discharges, or proposes to discharge, to navigable waters.

3. Conditional Notifications and Reports

a. Accidental Discharges of Hazardous Materials

Conditions under Section B.3.a related to notification and reporting requirements in the event of an accidental discharge of hazardous materials are required pursuant to section 13271 of the Water Code, which requires immediate notification of the Office of Emergency Services of the discharge in accordance with the spill reporting provision of the state toxic disaster contingency plan adopted pursuant to Article 3.7 (commencing with Section 8574.16) of Chapter 7 of Division 1 of Title 2 of the Government Code. “Hazardous materials” is defined under Health and Safety Code section 25501. These reports related to accidental discharges ensure that corrective actions, if any, that are necessary to minimize the impact or clean up such discharges can be taken as soon as possible.

b. Violation of Compliance with Water Quality Standards

c. In-Water work and Diversions

Conditions under Section B.3.b and B.3.c related to monitoring and reporting on water quality standard compliance and in-water work and diversions are required to provide the Central Valley Water Board necessary project information and oversight to ensure project discharges are complying with applicable water quality objectives under the Basin Plan. These monitoring and reporting requirements are consistent with the Central Valley Water Board’s authority to investigate the quality of any waters of the state and require necessary monitoring and reporting pursuant to Water Code sections 13267 and 13383. Water Code section 13267 authorizes the regional boards to require any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste to provide technical or monitoring program reports required by the regional board. Water Code section 13383 authorizes the regional boards to establish monitoring, inspection, entry, reporting, and other recordkeeping requirements, as authorized by Water Code section 13160, for any person who discharges, or proposes to discharge, to navigable waters.

d. Modifications to Project

Authorization under this Order is granted based on the application and supporting information submitted. Conditions under Section B.3.d are necessary to ensure that if there are modifications to the project, that the Order requirements remain applicable. The Permittee is required to detail the scope of project impacts in a complete application pursuant to California Code of Regulations, title 23, section 3856, subdivision (h). Pursuant to Water Code section 13260, subdivision (c), each person discharging waste, or proposing to discharge waste shall file a report of waste discharge relative to any material change or proposed change in the character, location, or volume of the discharge. Pursuant to Water Code section 13264, subdivision (a), the Permittee is prohibited from initiating the discharge of new wastes, or making material changes to the character, volume, and timing of waste discharges authorized herein without filing a report required by Water Code section 13260 or its equivalent for certification actions under California Code of Regulations, title 23, section 3856.

e. Transfer of Property Ownership

f. Transfer of Long-Term BMP Maintenance

Authorization under this Order is granted based on the application information submitted, including identification of the legally responsible party. Conditions under Sections B.3.e and B.3.f are necessary to confirm whether the new owner wishes to assume legal responsibility for compliance with this Order. If not, the original discharger remains responsible for compliance with this Order. Pursuant to Water Code section 13260, subdivision (c), each person discharging waste, or proposing to discharge waste shall file a report of waste discharge relative to any material change or proposed change in the character, location, or volume of the discharge. Pursuant to Water Code section 13264, subdivision (a), the Permittee is prohibited from initiating the discharge of new wastes, or making material changes to the character, volume, and timing of waste discharges authorized herein without filing a report required by Water Code section 13260 or its equivalent for certification actions under California Code of Regulations, title 23, section 3856.

C. Water Quality Monitoring

Conditions under Section C related to water quality monitoring are required to confirm that best management practices required under this Order are sufficient to protect beneficial uses and to comply with water quality objectives to protect those uses under the Basin Plan. Applicable water quality objectives and beneficial uses are identified in the Order. These monitoring requirements are consistent with the Central Valley Water Board’s authority to investigate the

quality of any waters of the state and require necessary monitoring and reporting pursuant to Water Code sections 13267 and 13383. Water Code section 13267 authorizes the regional boards to require any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste to provide technical or monitoring program reports required by the regional board. Water Code section 13383 authorizes the regional boards to establish monitoring, inspection, entry, reporting, and other recordkeeping requirements, as authorized by Water Code section 13160, for any person who discharges, or proposes to discharge, to navigable waters.

D. Standard

1. This Order is subject to modification or revocation . . . .

This is a standard condition that "shall be included as conditions of all water quality certification actions" pursuant to California Code of Regulations, title 23, section 3860(a). This condition places the permittee on notice that the certification action may be modified or revoked following administrative or judicial review.

2. This Order is not intended and shall not be construed to apply to any activity involving a hydroelectric facility . . . .

This is a standard condition that "shall be included as conditions of all water quality certification actions" pursuant to California Code of Regulations, title 23, section 3860(b). This condition clarifies the scope of the certification's application.

3. This Order is conditioned upon total payment of any fee . . . .

This is a standard condition that "shall be included as conditions of all water quality certification actions" pursuant to California Code of Regulations, title 23, section 3860(c). This fee requirement condition is also required pursuant to California Code of Regulations, section 3833(b).

E. General Compliance

1. Failure to comply with any condition of this Order . . . .

The condition under Section E.1 places the Permittee on notice of any violations of Order requirements. Pursuant to Water Code section 13385, subdivision (a)(2), a person who violates any water quality certification issued pursuant to Water Code section 13160 shall be liable civilly.

2. Permitted actions must not cause a violation of any applicable water quality standards . . . .

Conditions under Section E.2 related to compliance with water quality objectives and designated beneficial uses are required pursuant to the Central Valley Water Board's Basin Plan. The Basin Plan's water quality

standards 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. The Antidegradation Policy requires that the quality of existing high-quality water be maintained unless any change will be consistent with the maximum benefit to the people of the state, will not unreasonably affect present or anticipated future beneficial uses of such water, and will not result in water quality less than that prescribed in water quality control plans or policies. The Antidegradation Policy further requires best practicable treatment or control of the discharge necessary to assure that pollution or nuisance will not occur and the highest water quality consistent with maximum benefit to the people of the state will be maintained. Applicable beneficial uses and water quality objectives to protect those uses include the Chemical Constituents (Basin Plan, Section 3.1.3), Oil and Grease (Basin Plan, Section 3.1.10), pH (Basin Plan, Section 3.1.11), Sediment (Basin Plan, 3.1.15), Suspended Material (3.1.17), Toxicity (Basin Plan, 3.1.20), and Turbidity (Basin Plan, Section 3.1.21) water quality objectives.

3. **In response to a suspected violation of any condition of this Order, the Central Valley Water Board may require . . . .**

   Conditions under Section E.3 related to monitoring and reporting are required to provide the Central Valley Water Board necessary project information and oversight to ensure project discharges are complying with applicable Basin Plan requirements. These monitoring and reporting requirements are consistent with the Central Valley Water Board's authority to investigate the quality of any waters of the state and require necessary monitoring and reporting pursuant to Water Code sections 13267 and 13383. Water Code section 13267 authorizes the regional boards to require any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste to provide technical or monitoring program reports required by the regional board. Technical supports submitted pursuant to Water Code section 13267 are required to be submitted under penalty of perjury. Water Code section 13383 authorizes the regional boards to establish monitoring, inspection, entry, reporting, and other recordkeeping requirements, as authorized by Water Code section 13160, for any person who discharges, or proposes to discharge, to navigable waters.

4. **The Permittee must, at all times, fully comply with engineering plans, specifications, and technical reports . . . .**

   Authorization under the Order is granted based on the application and supporting information submitted. The Permittee is required to detail the project description in a complete application pursuant to California Code of Regulations, title 23, section 3856, subdivision (h). Pursuant to Water Code section 13260, subdivision (c), each person discharging waste, or proposing to discharge waste shall file a report of waste discharge relative to any

material change or proposed change in the character, location, or volume of the discharge. Pursuant to Water Code section 13264, subdivision (a), the Permittee is prohibited from initiating the discharge of new wastes, or making material changes to the character, volume, and timing of waste discharges authorized herein without filing a report required by Water Code section 13260 or its equivalent for certification actions under California Code of Regulations, title 23, section 3856. Finally, compliance with conditions of the Order ensures that the Project will comply with all water quality standards and other appropriate requirements as detailed herein. (California Code of Regulations, title 23, section 3859, subdivision (a).)

5. **This Order and all of its conditions herein continue to have full force and effect . . . .**

   This condition ensures continued compliance with applicable water quality standards and other appropriate requirements of state law. Notwithstanding any determinations by the U.S. Army Corps or other federal agency pursuant to 40 C.F.R. section 121.9, the Permittee must comply with the entirety of this certification because, pursuant to State Water Board Water Quality Order No. 2003-0017-DWQ, this Order also serves as Waste Discharge Requirements pursuant to the Porter-Cologne Water Quality Control Act.

6. **The Permittee shall adhere to all requirements in the mitigation monitoring and reporting program . . . .**

   This condition ensures mitigation measures required to lessen the significance of impacts to water quality identified pursuant to California Environmental Quality Act review are implemented and enforceable. Pursuant to California Code of Regulations, title 14, section 15097, subdivision (a), a public agency shall adopt a program for monitoring and reporting on mitigation measures imposed to mitigate or avoid significant environmental effects to ensure implementation.

7. **Construction General Permit Requirement**

   Permittees are required to obtain coverage under 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. This is required pursuant to Clean Water Act sections 301 and 402 which prohibit certain discharges of storm water containing pollutants except in compliance with an NPDES permit. (33 U.S.C. section 1311, and 1342(p); 40 C.F.R. parts 122, 123, and 124.)

F. Administrative

1. Signatory requirements for all document submittals . . . .

The condition for signatory requirements is required pursuant to Water Code section 13267, which requires any person discharging waste that could affect the quality of waters to provide to the Central Valley Water Board, under penalty of perjury, any technical or monitoring program reports as required by the Central Valley Water Board. The signatory requirements are consistent with 40 C.F.R. section 122.22.

2. This Order does not authorize any act which results in the taking of a threatened, endangered, or candidate species . . . .

Pursuant to the California Endangered Species Act (Fish & Wildlife Code, sections 2050 et seq.) and federal Endangered Species Act (16 U.S.C. sections 1531 et set.), the Order does not authorize any act which results in the taking of a threatened, endangered, or candidate species. In the event a Permittee requires authorization from the state or federal authorities, California Code of Regulations, title 23, section 3856(e), requires that copies be provided to the Central Valley Water Board of "any final and signed federal, state, and local licenses, permits, and agreements (or copies of the draft documents, if not finalized) that will be required for any construction, operation, maintenance, or other actions associated with the activity. If no final or draft document is available, a list of all remaining agency regulatory approvals being sought shall be included."

3. The Permittee shall grant Central Valley Water Board staff . . . .

The condition related to site access requirements is authorized pursuant to the Central Valley Water Board's authority to investigate the quality of any waters of the state within its region under Water Code section 13267 and 13383. Water Code section 13267, subdivision (c) provides that "the regional board may inspect the facilities of any person to ascertain whether the purposes of this division are being met and waste discharge requirements are being complied with." Water Code section 13383 authorizes the regional boards to establish monitoring, inspection, entry, reporting, and other recordkeeping requirements, as authorized by Water Code section 13160, for any person who discharges, or proposes to discharge, to navigable waters.

4. A copy of this Order shall be provided to any consultants, contractors, and subcontractors . . . .

This Condition ensures any agent of the Permittee is aware of Order requirements. Such conditions within the Order are necessary to ensure that all activities will comply with applicable water quality standards and other appropriate requirements (33 U.S.C. section 1341; California Code of Regulations, title 23, section 3859, subdivision (a)) and cannot be adhered to if the Permittees' agents are unaware of applicable requirements. These

conditions are necessary to ensure compliance with applicable water quality objectives and protection of beneficial uses found in the Basin Plan, adopted pursuant to Water Code section 13240, and detailed in the Order.

5. A copy of this Order must be available at the Project site(s) during construction . . .

This Condition ensures any agent of the Permittee is aware of Order requirements. Such conditions within the Order are necessary to ensure that all activities will comply with applicable water quality standards and other appropriate requirements (33 U.S.C. section 1341; California Code of Regulations, title 23, section 3859, subdivision (a)) and cannot be adhered to if the Permittees' agents are unaware of applicable requirements. These conditions are necessary to ensure compliance with applicable water quality objectives and protection of beneficial uses found in the Basin Plan, adopted pursuant to Water Code section 13240, and detailed in the Order.

6. Lake or Streambed Alteration Agreement

This condition is required pursuant to California Code of Regulations, title 23, section 3856, subdivision (e), which requires that copies be provided to the Central Valley Water Board of "any final and signed federal, state, and local licenses, permits, and agreements (or copies of the draft documents, if not finalized) that will be required for any construction, operation, maintenance, or other actions associated with the activity. If no final or draft document is available, a list of all remaining agency regulatory approvals being sought shall be included."

G. Construction

1. Dewatering

Conditions related to dewatering and diversions ensure protection of beneficial uses during construction activities. Work in waters of the state and temporary diversions must not cause exceedances of water quality objectives; accordingly, these conditions require implementation of best practicable treatments and controls to prevent pollution and nuisance, and to maintain water quality consistent with the Basin Plan and Antidegradation Policy. Further and consistent with the Dredge or Fill Procedures, section IV.A.2.c, water quality monitoring plans are required for any in-water work. Finally, dewatering activities may require a Clean Water Act section 402 permit or separate Waste Discharge Requirements under Water Code section 13263 for dewatering activities that result in discharges to land.

Conditions related to water rights permits are required pursuant to California Code of Regs, title 23, section 3856(e), which requires complete copies of any final and signed federal, state, or local licenses, permits, and agreements (or copies of drafts if not finalized) that will be required for any construction,

operation, maintenance, or other actions associated with the activity.

Conditions related to monitoring and reporting are required to provide the Central Valley Water Board necessary project information and oversight to ensure project discharges are complying with applicable Basin Plan requirements. These monitoring and reporting requirements are consistent with the Central Valley Water Board's authority to investigate the quality of any waters of the state and require necessary monitoring and reporting pursuant to Water Code sections 13267 and 13383. Water Code section 13267 authorizes the regional boards to require any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste to provide technical or monitoring program reports required by the regional board. Water Code section 13383 authorizes the regional boards to establish monitoring, inspection, entry, reporting, and other recordkeeping requirements, as authorized by Water Code section 13160, for any person who discharges, or proposes to discharge, to navigable waters.

2. **Directional Drilling – Not Applicable**

3. **Dredging – Not Applicable**

4. **Fugitive Dust**

   This condition is required to assure that the discharge from the Project will comply with water quality objectives established for surface waters, including for chemical constituents and toxicity. (Basin Plan, Sections 3.1.3 & 3.1.20.) Chemicals used in dust abatement activities can result in a discharge of chemical additives and treated waters to surface waters of the state. Therefore, dust abatement activities shall be conducted so that sediment or dust abatement chemicals are not discharged into waters of the state and do not adversely affect beneficial uses. (Basin Plan, Section 2.1; Dredge or Fill Procedures, Section IV.B.1.)

5. **Good Site Management "Housekeeping"**

   Conditions related to site management require best practices to prevent, minimize, and/or clean up potential construction spills, including from construction equipment. For instance, fuels and lubricants associated with the use of mechanized equipment have the potential to result in toxic discharges to waters of the state in violation of water quality standards, including the toxicity and floating material water quality objectives. (Basin Plan, Sections 3.1.7 & 3.1.20.) This condition is also required pursuant to Water Code section 13264, which prohibits any discharge that is not specifically authorized in this Order. Among other requirements, Section IV.B.1 of the Dredge or Fill Procedures requires that Project impacts will not cause or contribute to a degradation of waters; or violate water quality standards.

6. Hazardous Materials

Conditions related to toxic and hazardous materials are necessary to assure that discharges comply with applicable water quality objectives under the Basin Plan, adopted under section 13240 of the Water Code, including the narrative toxicity and chemical constituents water quality objectives. (Basin Plan, Sections 3.1.3, 3.1.20.) Further, conditions related to concrete/cement are required pursuant to the Basin Plan's pH water quality objective. (Basin Plan, Section 3.1.11.)

7. Invasive Species and Soil Borne Pathogens

Conditions related to invasive species and soil borne pathogens are required to ensure that discharges will not violate any water quality objectives under the Basin Plan, adopted under Water Code section 13240 of the Water Code. Invasive species and soil borne pathogens adversely affect beneficial uses designated in the Basin Plan, such as rare, threatened, or endangered species; wildlife habitat; and preservation of biological habitats of special significance. (See Basin Plan, Section 2.1.) Among other requirements, Section IV.B.1 of the Dredge or Fill Procedures requires that Project impacts will not contribute to a net loss of the overall abundance, diversity, and condition of aquatic resources; cause or contribute to a degradation of waters; or violate water quality standards.

8. Post-Construction Storm Water Management – Not Applicable

9. Roads

These conditions are required to assure that discharges will comply with water quality standards within the Basin Plan. Specifically, activities associated with road maintenance have the potential to exceed water quality objectives for oil and grease, pH, sediment, settleable materials, temperature, and turbidity. (Basin Plan, Sections 3.1.10, 3.1.11, 3.1.15, 3.1.16, 3.1.19, 3.1.21.) Further, these conditions are required to assure that they do not result in adverse impacts related to hydromodification or create barriers to fish passage and spawning activities. Among other requirements, Section IV.B.1 of the Dredge or Fill Procedures requires that Project impacts will not contribute to a net loss of the overall abundance, diversity, and condition of aquatic resources; cause or contribute to a degradation of waters; or violate water quality standards.

10. Sediment Control

Conditions related to erosion and sediment control design requirements are required to sustain fluvial geomorphic equilibrium. Improperly designed and installed BMPs result in excess sediment, which impairs surface waters, adversely affect beneficial uses, and results in exceedance of water quality objectives in the Basin Plan, including for sediment and turbidity. (Basin Plan, Sections 3.1.15 & 3.1.21.) Among other requirements, Section IV.B.1 of the

Dredge or Fill Procedures requires that Project impacts will not contribute to a net loss of the overall abundance, diversity, and condition of aquatic resources; cause or contribute to a degradation of waters; or violate water quality standards.

11. Special Status Species

See F.2 above.

12. Stabilization/Erosion Control

Conditions related to erosion and sediment control design requirements are required to sustain fluvial geomorphic equilibrium. Improperly designed and installed BMPs result in excess sediment, which impairs surface waters, adversely affect beneficial uses, and results in exceedance of water quality objectives in the Basin Plan, including for sediment. (Basin Plan, Section 3.1.15.) Among other requirements, Section IV.B.1 of the Dredge or Fill Procedures requires that Project impacts will not contribute to a net loss of the overall abundance, diversity, and condition of aquatic resources; cause or contribute to a degradation of waters; or violate water quality standards.

13. Storm Water

Post-rain erosion and sedimentation problems can contribute to significant degradation of the waters of the state; therefore, it is necessary to take corrective action to eliminate such discharges in order to avoid or minimize such degradation. Implementation of control measures and best management practices described in the condition will assure compliance with water quality objectives including chemical constituents, floating material, sediment, turbidity, temperature, suspended material, and settleable material within the Basin Plan. (Basin Plan, Sections 3.1.1, 3.1.7, 3.1.15, 3.1.16, 3.1.17, 3.1.19, 3.1.21.) Among other requirements, Section IV.B.1 of the Dredge or Fill Procedures requires that Project impacts will not cause or contribute to a degradation of waters or violate water quality standards.

H. Site Specific – Not Applicable

I. Total Maximum Daily Load (TMDL)

Total Maximum Daily Loads (TMDLs) are action plans to restore clean water. Section 303(d) of the federal Clean Water Act requires that states identify water bodies -- bays, rivers, streams, creeks, and coastal areas -- that do not meet water quality standards, and the pollutants that impair them. TMDLs examine water quality problems, identify sources of pollutants, and specify actions that create solutions. They are adopted by the Regional Water Board as amendments to our Region's Basin Plan. Among other requirements, Section IV.B.1 of the Dredge or Fill Procedures requires that Project impacts will not cause or contribute to a degradation of waters or violate water quality standards.

J. Mitigation for Temporary Impacts

The conditions under Section J require restoration of temporary impacts to waters of the state. Conditions in this section related to restoration and/or mitigation of temporary impacts are consistent with the Dredge or Fill Procedures, which requires "in all cases where temporary impacts are proposed, a draft restoration plan that outlines design, implementation, assessment, and maintenance for restoring areas of temporary impacts to pre-project conditions." (Dredge or Fill Procedures section IV. A.2(d) & B.4.) Technical reporting and monitoring requirements under this condition are consistent with the Central Valley Water Board's authority to investigate the quality of any waters of the state and require necessary reporting and monitoring pursuant to Water Code sections 13267 and 13383.

K. Compensatory Mitigation for Permanent Impacts

The conditions under Section K regarding compensatory mitigation for permanent impacts ensure permanent physical loss and permanent ecological degradation of waters of the state are adequately mitigated. These conditions are necessary to ensure compliance with state and federal anti-degradation policies and are consistent with Section IV.B.1.a of the Dredge or Fill Procedures, which requires that the Water Boards will approve a project only after it has been determined that a sequence of actions has been taken to first avoid, then to minimize, and lastly compensate for adverse impacts that cannot be practicably avoided or minimized. (See also California Code of Regulations, section 3856, subdivision (h) [requiring submittal of proposed mitigation and description of steps taken to avoid, minimize, or compensate].) These compensatory mitigation conditions are also consistent with Executive Order W-59-93 commonly referred to as California's "No Net Loss" Policy for wetlands. The objective of the No Net Loss Policy is to ensure no overall net loss of and a long-term net gain in the quantity, quality, and permanence of wetland acreage and values in California. Further, compensatory mitigation requirements must comply with subpart J of the Supplemental State Guidelines. Conditions related to financial assurances are also required to ensure that compensatory mitigation will be provided. (Dredge or Fill Procedures, section IV.B.5.f.)

L. Certification Deviation

1. Minor modifications of Project locations or predicted impacts . . . .

2. A Project modification shall not be granted a Certification Deviation if it warrants or necessitates . . . .

Authorization under the Order is granted based on the application and supporting information submitted. Among other requirements, the Permittee is required to detail the project description in a complete application pursuant to California Code of Regulations, title 23, section 3856, subdivision (h). Pursuant to Water Code section 13260, subdivision (c), each person

discharging waste, or proposing to discharge waste shall file a report of waste discharge relative to any material change or proposed change in the character, location, or volume of the discharge. Pursuant to Water Code section 13264, subdivision (a), the Permittee is prohibited from initiating the discharge of new wastes, or making material changes to the character, volume, and timing of waste discharges authorized herein without filing a report required by Water Code section 13260 or its equivalent for certification actions under California Code of Regulations, title 23, section 3856. Project deviations may require additional or different Order conditions as authorized by law to ensure compliance with applicable water quality standards and other appropriate requirements (33 U.S.C. section 1341; California Code of Regulations, title 23, section 3859, subdivision (a)) and may result in impacts to water quality that require additional environmental review (California Code of Regulations, title 14, sections 15062-15063).