

## Central Valley Regional Water Quality Control Board

3 April 2025

Oscar Ortiz  
Merced County Department of Public Works  
345 W 7th Street  
Merced, CA 95341

### **ORDER AMENDING CLEAN WATER ACT SECTION 401 TECHNICALLY CONDITIONED WATER QUALITY CERTIFICATION; MERCED COUNTY DEPARTMENT OF PUBLIC WORKS, BLACK RASCAL CREEK FLOOD CONTROL PROJECT (WDID NO. 5B24CR00094A1), MERCED COUNTY**

This Order responds to the 15 January 2025 request for an amendment of the Black Rascal Creek Flood Control Project (Project) Section 401 Water Quality Certification (WDID No. 5B24CR00094). The original Water Quality Certification (Certification) was issued on 13 January 2022. The requested amendment is hereby approved. The original Certification is therefore amended as described below. Please attach this document to the original Certification.

This amendment is not valid until and unless an amendment to the Section 404 Permit with equivalent modifications is approved by the United States Army Corps of Engineers (USACE) or it is otherwise determined by USACE that an amendment of the 404 Permit is unnecessary.

#### **AMENDMENT:**

The Merced County Department of Public Works (hereinafter Permittee) is requesting an amendment to the Section 401 Water Quality Certification and Order. The Permittee is requesting to purchase the remaining compensatory mitigation credits from the National Fish and Wildlife Foundation's (NFWF) In Lieu Fee Program instead of the Grasslands Mitigation Bank. The Permittee has purchased 0.7 credits from the Grasslands Mitigation Bank and will need to purchase 4.64 credits from the NFWF In Lieu Fee Program to satisfy compensatory mitigation requirements. Therefore, the following sections are amended as shown in underline format below: Section XIV.K.2.b; Section XIV.K.2 Table 5; and Attachment B Table 5 as well as the addition of Tables 6 and 7.

#### **Amendment A1.1**

##### **XIV.K 2 Total Required Compensatory Mitigation**

- a. The Permittee is required to provide compensatory mitigation for the authorized impact to 3.007 acres of stream channel and 0.008 acre of wetland by purchasing 0.70 Aquatic Resource Credits in an Army Corps of Engineers approved Mitigation Bank.

- b. The Permittee is required to provide compensatory mitigation for the authorized impact to 3.007 acres of stream channel and 0.008 acre of wetland by purchasing 4.64 Aquatic Resource Credits in the San Joaquin River Aquatic Resource Watershed Service Area. Required credits shall be purchased from the National Fish and Wildlife Foundation (NFWF)'s Sacramento District California In-Lieu Fee Program.
- c. Total required Project compensatory mitigation information for permanent physical loss of area is summarized in Table 5. [Establishment (Est.), Re-establishment (Re-est.), Rehabilitation (Reh.), Enhancement (Enh.), Preservation (Pres.), Unknown].

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

Aquatic Resource Type	Mitigation Type	Units	Est.	Re-est.	Reh.	Enh.	Pres.	Unknown
Wetland	Mitigation Bank Credits	Acres	<u>0.7</u>					
<u>Wetland</u>	<u>NFWF In-Lieu Fee</u>	<u>Acres</u>	<u>4.64</u>					

**Amendment A1.2**

**Attachment B**

**Mitigation Bank Compensatory Mitigation Site Information**

**Table 5: Mitigation Type Information**

Aquatic Resource Credit Type	Acres	Linear Feet.	Number of Credits to Purchase
Wetlands	3.02		<u>0.7</u>

**In-Lieu Fee Compensatory Mitigation Information**

**Table 6: In-Lieu Fee Program**

<u>In-Lieu Fee Program Name:</u>	<u>National Fish and Wildlife Foundation's Sacramento District California</u>
<u>Website:</u>	<u><a href="https://www.nfwf.org/mitigating-impacts/sacramento-district-california-lieu-feeprogram">https://www.nfwf.org/mitigating-impacts/sacramento-district-california-lieu-feeprogram</a></u>
<u>In-Lieu Fee Program Contact Name:</u>	<u>Christopher Gurney</u>
<u>Phone:</u>	<u>415-593-7627</u>

<u>Email:</u>	<u><a href="mailto:christopher.gurney@nfwf.org">christopher.gurney@nfwf.org</a></u>
<u>In-Lieu Fee Program Location - County:</u>	<u>TBD</u>
<u>Latitude:</u>	<u>TBD</u>
<u>Longitude:</u>	<u>TBD</u>

**Table 7: Mitigation Type Information**

<b>Aquatic Resource Credit Type</b>	<b>Acres</b>	<b>Linear Feet.</b>	<b>Number of Credits to Purchase</b>
<u>Wetlands</u>	<u>3.02</u>		<u>4.64</u>

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

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**WATER QUALITY CERTIFICATION:**

I hereby issue an Order amending the existing Clean Water Act, Section 401 Technically Conditioned Water Quality Certification for the Black Rascal Creek Flood Control Project (WDID 5B24CR00094A1). All other conditions and provisions of the original Water Quality Certification and any previously approved amendments remain in full force and effect, except as modified based on the conditions of this Order. Failure to comply with the terms and conditions of the original Water Quality Certification, previously approved amendments, or of this Order may result in suspension or revocation of the Water Quality Certification.

*Original signed by Alex S. Mushegan*  
for Patrick Pulupa  
Executive Officer

cc: [Via email only]

Kathy Norton (SPK-2021-00278)  
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