

Central Valley Regional Water Quality Control Board

7 March 2025

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NOTICE OF APPLICABILITY FOR COVERAGE UNDER STATE WATER RESOURCES CONTROL BOARD ORDER FOR CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND WASTE DISCHARGE REQUIREMENTS FOR RESTORATION PROJECTS STATEWIDE (ORDER WQ 2022-0048-DWQ), COYOTE CREEK WETLANDS RESTORATION PROJECT (WDID NO. 5A52CR00244), TEHAMA COUNTY

On 8 January 2025, the National Fish and Wildlife Foundation submitted a Notice of Intent (NOI) to enroll under and comply with State Water Resources Control Board Order for Clean Water Act Section 401 Water Quality Certification and Waste Discharge Requirements for Restoration Projects Statewide, Order No. WQ 2022-0048-DWQ (Statewide Restoration General Order) for the Coyote Creek Wetlands Restoration Project (Project).

The Central Valley Water Quality Control Board (Central Valley Water Board) has reviewed your enrollment materials and finds the Project meets the requirements of, and is hereby enrolled under, the Statewide Restoration General Order. You may proceed with your Project in accordance with the Order. This Notice of Applicability (NOA) is being issued to National Fish and Wildlife Foundation (hereinafter Enrollee) under the Statewide Restoration General Order pursuant to Section 3838 of the California Code of Regulations.

NOA Effective Date: 7 March 2025

NOA Expiration Date: 7 March 2030

A copy of the Statewide Restoration General Order is enclosed. You may also access the Statewide Restoration General Order on State Water Resources Control Board's General Orders Web Page: [Order WQ 2022-0048-DWQ](https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2022/wqo2022-0048-dwq.pdf) (https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2022/wqo2022-0048-dwq.pdf).

The Project must proceed in accordance with the requirements contained in this NOA

NICHOLAS AVDIS, CHAIR | PATRICK PULUPA, EXECUTIVE OFFICER

and the Statewide Restoration General Order. Failure to comply with this NOA and the Statewide Restoration General Order constitutes a violation of the California Water Code and may result in enforcement action and/or termination of enrollment under the Statewide Restoration General Order. The Project is described in the NOI Form requesting coverage and supplementary information (Application Package). Coverage under the Statewide Restoration General Order is no longer valid if the Project is modified from that described in the Application Package.

I. PUBLIC NOTICE

The Central Valley Water Board provided public notice of the application from 10 January 2025 to 31 January 2025. The Central Valley Water Board did not receive any comments during the comment period.

II. PROJECT DESCRIPTION

The purpose of the Project is to restore, create, enhance, and preserve aquatic resources and their associated upland buffers within the 112.72-acre Project site. In accordance with the National Fish and Wildlife Foundation's (NFWF) In Lieu-Fee (ILF) Program Enabling Instrument, the Project will provide compensatory mitigation for authorized impacts to aquatics resources in the ILF Program's Northwest Sacramento River Aquatic Resource and Northwestern Sacramento Valley Vernal Pool Service Areas.

The Project will re-establish or establish up to approximately 1.85 acres of emergent marsh, 2.44 acres of intermittent stream, 0.44 acre of perennial stream, 3.23 acres of vernal pool, and 2.55 acres of vernal swale. The Project will also rehabilitate up to 0.07 acre of intermittent stream and 0.95 acre of vernal pool and enhance up to 0.04 acre of emergent marsh, 0.05 acre of intermittent stream, and 0.22 acre of vernal pool. In addition, the Project will enhance approximately 10.25 acres of Mima mound habitat and restore 1.79 acres of non-wetland swale habitat, which will not count towards mitigation crediting. The Project will also install beaver dam analogues within Coyote Creek and install riparian exclusion fencing along the Coyote Creek corridor. These actions will improve overall aquatic and riparian resource functions on the site by restoring more natural flow paths and hydrology and are expected to result in an increase of net benefits of aquatic and riparian resource functions.

Vernal swales will be re-established by excavating loosely defined narrow, shallow (average 6-foot wide and 6-inch deep), flat-bottomed meandering channels generally oriented with the existing sloped terrain, resulting in slopes of generally less than 5 percent. Vernal pools will be re-established by excavating moderate depressions (generally 6 to 10 inches below the adjacent swale bottoms) at locations along the excavated swale areas. Material excavated to re-establish vernal pools and swales will be distributed across adjacent mounds to restore the similar mound-intermound topography that historically occurred on the site. The top 2-3 inches of topsoil from all excavated areas will be initially collected and stockpiled for redistribution across constructed surfaces (wetlands and uplands) to improve re-vegetation. Soil material containing vernal pool plant seeds and invertebrate cysts (embryonic eggs) will be

collected from existing pools on or adjacent to the Project site and used as inoculum to improve revegetation and colonization by aquatic invertebrates.

Vernal pool rehabilitation consists of restoring degraded seasonal wetlands back to vernal pools by restoring natural hydrology to promote longer duration ponding. Restored hydrology will result from re-connecting these features to re-established vernal pool complexes and, if necessary, deepening the pool basins to increase ponding duration. Locally collected inoculum will be used to improve revegetation by vernal pool endemic plant species. Vernal pool enhancement will occur in existing small, isolated vernal pools that will be reconnected with larger complexes and/or deepened to improve function.

Re-establishment of stream habitats consists of re-establishing low-flow and high-flow channels along Coyote Creek and re-establishing a meandering channel along a channelized and straightened section of an unnamed intermittent stream that is a tributary to Coyote Creek from the north. The re-established low-flow channel will be excavated to the same elevation as the existing channel except at its junction points with the existing channel. Braided high-flow channels will be excavated along the floodplains adjacent to the main Coyote Creek channel. The channelized intermittent stream will be re-established by filling in the straightened sections and excavating meanders to approximate historic grade and channel form, based in part on elevations of existing pools and swales. Material excavated from the re-established meanders will be used to fill the straightened sections. Prior to filling, the top two to three inches of soil will be collected from the existing channel and stockpiled to be placed as inoculum within the newly created meander sections to help re-establish vegetation within the feature.

Up to four emergent marsh features will be established. Two features will be located on the north side of Coyote Creek, at the terminus of the re-established intermittent drainage, prior to entering Coyote Creek. The other two features will be located on the south side of Coyote Creek, adjacent to the re-established high-flow channel. Emergent marsh habitats will be created by excavating basins with steep side slopes. These features are expected to be seasonally inundated or saturated within the plant rooting zone for 6 to 9 months in average rain years. The emergent marsh areas will be plug planted with perennial obligate and facultative wetland plants to minimize erosion and provide wildlife habitat.

The Project will also enhance 10.25 acres of Mima mound topography and restore 1.79 acres of non-wetland swale habitat that will improve overall aquatic and riparian resource function on the site by restoring more natural flow paths and hydrology. The restored non-wetland swales lack sufficient watershed inputs to create wetland conditions and as a result will not be used to generate aquatic resource credits, but they are important for conveying local runoff to both preserved and restored aquatic resources downslope and thus provide a net benefit to the quality and function of all downslope aquatic resources. Three beaver dam analogues (BDAs) will be installed within Coyote Creek and have been designed to capture sediment and additional materials during high flow events and to slow and temporarily detain flows to help

activate the floodplain and improve stream channel and floodplain connectivity, which is expected to benefit both restored and preserved aquatic resources on the floodplain. BDAs will be constructed by driving a line of wooden posts into the streambed approximately 6 to 12 inches apart and then weaving willow branches collected on site within the wooden posts to create a semi-permeable barrier. The riparian exclusion fencing is designed to protect Coyote Creek and adjacent floodplain habitats from grazing pressure, which is expected to improve water quality and promote passive restoration of riparian vegetation, which is also a net benefit since the Project will not generate riparian mitigation credits.

Project elements that affect aquatic resources include excavating and grading activities associated with restoration and enhancement of existing aquatic features on site, the filling of the intermittent stream channel, and installation of BDAs within Coyote Creek. The Project will temporarily impact 0.167 acre of stream channel habitat, 0.169 acre of vernal pool habitat, 0.753 acre of seasonal wetland habitat, and 0.087 acre of seasonal wetland swale habitat. The Project will permanently impact 0.244 acre of stream channel habitat. Construction will take place when Coyote Creek and other aquatic features on the Project site are naturally dry.

III. PROJECT LOCATION

The Project site is located on and adjacent to Coyote Creek, approximately 4 miles south of Red Bluff in Tehama County, California. It is located within Sections 16, 17, 20, and 21 of Township 26 North, Range 3 West, Mt. Diablo Baseline and Meridian. It is centered at Latitude 40.0961 and Longitude -122.2207.

IV. DESCRIPTION OF DIRECT IMPACTS TO WATERS OF THE STATE

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

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

Aquatic Resources Type	Acres	Cubic Yards	Linear Feet
Perennial Stream Channel	0.077	325	352
Intermittent Drainage	0.090	97	265
Vernal Pool	0.169	68	N/A
Seasonal Wetland	0.753	429	N/A
Seasonal Wetland Swale	0.087	59	1013

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

Aquatic Resources Type	Acres	Cubic Yards	Linear Feet
Intermittent Drainage	0.244	525	682

V. PROJECT SCHEDULE

June 2025 through October 2025.

VI. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

On 16 August 2022, State Water Resources Control Board, as lead agency, certified a Program Environmental Impact Report (PEIR) (State Clearinghouse (SCH) No. 2019100230) for the Statewide Restoration General Order and filed a Notice of Determination (NOD) at the SCH on 12 September 2022.

The Central Valley Water Board is a responsible agency under CEQA (Public Resources Code, section 21069) and in making its determinations and findings, must presume that State Water Resources Control Board’s PEIR comports with the requirements of CEQA and is valid. (Public Resources Code, section 21167.3; California Code of Regulations, title 14, section 15231.)

The Central Valley Water Board has reviewed and considered the PEIR and finds that the environmental document addresses the Project’s impacts within the scope of the Board’s jurisdiction and that no additional environmental review is required. (California

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.

Code of Regulations, title 14, section 15096, subdivision (f), 15162, 15163.)

The Central Valley Water Board will file a Notice of Determination with the Office of Planning and Research within five (5) working days of issuance of this certification. (California Code of Regulations, title 14, section 15096, subdivision (i).)

VII. APPLICATION FEE RECEIVED

An application fee of \$4,212.00 was received on 13 January 2025. The remaining project fee of \$49,100.00 based on total Project impacts was received on 6 March 2025.

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.

VIII. ANNUAL FEES

This NOA 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 Central Valley Water Board receives an acceptable Request for a Notice of Project Complete Letter (see Attachment D of Statewide Restoration General Order). Invoices are usually sent out at the end of each calendar year.

To stop annual billing, the Enrollee must request a Notice of Project Complete Letter from the Central Valley Water Board. Central Valley Water Board staff will verify if the conditions of the NOA 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/), (https://www.waterboards.ca.gov/resources/fees/water_quality/) under Water Quality Certification (WQC) Program Fees.

IX. REPORTING AND NOTIFICATION REQUIREMENTS

The Enrollee shall follow notification and reporting requirements described in this NOA and those found in Attachment D of the Statewide Restoration General Order, unless specified as an optional requirement and excluded from this NOA. Reports shall include the specified report contents in Attachment D of the Statewide Restoration General Order and shall be emailed to centralvalleyredding@waterboards.ca.gov and cc Nicholas Savino at Nicholas.Savino@waterboards.ca.gov.

A. Annual Report

The Enrollee shall submit an Annual Report (Report Type 1) each year within one month of the anniversary of the effective date of this NOA. Annual reports shall continue until a Notice of Project Complete Letter is issued to the Enrollee.

B. Post-Construction Monitoring Report

Once the active discharge period is complete and the project enters the post-construction monitoring phase, the Enrollee shall submit a Post-Construction Monitoring Report (Report Type 2) annually on the anniversary of the date that

the project restoration activities were completed and shall continue until a Notice of Project Complete Letter is issued to the Enrollee.

C. Notification of In-Water Work and Diversions

The Enrollee shall notify the Central Valley Water Board at least forty-eight (48) hours prior to initiating work in flowing or standing water or stream diversions. Notification may be via e-mail, delivered written notice, or other verifiable means.

D. Request for Notice of Project Complete Letter

The Enrollee shall submit a Request for Notice of Project Complete Letter within thirty (30) days following completion of all project activities including post-construction monitoring of restoration sites. Upon approval of the request, the Central Valley Water Board shall issue a Notice of Project Complete Letter to the Enrollee.

X. ENVIRONMENTAL MONITORING

Per General Protection Measure 5 (GPM-5) of the Statewide Restoration General Order, a resource specialist will ensure that all applicable protective measures are implemented during project construction. The resource specialist will have authority to stop any work if they determine that any permit requirement is not fully implemented. The resource specialist will prepare and maintain a monitoring log of construction site conditions and observations, which will be kept on file.

XI. CONSTRUCTION GENERAL PERMIT REQUIREMENT

The Enrollee shall obtain coverage under the National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities, Order WQ. 2022-0057-DWQ for discharges to surface waters comprised of stormwater associated with construction activity, including, but not limited to, demolition, clearing, grading, excavations, 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.

XII. CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD CONTACT

If you have questions regarding this Notice of Applicability, please contact Nicholas Savino at (916) 464-4920 or Nicholas.Savino@waterboards.ca.gov.

Original Signed by Clint E. Snyder, AEO
For PATRICK PULUPA, Executive Officer
Central Valley Regional Water Quality Control Board

3/7/2025
Date

Attachment A: Project Maps
Attachment B: Compliance with Code of Federal Regulations, Title 40, Section 121.7 for Order WQ 2022-0048-DWQ Conditions

Enclosure: State Water Resources Control Board Order for Clean Water Act Section 401 Water Quality Certification and Waste Discharge Requirements for Restoration Projects Statewide, Order No. WQ 2022-0048-DWQ

cc via

email: U.S. EPA, Region 9, San Francisco
Water Quality Certification Program. SWRCB, Sacramento
Lillian Jepson, U.S. Army Corps of Engineers, Sacramento District
Laura Shively, U.S. Army Corps of Engineers, Sacramento District
California Department of Fish and Wildlife, Region 1, Redding
Anna Busing, Redtail Consulting, Fremont
Richard McHenry, CA Sportfishing Protection Alliance, Berkeley

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Attachment A - Project Maps

Figure 1: Project Location

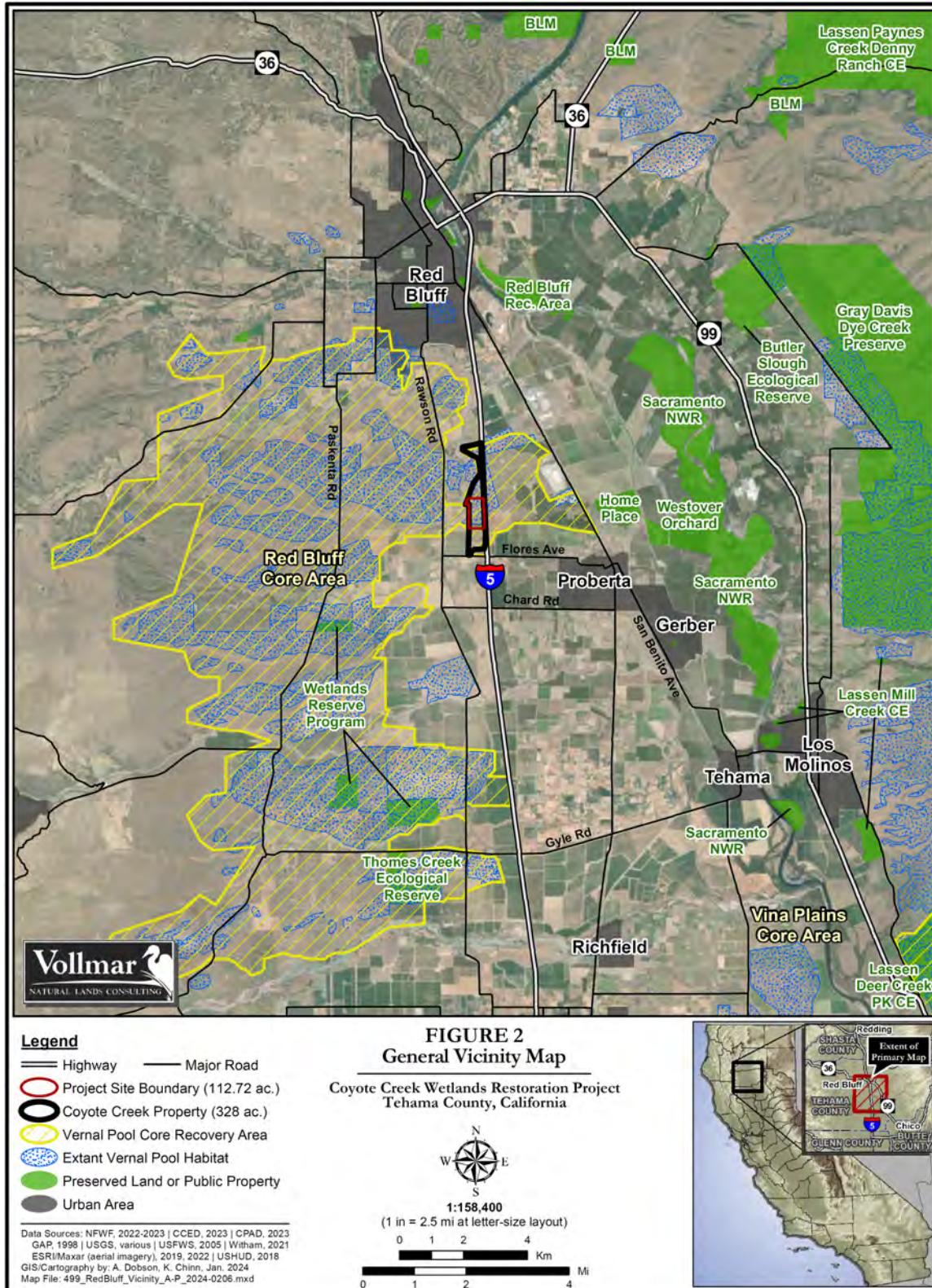
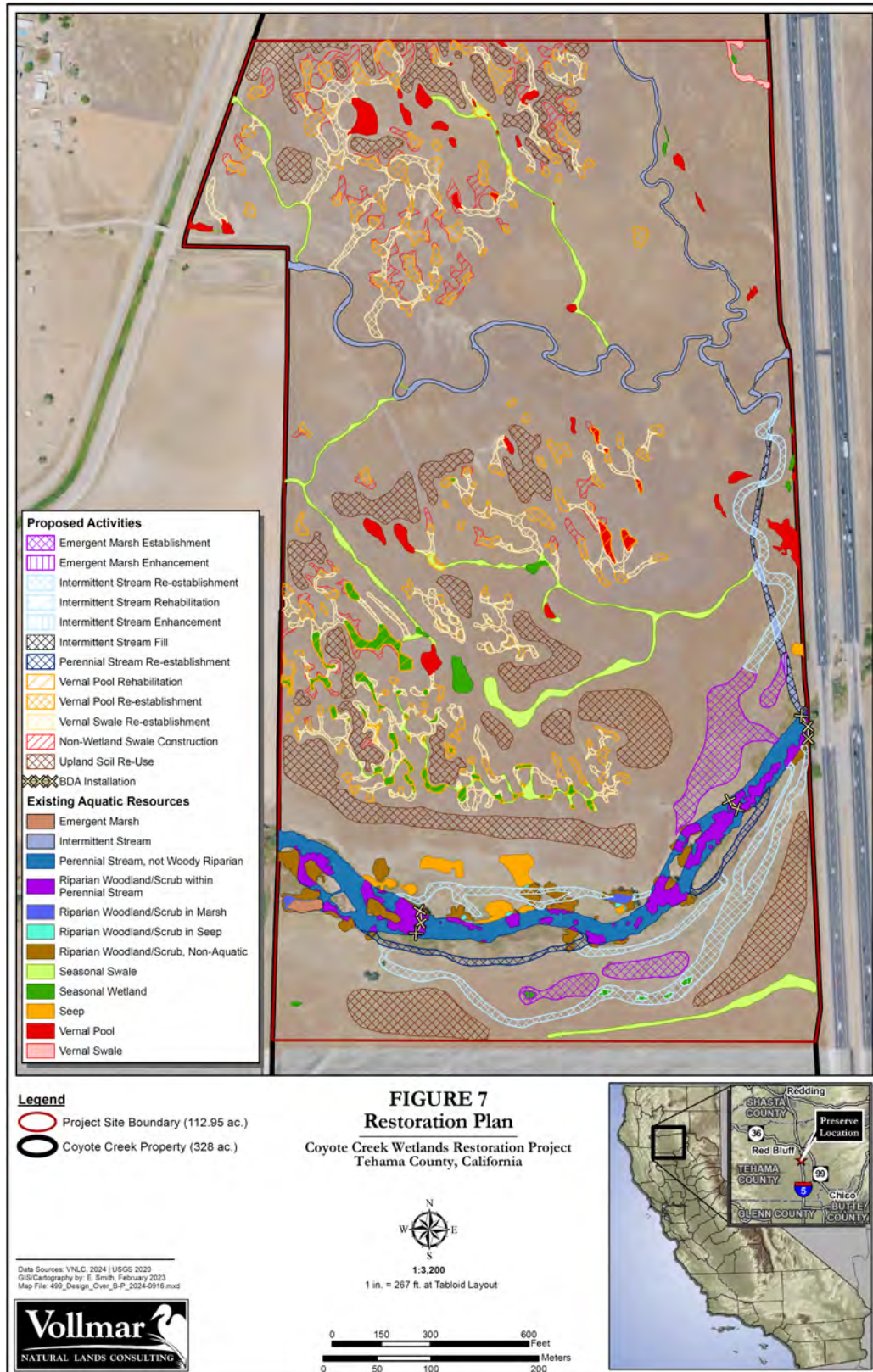


Figure 2: Project Design



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Additional Compliance with 40 CFR Section 121.7

The information set forth in the State Water Resources Control Board (State Water Board) *General Order for Clean Water Act Section 401 Water Quality Certification and Waste Discharge Requirements, Order No. WQ-2022-0048-DWQ* for Restoration Projects Statewide (Statewide Restoration General Order or Order), is sufficient to comply with title 40 Code of Federal Regulations (CFR) section 121.7. This Attachment B provides additional information regarding the conditions set forth in Order WQ 2022-0048-DWQ to comply with 40 CFR section 121.7(d).

Notwithstanding any determinations by the United States Army Corps of Engineers or other federal agency made pursuant to 40 CFR section 121.9, the Enrollee must comply with the entirety of the NOA enrolling the Project (Project) in the Statewide Restoration General Order, which sets forth waste discharge requirements pursuant to the Porter-Cologne Water Quality Control Act.

The following information is generally applicable to the conditions set forth in the Statewide Restoration General Order. Waste discharge requirements shall implement any relevant water quality control plans that have been adopted and shall take into consideration the beneficial uses to be protected, the water quality objectives reasonably required for that purpose, other waste discharges, the need to prevent nuisance, and the provisions of section 13261. (Water Code, section 13263(a).) In addition, California Code of Regulations, title 23,² Chapter 28 sets forth regulations pertaining to water quality certifications that must be implemented. Section 3859 requires the implementation of applicable water quality standards and other appropriate requirements. These conditions are also generally required to comply with the state's Anti-Degradation Policy (State Board Resolution No. 68-16), which requires that for any "activity which produces or may produce a waste or increased volume or concentration of waste and which discharges or proposes to discharge to existing high quality waters will be required to meet waste discharge requirements which will result in the best practicable treatment or control of the discharge necessary to assure that (a) a pollution or nuisance will not occur and (b) the highest water quality consistent with maximum benefit to the people of the state will be maintained." All Regional Water Quality Control Board water quality control plans (Basin Plans) incorporate the state's Anti-Degradation Policy by reference. The state Anti-Degradation Policy incorporates the federal Antidegradation Policy (40 CFR 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." According to the United States Environmental Protection Agency (USEPA), dischargers of dredged or fill material comply with the federal Antidegradation Policy by complying with USEPA's section 404(b)(1) Guidelines.

² Unless as otherwise noted, all citations are to title 23 of California Code of Regulations.

The State Water Board adopted a modified version of USEPA's section 404(b)(1) Guidelines in the Dredge or Fill Procedures (State Supplemental Guidelines) in its *State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State* (Dredge or Fill Procedures). These conditions are necessary to comply with the review and approval requirements set forth in the Dredge or Fill Procedures, Section B.1.

The organization and statements below correspond with the conditions set forth in section XIII of the Statewide Restoration General Order. Statewide Restoration General Order sections I through XII and XIV are not "conditions" as used in 40 CFR section 121.7.

XIII. Order WQ 2022-0048-DWQ Conditions

A. Request for Authorization

Authorization under the Statewide Restoration General Order is granted through an NOA based on the application submitted. This condition is necessary because the State Water Board and Regional Water Quality Control Boards (collectively Water Boards) are authorized to issue a certification as required under the Federal Water Pollution Control Act (Water Code, section 13160) and this condition is consistent with regulations regarding water quality certifications (Cal. Code of Regs., section 3855). A pre-application meeting request is required pursuant to 40 CFR section 121.4.

B. Reporting and Notification Requirements

These reporting and notification conditions are necessary to confirm that the general protection measures required under the Statewide Restoration General Order are sufficient to protect beneficial uses and water quality objectives. The reports related to accidental discharges also 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. Authorization under the Statewide Restoration General Order is granted based on the application and supporting information submitted. This condition is necessary to ensure that any modifications to the Project do not materially change the character of the discharge from the one that formed the basis for issuance of the NOA. These monitoring and reporting conditions are authorized because the Water Boards have the authority to investigate the quality of any waters of the state within their jurisdiction under Water Code sections 13383 and 13267. The burden of preparing these reports, including costs, are reasonable to the need and benefits of obtaining the reports. The anticipated costs are minimal as the reporting obligations typically require only visual monitoring and notification reporting.

C. Water Quality Monitoring

The water quality monitoring conditions are consistent with the Dredge or Fill Procedures, Section IV.A.2.c. Water quality monitoring plans are required for any in-water work, including temporary dewatering or diversions. These conditions are required to assure that: (1) the discharge shall not adversely affect the beneficial uses of the receiving water or cause a condition of nuisance; (2) the discharge shall comply with all applicable water quality objectives; and (3) treatment and control of the discharge shall be implemented to assure that pollution and nuisance will not occur, and the highest water quality is maintained. A water quality monitoring plan is necessary to conform to water quality standards for oil and grease, dissolved oxygen, pH, turbidity, and temperature. The Basin Plans contain provisions related to all these constituents. These conditions are authorized under Water Code sections 13383 and 13267. The burden of preparing these reports, including costs, are reasonable to the need and benefits of obtaining the reports. The anticipated costs are minimal as the sampling requirements are typically either visual or only require a grab sample every four (4) hours.

D. Standard Conditions

The standard conditions are necessary to ensure that this Project will comply with water quality requirements. Water quality requirements include state regulatory requirements for point source discharges into waters of the United States. California Code of Regulations, title 23, Chapter 28 sets forth regulations pertaining to water quality certification for point source discharges to waters of the United States. These conditions were included to comply with section 3860, which sets forth conditions that must be included in all water quality certifications. In addition, the State Water Board has separate authority under the California Water Code to investigate and take enforcement action, if necessary, to prevent any unauthorized or threatened unauthorized diversions of water.

E. General Compliance

1. “Enrollment and authorization of restoration projects under this Order are for the discharges of waste associated with only the restoration action...”

This condition is necessary to ensure that any discharge authorized under the Statewide Restoration General Order will comply with water quality standards because the NOA only authorizes activities explicitly described therein. (Water Code, section 13264.) Additional activities may have impacts on water quality that need to be separately analyzed and authorized.

Authorization under the Statewide Restoration General Order is granted through an NOA based on the request for authorization and supporting information submitted. The project proponent 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 project proponent 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.

A request for authorization under the Statewide Restoration General Order is required to identify other licenses, permits, and agreements in the application. In the event a project proponent needs authorization from the state or federal authorities, California Code of Regulations, title 23, section 3856, subdivision (e), requires that the project proponent provide copies 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.” This condition helps ensure the integrity of the certification process and its focus on ensuring that Project activities meet water quality standards and other appropriate requirements of state law and nothing in the Statewide Restoration General Order shall be construed as State Water Board findings regarding the underlying related activity’s impact to water quality, public trust resources, or other matters of public interest. The project proponent is responsible for compliance with all applicable federal, state, or local laws or ordinances and shall obtain authorization from applicable regulatory agencies prior to the commencement of project activities.

2. “Any plan developed as a condition of this Order requires review and approval...”

This condition is necessary because the Water Boards are authorized to issue a certification as required under the Federal Water Pollution Control Act. (Water Code, section 13160.) Any discharge that is not specifically authorized in the Statewide Restoration General Order is prohibited (Water Code, section 13264.)

3. “This Order shall not be construed as replacement or substitution for any necessary federal, state and local approvals...”

This condition is necessary to protect water quality because it makes it clear that additional authorizations may be required and deters violations or threatened violations of the Statewide Restoration General Order conditions. (Water Code, section 13350, 13385.)

4. “In response to a suspected violation of any condition of this Order...”

This condition protects water quality by requiring that the project proponent

provide monitoring reports after a violation or suspected violation of the conditions of the Statewide Restoration General Order. This monitoring would document whether or not water quality impacts occurred as a result of the violation or suspected violation and allow the Water Boards and project proponent to act to remedy the situation. Monitoring and reporting requirements are authorized by Water Code sections 13267 and 13383.

5. “The project proponent must, at all times, fully comply with engineering plans, specifications, and technical reports submitted...”

This condition protects water quality by ensuring that the authorized activity is implemented as proposed and approved. (Water Code, section 13264.) Deviations from the approved plans and practices could result in adverse impacts to water quality.

6. “This Order and all of its conditions contained herein continue to have full force and effect...”

This condition protects water quality by ensuring that the Statewide Restoration General Order and all of its conditions that protect water quality remain in place if federal licenses or permits are revoked or expire. Enrollment in the Statewide Restoration General Order serves as waste discharge requirements under the Porter-Cologne Water Quality Act. (Water Code, section 13263.)

7. “Project proponents shall submit a Sacred Lands File & Native American Contacts List Request to the...”

This condition is necessary to ensure compliance with water quality requirements because it satisfies the requirements to consult with California Native American tribes that are traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Res. Code, section 21080.3.1.) (See also California Governor’s Executive Order G-10-22.) The State Water Board Tribal Consultation Policy (June 2019) ensures collaboration and input from all California Native American Tribes and helps the Water Boards advance decisions and policies that better protect California’s water resources.

8. Historical Sites

This condition protects water quality by ensuring that the authorized activity is implemented as proposed and approved. (Water Code, section 13264.) This condition is required in order to comply with the National Historic Preservation Act of 1966 (16 United States Code (USC) section 470 et seq.) as amended, pursuant to section 101(c). The regulations adopted under the act are set forth in Part 61 (commencing with section 61.1) of title 36 of the Code of Federal Regulations. Cal. Code Regs. title 14, section 15064.5 defines “historical resources” and details steps that should be taken in the event of the accidental discovery or recognition of any human remains in any location other than a

dedicated cemetery.

9. Construction General Permit Requirement

This condition is necessary to ensure compliance with water quality requirements because dischargers who are required to obtain coverage under the National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit; Order No. 2009-0009-DWQ or 2022-0057-DWQ; NPDES No. CAS00002, as amended or any subsequently issued permit) must obtain separate authorization. (33 U.S.C. section 1342.) For ground disturbing activities that do not require enrollment in the Construction General Permit, the condition requires the implementation of appropriate erosion and sediment control measures. (Water Code, section 13263.)

10. Aquatic Herbicide General Permit Requirement

This condition is necessary to ensure compliance with water quality requirements because dischargers who are required to obtain coverage under the NPDES General Permit for Residual Aquatic Pesticide Discharges to Waters of The United States from Algae and Aquatic Weed Control Applications (Order No. 2013-0002-DWQ; General Permit No. CAG990005, or any subsequently issued permit) must obtain separate authorization. (33 U.S.C. section 1342.)

11. Cumulative Impacts

This condition is necessary to ensure compliance with water quality requirements because Water Code section 13263 requires consideration of other waste discharges.

F. Prohibitions

These conditions are necessary to prevent violation of state discharge prohibitions and protect water quality objectives. Basin Plans prohibit the discharge of construction materials and byproducts from being discharged into waters of the state. (Water Code, sections 13146, 13247, 13263.)

These conditions also reserve the approving Water Board's authority to add to or modify conditions of the Statewide Restoration General Order in the NOA to ensure that project activities meet water quality objectives and protect beneficial uses. (See Water Code, section 13160.)

Destabilization of the channel or bed of the receiving water can contribute to significant degradation of the waters of the state; therefore, it is necessary to implement actions to limit or eliminate such discharges in order to protect water quality and associated beneficial uses.

Additionally, these conditions are required pursuant to the *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of*

California, which prohibits the discharge of substances in concentrations toxic to human, plant, animal, or aquatic life. Toxic compounds can impair the beneficial uses of cold freshwater habitat, estuarine habitat, marine habitat, preservation of rare and endangered species, fish migration, fish spawning, warm freshwater habitat, and wildlife habitat. Conditions related to toxic and hazardous materials are necessary to ensure discharges comply with any water quality objectives adopted or approved under sections 13170 or 13245 of the Water Code. Additionally, the conditions related to hazardous discharges protect water quality by ensuring hazardous materials are not discharged to waters of the state. (Dredge or Fill Procedures, Section IV.B.1.)

G. Specific Compliance

1. Programmatic Sideboards

This condition is necessary to implement relevant water quality control plans, beneficial uses to be protected, water quality objectives, and the need to prevent nuisance. (Water Code, section 13263.) This condition also ensures the authorized project is designed, planned, and implemented in a manner consistent with the techniques and minimization measures presented in the Statewide Restoration General Order, Attachment A, section A.5. Project site-specific conditions may require different approaches to ensure compliance with applicable water quality standards and other appropriate requirements (33 USC section 1341; Cal. Code of Regs., title 23, section 3859, subdivision (a)) and may result in impacts to water quality that require additional environmental review. (Cal. Code of Regs., title 14, sections 15062-15063.) Water Code section 13383 authorizes the Water Boards to establish monitoring, inspection, entry, reporting, and other recordkeeping requirements (e.g., general protection measures listed in Attachment A), as authorized by Water Code section 13160, for any person who discharges, or proposes to discharge, to navigable waters.

2. Pre-Application Consultation

This condition satisfies the 40 CFR section 121.4 requirement to request a pre-filing meeting with the certifying authority at least thirty (30) days prior to submitting a certification request.

3. Exclusions and Prohibited Activities

This condition is necessary to comply with water quality requirements because the identified excluded activities may require additional conditions to protect beneficial uses and prevent nuisance. (Water Code, section 13263.) For instance, erosion and sedimentation can contribute to significant degradation of the waters of the state; therefore, it is necessary to implement actions to limit or eliminate such discharges to protect water quality and associated beneficial uses. The exclusions and prohibited activities listed in the Statewide Restoration General Order section G.3 could result in erosion and sedimentation that could

increase turbidity. Project discharges affected by erosion and increased sediment loads directly impact water quality and associated beneficial uses.

This condition also helps to ensure that an applicant for a federal license or permit that involves a discharge to navigable waters understands that, except as specified in the Statewide Restoration General Order, the Order does not excuse the project proponent from obtaining any other Water Board approvals required for the activity.

4. Monitoring Plan

This condition is necessary to comply with water quality requirements because it confirms that the general protection measures required under the Statewide Restoration General Order are sufficient to protect beneficial uses and water quality objectives. (Water Code, sections 13267, 13383.)

H. Administrative

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

Signatory requirements are required pursuant to Water Code section 13267, which requires any person discharging waste that could affect the quality of waters of the state to provide to the Water Boards, under penalty of perjury, any technical or monitoring program reports as required by the Water Boards. The signatory requirements are consistent with 40 CFR section 122.22.

2. “Data and/or reports shall be submitted...”

This condition relates to submittal of data and reports that are authorized due to the Water Boards’ authority to investigate the quality of any waters of the state within their jurisdiction under Water Code sections 13383 and 13267. Monitoring, reporting, and assessment actions, and the information developed through such actions, must be readable, shared, and coordinated with other appropriate entities, and accessible to ensure that a discharge activity complies with water quality requirements. Water Code section 13167 requires the Water Boards to ensure that monitoring data and assessment information are available in a single location and that the information is presented in a manner easily understandable by the public. To fulfill this legislative mandate, this condition requires electronic data submittal in a compatible format with existing system specifications. Compliance with this condition enhances the accessibility of data and transparency of regulatory actions. This allows regulatory agencies and the public to better assess compliance and understand water quality trends or data anomalies by compiling data and making it readily available.

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

Project discharges associated with construction activities have the potential to

interfere with native aquatic species, which depend heavily on aquatic food or live in riparian or wetland habitats, and adversely impact habitat use. Implementation of this condition will avoid unreasonable impacts to water quality and the beneficial uses related to aquatic biological resources and wildlife habitat. Water Code section 13160, subdivision (b)(1), allows the State Water Board to issue a certification when there is “reasonable assurance that an activity of any person subject to the jurisdiction of the state board will comply with applicable requirements” of state and federal law. In accordance with the California Endangered Species Act (Fish & G. Code, section 2050 et seq.) and federal Endangered Species Act (16 U.S.C. section 1531 et seq.), this condition does not authorize any act which results in the taking of a threatened, endangered, or candidate species.

4. “The project proponent shall grant Water Board staff or an authorized representative...”

This condition protects water quality by allowing the Water Boards, or a representative, to investigate site conditions to ensure that the authorized activity is compliant with the Statewide Restoration General Order. This condition is authorized pursuant to the Water Boards’ authority to investigate the quality of any waters of the state within its region under Water Code sections 13267 and 13383.

5. “A copy of this Order must be available at the project site(s)...”

This condition requires site personnel and any agent of the project proponent to be familiar with the content of the Statewide Restoration General Order and availability of the document at each project site. This condition is necessary to ensure that all activities will comply with applicable water quality standards and other appropriate requirements (33 USC section 1341; California Code of Regulations, title 23, section 3859, subdivision (a)) and cannot be adhered to if the project proponent’s agents are unaware of applicable requirements. This condition is required to ensure that any authorized discharge will comply with the terms and conditions of the Order, which requires compliance with all of the water quality objectives and beneficial uses adopted or approved. (Dredge of Fill Procedures, Section IV.B.1.)

6. “Lake and Streambed Alteration Agreement...”

This condition is required pursuant to California Code of Regulations section 3856 subdivision (e), which requires that copies be provided to the Water Boards 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.”

I. Restoration and Monitoring of Impacts

Conditions in this section are related to restoration and/or mitigation of temporary and permanent impacts. 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 conditions are also 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.) Mitigation is also necessary to ensure compliance with Executive Order W-59-93 that requires no net loss of the structure or function of California's wetland resources.

Furthermore, impacts that are not restored within a reasonable amount of time could contribute to long-term degradation of water quality. The longer the lag time between impact and restoration, the more opportunity there is for water quality degradation. This condition protects water quality by ensuring that restoration is initiated in a reasonable amount of time after impacts have occurred. (Dredge or Fill Procedures, Sections IV.A.2.d, IV.B.4-5.) Technical reporting and monitoring requirements under this condition are consistent with the Water Boards' 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.