



## Central Valley Regional Water Quality Control Board

### CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND ORDER

<b>Effective Date:</b>	26 June 2024	<table border="1"><tr><td>Reg. Meas. ID:</td><td>456999</td></tr><tr><td>Place ID:</td><td>894961</td></tr><tr><td>WDID No.:</td><td>5B39CR00407</td></tr><tr><td>USACE No.:</td><td>SPK-2024-00355 NWP 27</td></tr></table>	Reg. Meas. ID:	456999	Place ID:	894961	WDID No.:	5B39CR00407	USACE No.:	SPK-2024-00355 NWP 27
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USACE No.:	SPK-2024-00355 NWP 27									
<b>Expiration Date:</b>	25 June 2029									
<b>Program Type:</b>	Restoration									
<b>Project Type:</b>	Restoration Bank Stabilization and/or Adjacent Upland Area									
<b>Project:</b>	South Mokelumne River Setback Levee Project (Project)									
<b>Applicant:</b>	Reclamation District No. 348									
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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 the Reclamation District No. 348 (hereinafter Permittee) for the Project. This Order is for the purpose described in the application and supplemental information submitted by the Permittee. The application was received on 17 May 2024. The application was deemed complete on 28 May 2024.

**II. Public Notice**

The Central Valley Water Board provided public notice of the application pursuant to California Code of Regulations, title 23, section 3858 from 24 May 2024 to 14 June 2024. The Central Valley Water Board did not receive any comments during the comment period.

**III. Project Purpose**

The purpose of the Project is to rehabilitate existing levee sections Stations (STA) 242+50 to 268+00, 293+00 to 300+00, and 311+00 to 322+00 along the South Mokelumne River to meet the Delta Specific Public Law 84-99 Standard while also enhancing waterside riparian habitat.

**IV. Project Description**

The 153.3-acre Project will rehabilitate three levee sections totaling 4,350 linear feet. The existing levee sections from Stations 242+50 to 268+00, 293+00 to 300+00, and 311+00 to 322+00 along the South Mokelumne River do not meet minimum geometry requirements under the Delta Specific Public Law 84-99 Standard which consists of a 16-foot-wide levee crest, 2:1 waterside slope, 3:1 landside slope, and 1.5 feet of freeboard above the Base Flood Elevation. The Project consists of two interconnect components: waterside habitat enhancement and landside levee rehabilitation.

*Waterside Habitat Enhancement*

1. Excavation of approximately 61,400 cubic yards (CY) of the existing levee section, including existing aggregate road base and rock slope protection (RSP), for construction of the riparian habitat bench. Excavated levee fill material will be used as part of the new setback levee structure. Excavated road base will be used on local levee crest roads from STA 268+00 - 293+00 and 300+00 - 311 +00. Excavated RSP will be stockpiled at the district shop for future use.
2. A total of 2,600 CY of 3"x6" crushed rock will be placed on the compacted embankment and used as bedding for the placement of soil filled RSP and RSP soil cover. The soil filled RSP will consist of 11,200 CY of material; the 2.5' of soil cover will consist of 11,700 CY of soil to provide a medium for plant roots.

3. Hydroseeding the riparian benches and setback levee waterside slopes with a mixture of native grasses and forbs.
4. Installation of 42,470 square yards (SY) of erosion control netting fabric on the riparian habitat benches and setback levee waterside slopes.
5. Planting native species on the riparian benches and setback levee waterside slopes to create freshwater marsh, riparian forest, and scrub-shrub habitats.

*Landside Levee Rehabilitation*

1. Excavation of approximately 20,300 CY of native ground material to create the foundation trench required to construct the new setback levee.
2. Excavation of approximately 4,400 linear feet (LF) of relocated levee toe/irrigation ditch.
3. 104,400 CY of imported material will be used as compacted embankment and 59,200 CY of the excavated material from the existing levee section will be used as on-site compacted embankment.
4. 950 CY of aggregate base will be used on the levee crest to create an all-weather road.
5. Hydroseeding the landside levee slopes and with a mixture of native grasses.
6. Modify an existing irrigation pump on Site A at Sta 268+00. Including a new intake pipe and electrical conduit through the levee crest and a standpipe intake on the landside toe of the new setback levee.

**V. Project Location**

County: San Joaquin County

Assessor's Parcel Number(s): 001-050-100-000, 001-050-250-000, 001-050-280-000

Nearest City: Thornton

Site A: Section 12, Township 4 North, Range 4 East, MDB&M.

Site B: Section 7, Township 4 North, Range 5 East, MDB&M.

Site C: Section 18, Township 4 North, Range 5 East, MDB&M.

Site A Start (STA 242+50): Latitude: 38.1962° and Longitude: -121.4784°

Site A End (STA 268+00): Latitude: 38.2016° and Longitude: -121.4761°

Site B Start (STA 293+00): Latitude: 38.2066° and Longitude: -121.4809°

Site B End (STA 300+00): Latitude: 38.2078° and Longitude: -121.4826°

Site C Start (STA 311+00): Latitude: 38.2084° and Longitude: -121.4863°

Site C End (STA 322+00): Latitude: 38.2102° and Longitude: -121.4892°

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/) ([http://www.waterboards.ca.gov/plans\\_policies/](http://www.waterboards.ca.gov/plans_policies/)). The Basin Plan includes water quality standards, which consist of existing and potential beneficial uses of waters of the state, water quality objectives to protect those uses, and the state and federal antidegradation policies.

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

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**

Permanent impacts on the levee waterside include excavating the levee sections to construct three riparian benches with varying tidal elevations. All excavation activities are being completed only during the dry season (1 June through 31 October), limiting impacts to the South Mokelumne River. The work on the levee waterside will be completed by keeping a temporary berm structure in place 3 feet above mean higher high water (MHHW) to keep the work site dewatered during construction. Construction of the levee waterside will include placement of approximately 2,600 CY of crushed rock as a bedding for 11,200 CY of soil filled RSP. The soil filled RSP will be capped with 2.5 feet of soil cover, approximately 11,700 CY, to provide a medium for roots. Once excavation and riparian bench construction below MHHW levels are complete, the berm will be removed.

The setback levee waterside slopes and upper portions of the riparian benches will be planted with native riparian plants to create scrub-shrub (SS) and riparian forest (RF) habitat. The project will permanently impact 6.85 acres of stream channel but create 7.15 acres of freshwater marsh and riparian scrub shrub/forest.

Total Project fill/excavation quantities for all impacts are summarized in Table 1. 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 Permanent Physical Loss of Area Impacts**

Aquatic Resources Type	Acres	Cubic Yards	Linear Feet
Stream Channel	6.85		4,350

**VIII. Description of Indirect Impacts to Waters of the State**

The Central Valley Water Board recognizes the potential for indirect impacts to waters of the state associated with the Project. Indirect impacts from the Project could include limited levels of sediment discharge into the South Mokelumne River. Erosion control netting along with planting and hydroseeding of native species along riparian benches and setback levee waterside slopes will assist with any initial erosion impacts to the South Mokelumne River. Erosion concerns will decrease over time as the riparian forest, scrub shrub, and freshwater marsh habitats develop along the waterside slopes.

**IX. Avoidance and Minimization**

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

- AQ-1. Construction Emissions of Particulate Matter 10 (PM<sub>10</sub>)
  - All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, covered with a tarp or other suitable cover or vegetative ground cover.
  - All unpaved roads used to access the Project will be effectively stabilized of dust emissions using water.
  - All land clearing, grubbing, scraping, excavation, land leveling, and grading activities will be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.
  - For transportation of imported materials, all material will be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container will be maintained.
  - All operations will limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. In addition, the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions; the use of blower devices is expressly forbidden.
  - Trackout will be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

- Limit traffic speeds of construction equipment and vehicles on unpaved roads to no more than 15 mph.
- AQ-2. Emissions from Construction Equipment
  - Reduce idling time (e.g., turn off trucks that are waiting more than 5 minutes to load or unload, turn off equipment when not in use, use of automatic shutdown feature when available). Provide clear signage that posts this requirement for employees at the entrances to the site.
  - Limit the hours of operation of heavy-duty equipment and/or the amount of equipment in use.
- BIO-1. Rare Plant Avoidance and Mitigation
  - Prior to commencement of construction, the intertidal marsh shall be designated as an Environmentally Sensitive Area (ESA) on contractor plans and flagged in the field with brightly colored flagging. The flagging will be attached to vegetation or stakes placed along the limit of construction on the landward side of the marsh. No construction activities or personnel shall enter the ESA. A qualified biologist or botanist shall provide the construction crew with information on the location of the special-status plants, how to recognize the ESA and the plants, and the avoidance measures in place for the protection of special-status plants and their habitat, including applicable measures in environmental permits.
  - If any permanent impacts to special-status plants occur, the Project shall mitigate for those impacts at a minimum ratio of 3:1. Mitigation will be on an individual plant basis unless the California Department of Fish and Wildlife (CDFW) provides written approval that an area of occupied habitat may be used. Plants shall be re-established on-site or as close as feasible with conditions similar to the location the impacts occurred. Mitigation plantings shall be monitored for three years and replanted if necessary if plants do not survive.
  - If endangered, threatened, or rare plants listed under the California Endangered Species Act or Native Plant Protection Act cannot be avoided, the Project shall obtain an incidental take permit in accordance with state law and regulation prior to commencement of the activities that will result in take.
- BIO-2. Valley Elderberry Longhorn Beetle Avoidance and Mitigation
  - Establish a setback of 20 feet from the dripline of each avoided elderberry shrub.
  - Throughout construction, install and maintain brightly colored flags or fencing around retained elderberry shrubs.
  - If shrubs cannot be avoided, the Project shall obtain take coverage via

a formal Section 7 endangered species act consultation with U.S. Fish and Wildlife Service (USFWS) for valley elderberry longhorn beetle (VELB).

- If shrubs are impacted, prior to construction, purchase VELB mitigation credits at a USFWS-approved mitigation bank. A total of 2 credits would be purchased for the removal of the 8 elderberry shrub saplings on the land side of the levee near STA 267+00.
- BIO-3. Environmental Training
  - Prior to construction, the contractor(s) shall be provided with the specific protective measures to follow during implementation of the Project. A qualified biologist shall provide the construction crew with information on the protected species potentially found in the Project vicinity, the protection afforded the species by the Federal Endangered Species Act and California Endangered Species Act, and guidance on those specific protection measures that must be implemented as part of the Project.
- BIO-4. Waterside Work Window
  - Waterside work will occur from June 1 to October 31, when special-status fish are least likely to be present and/or least vulnerable to waterside activities. This is the window recommended by the National Oceanic and Atmospheric Administration (NOAA) Restoration Center's Program to Facilitate Implementation of Restoration Projects in the Central Valley of California (NMFS 2018). The work window may be extended with approval from the National Marine Fisheries Service (NMFS) and CDFW.
  - Ground-disturbing work along the shore of the South Mokelumne River below the river High Tide Line (HTL) (8.48 ft elevation) shall be conducted at receding or low tide to avoid in-water work to the maximum extent possible.
- BIO-5. Water Quality Protection
  - The Project will implement best management practices (BMPs), including a Storm Water Pollution Prevention Program (SWPPP) or Water Pollution Control Program (WPCP), as appropriate, to minimize adverse effects to water quality, special-status species and their habitat, and designated critical habitat.
  - Construction equipment and plant materials shall be staged in designated terrestrial areas adjacent to the Project sites. Existing staging sites, maintenance toe roads, and crown roads shall be used to the maximum extent possible for Project staging and access to avoid affecting previously undisturbed areas.
  - The use or storage of petroleum-powered equipment shall be



accomplished in a manner that prevents potential release of petroleum materials into state or federal waters. Fuel storage, refueling, and servicing of construction equipment will take place in upland locations.

- Mechanized equipment used for work in the stream channel or within 25 feet of a wetted channel shall have a double (i.e., primary and secondary) containment system for diesel and oil fluids. Hydraulic fluids in mechanical equipment working within the river channel shall not contain organophosphate esters. Vegetable-based hydraulic fluids are preferred.
- Prior to use, all equipment shall be cleaned to remove external oil, grease, dirt, or mud. Wash sites must be located in upland locations so wash water does not flow into the river channel or wetlands. All construction equipment must be in good working condition, showing no signs of fuel or oil leaks. Prior to construction, all mechanical equipment shall be thoroughly inspected and evaluated for the potential of fluid leakage. Mechanical equipment shall be inspected on a daily basis to ensure there are no motor oil, transmission fluid, hydraulic fluid, or coolant leaks. All leaks shall be repaired in the equipment staging area or other suitable location prior to resumption of construction activity. Equipment stored for a lengthy period of time (more than one week on site) shall have drip and leak pans placed underneath potential leak areas to contain accidental drips.
- Oil absorbent and spill containment materials shall be located on-site when mechanical equipment is in operation within 100 feet of watercourses. If a spill occurs, no additional work shall commence in-channel until (1) the mechanical equipment is inspected by the contractor, and the leak has been repaired, (2) the spill has been contained, and (3) resource agencies (i.e., NMFS, USFWS, CDFW, as applicable) are contacted and have evaluated the impacts of the spill. Absorbent and spill containment materials will otherwise be inspected regularly to ensure functionality.
- Precautions to minimize turbidity/siltation shall be implemented at the time of construction. This includes installation of silt fencing, coir logs, coir rolls, straw bale dikes, or other siltation barriers so that silt and/or other deleterious materials are not allowed to erode into downstream reaches. If flows within the river reach or have the potential to reach areas of sediment exposed by the Project, a turbidity curtain will be used to minimize the effects of construction on river turbidity. These barriers shall be placed at all locations where the likelihood of sediment input exists and shall be in place during construction activities, and afterward if necessary. If any sediment barrier fails to retain sediment, corrective measures shall be taken immediately.
- Erosion control materials such as coir rolls or erosion control blankets

- will not contain plastic netting that could entrain reptiles (especially snakes) and amphibians.
- The contractor shall inspect, maintain, and repair all erosion control materials and devices prior to and after any storm event, at 24-hour intervals during extended storm events, and a minimum of every two weeks until all erosion control measures are no longer needed. If an erosion control measure fails and sediment is discharged, appropriate agencies should be notified within 48 hours of discovery.
  - Any excavated material shall be stockpiled in areas a sufficient distance from watercourses, where it cannot enter the stream channel.
  - Immediately after Project completion and before close of seasonal work window, all exposed soil shall be stabilized with erosion control measures such as mulch, seeding, and/or placement of erosion control blankets. Where straw, mulch, or slash is used on bare mineral soil, the minimum coverage shall be 95 percent with two-inch minimum depth. All non-natural erosion control materials shall be removed after the Project vicinity has fully stabilized. When seeding is used as an erosion control measure, only seeds from native plant species will be used. Sterile (without seeds), weed-free straw, free of exotic weeds, is required when hay or hay bales are used as erosion control measures.
- BIO-6. Limit Effects of Construction on Aquatic Habitats
    - Prior to beginning Project activities, the contractor shall establish and clearly mark the Project limits, including the boundaries of designated equipment staging areas; ingress and egress corridors; stockpile areas for spoils disposal, soil, and materials; and equipment exclusion zones. Vegetation disturbance will be avoided and minimized to the extent practicable.
    - Where feasible, waterside construction shall occur from the top of the levee.
    - Woody debris and vegetation on the levee and in the river shall not be disturbed if outside of the Project's work area.
    - The amount of rock and other structural materials used for levee protection shall be limited to the minimum needed for scour protection.
    - RSP will be removed/placed in a manner that limits resuspension of sediments. The Project shall conduct turbidity monitoring in accordance with the project's CWA 401 Water Quality Certification. If needed, rock placement methods will be modified, slowed, or suspended in order to comply with the terms and conditions of the Certification.

- BIO-7. Minimization of Acoustic Impacts to Fish
  - Operation of heavy equipment will be restricted to daylight hours to allow quiet nighttime migration conditions for fish.
- BIO-8. Restoration Plan
  - Prior to construction, a detailed restoration plan will be prepared and submitted to the Department of Water Resources, CDFW, and NMFS for review. The restoration plan will describe responsible parties, the species palette, planting locations, planting densities, the schedule for implementation, restoration success criteria, monitoring methods, reporting requirements, and corrective actions to be taken if the proposed success criteria are not being met. The restoration plan will identify the location of the proposed intertidal marsh, riparian forest, and scrub-shrub habitat.
  - Restoration shall utilize plant species native to the Project vicinity or region and include a diverse community structure (plantings shall include both woody and herbaceous species). Restoration shall include control and proper disposal of invasive weeds.
  - Restoration shall include at minimum a 3:1 replanting ratio (3 native riparian plantings for each individual removed) for any woody riparian vegetation measuring 1 inch diameter or greater at breast height that is removed by the Project.
  - The restoration plan will include an adaptive management and monitoring program consistent with the framework established in the Delta Plan Appendix 1B.
  - The restoration plan will include an invasive species management plan that meets the requirements set forth in Delta Plan Mitigation Measure 4-1.
- BIO-9. Western Pond Turtle Avoidance
  - Prior to the start of construction, a biologist will conduct a training session for all construction personnel that includes a description of western pond turtle (WPT), their habitat, and how to proceed if a suspected WPT individual is encountered. The training will also describe the specific avoidance measures being implemented for this species.
  - Within 48 hours prior to the start of work, a qualified biologist will conduct a preconstruction survey for WPT and other special-status amphibians and reptiles. The survey area will include the construction area and 250 feet upstream and downstream of the construction area. If the biologist discovers a WPT or other special-status amphibian or reptile within the construction footprint on the land side of the levee, the biologist shall, with approval from CDFW and in accordance with

applicable permits, relocate the individuals to suitable habitat (e.g., to one of the larger main canals on New Hope Tract outside the project area for WPT found on the land side). If a potential turtle nest is observed, the monitor shall flag the nest and a 300-foot ESA buffer shall be established around the nest. No construction or construction personnel shall be allowed in the ESA. The ESA buffer shall be indicated by temporary fencing if construction has or will begin before nesting periods end (the period from egg laying to emergence of hatchlings is normally April to November). If it is not feasible to avoid the nest, CDFW shall be contacted for guidance on potential nest relocation specific to the project site. If working outside the nesting period, no coordination with CDFW will be necessary.

- Any holes or trenches associated with the Project will be covered during non-work hours to prevent wildlife from becoming trapped or injured. Any holes that are not covered will have an escape ramp during nonwork hours to prevent wildlife from becoming trapped.
- If WPT (or other special-status wildlife) is encountered during construction, activities will cease until a qualified biologist verifies that the individual(s) have left on their own, that work activities will not affect the individual(s), or in coordination with CDFW and in accordance with applicable permits, the biologist moves the individual(s) to other suitable habitat on New Hope Tract, away from construction.
- BIO-10. Giant Garter Snake Avoidance
  - As Giant Garter Snake (GGS) are not known to occur on New Hope Tract, the project will implement avoidance during construction as follows: If a giant garter snake is observed during preconstruction surveys or during construction, the Project shall immediately cease construction within 200 feet of potentially occupied aquatic habitat until the appropriate level of consultation with the USFWS and coordination with CDFW are completed.
  - Construction shall occur during the active period for the snake, between May 1 and October 1. If any work is proposed between October 2nd and April 30th, the USFWS shall determine if additional measures are necessary to minimize and avoid take.
  - Limit vegetation clearing within 200 feet of the banks of potential giant garter snake aquatic habitat to the minimal area necessary.
  - Confine the movement of heavy equipment within 200 feet of the banks of potential giant garter snake aquatic habitat to existing roadways to minimize habitat disturbance.
  - Prior to ground disturbance, all on-site construction personnel shall be given instruction regarding the presence of San Joaquin County Multi-

Species Habitat Conservation and Open Space Plan (SJMSCP)  
Covered Species, including giant garter snake, and the importance of  
avoiding impacts to these species and their habitats.

- In areas where wetlands, irrigation ditches, marsh areas or other potential giant garter snake habitats are being retained on the site:
  - Install temporary fencing at the edge of the construction area and the adjacent wetland, marsh, or ditch;
  - Restrict working areas, spoils and equipment storage and other Project activities to areas outside of marshes, wetlands and ditches; and
  - Maintain water quality and limit construction runoff into wetland areas through the use of hay bales, filter fences, vegetative buffer strips, or other accepted equivalents.
- If on-site wetlands, irrigation ditches, marshes, etc. are being relocated in the vicinity: the newly created aquatic habitat shall be created and filled with water prior to dewatering and destroying the pre-existing aquatic habitat. In addition, non-predatory fish species that exist in the aquatic habitat and which are to be relocated shall be seined and transported to the new aquatic habitat as the old site is dewatered.
- Any dewatered habitat should remain dry for at least 15 consecutive days after April 15 and prior to excavating or filling of the dewatered habitat.
- Preconstruction surveys for the giant garter snake (conducted after completion of environmental reviews and prior to ground disturbance) shall occur within 24 hours of ground disturbance.
- If a lapse in Project activity of 2 weeks or greater occurs, surveys for giant garter snake in the Project area shall be repeated.
- After completion of construction activities, remove any temporary fill and construction debris and, wherever feasible, restore disturbed areas to pre-Project conditions.
- BIO-11 Nesting Bird Avoidance
  - If construction occurs between February 15 and September 15, a qualified biologist shall conduct a preconstruction survey for the active nests of protected birds. The survey shall occur no more than 5 days prior to construction. The survey shall cover all areas to be disturbed by the Project, and accessible areas within the following buffers surrounding proposed work areas, staging areas, and access roads:
    - 250 feet for birds protected under the Migratory Bird Treaty Act (MBTA),
    - 300 feet for tricolored blackbird

- 0.25 mile for nesting raptors
- Surveys shall be conducted during periods of peak activity (early morning, dusk) and shall be of sufficient duration to observe movement patterns. Survey results, including a description of timing, duration and methods used, shall be submitted to CDFW for review 48 hours prior to the initiation of the Project. The measures listed below shall be implemented based on the survey results.

No Active Nests Found:

- If no active nest of a bird of prey, MBTA bird, or other CDFW protected bird is found, then no further avoidance and minimization measures are necessary.

Active Nests Found:

- If an active nest of a bird of prey, MBTA bird, or other CDFW protected bird is discovered that may be adversely affected by construction activities or an injured or killed bird is found, immediately:
  - Stop all work within a 300-foot radius of the active nest (if MBTA bird) or 0.25 mile (if raptor).
  - Notify the Engineer.
  - Do not resume work within the specified radius of the discovery until authorized.
- The biologist shall establish a minimum 0.25-mile radius ESA if the nest is that of a bird of prey, 300-foot radius ESA if the nest is of a tricolored blackbird, or 100-foot ESA if the nest is that of an MBTA bird other than a bird of prey. Activity in the ESA will be restricted as follows:
  - Do not enter the ESA unless authorized.
  - If the ESA is breached, immediately: Secure the area and stop all operations within 60 feet of the ESA boundary.
  - Notify the Engineer.
- If the ESA is damaged, the Project Engineer shall determine what efforts are necessary to remedy the damage and who performs the remedy.
- No construction activity shall be allowed in the ESA until the biologist determines that the nest is no longer active.
- The ESA may be reduced if a qualified biologist experienced with raptor behavior monitors the nest and determines, in coordination with CDFW, that no disturbance to the active nest is occurring. Reduction of the ESA depends on the species of bird, the location of the nest relative to the Project, Project activities during the time the nest is

active, and other Project-specific conditions.

- Active nests found inside the limits of species-specific buffer zones or nests within the vicinity of the Project site showing signs of distress from Project activity as determined by the qualified biologist shall be monitored daily during the duration of the Project for changes in bird behavior. Buffer areas of active nests within the vicinity of the Project site showing signs of distress or disruptions to nesting behaviors from Project activity, as determined by the qualified biologist, shall have their buffers immediately adjusted by the qualified biologist until no further interruptions to breeding behavior are detectable.
- For raptor nests, the on-site biologist shall be on the work site daily while construction-related activities are taking place within the 0.25-mile ESA. The monitor shall have the authority to stop work if raptors are exhibiting agitated behavior.
- Between February 15 and September 15, if a lapse in Project activity of 7 days or more occurs, the survey for MBTA birds shall be repeated and no work shall proceed until the results have been submitted to CDFW.
- Between February 15 and September 15, if a lapse in Project activity of 14 days or more occurs, the survey for raptors within 0.25 mile shall be repeated and no work shall proceed until the results have been submitted to CDFW.
- If an active nest is identified in or adjacent to the construction zone after construction has started, the protective measures outlined above (establish ESA, monitor, etc.) will be implemented to ensure construction is not causing disturbance to the nest.
- BIO-12. Burrowing Owl Avoidance
  - Prior to any construction, regardless of season, a qualified biologist will conduct Take Avoidance Surveys in accordance with applicable portions of Appendix D of the CDFW Staff Report on Burrowing Owl Mitigation guidelines (7 March 2012). One Take Avoidance Survey will be conducted within 14 days prior to initiation of ground-disturbing activities. The survey will cover all accessible potential burrowing owl habitat within 500 feet of the Project construction footprint.
  - If a lapse in Project activity of 7 days or more occurs, the take avoidance survey shall be repeated and no work shall proceed until the results have been submitted to CDFW.
  - If active burrowing owl burrows are found, the following measures will be implemented:
    - During the non-breeding season (September 1 through January 31), the biologist will establish a 160-foot ESA around the

burrow. During the breeding season (February 1 through August 31), the biologist will establish a 250-foot ESA around the burrow. No construction activity will be allowed in the ESA.

- The size of the ESA may be reduced if, in consultation with CDFW, the biological monitor determines that no disturbance to the burrowing owl is occurring.
- In consultation with CDFW, burrowing owls that cannot be avoided through other means may be passively excluded during the non-breeding season using one-way doors, as described in the Exclusion Plan of Appendix E of the Staff Report on Burrowing Owl Mitigation (CDFW 2012).
- If a potentially occupied burrowing owl burrow is observed during construction, work shall immediately cease within 500 feet of the burrow. A qualified biologist shall verify occupancy and follow procedures outlined above including establishment of an ESA.
- BIO-13. Swainson's Hawk Avoidance
  - If construction (including tree removal) is proposed to begin during the nesting season for Swainson's hawk (March 1 through September 15), a qualified biologist shall conduct a preconstruction survey for Swainson's hawk in accordance with the applicable sections of the Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (Swainson's Hawk TAC 2000). The survey effort shall include at minimum one survey for Swainson's hawk within 14 days in advance of the construction start date. The survey area will include the Project site (which contains no potential nest trees) and a 0.5-mile radius around the site.
  - If a nesting Swainson's hawk is found within 0.5 mile of the Project, then a biologist experienced with raptor behavior will establish a 0.5-mile protection buffer. If construction activities that may cause nest abandonment or forced fledging are necessary within the buffer, then the biologist shall monitor the nest for signs of disturbance on a daily basis during construction. If the Swainson's hawk is showing agitated behavior, then construction will cease or be reduced to a point that it does not disturb the hawks. Monitoring may be reduced if the on-site biologist determines, in coordination with CDFW, that construction is not disturbing the nesting hawks. Routine disturbances such as agricultural activities, commuter traffic, and routine facility maintenance would generally not be prohibited within the buffer.
- BIO-14. Western Red Bat Avoidance
  - If work begins from May through July, trees within the biologically sensitive area (BSA) should be surveyed for this foliage-roosting bat within 15 days of the start of work. If western red bats (or sign of bat)



are found within the BSA, the biologist shall evaluate the colony to determine its size and develop appropriate mitigation measures for CDFW review and approval. The bat survey shall document 1) the location of all roosting sites (location shall be adequately described and drawn on a map), 2) the number of bats present at the time of visit (count or estimate), and 3) the location, amount, distribution of all bat guano shall be described and shown on a map. Western red bats shall not be disturbed without specific notice to and coordination with CDFW.

- CUL-1. Avoid and Minimize Potential Effects on Cultural Resources
  - If buried materials are encountered, all soil disturbing work should be halted at the location of any discovery until a qualified archaeologist completes a significance evaluation of the find(s) pursuant to Section 106 of the National Historic Preservation Act (36CFR60.4). Prehistoric archaeological site indicators expected within the general area include: chipped chert and obsidian tools and tool manufacture waste flakes; grinding and hammering implements that look like fist-size, river-tumbled stones; and for some rare sites, locally darkened soil that generally contains abundant archaeological specimens. Historical remains expected in the general area commonly include items of ceramic, glass, and metal. Features that might be present include structure remains (e.g., cabins or their foundations) and pits containing historical artifacts.
  - Per the requirements of the California Code of Regulations, Title 14, Chapter 3, Section 15064.5(e) if human remains are encountered during the course of the project, excavation or disturbance of the location must be halted in the vicinity of the find, and the County coroner contacted. If the coroner determines the remains are Native American, the coroner will contact the National American Heritage Commission (NAHC) within 24 hours. The NAHC will identify the person or persons believed to be most likely descended from the deceased Native American. The most likely descendent may make recommendations about the treatment or disposal of the human remains with appropriate dignity.
- GEO-1. Avoid and Minimize Potential Effects on Paleontological Resources
  - If any subsurface paleontological resources are encountered during construction of the project, all construction activities in the vicinity of the encounter shall be halted until a qualified paleontologist can examine these materials, make a determination of their significance and, if significant, recommend further mitigation measures that would reduce potential effects to a level that would be less than significant. Such measures could include 1) preservation in place or 2) excavation, recovery and curation by qualified professionals. The District shall be

responsible for retaining qualified professionals, implementing recommended mitigation measures and documenting mitigation efforts in a written report, consistent with the requirements of the State CEQA Guidelines.

- HAZ-1. Best Management Practices Regarding the Use of Hazardous Materials
  - No potentially hazardous materials will be stored in a location where there is potential to enter any waterways and/or contaminate aquatic resources.
  - All construction materials with the potential to pollute runoff will be handled and delivered with care and stored under cover and/or surrounded by berms when rain is forecast or during wet weather.
  - An effort will be made to store only enough of a product necessary to complete the job.
  - Materials, fuels, liquids and lubricants, and equipment supplies stored onsite will be stored in a neat, orderly manner, in their appropriate containers, with the original manufacturer's label and, if possible, in an enclosure.
  - Any hazardous materials will be stored and labeled according to local, state, and federal regulations.
  - If drums must be stored without overhead cover, they will be stored at a slight angle to reduce corrosion and ponding of rainwater on the lids.
  - Substances will not be mixed with one another unless recommended by the manufacturer.
  - Manufacturer's recommendations for proper use and disposal of a product will be followed.
  - Whenever possible, all of a product will be used up before disposal of its container.
  - If surplus product must be disposed of, the manufacturers or the local and State recommended methods for proper disposal will be followed.
- HAZ-2. Prevent, Control, and Minimize Impacts from a Spill
  - Stationary equipment such as motors, pumps, generators, compressors and welders located within or adjacent to the river will be positioned over drip-pans.
  - Minor spills are those that can be controlled by onsite personnel. The following actions will occur upon discovery of a minor spill:
    - The spread of the spill will be contained.
    - If the spill occurs on impermeable surfaces, such as any

- temporary surfaces installed for pollution prevention during construction, it will be cleaned up using “dry” methods (i.e., absorbent materials, cat litter, and/or rags).
- If the spill occurs in permeable substrate areas, it will be immediately contained by constructing an earthen dike. The contaminated soil will be dug up and properly disposed of.
  - If the spill occurs during rain, the impacted area will be covered to avoid runoff, and appropriate clean-up steps will be taken after precipitation.
- Onsite personnel should not attempt to control major spills until the appropriate and qualified emergency response staff has arrived at the site. Failure to report major spills can result in significant fines and penalties.
    - Any major release or threatened release of a hazardous material requires immediate reporting by the responsible person to the Cal OES State Warning Center (800) 852-7550 and the Unified Program Agency (UPA) or 911.
    - For spills of federal reportable quantities, the National Response Center will also be notified at (800) 424-8802. The federal reportable spill quantity for petroleum products is any oil spill that (1) violates applicable water quality standards, (2) causes a film or sheen upon or discoloration of the water surface or adjoining shoreline, or (3) causes a sludge or emulsion to be deposited beneath the surface of the water or adjoining shorelines.
    - A written report will be sent to all notified authorities.
  - Diesel fuel, oil, gasoline, and lubricants are considered petroleum products. These materials will be handled carefully to minimize their exposure to storm water. The risks in using petroleum products will be reduced by following these steps:
    - Waste oil and other petroleum products will not be discharged into the ground or other water bodies.
    - Petroleum products will be stored in tightly sealed containers that are clearly labeled, in a covered area, within prefabricated spill containment devices, earthen berms, or similar secondary containment features.
    - Onsite vehicles will be monitored for fluid leaks and receive regular preventative maintenance to reduce the chance of leakage (e.g., check for and fix fuel oil leaks in construction vehicles on a regular basis).
    - Bulk storage tanks having a capacity of more than 55 gallons
-

will be provided with a secondary containment measure. Containment can be provided by a prefabricated temporary containment mat, a temporary earthen berm, or other measure.

- Bulk fuel or lubricating oil dispensers will have a valve that must be held open to allow the flow of fuel into construction vehicles. During fueling operations, the contractor will have personnel present to detect and contain spills.
- The following additional spill control and cleanup practices will be followed:
  - Spills will be contained and cleaned up immediately after discovery.
- Manufacturer's methods for spill cleanup of a material will be followed as described on the material safety data sheet (MSDS) sheets (kept with product containers).
- Materials and equipment needed for cleanup procedures will be kept readily available onsite, either at an equipment storage facility or on the contractor's trucks. Equipment to be kept onsite will include, but not be limited to, brooms, dust pans, shovels, granular absorbents, sand, sawdust, absorbent pads and booms, plastic and metal trash containers, gloves, and goggles.
- Onsite personnel will be made aware of cleanup procedures, the location of spill cleanup equipment, and proper disposal procedures.
- Toxic, hazardous, or petroleum product spills required to be reported by regulations will be documented, and a record of the spills will be kept with this Project.
- If a spill occurs that is reportable to the federal, state, or local agencies, the contractor is responsible for making and recording the reports.
- HAZ-3. Reduce the Potential for Fire
  - Smoking will be permitted only in designated smoking areas or within the cabs of vehicles or equipment.
  - Every fuel truck will carry a large fire extinguisher with a minimum rating of 40 B:C, and all flammable materials will be removed from equipment parking and storage areas.

## **X. Compensatory Mitigation**

No compensatory mitigation was required for permanent impacts because the Project will create 2.92 acres of freshwater marsh and 4.23 acres riparian scrub shrub/forest.

## **XI. California Environmental Quality Act (CEQA)**

On 10 March 2022, the Reclamation District No. 348, as lead agency, adopted an initial study/mitigated negative declaration (IS/MND) (State Clearinghouse (SCH) No. 2022010311) for the Project and filed a Notice of Determination (NOD) at the SCH on 26 April 2022. Pursuant to CEQA, the Central Valley Water Board has made Findings of Facts (Findings) which support the issuance of this Order and are included in Attachment C.

## **XII. Petitions for Reconsideration**

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

## **XIII. Fees Received**

An application fee of \$796.00 was received on 8 May 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 D - Ecological Restoration and Enhancement Projects (fee code 85) with the dredge and fill fee calculator.

## **XIV. Conditions**

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

### **A. Authorization**

Impacts to waters of the state shall not exceed quantities shown in Table 1.

### **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](mailto: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:** N/A

### 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 Stormwater Discharges Associated with Construction and Land Disturbance Activities (Order No. 2022-0057-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<sup>1</sup>**

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

- i. As soon as (A) Permittee has knowledge of the discharge or noncompliance, (B) notification is possible, and (C) notification can be provided without substantially impeding cleanup or other emergency measures then:
  - first call – 911 (to notify local response agency)
  - then call – Office of Emergency Services (OES) State Warning Center at:(800) 852-7550 or (916) 845-8911
  - Lastly, follow the required OES, procedures as set forth in the [Office of Emergency Services' Accidental Discharge Notification Web page](https://www.caloes.ca.gov/wp-content/uploads/Fire-Rescue/Documents/CalOES-Spill_Booklet_Feb2014_FINAL_BW_Acc.pdf) ([https://www.caloes.ca.gov/wp-content/uploads/Fire-Rescue/Documents/CalOES-Spill\\_Booklet\\_Feb2014\\_FINAL\\_BW\\_Acc.pdf](https://www.caloes.ca.gov/wp-content/uploads/Fire-Rescue/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.

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<sup>1</sup> "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.)

**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.

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

Sampling during in-water work or during the entire duration of temporary water diversions shall be conducted in accordance with Table 2 sampling parameters.<sup>2</sup> The sampling requirements in Table 2 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 XIV.C.3.

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

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<sup>2</sup> 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.

**Table 2: Sample Type and Frequency Requirements**

Parameter	Unit of Measurement	Type of Sample	Minimum Frequency
Turbidity	NTU	Grab	Every 4 hours
Visible construction related pollutants <sup>3</sup>	Observations	Visual Inspections	Continuous throughout the construction period

**D. Standard**

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

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<sup>3</sup> Visible construction-related pollutants include oil, grease, foam, fuel, petroleum products, and construction-related, excavated, organic or earthen materials.

or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Order.

#### **E. General Compliance**

1. Failure to comply with any condition of this Order shall constitute a violation of the Porter-Cologne Water Quality Control Act and the Clean Water Act. The Permittee and/or discharger may then be subject to administrative and/or civil liability pursuant to Water Code section 13385.
2. Permitted actions must not cause a violation of any applicable water quality standards, including impairment of designated beneficial uses for receiving waters as adopted in the Basin Plans by any applicable Regional Water Board or any applicable State Water Board (collectively Water Boards) water quality control plan or policy. The source of any such discharge must be eliminated as soon as practicable.
3. In response to a suspected violation of any condition of this Order, the Central Valley Water Board may require the holder of this Order to furnish, under penalty of perjury, any technical or monitoring reports the Water Boards deem appropriate, provided that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. The additional monitoring requirements ensure that permitted discharges and activities comport with any applicable effluent limitations, water quality standards, and/or other appropriate requirement of state law.
4. The Permittee must, at all times, fully comply with engineering plans, specifications, and technical reports submitted to support this Order; and all subsequent submittals required as part of this Order. The conditions within this Order and Attachments supersede conflicting provisions within Permittee submittals.
5. This Order and all of its conditions contained herein continue to have full force and effect regardless of the expiration or revocation of any federal license or permit issued for the Project. For purposes of Clean Water Act, section 401(d), this condition constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements of state law.
6. The Permittee shall adhere to all requirements in the mitigation monitoring and reporting program (MMRP) (include title and date of MMRP) which is incorporated herein by reference and any additional measures as outlined in Attachment C, CEQA Findings of Fact.
7. **Construction General Permit Requirement:** The Permittee shall obtain coverage under the National Pollutant Discharge Elimination System

(NPDES) General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities (Order No. 2022-0057-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 XIV.C.3, during the entire duration of dewatering and diversion activities. The Plan(s) must be consistent with this Order and must be made available to the Central Valley Water Board staff upon request.
- b. For any temporary dam or other artificial obstruction being constructed, maintained, or placed in operation, sufficient water shall at all times be allowed to pass downstream, to maintain beneficial uses of waters of the state below the dam. Construction, dewatering, and removal of temporary cofferdams shall not violate section XIV.C.3.
- c. The temporary dam or other artificial obstruction shall only be built from clean materials such as sandbags, gravel bags, water dams, or clean/washed gravel which will cause little or no siltation. Stream flow shall be temporarily diverted using gravity flow through temporary culverts/pipes or pumped around the work site with the use of hoses.
- d. 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 XIV.B.3.a and XIV.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 within the Project: Valley elderberry longhorn beetle, North American green sturgeon (southern distinct population segment (DPS)), White sturgeon, Pacific lamprey, Delta smelt, Western river lamprey, Sacramento hitch, California Central Valley steelhead DPS, Central Valley fall-run Chinook salmon evolutionary significant unit (ESU), Central Valley spring-run Chinook salmon ESU, Sacramento River winter-run Chinook salmon ESU, Sacramento splittail, Longfin smelt (San Francisco Bay-Delta DPS), Western pond turtle, Giant garter snake, Tricolored blackbird, Burrowing owl, Swainson's hawk, White-tailed kite, Song sparrow (Modesto population), migratory birds and birds of prey, Western red bat, Watershield, Bristly sedge, Bristly sedge, Pappose tarplant, Bolanders's water hemlock, Woolly rose-mallow, Delta tule pea, Mason's lilaeopsis, Delta mudwort, Eel-grass pondweed, Sanford's arrowhead, Marsh skullcap, Side-flowering skullcap, and Suisun Marsh aster.

### **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) – Not Applicable****J. Mitigation for Temporary Impacts – Not Applicable****K. Compensatory Mitigation for Permanent Impacts – Not Applicable****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.

**XV. Water Quality Certification**

I hereby issue the Order for the South Mokelumne River Setback Levee Project, WDID # 5B39CR00407, 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: Project Vicinity Map

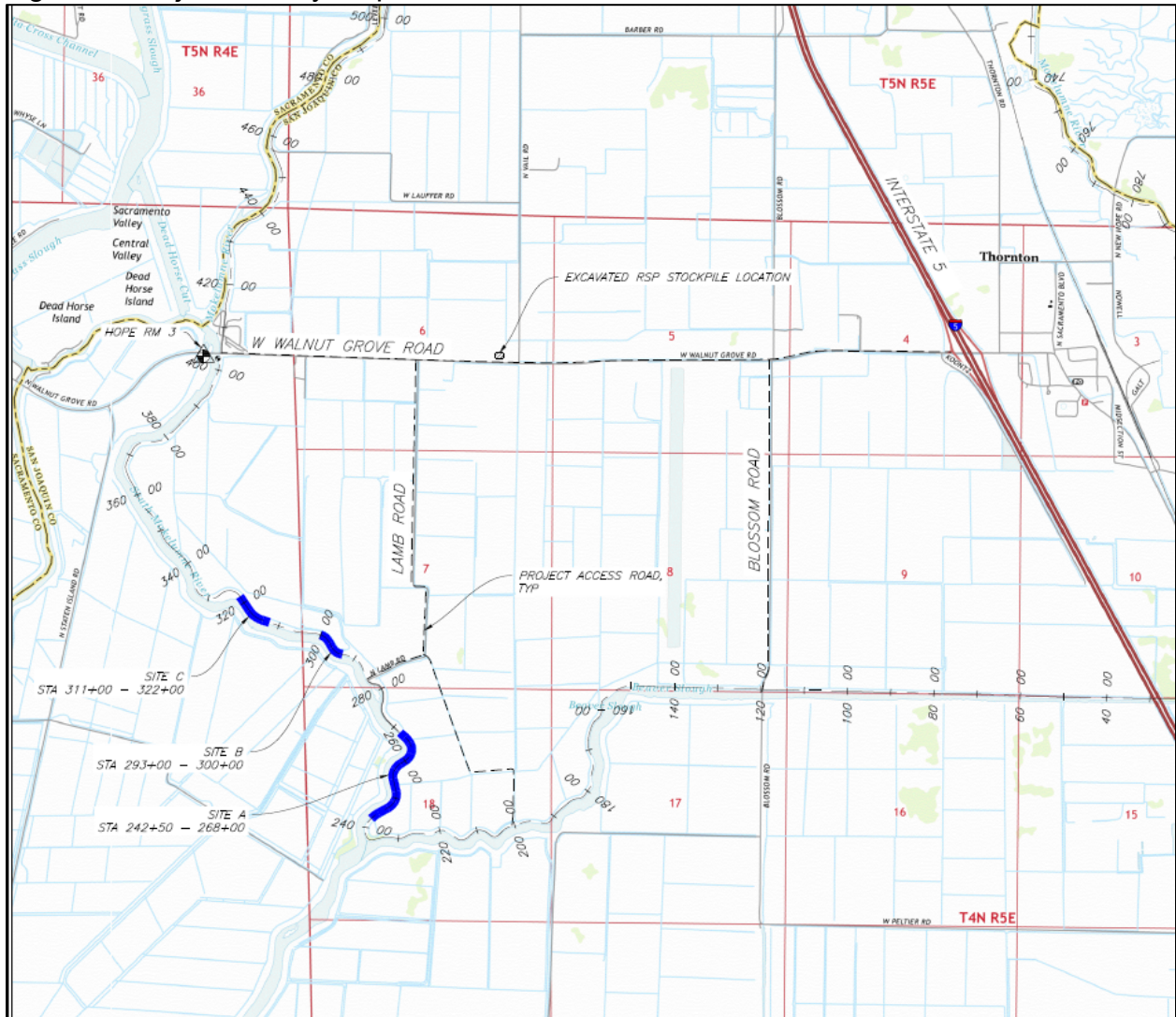


Figure 2: Site A Map

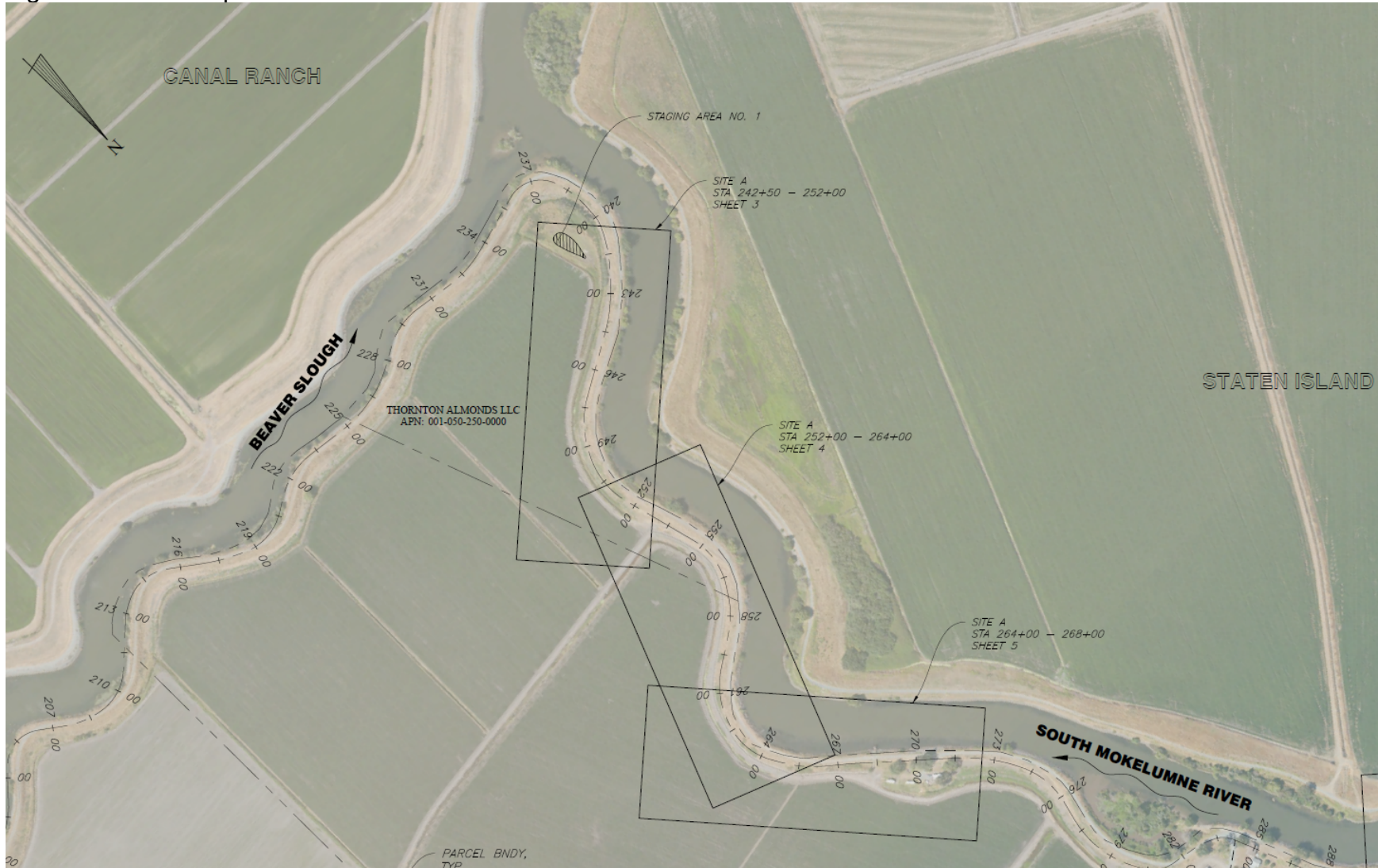


Figure 3: Site B Map



Figure 4: Site C Map





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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
Site A	South Mokelumne River	Stream Channel	544.00	South Mokelumne River	MUN, AGR, PROC, IND, REC-1, REC-2, WARM, COLD, MIGR, SPWN, WILD, NAV		
Site B	South Mokelumne River	Stream Channel	544.00	South Mokelumne River	MUN, AGR, PROC, IND, REC-1, REC-2, WARM, COLD, MIGR, SPWN, WILD, NAV		
Site C	South Mokelumne River	Stream Channel	544.00	South Mokelumne River	MUN, AGR, PROC, IND, REC-1, REC-2, WARM, COLD, MIGR, SPWN, WILD, NAV		

**Individual Direct Impact Locations**

The following tables show individual impacts.

**Table 2: Individual Permanent Fill/Excavation Impact Information**

Impact Site ID	Latitude	Longitude	Indirect Impact Requiring Mitigation?	Acres	Cubic Yards	Linear Feet
Site A	38.197409°	-121.476446°	No	4.32		2,550
Site B	38.206733°	-121.481414°	No	0.88		700
Site C	38.209376°	-121.488458°	No	1.65		1,100

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## **Attachment C – CEQA Findings of Fact**

### **A. Environmental Review**

On 10 March 2022, the Reclamation District No. 348, as lead agency, adopted an Initial Study/Mitigated Negative Declaration (IS/MND) (State Clearinghouse (SCH) No. 2022010311) for the Project and filed a Notice of Determination (NOD) at the SCH on 26 April 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 the Reclamation District No. 348's 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 the Reclamation District No. 348 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 the Reclamation District No. 348 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: 500 Capitol Mall, Suite 1000, Sacramento, CA 95814.

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, 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. Potential Significant Impact:

- Biological Resources
- Hydrology and Water Quality

a.ii. Facts in Support of Finding:

- BIO-1. Rare Plant Avoidance and Mitigation
  - Prior to commencement of construction, the intertidal marsh shall be designated as an Environmentally Sensitive Area (ESA) on contractor plans and flagged in the field with brightly colored flagging. The flagging will be attached to vegetation or stakes placed along the limit of construction on the landward side of the marsh. No construction activities or personnel shall enter the ESA. A qualified biologist or botanist shall provide the construction crew with information on the location of the special-status plants, how to recognize the ESA and the plants, and the avoidance measures in place for the protection of special-status plants and their habitat, including applicable measures in environmental permits.
  - If any permanent impacts to special-status plants occur, the Project shall mitigate for those impacts at a minimum ratio of 3:1. Mitigation will be on an individual plant basis unless the California Department of Fish and Wildlife (CDFW) provides written approval that an area of occupied habitat may be used. Plants shall be re-established on-site or as close as feasible with conditions similar to the location the impacts occurred. Mitigation plantings shall be monitored for three years and replanted if necessary if plants do not survive.
  - If endangered, threatened, or rare plants listed under the California Endangered Species Act or Native Plant Protection Act cannot be avoided, the Project shall obtain an incidental take permit in accordance with state law and regulation prior to commencement of the activities that will result in take.
- BIO-2. Valley Elderberry Longhorn Beetle Avoidance and Mitigation
  - Establish a setback of 20 feet from the dripline of each avoided elderberry shrub.
  - Throughout construction, install and maintain brightly colored flags or fencing around retained elderberry shrubs.
  - If shrubs cannot be avoided, the Project shall obtain take coverage via a formal Section 7 endangered species act consultation with U.S. Fish and Wildlife Service (USFWS) for valley elderberry longhorn beetle (VELB).

- If shrubs are impacted, prior to construction, purchase VELB mitigation credits at a USFWS-approved mitigation bank. A total of 2 credits would be purchased for the removal of the 8 elderberry shrub saplings on the land side of the levee near STA 267+00.
- BIO-3. Environmental Training
  - Prior to construction, the contractor(s) shall be provided with the specific protective measures to follow during implementation of the Project. A qualified biologist shall provide the construction crew with information on the protected species potentially found in the Project vicinity, the protection afforded the species by the Federal Endangered Species Act and California Endangered Species Act, and guidance on those specific protection measures that must be implemented as part of the Project.
- BIO-4. Waterside Work Window
  - Waterside work will occur from June 1 to October 31, when special-status fish are least likely to be present and/or least vulnerable to waterside activities. This is the window recommended by the National Oceanic and Atmospheric Administration (NOAA) Restoration Center's Program to Facilitate Implementation of Restoration Projects in the Central Valley of California (NMFS 2018). The work window may be extended with approval from the National Marine Fisheries Service (NMFS) and CDFW.
  - Ground-disturbing work along the shore of the South Mokelumne River below the river High Tide Line (HTL) (8.48 ft elevation) shall be conducted at receding or low tide to avoid in-water work to the maximum extent possible.
- BIO-5. Water Quality Protection
  - The Project will implement best management practices (BMPs), including a Storm Water Pollution Prevention Program (SWPPP) or Water Pollution Control Program (WPCP), as appropriate, to minimize adverse effects to water quality, special-status species and their habitat, and designated critical habitat.
  - Construction equipment and plant materials shall be staged in designated terrestrial areas adjacent to the Project sites. Existing staging sites, maintenance toe roads, and crown roads shall be used to the maximum extent possible for Project staging and access to avoid affecting previously undisturbed areas.

- The use or storage of petroleum-powered equipment shall be accomplished in a manner that prevents potential release of petroleum materials into state or federal waters. Fuel storage, refueling, and servicing of construction equipment will take place in upland locations.
- Mechanized equipment used for work in the stream channel or within 25 feet of a wetted channel shall have a double (i.e., primary and secondary) containment system for diesel and oil fluids. Hydraulic fluids in mechanical equipment working within the river channel shall not contain organophosphate esters. Vegetable-based hydraulic fluids are preferred.
- Prior to use, all equipment shall be cleaned to remove external oil, grease, dirt, or mud. Wash sites must be located in upland locations so wash water does not flow into the river channel or wetlands. All construction equipment must be in good working condition, showing no signs of fuel or oil leaks. Prior to construction, all mechanical equipment shall be thoroughly inspected and evaluated for the potential of fluid leakage. Mechanical equipment shall be inspected on a daily basis to ensure there are no motor oil, transmission fluid, hydraulic fluid, or coolant leaks. All leaks shall be repaired in the equipment staging area or other suitable location prior to resumption of construction activity. Equipment stored for a lengthy period of time (more than one week on site) shall have drip and leak pans placed underneath potential leak areas to contain accidental drips.
- Oil absorbent and spill containment materials shall be located on-site when mechanical equipment is in operation within 100 feet of watercourses. If a spill occurs, no additional work shall commence in-channel until (1) the mechanical equipment is inspected by the contractor, and the leak has been repaired, (2) the spill has been contained, and (3) resource agencies (i.e., NMFS, USFWS, CDFW, as applicable) are contacted and have evaluated the impacts of the spill. Absorbent and spill containment materials will otherwise be inspected regularly to ensure functionality.
- Precautions to minimize turbidity/siltation shall be implemented at the time of construction. This includes installation of silt fencing, coir logs, coir rolls, straw bale dikes, or other siltation barriers so that silt and/or other deleterious materials are not allowed to erode into downstream reaches. If flows within the river reach or have the potential to reach areas of sediment exposed by the Project, a turbidity curtain will be used to minimize the effects of construction on river turbidity. These



barriers shall be placed at all locations where the likelihood of sediment input exists and shall be in place during construction activities, and afterward if necessary. If any sediment barrier fails to retain sediment, corrective measures shall be taken immediately.

- Erosion control materials such as coir rolls or erosion control blankets will not contain plastic netting that could entrain reptiles (especially snakes) and amphibians.
- The contractor shall inspect, maintain, and repair all erosion control materials and devices prior to and after any storm event, at 24-hour intervals during extended storm events, and a minimum of every two weeks until all erosion control measures are no longer needed. If an erosion control measure fails and sediment is discharged, appropriate agencies should be notified within 48 hours of discovery.
- Any excavated material shall be stockpiled in areas a sufficient distance from watercourses, where it cannot enter the stream channel.
- Immediately after Project completion and before close of seasonal work window, all exposed soil shall be stabilized with erosion control measures such as mulch, seeding, and/or placement of erosion control blankets. Where straw, mulch, or slash is used on bare mineral soil, the minimum coverage shall be 95 percent with two-inch minimum depth. All non-natural erosion control materials shall be removed after the Project vicinity has fully stabilized. When seeding is used as an erosion control measure, only seeds from native plant species will be used. Sterile (without seeds), weed-free straw, free of exotic weeds, is required when hay or hay bales are used as erosion control measures.
- BIO-6. Limit Effects of Construction on Aquatic Habitats
  - Prior to beginning Project activities, the contractor shall establish and clearly mark the Project limits, including the boundaries of designated equipment staging areas; ingress and egress corridors; stockpile areas for spoils disposal, soil, and materials; and equipment exclusion zones. Vegetation disturbance will be avoided and minimized to the extent practicable.
  - Where feasible, waterside construction shall occur from the top of the levee.
  - Woody debris and vegetation on the levee and in the river shall not be disturbed if outside of the Project's work area.

- The amount of rock and other structural materials used for levee protection shall be limited to the minimum needed for scour protection.
- RSP will be removed/placed in a manner that limits resuspension of sediments. The Project shall conduct turbidity monitoring in accordance with the project's CWA 401 Water Quality Certification. If needed, rock placement methods will be modified, slowed, or suspended in order to comply with the terms and conditions of the Certification.
- BIO-7. Minimization of Acoustic Impacts to Fish
  - Operation of heavy equipment will be restricted to daylight hours to allow quiet nighttime migration conditions for fish.
- BIO-8. Restoration Plan
  - Prior to construction, a detailed restoration plan will be prepared and submitted to the Department of Water Resources, CDFW, and NMFS for review. The restoration plan will describe responsible parties, the species palette, planting locations, planting densities, the schedule for implementation, restoration success criteria, monitoring methods, reporting requirements, and corrective actions to be taken if the proposed success criteria are not being met. The restoration plan will identify the location of the proposed intertidal marsh, riparian forest, and scrub-shrub habitat.
  - Restoration shall utilize plant species native to the Project vicinity or region and include a diverse community structure (plantings shall include both woody and herbaceous species). Restoration shall include control and proper disposal of invasive weeds.
  - Restoration shall include at minimum a 3:1 replanting ratio (3 native riparian plantings for each individual removed) for any woody riparian vegetation measuring 1 inch diameter or greater at breast height that is removed by the Project.
  - The restoration plan will include an adaptive management and monitoring program consistent with the framework established in the Delta Plan Appendix 1B.
  - The restoration plan will include an invasive species management plan that meets the requirements set forth in Delta Plan Mitigation Measure 4-1.
- BIO-9. Western Pond Turtle Avoidance
  - Prior to the start of construction, a biologist will conduct a

training session for all construction personnel that includes a description of western pond turtle (WPT), their habitat, and how to proceed if a suspected WPT individual is encountered. The training will also describe the specific avoidance measures being implemented for this species.

- Within 48 hours prior to the start of work, a qualified biologist will conduct a preconstruction survey for WPT and other special-status amphibians and reptiles. The survey area will include the construction area and 250 feet upstream and downstream of the construction area. If the biologist discovers a WPT or other special-status amphibian or reptile within the construction footprint on the land side of the levee, the biologist shall, with approval from CDFW and in accordance with applicable permits, relocate the individuals to suitable habitat (e.g., to one of the larger main canals on New Hope Tract outside the project area for WPT found on the land side). If a potential turtle nest is observed, the monitor shall flag the nest and a 300-foot ESA buffer shall be established around the nest. No construction or construction personnel shall be allowed in the ESA. The ESA buffer shall be indicated by temporary fencing if construction has or will begin before nesting periods end (the period from egg laying to emergence of hatchlings is normally April to November). If it is not feasible to avoid the nest, CDFW shall be contacted for guidance on potential nest relocation specific to the project site. If working outside the nesting period, no coordination with CDFW will be necessary.
- Any holes or trenches associated with the Project will be covered during non-work hours to prevent wildlife from becoming trapped or injured. Any holes that are not covered will have an escape ramp during nonwork hours to prevent wildlife from becoming trapped.
- If WPT (or other special-status wildlife) is encountered during construction, activities will cease until a qualified biologist verifies that the individual(s) have left on their own, that work activities will not affect the individual(s), or in coordination with CDFW and in accordance with applicable permits, the biologist moves the individual(s) to other suitable habitat on New Hope Tract, away from construction.
- BIO-10. Giant Garter Snake Avoidance
  - As Giant Garter Snake (GGS) are not known to occur on New Hope Tract, the project will implement avoidance during construction as follows: If a giant garter snake is observed during preconstruction surveys or during construction, the

Project shall immediately cease construction within 200 feet of potentially occupied aquatic habitat until the appropriate level of consultation with the USFWS and coordination with CDFW are completed.

- Construction shall occur during the active period for the snake, between May 1 and October 1. If any work is proposed between October 2nd and April 30th, the USFWS shall determine if additional measures are necessary to minimize and avoid take.
- Limit vegetation clearing within 200 feet of the banks of potential giant garter snake aquatic habitat to the minimal area necessary.
- Confine the movement of heavy equipment within 200 feet of the banks of potential giant garter snake aquatic habitat to existing roadways to minimize habitat disturbance.
- Prior to ground disturbance, all on-site construction personnel shall be given instruction regarding the presence of San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP) Covered Species, including giant garter snake, and the importance of avoiding impacts to these species and their habitats.
- In areas where wetlands, irrigation ditches, marsh areas or other potential giant garter snake habitats are being retained on the site:
  - Install temporary fencing at the edge of the construction area and the adjacent wetland, marsh, or ditch;
  - Restrict working areas, spoils and equipment storage and other Project activities to areas outside of marshes, wetlands and ditches; and
  - Maintain water quality and limit construction runoff into wetland areas through the use of hay bales, filter fences, vegetative buffer strips, or other accepted equivalents.
- If on-site wetlands, irrigation ditches, marshes, etc. are being relocated in the vicinity: the newly created aquatic habitat shall be created and filled with water prior to dewatering and destroying the pre-existing aquatic habitat. In addition, non-predatory fish species that exist in the aquatic habitat and which are to be relocated shall be seined and transported to the new aquatic habitat as the old site is dewatered.
- Any dewatered habitat should remain dry for at least 15 consecutive days after April 15 and prior to excavating or filling of the dewatered habitat.

- Preconstruction surveys for the giant garter snake (conducted after completion of environmental reviews and prior to ground disturbance) shall occur within 24 hours of ground disturbance.
- If a lapse in Project activity of 2 weeks or greater occurs, surveys for giant garter snake in the Project area shall be repeated.
- After completion of construction activities, remove any temporary fill and construction debris and, wherever feasible, restore disturbed areas to pre-Project conditions.
- BIO-11 Nesting Bird Avoidance
  - If construction occurs between February 15 and September 15, a qualified biologist shall conduct a preconstruction survey for the active nests of protected birds. The survey shall occur no more than 5 days prior to construction. The survey shall cover all areas to be disturbed by the Project, and accessible areas within the following buffers surrounding proposed work areas, staging areas, and access roads:
    - 250 feet for birds protected under the Migratory Bird Treaty Act (MBTA),
    - 300 feet for tricolored blackbird
    - 0.25 mile for nesting raptors
  - Surveys shall be conducted during periods of peak activity (early morning, dusk) and shall be of sufficient duration to observe movement patterns. Survey results, including a description of timing, duration and methods used, shall be submitted to CDFW for review 48 hours prior to the initiation of the Project. The measures listed below shall be implemented based on the survey results.

No Active Nests Found:

- If no active nest of a bird of prey, MBTA bird, or other CDFW protected bird is found, then no further avoidance and minimization measures are necessary.

Active Nests Found:

- If an active nest of a bird of prey, MBTA bird, or other CDFW protected bird is discovered that may be adversely affected by construction activities or an injured or killed bird is found, immediately:
  - Stop all work within a 300-foot radius of the active nest (if MBTA bird) or 0.25 mile (if raptor).

- Notify the Engineer.
- Do not resume work within the specified radius of the discovery until authorized.
- The biologist shall establish a minimum 0.25-mile radius ESA if the nest is that of a bird of prey, 300-foot radius ESA if the nest is of a tricolored blackbird, or 100-foot ESA if the nest is that of an MBTA bird other than a bird of prey. Activity in the ESA will be restricted as follows:
  - Do not enter the ESA unless authorized.
  - If the ESA is breached, immediately: Secure the area and stop all operations within 60 feet of the ESA boundary.
  - Notify the Engineer.
- If the ESA is damaged, the Project Engineer shall determine what efforts are necessary to remedy the damage and who performs the remedy.
- No construction activity shall be allowed in the ESA until the biologist determines that the nest is no longer active.
- The ESA may be reduced if a qualified biologist experienced with raptor behavior monitors the nest and determines, in coordination with CDFW, that no disturbance to the active nest is occurring. Reduction of the ESA depends on the species of bird, the location of the nest relative to the Project, Project activities during the time the nest is active, and other Project-specific conditions.
- Active nests found inside the limits of species-specific buffer zones or nests within the vicinity of the Project site showing signs of distress from Project activity as determined by the qualified biologist shall be monitored daily during the duration of the Project for changes in bird behavior. Buffer areas of active nests within the vicinity of the Project site showing signs of distress or disruptions to nesting behaviors from Project activity, as determined by the qualified biologist, shall have their buffers immediately adjusted by the qualified biologist until no further interruptions to breeding behavior are detectable.
- For raptor nests, the on-site biologist shall be on the work site daily while construction-related activities are taking place within the 0.25-mile ESA. The monitor shall have the authority to stop work if raptors are exhibiting agitated behavior.
- Between February 15 and September 15, if a lapse in Project activity of 7 days or more occurs, the survey for MBTA birds shall be repeated and no work shall proceed until the results

- have been submitted to CDFW.
- Between February 15 and September 15, if a lapse in Project activity of 14 days or more occurs, the survey for raptors within 0.25 mile shall be repeated and no work shall proceed until the results have been submitted to CDFW.
- If an active nest is identified in or adjacent to the construction zone after construction has started, the protective measures outlined above (establish ESA, monitor, etc.) will be implemented to ensure construction is not causing disturbance to the nest.
- BIO-12. Burrowing Owl Avoidance
  - Prior to any construction, regardless of season, a qualified biologist will conduct Take Avoidance Surveys in accordance with applicable portions of Appendix D of the CDFW Staff Report on Burrowing Owl Mitigation guidelines (7 March 2012). One Take Avoidance Survey will be conducted within 14 days prior to initiation of ground-disturbing activities. The survey will cover all accessible potential burrowing owl habitat within 500 feet of the Project construction footprint.
  - If a lapse in Project activity of 7 days or more occurs, the take avoidance survey shall be repeated and no work shall proceed until the results have been submitted to CDFW.
  - If active burrowing owl burrows are found, the following measures will be implemented:
    - During the non-breeding season (September 1 through January 31), the biologist will establish a 160-foot ESA around the burrow. During the breeding season (February 1 through August 31), the biologist will establish a 250-foot ESA around the burrow. No construction activity will be allowed in the ESA.
    - The size of the ESA may be reduced if, in consultation with CDFW, the biological monitor determines that no disturbance to the burrowing owl is occurring.
  - In consultation with CDFW, burrowing owls that cannot be avoided through other means may be passively excluded during the non-breeding season using one-way doors, as described in the Exclusion Plan of Appendix E of the Staff Report on Burrowing Owl Mitigation (CDFW 2012).
  - If a potentially occupied burrowing owl burrow is observed during construction, work shall immediately cease within 500 feet of the burrow. A qualified biologist shall verify occupancy

and follow procedures outlined above including establishment of an ESA.

- BIO-13. Swainson's Hawk Avoidance
  - If construction (including tree removal) is proposed to begin during the nesting season for Swainson's hawk (March 1 through September 15), a qualified biologist shall conduct a preconstruction survey for Swainson's hawk in accordance with the applicable sections of the Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (Swainson's Hawk TAC 2000). The survey effort shall include at minimum one survey for Swainson's hawk within 14 days in advance of the construction start date. The survey area will include the Project site (which contains no potential nest trees) and a 0.5-mile radius around the site.
  - If a nesting Swainson's hawk is found within 0.5 mile of the Project, then a biologist experienced with raptor behavior will establish a 0.5-mile protection buffer. If construction activities that may cause nest abandonment or forced fledging are necessary within the buffer, then the biologist shall monitor the nest for signs of disturbance on a daily basis during construction. If the Swainson's hawk is showing agitated behavior, then construction will cease or be reduced to a point that it does not disturb the hawks. Monitoring may be reduced if the on-site biologist determines, in coordination with CDFW, that construction is not disturbing the nesting hawks. Routine disturbances such as agricultural activities, commuter traffic, and routine facility maintenance would generally not be prohibited within the buffer.
- BIO-14. Western Red Bat Avoidance
  - If work begins from May through July, trees within the biologically sensitive area (BSA) should be surveyed for this foliage-roosting bat within 15 days of the start of work. If western red bats (or sign of bat) are found within the BSA, the biologist shall evaluate the colony to determine its size and develop appropriate mitigation measures for CDFW review and approval. The bat survey shall document 1) the location of all roosting sites (location shall be adequately described and drawn on a map), 2) the number of bats present at the time of visit (count or estimate), and 3) the location, amount, distribution of all bat guano shall be described and shown on a map. Western red bats shall not be disturbed without specific notice to and coordination with CDFW.



- HAZ-1. Best Management Practices Regarding the Use of Hazardous Materials
  - No potentially hazardous materials will be stored in a location where there is potential to enter any waterways and/or contaminate aquatic resources.
  - All construction materials with the potential to pollute runoff will be handled and delivered with care and stored under cover and/or surrounded by berms when rain is forecast or during wet weather.
  - An effort will be made to store only enough of a product necessary to complete the job.
  - Materials, fuels, liquids and lubricants, and equipment supplies stored onsite will be stored in a neat, orderly manner, in their appropriate containers, with the original manufacturer's label and, if possible, in an enclosure.
  - Any hazardous materials will be stored and labeled according to local, state, and federal regulations.
  - If drums must be stored without overhead cover, they will be stored at a slight angle to reduce corrosion and ponding of rainwater on the lids.
  - Substances will not be mixed with one another unless recommended by the manufacturer.
  - Manufacturer's recommendations for proper use and disposal of a product will be followed.
  - Whenever possible, all of a product will be used up before disposal of its container.
  - If surplus product must be disposed of, the manufacturers or the local and State recommended methods for proper disposal will be followed.
- HAZ-2. Prevent, Control, and Minimize Impacts from a Spill
  - Stationary equipment such as motors, pumps, generators, compressors and welders located within or adjacent to the river will be positioned over drip-pans.
  - Minor spills are those that can be controlled by onsite personnel. The following actions will occur upon discovery of a minor spill:
    - The spread of the spill will be contained.
    - If the spill occurs on impermeable surfaces, such as any temporary surfaces installed for pollution prevention

- during construction, it will be cleaned up using “dry” methods (i.e., absorbent materials, cat litter, and/or rags).
- If the spill occurs in permeable substrate areas, it will be immediately contained by constructing an earthen dike. The contaminated soil will be dug up and properly disposed of.
  - If the spill occurs during rain, the impacted area will be covered to avoid runoff, and appropriate clean-up steps will be taken after precipitation.
- Onsite personnel should not attempt to control major spills until the appropriate and qualified emergency response staff has arrived at the site. Failure to report major spills can result in significant fines and penalties.
    - Any major release or threatened release of a hazardous material requires immediate reporting by the responsible person to the Cal OES State Warning Center (800) 852-7550 and the Unified Program Agency (UPA) or 911.
    - For spills of federal reportable quantities, the National Response Center will also be notified at (800) 424-8802. The federal reportable spill quantity for petroleum products is any oil spill that (1) violates applicable water quality standards, (2) causes a film or sheen upon or discoloration of the water surface or adjoining shoreline, or (3) causes a sludge or emulsion to be deposited beneath the surface of the water or adjoining shorelines.
    - A written report will be sent to all notified authorities.
  - Diesel fuel, oil, gasoline, and lubricants are considered petroleum products. These materials will be handled carefully to minimize their exposure to storm water. The risks in using petroleum products will be reduced by following these steps:
    - Waste oil and other petroleum products will not be discharged into the ground or other water bodies.
    - Petroleum products will be stored in tightly sealed containers that are clearly labeled, in a covered area, within prefabricated spill containment devices, earthen berms, or similar secondary containment features.
    - Onsite vehicles will be monitored for fluid leaks and receive regular preventative maintenance to reduce the chance of leakage (e.g., check for and fix fuel oil leaks in construction vehicles on a regular basis).
    - Bulk storage tanks having a capacity of more than 55

gallons will be provided with a secondary containment measure. Containment can be provided by a prefabricated temporary containment mat, a temporary earthen berm, or other measure.

- Bulk fuel or lubricating oil dispensers will have a valve that must be held open to allow the flow of fuel into construction vehicles. During fueling operations, the contractor will have personnel present to detect and contain spills.
- The following additional spill control and cleanup practices will be followed:
  - Spills will be contained and cleaned up immediately after discovery.
- Manufacturer's methods for spill cleanup of a material will be followed as described on the material safety data sheet (MSDS) sheets (kept with product containers).
- Materials and equipment needed for cleanup procedures will be kept readily available onsite, either at an equipment storage facility or on the contractor's trucks. Equipment to be kept onsite will include, but not be limited to, brooms, dust pans, shovels, granular absorbents, sand, sawdust, absorbent pads and booms, plastic and metal trash containers, gloves, and goggles.
- Onsite personnel will be made aware of cleanup procedures, the location of spill cleanup equipment, and proper disposal procedures.
- Toxic, hazardous, or petroleum product spills required to be reported by regulations will be documented, and a record of the spills will be kept with this Project.
- If a spill occurs that is reportable to the federal, state, or local agencies, the contractor is responsible for making and recording the reports.

#### **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/)  
([https://www.waterboards.ca.gov/centralvalley/board\\_decisions/adopted\\_orders/401\\_wqcerts/](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](mailto:centralvalleysacramento@waterboards.ca.gov) and cc: [Jenna.Yang@waterboards.ca.gov](mailto:Jenna.Yang@waterboards.ca.gov).
  - Include in the subject line of the email:  
ATTN: Jenna Yang; Project Name; and WDID No. 5B39CR00407.

### 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:

26 June 2024

### 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 Digital Raster Graphics (DRG) or Digital Orthophoto Quarter Quads (DOQQ)). Maps must show the boundaries of all project areas and extent/type of aquatic resources impacted. If this format is used include a spreadsheet with the object ID and attributed with the extent/type of aquatic resources impacted.
- Aquatic resource maps marked on paper **USGS 7.5-minute topographic maps** or **Digital Orthophoto Quarter Quads (DOQQ)** printouts. Maps must show the boundaries of all project areas and extent/type of aquatic resources impacted. If this format is used include a spreadsheet with the object ID and attributed with the extent/type of aquatic resources impacted.

**B. Photo-Documentation:**

Include a unique identifier, date stamp, written description of photo details, and latitude/longitude (in decimal degrees) or map indicating location of photo. Successive photos should be taken from the same vantage point to compare pre/post construction conditions.

**V. Report and Notification Cover Sheet**

**Project:** South Mokelumne River Setback Levee Project  
**Permittee:** Reclamation District No. 348  
**WDID:** 5B39CR00407  
**Reg. Meas. ID:** 456999  
**Place ID:** 894961  
**Order Effective Date:** 26 June 2024  
**Order Expiration Date:** 25 June 2029

**VI. Report Type Submitted**

**A. Part A – Project Reporting**

Report Type 1  Monthly Report  
Report Type 2  Annual Report – Not Required

**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.”

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<b>Print Name<sup>1</sup></b>	<b>Affiliation and Job Title</b>
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<b>Signature</b>	<b>Date</b>
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**<sup>1</sup>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.

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<b>Permittee's Signature</b>	<b>Date</b>
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<b>*This Report and Notification Cover Sheet must be signed by the Permittee or a duly authorized representative and included with all written submittals.</b>
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**A. Part A – Project Reporting**

**1. Report Type 1 - Monthly Report**

- a. Report Purpose** - Notifies Central Valley Water Board staff of the Project status and environmental compliance activities on a monthly basis.
- b. When to Submit** - On the 1st day of each month after the submittal of the Commencement of Construction Notification until a Notice of Project Complete Letter is issued to the Permittee.

**c. Report Contents -**

i. Construction Summary

Describe Project progress and schedule including initial ground disturbance, site clearing and grubbing, road construction, site construction, and the implementation status of construction storm water Best Management Practices (BMPs). Best Management Practices (BMPs) is a term used to describe a type of water pollution or environmental control. If construction has not started, provide estimated start date.

ii. Event Summary

Describe distinct Project activities and occurrences, including environmental monitoring, surveys, and inspections.

iii. Photo Summary

Provide photos of Project activities. For each photo, include a unique site identifier, date stamp, written description of photo details, and latitude/longitude (in decimal degrees) or map indicating location of photo. Successive photos should be taken from the same vantage point to compare pre/post construction conditions.

iv. Compliance Summary

- List name and organization of environmental surveyors, monitors, and inspectors involved with monitoring environmental compliance for the reporting period.
- List associated monitoring reports for the reporting period.
- Summarize observed incidences of non-compliance, compliance issues, minor problems, or occurrences.
- Describe each observed incidence in detail. List monitor name and organization, date, location, type of incident, corrective action taken (if any), status, and resolution.

**2. Report Type 2 - Annual Report – 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.

**C. Part C – Conditional Notifications and Reports**

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

- a. Report Purpose** - Notifies Central Valley Water Board staff that an accidental discharge of hazardous material has occurred.
- b. When to Submit** - Within five (5) working days of notification to the Central Valley Water Board of an accidental discharge. Continue reporting as required by Central Valley Water Board staff.
- c. Report Contents** -
  - i. The report shall include the OES Incident/Assessment Form, a full description and map of the accidental discharge incident (i.e. location, time and date, source, discharge constituent and quantity, aerial extent, and photo documentation). If applicable, the OES Written Follow-Up Report may be substituted.
  - ii. If applicable, any required sampling data, a full description of the

sampling methods including frequency/dates and times of sampling, equipment, locations of sampling sites.

- iii. Locations and construction specifications of any barriers, including silt curtains or diverting structures, and any associated trenching or anchoring.

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

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

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

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

## **4. Report Type 9 - Modifications to Project Report**

- a. **Report Purpose** - Notifies Central Valley Water Board staff if the Project, as described in the application materials, is altered in any way or by the imposition of subsequent permit conditions by any local, state or federal regulatory authority.
- b. **When to Submit** - If Project implementation as described in the application materials is altered in any way or by the imposition of

subsequent permit conditions by any local, state or federal regulatory authority.

- c. **Report Contents** - A description and location of any alterations to Project implementation. Identification of any Project modifications that will interfere with the Permittee's compliance with the Order.

#### **5. Report Type 10 - Transfer of Property Ownership Report**

- a. **Report Purpose** - Notifies Central Valley Water Board staff of change in ownership of the Project or Permittee-responsible mitigation area.
- b. **When to Submit** - At least 10 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 XIV.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 to waters of the state;
  - c. How the Project activity is currently addressed in the Order; and,
  - d. Why a Certification Deviation is necessary for the Project.
2. Describe location (latitude/longitude coordinates), the date(s) it will occur, as well as associated impact information (i.e., temporary or permanent, federal or non-federal jurisdiction, water body name/type, estimated impact area, etc.) and minimization measures to be implemented.
3. Provide all updated environmental survey information for the new impact area.
4. Provide a map that includes the activity boundaries with photos of the site.
5. Provide verification of any mitigation needed according to the Order conditions.
6. Provide verification from the CEQA Lead Agency that the proposed changes or modifications do not trigger the need for a subsequent environmental

document, an addendum to the environmental document, or a supplemental EIR. (Cal. Code Regs., tit. 14, §§ 15162-15164.)

**D. Post-Discharge Certification Deviation Reporting:**

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

**E. Annual Summary Deviation Report:**

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

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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 XIV of the Order, and the statements below correspond with the conditions set forth in Section XIV. The other Order Sections are not “conditions” as used in Code of Federal Regulations, title 40, section 121.7.

**I. General Justification for Section XIV 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 XIV 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 Stormwater Discharges Associated with Construction and Land Disturbance Activities (Order No. 2022-0057-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 seq.), 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) – Not Applicable**

**J. Mitigation for Temporary Impacts – Not Applicable**

**K. Compensatory Mitigation for Permanent Impacts – Not Applicable**

**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).