CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD SAN FRANCISCO BAY REGION

TENTATIVE ORDER NO. R2-2026-00XX WASTE DISCHARGE REQUIREMENTS FOR: SANTA CLARA VALLEY WATER DISTRICT (VALLEY WATER)

Coyote Creek Flood Protection Project, Santa Clara County

The California Regional Water Quality Control Board, San Francisco Bay Region, hereinafter the Water Board, finds that:

1. The Santa Clara Valley Water District (Valley Water) (Discharger) proposes to construct the Coyote Creek Flood Protection Project (CCFPP) (Project). The Project will reduce the risk of flooding in urban areas along roughly 9 miles of Coyote Creek (Creek) in the City of San José (City). The Project consists of a combination of concrete floodwalls, passive barriers (triggered by hydrostatic pressure from flow), and berms spanning approximately 16,300 discontinuous linear feet (LF), as well as modifications to Charcot Avenue Bridge and improvements to the City's stormwater collection system for backflow prevention.

2. Moving downstream to upstream (and north to south), the Project is from Montague Expressway to Tully Road. It is assigned the following latitude/longitude for tracking purposes: 37.341747; -121.871002. Major roads and highways within the Project area include U.S. Highway 101 and Interstate highways 280 and 880. State Route 87 is roughly parallel, about 1.5 miles to the west and Interstate 680 runs within 2 miles east of the downstream Project area. State Route 237 is about 2 miles north of the Project's downstream boundary.

Project Purpose

3. Flooding has occurred along the Creek many times in the past, including in 1911, 1917, 1931, 1958, 1969, 1982, 1983, 1997, 1998, and 2017. The largest flow recorded on the Creek was 25,000 cubic feet per second (cfs) in 1911, before the construction of the Coyote and Anderson reservoirs.

4. The worst flooding in the Project reach since Anderson Reservoir was constructed in 1950 occurred in February 2017. Coyote Creek overtopped its banks at several locations between Montague Expressway and Tully Road. Businesses and hundreds of homes were inundated by the flood for many hours. The estimated flow that caused flooding was the 20-year flow event. The Project is designed to protect against flooding from up to the 20-year flow. The design flow is 8,300 to 9,500 cubic feet per second, varying by station location along the Project reach.

Project Setting

5. The Creek's watershed is 321 square miles with creek headwaters in the west-facing Diablo Range Mountains along the eastern side of Santa Clara County. The Creek is fed by over 2,000 miles of stream channel forming a network that includes many small

first, second, and third order channels culminating into several major tributaries to the main stem, including Lower Silver and Upper Penitencia creeks within the Project reach.

6. The Creek is impounded by two dams. The first is Coyote Dam, which forms Coyote Reservoir (23,000 acre-feet capacity). The second is Anderson Dam, which forms Anderson Reservoir about 4 miles downstream of Coyote Reservoir. With a capacity of about 90,000 acre-feet, Anderson Reservoir is the largest of the 10 water supply reservoirs the Discharger owns and operates. Drainage area upstream of Anderson Reservoir is 195 square miles.

7. The Creek flows for 42 miles from Anderson Dam to San Francisco Bay. The Project's upper boundary is about 20 miles downstream of Anderson Dam.

8. The Creek is habitat for native species including fish, birds, and other wildlife listed as threatened or endangered pursuant to the federal Endangered Species Act (ESA), or California ESA, and additional species of special concern pursuant to California ESA. These species include, but are not limited to, steelhead trout (*Oncorhynchus mykiss*), Chinook salmon (*Oncorhynchus tshawytscha*), Pacific lamprey (*Entosphenus tridentatus*), Northwestern pond turtle (*Actinemys marmorata*), Monarch butterfly (*Danaus Plexippus*), and several bird species (e.g., White-tailed kite (*Elanus leucurus*) and Yellow warbler (*Setophaga petechia*)).

9. Vegetation in the Project reach consists of a generally dense, closed canopy with multiple layers of a variety of native and non-native tree and shrub species. Co-dominant tree species include red willow (*Salix laevigata*), black walnut (*Juglans hindsii*), coast live oak (*Quercus agrifolia*), and Fremont's cottonwood (*Populus fremontii*). The shrub layer is dense to intermittent. Where present, this layer consists of toyon (*Heteromeles arbutifolia*), hollyleaf cherry (*Prunus ilicifolia*), California rose (*Rosa californica*), poison oak (*Toxicodendron diverslobum*), and nonnative invasive species such as tree-of-heaven (*Ailanthus altissima*) and giant reed (*Arundo donax*). The herbaceous layer consists primarily of California mugwort (*Artemisia douglasiana*), nonnative periwinkle (*Vinca major*), and annual grasses.

10. The Project site has waters of the State subject to regulation by the Water Board. A delineation of jurisdictional waters at the site was completed based on field work conducted in October 17 through 19, 2023, and follow-up visits on February 29, 2024, and August 2025. The delineation report indicates that jurisdictional waters are present in the form of perennial stream (28.84 acres; 22,386 LF), forested wetland (2.36 acres), ephemeral stream (0.01 acre; 98 LF), and a seasonal wetland (0.12 acre).

11. On November 13, 2024, the Discharger submitted a Report of Waste Discharge to the Water Board pursuant to Water Code section 13260. The Discharger submitted supplemental information to complete the Report of Waste Discharge on February 13, 2026.

Project Details

12. The Project reach is subdivided into Reaches 4 through 8, from downstream to upstream. Most of the Project elements are in uplands or along the tops of the Creek's banks. Placing flood protection measures in uplands allows for the terrain next to the Creek to serve as a temporary floodway for flows that overtop the banks. Where space in uplands is limited, a floodwall or berm is sited along the top of the Creek bank to contain high flows.

13. The Project has the following elements, but only a subset of these are in waters of the State, as summarized below and with additional details under *Impacts* beginning at Finding 16:

    Construct about 9,100 LF of floodwalls, 3,600 LF of passive barriers, and 3,600 LF of berms and levees, some of which include drainage infrastructure for surface water to pass through the wall to discharge to the Creek's upper banks;

    Construct headwalls and wing walls at Charcot Avenue bridge in Reach 4, strengthen the bridge, and resurface the bridge;

    In coordination with the City, install new manhole vaults, remove and replace existing storm drain inlets, and retrofit existing stormwater infrastructure with backflow prevention devices (e.g., flap gates and in-line check valves)to prevent backwater from the Creek from entering the stormwater collection system and streets during high flow events;

    Remove riparian or prune vegetation in the path of the flood construction elements or access routes including 24 trees and shrubs of native species (and 37 trees of non-native, invasive species); and

    Construct new and redevelop maintenance access trails and roads along the Creek.

14. **Soil Management Plan**. The Project includes the discharge of about 90 cubic yards (CY) of engineered fill in Reaches 7 and 8. Pursuant to Provision C.4 of this Order, the Discharger will submit a soil management plan to demonstrate that the engineered fill meets the chemical concentration thresholds determined by the Water Board. The thresholds are based on whether the fill would be placed on the Creek banks at depths of 0 to 3 feet below ground surface as "surface fill," or at depths greater than 3 feet below ground surface as "foundation fill."

15. **Schedule, Access, and Staging**. The Discharger plans to commence construction in 2026 and complete construction within 31 months. Staging will be along the Creek in existing developed flat areas next to the creek and in various upland areas near the construction zones in all five reaches of the Project (see next Finding for reaches). Access to the creek corridor will be from existing roads and trails.

Impacts

16. Project construction will permanently and temporarily impact 1.65 acres of riparian areas along the Creek's banks.

17. The Project's total permanent impacts are from fill of 0.40 (2050.5 LF; 3,347 CF) acres in the riparian zone above the Creek channel from construction of stormwater drainage outfalls on the Creek banks in Reaches 4 and 8, and from small portions of floodwalls and berms in Reaches 4, 6, 8, and 9 (Att. A, Table 1). The materials for these discharges are rock slope protection, concrete, steel, soil, aggregate base, and asphalt. Additional permanent impacts are from the removal of 24 native and 41 non-native trees for construction access and other construction activities.

18. The Project will result in an additional 1.29 acres (6,095 LF; 6,278 CY) of temporary impacts to riparian waters due to temporary construction areas, grading, excavation, and backfilling for construction of the of storm drain outfalls, floodwalls and berms in Reaches 4, 6, 7, and 8 (Att. A Table 1). These temporary construction areas would be used for vehicle access, short-term material placement and storage for cut and fill and other construction activities.

Post Construction Stormwater Management

19. Stormwater at the Project Site currently flows either into the municipal stormwater collection systems or overbank and is discharged into the Creek.

20. The Project will construct a total of 50,553 square feet (sf) (1.16 acres) of new or redeveloped impervious surface from construction of trails that double as maintenance roads made of aggregate base, replacement pavement, passive barriers, and miscellaneous concrete. A total of 17,577 sf of impervious surface has been demonstrated to meet requirements under Provision C.3 of the Municipal Regional Stormwater Permit (MRP).

21. The Project's remaining 32,976 sf of impervious surface are regulated under Provision C.3 of the MRP. The Permittee will demonstrate that runoff from these areas receives adequate treatment, either by draining to an appropriately sized adjacent vegetated area, or other means. Alternatively, the Permittee will identify an offsite area for in-lieu treatment. The use of State waters for treatment will be avoided.

22. This Order requires the Discharger to ensure all stormwater controls are installed and functional by the completion of Project construction. If using alternative treatment, ensure all offsite stormwater controls are installed and functional within the alternative compliance timeframe (3-5 years after Project construction). The Discharger is required to submit an as-built plan of all new and replaced impervious surfaces, associated stormwater treatment devices, and associated adjacent vegetated areas within 60 days (or 3-5 years if using alternative offsite treatment) of construction completion.

Compensatory Mitigation Plan

23. The Discharger will avoid impacts to wetlands, minimize impacts to riparian Waters of the state, and restore riparian areas temporarily impacted by Project activities. The 1.29 acres of temporarily disturbed soil surfaces will be revegetated using a native seed mix. This Order requires the Discharger to monitor the onsite restoration for a minimum of one year.

24. The Discharger provided the *Mitigation and Monitoring Plan for the CCFP Project* (GEI Consultants and Valley Water, March 2026) adding supplemental information for offsite mitigation and monitoring in March 2026. (Attachment A)

25. To mitigate for the loss of native riparian trees the Discharger will purchase $347,000 of In-Lieu Fee (ILF) credits from the Santa Clara Valley Habitat Plan and make additional payments of $775 per tree to the City of San Jose ILF program. The Discharger will provide proof of payment to the Santa Clara Valley Habitat Agency prior to commencement of Project construction.

26. To mitigate for the permanent impacts of 0.6 acres to riparian waters, the Discharger will purchase 0.9 acres of riparian enhancement advance credits and 0.3 acres of riparian establishment advance credits from the Santa Clara Valley Habitat Plan ILF Program. The Discharger will provide proof of their payment to the Santa Clara Valley Habitat Agency prior to commencement of Project construction.

27. The Discharger will implement trash removal as outlined in the *Coyote Creek Flood Protection Project Trash Cleanup Mitigation Proposal* (Attachment B).

28. The Discharger will monitor geomorphic conditions for a minimum of 10 years concurrent with the vegetation monitoring. Geomorphic monitoring will be qualitative, consisting of visual observations of adverse conditions on the Creek's banks and constructed elements.

29. The Discharger will submit an annual geomorphic monitoring report in years 1 through 3, 5, 7, and 10, for routine monitoring, pursuant to Provision C.28 of this Order.

Regulatory Framework

30. The Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) is the Water Board's master water quality control planning document. It designates beneficial uses and water quality objectives for waters of the State, including surface waters and groundwater. It also includes implementation plans to achieve water quality objectives. The Basin Plan was duly adopted by the Water Board and approved by the State Water Resources Control Board (State Water Board), Office of Administrative Law, and U.S. EPA, where required. This Order implements the Basin Plan and takes into consideration the beneficial uses to be protected, the water quality objectives reasonably required for that purpose, other waste discharges, the need to prevent nuisance, and Water Code section 13241.

31. The Project is located in the Coyote Creek hydrologic unit (Hydrologic Unit Code 18050003) that originates in the Diablo Range along the eastern side of the county.

The Creek is fed by over 2,000 miles of stream channel forming a network of small first, second, and third order channels in the upper watershed culminating into several major tributaries to the main stem, including Lower Silver Creek and Upper Penitencia Creek within the Project reach. The Basin Plan states that "[t]he beneficial uses of any specifically identified waterbody generally apply to all of its tributaries."

32. The Basin Plan lists the following existing and potential beneficial uses for Coyote Creek:

    Wildlife Habitat (WILD)

    Preservation of Rare and Endangered Species (RARE)

    Fish Spawning (SPWN)

    Fish Migration (MIGR)

    Cold Freshwater Habitat (COLD)

    Warm Freshwater Habitat (WARM)

    Water Contact Recreation (REC-1)

    Non-contact Water Recreation (REC-2)

    Freshwater Replenishment (FRESH)

    Groundwater Recharge (GWR)

    Commercial and Sport Fishing (COMM)

33. The Basin Plan implementation plan for wetland fill provides that the Water Board will evaluate a wetland fill project and proposed mitigation together to ensure that there will be no net loss of wetland acreage and no net loss of wetland value, and that mitigation for wetland fill projects will be located in the same area of the Region, whenever possible, as the project. The Basin Plan further establishes that wetland disturbance should be avoided whenever possible, and if not possible, should be minimized, and only after avoidance and minimization of impact should mitigation for lost wetlands be considered.

34. In its evaluation of the Project, the Water Board considered the California Wetlands Conservation Policy (Governor's Executive Order W-59-93, signed August 23, 1993), Senate Concurrent Resolution No. 28, and Water Code section 13142.5.

    a. The goals of the California Wetlands Conservation Policy include ensuring no "overall loss," and achieving a "long-term net gain in the quantity, quality, and permanence of wetlands acreage and values…."

    b. Senate Concurrent Resolution No. 28 states that, "It is the intent of the legislature

to preserve, protect, restore, and enhance California's wetlands and multiple resources which depend on them for the benefit of the people of the State."

c. Water Code section 13142.5 requires that "Highest priority shall be given to improving or eliminating discharges that adversely affect … Wetlands, estuaries, and other biologically sensitive areas."

35. With the successful implementation of the mitigation measures described in these findings and the provisions, the Water Board finds that the Project will be consistent with the Basin Plan implementation plan for wetland fill and the California Wetlands Conservation Policy, Senate Concurrent Resolution No. 28, and Water Code section 13142.5 referenced in Findings 33 and 34.

36. The Discharger has submitted an Alternatives Analysis to show that the Project appropriately avoids and minimizes wetland disturbance, as required by the Basin Plan. The Water Board concurs with the conclusions of the Alternatives Analysis.

37. Project construction and land disturbance activities will result in the disturbance of one or more acres of land. The Discharger is required to obtain coverage for the Project under the General Permit for Discharges of Storm Water Associated with Construction and Land Disturbance Activities, State Water Board Order No. 2022-0057-DWQ; NPDES No. CAS000002 (Construction General Permit).

38. The California Environmental Quality Act (CEQA) requires all projects approved by State agencies to comply with CEQA, and requires a lead agency to prepare an appropriate environmental document (e.g., Environmental Impact Report (EIR) or Negative Declaration) for such projects. Valley Water, as the lead agency, published a draft EIR in July 2024, and filed a CEQA Notice of Determination on March 13, 2025 (State Clearinghouse # 2023110513). The Water Board, acting as a responsible agency, has reviewed and considered the environmental impacts to water quality related to the issuance of this Order as analyzed in EIR. The mitigation measures included in this Order mitigate or avoid the impacts to water quality in relation to the portion of the Project that the Water Board is approving by the issuance of this Order. The Water Board finds that compliance with this Order, including the mitigation measures that have been incorporated, will reduce the impacts to water quality to a level that is less than significant.

39. The Project will permanently impact 0.40 acres and temporarily impact 1.29 acres of waters of the State. The application fee based on these impacts is $4,212. The application fee was paid in full on Dec. 11, 2024.

40. Pursuant to California Water Code (CWC) section 13260, the Discharger is required to pay annual fees for WDRs in a timely manner.

41. The Water Board notified the Discharger and interested parties of its intent to issue WDRs for the Project and provided 30 days to submit written comments on the Order.

42. The Water Board, in a public meeting, heard and considered all comments pertaining to the discharge.

IT IS HEREBY ORDERED that the Discharger, in order to meet the provisions contained in Division 7 of the CWC and regulations adopted thereunder, shall comply with the following, pursuant to authority under CWC sections 13263 and 13267:

A. Discharge Prohibitions

1. The direct discharge of wastes, including rubbish, refuse, bark, sawdust, concrete, asphalt, or other solid wastes into surface waters or at any place where they would contact or where they would be eventually transported to surface waters, including flood plains, is prohibited.

2. The discharge of floating oil or other floating materials from any activity in quantities sufficient to cause deleterious bottom deposits, turbidity, or discoloration in surface waters is prohibited.

3. The discharge of silt, sand, clay, or other earthen materials from any activity in quantities sufficient to cause deleterious bottom deposits, turbidity, or discoloration in surface waters is prohibited.

4. The riparian fill activities subject to these requirements shall not cause a nuisance as defined in CWC section 13050(m).

5. The discharge of materials, which are not otherwise regulated by a separate NPDES permit or allowed by this Order, to waters of the State is prohibited.

6. The discharge of drilling muds to waters of the State, or where such muds could be discharged to waters of the State, is prohibited.

B. Receiving Water Limitations

1. The Project activities shall not cause the following conditions to exist in waters of the State at any place:

   Floating, suspended, or deposited macroscopic particulate matter or foam in concentrations that cause nuisance or adversely affect beneficial uses;

   Bottom deposits or aquatic growths to the extent that such deposits or growths cause nuisance or adversely affect beneficial uses;

   Alteration of temperature, turbidity, or apparent color beyond present natural background levels;

   Visible, floating, suspended, or deposited oil or other products of petroleum origin; or

Toxic or other deleterious substances to be present in concentrations or quantities which will cause deleterious effects on wildlife, waterfowl, or other aquatic biota, or which render any of these unfit for human consumption, either at levels created in the receiving waters or as a result of biological concentration.

2. The Project activities discharges shall not cause nuisance, or adversely affect the beneficial uses of the receiving water.

3. The discharges shall not cause the following limits to be exceeded in waters of the State at any one place within one foot of the water surface:

   a. Dissolved Oxygen: 5.0 (WARM) or 7.0 (COLD) milligrams per liter. When natural factors cause lesser concentrations, then this discharge shall not cause further reduction in the concentration of dissolved oxygen.

   b. pH: The pH shall not be depressed below 6.5 nor raised above 8.5, nor caused to vary from normal ambient pH by more than 0.5 pH units.

   c. Toxicity: All waters shall be maintained free of toxic substances in concentrations that are lethal to or that produce other detrimental responses in aquatic organisms.

   d. Nutrients: Waters shall not contain biostimulatory substances in concentrations that promote aquatic growths to the extent that such growths cause nuisance or adversely affect beneficial uses.

   e. Salinity: Discharge shall not increase total dissolved solids or salinity to adversely affect beneficial uses.

   f. Turbidity: Waters shall be free of changes in turbidity that cause nuisance or adversely affect beneficial uses. Increases from normal background light penetration or turbidity relatable to waste discharge shall not be greater than 10 percent in areas where natural turbidity is greater than 50 NTU, or greater than 5 NTU where natural turbidity is less than 50 NTU.

C. Provisions

1. The Discharger shall comply with all Prohibitions, Receiving Water Limitations, and Provisions of this Order immediately upon adoption of this Order or as provided below.

2. The Project shall be constructed as described in the Report of Waste Discharge

submitted by the Discharger on November 13, 2024, as supplemented, and pursuant to the requirements of this Order. The Discharger may not implement changes to the Project without prior approval and authorization in writing by the Executive Officer and in accordance with Order Provision C.19.

3. No equipment shall be operated in stream channels or other waters where there is flowing or standing water. Fueling, cleaning, or maintenance of vehicles or equipment during construction shall not take place within any areas where an accidental discharge to waters of the State may occur.

4. The Discharger shall submit a soil management plan, acceptable to the Executive Officer, showing imported soil for use as permanent fill in waters of the State is suitable for reuse for the Project. The Discharger may demonstrate that imported soil is suitable for reuse by showing the soil meets the criteria in the Draft Staff Report Beneficial Reuse of Dredged Materials: Sediment Screening and Testing Guidelines, May 2000 (with minor corrections as of 3/14/19) or the *Master Quality Assurance Project Plan for the Don Edwards San Francisco Bay National Wildlife Refuge* (U.S. Fish and Wildlife Service, December 2024) . The Discharger shall submit the soil management plan 30-days prior to the commencement of construction for approval and by identifying other pertinent evidence that supports a finding of suitability.

5. The Discharger shall obtain coverage for the Project under the General Permit for Discharges of Storm Water Associated with Construction and Land Disturbance Activities, Order No. 2022-0057-DWQ (Construction General Permit).

6. The Discharger shall submit a post-construction stormwater management plan for review and approval within 120 days of completing Project construction activities. The post-construction stormwater management plan may follow the general approach outlined in the *Provision C.3 Compliance Assessment Memo for the CCFP Project* (Balance Hydrologics Inc. July 2025) submitted to the Water Board on July 23, 2025. The post-construction stormwater management plan shall document new and replaced impervious surfaces associated with the Project, delineate drainage management areas, and delineate associated stormwater treatment controls or associated adjacent vegetated areas.

7. The Discharger shall restore all areas of temporary impacts to waters of the State and all upland areas temporarily impacted that could result in a discharge to waters of the State as summarized herein and in accordance with the *Mitigation and Monitoring Plan for the CCFP Project* (GEI Consultants and Valley Water, March 2026) submitted to the Water Board on February 23, 2026

8. The Discharger shall mitigate for all permanent impacts to waters of the State and all upland areas in accordance with the *Mitigation and Monitoring Plan for the CCFP Project* (GEI Consultants and Valley Water, March 2026). The Discharger shall provide proof of payment for 0.9 acres of riparian establishment and 0.3 acres of riparian enhancement credits to the Santa Clara Valley Habitat Agency prior to commencement of Project construction.

9. The Discharger shall implement *CCFP Project Mitigation Monitoring Plan Addition of*

Trash Cleanup (Valley Water, March 2026). The Discharger shall submit an annual monitoring report, acceptable to the Executive Officer, on the first monitoring year commencing the calendar year after completing the Project. The report shall be submitted concurrently with the Year 1 annual geomorphic monitoring report.

The report shall include information about the location and dates of work performed, photographs of site conditions and dump tags verifying weight of disposed trash.

10. The Discharger shall purchase $347,000 of In-Lieu Fee (ILF) credits from the Santa Clara Valley Habitat Plan and make additional payments of $775 per tree to the City of San Jose ILF program. The Discharger shall provide proof of payment prior to commencement of Project construction.

11. **Start of Construction Notification**. The Discharger shall submit a Start of Construction Report at least seven days prior to the start of initial ground disturbance activities. The report shall reference **SOC_459139_CoyoteCreekFloodProtection** and shall be submitted via email to RB2-401Reports@waterboards.ca.gov or by mail to Water Board, 1515 Clay St., Suite 1400, Oakland CA 94612, to the attention of 401 Certifications Reports.

12. **Notice of Construction Completion**. No later than 120 days after completing Project construction activities, the Discharger shall submit, acceptable to the Executive Officer, a Notice of Project Construction Completion (NOC). The Notice shall include the date Project construction activities (defined as construction of both the Project and any compensatory mitigation) were completed and reference **NOC_459139_CoyoteCreekFloodProtection**. The Notice shall be sent via email to RB2-401Reports@waterboards.ca.gov

13. **As-Built Report.** The Discharger shall prepare an as-built report acceptable to the Executive Officer. The as-built report shall be submitted to the Water Board no later than 120 days after completing Project construction activities, including revegetation. The report shall include a description of the areas of actual disturbance during Project construction. The report shall clearly identify and illustrate the Project site, the locations of permanent and temporary impacts, all new and replaced impervious surfaces, associated stormwater treatment devices, associated adjacent vegetated areas used for treatment and the species and quantities of any vegetation planted in waters of the State. The as-built report shall include the 100 percent construction plans marked with the contractor's field notes that clearly depict any deviations made during construction from the designs reviewed by the Water Board. The as-built report shall be sent via email to RB2-401Reports@waterboards.ca.gov, and include **As-Built_459139_CoyoteCreekFloodProtection** or by mail to the Water Board, to the attention of 401 Certifications Reports.

14. **Annual Mitigation Monitoring Reports**. The Discharger shall submit annual monitoring reports, acceptable to the Executive Officer, by January 31 following each monitoring year with the first monitoring year commencing the calendar year

after completing the Project. At the time of this Order the Project is scheduled to complete construction in 2028. Therefore, the first monitoring year will occur in 2028, with the first annual report due January 31, 2029. The Permittee shall submit an annual report for monitoring in years 1 through 6, 8, and 10, and in the intervening years if significant a geomorphic event occurs such as flows greater than the 20-year flow.

Each annual report shall summarize each year's monitoring results, including the need for, and implementation of, any remedial actions to help meet the performance criteria. The annual reports shall include photographs of site conditions, shall compare data to previous monitoring years, and describe progress towards meeting final performance criteria. The monitoring reports shall characterize the flow conditions that have occurred during the monitoring period to evaluate performance of the constructed flood control measures and associated drainage structures. Annual monitoring reports shall reference **AMR_459139_CoyoteCreekFloodProtection** and shall be submitted via email to RB2-401Reports@waterboards.ca.gov and to Timothy Chen via email to timothy.chen@waterboards.ca.gov, or by mail to the attention of 401 Certifications Reports and the staff listed at the bottom of this Order (see address in letterhead).

15. **Final Mitigation Monitoring Report**. The final monitoring report shall document if the site meets the final performance criteria. If the final criteria are not met, the Permittee shall, in consultation with the appropriate agencies, identify remedial measures to be undertaken, including extension of the monitoring and reporting period until the criteria are met. The Permittee shall implement all remedial measures identified upon receiving written acceptance by the Executive Officer. Success of the mitigation program shall be determined by, and acceptable to, the Executive Officer.

16. **Notice of Mitigation Monitoring Completion**. Within 30 days of successfully completing required monitoring consistent with Provision 15 above, the Discharger shall submit, acceptable to the Executive Officer, a Notice of Mitigation Monitoring Completion notifying the Water Board that monitoring has been completed. This notification shall include the date monitoring was completed, the Project Name, and reference **NMMC_459139_CoyoteCreekFloodProtection**. The Notice shall be submitted via email to RB2-401Reports@waterboards.ca.gov.

General Provisions

17. The Discharger shall immediately notify the Board staff by telephone whenever an adverse condition occurs as a result of this discharge (telephone number: (510) 622-2462). Such a condition includes, but is not limited to, a violation of the conditions of this Order, a significant spill of petroleum products or toxic chemicals, or damage to control facilities that would cause noncompliance. Pursuant to CWC section 13267(b), a written notification of the adverse condition shall be submitted to the Water Board within two weeks of occurrence. The written notification shall identify the adverse condition, describe the actions necessary to remedy the condition, and specify a timetable, subject to any modifications by the Water Board

staff, for the remedial actions.

18. The Discharger shall at all times fully comply with the engineering plans, specifications, and technical reports submitted with its application for water quality certification and the completed Report of Waste Discharge.

19. In accordance with CWC section 13260(d), the Discharger shall file with the Water Board a report of any material change or proposed change in the ownership, character, location, or quantity of this waste discharge. Any proposed material change or change in operation shall be reported to the Executive Officer at least 30 days in advance of the proposed implementation of any change and must be approved by the Executive Officer. This shall include, but not be limited to, all significant new soil disturbances, all proposed expansion of development, any change in drainage characteristics at the Project site, or any proposed change in the boundaries of the area of wetland or other waters of the State to be filled or degraded. The Discharger is considered to have full responsibility for correcting any and all problems that arise in the event of a failure that results in an unauthorized release of waste or wastewater.

20. Any hazardous, designated or non-hazardous waste as defined in Title 23, Division 3, Chapter 15 of the California Administrative Code, shall be disposed of in accordance with applicable state and federal regulations.

21. The Discharger shall clean up and abate any wastes that are discharged at any sites in violation of this Order.

22. The Discharger shall maintain a copy of this Order at the Project site so as to be available at all times to site operating personnel and agencies.

23. The Discharger shall permit the Water Board or its authorized representative, at all times, upon presentation of credentials:

    a. Entry onto Project premises, including all areas on which wetland fill or wetland mitigation is located or in which records are kept.

    b. Access to copy any records required to be kept under the terms and conditions of this Order.

    c. Inspection of any treatment equipment, monitoring equipment, or monitoring method required by this Order.

    d. Sampling of any discharge or surface water covered by this Order.

24. This Order does not authorize commission of any act causing injury to the property of another or of the public; does not convey any property rights; does not remove liability under federal, state, or local laws, regulations or rules of other programs and agencies, nor does this Order authorize the discharge of wastes without appropriate permits from other agencies or organizations.

25. **Annual Fees.** An annual fee for WDRs pursuant to CWC section 13260 is required and shall be paid by the Discharger in a timely manner. The Permittee shall pay an annual fee to the Water Board each fiscal year (July 1 – June 30) until monitoring activities are completed and an acceptable Notice of Mitigation Monitoring Completion is received by the Water Board pursuant to Order, Provision C.16.

26 **Project Fee**. This Order is conditioned upon total payment of the full fees, including annual fees, required in State regulations (23 CCR sections 2200(a)(3) and 3833(b)(3)) and owed by the Discharger. The application fee for this Project, $4,212, was paid in full on Dec. 11, 2025, and was calculated using the 2025/2026 Water Quality Certification Dredge and Fill Application Fee Calculator, Category A – *Fill and Excavation Discharges*. The Project Fee of $88,522 was paid in full on Oct. 27, 2025.

26. The Water Board will consider rescission of this Order upon Project completion and the Executive Officer's acceptance of notices of completion of mitigation for all mitigation, creation, and enhancement projects required or otherwise permitted now or subsequently under this Order.

I, Eileen White, Executive Officer, do hereby certify that the foregoing is a full, complete and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region on June 10, 2026.

_____
Eileen M. White, P.E.
Executive Officer

Attachments:

Attachment A *Coyote Creek Flood Protection Project Trash Cleanup Mitigation Proposal*
Attachment B *Mitigation and Monitoring Plan for the CCFP Project*