

## State Water Resources Control Board

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### WATER QUALITY ORDER NO. WQ 2022-0023-DWQ CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND ORDER

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**Effective Date:** May 20, 2022

**Program Type:** Restoration

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<b>USACE No.:</b>	2003-279220

**Project Type:** Ecological Aquatic/Stream/Habitat Restoration

**Project:** 2021 Fisheries Restoration Grant Program's Mitigated Negative Declaration Project (Project)

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E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

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Project

## **I. Order**

This Clean Water Act (CWA) section 401 Water Quality Certification action and Order (Order) is issued at the request of California Department of Fish and Wildlife (CDFW) (hereinafter Permittee) for the Project. This Order is for the purpose described in application materials submitted by the Permittee. The application was received on February 3, 2022. The application was deemed complete on March 10, 2022.

## **II. Findings**

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. In response to a suspected violation of any condition of this Order, the 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.
3. This Order does not provide coverage under the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ; NPDES No. CAS000002) (Construction General Permit).
4. This Order does not authorize any act which results in the taking of a threatened, endangered or candidate species, 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 obtain authorization for the take 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.
5. This Order includes monitoring and reporting requirements pursuant to Water Codes sections 13267 and 13383. The burden of preparing these reports, including costs, are reasonable to the need and benefits of obtaining the reports. The reports confirm that the best management practices required

under this Order are sufficient to protect beneficial uses and water quality objectives. The reports related to accidental discharges also ensure that corrective actions, if any, that are necessary to minimize the impact or clean up such discharges can be taken as soon as possible. The anticipated costs are minimal as the reporting obligations require only visual monitoring and notification reporting.

### **III. Project Purpose**

The primary goal of the Project is to maintain and restore natural watershed and river processes that create habitat characteristics favorable to salmonids. The objective of the Project is to enhance the capability of streams to produce wild anadromous salmonids by maintaining, restoring, and improving stream functions essential to salmonid production.

### **IV. Project Description**

The Project is comprised of several individual habitat restoration projects<sup>1</sup> undertaken by grantees of the Fisheries Restoration Grant Program. These individual projects are funded by grants approved by the California Legislature to initiate activities that are designed to restore, enhance, and protect salmon and steelhead trout (*Oncorhynchus mykiss*) habitat in coastal and central valley streams and watersheds.

The individual projects are designed to increase populations of wild anadromous fish in coastal and central valley streams by restoring ecological function to their habitat. Individual restoration projects shall be implemented in accordance with procedures found in the most recent version of the "California Salmonid Stream Habitat Restoration Manual." The Project supports a variety of restoration activities including instream habitat improvements, unanchored large woody debris, fish screens, fish passage at stream crossings, riparian habitat restoration, and watershed and stream bank stability.

The Project consists of 11 individual restoration projects that require certification. Individual project descriptions can be found in Table 5 of Attachment B.

### **V. Project Location**

The proposed Project consists of individual project sites in the following counties: Humboldt, Mendocino, Siskiyou, Sonoma, and Monterey. A map showing the project locations is in Attachment A of this Order.

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<sup>1</sup> As used in this Order, "Project" refers to all of the 2021 Fisheries Restoration Grant Program's Mitigated Negative Declaration Project as a whole and "project" refers to the individual restoration projects carried out by the grantees.

## **VI. Project Impact and Receiving Waters Information**

The Project is located within the jurisdiction of the North Coast, and Central Coast Regional Water Quality Control Boards. Receiving waters and groundwater potentially impacted by this Project are protected in accordance with the applicable water quality control plans (Basin Plan). The regional plans 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/)). 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**

This Order authorizes direct permanent and temporary impacts to waters of the state associated with the Project. Proposed activities that will result in impacts to waters of the state include: (1) installation of large woody debris, log structures, boulder structures, and other structures associated with in-stream habitat improvements; (2) excavation and fill associated with restoration of side-channel/off-channel habitat (3) removal of fish passage barriers; (4) placement of new non-barrier stream crossings; (5) stabilization of stream banks; (6) decommissioning of roads within, or which discharge to, waters of the state; and (7) restoration of riparian habitat. Individual project impact locations and quantities are shown in Table 2 of Attachment B.

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

**Table 1: Total Project Fill/Excavation Quantity for Temporary Impacts<sup>2</sup>**

Aquatic Resources Type	Acres	Linear Feet
Riparian Zone	5.12	13,486
Stream Channel	2.02	11,032
Wetland	0.01	190

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

Aquatic Resources Type	Acres	Linear Feet
Riparian Zone	0.95	4,380.3
Stream Channel	1.12	7,947
Wetland	0.12	806

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

The State Water Board recognizes the potential for indirect impacts to waters of the state associated with the Project. Indirect impacts to waters of the state and their designated beneficial uses could potentially result from Project activities. Such impacts would likely be short term and may result from the installation of instream structures, removal of instream structures, and disturbances associated with access routes. The potential indirect impacts are adequately reduced through adherence to this Order and the Project's Mitigation Measures, Monitoring and Reporting Program (MMRP), included in Attachment G.

**IX. Avoidance and Mitigation**

Projects receiving certification from the State Water Board must demonstrate that the Project design has first avoided and then minimized impacts to waters of the state to the maximum extent practicable. Adequate avoidance and minimization measures are required by the Project's Mitigated Negative Declaration (MND) and MMRP, included in Attachment G. The avoidance and minimization measures generally focus on: using existing access routes when practicable, using the smallest work area required to implement the projects, using local materials, preventing wastes from entering waters of the state, preventing degradation of water quality caused by water diversions and construction activities, identifying and

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<sup>2</sup> Includes only temporary direct impacts to waters of the state and does not include area of temporary disturbance which could result in a discharge to waters of the state. Temporary impacts, by definition, are restored to pre-project conditions and therefore do not include a physical loss of area or degradation of ecological condition.

preventing harm to aquatic and riparian organisms, preventing channel/riparian instability, and monitoring to prevent pollutant discharges to waters of the state.

No alternatives analysis is required because the Project is an ecological restoration and enhancement project.

#### **X. Compensatory Mitigation**

No compensatory mitigation is required for permanent impacts because the Project consists of individual fisheries restoration projects that are designed to result in a net benefit to waters of the state.

#### **XI. Conditions**

Specific condition justifications required by Title 40, Code of Federal Regulations (CFR) Part 121.7(d)(1) are provided below each condition, or set of conditions, in *italic text*.

These conditions are generally required to comply with the state's Anti-Degradation Policy (State Board Resolution No. 68-16), which requires that any "activity which produces or may produce a waste or increased volume or concentration of waste and which discharges or proposes to discharge to existing high quality waters will be required to meet waste discharge requirements which will result in the best practicable treatment or control of the discharge necessary to assure that (a) a pollution or nuisance will not occur and (b) the highest water quality consistent with maximum benefit to the people of the state will be maintained." All Regional Board Water Quality Control Plans incorporate the state's Anti-Degradation Policy by reference. The state Anti-Degradation Policy incorporates the federal Antidegradation Policy (40 CFR Part 131.12 (a)(1)), which requires "[e]xisting instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected." According to U.S. EPA, dischargers of dredged or fill material comply with the federal Antidegradation Policy by complying with U.S. EPA's section 404(b)(1) Guidelines. The State Water Boards adopted a modified version of U.S. EPA's section 404(b)(1) Guidelines in the Dredge or Fill Procedures (State Supplemental Guidelines).

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

##### **A. Impacts to Waters of the State**

Impacts to waters of the state shall not exceed quantities shown in Table 1 and Table 2.

*This condition protects water quality by ensuring that the impacts to waters are not greater than what is proposed in the application. Larger impacts lead to a greater potential for adverse impacts on water quality. Water Code section 13264 prohibits any discharge that is not specifically authorized in this Order.*

## **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.

### **1. Project Reporting**

- a. **Annual Reporting:** The Permittee shall submit an Annual Report each year on or before July 1. Annual reporting shall continue until the Water Board issues a Notice of Project Complete Letter to the Permittee.

*If the Project is not implemented as approved in this Order, then adverse impacts on water quality and beneficial uses could occur. Monitoring and reporting requirements are authorized by Water Code sections 13267 and 13383.*

### **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#) issued under the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ; NPDES No. CAS000002) for all individual projects that disturb one or more acres of land 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 of land.

*This condition protects water quality by ensuring that the Permittee is implementing the Project within the proposed work windows. If the Project is not implemented within the proposed and approved work windows, then adverse impacts on water quality and beneficial uses could occur. Monitoring and reporting requirements are authorized by Water Code sections 13267 and 13383.*

- b. 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. This request shall be submitted to Water Board staff within thirty (30) days following completion of all Project activities. Upon approval of the request, the Water Board staff shall issue a Notice of Project Complete Letter to the Permittee which will end the post discharge monitoring period and associated annual fees.

*This condition protects water quality by ensuring that the Permittee has implemented the Project as proposed and approved, that temporary impact sites have been restored, and the Project area is stable. Monitoring and reporting requirements are authorized by Water Code sections 13267 and 13383.*

3. Conditional Notifications and Reports:

The following notifications and reports are required as applicable.

a. Accidental Discharges of Hazardous Materials<sup>3</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:
- a. First call – 911 (to notify local response agency)
  - b. Then call – Office of Emergency Services (OES) State Warning Center at: (800) 852-7550 or (916) 845-8911
  - c. Lastly, follow the required OES procedures as set forth in the Office of Emergency Services' Accidental Discharge Notification Web Page

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<sup>3</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.)

([https://www.caloes.ca.gov/FireRescueSite/Documents/CalOES-Spill\\_Booklet\\_Feb2014\\_FINAL\\_BW\\_Acc.pdf](https://www.caloes.ca.gov/FireRescueSite/Documents/CalOES-Spill_Booklet_Feb2014_FINAL_BW_Acc.pdf))

- ii. Following notification to OES, the Permittee shall notify 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 Water Board, the Permittee must submit an Accidental Discharge of Hazardous Material Report.

*These conditions protect water quality by giving the Permittee a series of steps to follow if there is a spill that has the potential to adversely impact water quality and beneficial uses. These steps are intended to help mitigate the damage done by such a spill. Monitoring and reporting requirements are authorized by Water Code sections 13267 and 13383.*

b. Violation of Compliance with Water Quality Standards:

- i. The Permittee shall notify the 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.
- ii. This notification must be followed within three (3) working days by submission of a Violation of Compliance with Water Quality Standards Report.

*These conditions protect water quality by alerting the Water Boards to events that cause violations of water quality standards. Being aware of such events allows the water board to assess the cause of the issue and require remediation if necessary. Monitoring and reporting requirements are authorized by Water Code sections 13267 and 13383.*

c. In-Water Work and Diversions:

- i. The Permittee shall notify the 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 Water Board staff.

*These conditions protect water quality by alerting the Water Boards when in water work and/or stream diversions will be taking place and requiring the Permittee to monitor water quality while those activities*

*are taking place. Monitoring and reporting requirements are authorized by Water Code sections 13267 and 13383.*

d. Modifications to Project

- i. Project modifications may require an amendment of this Order. The Permittee shall give advance notice to 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 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.
- ii. Brandon Gulch Coho Stream Habitat Enhancement Project (Project ID 1725864) and Ryan Creek Off-Channel Coho Habitat Implementation Project (Project ID 1726150) must submit aquatic resource delineation reports as soon as possible after their delineations are performed in spring 2022. These reports must (at a minimum) document the extent of wetland waters of the state in the project areas, cite appropriate regulatory wetland definitions, document appropriate delineation methodologies, and provide updated wetland impact and restoration information for the projects.

*If the Project is not implemented as approved in this Order, then adverse impacts on water quality and beneficial uses could occur. Monitoring and reporting requirements are authorized by Water Code sections 13267 and 13383.*

e. Transfer of Long-Term BMP Maintenance:

If maintenance responsibility for post-construction best management practices (BMPs) is legally transferred, the Permittee must submit to the 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 Water Board with a Transfer of Long-Term BMP Maintenance Report at least ten (10) days prior to the transfer of BMP maintenance responsibility.

*This condition protects water quality by ensuring that the Permittee and any future legally responsible party has implemented the Project as proposed and approved, that temporary impact sites have been restored, and the Project area is stable. Monitoring and reporting*

*requirements are authorized by Water Code sections 13267 and 13383.*

### **C. Water Quality Monitoring**

#### **1. General:**

If surface water is present, continuous visual 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).

*This condition protects water quality by requiring the Permittee to visually monitor for obvious signs of water quality degradation. Monitoring and reporting requirements are authorized by Water Code sections 13267 and 13383. The anticipated costs are minimal as the reporting obligations require only visual monitoring.*

#### **2. In-Water Work or Diversions:**

A water quality monitoring plan shall be approved by State Water Board staff prior to commencement of any individual project that involves in-water work or construction dewatering or diversions. The water quality monitoring plan shall be in conformance with the applicable Regional Water Quality Control Board's Basin Plan and provide for monitoring of appropriate parameters. The plan should include monitoring of key water quality parameters that may be affected by the activity, such as specific conductance, pH, turbidity, water temperature, and dissolved oxygen, both upstream and downstream of the diversion while diversions are being installed and removed. Monitoring may be limited to visual inspections while diversions are in place and functioning properly.

*This condition protects water quality by requiring the Permittee to develop a water quality monitoring plan to be implemented when installing diversions and performing in-water work. If the monitoring finds any degradation of water quality, the cause can be determined, and remediation can be required as necessary. Monitoring and reporting requirements are authorized by Water Code sections 13267 and 13383. The burden of preparing these reports, including costs, are reasonable to the need and benefits of obtaining the reports. The reports confirm that the best management practices required under this order are sufficient to protect beneficial uses and water quality objectives.*

#### **3. Accidental Discharges/Noncompliance:**

Upon occurrence of an accidental discharge, the Permittee shall determine whether the discharge includes hazardous materials or will cause or contribute to an exceedance of water quality objectives, and if so, notify the Water Board in accordance with XI.B.3. Water Board staff may require additional water quality monitoring based on the discharge constituents and/or related water quality objectives and beneficial uses.

*This notification ensures that corrective actions required to minimize the impact or clean up such discharges can be taken as soon as possible. Monitoring and reporting requirements are authorized by Water Code sections 13267 and 13383.*

#### **D. Standard Conditions**

Each standard condition in Section XI.D is required to be included in all water quality certifications by California Code of Regulations, title 23, Chapter 28, Section 3860.

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 section 3867.
2. This Order is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and 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.

#### **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. 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.

*This condition protects water quality by stating that the Permittee may be subject to administrative or civil liabilities pursuant to the Water Code section 13385. These penalties may include requirements to remedy water quality impairments caused by the Project or to pay a third party to remedy such water quality impairments.*

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 Water Board (collectively Water Boards) water quality control plan or policy. The source of any such discharge must be eliminated as soon as practicable.

*This condition protects water quality by stating that the Project must not violate water quality standards or impair beneficial uses. (State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State (Dredge or Fill Procedures), Section IV.B.1. See Resolution 2021-0012 and 2019-0015).*

3. In response to a suspected violation of any condition of this Order, the 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.

*This condition protects water quality by requiring that the Permittee provides monitoring reports after a violation or suspected violation of the conditions of this Order. This monitoring would document whether or not water quality impacts occurred as a result of the violation or suspected violation and allow the Water Board and Permittee to act to remedy the situation. Monitoring and reporting requirements are authorized by Water Code sections 13267 and 13383.*

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.

*This condition protects water quality by ensuring that the Project is implemented as proposed and approved. (Wat. Code, § 13264.) Deviations from the approved plans and practices could result in adverse impacts to water quality.*

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.

*This condition protects water quality by ensuring that this Order and all of its conditions that protect water quality remain in place if federal licenses or permits are revoked or expire. Water Code section 13264 prohibits any discharge that is not specifically authorized in this Order.*

6. The Permittee must ensure that each individual grantee adheres to all requirements in the mitigation monitoring and reporting program (Mitigation Measures, Monitoring and Reporting Program for the 2021 Fisheries Restoration Grant Program's Mitigated Negative Declaration Project, Attachment G) which is incorporated herein by reference and any additional measures as outlined in Attachment C, CEQA Findings of Fact.

*This condition protects water quality by requiring that the Permittee ensure that grantees implementing the individual projects adhere to the mitigation measures in the Project's MMRP. These mitigation measures are designed in part to protect water quality and beneficial uses. (Cal. Code of Regs., tit. 14, § 15097)*

7. The Permittee shall ensure that individual projects obtain coverage under NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ; NPDES No. CAS000002), or any reissuance, for discharges 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 condition protects water quality by ensuring that grantees whose projects meet the size requirements for the Construction General Permit get coverage under that permit. (40 CFR § 122.26(a)(9)(B).)*

## F. Administrative

1. Signatory requirements for all document submittals required by this Order are presented in Attachment E.

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

2. The Permittee shall grant Water Board staff, North, and Central Coast Regional Water Quality Control 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.

*These conditions protect water quality by allowing the Water Boards, or a representative, to investigate site conditions to ensure that the Project is compliant with this Order. These conditions are authorized pursuant to the Water Boards' authority to investigate the quality of any waters of the state within its region under Water Code sections 13267 and 13383.*

3. 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.

*This condition protects water quality by requiring the Permittee to distribute this Order to all entities working on the Project so that they are aware of the Order conditions and can conduct the work accordingly. (Wat. Code, § 13263.)*

4. 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.

*This condition protects water quality by requiring that all construction personnel are familiar with the contents of this Order and that the Order must be kept at Project sites for easy access and reference. Being familiar with the Order and having it on site will allow the personnel to complete work in accordance with the conditions of the Order. (Wat. Code, § 13263.)*

## **G. Construction**

### **1. Dewatering**

- a. All temporary dewatering/diversion methods shall be designed to isolate the immediate work area and to have the minimum necessary impacts to waters of the state.

*This condition protects water quality by requiring the Permittee to minimize the Project's footprint in waters. (Dredge or Fill Procedures, Section IV.B.1.)*

- b. All dewatering/diversion facilities shall be installed such that natural flow is maintained upstream and downstream of Project areas.

*This condition protects water quality by requiring Permittee to maintain streamflow upstream and downstream of the Project area while diversions are in place. Stream flow is important for maintaining beneficial uses and water quality parameters such as dissolved oxygen and temperature. (Dredge or Fill Procedures, Section IV.B.1.)*

- c. Any temporary dams or diversions shall be installed such that the dewatering/diversion does not cause sedimentation, siltation, or erosion upstream or downstream of Project areas.

*This condition protects water quality by requiring that diversions do not affect flow velocity or rate and do not affect natural sediment transport functions of streams. Sedimentation or erosion related to diversions could cause long term instability of the Project reach and lead to short- and long-term impacts to water quality and beneficial uses. (Dredge or Fill Procedures, Section IV.B.1.)*

- d. All dewatering/diversion methods shall be removed as soon as practicable upon completion of dewatering/diversion activities.

*This condition protects water quality by requiring the Permittee to remove dewatering/diversion equipment and structures as soon as practicable after they are no longer needed. The longer that diversions and dewatering equipment are in place, the greater the potential for them to fail, be overwhelmed, or otherwise cause water quality degradation. (Dredge or Fill Procedures, Section IV.B.1.)*

- e. In the event of rain, any in-water work area shall be temporarily stabilized before stream flow overtops or overwhelms the diversion structure. The stream bed shall be stabilized so that the disturbed areas will not encounter stream flow.

*This condition protects water quality by requiring the Permittee to stabilize the streambed behind diversions before they are overwhelmed. If stream flow is allowed over exposed and non-stabilized work areas, this would lead to erosion of the site, downstream sedimentation, and long-term instability of the project reach that could lead to further degradation of water quality and beneficial uses. (Dredge or Fill Procedures, Section IV.B.1.)*

- f. The Permittee shall not use or allow the use of erosion control products that contain synthetic materials within waters of the state at any time, except for plastic sheeting used in water diversion and dewatering activities. The Permittee shall first request approval from the State Water Board if an exception from this requirement is needed for a specific location.

*This condition protects water quality by limiting the use of synthetic materials. Synthetic, non-biodegradable materials used in erosion control products are persistent in the environment. When they do break down, they break down into smaller and smaller pieces of the original material, which can have adverse effects on water chemistry and fauna. Synthetics should be avoided wherever possible due to their potential effects on water quality and the environment. (Dredge or Fill Procedures, Section IV.B.1.)*

- g. All work performed within waters of the state shall be completed in a manner that minimizes impacts to beneficial uses.

*This condition protects water quality by requiring the Permittee to minimize impacts to beneficial uses of waters of the state. (Dredge or Fill Procedures, Section IV.B.1.)*

## **2. Fugitive Dust**

- a. If dust suppression measures are utilized, they shall be performed such that they do not result in a discharge to waters of the state.

*This condition protects water quality by ensuring that the Permittee does not discharge sediment or other wastes into waters while performing dust suppression activities. (Dredge or Fill Procedures, Section IV.B.1.)*

## **3. Site Management**

- a. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete Project implementation.

*Removal of vegetation within and adjacent to waters results in higher water quality degradation through erosion, decreased shading, decreased riparian buffering, decreased allochthonous nutrient and habitat inputs, and other pathways. Limiting this vegetation removal to the minimum necessary to complete the Project is protective of water quality. (Dredge or Fill Procedures, Section IV.B.1.)*

- b. Where temporary or permanent impacts have not been approved, construction vehicles must not enter waters of the state.

*Vehicles operating within waters that are outside of the approved Project boundary will lead to water quality impacts that were not proposed and which are not authorized by this Order. Water quality is protected by restricting this activity. (Wat. Code, § 13264, Dredge or Fill Procedures, Section IV.A.2.d.)*

- c. When no longer needed, all construction-related equipment, materials, and temporary BMPs shall be removed from Project sites.

*The longer equipment and other unneeded materials are left on a project site the higher the likelihood of a leak, spill, or other unintended impact. Removing these materials as soon as they are no longer needed is protective of water quality. (Dredge or Fill Procedures, Section IV.B.1.)*

- d. All imported riprap, rocks, and gravels that are used shall be pre-washed.

*Imported rock materials have the potential to harbor unwanted and detrimental invasive species, pathogens, sediments, compounds, etc. Requiring these materials to be washed before being brought to, and used on, site is protective of water quality. (Dredge or Fill Procedures, Section IV.B.1.)*

#### **4. Hazardous Materials**

- a. Prior to use in waters of the state, all equipment shall be cleaned of any substances that are detrimental to water quality.

*Equipment can harbor the same detrimental substances as the rock materials noted above. Motorized equipment can also introduce petroleum products and other compounds into waters. Requiring that equipment be cleaned of these detrimental substances before being used in waters is protective of water quality. (Dredge or Fill Procedures, Section IV.B.1.)*

- b. Operation and storage of vehicles and equipment shall not result in a discharge or threatened discharge of oil, grease, other petroleum products, or any other waste that may be detrimental to the quality of waters of the state.

*Petroleum products and other waste materials that may leak, leach, or fall from equipment may be detrimental to water quality. This condition protects water quality by ensuring that these materials are not discharged to waters of the state when equipment is being used or stored. (Dredge or Fill Procedures, Section IV.B.1.)*

- c. Vehicles and equipment that operate in waters of the state shall be regularly inspected for leaks. At no time shall the Permittee allow the use of any vehicle or equipment that leaks any substance possibly detrimental to water quality.

*Fluids that leak from vehicles and equipment are generally detrimental to water quality. This condition protects water quality by requiring regular inspections of vehicles and equipment and restricting use of leaking vehicles and equipment. (Dredge or Fill Procedures, Section IV.B.1.)*

- d. Raw cement, concrete (or washing thereof), asphalt, drilling fluids, lubricants, paints, coating material, oil, petroleum products, or any other substances which could be hazardous resulting from or disturbed by project-related activities, shall be prevented from contaminating fill material and/or entering waters of the state.

*The materials listed above are detrimental to water quality. These materials can either be directly or indirectly, or chronically or acutely toxic to aquatic organisms and are generally detrimental to water quality through alteration of water chemistry (pH, dissolved oxygen, specific conductance, organic enrichment, dissolved and particulate metals, fine sediment, etc). This condition protects water quality by restricting these compounds from being discharged into waters of the state. (Dredge or Fill Procedures, Section IV.B.1.)*

- e. Equipment working in waters of the state, including in areas protected by diversions, shall be removed from the delineated waters for fueling, service, or maintenance whenever feasible. When use of stationary equipment that requires refueling or service in delineated waters is planned, BMPs for managing the additional risk posed by that refueling and service shall be implemented. Such BMPs should include any precautions as necessary to ensure potential spills and leaks do not result in a discharge into waters of the state.

*Fuels and other petroleum products are detrimental to water quality. This condition protects water quality by requiring equipment to be removed from waters before fueling, or, if that is not possible, for special procedures to be developed to mitigate the risk of fueling equipment in waters. (Dredge or Fill Procedures, Section IV.B.1.)*

- f. On-site containment for storage of chemicals classified as hazardous shall include secondary containment.

*Hazardous materials are detrimental to water quality. Secondary containment around hazardous material storage sites helps to ensure that any leaks or spills of such materials do not result in a discharge to waters of the state. (Dredge or Fill Procedures, Section IV.B.1.)*

## **5. Invasive Species and Soil Borne Pathogens**

- a. Imported fill and planting materials must be free of pathogens that could harm local plant or animal populations.

*Invasive species can be detrimental to water quality by outcompeting native species, altering soil/water chemistry, causing channel downcutting, lowering groundwater levels, altering allochthonous inputs, altering shading, reducing habitat for native fauna, etc. This condition protects water quality by requiring that the Project does not introduce invasive species into individual project areas. (Dredge or Fill Procedures, Section IV.B.1.)*

- b. Imported fill material must be free of weed and invasive species' seeds and live plants.

*Invasive species can be detrimental to water quality by outcompeting native species, altering soil/water chemistry, causing channel downcutting, lowering groundwater levels, altering allochthonous inputs, altering shading, reducing habitat for native fauna, etc. This condition protects water quality by requiring that the Project does not introduce invasive species into individual project areas. (Dredge or Fill Procedures, Section IV.B.1.)*

- c. Equipment and machinery used in Project construction shall be inspected and cleaned of non-native invasive vegetation prior to use at an individual project site.

*Invasive species can be detrimental to water quality by outcompeting native species, altering soil/water chemistry, causing channel downcutting, lowering groundwater levels, altering allochthonous*

*inputs, altering shading, reducing habitat for native fauna, etc. This condition protects water quality by requiring that the Project does not introduce invasive species into individual project areas. (Dredge or Fill Procedures, Section IV.B.1.)*

## 6. Roads

- a. Existing roads shall be used to access Project sites when practicable.

*Unpaved roads are a source of excess sediment delivery to streams throughout California. New roads need not be constructed if existing roads can be used. This condition protects water quality by limiting new sources of excess sediment. (Dredge or Fill Procedures, Section IV.B.1.)*

- b. All existing roads used for the Project shall be left in a condition equal to or better than their condition prior to Project use.

*Unpaved roads are a source of excess sediment delivery to streams throughout California. If these roads are properly designed and maintained their impact to water quality can be minimized. These roads often fall into disrepair because due to lack of maintenance or repair. This condition protects water quality by requiring that roads used for this Project are, at the very least, left in the condition that they were in before the Project used them. (Dredge or Fill Procedures, Section IV.B.1.)*

- c. Where use of existing roads is not practicable, temporary access routes shall be designed and constructed such that they do not cause a discharge of sediment or other wastes to waters of the state.

*Unpaved roads are a source of excess sediment delivery to streams throughout California. This condition protects water quality by requiring necessary new roads to be designed and constructed such that they do not discharge excess sediment or other wastes to waters. (Dredge or Fill Procedures, Section IV.B.1.)*

- d. Construction of new temporary access roads shall be limited to the minimum number and width necessary to complete the Project.

*Unpaved roads are a source of excess sediment delivery to streams throughout California. This condition protects water quality by limiting new sources of excess sediment and other wastes. (Dredge or Fill Procedures, Section IV.B.1.)*

## 7. Stabilization/Erosion Control

- a. Effective erosion and sediment control BMPs shall be used for all disturbed areas to prevent discharges to waters of the state.

*If erosion control BMPs are not implemented, disturbed areas will likely discharge excess sediment to waters, which will degrade water quality. This condition protects water quality by requiring application of erosion and sediment control BMPs to reduce the potential for sediment discharge. (Dredge or Fill Procedures, Section IV.B.1.)*

- b. All erosion and sediment control materials shall be onsite and ready for use prior to initiation of ground disturbing activities.

*Disturbed areas can discharge excess sediment to waters, which will degrade water quality. If the erosion and sediment control materials are not applied immediately following the ground disturbing activity, preventable erosion and sediment discharges could occur. This condition protects water quality by ensuring that erosion and sediment control materials are on an individual project site and ready to be installed as soon as a disturbance takes place. (Dredge or Fill Procedures, Section IV.B.1.)*

- c. Any additional erosion or sediment control materials needed to stabilize an active worksite shall be installed at least forty-eight (48) hours before a predicted rain event.

*Disturbed areas can discharge excess sediment to waters, which will degrade water quality. Disturbed areas require stabilization before predicted rain events so that excessive erosion and sediment discharge does not occur. This condition protects water quality by ensuring that all disturbed areas are stabilized in advance of predicted rainfall events. (Dredge or Fill Procedures, Section IV.B.1.)*

- d. Sediment control structures shall be maintained for effectiveness at least forty-eight (48) hours before a rain event and shall be repaired or replaced as needed. Buildup of soil behind silt fences shall be removed and any breaches or undermined areas repaired.

*Disturbed areas can discharge excess sediment to waters, which will degrade water quality. Sediment control structures keep excess sediment from leaving an individual project site but are prone to failure if not maintained. This condition protects water quality by ensuring that sediment control structures are properly maintained and in working*

*order before rainfall events. (Dredge or Fill Procedures, Section IV.B.1.)*

- e. Disturbed work areas within waters of the state must be temporarily stabilized to prevent erosion at least forty-eight (48) hours prior to the predicted commencement of a rainfall event that is forecast to bring greater than or equal to one-half inch of precipitation with a greater than a fifty (50) percent probability of occurrence, as predicted by the National Oceanic and Atmospheric Administration (NOAA) - National Weather Service. If the predicted commencement of such a rainfall event is less than forty-eight (48) hours after the prediction is issued, temporary stabilization of the disturbed in-water work areas must begin immediately.

*Disturbed areas could discharge excess sediment to waters, which will degrade water quality. Disturbed areas within waters are at risk of creating channel instability that will lead to long term erosion, channel incision, sedimentation, floodplain abandonment, water quality degradation, alteration of local groundwater levels, and aquatic habitat degradation. This condition protects water quality by requiring that in water work areas are stabilized prior to the onset of rainfall events. (Dredge or Fill Procedures, Section IV.B.1.)*

## **H. Mitigation for Temporary Impacts**

Table 3 presents the mitigation method required for Project temporary impacts.

1. The Permittee shall restore all areas of temporary impacts to waters of the state and all Project site upland areas of temporary disturbance which could result in a discharge to waters of the state in accordance with the MMRP and the individual project specifications which were submitted as part of the application and incorporated herein by reference.

*Temporarily impacted areas that are not restored could become permanently impacted and contribute to long-term degradation of water quality. This condition protects water quality by requiring temporarily impacted areas to be restored. (Dredge or Fill Procedures, Sections IV.A.2.d, IV.B.1.)*

2. The State Water Board may extend the monitoring period beyond requirements of the MMRP or restoration plan upon a determination by State Water Board Executive Officer or designee that the performance standards have not been met or are not likely to be met within the monitoring period.

*Meeting performance measures is required to protect water quality. Monitoring and reporting requirements are authorized by Water Code sections 13267 and 13383.*

3. Compensatory mitigation may be required for any authorized impact site (as listed in Attachment B, Table 2) where first-year restoration work for disturbed areas in, or immediately adjacent to, waters of the state is not completed within one year of the conclusion of ground-disturbing activity.

*Temporarily impacted areas that are not restored could become permanently impacted and contribute to long-term degradation of water quality. The longer the lag time between impact and restoration, the more opportunity there is for water quality degradation. This condition protects water quality by ensuring that restoration is initiated in a reasonable amount of time after impacts have occurred. (Dredge or Fill Procedures, Sections IV.A.2.d, IV.B.4-5.)*

**Table 3: Required Project Mitigation Quantity for Temporary Impacts by Method <sup>4</sup>**

Aquatic Resource Type	Mitigation Type	Units	Est.	Re-est.	Reh.	Enh.	Pres.
Riparian Zone	Permittee Responsible	Acres			5.12		
Riparian Zone	Permittee Responsible	Linear Feet			13,486		
Stream Channel	Permittee Responsible	Acres			2.02		
Stream Channel	Permittee Responsible	Linear Feet			11,032		
Wetland	Permittee Responsible	Acres			0.01		
Wetland	Permittee Responsible	Linear Feet			190		

**I. Ecological Restoration and Enhancement**

The quantity of waters of the state permanently gained, rehabilitated, and enhanced by the Project is shown in Table 4.

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<sup>4</sup> Est. is the abbreviation for establishment. Re-est. is the abbreviation for re-establishment. Reh. is the abbreviation for rehabilitation. Enh. is the abbreviation for enhancement. Pres. is the abbreviation for preservation.

**Table 4: Total Ecological Restoration and Enhancement Quantity<sup>5</sup>**

<b>Aquatic Resource Type</b>	<b>Restoration Type</b>	<b>Units</b>	<b>Est.</b>	<b>Re-est.</b>	<b>Reh.</b>	<b>Enh.</b>
Riparian Zone	Permittee-Responsible	Acres	<0.01	0.72	3.14	5.11
Riparian Zone	Permittee-Responsible	Linear Feet	40	592	8,608	11,646
Stream Channel	Permittee-Responsible	Acres	0.02	2.10	12.43	11.32
Stream Channel	Permittee-Responsible	Linear Feet	495	3,460	22,689	26,246
Wetland	Permittee-Responsible	Acres	0.5		0.01	0.98
Wetland	Permittee-Responsible	Linear Feet	300		190	1,095

**J. 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 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 would require changes to the Order conditions or the CEQA environmental document such that the Project impacts are not addressed in the Project's

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<sup>5</sup> Est. is the abbreviation for establishment. Re-est. is the abbreviation for re-establishment. Reh. is the abbreviation for rehabilitation. Enh. is the abbreviation for enhancement.

environmental document or the conditions of this Order. In this case a supplemental environmental review and different Order will be required.

## **XII. Public Notice**

The State Water Board provided public notice of the application pursuant to California Code of Regulations, title 23, section 3858 from March 24, 2022 to April 14, 2022. The State Water Board did not receive any comments during the comment period.

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

The California Department of Fish and Wildlife, as lead agency, adopted an initial study/mitigated negative declaration (IS/MND) (State Clearinghouse (SCH) No. 2021090528) for the Project and filed a Notice of Determination (NOD) at the SCH on November 15, 2021. Pursuant to CEQA, the Water Board has made Findings of Facts (Findings) which support the issuance of this Order and are included in Attachment C.

## **XIV. Petitions for Reconsideration**

Any person aggrieved by this action may petition the 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 thirty (30) calendar days of the issuance of this Order.

## **XV. Fees Received**

An application fee of \$645 was received on March 2, 2022. 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.

## **XVI. Water Quality Certification**

I hereby issue the Order for the 2021 Fisheries Restoration Grant Program's Mitigated Negative Declaration Project, SB22004IN, 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).

Project discharge is also regulated pursuant to 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) Project 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.

May 20, 2022

Date

**Karen Mogus**  Digitally signed by Karen Mogus  
Date: 2022.05.20 09:15:44 -07'00'

Karen Mogus, Deputy Director  
Division of Water Quality