State Water Resources Control Board

PUBLIC COMMENT PERIOD FOR
DRAFT WATER QUALITY CERTIFICATION

SANTA CLARA VALLEY WATER DISTRICT'S
ANDERSON DAM SEISMIC RETROFIT PROJECT AND LICENSE EXEMPTION SURRENDER
FEDERAL ENERGY REGULATORY COMMISSION PROJECT NO. 5737

To: Interested Parties Mailing List

The State Water Resources Control Board (State Water Board or Board) has released a draft water quality certification (certification) for the Anderson Dam Seismic Retrofit Project and License Exemption Surrender of Federal Energy Regulatory Commission (FERC) Project No. 5737. The State Water Board is providing this opportunity for public review and comment on the draft certification.

Background

Anderson Dam impounds Coyote Creek, creating Anderson Reservoir in Morgan Hill, California. Anderson Dam was built in 1950 to provide additional water supply to Santa Clara County and is owned and operated by Santa Clara Valley Water District (Valley Water). Anderson Dam is part of the Anderson Dam Hydroelectric Project, FERC Project No. 5737, and impounds up to 90,373 acre-feet of water from approximately 195 square miles of the Coyote Creek watershed into Anderson Reservoir. In 2011, FERC and the California Department of Water Resources' Division of Safety of Dams identified Anderson Dam as a high-hazard dam.

Valley Water is proposing the Anderson Dam Seismic Retrofit Project (ADSRP or Project) to remove and reconstruct Anderson Dam to meet public safety requirements, as well as surrender its existing FERC license exemption for the Anderson Dam Hydroelectric Project and decommission the existing hydroelectric facilities. These actions require Valley Water under section 401 of the federal Clean Water Act to obtain certification from the State Water Board that implementation of the Project will be protective of water quality and comply with water quality standards and other requirements of state law. On June 28, 2024, Valley Water submitted a request for certification for the Project to the State Water Board.

Brief Project Description

The Project is expected to be implemented over seven years. Major components of the Project include:

- Removal and reconstruction of Anderson Dam,
- Upgrades to dam infrastructure, including extension of the existing auxiliary spillway and new outlet works,
- Surrender and decommissioning of the hydroelectric facilities, and

- Implementation of conservation measures, including Ogier Ponds restoration, Coyote Percolation Pond Phase 2 improvements, implementation of a Habitat Mitigation Plan, and continued sediment augmentation in the Live Oak Restoration Reach.

Additional information on the Project can be found in the draft water quality certification.

Water Quality Certification

In California, the State Water Board is responsible for protecting the State's water quality, including through issuance of certification under Section 401 of the Clean Water Act. Certification must ensure compliance with water quality standards and other appropriate requirements of state law. If the State issues a certification with conditions, those conditions become conditions of the federal permit or license. In this instance, the certification will provide conditions for the United States Army Corps of Engineers 404 permit for the Project and FERC's license exemption surrender order for the Anderson Dam Hydroelectric Project.

Opportunity for Public Comment

This draft certification does not constitute a final action by the State Water Board on Valley Water's request for certification of the Project. The State Water Board is releasing this draft certification to provide the public with an opportunity to review and comment on draft conditions developed to protect water quality and beneficial uses. The comment period for the draft certification is from the date of this notice until April 30, 2025. **Comments on the draft certification must be received by 12:00 pm (noon) on Wednesday, April 30, 2025**, and can be submitted electronically (preferred) or by mail as follows:

Email (preferred):
WR401Program@waterboards.ca.gov

or

Mail:
State Water Resources Control Board
Division of Water Rights – Water Quality Certification Program
Attn. Eric Bradbury
P.O. Box 2000
Sacramento, CA 95812-2000

The draft certification for the Project and additional information regarding the State Water Board's certification process for the Project are available on the State Water Board's water quality certification webpage[1].

[1] https://www.waterboards.ca.gov/waterrights/water_issues/programs/water_quality_cert

How to Sign Up for Email Updates

To receive emails related to the Project and other similar projects overseen by the State Water Board's Division of Water Rights, interested persons should enroll in the "Water Rights Water Quality Certification" e-mail notification service. Instructions on how to sign up for the State Water Board's Email Subscription List are outlined below:

1. Visit: http://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.shtml
2. Provide your name and email in the required fields.
3. In the categories below the email and name fields, select "Water Rights," then "Water Rights Water Quality Certification."
4. Click the "Subscribe" button.
5. An email will be sent to you. You must respond to the email message to confirm your membership on the selected list(s).

By enrolling in this email list, you will receive notices related to the Division of Water Rights' Water Quality Certification Program work, including information pertaining to the Project's certification process. You can enroll or un-enroll from the email subscription service at any time. If you do not have internet access or do not wish to participate in the email subscription list, you may contact Eric Bradbury by phone call to: (916) 327-9401 to request to receive notices by mail.

If you have questions related to this notice, the best means of contact is by email to: WR401Program@waterboards.ca.gov.

April 3, 2025
Date

Oscar Biondi
Senior Water Resource Control Engineer
Water Quality Certification Program
Division of Water Rights

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Water Quality Certification for

SANTA CLARA VALLEY WATER DISTRICT
ANDERSON DAM SEISMIC RETROFIT PROJECT
AND
LICENSE EXEMPTION SURRENDER

FEDERAL ENERGY REGULATORY COMMISSION
PROJECT NO. 5737

Sources: **Coyote Creek and Anderson Reservoir**

County: **Santa Clara**

DRAFT WATER QUALITY CERTIFICATION FOR
FEDERAL PERMIT OR LICENSE

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Abbreviations

ADSRP	*Anderson Dam Seismic Retrofit Project*
AMMs	*Avoidance and Minimization Measures*
AMP	*Adaptive Management Plan*
Antidegradation Policy	*Statement of Policy with Respect to Maintaining High Quality Waters in California*
Applicant	*Santa Clara Valley Water District*
BMPs	*best management practices*
CEQA	*California Environmental Quality Act*
certification	*water quality certification*
cfs	*cubic feet per second*
COLD	*cold freshwater habitat beneficial use*
COMM	*commercial and sport fishing beneficial use*
Commission	*Federal Energy Regulatory Commission*
Construction General Permit	*General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities*
Deputy Director	*Deputy Director of the Division of Water Rights*
Dredge or Fill Procedures	*State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State*
DSOD	*California Department of Water Resources' Division of Safety of Dams*
e-DNA	*environmental deoxyribonucleic acid*
EIR	*Environmental Impact Report*
EIS	*Environmental Impact Statement*
ESA	*Endangered Species Act*
EST	*estuarine habitat beneficial use*
FAHCE	*Fish and Aquatic Habitat Collaborative Effort program*
FERC	*Federal Energy Regulatory Commission*
FOCP	*FERC Order Compliance Project*
GEO	*geology*
GW	*groundwater*
GWR	*groundwater recharge beneficial use*
HAZ	*hazardous materials*
ILFP	*In-lieu Fee Program*
LF	*linear feet*
mg/L	*milligram per liter*
MIGR	*fish migration beneficial use*
MMRP	*Mitigation, Monitoring and Reporting Program*
MUN	*municipal and domestic supply beneficial use*
Municipal Regional Permit	*San Francisco Bay Region Municipal Regional Stormwater NPDES Permit*
NOI	*Notice of Intent*
NPDES	*National Pollutant Discharge Elimination System*

Project	*Anderson Dam Seismic Retrofit Project*
QAPP	*Quality Assurance Project Plan*
RARE	*preservation of rare and endangered species beneficial use*
REC1	*water contact recreation beneficial use*
REC2	*noncontact water recreation beneficial use*
Regional Water Boards	*California Regional Water Quality Control Boards*
SCVURPPP	Santa Clara Valley Urban Runoff Pollution Prevention Program
SF Bay Basin Plan	*Water Quality Control Plan for the San Francisco Bay Basin*
San Francisco Bay Regional Water Board	*San Francisco Bay Regional Water Quality Control Board*
SHELL	*shellfish harvesting beneficial use*
SPWN	*fish spawning beneficial use*
State Water Board	*State Water Resources Control Board*
Technical Working Group	*State Water Resources Control Board, San Francisco Bay Regional Water Quality Control Board, United States Fish and Wildlife Service, National Marine Fisheries Service, and California Department of Fish and Wildlife*
TERR	*terrestrial*
TMDLs	*total maximum daily loads*
USACE	*United States Army Corps of Engineers*
USEPA	*United States Environmental Protection Agency*
Valley Water	*Santa Clara Valley Water District*
Water Boards	*State Water Board and Regional Water Boards, collectively*
WARM	*warm freshwater habitat beneficial use*
WILD	*wildlife habitat beneficial use*
WQ	*water quality*

1.0 Project Background

Santa Clara Valley Water District (Valley Water) is proposing the Anderson Dam Seismic Retrofit Project (ADSRP or Project) to remove and reconstruct Anderson Dam to meet public safety requirements, surrender its existing Federal Energy Regulatory Commission (FERC) license exemption for the Anderson Dam Hydroelectric Project, and decommission the existing hydroelectric facilities. Anderson Dam impounds Coyote Creek, creating Anderson Reservoir in Morgan Hill, California. Anderson Dam was built in 1950 to provide additional water supply to Santa Clara County and is owned and operated by Valley Water. Anderson Dam is part of the Anderson Dam Hydroelectric Project, FERC Project No. 5737, and impounds up to 90,373 acre-feet of water from approximately 195 square miles of the Coyote Creek watershed into Anderson Reservoir. Project location and main features can be found in Attachment A: Project Overview Maps.

In 2011, FERC and the California Department of Water Resources' Division of Safety of Dams (DSOD) identified Anderson Dam as a high-hazard dam. Following this, Valley Water began developing the ADSRP to address FERC requirements, including that the dam embankment be capable of withstanding maximum credible earthquakes on the Calaveras and Coyote Creek Faults; the spillway be able to safely pass probable maximum flood event flows; and the outlet be able to facilitate emergency reservoir drawdown. The ADSRP design also needs to meet DSOD requirements that Anderson Reservoir can be drawn down from maximum storage to 90 percent within seven days and entirely within 90 days.

On February 20, 2020, FERC ordered Valley Water to expedite specific components of the ADSRP to reduce the risk of dam failure from an earthquake and a probable maximum flood event while the full ADSRP could be designed and implemented. The expedited portion of the original ADSRP is referred to as the "FERC Order Compliance Project" (FOCP) and was certified by the State Water Board's Executive Director on November 9, 2020. The FOCP, which is expected to be completed by the end of 2025, consists of the following key elements:

- Dewatering Anderson Reservoir and maintaining the reservoir's water level at dead pool elevation to limit the amount of water that could be released in the event of dam failure;
- Constructing a new higher capacity outlet tunnel known as the Anderson Dam Tunnel Project to provide for increased releases;
- Constructing existing intake structure modifications to address potential geotechnical impacts of dewatering on the existing outlet structure;
- Constructing Anderson Reservoir bank and rim stabilization and installing geotechnical monitoring equipment around the rim to minimize the risk of landslides while Anderson Reservoir is drawn down;
- Reopening the original alignment of Coyote Creek downstream of Anderson Dam, referred to as the North Channel, constructing a weir to split high flow into the North Channel and typical flows into the existing South Channel to reduce the potential for erosion from outflows through the existing outlet and Anderson Dam Tunnel when completed;

- Installing chillers to supplement local water with chilled water to support fisheries habitat;
- Increasing habitat complexity with large woody debris and boulders at the Live Oak Park Restoration Reach of Coyote Creek (about 1 mile from Anderson Dam) to support steelhead spawning and rearing habitat;
- Constructing a new spur to the Cross Valley Pipeline which brings supplemental water supply to Coyote Creek about six miles downstream of Anderson Dam to maintain instream recharge of the aquifer and support Coyote Creek habitat;
- Replacing the flashboard dam at the Coyote Creek Percolation Pond with an inflatable bladder dam capable of greater operational flexibility;
- Constructing flood control measures (e.g., floodwalls, levees) at six off-stream sites along Coyote Creek to reduce the risk of flooding in downstream communities during high flow events; and
- Implementing a Habitat Mitigation and Monitoring Plan.

Valley Water operates as a state of California Special District with jurisdiction throughout Santa Clara County. The Santa Clara Valley Water District Act defines the powers and purposes of Valley Water. According to the Santa Clara Valley Water District Act, Valley Water's purpose includes comprehensive water management, including protecting beneficial uses.

2.0 Project Description

The Project consists of the remaining components of the original ADSRP that were not constructed or implemented as part of the FOCP. Broadly, the Project consists of the following elements:

- Removal and reconstruction of Anderson Dam;
- Construction of an extension to the existing auxiliary spillway;
- Construction of new outlet works with multiple inlet ports;
- Surrender of the existing FERC license exemption and decommissioning of the hydroelectric facilities;
- Construction of the Phase 2 Coyote Percolation Pond Project, which supplements the bladder dam built under the FOCP at the same site as the "Phase 1" project;
- Implementation of many best management practices (BMPs), avoidance and minimization measures (AMMs), and monitoring plans throughout the Project to avoid or minimize potential Project-related impacts;
- Implementation of the Ogier Ponds restoration project;
- Implementation of a Habitat Mitigation Plan;
- Construction of compensatory mitigation projects; and
- Implementation of an ADSRP-specific Adaptive Management Plan.

Project implementation is anticipated to span seven years, commencing in the spring of Year 1 and extending through the winter of Year 7. Below is a high-level Project schedule that focuses on the construction of the dam and related works and does not include other Project elements such as restoration actions.

- Year 1: Site mobilization; full dewatering of the reservoir from deadpool to an elevation of 450 feet; preparation of staging areas, access and haul roads, in-reservoir stockpile areas, and borrow sites; begin tunneling for the low-level outlet works; and acquisition of temporary construction easements, as needed.
- Year 2: Full dewatering of the reservoir from deadpool to an elevation of 450 feet; cofferdam and extension pipe construction; conversion of existing Stage 1 Diversion System into Stage 2 Diversion System; dam excavation to interim dam with crest elevation of 565 feet (Stage 1a Dam Excavation); and tunneling for high-level outlet works.
- Year 3: Dam excavation to interim dam with crest elevation of 556 feet (Stage 1b Dam Excavation); construction of high-level outlet works; and demolition of the existing spillway.
- Year 4: Dam excavation to a remnant core (Stage 2a Dam Excavation) and dam fill to interim dam with a crest elevation of 556 feet (Stage 2b Fill); and construction of the spillway.
- Year 5: Dam fill to interim dam with crest elevation of 565 feet (Stage 3a Dam Fill); construction of the spillway; and construction of the low-level outlet works.
- Year 6: Dam fill to new dam crest elevation of 657 feet (Stage 3b Dam Fill); completion of low-level outlet works, including sloping intake structure and outlet structure; completion of the spillway, including the unlined chute, and refilling of the reservoir.
- Year 7: Permanent roadways and site restoration; and repaving Cochrane Road.

As described in Valley Water's application, the Project has been designed to incorporate riparian restoration and enhancements in Coyote Creek to fulfill some of the provisions of the Fish and Aquatic Habitat Collaborative Effort (FAHCE) settlement agreement, which is discussed in more detail below.

FAHCE Settlement Agreement

In 2003, Valley Water entered into the FAHCE Settlement Agreement with government agencies and nongovernmental organizations to resolve a dispute over the condition of streams within Valley Water's jurisdiction, namely Coyote Creek, Guadalupe River, and Stevens Creek (also referred to as "Three Creeks"). According to the FAHCE Settlement Agreement, a suite of actions will be undertaken to restore and maintain fisheries, wildlife, water quality, and other beneficial uses of these streams.

The Project will implement, or will facilitate Valley Water's implementation of, portions of the FAHCE Settlement Agreement, a culmination of a decades-long plan to restore and maintain healthy steelhead trout (*Oncorhynchus mykiss)* and Chinook salmon (*Oncorhynchus tshawytscha*) populations in Coyote Creek. The FAHCE management objectives specifically provide for: (a) suitable spawning and rearing habitat within each watershed; and (b) adequate passage for adult steelhead trout and salmon to suitable spawning and rearing habitat and for out-migration of juveniles. The measures proposed to achieve these objectives include adjustments of reservoir flow releases, instream flow management, physical improvements to fish passage, and re-engineering

of some channel sites to enhance salmonid habitat (i.e., stream restoration). The FAHCE Settlement Agreement also calls for monitoring and adaptive management. Portions of the FAHCE Settlement Agreement will be implemented as part of this Project and portions will occur independent of this Project. The FAHCE Adaptive Management Plan will be overseen by the FAHCE Adaptive Management Team in accordance with terms provided in the FAHCE Settlement Agreement.

Reconstruction and reoperation of Anderson Dam has the potential to result in significant impacts to beneficial uses associated with Coyote Creek, including to salmonids. Anderson Dam's design allows for substantial reductions in impacts relative to historical impacts because the new design can more flexibly discharge water from behind the dam. A major component of the FAHCE Settlement Agreement is the specification of new/updated reservoir rule curves for Valley Water's reservoirs that will provide for the release of more water for the instream flow needs of anadromous salmonids. As part of the Project, Valley Water is refining the rule curves specified in the FAHCE Settlement Agreement with improved modeling software and to address current climate and hydrologic conditions. The new curves are referred to as "FAHCE-plus-modified."

Implementing the FAHCE Settlement Agreement requires changes to Valley Water's existing water rights licenses and compliance with California Environmental Quality Act (CEQA). Valley Water decided to cover Coyote Creek's FAHCE measures under the Project Environmental Impact Report (EIR) (State Clearinghouse No. 2013082052; Notice of Determination: February 26, 2025), although adaptive management of Coyote Creek's flow measures and non-flow measures were also covered under the FAHCE EIR (State Clearinghouse No. 2015022008; Notice of Determination, August 8, 2023). The ADSRP EIR covers the flow measures and non-flow measures pursuant to the FAHCE Settlement Agreement, and an ADSRP-specific adaptive management plan that was developed at conceptual level to conform to the FAHCE adaptive management framework. This certification covers portions of the FAHCE adaptive management framework that Valley Water included in the Project.

2.1 Water Rights

Table A lists Project-related water right licenses and permits maintained by Valley Water.

Table A. Valley Water's Project-Related Water Rights*

License/ Permit No.	Water Right Type (Status Date)	Face Amount (acre-feet)	Sources/ Locations	Purpose of Use
L010607	Appropriative (7/23/1971)	20,180.0	Coyote Creek	Incidental Power, Domestic, Recreational, Industrial
L007212	Appropriative (3/30/1965)	71,100.0	Coyote Creek	Incidental Power, Recreational, Industrial, Irrigation, Domestic
L002210	Appropriative (7/10/1935)	5,000	Coyote Percolation Pond, Coyote Creek	Irrigation, Domestic
L007211	Appropriative (12/9/1931)	24,560	Coyote Reservoir, Coyote Creek	Irrigation, Recreational. Domestic, Industrial
P006565	Appropriative (3/20/1945)	3500	Upper Penitencia Creek, Coyote Creek	Irrigation

* Information is from the State Water Board's electronic Water Rights Information Management System.

In May 2015, Valley Water submitted petitions to the State Water Board to modify water rights held by Valley Water in the Coyote Creek watershed consistent with the FAHCE Settlement Agreement and implementation of new reservoir rule curves for post-construction Anderson Dam operations.

The petitions request that Valley Water's existing water rights be amended to add Fish and Wildlife Preservation and Enhancement as a beneficial use of the diverted water and would change other aspects such as flow diversion locations.

3.0 Federal Energy Regulatory Commission and United States Army Corps of Engineers Processes

Valley Water applied to FERC for surrender of its license exemption and decommissioning of the hydroelectric facilities associated with the Anderson Dam Hydroelectric Project on February 20, 2024, with supplements to the application filed on May 20, May 28, July 2, and July 3, 2024. On October 17, 2024, FERC published a Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) for retrofit and surrender of the Project. FERC indicated in the NOI that it plans to issue the final EIS for the Project by November of 2025. FERC's schedule indicates that FERC anticipates issuing a surrender order by February 19, 2026. On June 27, 2024, Valley Water applied to the United States Army Corps of Engineers (USACE) for the construction activities associated with the retrofit of Anderson Dam and related conservation measures pursuant to section 404 of the Clean Water Act.

4.0 Regulatory Authority

4.1 Water Quality Certification and Related Authorities

The federal Clean Water Act (33 U.S.C. §§ 1251 et seq.) was enacted "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." (33 U.S.C. § 1251(a).) The Clean Water Act relies significantly on state participation and support, in light of "the primary responsibilities and rights of the State to prevent, reduce, and eliminate pollution" and "plan the development and use" of water resources. (*Id*., § 1251(b).) Section 101 of the Clean Water Act (33 U.S.C. § 1251(g)) requires federal agencies to "co-operate with State and local agencies to develop comprehensive solutions to prevent, reduce and eliminate pollution in concert with programs for managing water resources." (33 U.S.C. § 1251(g))

Section 401 of the Clean Water Act (33 U.S.C. § 1341) requires any applicant for a federal license or permit that may result in a discharge into navigable waters to provide the licensing or permitting federal agency with certification that the project will comply with specified provisions of the Clean Water Act, including water quality standards and implementation plans promulgated pursuant to section 303 of the Clean Water Act (33 U.S.C. § 1313). Clean Water Act section 401 directs the agency responsible for certification to prescribe effluent limitations and other conditions necessary to ensure compliance with the Clean Water Act and with "any other appropriate requirement of State law." (33 U.S.C. §1341(d).) Section 401 further provides that certification conditions shall become conditions of any federal license or permit for the project. (*Ibid*.)

The State Water Board is the state agency responsible for Section 401 certification in California. (Wat. Code, § 13160.) The State Water Board has delegated authority to act on applications for certification to the Executive Director of the State Water Board. (Cal. Code Regs., tit. 23, § 3838, subd. (a).)

In addition, Water Code section 13383 provides the State Water Board with the authority to "establish monitoring, inspection, entry, reporting, and recordkeeping requirements… and [require] other information as may be reasonably required" for activities subject to certification under section 401 of the Clean Water Act that involve the diversion of water for beneficial use. The State Water Board delegated this authority to the Deputy Director of the Division of Water Rights (Deputy Director), as provided for in State Water Board Resolution No. 2012-0029 (State Water Board 2012). In the *Redelegation of Authorities Pursuant to Resolution No. 2012-0029* memo issued by the Deputy Director on April 20, 2023, authority was redelegated to the Assistant Deputy Directors of the Division of Water Rights (State Water Board 2023).

4.1.1 Procedure, Application, and Noticing

On June 28, 2024, Valley Water filed a certification application with the State Water Board under section 401 of the Clean Water Act for the Project. On July 24, 2024, State Water Board staff provided public notice of the application, pursuant to California Code of Regulations, title 23, section 3858, by posting information describing the Project on the State Water Board's website. No comments were received in response to this notice.

On December 11, 2024, State Water Board staff forwarded Valley Water's application for certification to the Executive Officer of the San Francisco Bay Regional Water Quality Control Board (San Franscico Regional Water Board). (See Cal. Code Regs., tit. 23, § 3855, subd. (b)(2)(B).) On January 2, 2025, San Francisco Bay Regional Water Board staff provided comments on the application and those comments were considered in this draft certification.

4.2 Water Quality Control Plans and Related Authorities

The State Water Board's certification for the Project must ensure compliance with applicable water quality standards in the San Francisco Bay Regional Water Board's *Water Quality Control Plan (Basin Plan) for the San Francisco Bay Basin* (SF Bay Basin Plan) (San Francisco Bay Regional Water Board 2024), and any amendments thereto.

Water quality control plans designate the beneficial uses of water to be protected (such as municipal and domestic supply, industry, agriculture, and fish and wildlife habitat), water quality objectives for the reasonable protection of the beneficial uses and the prevention of nuisance, and a program of implementation to achieve the water quality objectives. (Wat. Code, §§ 13241, 13050, subds. (h), (j).) The beneficial uses, together with the water quality objectives contained in the water quality control plans and applicable state and federal anti-degradation requirements, constitute California's water quality standards for purposes of the Clean Water Act. In issuing certification for a project, the State Water Board must ensure consistency with the designated beneficial uses of waters affected by the project, the water quality objectives developed to protect those uses, and anti-degradation requirements. (*PUD No. 1 of Jefferson County v. Washington Dept. of Ecology* (1994) 511 U.S. 700, 714-719.)

The nine Regional Water Quality Control Boards (Regional Water Boards) have primary responsibility for the formulation and adoption of water quality control plans for their respective regions, subject to State Water Board and United States Environmental Protection Agency (USEPA) approval, as appropriate. (Wat. Code, §§ 13240 et seq.) As noted above, the State Water Board may also adopt water quality control plans, which will supersede regional water quality control plans for the same waters to the extent of any conflict. (Wat. Code, § 13170.) The State Water Board and Regional Water Boards (collectively Water Boards) adopt the plans pursuant to their authorities under the Porter-Cologne Water Quality Control Act (Wat. Code, §§ 13000 et seq.) and the federal Clean Water Act (33 U.S.C. § 1313).

Periodic Review. The State Water Board has commenced the 2024 Review of State Water Quality Control Plans and State Policies for Water Quality Control (2024 Review of State Plans and Policies). State water quality control plans and policies for water quality control (State Plans and Policies) contain water quality standards and other provisions established by the State Water Board to preserve and enhance California's waters to safeguard human health, support aquatic ecosystems, improve the quality of water resources, and protect beneficial uses of waters.

Triennial reviews are conducted pursuant to the federal Clean Water Act (33 U.S.C. § 1251 et seq.) and its implementing regulations, and periodic reviews are conducted pursuant to the Porter-Cologne Water Quality Control Act (Wat. Code, § 13000 et seq.).

(See 33 U.S.C. § 1313(c)(1), 40 C.F.R. § 131.20(a), Wat. Code, §§ 13143, 13170, 13170.2, subd. (b), 13240.) For the 2024 review cycle, the State Water Board will be conducting triennial review and periodic review in a single combined proceeding. In addition to reviewing State Plans and Policies, the 2024 Review of State Plans and Policies will include consideration of the federally promulgated water quality standards for California (40 C.F.R. §§ 131.36, 131.37 and 131.38) and the Clean Water Act section 304(a) recommended criteria.

The 2024 Review of State Plans and Policies will help engage the public and interested persons to identify potential changes or additions that will help to guide the State Water Board's priorities for future amendments to the State Plans and Policies, including new or revised water quality standards that are enforceable for the waterbodies for which they are established.

Section 10(a)(2)(A) of the Federal Power Act requires FERC to consider the extent to which a project is consistent with Federal or state comprehensive plans for improving, developing, or conserving a waterway or waterways affected by a project. In March 2019, the State Water Board submitted to FERC the plans and policies included in the state's comprehensive plan for orderly and coordinated control, protection, conservation, development, and utilization of the water resources of the state. This submission included the SF Bay Basin Plan and Antidegradation Policy, which are discussed below, and other applicable plans and policies for water quality control. (FERC 2024.)

4.3 SF Bay Basin Plan

The San Francisco Bay Regional Water Board adopted, and the State Water Board and USEPA approved, the SF Bay Basin Plan. The SF Bay Basin Plan designates the beneficial uses of water to be protected along with the water quality objectives necessary to protect those uses. The SF Bay Basin Plan specifies that the beneficial uses of any specifically identified waterbody generally apply to its tributary streams. The SF Bay Basin Plan identifies the following existing beneficial uses for waterbodies associated with the Project:

- **Anderson Reservoir and its tributaries**[1]: cold freshwater habitat (COLD); commercial and sport fishing (COMM); groundwater recharge (GWR); preservation of rare and endangered species (RARE); water contact recreation (REC1) (though water-contact recreational uses are prohibited for public health restrictions by Valley Water); non-contact water recreation (REC2); fish spawning habitat (SPWN); warm freshwater habitat (WARM); and wildlife habitat (WILD).

- **Coyote Creek**: COLD; COMM; GWR; MIGR; municipal and domestic water supply (MUN); RARE; REC1; REC2; SPWN; WARM; and WILD.

[1] The SF Basin Plan states: "The beneficial uses of any specifically identified waterbody generally apply to all its tributaries."

- **Coyote Slough (tidal water) and South San Francisco Bay**: estuarine habitat (EST); RARE; shellfish habitat (SHELL); SPWN; and WILD.

4.4 Antidegradation Policy

The State Water Board's *Statement of Policy with Respect to Maintaining High Quality Waters in California* (Antidegradation Policy)[2] (State Water Board 1968) requires that the quality of existing high-quality water be maintained unless any change will be consistent with the maximum benefit to the people of the state, will not unreasonably impact present or anticipated future beneficial uses of such water, and will not result in water quality less than that prescribed in water quality control plans or policies. The Antidegradation Policy further requires best practicable treatment or control of the discharge necessary to assure that pollution or nuisance will not occur and the highest water quality consistent with maximum benefit to the people of the state will be maintained. The state Antidegradation Policy incorporates the federal Antidegradation Policy (40 C.F.R. § 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."

4.5 Clean Water Act Section 303(d) Listing

On January 19, 2022, the State Water Board adopted the *2020-2022 California Integrated Report (Clean Water Act Section 303(d) List/305(b) Report)* (State Water Board 2022) and it was approved by USEPA on May 11, 2022. Anderson Reservoir is listed in the 2020-2022 California Integrated Report as impaired for mercury and polychlorinated biphenyls. Coyote Creek is listed as impaired for diazinon, toxicity, and trash.

Section 303(d) of the Clean Water Act requires total maximum daily loads (TMDLs) to be developed for impaired waterbodies. TMDLs are written plans that define the maximum amount of a pollutant that a waterbody can receive without exceeding water quality standards and establish load allocations for point and nonpoint sources of pollution. Diazinon in Coyote Creek is being addressed by a TMDL approved in 2007.

4.6 Construction General Permit

Valley Water will need to obtain coverage under the *General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities* (Construction

[2] State Water Board Resolution No. 68-16 and any amendments thereto. Available at: https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/1968/rs68_016.pdf. Accessed on February 13, 2025.

General Permit)[3] (State Water Board 2022a). The Construction General Permit is required for activities that disturb one or more acres of soil or activities that disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres. Construction activities subject to the Construction General Permit include clearing, grading, and disturbances to the ground, such as stockpiling or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility.

4.7 San Francisco Bay Municipal Regional Stormwater NPDES Permit

Valley Water will need to comply with the *San Francisco Bay Region Municipal Regional Stormwater NPDES [National Pollutant Discharge Elimination System] Permit* (Order No. R2-2022-0018, as amended by Order No. R2-2023-0019) (Municipal Regional Permit),[4] including Provision C.3 thereof. Municipal Regional Permit Provision C.3 requires a permittee to incorporate permanent features in a project to reduce stormwater pollutants and/or erosive flows during the life of a project. "Post-construction stormwater control" encompasses low-impact development site design, source control, and treatment measures as well as hydromodification management measures. Municipal Regional Permit Provision C.3 is applicable to projects with 5,000 square feet or more[5] of new, redeveloped, or reconstructed impervious surfaces such as roads, parking lots, buildings, and other structures that result in disconnecting stormwater runoff from infiltration in the landscape before it discharges to a stormwater collection system or surface water of the state, or that cause or contribute to erosive flows in the drainage receiving waters.

Guidance for how to comply with Municipal Regional Permit Provision C.3 is provided in the Santa Clara Valley Urban Runoff Pollution Prevention Program's (SCVURPPP) *C.3 Stormwater Handbook* (SCVURPPP, 2024). SCVURPPP is an association comprised of Valley Water, 13 cities and towns in Santa Clara County, and the County of Santa Clara. As a member of SCVURPPP, Valley Water helped develop SCVURPPP's *C.3*

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[3] Water Quality Order No. 2022-0057-DWQ and NPDES No. CAS000002, supersedes Orders No. 2009-0009-DWQ, 2010-0014-DWQ, and 2012-0006-DWQ, and any amendments thereto except for: (1) the requirement to submit annual reports by September 1, 2023, (2) enforcement purposes, and (3) as set forth in Section III.C of Order No. 2022-0057-DWQ.Available online at: https://www.waterboards.ca.gov/water_issues/programs/stormwater/construction.html (Accessed: February 13, 2025).

[4] San Francisco Bay Region Municipal Regional Stormwater NPDES Permit (Order No. R2-2022-0018, as amended by Order No. R2-2023-0019) is available at: https://www.waterboards.ca.gov/rwqcb2/board_decisions/adopted_orders/2022/R2-2022-0018.pdf. Accessed: February 20, 2025.

[5] Per Valley Water's certification application, the Project will create new or reconstruct existing impervious surfaces (about 19 acres), including but not limited to, widening Coyote Road, reconstructing Cochrane Road and Anderson Park parking lot, and constructing bathroom facilities at Anderson Reservoir.

Stormwater Handbook and is familiar with Municipal Regional Permit Provision C.3 requirements.

4.8 State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State

The *State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State* (Dredge or Fill Procedures)[6] (State Water Board 2019 and 2021) provide California's definition of wetland, wetland delineation procedures, and procedures for submitting applications for activities that could result in discharges of dredged or fill material to waters of the state. The Dredge or Fill Procedures ensure that State Water Board regulatory activities will result in no net loss of wetland quantity, quality, or permanence, consistent with the Water Code sections 16200-16201. Valley Water must comply with the Dredge or Fill Procedures when conducting dredge or fill activities that may impact waters of the state, including wetlands.

4.9 Aquatic Weed Control General Permit

The *Statewide National Pollutant Discharge Elimination System Permit for Residual Aquatic Pesticide Discharges to Waters of the United States from Algae and Aquatic Weed Control Applications* (Aquatic Weed Control General Permit)[7] applies to projects that require aquatic weed management activities. The Aquatic Weed Control General Permit sets forth detailed management practices to protect water quality from pesticide and herbicide use associated with aquatic weed control.

5.0 California Environmental Quality Act

The California Environmental Quality Act (CEQA) applies to discretionary projects that may cause a direct or indirect physical change in the environment. (Pub. Resources Code, §§ 21000 et seq.) When proposing to undertake or approve a discretionary project, state agencies must comply with the procedural and substantive requirements of CEQA. Valley Water is the lead agency for the purposes of CEQA compliance. (Pub. Resources Code, §§ 21000 – 21177.) The State Water Board is a responsible agency under CEQA. (Id., § 15381.)

On September 1, 2023, Valley Water issued a draft EIR for the Project for public and agency review. State Water Board staff provided comments on November 8, 2023. On August 5, 2024, Valley Water issued a partially recirculated draft EIR for the Project;

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[6] The Dredge or Fill Procedures and any amendments thereto. Available online at: https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/2021/procedures.pdf. (Accessed: February 13, 2025).

[7] Water Quality Order No. 2013-0002-DWQ and NPDES No. CAG990005, as amended by Order No. 2014-0078-DWQ, Order No. 2015-0029-DWQ, Order No. 2016-0073-EXEC, and any amendments thereto. Available online at: https://www.waterboards.ca.gov/water_issues/programs/npdes/pesticides/weed_control.html. (Accessed: February 13, 2025).

State Water Board staff did not provide comments on the partially recirculated draft EIR. On February 25, 2025, Valley Water issued the final EIR for the Project.

CEQA requires the lead agency to adopt a Mitigation Monitoring and Reporting Program (MMRP) for projects where mitigation measures are a condition of project approval. (Cal. Code Regs., tit. 14, § 15091, subd. (d).) Valley Water included an MMRP in its final EIR. (Attachment B: Mitigation Monitoring and Reporting Program.) Water quality protection measures and associated mitigation, monitoring, and reporting requirements are incorporated into the conditions of this certification in accordance with California Code of Regulations, title 23, section 3859, subdivision (a). Table B below identifies resource areas in the State Water Board's purview for which the final EIR identified mitigation measures for potential impacts, and associated certification conditions with water quality protection, monitoring, or reporting requirements. While these mitigation measures were developed pursuant to CEQA, additional provisions are required by this certification to ensure compliance with SF Bay Basin Plan water quality objectives.

Table B. EIR Mitigation Measures and Corresponding Certification Conditions

Mitigation Measure	Applicable Certification Condition(s)
Terrestrial (TERR)-1a(2) Implementation of Avoidance and Minimization Measures during Post-Construction Maintenance at Anderson Dam Facilities and Conservation Measures to Reduce the Potential for Introduction or Spread of *Phytophthora*	Condition 5 (Aquatic and Biological Resources)
TERR-1a(3) Special-Status Plant Survey in the Previously Unsurveyed Portions of the Seismic Retrofit Area	Condition 5 (Aquatic and Biological Resources)
TERR-1c(1) Special-Status Species Avoidance and Minimization Measures During Year 6 Reservoir Dewatering	Condition 5 (Aquatic and Biological Resources)
TERR-1c(2) Nonnative Species Management in Upper Penitencia Creek Watershed	Condition 5 (Aquatic and Biological Resources)
TERR-1e Bald Eagle and Golden Eagle	Condition 5 (Aquatic and Biological Resources)
TERR-1j: Contribution to Baylands Predator Management and High Tide Refugia Enhancement for San Francisco Bay special-status species	Condition 5 (Aquatic and Biological Resources)
Geology (GEO)-1 Repair Landslides Caused by Construction Activities	Condition 3 (Construction and Post-Construction Related Measures)

Mitigation Measure	Applicable Certification Condition(s)
Hazardous Materials (HAZ)-7 Soil Testing and Proper Disposal of Potentially Contaminated Soils	Condition 3 (Construction and Post-Construction Related Measures)
Water Quality (WQ)-1. Develop and Implement an In-Reservoir Construction Area Water Quality Monitoring and Protection Plan.	Condition 3 (Construction and Post-Construction Related Measures)
Groundwater (GW)-2 Perchlorate Best Management Practices	Condition 3 (Construction and Post-Construction Related Measures)

6.0 Rationale for Water Quality Certification Conditions

This section of the certification explains that the grant of certification, as conditioned, is warranted and why the conditions in Section 8.0 are necessary to ensure that the Project and its discharges will comply with water quality requirements. This section also includes, as necessary, citations to federal, state, or tribal laws that authorize the conditions and sets forth citations to applicable regulatory authority. Section 4.0 also sets forth citations to applicable regulatory authority. The explanation and citations should be evaluated in the context of the certification as a whole, but the certification conditions are set forth only in Section 8.0.

As explained in this section, the conditions in this certification are generally required pursuant to the SF Bay Basin Plan, as described in Section 4.3, SF Bay Basin Plan.

The Dredge or Fill Procedures, adopted pursuant to Water Code sections 13140 and 13170, authorize approval of dredge or fill projects subject to satisfaction of specified requirements. California Code of Regulations, title 23, sections 3830 et seq., set forth state regulations pertaining to certifications. In particular, section 3856 sets forth information that must be included in certification requests, and section 3860 sets forth standard conditions that shall be included in all certification actions.

Water Code sections 13267 and 13383 authorize the Water Boards to establish monitoring and reporting requirements for persons discharging or proposing to discharge waste to navigable waters. Water Code section 1051 additionally authorizes the State Water Board to investigate waters diverted for beneficial use. Moreover, this certification ensures continued monitoring, reporting, and assessment of water quality for discharges that may impact waters of the state.

Fish and Game Code section 5937 requires any owner of a dam to allow sufficient water to pass over, around, or through the dam to keep in good condition any fish that may be planted or exist downstream. Section 5937 and requirements to maintain or monitor flow or other water quality characteristics as required to meet section 5937 are appropriate conditions of state law necessary to protect fishery-related beneficial uses.

The conditions in this certification were developed to ensure compliance with water quality standards and water quality requirements established under the Porter-Cologne Water Quality Control Act and the federal Clean Water Act, including requirements in applicable water quality control plans, and other appropriate requirements of state law. The conditions in Section 8.0 of this certification are necessary to protect the beneficial uses of waters of the state identified in water quality control plans, prevent degradation of water quality, and help ensure compliance with state and federal water quality requirements.

When preparing the conditions in this certification, State Water Board staff reviewed and considered the following information:

- Valley Water's June 28, 2024, certification application (Valley Water 2024a) including its appendices (Appendix A-K);
- Supplemental information submitted to Water Boards staff by Valley Water via email on December 11, 2024 (Valley Water 2024b), February 6, 2025 (Valley Water 2025b), February 12, 2025 (Valley Water 2025c), February 27, 2025 (Valley Water 2025d), and March 11, 2025 (Valley Water 2025e);
- Valley Water's Final Environmental Impact Report (Valley Water 2025a);
- Beneficial uses, water quality objectives, and implementation measures and programs described in the SF Bay Basin Plan (San Francisco Bay Regional Water Board 2024);
- Applicable water quality information, permits, policies, objectives, implementation measures, and programs;
- FOCP reports, including water quality reports, suspended sediment monitoring reports, spawning habitat reports, invasive species reports, and fish and amphibian reports;
- Applicable water quality information, permits, policies, objectives, implementation measures, and programs (e.g., Construction General Permit, Clean Water Act Section 303(d) List/305(b) Report, Dredge or Fill Procedures, etc.);
- United States Fish and Wildlife Service's (USFWS) Final Formal Consultation on the Anderson Dam Seismic Retrofit Project (Biological Opinion) issued on March 21, 2025
- Project-related controllable factors (e.g., stormwater capture, controllable flow releases); and
- Other information in the record.

This certification is issued pursuant to the final 2023 Clean Water Act Section 401 Water Quality Certification Rule (Fed. Reg. 66558-66666 (September 27, 2023) [amending 40 C.F.R. Parts 121, 122, 124]) that went into effect on November 27, 2023 (2023 Rule), but also complies with the previous USEPA Clean Water Act Section 401 Certification Rule, 85 Fed. Reg. 42,210 (July 13, 2020) (2020 Rule) that was in effect for portions of 2020-2023 should it reemerge as a result of litigation or any other reason. To the extent FERC or USACE considers any certification condition to include requirements outside the substantive scope of the 2020 Rule, the 2020 Rule — including but not limited to 40 C.F.R. §§ 121.1(f) and (n), 121.3, 121.7(d)(1), and 121.9(b) — is inconsistent with federal law and controlling case law. The 2023 Rule restores the scope of certification "that is consistent with not only the statutory language

and congressional intent but also longstanding [USEPA] guidance and decades of Supreme Court case law." (Fed. Reg. 65591-66606 [Scope of Certification].) Under section 401 of the Clean Water Act, when an activity requiring a federal permit or license "may result in any discharge into the navigable waters," the applicant is required to obtain a certification that states the discharge will comply with applicable water quality standards and that also sets forth any "limitations" and "monitoring requirements" necessary to assure that the "applicant" will comply with water quality standards and "any other appropriate requirement of State law." (33 U.S.C. § 1341(a) & (d).) Certification is required for such activity as a whole, not merely for its point-source discharges to waters of the United States. (*PUD No. 1*, supra, 511 U.S. at pp. 711- 712.) USEPA replaced the 2020 Rule because, among other faults, it "may prevent state and tribal authorities from adequately protecting their water quality," "may result in a state or tribe's certification or conditions being permanently waived as a result of non-substantive and easily fixed procedural concerns," and "may limit the flexibility of certifications and permits to adapt to changing circumstances." (86 Fed. Reg. 29,543-29,544 (June 2, 2021).) As explained in this certification, each certification condition is authorized by applicable state and federal law and is necessary to ensure compliance with such laws. This paragraph is hereby incorporated as part of the explanatory statement for each condition of this certification.

This certification is being issued as part of a USACE permit and FERC license surrender order. The USACE 404 permit will authorize construction of the Project, which is intended to result in Anderson Dam meeting safety and engineering requirements identified by FERC and DSOD, as well as implementation of conservation and mitigation measures. Following Project completion, the San Francisco Bay Regional Water Board might consider adoption of waste discharge requirements associated with ongoing operations, maintenance, mitigation, and monitoring of Anderson Dam and related facilities. The waste discharge requirements may address but are not limited to: maintenance of Project facilities; Sediment Augmentation Plan implementation; and Habitat Mitigation Plan implementation.

6.1 Rationale for Condition 1: Project Activities and Interim Operations

As described in Section 4.0, this certification is granted based on the application and supporting information submitted, in accordance with the State Water Board's regulations and is subject to requirements of the Clean Water Act and the Porter-Cologne Water Quality Control Act. Condition 1 requires Valley Water to implement the Project as described in its June 28, 2024, certification application, supplemental information submitted in advance of this certification's issuance, and as modified by conditions of this certification. Condition 1 will help ensure that the Project is implemented in a manner that protects water quality objectives and avoids unreasonable impacts to beneficial uses. Any changes to the Project description that are inconsistent with the Project application provided to the State Water Board following the certification's issuance could impact the findings, conclusions, and conditions of the certification and may necessitate the filing of a new certification application as well as trigger additional environmental review.

6.1.1 Interim Flows

Minimum instream flows can support beneficial uses by helping to maintain water quality, providing for improved ecosystem function, and providing habitat for fish and wildlife. SF Bay Basin Plan beneficial uses that rely on minimum instream flows for protection include, but are not limited to: COLD; GWR; MIGR; MUN; RARE; REC1; REC2; SPWN; WARM; and WILD. Fish and Game Code section 5937, requires any owner of a dam to allow sufficient water to pass over, around, or through the dam to keep in good condition any fish that may be planted or exist downstream. Ensuring instream flows do not greatly differ from naturally unimpaired instream flows provides protection of biodiversity, recreation, and water quality. Interim minimum instream flows that protect beneficial uses must be maintained by Valley Water throughout Project implementation.

Since Anderson Reservoir will be kept at deadpool or lower for the duration of the Project, releases from the reservoir will largely not be available during the dry season and wet season flows will be based on natural precipitation events. Throughout Project implementation flow is expected to be at least 10 cubic feet per second (cfs) at Valley Water's streamflow station 5082 (Coyote Creek at Madrone), which is located approximately 1.2 miles downstream of Anderson Dam. Flow increase may occur from precipitation events or due to increased releases of imported water. Under existing conditions, percolation and evaporation can reduce winter flows from Anderson Dam to around 7-10 cfs at gauge SF07 (less than one mile upstream of the Coyote Percolation Pond). There is accretion downstream of the percolation pond and flows increase due to groundwater emergence and inflow from Lower Silver Creek and Upper Penitencia Creek.

Condition 1 requires Valley Water to maintain a minimum of 10 cfs at gauge 5082, and develop and implement a plan for maintaining adequate flows in Coyote Creek downstream of Anderson Dam throughout Project implementation to ensure protection of beneficial uses and water quality. This condition requires Valley Water to identify how Valley Water will ensure minimum and adequate flows throughout Project implementation, with consideration of major flow-related components of the Project, including decommissioning of the Anderson Dam Hydroelectric Project, Coyote Reservoir, Anderson Dam Tunnel, the North and South Channel weir, Coyote Discharge Line, Cross Valley Pipeline Extension, and Coyote Percolation Pond.

Additionally, Condition 1 requires Valley Water to consult with water and biological resources agencies and specifies the agencies that that Valley Water must include in the Technical Working Group. The Technical Working Group is necessary to ensure that the plans required by this certification are developed in consultation with agencies' experts to be protective of beneficial uses.

6.1.2 Decommissioning of the Anderson Dam Hydroelectric Project

As part of the Project, Valley Water is proposing to decommission the existing hydroelectric facilities and surrender its FERC license exemption for the Anderson Dam Hydroelectric Project. Condition 1 requires Valley Water to develop and implement a plan for the decommissioning of the hydroelectric facilities. Decommissioning includes

staging of equipment, disassembly and removal of mechanical and electrical equipment, and disposal of these items and associated hazardous materials and wastes (e.g., oils, grease) associated with the hydroelectric facilities. Additionally, decommissioned facilities that remain following the Project will require inspections and minimal maintenance and repair to ensure building materials do not pose a future risk to water quality and beneficial uses.

Beneficial uses for Anderson Reservoir and Coyote Creek that may be impacted by the decommissioning of the hydroelectric facilities include: COLD; MIGR; MUN; RARE; SPWN; WARM; and WILD.

6.1.3 Adaptive Management Plan Implementation

Adaptive management is critical to ensure protection of water quality throughout this multi-year construction project, which could impact water quality. In addition, post-construction operation of the facilities is expected to have impacts to water quality. The ADSRP Adaptive Management Plan submitted by Valley Water includes a set of conceptual plans developed to be consistent with the FAHCE adaptive management framework. The Adaptive Management Plan is also intended to (1) evaluate the Project conditions during construction and facilities' post-construction operation, including water storage and release, facility maintenance, planned sediment augmentation below the dam and related activities, and associated impacts, (2) develop "adaptive management alternatives" that are measures to improve operation, maintenance, and related activities, (3) provide detail sufficient to implement the measures, and (4) provide for monitoring and reporting sufficient to inform the measures performance and additional adaptive management work.

Condition 1 requires Valley Water to further develop and implement the Adaptive Management Plan. Condition 1 also requires Valley Water to propose and implement adaptive management actions, based on monitoring results and other information, and allows Valley Water to request Deputy Director approval to alter the methodologies or frequencies of monitoring. This condition also requires that Valley Water develop and facilitate a technical working group to evaluate and advise on monitoring, adaptive actions, and reporting of Project-related facilities and operations, with a primary purpose of tracking and ensuring progress toward achieving the measurable objectives for Coyote Creek that are defined in the Adaptive Management Plan.

6.2 Rationale for Condition 2: Water Quality Monitoring

Removal and reconstruction of Anderson Dam have the potential to impact water quality in Coyote Creek and Anderson Reservoir. Project activities that may impact water quality, specifically turbidity, dissolved oxygen, temperature, pH, settleable material, and suspended material, include, but are not limited to: (1) teardown and rebuild of Anderson Dam; (2) dewatering and diversions in Coyote Creek; (3) construction activities at the Coyote Percolation Pond Bladder Dam; and (4) construction activities at the Ogier Ponds restoration site.

To prevent exceedances of SF Bay Basin Plan's water quality objectives and impacts to beneficial uses, Condition 2 requires Valley Water to comply with applicable water

quality objectives of the SF Bay Basin Plan and develop and implement a plan that includes (1) dewatering protocols and protection measures, (2) water quality monitoring protocol, (3) a quality assurance/quality control project plan, and (4) schedule for reporting water quality data and any exceedances.

Water quality monitoring during Project implementation will inform corrective actions in response to Project activities, if necessary. Condition 2 requires the development and implementation of a Water Quality Monitoring Plan to identify and minimize any Project-related impacts to water quality.

Development and implementation of the Water Quality Monitoring Plan as required by this condition ensures beneficial uses are protected and activities comply with SF Bay Basin Plan's water quality objectives, and other appropriate requirements of state law. Monitoring requirements of Condition 2 are consistent with the Water Boards' authority to investigate waters of the state, including for quality, and to require necessary monitoring and reporting pursuant to Water Code sections 13267 and 13383.

Beneficial uses of Anderson Reservoir and Coyote Creek below Anderson Dam that would be impacted by elevated turbidity, reduced dissolved oxygen, elevated temperatures, and pH swings include, but are not limited to: COLD; MIGR; MUN; RARE; REC 1; SPWN; WARM; and WILD.

6.3 Rationale for Condition 3: Construction- and Post Construction-Related Measures

Condition 3 is required pursuant to Water Code section 13264, which prohibits any discharge that is not specifically authorized in this certification.

Erosion and sedimentation can contribute to degradation of the waters of the state; therefore, it is necessary to implement actions to eliminate or limit such discharges to protect water quality and associated beneficial uses. The Project involves deconstruction and replacement of the earthen Anderson Dam as well as other activities that will involve excavation of soils and stockpiling more than six million cubic yards of material in nine different stockpiles, including certain designated areas within Anderson Reservoir. Project activities that have the potential to cause erosion and increased turbidity in Coyote Creek include: retrofit of the dam, construction of a new auxiliary spillway, drawdown/dewatering of Anderson Reservoir and portions of Coyote Creek, construction of the Ogier Ponds mitigation project, construction of Phase 2 work at the Coyote Percolation Pond, installation and use of access roads and bridges, and the construction and use of the new outlet works. Condition 3 requires the development and implementation of a Water Quality Protection Plan (WQPP) including BMPs and AMMs that will be implemented to protect water quality and beneficial uses. The WQPP also requires Valley Water to implement mitigation measures identified in the final EIR for the Project pertaining to water quality, erosion control, sediment management, and pollutant control.

Increases in erosion and sedimentation can cause exceedances of water quality objectives (e.g., turbidity) and adversely impact beneficial uses. Beneficial uses of

Coyote Creek and Anderson Reservoir that may be impacted by Project-related erosion and sedimentation include: COLD; GWR; MIGR; RARE; SPWN; WARM; and WILD.

6.3.1 General Permits Compliance

Protection of water quality and beneficial uses identified in the SF Bay Basin Plan requires compliance with effluent limitations and other limitations on pollutant discharges from point and non-point sources to Coyote Creek and Anderson Reservoir. The Project includes deconstruction and replacement of Anderson Dam and associated facilities and other activities that require construction or maintenance. Erosion from Project-related construction and maintenance activities has the potential to result in discharges that violate water quality standards. Condition 3 requires Valley Water to comply with the Construction General Permit and other measures to protect water quality associated with Project activities with the potential to cause erosion or result in sediment discharges.

Condition 3 also requires Valley Water to comply with the terms of Municipal Regional Permit, Provision C.3, for elements of the Project that will create new or reconstruct existing impervious surfaces, such as roads (including gravel roads that lack a subsurface drainage system as defined in the Municipal Regional Permit), parking lots, and buildings. Impervious surfaces are known to impact waters of the State by increasing erosion and sedimentation through hydromodification (i.e., changes in runoff volume and duration) and by collecting and concentrating pollutants in runoff. Stormwater discharges from urban and developing areas in the San Francisco Bay Region are significant sources of certain pollutants that cause or may cause or contribute to water quality impairment in waters of the Region. Further, as delineated in the Clean Water Act section 303(d) list, there is a reasonable potential that municipal stormwater discharges may cause or contribute to an excursion above water quality standards in San Francisco Bay segments for the following pollutants: mercury, polychlorinated biphenyls, furans, dieldrin, chlordane, dichlorodiphenyltrichloroethane, trash, and selenium. Runoff from impervious surfaces at the Project site may contribute to water quality impairment.

To ensure the Project design will comply with Provision C.3 of the Municipal Regional Permit, Valley Water will need to submit a post-construction stormwater management plan for review and approval prior to constructing any impervious surfaces. An approved post-construction stormwater management plan is necessary prior to construction of impervious surfaces to ensure the design of low-impact development and landscape-based stormwater treatment measures incorporates site design and engineering considerations such as drainage patterns. Such considerations should be addressed in early stages of a site design process and developed iteratively as the design evolves to avoid the need to retrofit the site following construction.

6.4 Rationale for Condition 4: Hazardous Materials Management

Preventing the release of hazardous materials into the environment and waterways is crucial for the protection of water quality and associated beneficial uses. Condition 4 is required pursuant to Water Code section 13264, which prohibits any discharge that is not specifically authorized in this certification.

The Project involves use of heavy equipment that will require refuel, service, and storage. Appropriate site management requires implementation of best management practices to prevent, minimize, and/or clean up construction spills, including from construction equipment. For instance, fuels and lubricants associated with the use of mechanized equipment have the potential to result in toxic discharges to surface water in violation of water quality standards, including toxicity and floating material water quality objectives.[8] Hazardous materials could also include hazardous materials associated with structures to be removed and hazardous materials in facilities that will be removed during Project implementation. Secondary containment around hazardous materials storage sites helps ensure that any leaks or spills of hazardous materials do not result in a discharge to waters.

Condition 4 requires Valley Water to develop and implement a Hazardous Materials Plan to ensure implementation of appropriate measures and protocols for the storage, use, and disposal of Project-related hazardous materials in a manner that avoids direct or indirect release to waters. Such measures include requiring Valley Water to ensure appropriate equipment and supplies are available and used to respond to spills and take appropriate corrective actions, including contacting appropriate agencies in the event of a spill. The condition also requires the plan to include measures to ensure proper disposal of hazardous materials associated with the Project (e.g., oil storage tanks, mechanical fluids, batteries, etc.). Condition 4 requires implementation of hazardous materials management measures to prevent hazardous material spills into waters, including containment criteria pursuant to California Code of Regulations, title 27, section 20320.

Beneficial uses for Anderson Reservoir and Coyote Creek that may be impacted by Project-related releases of hazardous materials include: COLD; MIGR; MUN; RARE; SPWN; WARM; and WILD.

6.5 Rationale for Condition 5: Aquatic and Biological Resources

Project activities have the potential to adversely affect the biological, chemical, and physical conditions of waters, including Anderson Reservoir and Coyote Creek extending from Anderson Dam to the Coyote Percolation Pond facility, approximately 10.5 miles downstream of Anderson Dam. The Project area is habitat for numerous native aquatic and wildlife species, including those listed as threatened or endangered pursuant to federal Endangered Species Act (ESA) or California ESA, as well as species of special concern. These include, but are not limited to:

- Steelhead (*Oncorhynchus mykiss*) Central California Coast Distinct Population Segment and its designated critical habitat – threatened under federal ESA;

[8] The SF Bay Basin Plan includes narrative water quality objectives for oil, grease, and other hazardous materials: “Waters shall not contain oils, greases, waxes, or other materials in concentrations that cause nuisance, result in a visible film or coating on the surface of the water or on objects in the water, or that otherwise adversely affect beneficial uses.” (San Francisco Bay Regional Water Board, 2024.)

- Chinook salmon (*Oncorhynchus tshawytscha*), Central Valley fall-run and essential fish habitat – federal species of concern; California species of special concern;
- Pacific lamprey (*Entosphenus tridentatus)* – California species of special concern;
- California red-legged frog (*Rana draytonii*) and its designated critical habitat – threatened under federal ESA and California species of special concern;
- California tiger salamander (*Ambystoma californiense),* Central Distinct Population Segment – threatened under federal and California ESAs;
- Foothill yellow-legged frog, Central California Coast Distinct Population Segment (*Rana boylii*) – threatened under federal and California ESAs;
- Northwestern pond turtle (*Actinemys marmorata*) – proposed threatened under federal ESA and California species of special concern;
- Bald eagle (*Haliaeetus leucocephalus)* – endangered under California ESA and State fully protected; and
- Numerous other species including insects such as Crotch's bumblebee (*Bombus crotchii)* (candidate for listing pursuant to California ESA) and Monarch butterfly (*Danaus Plexippus)* (endangered under federal ESA).

Condition 5 requires Valley Water to implement studies, surveys, and monitoring for fish, reptiles, and other wildlife throughout the life of the Project; if necessary, Valley Water will need to rescue and relocate fish, reptiles, or other wildlife. Additionally, Condition 5 requires implementation of several mitigation measures identified in Valley Water's Final Environmental Impact Report to avoid impacts to aquatic and riparian species, as noted in Table B of this certification. Implementation of these Mitigation Measures will minimize release of construction-related pollutants and associated impacts to water quality and beneficial uses of Coyote Creek downstream of Anderson Dam. To mitigate for impacts related to Project implementation, including habitat measures, Valley Water will implement best management practices and monitoring plans to avoid and minimize adverse effects and assess site conditions. These include standard best management practices like good housekeeping, spill prevention measures, and working during designated work windows to prevent species-specific impacts to steelhead or other biota, as described in Appendix J of the Project application. The areas disturbed by construction activities will be restored to pre-project or improved conditions with vegetation or other surface stabilization measures.

Condition 5 will help avoid impacts to water quality and beneficial uses of Anderson Reservoir and Coyote Creek, including: COLD; RARE; SPWN; and WARM. Water quality-related impacts could affect aquatic biota and wildlife in the riparian corridor in a variety of ways including, but not limited to:

- Fish stranding;
- Loss of foraging, dispersal, nesting, and refugial habitat for wildlife;
- Impaired habitat and fish or egg mortality from high suspended sediment or siltation;

- Loss of wetlands or riparian habitat resulting from construction-related disturbance to the creek bed and banks, permanent excavation and fill discharges and hardened creek banks; and
- Loss of or impaired habitat, and impacts to associated functions and values, from the new dam, which will continue to restrict natural geomorphic functions and processes, including creek flow and sediment transport.

Dredge, excavation, or fill impacts associated with the Project are estimated as follows: of 13.4 million cubic yards of soil, rock, and other materials in Anderson Reservoir (about 1,243 acres), perennial stream (4.45 acres; 4,109 linear feet (LF)); intermittent stream (0.97 acres; 668 LF); seasonal wetland (0.05 acres); freshwater marsh (4.16 acres); and combined mixed riparian woodland and forest and willow riparian forest and scrub (19.3 acres; 4,055 LF). These quantities are not precise because Valley Water used "land cover types" to characterize effects in wetlands or other waters, potentially over-estimating the amounts by capturing areas that are not in jurisdictional waters of the State. Condition 5 requires that Valley Water comply with the Dredge or Fill Procedures[9], including development and implementation of a plan to address impacts to wetlands and other waters. To partially compensate for the loss and degradation of jurisdictional waters of the state, Valley Water will be required to implement actions and plans (some referred to as a "conservation measure" in the Project application), including:

- Gravel augmentation and habitat complexity improvements, which include Live Oak Park Restoration Reach maintenance of spawning gravel and large woody material (installed under the FOCP), and integration of a future Sediment Augmentation Program consisting of additional gravel augmentation at multiple sites in Live Oak Park Restoration Reach and Ogier Ponds during the Project;
- Restoration of Coyote Creek at Ogier Ponds;
- Phase 2 of the Coyote Percolation Pond Dam replacement[10] (discussed further below);

[9] Condition 5 and compliance with the Dredge or Fill Procedures ensures permanent physical loss and permanent ecological degradation of waters of the state are adequately mitigated. This condition is necessary to ensure compliance with state and federal antidegradation policies and is consistent with Section IV.B.1.a of the Dredge or Fill Procedures, which requires that the Water Boards will approve a project only after it has been determined that a sequence of actions has been taken to first avoid, then to minimize, and lastly compensate for adverse impacts to waters of the state that cannot be practicably avoided or minimized. (See also California Code of Regulations, section 3856, subdivision (h) [requiring submittal of proposed mitigation and description of steps taken to avoid, minimize, or compensate].)

[10] Indirect impacts are anticipated due to the instream impoundment at the Coyote Percolation Pond facility, which will likely result in slow-moving, deep water that dampens migration cues, creates a thermal sink, and harbors non-native fish that prey on juvenile salmonids.

- A Habitat Mitigation Plan[11] for additional restoration and enhancement projects that will be implemented at additional locations along the Coyote Creek riparian corridor (including within and above Anderson Reservoir) through an in-lieu fee program and Valley Water-implemented (permittee-responsible) mitigation.

Implementation of these habitat measures has the potential to create additional impacts. Condition 5 requires Valley Water to submit detailed plans for each conservation measure and restoration and enhancement actions, as well as identify and implement additional compensatory mitigation if needed.

Habitat Mitigation Plan and In-Lieu Fee Program. The scope of the mitigation projects that will be included in the Habitat Mitigation Plan is unknown and will be developed in the coming year. Valley Water has proposed that the Habitat Mitigation Plan provide details for implementing beneficial projects through an in-lieu fee program. Condition 5 allows for Valley Water to provide compensatory mitigation through the Santa Clara Valley Habitat Plan (VHP) In-Lieu Fee Program (ILFP), dated April 2023, which was adopted by San Francisco Bay Regional Water Board on June 21, 2023 (Santa Clara Valley Habitat Agency, 2023), as described in the Project application. Use of the ILFP would allow Valley Water to pay fees to the Santa Clara Valley Habitat Agency (Habitat Agency) and the Habitat Agency would construct beneficial projects with those fees. Condition 5 requires Valley Water to also include permittee-responsible projects (i.e., projects that Valley Water will implement) in the Habitat Mitigation Plan. This is because, in general, compensatory mitigation performed by the permittee often provides for mitigation nearer to the impact site and may be more practicable provided it can be implemented with equivalent or better environmental mitigation results than an in-lieu fee program. Additionally, the Habitat Agency has not yet started constructing projects that would generate credits for impacts to waters of the United States or impacts to fish such as steelhead, and the timing for when credits would be available as mitigation for such impacts is uncertain. Valley Water's identification of permittee-responsible compensatory mitigation that can be implemented in Coyote Creek in the Habitat Mitigation Plan will help ensure Valley Water is able to provide appropriate and timely mitigation and avoid constraints and uncertainty associated with the availability of credits through the ILFP.

Condition 5 requires that the Habitat Mitigation Plan be reviewed and updated annually throughout Project implementation to address new information and assess the need for additional compensatory mitigation through the ILFP or Valley Water implemented

[11] Valley Water intends to submit, and this certification requires Valley Water to submit, a Habitat Mitigation Plan by February 2026. The Habitat Mitigation Plan will provide details of the mitigation location(s); target habitats and acreages; buffers around mitigation habitats; any reasonably foreseeable impacts to the compensatory mitigation associated with climate change (and any measures necessary to avoid or minimize those potential impacts); construction and revegetation methods; ecological performance standards; monitoring methods, timing, and duration; and long-term protection and management. As proposed in the application, the Habitat Mitigation Plan proposed mitigation via an in-lieu fee program.

(permittee-responsible) projects. There is uncertainty about the final design, performance, or effects of some of the conservation measure projects. The annual updates to the Habitat Mitigation Plan provide a means for addressing additional discharges of dredge or fill material (e.g., need for modification of site) or for addressing unanticipated impacts throughout Project implementation, if needed.

Coyote Percolation Pond Facilities. The Project includes implementation of the Phase 2 Coyote Percolation Pond Project, which is intended to correct fish passage problems with the bladder dam constructed during the FOCP. The final design for the fish lane component of the Phase 2 Coyote Percolation Pond Project is not yet complete. Condition 5 requires Valley Water to prepare and implement a Phase 2 Coyote Creek Percolation Pond Project Plan that includes interim operations for the Coyote Percolation Pond. The Coyote Creek Percolation Pond is an artificial instream impoundment formed by a bladder dam that adversely impacts COLD, MIGR, and RARE beneficial uses. The pond causes slow-moving, deep water, which dampens migration cues, acts as a thermal migration barrier, and allows non-native fish to prey on juvenile salmonids trapped in the pond. The Project application states that during the term of the Project, the bladder dam would be lowered based on flow conditions (i.e., when flows are 320 cubic feet per second or greater). The impacts of the percolation pond may be temporally reduced by using ecological considerations as part of the basis for operations (e.g., peak steelhead outmigration from February 1 – April 30). The Phase 2 Coyote Creek Percolation Pond Project Plan requires an evaluation of water supply and other beneficial uses during different hydrologic conditions and a proposal to adaptively operate the percolation pond during the Project to minimize impacts to steelhead. This evaluation will be used to inform interim operations during the Project.

6.6 Rationale for Condition 6: Reporting

Condition 6 requires Valley Water to notify State Water Board and San Francisco Bay Regional Water Board staff prior to implementing Project activities, to submit Progress Reports every six months until Project completion, and to submit a Completion Report to document compliance with the certification requirements. The Progress Reports and Completion Report will inform the Deputy Director of compliance with water quality objectives and protection of beneficial uses during Project implementation.

Reporting requirements of Condition 6 are consistent with the Water Boards' authority to investigate waters of the state, including for quality, and to require necessary monitoring and reporting pursuant to Water Code sections 13267 and 13383. The reporting requirements of Condition 6 are necessary to ensure the Project does not impact water quality and associated beneficial uses

6.7 Rationale for Condition 7: Site Specific Water Quality Monitoring and Protection Plans

The Project includes deconstruction and removal of existing facilities and other activities that require construction or maintenance. Erosion from Project-related construction and maintenance activities has the potential to result in discharges that violate water quality standards. Valley Water may need to conduct construction or maintenance activities that require ground disturbances throughout Project implementation. Erosion and

sedimentation from Project-related activities can contribute to degradation of the waters of the state; therefore, it is necessary to implement actions to eliminate or limit such discharges to protect water quality and associated beneficial uses. Condition 7 requires Valley Water to develop and implement water quality monitoring and protection plans for any ground disturbing activities (e.g., construction and maintenance) with the potential to cause erosion, stream sedimentation, release of hazardous materials, or otherwise impair water quality, which are not covered by another condition of this certification.

6.8 Rationale for Conditions 8 through 26

This certification imposes additional conditions regarding Project approvals, monitoring, enforcement, and potential future revisions.

Condition 8 is necessary to comply with Water Code section 13167 and Conditions 9 through 12 contain important clarifications concerning the scope and legal effect of this certification, as well as other legal requirements that may apply to the Project.

Monitoring, reporting, and assessment actions, and the information developed through such actions, must be readable, shared, and coordinated with other appropriate entities, and accessible to ensure that a discharge activity complies with water quality requirements. Water Code section 13167 requires the Water Boards to ensure that monitoring data and assessment information are available in a single location and that the information is presented in a manner easily understandable by the public. To fulfill this legislative mandate, Condition 8 requires electronic data submittal in a compatible format with existing system specifications. Compliance with this condition enhances the accessibility of data and transparency of regulatory actions. This allows regulatory agencies and the public to better assess compliance and understand water quality trends or data anomalies by compiling data and making it readily available.

Pursuant to the California ESA (Fish & G. Code, §§ 2050 et seq.) and federal ESA (16 U.S.C. §§ 1531 et seq.), Condition 9 of the certification does not authorize any act which results in the taking of a threatened, endangered, or candidate species. An applicant for certification is required to identify other licenses, permits, and agreements in the application. In the event an applicant for certification needs authorization from the state or federal authorities, California Code of Regulations, title 23, section 3856, subdivision (e), requires that the applicant provide copies of “any final and signed federal, state, and local licenses, permits, and agreements (or copies of the draft documents, if not finalized) that will be required for any construction, operation, maintenance, or other actions associated with the activity. If no final or draft document is available, a list of all remaining agency regulatory approvals being sought shall be included.” To help ensure the integrity of the certification process and its focus on ensuring that Project activities meet water quality standards and other appropriate requirements of state law, Condition 10 serves to notify applicants that there may be additional applicable federal, state, or local laws or ordinances with which they must comply, including the state and federal ESAs (Condition 9).

Water Code section 13160, subdivision (b)(1), allows the State Water Board to issue a certification when there is “reasonable assurance that an activity of any person subject to the jurisdiction of the state board will comply with applicable requirements” of state

and federal law. To help ensure the integrity of the certification process and its focus on the protection of water quality and compliance with other applicable state requirements, Condition 10 serves to notify applicants that there may be additional applicable federal, state, or local laws or ordinances with which they must comply. Because agency organization and authorities change over time, Condition 11 provides direction for continuity of oversight in the event an agency's authority or responsibility is transferred to or subsumed by another agency.

The State Water Board is responsible for the water right, water quality, and drinking water functions of the California state government. (Wat. Code, § 174.) Certain certifications involve an appropriation of water subject to part 2 of division 2 of the Water Code or the diversion of water for certain beneficial uses. (See, e.g., Cal. Code Regs., tit. 23, § 3855, subd. (b)(1)(A).) Condition 12 explains the State Water Board's issuance of this certification is not adjudicating or approving the validity of water rights that may be related to the Project. It also recognizes the State Water Board's authority, independent of its water quality authority, to prevent unauthorized or threatened unauthorized diversions of water. This helps to ensure that an applicant for a federal license or permit that involves a discharge to navigable waters understands that, except as specified in the certification, the certification does not constitute, or excuse the applicant from obtaining any other State Water Board approvals required for the activity.

Conditions 13 and 14 are necessary to assure that any discharge authorized under the certification will comply with water quality requirements. These conditions are included to comply with California Code of Regulations, title 23, section 3860, which sets forth conditions that must be included in all certifications. Condition 13 is a standard condition that "shall be included as conditions of all certification actions" pursuant to California Code of Regulations, title 23, section 3860, subdivision (a). This condition places the permittee on notice that the certification action may be modified or revoked following administrative or judicial review. Condition 14 is a standard condition that "shall be included as conditions of all water quality certification actions" pursuant to California Code of Regulations, title 23, section 3860(b). This condition clarifies the scope of the certification's application and ensures that any applicant for a federal license or permit, which may result in a discharge into navigable waters, is subject to the appropriate State certification. Condition 15 is a standard condition that "shall be included as conditions of all water quality certification actions" pursuant to California Code of Regulations, title 23, section 3860(c). This fee requirement condition is also required pursuant to California Code of Regulations, title 23, section 3833(b), which requires payment of fees by project proponents applying for certification. Fees are essential to support the Water Boards certification program, which includes the development of certifications and related inspections to ensure the protection of water quality and beneficial uses that may be impacted by a project.

Conditions 16 through 26 are necessary to ensure that the Project operates to meet water quality standards and other appropriate requirements of state law, or that adjustments are made to ensure continued compliance with water quality standards in light of new information, changes to the Project, or changes to the standards themselves.

This certification requires monitoring, reporting, and analysis as important elements to ensure that Project activities will comply with state and federal water quality requirements and other appropriate requirements of state law. Conditions 16, 17, and 18 provide for extensions of time to comply with requirements, prevention or remedy of violations, and notification of changed conditions to ensure compliance and prevent violations of water quality standards. In the event of non-compliance, modified conditions may be necessary to return the Project to compliance and prevent violation of water quality standards. Conditions 19 and 20 require the applicant to comply with the SF Bay Basin Plan and to take all reasonable measures to protect water quality and beneficial uses, in accordance with plans adopted pursuant to state and federal water laws. Water Code section 13267 authorizes the State Water Board to require any person or entity who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste to furnish, under penalty of perjury, technical or monitoring reports when necessary to investigate the quality of any waters of the state. Condition 21 requires such reports that are necessary to ensure compliance with water quality standards.

Condition 22, related to site access requirements, is authorized pursuant to the Water Boards' authority to investigate the quality of any waters of the state, including specific site access authorized under Water Code section 13267 and 13383. Site access is needed to ensure compliance with the certification and associated protection of water quality and beneficial uses. Condition 23 requires site personnel and agencies to be familiar with the content of the certification and availability of the document at the Project site. This condition is required to ensure that site personnel are familiar with the conditions needed to protect water quality and any authorized discharge will comply with the terms and conditions of this certification, which requires compliance with water quality objectives and beneficial uses adopted or approved under sections 13170 or 13245 of the Water Code, and with other appropriate requirements of state law.

Condition 24 requires that Valley Water use analytical methods approved by California's Environmental Laboratory Accreditation Program, when available, to ensure that such analyses are done in a consistent manner.

Condition 25 provides that the State Water Board will provide notice and an opportunity to be heard in exercising its authority to add or modify certification conditions.

In the event that any provision of this certification is found invalid, Condition 26 ensures that all other provisions will remain effective and water quality will still be protected. (Wat. Code, § 13160.)

7.0 Conclusion

The State Water Board finds that, with the conditions and limitations imposed by this certification, the Project will be protective of state and federal water quality standards and other appropriate requirements of state law.

8.0 Water Quality Certification Conditions

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE STATE WATER RESOURCES CONTROL BOARD CERTIFIES that the Anderson Dam Seismic Retrofit Project (Project or ADSRP) will comply with sections 301, 302, 303, 306, and 307 of the Clean Water Act, and with applicable provisions of State law, under the following terms and conditions. The Project is intended to result in Anderson Dam meeting safety and engineering requirements of the Federal Energy Regulatory Commission (FERC) and California Division of Safety of Dams, implementation of conservation measures, and the surrender of Anderson Dam Hydroelectric Project's FERC license exemption.

CONDITION 1: Project Activities and Interim Operations

Unless otherwise modified by conditions of this water quality certification (certification) or approved by the State Water Resources Control Board (State Water Board) Deputy Director of the Division of Water Rights (Deputy Director), Santa Clara Valley Water District (Valley Water) shall implement the Project as described in Valley Water's June 28, 2024, certification application (Valley Water 2024) and supplemental submittals via email on December 11, 2024 (Valley Water 2024b), February 6, 2025 (Valley Water 2025b), February 12, 2025 (Valley Water 2025c), February 27, 2025 (Valley Water 2025d), and March 11, 2025 (Valley Water 2025e).

Interim Flows

Valley Water shall submit an Interim Flows Plan for review and consideration of approval by the Deputy Director no later than four months prior to starting Project implementation. The Deputy Director may approve a shorter timeframe for plan submittal; any such request shall be submitted to the Deputy Director as soon as possible and no less than four months prior to the start of Project implementation. The Interim Flows Plan shall be developed in consultation with representatives from the State Water Board, San Francisco Bay Regional Water Board, United States Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), and California Department of Fish and Wildlife (CDFW) (collectively, the Technical Working Group). The Deputy Director may require changes as part of any approval. Unless otherwise approved by the Deputy Director, at a minimum the Interim Flows Plan shall include:

- Minimum instream flows identified in Valley Water's February 25, 2025, final Environmental Impact Report (EIR) for the Project (Valley Water 2025a). Valley Water shall maintain the following minimum instream flows:
    - 3 to 5 cubic feet per second (cfs) at Gage SF12 (downstream of Coyote Reservoir) through releases from Coyote Reservoir in the spring and summer, when supply is available;
    - 2.5 cfs at streamflow station 5058, Coyote Creek at Edenvale, during adult steelhead up migration season (December 1 to April 30) per the requirements of the Streambed Alteration Agreement issued by CDFW for the Coyote Percolation Dam Diversion; and
    - 10 cfs at the Madrone Station Gage 5082;

- Details of how minimum instream flows described in the Project's final EIR and certification application will be maintained throughout the Project's duration with consideration of various hydrologic conditions;
- Details on how compliance with the minimum flows will be determined including use of instantaneous (15-minute increment) or daily average flows and a list of gages and/or other monitoring locations that will be used for compliance with the minimum flows;
- Historical flow data for Coyote Creek;
- Comments received from Technical Working Group during the consultation process and a description of how comments were addressed; and
- How the following facilities that help regulate instream flow will be operated to maintain flows:
    - Coyote Reservoir;
    - Anderson Dam Tunnel/ North and South Channels;
    - Coyote Discharge Line;
    - Cross Valley Pipeline; and
    - Coyote Percolation Pond.

Valley Water shall not commence Project construction activities without receipt of Deputy Director approval of the Interim Flows Plan. Valley Water shall file the Deputy Director-approved Interim Flows Plan and any updates thereto with FERC and the United States Army Corps of Engineers (USACE). Valley Water shall implement the Interim Flows Plan upon approval of the Deputy Director and any other required approvals, in accordance with the schedule and requirements specified therein. Any changes to the Interim Flows Plan shall be approved by the Deputy Director prior to implementation. The Deputy Director may require changes to the Interim Flows Plan as part of approval of reports associated with the Adaptive Management Plan, which is discussed below.

Decommissioning

Valley Water shall submit a plan for the decommissioning of the Anderson Dam Hydroelectric Project facilities (Decommissioning Plan) to the Deputy Director for review and consideration of approval no later than six months prior to the desired start date for decommissioning of hydroelectric facilities and associated work. The Deputy Director may approve a shorter timeframe for plan submittal; any such request shall be submitted to the Deputy Director as soon as possible and no less than six months prior to the desired start date for decommissioning activities. The Decommissioning Plan shall be developed in consultation with the State Water Board and the San Francisco Bay Regional Water Board. The Deputy Director may require changes as part of any approval. Unless otherwise approved by the Deputy Director, at a minimum the Decommissioning Plan shall include:

- A description of activities to be performed pertaining to the decommissioning of the Anderson Dam Hydroelectric Project facilities including a list of facilities, staging locations, equipment to be used, activities to be performed, and site maps;
- A schedule for decommissioning-related activities to be performed;

- A detailed list of Items and equipment to be removed from the facilities including any known hazardous materials or waste, and the plan for disposal or reuse of the materials;
- A list of best management practices (BMPs), avoidance and minimization measures (AMMs), and protocols to be implemented to ensure all equipment and materials are safely removed and disposed of if applicable; and
- A description of how abandoned facilities will be maintained, if applicable;

Valley Water shall not commence decommissioning activities without receipt of Deputy Director approval of the Decommissioning Plan. Valley Water shall file the Deputy Director-approved Decommissioning Plan and any updates thereto with FERC and USACE. Valley Water shall implement the Decommissioning Plan upon receipt of Deputy Director and any other required approvals, in accordance with the schedule and requirements specified therein. Any changes to the Decommissioning Plan shall be approved by the Deputy Director prior to implementation.

Adaptive Management Plan

Valley Water shall submit an Adaptive Management Plan (AMP) for review and consideration of approval by the Deputy Director no later than three months prior to starting Project implementation. The Deputy Director may approve a shorter timeframe for plan submittal; any such request shall be submitted to the Deputy Director as soon as possible and no less than three months prior to Project implementation. The AMP shall be developed in consultation with the Technical Working Group and Santa Clara County Parks. The Deputy Director may require changes as part of any approval. Unless otherwise approved by the Deputy Director, the AMP shall include, at a minimum:

- Additional details to refine and supplement the “ADSRP & FAHCE Adaptive Management Plan Details” (EIR Appendix D) and the Fish Habitat Restoration Plan (EIR Appendix A);
- Identification of the process and frequency Valley Water will use to review implementation of Project plans, monitoring data, and other conditions associated with Project implementation to formulate recommendations, if applicable, for adaptive management aimed at ensuring the ongoing protection of water quality and beneficial uses throughout Project implementation;
- Description of Project components intended to support FAHCE Settlement Agreement compliance;
- Process, including a description of information to be provided, to request Deputy Director approval to alter the methodologies or frequencies of monitoring; and
- Comments received from Technical Working Group and Santa Clara County Parks during the consultation process and a description of how comments were addressed.

Valley Water shall not commence Project construction activities without receipt of Deputy Director approval of the AMP. Valley Water shall file the Deputy Director-approved AMP, and any updates thereto, with FERC and USACE. Valley Water shall implement the AMP upon receipt of Deputy Director and any other required approvals,

in accordance with the schedule and requirements specified therein. Any changes to the AMP shall be approved by the Deputy Director prior to implementation.

CONDITION 2: Water Quality Monitoring

Valley Water shall submit a Water Quality Monitoring Plan (WQMP) for review and consideration of approval by the Deputy Director no later than three months prior to starting Project implementation. The Deputy Director may approve a shorter timeframe for plan submittal; any such request shall be submitted to the Deputy Director as soon as possible and no less than three months prior to Project implementation. The WQMP shall be developed in consultation with the Technical Working Group. The Deputy Director may require changes as part of any approval. Unless otherwise approved by the Deputy Director, at a minimum the WQMP shall include the items bulleted below and later in this condition:

- A monitoring program to assess Project impacts to water quality, including quality assurance/quality control measures that will be implemented;
- Water quality monitoring locations for each Project activity, including background monitoring locations as applicable. Activities shall include but are not limited to: (1) demolition and reconstruction of Anderson Dam; (2) dewatering and diversions in Coyote Creek; (3) construction activities at the Coyote Percolation Pond Bladder Dam; and (4) construction activities at the Ogier Ponds restoration site;
- A list of parameters that will be monitored, including sampling types and sampling frequency;
- A detailed description of how cold-water temperatures will be maintained (e.g., use of chillers to cool imported water prior to release via the Coyote Discharge Line into Coyote Creek within the functional cold water management zone) to support Aquatic and Biological Resources (Condition 5);
- A reporting schedule for water quality data and the response and reporting associated with any water quality objective exceedances; and
- Comments received from Technical Working Group during the consultation process and a description of how comments were addressed.

Field Sampling and Analytical Methods
Valley Water shall implement field sampling and monitoring methods consistent with the State of California's Surface Water Ambient Monitoring Program or equivalent methods approved by the Deputy Director. Valley Water shall use analytical methods that comply with Code of Federal Regulations, title 40, part 136, or methods approved by California's Environmental Laboratory Accreditation Program, where such methods are available. Samples that require laboratory analysis shall be analyzed by Environmental Laboratory Accreditation Program-certified laboratories.

Quality Assurance Project Plan
Valley Water shall develop a Quality Assurance Project Plan (QAPP) using the State Water Board's and United States Environmental Protection Agency's (USEPA's) guidance resources to describe the Project's monitoring goals, data needs and assessment, responsible individuals, quality assurance plan, equipment maintenance,

quality control measures, and reporting deadlines. The QAPP shall be submitted as part of the WQMP.

Water Quality Objectives
Valley Water shall comply with applicable water quality objectives established in the *Water Quality Control Plan for the San Francisco Bay Basin* (SF Bay Basin Plan) and any amendments thereto, including those listed below for convenience[12]:

- 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 Nephelometric Turbidity Units.
- Temperature:
  - The natural receiving water temperature of inland surface waters shall not be altered unless it can be demonstrated to the satisfaction of the San Franscisco Bay Regional Water Quality Control Board (San Francisco Bay Regional Water Board) that such alteration in temperature does not adversely affect beneficial uses.
  - The temperature of any cold or warm freshwater habitat shall not be increased by more than 5 degrees Fahrenheit (2.8 degrees Celsius) above natural receiving water temperature.
- Percent of Hydrogen (pH):
  - The pH shall not be depressed below 6.5 nor raised above 8.5. This encompasses the pH range usually found in waters within the basin. Controllable water quality factors shall not cause changes greater than 0.5 units in normal ambient pH levels.
- Dissolved Oxygen:
  - Waters designated as:
    - Cold water habitat 7.0 milligrams per liter (mg/l) minimum
    - Warm water habitat 5.0 mg/l minimum
  - The median dissolved oxygen concentration for any three consecutive months shall not be less than 80 percent of the dissolved oxygen content at saturation.
  - Dissolved oxygen is a general index of the state of the health of receiving waters. Although minimum concentrations of 5 mg/l and 7 mg/l are frequently used as objectives to protect fish life, higher concentrations are generally desirable to protect sensitive aquatic forms. In areas unaffected by waste discharges, a level of about 85 percent of oxygen saturation exists. A three-month median objective of 80 percent of oxygen saturation allows for some degradation from this level, but still requires a consistently high oxygen content in the receiving water.
- Sediment

[12] Valley Water shall refer to the SF Bay Basin Plan for the most current water quality objectives.

    - The suspended sediment load and suspended sediment discharge rate of surface waters shall not be altered in such a manner as to cause nuisance or adversely affect beneficial uses.
- Controllable water quality factors shall not cause a detrimental increase in the concentrations of toxic pollutants in sediments or aquatic life.
    - All waters shall be maintained free of toxic substances in concentrations that are lethal to or that produce significant alterations in population or community ecology or receiving water biota. In addition, the health and life history characteristics of aquatic organisms in waters affected by controllable water quality factors shall not differ significantly from those for the same waters in areas unaffected by controllable water quality factors.
- Settleable Material. Waters shall not contain substances in concentrations that result in the deposition of material that cause nuisance or adversely affect beneficial uses.
- Oil and Grease. Waters shall not contain oils, greases, waxes, or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water, that cause nuisance, or that otherwise adversely affect beneficial uses.
- Suspended Material. Waters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses.

Valley Water shall file the Deputy Director-approved WQMP and any updates thereto, with FERC and USACE. Valley Water shall implement the WQMP upon receipt of Deputy Director and any other required approvals, in accordance with the schedule and requirements specified therein. Any changes to WQMP shall be approved by the Deputy Director prior to implementation.

CONDITION 3: Construction- and Post-Construction-Related Measures

Valley Water shall submit a Water Quality Protection Plan (WQPP) for review and consideration of approval by the Deputy Director no later than three months prior to starting Project implementation. The Deputy Director may approve a shorter timeframe for plan submittal; any such request shall be submitted to the Deputy Director as soon as possible and no less than three months prior to Project implementation. The WQPP shall be developed in consultation with State Water Board and San Francisco Bay Regional Water Board staff. The Deputy Director may require changes as part of any approval. Unless otherwise approved by the Deputy Director, at a minimum the WQPP shall include:

- A description and map of all waterbodies that may be impacted by Project activities, and structures related to the Project including all roads, bridges, staging areas, stockpiles, excavation areas, and construction sites;
- BMPs and AMMs that will be implemented to protect water quality and beneficial uses, which may refer to other plans required by the certification (e.g., Decommissioning Plan);
- A description and the purpose of each stockpile (location, stockpiled material, maximum stockpile dimensions, and volume) including, but not limited to, the following stockpiles: dam reconstruction; spillway construction; Basalt borrow

area; Packwood gravel borrow pit; Reservoir Disposal Area; and at least nine stockpile sites around Anderson Reservoir;
- A schedule for using and managing each stockpile and the hauling routes to and from each stockpile;
- BMPs to protect each stockpile from erosion, sedimentation, and wind erosion of stockpiled materials;
- Details of how construction materials will be stored so that they will not pose a risk to surface waters;
- Compliance with the State Water Board's Construction General Permit and San Francisco Regional Water Board's Municipal Regional Permit, which are described further below;
- Implementation of the following mitigation measures identified in Valley Water's February 25, 2025 final EIR for the Project as they pertain to the protection of water quality and beneficial uses of Anderson Reservoir and Coyote Creek:
    - Water Quality (WQ)-1: Develop and Implement an In-Reservoir Construction Area Water Quality Monitoring and Protection Plan;
    - Geology (GEO)-1: Repair Landslides Caused by Construction Activities;
    - Hazardous Materials (HAZ)-7: Soil Testing and Proper Disposal of Potentially Contaminated Soils; and
    - Groundwater (GW)-2: Perchlorate Best Management Practices; and
- Comments received from the Technical Working Group during the consultation process and a description of how comments were addressed.

Valley Water shall not commence Project activities that may impact surface waters without receipt of Deputy Director approval of the WQPP. Valley Water shall file the Deputy Director-approved WQPP, and any updates thereto, with FERC and USACE. Valley Water shall implement the WQPP upon receipt of Deputy Director and any other required approvals, in accordance with the schedule and requirements specified therein. Any changes to the WQPP shall be approved by the Deputy Director prior to implementation.

Construction General Permit
Valley Water shall comply with the terms and conditions in the State Water Board's National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit; State Water Board Order 2009-0009-DWQ, as amended by State Water Board Orders 2010-0014-DWQ and 2022-0057-DWQ), and ongoing amendments during the life of the Project.

San Francisco Bay Region Municipal Regional Stormwater Permit
Valley Water shall comply with the terms and conditions of the *San Francisco Bay Region Municipal Regional Stormwater NPDES Permit* (Order No. R2-2022-0018, as amended by Order No. R2-2023-0019) and any amendments thereto or reissuance thereof during Project implementation (Municipal Regional Permit), to mitigate for creation of new, or redevelopment of existing impervious surfaces in the Project, pursuant to Provision C.3 of the Municipal Regional Permit.

No later than February 27, 2026, Valley Water shall submit a draft Post-Construction Stormwater Management Plan to the San Francisco Bay Regional Water Board's Executive Officer for review and comment. The Deputy Director may modify the deadline for the draft plan; any request to modify the deadline to submit the draft plan shall be requested at least three months prior to the deadline. The draft Post-Construction Stormwater Management Plan shall describe how the Project design complies with Provision C.3 of the Municipal Regional Permit. The draft Post-Construction Stormwater Management Plan shall be developed in consultation with the San Francisco Regional Water Board and State Water Board staff. The Post-Construction Stormwater Management Plan shall include details sufficient to characterize the following Project elements for each impervious surface:

- Location and type of surface (e.g., road, parking lot, building);
- Dimensions (length, width, slope);
- Purpose and materials creating the impervious surface;
- Stormwater runoff drainage route or (if applicable) multiple routes;
- Stormwater treatment measures to capture, detain, retain, infiltrate, and treat stormwater runoff, including managing its hydromodification impacts;
- Calculations for flow-based, volume-based, or a combination of flow-based and volume-based stormwater treatment measures;
- Trash capture and reduction measures for public use areas such as the Anderson Park parking lot; and
- Schedule for the construction of impervious surfaces.

No later than four months following the receipt of comments on the draft Post-Construction Stormwater Management Plan, Valley Water shall submit a final Post-Construction Stormwater Management Plan to the Deputy Director for review and consideration of approval. The Deputy Director may require changes as part of any approval.

Valley Water shall file the Deputy Director-approved Post-Construction Stormwater Management Plan, and any updates thereto, with FERC and USACE. Valley Water shall implement the Post-Construction Stormwater Management Plan upon receipt of Deputy Director and any other required approvals, in accordance with the schedule and requirements specified therein. Any changes to the Post-Construction Stormwater Management Plan shall be approved by the Deputy Director prior to implementation. Unless otherwise approved by the Deputy Director, Valley Water shall not construct any impervious surfaces prior to approval of the Post-Construction Stormwater Management Plan.

CONDITION 4: Hazardous Materials Management

Valley Water shall submit a Hazardous Materials Management Plan (Hazardous Materials Plan) for review and consideration of approval by the Deputy Director no later than two months prior to the start of Project implementation. The Deputy Director may approve a shorter timeframe for plan submittal; any such request shall be submitted to the Deputy Director as soon as possible and no less than two months prior to Project implementation. The Hazardous Materials Plan shall be developed in consultation with

State Water Board and San Francisco Bay Regional Water Board staff. The Deputy Director may require changes as part of any approval. Unless otherwise approved by the Deputy Director, at a minimum, the Hazardous Materials Plan shall include:

- A list of heavy equipment that will be used for Project activities, noting what Project activities the equipment is associated with and the general locations of where the equipment will be used and stored;
- A complete inventory of hazardous materials involved in Project activities, including decommissioning of the hydroelectric facilities;
- Details of how hazardous materials will be used, removed, transported, and disposed of throughout the Project;
- AMMs and BMPs that will be implemented to minimize the potential for oils, greases, and other hazardous materials or contaminants to enter waterways. This shall include specific measures related to refueling and maintenance of vehicles and equipment including details of secondary containment and spill prevention protocols. When applicable, containment structures shall comply with California Code of Regulations, title 27, section 20320;
- Details of overwintering preparation including storage of vehicles and construction equipment, stockpiles and spoil piles, staging areas, and construction sites;
- A description of spill response equipment and procedures to be initiated if a spill incident occurs;
- Actions to be taken in the event of a release of hazardous materials with the potential to impact surface waters that at a minimum includes the actions noted in the Release of Hazardous Materials section below; and
- Comments received from State Water Board and San Francisco Bay Regional Water Board staff during the consultation process and a description of how comments were addressed.

Valley Water shall not commence Project activities without receipt of Deputy Director approval of the Hazardous Materials Plan. Valley Water shall file the Deputy Director-approved Hazardous Materials Plan, and any updates thereto, with FERC and USACE. Valley Water shall implement the Hazardous Materials Plan upon receipt of Deputy Director and any other required approvals, in accordance with the schedule and requirements specified therein. Any changes to the Hazardous Materials Plan shall be approved by the Deputy Director prior to implementation.

Release of Hazardous Materials

If hazardous materials are released with the potential to impact surface waters, Valley Water shall immediately cease any activities related to the release and implement measures to limit and clean up the release. Valley Water shall notify the Deputy Director and San Franscisco Bay Regional Water Board Executive Officer promptly, and in no case more than 24 hours, following the release. The notice shall include the type and quantity of material released, cause of the release, corrective measures taken, and measures Valley Water will implement to prevent a future release. The Deputy Director may require additional actions to help prevent similar releases in the future. Valley Water may resume work upon Deputy Director approval.

CONDITION 5: Aquatic and Biological Resources

Valley Water shall implement the fish, reptile, wildlife, wetlands, and creek studies, surveys, and monitoring measures as described in Appendix A: *Complete Project Description* of its Project certification application*,* including:

- Migration Flow Monitoring;
- Juvenile Rearing Studies;
- Migration Study;
- Growth Comparative Study;
- Environmental DNA (e-DNA) Monitoring;
- VAKI Riverwatcher Adult Escapement Monitoring;
- Fish Rescue and Relocation;
- Spawning Surveys;
- Western Pond Turtle Monitoring;
- Invasive Species Monitoring;
- Terrestrial Animal Monitoring;
- Wetland and Vegetation Dryback Monitoring; and
- Phytophthora several species (spp.) Management and Monitoring.

Any changes to the monitoring, surveys, and studies listed above and/or in Appendix A of the Project certification application shall be approved by the Deputy Director prior to implementation. The Deputy Director may require changes as part of any approval.

Protection and Mitigation Measures
No later than one month prior to the start of the Project, Valley Water shall provide a comprehensive list of federal and state protected species that may occur within the Project area and include BMPs and AMMs that will be implemented to ensure protection of these species. Updates to this information shall be provided as necessary throughout the Project term and may be included as part of progress reports required in Condition 6.

Valley Water shall implement the following mitigation measures identified in its final EIR for the Project:

- Terrestrial (TERR)-1a(2): Implementation of AMMs during Post-Construction Maintenance at Anderson Dam and Conservation Measures Facilities to Reduce the Potential for Introduction or Spread of Phytophthora;
- TERR-1a(3): Special-Status Plant Survey in the Previously Unsurveyed Portions of the Seismic Retrofit Area;
- TERR-1c(1): Special-Status Species Avoidance and Minimization Measures During Year 6 Reservoir Dewatering;
- TERR-1c(2): Nonnative Species Management in Upper Penitencia Creek Watershed;
- TERR- 1e: Bald Eagle and Golden Eagle; and

- TERR-1j: Contribution to Baylands Predator Management and High Tide Refugia Enhancement for San Francisco Bay Special-Status Species.

Any changes to the mitigation measures listed above shall be approved by the Deputy Director prior to implementation. The Deputy Director may require changes as part of any approval.

Gravel Augmentation and Habitat Complexity Improvements
Valley Water shall submit a Gravel Augmentation and Habitat Complexity Improvements Plan (Gravel Augmentation and Habitat Improvements Plan) for review and consideration of approval by the Deputy Director no later than three months prior to the start of Project construction. The Deputy Director may approve a shorter timeframe for plan submittal; any such request shall be submitted to the Deputy Director as soon as possible and no less than three months prior to Project implementation. The Gravel Augmentation and Habitat Improvements Plan shall include the following components as described in Valley Water's application for certification:

- Maintenance Activities at the Live Oak Park Restoration Reach, consisting of maintaining gravel and large woody debris constructed under the FOCP; and
- Sediment Augmentation Program, which consists of planning and implementing spawning gravel augmentation in multiple sites in the Live Oak Park Restoration Reach and Ogier Ponds during the Project.

The Gravel Augmentation and Habitat Improvements Plan shall be developed in consultation with the Technical Working Group. The Deputy Director may require changes as part of any approval. Unless otherwise approved by the Deputy Director, at a minimum, the Gravel Augmentation and Habitat Improvements Plan shall include:

- A description of the spawning gravel and large woody debris augmentation that has taken place as part of the FOCP;
- Detailed plans including site maps, drawings, and/or pictures of additional gravel and large woody debris augmentation that will be performed at Live Oak Park Restoration Reach and/or Ogier Ponds as part of the Project;
- A schedule for implementation of the Gravel Augmentation and Habitat Improvements Plan that includes initial gravels placement for spawning and rearing habitat, monitoring of the site(s), and subsequent gravels placement;
- Information on the gravel particle size(s) to be used;
- A quantitative breakdown of how much gravel will be placed in the at each location(s) or reach(es) and/or how monitoring will determine the volumes of gravel to be placed at a later date as part of maintenance efforts;
- Monitoring procedures that will be implemented to track gravel mobilization and effects of gravel on beneficial uses, and to track stability of habitat complexity structures placed as part of the FOCP in the Live Oak Park Restoration Reach;
- A description of how placement of gravels in the reach will benefit steelhead habitat, how success criteria will be defined, and adaptive management;
- Evaluation of the feasibility of extending the gravel augmentation program's 20-year timeframe, due to Anderson Dam's long-term effects on sediment transport;

- Reporting schedule to document plan implementation and effectiveness relative to success criteria; and
- Documentation of consultation with agencies in development of the Gravel Augmentation and Habitat Improvements Plan.

Valley Water shall not commence habitat complexity improvements construction activities without receipt of Deputy Director approval of the Gravel Augmentation and Habitat Improvements Plan. Valley Water shall file the Deputy Director-approved Gravel Augmentation and Habitat Improvements Plan, and any updates thereto, with FERC and USACE. Valley Water shall implement the Gravel Augmentation and Habitat Improvements Plan upon receipt of Deputy Director and any other required approvals, in accordance with the schedule and requirements specified therein. Any changes to the Gravel Augmentation and Habitat Improvements Plan shall be approved by the Deputy Director prior to implementation.

Ogier Ponds Restoration Project

Valley Water shall submit an Ogier Ponds Construction Plan (Ogier Ponds Plan) to the Deputy Director for review and consideration for approval no later than March 1, 2032, or one year prior to the commencement of Ogier Ponds construction, whichever is first. The Deputy Director may approve a shorter timeframe for plan submittal; any such request shall be submitted to the Deputy Director as soon as possible and no less than one year prior to commencement of Ogier Ponds construction. The Ogier Ponds Plan shall be developed in consultation with the Technical Working Group. The Deputy Director may require changes as part of any approval. Unless otherwise approved by the Deputy Director, at a minimum, the Ogier Ponds Plan shall include:

- A detailed description of construction activities to be performed;
- A schedule for construction activities;
- A description of how the restoration project will result in improvements to ecological and geomorphic functions within this reach of Coyote Creek, as well as upstream and downstream of this reach;
- A detailed summary of water quality and biological monitoring that will be performed during Ogier Ponds construction;
- A description of dewatering methods;
- A list of BMPs and AMMs that will be implemented throughout construction to ensure protection of water quality and beneficial uses;
- Success criteria that will be used to assess the outcome of this conservation measure;
- A description of post-construction operations of Ogier Ponds and adaptive management process, which may refer to the Adaptive Management Plan required under Condition 1; and
- A schedule for reporting construction progress and the evaluation of success criteria.

Valley Water shall not commence Ogier Ponds construction activities without receipt of Deputy Director approval of the Ogier Ponds Plan. Valley Water shall file the Deputy Director-approved Ogier Ponds Plan, and any updates thereto, with FERC and USACE. Valley Water shall implement the Ogier Ponds Plan upon receipt of Deputy Director and

any other required approvals, in accordance with the schedule and requirements specified therein. Any changes to the Ogier Ponds Plan shall approved by the Deputy Director prior to implementation.

Phase 2 Coyote Creek Percolation Pond Project Plan
Valley Water shall submit a plan for Phase 2 of the Coyote Percolation Pond Project to the Deputy Director for review and consideration of approval no later than March 1, 2027, or one year prior to the start of construction activities for Phase 2 of the Coyote Percolation Pond Project, whichever comes first. The Deputy Director may approve a shorter timeframe for plan submittal; any such request shall be submitted to the Deputy Director as soon as possible and no less than one year prior to commencement of the Phase 2 Coyote Percolation Pond Project construction. The Phase 2 Coyote Creek Percolation Pond Project Plan shall be developed in consultation with the Technical Working Group. The Deputy Director may require changes as part of any approval. Unless otherwise approved by the Deputy Director, at a minimum, the Phase 2 Coyote Percolation Dam Project Plan shall include:

- Detailed plans including site maps, drawings, and/or photos for construction of the Phase 2 activities for the Coyote Percolation Bladder Dam;
- A list of BMPs and AMMs that will be implemented to prevent direct and indirect adverse impacts to beneficial uses of Coyote Creek, including dredge or fill discharges;
- A schedule for implementation of construction activities;
- A description of dewatering activities;
- A description of equipment and materials to be used;
- A detailed water quality monitoring plan that includes the following constituents: temperature, pH, turbidity, total dissolved solids, and dissolved oxygen consistent with water quality monitoring procedures and methods required as part of Condition 2: Water Quality Monitoring;
- A description of interim bladder dam operations during ADSRP implementation, triggers for raising or lowering the dam, and mechanical and electrical equipment to manage the dam;
- A description of flow and water surface elevations for the range of flows that will occur at the Coyote Percolation Pond facility, including flows at the fish ladder, fish lane, and the dam. The description shall include how the flow conditions account for safe fish passage in both directions;
- A description of routine maintenance that may be necessary (e.g., sediment removal, vegetation management) in advance of Project completion;
- An evaluation of water supply and other beneficial uses during different hydrologic conditions and a proposal to operate the percolation pond during the Project to minimize impacts to steelhead. This includes evaluation of how the bladder dam may be operated (e.g., lowered) to support steelhead during the juvenile outmigration season and how such operation may impact water supply during different hydrologic conditions (e.g., wet versus dry years). Based on this evaluation, Valley Water shall propose interim operations and adaptive management of the bladder dam during the Project to better support steelhead with consideration of associated water supply impacts; and

- Documentation of consultation with the Technical Working Group, including comments received as part of consultation and how such comments were addressed.

Valley Water shall not commence the Phase 2 Coyote Percolation Pond Project Plan construction activities without receipt of Deputy Director approval of the Phase 2 Coyote Percolation Pond Project Plan. Valley Water shall file the Deputy Director-approved Phase 2 Coyote Percolation Pond Project Plan and any updates thereto, with FERC and USACE. Valley Water shall implement the Phase 2 Coyote Percolation Pond Project Plan upon receipt of Deputy Director and any other required approvals, in accordance with the schedule and requirements specified therein. Any changes to the Phase 2 Coyote Percolation Pond Project Plan shall be approved by the Deputy Director prior to implementation.

Habitat Mitigation Plan
Valley Water shall submit a Habitat Mitigation Plan to the Deputy Director for review and consideration of approval no later than February 27, 2026. The Deputy Director may approve a shorter timeframe for plan submittal; any such request shall be submitted to the Deputy Director as soon as possible and no later than December 1, 2025. The Habitat Mitigation Plan shall be developed in consultation with the Technical Working Group. The Deputy Director may require changes as part of any approval. Unless otherwise approved by the Deputy Director, at a minimum, the Habitat Mitigation Plan shall include:

- The amount of jurisdictional wetlands and others waters of the State that will be impacted by Project activities or that will serve as compensatory mitigation for the Project. Upland forest, scrub, and other upland categories shall be excluded from the calculation;
- A list of projects that Valley Water will implement in the Coyote Creek watershed to improve ecological, hydrologic, and geomorphic functions and values in Coyote Creek, and a description of the restoration that will be performed as part of the Project;
- A list of any mitigation that will be implemented under the Valley Habitat Plan (VHP) In-Lieu Fee Program (ILFP);
- For each compensatory project or action, provide interim performance and final success criteria and how such performance and success will be measured and monitored (e.g., photographs) to document each project's success;
- How Valley Water will comply with the *State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State* (Dredge or Fill Procedures)[13] and the wetland protection policy in the SF Basin Plan;
- Annual updates to the Habitat Mitigation Plan that track the amount of compensatory mitigation of wetlands and other waters of the State performed relative to Project impacts, evaluate the success of mitigation efforts using

[13] The Dredge or Fill Procedures and any amendments thereto. Available online at: https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/2021/procedures.pdf. (Accessed: February 13, 2025).

monitoring results, and incorporate the findings of any relevant studies or surveys related to mitigation efforts; and

- Additional compensatory mitigation, as needed, to address impacts from the Project or projects included in the Habitat Mitigation Plan.

The amount of mitigation shall be commensurate with the impact. Compensatory mitigation via VHP ILFP shall be implemented by projects that provide in-kind mitigation of Project impacts and shall be within the Coyote Creek watershed whenever feasible. Compensatory mitigation performed by Valley Water (i.e., not covered under the VHP ILFP) shall be in-kind to the extent feasible and shall be in the Coyote Creek watershed as close to the impacted area as possible. The amount of mitigation required shall increase with the distance from the impacted area(s), and shall increase for out-of-kind mitigation of Project impacts (e.g., use of riparian vegetation to mitigate for wetland impacts would require a greater amount than replacement of lost wetlands with wetlands). Other factors that may impact the amount of mitigation required include the degree of improvement associated with the mitigation (i.e., the improvement to the functions and values of Coyote Creek's beneficial uses), the timing of the mitigation's completion and the associated improvement relative to the impact, and certainty of success.

Valley Water shall not commence implementation of the Habitat Mitigation Plan without receipt of Deputy Director approval of the Habitat Mitigation Plan. Valley Water shall file the Deputy Director-approved Habitat Mitigation Plan, and any updates thereto, with FERC and USACE. Valley Water shall implement the Habitat Mitigation Plan upon receipt of Deputy Director and any other required approvals, in accordance with the schedule and requirements specified therein. Any changes to the Habitat Mitigation Plan shall be approved by the Deputy Director prior to implementation.

CONDITION 6: Reporting

Initial Notification and Updates to Project Schedule. At least five days prior to starting Project activities, Valley Water shall notify the San Francisco Bay Regional Water Board and State Water Board staff that Project activities are anticipated to begin and provide the anticipated schedule for the Project. The notification shall include a summary of pre-construction surveys for aquatic resources, including any relocated or fenced-off aquatic species or sensitive habitat. Throughout Project implementation Valley Water shall provide State Water Board staff with updates to any major changes to the Project schedule within five days of the schedule change. Any changes to Project activities that may impact water quality shall be submitted to the Deputy Director for review and consideration for approval prior to implementation. The Deputy Director may require changes as part of any approval. Valley Water shall not implement such changes without receipt of Deputy Director and other required approvals.

Progress Reports. Every six months following initiation of Project activities and throughout Project implementation, Valley Water shall submit Progress Report to the Division of Water Rights Water Quality Certification Project Manager. At a minimum, the Progress Reports shall include:

- Identification of the reporting period and a summary of Project activities performed;
- Documentation of compliance with each condition of this certification and details of any failure to meet the certification requirements;
- Water quality monitoring results, including:
    - Raw data;
    - A description of monitoring methods, including equipment, frequency of data collection, quality assurance/quality control protocols; and
    - Description of any water quality exceedances or information necessary to understand to results;
- Details of Project-related adverse impacts to beneficial uses, if applicable; and
- Any anticipated Project implementation activities (e.g., construction, dewatering, or diversion) differing from those described in the certification application or required by this certification. (As described in this certification, Valley Water must seek Deputy Director approval of such changes independent of the progress reports.)

If determined necessary by the Deputy Director, Valley Water shall consult with State Water Board staff regarding the need for additional site-specific measures to protect water quality and implement any measures determined necessary by the Deputy Director.

Valley Water may request consultation regarding the need for development and implementation of additional BMPs for water quality protection or approval of additional site-specific construction measures as part of a Progress Report or as part of a separate request if more immediate action is needed to protect water quality. If determined necessary by the Deputy Director, Valley Water shall consult with State Water Board staff regarding the need for additional site-specific measures to protect water quality and implement any measures determined necessary by the Deputy Director.

Completion Report. Unless the timeline is otherwise modified by the Deputy Director, within two years of Project completion, Valley Water shall provide the Deputy Director with a Project Completion Report that includes the following:

- A summary of all Project activities performed;
- Documentation of compliance with each condition of this certification and details of any failure to meet the certification requirements;
- Site photos taken under a variety of locations and flow conditions including high winter flows and summer low flows. The photo locations shall be determined in consultation with State Water Board and San Francisco Regional Water Board staff;
- Effectiveness of post-construction restoration effectiveness that documents:
    - Revegetation efforts and final revegetation site conditions;
    - Success of mitigation projects including Ogier Ponds, Coyote Percolation Dam fish passage enhancements, and sediment augmentation; and

    - River channel conditions to ensure the Project area reflects a natural condition and is not contributing to excess erosion or adverse impacts to water quality.
- Identification of any additional actions that Valley Water plans to perform to ensure mitigation and restoration efforts are successful or address other items associated with the Project's construction activities that are impacting water quality or beneficial uses.

Valley Water shall file the progress reports and Project Completion Report with FERC and USACE.

Upon request from State Water Board staff, Valley Water shall meet with staff to discuss a progress report or the Project Completion Report.

The Deputy Director may require Valley Water to implement corrective actions or approve additional measures proposed by Valley Water in response to the information provided in a Progress Report, a request for consultation, new information in the record, or approval of additional measures to protect water quality and beneficial uses.

CONDITION 7: Site Specific Water Quality Monitoring and Protection Plans

For any ground-disturbing activities that could impact water quality (including beneficial uses) that are not addressed in other conditions of this certification, site-specific water quality monitoring and protection plans shall be prepared and implemented following Deputy Director approval. Such activities may include restoration projects completed under the Habitat Mitigation Plan. No later than two months prior to construction or other activity that could impact water quality or beneficial uses, Valley Water shall submit the water quality monitoring and protection plan to the Deputy Director for review and approval. The Deputy Director may approve a shorter timeframe for plan submittal; any such request shall be submitted to the Deputy Director as soon as possible and no less than two months prior to implementation of the activity. The Deputy Director may require changes as part of any approval. To address this requirement, Valley Water may use resources such as Valley Water's Appendix J of its application for certification, Water Quality Management for Forest System Lands in California –Best Management Practices (USFS 2012), California Department of Transportation's March 2024 Construction Site Best Management Practices (BMP) Manual (Caltrans BMP Manual) (Caltrans 2024), or other appropriate documents.

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CONDITION 8. Unless otherwise specified in this certification or at the request of the Deputy Director, data and/or reports shall be submitted electronically in a format accepted by the State Water Board to facilitate the incorporation of this information into public reports and the State Water Board's water quality database systems in compliance with California Water Code section 13167.

CONDITION 9. This certification does not authorize any act which results in the take of a threatened, endangered, or candidate species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered

Species Act (ESA) (Fish & G. Code, §§ 2050 – 2097) or the federal ESA (16 U.S.C. §§ 1531 – 1544). If a "take" will result from any act authorized under this certification or water rights held by Valley Water, Valley Water must obtain authorization for the take prior to any construction or operation of the portion of the Project that may result in a take. Valley Water is responsible for meeting all requirements of the applicable ESAs for the Project authorized under this certification.

CONDITION 10. This certification shall not be construed as replacement or substitution for any necessary federal, state, and local approvals. Valley Water is responsible for compliance with all applicable federal, state, or local laws or ordinances and shall obtain authorization from applicable regulatory agencies prior to the commencement of Project activities.

CONDITION 11. Any requirement in this certification that refers to an agency whose authorities and responsibilities are transferred to or subsumed by another state or federal agency, will apply equally to the successor agency.

CONDITION 12. Nothing in this certification shall be construed as State Water Board approval of the validity of any water rights, including pre-1914 or riparian claims. The State Water Board has separate authority under the Water Code to investigate and take enforcement action, if necessary, to prevent any unauthorized or threatened unauthorized diversions of water.

CONDITION 13. This certification is subject to modification or revocation upon administrative or judicial review, including but not limited to review and amendment pursuant to Water Code section 13330 and California Code of Regulations, title 23, division 3, chapter 28, article 6 (commencing with section 3867).

CONDITION 14. This certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent application for certification was filed pursuant to California Code of Regulations, title 23, section 3855, subdivision (b), and that application for certification specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

CONDITION 15. This certification is conditioned upon total payment of any fee required under California Code of Regulations, title 23, division 3, chapter 28.

CONDITION 16. Notwithstanding any more specific provision of this certification, any plan or report developed as a condition of this certification requires review and approval by the Deputy Director. The State Water Board's approval authority, including authority delegated to the Deputy Director or others, includes the authority to withhold approval or to require modification of a plan, proposal, or report prior to approval. The State Water Board may take enforcement action if Valley Water fails to provide or implement a required item in a timely manner. If a time extension is needed to submit an item for Deputy Director approval, the Applicant shall submit a written request for the extension, with justification, to the Deputy Director no later than 15 days prior to the deadline. Valley Water shall not implement any plan, proposal, or report until after the applicable State Water Board approval and any other necessary regulatory approvals.

CONDITION 17. In the event of any violation or threatened violation of the conditions of this certification, including if monitoring results indicate that Project activities could violate water quality objectives or impair beneficial uses, the violation or threatened violation is subject to any remedies, penalties, process, or sanctions as provided for under applicable state or federal law. For the purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process, or sanctions for the violation or threatened violation constitutes a limitation necessary to ensure compliance with the water quality standards and other pertinent requirements incorporated into this certification. In response to any violation or threatened violation of the conditions of this certification, Valley Water shall, by a deadline required by the Deputy Director, submit a plan that documents why the violation occurred and steps the Valley Water will implement to address the violation. Valley Water shall implement the plan upon approval from the Deputy Director, and the Deputy Director may require changes as part of any approval.

CONDITION 18. Valley Water shall submit any change to the Project, including, operations, facilities, technology changes or upgrades, or methodology, which could have a significant or material effect on the findings, conclusions, or conditions of this certification, to the State Water Board for prior review and written approval. The State Water Board shall determine significance and may require consultation with other state and/or federal agencies. If the State Water Board is not notified of a change to the Project, it will be considered a violation of this certification.

CONDITION 19. This certification is contingent on compliance with all applicable requirements of the SF Bay Basin Plan.

CONDITION 20. Unless otherwise specified by conditions in this certification, Project activities shall be conducted in a manner consistent with all water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act. Valley Water shall take all reasonable measures to protect the beneficial uses of waters of the state, including Coyote Creek and Anderson Reservoir.

CONDITION 21. In response to a suspected violation of any condition of this certification, the State Water Board or San Francisco Bay Regional Water Board may require the holder of any federal permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the State Water Board deems 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. (Wat. Code, §§ 1051, 13165, 13267, and 13383.)

CONDITION 22. Upon request, a construction schedule shall be provided to State Water Board and San Francisco Bay Regional Water Board staff. Valley Water shall provide State Water Board and San Francisco Bay Regional Water Board staff access to Project sites to document compliance with this certification.

CONDITION 23. A copy of this certification shall be provided to any contractor and all subcontractors conducting Project-related work, and copies shall remain in their

possession at the Project site. Valley Water shall be responsible for work conducted by its contractor, subcontractors, or other persons conducting Project-related work.

CONDITION 24. Valley Water shall use analytical methods approved by California's Environmental Laboratory Accreditation Program, where such methods are available. Samples that require laboratory analysis shall be analyzed by Environmental Laboratory Accreditation Program-certified laboratories.

CONDITION 25. The State Water Board shall provide notice and an opportunity to be heard in exercising its authority to add to or modify the conditions of this certification.

CONDITION 26. Certification that the Project will be protective of the state and federal water quality standards and other appropriate requirements of state law is dependent upon the conditions and limitations imposed by this certification; however, to ensure the validity of this certification upon any challenge that is not addressed by another condition of this certification, the provisions of this certification are severable. If any provision of this certification is found invalid, affects the validity of the certification, or would result in a determination that the State Water Board has waived its section 401 certification authority for the Project, the remainder of this certification shall not be affected. Upon remand from determination on administrative or judicial review that a provision of this certification is invalid or affects the validity of the certification the State Water Board may adopt an alternative term that addresses the water quality issue while avoiding the invalidity.

DRAFT

Eric Oppenheimer
Executive Director

Date

9.0 References

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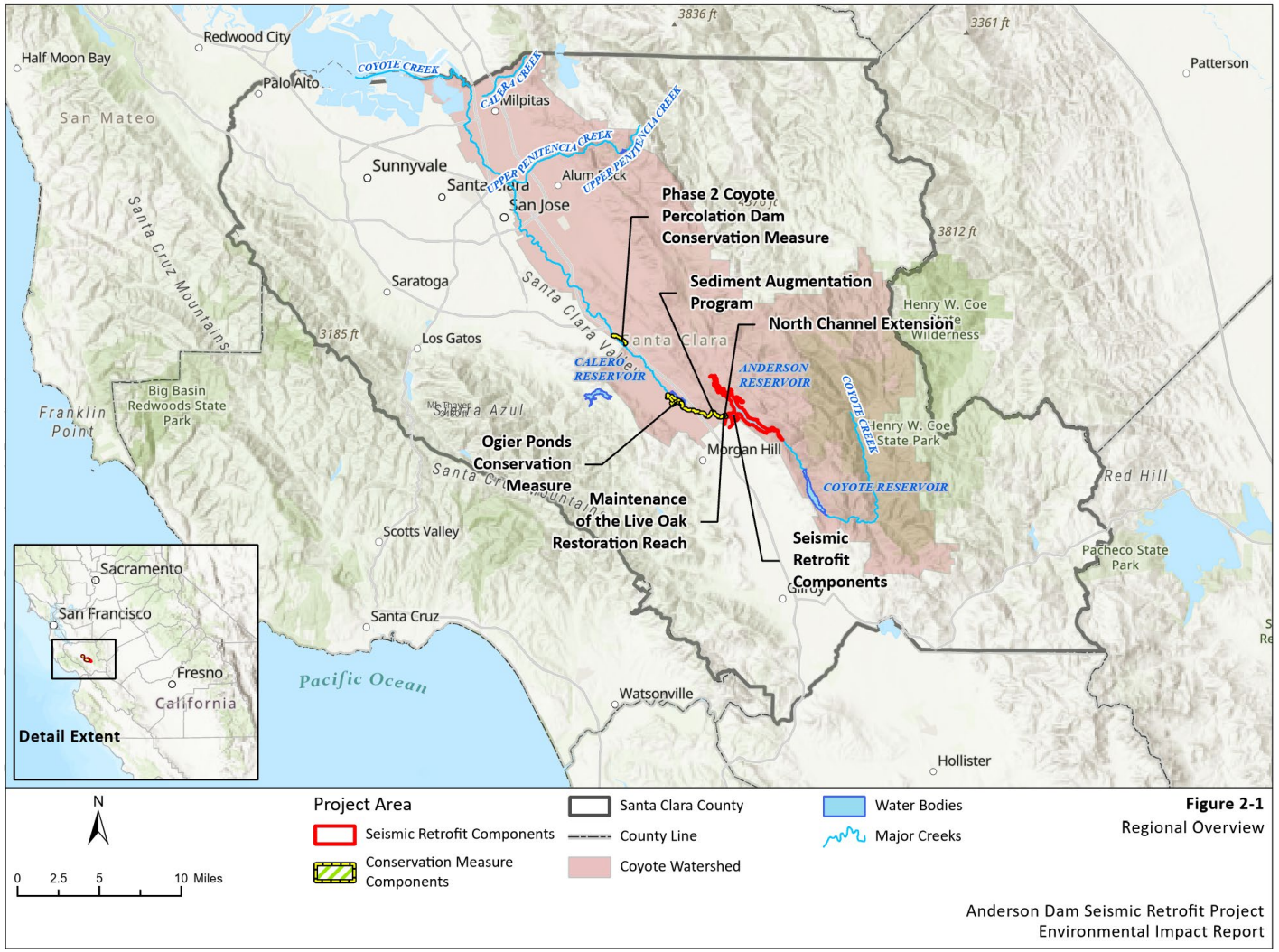
ATTACHMENT A:

PROJECT OVERVIEW MAPS

WATER QUALITY CERTIFICATION
FOR
ANDERSON DAM SEISMIC RETROFIT PROJECT AND LICENSE EXEMPTION SURRENDER

Figure A1. ADSRP Project Location Overview (Valley Water 2024)



Source: Draft Environmental Impact Report (Valley Water, 2024).

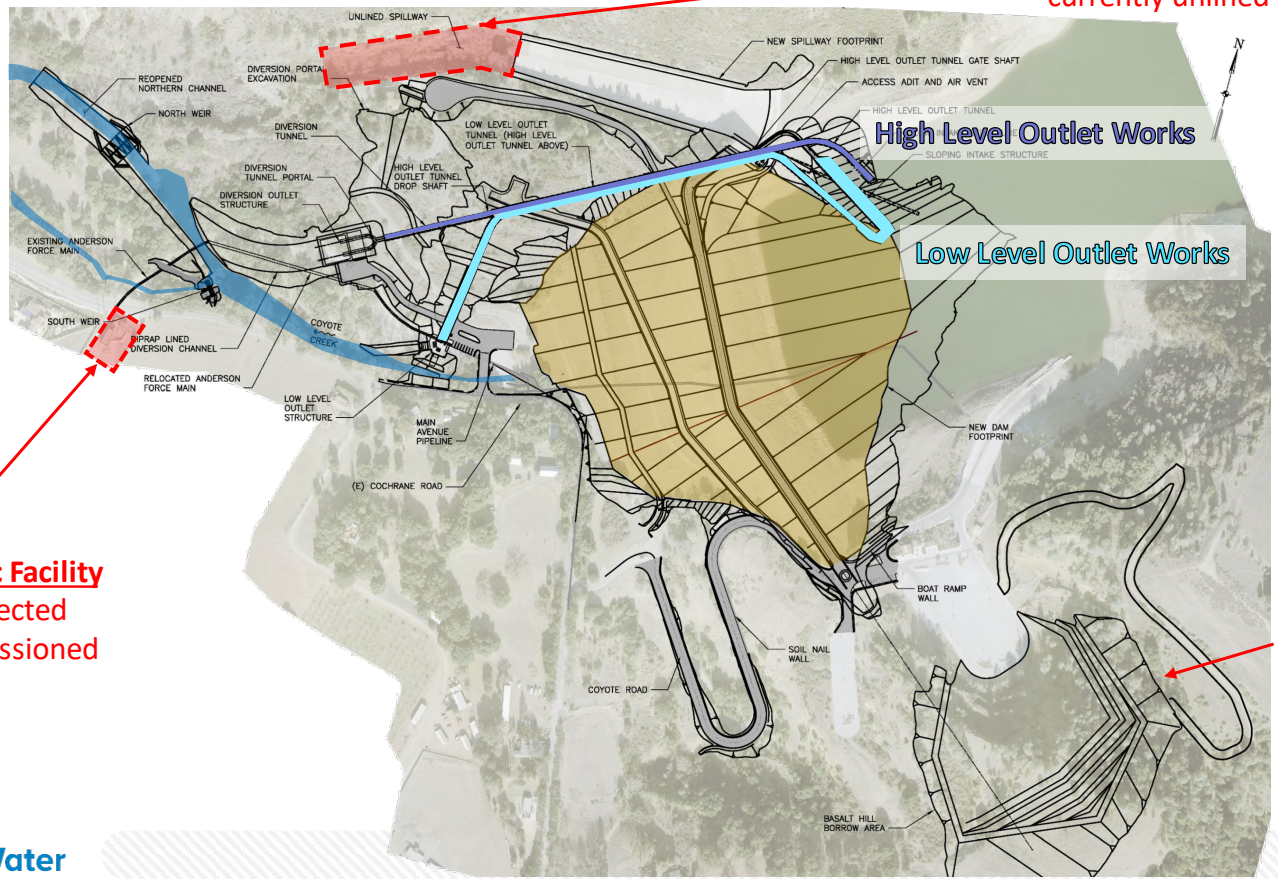
Figure A2. Overview of Construction Activities at Anderson Dam (Valley Water 2025)

Anderson Dam Seismic Retrofit Project

Unlined Spillway
Extension of concrete over currently unlined channel

Coyote Creek
North Channel

South Channel



High Level Outlet Works

Low Level Outlet Works

Hydroelectric Facility
to be disconnected and decommissioned

Basalt Hill Borrow Area
Existing stockpile and future borrow area

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Source: Valley Water's September 2024, public meeting presentation