

## Central Valley Regional Water Quality Control Board

21 August 2015

Gail Newton  
California Department of Water Resources  
901 P Street, 4th Floor  
Sacramento, CA 95814

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***CLEAN WATER ACT §401 TECHNICALLY CONDITIONED WATER QUALITY  
CERTIFICATION; DEPARTMENT OF WATER RESOURCES, DUTCH SLOUGH TIDAL  
MARSH RESTORATION PROJECT (WDID#5B07CR00131), CONTRA COSTA COUNTY***

This Order responds to the 27 March 2012 and revised 4 November 2014 applications submitted by California Department of Water Resources (Applicant) for the Water Quality Certification of a wetland restoration project permanently impacting 8.315 acres and temporarily impacting 270 acres of waters of the United States

This Order serves as certification of the United States Army Corps of Engineers' Individual Permit (SPK-2004-00043) under § 401 of the Clean Water Act, and a Waste Discharge Requirement under the Porter-Cologne Water Quality Control Act and State Water Board Order 2003-0017-DWQ.

### **WATER QUALITY CERTIFICATION STANDARD CONDITIONS:**

1. This Order serves as a Water Quality Certification (Certification) action that is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to § 13330 of the California Water Code and § 3867 of the California Code of Regulations.
2. This Certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent Certification application was filed pursuant to § 3855(b) of the California Code of Regulations, and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. The validity of any non-denial Certification action shall be conditioned upon total payment of the full fee required under § 3860(c) of the California Code of Regulations.

4. This Certification is no longer valid if the project (as described) is modified, or coverage under § 404 of the Clean Water Act has expired.
5. All reports, notices, or other documents required by this Certification or requested by the Central Valley Regional Water Quality Control Board (Central Valley Water Board) shall be signed by a person described below or by a duly authorized representative of that person.
  - (a) For a corporation: by a responsible corporate officer such as (1) a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function; (2) any other person who performs similar policy or decision-making functions for the corporation; or (3) the manager of one or more manufacturing, production, or operating facilities if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
  - (b) For a partnership or sole proprietorship: by a general partner or the proprietor.
  - (c) For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official.
6. Any person signing a document under Standard Condition number 5 shall make the following certification:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

#### **TECHNICAL CERTIFICATION CONDITIONS:**

In addition to the above standard conditions, the Applicant shall satisfy the following:

1. The Applicant shall notify the Central Valley Water Board in writing seven (7) days in advance of the start of any work within waters of the United States.
2. Except for activities permitted by the United States Army Corps of Engineers under § 404 of the Clean Water Act, soil, silt, or other organic materials shall not be placed where such materials could pass into surface water or surface water drainage courses.
3. The Applicant shall maintain a copy of this Certification and supporting documentation (Project Information Sheet) at the Project site during construction for review by site personnel and agencies. All personnel (employees, contractors, and subcontractors) performing work on the proposed project shall be adequately informed and trained regarding the conditions of this Certification.

4. The Applicant shall perform surface water sampling:
  - a) when performing any in-water work;
  - b) in the event that project activities result in any materials reaching surface waters; or
  - c) when any activities result in the creation of a visible plume in surface waters.

The sampling requirements in Table 1 shall be conducted upstream out of the influence of the project, and 300 feet downstream of the work area. The sampling frequency may be modified for certain projects with written approval from Central Valley Water Board staff.

**Table 1:**

Parameter	Unit	Type of Sample	Minimum Sampling Frequency	Required Analytical Test Method
Turbidity	NTU	Grab <sup>(1)</sup>	Every 4 hours during in-water work	(2, 4)
Settleable Material	mL/L	Grab <sup>(1)</sup>	Every 4 hours during in-water work	(2)
Visible construction related pollutants <sup>(3)</sup>	Observations	Visual Inspections	Continuous throughout the construction period	—

- <sup>(1)</sup> Grab samples shall not be collected at the same time each day to get a complete representation of variations in the receiving water.
- <sup>(2)</sup> Pollutants shall be analyzed using the analytical methods described in 40 Code of Federal Regulations Part 136; where no methods are specified for a given pollutant, the method shall be approved by Central Valley Water Board staff.
- <sup>(3)</sup> Visible construction-related pollutants include oil, grease, foam, fuel, petroleum products, and construction-related, excavated, organic or earthen materials.
- <sup>(4)</sup> A hand-held field meter may be used, provided the meter utilizes a USEPA-approved algorithm/method and is calibrated and maintained in accordance with the manufacturer's instructions. A calibration and maintenance log for each meter used for monitoring shall be maintained onsite.

Surface water sampling shall occur at mid-depth. A surface water monitoring report shall be submitted within two weeks of initiation of in-water construction, and every two weeks thereafter. In reporting the sampling data, the Applicant shall arrange the data in tabular form so that the sampling locations, date, constituents, and concentrations are readily discernible. The data shall be summarized in such a manner to illustrate clearly whether the project complies with Certification requirements. The report shall include surface water sampling results, visual observations, and identification of the turbidity increase in the receiving water applicable to the natural turbidity conditions specified in the turbidity criteria below.

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

5. The Central Valley Water Board adopted a *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins*, Fourth Edition, revised October 2011 (Basin Plan) that designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives for all waters addressed through the plan. Turbidity and settleable matter limits are based on water quality objectives contained in the Basin Plan and are part of this Certification as follows:
  - a) Except for periods of storm runoff, activities shall not cause turbidity increases in surface water to exceed 150 NTUs. Except that these limits will be eased during in-water working periods to allow a turbidity increase of 15 NTUs over background turbidity. In determining compliance with the above limits, appropriate averaging periods may be applied provided that beneficial uses will be fully protected. Averaging periods may only be used with prior approval of the Central Valley Water Board staff.
  - b) Activities shall not cause settleable matter to exceed 0.1 mL/L in surface waters as measured in surface waters within 300 feet downstream of the project.
6. The Applicant shall notify the Central Valley Water Board immediately if the above criteria for turbidity, settleable matter, or other water quality objectives are exceeded.
7. Work shall occur during periods of low flow and no precipitation.
8. Activities shall not cause visible oil, grease, or foam in the receiving water.
9. Refueling of equipment within the floodplain or within 300 feet of the waterway is prohibited. If critical equipment must be refueled within 300 feet of the waterway, spill prevention and countermeasures must be implemented to avoid spills. Refueling areas shall be provided with secondary containment including drip pans and/or placement of absorbent material. No hazardous materials, pesticides, fuels, lubricants, oils, hydraulic fluids, or other construction-related potentially hazardous substances should be stored within a floodplain or within 300 feet of a waterway. The Applicant must perform frequent inspections of construction equipment prior to utilizing it near surface waters to ensure leaks from the equipment are not occurring and are not a threat to water quality.
10. The Applicant shall develop and maintain onsite a project-specific Spill Prevention, Containment and Cleanup Plan outlining the practices to prevent, minimize, and/or clean up potential spills during construction of the project. The Plan must detail the project elements, construction equipment types and location, access and staging and construction sequence.
11. A method of containment must be used below the bridges to prevent debris from falling into the water body through the entire duration of the project.

12. Silt fencing, straw wattles, or other effective management practices must be used along the construction zone to minimize soil or sediment along the embankments from migrating into the waters of the United States through the entire duration of the project.
13. The use of netting material (e.g., monofilament-based erosion blankets) that could trap aquatic dependent wildlife is prohibited within the project area.
14. All areas disturbed by project activities shall be protected from washout and erosion.
15. All temporarily affected areas shall be restored to pre-construction contours and conditions upon completion of construction activities.
16. All materials resulting from the project shall be removed from the site and disposed of properly.
17. This Certification does not allow permanent water diversion of flow from the receiving water. This Certification is invalid if any water is permanently diverted as a part of the project.
18. If temporary surface water diversions and/or dewatering are anticipated, the Applicant shall develop and maintain on-site a Surface Water Diversion and/or Dewatering Plan(s). The Plan(s) shall include the proposed method and duration of diversion activities. The Surface Water Diversion and/or Dewatering Plan(s) must be consistent with this Certification.
19. When work in a flowing stream is unavoidable and any dam or other artificial obstruction is being constructed, maintained, or placed in operation, sufficient water shall at all times be allowed to pass downstream, to maintain beneficial uses of waters of the State below the dam. Construction, dewatering, and removal of temporary cofferdams shall not violate Technical Certification Condition 5 of this Certification.
20. Any temporary dam or other artificial obstruction constructed shall only be built from clean materials such as sandbags, gravel bags, water dams, or clean/washed gravel which will cause little or no siltation. Stream flow shall be temporarily diverted using gravity flow through temporary culverts/pipes or pumped around the work site with the use of hoses.
21. The discharge of petroleum products, any construction materials, hazardous materials, pesticides, fuels, lubricants, oils, hydraulic fluids, raw cement, concrete, asphalt, paint, coating material, drilling fluids, or other construction-related potentially hazardous substances to surface water and/or soil is prohibited. In the event of a prohibited discharge, the Applicant shall notify the Central Valley Water Board Contact within 24-hours of the discharge.
22. The Applicant shall apply for a name change or amendment to this Certification should any of the following occur: (a) a change in the ownership of all or any portion of the Dutch Slough Tidal Marsh Restoration Project; (b) any change in the project description; (c) any change involving discharge amounts, temporary impacts; or (d) amendments, modifications, revisions, extensions, or changes to the United States Army Corps of Engineers' Individual

Permit, the United States Fish and Wildlife Service, National Marine Fisheries Service decision document(s), or the California Department of Fish and Wildlife Streambed Alteration Agreement.

23. The Applicant shall comply with all California Department of Fish and Wildlife requirements, including those requirements described in Streambed Alteration Agreement No. 1600-2012-0087-R3.
24. The Applicant shall submit a copy of the final, signed and dated Streambed Alteration Agreement to the Central Valley Water Board Contact within 14 days of issuance by the California Department of Fish and Wildlife.
25. The Applicant shall comply with all United States Fish and Wildlife Service requirements, including those requirements described in the Biological Opinion (08FBDT00-2012-F-0008), dated 19 November 2012.
26. The Applicant shall comply with all National Marine Fisheries Service requirements, including those requirements described in the Biological Opinion (2012/1681) dated 7 February 2013.
27. If the Project will involve land disturbance activities of one or more acres, or where the project disturbs less than one acre but is part of a larger common plan of development that in total disturbs one or more acres, the Applicant shall obtain coverage under the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities Order No. 2009-0009-DWQ for discharges to surface waters comprised of storm water associated with construction activity.
28. The Conditions in this Certification are based on the information in the attached "Project Information Sheet." If the actual project, as described in the attached Project Information Sheet, is modified or changed, this Certification is no longer valid until amended by the Central Valley Water Board.
29. The Applicant shall implement each of the mitigation measures specified in the certified Environmental Impact Report and Supplemental Environmental Impact Report for the project, as they pertain to biology, hydrology and water quality impacts as required by § 21081.6 of the Public Resource Code and § 15097 of the California Code of Regulations.
30. The Applicant shall work with the Central Valley Water Board to obtain coverage under Waste Discharge Requirements (WDRs) for dredging activities.
31. In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation shall be subject to any remedies, penalties, process, or sanctions as provided for under state and federal law. 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 this Certification.

- (a) If the Applicant or a duly authorized representative of the project fails or refuses to furnish technical or monitoring reports, as required under this Certification, or falsifies any information provided in the monitoring reports, the applicant is subject to civil liability, for each day of violation, and/or criminal liability.
  - (b) In response to a suspected violation of any condition of this Certification, the Central Valley Water Board may require the Applicant to furnish, under penalty of perjury, any technical or monitoring reports the Central Valley Water Board deems appropriate, provided that the burden, including cost of the reports, shall be in reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
  - (c) The Applicant shall allow the staff of the Central Valley Water Board, or an authorized representative(s), upon the presentation of credentials and other documents, as may be required by law, to enter the project premises for inspection, including taking photographs and securing copies of project-related records, for the purpose of assuring compliance with this Certification and determining the ecological success of the project.
32. The Department of Water Resources shall implement methylmercury monitoring as described in the final versions of Dutch Slough Surface-Water Quality Monitoring Plan dated 27 September 2011.

**NOTIFICATIONS AND REPORTS:**

33. The Applicant shall provide a Notice of Completion (NOC) no later than 30 days after the project completion. The NOC shall demonstrate that the project has been carried out in accordance with the project description in the Certification and in any approved amendments. The NOC shall include a map of the project location(s), including final boundaries of any on-site restoration area(s), if appropriate, and representative pre and post construction photographs. Each photograph shall include a descriptive title, date taken, photographic site, and photographic orientation.
34. The Applicant shall submit all notifications, submissions, materials, data, correspondence, and reports in a searchable Portable Document Format (PDF). Documents less than 50 MB must be emailed to: [centralvalleysacramento@waterboards.ca.gov](mailto:centralvalleysacramento@waterboards.ca.gov). In the subject line of the email, include the Central Valley Water Board Contact, project name, and WDID number as shown in the subject line above. Documents that are 50 MB or larger must be transferred to a disk and mailed to the Central Valley Water Board Contact.

**CENTRAL VALLEY WATER BOARD CONTACT:**

Trevor Cleak, Environmental Scientist  
Central Valley Regional Water Quality Control Board  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670-8114  
Trevor.Cleak@waterboards.ca.gov  
(916) 464-4684

**CALIFORNIA ENVIRONMENTAL QUALITY ACT:**

The California Department of Water Resources is the Lead Agency responsible for compliance with the California Environmental Quality Act for the Dutch Slough Tidal Marsh Restoration Project pursuant to § 21000 et seq. of the Public Resources Code. The California Department of Water Resources certified the Environmental Impact Report and Statement of Overriding Considerations on 20 November 2008 and a Supplemental Environmental Impact Report on 31 October 2014. The California Department of Water Resources filed a Notice of Determination with the State Clearinghouse on 22 March 2010 and on 31 October 2014 (State Clearinghouse Number 2006042009).

The Central Valley Water Board is a responsible agency for the project. The Environmental Impact Report, and Supplemental Environmental Impact Report are in accordance with the requirements of the California Environmental Quality Act.

The Central Valley Water Board has reviewed and evaluated the impacts to water quality identified in the Environmental Impact Report and Supplemental Environmental Impact Report. With the exception of significant and unavoidable impacts, the proposed mitigation measures discussed in the Environmental Impact Report, and Supplemental Environmental Impact Report were adopted to avoid and minimize project impacts.

With regard to the remaining impacts identified in the Environmental Impact Report and Supplemental Environmental Impact Report, the corresponding mitigation measures proposed are within the responsibility and jurisdiction of other public agencies.

## **WATER QUALITY CERTIFICATION:**

I hereby issue an Order certifying that any discharge from the Department of Water Resources, Dutch Slough Tidal Marsh Restoration Project (WDID#5B07CR00131) will comply with the applicable provisions of § 301 ("Effluent Limitations"), § 302 ("Water Quality Related Effluent Limitations"), § 303 ("Water Quality Standards and Implementation Plans"), § 306 ("National Standards of Performance"), and § 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act. This discharge is also regulated under State Water Resources Control Board Water Quality Order No. 2003-0017 DWQ "Statewide General Waste Discharge Requirements For Dredged Or Fill Discharges That Have Received State Water Quality Certification (General WDRs)".

Except insofar as may be modified by any preceding conditions, all Certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in compliance with the conditions of this Certification, the Department of Water Resources' application package, and the attached Project Information Sheet, and (b) compliance with all applicable requirements of the *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins*, Fourth Edition, revised October 2011.

*Original Signed by Andrew Altevogt for*

Pamela C. Creedon  
Executive Officer

Enclosure: Project Information Sheet

Attachment: Figure 1 – Project Location Map  
Figure 2 – Restoration Plan

cc: Distribution List, page 17

## PROJECT INFORMATION SHEET

**Application Date:** 27 March 2012 and 4 November 2014

**Applicant:** Gail Newton  
Department of Water Resources  
901 P Street, 4th Floor  
Sacramento, CA 95814

**Applicant Representative:** Patricia Finfrock  
Department of Water Resources  
901 P Street, 4th Floor  
Sacramento, CA 95814

**Project Name:** Dutch Slough Tidal Marsh Restoration Project

**Application Number:** WDID#5B07CR00131

**Date on Public Notice:** 20 March 2012 and 27 February 2015

**Date Application Deemed Complete:** 27 February 2015

**Type of Project:** Wetland restoration project

**Approved Timeframe of Project Implementation:** 2015 through 2018, or as required by the United States Fish and Wildlife Service or the California Department of Fish and Wildlife.

**Project Location:** Section 20, Township 7 North, Range 14, 15, 16, 17 East, MDB&M.  
Latitude: 38°0'10.6272"N and Longitude: 121°39'50.13" W

**County:** Contra Costa County

**Receiving Water(s) (hydrologic unit):** Dutch Slough, Little Dutch Slough, Emerson Slough, Marsh Creek, and an unnamed riparian forest, riparian scrub, non-tidal marsh, irrigated pasture, seasonal wetlands, irrigation ditch, and non-tidal open water San Joaquin Hydrologic Basin, San Joaquin Delta Hydrologic Unit #544.00

**Water Body Type:** Wetland, Streambed, Riparian

**Designated Beneficial Uses:** The *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins*, Fourth Edition, revised October 2011 (Basin Plan) has designated beneficial uses for surface and ground waters within the region. Beneficial uses that could be impacted by the project include, but are not limited to: Municipal and Domestic Water Supply (MUN); Agricultural Supply (AGR); Industrial Supply (IND); Hydropower Generation (POW); Groundwater Recharge (GWR); Water Contact Recreation (REC-1); Non-Contact Water Recreation (REC-2); Warm Freshwater Habitat (WARM); Cold Freshwater Habitat (COLD);

Preservation of Biological Habitats of Special Significance (BIOL); Rare, Threatened, or Endangered Species (RARE); Migration of Aquatic Organisms (MIGR); Spawning, Reproduction, and/or Early Development (SPWN); and Wildlife Habitat (WILD). A comprehensive and specific list of the beneficial uses applicable for the project area can be found at [http://www.waterboards.ca.gov/centralvalley/water\\_issues/basin\\_plans/index.shtml](http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/index.shtml).

**303(d) List of Water Quality Limited Segments:** Dutch Slough, Little Dutch Slough, Emerson Slough, Marsh Creek, and an unnamed riparian forest, riparian scrub, non-tidal marsh, irrigated pasture, seasonal wetlands, irrigation ditch, and non-tidal open water are the receiving waters for the Dutch Slough Tidal Marsh Restoration Project.

Dutch Slough and Little Dutch Slough are listed on the 303(d) list for DDT, diazinon, electrical conductivity, group A pesticides, invasive species, mercury, and unknown toxicity. Marsh Creek is listed on the 303(d) list for diazinon, escherichia coli, mercury, sediment toxicity, and unknown toxicity.

This project may impact an already impaired water body for mercury. On 22 April 2010, the Central Valley Water Board Adopted Resolution No. R5-2010-0043, *Amendments to the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins for the Control of Methylmercury and Total Mercury in the Sacramento-San Joaquin River Delta Estuary*, which became effective on 20 October 2011. The Certification incorporates the load allocation and waste load allocation specified in the approved *Amendments to the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins for the Control of Methylmercury and Total Mercury in the Sacramento-San Joaquin River Delta Estuary*.

The most recent list of approved water quality limited segments can be found at: [http://www.waterboards.ca.gov/water\\_issues/programs/tmdl/integrated2010.shtml](http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2010.shtml).

**Project Description:** California EcoRestore (EcoRestore) is a habitat initiative that replaced the Bay Delta Conservation Plan that identifies 30,000 acres of priority restoration projects located in the Delta, Yolo Bypass, and Suisun Marsh. EcoRestore will accelerate and implement a comprehensive suite of habitat restoration actions to support the long-term health of the Sacramento-San Joaquin Delta's native fish and wildlife species. Ground-breaking for EcoRestore projects are between 2015 and 2018. Dutch Slough Tidal Marsh Restoration Project is identified as a EcoRestore project.

The 1,178-acre Dutch Slough Tidal Marsh Restoration Project (Project) consists of restoring tidal marsh and riparian habitat. The Project will: 1) restore 102 acres of managed non-tidal marsh; 2) enhance 173 acres of irrigated pasture; 3) conduct levee improvements on Emerson, Gilbert, and Burrows Parcels; 4) place rock armoring along the exteriors of the remaining levees; 5) dredge Little Dutch Slough; 6) conduct restoration activities; 7) replace a 24-inch diameter sanitary sewer pipeline; 8) remove power poles; and 9) cap gas transmission lines. The Project is located on three parcels (Emerson, Gilbert, and Burroughs) in Oakley (Figure 1), 0.25 miles north of East Cypress Road. The existing land is comprised of mostly irrigated pasture.

### Managed Non-Tidal Marsh

A new levee will be constructed to isolate approximately 102 acres of the northern portion of the Gilbert Parcel from the tidally-inundated southern portion. The levee will bisect the parcel from west to east. The freshwater marsh on the northern portion of the Gilbert Parcel will be enhanced and enlarged into areas that are currently irrigated pasture. One, 125-foot long, 4-foot diameter concrete culvert will be installed in the perimeter levee to supplement or replace the existing water pump for water supply to Gilbert Parcel. An approximately 40-foot long by 10-foot wide temporary cofferdam will be installed on the side of the levee adjacent to Emerson Slough to temporarily dewater the project area. A new drainage ditch will be excavated along the northeast interior section of the existing perimeter levee. This ditch will be approximately 25-foot wide by 2,000-foot long and will connect to planned open water areas and channels within the parcel. The new managed non-tidal marsh will permanently impact 0.001 acre to install the culvert, and temporarily impact 12 acres of waters of the United States by placing 52,000 cubic yards of native soil and clean rock and excavating 70,000 cubic yards of native soil and rock to construct the new levee, enhance the freshwater marsh, and install the new temporary cofferdam.

### Irrigated Pasture

Approximately 173 acres of irrigated pasture within the northern portion of the Burroughs Parcel will be preserved and enhanced. A new drainage ditch will be excavated along the interior of the existing perimeter levee to improve drainage and mosquito abatement in the irrigated pasture. This ditch will be approximately 5-foot deep by 35-foot wide by 1,000-foot long. The ditch will be located in the northwest corner of the parcel and will connect to the existing drainage ditch. The preservation and enhancement activities will temporarily impact approximately 1.2 acres of waters of the United States by excavating 7,000 cubic yards of native soil and rock to preserve the irrigated pasture and excavate the ditch.

### Levee Improvements

#### Emerson Parcel

Existing levees on Emerson Parcel will have its levees breached in four locations. Two breaches will allow tidal flows from Dutch Slough to enter the parcel, and two other breaches will allow tidal flows to enter from Marsh Creek and Emerson Slough. The levees surrounding the Emerson Parcel will be maintained to serve as a public access trail. Four bridges approximately 200-foot long 15-wide will be installed over the four levee breaches at the Emerson Parcel. The bridges will have prefabricated decks, pre-cast concrete abutments and support footings. The bridges will be constructed above the ordinary high water mark and will not impact waters of the United States. The Emerson Parcel levee improvements will temporarily impact 0.2 acre of waters of the United States by excavating 2,200 cubic yards of native soil and rock to breach the levees.

#### Gilbert Parcel

The existing Gilbert Parcel levee will be breached in four locations that will allow tidal flows from Little Dutch Slough to enter into the parcel. The Gilbert Parcel levee improvements will

temporarily impact 0.1 acre of waters of the United States by excavating 600 cubic yards of native soil and rock from waters of the United States.

#### Burroughs Parcel

The Burroughs Parcel levee will be breached in two locations to allow tidal flows from Little Dutch Slough to enter the parcel. After the Burroughs Parcel levee is breached, the levee crest will be lowered and planted with riparian vegetation. The existing flood protection levee around the enhanced irrigated pasture on Burroughs Parcel will not be altered. The Burroughs Parcel levee improvements will temporarily impact 0.1 acre of waters of the United States by excavating 400 cubic yards of native soil and rock from waters of the United States.

#### Rock Armoring

Approximately 28,700 cubic yards of clean rock armoring will be placed along the exterior of the remaining Gilbert Levee and Emerson Parcel Levee and will permanently impact 4.6 acres of waters of the United States.

#### Little Dutch Slough Dredging

Little Dutch Slough will be dredged to increase the capacity of the channel and allow for more water to enter the Gilbert and Burrows Parcels. Approximately 11,400 cubic yards of dredged native soil will permanently impact 3.6 acres of waters of the United States. The dredged soil will be used as fill in the restoration areas in the adjacent parcels. This Certification is conditioned to require the Applicant to obtain coverage under Waste Discharge Requirements for dredging activities.

#### Restoration Activities

Restoration activities will be accomplished by excavating soils from high areas across the three parcels, distributing those soils across the restoration areas, and grading them to bring the ground levels to desired elevations to establish a tidal marsh. Tules will be planted contribute to the establishment of the tidal marsh and to stabilize the area after grading. A new flood control levee will be constructed along the southern boundary of the restoration area and the northern boundary of the proposed community park. It will require a 100-foot long by 50-foot wide area of Emerson Slough to be filled.

#### Emerson Parcel

A berm will be constructed on the Emerson Parcel to separate the proposed tidal marsh on the southeast side of the parcel from the proposed subtidal open water habitat on the northwest side of the parcel. Grading activities will include rerouting Marsh Creek to match its historic alignment. After the restoration area has been graded, the tules will be planted within the parcel. The parcel will be inundated to levels suitable to help the tules establish. The restoration activities will temporarily impact 126.2 acres by excavating 507,000 cubic yards of native soil and rock and placing 301,400 cubic yards of native soil and clean rock.

*Gilbert Parcel*

A berm will be constructed along the interior slope of the existing perimeter levee on the Gilbert Parcel. A new levee will be constructed that will bisect the parcel from east to west to separate the proposed restored tidal marsh and managed non-tidal marsh areas. After the restoration area has been graded, the tules will be planted within the parcel. The parcel will be inundated to levels suitable to help the tules establish. The restoration activities will temporarily impact 65.7 acres by excavating 61,000 cubic yards of native soil and rock and placing 138,500 cubic yards of native soil and clean rock.

*Burroughs Parcel*

A new flood control levee will be built on the Burroughs Parcel, which will be constructed along Jersey Island Road on the southern portion of the parcel on the east project boundary. The levee will also be constructed northwest across the Burroughs Parcel to connect to the Little Dutch Slough levee on the western boundary of the parcel. After the restoration area has been graded, the tules will be planted within the parcel. The parcel will be inundated to levels suitable to help the tules establish. The restoration activities will permanently impact 0.114 acre and temporarily impact 64.5 acres by excavating 84 cubic yards of native soil and rock and placing 51,500 cubic yards of native soil and clean rock.

Other project activities such as replacing a 24-inch diameter sanitary sewer pipeline, removing power poles, capping gas and transmission lines will not impact waters of the United States. An impermeable containment basin will be installed at the sanitary sewer pipeline replacement site to catch any remaining sewage during construction to ensure no releases into surface waters. Any sewage captured will be disposed of in the sanitary sewer system. The Applicant plans to maintain and implement a spill prevention plan to prevent any discharge from the project from entering surface waters.

The Project will permanently impact 8.315 acres and temporarily impact 270 acres of waters of the United States.

**Preliminary Water Quality Concerns:** Construction activities may impact surface waters with increased turbidity and settleable matter.

**Proposed Mitigation to Address Concerns:** The Applicant will implement Best Management Practices to control sedimentation and erosion. The Applicant will conduct turbidity and settleable matter testing during in-water work, stopping work if Basin Plan criteria are exceeded or observations indicate an exceedance of a water quality objective. All temporary affected areas will be restored to pre-construction contours and conditions upon completion of construction activities to provide 1:1 mitigation for temporary impacts.

**Excavation/Fill Area:** Approximately 648,284 cubic yards of native soil and rock will be excavated from 274.6 acres of waters of the United States.

Approximately 543,400 cubic yards of native soil and rock, and 28,700 cubic yards of rock will be placed into 274.6 acres of waters of the United States.

**Dredge Volume:** Approximately 11,400 cubic yards of native soil will be dredged from 3.6 acres of waters of the United States.

**California Integrated Water Quality System Impact Data:** The Project will permanently impact 8.315 acres (which consists of 4.715 acres of fill and excavation and 11,400 cubic yards of dredging) and temporarily impact 270 acres of wetland, streambed, and riparian habitat from fill, excavation, and dredging activities.

**Table 2: Impacts from Fill and Excavation Activities**

Aquatic Resource Type	Temporary			Permanent					
				Physical Loss of Area			Degradation of Ecological Condition Only		
	Acres	Cubic-yards	Linear-feet	Acres	Cubic-yards	Linear-feet	Acres	Cubic-yards	Linear-feet
Riparian Zone	12	-	-	-	-	-	-	-	-
Stream Channel	31.8	-	-	4.715	-	-	-	-	-
Wetland	226.2	-	-	-	-	-	-	-	-
<b>Total</b>	<b>270</b>	-	-	<b>4.715</b>	-	-	-	-	-

**Table 3: Impacts from Dredging Activities**

Aquatic Resource Type	Temporary			Permanent					
				Physical Loss of Area			Degradation of Ecological Condition Only		
	Acres	Cubic-yards	Linear-feet	Acres	Cubic-yards	Linear-feet	Acres	Cubic-yards	Linear-feet
Stream Channel	-	-	-	-	11,400	-	-	-	-
<b>Total</b>	-	-	-	-	<b>11,400</b>	-	-	-	-

**United States Army Corps of Engineers File Number:** SPK# 2004-00043

**United States Army Corps of Engineers Permit Type:** Individual Permit

**California Department of Fish and Wildlife Streambed Alteration Agreement:**  
 1600-2012-0087-R3.

**Possible Listed Species:** Vernal pool fairy shrimp, Midvalley fairy shrimp, Valley elderberry longhorn beetle, Curve-footed hygrotus diving beetle, California linderiella, California tiger salamander, Silvery legless lizard, Western pond turtle, Alameda whipsnake, Cooper's hawk, Tricolored blackbird, Great blue heron, Short-eared owl, Ferruginous hawk, Swainson's hawk, and Great egret.

**Status of CEQA Compliance:** The California Department of Water Resources certified the Environmental Impact Report and Statement of Overriding Considerations on 20 November 2008 and the Supplemental Environmental Impact Report on 31 October 2014. The California Department of Water Resources filed a Notice of Determination with the State Clearinghouse on 22 March 2010 and on 31 October 2014 (State Clearinghouse Number 2006042009).

The Central Valley Water Board will file a Notice of Determination with the State Clearinghouse as a responsible agency within five (5) days of the date of this Certification.

**Compensatory Mitigation:** The Project will re-establish 560 acres and enhance 199 acres of wetlands within the Project area. Since the amount of re-established and enhanced wetlands is greater than a 1:1 ratio for temporary and permanent impacts to waters of the United States, the Central Valley Water Board is not requesting additional compensatory mitigation for the Dutch Slough Tidal Marsh Restoration Project.

**Table 4: Compensatory Mitigation for Temporary Impacts and for Permanent Degradation of Ecological Condition; Ecological Restoration/Enhancement Projects**

Aquatic Resource Type	Comp Mitigation Type			Units		Established	Re-established	Rehabilitated	Enhanced	Preserved	Unknown
	In-Lieu	Mit. Bank	Permittee Responsible	Acres	Linear Feet						
Wetland				X			560		199		

**Application Fee Provided:** Total fees of \$944.00 have been submitted to the Central Valley Water Board as required by § 3833(b)(3)(A) and § 2200(a)(3) of the California Code of Regulations.

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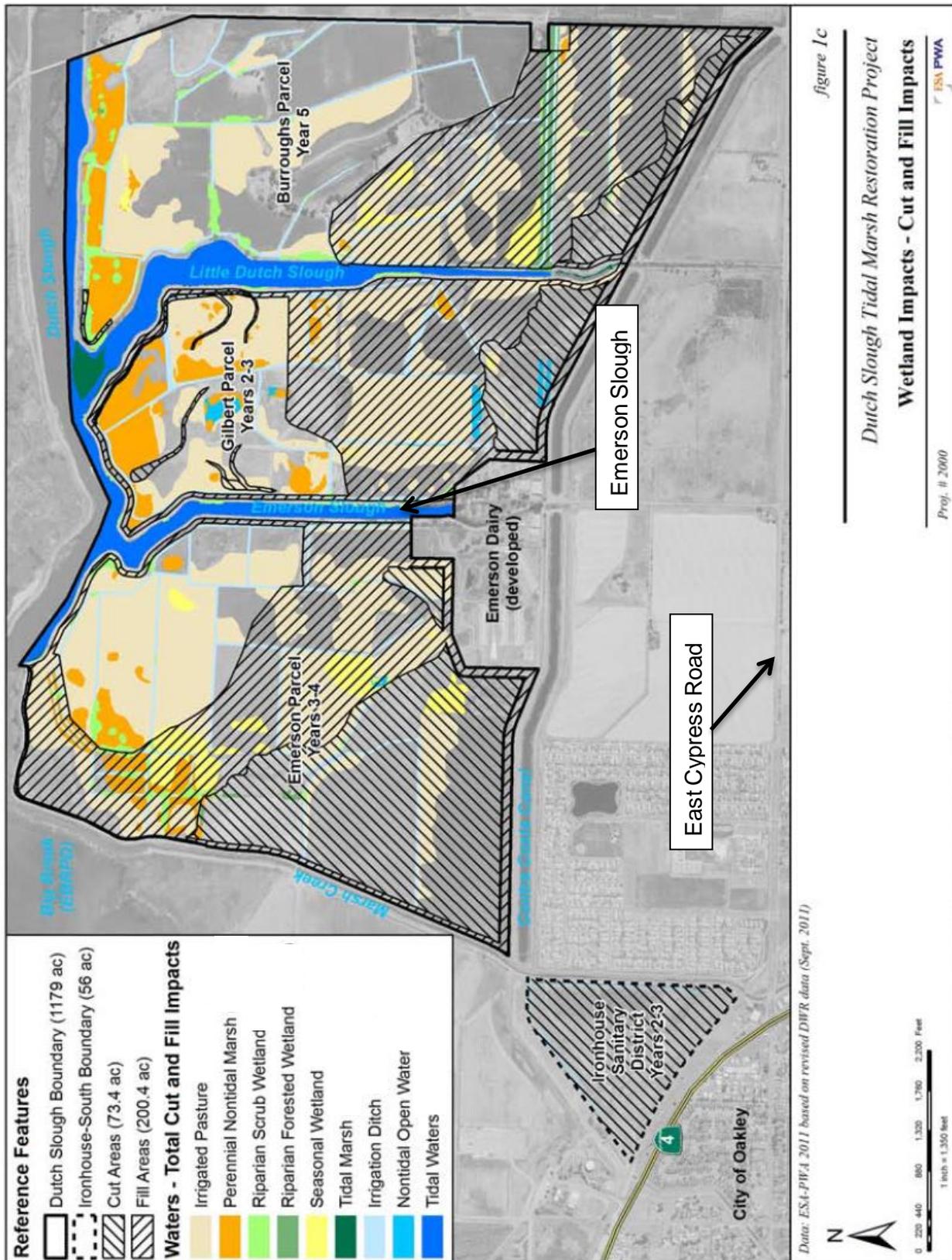


Figure 1 – Project Location Map