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Central Valley Regional Water Quality Control Board

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

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**Effective Date:** 29 August 2017

**Expiration Date:** 29 August 2022

**Program Type:** Resource Extraction and Mining

**Project Type:** Hard Rock Mine

**Project:** Austin Quarry(Project)

**Applicant:** Calmat Co. dba Vulcan Materials Co.

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**Water Board Contact Person:**

If you have any questions, please call Central Valley Regional Water Quality Control Board (Central Valley Water Board) Staff listed above or (559) 445-5116 and ask to speak with the Water Quality Certification Unit Supervisor.

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**I. Order**

This Clean Water Act (CWA) section 401 Water Quality Certification action and Order (Order) are issued at the request of Calmat Co. dba Vulcan Materials Co. (hereinafter Permittee) for the Project. This Order is for the purpose described in application and supplemental information submitted by the Permittee. The application was received on 19 October 2016. The application was deemed complete on 5 December 2016.

Central Valley Water Board staff requested additional information necessary to supplement the contents of the complete application and the Permittee responded to the request for supplemental information on the following dates (Table 1).

<b>Table 1 Record of Supplemental Application Information</b>	
Date of Request for Supplemental Information	Date all requested information was received.
1 November 2016	11 November 2016

Additionally, Central Valley Water Board Staff issued a Denial without Prejudice on 2 June 2015, for an application submitted on 21 July 2014. A Certification could not be issued for the 21 July 2014 application because the California Environmental Quality Act (CEQA) Final Environmental Impact Report was not approved.

**II. Public Notice**

The Central Valley Water Board provided public notice of the application pursuant to California Code of Regulations, title 23, section 3858, from 17 February 2017 to 10 March 2017. The Central Valley Water Board received one (1) comment letter regarding the Project during the comment period from the Madera Oversight Coalition, Inc., (MOC), a non-profit public interest corporation which includes tax paying members who reside in Madera County.

In its comments, MOC indicated it had filed a petition in Madera County Superior Court that seeks to have the Permittee withdraw and/or void the Project due to deficiency of the Final Environmental Impact Report (FEIR) approved by Madera County. The comments requested that the Central Valley Water Board postpone certification of the Project until the Madera Superior Court rules on its Petition.

The MOC comments identified several areas of concern regarding the FEIR. MOC felt that the FEIR failed to adequately analyze Project impacts to water supply and water quality, and failed to adequately analyze and mitigate Project impacts to biological resources.

The Central Valley Water Board, as a responsible agency under CEQA, must assume that the certified EIR complies with CEQA. If legal action challenging the adequacy of the EIR is pending, but no injunction or similar relief has been granted, a responsible agency must continue processing approvals for the project.<sup>1</sup> Additionally, Central Valley Water Board staff has reviewed the FEIR water supply and water quality information, as well as the biological resources information related to beneficial uses of water resources submitted for the Project. Information in the FEIR identifies potentially significant impacts to water quality and aquatic biological resources; however, the Central Valley Water Board contends that

<sup>1</sup> See Cal. Pub. Res. Code § 21167.3; *Rialto Citizens for Responsible Growth v. City of Rialto* (2012) 208 Cal.App.4th 899, 924-925.

the Conditions included in this Certification will mitigate impacts to water resource beneficial uses to a less than significant level.

### **III. Project Purpose**

The project will be a hard-rock mining operation. Available high-quality, construction grade aggregate reserves are projected to be approximately 250 million tons. The proposed project will provide aggregate construction materials to respond to market demand in Fresno and Madera Counties for up to 100 years.

### **IV. Project Description**

The proposed project design encompasses approximately 348 acres (52%) of the project site. Quarry operations will occupy about 258 acres, and extend to a depth of 400 feet below existing grade. The associated plant operations, access road, and berms will be situated on about 83 acres in the southwestern portion of the project site.

Hard rock will be mined in approximately 50-foot lifts by drilling and blasting of the hard rock material. Resulting large rock will be reduced by hydraulic breaker, drop ball, and/or spot blasting, if necessary. Rock will be loaded into pit trucks by a hydraulic excavator, front shovel(s), and/or front end loader(s), and transported to an in-pit crusher. Crushed rock will be transported from the pit by conveyors to an on-site processing plant where the rock will be further crushed, screened, washed, and sorted. Water for processing will be pumped from a well located on the west side of the plant site. All of the processing water used to wash the rock will be recycled back to the plant and reused utilizing a water clarifier and an approximately two-acre settling pond.

Excavation setbacks for the quarry include 100-foot setbacks from SR-145 and the Madera Canal, and 50-foot setbacks from the northwest and east drainages identified on the project site. The quarry site will be mined in six phases, with the initial phase encompassing approximately 42 acres. The phases will generally progress in a southerly to southeasterly direction as quality of material, production methods, and market demands dictate.

Overburden will be removed as required to expose aggregate, and will be used to construct vegetated berms along SR-145 to the north. Excess overburden will generally be stockpiled within the southwestern portion of the designated quarry boundary for future use in reclamation.

Initial development of the plant site would first require grading for the removal of topsoil. Approximately 0 to 2 feet thick layer of topsoil will be removed from the plant site and transported primarily by scrapers. This topsoil will be stored separately for later use in reclamation of the plant site. If topsoil removal becomes difficult or access constraints prevent the use of scrapers, then bulldozer(s), excavator(s) and/or front-end loader(s), and haul trucks may be used. Topsoil from the quarry site will be removed, transported, and stored as berms along the eastern and southern quarry perimeters. Stored topsoil will be stockpiled separately from overburden and will be planted with a vegetation cover or will be protected by other equally effective means if necessary to prevent water and wind erosion. Following topsoil removal additional grading would take place for access roads, parking and foundation areas, and on-site utility systems. All grading, ground disturbance activities, would take place within the limits of the plant site and entrance road boundaries.

The plant site would be graded in a manner to direct storm water runoff to a storm water pond located near the southern portion of the plant site. Appropriate best management practices (BMPs) would be in place to ensure storm water runoff remains on site.

A natural drainage channel traverses the quarry site. During topsoil removal, this drainage channel would be routed around the quarry site by pipe to an existing downstream point located within the undisturbed natural drainage channel upstream of the Madera Canal. The purpose of this reroute of water is to minimize water flowing into the quarry pit that would then need to be pumped out. A secondary result is the water will remain in its original watershed and maintain current ephemeral flows.

Development of the quarry would result in groundwater inflow and flow of surface water runoff, including direct rainfall, into the pit area. Once Phases 1 and 2 of the mine are completed to full depth (400 feet below natural ground surface), the groundwater inflow is estimated to range from 70 acre-feet per year (acre-feet/yr) to 105 acre-feet/yr. The annual volume of surface water captured in the pit, when the quarry is fully developed (i.e., all 6 mine phases have been excavated), is estimated to be 220 acre-feet/yr. Therefore, total annual inflow into the pit once the quarry has been fully developed would range between 290 acre-feet/yr and 325 acre-feet/yr.

The average annual water evaporation rate from the pit would be approximately 490 acre-feet/yr. Because the annual evaporation rate exceeds the average annual inflow, on an average annual basis, water would not accumulate in the pit when mining is completed.

During mining operations, it is anticipated that surface and/or groundwater intercepted within the quarry excavation may be used for operational uses (i.e., process water, dust control, landscape irrigation, etc.). Annual project water demand at full production is estimated to be 85 acre-feet/yr. Approximately 90% of the water used to rinse the rock will be recycled back to the plant and reused utilizing a clarifier and a two-acre settling pond. It is estimated that at full operation approximately 1.8 million gallons per day (mgd) of water will be required for rinsing of the crushed rock with all, except for that small portion of water "sticking" to the rock, being recycled back through the plant by way of a clarifier. An estimated 70,000 gallons per day (gpd) will be shipped with the crushed rock or otherwise lost in the processing of the material. In addition, it is estimated that 20,000 gallons per day (gpd) will be required for dust control, 5,000 gpd for landscaping, and 500 gpd for domestic use. Overall, it is estimated that 95,500 gpd of "make-up" water, on days the plant is in operation, will be required for dust control, landscaping, domestic use, to make-up for the water "sticking" to the rock, and to make-up for the water lost in the processing of the material.

Under normal conditions excess surface and/or groundwater intercepted within the quarry excavation would be stored within a 250 acre-foot freshwater storage basin for groundwater recharge and future uses. Under extreme conditions, unusually wet years and extreme storm events, Vulcan will first fill all storage facilities (tanks and ponds) as feasible and only as a last option, will discharge into the downstream channels. If this type of discharge occurs, it will be similar to the surrounding watershed flows occurring under those same conditions as well.

## **V. Project Location**

Address: State Route 145, west of State Route 41

County: Madera

Assessor's Parcel Number: 051-183-001; 051-185-004; and, 051-186-001

Sections 4, 5, and 9, Township 11 South, Range 20 East, MDB&M.

Latitude: 37.00598 and Longitude: -119.81363

Maps showing the Project location are found in Attachment A of this Order.

## VI. Project Impact and Receiving Waters Information

The Project is located within the jurisdiction of the Central Valley Water Board. Receiving waters and groundwater potentially impacted by this Project are protected in accordance with the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, Fourth Edition, revised July 2016 (Basin Plan). The plan for the region and other plans and policies may be accessed online at:

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

Project impact and receiving waters information can be found in Attachment B. Table 1 of Attachment B shows the receiving waters and beneficial uses of waters of the state impacted by the Project. Individual impact location and quantity is shown in Table 2 of Attachment B.

## VII. Description of Impacts to Waters of the State

Implementation of the proposed project is estimated to directly impact approximately 9.32 acres of waters, and indirectly impact 2.66 acres of waters, including vernal pools, swales, seasonal wetlands, and ponds. Sensitive wildlife species associated with these habitats are also susceptible to impacts.

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

Aquatic Resource Type	Temporary Impact <sup>2</sup>			Permanent Impact					
				Physical Loss of Area			Degradation of Ecological Condition Only		
	Acres	CY <sup>3</sup>	LF <sup>2</sup>	Acres	CY <sup>2</sup>	LF <sup>2</sup>	Acres	CY <sup>2</sup>	LF <sup>2</sup>
Seasonal Wetlands and Swales	--	--	--	7.532	--	10,119	2.331	--	3,144
Streambed	--	--	--	--	--	--	0.033	--	306
Vernal Pools	--	--	--	1.787	--	2,745	0.298	--	629

## VIII. Compensatory Mitigation

The Permittee has agreed to provide compensatory mitigation for direct and indirect impacts, described in section XII.I. for permanent impacts.

<sup>2</sup> Includes only temporary direct impacts to waters of the state and does not include upland areas of temporary disturbance which could result in a discharge to waters of the state.

<sup>3</sup> Cubic Yards (CY); Linear Feet (LF)

**IX. California Environmental Quality Act (CEQA)**

On 12 September 2016, the Madera County Board of Supervisors, as lead agency, certified an Environmental Impact Report (EIR) (SCH No. 2010071036) for the Project and filed a Notice of Determination (NOD) at the State Clearinghouse on 15 September 2016. Pursuant to CEQA, the Central Valley Water Board has made Findings of Fact (Findings) in Attachment C that support the issuance of this Order.

**X. Petitions for Reconsideration**

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

**XI. Fees Received**

An application fee of \$600 was received on 28 October 2016. The fee amount was determined as required by California Code of Regulations, title 23, sections 3833(b)(3) and 2200(a)(3), and was calculated as category A - Fill & Excavation Discharges (fee code 84) with the dredge and fill fee calculator.

An additional fee of \$90,000 based on total Project impacts was received on 17 February 2017.

**XII. Conditions**

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

**A. Authorization**

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

**B. Reporting and Notification Requirements**

The following section details the reporting and notification types and timing of submittals. Requirements for the content of these reporting and notification types are detailed in Attachment D, including specifications for photo and map documentation during the Project. Written reports and notifications must be submitted using the Reporting and Notification Cover Sheet located in Attachment D, which must be signed by the Permittee or an authorized representative.

The Permittee must submit all notifications, submissions, materials, data, correspondence, and reports in a searchable Portable Document Format (PDF). Documents less than 50 MB must be emailed to:  
centralvalleyfresno@waterboards.ca.gov.

In the subject line of the email, include the Central Valley Water Board Contact, Project name, and WDID. Documents that are 50 MB or larger must be transferred to a disk and mailed to the Central Valley Water Board Contact.

## 1. Project Reporting

- a. **Annual Reporting:** The Permittee shall submit an Annual Report each year on the anniversary of the effective date of the Certification. Annual reporting shall continue until a Notice of Project Complete Letter is issued to the Permittee.
- b. **Fenston Ranch Long-Term Management Plan Annual Reporting:** The Permittee shall submit each year by 15 October, a copy of the Annual Report containing the results and recommendations of the annual monitoring efforts required by the *Fenston Ranch Long-Term Management Plan*, February 2015, as revised and approved by the U.S. Army Corps of Engineers.
- c. **Groundwater Monitoring and Evaluation Program Work Plan Annual Reporting:** The Permittee shall submit each year by 30 November, a copy of the Annual Report in conformance with Conditions of Approval 2 and 3 from the approved Conditional Use Permit (CUP 2009-017) issued by Madera County, as described in the *Groundwater Monitoring and Evaluation Program Work Plan*, March 2017, as revised and approved by Madera County.

## 2. Project Status Notifications

- a. **Commencement of Construction:** The Permittee shall submit a Commencement of Construction Report at least seven (7) days prior to start of initial ground disturbance activities.
- b. **Request for Notice of Completion of Discharges Letter:** The Permittee shall submit a Request for Notice of Completion of Discharges Letter following completion of active Project construction activities, including any required restoration and permittee-responsible mitigation. This request shall be submitted to the Central Valley Water Board staff within thirty (30) days following completion of all Project construction activities. Upon acceptance of the request, Central Valley Water Board staff shall issue a Notice of Completion of Discharges Letter to the Permittee which will end the active discharge period and associated annual fees.
- c. **Request for Notice of Project Complete Letter:** The Permittee shall submit a Request for Notice of Project Complete Letter when construction and/or any post-construction monitoring is complete,<sup>4</sup> and no further Project activities will occur. This request shall be submitted to Central Valley Water Board staff within thirty (30) days following completion of all Project activities. Upon approval of the request, the Central Valley Water Board staff shall issue a Notice of Project Complete Letter to the Permittee which will end the post discharge monitoring period and associated annual fees.

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<sup>4</sup> Completion of post-construction monitoring shall be determined by Central Valley Water Board staff and shall be contingent on successful attainment of restoration and mitigation performance criteria.

**3. Conditional Notifications and Reports:** The following notifications and reports are required as appropriate.

**a. Accidental Discharges of Hazardous Materials<sup>5</sup>**

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

- i. As soon as (A) Permittee has knowledge of the discharge or noncompliance, (B) notification is possible, and (C) notification can be provided without substantially impeding cleanup or other emergency measures then:
  - first call – 911 (to notify local response agency)
  - then call – Office of Emergency Services (OES) State Warning Center at:(800) 852-7550 or (916) 845-8911
  - Lastly follow the required OES procedures as set forth in:  
[http://www.caloes.ca.gov/FireRescueSite/Documents/CalOES-Spill\\_Booklet\\_Feb2014\\_FINAL\\_BW\\_Acc.pdf](http://www.caloes.ca.gov/FireRescueSite/Documents/CalOES-Spill_Booklet_Feb2014_FINAL_BW_Acc.pdf)
- ii. Following notification to OES, the Permittee shall notify Central Valley Water Board, as soon as practicable (ideally within 24 hours). Notification may be delivered via written notice, email, or other verifiable means in accordance with section XII.B.
- iii. Within five (5) working days of notification to the Central Valley Water Board, the Permittee must submit an Accidental Discharge of Hazardous Material Report.

**b. Violation of Compliance with Water Quality Standards:** The Permittee shall notify the Central Valley Water Board of any event causing a violation of compliance with water quality standards. Notification may be delivered via written notice, email, or other verifiable means in accordance with section XII.B.

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

**c. In-Water Work and Diversions**

- i. The Permittee shall notify the Central Valley Water Board at least forty-eight (48) hours prior to initiating work in water or stream diversions. Notification may be via delivered written notice, email, or other verifiable means in accordance with section XII.B.
- ii. Bi-weekly surface water quality monitoring reports shall be submitted to Central Valley Water Board staff, in accordance with section XII.C.3.

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<sup>5</sup> "Hazardous material" means any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. "Hazardous materials" include, but are not limited to, hazardous substances, hazardous waste, and any material that a handler or the administering agency has a reasonable basis for believing that it would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment. (Health & Saf. Code, § 25501.)

- iii. Within three (3) working days following completion of work in water or stream diversions, an In-Water Work/Diversions Water Quality Monitoring Report must be submitted to Central Valley Water Board staff.

**d. Modifications to Project**

Project modifications may require an amendment of this Order. The Permittee shall give advance notice to Central Valley Water Board staff if Project implementation as described in the application materials is altered in any way or by the imposition of subsequent permit conditions by any local, state or federal regulatory authority by submitting a Modifications to Project Report. The Permittee shall inform Central Valley Water Board staff of any Project modifications that will interfere with the Permittee's compliance with this Order. Notification may be made in accordance with conditions in the certification deviation attachment of this Order.

- e. Transfer of Property Ownership:** This Order is not transferable in its entirety or in part to any person or organization except after notice to the Central Valley Water Board in accordance with the following terms:

- i. The Permittee must notify the Central Valley Water Board of any change in ownership or interest in ownership of the Project area by submitting a Transfer of Property Ownership Report. The Permittee and purchaser must sign and date the notification and provide such notification to the Central Valley Water Board at least 10 days prior to the transfer of ownership. The purchaser must also submit a written request to the Central Valley Water Board to be named as the permittee in a revised order.
- ii. Until such time as this Order has been modified to name the purchaser as the permittee, the Permittee shall continue to be responsible for all requirements set forth in this Order.

- f. Transfer of Long-Term BMP Maintenance:** If maintenance responsibility for post-construction BMPs is legally transferred, the Permittee must submit to the Central Valley Water Board a copy of such documentation and must provide the transferee with a copy of a long-term BMP maintenance plan that complies with manufacturer or designer specifications. The Permittee must provide such notification to the Central Valley Water Board with a Transfer of Long-Term BMP Maintenance Report at least 10 days prior to the transfer of BMP maintenance responsibility.

**C. Water Quality Monitoring**

- 1. **General:** Continuous visual surface water monitoring shall be conducted during active construction periods to detect accidental discharge of construction related pollutants (e.g., oil and grease, turbidity plume, or uncured concrete). The Permittee shall perform surface water sampling:
  - a. when performing any in-water work;
  - b. during the entire duration of temporary surface water diversions;

- c. in the event that the Project activities result in any materials reaching surface waters; or
  - d. when any activities result in the creation of a visible plume in surface waters.
2. **Accidental Discharges/Noncompliance:** Upon occurrence of an accidental discharge of hazardous materials or a violation of compliance with a water quality standard, Central Valley Water Board staff may require water quality monitoring based on the discharge constituents and/or related water quality objectives and beneficial uses.

3. **In-Water Work or Diversions:**

For projects involving planned work in water or stream diversions, a water quality monitoring plan shall be submitted to Central Valley Water Board staff for acceptance at least 30 days in advance of any discharge to the affected water body. Water quality monitoring shall be conducted in accordance with the approved plan.

During planned in-water work or during the entire duration of temporary water diversions, any discharge(s) to waters of the state shall conform to the following water quality standards:

- a. Activities shall not cause visible oil, grease, or foam in the receiving water.
- b. Activities shall not cause the pH in surface waters to be depressed below 6.5 nor raised above 8.5.
- c. Activities shall not cause turbidity increases in surface water to exceed:
  - i. where natural turbidity is less than 1 Nephelometric Turbidity Units (NTUs), controllable factors shall not cause downstream turbidity to exceed 2 NTUs;
  - ii. where natural turbidity is between 1 and 5 NTUs, increases shall not exceed 1 NTU;
  - iii. where natural turbidity is between 5 and 50 NTUs, increases shall not exceed 20 percent;
  - iv. where natural turbidity is between 50 and 100 NTUs, increases shall not exceed 10 NTUs; and
  - v. where natural turbidity is greater than 100 NTUs, increases shall not exceed 10 percent.

Appropriate averaging periods may be applied, provided that beneficial uses will be fully protected. Averaging periods may only be used with prior permission of the Central Valley Water Board Executive Officer.

- d. 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.

Sampling during in-water work or during the entire duration of temporary water diversions shall be conducted in accordance with Table 3 sampling parameters. The sampling requirements in Table 3 shall be conducted upstream out of the influence of the Project, and approximately 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. A surface water monitoring report, as described in Attachment D, shall be submitted within two weeks of initiation of in-water construction, and every two weeks thereafter. In reporting the data, the

Permittee shall arrange the data in tabular form so that the sampling locations, date, constituents, and concentrations are readily discernible. The data shall be summarized in such a manner to illustrate clearly whether the Project complies with Order requirements. The report shall include surface water sampling results, visual observations, and identification of the turbidity increase in the receiving water applicable to the natural turbidity conditions specified in the turbidity criteria in XII.C.3.c.

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

Parameter	Unit of Measurement	Type of Sample	Minimum Frequency
Oil and Grease	N/A	Visual	Continuous
pH	Standard Units	Grab	Every 4 hours
Turbidity	NTU	Grab	Every 4 hours
Settleable Material	ml/L	Grab	Every 4 hours

#### **4. Post-Construction:**

- a. The Permittee shall visually inspect the entire Project site during the rainy season for one year following completion of construction to ensure excessive erosion, stream instability, or other water quality pollution is not occurring in or downstream of the Project site. If water quality pollution is occurring, contact the Central Valley Water Board staff member overseeing the Project within three (3) working days. The Central Valley Water Board may require the submission of a Violation of Compliance with Water Quality Standards Report. Additional permits may be required to carry out any necessary site remediation.
- b. The Permittee shall obtain coverage, and shall submit evidence of such coverage to the County, for the Project under the National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000001 for Storm Water Discharges Associated With Industrial Activity, Water Quality Order No. 2014-0057-DWQ (Industrial General Permit).

#### **D. Standard**

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

2. This Order is not intended and shall not be construed to apply to any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license, unless the pertinent certification application was filed pursuant to subsection 3855(b) of chapter 28, title 23 of the California Code of Regulations, and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. This Order is conditioned upon total payment of any fee required under title 23 of the California Code of Regulations and owed by the Permittee.
4. In the event of any violation or threatened violation of the conditions of this Order, the violation or threatened violation shall be subject to any remedies, penalties, process, or sanctions as provided for under state and federal law. For purposes of Clean Water Act, section 401(d), the applicability of any state law authorizing remedies, penalties, processes, or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Order.

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

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

6. The Permittee shall adhere to all requirements in the mitigation monitoring and reporting program (MMRP) (include title and date of MMRP) which is incorporated herein by reference and any additional measures as outlined in Attachment C, CEQA Findings of Fact.

#### **F. Construction General Permit Requirement**

The Permittee 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, as amended, for discharges to surface waters comprised of storm water associated with construction activity, including, but not limited to, demolition, clearing, grading, excavation, and other land disturbance activities of one or more acres, or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres.

#### **G. Waste Discharge to Land Order Requirement**

The Permittee shall submit a Report of Waste Discharge for Discharge to Land (production pond) to the Central Valley Regional Water Quality Control Board and shall comply with any resulting order of Waste Discharge Requirements and monitoring and reporting ordered by the Regional Board.

#### **H. Administrative**

1. Signatory requirements for all document submittals required by this Order are presented in Attachment E of this Order.
2. This Order does not authorize any act which results in the taking of a threatened, endangered or candidate species or any act, which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code, §§ 2050-2097) or the federal Endangered Species Act (16 U.S.C. §§ 1531-1544). If a "take" will result from any act authorized under this Order held by the Permittee, the Permittee must obtain authorization for the take prior to any construction or operation of the portion of the Project that may result in a take. The Permittee is responsible for meeting all requirements of the applicable endangered species act for the Project authorized under this Order.
3. The Permittee shall grant Central Valley Water Board staff, or an authorized representative (including an authorized contractor acting as a Water Board representative), upon presentation of credentials and other documents as may be required by law, permission to:
  - a. Enter upon the Project or compensatory mitigation site(s) premises where a regulated facility or activity is located or conducted, or where records are kept.
  - b. Have access to and copy any records that are kept and are relevant to the Project or the requirements of this Order.
  - c. Inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order.
  - d. Sample or monitor for the purposes of assuring Order compliance.

4. A copy of this Order shall be provided to any consultants, contractors, and subcontractors working on the Project. Copies of this Order shall remain at the Project site for the duration of this Order. The Permittee shall be responsible for work conducted by its consultants, contractors, and any subcontractors.
5. A copy of this Order must be available at the Project site(s) during construction for review by site personnel and agencies. All personnel performing work on the Project shall be familiar with the content of this Order and its posted location at the Project site.
6. Lake and Streambed Alteration Agreement – The Permittee shall submit a signed copy of the Department of Fish and Wildlife’s lake and streambed alteration agreement to the Central Valley Water Board immediately upon execution and prior to any discharge to waters of the state.

## **I. Construction**

### **1. Dewatering**

- a. Quarry dewatering discharge shall be captured within storm water retention/groundwater recharge ponds. Surface and/or groundwater intercepted within the quarry excavation area shall be used in quarry operations.

### **2. Fugitive Dust**

- a. Project employees shall be provided with written guidance governing vehicle use, speed limits on unpaved roads, fire prevention, and other hazards.
- b. During mining operations, the number of access routes, number and size of staging areas, and the total area of the proposed project activity shall be limited to the minimum necessary. Routes and boundaries will be clearly demarcated.

### **3. Good Site Management “Housekeeping”**

- a. All heavy equipment, vehicles, and supplies shall be stored at the designated staging area at the end of each work period. The stockpiling of mining materials, portable equipment, vehicles, and supplies shall be restricted to the designated mining staging areas. Staging areas for mining equipment shall be located so that spills of oil, grease or other petroleum by-products shall not be discharged into any watercourse or sensitive habitat. All fueling, cleaning, maintenance, and staging of vehicles and other equipment shall occur only within designated areas and at least 250 feet away from the limits of mining activities. All equipment shall be maintained such that there shall be no leaks of automotive fluids such as gasoline, oils, or solvents. All workers shall be informed of the importance of preventing spills and appropriate measures to take should a spill occur. A spill response plan shall be in place prior to project initiation, including procedures to immediately remediate any unlikely spills in adjacent habitat areas, and any spills or hazardous materials shall be cleaned up immediately in accordance with applicable local, state and/or federal regulations. Such spills shall be reported in the ongoing mining compliance reports.

### **4. Hazardous Materials**

- a. The discharge of petroleum products, any construction materials, hazardous materials, pesticides, fuels, lubricants, oils, hydraulic fluids, raw cement,

concrete or the washing thereof, asphalt, paint, coating material, drilling fluids, or other substances potentially hazardous to fish and wildlife resulting from or disturbed by project-related activities is prohibited and shall be prevented from contaminating the soil and/or entering waters of the state. In the event of a prohibited discharge, the Permittee shall comply with notification requirements in sections XII.B.3.a and XII.B.3.b.

- b. Concrete must be completely cured before coming into contact with waters of the United States and waters of the state. Surface water that contacts wet concrete must be pumped out and disposed of at an appropriate off-site commercial facility, which is authorized to accept concrete wastes.

## 5. In-Water Work

- a. In-water work shall occur during periods of no precipitation.

## 6. Post-Construction Storm Water Management

- a. The Austin Quarry project shall be designed and graded in such a way that all surface runoff from the mining areas of the project is directed away from the non-mining portions of the project. Culverts, ditches, water bars (berms and cross ditches), and on-site storm water retention/groundwater recharge ponds shall be incorporated into the Austin Quarry project design to achieve this.
- b. Post construction storm water discharge shall be authorized under Order 2014-0057-DWQ, the General Permit for Storm Water Discharges Associated with Industrial Activities (Industrial General Permit). The Permittee shall register for coverage under the Industrial General Permit prior to commencement of rock extraction from the quarry.
- c. To maintain pre-Project hydrologic conditions downstream of the Project, off-site storm water discharge shall be allowed only under extreme weather conditions (during unusually wet years or extreme storm events). The Permittee will first fill all storage facilities (tanks and ponds) as feasible and, only as a last option, will discharge into the drainage channels downstream from the Project. The Permittee shall monitor and report the water level and all inflow and outflow points from all on-site storm water retention/groundwater recharge ponds, and climate conditions according to the *Groundwater Monitoring and Evaluation Program Work Plan, CUP 2009-017 COA 2 & 3, Austin Quarry Project*, March 2017, as revised.

## 7. Sediment Control

- a. Except for activities permitted by the United States Army Corps of Engineers under Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act, soil, silt, or other organic materials shall not be placed where such materials could pass into surface water or surface water drainage courses.
- b. Silt fencing, straw wattles, or other effective management practices must be used along the construction zone to minimize soil or sediment along the embankments from migrating into the waters of the state through the entire duration of the Project.
- c. The use of netting material (e.g., monofilament-based erosion blankets) that could trap aquatic dependent wildlife is prohibited within the Project area.

## 8. Stabilization/Erosion Control

- a. To control erosion during and after implementation of the proposed project, the applicant (or applicant's successor) will implement best management practices (BMPs), as identified in the Storm Water Pollution Prevention Plan (SWPPP). Erosion control measures and BMPs, which retain soil or sediment, runoff from dust control, and hazardous materials on the mining site and prevent these from entering the vernal pool complexes, will be placed, monitored, and maintained throughout the mining operations. These measures and BMPs may include, but are not limited to, silt fencing, sterile hay bales, vegetative strips, hydroseeding, and temporary sediment disposal.
- b. Hydroseeding shall be performed with California native seed mix.

## J. Compensatory Mitigation for Permanent Impacts<sup>6</sup>

1. Prior to groundbreaking at the 671-acre Austin Quarry Project, the 765-acre Fenston Ranch Conservation Site (Preserve) shall be preserved as off-site mitigation for impacts to waters that may result from the implementation of the Austin Quarry project. The Preserve supports 185.756 acres of Waters (comprised of 14.807 acres of vernal pool, 158.976 acres of seasonal swale, and 11.973 acres of bed and bank) within a surrounding matrix of approximately 579 acres of California tiger salamander aestivation habitat (annual grasslands).
2. The Preserve shall be protected via a United States Fish and Wildlife Service (USFWS)-approved conservation easement, which shall be placed on the entirety of the Preserve for the protection of its habitats in perpetuity. The easement shall include, but not be limited to, provisions and responsibilities of the project applicant (or applicant's successor) for the protection of the habitats of the Preserve. The easement shall include a list of prohibited activities that are inconsistent with the maintenance of the natural habitat areas within the Preserve, including, but not limited to: (1) alteration of existing topography or any other alteration or uses for any purposes to the extent controlled by Grantor (a mineral reservation exists on the Preserve property but a remoteness opinion for these rights has been prepared and agreed to by USFWS); (2) placement of any new structures; (3) dumping or burning of rubbish, garbage, or any other wastes or fill materials; (4) building of any new roads or trails; (5) killing, removing, altering, or replacing any existing native vegetation; (6) recreational activities; and (7) use of pesticides for purposes other than habitat management. **The Permittee shall provide a copy of the recorded conservation easement to the Central Valley Water Board within 30 days of its recordation.**
3. Prior to ground breaking at the Austin Quarry project, **a copy of the Long-Term Management Plan for the Fenston Ranch, approved by the USACE, shall be submitted to the Central Valley Water Board.**

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<sup>6</sup> Compensatory Mitigation is for permanent physical loss and permanent ecological degradation of a water of the state.

4. Prior to groundbreaking at the Austin Quarry project, the applicant (or applicant's successor) shall prepare a Property Analysis Report (PAR) for the preserve and submit the PAR to the USFWS and USACE for review and approval, and **shall provide a copy of the agency-approved PAR to the Central Valley Water Board.**
5. Prior to groundbreaking at the Austin Quarry project, the Permittee shall provide a non-wasting endowment, or similar funding mechanism to fund management, maintenance, and monitoring activities of the preserve and shall be consistent with the agency-approved PAR, and **shall provide evidence of the funding mechanism to the Central Valley Water Board.**

#### **K. Certification Deviation**

1. Minor modifications of Project locations or predicted impacts may be necessary as a result of unforeseen field conditions, necessary engineering re-design, construction concerns, or similar reasons. Some of these prospective Project modifications may have impacts on water quality. Some modifications of Project locations or predicted impacts may qualify as Certification Deviations as set forth in Attachment F. For purposes of this Certification, a "Certification Deviation" is a Project locational or impact modification that does not require an immediate amendment of the Order, because the Central Valley Water Board has determined that any potential water quality impacts that may result from the change are sufficiently addressed by the Order conditions and the CEQA Findings. After the termination of construction, this Order will be formally amended to reflect all authorized Certification Deviations and any resulting adjustments to the amount of water resource impacts and required compensatory mitigation amounts.
2. A Project modification shall not be granted a Certification Deviation if it warrants or necessitates changes that are not addressed by the Order conditions or the CEQA environmental document such that the Project no longer qualifies for a categorical exemption. In this case a supplemental environmental review and different Order will be required.

#### **XIII. Water Quality Certification**

I hereby issue the Order for the Austin Quarry Project, 5B20CR00077, certifying that as long as all of the conditions listed in this Order are met, any discharge from the referenced Project will comply with the applicable provisions of Clean Water Act sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards).

This discharge is also regulated pursuant to State Water Board Water Quality Order No. 2003-0017-DWQ which authorizes this Order to serve as Waste Discharge Requirements pursuant to the Porter-Cologne Water Quality Control Act (Wat. Code, § 13000 et seq.).

Except insofar as may be modified by any preceding conditions, all Order actions are contingent on: (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the conditions of this Order and the attachments to this Order; and,

(b) compliance with all applicable requirements of Statewide Water Quality Control Plans and Policies, and the Regional Water Boards' Water Quality Control Plans and Policies.

*Clay L. Rodgers*

*8/29/17*

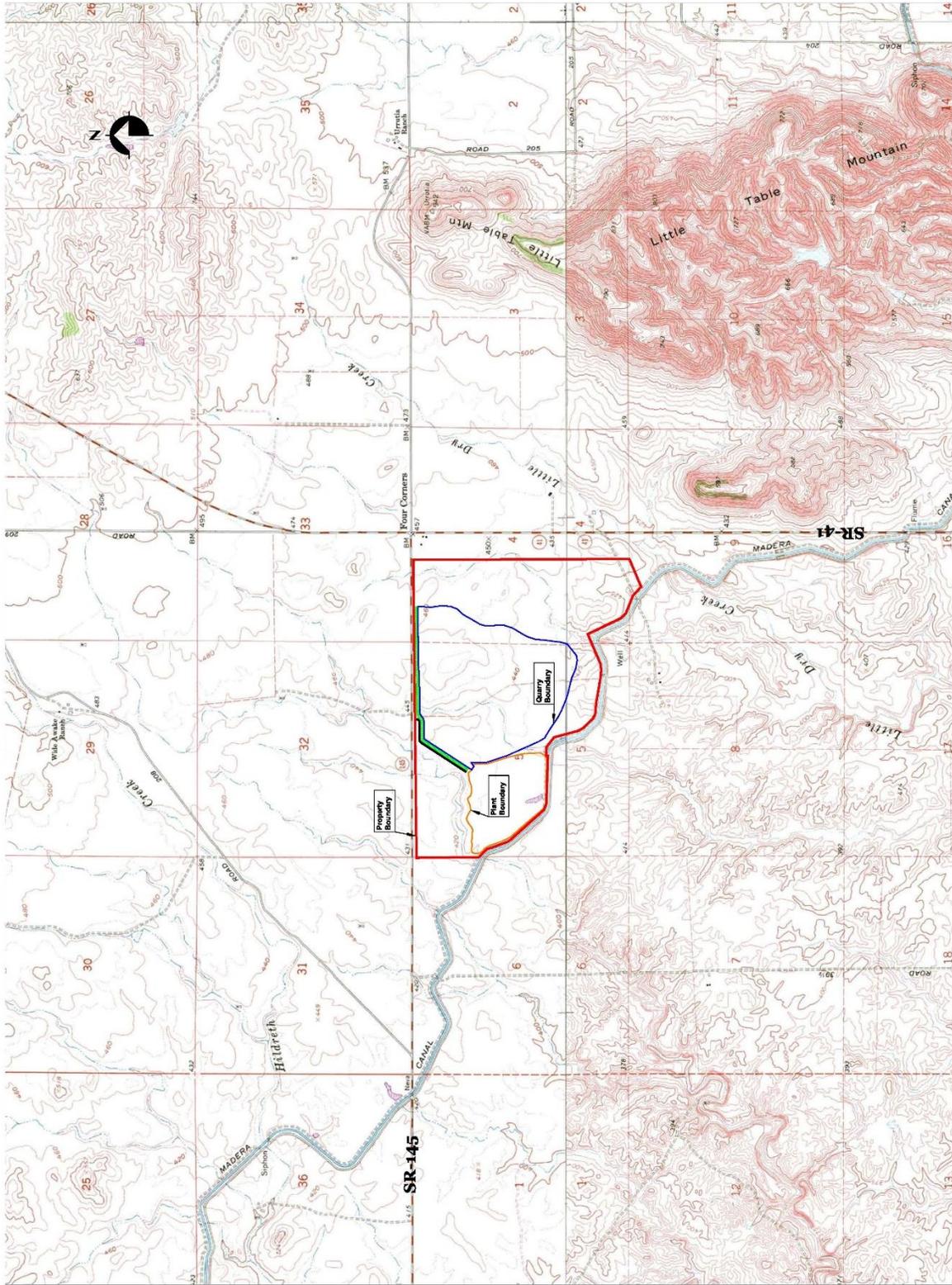
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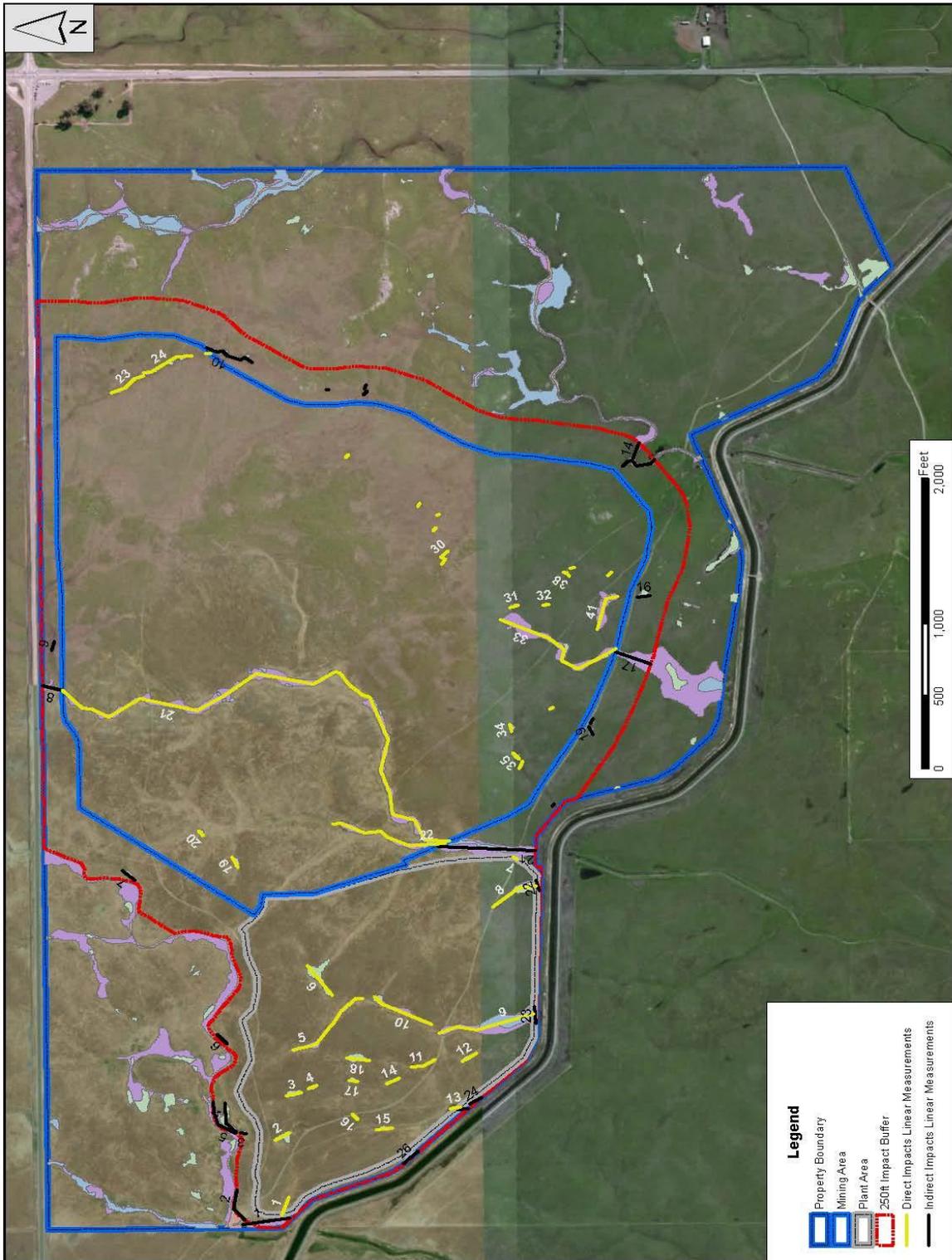
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Pamela C. Creedon  
Executive Officer  
Central Valley Regional Water Quality Control Board

\_\_\_\_\_  
Date

- Attachment A** Project Map
- Attachment B** Receiving Waters, Impact, and Mitigation Information
- Attachment C** CEQA Findings of Fact
- Attachment D** Report and Notification Requirements
- Attachment E** Signatory Requirements
- Attachment F** Certification Deviation Procedures









## Receiving Waters

<b>Table 1: Receiving Water(s) Information</b>							
Site ID	Waterbody Name	Impacted Aquatic Resource Type	Water Board Hydrologic Units	Receiving Waters	Receiving Waters Beneficial Uses	303d Listing Pollutant	CRAM AA ID <sup>7</sup>
Seasonal Wetlands and Swales; Streambed; Vernal Pools	Unnamed	Seasonal Wetlands and Swales; Streambed; Vernal Pools	545.300	Little Dry Creek, tributary to Cottonwood Creek	AGR, WARM, WILD, MUN, REC 1, REC 2	(N/A)	(N/A)

## **Table 2: Individual Impacts Information**

OBJECT ID (Preliminary Jurisdictional Determination #)	Total Feature Area (acres)	Wetland Classification	Location <sup>1</sup>	Impacts (acres)		Impacts (linear feet)	
				Direct	Indirect	Direct	Indirect
144	1.279	Bed and Bank	RLP	--	0.033	--	305.65
33	0.419	Seasonal Wetland	Quarry/Indirect	0.085	0.335	173.71	637.97
94	0.008	Seasonal Wetland	Quarry	0.008	--	26.43	--
95	0.009	Seasonal Wetland	Quarry	0.009	--	35.57	--
96	0.016	Seasonal Wetland	Quarry	0.016	--	56.13	--
97	0.017	Seasonal Wetland	Quarry	0.017	--	48.62	--
98	0.036	Seasonal Wetland	Quarry	0.036	--	102.92	--
99	0.007	Seasonal Wetland	Quarry	0.007	--	21.90	--
100	0.018	Seasonal	Quarry	0.018	--	42.63	--

<sup>7</sup> California Rapid Assessment Method (CRAM) score of impacted sites provided by the Permittee.

OBJECT ID (Preliminary Jurisdictional Determination #)	Total Feature Area (acres)	Wetland Classification	Location <sup>1</sup>	Impacts (acres)		Impacts (linear feet)	
				Direct	Indirect	Direct	Indirect
		Wetland					
101	0.004	Seasonal Wetland	Quarry	0.004	--	20.95	--
102	0.014	Seasonal Wetland	Quarry	0.014	--	50.78	--
103	0.025	Seasonal Wetland	Quarry	0.025	--	60.85	--
104	0.013	Seasonal Wetland	Quarry	0.013	--	36.46	--
105	0.014	Seasonal Wetland	Quarry	0.014	--	34.05	--
106	0.010	Seasonal Wetland	Quarry	0.01	--	36.10	--
107	0.013	Seasonal Wetland	Quarry	0.013	--	33.88	--
108	0.022	Seasonal Wetland	Plant	0.022	--	62.47	--
109	0.018	Seasonal Wetland	Plant	0.018	--	61.58	--
126	0.620	Seasonal Wetland	Plant/Indirect	0.584	0.036	365.07	87.64
127	0.067	Seasonal Wetland	Plant/Indirect	0.028	0.039	66.14	69.64
128	0.055	Seasonal Wetland	RLP	--	0.055	--	87.62
150	0.085	Seasonal Wetland	RLP	--	0.085	--	129.11
173	0.237	Swale	Plant	0.237	--	435.52	--
174	0.065	Swale	Plant	0.065	--	170.13	--
176	0.111	Swale	Quarry	0.111	--	239.75	--
177	1.341	Swale	PI/Qu/Indirect	0.529	0.84	742.94	633.92
178	3.117	Swale	Plant/Quarry	3.088	--	3,753.69	135.21
179	0.046	Swale	Plant/Indirect	0.036	0.009	139.53	35.77
180	0.071	Swale	Plant	0.071	--	153.85	--
181	3.786	Swale	Quarry/Indirect	1.092	0.453	929.08	249.75
182	0.348	Swale	Quarry	0.348	--	285.34	--
183	0.059	Swale	Plant/Indirect	0.055	0.003	250.00	21.72
184	0.539	Swale	Plant/Indirect	0.531	0.009	637.12	28.15
185	0.286	Swale	Plant	0.286	--	611.31	--
189	0.280	Swale	Plant/Indirect	0.041	0.237	129.45	304.81
192	0.014	Swale	RLP	--	0.008	--	33.24

OBJECT ID (Preliminary Jurisdictional Determination #)	Total Feature Area (acres)	Wetland Classification	Location <sup>1</sup>	Impacts (acres)		Impacts (linear feet)	
				Direct	Indirect	Direct	Indirect
193	0.095	Swale	RLP	--	0.037	--	179.56
194	0.337	Swale	RLP	--	0.106	--	204.51
226	0.090	Swale	Quarry	0.09	--	279.09	--
227	0.067	Swale	RLP	--	0.067	--	246.19
228	0.014	Swale	Quarry	0.002	0.012	26.37	59.21
28	0.066	Vernal Pool	Plant	0.066	--	108.62	--
29	0.022	Vernal Pool	Plant	0.022	--	47.08	--
30	0.055	Vernal Pool	Plant	0.055	--	95.12	--
31	0.238	Vernal Pool	Plant/Indirect	0.21	0.03	176.76	58.99
32	0.027	Vernal Pool	Quarry	0.027	--	41.14	--
34	0.024	Vernal Pool	Quarry	0.024	--	54.54	--
35	0.036	Vernal Pool	Quarry	0.036	--	54.96	--
59	0.004	Vernal Pool	RLP	--	0.004	--	17.51
60	0.039	Vernal Pool	RLP	--	0.039	--	62.06
61	0.023	Vernal Pool	RLP	--	0.023	--	42.24
62	0.033	Vernal Pool	Quarry	0.033	--	57.67	--
63	0.044	Vernal Pool	Quarry	0.044	--	70.68	--
64	0.012	Vernal Pool	Quarry	0.012	--	40.89	--
65	0.017	Vernal Pool	Quarry	0.017	--	48.80	--
66	0.007	Vernal Pool	Quarry	0.007	--	24.34	--
67	0.013	Vernal Pool	Quarry	0.013	--	31.92	--
68	0.032	Vernal Pool	Quarry	0.032	--	77.59	--
69	0.070	Vernal Pool	RLP	--	0.07	--	81.14
72	0.013	Vernal Pool	RLP	--	0.013	--	30.27
73	0.010	Vernal Pool	RLP	--	0.01	--	31.80
74	0.004	Vernal Pool	RLP	--	0.004	--	15.72
110	0.011	Vernal Pool	Quarry	0.011	--	34.25	--
111	0.019	Vernal Pool	Quarry	0.019	--	75.32	--
112	0.034	Vernal Pool	Quarry	0.034	--	64.30	--
113	0.043	Vernal Pool	Quarry/Indirect	0.008	0.036	34.29	70.75
114	0.007	Vernal Pool	RLP	--	0.007	--	23.32
115	0.020	Vernal Pool	RLP	--	0.02	--	50.15
116	0.012	Vernal Pool	RLP	--	0.012	--	66.67
117	0.019	Vernal Pool	RLP	--	0.019	--	45.14
118	0.011	Vernal Pool	RLP	--	0.011	--	32.77
119	0.008	Vernal Pool	Quarry	0.008	--	26.79	--
120	0.006	Vernal Pool	Quarry	0.006	--	24.29	--
121	0.005	Vernal Pool	Quarry	0.005	--	19.38	--
122	0.004	Vernal Pool	Quarry	0.004	--	18.23	--

OBJECT ID (Preliminary Jurisdictional Determination #)	Total Feature Area (acres)	Wetland Classification	Location <sup>1</sup>	Impacts (acres)		Impacts (linear feet)	
				Direct	Indirect	Direct	Indirect
123	0.051	Vernal Pool	Quarry	0.051	--	128.41	--
124	0.033	Vernal Pool	Quarry	0.033	--	59.20	--
125	0.007	Vernal Pool	Quarry	0.007	--	27.98	--
129	0.049	Vernal Pool	Plant	0.049	--	102.53	--
130	0.038	Vernal Pool	Plant	0.038	--	58.72	--
131	0.148	Vernal Pool	Plant	0.148	--	149.60	--
132	0.312	Vernal Pool	Plant	0.312	--	264.45	--
133	0.059	Vernal Pool	Plant	0.059	--	70.02	--
134	0.035	Vernal Pool	Plant	0.035	--	63.12	--
135	0.084	Vernal Pool	Plant	0.084	--	105.38	--
136	0.115	Vernal Pool	Plant	0.115	--	106.16	--
137	0.056	Vernal Pool	Quarry	0.056	--	81.93	--
138	0.033	Vernal Pool	Quarry	0.033	--	55.60	--
148	0.047	Vernal Pool	Quarry	0.047	--	129.55	--
149	0.027	Vernal Pool	Plant	0.027	--	115.76	--
<b>TOTAL IMPACTS</b>		<b>Stream Channel</b>		--	0.033	--	306
		<b>Seasonal Wetland and Swales</b>		7.532	2.331	10,119	3,144
		<b>Vernal Pools</b>		1.787	0.298	2,745	629
		<b>Totals</b>		<b>9.319</b>	<b>2.662</b>	<b>12,864</b>	<b>4,079</b>

RLP- Remaining Lease Property, outside of impact area.

### Compensatory Mitigation Information

#### (a) Permittee Responsible Compensatory Mitigation Site Information

<b>Table 3: Onsite Permittee Responsible Compensatory Mitigation</b>					
Site ID	Lat.	Long.	Aquatic Resource Type	Mitigation Quantity	
				Acres	Linear Feet
Fenston Ranch	36°59'52"N	-119°49'22"W	Vernal Pools	14.807	--
Fenston Ranch	36°59'52"N	-119°49'22"W	Stream Channel	11.973	--
Fenston Ranch	36°59'52"N	-119°49'22"W	Seasonal Swales	158.976	--



## A. Environmental Review

On 12 September 2016, the Madera County Board of Supervisors, as lead agency, certified a Final Revised Environmental Impact Report (FREIR) (SCH No. 2010071036) for the Project and filed a Notice of Determination (NOD) at the State Clearinghouse on 15 September 2016. The Central Valley Water Board is a responsible agency under CEQA (Pub. Resources Code, § 21069) and in making its determinations and findings, legally must assume that Madera County's certified environmental documents comport with the requirements of CEQA and are valid. (Pub. Resources Code, § 21167.3.) The Central Valley Water Board has reviewed and considered the environmental documents and finds that the environmental documents prepared by Madera County, together with the Conditions required by this Order, adequately address the Project's water resource impacts. (See Cal. Code Regs., tit. 14, § 15091, subd. (a); *id.* § 15096, subd. (f).) The environmental documents include the mitigation monitoring and reporting program (MMRP) developed by Madera County for all mitigation measures that have been adopted for the Project to reduce potentially significant impacts. (See Pub. Resources Code, § 21081.6, subd. (a)(1); Cal. Code Regs., tit. 14, § 15091, subd. (d).)

## B. Incorporation by Reference

Pursuant to CEQA, these Findings of Fact (Findings) support the issuance of this Order based on the Project FREIR, the application for this Order, and other supplemental documentation.

All CEQA project impacts, including those discussed in subsection C below, are analyzed in detail in the Project FREIR, which is incorporated herein by reference. The Project FREIR is available at: <http://maderacounty.com>.

Requirements under the purview of the Central Valley Water Board in the MMRP are incorporated herein by reference.

The Permittee's application for this Order, including all supplemental information provided, is incorporated herein by reference.

## C. Findings

The FREIR describes the potential significant environmental effects to water resources. Having considered the whole of the record, the Central Valley Water Board makes the following findings:

- (1) Findings regarding impacts that will be avoided or mitigated to a less than significant level. (Pub. Resources Code, § 21081, subd. (a)(1); Cal. Code Regs., tit. 14, § 15091, subd. (a)(1).)

*Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FREIR.*

### a.i. Potentially Significant Impacts:

Impact 3.4-2:

The project would result in loss of federally protected wetlands and other waters of the United States.

Impact 3.4-3:

The project would result in the direct and indirect impacts to vernal pools, which would reduce habitat for special-status vernal pool species.

Impact 3.4-11:

The project would affect flows in downstream drainages and could create the potential for adverse effects on habitat.

Impact 3.6-5:

Ground disturbance and vegetation removal could increase soil erosion.

Impact 3.7-1:

The project could create a hazard to the public, workers, and the environment through improper handling or accidental release of fuels or other hazardous materials.

Impact 3.8-1:

Certain project activities could result in impacts to groundwater quality.

a.ii. Facts in Support of Finding (Mitigation Measures):

*Mitigation Measure 3.4-2: Permanently Preserve Wetlands and Other Waters of the U.S*

Prior to the initiation of disturbance on the site associated with Project development, the Applicant shall permanently preserve approximately 11.97 acres of bed and bank, 158.98 acres of seasonal swale, and 14.81 acres of vernal pools on the adjacent Fenston Mitigation Area.

*Mitigation Measure 3.4-3: Prepare and Implement Plans for Permanent Preservation of Vernal Pools on the Adjacent Fenston Mitigation Area*

Prior to the initiation of disturbance on the site associated with Project development, the Applicant shall prepare and implement plans for the permanent preservation of vernal pools within the Fenston Mitigation Area to provide habitat for the vernal pool species that could be impacted by the Project. The plans shall consist of the following:

1. Preserve approximately 14.81 acres of vernal pools in perpetuity on the adjacent Fenston Mitigation Area.
2. The Applicant shall prepare a detailed Preserve Management Plan (PMP) for the long-term management of the preserved vernal pools and surrounding preserved uplands which shall be submitted to, and approved by, the U.S. Fish and Wildlife Service and California Department of Fish and Wildlife prior to initiation of mining activities on the Project site. This plan shall address the following: Goals for Preserve Management; Responsible Parties; Preserve Characteristics; Preserve Management; Budgets and Funding; and Monitoring and Reporting. The PMP shall include a description of funding for management in perpetuity, and the Applicant shall provide long-term funding for the preserve management through establishment of an endowment.

*Mitigation Measure 3.6-5: Implement Soil Stabilization and Erosion Control Measures*

1. All on-site grading and mining activities shall be performed in accordance with all grading and other applicable mining codes of Madera County.
2. The following preventative measures shall be implemented to minimize wind and water erosion on-site:
  - a. Surface disturbance shall be kept to the minimum that is required to construct and operate the Project.
  - b. The Project shall be designed and constructed with erosion control features (e.g., berms, retention ponds, and vegetation cover) to minimize runoff and to protect on-site areas susceptible to erosion from surface flow or wind and to protect off-site receiving waters from being affected by pollutants.
  - c. Areas of exposed soils resulting from excavation and grading work shall be weatherized by covering (e.g., rocks, vegetation, asphalt, or concrete), using of soil stabilization chemicals, watering, or other means to withstand and avoid erosion.
  - d. Drainage control structures shall be used where necessary to direct surface drainage away from disturbance areas and to minimize runoff and sediment disposition down-slope from all disturbed areas. These structures shall include culverts, ditches, water bars (berms and cross ditches), and/or sediment traps. Drainage from disturbed on-site areas shall not discharge to off-site areas.
  - e. All personnel shall be trained before they enter the worksite regarding environmental concerns, pertinent laws and regulations, and elements of the erosion control plan and Storm Water Pollution Prevention Plan (SWPPP). This information shall be provided in a multi-hour environmental training for project management and general foreman, and a short environmental training class for other on-site personnel.
3. The Project Applicant shall prepare and implement a SWPPP for construction activities and a SWPPP for Project operation. The SWPPPs shall be prepared as required by and consistent with the State Water Resources Control Board requirements.

*Mitigation Measure 3.7-1(a): Above-Ground Storage Tanks*

For storage of any petroleum products or other regulated substances, the Applicant shall only use above-ground storage tanks that have been approved by the U.S. Environmental Protection Agency. All aboveground tanks shall be double-walled and meet all ballistic and flame impingement requirements in California Fire Code (CFC) Article 79, or must adhere to more stringent design requirements in place at the time of installation. The containment structures for such tanks shall not be equipped with any valves or drains. The Applicant shall comply with the Aboveground Petroleum Storage Act which requires owners or operators of aboveground petroleum storage tanks greater than 1,320 gallons to file a tank facility statement, to develop and implement a Spill Prevention Control and Countermeasure (SPCC) plan, and to pay an annual fee.

*Mitigation Measure 3.7-1(b): Proper Management and Disposal*

Vehicles, equipment, materials and debris shall be properly managed and disposed, including:

1. Project equipment, vehicles and servicing materials shall be maintained in an orderly manner to aid in accounting for and detecting potential sources of contamination;
2. Non-functional equipment, scrap metal, construction debris, used batteries and tires, and similar objects shall be removed from the site on a regular basis and disposed of at appropriately licensed facilities;
3. Spare equipment such as heavy equipment parts, conveyor belts, tires and other replacement or extra equipment pieces, shall be stored indoors or on impermeable surfaces that do not drain offsite whenever feasible to avoid surface water contamination. Spare parts containing petroleum products (i.e., lubricants, hydraulic oil, etc.) shall be stored using Best Management Practices (BMPs) to prevent contamination of soil or storm water runoff;
4. Storage areas shall be inspected by the Operator monthly. Any petroleum leaks shall be documented and cleaned up using appropriate cleaning and debris disposal techniques. Leaking equipment shall be repaired. Inspection and monitoring documentation shall be prepared for each inspection, shall be retained for a minimum of 5 years, and shall be available to County staff during site inspections; and
5. The Applicant shall comply with the Department of Toxic Substance Control (DTSC) regulations pertaining to hazardous waste storage and disposal. Applicant must obtain a California EPA-ID number before shipping hazardous waste to a recycler or disposal facility.

*Mitigation Measure 3.7-1(f): Obtain NPDES Coverage and Comply with Permit Requirements*

The Applicant shall obtain coverage, and shall submit evidence of such coverage to the County, for the Project under the National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000001 for Storm Water Discharges Associated With Industrial Activity, Water Quality Order No. 2014-0057-DWQ (Industrial General Permit).

*Mitigation Measure 3.7-1(g): Submit Report of Waste Discharge and Comply with WDRs*

The Applicant shall submit a Report of Waste Discharge to the Central Valley Regional Water Quality Control Board and shall comply with any resulting order of Waste Discharge Requirements and monitoring and reporting ordered by the Regional Board. A copy of the Report of Waste Discharge submitted to the Regional Board shall be submitted to the County.

*Mitigation Measure 3.7-1(h): Implement Measures to Minimize the Potential for Water Quality Impacts from Blasting Agents*

1. The Applicant shall implement and follow the Best Practices for Blasting developed by the Institute of Makers of Explosives (IME). The Best Practices include training of explosives users, selection of the appropriate explosives for site-specific conditions, proper explosives loading and handling techniques, and attention to technical matters. A copy of the IME Best Practices is included in Final EIR Appendix H-8, "Institute of Makers of Explosives - Blasting; Best Practices."
2. The Applicant shall only use qualified and licensed explosives experts. Records demonstrating the qualifications and licenses of all explosives experts working on the Project site, and a summary of work practices that comply with the IME Best Practices, shall be provided to the County prior to conducting any blasting at the site. As explosives experts are changed at any time during the Project, documentation for the new explosives experts shall be provided to the County prior to the new explosives experts conducting any blasting at the site.
3. Only water-resistant explosive materials shall be used during conditions when explosives could be exposed to wet conditions.
4. The duration of exposure to wet conditions shall be limited to the extent feasible and as necessary to avoid their introduction to surface or groundwater. Explosives shall be detonated as soon as is safe and practicable after placement in the field.
5. Prevention of surface spillage and other measures shall be implemented to prevent incomplete detonation of explosives. Any water that comes into contact with explosives shall be contained and either treated, used in subsequent blast holes, or shipped offsite for proper disposal.

*Mitigation Measure 3.8-1: Implement Measures to Prevent Degradation of Groundwater Quality*

Implement Mitigation Measures 3.7-1.

**D. Determination**

The Central Valley Water Board has determined that the Project, when implemented in accordance with the MMRP and the conditions in this Order, will not result in any significant adverse water quality or water supply impacts. (Cal. Code Regs., tit. 14, § 15096, subd. (h).) The Central Valley Water Board will file a NOD with the State Clearinghouse within five (5) working days from the issuance of this Order. (Cal. Code Regs., tit. 14, §§ 15096, subd. (i).)



### Copies of this Form

In order to identify your project, it is necessary to include a copy of the Project specific Cover Sheet below with your report: please retain for your records. If you need to obtain a copy of the Cover Sheet you may download a copy of this Order as follows:

1. Go to: [http://www.waterboards.ca.gov/water\\_issues/programs/cwa401/certifications.shtml](http://www.waterboards.ca.gov/water_issues/programs/cwa401/certifications.shtml)
2. Find your Order in the table based on Applicant, Date, and Subject headers.

### Report Submittal Instructions

1. Check the box on the Report and Notification Cover Sheet next to the report or notification you are submitting. (See your Order for specific reports required for your Project.)
  - **Part A (Annual Report):** This report will be submitted annually from the anniversary of Project effective date until a Notice of Project Complete Letter is issued.
  - **Part B (Project Status Notifications):** Used to notify the Central Valley Water Board of the status of the Project schedule that may affect Project billing.
  - **Part C (Conditional Notifications and Reports):** Required on a case by case basis for accidental discharges of hazardous materials, violation of compliance with water quality standards, notification of in-water work, or other reports.
2. Sign the Report and Notification Cover Sheet and attach all information requested for the Report Type.
3. **Electronic Report Submittal Instructions:**
  - Submit signed Report and Notification Cover Sheet and required information via email to: [centralvalleyfresno@waterboards.ca.gov](mailto:centralvalleyfresno@waterboards.ca.gov) and cc: [Debra.Mahnke@waterboards.ca.gov](mailto:Debra.Mahnke@waterboards.ca.gov)
  - Include in the subject line of the email:  
Subject: ATTN: Debra Mahnke; Reg. Measure ID: 397420\_Report

### Definition of Reporting Terms

1. **Active Discharge Period:** The active discharge period begins with the effective date of this Order and ends on the date that the Permittee receives a Notice of Completion of Discharges Letter or, if no post-construction monitoring is required, a Notice of Project Complete Letter. The Active Discharge Period includes all elements of the Project including site construction and restoration, and any Permittee responsible compensatory mitigation construction.
2. **Request for Notice of Completion of Discharges Letter:** This request by the Permittee to the Central Valley Water Board staff pertains to projects that have post construction monitoring requirements, e.g. if site restoration was required to be monitored for 5 years following construction. Central Valley Water Board staff will review the request and send a Completion of Discharges Letter to the Permittee upon approval. This letter will initiate the post-discharge monitoring period and a change in fees from the annual

active discharge fee to the annual post-discharge monitoring fee.

3. **Request for Notice of Project Complete Letter:** This request by the Permittee to the Central Valley Water Board staff pertains to projects that either have completed post-construction monitoring and achieved performance standards or have no post-construction monitoring requirements, and no further Project activities are planned. Central Valley Water Board staff will review the request and send a Project Complete Letter to the Permittee upon approval. Termination of annual invoicing of fees will correspond with the date of this letter.
4. **Post-Discharge Monitoring Period:** The post-discharge monitoring period begins on the date of the Notice of Completion of Discharges Letter and ends on the date of the Notice of Project Complete Letter issued by the Central Valley Water Board staff. The Post-Discharge Monitoring Period includes continued water quality monitoring or compensatory mitigation monitoring.
5. **Effective Date:** Date of Order issuance.

### Map/Photo Documentation Information

When submitting maps or photos, please use the following formats.

#### 1. **Map Format Information:**

Preferred map formats of at least 1:24000 (1" = 2000') detail (listed in order of preference):

- **GIS shapefiles:** The shapefiles must depict the boundaries of all project areas and extent of aquatic resources impacted. Each shape should be attributed with the extent/type of aquatic resources impacted. Features and boundaries should be accurate to within 33 feet (10 meters). Identify datum/projection used and if possible, provide map with a North American Datum of 1983 (NAD38) in the California Teale Albers projection in feet.
- **Google KML files** saved from Google Maps: My Maps or Google Earth Pro. Maps must show the boundaries of all project areas and extent/type of aquatic resources impacted. Include URL(s) of maps. If this format is used include a spreadsheet with the object ID and attributed with the extent/type of aquatic resources impacted.
- **Other electronic format** (CAD or illustration format) that provides a context for location (inclusion of landmarks, known structures, geographic coordinates, or USGS DRG or DOQQ). Maps must show the boundaries of all project areas and extent/type of aquatic resources impacted. If this format is used include a spreadsheet with the object ID and attributed with the extent/type of aquatic resources impacted.
- Aquatic resource maps marked on paper **USGS 7.5 minute topographic maps** or **Digital Orthophoto Quarter Quads (DOQQ)** printouts. Maps must show the boundaries of all project areas and extent/type of aquatic resources impacted. If this format is used include a spreadsheet with the object ID and attributed with the extent/type of aquatic resources impacted.

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

**REPORT AND NOTIFICATION COVER SHEET**

<b>Project:</b>	Austin Quarry Project		
<b>Permittee:</b>	Calmat Co. dba Vulcan Materials Co.		
<b>Reg. Meas. ID:</b>	397420	<b>Place ID:</b>	807854
<b>Order Effective Date:</b>	29 August 2017		
<b>Order Expiration Date:</b>	29 August 2022		

**Report Type Submitted**

**Part A – Project Reporting**

<b>Report Type 1</b>	<input type="checkbox"/> <b>Monthly Report</b>
<b>Report Type 2</b>	<input type="checkbox"/> <b>Annual Report</b>

**Part B - Project Status Notifications**

<b>Report Type 3</b>	<input type="checkbox"/> <b>Commencement of Construction</b>
<b>Report Type 4</b>	<input type="checkbox"/> <b>Request for Notice of Completion of Discharges Letter</b>
<b>Report Type 5</b>	<input type="checkbox"/> <b>Request for Notice of Project Complete Letter</b>

**Part C - Conditional Notifications and Reports**

<b>Report Type 6</b>	<input type="checkbox"/> <b>Accidental Discharge of Hazardous Material Report</b>
<b>Report Type 7</b>	<input type="checkbox"/> <b>Violation of Compliance with Water Quality Standards Report</b>
<b>Report Type 8</b>	<input type="checkbox"/> <b>In-Water Work/Diversions Water Quality Monitoring Report</b>
<b>Report Type 9</b>	<input type="checkbox"/> <b>Modifications to Project Report</b>
<b>Report Type 10</b>	<input type="checkbox"/> <b>Transfer of Property Ownership Report</b>
<b>Report Type 11</b>	<input type="checkbox"/> <b>Transfer of Long-Term BMP Maintenance Report</b>
<b>Report Type 12</b>	<input type="checkbox"/> <b>Other Report Type</b>

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

Print Name <sup>1</sup>

Affiliation and Job Title

Signature

Date

**<sup>1</sup>STATEMENT OF AUTHORIZATION (include if authorization has changed since application was submitted)**

I hereby authorize \_\_\_\_\_ to act in my behalf as my representative in the submittal of this report, and to furnish upon request, supplemental information in support of this submittal.

\_\_\_\_\_  
Permittee's Signature

\_\_\_\_\_  
Date

**\*This Report and Notification Cover Sheet must be signed by the Permittee or a duly authorized representative and included with all written submittals.**

**Part A – Project Reporting (See your Order for reports required for your Project.)**

<b>Report Type 1</b>	<b>Monthly Report</b>
<b>Report Purpose</b>	Notifies Central Valley Water Board staff of the Project status and environmental compliance activities on a monthly basis.
<b>When to Submit</b>	On the 1st day of each month until a Notice of Project Complete Letter is issued to the Permittee.
<b>Report Contents</b>	<ol style="list-style-type: none"> <li><b>1. Construction Summary</b> Describe Project progress and schedule including initial ground disturbance, site clearing and grubbing, road construction, site construction, and the implementation status of construction storm water Best Management Practices (BMPs<sup>8</sup>). If construction has not started, provide estimated start date.</li> <li><b>2. Event Summary</b> Describe distinct Project activities and occurrences, including environmental monitoring, surveys, and inspections.</li> <li><b>3. Photo Summary</b> Provide photos of Project activities. For each photo, include a unique site identifier, date stamp, written description of photo details, and latitude/longitude (in decimal degrees) or map indicating location of photo. Successive photos should be taken from the same vantage point to compare pre/post construction conditions.</li> <li><b>4. Compliance Summary</b> <ol style="list-style-type: none"> <li><b>a)</b> List name and organization of environmental surveyors, monitors, and inspectors involved with monitoring environmental compliance for the reporting period.</li> <li><b>b)</b> List associated monitoring reports for the reporting period.</li> <li><b>c)</b> Summarize observed incidences of non-compliance, compliance issues, minor problems, or occurrences.</li> <li><b>d)</b> Describe each observed incidence in detail. List monitor name and organization, date, location, type of incident, corrective action taken (if any), status, and resolution.</li> </ol> </li> </ol>

<sup>8</sup> Best Management Practices (BMPs) is a term used to describe a type of water pollution or environmental control.

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<b>Report Type 2</b>	<b>Annual Report</b>
<b>Report Purpose</b>	Notify the Central Valley Water Board staff of Project status during both the active discharge and post-discharge monitoring periods.
<b>When to Submit</b>	Annual reports shall be submitted each year on the anniversary date of the Project effective date. Annual reports shall continue until a Notice of Project Complete Letter is issued to the Permittee.
<b>Report Contents</b>	<p>The contents of the annual report shall include the topics indicated below for each project period. Report contents are outlined in Annual Report Topics below.</p> <p><b><u>During the Active Discharge Period</u></b></p> <ul style="list-style-type: none"> <li>• <b>Topic 1: Construction Summary</b></li> <li>• <b>Topic 2: Mitigation for Temporary Impacts Status</b></li> <li>• <b>Topic 3: Compensatory Mitigation for Permanent Impacts Status</b></li> </ul> <p><b><u>During the Post-Discharge Monitoring Period</u></b></p> <ul style="list-style-type: none"> <li>• <b>Topic 2: Mitigation for Temporary Impacts Status</b></li> <li>• <b>Topic 3: Compensatory Mitigation for Permanent Impacts Status</b></li> </ul>
<b>Annual Report Topics (1-3)</b>	
<b>Annual Report Topic 1</b>	<b>Construction Summary</b>
<b>When to Submit</b>	With the annual report during the Active Discharge Period.
<b>Report Contents</b>	<ol style="list-style-type: none"> <li>1. Project progress and schedule including initial ground disturbance, site clearing and grubbing, road construction, site construction, and the implementation status of construction storm water best management practices (BMPs). If construction has not started, provide estimated start date and reasons for delay.</li> <li>2. Map showing general Project progress.</li> <li>3. If applicable: <ol style="list-style-type: none"> <li>a. Summary of Conditional Notification and Report Types 6 and 7 (Part C below).</li> <li>b. Summary of Certification Deviations. See Certification Deviation Attachment for further information.</li> </ol> </li> </ol>
<b>Annual Report Topic 2</b>	<b>Mitigation for Temporary Impacts Status</b>
<b>When to Submit</b>	With the annual report during both the Active Discharge Period and Post-Discharge Monitoring Period.

<b>Report Contents</b>	<ol style="list-style-type: none"> <li>1. Planned date of initiation and map showing locations of mitigation for temporary impacts to waters of the state and all upland areas of temporary disturbance which could result in a discharge to waters of the state.</li> <li>2. If mitigation for temporary impacts has already commenced, provide a map and information concerning attainment of performance standards contained in the restoration plan.</li> </ol>
<b>Annual Report Topic 3</b>	<b>Compensatory Mitigation for Permanent Impacts Status</b>
<b>When to Submit</b>	With the annual report during both the Active Discharge Period and Post-Discharge Monitoring Period.
<b>Report Contents</b>	<p><b>*If not applicable report N/A.</b></p> <p><b>Part A. Permittee Responsible</b></p> <ol style="list-style-type: none"> <li>1. Planned date of initiation of compensatory mitigation site installation.</li> <li>2. If installation is in progress, a map of what has been completed to date.</li> <li>3. If the compensatory mitigation site has been installed, provide a final map and information concerning attainment of performance standards contained in the compensatory mitigation plan.</li> </ol> <p><b>Part B. Mitigation Bank or In-Lieu Fee</b></p> <ol style="list-style-type: none"> <li>1. Status or proof of purchase of credit types and quantities.</li> <li>2. Include the name of bank/ILF Program and contact information.</li> <li>3. If ILF, location of project and type if known.</li> </ol>

**Part B – Project Status Notifications (See your Order for reports required for your Project.)**

<b>Report Type 3</b>	<b>Commencement of Construction</b>
<b>Report Purpose</b>	Notify Central Valley Water Board staff prior to the start of construction.
<b>When to Submit</b>	Must be received at least seven (7) days prior to start of initial ground disturbance activities.
<b>Report Contents</b>	<ol style="list-style-type: none"> <li>1. Date of commencement of construction.</li> <li>2. Anticipated date when discharges to waters of the state will occur.</li> <li>3. Project schedule milestones including a schedule for onsite compensatory mitigation, if applicable.</li> <li>4. Construction Storm Water General Permit WDID No.</li> </ol>

<b>Report Type 4</b>	<b>Request for Notice of Completion of Discharges Letter</b>
<b>Report Purpose</b>	Notify Central Valley Water Board staff that post-construction monitoring is required and that active Project construction, including any mitigation and permittee responsible compensatory mitigation, is complete.
<b>When to Submit</b>	Must be received by Central Valley Water Board staff within thirty (30) days following completion of all Project construction activities.

<b>Report Contents</b>	<ol style="list-style-type: none"> <li>1. Status of storm water Notice of Termination(s), if applicable.</li> <li>2. Status of post-construction storm water BMP installation.</li> <li>3. Pre- and post-photo documentation of all Project activity sites where the discharge of dredge and/or fill/excavation was authorized.</li> <li>4. Summary of Certification Deviation discharge quantities compared to initial authorized impacts to waters of the state, if applicable.</li> <li>5. An updated monitoring schedule for mitigation for temporary impacts to waters of the state and permittee responsible compensatory mitigation during the post-discharge monitoring period, if applicable.</li> </ol>
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<b>Report Type 5</b>	<b>Request for Notice of Project Complete Letter</b>
<b>Report Purpose</b>	Notify Central Valley Water Board staff that construction and/or any post-construction monitoring is complete, or is not required, and no further Project activity is planned.
<b>When to Submit</b>	Must be received by Central Valley Water Board staff within thirty (30) days following completion of all Project activities.
<b>Report Contents</b>	<p><b>Part A: Mitigation for Temporary Impacts</b></p> <ol style="list-style-type: none"> <li>1. A report establishing that the performance standards outlined in the restoration plan have been met for Project site upland areas of temporary disturbance which could result in a discharge to waters of the state.</li> <li>2. A report establishing that the performance standards outlined in the restoration plan have been met for restored areas of temporary impacts to waters of the state. Pre- and post-photo documentation of all restoration sites.</li> </ol> <p><b>Part B: Permittee Responsible Compensatory Mitigation</b></p> <ol style="list-style-type: none"> <li>3. A report establishing that the performance standards outlined in the compensatory mitigation plan have been met.</li> <li>4. Status on the implementation of the long-term maintenance and management plan and funding of endowment.</li> <li>5. Pre- and post-photo documentation of all compensatory mitigation sites.</li> <li>6. Final maps of all compensatory mitigation areas (including buffers).</li> </ol> <p><b>Part C: Post-Construction Storm Water BMPs</b></p> <ol style="list-style-type: none"> <li>7. Date of storm water Notice of Termination(s), if applicable.</li> <li>8. Report status and functionality of all post-construction BMPs.</li> </ol>

<b>Part C – Conditional Notifications and Reports (See your Order for reports required for your Project.)</b>
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<b>Report Type 6</b>	<b>Accidental Discharge of Hazardous Material Report</b>
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<b>Report Purpose</b>	Notifies Central Valley Water Board staff that an accidental discharge of hazardous material has occurred.
<b>When to Submit</b>	Within five (5) working days following the date of an accidental discharge. Continue reporting as required by Central Valley Water Board staff.
<b>Report Contents</b>	<ol style="list-style-type: none"> <li>1. The report shall include the OES Incident/Assessment Form, a full description and map of the accidental discharge incident (i.e. location, time and date, source, discharge constituent and quantity, aerial extent, and photo documentation). If applicable, the OES Written Follow-Up Report may be substituted.</li> <li>2. If applicable, any required sampling data, a full description of the sampling methods including frequency/dates and times of sampling, equipment, locations of sampling sites.</li> <li>3. Locations and construction specifications of any barriers, including silt curtains or diverting structures, and any associated trenching or anchoring.</li> </ol>

<b>Report Type 7</b>	<b>Violation of Compliance with Water Quality Standards Report</b>
<b>Report Purpose</b>	Notifies Central Valley Water Board staff that a violation of compliance with water quality standards has occurred.
<b>When to Submit</b>	The Permittee shall report any event that causes a violation of water quality standards within three (3) working days of the noncompliance event notification to Central Valley Water Board staff.
<b>Report Contents</b>	The report shall include: the cause; the location shown on a map; and the period of the noncompliance including exact dates and times. If the noncompliance has not been corrected, include: the anticipated time it is expected to continue; the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance; and any monitoring results if required by Central Valley Water Board staff.

<b>Report Type 8</b>	<b>In-Water Work and Diversions Water Quality Monitoring Report</b>
<b>Report Purpose</b>	Notifies Central Valley Water Board staff of the start and completion of in-water work. Reports the sampling results during in-water work and during the entire duration of temporary surface water diversions.
<b>When to Submit</b>	Seven (7) days prior to the start of in-water work. Within three (3) working days following the completion of in-water work. Surface water monitoring reports to be submitted two (2) weeks on initiation of in-water construction and during entire duration of temporary surface water diversions. Continue reporting in accordance with the approved water quality monitoring plan or as indicated in XII.C.3.
<b>Report Contents</b>	As required by the approved water quality monitoring plan or as indicated in XII.C.3.

<b>Report Type 9</b>	<b>Modifications to Project Report</b>
<b>Report Purpose</b>	Notifies Central Valley Water Board staff if the Project, as described in the application materials, is altered in any way or by the imposition of subsequent permit conditions by any local, state or federal regulatory authority.

<b>When to Submit</b>	If Project implementation as described in the application materials is altered in any way or by the imposition of subsequent permit conditions by any local, state or federal regulatory authority.
<b>Report Contents</b>	A description and location of any alterations to Project implementation. Identification of any Project modifications that will interfere with the Permittee's compliance with the Order.

<b>Report Type 10</b>	<b>Transfer of Property Ownership Report</b>
<b>Report Purpose</b>	Notifies Central Valley Water Board staff of change in ownership of the Project or Permittee-responsible mitigation area.
<b>When to Submit</b>	At least 10 working days prior to the transfer of ownership.
<b>Report Contents</b>	<ol style="list-style-type: none"> <li>1. A statement that the Permittee has provided the purchaser with a copy of this Order and that the purchaser understands and accepts: <ol style="list-style-type: none"> <li>a. the Order's requirements and the obligation to implement them or be subject to administrative and/or civil liability for failure to do so; and</li> <li>b. responsibility for compliance with any long-term BMP<sup>9</sup> maintenance plan requirements in this Order.</li> </ol> </li> <li>2. A statement that the Permittee has informed the purchaser to submit a written request to the Central Valley Water Board to be named as the permittee in a revised order.</li> </ol>

<b>Report Type 11</b>	<b>Transfer of Long-Term BMP Maintenance Report</b>
<b>Report Purpose</b>	Notifies Central Valley Water Board staff of transfer of long-term BMP maintenance responsibility.
<b>When to Submit</b>	At least 10 working days prior to the transfer of BMP maintenance responsibility.
<b>Report Contents</b>	A copy of the legal document transferring maintenance responsibility of post-construction BMPs.

<b>Report Type 12</b>	<b>Other Report</b>
<b>Report Purpose</b>	Required by Order condition.
<b>When to Submit</b>	As stated within the Order.
<b>Report Contents</b>	As stated within the Order.

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<sup>9</sup> Best Management Practices (BMPs) is a term used to describe a type of water pollution or environmental control.



## SIGNATORY REQUIREMENTS

*All Documents Submitted In Compliance With This Order  
Shall Meet The Following Signatory Requirements:*

1. All applications, reports, or information submitted to the Central Valley Water Quality Control Board (Central Valley Water Board) must be signed and certified as follows:
  - a) For a corporation, by a responsible corporate officer of at least the level of vice-president.
  - b) For a partnership or sole proprietorship, by a general partner or proprietor, respectively.
  - c) For a municipality, or a state, federal, or other public agency, by either a principal executive officer or ranking elected official.
2. A duly authorized representative of a person designated in items 1.a through 1.c above may sign documents if:
  - a) The authorization is made in writing by a person described in items 1.a through 1.c above.
  - b) The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity.
  - c) The written authorization is submitted to the Central Valley Water Board Staff Contact prior to submitting any documents listed in item 1 above.
3. Any person signing a document under this section shall make the following certification:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.”



## CERTIFICATION DEVIATION PROCEDURES

### Introduction

These procedures are put into place to preclude the need for Order amendments for minor changes in the Project routing or location. Minor changes or modifications in project activities are often required by the Permittee following start of construction. These deviations may potentially increase or decrease impacts to waters of the state. In such cases, a Certification Deviation, as defined in Section XII.K. of the Order, may be requested by the Permittee as set forth below:

### Process Steps

Who may apply: The Permittee or the Permittee's duly authorized representative or agent (hereinafter, "Permittee") for this Order.

How to apply: By letter or email to the 401 staff designated as the contact for this Order.

Certification Deviation Request: The Permittee will request verification from the Central Valley Water Board staff that the project change qualifies as a Certification Deviation, as opposed to requiring an amendment to the Order. The request should:

1. Describe the Project change or modification:
  - a. Proposed activity description and purpose;
  - b. Why the proposed activity is considered minor in terms of impacts to waters of the state;
  - c. How the Project activity is currently addressed in the Order; and,
  - d. Why a Certification Deviation is necessary for the Project.
2. Describe location (latitude/longitude coordinates), the date(s) it will occur, as well as associated impact information (i.e., temporary or permanent, federal or non-federal jurisdiction, water body name/type, estimated impact area, etc.) and minimization measures to be implemented.
3. Provide all updated environmental survey information for the new impact area.
4. Provide a map that includes the activity boundaries with photos of the site.
5. Provide verification of any mitigation needed according to the Order conditions.
6. Provide any other information required by Central Valley Water Board staff to determine whether the Project change or modification necessitates additional environmental review. (Cal. Code Regs., tit. 14, §§ 15061, 15162-15164.)

Post-Discharge Certification Deviation Reporting:

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

Annual Summary Deviation Report:

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

## 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)

The State Water Resources Control Board (SWRCB) finds that:

1. Discharges eligible for coverage under these General WDRs are discharges of dredged or fill material that have received State Water Quality Certification (Certification) pursuant to federal Clean Water Act (CWA) section 401.
2. Discharges of dredged or fill material are commonly associated with port development, stream channelization, utility crossing land development, transportation water resource, and flood control projects. Other activities, such as land clearing, may also involve discharges of dredged or fill materials (e.g., soil) into waters of the United States.
3. CWA section 404 establishes a permit program under which the U.S. Army Corps of Engineers (ACOE) regulates the discharge of dredged or fill material into waters of the United States.
4. CWA section 401 requires every applicant for a federal permit or license for an activity that may result in a discharge of pollutants to a water of the United States (including permits under section 404) to obtain Certification that the proposed activity will comply with State water quality standards. In California, Certifications are issued by the Regional Water Quality Control Boards (RWQCB) or for multi-Region discharges, the SWRCB, in accordance with the requirements of California Code of Regulations (CCR) section 3830 et seq. The SWRCB's water quality regulations do not authorize the SWRCB or RWQCBs to waive certification, and therefore, these General WDRs do not apply to any discharge authorized by federal license or permit that was issued based on a determination by the issuing agency that certification has been waived. Certifications are issued by the RWQCB or SWRCB before the ACOE may issue CWA section 404 permits. Any conditions set forth in a Certification become conditions of the federal permit or license if and when it is ultimately issued.
5. Article 4, of Chapter 4 of Division 7 of the California Water Code (CWC), commencing with section 13260(a), requires that any person discharging or proposing to discharge waste, other than to a community sewer system, that could affect the quality of the waters of the State,<sup>1</sup> file a report of waste discharge (ROWD). Pursuant to Article 4, the RWQCBs are required to prescribe waste discharge requirements (WDRs) for any proposed or existing discharge unless WDRs are waived pursuant to CWC section 13269. These General WDRs fulfill the requirements of Article 4 for proposed dredge or fill discharges to waters of the United States that are regulated under the State's CWA section 401 authority.

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<sup>1</sup> "Waters of the State" as defined in CWC Section 13050(e)

6. These General WDRs require compliance with all conditions of Certification orders to ensure that water quality standards are met.
7. The U.S. Supreme Court decision of *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers*, 531 U.S. 159 (2001) (the SWANCC decision) called into question the extent to which certain “isolated” waters are subject to federal jurisdiction. The SWRCB believes that a Certification is a valid and enforceable order of the SWRCB or RWQCBs irrespective of whether the water body in question is subsequently determined not to be federally jurisdictional. Nonetheless, it is the intent of the SWRCB that all Certification conditions be incorporated into these General WDRs and enforceable hereunder even if the federal permit is subsequently deemed invalid because the water is not deemed subject to federal jurisdiction.
8. The beneficial uses for the waters of the State include, but are not limited to, domestic and municipal supply, agricultural and industrial supply, power generation, recreation, aesthetic enjoyment, navigation, and preservation and enhancement of fish, wildlife, and other aquatic resources.
9. Projects covered by these General WDRs shall be assessed a fee pursuant to Title 23, CCR section 3833.
10. These General WDRs are exempt from the California Environmental Quality Act (CEQA) because (a) they are not a “project” within the meaning of CEQA, since a “project” results in a direct or indirect physical change in the environment (Title 14, CCR section 15378); and (b) the term “project” does not mean each separate governmental approval (Title 14, CCR section 15378(c)). These WDRs do not authorize any specific project. They recognize that dredge and fill discharges that need a federal license or permit must be regulated under CWA section 401 Certification, pursuant to CWA section 401 and Title 23, CCR section 3855, et seq. Certification and issuance of waste discharge requirements are overlapping regulatory processes, which are both administered by the SWRCB and RWQCBs. Each project subject to Certification requires independent compliance with CEQA and is regulated through the Certification process in the context of its specific characteristics. Any effects on the environment will therefore be as a result of the certification process, not from these General WDRs. (Title 14, CCR section 15061(b)(3)).
11. Potential dischargers and other known interested parties have been notified of the intent to adopt these General WDRs by public hearing notice.
12. All comments pertaining to the proposed discharges have been heard and considered at the November 4, 2003 SWRCB Workshop Session.
13. The RWQCBs retain discretion to impose individual or General WDRs or waivers of WDRs in lieu of these General WDRs whenever they deem it appropriate. Furthermore, these General WDRs are not intended to supersede any existing WDRs or waivers of WDRs issued by a RWQCB.

IT IS HEREBY ORDERED that WDRs are issued to all persons proposing to discharge dredged or fill material to waters of the United States where such discharge is also subject to the water quality certification requirements of CWA section 401 of the federal Clean Water Act (Title 33 United States Code section 1341), and such certification has been issued by the applicable RWQCB or the SWRCB, unless the applicable RWQCB notifies the applicant that its discharge will be regulated through WDRs or waivers of WDRs issued by the RWQCB. In order to meet the provisions contained in Division 7 of CWC and regulations adopted thereunder, dischargers shall comply with the following:

1. Dischargers shall implement all the terms and conditions of the applicable CWA section 401 Certification issued for the discharge. This provision shall apply irrespective of whether the federal license or permit for which the Certification was obtained is subsequently deemed invalid because the water body subject to the discharge has been deemed outside of federal jurisdiction.
2. Dischargers are prohibited from discharging dredged or fill material to waters of the United States without first obtaining Certification from the applicable RWQCB or SWRCB.

#### CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on November 19, 2003.

AYE: Arthur G. Baggett, Jr.  
Peter S. Silva  
Richard Katz  
Gary M. Carlton  
Nancy H. Sutley

NO: None.

ABSENT: None.

ABSTAIN: None.

  
Debbie Irvin  
Clerk to the Board