



Central Valley Regional Water Quality Control Board

CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND ORDER

Effective Date: 16 November 2022

Expiration Date: 15 November 2027

Program Type: Fill/Excavation

Project Type: Dams

Project: South Delta Temporary Barriers Project (Project)

Applicant: California Department of Water Resources (DWR)

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Reg. Meas. ID:	448906
Place ID:	882827
WDID No.:	5B39CR00370
USACE No.:	SPK-2001-00121
	Individual Permit

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I. Order

This Clean Water Act (CWA) section 401 Water Quality Certification action and Order (Order) is issued at the request of California Department of Water Resources (DWR) (hereinafter Permittee) for the Project. This Order is for the purpose described in application submitted by the Permittee. The application was received on 9 August 2022. The application was deemed complete on 7 September 2022.

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 19 August 2022 to 9 September 2022. The Central Valley Water Board did not receive any comments during the comment period.

III. Project Purpose

The purpose of the Project is to reduce adverse water level impacts (i.e. minimum tide elevations) caused by the State Water Project and Central Valley Project export pumping on local agricultural diverters within the South Delta Water Agency.

IV. Project Description

The Project consists of annual construction, operation, and removal of the Middle River (MR), Old River near Tracy (ORT), and Grant Line Canal (GLC) rock barriers.

V. Project Location

Address: Middle River, Old River, and Grant Line Canal in the Delta

County: San Joaquin

Nearest City: Tracy

- Middle River:

Section 36, Township 1 North, Range 4 East, MDB&M.

Latitude: 37.8857° and Longitude: -121.4822°

The MR barrier is located about a half mile south of the confluence of Middle River, Trapper Slough, and North Canal.

- Old River:

Section 28, Township 1 South, Range 4 East, MDB&M.

Latitude: 37.8103° and Longitude: -121.5428°

The ORT barrier is located near the Central Valley Project's (CVP) Tracy fish screen facility on Old River, approximately 0.5 miles east of the CVP's inlet.

- Grant Line Canal:

Section 29, Township 1 South, Range 5 East, MDB&M.

Latitude: 37.8199° and Longitude: -121.4483 °

The GLC barrier is located on Grant Line Canal east of Tracy Boulevard approximately four miles north of the city of Tracy.

Maps showing the Project locations 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, Fifth Edition, May 2018 (Basin Plan). The plan for the region and other plans and policies may be accessed at the [State Water Resources Control Board's Plans and Policies Web page](http://www.waterboards.ca.gov/plans_policies/) (http://www.waterboards.ca.gov/plans_policies/). The Basin Plan includes water quality standards, which consist of existing and potential beneficial uses of waters of the state, water quality objectives to protect those uses, and the state and federal antidegradation policies.

It is the policy of the State of California that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. This Order promotes that policy by requiring discharges to meet maximum contaminant levels designed to protect human health and ensure that water is safe for domestic use.

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

Sediment in the Sacramento-San Joaquin Delta is enriched with mercury due to historical mercury and/or gold mining and ongoing deposition from the Sacramento River. The Project locations likely have deposits of mercury-containing sediments. The Project involves the use of dredging and heavy machinery to excavate sediment below the ordinary high-water mark that will likely increase localized turbidity and resuspension of sediment-bound mercury into the water column. Resuspension of mercury-bound sediment may result in increased methylmercury within and downstream of the three Project locations.

Methylmercury is a bioaccumulative neurotoxin that is harmful to humans and wildlife when ingested at elevated levels over a sustained period. The portions of the Middle River, Old River, and Grant Line Canal impacted by the Project are identified on the Clean Water Act Section 303(d) List as impaired by mercury because of elevated methylmercury concentrations in fish that, when consumed, pose a risk to wildlife and humans.

On 22 April 2010, the Central Valley Water Board adopted the Delta Mercury Control Program (DMCP), an amendment to the Sacramento River and San Joaquin River Basin Plan that implements a program to address mercury and methylmercury

impairments in the Delta and Yolo Bypass. The DMCP includes fish-tissue objectives and methylmercury allocations for National Pollutant Discharge Elimination System (NPDES) wastewater facilities, municipal storm water, agricultural lands, wetlands, and open water in the Delta and Yolo Bypass. The Project’s three locations are in the Central and San Joaquin Delta subareas, which are already at capacity for methylmercury loading. Specifically, the barrier in Middle River is located in the Central Delta subarea and the barriers in Old River and Grant Line Canal are located in the San Joaquin Delta subarea. Any methylmercury production that may result from Project activities would further impair Delta waterways for mercury. Therefore, the Project must implement required actions below to reduce mercury resuspension, reintroduction to waterways, and potential methylation.

VII. Description of Direct Impacts to Waters of the State

Table 1: Approximate Number of Construction Days for Barrier Installation and Removal Duration¹

Barrier Locations	Spring Barrier Installation	Fall Barrier Removal
Old River at Tracy (ORT)	20 working days	20 working days
Middle River (MR)²	5 working days	5 working days
Grant Line Canal (GLC)³	24 working days	21 working days

General Description of Barrier Construction

The barriers have been placed within the channels of the Middle and Old Rivers, and Grant Line Canal annually since 1998. Previous permitted activities have been reviewed and evaluated by the Central Valley Water Board, United States Army Corps of Engineers, United States Fish and Wildlife Service, National Marine Fisheries Service, and California Department of Fish and Wildlife. Construction of the barriers includes placing rock barriers in the spring within the channels of the Middle River (MR), Old River Tracy (ORT), and Grant Line Canal (GLC). Each spring, heavy construction equipment will be mobilized to move stockpiled rock from

¹ Barrier construction schedules may be impacted by extreme weather and tide and river flow conditions.

² The working days for the installation and removal of the barriers do not include replacement of the MR and GLC culverts. Additional working days for the MR and GLC culvert replacements are 7 and 12 days respectively.

³ The working days for the installation and removal of the barriers do not include replacement of the MR and GLC culverts. Additional working days for the MR and GLC culvert replacements are 7 and 12 days respectively.

storage locations into the channel to form the barriers. Large front-end loaders, dump trucks, off-road haulers, cranes, long reach excavators, and drag lines will be used to move and place the materials. Typically, machinery is operated from one or both banks of the channel to place the rock, as well as any additional materials such as culverts, articulating concrete mats, or other structures. Depending on the individual design of each barrier, 48-inch diameter steel pipes used as culverts are placed by a crane after the gravel pad of the barrier is constructed. As the rock barrier is extended into the channel, machinery utilizes the crown of the barrier to move farther into the channel on top of the barrier to place additional materials. Each of the barriers are adequately marked with navigational aids and warning signs approved for placement by the U.S. Coast Guard (Private Aids Permit #s 2832-2839).

Adaptive Management Plan (AMP)

DWR is proposing to implement the TBP AMP during the 2022-2027 permit period provided that DWR secures all necessary Federal and State permits allowing construction of the Ag Barriers to start no earlier than March 1. Implementing the AMP involves following a flexible schedule which would alter the timing of the construction and operation of the barriers. If the AMP implementation is not approved by all regulatory agencies, DWR will revert to the original construction start of no later than May 1.

The goal of the AMP is to reduce TBP's construction related impacts on listed fish species. DWR introduces a flexible schedule for construction based on water year forecasts and hydrology. In non-wet water years (critical, dry, and below normal) and when flow conditions are favorable (i.e. San Joaquin River flow at Vernalis is less than 5,000 cfs), construction would start in March instead of May and be phased for GLCB and ORTB instead of being completed all at once, in about three weeks after the start date. This measure would reduce the duration of construction in May from three weeks to five days, when San Joaquin River origin listed species' (specifically CCV steelhead) are likely be present in the highest numbers in the south Delta, thus reducing construction impacts. The phasing of construction would not apply to MRB because the Middle River is not a preferred pathway for steelhead and Chinook Salmon. MRB will be constructed and completed in March.

Delaying operation actions (such as closing the culverts, flashboard structure) also intend to avoid peak migration and thereby reconcile operations with fishery needs. Additionally, to reduce the TBP's operation related impacts to ESA-listed species, DWR proposes that instead of starting to close the Ag Barriers' operable appurtenances (flashboards and culverts) on a predetermined date cited in regulatory permits, operation actions at the GLCB and ORTB would be delayed until the actions are necessary to maintain water levels for diversion. The delay would not be extended beyond June 1. Delaying operation at the MRB would not reduce operations impacts to listed species but would impact diversion from Middle River, thus operation of the Middle River barrier would commence upon completion of the construction. The protocols intend to provide for passage of the CCV steelhead as long as possible, without impacting irrigation, when their temporal occurrence is the

highest in the south Delta, and thereby, reconcile TBP's operation with fishery needs.

Description of Specific Barrier Construction, Operation, and Maintenance

Old River at Tracy (ORT) Barrier

The ORT barrier allows tidal flows to enter the channel upstream of the barrier by overtopping the weir crest and flowing through the submerged culverts. The tidal flow is then partially retained during the ebb tide by the barrier elevation and the closure of tidal flap-gates on the upstream side of each culvert.

Each year construction of the ORT barrier begins with placement of a rock and gravel pad followed by the placement of three metal culvert frames each containing three 48-inch diameter culverts (nine culverts total) with flap-gates on the pad. The culverts are then covered with approximately 5,000 cubic yards of rock to form a 250-foot-long berm that is 60 feet wide at its base (0.54 acre). The center of the barrier has a 75-foot-wide weir with a crest elevation of 4.4 feet based on the North American Vertical Datum of 1988 (NAVD88). At the ORT barrier, quarry rock is stockpiled approximately a half mile upstream of the barrier site on the inland side of the levee crown.

Beneath the weir are the 9 culverts, each 60 feet long and 1-foot apart, with tidally activated flap-gates on the upstream ends. A 10-foot-wide notch at elevation 2.9 feet (NAVD88) is constructed each fall by 15 September to allow adult salmon passage.

During summer months, some of the flap gates may be tied to the open position to improve circulation in this area. A temporary boat ramp will be constructed with riprap at the base, followed by crushed rock, and topped with articulated concrete mats.

Middle River (MR) Barrier

The MR barrier is a rock barrier constructed with a center weir section that allows tidal flows to enter the Middle River upstream of the barrier by overtopping the weir crest and flowing through submerged culverts. The tidal flow is retained behind the barrier in part during the ebb tide by the barrier elevation and the closure of the flap-gates. This allows agricultural diverters to operate their pumps throughout each tidal cycle by maintaining a minimum water elevation of 2.6 feet (NAVD88) measured at the Howard Road Bridge station. The rock materials for MR are stockpiled adjacent to the barrier site on the water side of the levee crown.

Each year, the MR barrier weir section is reconstructed by placing approximately 2,300 cubic yards of rock between the two previously constructed abutments that are left in place year-round. Each abutment has three 48-inch diameter culverts with tidally operated flap-gates that are also left in place. Placement of rock completes the barrier that is 270-feet long and 50 feet-wide (0.22 acre). The rock weir section is 140-feet long and 18-feet wide at its crest.

By 15 September, a 10-foot-wide notch (fall notch) with 2.6 elevation (NAVD88) is constructed in the weir for salmon passage. The notch allows a minimum depth of 6

inches of water to pass over the barrier during low-high tide events and will remain in place until the barrier is removed.

The height of the weir may be increased from 3.3 feet (typical) to 4.3 feet (NAVD88) during peak irrigation months to maintain current water quality standards. Raising the barrier height 1 foot will require an additional 100 cubic yards of rock and will reduce the width of the crest to 15 feet. However, there will be no change in the footprint of the MR barrier, and it is expected that this will result in no significant changes in the disturbance to the riverbed or channel from the original design. The MR barrier will only be raised when risks to delta smelt have passed and full barrier operations are allowed by the United States Fish and Wildlife Service (USFWS) and California Department of Fish and Wildlife (CDFW). The MR barrier weir may be continually raised to:

- Decrease salinity levels in the south Delta by using the tidal cycles to add additional fresh Sacramento River water into south Delta channels system via Middle River.
- Increase the circulation upstream of the barriers, thereby improving water quality and supply to agricultural diversions for crops.
- Reduce null zones where stagnant water causes low DO levels, increased macrophyte growth, and algae blooms.

The center weir section of the MR barrier is removed during the non-irrigation season (December through March). The flap-gates are tied open when the center weir section is removed. The fall notch in the MR barrier will remain the same elevation regardless of the one-foot increase in weir height.

Grant Line Canal (GLC) Barrier

Each year the GLC barrier is constructed with approximately 12,600 cubic yards of rock that is placed between the existing south abutment and the north canal bank to form a 300-foot-long barrier that is up to 100-feet wide at its base (0.72 acre). The center of the barrier has a weir section with a crest at 3.3 feet elevation (NAVD88) that is 125-feet long and 24-feet wide. Rock for the GLC barrier is stockpiled offsite at the Howard Road storage area (2.0 miles north of the barrier). The existing south abutment contains six, 48-inch diameter, 60-foot-long culverts with flap-gates on the upstream end. A catwalk structure is affixed to the top of each culvert with a winch and hand crank, allowing access to and operation of the flap-gates attached to the upstream end of each culvert. The culverts remain in place except when repairs and replacement are needed. Replacement consists of using either a floating crane barge to remove and install the frames and culverts or a land-based crane stationed on the southern levee. If a land-based crane is used, vegetation within an approximately 100-foot-long and 20-foot-wide area along the south levee from the water line to the crown of the levee will be trimmed down to near ground level to create an access route. The vegetation will be allowed to regrow following installation of the new culverts.

A 10-foot-wide flashboard structure is also built at the south abutment, which can be adjusted to allow delta smelt passage in spring and salmon passage in the fall. A minimum depth of 6 inches of water shall pass over the flashboards weir during low-high tide events. The flashboard structure remains in place all year round.

A boat ramp facility is also provided at the north levee. The boat ramp is constructed with riprap at the base, followed by crushed rock, and topped with articulated concrete mats. Because much of the boat ramp structure will be underwater, divers will aid in the positioning of the articulated concrete mats. To protect the levees, the abutments will remain in place over the winter.

Barrier Removal

Removal of the barriers at ORT, MR, and GLC will occur in the fall. The rock barriers will be removed with an excavator. An excavator will remove the majority of the rock down to the underwater pad of the culvert frames. Because the culvert pad is longer and wider than the reach of the excavator, a dragline with a bucket or equivalent removes the remainder of the underwater rock associated with the barriers. The removed rock is stockpiled at the locations described above until used again. At the Ag Barrier sites, the channel bottom is restored to pre-installation conditions after the barriers are removed. Confirmation that the channel bottom has been restored to pre-project conditions is accomplished via bathymetric surveys, which are conducted each year before construction (pre-project) and after barrier removal. The barrier culverts and abutments at MR will remain in place throughout the year, as will the culverts and south barrier abutment at GLC.

Sediment Removal

During the Project term, sediments would be removed from one, two, or three of the barrier sites to prepare for barrier construction or culvert replacement, if needed. The removal of sediment shall be limited to the minimum amount necessary to allow for barrier installation or culvert replacement and shall not extend beyond 200 feet in any direction from the barrier footprint.

Sediment removal may include removal of deposits adjacent to barriers that could impact installation or mobilize downstream upon barrier or culvert removal. Sediment removal would take no longer than 21 days and will be conducted during the barrier construction period as early as May 1 of each year (or March 1 if the TBP AMP is implemented) and may take place as late as August 1. Sediment removal would not be permitted to take place during barrier removal to prevent possible impacts to migrating fish. Sediment removal would take place only as needed if sediment is deposited within or near the barrier footprint by high flow events. Sediment removal is not expected to occur in most years. The quantity of sediment to be removed would not be determined until site conditions are checked prior to construction each year.

Sediment removal would be completed using a clamshell, a dragline, or an excavator to removed dredging spoils. No suction dredging would be used. All removed sediment would be deposited at the U.S. Bureau of Reclamation land at

the western end of Fabian Tract, approximately 1 mile west of the ORT barrier on Finck Road. Sediment stored at this location has the potential to be used as fill for projects undertaken by the U.S. Bureau of Reclamation.

Total Project dredge and fill/excavation quantities for all impacts are summarized in Tables 2 through 3. Permanent impacts are categorized as those resulting in a physical loss in area and also those degrading ecological condition.

Table 2: Total Project Fill/Excavation Quantity for Temporary Impacts⁴

Aquatic Resources Type	Acres	Cubic Yards	Linear Feet
Stream Channel	1.21	19,948	820

Table 3: Total Project Dredge Quantity for Permanent Impacts

Aquatic Resources Type	Acres	Cubic Yards	Linear Feet
Stream Channel	7.64	1,030	1,200

VIII. Description of Indirect Impacts to Waters of the State

The Central Valley Water Board recognizes the potential for indirect impacts to waters of the state associated with the Project. Potential indirect impacts including increased turbidity, increased suspended sediment levels, and accidental release of hazardous, toxic, or petroleum substances could occur during installation and/or removal of the barriers. The barriers also cause a change in the flow patterns resulting in stagnant water, which can contribute to an increase in temperature, decrease in dissolved oxygen, and contribute to an increase in algal biomass.

Avoidance and Minimization

To minimize the potential effects of construction on water quality and resources, the Permittee shall implement all measures required as described in the Order. According to the Permittee, the following measures will be in place during construction activities to avoid, reduce, and minimize impacts to waters of the state:

Erosion and Sedimentation

- DWR will use staging and channel access areas that are limited to only the area necessary to construct the barrier and accommodate land-based barrier operation equipment.
- Construction impacts will be confined to the minimum area necessary to

⁴ Includes only temporary direct impacts to waters of the state and does not include area of temporary disturbance which could result in a discharge to waters of the state. Temporary impacts, by definition, are restored to pre-project conditions and therefore do not include a physical loss of area or degradation of ecological condition.

complete installation and operation of the barriers.

- Stockpiling of construction materials will be restricted to designated construction staging areas and exclusive of the riparian areas.
- DWR will prepare a spill prevention and control program prior to the start of construction to minimize the potential for hazardous, toxic, or petroleum substances release into the project area during construction and project operation. In addition, DWR will place sandbags, bio-logs, or other containment features around the areas used for fueling or other uses of hazardous materials to ensure that these materials do not accidentally leak into the river.
- All areas disturbed by project activities will be protected from washout or erosion. An effective combination of erosion and sediment control Best Management Practices (BMPs) will be implemented and adequately working during all phases of construction.
- Erosion and sediment control structures will be monitored for effectiveness and will be repaired or replaced as needed.
- DWR will have readily available plastic sheeting or Visqueen and will cover exposed spoil piles and exposed areas to prevent these areas from losing loose soil into the river. The covering materials will be applied when it is evident rainy conditions threaten to erode loose soils into the stream.
- All heavy equipment will be fueled, maintained, and stored at a safe distance from any adjacent waterways. Standard construction best management practices (BMPs), as described in the current California Department of Transportation Construction Site Best Management Practices Manual, will be implemented so that no oil, grease, fuel, or other fluids contaminate the waterways around the work sites.
- Any equipment or vehicles driven and/or operated within or adjacent to the stream will be checked and maintained daily to prevent leaks.
- A spill prevention and control plan that includes actions to contain any fuel or chemical leaks will be implemented at all times during the operation of the TBP.
- Stationary equipment such as motors, pumps, generators, and welders located within or adjacent to the stream will be positioned over drip pans.
- Following the completion of the study, temporary fills will be removed, and the riverbed will be returned to pre-construction contours.
- All exposed/disturbed areas and access points within the stream zone left barren of vegetation as a result of the construction activities will be restored by seeding with a blend of locally collected native erosion control grass seeds. Seeded areas will be mulched. All other areas of disturbed soil which drain toward the stream channel will be seeded with erosion control grass

seeds. Revegetation will be completed as soon as possible after project activities in those areas cease. Seeding placed after October 15 will be covered with broadcast straw, coconut fiber blanket or similar erosion control blanket.

Other Avoidance and Minimization Measures

- All work shall be confined to the period beginning no earlier than May 1 (or March 1 if the TBP AMP is implemented) and ending no later than November 30 each year.
- Biological surveys will be performed by qualified biologists in the barrier sites, staging areas, and access roads within 48 hours of the start of construction. These surveys will occur prior to the start of construction and focus on special status wildlife species.
- Botanical Surveys will be performed by a qualified botanist in the project site and work area during bloom and tidal windows for potential special status plants. Surveys will be conducted in accordance with CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities. Any special-status plant species observed that could be affected by construction activities within the work area will be flagged prior to the start of work and will be avoided.
- Worker Environmental Awareness Program (WEAP) training will be held for all construction and DWR staff by an approved biologist. Topics covered will include the biology and listing status of winter and spring run Chinook salmon, steelhead, green sturgeon, delta smelt, longfin smelt, Swainson's hawk, and western pond turtle. Training will be given to all staff on site by an approved biological monitor, and a safety tailgate will be signed every day during construction. Additionally, best management practices will be discussed that would protect the species and their habitats. Additional training will be performed for new workers entering the site for the duration of the project. A list of environmental monitors who train personnel on-site will be compiled from the daily log monitoring sheets and included in a permit compliance report.
- On-site biological monitoring will be performed by agency approved biologists as required. Field Reports will be completed daily during the project. Site conditions will be recorded periodically during the installation and removal of the barriers using photographs. Biologists will be on site every day during construction to monitor and observe the construction activities.
- Swainson's Hawk surveys will be performed at all TBP construction sites and their corresponding storage facilities.
- Turbidity and Dissolved Oxygen Sampling: Water quality measurements for turbidity and Dissolved Oxygen will be taken, at a minimum, every 4 hours during in water work.

- Water Quality Monitoring: DWR will monitor water quality as required by the CVRWQCB 401 Water Quality Certification for the South Delta Temporary Barriers Project.
- Upon completion of the project, all materials installed in the water will be removed and sites restored to their pre-project conditions. All reusable barrier materials will be relocated to their respective staging areas and stored for next season.
- Removal of the MRB, ORTB, and GLCB will be completed no later than November 30. Regulatory agencies will be notified of the construction removal schedule prior to removal of the barriers. Confirmation will be sent to regulatory agencies after the barriers has been completely removed.
- DWR will limit the operation of heavy equipment within flowing water to the maximum extent practicable to complete the project.

IX. Compensatory Mitigation

The Permittee will provide compensatory mitigation described in section XIII.J for temporary impacts that have temporal loss and/or degradation of ecological condition.

X. California Environmental Quality Act (CEQA)

On November 22, 2000, the California Department of Water Resources, as lead agency, adopted an initial study/mitigated negative declaration (IS/MND) (State Clearinghouse (SCH) No. 2000112054) for the Project and filed a Notice of Determination (NOD) at the SCH on March 22, 2001. The California Department of Water Resources, as lead agency, adopted an addendum to the IS/MND on 31 January 2011 and submitted a revised NOD at the SCH on 17 March 2011. Pursuant to CEQA, the Central Valley Water Board has made Findings of Facts (Findings) which support the issuance of this Order and are included in Attachment C.

XI. Petitions for Reconsideration

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

XII. Fees Received

An application fee of \$2,417.00 was received on 18 August 2022. The fee amount was determined as required by California Code of Regulations, title 23, sections 3833(b)(3) and 2200(a)(3) and was calculated as Category A - Fill & Excavation Discharges (fee code 84) with the dredge and fill fee calculator.

An additional fee of \$23,651.00 based on total Project impacts was received on 16 September 2022.

XIII. 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 watersheds 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 Tables 2 through 3.

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: centralvalleysacramento@waterboards.ca.gov.

In the subject line of the email, include the Central Valley Water Board Contact, Project Name, and WDID No. 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. Quarterly Reporting:** The Permittee must submit a Quarterly Report to the Central Valley Water Board on the 1st day of February after the effective date of this Order. Quarterly reporting shall continue until the Central Valley Water Board issues a Notice of Project Complete Letter to the Permittee. Quarterly time periods and reporting due dates are described in Attachment D.
- b. Annual Reporting:** The Permittee shall submit an Annual Report each year on the 1st day of June, one year after the effective date of the Order. Annual reporting shall continue until the Central Valley Water Board issues a Notice of Project Complete Letter to the Permittee. The annual report shall include a summary and full evaluation of the water quality monitoring data collected from the stations listed in Table 5. The evaluation will include hydrologic information (i.e., flows) and tidal

elevation in the south Delta channels. If the barriers are not constructed during an authorized installation and removal period, an annual report is not required.

2. Project Status Notifications

- a. **Commencement of Construction:** The Permittee shall submit a Commencement of Construction Report noting installation of temporary barriers at least seven (7) days prior to start of initial ground disturbance activities and corresponding Waste Discharge Identification Number (WDID No.) issued under the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ; NPDES No. CAS000002).
- b. **Notice of Removal of Barriers Report:** The Permittee shall submit a Notice of Removal of Barriers Report at least seven (7) days after the temporary barriers have been removed from waters of the state.

3. Conditional Notifications and Reports:

The following notifications and reports are required as appropriate.

a. Accidental Discharges of Hazardous Materials⁵:

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

- i. As soon as (A) Permittee has knowledge of the discharge or noncompliance, (B) notification is possible, and (C) notification can be provided without substantially impeding cleanup or other emergency measures then:
 - 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 the [Office of Emergency Services' Accidental Discharge Notification Web page](#)

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

(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.
- 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.

- 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 delivered via written notice, email, or other verifiable means.
- ii. Within three (3) working days following completion of work in water or stream diversions, an In-Water Work/Diversions Water Quality Monitoring Report must be submitted to 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 section 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.
- 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:

If surface water is present, 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). Sampling is not required in a wetland where the entire wetland is being permanently filled, provided there is no outflow connecting the wetland to surface waters. The Permittee shall perform all 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.** The Project results in a change in the flow patterns resulting in stagnant water, which can contribute to an increase in temperature, decrease in dissolved oxygen, and contribute to an increase in algal biomass. To determine if the Project has an impact and if so, the effect and magnitude of the Project, the following reports are required:

- a. Targeted Monitoring and Analysis Plan.** The Permittee shall provide a monitoring and analysis plan describing the specific methods and detection and reporting limits, protocols for sample collection, and analysis and quality assessment and quality control procedures for this monitoring. The plan shall provide representative data showing water quality parameters related to the effects of barrier installation in Delta waters in the vicinity of the barriers.

The Targeted Monitoring and Analysis Plan for monitoring in Tables 4 and 5, and as described in the Continuous Water Quality Monitoring section, must be submitted to the Central Valley Water Board by **31 January 2022** for approval of the Central Valley Water Board Executive Officer. The Permittee shall continue existing monitoring as required by the previous order (WDID#5B39CR00191) until the monitoring and analysis plan is approved by the Central Valley Water Board Executive Officer.

3. 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.

4. In-Water Work or Diversions:

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

- a.** Waters shall not contain oils, greases, waxes, or other materials in concentrations that cause nuisance, result in a visible film or coating on the surface of the water or on objects in the water, or otherwise adversely affect beneficial uses.
- b.** Activities shall not cause dissolved oxygen to be reduced below 5.0 mg/L.
- 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 NTU;
 - 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;

- v. where natural turbidity is greater than 100 NTUs, increases shall not exceed 10 percent.

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

For Delta waters, the general objectives for turbidity apply subject to the following: except for periods of storm runoff, the turbidity of Delta waters shall not exceed 50 NTUs in the waters of the Delta and 150 NTUs in other Delta waters.

- e. Activities shall not cause temperature in surface waters to increase more than 5°F above natural receiving water temperature for waters with designated COLD or WARM beneficial uses.

Sampling during in-water work or during the entire duration of temporary water diversions shall be conducted in accordance with Table 4 and Table 5 sampling parameters.⁶ The sampling requirements in Table 4 shall be conducted upstream out of the influence of the Project, and approximately 300 feet downstream of the work area.

The sampling frequency and/or monitoring locations may be modified for certain projects with written approval from Central Valley Water Board staff. An In-Water Work and Diversion Water Quality Monitoring Report, as described in Attachment D, shall be submitted within two weeks on initiation of in-water construction, and the remaining In-Water Work and Diversion Water Quality Monitoring shall be submitted with the Request for Notice of Completion of Discharges letter. 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 XIV.C.4.

⁶ Pollutants shall be analyzed using the analytical methods described in 40 Code of Federal Regulations Part 136; where no methods are specified for a given pollutant, the method shall be approved by Central Valley Water Board staff. Grab samples shall be taken between the surface and mid-depth and not be collected at the same time each day to get a complete representation of variations in the receiving water. A hand-held field meter may be used, provided the meter utilizes a U.S. EPA-approved algorithm/method and is calibrated and maintained in accordance with the manufacturer's instructions. A calibration and maintenance log for each meter used for monitoring shall be maintained onsite.

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.

Table 4: Sample Type and Frequency⁷ Requirements During Barrier Installation and Removal

Parameter	Unit of Measurement	Type of Sample	Minimum Frequency
Dissolved Oxygen	mg/L and % saturation	Grab	Every 4 Hours
Turbidity	NTU	Grab	Every 4 hours
Temperature	°F (or as °C)	Grab	Every 4 hours
Visible construction related pollutants ⁸	Observations	Visual Inspections	Continuous throughout the construction period

Table 5: Sample Type and Frequency Requirements During Barrier Operation⁹

Parameter	Unit of Measurement	Type of Sample	Minimum Frequency
Harmful Algal Blooms	N/A	Visual	Daily ¹⁰

4. Harmful Algal Bloom (HAB) Monitoring:

On a quarterly basis, the Permittee shall maintain a field observation log of visual observations of the following occurrences within the South Delta in vicinity of the waterbody segments where the barriers are placed:

- Presence and description of harmful algal blooms. Reports of algae and cyanobacterial blooms should follow methods used by the Surface Water Ambient Monitoring Program [My Water Quality: California Harmful Algal Blooms \(HABs\)](#)

⁷ Sampling frequency shall be conducted when staff is present at the work area during the installation and removal of the temporary barriers

⁸ Visible construction-related pollutants include oil, grease, foam, fuel, petroleum products, and construction-related, excavated, organic or earthen materials.

⁹ Operation is defined as the period of time immediately following completion of barrier installation and before barrier removal.

¹⁰ Sampling frequency shall be conducted when staff is present at the work area when the temporary barriers are in operation.

(<http://www.mywaterquality.ca.gov/habs/resources/field.html>) For ranking the density of *Microcystis* sp. blooms, the Permittee should follow the method developed by the Permittee's Environmental Monitoring Program (*Microcystis aeruginosa* density ranking key) [A Visual Scale for Microcystis Bloom Severity \(figshare.com\)](#).

- Presence and extent of floating and submerged aquatic vegetation, or dead or injured wildlife.

If what appears to be a harmful algal bloom is observed, the Permittee shall, within 24 hours, report the bloom using the California Water Quality Monitoring Council's Harmful Algal Bloom (HAB) Portal. Reporting information can be found on the HAB website, [My Water Quality: California Harmful Algal Blooms \(HABs\) Portal](#) (<http://www.mywaterquality.ca.gov/habs/>).

- Minimum information provided when reporting the bloom shall include the location, date, and a description of the bloom (general appearance, presence or absence of algal scum, and size), any presence of dead or injured wildlife and a follow-up contact number or email. Site photos showing the presence and magnitude of the bloom shall be submitted, if available. The information provided shall be sent to the Central Valley Water Board contact and the Central Valley Water Board Freshwater and Estuarine Harmful Algae Bloom Program Coordinator (or alternate) at for immediate follow-up.

On a monthly basis, the Permittee shall monitor for microcystins one time per month from April through October each year for the duration of the certification. Grab samples shall be collected from surface waters at 5 fixed water quality stations in the project area and quantitatively analyzed for microcystins. Samples shall be collected at the same time as the visual observations described above and may be collected at the time that the fixed station is visited for maintenance. Stations to be monitored include TWA and ORM, MHO, GLE, and VCU. Microcystin analysis shall use a quantitative method and units of measurement shall be µg/L. Laboratory results and associated field observations shall be reported to the Central Valley Water Board contact. Acceptable quantitative methods include enzyme-linked immunosorbent assay (ELISA) and liquid chromatography-mass spectrometry.

5. Continuous Water Quality Monitoring:

The Permittee shall continue to implement the approved Targeted Monitoring and Analysis Plan for the Project and shall provide a summary and evaluation of the monitoring data at the stations shown in Table 6 during each calendar year, because the Project is on-going and may influence water quality conditions in the spring, summer and fall. The Permittee may propose changes in the locations of the stations, based on the analysis of the historical data that has been collected, for approval by the Central Valley Water Board

Executive Officer; all data shall be summarized and evaluated in the annual monitoring reports. The parameters at these monitoring stations include temperature, turbidity, DO, pH, EC, and chlorophyll. Continuous measurements of DO, pH and chlorophyll are indicative of algae and aquatic vegetation biomass in the south Delta channels; the interpretation of these data may be enhanced by a focused evaluation of nutrients in the SJR and south Delta channels, as described in Table 6.

Table 6: Targeted Monitoring Stations

Station Name	CDEC Station ID	Note
Old River at TWA	TWA	
Old River below DMC barrier	ODM	Downstream comparison station
Old River at Head of San Joaquin River	OH1	
Old River above Mountain House Creek	ORM	
Middle River at Undine Road	MRU	
Middle River at Howard Road	MHO	
Middle River near Tracy Blvd	MRX	Upstream comparison station
Grant Line Canal East	GLE	Upstream comparison station
Grant Line Canal near Clifton Court Forebay	GLC	-
Victoria Canal	VCU	-
San Joaquin River at Mossdale Bridge	MSD	-

6. Mercury:

Prior to construction activities, the Permittee shall submit, for Executive Officer approval, a sediment mercury monitoring plan which identifies sampling locations and frequency of sample collection. If the median concentration of mercury on fine grained sediments (grain size less than 63 microns) is greater than 0.1 mg/kg [dry weight], the Permittee shall submit for

Executive Officer approval a mercury-contaminated sediment management plan. The plan shall describe actions the Permittee will implement to isolate, remove, and/or prevent downstream transport of mercury-contaminated sediments once flows are reestablished in the restoration areas. The Permittee is required to implement the plan upon Executive Officer approval.

7. Post-Construction:

Visually inspect the Project site during the rainy season following removal of barriers 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.

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 (Water Code, section 13000 et seq.) or federal Clean Water Act section 303 (33 U.S.C. section 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 Regional 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.

- 7. 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; NPDES No. CAS000002), 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.

F. 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 & Wildlife Code, sections 2050-2097) or the federal Endangered Species Act (16 U.S.C. sections 1531-1544). If a "take" will result from any act authorized under this Order held by the Permittee, the Permittee must comply with the California Endangered Species Act and federal Endangers Species Act 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.

G. Construction

1. Dewatering – Not Applicable

2. Directional Drilling – Not Applicable

3. Dredging

- a. Where feasible, a “sealed” or “environmental” clamshell bucket shall be used to reduce turbidity generated in the water column.
- b. Dredged materials reused at upland sites, including levees, shall be protected from erosion into Delta waterways, wetland habitat, and other waters of the state, including during wet weather.
- c. Dredged material may be reused for construction-related fill that does not include areas of seasonal inundation or placement into waters of the state, or saturated conditions, unless otherwise stated in the sediment mercury monitoring plan.

4. Fugitive Dust:

Dust abatement activities can cause discharges of sediment to streams and uplands through application of water or other fluids. Dust abatement chemicals added to water can be hazardous to wildlife and, if allowed to enter streams, detrimental to water quality. Therefore, dust abatement activities shall be conducted so that sediment or dust abatement chemicals are not discharged into waters of the state. Dust abatement products or additives that are known to be detrimental to water quality or wildlife shall not be used, unless specific management needs are documented, and product-specific application plans are approved by Central Valley Water Board staff.

5. Good Site Management “Housekeeping”

- a. The Permittee shall develop and maintain onsite a project-specific Spill Prevention, Containment and Cleanup Plan outlining the practices to prevent, minimize, and/or clean up potential spills during construction of the Project. The Plan must detail the Project elements, construction equipment types and location, access and staging and construction sequence. The Plan must be made available to the Central Valley Water Board staff upon request.

- b. Refueling of equipment within the floodplain or within 300 feet of the waterway is prohibited. If critical equipment must be refueled within 300 feet of the waterway, spill prevention and countermeasures must be implemented to avoid spills. Refueling areas shall be provided with secondary containment including drip pans and/or placement of absorbent material. No hazardous materials, pesticides, fuels, lubricants, oils, hydraulic fluids, or other construction-related potentially hazardous substances should be stored within a floodplain or within 300 feet of a waterway. The Permittee must perform frequent inspections of construction equipment prior to utilizing it near surface waters to ensure leaks from the equipment are not occurring and are not a threat to water quality.
- c. All materials resulting from the Project shall be removed from the site and disposed of properly.

6. 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 XIV.B.3.a and XIV.B.3.b.
- b. No wet concrete will be placed into stream channel habitat.

7. Invasive Species and Soil Borne Pathogens

Prior to arrival at the project site and prior to leaving the project site, construction equipment that may contain invasive plants and/or seeds shall be cleaned to reduce the spread of noxious weeds.

8. Post-Construction Storm Water Management

- a. The Permittee must minimize the short and long-term impacts on receiving water quality from the Project by implementing the following post-construction storm water management practices and as required by local agency permitting the Project, as appropriate:
 - i. Minimize the amount of impervious surface;
 - ii. Reduce peak runoff flows;
 - iii. Provide treatment BMPs to reduce pollutants in runoff;
 - iv. Ensure existing waters of the state (e.g., wetlands, vernal pools, or creeks) are not used as pollutant source controls and/or treatment controls;

- v. Preserve and where possible, create or restore areas that provide important water quality benefits, such as riparian corridors, wetlands, and buffer zones;
 - vi. Limit disturbances of natural water bodies and natural drainage systems caused by development (including development of roads, highways, and bridges);
 - vii. Use existing drainage master plans or studies to ensure incorporation of structural and non-structural BMPs to mitigate the projected pollutant load increases in surface water runoff;
 - viii. Identify and avoid development in areas that are particularly susceptible to erosion and sediment loss, or establish development guidance that protects areas from erosion/ sediment loss; and
 - ix. Control post-development peak storm water run-off discharge rates and velocities to prevent or reduce downstream erosion, and to protect stream habitat.
- b.** The Permittee shall ensure that all development within the Project provides verification of maintenance provisions for post-construction structural and treatment control BMPs as required by the local agency permitting the Project. Verification shall include one or more of the following, as applicable:
- i. The developer's signed statement accepting responsibility for maintenance until the maintenance responsibility is legally transferred to another party; or
 - ii. Written conditions in the sales or lease agreement that require the recipient to assume responsibility for maintenance; or
 - iii. Written text in Project conditions, covenants and restrictions for residential properties assigning maintenance responsibilities to a homeowner's association, or other appropriate group, for maintenance of structural and treatment control BMPs; or
 - iv. Any other legally enforceable agreement that assigns responsibility for storm water BMPs maintenance.

9. Roads

- a.** The number of access routes, number and size of staging areas, and the total area of the activity must be limited to the minimum necessary to achieve the project goal. Routes and work area boundaries must be clearly demarcated.
- b.** Bridges, culverts, dip crossings, or other structures must be installed so that water and in-stream sediment flow is not impeded. Appropriate design criteria, practices and materials must be used in areas where access roads intersect waters of the state.

- c. Temporary materials placed in any water of the state must be removed as soon as construction is completed at that location, and all temporary roads must be removed or re-contoured and restored according to approved re-vegetation and restoration plans.
- d. Any structure, including but not limited to, culverts, pipes, piers, and coffer dams, placed within a stream where fish (as defined in California Fish and Game Code section 45) exist or may exist, must be designed, constructed, and maintained such that it does not constitute a barrier to upstream or downstream movement of aquatic life, or cause an avoidance reaction by fish due to impedance of their upstream or downstream movement. This includes, but is not limited to, maintaining the supply of water and maintaining flows at an appropriate depth, temperature, and velocity to facilitate upstream and downstream fish migration. If any structure results in a long-term reduction in fish movement, the discharger shall be responsible for restoration of conditions as necessary (as determined by the Water Board) to secure passage of fish across the structure.
- e. A method of containment must be used below any temporary bridge, trestle, boardwalk, and/or other stream crossing structure to prevent any debris or spills from falling into the waters of the state. Containment must be maintained and kept clean for the life of the temporary stream crossing structure.

10. 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.
- d. During Project construction, the Permittee shall implement reasonable and feasible practices to control erosion of mercury-containing soils and minimize discharges of mercury and methylmercury. The goal is to minimize erosion of the mercury-containing soils in order to protect beneficial uses in the Sacramento-San Joaquin Delta and to reduce mercury and methylmercury loads moving downstream.

- e. The Permittee shall install turbidity curtains, or other water column-isolation methods, prior to in-water work for the duration of dredge and barrier installation and removal activities to isolate waters within the channel and limit impacts to water quality of the Delta. The Permittee shall remove turbidity curtains after dredging and construction that causes turbidity has completed and suspended solids have settled.

11. Special Status Species

The following special status species have the potential to occur in the project area: Delta Smelt (*Hypomesus transpacificus*), Winter-run Chinook Salmon (*Oncorhynchus tshawytscha*), Spring-run Chinook Salmon (*Oncorhynchus tshawytscha*), California Central Valley Steelhead (*Oncorhynchus mykiss*), North American green sturgeon, southern distinct population segment (*Acipenser medirostris*), Starry flounder (*Platichthys stellatus*), Northern Anchovy (*Engraulis mordax*), and Swainson's Hawk (*Buteo swainsoni*).

12. Stabilization/Erosion Control

- a. All areas disturbed by Project activities shall be protected from washout and erosion.
- b. Hydroseeding shall be performed with California native seed mix.

13. Storm Water

- a. During the construction phase, the Permittee must employ strategies to minimize erosion and the introduction of pollutants into storm water runoff. These strategies must include the following:
 - i. An effective combination of erosion and sediment control Best Management Practices (BMPs) must be implemented and adequately working prior to the rainy season and during all phases of construction.

H. Site Specific – Not Applicable

I. Total Maximum Daily Load (TMDL) – Not Applicable

J. Mitigation for Temporary Impacts

- 1. The Permittee shall restore all areas of temporary impacts, including Project site upland areas, which could result in a discharge to waters of the state to pre-construction contours and conditions upon completion of construction activities as described in the restoration plan that was submitted with the permittees application on 9 August 2022.
- 2. The Central Valley Water Board may extend the monitoring period beyond requirements of the restoration plan upon a determination by Executive Officer that the performance standards have not been met or are not likely to be met within the monitoring period.

3. Total required Project compensatory mitigation information for temporary impacts is summarized in Table 6. [Establishment (Est.), Re-establishment (Re-est.), Rehabilitation (Reh.), Enhancement (Enh.), Preservation (Pres.), Unknown].

Table 6: Required Project Mitigation Quantity for Temporary Impacts by Method

Aquatic Resource Type	Mitigation Type	Units	Est.	Re-est.	Reh.	Enh.	Pres.	Unknown
Stream Channel	Permittee Responsible	Acres		1.21				

4. Compensatory Mitigation Plan

- a. The Permittee shall provide a final compensatory mitigation plan for written acceptance by Central Valley Water Board staff. Impacts to waters of the state are not authorized and shall not occur until a compensatory mitigation plan has been approved by Central Valley Water Board staff. Upon acceptance by Central Valley Water Board staff, the Permittee shall implement the approved plan.
- b. The final compensatory mitigation plan shall include all plan elements as outlined in 40 CFR section 230.94(c)

5. Compensatory Mitigation for Permanent Impacts: Not Applicable

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 impacts are not addressed in the Project's environmental document or the conditions of this Order. In this case a supplemental environmental review and different Order will be required.

XIV. Water Quality Certification

I hereby issue the Order for the South Delta Temporary Barriers Project, WDID#5B39CR00370, 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).

The Central Valley Water Board will file a Notice of Determination (NOD) at the SCH within five (5) working days of issuance of this Order. 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 (Water Code, section 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, the Regional Water Boards' Water Quality Control Plans and Policies.

Original Signed by Adam Laputz for:

Patrick Pulupa, Executive Officer

Central Valley Regional Water Quality Control Board

- Attachment A:** Project Maps
- Attachment B:** Receiving Waters, Impacts, and Mitigation Information
- Attachment C:** CEQA Findings of Facts
- Attachment D:** Report and Notification Requirements
- Attachment E:** Signatory Requirements
- Attachment F:** Certification Deviation Procedures
- Attachment G:** Compliance with Code of Federal Regulations

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Attachment A – Project Maps

Figure 1: Project Location

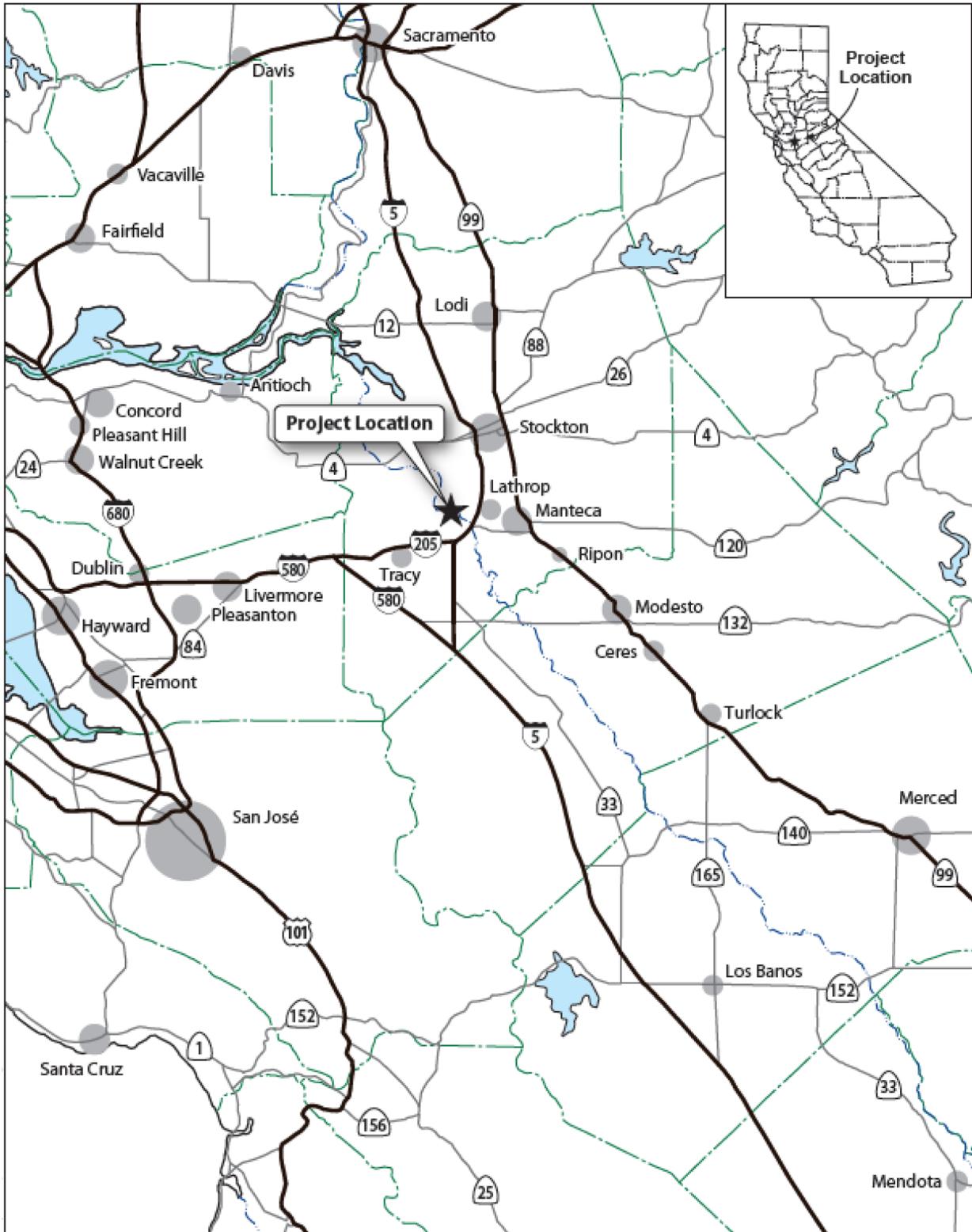


Figure 3: Middle River Barrier Design

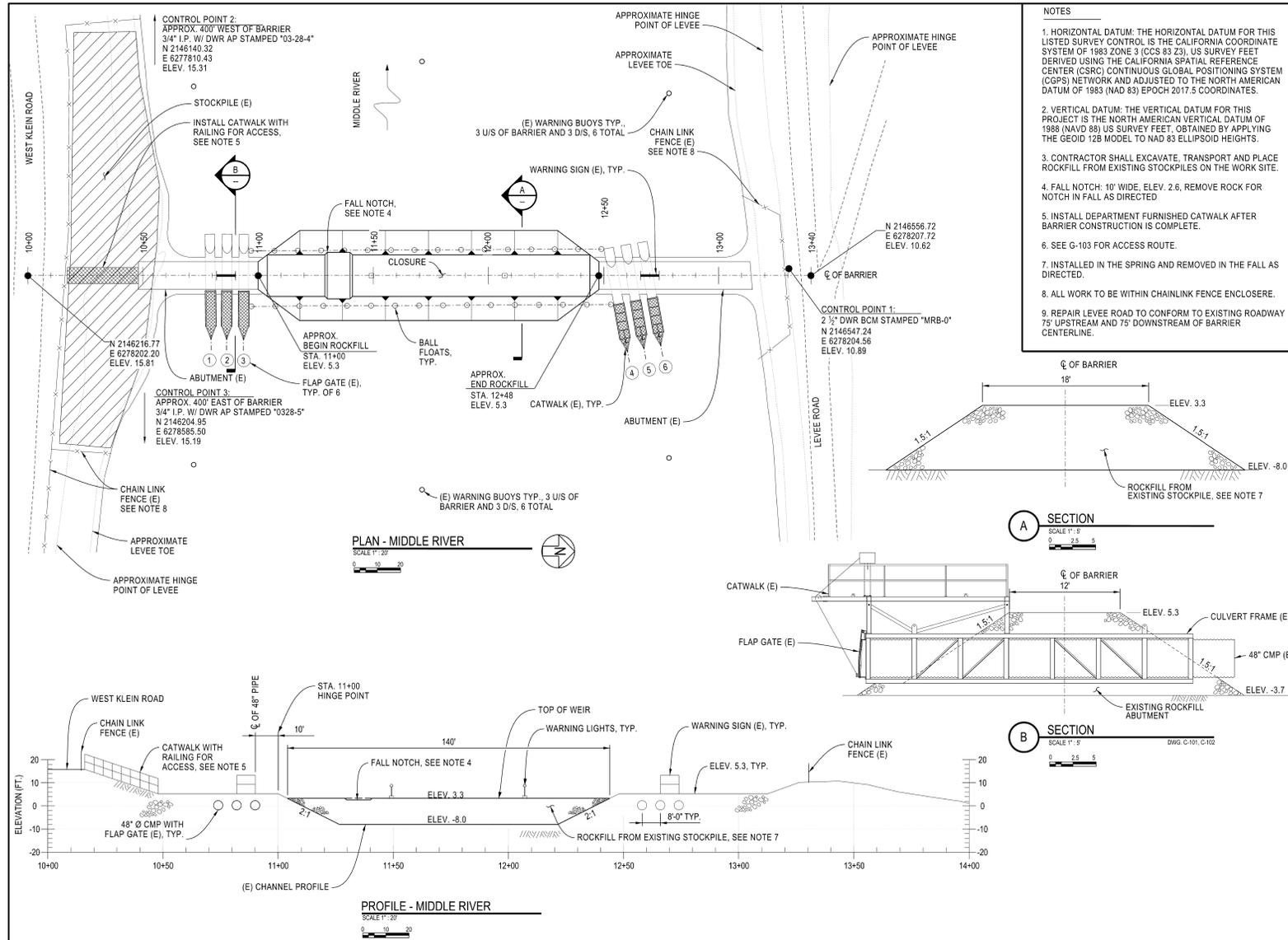


Figure 4: Old River at Tracy Barrier Design

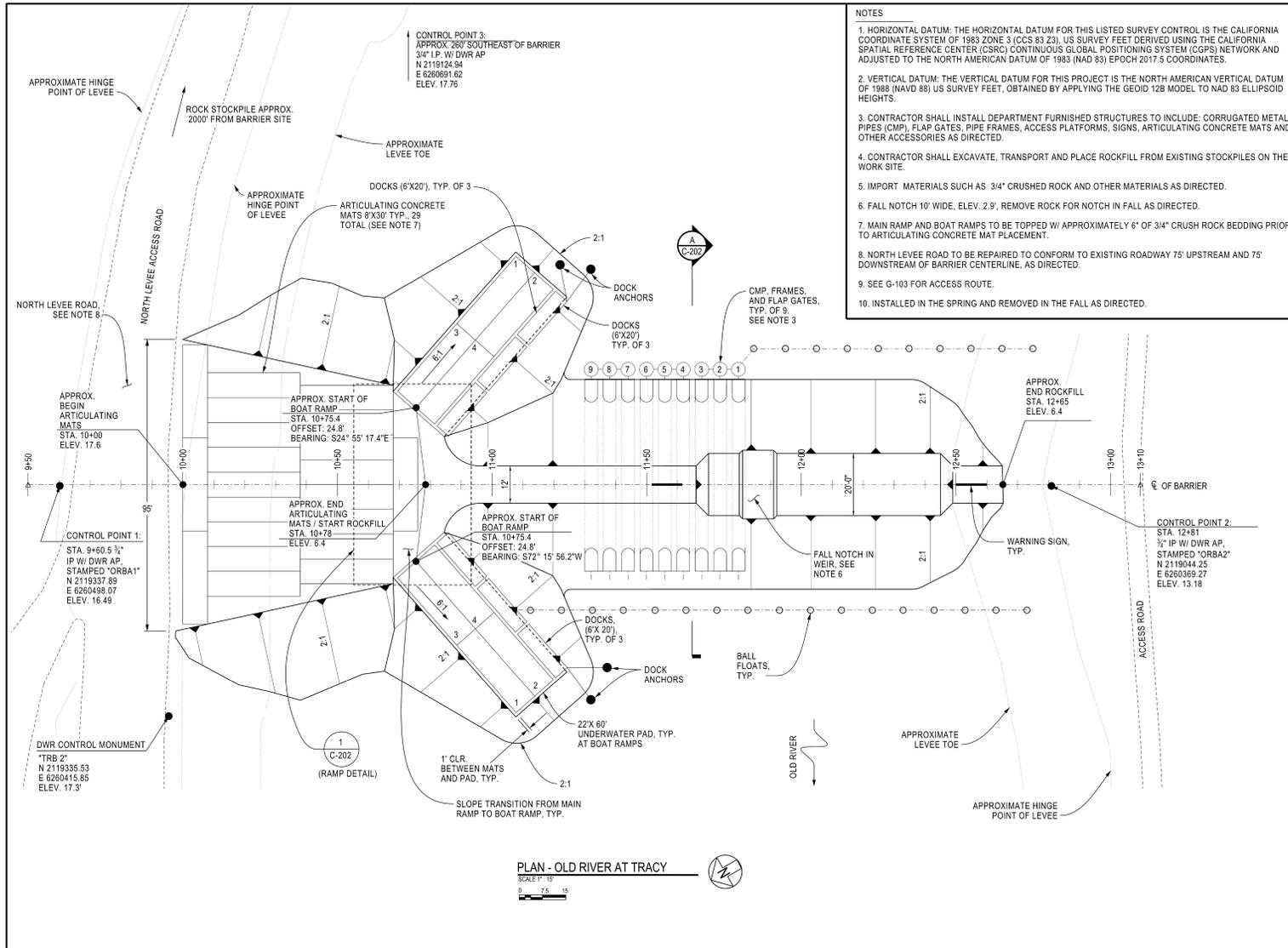
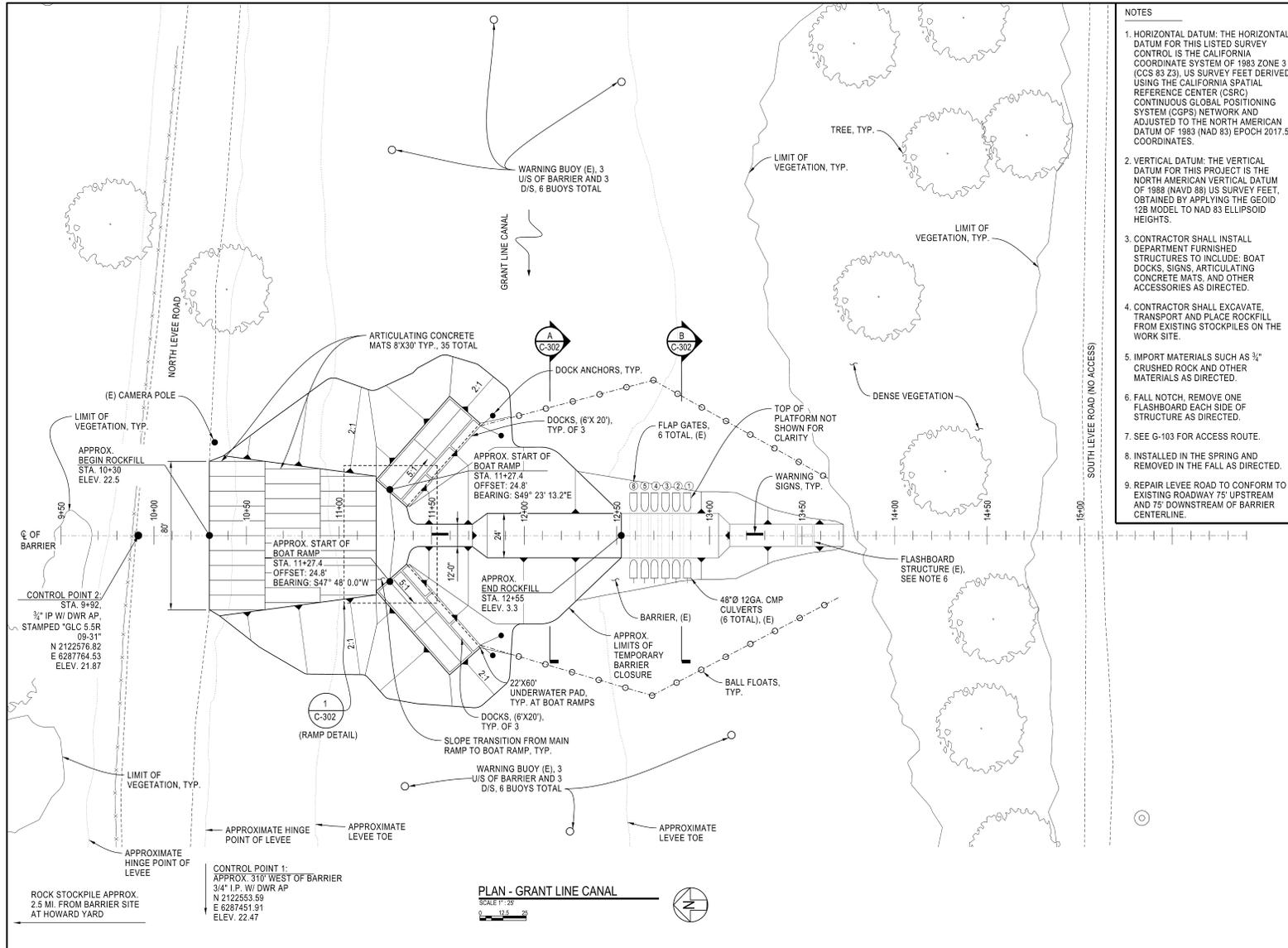


Figure 4: Grant Line Canal Barrier Design



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Attachment B – Receiving Waters, Impacts and Mitigation Information

The following table shows the receiving waters associated with each impact site.

Table 1: Receiving Water(s) Information

Non-Federal Waters	Impact Site ID	Waterbody Name	Impacted Aquatic Resources Type	Water Board Hydrologic Units	Receiving Waters	Receiving Waters Beneficial Uses	303d Listing Pollutant	California Rapid Assessment Method (CRAM) ID
No	Middle River	Middle River	Stream Channel	544.00	Sacramento San Joaquin Delta	MUN, AGR, PROC, IND, REC-1(Contact), REC-2, WARM, COLD, MIGR, SPWN(Warm), WILD, NAV	Chlordane, DDT, Dieldrin, Dioxin compounds, Furan Compounds, Invasive Species, Mercury, PCBs, Selenium	N/A
No	Old River at Tracy	Old River	Stream Channel	544.00	Sacramento San Joaquin Delta	MUN, AGR, PROC, IND, REC-1(Contact), REC-2, WARM, COLD, MIGR, SPWN(Warm), WILD, NAV	Chlordane, DDT, Dieldrin, Dioxin compounds, Furan Compounds, Invasive Species, Mercury, PCBs, Selenium	N/A
No	Grant Line Canal	Grant Line Canal	Stream Channel	544.00	Sacramento San Joaquin Delta	MUN, AGR, PROC, IND, REC-1(Contact), REC-2, WARM, COLD, MIGR, SPWN(Warm), WILD, NAV	Chlordane, DDT, Dieldrin, Dioxin compounds, Furan Compounds, Invasive Species, Mercury, PCBs, Selenium	N/A

Individual Direct Impact Locations

The following tables show individual impacts.

Table 2: Individual Temporary Fill/Excavation Impact Information

Impact Site ID	Latitude	Longitude	Indirect Impact Requiring Mitigation?	Acres	Cubic Yards	Linear Feet
Middle River	37.8857°	121.4822°	Yes	0.1	2,300	50
Old River at Tracy	37.8103°	121.5428°	Yes	0.54	5,000	60
Grant Line Canal	37.8199°	121.4483°	Yes	0.57	12,600	100

Table 3: Individual Temporary Dredge Impact Information

Impact Site ID	Latitude	Longitude	Indirect Impact Requiring Mitigation?	Acres	Cubic Yards	Linear Feet
Middle River	37.8857°	121.4822°	No	2.48	250	
Old River at Tracy	37.8103°	121.5428°	No	2.3	280	
Grant Line Canal	37.8199°	121.4483°	No	2.86	500	

Compensatory Mitigation Information

The following table(s) show individual compensatory mitigation information and locations.

Permittee Responsible Compensatory Mitigation Site Information

Table 4: Onsite Permittee Responsible Compensatory Mitigation Site Information

Impact Site ID	Latitude	Longitude	Aquatic Resource Type	Acres	Linear Feet
Middle River	37.8857°	121.4822°	Stream Channel	0.1	50
Old River at Tracy	37.8103°	121.5428°	Stream Channel	0.54	60
Grant Line Canal	37.8199°	121.4483°	Stream Channel	0.57	100

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Attachment C – CEQA Findings of Fact

A. Environmental Review

On 22 November 2000, DWR, as lead agency, adopted an Initial Study/Mitigated Negative Declaration (IS/MND) (State Clearinghouse (SCH) No. 2000112054) for the Project and filed a Notice of Determination (NOD) at the SCH on 21 March 2001. The Central Valley Water Board is a responsible agency under CEQA (Public Resources Code, section 21069) and in making its determinations and findings, must presume that DWR's adopted environmental document comports with the requirements of CEQA and is valid. (Public Resources Code, section 21167.3.) The Central Valley Water Board has reviewed and considered the environmental document and finds that the environmental document prepared by DWR addresses the Project's water resource impacts. (California Code of Regulations, title 14, section 15096, subd. (f).) The environmental document includes the mitigation monitoring and reporting program (MMRP) developed by DWR for all mitigation measures that have been adopted for the Project to reduce potential significant impacts. (Public Resources Code, section 21081.6, subd. (a)(1); California Code of Regulations, title 14, section 15074, subd. (d).)

B. Incorporation by Reference

Pursuant to CEQA, these Findings of Facts (Findings) support the issuance of this Order based on the Project IS/MND, 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 Final IS/MND which is incorporated herein by reference. The Project IS/MND is available at: 1416 Ninth Street, Room 215-23, Sacramento CA 95814.

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, are incorporated herein by reference.

C. Findings

The IS/MND describes the potential significant environmental effects to water resources that were mitigated in the IS/MND. Having considered the whole of the record, the Central Valley Water Board makes the following findings:

1. Revisions in the project plans or proposals made by, or agreed to by the applicant before a proposed mitigated negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and
2. There is no substantial evidence, in light of the whole record before the agency, that the project as revised may have a significant effect on the environment. (Cal. Code Regs., tit. 14, § 15070.)

a.i. Potential Significant Impact:

Substantial adverse effect on candidate, sensitive, or special status species by the California Department of Fish and Wildlife or United State Fish and Wildlife Service; substantial adverse impact on any riparian habitat; interference with the movement of any native resident or migratory fish or wildlife species within established corridors;

a.ii. Facts in Support of Finding:

Fisheries and Shallow Water Habitat

A number of studies and monitoring efforts are underway that relate to the Temporary Barriers Project. These include the USFWS salmon smolt survival studies through the Delta as part of the Vernalis Adaptive Management Program (VAMP), the DFG San Joaquin River salmon smolt outmigration monitoring and the DFG Adult Salmon Migration Tracking Study. The VAMP is a plan to experimentally manipulate flows in the lower San Joaquin River and exports to determine what combination of factors improves survivorship of salmon smolts out-migrating through the delta. The spring Head Old River barrier is an integral part of this program. The DWR provides funds to the USFWS through the Interagency Ecological Program (IEP) and the results of the study are reported by the USFWS.

The adult salmon migration study is a DFG study funded by CALFED. Although it is not a Temporary Barriers Project funded project, it is described here because it will provide valuable information on Temporary Barriers Project impacts to adult Chinook salmon. This study will use sonic tags to track the migration of San Joaquin adult salmon through the southern delta channels to determine if the area of the seasonal dissolved oxygen sag or the barriers present a hindrance to the upstream migration. The results of this migration study will be used to adaptively manage the Temporary Barriers Project if it is determined to be necessary. DFG is responsible for implementing this study as well as the San Joaquin smolt outmigration study and therefore they are responsible for the annual reporting.

Fish Community Sampling: Since 1992, DFG has conducted the fish community sampling for the Temporary Barriers Project. This program was designed to determine the impacts of the Temporary Barriers Project on fish communities in the southern Delta. Unfortunately, the program was not able to answer this question because of very limited pre-project monitoring. Additionally, the monitoring effort was conducted throughout numerous barrier operational scenarios and hydrologic year types. Additional similar monitoring will provide limited additional information.

The field element of the fish community-sampling program will be discontinued, and an extensive analysis of the existing data will be conducted. Because the program has established a large database through extensive sampling in the south Delta with a variety of gear types, it will be

used to examine the factors driving the fish communities of the southern Delta. Comparing the data analysis results to environmental conditions posed by the Temporary Barriers Project will be the most effective method to assess the impacts of the Temporary Barriers Project to fish communities in the southern Delta.

A replacement fish-sampling program may be developed cooperatively between DFG and DWR. The focus of such a program would be an evaluation of fish passage past the barriers.

Salmon Smolt Monitoring Through the Head of Old River Barrier (DFG):

Another effort that DWR will continue to fund is the DFG sampling of salmon smolts passing through the head of Old River barrier in the spring. This program is designed to evaluate the potential impacts of entrainment of juvenile salmon through the culverts in the Head of Old River barrier. DFG conducted a preliminary study in 1997. Studies were not conducted in 1998 or 1999 because the Head of Old River barrier was not installed due to high San Joaquin River flows, however the study was conducted again in 2000.

Objectives of the study include: 1) determining the numbers of coded-wire-tagged (cwt) and untagged salmon smolts that pass from the San Joaquin River into Old River through the culverts, 2) determine the diurnal effects of smolt passage, and 3) determine if cwt salmon released at Mossdale pass through the culverts in proportion to the percentage of flow diverted.

The Head of Old River Barrier is mitigation for the impacts of salmon smolt entrainment in the SWP Delta diversion facilities. DWR is investigating the feasibility of installing a USBR fish screen upstream of the culverts in the head of Old River Barrier in the spring to mitigate for impacts to salmon smolts, and potentially splittail juveniles, being entrained through the culverts. The culverts often need to be opened to improve conditions for the SDWA diverters downstream of the barrier. If the USBR screen is installed, the effectiveness of the screen will be monitored as well and the results reported annually.

Sherman Island Agricultural Diversion Evaluation: Partial mitigation under the USACE permit for the operation of the South Delta Temporary Barriers Project called for DWR to fund screen installations on multiple agricultural siphons on Sherman Island. These agricultural diversion screens are intended to offset potential south delta project impacts to delta smelt. However, the effectiveness of siphon screens and their overall benefit to delta fishes is not well understood. The purpose is to compare entrainment losses of fishes between side by side screened and unscreened siphons over several diel cycles during a dry year irrigation season. This is to provide data on the site-specific impact of the Horseshoe Bend diversions and the effectiveness of screening. This study is funded through both the Temporary Barriers Project and the Interagency Ecological Program.

In 2000, DWR conducted an agricultural diversion evaluation on Horseshoe Bend. Conditions for that study to occur are not predictable; however, if the conditions exist in the year 2001, DWR will conduct a subsequent evaluation of the effectiveness of fish screens at this location. A summary of the results of the study in 2000 will be reported in the next IEP Newsletter. This is an ongoing effort to evaluate the effectiveness of fish screens on agricultural diversions.

Temporary Barriers Project Impact on Fish Salvage: DWR proposes to prepare an annual summary report of fish salvage at the SWP and Central Valley Project (CVP) diversion facilities in the Delta and associated environmental conditions for the period of the operation of the Temporary Barriers Project each year. This is to: 1) monitor the effectiveness of the operation of the spring Head of Old River Barrier in reducing entrainment into Old River from the San Joaquin River, and 2) evaluate the operation of the culverts in the agricultural barriers in reducing entrainment of fish into the Delta diversion facilities. The results of this analysis will be used to adaptively manage the Temporary Barriers Project if it is determined to be necessary.

Water Quality and Hydrodynamics

A number of water quality and hydrodynamic studies and monitoring efforts are underway that relate to the Temporary Barriers Project.

Water Elevations and Flows in the Southern Delta: DWR annually conducts monitoring of water elevations, flows and water quality in the southern Delta channels to evaluate the effects of the Temporary Barriers Project. The barriers are mitigation for impacts to the South Delta Water Agency diverters due to a lowering of water elevations and reduction in water quality due to diversions at the SWP and CVP diversion facilities during the irrigation season. DWR will continue to conduct and annually report on the monitoring and the results will be used to adaptively manage the Temporary Barriers Project if it is determined to be necessary.

Southern Delta Continuous Water Quality Monitoring: The water quality sampling effort was expanded in 1999 to include the use of continuous recording multi-parameter instruments. This new effort will provide increased frequency and duration of sampling and the number of water quality parameters sampled. Interim water quality monitoring to ensure compliance with turbidity standards required by the Regional Water Quality Control Board will continue as well. This monitoring will continue annually through the period of the Temporary Barriers Project permit extension.

Hydrologic Modeling: The USGS and DWR annually monitor flows and velocities in the southern Delta channels. The data are summarized on an annual basis to record the actual hydrodynamics in the southern Delta. The data are incorporated into the hydrodynamic and particle modeling efforts. Multi-agency review of the models, including USGS, is accomplished through the Particle Tracking Project Work Team and the Bay-Delta Modeling Forum.

This effort will continue and the results will be used to adaptively manage the Temporary Barriers Project if it is determined to be necessary.

Vegetation

Mason's Lilaepsis: Since 1993, DWR has monitored Mason's lilaepsis populations up and downstream of the agricultural barriers. The methods changed over time to compensate for the dynamic nature of the plant's distribution. The results have been variable and it has been difficult to attribute a cause to the decline in number and surface area of the plant populations. The trend, however, over the period of the Temporary Barriers Project monitoring has indicated a decline in the populations. Therefore DWR staff have concluded that the Temporary Barriers Project may have impacted the Mason's lilaepsis populations in the vicinity of the barriers. DWR will work with the resource agencies and CALFED through the consultation process, if necessary, to determine appropriate mitigation and monitoring for Mason's lilaepsis.

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 resource impacts. (California Code of Regulations, title 14, section 15096, subd (h).) The Central Valley Water Board will file a NOD with the SCH within five (5) working days from the issuance of this Order. (California Code of Regulations, title 14, section 15096, subd. (i).)

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Attachment D – Reports and Notification Requirements

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:

- A. [Central Valley Regional Water Quality Control Board's Adopted Orders Web page](https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/401_wqcerts/)
(https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/401_wqcerts/)
- B. Find your Order based on the County, Permittee, WDID No., and/or Project Name.

II. Report Submittal Instructions

- A. 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 (Quarterly and Annual Reports):** These reports will be submitted quarterly and annually 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.
- B. Sign the Report and Notification Cover Sheet and attach all information requested for the Report Type.
- C. Electronic Report Submittal Instructions:
 - Submit signed Report and Notification Cover Sheet and required information via email to: centralvalleysacramento@waterboards.ca.gov and cc: Nicholas.Savino@waterboards.ca.gov.
 - Include in the subject line of the email:
ATTN: Nicholas Savino; Project Name; and WDID No. 5B39CR00370

III. Definition of Reporting Terms

A. 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.

B. 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.

C. 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.

D. 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.

E. Effective Date:

16 November 2022

IV. Map/Photo Documentation Information

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

A. 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 (NAD83) 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.

B. 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.

V. Report and Notification Cover Sheet

Project: South Delta Temporary Barriers Project
Permittee: California Department of Water Resources (DWR)
WDID: 5B39CR00370
Reg. Meas. ID: 448906
Place ID: 882827
Order Effective Date: 16 November 2022
Order Expiration Date: 15 November 2027

VI. Report Type Submitted

A. Part A – Project Reporting

- Report Type 1 Quarterly Report
- Report Type 2 Annual Report
- Report Type 3 Targeted Monitoring and Analysis Plan

B. Part B – Project Status Notifications

- Report Type 4 Commencement of Construction
- Report Type 5 Notice of Removal of Barriers Report

C. Part C – Conditional Notifications and Reports

- Report Type 6 Accidental Discharge of Hazardous Material Report
- Report Type 7 Violation of Compliance with Water Quality Standards Report
- Report Type 8 In-Water Work/Diversions Water Quality Monitoring Report
- Report Type 9 Modifications to Project Report
- Report Type 10 Transfer of Property Ownership Report
- Report Type 11 Transfer of Long-Term BMP Maintenance Report
- Report Type 12 Observation of Harmful Algal Bloom Notification
- Report Type 13 Sediment Mercury Monitoring Plan

“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 Name¹

Affiliation and Job Title

Signature

Date

¹STATEMENT 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.**

A. Part A – Project Reporting

1. Report Type 1 - Quarterly Report

- a. Report Purpose** – Notifies Central Valley Water Board staff of the Project status and environmental compliance activities on a quarterly basis.
- b. When to Submit** - For each quarter as follows: April – June (report due 1st of August); July – September (report due 1st of November); October – December (report due 1st of February). Quarterly reporting shall continue until a Notice of Project Complete Letter is issued to the Permittee.
- c. Report Contents -**
 - i. Construction Summary**

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). Best Management Practices (BMPs) is a term used to describe a type of water pollution or environmental control. If construction has not started, provide estimated start date.
 - ii. Event Summary**

Describe distinct Project activities and occurrences, including environmental monitoring, surveys, and inspections.
 - iii. Photo Summary**

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.
 - iv. Compliance Summary**
 - List name and organization of environmental surveyors, monitors, and inspectors involved with monitoring environmental compliance for the reporting period.
 - List associated monitoring reports for the reporting period.
 - Summarize observed incidences of non-compliance, compliance issues, minor problems, or occurrences.
 - Describe each observed incidence in detail. List monitor name and organization, date, location, type of incident, corrective action taken (if any), status, and resolution.

v. Harmful Algal Bloom Field Observation Log

- A written summary report of visual observations of the following occurrences within the South Delta in vicinity of the waterbody segments where the barriers are placed:
 - Presence and description of harmful algal blooms. Reports of algae and cyanobacterial blooms should follow methods used by the Permittee's Stockton Deep Water Ship Channel monitoring program and/or guides provided by the Surface Water Ambient Monitoring Program [My Water Quality: California Harmful Algal Blooms \(HABs\)](http://www.mywaterquality.ca.gov/habs/resources/field.html) (<http://www.mywaterquality.ca.gov/habs/resources/field.html>).
 - Presence and extent of invasive floating and submerged aquatic vegetation.
 - Presence of any observed dead or injured wildlife.

2. Report Type 2 - Annual Report

- a. **Report Purpose** - Notify the Central Valley Water Board staff of Project status during both the active discharge and post-discharge monitoring periods.
- b. **When to Submit** - Annual reports shall be submitted each year on the 1st day of June. Annual reports shall continue until a Notice of Project Complete Letter is issued to the Permittee.
- c. **Report Contents** - 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.

During the Active Discharge Period

- **Topic 1: Construction Summary**
- **Topic 2: Mitigation for Temporary Impacts Status**
- **Topic 3: Compensatory Mitigation for Permanent Impacts Status**

During the Post-Discharge Monitoring Period

- **Topic 2: Mitigation for Temporary Impacts Status**
- **Topic 3: Compensatory Mitigation for Permanent Impacts Status**

During Entire Duration of the Order

- **Topic 4: Targeted Monitoring**

i. Annual Report Topic 1 - Construction Summary

When to Submit - With the annual report during the Active Discharge Period.

Report Contents - 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.

- 1) Map showing general Project progress.
- 2) If applicable:
 - a) Summary of Conditional Notification and Report Types 6 and 7 (Part C below).
 - b) Summary of Certification Deviations. See Certification Deviation Attachment for further information.

ii. Annual Report Topic 2 - Mitigation for Temporary Impacts Status

When to Submit - With the annual report during both the Active Discharge Period and Post-Discharge Monitoring Period.

Report Contents -

- 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.
- 2) If mitigation for temporary impacts has already commenced, provide a map and information concerning attainment of performance standards contained in the restoration plan.

iii. Annual Report Topic 3 - Compensatory Mitigation for Permanent Impacts Status

When to Submit - With the annual report during both the Active Discharge Period and Post-Discharge Monitoring Period.

Report Contents - *If not applicable report N/A.

1) Part A. Permittee Responsible

- a) Planned date of initiation of compensatory mitigation site installation.
- b) If installation is in progress, a map of what has been completed to date.

- c) 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.

2) Part B. Mitigation Bank or In-Lieu Fee

- a) Status or proof of purchase of credit types and quantities.
- b) Include the name of bank/ILF Program and contact information.
- c) If ILF, location of project and type if known.

iv. Annual Report Topic 4 - Targeted Monitoring

When to Submit - With the annual report during the Active Discharge Period.

Report Contents - Annual data reports that include and summarize all data collected in Table 5: Targeted Monitoring, as well as critical hydrologic information. These annual data reports shall include:

- a) Daily minimum, average, and maximum DO and pH plots, which show the datelines for installation and removal of barriers, and manipulations likely to change water quality such as raising barriers, opening or closing or securing flap gates and notching of the barriers;
- b) Comparison of key parameters (e.g., DO, pH, chlorophylls) from stations representing conditions upstream and downstream of barriers;
- c) Visual observations of changes in aquatic weed recorded in the vicinity of the barriers; and
- d) Reports shall include monitoring data provided in tabular electronic form.

3. Report Type 3 - Targeted Monitoring and Analysis Plan

- a. **Report Purpose:** Provides Central Valley Water Board staff of the methods, detection, and reporting limits for Targeted Monitoring.
- b. **When to Submit:** Must be received within two (2) months following the issuance of this Order.
- c. **Report Contents:** Provide a monitoring and analysis plan describing the specific methods and detection and reporting limits, protocols for sample collection, and analysis and quality assessment and quality control procedures for Targeted Monitoring.

B. Part B – Project Status Notifications

1. Report Type 4 - Commencement of Construction

- a. **Report Purpose** - Notify Central Valley Water Board staff prior to the start of construction.
- b. **When to Submit** - Must be received at least seven (7) days prior to start of initial ground disturbance activities.
- c. **Report Contents** -
 - i. Date of commencement of construction.
 - ii. Anticipated date when discharges to waters of the state will occur.
 - iii. Project schedule milestones including a schedule for onsite compensatory mitigation, if applicable.
 - iv. Construction Storm Water General Permit WDID No.
 - v. Proof of purchase of compensatory mitigation for permanent impacts from the mitigation bank or in-lieu fee program.

2. Report Type 5 - Notice of Removal of Barriers

- a. **Report Purpose** – Notify Central Valley Water Board staff that the temporary barriers have been removed from waters of the state.
- b. **When to Submit** – Must be received by Central Valley Water Board staff within seven (7) days following removal of all temporary barriers.
- c. **Report Contents** -
 - i. Date each barrier was removed.
 - ii. Method of removal and placement location of removed materials.
 - iii. Summary of all dredging activities, if applicable.
 - iv. Summary of Certification Deviation discharge quantities compared to initial authorized impacts to waters of the state, if applicable.

C. Part C – Conditional Notifications and Reports

1. Report Type 7 - Accidental Discharge of Hazardous Material Report

- a. **Report Purpose** - Notifies Central Valley Water Board staff that an accidental discharge of hazardous material has occurred.
- b. **When to Submit** - Within five (5) working days of notification to the Central Valley Water Board of an accidental discharge. Continue reporting as required by Central Valley Water Board staff.
- c. **Report Contents** -
 - i. 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.

- ii. 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.
- iii. Locations and construction specifications of any barriers, including silt curtains or diverting structures, and any associated trenching or anchoring.

2. Report Type 8 - Violation of Compliance with Water Quality Standards Report

- a. **Report Purpose** - Notifies Central Valley Water Board staff that a violation of compliance with water quality standards has occurred.
- b. **When to Submit** - 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.
- c. **Report Contents** - 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.

3. Report Type 9 - In-Water Work and Diversions Water Quality Monitoring Report

- a. **Report Purpose** - 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** – At least forty-eight (48) hours 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 XIV.C.4.
- c. **Report Contents** - As required by the approved water quality monitoring plan or as indicated in XIV.C.4.

4. Report Type 10 - Modifications to Project Report

- a. **Report Purpose** - 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** - 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.
- c. **Report Contents** - 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.

5. Report Type 11 - Transfer of Property Ownership Report

- a. **Report Purpose** - Notifies Central Valley Water Board staff of change in ownership of the Project or Permittee-responsible mitigation area.
- b. **When to Submit** - At least 10 working days prior to the transfer of ownership.
- c. **Report Contents** -
 - i. A statement that the Permittee has provided the purchaser with a copy of this Order and that the purchaser understands and accepts:
 - 1) 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
 - 2) responsibility for compliance with any long-term BMP maintenance plan requirements in this Order. Best Management Practices (BMPs) is a term used to describe a type of water pollution or environmental control.
 - ii. 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.

6. Report Type 12 - Transfer of Long-Term BMP Maintenance Report

- a. **Report Purpose** - Notifies Central Valley Water Board staff of transfer of long-term BMP maintenance responsibility.
- b. **When to Submit** - At least 10 working days prior to the transfer of BMP maintenance responsibility.
- c. **Report Contents** - A copy of the legal document transferring maintenance responsibility of post-construction BMPs.

7. Report Type 13 - Observation of Harmful Algal Bloom Notification

- a. **Report Purpose** - Notifies Central Valley Water Board staff of presence of a harmful algal bloom.

- b. When to Submit** - If a harmful algal bloom is observed.
 - c. Report Contents** - Minimum information provided when reporting the bloom shall include the location, date, and a description of the bloom (general appearance, presence or absence of algal scum, and size), any presence of dead or injured wildlife and a follow-up contact number or email. Site photos showing the presence and magnitude of the bloom shall be submitted, if available. The information provided shall be sent to the Central Valley Water Board contact and the Central Valley Water Board Freshwater and Estuarine Harmful Algae Bloom Program Coordinator (or alternate) at CentralValleySacramento@waterboards.ca.gov, ATTN: Harmful Algal Blooms Coordinator for immediate follow-up.
- 8. Report Type 13 - Sediment Mercury Monitoring Plan**
- a. Report Purpose** – Notifies Central Valley Water Board staff of sediment mercury sampling locations, frequency, and result submission details.
 - b. When to Submit** – Must be submitted prior to Construction Activities
 - c. Report Contents** – The sediment mercury monitoring plan shall provide mercury sampling locations and sampling frequency. If the median concentration of mercury on fine grained sediments (grain size less than 63 microns) is greater than 0.1 mg/kg [dry weight], the Permittee shall submit for Executive Officer approval a mercury-contaminated sediment management plan. The mercury-contaminated sediment management plan shall describe actions the Permittee will implement to isolate, remove, and/or prevent downstream transport of mercury-contaminated sediments once flows are reestablished in the restoration areas. The Permittee is required to implement the mercury-contaminated sediment management plan upon Executive Officer approval.

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Attachment E – Signatory Requirements

All documents submitted in compliance with this Order shall meet the following signatory requirements:

- A.** 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:
 - 1.** For a corporation, by a responsible corporate officer of at least the level of vice-president.
 - 2.** For a partnership or sole proprietorship, by a general partner or proprietor, respectively.
 - 3.** For a municipality, or a state, federal, or other public agency, by either a principal executive officer or ranking elected official.

- B.** A duly authorized representative of a person designated in items 1.a through 1.c above may sign documents if:
 - 1.** The authorization is made in writing by a person described in items 1.a through 1.c above.
 - 2.** The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity.
 - 3.** The written authorization is submitted to the Central Valley Water Board Staff Contact prior to submitting any documents listed in item 1 above.

- C.** 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.”

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Attachment F – Certification Deviation Procedures

I. 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 XIV.L of the Order, may be requested by the Permittee as set forth below:

II. Process Steps

A. Who may apply:

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

B. How to apply:

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

C. 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 verification from the CEQA Lead Agency that the proposed changes or modifications do not trigger the need for a subsequent environmental

document, an addendum to the environmental document, or a supplemental EIR. (Cal. Code Regs., tit. 14, §§ 15162-15164.)

D. 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.

E. 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; and
 - g. Mitigation to be provided (approved mitigation ratio and amount).

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**Attachment G - Compliance with Code of Federal Regulations,
Title 40, Section 121.7, Subdivision (d)**

The purpose of this Attachment is to comply with Code of Federal Regulations, title 40, section 121.7, subdivision (d), which requires all certification conditions to provide an explanation of why the condition is necessary to assure that any discharge authorized under the certification will comply with water quality requirements and a citation to federal, state, or tribal law that authorizes the condition. This Attachment uses the same organizational structure as Section XIII of the Order, and the statements below correspond with the conditions set forth in Section XIII. The other Order Sections are not “conditions” as used in Code of Federal Regulations, title 40, section 121.7

I. General Justification for Section XIII Conditions

Pursuant to Clean Water Act section 401 and California Code of Regulations, title 23, section 3859, subdivision (a), the Central Valley Water Board, when issuing water quality certifications, may set forth conditions to ensure compliance with applicable water quality standards and other appropriate requirements of state law. Under California Water Code section 13160, the State Water Resources Control Board is authorized to issue water quality certifications under the Clean Water Act and has delegated this authority to the executive officers of the regional water quality controls boards for projects within the executive officer’s region of jurisdiction. (California Code of Regulations, title 23, section 3838.)

The conditions within the Order are generally required pursuant to the Central Valley Water Board’s Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, Fifth Edition, May 2018 (Basin Plan), which was adopted and is periodically revised pursuant to Water Code section 13240. 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. For instance, the Basin Plan includes water quality objectives for chemical constituents, oil and grease, pH, sediment, suspended material, toxicity and turbidity, which ensure protection of beneficial uses.

The State Water Board’s Antidegradation Policy, “Statement of Policy with Respect to Maintaining High Quality Waters in California,” Resolution No. 68-16, requires that the quality of existing high-quality water be maintained unless any change will be consistent with the maximum benefit to the people of the state, will not unreasonably affect present or anticipated future beneficial uses of such water, and will not result in water quality less than that prescribed in water quality control plans or policies. The Antidegradation Policy further requires best practicable treatment or control of the discharge necessary to assure that pollution or nuisance will not occur and the highest water quality consistent with maximum benefit to the people of the state will be maintained. The Basin Plan incorporates this Policy. The state Antidegradation Policy incorporates the federal Antidegradation Policy (40 C.F.R. section 131.12

(a)(1)), which requires "[e]xisting instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected."

The State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State (Dredge or Fill Procedures), adopted pursuant to Water Code sections 13140 and 13170, authorize approval of dredge or fill projects only if the demonstrations set forth in Section IV.B.1 of the Dredge or Fill Procedures have been satisfied.

California Code of Regulations, title 23, sections 3830 et seq. set forth state regulations pertaining to water quality certifications. In particular, section 3856 sets forth information that must be included in water quality certification requests, and section 3860 sets forth standard conditions that shall be included in all water quality certification actions.

Finally, Water Code sections 13267 and 13383 authorize the regional and state boards to establish monitoring and reporting requirements for persons discharging or proposing to discharge waste.

II. Specific Justification for Section XIV Conditions

A. Authorization

Authorization under the Order is granted based on the application submitted. The Permittee is required to detail the scope of project impacts in a complete application pursuant to California Code of Regulations, title 23, section 3856, subdivision (h). Pursuant to Water Code section 13260, subdivision (c), each person discharging waste, or proposing to discharge waste shall file a report of waste discharge relative to any material change or proposed change in the character, location, or volume of the discharge. Pursuant to Water Code section 13264, subdivision (a), the Permittee is prohibited from initiating the discharge of new wastes, or making material changes to the character, volume, and timing of waste discharges authorized herein without filing a report required by Water Code section 13260 or its equivalent for certification actions under California Code of Regulations, title 23, section 3856.

B. Reporting and Notification Requirements

1. Project Reporting

2. Project Status Notifications

The reporting and notification conditions under Sections B.1 and B.2 are required to provide the Central Valley Water Board necessary project information and oversight to ensure project discharges are complying with applicable Basin Plan requirements. These monitoring and reporting requirements are consistent with the Central Valley Water Board's authority to investigate the quality of any waters of the state and require necessary monitoring and reporting pursuant to Water Code sections 13267 and 13383.

Water Code section 13267 authorizes the regional boards to require any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste to provide technical or monitoring program reports required by the regional board. Water Code section 13383 authorizes the regional boards to establish monitoring, inspection, entry, reporting, and other recordkeeping requirements, as authorized by Water Code section 13160, for any person who discharges, or proposes to discharge, to navigable waters.

3. Conditional Notifications and Reports

a. Accidental Discharges of Hazardous Materials

Conditions under Section B.3.a related to notification and reporting requirements in the event of an accidental discharge of hazardous materials are required pursuant to section 13271 of the Water Code, which requires immediate notification of the Office of Emergency Services of the discharge in accordance with the spill reporting provision of the state toxic disaster contingency plan adopted pursuant to Article 3.7 (commencing with Section 8574.16) of Chapter 7 of Division 1 of Title 2 of the Government Code. "Hazardous materials" is defined under Health and Safety Code section 25501. These reports related to accidental discharges ensure that corrective actions, if any, that are necessary to minimize the impact or clean up such discharges can be taken as soon as possible.

b. Violation of Compliance with Water Quality Standards

c. In-Water work and Diversions

Conditions under Section B.3.b and B.3.c related to monitoring and reporting on water quality standard compliance and in-water work and diversions are required to provide the Central Valley Water Board necessary project information and oversight to ensure project discharges are complying with applicable water quality objectives under the Basin Plan. These monitoring and reporting requirements are consistent with the Central Valley Water Board's authority to investigate the quality of any waters of the state and require necessary monitoring and reporting pursuant to Water Code sections 13267 and 13383. Water Code section 13267 authorizes the regional boards to require any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste to provide technical or monitoring program reports required by the regional board. Water Code section 13383 authorizes the regional boards to establish monitoring, inspection, entry, reporting, and other recordkeeping requirements, as authorized by Water Code section 13160, for any person who discharges, or proposes to discharge, to navigable waters.

d. Modifications to Project

Authorization under this Order is granted based on the application and supporting information submitted. Conditions under Section B.3.d are necessary to ensure that if there are modifications to the project, that the Order requirements remain applicable. The Permittee is required to detail the scope of project impacts in a complete application pursuant to California Code of Regulations, title 23, section 3856, subdivision (h). Pursuant to Water Code section 13260, subdivision (c), each person discharging waste, or proposing to discharge waste shall file a report of waste discharge relative to any material change or proposed change in the character, location, or volume of the discharge. Pursuant to Water Code section 13264, subdivision (a), the Permittee is prohibited from initiating the discharge of new wastes, or making material changes to the character, volume, and timing of waste discharges authorized herein without filing a report required by Water Code section 13260 or its equivalent for certification actions under California Code of Regulations, title 23, section 3856.

e. Transfer of Property Ownership

f. Transfer of Long-Term BMP Maintenance

Authorization under this Order is granted based on the application information submitted, including identification of the legally responsible party. Conditions under Sections B.3.e and B.3.f are necessary to confirm whether the new owner wishes to assume legal responsibility for compliance with this Order. If not, the original discharger remains responsible for compliance with this Order. Pursuant to Water Code section 13260, subdivision (c), each person discharging waste, or proposing to discharge waste shall file a report of waste discharge relative to any material change or proposed change in the character, location, or volume of the discharge. Pursuant to Water Code section 13264, subdivision (a), the Permittee is prohibited from initiating the discharge of new wastes, or making material changes to the character, volume, and timing of waste discharges authorized herein without filing a report required by Water Code section 13260 or its equivalent for certification actions under California Code of Regulations, title 23, section 3856.

C. Water Quality Monitoring

Conditions under Section C related to water quality monitoring are required to confirm that best management practices required under this Order are sufficient to protect beneficial uses and to comply with water quality objectives to protect those uses under the Basin Plan. Applicable water quality objectives and beneficial uses are identified in the Order. These monitoring requirements are consistent with the Central Valley Water Board's authority to investigate the

quality of any waters of the state and require necessary monitoring and reporting pursuant to Water Code sections 13267 and 13383. Water Code section 13267 authorizes the regional boards to require any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste to provide technical or monitoring program reports required by the regional board. Water Code section 13383 authorizes the regional boards to establish monitoring, inspection, entry, reporting, and other recordkeeping requirements, as authorized by Water Code section 13160, for any person who discharges, or proposes to discharge, to navigable waters.

D. Standard

1. This Order is subject to modification or revocation

This is a standard condition that “shall be included as conditions of all water quality certification actions” pursuant to California Code of Regulations, title 23, section 3860(a). This condition places the permittee on notice that the certification action may be modified or revoked following administrative or judicial review.

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

This is a standard condition that “shall be included as conditions of all water quality certification actions” pursuant to California Code of Regulations, title 23, section 3860(b). This condition clarifies the scope of the certification’s application.

3. This Order is conditioned upon total payment of any fee

This is a standard condition that “shall be included as conditions of all water quality certification actions” pursuant to California Code of Regulations, title 23, section 3860(c). This fee requirement condition is also required pursuant to California Code of Regulations, section 3833(b).

E. General Compliance

1. Failure to comply with any condition of this Order

The condition under Section E.1 places the Permittee on notice of any violations of Order requirements. Pursuant to Water Code section 13385, subdivision (a)(2), a person who violates any water quality certification issued pursuant to Water Code section 13160 shall be liable civilly.

2. Permitted actions must not cause a violation of any applicable water quality standards

Conditions under Section E.2 related to compliance with water quality objectives and designated beneficial uses are required pursuant to the Central Valley Water Board’s Basin Plan. The Basin Plan’s water quality

standards 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. The Antidegradation Policy requires that the quality of existing high-quality water be maintained unless any change will be consistent with the maximum benefit to the people of the state, will not unreasonably affect present or anticipated future beneficial uses of such water, and will not result in water quality less than that prescribed in water quality control plans or policies. The Antidegradation Policy further requires best practicable treatment or control of the discharge necessary to assure that pollution or nuisance will not occur and the highest water quality consistent with maximum benefit to the people of the state will be maintained. Applicable beneficial uses and water quality objectives to protect those uses include the Chemical Constituents (Basin Plan, Section 3.1.3), Oil and Grease (Basin Plan, Section 3.1.10), pH (Basin Plan, Section 3.1.11), Sediment (Basin Plan, 3.1.15), Suspended Material (3.1.17), Toxicity (Basin Plan, 3.1.20), and Turbidity (Basin Plan, Section 3.1.21) water quality objectives.

3. In response to a suspected violation of any condition of this Order, the Central Valley Water Board may require

Conditions under Section E.3 related to monitoring and reporting are required to provide the Central Valley Water Board necessary project information and oversight to ensure project discharges are complying with applicable Basin Plan requirements. These monitoring and reporting requirements are consistent with the Central Valley Water Board's authority to investigate the quality of any waters of the state and require necessary monitoring and reporting pursuant to Water Code sections 13267 and 13383. Water Code section 13267 authorizes the regional boards to require any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste to provide technical or monitoring program reports required by the regional board. Technical supports submitted pursuant to Water Code section 13267 are required to be submitted under penalty of perjury. Water Code section 13383 authorizes the regional boards to establish monitoring, inspection, entry, reporting, and other recordkeeping requirements, as authorized by Water Code section 13160, for any person who discharges, or proposes to discharge, to navigable waters.

4. The Permittee must, at all times, fully comply with engineering plans, specifications, and technical reports

Authorization under the Order is granted based on the application and supporting information submitted. The Permittee is required to detail the project description in a complete application pursuant to California Code of Regulations, title 23, section 3856, subdivision (h). Pursuant to Water Code section 13260, subdivision (c), each person discharging waste, or proposing to discharge waste shall file a report of waste discharge relative to any

material change or proposed change in the character, location, or volume of the discharge. Pursuant to Water Code section 13264, subdivision (a), the Permittee is prohibited from initiating the discharge of new wastes, or making material changes to the character, volume, and timing of waste discharges authorized herein without filing a report required by Water Code section 13260 or its equivalent for certification actions under California Code of Regulations, title 23, section 3856. Finally, compliance with conditions of the Order ensures that the Project will comply with all water quality standards and other appropriate requirements as detailed herein. (California Code of Regulations, title 23, section 3859, subdivision (a).)

5. This Order and all of its conditions herein continue to have full force and effect

This condition ensures continued compliance with applicable water quality standards and other appropriate requirements of state law. Notwithstanding any determinations by the U.S. Army Corps or other federal agency pursuant to 40 C.F.R. section 121.9, the Permittee must comply with the entirety of this certification because, pursuant to State Water Board Water Quality Order No. 2003-0017-DWQ, this Order also serves as Waste Discharge Requirements pursuant to the Porter-Cologne Water Quality Control Act.

6. The Permittee shall adhere to all requirements in the mitigation monitoring and reporting program

This condition ensures mitigation measures required to lessen the significance of impacts to water quality identified pursuant to California Environmental Quality Act review are implemented and enforceable. Pursuant to California Code of Regulations, title 14, section 15097, subdivision (a), a public agency shall adopt a program for monitoring and reporting on mitigation measures imposed to mitigate or avoid significant environmental effects to ensure implementation.

7. Construction General Permit Requirement

Permittees are required to obtain coverage under National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ; NPDES No. CAS000002), 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. This is required pursuant to Clean Water Act sections 301 and 402 which prohibit certain discharges of storm water containing pollutants except in compliance with an NPDES permit. (33 U.S.C. section 1311, and 1342(p); 40 C.F.R. parts 122, 123, and 124.)

F. Administrative

1. Signatory requirements for all document submittals

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

2. This Order does not authorize any act which results in the taking of a threatened, endangered, or candidate species

Pursuant to the California Endangered Species Act (Fish & Wildlife Code, sections 2050 et seq.) and federal Endangered Species Act (16 U.S.C. sections 1531 et seq.), the Order does not authorize any act which results in the taking of a threatened, endangered, or candidate species. In the event a Permittee requires authorization from the state or federal authorities, California Code of Regulations, title 23, section 3856(e), requires that copies be provided to the Central Valley Water Board of “any final and signed federal, state, and local licenses, permits, and agreements (or copies of the draft documents, if not finalized) that will be required for any construction, operation, maintenance, or other actions associated with the activity. If no final or draft document is available, a list of all remaining agency regulatory approvals being sought shall be included.”

3. The Permittee shall grant Central Valley Water Board staff

The condition related to site access requirements is authorized pursuant to the Central Valley Water Board’s authority to investigate the quality of any waters of the state within its region under Water Code section 13267 and 13383. Water Code section 13267, subdivision (c) provides that “the regional board may inspect the facilities of any person to ascertain whether the purposes of this division are being met and waste discharge requirements are being complied with.” Water Code section 13383 authorizes the regional boards to establish monitoring, inspection, entry, reporting, and other recordkeeping requirements, as authorized by Water Code section 13160, for any person who discharges, or proposes to discharge, to navigable waters.

4. A copy of this Order shall be provided to any consultants, contractors, and subcontractors

This Condition ensures any agent of the Permittee is aware of Order requirements. Such conditions within the Order are necessary to ensure that all activities will comply with applicable water quality standards and other appropriate requirements (33 U.S.C. section 1341; California Code of Regulations, title 23, section 3859, subdivision (a)) and cannot be adhered to if the Permittees’ agents are unaware of applicable requirements. These

conditions are necessary to ensure compliance with applicable water quality objectives and protection of beneficial uses found in the Basin Plan, adopted pursuant to Water Code section 13240, and detailed in the Order.

5. A copy of this Order must be available at the Project site(s) during construction . . .

This Condition ensures any agent of the Permittee is aware of Order requirements. Such conditions within the Order are necessary to ensure that all activities will comply with applicable water quality standards and other appropriate requirements (33 U.S.C. section 1341; California Code of Regulations, title 23, section 3859, subdivision (a)) and cannot be adhered to if the Permittees' agents are unaware of applicable requirements. These conditions are necessary to ensure compliance with applicable water quality objectives and protection of beneficial uses found in the Basin Plan, adopted pursuant to Water Code section 13240, and detailed in the Order.

6. Lake or Streambed Alteration Agreement

This condition is required pursuant to California Code of Regulations, title 23, section 3856, subdivision (e), which requires that copies be provided to the Central Valley Water Board of "any final and signed federal, state, and local licenses, permits, and agreements (or copies of the draft documents, if not finalized) that will be required for any construction, operation, maintenance, or other actions associated with the activity. If no final or draft document is available, a list of all remaining agency regulatory approvals being sought shall be included."

G. Construction

- 1. Dewatering** – Not Applicable
- 2. Directional Drilling** – Not Applicable
- 3. Dredging**

Conditions relating to dredging activities are necessary ensure protection of beneficial uses and water quality during dredging operations and placement of dredged materials. Authorized placement of materials ensures that no adverse impacts to ground or surface water will occur. This condition is required to assure that dredging operations will comply with water quality objectives established for surface waters, including turbidity and the reintroduction and resuspension of harmful metal or organic materials. (Basin Plan, Sections 3.1.17, 3.1.21, 4.1.9.) These conditions are necessary to ensure that 1) the discharge shall not adversely affect the beneficial uses of the receiving water or cause a condition of nuisance; 2) the discharge shall comply with all applicable water quality objectives; and 3) treatment and control of the discharge shall be implemented to assure that pollution and

nuisance will not occur and the highest water quality is maintained. (Dredge or Fill Procedures, Section IV.B.1.)

4. Fugitive Dust

This condition is required to assure that the discharge from the Project will comply with water quality objectives established for surface waters, including for chemical constituents and toxicity. (Basin Plan, Sections 3.1.3 & 3.1.20.) Chemicals used in dust abatement activities can result in a discharge of chemical additives and treated waters to surface waters of the state. Therefore, dust abatement activities shall be conducted so that sediment or dust abatement chemicals are not discharged into waters of the state and do not adversely affect beneficial uses. (Basin Plan, Section 2.1; Dredge or Fill Procedures, Section IV.B.1.)

5. Good Site Management “Housekeeping”

Conditions related to site management require best practices to prevent, minimize, and/or clean up potential construction spills, including from construction equipment. For instance, fuels and lubricants associated with the use of mechanized equipment have the potential to result in toxic discharges to waters of the state in violation of water quality standards, including the toxicity and floating material water quality objectives. (Basin Plan, Sections 3.1.7 & 3.1.20.) This condition is also required pursuant to Water Code section 13264, which prohibits any discharge that is not specifically authorized in this Order. Among other requirements, Section IV.B.1 of the Dredge or Fill Procedures requires that Project impacts will not cause or contribute to a degradation of waters; or violate water quality standards.

6. Hazardous Materials

Conditions related to toxic and hazardous materials are necessary to assure that discharges comply with applicable water quality objectives under the Basin Plan, adopted under section 13240 of the Water Code, including the narrative toxicity and chemical constituents water quality objectives. (Basin Plan, Sections 3.1.3, 3.1.20.) Further, conditions related to concrete/cement are required pursuant to the Basin Plan’s pH water quality objective. (Basin Plan, Section 3.1.11.)

7. Invasive Species and Soil Borne Pathogens

Conditions related to invasive species and soil borne pathogens are required to ensure that discharges will not violate any water quality objectives under the Basin Plan, adopted under Water Code section 13240 of the Water Code. Invasive species and soil borne pathogens adversely affect beneficial uses designated in the Basin Plan, such as rare, threatened, or endangered species; wildlife habitat; and preservation of biological habitats of special significance. (See Basin Plan, Section 2.1.) Among other requirements, Section IV.B.1 of the Dredge or Fill Procedures requires that Project impacts

will not contribute to a net loss of the overall abundance, diversity, and condition of aquatic resources; cause or contribute to a degradation of waters; or violate water quality standards.

8. Post-Construction Storm Water Management

Conditions related to post-construction stormwater management are required to comply with the Basin Plan and to assure that the discharge complies with applicable water quality objectives. Post-rain erosion and sedimentation problems can contribute to significant degradation of the waters of the state; therefore, it is necessary to take corrective action to eliminate such discharges in order to avoid or minimize such degradation. Implementation of control measures and best management practices described in the conditions will assure compliance with water quality objectives including for floating material, sediment, turbidity, temperature, suspended material, and settleable material. (Basin Plan, Sections 3.1.7, 3.1.15, 3.1.16, 3.1.17, 3.1.19, 3.1.21.) Among other requirements, Section IV.B.1 of the Dredge or Fill Procedures requires that Project impacts will not contribute to a net loss of the overall abundance, diversity, and condition of aquatic resources; cause or contribute to a degradation of waters; or violate water quality standards.

9. Roads

These conditions are required to assure that discharges will comply with water quality standards within the Basin Plan. Specifically, activities associated with road maintenance have the potential to exceed water quality objectives for oil and grease, pH, sediment, settleable materials, temperature, and turbidity. (Basin Plan, Sections 3.1.10, 3.1.11, 3.1.15, 3.1.16, 3.1.19, 3.1.21.) Further, these conditions are required to assure that they do not result in adverse impacts related to hydromodification or create barriers to fish passage and spawning activities. Among other requirements, Section IV.B.1 of the Dredge or Fill Procedures requires that Project impacts will not contribute to a net loss of the overall abundance, diversity, and condition of aquatic resources; cause or contribute to a degradation of waters; or violate water quality standards.

10. Sediment Control

Conditions related to erosion and sediment control design requirements are required to sustain fluvial geomorphic equilibrium. Improperly designed and installed BMPs result in excess sediment, which impairs surface waters, adversely affect beneficial uses, and results in exceedance of water quality objectives in the Basin Plan, including for sediment and turbidity. (Basin Plan, Sections 3.1.15 & 3.1.21.) Among other requirements, Section IV.B.1 of the Dredge or Fill Procedures requires that Project impacts will not contribute to a net loss of the overall abundance, diversity, and condition of aquatic resources; cause or contribute to a degradation of waters; or violate water quality standards.

11. Special Status Species

See F.2 above.

12. Stabilization/Erosion Control

Conditions related to erosion and sediment control design requirements are required to sustain fluvial geomorphic equilibrium. Improperly designed and installed BMPs result in excess sediment, which impairs surface waters, adversely affect beneficial uses, and results in exceedance of water quality objectives in the Basin Plan, including for sediment. (Basin Plan, Section 3.1.15.) Among other requirements, Section IV.B.1 of the Dredge or Fill Procedures requires that Project impacts will not contribute to a net loss of the overall abundance, diversity, and condition of aquatic resources; cause or contribute to a degradation of waters; or violate water quality standards.

13. Storm Water

Post-rain erosion and sedimentation problems can contribute to significant degradation of the waters of the state; therefore, it is necessary to take corrective action to eliminate such discharges in order to avoid or minimize such degradation. Implementation of control measures and best management practices described in the condition will assure compliance with water quality objectives including chemical constituents, floating material, sediment, turbidity, temperature, suspended material, and settleable material within the Basin Plan. (Basin Plan, Sections 3.1.1, 3.1.7, 3.1.15, 3.1.16, 3.1.17, 3.1.19, 3.1.21.) Among other requirements, Section IV.B.1 of the Dredge or Fill Procedures requires that Project impacts will not cause or contribute to a degradation of waters or violate water quality standards.

H. Site Specific – Not Applicable

I. Total Maximum Daily Load (TMDL) – Not Applicable

J. Mitigation for Temporary Impacts

The conditions under Section J require restoration of temporary impacts to waters of the state. Conditions in this section related to restoration and/or mitigation of temporary impacts are consistent with the Dredge or Fill Procedures, which requires “in all cases where temporary impacts are proposed, a draft restoration plan that outlines design, implementation, assessment, and maintenance for restoring areas of temporary impacts to pre-project conditions.” (Dredge or Fill Procedures section IV. A.2(d) & B.4.) Technical reporting and monitoring requirements under this condition are consistent with the Central Valley Water Board’s authority to investigate the quality of any waters of the state and require necessary reporting and monitoring pursuant to Water Code sections 13267 and 13383.

K. Compensatory Mitigation for Permanent Impacts – Not Applicable

L. Certification Deviation

- 1. Minor modifications of Project locations or predicted impacts**
- 2. A Project modification shall not be granted a Certification Deviation if it warrants or necessitates**

Authorization under the Order is granted based on the application and supporting information submitted. Among other requirements, the Permittee is required to detail the project description in a complete application pursuant to California Code of Regulations, title 23, section 3856, subdivision (h). Pursuant to Water Code section 13260, subdivision (c), each person discharging waste, or proposing to discharge waste shall file a report of waste discharge relative to any material change or proposed change in the character, location, or volume of the discharge. Pursuant to Water Code section 13264, subdivision (a), the Permittee is prohibited from initiating the discharge of new wastes, or making material changes to the character, volume, and timing of waste discharges authorized herein without filing a report required by Water Code section 13260 or its equivalent for certification actions under California Code of Regulations, title 23, section 3856. Project deviations may require additional or different Order conditions as authorized by law to ensure compliance with applicable water quality standards and other appropriate requirements (33 U.S.C. section 1341; California Code of Regulations, title 23, section 3859, subdivision (a)) and may result in impacts to water quality that require additional environmental review (California Code of Regulations, title 14, sections 15062-15063).