



Central Valley Regional Water Quality Control Board

CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND ORDER

Effective Date: 14 March 2023

Expiration Date: 13 March 2028

Program Type: Restoration

Project Type: Ecological Aquatic/Stream/Habitat Restoration

Project: Stanislaus River Salmonid Habitat Restoration Project at Stanley Wakefield Wilderness Area (Project)

Applicant: City of Oakdale

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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 the City of Oakdale (hereinafter Permittee) for the Project. This Order is for the purpose described in application and supplemental information submitted by the Permittee. The application was received on 13 January 2023. The application was deemed complete on 10 February 2023. Central Valley Water Board staff requested additional information necessary to supplement the contents of the complete application and the Permittee responded to the request for supplemental information on the following dates:

Date of Request for Supplemental Information: **10 February 2023**
Date all requested information was received: **27 February 2023**

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 20 January 2023 to 10 February 2023. The Central Valley Water Board did not receive any comments during the comment period.

III. Project Purpose

The 28-acre Project will re-grade and rehabilitate a perched floodplain and emergent wetland within the Stanley Wakefield Wilderness area to create a variety of terrestrial and aquatic habitats, including oak grassland, floodplain, and side channels that will function under a variety of flow conditions and improve rearing habitat for steelhead and provide ancillary benefits to Chinook salmon and other native fish.

IV. Project Description

The Project will expand the existing emergent wetland within the Stanley Wakefield Wilderness Area and enhance the connection to the Stanislaus River and create a side channel along the eastern portion of the Project area and on the riverside terrace. The design will incorporate the use of large wood structures (i.e., trees with root wads) obtained from on-site excavations for floodplain and side channel habitat complexity. Excavation of the floodplain will extend approximately 1,900 linear ft (LF) from the upstream portion of the proposed eastern side channel north towards the enhanced wetland connection within the Project area. Three alcoves will be created to provide high quality rearing habitat for juvenile salmonids. The existing disconnected wetland within the center of the project area will be enhanced and connected to the Stanislaus River to provide a salmonid rearing habitat complex and for improved drainage. Excavation will occur at the northwest portion of the Project area and extend approximately 505 LF to create a side channel on the riverside terrace. Approximately 54,800 cubic yards of material will be excavated from the perched Stanislaus River floodplain and remnant side channels within the Action Area. The constructed features will function under a variety of flow conditions

present on the lower Stanislaus River and will support a variety of ecological services, such as providing salmonid rearing habitats and improving water quality.

Construction activities will be sequenced such that connections between the side channel entrance and exit and the main channel will occur near the end of the earthwork activities to limit water flowing through the site until construction is near completion. Apart from connection of the side channel, there is no expected need for construction activities to occur within the Stanislaus River.

V. Project Location

Address: The Project is located in the Stanley Wakefield Wilderness Area at the end of North Stearns Road, adjacent to Kerr Park, within the City of Oakdale.

County: Stanislaus

Nearest City: Oakdale

Section 2, 6, Township 2 South, Range 10/11 East MDB&M.

Downstream Limit: Latitude: 37.790061° and Longitude: -120.819847°

Upstream Limit: Latitude: 37.787531° and Longitude: -120.809275°

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

VI. Project Impact and Receiving Waters Information

The Project is located within the jurisdiction of the Central Valley Water Board. Receiving waters and groundwater potentially impacted by this Project are protected in accordance with the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, Fifth Edition, February 2019 (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.

Sediment in the Stanislaus River is enriched with mercury due to historical mining and ongoing deposition from the river. The Project boundary likely has deposits of mercury-containing sediments. Studies have shown that inundation and cycles of wetting and drying can cause methylmercury production. Therefore, the Project is expected to create additional methylmercury within the Stanislaus River.

Methylmercury is a bio-accumulative neurotoxin that is harmful to humans and wildlife when ingested at elevated levels over a sustained period. The portion of the Stanislaus River in the Project boundary is 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. Excavated materials at the Project location will likely contain total mercury from legacy mining sources. Disturbance of these materials can lead to rapid production and subsequent discharge of methylmercury. The Permittee will conduct Best Management Practices to reduce the erosion and resuspension of potential mercury-bound sediment, and to reduce the production of methylmercury.

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

VII. Description of Direct Impacts to Waters of the State

The Project will result in permanent and temporary impacts to wetlands and Waters of the State through construction activities that will create seasonal side channels and enhance wetland habitat within the project area. There will be temporary impacts to 4.26 acres of wetlands through vegetation removal activities and temporary access road construction.

Approximately 7.13 acres of permanent impacts will occur to wetland habitat. 3.78 acres of permanent impacts will occur from excavating a portion of wetland that will result in the overall enhancement and function of wetland habitat in this area. 2.72 acres of permanent impacts will occur from excavating existing wetland habitat to convert it to seasonal channel habitat. Fill material will be placed in 0.63 acre of wetland habitat, resulting in a permanent physical loss. There would also be permanent impacts to 0.002 acres of the Stanislaus River through excavating the portions of the side channels that will connect to the Stanislaus River.

A total of 2.4 acres of new seasonal channel will be created resulting in a net increase of aquatic resources within the project area.

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

Table 1: Total Project Fill/Excavation Quantity for Temporary Impacts¹

| Aquatic Resources Type | Acres | Cubic Yards | Linear Feet |
|------------------------|-------|-------------|-------------|
| Wetland | 4.26 | 137 | |

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

| Aquatic Resources Type | Acres | Cubic Yards | Linear Feet |
|------------------------|-------|-------------|-------------|
| Stream Channel | 0.002 | 12 | |
| Wetland | 7.13 | 29,774 | |

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. Construction activities may temporarily increase or contribute to the amount of turbidity/suspended sediment in the Stanislaus River. No in-stream construction activities are expected to occur; however, actions likely to temporarily impact turbidity include the use of heavy machinery adjacent to the Stanislaus River. The highest potential for erosion would occur during the excavation and grading at the inlet and outlet of the side channels and wetland connection to the Stanislaus River. These activities could cause or lead to erosion or siltation due to the transportation of loose soil downstream. Additionally, erosion could occur as these channel segments adjust to changes in flow.

IX. 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:

- A SWPPP will be prepared by Cramer Fish Sciences. The restoration construction contractor(s) will be required to post a copy of the SWPPP at the Project site, file a notice of intent to discharge stormwater with the Regional Water Quality Control Board, and implement all measures required by the SWPPP. A Qualified SWPPP Practitioner (QSP) will be responsible for monitoring to ensure that the provisions of the SWPPP are effectively enforced. In the event of noncompliance, the QSP will have the authority to

¹ 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.

shut down the construction site or fine the responsible party or parties. The SWPPP will include the following information and stipulations:

- A description of site characteristics, including runoff and drainage characteristics and soil erosion hazard.
- A description of proposed construction procedures and construction-site housekeeping practices, including prohibitions on discharging or washing potentially harmful materials into streets, shoulder areas, inlets, catch basins, gutters, or agricultural fields, associated drainage, or irrigation features.
- A description of measures that will be implemented for erosion and sediment control, including requirements to:
 - i. Conduct major restoration activities involving excavation and spoils haulage during the dry season, to the extent possible.
 - ii. Conduct all restoration work in accordance with site-specific construction plans that minimize the potential for increased sediment inputs to storm drains and surface waters.
 - iii. Grade and stabilize spoils sites to minimize erosion and sediment input to surface waters and generation of airborne particulate matter.
 - iv. Implement erosion control measures as appropriate to prevent sediment from entering surface waters, agricultural water features, and storm drains to the extent feasible, including the use of silt fencing or fiber rolls to trap sediments and erosion control blankets on exposed slopes.
- A Spill Prevention and Response Plan will be developed that identifies any hazardous materials to be used during restoration work; describes measures to prevent, control, and minimize the spillage of hazardous substances; describes transport, storage and disposal procedures for these substances; and outlines procedures to be followed in case of a spill of a hazardous material. The Spill Prevention and Response Plan will require that hazardous and potentially hazardous substances stored onsite be kept in securely closed containers located away from drainage courses, agricultural areas, storm drains, and areas where stormwater is allowed to infiltrate. It will also stipulate procedures, such as the use of spill containment pans, to minimize hazard during onsite fueling and servicing of construction equipment. Finally, the Spill Prevention and Response Plan will require that the County be notified immediately of any substantial spill or release.
- Restoration work will be monitored by a QSP to ensure that contractors are adhering to all provisions relevant to state and federal stormwater discharge requirements, and that the QSP will shut down the construction site in the event of noncompliance.

- In-water work, including all wetted channel and bank modifications, will be restricted to the minimum necessary to support Proposed Action success. In-water work will be limited to the dry season (June 15 – November 15).
- The Proposed Action will comply with Section 401 of the Clean Water Act and obtain certification for construction-related activities to control sediment from entering the main river channel during restoration activities. To minimize risk from additional fine sediments, all trucks and equipment will be cleaned prior to arrival on site. Turbidity levels will be monitored in accordance with Section 401 permit requirements.
- Stream bank impacts will be isolated and minimized to reduce bank sloughing. The banks will be stabilized following construction activities.
- All equipment working within the stream corridor will be inspected daily for fuel, lubrication, and coolant leaks; and for leak potentials (e.g., cracked hoses, loose filling caps, stripped drain plugs); and all equipment must be free of fuel, lubrication, and coolant leaks. Vehicles or equipment will be washed/cleaned only at off-site areas. All equipment will be steam cleaned prior to working within the stream channel to remove contaminants that may enter the river and adjacent lands. All equipment will be fueled and lubricated in a designated staging area located outside the stream channel and banks.
- All equipment entering the river will be steam cleaned before it is used elsewhere to minimize the chance of introducing New Zealand mud snails (*Potamopyrgus antipodarum*) to other water bodies.
- The project site will be inspected before beginning the job for evidence of illegal dumping or discharges. Document any pre-existing conditions and notify the owner.
- Prior to entering the project site, all field personnel will know how to respond if toxic materials are identified.
- The discharge of any hazardous or non-hazardous waste as defined in Division 2, Subdivision 1, Chapter 2 of the California Code of Regulations shall be conducted in accordance with applicable State and federal regulations.
- All handling and disposal of contaminated sediments shall be performed in accordance with the Water Discharge Requirements (WDR) issued by the Central Valley Water Board. The sediment shall ultimately be disposed at a permitted landfill. Any alternative use or disposal of contaminated sediments will require Central Valley Water Board approval.
- The contractor shall prevent the accidental release of chemicals, fuels, lubricants, and non-storm drainage water into channels. The contractor must have appropriately trained field personnel in spill prevention, hazardous material control, and cleanup of accidental spills.

- No fueling, repair, cleaning, maintenance, or vehicle washing shall be performed in the stream channel or in areas at the top of the channel bank that may flow into the stream channel.
- Spill kits shall always be in close proximity when using hazardous materials (e.g., crew trucks and other logical locations).
- Prior to entering the work site, all field personnel will know the location of spill kits on crew trucks and at other locations at the project sites. This training will be documented by the PL.
- Fuel will not be stored on site for long time periods other than within fuel tanks of equipment required to implement the project.
- No fueling shall be done in the stream channel.
- No fueling shall be done in the immediate floodplain, unless equipment stationed in these locations is not readily relocated (e.g., pumps, generators).
- For stationary equipment that must be fueled on site, fueling must be performed on level-grade areas with containment (e.g., protect fueling areas with berms and dikes to prevent run-on, run-off, and to contain spills) provided in such a manner that any accidental spill of fuel will not be able to enter the water or contaminate sediments that may come in contact with water.
- All fueling done at the job site will provide containment to the degree that any spill will be unable to enter the channel or damage stream vegetation.
- Drip pans or absorbent pads should be used during vehicle and equipment fueling, unless the fueling is performed over an impermeable surface in a dedicated fueling area. Absorbent materials will be used on small spills and will be removed promptly and disposed of properly.
- Heavy equipment used for in-channel work must be filled with biodegradable vegetable-based fluids.
- All servicing of equipment at the job site will include containment provisions sufficient to prevent any spill from entering the channel or damage stream vegetation (see above).
- If emergency repairs are required in the field, only those repairs necessary to move equipment to a more secure location will be done in the channel or floodplain.
- If emergency repairs are required, containment will be provided equivalent to that done for fueling or servicing.

X. Compensatory Mitigation

No compensatory mitigation is required for permanent impacts because the project is an ecological restoration project that will result in a net increase of aquatic resources.

XI. California Environmental Quality Act (CEQA)

On 21 February 2023, the City of Oakdale, as lead agency, adopted an initial study/mitigated negative declaration (IS/MND) (State Clearinghouse (SCH) No. 2022120684) for the Project and filed a Notice of Determination (NOD) at the SCH on 23 February 2023. 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.

XII. Petitions for Reconsideration

Any person aggrieved by this action may petition the State 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.

XIII. Fees Received

An application fee of \$729.00 was received on 27 January 2023. The fee amount was determined as required by California Code of Regulations, title 23, sections 3833(b)(3) and 2200(a)(3) and was calculated as Category D - Ecological Restoration and Enhancement Projects (fee code 85) with the dredge and fill fee calculator.

XIV. Conditions

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

A. Authorization

Impacts to waters of the state shall not exceed quantities shown in Tables 1 through 2.

B. Reporting and Notification Requirements

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

Attachment D, which must be signed by the Permittee or an authorized representative.

The Permittee must submit all notifications, submissions, materials, data, correspondence, and reports in a searchable Portable Document Format (PDF). Documents less than 50 MB must be emailed to:
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. **Monthly Reporting:** The Permittee must submit a Monthly Report to the Central Valley Water Board on the **1st day of each month** beginning the month after the submittal of the Commencement of Construction Notification. Monthly reporting shall continue until the Central Valley Water Board issues a Notice of Project Complete Letter to the Permittee.
- b. **Annual Reporting:** The Permittee shall submit an Annual Report each year on the 1st day of April beginning 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.

2. Project Status Notifications

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

contingent on successful attainment of restoration and mitigation performance criteria. This request shall be submitted to Central Valley Water Board staff within thirty (30) days following completion of all Project activities. Upon approval of the request, the Central Valley Water Board staff shall issue a Notice of Project Complete Letter to the Permittee which will end the post discharge monitoring period.

3. Conditional Notifications and Reports:

The following notifications and reports are required as appropriate.

a. Accidental Discharges of Hazardous Materials²:

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](http://www.caloes.ca.gov/FireRescueSite/Documents/CalOES-Spill_Booklet_Feb2014_FINAL_BW_Acc.pdf) (http://www.caloes.ca.gov/FireRescueSite/Documents/CalOES-Spill_Booklet_Feb2014_FINAL_BW_Acc.pdf).
- ii. Following notification to OES, the Permittee shall notify Central Valley Water Board, as soon as practicable (ideally within 24 hours). Notification may be delivered via written notice, email, or other verifiable means.

² "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.)

- 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 surface water sampling:

- a. when performing any in-water work;
- b. during the entire duration of temporary surface water diversions;
- c. in the event that the Project activities result in any materials reaching surface waters; or
- d. when any activities result in the creation of a visible plume in surface waters.

2. Accidental Discharges/Noncompliance:

Upon occurrence of an accidental discharge of hazardous materials or a violation of compliance with a water quality standard, Central Valley Water Board staff may require water quality monitoring based on the discharge constituents and/or related water quality objectives and beneficial uses.

3. In-Water Work or Diversions:

During planned in-water work, dewatering activities, or during the installation or 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 for waters designated with the WARM beneficial use, and 7.0 mg/L for waters designated with the COLD or SPWN beneficial uses, in surface water.
- 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.

- d.** 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 3 sampling parameters.³ The sampling requirements in Table 3 shall be conducted upstream out of the influence of the Project, and approximately 300 feet downstream of the work area.

³ 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.

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

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 3: Sample Type and Frequency Requirements

| 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 ⁴ | Observations | Visual Inspections | Continuous throughout the construction period |

4. Mercury:

Prior to construction activities, the Permittee shall submit a sediment total mercury sampling plan for Central Valley Water Board staff approval. The plan shall include procedures and descriptions of locations and frequency for sediment total mercury sampling.

Sampling for total mercury in sediment shall occur prior to construction activities for excavated material, and after construction activities are complete in areas that contain fine grained sediments (grain size less than 63 microns) that will be inundated. Samples must be representative of the entire depth and volume to be excavated. Prior to the submittal of the commencement of construction notification, the Permittee shall consult with Central Valley Water Board staff to establish the specific total mercury sediment monitoring

⁴ Visible construction-related pollutants include oil, grease, foam, fuel, petroleum products, and construction-related, excavated, organic or earthen materials.

locations. If the median concentration of total 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 graded areas. The Permittee is required to implement the plan upon Executive Officer approval.

After each sampling event, the Permittee shall submit the laboratory results to Central Valley Water Board staff and upload the results to the California Environmental Data Exchange Network's website (<http://www.ceden.org/>). Water Quality Monitoring Templates for data submittal can be found on the same website.

5. Post-Construction:

Visually inspect the Project site during the rainy season for one year following completion of active Project construction activities 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).
2. This Order is conditioned upon total payment of any fee required under title 23 of the California Code of Regulations and owed by the Permittee.

E. General Compliance

1. Failure to comply with any condition of this Order shall constitute a violation of the Porter-Cologne Water Quality Control Act and the Clean Water Act. The Permittee and/or discharger may then be subject to administrative and/or civil liability pursuant to Water Code section 13385.
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. 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.
6. **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.
6. **Lake or Streambed Alteration Agreement:** The Permittee shall submit a signed copy of the California Department of Fish and Wildlife’s Lake or

Streambed Alteration Agreement to the Central Valley Water Board
immediately upon execution and prior to any discharge to waters of the state.

G. Construction

1. Dewatering

- a. If water is present, the area must be dewatered prior to start of work.
- b. No dewatering will occur within the Project area.
- c. This Order does not allow permanent water diversion of flow from the receiving water. This Order is invalid if any water is permanently diverted as a part of the project.
- d. The Permittee shall work with the Central Valley Water Board to obtain coverage under an NPDES permit for dewatering activities that result in discharges into surface water. The Permittee shall work with the Central Valley Water Board to obtain coverage under Waste Discharge Requirements (WDRs) for dewatering activities that result in discharges to land.

2. Directional Drilling – Not Applicable

3. Dredging – Not Applicable

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.

6. 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.

7. 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 wetland and stream channel habitat.

8. 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.

9. Post-Construction Storm Water Management – Not Applicable

10. 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.

11. 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.

12. Special Status Species

The following Special Status Species have been documented to occur near or within the Project area: Central Valley fall-run Chinook Salmon, Hardhead, Central Valley Steelhead, Snowy Egret, and Valley Elderberry Longhorn Beetle.

13. 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.

14. 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 a restoration plan. The restoration plan shall be submitted for written acceptance by Central Valley Water Board staff within ninety days (90) of issuance of this Order. The restoration plan shall provide the following: a schedule; plans for grading of disturbed areas to pre-project contours; planting palette with plant species native to the Project area; seed collection location; invasive species management; performance standards; and maintenance requirements (e.g. watering, weeding, and replanting).
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. If restoration of temporary impacts to waters of the state is not completed within 120 days of the impacts, compensatory mitigation may be required to offset temporal loss of waters of the state.
4. Total required Project compensatory mitigation information for temporary impacts is summarized in Table 4. [Establishment (Est.), Re-establishment (Re-est.), Rehabilitation (Reh.), Enhancement (Enh.), Preservation (Pres.), Unknown].

Table 4: Required Project Mitigation Quantity for Temporary Impacts by Method

| Aquatic Resource Type | Mitigation Type | Units | Est. | Re-est. | Reh. | Enh. | Pres. | Unknown |
|-----------------------|-----------------------|-------|------|---------|------|------|-------|---------|
| Wetland | Permittee Responsible | Acres | | 4.26 | | | | |

K. Compensatory Mitigation for Permanent Impacts – Not Applicable

L. Ecological Restoration and Enhancement

The quantity of waters of the state permanently gained by the Project is shown in Table 5.

Table 5: Total Ecological Restoration and Enhancement Quantity

| Aquatic Resource Type | Restoration Type | Units | Est. | Re-est. | Reh. | Enh. | Pres. | Unknown |
|-----------------------|-----------------------|-------|------|---------|------|------|-------|---------|
| Stream Channel | Permittee-Responsible | Acres | 2.4 | | | | | |
| Wetland | Permittee-Responsible | Acres | | | | 3.78 | | |

M. 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.

XV. Water Quality Certification

I hereby issue the Order for the Stanislaus River Salmonid Habitat Restoration Project at Stanley Wakefield Wilderness Area, WDID # 5B50CR00110, certifying that as long as all of the conditions listed in this Order are met, any discharge from the referenced Project will comply with the applicable provisions of Clean Water Act sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards).

This discharge is also regulated pursuant to State Water Board Water Quality Order No. 2003-0017-DWQ which authorizes this Order to serve as Waste Discharge Requirements pursuant to the Porter-Cologne Water Quality Control Act (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 Anne Walters 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 Map

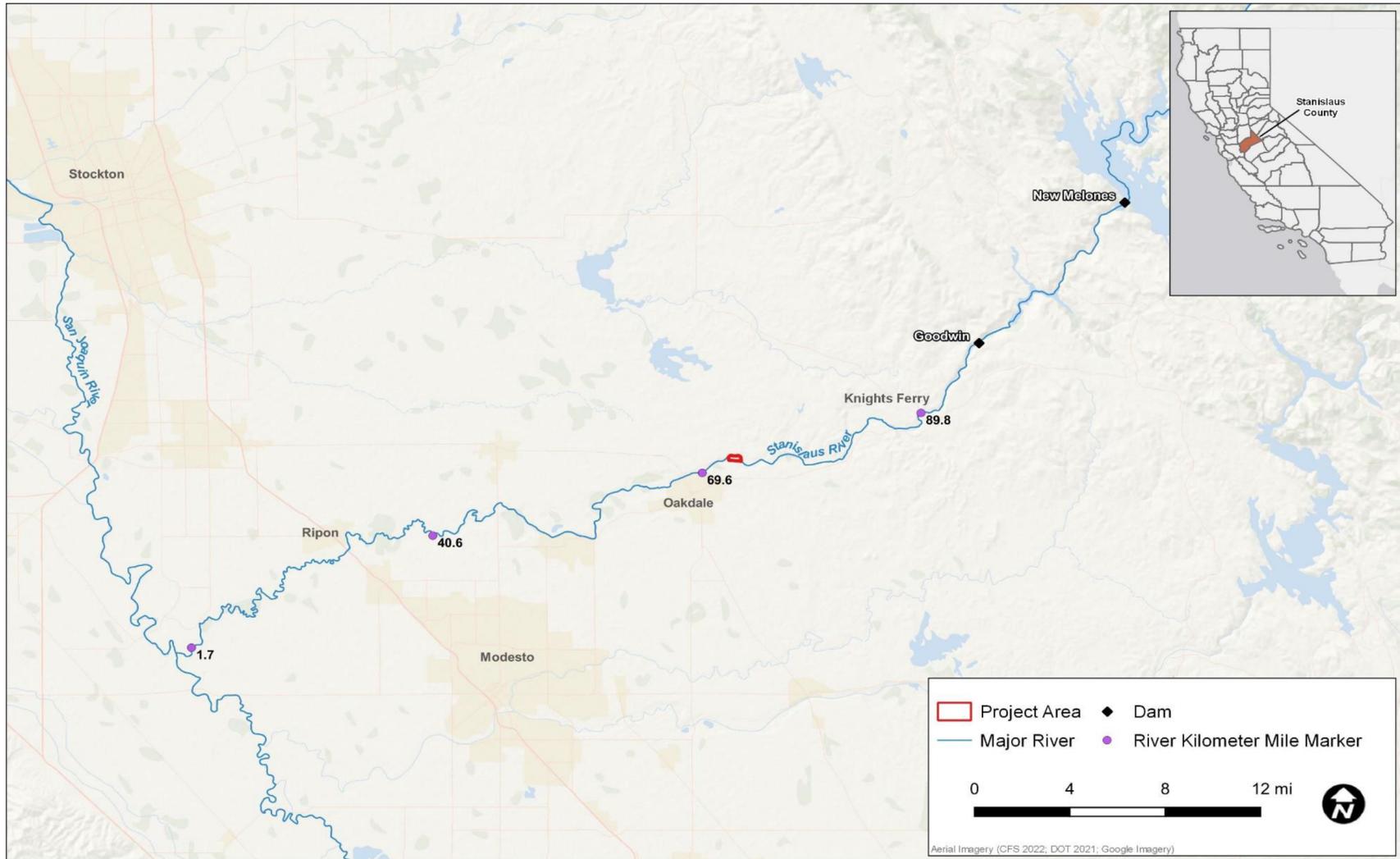


Figure 2: Project Impacts Map

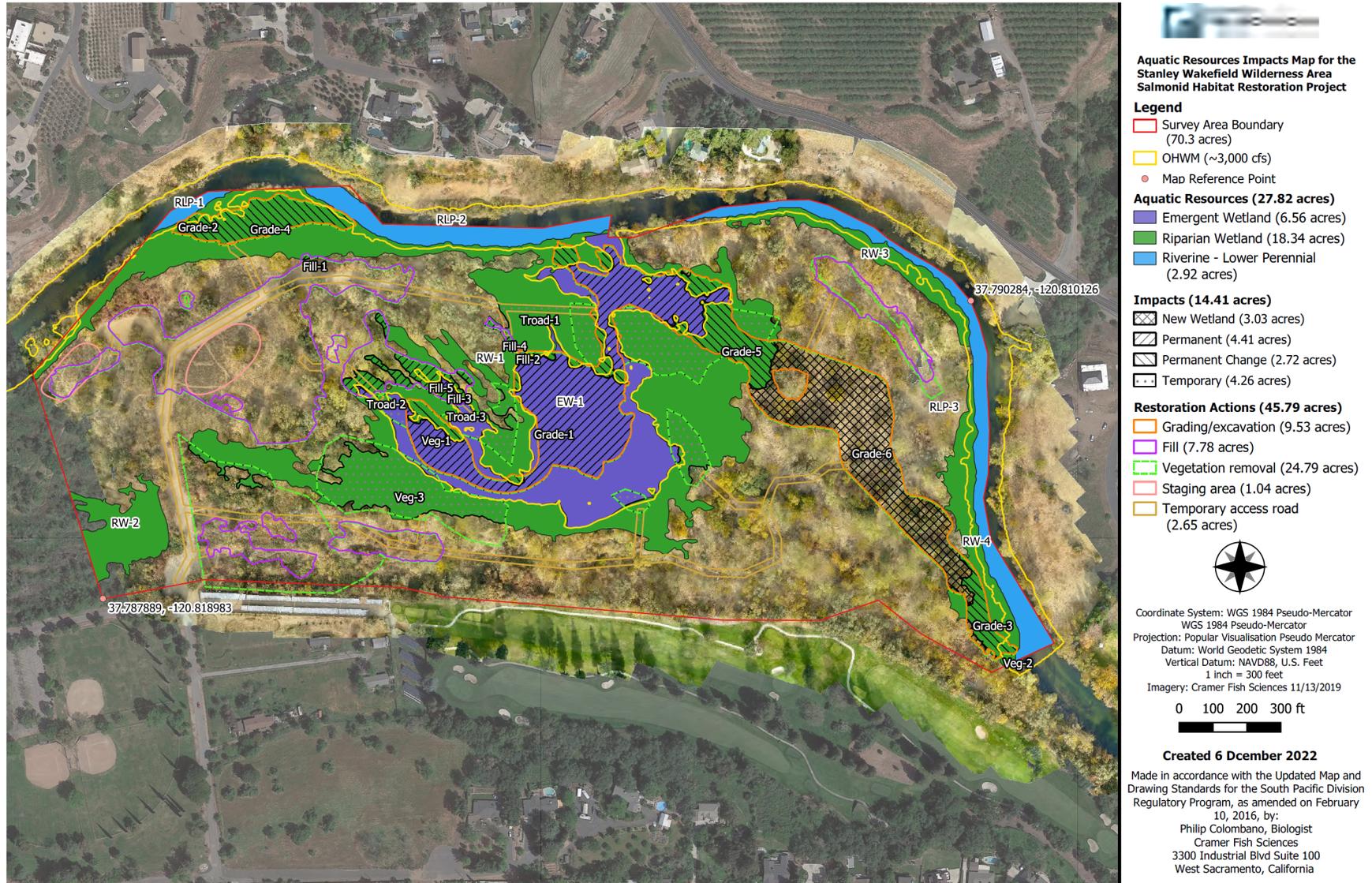
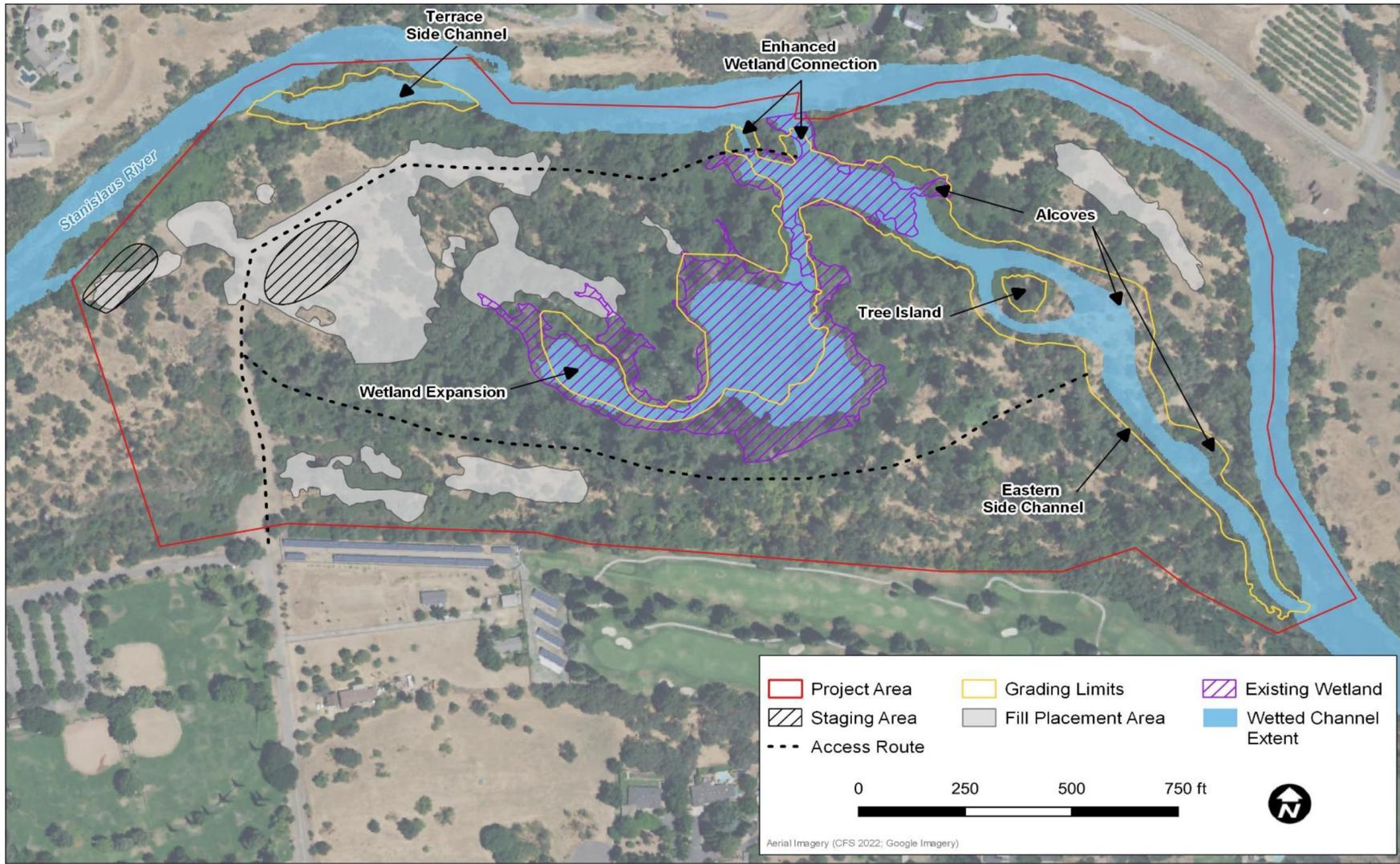


Figure 3: Post Project Design Map



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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 | Wetland | Wetland | Wetland | 535.30 | Stanislaus River | AGR, PROC, IND, POW, REC-1, REC-2, WARM, COLD, MIGR, SPWN, WILD | Mercury, Temperature, Toxicity | |
| No | Stanislaus River | Stanislaus River | Stream Channel | 535.30 | Stanislaus River | AGR, PROC, IND, POW, REC-1, REC-2, WARM, COLD, MIGR, SPWN, WILD | Mercury, Temperature, Toxicity | |

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 |
|----------------|-----------|-------------|---------------------------------------|-------|-------------|-------------|
| Wetland | 37.789722 | -120.813944 | No | 4.26 | 137 | |

Table 3: Individual Permanent Fill/Excavation Impact Information

| Impact Site ID | Latitude | Longitude | Indirect Impact Requiring Mitigation? | Acres | Cubic Yards | Linear Feet |
|------------------|-----------|-------------|---------------------------------------|-------|-------------|-------------|
| Wetland | 37.789722 | -120.813944 | No | 7.13 | 29,774 | |
| Stanislaus River | 37.788411 | -120.810125 | No | 0.002 | 12 | |

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Attachment C – CEQA Findings of Fact

A. Environmental Review

On 21 February 2023, the City of Oakdale, as lead agency, adopted an Initial Study/Mitigated Negative Declaration (IS/MND) (State Clearinghouse (SCH) No. 2022120684) for the Project and filed a Notice of Determination (NOD) at the SCH on 23 February 2023. 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 the City of Oakdale'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 the City of Oakdale 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 the City of Oakdale 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: City of Oakdale, 280 North Third Ave. Oakdale, CA 95361.

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 states that there are no potentially significant environmental effects to water resources after the mitigation measures imposed by the lead agency.

Mitigation measures have been required in the Project which avoid or mitigate to a less than significant level the potentially significant environmental effect as described in the IS/MND.

a.i. Potential Significant Impact:

Substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.

a.ii. Facts in Support of Finding:

Valley Elderberry Longhorn Beetle

Proposed Action construction activities (e.g., excavation and grading) could result in the loss of Valley Elderberry Longhorn Beetle (VELB) and disturbance or removal of elderberry shrubs. Direct effects to VELB include removal or transportation of elderberry shrubs within 20 ft of construction activities. There are 718 elderberry shrubs with stem diameter greater than 1 inch at ground level present within the Action Area. Of these, 555 may be avoided with the standard 100-foot buffer zone prescribed by USFWS. The remaining shrubs will be avoided with a 20-foot buffer and monitored or transplanted and mitigation plantings will occur at USFWS prescribed ratios.

To avoid VELB mortality from crushing by heavy equipment during construction activities, the Proposed Action would implement **Mitigation Measure BIO-1** requiring all shrubs to be avoided with a 20-foot buffer be clearly marked prior to construction using construction stanchions and/or flagging, and intrusion into the prescribed 20-foot buffer zone around the dripline will be avoided. Elderberry shrubs to be protected will be clearly marked to protect them from accidental disturbance or damage from construction activities that would occur in proximity to the shrubs or during vehicle travel along dirt access roads.

- **Mitigation Measure BIO-1: Adaptive Construction Approach to Protect Elderberry Plants and Mitigate for Loss:** To avoid direct mortality to VELB from crushing by heavy equipment or through destruction of their elderberry shrub habitat during construction, a qualified biologist shall clearly mark elderberry plants prior to construction and intrusion into the prescribed 20-foot buffer zone shall be avoided, as possible. The 20-foot buffer shall be inspected weekly during ground disturbing activities and monthly after ground-disturbing activities until the project is complete or until the fences are removed. The qualified biologist will be responsible for ensuring that the contractor maintains construction stanchion and flagging around elderberry shrubs in the Project footprint. Biological inspection reports shall be provided to the lead agency and USFWS.

Fifty-two of the elderberry shrubs will be avoided with a 20-foot buffer. However, it is anticipated that up to 40 elderberries may need to be moved to a new location due to grading required to create floodplain features, and an

additional 61 shrubs may experience encroachment into the 20-foot buffer during field fitting. If shrubs are transplanted, elderberry mitigation plantings will occur at a 3:1 ratio for each transplanted plant, for a total of up to 120 mitigation plantings. If shrubs are encroached but left in place, they will be monitored during years one, two and three and any shrubs that does not survive will be replaced at a 3:1 ratio. This field-fitting and monitor in place approach has been approved by USFWS during Section 7 consultation for other restoration projects on the Stanislaus and Yuba rivers, and in these project locations all of the elderberries that were encroached survived during the post-construction monitoring period. The transplant and mitigation planting locations will be selected based on the modeled ability to support elderberry plants, based on elevations where elderberry bushes are currently present on site and proximity to existing riparian vegetation. Additionally, each transplanted shrub will be planted in a location that ensures that its dripline will be at least 20 ft from the grading footprint to minimize disturbance.

- **Mitigation Measure BIO-2. Transplant Unavoidable Elderberry Plants to Suitable Locations and Monitor Survival:** Elderberries that cannot be avoided using a 20-foot buffer will either be retained in their location and monitored in place for survival or be transplanted to a suitable location during project construction. Elderberry mitigation plantings will occur at a 3:1 ratio for each transplanted plant, and for each elderberry left in place that does not survive encroachment into its 20-foot buffer zone. The shrubs and plantings will be monitored in years one, two, and three with a target minimum survival rate of at least 60%. If necessary, replacement plants will be added to the restoration area to maintain survival above 60%.

Vegetation Removal

The Proposed Action includes removal of native trees and riparian shrubs to create the planned habitat features of the Proposed Action. Removal of vegetation can reduce connectivity between elderberry shrubs and adjacent habitat, increasing dispersal distance for VELB. The removal of vegetation can result in a fragmented habitat structure, resulting in separation of individuals or colonization of adjacent habitat (USFWS 2006c). The Proposed Project will implement **Mitigation Measure BIO-3** to protect native trees and compensate for the removal of riparian shrubs and trees (Appendix B).

- **Mitigation Measure BIO-3. Protect and Compensate for Native Trees:** When possible, native trees, such as Fremont Cottonwood, willows, and alder, with a diameter at breast height (dbh) of 6 in (15.2 cm) or greater shall be protected with 30-ft (9.1-m), 10-ft (3-m), and 10-ft (3-m) buffers, respectively. Native trees shall be marked with flagging if close to the work area to prevent disturbance. To compensate for the removal of riparian shrubs and trees during Proposed Project

implementation, the plans shall identify tree and shrub species to be planted, how, where, and when they would be planted, and measures to be taken to ensure a minimum performance criterion of 70% survival of planted trees. Irrigation shall not be used, as the improvements in diversion efficiency are expected to promote survival and growth of native riparian species. The tree plantings shall be based on native tree species compensated for in the following manner:

- Oaks having a dbh of 3 – 5 in (7.6 – 12.7 cm) shall be replaced in-kind, at a ratio of 3:1, and planted during the winter dormancy period in the nearest suitable location to the area where they were removed. Oaks with a dbh of greater than 5 in shall be replaced in-kind at a ratio of 5:1.
- Riparian trees (i.e., willow, cottonwood, poplar, alder, ash, etc.) and shrubs shall be replaced in-kind within the Action Area, at a ratio of 3:1, and planted in the nearest suitable location to the area where they were removed.

Special Status Fish

The Proposed Action has the potential to result in direct and indirect effects to special-status fish species, or their habitat, through water quality effects and direct impacts on riparian vegetation. There is no expectation or need for construction activities to occur within the Stanislaus River, either directly or indirectly, aside from the upstream and downstream channel connections.

No in-water work is anticipated, as seasonal floodplain and side channels will be constructed during the low flow period. However, the impacts of sedimentation and turbidity due to runoff from the construction area during rain events on fish species are potentially adverse. However, the Proposed Action would include preparation and implementation of a SWPPP in compliance with the State Water Resources Control Board's General Permit for Discharges of Storm Water Associated with Construction Activity. The amount of sediment generated by construction would be minimized by erosion and sediment control measures associated with the SWPPP that are designed to minimize erosion and sediment entering the channel. During the period following construction, before vegetation is fully established, there is some potential for indirect effects on water quality via erosion of Proposed Action features (e.g., inset floodplain benches and slopes) and associated increases in sediment loading and sedimentation. However, all Proposed Action features with exposed fine sediment would be treated as prescribed in the SWPPP and design plans to prevent erosion and sedimentation. The impacts of sedimentation and turbidity from construction on fish species are potentially significant. However, with implementation of **Mitigation Measure WQ-1** the Proposed Action's sedimentation and turbidity impacts on special

status fish species and their habitat would be less than significant with mitigation.

During construction activities, the potential exists for spills or leakage of toxic substances that could enter the Stanislaus River. Refueling, operation, and storage of construction equipment and materials could result in accidental spills of pollutants (e.g., fuels, lubricants, concrete, sealants, and oil). High concentrations of contaminants can cause adverse direct (sublethal to lethal) and indirect effects on fish. Direct effects include mortality from exposure or increased susceptibility to disease that reduces the overall health and survival of the exposed fish. The severity of these effects depends on the contaminant, the concentration, duration of exposure, and sensitivity of the affected life stage. A potential indirect effect of contamination is reduced prey availability; invertebrate prey survival could be reduced following exposure, therefore making food less available for fish. Fish consuming infected prey may also absorb toxins directly.

For special status fishes, potentially significant direct and indirect effects of reduced water quality during construction would be addressed by avoiding construction during times when fish are most likely to be present, utilization of vegetable-based lubricants and hydraulic fluids in equipment operated in the wet channel, and by implementing the construction housekeeping measures described in the SWPPP (**Mitigation Measure WQ-1**). These measures include provisions to control erosion and sedimentation, as well as a Spill Prevention and Response Plan to avoid, and if necessary, clean up accidental releases of hazardous materials. The construction contractor would be responsible for complying with all conditions of these commitments. Implementation of the measures discussed above and **Mitigation Measure WQ-2** the direct and indirect impacts of contaminants on special status fish species would be less than significant with mitigation.

Construction activities would modify bank habitat by lowering elevations at the inlet and outlet of the side channel features. To the maximum extent practicable, existing riparian habitat would be retained and disturbance would be minimized. Removal of riparian trees would be mitigated for in-kind following **Mitigation Measure BIO-3**. Following construction, all disturbed or exposed soils would be stabilized and/or planted with native woody and herbaceous vegetation to control erosion and offset any loss of vegetation. Some short-term loss of mature riparian vegetation may occur during construction. There will be short-term reduction in riparian habitat resulting from tree removal but in the long-term there will be an increase in riparian habitat from mitigation planting. Overall, the Proposed Action is expected to provide increased rearing habitat, complexity, and cover for salmonids in the Action Area. Overall, completion of the Proposed Action is expected to provide higher quality and quantity of habitat for juvenile salmonids. Although some short-term disturbance may occur, these effects would be minimized

through implementing **Mitigation Measure WQ-1** and therefore impacts on special status fish species would be less than significant with mitigation. Indirect and long-term effects on salmonids and their habitat would be beneficial. No in-water construction work is expected for the Proposed Action. However, Proposed Action construction may have minimal short-term effects on the Critical Habitat Physical and Biological Features (PBFs) of freshwater rearing habitat and freshwater migration corridors and the EFH Habitat Areas of Particular Concern (HAPC) of floodplain habitats and migration corridors due to the removal of some riparian trees and shrubs. These habitats may also be impacted by temporary increases to turbidity and suspended sediment as well as release of contaminants during rain events; however, these impacts are expected to be localized, minor, and short term. Implementation of a SWPPP with a spill prevention and response plan (**Mitigation Measure WQ-1**), construction BMPs, and performing work in proximity to the main river channel outside of critical periods for special status species (**Mitigation Measure BIO-4**) would result in a less than significant with mitigation impact to critical habitat and EFH.

Mitigation Measure BIO-4: Conduct Sensitive Species Surveys Prior to Construction During Critical Periods: Pre-construction surveys will be performed in the Action Area no more than 10 days prior to start of construction for species which have critical periods overlapping with the dry-groundwork window (16 April to 31 October) which may be impacted by the Proposed Action to verify the presence or absence of special-status species. If special status or sensitive species are identified within the area which may be impacted by Proposed Action activities, then buffers will be established and/or CDFW and USFWS will be consulted. Nesting birds and raptors are protected under the MBTA and California Fish and Game Code, and trees and shrubs within the Action Area likely provide nesting habitat for songbirds and raptors. If tree removal is unavoidable, it will occur during the non-breeding season (mid-September). A minimum no disturbance buffer will be delineated around active nests (note, size of buffer depends on species encountered) until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival.

Surveys for active bird nests and rookeries will be performed using qualified biologists no more than 10 days prior to the start of disturbance activities. A minimum no-disturbance buffer of 250 ft around active nests of non-listed bird species; a 500-ft no-disturbance buffer around migratory bird species; and a half mile buffer for nest of listed species and fully protected species will be established until breeding season is over or young have fledged. If such a buffer cannot be accomplished, CDFW will be consulted.

If sensitive wildlife species or active nest or den sites are found within the construction area, the biologist shall have the authority to stop construction activities and establish a non-disturbance buffer until it is determined that the animal would not be harmed. If the potential to harm sensitive wildlife or an active nest/den site remains, the non-disturbance buffer is to remain, and the biologist shall contact CDFW for authorization before work resumes.

Special Status Birds

Proposed Action construction activities may overlap with the breeding season for raptors and migratory birds (1 February – 31 August), resulting in the potential for adverse impacts. The potential impacts include removal of nesting, roosting, and foraging habitat and disturbance from construction equipment, including noise, and human presence during construction activities. These adverse impacts are potentially significant. However, implementation of **Mitigation Measure BIO-4** would reduce impacts to special status birds to less than significant. Implementation of **Mitigation Measure BIO-5** would ensure that Proposed Action activities comply with the MBTA and California Fish and Game Code.

- **Mitigation Measure BIO-5: Nesting Raptor and Bird Avoidance and Minimization:** To the extent feasible, Proposed Action activities shall be scheduled to avoid the nesting bird season. For Proposed Action activities expected to occur during the nesting season of raptors (16 April to 31 August) and migratory birds, a qualified biologist shall conduct a pre-construction survey no more than 10 days prior to the start of construction to determine if active nests are present on or within 500 feet of the Action Area. If no active nests are identified during the preconstruction survey, no further mitigation is necessary. If active nests are found on or within 500 feet of the Action Area, the following buffers shall be established until breeding season is over or young have fledged to ensure that Proposed Action activities comply with the MBTA and California Fish and Game Code:
 - a minimum no-disturbance buffer of 250 feet around active nests of birds protected under the MBTA (including Snowy Egret and Yellow-breasted Chat); and
 - a 500-foot or greater no-disturbance buffer around active nests of raptors protected under the MBTA, and a half-mile buffer for Swainson's Hawk
 - Wildlife surveys would be performed before construction activities to determine if there are nesting sites on or nearby the site (Mitigation Measure BIO-4). If nesting activity is confirmed, a no-disturbance buffer would be created around the nest, as appropriate for the species. CDFW would also be contacted to

discuss implementation changes and/or additional avoidance measures. With these measures in place, the impact is expected to be less than significant with mitigation.

Western Pond Turtle

The Stanislaus River provides suitable aquatic habitat for the Western Pond Turtle. Western Pond Turtle may use the aquatic habitat present within the Action Area in the Stanislaus River. However, Western Pond Turtle individuals have not been observed in the site during pre-Proposed Action snorkel surveys (CFS unpublished data). The Proposed Action construction activities have the potential to cause harassment, injury, or mortality to the Western Pond Turtle if present. This would be a potentially significant impact. Implementation of **Mitigation Measure BIO-6** would avoid and/or minimize the potential for impacts to Western Pond Turtle; therefore, the effects of the Proposed Action on Western Pond Turtle would be less than significant with mitigation.

- **Mitigation Measure BIO-6: Surveys and Avoidance for Western Pond Turtle:** Within 10 days prior to ground disturbing activities, a qualified biologist shall conduct a pre-activity survey to identify Western Pond Turtle individuals or nests within proposed work areas during the egg-laying season (March-August). If any western pond turtle is found within the Action Area, the activities in the vicinity shall cease until they have moved outside of the Action Area of their own volition. If a western pond turtle nest is found, the biologist shall flag the site, maintain an appropriate no-disturbance buffer, and determine if Proposed Action activities can avoid affecting the nest.

Special Status Mammals

Trees and riparian vegetation in the Action Area may provide roosting and foraging habitat for bat species including Western Mastiff Bat and Western Red Bat. Proposed Action construction activities (16 April – 31 October) would overlap with the bat breeding season (1 April – 15 August), resulting in the potential for adverse impacts. The potential adverse impacts include removal of roosting habitat and disturbance from construction equipment, including noise and light, and human presence during construction activities. It is not anticipated that any trees that could potentially be used by bats for roosting would be removed as the Proposed Action would make all effort to avoid removing large riparian trees. However, disturbance of roosting special status bats could be a potentially significant impact.

Since the Proposed Action would result in an increase in riparian habitat, it would result in long-term benefits to this species. To prevent impacts to roosting bats, bat surveys would be conducted prior to Proposed Action initiation and, if roosting bats are observed, a minimum 300 ft (91.4 m) buffer of roosting bats, maternity roosts or winter hibernacula until all young bats

have fledged (**Mitigation Measure BIO-7**). With these measures in place, the expected impact would be less than significant with mitigation.

- **Mitigation Measure BIO-7: Monitor for Bats to Prevent Impacts:**
Before any ground disturbing activities, a qualified biologist shall survey for the presence of associated habitat types for the bat species of concern. If bats are present, the biologist shall apply a minimum 300 ft (91.4 m) no-disturbance buffer around roosting bats, maternity roosts or winter hibernacula until all young bats have fledged. If suitable habitat is present, evening emergence surveys shall be conducted during the appropriate seasonal period of bat activity to determine the presence of bats.

b.i. Potential Significant Impact:

Substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or US Fish and Wildlife Service.

b.ii. Facts in Support of Finding:

The Proposed Action would create and enhance ecologically important floodplain and side channel habitat for juvenile salmonids. Although the Proposed Action would result in a net gain of these habitat communities, construction activities would cause the temporary modification of habitat potentially used by native species. Construction of the habitat features (e.g., side channels and wetland complex) would include excavation and grading of the floodplain and vegetation removal, resulting in the potential loss or degradation of sensitive natural communities. The Proposed Action construction activities would have temporary impacts which are potentially significant on these sensitive natural communities. Implementation of **Mitigation Measure BIO-3** would reduce impacts to sensitive natural communities to less than significant. Overall, implementation of the Proposed Action is expected to improve quality and quantity of riparian vegetation. Therefore, adverse impacts to sensitive natural communities would be less than significant with mitigation.

c.i. Potential Significant Impact:

Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.

c.ii. Facts in Support of Finding:

The Proposed Action would not construct any features (e.g., fences, roads, physical barriers) that would prevent wildlife movement through the Action Area. However, Proposed Action construction activities (16 April to 31 October) would overlap with the breeding season for migratory birds

(1 February – 31 August), resulting in the potential for adverse impacts. The potential impacts include removal of habitat and disturbance from construction equipment, including noise, and human presence during construction activities. These adverse impacts are potentially significant. However, implementation of **Mitigation Measure BIO-4** would reduce impacts to special status birds to less than significant. Implementation of Mitigation **Measure BIO-5** would ensure that Proposed Action activities comply with the MBTA and California Fish and Game Code.

Overall, wildlife may experience some temporary disturbance to movement corridors and nursery sites from the restoration activities but would be able to move through the Action Area outside of working hours. Implementation of the Proposed Action would have long term beneficial impacts on riparian habitat and in-stream habitat for special status fish species. Therefore, adverse impacts to wildlife or fish movement or wildlife migration corridors would be less than significant with mitigation.

d.i. Potential Significant Impact:

Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.

d.ii. Facts in Support of Finding:

During Proposed Action construction, heavy equipment and vehicles would involve the use of potentially hazardous substances including diesel, gasoline, oil, grease, hydraulic fluid, and solvents. Accidental spills or improper use, storage, transport, or disposal of these hazardous materials could result in a public hazard or the transport of hazardous materials into the river, riparian areas, wetlands, or other sensitive areas.

With implementation of SWPPP BMPs and **Mitigation Measure WQ-1**, the Proposed Action would not result in significant risks to the environment, public, or construction workers involving the use of potentially hazardous substances. Therefore, this impact would be less than significant with mitigation.

e.i. Potential Significant Impact:

Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.

e.ii. Facts in Support of Finding:

Proposed Action activities would involve the use of potentially hazardous substances including diesel, gasoline, oil, grease, hydraulic fluid, and solvents. However, with implementation of SWPPP BMPs and **Mitigation Measure WQ-1**, the Proposed Action would not result in significant risks to the environment, public, or construction workers involving the use of

potentially hazardous substances. Therefore, this impact would be less than significant with mitigation.

f.i. Potential Significant Impact:

Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality.

f.ii. Facts in Support of Finding:

Proposed Action activities include the use of heavy machinery adjacent to the Stanislaus River resulting in the potential to affect water quality in the Action Area. Proposed Action's construction activities may temporarily increase or contribute to the amount of suspended sediment in the Stanislaus River. No in-stream construction activities are expected to occur; however, actions likely to temporarily impact turbidity include the use of heavy machinery adjacent to the Stanislaus River. The highest potential for erosion would occur during the excavation and grading at the inlet and outlet of the side channels and wetland connection to the Stanislaus River. These activities could cause or lead to erosion or siltation due to the transportation of loose soil downstream. Additionally, erosion could occur as these channel segments adjust to changes in flow. Turbidity associated with Proposed Action construction activities are not anticipated to exceed criteria established by the Regional Water Quality Control Board in its Clean Water Act 401 Water Quality Certification. Where feasible, a silt curtain or other turbidity control would be installed at the inlet and outlet of the new channel features to capture floating material or sediment mobilized during construction activity to minimize water quality impacts.

To minimize construction related water quality impacts, the Proposed Action's proponents would obtain and implement a SWPPP prepared in accordance with NPDES. All access and staging areas would be treated with erosion control measures at the end of each construction season. Erosion control measures may include erosion control fabric, coir logs, hydroseeding, and hay or straw spreading. At the end of the Proposed Action, native riparian vegetation would be planted in select locations including locations disturbed by the construction activities. The contractor would be required to follow all construction BMPs in the SWPPP to minimize water quality impacts. The Proposed Action must comply with the water quality and waste discharge requirements of the CVRWQCB, which would be outlined in the Section 401 Water Quality Certification for the Proposed Action. Complying with water quality standards and implementing **Mitigation Measure WQ-1** would reduce water quality impacts to less than significant.

- **Mitigation Measure WQ-1 – Monitor Water Quality and Prevent Impacts:** During construction that will occur adjacent to the Stanislaus River main channel, turbidity and total suspended solids shall be monitored with intermittent grab samples from the river, and

construction curtailed if turbidity exceeds criteria established by the Regional Water Quality Control Board in its Clean Water Act §401 Water Quality Certification for the Proposed Action. Specifically, sampling shall be performed immediately upstream from the Action Area and approximately 300 feet downstream of the active work area during construction.

Activities shall not cause in surface waters:

- turbidity to exceed 2 nephelometric turbidity units (NTU's) where natural turbidity is less than 2 NTU;
- where natural turbidity is between 1 and 5 NTUs, increases exceeding 1 NTU;
- where natural turbidity is between 5 and 50 NTUs, increase exceeding 20 percent;
- where natural turbidity is between 50 and 100 NTUs, increases exceeding 10 NTUs;
- where natural turbidity is greater than 100 NTUs, increase exceeding 10 percent.

Activities shall not cause settleable material to exceed 0.1 ml/L in surface waters as measured in surface waters downstream from the Action Area. Activities shall not cause pH to be depressed below 6.5 nor raised above 8.5 as measured in surface waters downstream from the Action Area. The Proposed Action shall not discharge petroleum products into surface water. The Central Valley Water Board shall be notified immediately of any spill of petroleum products.

Sediment fencing shall be used along the river corridor to capture floating materials or sediments mobilized during construction activities and prevent water quality impacts. Stream bank impacts shall be isolated and minimized to reduce bank sloughing. Banks shall be stabilized with revegetation following Proposed Action activities, as appropriate.

A SWPPP shall be developed as part of the BMPs. All pertinent staff shall be trained on and familiarized with these plans. Copies of the plans and appropriate spill prevention equipment referenced in them shall be made available onsite and staff shall be trained in its use. Spill prevention kits shall be in close proximity to construction areas, and workers trained in their proper use.

g.i. Potential Significant Impact:

Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition

of impervious surfaces, in a manner which would result in substantial erosion or siltation on or off-site.

g.ii. Facts in Support of Finding:

The Proposed Action would not create impervious surfaces that would increase runoff. A goal of the restoration design is to increase river–floodplain connectivity and restore ecologically functional floodplain habitat from the creation of the side channels and wetland connection to the Stanislaus River. As such, the Proposed Action would improve streamflow and function of the drainage patterns within the Action Area.

The heavy equipment and vehicles used for Proposed Action construction would use potentially hazardous substances, which could potentially lead to accidental release of such substances into the Stanislaus River. Oil and grease used in equipment would be vegetable based, or another material that does not affect beneficial uses. All equipment working adjacent to the stream corridor would be inspected daily for fuel, lubrication, and coolant leaks and for leak potentials. All equipment would be free of fuel, lubrication, and coolant leaks before working. Implementation of **Mitigation Measure WQ-2** would require the use of biodegradable lubricants and hydraulic fluids.

Additionally, a Spill Prevention and Response Plan (**Mitigation Measure WQ-1**) would be prepared for the Proposed Action and spill prevention kits would be kept close to construction areas and workers would be trained in their use. With implementation of Mitigation Measure WQ-1 and Mitigation Measure WQ-2, the potential for accidental release of hazardous materials and would not result in substantial discharges of polluted runoff. Therefore, this impact would be less than significant.

- **Mitigation Measure WQ-2: Use Clean Equipment and Biodegradable Lubricants:** All equipment shall be clean and use biodegradable lubricants and hydraulic fluids. All equipment working within the stream channel shall be inspected daily for fuel, lubrication, and coolant leaks; and, for leak potentials (e.g. cracked hoses, loose filling caps, stripped drain plugs). Vehicles shall be fueled and lubricated in a designated staging area located outside the stream channel and banks. Construction specifications shall require that any equipment used in or near the river is properly cleaned to prevent any hazardous materials from entering the river, and containment material shall be available onsite in case of an accident. Spill prevention kits shall be located close to construction areas, with workers trained in its use. Contracted construction managers shall regularly monitor construction personnel to ensure environmental compliance.

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 (Monthly and Annual Reports):** These reports will be submitted monthly 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. 5B50CR00110.

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:

14 March 2023

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: Stanislaus River Salmonid Habitat Restoration Project
at Stanley Wakefield Wilderness Area

Permittee: City of Oakdale

WDID: 5B50CR00110

Reg. Meas. ID: 450827

Place ID: 885559

Order Effective Date: 14 March 2023

Order Expiration Date: 13 March 2028

VI. Report Type Submitted

A. Part A – Project Reporting

Report Type 1 Monthly Report
Report Type 2 Annual Report

B. Part B – Project Status Notifications

Report Type 3 Commencement of Construction
Report Type 4 Request for Notice of Completion of Discharges Letter
Report Type 5 Request for Notice of Project Complete Letter

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

“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 - Monthly Report

- a. Report Purpose** - Notifies Central Valley Water Board staff of the Project status and environmental compliance activities on a monthly basis.
- b. When to Submit** - On the 1st day of each month after the submittal of the Commencement of Construction Notification 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.

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 April beginning one year after the effective date of the Order. 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**

- 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.

B. Part B – Project Status Notifications

1. Report Type 3 - 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 4 - Request for Notice of Completion of Discharges Letter

- a. Report Purpose** - Notify Central Valley Water Board staff that post-construction monitoring is required and that active Project construction, including any mitigation and permittee responsible compensatory mitigation, is complete.
- b. When to Submit** - Must be received by Central Valley Water Board staff within thirty (30) days following completion of all Project construction activities.
- c. Report Contents** -
 - i. Status of storm water Notice of Termination(s), if applicable.
 - ii. Status of post-construction storm water BMP installation.
 - iii. Pre- and post-photo documentation of all Project activity sites where the discharge of dredge and/or fill/excavation was authorized.
 - iv. Summary of Certification Deviation discharge quantities compared to initial authorized impacts to waters of the state, if applicable.
 - v. An updated monitoring schedule for mitigation for temporary impacts to waters of the state and permittee responsible compensatory mitigation during the post-discharge monitoring period, if applicable.

3. Report Type 5 - Request for Notice of Project Complete Letter

- a. Report Purpose** - Notify Central Valley Water Board staff that construction and/or any post-construction monitoring is complete, or is not required, and no further Project activity is planned.
- b. When to Submit** - Must be received by Central Valley Water Board staff within thirty (30) days following completion of all Project activities.
- c. Report Contents** -
 - i. Part A: Mitigation for Temporary Impacts
 - 1) A report establishing that the performance standards outlined in the restoration plan have been met for Project site upland areas of temporary disturbance which could result in a discharge to waters of the state.

- 2) A report establishing that the performance standards outlined in the restoration plan have been met for restored areas of temporary impacts to waters of the state. Pre- and post-photo documentation of all restoration sites.
- ii. Part B: Permittee Responsible Compensatory Mitigation
 - 1) A report establishing that the performance standards outlined in the compensatory mitigation plan have been met.
 - 2) Status on the implementation of the long-term maintenance and management plan and funding of endowment.
 - 3) Pre- and post-photo documentation of all compensatory mitigation sites.
 - 4) Final maps of all compensatory mitigation areas (including buffers).
- iii. Part C: Post-Construction Storm Water BMPs
 - 1) Date of storm water Notice of Termination(s), if applicable.
 - 2) Report status and functionality of all post-construction BMPs.
 - 3) Dates and report of visual post-construction inspection during the rainy season as indicated in XIV.C.4.

C. Part C – Conditional Notifications and Reports

1. Report Type 6 - 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 7 - 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 8 - 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.3.
- c. **Report Contents** - As required by the approved water quality monitoring plan or as indicated in XIV.C.3.

4. Report Type 9 - 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 10 - 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 11 - 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.

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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.M 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 XIV of the Order, and the statements below correspond with the conditions set forth in Section XIV. The other Order Sections are not “conditions” as used in Code of Federal Regulations, title 40, section 121.7.

I. General Justification for Section XIV 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 – Not Applicable**

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 – Not Applicable

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. Ecological Restoration and Enhancement

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

conditions are also consistent with Executive Order W-59-93 commonly referred to as California's "No Net Loss" Policy for wetlands. The objective of the No Net Loss Policy is to ensure no overall net loss of and a long term net gain in the quantity, quality, and permanence of wetland acreage and values in California. Further, compensatory mitigation requirements must comply with subpart J of the Supplemental State Guidelines. Conditions related to financial assurances are also required to ensure that compensatory mitigation will be provided. (Dredge or Fill Procedures, section IV.B.5.f.)

M. 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).