14 January 2026

Nathan Bray
County of Merced
715 Martin Luther King Jr. Way
Merced, CA 95340

NOTICE OF APPLICABILITY; GENERAL SECTION 401 WATER QUALITY CERTIFICATION ORDER REQUIREMENTS FOR THE COUNTY OF MERCED, LOS BANOS CREEK EMERGENCY REPAIR PROJECT (WDID# 5B24CR00125), MERCED COUNTY

On 15 December 2025, the County of Merced (Applicant) filed a notification requesting coverage under the 1 August 2023 State Water Resources Control Board Clean Water Act Section 401 General Water Quality Certification of the United States Army Corps of Engineers (USACE) Regional General Permit 8 (General Certification Order) for the Los Banos Creek Emergency Repair (Project). After review of the notification and the supplemental material submitted by the Applicant, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has determined that the Project qualifies for enrollment under this General Certification Order. The proposed activity will take place in 0.10 acre of waters of the United States.

The Central Valley Water Board is certifying this Project under United States Army Corps of Engineers Regional General Permit 8, Emergency Repair and Protection Activities, subject to the conditions and the notification requirements described in the Nationwide Permit ("Special Conditions"). This Notice of Applicability is being issued under the General Certification Order pursuant to Section 3838 of the California Code of Regulations.

A copy of the General Certification Order (https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/2023/rgp-8-certification-mainbody.pdf) can be found on the State Water Resources Control Board's General Orders webpage.

The Project is being conducted in accordance with the requirements contained in this Notice of Applicability and General Certification Order. The Project is described in the notification form requesting coverage under the General Certification Order, dated 6 January 2026, and supplementary information (Application Package). Coverage under the General Certification Order is no longer valid if the Project (as described) is modified.

PROJECT DESCRIPTION:
The 2.32-acre Project consists of emergency repairs on the failed embankments to stabilize the banks, restore the Los Banos Creek embankments to the pre-failure geometry, and repair the western access road. Los Banos Creek receives outlet flows from the upstream USACE managed Los Banos Creek Detention Dam, which influences hydraulic conditions along the Project reach.

Project elements that affect aquatic resources include re-grading the stream channel bottom and banks to original condition, placing of rock slope protection within the stream channel at the locations of failure, and removal of invasive plants within the stream channel adjacent to the Project site.

Total Project fill/excavation quantities for all impacts are summarized in Table 1. 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 Permanent Physical Loss of Area Impacts

Aquatic Resources Type	Acres	Cubic Yards	Linear Feet
Lake			
Ocean/bay/estuary			
Riparian Zone			
Stream Channel	0.02		
Vernal Pool			
Wetland			

The Permittee is required to provide compensatory mitigation for the authorized impact to stream channel habitat by removing invasive aquatic vegetation adjacent to the Project site (Permittee-Responsible).

Table 2: Total Required Project Compensatory Mitigation Quantity for Permanent Physical Loss of Area

Aquatic Resource Type	Mitigation Type	Units	Est.	Re-est.	Reh.	Enh.	Pres.	Unknown
Stream Channel	Permittee-Responsible	Acres			0.08			

PROJECT LOCATION:
The Project is located on Los Banos Creek just south of China Camp Road in Merced County.

Latitude: 37.110535 Degrees and Longitude: -120.889503 Degrees

PROJECT SCHEDULE:
The Project started construction on 12 January 2026 and will take approximately ten workdays to complete.

APPLICATION FEE RECEIVED:
An application fee of $4,212.00 was received on 18 December 2025. 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 F - Emergency Projects authorized by a Water Board General Order (fee code 85) with the dredge and fill fee calculator.

WATER QUALITY MONITORING:
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 Applicant shall perform surface water sampling:

i. When performing any in-water work;

ii. During the entire duration of temporary surface water diversions;

iii. In the event that the Project activities result in any materials reaching surface waters; or

iv. When any activities result in the creation of a visible plume in surface waters.

Sampling during in-water work or during the entire duration of temporary water diversions shall be conducted in accordance with Table 3 sampling parameters. The sampling requirements in Table 3 shall be conducted upstream out of the influence of the Project, and approximately 300 feet downstream of the work area unless otherwise approved by the Executive Officer.

Table 3: Sample Type and Frequency Requirements

Parameter	Unit of Measurement	Type of Sample	Minimum Frequency
pH	Standard Units	Grab	Every 4 hours
Turbidity	NTU	Grab	Every 4 hours

Parameter	Unit of Measurement	Type of Sample	Minimum Frequency
Visible construction related pollutants[1]	Observations	Visual Inspections	Continuous throughout the construction period

REPORTING AND NOTIFICATION REQUIREMENTS:
The Applicant shall submit all reports in accordance with the report submittal instructions in Attachment B of Order No. WQ 2023-0061-DWQ, and in accordance with conditions specified in this Notice of Applicability and email it to centralvalleyfresno@waterboards.ca.gov with a cc to Brandon Salazar at brandon.salazar@waterboards.ca.gov. The WDID No. for this Project is 5B24CR00125.

If you have any questions regarding this Notice of Applicability, please contact Brandon Salazar at (559) 445-6287 or at brandon.salazar@waterboards.ca.gov.

Original signed by Alex S. Mushegan

for Patrick Pulupa
Executive Officer

cc: Via email only:

U.S. Environmental Protection Agency
Region 9
R9cwa401@epa.gov

Kathy Norton (SPK-2025-00722)
United States Army Corps of Engineers
Sacramento District Headquarters
kathy.norton@usace.army.mil

Justin Sloan
United States Fish & Wildlife Service
justin_sloan@fws.gov

California Department of Fish and Wildlife
Region 4
R4LSA@wildlife.ca.gov

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

CWA Section 401 WQC Program
Division of Water Quality
State Water Resources Control Board
Stateboard401@waterboards.ca.gov

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