

State Water Resources Control Board

WATER QUALITY ORDER NO. WQ 2022-0036-DWQ WASTE DISCHARGE REQUIREMENTS

Effective Date: June 30, 2022

Expiration Date: June 30, 2027

Program Type: Fill/Excavation

Project Type: Roads and Highways

Project: Median Regrading on I-40 from Post Mile R25 to Post Mile R50
(Project)

Applicant: California Department of Transportation, District 8

Applicant Contact: Adam D. Compton
Senior Environmental Planner
California Department of Transportation, District 8
464 W. 4th St., Suite 6
San Bernardino, CA 92401-1400
Phone: (909) 383-7555
Email: Adam.Compton@dot.ca.gov

Water Board Staff: Sarmad Alkayssi
Environmental Scientist
1001 I St, Sacramento, CA 95814
Email: Sarmad.Alkayssi.@waterboards.ca.gov

Water Board Contact Person: If you have any questions, please call State Water Resources Control Board (Water Board) Staff listed above or (916) 341-5478 and ask to speak with the Wetlands Permitting and Enforcement Unit I Supervisor.

Reg. Meas. ID:	446059
Place ID:	878201
WDID No.:	SB21041IN

Table of Contents

I.Summary	3
II.Findings	3
III.Project Purpose.....	3
IV.Project Description.....	4
V.Project Location.....	4
VI.Project Impact and Receiving Waters Information	5
VII.Description of Direct Impacts to Waters of the State	5
VIII.Description of Indirect Impacts to Waters of the State	6
IX.Avoidance and Minimization	7
X.Compensatory Mitigation.....	7
XI.Conditions.....	7
XII.Public Notice	17
XIII.California Environmental Quality Act (CEQA).....	17
XIV.Fees Received	17
XV.Conclusion	17

Attachment A: Project Maps

Attachment B: Receiving Waters, Impacts, and Mitigation Information

Attachment C: Report and Notification Requirements

Attachment D: CEQA Findings of Facts

Attachment E: Signatory Requirements

Attachment F: Order Deviation Procedures

I.Summary

These Waste Discharge Requirements (Order) are issued at the request of California Department of Transportation, District 8 (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 December 20, 2021. The application was deemed complete on May 5, 2022.

II.Findings

1. Failure to comply with any condition of this Order shall constitute a violation of the Porter-Cologne Water Quality Control Act.
2. This Order does not provide coverage under the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ; NPDES No. CAS000002) (Construction General Permit).
3. This Order does not authorize any act which results in the taking of a threatened, endangered or candidate species, 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 obtain authorization for the take prior to any construction or operation of the portion of the Project that may result in a take. The Permittee is responsible for meeting all requirements of the applicable endangered species act for the Project authorized under this Order.
4. This Order includes monitoring and reporting requirements pursuant to Water Code section 13267. The burden of preparing these reports, including costs, are reasonable to the need and benefits of obtaining the reports. The reports confirm that the best management practices required under this Order are sufficient to protect beneficial uses and water quality objectives. The reports related to accidental discharges also 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. The anticipated costs are minimal as the reporting obligations require only visual monitoring and notification reporting.

III.Project Purpose

The purpose of the Project is to reduce the severity and number of run-off road accidents in the median and to provide an errant driver the ability to regain control and return to the roadway, minimize the likelihood of overturning if a vehicle travels beyond the edge of the road shoulder, and enhance the safety of motorists by

flattening the slopes and upgrading the existing highway safety features within the clear recovery zone.

IV.Project Description

The Project would regrade approximately 25 miles of existing median slopes within the clear recovery zone of Interstate (I-) 40 from existing 6:1 (horizontal: vertical) or steeper slopes to 10:1 or flatter slopes for 30 feet from edge of the roadway, and then 4:1 or flatter slopes beyond 30 feet from edge of the roadway. Existing culverts in the regraded areas will be extended. Existing wetlands in the regraded areas will be partially or completely filled. The Project area is within the median between I-40 westbound and eastbound lanes, except for staging areas which will occur at existing rest areas. No regrading will occur where the median cross slopes are already 10:1 or flatter, or where existing bridges or metal beam guardrails currently exist in the median. Also, no regrading will occur in the Troy Dry Lake area from Post Mile (PM) R25.6 to PM R27.5.

V.Project Location

The Project occurs within the I-40 median from 1.4 miles east of Fort Cady Road (PM R25) to Crucero Road (PM R50) near the city of Ludlow. Maps showing the Project location are found in Attachment A of this Order.

County: San Bernardino.

Assessor’s Parcel Number(s): 052915101, 055203132, 055108123, 052919143, 055127202, 055108106, 052917155, 055202104, 055108105, 052922101, 055228101, 055108104, 055213112, 055228103, 055108121, 055202116, 055123101, and 055108101.

Nearest City: Ludlow

Coordinates:

Western End: Latitude: 34.811417°, Longitude: -116.581583°
Approximate Center: Latitude: 34.773597°, Longitude: - 116.372288°
Eastern End: Latitude: 34.725639°, Longitude: -116.163111°

Table 1: Project Township, Range, and Section Data.

USGS Quadrangle	Township	Range	Section(s)
Troy Lake	8N	4E	4, 5, 10, 11, 12
Troy Lake	8N	SE	7
Hector	8N	6E	5, 7, 8, 13, 14, 15,16, 17, 18, 19, 20
Sleeping Beauty	8N	6E	20, 21, 27, 28

Lavic Lake	8N	6E	27, 34, 35, 36
Lavic Lake	7N	6E	4, 5,6
Ludlow	7N	7E	1, 2, 3, 4
Ludlow	7N	8E	5, 6

VI.Project Impact and Receiving Waters Information

The Project is located within the jurisdiction of the Lahontan Regional Water Quality Control Board and Colorado River Basin Regional Water Quality Control Board (collectively Regional Water Boards). Receiving waters and groundwater potentially impacted by this Project are protected in accordance with the applicable water quality control plans (Basin Plans). The Basin Plans for the regions 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/). The Basin Plans includes water quality standards, which consist of existing and potential beneficial uses of waters of the state, water quality objectives to protect those uses, and the state and federal antidegradation policies.

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

Project impact and receiving waters information can be found in Attachment B. Table 1 of Attachment B shows summary of State Water Resources Control Board Aquatic Resource Features impacted by the Project. Individual impact location and quantity are shown in Table 2 and Table 3 of Attachment B.

VII.Description of Direct Impacts to Waters of the State

This Order authorizes direct temporary and permanent impacts to waters of the state associated with the Project. Proposed activities that will result in impacts to waters of the state include grading and fill of the I-40 median and surrounding areas.

Total Project fill/excavation quantities for all impacts are summarized in Table(s) 2 through 3. All permanent impacts for the Project have been categorized as resulting in a physical loss of area.

Table 2. Total Project Fill/Excavation Quantity for Temporary Impacts¹

Aquatic Resources Type	Acres	Linear Feet
Stream Channel	0.02	380
Wetland	2.69	

Table 3. Total Project Fill/Excavation Quantity for Permanent Physical Loss of Area Impacts

Aquatic Resources Type	Acres	Linear Feet
Stream Channel	0.46	2903
Wetland	3.73	

VIII. Description of Indirect Impacts to Waters of the State

The Water Board recognizes the potential for indirect impacts to waters of the state associated with the Project. The Project has the potential for both short-term and long-term indirect impacts to waters of the state. Activities such as grading, excavation, stockpiling soil, depositing fill material, and removing vegetation may result in increased erosion within and adjacent to waters of the state and downstream transport of sediment during storm events. Deposition of sediment downstream could cause hydrological and ecological changes in these areas including smothering of riparian habitats, alteration of flow paths, and changes in local soil moisture regimes. Operation of equipment within and adjacent to waters of the state during construction could generate wastes that affect downstream areas. However, indirect impacts from construction equipment are expected to be minimal since any such discharges would be contained and remediated as soon as they are identified. No additional impervious area is proposed beyond the extension of existing culverts and the Project has been designed to preserve the general drainage patterns of the median (existing relative high and low spots and low spots will not be altered post construction). The potential indirect impacts are adequately reduced through adherence to this Order and mitigation measures in the Permittee's application and in the sections below.

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.

IX.Avoidance and Minimization

Projects receiving authorization from the Water Board must demonstrate that Project design has first avoided and minimized impacts to waters of the state to the maximum extent practicable. Adequate avoidance and minimization measures are required by the Project's Initial Study Mitigated Negative Declaration (IS/MND) and Caltrans' most current "Construction Site Best Management Practices (BMP) Manual." The avoidance and minimization measures generally focus on avoiding existing bridges, metal beam guardrails, and the Troy Dry Lake area, and minimization of erosion and prevention of pollutants and wastes from entering waters of the state.

The Project qualifies as a tier 2 per the State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State (section IV.A.1.h) and the Project is the least environmentally damaging practicable alternative.

X.Compensatory Mitigation

The Permittee is required to provide compensatory mitigation for permanent impacts, described in section XI.I of this Order.

XI.Conditions

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

A. Impacts to Waters of the State

Impacts to waters of the state shall not exceed quantities shown in Tables 2 and 3.

B. Reporting and Notification Requirements

The following section details the reporting and notification types and timing of submittals. Requirements for the content of these reporting and notification types are detailed in Attachment C, 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 C, which must be signed by the Permittee or an authorized representative.

1. Project Reporting

- a. Monthly Reporting: The Permittee must submit a Monthly Report to the State Water Board every month after the effective date of this Order. Monthly reports shall be submitted by the 15th day of the month following

the reporting month (e.g., January report must be submitted by February 15th). Monthly reporting shall continue until the State 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 anniversary of the effective date of this Order. Annual reporting shall continue until a Notice of Project Complete Letter is issued 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, if applicable, corresponding Waste Discharge Identification Number (WDID#) 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 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. This request shall be submitted to Water Board staff within thirty (30) days following completion of all Project activities. Upon approval of the request, the Water Board staff shall issue a Notice of Project Complete Letter to the Permittee which will end the post discharge monitoring period and associated annual fees. Completion of post-construction monitoring shall be determined by Water Board staff and shall be contingent on successful attainment of restoration and mitigation performance criteria.
3. Conditional Notifications and Reports: The following notifications and reports are required as appropriate.
 - a. Accidental Discharges of Hazardous Materials²
Following an accidental discharge of a reportable quantity of a hazardous

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.)

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:
 - a. First call – 911 (to notify local response agency)
 - b. Then call – Office of Emergency Services (OES) State Warning Center at: (800) 852-7550 or (916) 845-8911
 - c. Lastly, follow the required OES procedures as set forth in the Office of Emergency Services' Accidental Discharge Notification Web Page (https://www.caloes.ca.gov/FireRescueSite/Documents/CalOES-Spill_Booklet_Feb2014_FINAL_BW_Acc.pdf)
 - ii. Following notification to OES, the Permittee shall notify Water Board, as soon as practicable (ideally within 24 hours). Notification may be delivered via written notice, email, or other verifiable means.
 - iii. Within five (5) working days of notification to the Water Board, the Permittee must submit an Accidental Discharge of Hazardous Material Report.
- b. Violation of Compliance with Water Quality Standards:
- i. The Permittee shall notify the 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.
 - ii. This notification must be followed within three (3) working days by submission of a Violation of Compliance with Water Quality Standards Report.
- c. Modifications to Project
- Project modifications may require an amendment of this Order. The Permittee shall give advance notice to 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 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 Order deviation section of this Order.

d. 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 Water Board in accordance with the following terms:

- i. The Permittee must notify the 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 Water Board at least ten (10) days prior to the transfer of ownership. The purchaser must also submit a written request to the Water Board to be named as the permittee in a revised Order.
- ii. Until such time as this Order has been modified to name the purchaser as the permittee, the Permittee shall continue to be responsible for all requirements set forth in this Order.

e. Transfer of Long-Term BMP Maintenance:

If maintenance responsibility for post-construction BMPs is legally transferred, the Permittee must submit to the 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 Water Board with a Transfer of Long-Term BMP Maintenance Report at least ten (10) days prior to the transfer of BMP maintenance responsibility.

C. Water Quality Monitoring

1. General:

If surface water is present, continuous visual 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).

a. Accidental Discharges/Noncompliance:

Upon occurrence of an accidental discharge, the Permittee shall determine whether the discharge includes hazardous materials or will cause or contribute to an exceedance of water quality objectives, and if so, notify the Water Board in accordance with XI.B.3. Water Board staff may require additional water quality monitoring based on the discharge constituents and/or related water quality objectives and beneficial uses.

b. Post-Construction:

Visually inspect the Project site during or shortly after runoff generating storm events for three (3) consecutive days to ensure excessive erosion, sedimentation, 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 Water Board staff member overseeing the Project within three (3) working days. The Water Board may require the submission of a Violation of Compliance with Water Quality Standards Report. Additional permits may also be required to complete any necessary site remediation.

D. Standard Conditions

1. This Order is subject to modification or revocation upon judicial review, including review and amendment pursuant to Water Code section 13330.
2. Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to Subsection 3855(b) of California Code of Regulations, title 23, Division 3, Chapter 28 and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. This Order is conditioned upon total payment of any fee required and owed by the Permittee. (Cal. Code of Regs., tit. 23, § 2200.)

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. The Permittee and/or discharger may then be subject to administrative and/or civil liability pursuant to Water Code section 13385. In the event of any violation of threatened violation of the conditions of this Order, the violation or threatened violation shall be subject to any remedies, penalties, process, or sanctions as provided for under state law.
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 any applicable Water Board water quality control plan or policy. The source of any such discharge must be eliminated as soon as practicable.
3. The Permittee must, at all times, ensure that Project personnel (including contractors) 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.

F. Administrative

1. Signatory requirements for all document submittals required by this Order are presented in Attachment E.
2. The Permittee shall grant Water Board staff, Lahontan and Colorado River Basin Regional Water Quality Control 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.
3. The Permittee shall be responsible for work conducted by its consultants, contractors, and any subcontractors. A copy of this Order shall be provided to any consultants, contractors, and subcontractors working on this Project. Copies of this Order shall remain at the Project site for the duration of this Order. All personnel performing work on the Project shall be familiar with the content of this Order and its posted location at the Project site.
4. Lake and Streambed Alteration Agreement: If issued, the Permittee shall submit a signed copy of the California Department of Fish and Wildlife's Lake and Streambed Alteration Agreement to the Water Board prior to any discharge to waters of the state.

G. Construction

1. Fugitive Dust

- a. The Permittee shall implement appropriate dust abatement measures to minimize fugitive dust during construction.
- b. Dust abatement activities shall be conducted such that they do not result in a discharge to waters of the state.

2. Site Management

- a. Except for temporary stockpiling of waste generated during construction operations (“temporary” in this instance means generated and removed during the same working day), waste materials shall not be placed in a manner where the materials may be washed by rainfall into waters of the state. Waste materials shall not be placed within 150 feet of waters of the state. Exceptions to the 150-foot limit may be granted on a case-by-case basis provided the Permittee first submits a proposal in writing to be approved by the Water Board staff person overseeing this Order. The proposal must demonstrate that exception to the 150-foot limit at a specific location or during a specific time period would not pose a threat to water quality.
- b. Operation and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the state. All equipment using gas, oil, hydraulic fluid, or other petroleum products shall be regularly inspected for leaks. At no time shall the Permittee and their contractors allow the use any vehicle or equipment that leaks any substance possibly detrimental to water quality.
- c. Staging and storage areas for vehicles and equipment shall be located outside of waters of the state at the rest stop staging areas proposed in the Project application.
- d. All work performed within temporarily impacted waters of the state shall be completed in a manner that minimizes impacts to beneficial uses.
- e. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete Project implementation.
- f. Where temporary impacts have not been approved, construction equipment, vehicles, and personnel must not enter waters of the state beyond of the limits of grading.
- g. The Permittee must implement proposed BMPs and those applicable following the procedures in the most recent version of the Caltrans’ “Construction Site Best Management Practices (BMPs) Manual” and/or “Standard Specifications.”
- h. All construction-related equipment, materials, and any temporary erosion control materials no longer needed, shall be removed, and cleaned from the site upon completion of the Project.

- i. All waste materials resulting from the Project shall be removed from the site and disposed of properly.
- j. All imported riprap, rocks, and gravels used for construction shall be pre-washed.

3. Hazardous Materials

- a. Any maintenance or refueling of vehicles or equipment shall be done in the rest stop staging areas, when possible, or in a designated area with secondary containment located at least 150 feet away from waters of the state.
- b. Vehicles not in use and stationary equipment (motors, pumps, generators, etc.) shall be positioned over drip pans or other types of containment.
- c. The Permittee shall develop a spill prevention and cleanup plan, and appropriate spill control and clean up materials shall be maintained onsite at all locations where spills may occur. Construction personnel must be familiar with the plan and how to use the cleanup materials or kits.
- d. Raw cement, concrete (or washing thereof), asphalt, drilling fluids, lubricants, paints, coating material, oil, petroleum products, or any other substances which could be hazardous resulting from or disturbed by Project-related activities, shall be prevented from contaminating the soil and/or entering waters of the state.
- e. Onsite containment for storage of chemicals classified as hazardous shall include secondary containment.

4. Invasive Species and Soil Borne Pathogens

- a. Imported fill material must be free of weed and invasive species' seeds and live plants.
- b. Equipment and machinery used in Project construction shall be inspected and cleaned of non-native invasive vegetation prior to use onsite.

5. Stabilization/Erosion Control

- a. Erosion and sediment control materials shall be onsite prior to the start of construction and always kept onsite so they are immediately available for installation in anticipation of rain events.

- b. The Permittee shall implement an effective combination of erosion and sediment control measures during all periods of construction, both during and after construction.
- c. Sediment control structures shall be maintained for effectiveness at least forty-eight (48) hours before a rain event and shall be repaired or replaced as needed. Buildup of soil behind silt fences shall be removed and any breaches or undermined areas repaired.
- d. The grading, stabilization, and re-vegetation will be phased to limit the amount of exposed/denuded soils such that these area can be stabilized within twenty-four (24) hours after the first prediction of rain during the five (5) day forecast, or within twenty-four (24) hours after final grading of the phased area.
- e. All erosion control wattles and similar erosion control materials must be biodegradable and weed free.
- f. Project related activities must cease immediately during a rain event, equipment and materials within waters of the state shall be removed from those waters, and the site must be stabilized to prevent impacts to water quality and minimize erosion and runoff from the site.
- g. Erosion control blankets, liners with berms, and/or other erosion control measures shall be used for any stockpile of excavated material to control runoff resulting from precipitation and prevent material from contacting or entering surface waters.

H. Mitigation for Temporary Impacts

1. The Permittee shall restore all areas of temporary impacts to waters of the state and all Project site upland areas of temporary disturbance which could result in a discharge of waters of the state as described in a final restoration plan approved by the Water Board. A draft restoration plan was submitted as part of the Project application. The Permittee shall provide a final restoration plan for review and approval by Water Board staff. Temporary impacts to waters of the state are not authorized and shall not occur until a final restoration plan has been approved by Water Board staff.
2. Table 4 presents the mitigation method required for Project temporary impacts. Methods include Establishment (Est.), Re-establishment (Re-est.), Rehabilitation (Reh.), Enhancement (Enh.), Preservation (Pres.), or Unknown methods.

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			2.69			
Stream Channel	Permittee Responsible	Acres			0.02			

I. Compensatory Mitigation for Permanent Impacts:

Compensatory Mitigation is required for the permanent physical loss of waters of the state listed in Table 3.

1. Final Compensatory Mitigation Plan

- a. The Permittee has submitted a draft compensatory mitigation plan as part of a complete application. The Permittee shall provide a final compensatory mitigation plan for review and approval by Water Board staff. Impacts to waters of the state are not authorized and shall not occur until a final compensatory mitigation plan has been approved in writing by Water Board staff. Upon approval by Water Board staff, the Permittee shall implement the approved plan.
- b. The final compensatory mitigation plan shall include all plan elements as outlined in the State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State and the State Supplemental Dredge or Fill Guidelines, Subpart J – Compensatory Mitigation for Losses of Aquatic Resources.

J. Order 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 Order Deviations as set forth in Attachment F. For purposes of this Order, an “Order Deviation” is a Project locational or impact modification that does not require an immediate amendment of the Order, because the 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 Order 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 an Order Deviation if it would require changes to 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.

XII.Public Notice

The Water Board provided public notice of the draft order pursuant to Water Code section 13167.5 from May 31, 2022, to June 29, 2022. No public comments received during the public comment period.

XIII.California Environmental Quality Act (CEQA)

The California Department of Transportation, District 8, as lead agency, adopted an IS/MND (State Clearinghouse (SCH) No. 2020110465) for the Project and filed a Notice of Determination (NOD) at the SCH on January 28, 2021. Pursuant to CEQA, the Water Board has made Findings of Facts (Findings) which support the issuance of this Order and are included in Attachment D.

XIV.Fees Received

An application fee of \$2,417.00 was received on December 20, 2021. The fee amount was determined as required by California Code of Regulations, Title 23, sections 3833(b)(3) and 2200(a)(3) and was calculated as Category A - Fill & Excavation Discharges (Fee Code 84) with the dredge and fill fee calculator. An additional fee of \$146,237 based on total Project impacts was received on June 3, 2022.

XV.Conclusion

Except insofar as may be modified by any preceding conditions, all Order actions are contingent on: (a) Project 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.

Date

Karen Mogus  Digitally signed by Karen Mogus
 Date: 2022.06.30 11:23:47 -07'00'

 Karen Mogus, Deputy Director
 Division of Water Quality