

**STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD**

**In the Matter of Water Quality Certification for
MERIDIAN FARMS WATER COMPANY'S
MERIDIAN FARMS FISH SCREEN PROJECT – PHASE 2**

Source: Sacramento River

County: Sutter

WATER QUALITY CERTIFICATION FOR FEDERAL PERMIT OR LICENSE

Table of Contents

1.0	Project Description	1
2.0	Water Rights.....	2
3.0	Regulatory Authority	3
3.1	Water Quality Certification and Related Authorities	3
3.2	Water Quality Control Plans and Related Authorities.....	4
3.3	Construction General Permit.....	6
3.4	State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State	7
3.5	Clean Water Act Section 303(d) Listing	7
4.0	California Environmental Quality Act.....	7
5.0	Rationale for Water Quality Certification Conditions	10
5.1	Rationale for Condition 1: Diversions and Dewatering.....	12
5.2	Rationale for Condition 2: Project Progress and Completion Reports	12
5.3	Rationale for Condition 3: Water Right Compliance.....	13
5.4	Rationale for Condition 4: Erosion and Sediment Control Measures	13
5.5	Rationale for Condition 5: Fish Rescue.....	14
5.6	Rationale for Condition 6: Hazardous Materials.....	14
5.7	Rationale for Condition 7: Project Activity Progress Reports	15
5.8	Rationale for Condition 8: Aquatic Biological Resource Protections .	15
5.9	Rationale for Conditions 9 through 30.....	15
6.0	Conclusion	19
7.0	Water Quality Certification Conditions	20
	CONDITION 1 Diversions and Dewatering.....	20
	CONDITION 2 Project Activities	23
	CONDITION 3 Water Right Compliance.....	23
	CONDITION 4 Erosion and Sediment Control Measures	23
	CONDITION 5 Fish Rescue.....	25

CONDITION 6	Hazardous Materials Control Measures.....	25
CONDITION 7	Project Progress and Completion Reports.....	27
CONDITION 8	Aquatic Biological Resource Protections	27
CONDITIONS 9 - 30	30
8.0	References.....	34
	ATTACHMENT A: PROJECT OVERVIEW MAPS	36

List of Tables

Table A	Meridian Farms Fish Screen Project – Phase 2 Water Rights.....	2
Table B	Resource Area and Mitigation Measure, Impact, and Corresponding Certification Condition	8

List of Figures

Figure A1.	Meridian Farms Water Company Service Area (CDFW and Bureau 2012).....	37
Figure A2.	Meridian Farms Fish Screen Project Phase 1 and 2 Components (CDFW and Bureau 2012).....	38

Acronyms and Abbreviations

<i>2020-2022 Integrated Report</i>	<i>2020-2022 California Integrated Report (Clean Water Act Section 303(d) List/305(b) Report)</i>
<i>Antidegradation Policy</i>	<i>Statement of Policy with Respect to Maintaining High Quality Waters in California</i>
<i>Applicant</i>	<i>Meridian Farms Water Company</i>
<i>Bay-Delta Plan</i>	<i>Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary</i>
<i>BMPs</i>	<i>best management practices</i>
<i>Bureau</i>	<i>United States Bureau of Reclamation</i>
<i>CDFW</i>	<i>California Department of Fish and Wildlife</i>
<i>Central Valley Regional Water Board</i>	<i>Central Valley Regional Water Quality Control Board</i>
<i>CEQA certification</i>	<i>California Environmental Quality Act water quality certification</i>
<i>cfs</i>	<i>cubic feet per second</i>
<i>Construction General Permit</i>	<i>General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities</i>
<i>Deputy Director</i>	<i>Deputy Director of the Division of Water Rights</i>
<i>Dredge or Fill Procedures</i>	<i>State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State</i>
<i>ESA</i>	<i>Endangered Species Act</i>
<i>FERC</i>	<i>Federal Energy Regulatory Commission</i>
<i>IS/EA</i>	<i>Initial Study/Environmental Assessment</i>
<i>MFWC</i>	<i>Meridian Farms Water Company</i>
<i>MMRP</i>	<i>Mitigation Monitoring and Reporting Program</i>
<i>NMFS</i>	<i>National Marine Fisheries Service</i>
<i>NPDES</i>	<i>National Pollutant Discharge Elimination System</i>
<i>NTU</i>	<i>Nephelometric Turbidity Unit</i>
<i>Project</i>	<i>Meridian Farms Fish Screen Project - Phase 2</i>
<i>Regional Water Boards</i>	<i>Regional Water Quality Control Boards</i>
<i>SR/SJR Basin Plan</i>	<i>Water Quality Control Plan for the Sacramento River Basin and the San Joaquin River Basin</i>
<i>State Water Board</i>	<i>State Water Resources Control Board</i>
<i>TMDLs</i>	<i>total maximum daily loads</i>
<i>USACE</i>	<i>United States Army Corps of Engineers</i>
<i>USEPA</i>	<i>United States Environmental Protection Agency</i>
<i>USFWS</i>	<i>United States Fish and Wildlife Service</i>
<i>Water Boards</i>	<i>State Water Resources Control Board and Regional Water Quality Control Boards, collectively</i>

1.0 Project Description

Meridian Farms Water Company (MFWC or Applicant) owns and operates three points of diversions along the Sacramento River (Meridian, Drexler, and Grimes) that supply irrigation water for approximately 10,000 acres of agricultural land in MFWC's Service Area in Sutter County (Attachment A, Figure A1: Meridian Farms Water Company Service Area).

In 2008, MFWC began implementing the Meridian Farms Fish Screen Project to install fish screens at its three diversions to limit fish entrainment. Each of these diversions previously had no fish screen. In 2010, MFWC completed Phase 1 of the Meridian Farms Fish Screen Project, which added fish screens and improved facilities in the Grimes diversion area. Phase 1 was issued a water quality certification (certification) by the Central Valley Regional Water Quality Control Board (Central Valley Regional Water Board) on June 5, 2008. The Meridian Farms Fish Screen Project – Phase 2 (Project) is addressed by this certification and is designed to prevent the entrainment of migrating fish at the Meridian and Drexler diversion points with the addition of fish screens and new diversion structures. The Meridian and Drexler diversions are located on the Sacramento River near the town of Meridian.

As part of the Project, MFWC is proposing to construct a consolidated point of diversion and fish screen for the new Meridian and Drexler point of diversion, which will retain the Meridian name. Under its existing Water Rights License No. 4676B for the three points of diversions, MFWC is limited to the quantity of water that can be beneficially used and shall not exceed 138 cubic feet per second (cfs) by direct diversion from March 1 to November 1 of each year, from the Sacramento River, tributary to Suisun Bay, for the purpose of irrigation. After consolidation of the Meridian and Drexler diversions, the flow capacity of the new consolidated Meridian point of diversion will be 135 cfs. MFWC filed a petition with the State Water Resources Control Board (State Water Board), Division of Water Rights to change its existing points of diversion for Water Right License No. 4676B (Application No. 1074B). The petition (Petition No. A001074BP007741) is still pending and under review.

The existing Meridian diversion structure and pumping plant are located on the east side of the Sacramento River, north of California State Route 20 where the Meridian Bridge crosses the Sacramento River. The new Meridian diversion will be located approximately 50 feet upstream of the existing diversion and will be equipped with fish screens to prevent the entrainment of migrating fish. The new Meridian pumping plant will be located approximately 50 feet north of the existing Meridian pumping plant. The new Meridian diversion and pumping plant will convey water to the Drexler service area through the Main Canal and the Drexler conveyance pipeline (constructed as part of Phase 1).

The Main Canal runs southeast from the existing Meridian pumping plant and connects to the existing Drexler conveyance pipeline. The Drexler conveyance pipeline continues south and then west to the existing Drexler diversion and pumping plant. The existing Drexler diversion and pumping plant, which are located on the east side of the Sacramento River between Summy Road and Wilbur Road, will be removed. A new

Drexler pumping plant will be constructed where the Main Canal connects to the Drexler conveyance pipeline.

Project components include: (1) removal of the existing Meridian diversion and pumping plant; (2) construction of a new 135 cfs Meridian diversion structure, equipped with retractable cylindrical fish screens and pumping plant; (3) removal of the existing Drexler diversion and pumping plant; (4) construction of a new 35 cfs Drexler pumping plant to deliver flows to the Drexler Service Area via the newly constructed Drexler pipeline; (5) modification of the existing Drexler outlet; (6) installation of 54-inch and 72-inch discharge pipelines to convey water from the Meridian pumping plant to the Main Canal; and (7) modifications to the Main Canal¹ to increase the maximum capacity from 120 cfs to 135 cfs to convey flows to the Drexler Service Area as a result of the diversion consolidation. Project construction is planned to take approximately two years and begin in Spring of 2023 following MFWC obtaining all necessary permits. Project maps and figures can be found in Attachment A: Project Overview Maps.

Project implementation will require a permit from the United States Army Corps of Engineers (USACE), pursuant to section 404 of the Clean Water Act. MFWC anticipates it will obtain coverage for the Project from the Sacramento USACE District under the Reporting Nationwide Permits: 7 – Outfall Structures and Associated Intake Structures. A section 404 permit from USACE necessitates a Clean Water Act section 401 certification from the State Water Board.

2.0 Water Rights

Table A lists the water rights claimed by MFWC associated with the Project.

Table A. MFWC’s Meridian Farms Fish Screen Project – Phase 2 Water Rights*

Application (License) No.	Source	Priority Date	Place of Storage or Diversion	Purpose of Use
A001074B (4676B)	Sacramento River	9/10/1918	Point of Diversion at Sacramento River	Irrigation

* Information is from the State Water Board’s electronic Water Rights Information Management System.

¹ The existing Main Canal varies from 16- to 20-feet-wide and will be widened to approximately 19.5- to 21.5-feet-wide depending on location. The old concrete lining will be demolished and replaced with a new four-inch-thick concrete lining.

3.0 Regulatory Authority

3.1 Water Quality Certification and Related Authorities

The federal Clean Water Act (33 U.S.C. §§ 1251-1388) was enacted “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” (33 U.S.C. § 1251(a).) The Clean Water Act relies significantly on state participation and support in light of “the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution” and “plan the development and use” of water resources. (33 U.S.C. § 1251(b).) Section 101 of the Clean Water Act (33 U.S.C. § 1251(g)) requires federal agencies to “co-operate with State and local agencies to develop comprehensive solutions to prevent, reduce and eliminate pollution in concert with programs for managing water resources.” (33 U.S.C. § 1251(g))

Section 401 of the Clean Water Act (33 U.S.C. § 1341) requires any applicant for a federal license or permit that may result in a discharge into navigable waters to provide the licensing or permitting federal agency with certification that the project will comply with specified provisions of the Clean Water Act, including water quality standards and implementation plans promulgated pursuant to section 303 of the Clean Water Act (33 U.S.C. § 1313). Clean Water Act section 401 directs the agency responsible for certification to prescribe effluent limitations and other conditions necessary to ensure compliance with the Clean Water Act and with “any other appropriate requirement of State law.” (33 U.S.C. §1341(d).) Section 401 further provides that certification conditions shall become conditions of any federal license or permit for the project. (*Ibid.*)

The State Water Board is the state agency responsible for Clean Water Act section 401 certification in California. (Wat. Code, § 13160.) The State Water Board has delegated authority to act on applications for certification to the Executive Director of the State Water Board. (Cal. Code Regs., tit. 23, § 3838, subd. (a).)

Water Code section 13383 authorizes the State Water Board to “establish monitoring, inspection, entry, reporting, and recordkeeping requirements” and obtain “other information as may be reasonably required” for activities subject to certification under section 401 of the Clean Water Act. For activities that involve the diversion of water for beneficial use, the State Water Board delegated this authority to the Deputy Director of the Division of Water Rights (Deputy Director), as provided for in State Water Board Resolution No. 2012-0029 (State Water Board 2012). In the *Redelegation of Authorities* memo issued by the Deputy Director on June 6, 2022, this authority is redelegated to the Assistant Deputy Directors of the Division of Water Rights (State Water Board 2022a).

Procedure, Application, and Noticing. On October 3, 2022, MFWC filed a certification application with the State Water Board under section 401 of the Clean Water Act. On November 1, 2022, State Water Board staff provided public notice of the application pursuant to California Code of Regulations, title 23, section 3858, by posting information describing the Project on the State Water Board's website. No comments were received in response to this notice.

On December 9, 2022, State Water Board staff requested comments from the Central Valley Regional Water Board on a draft certification. (See Cal. Code Regs., tit. 23, § 3855, subd. (b)(2)(B).) No comments were received.

3.2 Water Quality Control Plans and Related Authorities

The State Water Board's certification for the Project must ensure compliance with applicable water quality standards and objectives in the *Central Valley Regional Water Board's Water Quality Control Plan for the Sacramento River Basin and the San Joaquin River Basin* (SR/SJR Basin Plan) (Central Valley Regional Water Board 2019) and the State Water Board's *Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary* (Bay-Delta Plan) (State Water Board 2018).²

Water quality control plans designate the beneficial uses of water to be protected (such as municipal and domestic supply, industrial, agriculture, and fish and wildlife habitat), water quality objectives for the reasonable protection of the beneficial uses and the prevention of nuisance, and a program of implementation to achieve the water quality objectives. (Wat. Code, §§ 13241, 13050, subds. (h), (j).) The beneficial uses, together with the water quality objectives contained in the water quality control plans and applicable state and federal anti-degradation requirements, constitute California's water quality standards for purposes of the Clean Water Act. In issuing certification for a project, the State Water Board must ensure consistency with the designated beneficial uses of waters affected by the project, the water quality objectives developed to protect those uses, and anti-degradation requirements. (*PUD No. 1 of Jefferson County v. Washington Dept. of Ecology* (1994) 511 U.S. 700, 714-719.)

The California Regional Water Quality Control Boards (Regional Water Boards) have primary responsibility for the formulation and adoption of water quality control plans for their respective regions, subject to State Water Board and United States Environmental Protection Agency (USEPA) approval, as appropriate. (Wat. Code, §§ 13240 et seq.) As noted above, the State Water Board may also adopt water quality control plans, which will supersede regional water quality control plans for the same waters to the extent of any conflict. (Wat. Code, § 13170.) The State Water Board and Regional Water Boards (collectively Water Boards) adopt the plans pursuant to their authorities under the Porter-Cologne Water Quality Control Act (Wat. Code, §§ 13000 et seq.) and the federal Clean Water Act (33 U.S.C. § 1313).

² Based on the Project's limited scope and distance from the San Francisco Bay/Sacramento-San Joaquin Delta Estuary, impacts to water quality objectives listed for waterbodies in the Bay-Delta Plan are not anticipated to occur from Project activities.

Sacramento and San Joaquin Rivers Basin Plan

The Central Valley Regional Water Board adopted, and the State Water Board and USEPA approved, the SR/SJR Basin Plan (Central Valley Regional Water Board 2019). The SR/SJR Basin Plan designates the beneficial uses of water to be protected along with the water quality objectives necessary to protect those uses. The SR/SJR Basin Plan specifies that the beneficial uses of any specifically identified waterbody generally apply to its tributary streams. The SR/SJR Basin Plan identifies existing beneficial uses for the Sacramento River from Shasta Dam to Colusa Basin Drain as: municipal and domestic supply; agriculture (irrigation and stock watering); industrial service supply; power; contact recreation; canoeing and rafting; non-contact recreation; warm freshwater habitat; cold freshwater habitat; warm migration; cold migration; warm spawning; cold spawning; wildlife habitat; and navigation.

Bay-Delta Plan

The Bay-Delta Plan establishes water quality objectives to protect beneficial uses of water in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary and tributary watersheds, including drinking water supply, irrigation supply, and fish and wildlife. The State Water Board adopts the Bay-Delta Plan pursuant to its authorities under the Porter-Cologne Water Quality Control Act (Wat. Code, §§ 13000 et seq.) and the federal Clean Water Act (33 U.S.C. § 1313). The beneficial uses in the Bay-Delta Plan are: municipal and domestic supply; industrial service supply; industrial process supply; agricultural supply; groundwater recharge; navigation; water contact recreation; non-contact water recreation; shellfish harvesting; commercial and sport fishing; warm freshwater habitat; cold freshwater habitat; migration of aquatic organisms; spawning, reproduction, and/or early development; estuarine habitat; wildlife habitat; and rare, threatened, or endangered species.

The Bay Delta Plan generally is not self-implementing and does not allocate the responsibility of meeting objectives to water diverters in the Sacramento River. Subsequent regulatory actions, such as certifications, rulemakings, or water right adjudicative proceedings are required to implement the water quality objectives.

The State Water Board is developing Bay-Delta Plan amendments focused on the Sacramento River and its tributaries, Delta eastside tributaries, Delta outflows, and interior Delta flows. This effort is referred to as the Sacramento/Delta Update to the Bay-Delta Plan. Protection of the Bay-Delta ecosystem and its native aquatic species requires an integrated approach to effectively connect upstream suitable cold water nursery habitat, floodplains, tidal marshland, and turbid open water habitats in the Delta and Bay and to connect those environments to the ocean. Accordingly, the Sacramento/Delta Update to the Bay-Delta Plan would provide for a flow regime that supports a connected and functioning ecosystem linking and integrating inflow, cold water habitat, Delta outflow, and interior Delta flow measures with complementary physical habitat restoration and other nonflow measures. Changes are proposed to the water quality objectives, including narrative and numeric flow objectives, and the program of implementation for those objectives, as well as changes to monitoring, reporting, and assessment requirements. Water users on Bay-Delta tributaries would bear responsibility for achieving the tributary flow objectives and for contributing to the

Delta outflow objectives, including diverters upstream of and in the Delta (State Water Board 2020b).

Antidegradation Policy

The State Water Board's **Statement of Policy with Respect to Maintaining High Quality Waters in California** (Antidegradation Policy)³ (State Water Board 1968) 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 impact 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 state Antidegradation Policy incorporates the federal Antidegradation Policy (40 C.F.R. § 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."

3.3 Construction General Permit

MFWC will need to obtain coverage under the State Water Board's **National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities** (Construction General Permit)⁴ (State Water Board 2009). The Construction General Permit applies to activities that disturb one or more acres of soil, or that disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres. Construction activities subject to the Construction General Permit include clearing, grading, and disturbances to the ground, such as stockpiling or excavation, but do not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. Coverage is required pursuant to Clean Water Action sections 301 and 402, which prohibit certain discharges of stormwater containing pollutants except in compliance with a NPDES permit. (33 U.S.C. §§ 1311, 1342(p); 40 C.F.R. pts. 122, 123, and 124.)

³ State Water Board Resolution No. 68-16 and any amendments thereto. Available at: https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/1968/rs_68_016.pdf. Accessed on December 13, 2022.

⁴ Water Quality Order No. 2009-0009-DWQ and NPDES No. CAS000002, as amended by Order No. 2010-0014-DWQ, Order No. 2012-0006-DWQ, Order No. 2022-0057-DWQ, and any amendments thereto. Available at: https://www.waterboards.ca.gov/water_issues/programs/stormwater/construction.html Accessed on December 13, 2022.

3.4 State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State

On April 2, 2019, the State Water Board adopted the [*State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State*](#) (Dredge or Fill Procedures)⁵, which became effective on May 28, 2020 (State Water Board 2019 and 2021)⁶. The Dredge or Fill Procedures provide California’s definition of wetland, wetland delineation procedures, and procedures for submitting applications for activities that could result in discharges of dredged or fill material to waters of the state. The Dredge or Fill Procedures ensure that State Water Board regulatory activities will result in no net loss of wetland quantity, quality, or permanence, compliant with the *California Wetlands Conservation Policy*, Executive Order W-59-93. MFWC must comply with the Dredge or Fill Procedures when conducting dredge or fill activities that may impact waters of the state, including wetlands.

3.5 Clean Water Act Section 303(d) Listing

On January 19, 2022, the State Water Board adopted the [*2020-2022 California Integrated Report \(Clean Water Act Section 303\(d\) List/305\(b\)Report*](#) (2020-2022 Integrated Report) (State Water Board 2022b) and it was approved by USEPA on May 11, 2022.

The 2020-2022 Integrated Report listed portions of the Sacramento River from Red Bluff to Knights Landing as impaired for dichlorodiphenyltrichloroethane (also referred to as DDT), dieldrin, mercury, dissolved oxygen, polychlorinated biphenyls, and toxicity.

Section 303(d) of the Clean Water Act requires total maximum daily loads (TMDLs) to be developed for impaired waterbodies. TMDLs are control programs that define the maximum amount of a pollutant that a waterbody can receive without exceeding water quality standards and establish waste load allocations and load allocations for point and nonpoint sources of pollution, respectively.

4.0 California Environmental Quality Act

The California Department of Fish and Wildlife (CDFW) is the lead agency for the Project for the purpose of compliance with the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) and CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.). The State Water Board is a responsible agency under CEQA. (Id., § 15381.).

⁵ The Dredge or Fill Procedures and any amendments thereto. Available at: https://www.waterboards.ca.gov/water_issues/programs/cwa401/wrapp.html. Accessed on December 13, 2022.

⁶ Resolution No. 2021-0012 is available online at: https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/wrapp/rs2021_0012.pdf. Accessed on December 13, 2022

Meridian Farms Fish Screen Project – Phase 2 Project Water Quality Certification
December 2022

On August 8, 2012, CDFW and the United States Bureau of Reclamation (Bureau) issued a joint draft *Phase 2 Meridian Farms Fish Screen Project Initial Study/Mitigated Negative Declaration and Environmental Assessment/Finding of No Significant Impact for the Project* (IS/EA) (CDFW and Bureau 2012). The draft IS/EA was prepared as a joint document consistent with the National Environmental Policy Act and CEQA because the proposed action is a discretionary project of a state lead agency with federal involvement. The IS/EA was circulated for review and comment by the public and other interested parties, agencies, and organizations for a 30-day review period ending on September 7, 2012. A final IS/EA and Mitigation Monitoring and Reporting Program (MMRP) for the Project was approved by CDFW on October 9, 2012, and a final Finding of No Significant Impact was signed by the Bureau on September 29, 2015.

CEQA requires the lead agency to adopt a MMRP for projects where mitigation measures are a condition of project approval. (Cal. Code Regs., tit. 14, § 15091, subd. (d).) CDFW included a MMRP in its final IS/EA. Water quality protection measures and associated mitigation, monitoring, and reporting requirements were incorporated into conditions of this certification in accordance with California Code of Regulations, title 23, section 3859, subdivision (a). Table B identifies resource areas in the State Water Board’s purview for which the final IS/EA identified mitigation measures for potential impacts, and associated certification conditions with water quality protection, monitoring, or reporting requirements.

Table B. Resource Area and Mitigation Measure, Impact, and Corresponding Certification Condition

Mitigation Measure: IS/EA Resource Area	Applicable Certification Condition
MM-BIO-1: Traffic Routing and Movement	Condition 4 (Erosion and Sediment Control Measures)
MM-BIO-2: Staging Areas	Condition 4 (Erosion and Sediment Control Measures)
MM-BIO-3: Pre-Construction Surveys	Condition 8 (Aquatic Biological Resource Protections)
MM-BIO-4: Timing of Construction	Condition 8 (Aquatic Biological Resource Protections)
MM-BIO-6: Worker Awareness Training	Condition 8 (Aquatic Biological Resource Protections)
MM-BIO-7: Install Snake Exclusion Fencing	Condition 8 (Aquatic Biological Resource Protections)
MM-BIO-8: Provide Adequate Signage	Condition 8 (Aquatic Biological Resource Protections)
MM-BIO-9: Implement Best Management Practices (BMPs)	Condition 4 (Erosion and Sediment Control Measures) and Condition 8 (Aquatic Biological Resource Protections)
MM-BIO-10: Erosion Control Materials	Condition 4 (Erosion and Sediment Control Measures) and Condition 8 (Aquatic Biological Resource Protections)

Meridian Farms Fish Screen Project – Phase 2 Project Water Quality Certification
December 2022

Mitigation Measure: IS/EA Resource Area	Applicable Certification Condition
MM-BIO-11: Properly Dispose of Garbage	Condition 6 (Hazardous Materials)
MM-BIO-13: Restore Temporarily Affected Habitat	Condition 4 (Erosion and Sediment Control Measures)
MM-BIO-16: De-watering Giant Garter Snake Habitat	Condition 8 (Aquatic Biological Resource Protections)
MM-BIO-17: Giant Garter Snake Monitoring During Construction	Condition 8 (Aquatic Biological Resource Protections)
MM-BIO-18: Compensation	Condition 8 (Aquatic Biological Resource Protections)
MM-BIO-20: Dewatering	Condition 8 (Aquatic Biological Resource Protections)
MM-BIO-23: Riparian Habitat Exclusion	Condition 4 (Erosion and Sediment Control Measures)
MM-BIO-28: Compensation for Loss of Jurisdictional Wetlands	Condition 8 (Aquatic Biological Resource Protections)
MM-BIO-A: Spoil Sites	Condition 4 (Erosion and Sediment Control Measures)
MM-BIO-B: Hazardous Materials	Condition 6 (Hazardous Materials)
MM-BIO-C: Storage	Condition 6 (Hazardous Materials)
MM-BIO-D: Vehicle Maintenance	Condition 6 (Hazardous Materials)
MM-BIO-E: Dust Prevention	Condition 4 (Erosion and Sediment Control Measures)
MM-BIO-F: Daily Monitoring	Condition 8 (Aquatic Biological Resource Protections)
MM-BIO-G: Riparian Habitat	Condition 4 (Erosion and Sediment Control Measures)
MM-BIO-H: Fish Rescue Plan	Condition 5 (Fish Rescue)
MM-HYDRO-1: Identify Site-Specific Control Measures	Condition 4 (Erosion and Sediment Control Measures)

The certification has been informed by the environmental information and analysis contained in the final IS/EA and other information in the record. These documents and other materials that constitute the public record are located at the State Water Board, Division of Water Rights, 1001 I Street, Sacramento, California. The State Water Board will file a Notice of Determination with the State Clearinghouse within five days of issuing this certification.

5.0 Rationale for Water Quality Certification Conditions

This section of the certification explains that the grant of certification, as conditioned, is within the scope of certification and why the conditions in Section 7.0 are necessary to ensure that the Project and its discharges will comply with water quality requirements. This section also includes, as necessary, citations to federal, state, or tribal laws that authorize the conditions and sets forth citations to applicable regulatory authority. Section 3.0 also sets forth citations to applicable regulatory authority. The explanation and citations should be evaluated in the context of the certification as a whole, but the certification conditions are set forth only in Section 7.0.

As explained in this section, the conditions in this certification are generally required pursuant to the SR/SJR Basin Plan, as described in the “Regulatory Authority” section, Section 3, above.

The Dredge or Fill Procedures, adopted pursuant to Water Code sections 13140 and 13170, authorize approval of dredge or fill projects subject to satisfaction of specified requirements. California Code of Regulations, title 23, sections 3830 et seq., set forth state regulations pertaining to certifications. In particular, section 3856 sets forth information that must be included in certification requests, and section 3860 sets forth standard conditions that shall be included in all certification actions.

Water Code sections 13267 and 13383 authorize the Water Boards to establish monitoring and reporting requirements for persons discharging or proposing to discharge waste to navigable waters. Water Code section 1051 additionally authorizes the State Water Board to investigate waters diverted for beneficial use. Moreover, this certification ensures continued monitoring, reporting, and assessment of water quality for discharges that may impact waters of the state.

Fish and Game Code section 5937 requires any owner of a dam to allow sufficient water to pass over, around, or through the dam to keep in good condition any fish that may be planted or exist downstream. Section 5937 and requirements to maintain or monitor flow or other water quality characteristics as required to meet section 5937 are appropriate conditions of state law necessary to protect fishery beneficial uses.

Authorization under this certification is granted based on the application submitted. An applicant 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), a 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. (See also State Water Board Water Quality Order No. 2003-0017-DWQ, [*Statewide General Waste Discharge Requirements for Dredged or Fill Discharges that have Received State Water Quality Certification.*](#))

Meridian Farms Fish Screen Project – Phase 2 Project Water Quality Certification
December 2022

In general, the code citations, plans, and policies that support issuance of this certification that are described in Section 3 are not duplicated in this section. The conditions in this certification were developed to ensure compliance with water quality standards and water quality requirements established under the Porter-Cologne Water Quality Control Act and the federal Clean Water Act, including requirements in applicable water quality control plans, and other appropriate requirements of state law. The conditions in Section 7.0 of this certification are necessary to protect the beneficial uses of waters of the state identified in water quality control plans, prevent degradation of water quality, and help ensure compliance with state and federal water quality requirements.

When preparing the conditions in this certification, State Water Board staff reviewed and considered the following information:

- MFWC’s October 3, 2022 application for certification (MFWC 2022a);
- Supplemental information submitted by MFWC on October 3, 2022, and October 31, 2022 including:
 - Mitigation Monitoring and Reporting Program (MFWC 2012a);
 - Monitoring and Assessment Plan (MFWC 2012b);
 - Fish Rescue and Relocation Measures (MFWC 2012c);
 - Dewatering submittal (MFWC 2022b);
- CDFW and Bureau’s final IS/EA (CDFW & Bureau 2012);
- Beneficial uses, water quality objectives, and implementation measures and programs described in the SR/SJR Basin Plan (Central Valley Regional Water Board 2019);
- Applicable water quality information, permits, policies, objectives, implementation measures, and programs (e.g., Construction General Permit, Dredge or Fill Procedures, etc.);
- Project-related controllable factors; and
- Other information in the record.

To the extent USACE considers any certification condition to include requirements outside the substantive scope of USEPA’s Clean Water Act Section 401 Certification Rule, 85 Fed. Reg. 42, 210 (July 13, 2020) (Certification Rule), the Certification Rule—including but not limited to 40 C.F.R. §§ 121.1(f) and (n), 121.3, 121.7(d)(1), and 121.9(b)—is inconsistent with federal law and controlling case law. Under section 401 of the Clean Water Act, when an activity requiring a federal permit or license “may result in any discharge into the navigable waters,” the applicant is required to obtain a certification that states the discharge will comply with applicable water quality standards and that also sets forth any “limitations” and “monitoring requirements” necessary to assure that the “applicant” will comply with water quality standards and “any other appropriate requirement of State law.” (33 U.S.C. § 1341(a) & (d).) Certification is required for such activity as a whole, not merely for its point-source discharges to waters of the United States. (*PUD No. 1*, supra, 511 U.S. at pp. 711- 712.) USEPA has indicated its intent to revise the Certification Rule because, among other faults, it “may prevent state and tribal authorities from adequately protecting their water quality,” “may result in a state or tribe’s certification or conditions being permanently waived as a result of non-substantive and easily fixed procedural

concerns,” and “may limit the flexibility of certifications and permits to adapt to changing circumstances.” (86 Fed. Reg. 29,543-29,544 (June 2, 2021).) USEPA has maintained its “substantial concerns” and has asked that the Certification Rule be voluntarily remanded in ongoing litigation. Additionally, on June 9, 2022, USEPA published in the Federal Register a proposed rule to revise procedures for implementing section 401 of the Clean Water Act. The proposed rule would replace and update the Certification Rule (USEPA 2022). As explained in this certification, each certification condition is authorized by applicable state and federal law and is necessary to ensure compliance with such laws. This paragraph is hereby incorporated as part of the explanatory statement for each condition of this certification.

5.1 Rationale for Condition 1: Diversions and Dewatering

The Project includes dewatering and other in-water and water-adjacent work that may have direct impacts to water quality in the Sacramento River. Water quality parameters that may be impacted by such activities include turbidity, dissolved oxygen, and pH. Additionally, the Project area provides critical habitat for North American green sturgeon (*Acipenser medirostris*); Central Valley steelhead (*Oncorhynchus mykiss*); Central Valley spring-run Chinook salmon (*Oncorhynchus tshawytscha*); and Sacramento River winter-run Chinook salmon (*Oncorhynchus tshawytscha*). Project activities that may impact water quality through dewatering and other in-water and water-adjacent work include: (1) installation and removal of temporary dams or other artificial obstructions at the Meridian and Drexler diversions to create dry work areas within and adjacent to the Sacramento River; and (2) discharges from the dewatered areas. Beneficial uses in the Sacramento River that may be impacted include, but are not limited to: warm freshwater habitat; cold freshwater habitat; warm migration of aquatic organisms; cold migration of aquatic organisms; warm spawning, reproduction, and/or early development; cold spawning, reproduction, and/or early development; and wildlife habitat.

Development and implementation of a Dewatering Plan is required to ensure beneficial uses are protected and to comply with SR/SJR Basin Plan’s water quality objectives, and other appropriate requirements of state law. Monitoring requirements of Condition 1 are consistent with the Water Boards’ authority to investigate waters of the state, including for quality, and to require necessary monitoring and reporting pursuant to Water Code sections 13267 and 13383.

Condition 1 requires MFWC to develop and implement a Diversion and Dewatering Plan that will ensure the protection of Sacramento River water quality and associated beneficial uses during Project activities. The Diversion and Dewatering Plan includes water quality monitoring, measures to avoid water quality impacts, reporting, and adaptive management, as needed.

5.2 Rationale for Condition 2: Project Progress and Completion Reports

As described in Section 5.0, this certification is granted based on the application and supporting information submitted in accordance with the State Water Board’s regulations and subject to requirements of the Porter-Cologne Water Quality Control Act. Condition 2 requires MFWC to implement the Project as described in its

October 3, 2022 certification application (MFWC 2022a), MFWC's October 3, 2022 supplemental submissions (MFWC 2012a, 2012b, 2012c), MFWC's October 31, 2022 Dewatering submission (MFWC 2022b), and as modified by the conditions of this certification. Condition 2 will help ensure that the Project is implemented in a manner that protects water quality objectives and avoids unreasonable impacts to beneficial uses. Any changes to the Project description that are inconsistent with the Project application and supplemental documents MFWC provided to the State Water Board prior to certification issuance could impact the findings, conclusions, and conditions of the certification and may necessitate the filing of a new application as well as trigger additional environmental review.

5.3 Rationale for Condition 3: Water Right Compliance

MFWC filed a petition with the State Water Board, Division of Water Rights to change its existing points of diversion for Water Right License No. 4676B (Application No. 1074B). As of the date of this certification's release, the petition (Petition No. A001074BP007741), is still pending. Condition 3 prohibits MFWC from operating the new diversion until the State Water Board approves MFWC's petition. Condition 3 further requires MFWC to comply with its amended water right once issued.

5.4 Rationale for Condition 4: Erosion and Sediment Control Measures

Erosion and sedimentation can contribute to degradation of the waters of the state; therefore, it is necessary to implement actions to eliminate or limit such discharges to protect water quality and associated beneficial uses. Project activities, including vegetation removal, stockpiling, fill and excavation work, and other ground disturbing activities, have the potential to cause erosion of riparian habitat and increased sedimentation in the Sacramento River. Increases in erosion and sedimentation can violate water quality objectives (e.g., turbidity) and impact beneficial uses. Condition 4 requires implementation of erosion and sediment control measures to ensure water quality standards are protected during Project construction.

Condition 4 also requires MFWC, as applicable, to comply with the Construction General Permit, described in Section 3.3, to ensure that construction-related Project activities do not impact water quality and beneficial uses. This is required pursuant to Clean Water Act sections 301 and 402 that prohibit certain discharges of stormwater containing pollutants except in compliance with an NPDES permit. (33 U.S.C. §§ 1311, and 1342(p); 40 C.F.R. pts. 122, 123, and 124.) Protection of the beneficial uses identified in the SR/SJR Basin Plan requires effluent limitations and other limitations on discharges of pollutants from point and nonpoint sources to the Sacramento River. Erosion from Project construction activities has the potential to result in discharges that violate water quality standards. Compliance with the Construction General Permit will help ensure protection of water quality and beneficial uses.

Beneficial uses of the Sacramento River that would be impacted by increased erosion and sedimentation include, but are not limited to: municipal and domestic supply; agriculture (irrigation and stock watering); industrial service supply; contact recreation; canoeing and rafting; non-contact recreation; warm freshwater habitat; cold freshwater

habitat; warm migration; cold migration; warm spawning; cold spawning; wildlife habitat; and navigation.

5.5 Rationale for Condition 5: Fish Rescue

Project dewatering activities have the potential to strand fish, such as Chinook salmon, which may impact existing beneficial uses. On October 3, 2022, MFWC submitted a Fish Rescue Plan that it proposes to implement as part of the Project. Condition 5 requires implementation of MFWC's Fish Rescue Plan, as modified by this certification. Condition 5 modifies MFWC's Fish Rescue Plan to include the State Water Board in reporting requirements, and to specify that if a Lake and Streambed Alteration Agreement is issued for the Project by CDFW, and it contains fish rescue and relocation measures, MFWC is required to comply with the more stringent requirements between this condition or those of the Lake and Streambed Alteration Agreement. Condition 5 is necessary to avoid impacts to water quality and beneficial uses related to warm freshwater habitat, cold freshwater habitat, and wildlife habitat.

5.6 Rationale for Condition 6: Hazardous Materials

Implementation of a Hazardous Material Management Plan is essential to ensure hazardous materials are properly stored, transported, and managed in the Project area to avoid and minimize the discharge of hazardous materials to surface waters, and the associated impacts to beneficial uses, including impacts to aquatic resources and their habitats. Condition 6 requires MFWC to develop and implement a Hazardous Materials Management Plan to address the storage, use, transportation, and disposal of hazardous materials for the protection of water quality.

The Project involves construction using heavy equipment that will require refueling and servicing. Site management requires implementation of BMPs to prevent, minimize, and/or clean up 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 surface water in violation of water quality standards, including the toxicity and floating material water quality objectives. Secondary containment around hazardous material storage sites helps ensure that any leaks or spills of hazardous materials do not result in a discharge to waters. Condition 6 is required pursuant to Water Code section 13264, which prohibits any discharge that is not specifically authorized in this certification.

The SR/SJR Basin Plan includes narrative water quality objectives for oil, grease, and other hazardous materials. Waters must be free of hazardous materials in concentrations that cause nuisance, "detrimental physiological responses in human, plant, animal, or aquatic life," or "result in a visible film or coating on the surface of the water or on objects in the water" (Central Valley Regional Water Board 2019). Beneficial uses of the Sacramento River that would be impacted by hazardous materials include, but are not limited to: municipal and domestic supply; agriculture (irrigation and stock watering); industrial service supply; contact recreation; canoeing and rafting; non-contact recreation; warm freshwater habitat; cold freshwater habitat; warm migration; cold migration; warm spawning; cold spawning; wildlife habitat; and navigation.

5.7 Rationale for Condition 7: Project Activity Progress Reports

Condition 7 requires MFWC to submit Project Activity Progress Reports (Progress Reports) during construction to document Project status and compliance with certification requirements. Additionally, Condition 7 requires MFWC to notify Central Valley Regional Water Board and State Water Board staff prior to implementing Project activities and to submit a Project Completion Report (Completion Report) following construction completion to document Project compliance with certification requirements. The Progress Reports and Completion Report will inform the Deputy Director of potential water quality objective violations and/or impacts to beneficial uses. This condition will allow for implementation of measures to limit or prevent any violations and/or impacts to water quality and beneficial uses.

5.8 Rationale for Condition 8: Aquatic Biological Resource Protections

Project discharges associated with construction activities have the potential to interfere with native aquatic species, which depend heavily on aquatic food or live in riparian or wetland habitats, and adversely impact habitat use. The Project includes ground disturbing activities with the potential to impact special status wildlife. Aquatic species listed as threatened or endangered under the federal Endangered Species Act (ESA) and the California ESA that have the potential to occur in the Project area include: Giant Garter Snakes (*Thamnophis gigas*), Sacramento River winter-run Chinook salmon, Central Valley spring-run Chinook salmon, Central Valley steelhead, and North American green sturgeon.

Condition 8 requires the Applicant to implement aquatic resource protection measures to ensure there are no Project-related impacts to special status species. Beneficial uses of the Sacramento River that would be impacted by Project-related impacts include, but are not limited to: warm freshwater habitat; cold freshwater habitat; warm migration; cold migration; warm spawning; cold spawning; and wildlife habitat.

5.9 Rationale for Conditions 9 through 30

This certification imposes additional conditions regarding Project approvals, monitoring, enforcement, and potential future revisions. This section explains why a condition is necessary to assure that the authorized discharge will comply with water quality requirements, and cites to federal or state law that authorizes the condition. (40 C.F.R. § 121.7(d)(1).) The statements in this section correspond with the conditions set forth in Conditions 9 through 29. In addition, the code citations, plans, and policies that support issuance of this certification are described in Sections 3 and 5 and are not duplicated in this section but are incorporated herein. Conditions 9 through 29 are necessary to protect the beneficial uses of waters of the state identified in water quality control plans, prevent degradation of water quality, and help ensure compliance with state and federal water quality requirements.

Condition 9 is necessary to comply with Water Code section 13167 and Conditions 10 through 13 contain important clarifications concerning the scope and legal effect of this certification, and other legal requirements that may apply to the Project.

Monitoring, reporting, and assessment actions, and the information developed through such actions, must be readable, shared, and coordinated with other appropriate entities, and accessible to ensure that a discharge activity complies with water quality requirements. Water Code section 13167 requires the Water Boards to ensure that monitoring data and assessment information are available in a single location and that the information is presented in a manner easily understandable by the public. To fulfill this legislative mandate, Condition 9 requires electronic data submittal in a compatible format with existing system specifications. Compliance with this condition enhances the accessibility of data and transparency of regulatory actions. This allows regulatory agencies and the public to better assess compliance and understand water quality trends or data anomalies by compiling data and making it readily available.

Pursuant to the California ESA (Fish & G. Code, §§ 2050 et seq.) and federal ESA (16 U.S.C. §§ 1531 et seq.), Condition 10 of the certification does not authorize any act which results in the taking of a threatened, endangered, or candidate species. An applicant for certification is required to identify other licenses, permits, and agreements in the application. In the event an applicant for certification needs authorization from the state or federal authorities, California Code of Regulations, title 23, section 3856, subdivision (e), requires that the applicant provide copies 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.” To help ensure the integrity of the certification process and its focus on ensuring that Project activities meet water quality standards and other appropriate requirements of state law, Condition 11 serves to notify applicants that there may be additional applicable federal, state, or local laws or ordinances with which they must comply, including the state and federal ESAs (Condition 10).

Water Code section 13160, subdivision (b)(1) allows the State Water Board to issue a certification when there is “reasonable assurance that an activity of any person subject to the jurisdiction of the state board will comply with applicable requirements” of state and federal law. To help ensure the integrity of the certification process and its focus on the protection of water quality and compliance with other applicable state requirements, Condition 11 serves to notify applicants that there may be additional applicable federal, state, or local laws or ordinances with which they must comply. Because agency organization and authorities change over time, Condition 12 provides direction for continuity of oversight in the event an agency’s authority or responsibility is transferred to or subsumed by another agency.

The State Water Board is responsible for the water right, water quality, and drinking water functions of the California state government. (Wat. Code, § 174.) Certain certifications involve an appropriation of water subject to part 2 of division 2 of the Water Code or the diversion of water for certain beneficial uses. (See, e.g., Cal. Code Regs., tit. 23, § 3855, subd. (b)(1)(A).) Condition 13 explains the State Water Board’s issuance of this certification is not adjudicating or approving the validity of water rights that may be related to the Project. It also recognizes the State Water Board’s authority, independent of its water quality authority, to prevent unauthorized or threatened

unauthorized diversions of water. This helps to ensure that an applicant for a federal license or permit that involves a discharge to navigable waters understands that, except as specified in the certification, the certification does not constitute, or excuse the applicant from obtaining any other State Water Board approvals required for the activity.

Conditions 14 through 16 are necessary to assure that any discharge authorized under the certification will comply with water quality requirements. These conditions are included to comply with California Code of Regulations, title 23, section 3860, which sets forth conditions that must be included in all certifications. Condition 14 is a standard condition that “shall be included as conditions of all certification actions” pursuant to California Code of Regulations, title 23, section 3860, subdivision (a). This condition places the permittee on notice that the certification action may be modified or revoked following administrative or judicial review. Condition 15 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 and ensures that any applicant for a federal license or permit, which may result in a discharge into navigable waters, is subject to the appropriate State certification. Condition 16 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, title 23, section 3833(b), which requires payment of fees by project proponents applying for certification. Fees are essential to support the Water Boards certification program, which includes the development of certifications and related inspections to ensure the protection of water quality and beneficial uses that may be impacted by a project.

Conditions 17 through 27 are necessary to ensure that the Project operates to meet water quality standards and other appropriate requirements of state law, or that adjustments are made to ensure continued compliance with water quality standards in light of new information, changes to the Project, or changes to the standards themselves.

This certification requires monitoring, reporting, and analysis as important elements to ensure that the Project activities will comply with state and federal water quality requirements and other appropriate requirements of state law. Conditions 17, 18, and 19 provide for extensions of time to comply with requirements, prevention or remedy of violations, and notification of changed conditions to ensure compliance and prevent violations of water quality standards. In the event of non-compliance, modified conditions may be necessary to return the Project to compliance and prevent violation of water quality standards. Conditions 20 and 21 require the applicant to comply with the SR/SJR Basin Plan and to take all reasonable measures to protect water quality and beneficial uses, in accordance with plans adopted pursuant to state and federal water laws. Water Code section 13267 authorizes the State Water Board to require any person or entity who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste to furnish, under penalty of perjury, technical or monitoring reports when necessary to investigate the quality of any waters of the state. Condition 22 requires such reports that are necessary to ensure compliance with water quality standards.

Meridian Farms Fish Screen Project – Phase 2 Project Water Quality Certification
December 2022

Condition 23, related to site access requirements, is authorized pursuant to the Water Boards' authority to investigate the quality of any waters of the state, including specific site access authorized under Water Code section 13267 and 13383. Site access is needed to ensure compliance with the certification and associated protection of water quality and beneficial uses. Condition 24 requires site personnel and agencies to be familiar with the content of the certification and availability of the document at the Project site. This condition is required to assure that site personnel are familiar with the conditions needed to protect water quality and any authorized discharge will comply with the terms and conditions of this certification, which requires compliance with water quality objectives and beneficial uses adopted or approved under sections 13170 or 13245 of the Water Code, and with other appropriate requirements of state law.

Condition 25 reserves the State Water Board's authority to add or modify conditions of this certification to ensure that Project activities meet water quality objectives and protect beneficial uses.

Condition 26 requires that MFWC use analytical methods approved by California's Environmental Laboratory Accreditation Program, when available, to ensure that such analyses are done in a consistent manner.

Condition 27 provides that the State Water Board will provide notice and an opportunity to be heard in exercising its authority to add or modify certification conditions.

Condition 28 ensures permanent physical loss and permanent ecological degradation of waters of the state are adequately mitigated. This condition is necessary to ensure compliance with state and federal antidegradation policies and is 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. Mitigation requirements related to financial assurances are also required to ensure that compensatory mitigation will be provided. (Dredge or Fill Procedures, § IV.B.5.f.)

Condition 29 clarifies that this certification also constitutes a waste discharge requirement. Pursuant to Water Code section 13264, subdivision (a), a 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. (See also State Water Board Water Quality Order No. 2003-0017-DWQ, Statewide General Waste Discharge

Requirements for Dredged or Fill Discharges that have Received State Water Quality Certification.)

In the event that any provision of this certification is found invalid, Condition 30 ensures that all other provisions will remain effective and water quality will still be protected. (Wat. Code, § 13160.)

6.0 Conclusion

The State Water Board finds that, with the conditions and limitations imposed by this certification, the Project will be protective of state and federal water quality standards and other appropriate requirements of state law.

7.0 Water Quality Certification Conditions

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE STATE WATER RESOURCES CONTROL BOARD CERTIFIES that implementation of the Meridian Fish Screens Project – Phase 2 (Project) will comply with sections 301, 302, 303, 306, and 307 of the Clean Water Act, and with applicable provisions of State law, under the following terms and conditions.

CONDITION 1 Diversions and Dewatering

A minimum of 60 days prior to commencement of Project construction, Meridian Farms Water Company (MFWC or Applicant) shall submit a Dewatering and Diversion Plan (Dewatering Plan) to the State Water Resources Control Board (State Water Board), Deputy Director for the Division of Water Rights (Deputy Director) for review and consideration for approval. The Deputy Director may require modifications as part of any approval. The objective of the Dewatering Plan shall be to identify and implement actions to protect water quality associated with Project-related activities that require dewatering and other in-water work or water adjacent work. The Applicant shall develop the Dewatering Plan in consultation with State Water Board and Central Valley Regional Water Quality Control Board (Central Valley Regional Water Board) staff. As applicable, the Applicant may refer to the October 3, 2022 Dewatering submittal (MFWC 2022b) to comply with the requirements of this Dewatering Plan. At a minimum, the Dewatering Plan shall include:

- (1) An overview of all in-water work, including work related to dewatering or diversion of water for Project construction;
- (2) Schedule for conducting Project construction activities associated with in-water work, including dewatering and diversion of water related to Project construction. Construction in the Sacramento River shall be limited to April 1 through October 1 with the potential to extend to November 1 with approval from the National Marine Fisheries Service (NMFS). NMFS approval shall be provided to the State Water Board's Project Manager prior to any construction extension beyond October 1;
- (3) Description of cofferdams or other barriers that will be used to isolate the construction area from surface waters;
- (4) List of construction materials that will be used in or adjacent to the watercourse. Any imported riprap, rocks, and gravels shall be pre-washed;
- (5) Description of dewatering activities, include location for discharges associated with dewatering;
- (6) Actions that will be implemented to ensure discharges associated with dewatering will not exceed water quality standards;

- (7) Description of measures, if needed, that will be implemented to avoid potential water quality and aquatic resource impacts⁷;
- (8) Description of specific measures the Applicant will implement to prevent river water contamination in the event of a concrete tremie seal⁷ failure during cofferdam activities;
- (9) Proposed water quality monitoring and reporting related to in-water Project construction activities, which shall at a minimum include the parameters and monitoring specified below in this condition. The Applicant shall describe the equipment, frequency, methods, and quality assurance/quality control process for the water quality monitoring; and
- (10) Documentation of consultation with Central Valley Regional Water Board and State Water Board staff, including comments and recommendations made in connection with the plan, and a description of how the plan incorporates or addresses the comments and recommendations.

Any modifications to the Dewatering Plan require approval by the Deputy Director prior to implementation. The Applicant shall not commence Project construction without receipt of Deputy Director approval of the Dewatering Plan. The Applicant shall implement the Dewatering Plan upon receipt of Deputy Director and any other required approvals, in accordance with the schedule and requirements specified therein.

Water Quality Monitoring During In-Water Work. Continuous water quality monitoring shall occur at least hourly during in-water work and water adjacent work with the potential to result in a discharge to surface waters. At a minimum, water quality monitoring shall be performed for the installation, dewatering, and removal of the cofferdam needed to implement the Project activities, and for other Project activities with the potential to impact water quality. For water quality monitoring associated with in-water work, the Applicant shall at a minimum, monitor:

- (1) turbidity;
- (2) dissolved oxygen (measured in milligrams per liter); and
- (3) pH.

Unless otherwise approved by the Deputy Director, at a minimum, monitoring shall be conducted at 15-minute intervals using an automated sensor system. Additionally, the Applicant shall continuously monitor for visible construction-related pollutants (e.g., oils, greases, fuels) throughout the entire construction period.

Unless otherwise approved by the Deputy Director, at a minimum, monitoring shall be conducted immediately upstream outside the influence of the Project and no greater than 300 feet downstream of the Project area. The Applicant shall take a global

⁷ The Dewatering Plan may refer to measures identified in Condition 8: Aquatic Biological Resource Protection.

⁷ Concrete tremie seal refers to a non-reinforced concrete slab anchored by piles and installed underwater within sheet piling or slurry walls. The concrete tremie seal must be in place before water inside the cofferdam can be pumped out.

positioning system point and a photograph for each proposed monitoring location and provide them to Central Valley Regional Water Board and State Water Board staff at least one week prior to starting in-water work. These locations shall be used for monitoring unless the Deputy Director directs the Applicant to use other locations or to work with staff to find alternate locations.

The Applicant shall submit the first monitoring report to State Water Board staff within 30 days of initiating monitoring and every two weeks thereafter for the remainder of any in-water and water-adjacent Project work. The monitoring reports shall include: (a) monitoring results; (b) a description of the equipment, frequency, methods, and quality assurance/quality control process implemented for water quality monitoring; and (c) any requests for consultation regarding the need for development of additional site-specific construction measures to protect water quality.

Reporting of Violations. The Deputy Director and the Executive Officer of the Central Valley Regional Water Board shall be notified promptly, and in no case more than 24 hours following a violation of a turbidity, pH, or dissolved oxygen water quality objectives as listed in the *Water Quality Control Plan for the Sacramento River Basin and the San Joaquin River Basin (SR/SJR Basin Plan)*, and any amendments thereto (Central Valley Regional Board 2019). The notice shall include the cause of the violation, measures taken to correct the violation, and measures the Applicant will implement to prevent a future violation. The Deputy Director may require additional actions to help prevent similar violations in the future. Project activities associated with the violation shall immediately cease and may not resume without approval from the Deputy Director. The current water quality objectives for turbidity, dissolved oxygen, and pH, as listed in the SR/SJR Basin Plan are summarized below for reference. The Applicant is responsible for complying with the applicable water quality objectives established in the SR/SJR Basin Plan at the time work is performed.

Turbidity: Waters shall be free of changes in turbidity that cause nuisance or adversely affect beneficial uses. Increases in turbidity attributed to controllable water quality factors shall not exceed the following limits:

- Where natural turbidity is less than one Nephelometric Turbidity Unit (NTU), controllable factors shall not cause downstream turbidity to exceed two NTUs.
- Where natural turbidity is between one and five NTUs, increases shall not exceed one NTU.
- Where natural turbidity is between five and 50 NTUs, increases shall not exceed 20 percent.
- Where natural turbidity is between 50 and 100 NTUs, increases shall not exceed 10 NTUs.
- Where natural turbidity is greater than 100 NTUs, increases shall not exceed 10 percent.

Turbidity shall be measured using a 24-hour averaging period unless otherwise approved by the Deputy Director.

Dissolved Oxygen. Dissolved oxygen shall not decrease below 7 milligrams per liter.

pH. pH shall not be depressed below 6.5 nor raised above 8.5.

CONDITION 2 Project Activities

Unless otherwise modified by conditions of this water quality certification (certification) or approved by the Deputy Director, the Applicant shall implement the Project as described in MFWC’s October 3, 2022 certification application (MFWC 2022a) and MFWC’s October 3, 2022, and October 31, 2022, supplemental submissions (MFWC 2012a, 2012b, 2012c, 2022b).

CONDITION 3 Water Right Compliance

The Applicant shall not operate the diversion until the amended water right license No. 4676-B is issued. The Applicant shall comply with the amended water right license No. 4676-B, once issued. If the Applicant chooses to proceed with Project construction in advance of issuance of the amended water right license No. 4676-B, the Applicant shall provide the Deputy Director, for review and consideration of approval, with a schedule and sequencing of which elements of the Project will be completed in advance of issuance of amended water right license No. 4676-B and which elements will be completed following issuance of amended water right license No. 4676-B. The Deputy Director may require modifications as part of approval. The Applicant shall not proceed with construction in advance of issuance of the amended water right license No. 4676-B until Deputy Director approval is granted.

CONDITION 4 Erosion and Sediment Control Measures

The Applicant shall comply with the *National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities*⁸ (Construction General Permit) and any amendments thereto. To the extent of any conflict between the conditions of this certification and applicable conditions in the Construction General Permit, the more stringent shall apply. Unless otherwise approved by the Deputy Director, the Applicant shall implement the following erosion and sediment control measures:

- Best management practices (BMPs), including a Stormwater Pollution Prevention Plan and/or Water Pollution Control Program, shall be implemented to minimize the effects of erosion (MFWC 2012a, MM BIO-9).
- To minimize the exposure of sediments to runoff, MFWC shall identify and implement site-specific construction and post-construction water quality control measures (MFWC 2012a, MM HYDRO-1).

⁸ Water Quality Order No. 2009-0009-DWQ and NPDES No. CAS000002, as amended by Order No. 2010-0014-DWQ, Order No. 2012-0006-DWQ, and any amendments thereto. Available at: https://www.waterboards.ca.gov/water_issues/programs/stormwater/construction.html Accessed on December 13, 2022.

- Current riparian vegetation shall be retained to extent feasible (MFWC 2012a, MM BIO-G).
- Control measures to reduce and prevent erosion, sedimentation, and sources of turbidity shall be implemented and in place prior to the commencement of, during, and as applicable, after any ground disturbing activities, or any other Project activities that could result in erosion or sediment discharges to surface water.
- Tightly woven fiber netting or similar material with mesh size less than 0.25 inch shall be used for erosion control (MFWC 2012a, MM BIO-10).
- During construction, the number of access routes, number and size of staging areas, and the total Project area shall be limited to the minimum size necessary (MFWC 2012a, MM BIO-1).
- During construction, stockpiling of construction materials, portable equipment, vehicles, and supplies shall be restricted to the designated construction staging areas that shall be located outside of wetlands, surface waters, environmentally sensitive areas⁹, and riparian habitat. (MFWC 2012a, MM BIO-2).
- Spoil sites shall be located in areas that do not drain directly to waterways. If a spoil site drains into a waterbody, catch basins shall be constructed to intercept sediment before it reaches surface waters. Spoil sites shall be graded to reduce the potential for erosion (MFWC 2012a, MM BIO-A). Any disposal sites for non-hazardous waste materials shall be away from waterways and graded in a manner that prevents erosion and the discharge of sediments to surface waters.
- Imported materials (i.e., not from on-site rock borrow locations) shall be washed prior to use. If materials are washed on-site, washing shall occur and wash water shall be stored away from any waterway and either disposed of off-site in a manner that does not affect water quality or used for dust abatement (MFWC 2012a, MM BIO-E).
- No vehicles or equipment shall drive off-road through wetlands, environmentally sensitive areas, or riparian areas to access the Project area.
- In areas prone to run-off, inundation, and/or erosion, structures such as riprap, culverts, or retaining walls may be necessary to protect water quality. Where necessary, the Applicant shall install sediment basins or silt fences to prevent sediment runoff into streams or waterbodies and negate water quality and aquatic habitat impacts.
- All vehicles and any ground or vegetation disturbing equipment must be cleaned and free of mud, soil, and plant materials prior to entering the Project area.
- Vegetation removal shall be limited to the minimum amount necessary. No cut materials, including chipped materials, can be disposed of within wetlands, environmentally sensitive areas, surface waters, or riparian areas.

⁹ Environmentally sensitive areas are defined in the final Initial Study/Mitigated Negative Declaration and Environmental Assessment/Finding of No Significant Impact as habitat areas for federal Endangered Species Act-listed species (CDFW and Bureau 2012).

- Where construction work occurs adjacent to riparian habitat, there shall be no encroachment by construction equipment or personnel into existing riparian habitat areas located along the Sacramento River. Storage or parking of equipment shall be prohibited within 100 feet of riparian habitat (MFWC 2012a, MM BIO-23).
- After construction activities are complete, any temporary fill or construction debris shall be removed, and disturbed areas restored to their pre-construction conditions (MFWC 2012a, MM BIO-13).

CONDITION 5 Fish Rescue

The Applicant shall implement the Fish Rescue Plan submitted to the State Water Board by MFWC on October 3, 2022 (MFWC 2012c) (MFWC 2012a, MM BIO-H) and as modified by this condition:

- Reports as described on page C-3 of the Fish Rescue Plan shall be submitted to the Deputy Director.
- If a California Department of Fish and Wildlife (CDFW) Lake and Streambed Alteration Agreement is issued for this Project and includes provisions for fish rescue and relocation, the more stringent requirements between this condition or those of the Lake and Streambed Alteration Agreement shall apply.

CONDITION 6 Hazardous Materials Control Measures

A minimum of 60 days prior to commencement of Project construction, the Applicant shall submit a Hazardous Materials Management Plan (Hazardous Materials Plan) to the Deputy Director for review and consideration for approval. The Deputy Director may require modifications as part of any approval. The objective of the Hazardous Materials Plan shall be to identify measures for the storage and disposal of hazardous materials and identification of protocols that will be implemented to address any spills during Project construction (MFWC 1012a, MM BIO-B). The Applicant shall develop the Hazardous Materials Plan in consultation with State Water Board and Central Valley Regional Water Board staff. At a minimum, the Hazardous Materials Plan shall include:

- (i) Identification of all hazardous materials to be used during Project construction;
- (ii) Identification of all on-site spill response materials, including those in spill kits, and their potential uses and locations. At a minimum, hazardous materials spill kits shall be maintained onsite and in vehicles for small spills for the duration of construction activities. These kits shall include oil-absorbent material and tarps to contain and control any minor releases. During Project construction, emergency spill supplies and equipment shall be kept adjacent to all work and staging areas and shall be clearly marked;
- (iii) Measures to manage, remediate, and dispose of hazardous and non-hazardous waste;
- (iv) Locations and protocols as defined in California Code of Regulations, title 27, section 20320, for storing hazardous materials during Project construction, which, at a minimum, shall not be stored in or near a floodplain;

Meridian Farms Fish Screen Project – Phase 2 Project Water Quality Certification
December 2022

- (v) Measures to limit, control, and clean up spills, which shall include, as applicable, use of bermed storage areas, regular equipment inspections, and fueling/refueling procedures. At a minimum the BMPs listed below shall be implemented:
 - Before entering the Project area, vehicles and equipment shall be inspected for leaks (e.g., fuel, oil, hydraulic fluids) and repaired prior to entering the Project area. Fueling, lubrication, maintenance, storage, and staging of vehicles and equipment must not result in a discharge to any waters of the United States and/or state and shall be located outside of waters of the United States and/or state in areas where accidental spills are not likely to enter or affect such waters. At a minimum, storing, fueling, and maintenance of vehicles and equipment shall not occur in wetlands, surface waters, riparian areas, environmentally sensitive areas, or on slopes above and adjacent to these features. (MFWC 2012b, MM BIO-D).
 - Equipment and materials shall be stored at least 50 feet from waterways. No debris such as trash and spoils shall be deposited within 100 feet of waterways (MFWC 2012a, MM BIO-C).
- (vi) Procedures for notifying State Water Board, Central Valley Regional Water Board, and other appropriate agencies of any hazardous materials spills, and the measures taken to contain and clean up the spills; and
- (vii) Documentation of consultation with State Water Board and Central Valley Regional Water Board staff, comments and recommendations made in connection with the plan, and a description of how the plan incorporates or addresses the comments and recommendations.

Prior to Project construction, all staff and personnel of contractors and subcontractors shall receive training regarding the appropriate work practices necessary to effectively comply with the applicable environmental laws and regulations, including hazardous materials spill prevention and response measures. The training shall include identification and reporting to the appropriate onsite person of any visual observations that may indicate a water quality impairment (e.g., oil sheen, etc.).

Hazardous materials or other materials that can affect water quality shall not be disposed of or released onto the ground, the underlying groundwater, or any surface water. If necessary, containment berms shall be constructed to prevent spilled materials from reaching surface waters (MFWC 2012a, MM BIO-B). All construction and maintenance waste, including trash and litter, garbage, other solid waste, petroleum products, and other potentially hazardous materials (including equipment lubricants, solvents, and cleaners), shall be removed to an appropriate waste facility permitted or otherwise authorized to treat, store, or dispose of such materials (MFWC 2012a, MM BIO-11).

Any modifications to the Hazardous Materials Plan shall be approved by the Deputy Director prior to implementation. The Applicant shall implement the Hazardous Materials Plan and any amendments thereto upon receipt of Deputy Director and any other required approvals, in accordance with the schedule and requirements specified

therein. The Applicant shall not commence Project construction without receipt of Deputy Director approval of the Hazardous Materials Plan.

CONDITION 7 Project Progress and Completion Reports

Every 30 days following initiation of Project construction and throughout Project construction, the Applicant shall submit Project Activity Progress Reports (Progress Reports) to the Deputy Director. The Progress Reports shall include:

- (1) A summary of Project activities performed;
- (2) Documentation of compliance with each condition of this certification and details of any failure to meet the certification requirements;
- (3) Details of Project-related adverse impacts to beneficial uses, if applicable;
- (4) Any anticipated Project implementation activities (e.g., construction, dewatering, or diversion) differing from those described in the certification application or required by this certification;
- (5) A description of upcoming activities that may cause erosion; and
- (6) Any additional Project-specific water quality parameters that will be monitored as part of the Project.

The Deputy Director may require the Applicant to implement corrective actions in response to the information provided in a Progress Report. Within 60 days of Project completion, the Applicant shall provide the Deputy Director with a Project Completion Report that comprehensively summarizes bullets 1 – 3, above. The Applicant shall provide any additional information or clarification requested by the Deputy Director related to a Progress Report or the Project Completion Report. Upon request from State Water Board staff, the Applicant shall meet with staff to discuss a Progress Report or the Project Completion Report.

CONDITION 8 Aquatic Biological Resource Protections

To reduce potential impacts to aquatic biological resources during dewatering and any other ground disturbing activities associated with Project implementation that have the potential to impact aquatic biological resources, the Applicant shall implement the following measures:

- Daily Monitoring: A CDFW-approved qualified biological monitor shall be on site during in-water construction activities. The biological monitor shall be authorized to halt construction if impacts to special-status salmonid species are evident (MFWC 2012a, MM BIO-F).
- Worker Awareness Training: Construction personnel, including contractors, shall participate in a Worker Environmental Awareness Training Program conducted by a United States Fish and Wildlife Service (USFWS)-approved biologist prior to the commencement of construction activities. Where needed, the training shall be provided in languages other than English (MFWC 2012a, MM BIO-6).
- BMPs shall be implemented to minimize the effects to Giant Garter Snake during construction. BMPs shall prevent sedimentation from entering environmentally sensitive areas (MFWC 2012a, MM BIO-9)

Meridian Farms Fish Screen Project – Phase 2 Project Water Quality Certification
December 2022

- Tightly woven fiber netting or similar material with mesh size less than 0.25-inch shall be used at environmentally sensitive areas to ensure that the Giant Garter Snake does not become entangled or trapped (MFWC 2012a, MM BIO-10).
- Install Exclusion Fencing: Prior to the commencement of Project construction activities, high visibility fencing shall be erected around the habitats of federally listed species to identify and protect these designated environmentally sensitive areas from encroachment by personnel and equipment. These areas shall be avoided by all construction personnel. Additionally, fencing shall be established in upland areas immediately adjacent to aquatic Giant Garter Snake habitat and extend 200 feet from construction activities. If a 200-foot-fencing-buffer is not feasible, the Applicant shall consult with USFWS to confirm if a shorter fencing buffer is appropriate or determine if alternative measures shall be implemented to avoid impacts to the Giant Garter Snake habitat. Silt fencing, if properly installed, may serve as suitable Giant Garter Snake exclusion fencing (MFWC 2012a, MM BIO-7).
- Giant Garter Snake Pre-Construction Surveys: No more than 24 hours prior to the commencement of construction activities, a USFWS-approved biologist shall survey areas deemed suitable Giant Garter Snake habitat for the presence of Giant Garter Snakes. The biologist shall provide USFWS with a written report that adequately documents the methodology and results of the preconstruction survey within a week of completing the survey. These areas shall be re-inspected by the biologist whenever a lapse in construction activity of two weeks or greater has occurred (MFWC 2012a, MM BIO-3).
- Timing of Construction: Construction activities in Giant Garter Snake habitat shall be conducted between May 1 and September 30. If it appears construction activity may go beyond September 30, the Applicant shall contact USFWS as soon as possible, but no later than September 15 of the year in question, to determine if additional measures are needed to minimize take of Giant Garter Snake. Construction activities within 200 feet of the banks of Giant Garter Snake aquatic habitat shall be avoided during Giant Garter Snake inactive season (i.e., October through April). If this is not feasible, the Applicant shall consult with USFWS to determine and implement measures to avoid impacts to Giant Garter Snakes (MFWC 2012a, MM BIO-4).
- Dewatering Giant Garter Snake Habitat: During the Giant Garter Snake inactive period (October 1 through April 30), Giant Garter Snake aquatic habitat may be dewatered starting on April 15. Any dewatered habitat must remain dry for at least 15 consecutive days after April 15 and prior to excavating or filling the dewatered habitat (MFWC 2012a, MM BIO-16).
- Pumps used for dewatering the construction site shall be screened according to NMFS fish screening criteria for anadromous salmonids. A NMFS-qualified biologist shall be on-site during pumping activities to ensure any fish present in the construction area are relocated to suitable habitat (MFWC 2012a, MM BIO-20).
- Giant Garter Snake Monitoring: A USFWS-approved biologist shall inspect construction-related activities at the Project site to ensure that no unauthorized take of federally listed species or destruction of their habitat occurs. The biologist shall be available for monitoring throughout all phases of construction

that may result in adverse effects to Giant Garter Snake (MFWC 2012a, MM BIO-17).

- Provide Adequate Signage: Signs shall be posted by the Applicant or its contractor every 50 feet along the edge of environmentally sensitive areas. The following information shall be posted on the signs: “This area is habitat of federally-threatened and/or endangered species, and must not be disturbed. These species are protected by the Endangered Species Act of 1973, as amended. Violators are subject to prosecution, fines, and imprisonment.” The signs should be clearly readable from 20 feet and must be maintained by the Applicant or its contractor for the duration of construction (MFWC 2012a, MM BIO-8).
- The Project will result in temporary and permanent impacts to riparian and stream channel habitat. Temporary impacts include approximately 0.24 acres of stream channel and 0.19 acres of riparian zones along the Sacramento River with approximately 0.11 acres of permanent impacts to stream channel habitat. The Applicant shall notify the Deputy Director of any update to the estimated temporary and permanent impacts if they vary from what is noted in this provision. Additionally, permanent impacts shall be compensated for at a minimum of a 1:1 ratio and must be consistent with the *State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State* (Dredge or Fill Procedures)¹⁰ (State Water Board 2019 and 2021), the California Wetlands Conservation Policy (Governor’s Executive Order W-59-93 (August 23, 1993)), and any amendments thereto (Condition 28). The Applicant shall provide the Deputy Director with documentation of compliance with this mitigation provision and its compliance with the Dredge or Fill Procedures and California Wetlands Conservation Policy.
- If the Project results in the permanent degradation of riverine and/or wetland habitat, those impacts shall be compensated for at a 1:1 ratio through the purchase of habitat of a similar value from an USFWS-approved conservation bank. Preservation and creation habitat may occur onsite through a conservation agreement or offsite through purchasing credits at a United States Army Corp of Engineers-approved mitigation bank (MFWC 2012a, MM BIO-28).
- The effects to Giant Garter Snake habitat are those areas of habitat that would be permanently and/or temporarily affected by construction activities. Mapping of the Project area shows 38.9 acres of Giant Garter Snake aquatic habitat and 21.3 acres of Giant Garter Snake upland habitat. Of this, approximately 6.4 acres of Giant Garter Snake upland habitat and 3.4 acres of Giant Garter Snake aquatic habitat in the Main Canal would be temporarily impacted during widening and demolition. Temporary impacts to Giant Garter Snake habitat shall be restored to pre-Project conditions. Areas subject to temporary impacts to Giant Garter Snake habitat shall be limited to one season (the calendar year period between May 1 and September 30) and be restored within two seasons. In

¹⁰ The Dredge or Fill Procedures and any amendments thereto. Available at: https://www.waterboards.ca.gov/water_issues/programs/cwa401/wrapp.html. Accessed on December 13, 2022.

addition, Giant Garter Snake habitat temporarily disturbed during the inactive season (October 1 through April 30) shall be replaced at a minimum of a 1:1 ration by purchasing credits in a USFWS-approved mitigation bank prior to Project construction (MM BIO-18).

CONDITIONS 9 - 30

CONDITION 9. Unless otherwise specified in this certification or at the request of the Deputy Director, data and/or reports shall be submitted electronically in a format accepted by the State Water Board to facilitate the incorporation of this information into public reports and the State Water Board's water quality database systems in compliance with California Water Code section 13167.

CONDITION 10. This certification does not authorize any act which results in the take of a threatened, endangered, or candidate species or any act which is now prohibited, or becomes prohibited in the future, under either the California ESA (Fish & G. Code, §§ 2050 – 2097) or the federal ESA (16 U.S.C. §§ 1531 – 1544). If a “take” will result from any act authorized under this certification or water rights held by the Applicant, the Applicant 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 Applicant is responsible for meeting all requirements of the applicable ESAs for the Project authorized under this certification.

CONDITION 11. This certification shall not be construed as replacement or substitution for any necessary federal, state, and local approvals. The Applicant is responsible for compliance with all applicable federal, state, or local laws or ordinances and shall obtain authorization from applicable regulatory agencies prior to the commencement of Project activities.

CONDITION 12. Any requirement in this certification that refers to an agency whose authorities and responsibilities are transferred to or subsumed by another local, state, or federal agency, will apply equally to the successor agency.

CONDITION 13. Nothing in this certification shall be construed as State Water Board approval of the validity of any water rights, including pre-1914 or riparian claims. The State Water Board has separate authority under the Water Code to investigate and take enforcement action, if necessary, to prevent any unauthorized or threatened unauthorized diversions of water.

CONDITION 14. This certification is subject to modification or revocation upon administrative or judicial review, including but not limited to review and amendment pursuant to Water Code section 13330 and California Code of Regulations, title 23, division 3, chapter 28, article 6 (commencing with section 3867).

CONDITION 15. This certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent application for certification was filed pursuant to California Code of Regulations, title 23, section 3855, subdivision (b) and that application for certification

specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

CONDITION 16. This certification is conditioned upon total payment of any fee required under California Code of Regulations, title 23, division 3, chapter 28.

CONDITION 17. Notwithstanding any more specific provision of this certification, any plan or report developed as a condition of this certification requires review and approval by the Deputy Director. The State Water Board's approval authority, including authority delegated to the Deputy Director or others, includes the authority to withhold approval or to require modification of a plan, proposal, or report prior to approval. The State Water Board may take enforcement action if the Applicant fails to provide or implement a required item in a timely manner. If a time extension is needed to submit an item for Deputy Director approval, the Applicant shall submit a written request for the extension, with justification, to the Deputy Director no later than 15 days prior to the deadline. The Applicant shall not implement any plan, proposal, or report until after the applicable State Water Board approval and any other necessary regulatory approvals.

CONDITION 18. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation is subject to any remedies, penalties, process, or sanctions as provided for under applicable state or federal law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process, or sanctions for the violation or threatened violation constitutes a limitation necessary to ensure compliance with the water quality standards and other pertinent requirements incorporated into this certification. In response to any violation of the conditions of this certification, the State Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.

CONDITION 19. The Applicant shall submit any change to the Project, including, operations, facilities, technology changes or upgrades, or methodology, which could have a significant or material effect on the findings, conclusions, or conditions of this certification, to the State Water Board for prior review and written approval. The State Water Board shall determine significance and may require consultation with other state and/or federal agencies. If the State Water Board is not notified of a change to the Project, it will be considered a violation of this certification.

CONDITION 20. This certification is contingent on compliance with all applicable requirements of the SR/SJR Basin Plan.

CONDITION 21. Unless otherwise specified by conditions in this certification, Project activities shall be conducted in a manner consistent with all water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act. The Applicant shall take all reasonable measures to protect the beneficial uses of waters of the state, including the Sacramento River.

CONDITION 22. In response to a suspected violation of any condition of this certification, the State Water Board or Central Valley Regional Water Board may require

the holder of any federal permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the State Water Board deems 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. (Wat. Code, §§ 1051, 13165, 13267, & 13383.)

CONDITION 23. Upon request, a construction schedule shall be provided to State Water Board and Central Valley Regional Water Board staff. The Applicant shall provide State Water Board and Central Valley Regional Water Board staff access to Project sites to document compliance with this certification.

CONDITION 24. A copy of this certification shall be provided to any contractor and all subcontractors conducting Project-related work, and copies shall remain in their possession at the Project site. The Applicant shall be responsible for work conducted by its contractor, subcontractors, or other persons conducting Project-related work.

CONDITION 25. The State Water Board reserves the authority to add to or modify the conditions of this certification: (1) to incorporate changes in technology, sampling, or methodologies; (2) if monitoring results indicate that Project activities could violate water quality objectives or impair beneficial uses; (3) to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act; and (4) to require additional monitoring and/or other measures, as needed, to ensure that Project activities meet water quality objectives and protect beneficial uses.

CONDITION 26. The Applicant shall use analytical methods approved by California's Environmental Laboratory Accreditation Program, where such methods are available. Samples that require laboratory analysis shall be analyzed by Environmental Lab Accreditation Program-certified laboratories.

CONDITION 27. The State Water Board shall provide notice and an opportunity to be heard in exercising its authority to add to or modify the conditions of this certification.

CONDITION 28. The Applicant shall ensure no net loss of wetland or riparian habitat functions under the standards and procedures set forth in the Dredge or Fill Procedures and the California Wetlands Conservation Policy (Governor's Executive Order W-59-93 (August 23, 1993)) and any amendments thereto. The Applicant shall demonstrate compliance with the Dredge or Fill Procedures upon request from the Deputy Director.

CONDITION 29. This certification serves as Waste Discharge Requirements pursuant to the Porter-Cologne Water Quality Control Act (Water Code sections 13000 et seq.) as authorized by State Water Board Water Quality Order No. 2003-0017-DWQ, Statewide General Waste Discharge Requirements for Dredged or Fill Discharges that have Received State Water Quality Certification.

CONDITION 30. The provisions of this certification are severable. If any provision of this certification is found invalid, affects the validity of the certification, or would result in a determination that the State Water Board has waived its section 401 certification authority for the Project, the State Water Board reserves authority to consider whether

Meridian Farms Fish Screen Project – Phase 2 Project Water Quality Certification
December 2022

an alternative term would address the water quality issue without being found invalid or resulting in a waiver determination. If any provision of this certification is found invalid, affects the validity of the certification, or would result in a determination that the State Water Board has waived its section 401 certification authority for the Project, the remainder of this certification shall not be affected.



Eileen Sobeck
Eileen Sobeck
Executive Director

December 28, 2022
Date

8.0 References

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- Central Valley Regional Water Quality Control Board (Central Valley Regional Board). 2019. *Water Quality Control Plan for the Sacramento River Basin and the San Joaquin River Basin (SR/SJR Basin Plan)*. Revised February 2019 (with Approved Amendments). Available at: https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/#basinplans. Accessed on December 13, 2022.
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Meridian Farms Fish Screen Project – Phase 2 Project Water Quality Certification
December 2022

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**ATTACHMENT A:
PROJECT OVERVIEW MAPS**

**WATER QUALITY CERTIFICATION
FOR
MERIDIAN FARMS FISH SCREEN PROJECT - PHASE 2 PROJECT**



Figure A1. Meridian Farms Water Company Service Area

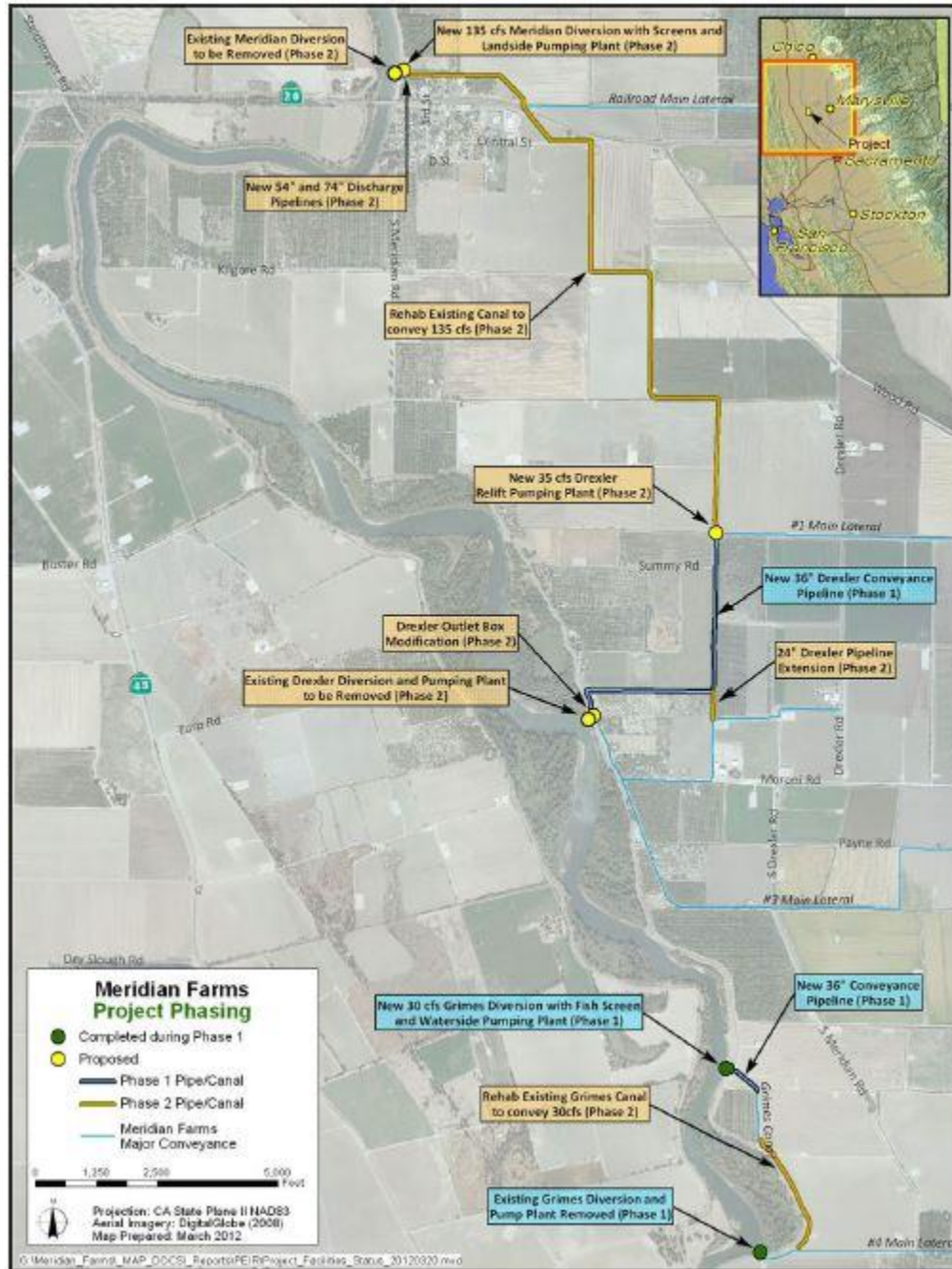


Figure A2. Meridian Farms Fish Screen Project Phase 1 and 2 Components