STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Water Quality Certification for

SANTA CLARA VALLEY WATER DISTRICT
ANDERSON DAM SEISMIC RETROFIT PROJECT
AND
LICENSE EXEMPTION SURRENDER

FEDERAL ENERGY REGULATORY COMMISSION
PROJECT NO. 5737

Sources: **Coyote Creek and Anderson Reservoir**

County: **Santa Clara**

WATER QUALITY CERTIFICATION FOR
FEDERAL PERMIT OR LICENSE

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Abbreviations

ADSRP	*Anderson Dam Seismic Retrofit Project*
AMMs	*Avoidance and Minimization Measures*
Antidegradation Policy	*Statement of Policy with Respect to Maintaining High Quality Waters in California*
Aquatic Weed Control General Permit	*Statewide National Pollutant Discharge Elimination System Permit for Residual Aquatic Pesticide Discharges to Waters of the United States from Algae and Aquatic Weed Control Applications*
BMPs	*best management practices*
CEQA	*California Environmental Quality Act*
certification	*water quality certification*
cfs	*cubic feet per second*
COLD	*cold freshwater habitat beneficial use*
COMM	*commercial and sport fishing beneficial use*
Construction General Permit	*General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities*
Deputy Director	*Deputy Director of the Division of Water Rights*
Dredge or Fill Procedures	*State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State*
DSOD	*California Department of Water Resources' Division of Safety of Dams*
e-DNA	*environmental deoxyribonucleic acid*
EIR	*Environmental Impact Report*
EIS	*Environmental Impact Statement*
ESA	*Endangered Species Act*
EST	*estuarine habitat beneficial use*
Executive Officer	*San Francisco Regional Water Quality Control Board Executive Officer*
FAHCE	*Fish and Aquatic Habitat Collaborative Effort program*
FERC	*Federal Energy Regulatory Commission*
FOCP	*Federal Energy Regulatory Commission Order Compliance Project*
GEO	*geology*
GW	*groundwater*
GWR	*groundwater recharge beneficial use*
Habitat Agency	*Santa Clara Valley Habitat Agency*
HAZ	*hazardous materials*
ILFP	*In-lieu Fee Program*
IAMP	*Interim Adaptive Management Plan*
LF	*linear feet*
LID	*low impact development*
mg/L	*milligram per liter*
MIGR	*fish migration beneficial use*

MMRP	*Mitigation, Monitoring and Reporting Program*
MUN	*municipal and domestic supply beneficial use*
NOI	*Notice of Intent*
NPDES	*National Pollutant Discharge Elimination System*
pH	*percent of hydrogen*
Phase II Small MS4 Permit	*Statewide General Permit for Waste Discharge Requirements for Stormwater Discharges for Small Municipal Separate Storm Sewer Systems*
Project	*Anderson Dam Seismic Retrofit Project*
QAPP	*Quality Assurance Project Plan*
RARE	*preservation of rare and endangered species beneficial use*
REC1	*water contact recreation beneficial use*
REC2	*noncontact water recreation beneficial use*
Regional Water Boards	*California Regional Water Quality Control Boards*
SCVURPPP	Santa Clara Valley Urban Runoff Pollution Prevention Program
San Francisco Bay Regional Water Board	*San Francisco Bay Regional Water Quality Control Board Board*
SF Bay Basin Plan	*Water Quality Control Plan for the San Francisco Bay Basin*
SF Municipal Regional Permit	*San Francisco Bay Region Municipal Regional Stormwater NPDES Permit*
Regional Water Board	*Board*
SHELL	*shellfish harvesting beneficial use*
SPWN	*fish spawning beneficial use*
State Water Board	*State Water Resources Control Board*
Technical Working Group	*State Water Resources Control Board, San Francisco Bay Regional Water Quality Control Board, United States Fish and Wildlife Service, National Marine Fisheries Service, and California Department of Fish and Wildlife*
TERR	*terrestrial*
TMDLs	*total maximum daily loads*
USACE	*United States Army Corps of Engineers*
USEPA	*United States Environmental Protection Agency*
Valley Water	*Santa Clara Valley Water District*
VHP	*Santa Clara Valley Habitat Plan*
Water Boards	*State Water Board and Regional Water Boards, collectively*
WARM	*warm freshwater habitat beneficial use*
WILD	*wildlife habitat beneficial use*
WQ	*water quality*

1.0 Project Background

Santa Clara Valley Water District (Valley Water) is proposing the Anderson Dam Seismic Retrofit Project (ADSRP or Project) to remove and reconstruct Anderson Dam to meet public safety requirements, surrender its existing Federal Energy Regulatory Commission (FERC) license exemption for the Anderson Dam Hydroelectric Project (FERC Project No. 5737), and decommission the existing hydroelectric facilities. Anderson Dam impounds Coyote Creek, creating Anderson Reservoir in Morgan Hill, California. Anderson Dam was built in 1950 to provide additional water supply to Santa Clara County and is owned and operated by Valley Water. Anderson Dam is part of the Anderson Dam Hydroelectric Project and impounds up to 90,373 acre-feet of water from approximately 195 square miles of the Coyote Creek watershed and imported water supplies. The Project location and main features of the Project can be found in Attachment A: Project Overview Maps.

In 2011, FERC and the California Department of Water Resources' Division of Safety of Dams (DSOD) identified Anderson Dam as a high-hazard dam. Following this, Valley Water began developing the ADSRP to address FERC requirements, which include that: the dam embankment be capable of withstanding maximum credible earthquakes on the Calaveras and Coyote Creek Faults; the spillway be able to safely pass probable maximum flood event flows; and the outlets be able to facilitate emergency reservoir drawdown. The ADSRP design also needs to meet DSOD requirements that Anderson Reservoir can be drawn down from maximum storage to 90 percent within seven days and entirely within 90 days.

On February 20, 2020, FERC ordered Valley Water to expedite specific components of the ADSRP to reduce the risk of dam failure from an earthquake and a probable maximum flood event while the full ADSRP could be designed and implemented. The expedited portion of the original ADSRP is referred to as the "FERC Order Compliance Project" (FOCP) and was certified by the State Water Resources Control Board's (State Water Board's) Executive Director on November 9, 2020. The FOCP, which is expected to be completed by the end of 2026, consists of the following key elements:

- Dewatering Anderson Reservoir and maintaining the reservoir's water level at dead pool elevation to limit the amount of water that could be released in the event of dam failure;
- Constructing a new higher-capacity outlet tunnel known as the Anderson Dam Tunnel Project to provide for increased releases;
- Constructing existing intake structure modifications to address potential geotechnical impacts of dewatering on the existing outlet structure;
- Constructing Anderson Reservoir bank and rim stabilization and installing geotechnical monitoring equipment around the rim to minimize the risk of landslides while Anderson Reservoir is drawn down;
- Reopening the original alignment of Coyote Creek downstream of Anderson Dam, referred to as the North Channel, constructing a weir to split high flow into the North Channel and typical flows into the existing South Channel to reduce the potential for erosion from outflows through the existing outlet and Anderson Dam Tunnel once completed;

- Installing chillers to supplement local water with chilled water to support fisheries habitat;
- Increasing habitat complexity with large woody debris and boulders at the Live Oak Park Restoration Reach of Coyote Creek (about one mile downstream of Anderson Dam) to support steelhead spawning and rearing habitat;
- Constructing a new spur to the Cross Valley Pipeline, which brings supplemental water supply to Coyote Creek about six miles downstream of Anderson Dam, to maintain instream recharge of the aquifer and support Coyote Creek habitat;
- Replacing the flashboard dam at the Coyote Percolation Pond with an inflatable bladder dam capable of greater operational flexibility;
- Constructing flood control measures (e.g., floodwalls, levees) at six off-stream sites along Coyote Creek to reduce the risk of flooding in downstream communities during high flow events; and
- Implementing a Habitat Mitigation and Monitoring Plan.

Valley Water operates as a State of California Special District with jurisdiction throughout Santa Clara County. The Santa Clara Valley Water District Act defines the powers and purposes of Valley Water. According to the Santa Clara Valley Water District Act, Valley Water's purpose includes comprehensive water management, including protecting beneficial uses.

2.0 Project Description

The Project consists of the remaining components of the original ADSRP that were not constructed or implemented as part of the FOCP and new elements including surrender of the Anderson Dam Hydroelectric Project. Broadly, the Project consists of the following elements:

- Removal and reconstruction of Anderson Dam;
- Replacement and extension of the existing auxiliary spillway;
- Construction of new low-level outlet works with multiple inlet ports and construction of a new high-level outlet;
- Surrender of the existing FERC license exemption and decommissioning of the hydroelectric facilities;
- Construction of the Phase 2 Coyote Percolation Pond Project, which supplements the bladder dam built under the FOCP at the same site as the "Phase 1" project;
- Implementation of many best management practices (BMPs), avoidance and minimization measures (AMMs), and monitoring plans to avoid or minimize potential Project-related impacts;
- Use of chillers installed under the FOCP to aid in temperature control in the Cold Water Management Zone[1] for the benefit of fish habitat;

[1] The Cold Water Management Zone refers to a six-mile stretch of Coyote Creek originating at the outlet of Anderson Dam to Coyote Creek Golf Drive. This stretch of Coyote Creek encompasses the majority of salmonid rearing and spawning habitat in Coyote Creek.

- Implementation of the Ogier Ponds restoration project; and
- Implementation of a Habitat Mitigation Plan which may include projects under the Santa Clara Valley Habitat Plan In-Lieu Fee Program (ILFP) or permittee-responsible mitigation, or a combination of ILFP and permittee-responsible mitigation.

Project implementation is anticipated to span a minimum of seven years, commencing in January of Year 1 and extending through the winter of Year 7. Below is a high-level Project schedule that focuses on construction of the dam and related works and does not include other Project elements such as restoration actions (e.g., Ogier Ponds), which are expected to extend beyond seven years.

- Year 1: Site mobilization; lower reservoir from deadpool elevation (488 feet) to 465 feet elevation for dredging and then full dewatering of the reservoir to an elevation of 450 feet; preparation of staging areas, construction of access and haul roads, in-reservoir stockpile areas, and borrow sites; begin tunneling for the low-level outlet works; and acquisition of temporary construction easements, as needed.
- Year 2: Full dewatering of the reservoir from deadpool to an elevation of 450 feet; cofferdam and extension pipe construction; conversion of existing Stage 1 Diversion System into Stage 2 Diversion System; dam excavation to interim dam with crest elevation of 565 feet (Stage 1a Dam Excavation); installation of two dikes in Coyote Creek; and tunneling for high-level outlet works.
- Year 3: Dam excavation to interim dam with crest elevation of 556 feet (Stage 1b Dam Excavation); construction of high-level outlet works; and demolition and reconstruction of the existing spillway.
- Year 4: Dam excavation to a remnant core (Stage 2a Dam Excavation) and dam fill to interim dam with a crest elevation of 556 feet (Stage 2b Fill); and construction of the spillway.
- Year 5: Dam fill to interim dam with crest elevation of 565 feet (Stage 3a Dam Fill); construction of the spillway; construction of the low-level outlet works including the low-level outlet structure; and construction of the new intake tower and three intake ports at elevations of 490 feet, 528 feet, and 563 feet).
- Year 6: Dam fill to new dam crest elevation of 657 feet (Stage 3b Dam Fill); completion of low-level outlet works and high-level outlet works including construction of the intake tower; completion of the spillway, including the unlined chute; and refilling of the reservoir once approved by dam safety regulatory agencies.
- Year 7: Construction of permanent access roads; parking areas restoration; landscape restoration including fine grading, tree planting, revegetation; Live Oak Park elements including construction of Serpentine Bridge, interpretative trail, picnic facilities, fences, restoration of leach field, bathroom remodels; and repaving Cochrane Road.

The construction of some of these restoration activities are expected to continue beyond the seven-year timeline described above.

FAHCE Settlement Agreement

In 2003, Valley Water entered into the Fish and Aquatic Habitat Collaborative Effort (FAHCE) settlement agreement with government agencies and nongovernmental organizations to resolve a dispute over the condition of streams within Valley Water's jurisdiction, namely Coyote Creek, Guadalupe River, and Stevens Creek (also referred to as "Three Creeks"). According to the FAHCE Settlement Agreement, a suite of actions will be undertaken to restore and maintain fisheries, wildlife, water quality, and other beneficial uses of these streams. Elements of this Project are intended to satisfy portions of the FAHCE settlement agreement through implementation of restoration and enhancement activities to benefit the health of steelhead trout (*Oncorhynchus mykiss)* and Chinook salmon (*Oncorhynchus tshawytscha*) in Coyote Creek.

The FAHCE management objectives specifically provide for: (a) suitable spawning and rearing habitat within each watershed; and (b) adequate passage for adult steelhead trout and salmon to suitable spawning and rearing habitat and for out-migration of juveniles. The measures proposed to achieve these objectives include adjustments of reservoir flow releases, instream flow management, physical improvements to fish passage, and re-engineering of some channel sites to enhance salmonid habitat (i.e., stream restoration), and adaptive management of flow and non-flow measures. The FAHCE Adaptive Management Plan will be overseen by the FAHCE Adaptive Management Team in accordance with terms provided in the FAHCE Settlement Agreement.

Reconstruction and reoperation of Anderson Dam have the potential to result in significant impacts to beneficial uses associated with Coyote Creek, including to salmonids. The new design for Anderson Dam allows for substantial reductions in impacts relative to historical impacts because the new design can more flexibly discharge water from behind the dam: a major component of the FAHCE Settlement Agreement is the specification of new/updated reservoir rule curves for Valley Water's reservoirs that will provide water for the instream flow needs of anadromous salmonids. Valley Water refined the rule curves specified in the FAHCE Settlement Agreement with improved modeling software and to address current climate and hydrologic conditions in Coyote Creek watershed. The new curves are referred to as "FAHCE-plus-modified." The new rules curves will be implemented following Project completion.

Implementing the FAHCE Settlement Agreement requires changes to Valley Water's existing water rights licenses and compliance with the California Environmental Quality Act (CEQA) for those changes. For CEQA purposes, Valley Water decided to analyze Coyote Creek's FAHCE measures under the ADSRP Environmental Impact Report (EIR) (State Clearinghouse No. 2013082052; Notice of Determination: February 26, 2025), although adaptive management of Coyote Creek's flow measures and non-flow measures are also analyzed under the FAHCE EIR (State Clearinghouse No. 2015022008; Notice of Determination, August 8, 2023). While some elements authorized under this certification address and are consistent with FAHCE criteria or frameworks, changes to Valley Water's water rights to implement the FAHCE Settlement Agreement will be handled by the State Water Board under a separate proceeding that is separate and distinct from this certification. It is anticipated that the

water rights change petitions on Coyote Creek will be considered after the Project is completed.

The FAHCE Settlement Agreement also includes non-flow measures, some of which are covered by this certification and others that will require separate, future permitting by the appropriate entity, which may include the San Francisco Bay Regional Water Quality Control Board (San Francisco Regional Water Board) as described in Section 6.0, Rationale for Water Quality Certification Conditions.

2.1 Water Rights

Table A lists Project-related water right licenses and permits maintained by Valley Water.

Table A. Valley Water's Project-Related Water Rights*

License/ Permit No.	Water Right Type (Status Date)	Face Amount (acre-feet)	Sources/ Locations	Purpose of Use
L010607	Appropriative (7/23/1971)	20,180.0	Coyote Creek	Incidental Power, Domestic, Recreational, Industrial
L007212	Appropriative (3/30/1965)	71,100.0	Coyote Creek	Incidental Power, Recreational, Industrial, Irrigation, Domestic
L002210	Appropriative (7/10/1935)	5,000	Coyote Percolation Pond, Coyote Creek	Irrigation, Domestic
L007211	Appropriative (12/9/1931)	24,560	Coyote Reservoir, Coyote Creek	Irrigation, Recreational. Domestic, Industrial
P006565	Appropriative (3/20/1945)	3500	Upper Penitencia Creek, Coyote Creek	Irrigation

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

In May 2015, Valley Water submitted petitions to the State Water Board to modify water rights held by Valley Water in the Coyote Creek watershed consistent with the FAHCE Settlement Agreement and implementation of new reservoir rule curves for post-construction Anderson Dam operations.

The petitions request that Valley Water's existing water rights be amended to add Fish and Wildlife Preservation and Enhancement as a beneficial use of the diverted water and would change other aspects, such as diversion locations.

3.0 Federal Energy Regulatory Commission and United States Army Corps of Engineers Processes

Valley Water applied to FERC for surrender of its license exemption and decommissioning of the hydroelectric facilities associated with the Anderson Dam Hydroelectric Project on February 20, 2024, with supplements to the application filed on May 20, May 28, July 2, and July 3, 2024. On October 17, 2024, FERC published a Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) for retrofit and surrender of the Project. FERC indicated in the NOI that it plans to issue the final EIS for the Project by November of 2025. On May 7, 2025, FERC issued a Notice of Revised Procedural Schedule for Environmental Impact Statement for the Proposed Surrender of Exemption that updated the timeline for issuance of the final EIS to February of 2026. FERC's revised schedule indicates that FERC anticipates issuing a surrender order by May 21, 2026.

On June 27, 2024, Valley Water applied to the United States Army Corps of Engineers (USACE) for the construction activities associated with the retrofit of Anderson Dam and related conservation measures (Public Notice Number SPN-2013-00327) pursuant to section 404 of the Clean Water Act.

4.0 Regulatory Authority

4.1 Water Quality Certification and Related Authorities

The federal Clean Water Act (33 U.S.C. §§ 1251 et seq.) 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 the State to prevent, reduce, and eliminate pollution" and "plan the development and use" of water resources. (*Id*., § 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 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).)

In addition, Water Code section 13383 provides the State Water Board with the authority to "establish monitoring, inspection, entry, reporting, and recordkeeping requirements… and [require] other information as may be reasonably required" for activities subject to certification under section 401 of the Clean Water Act 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 Pursuant to Resolution No. 2012-0029* memo issued by the Deputy Director on April 20, 2023, authority was redelegated to the Assistant Deputy Directors of the Division of Water Rights (State Water Board 2023).

Procedure, Application, and Noticing

On June 28, 2024, Valley Water filed a certification application with the State Water Board under section 401 of the Clean Water Act for the Project. On July 24, 2024, 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 11, 2024, State Water Board staff forwarded Valley Water's application for certification to the Executive Officer of the San Francisco Bay Regional Water Quality Control Board (San Franscico Regional Water Board). (See Cal. Code Regs., tit. 23, § 3855, subd. (b)(2)(B).) On January 2, 2025, San Francisco Bay Regional Water Board staff provided comments on the application and those comments were considered in this draft certification. State Water board staff has worked closely with the San Francisco Bay Regional Water Board staff in development of this certification.

A draft certification was released on April 3, 2025, for public review and comment. The public comment period closed on April 30, 2025. The only comments received were from Valley Water and these comments were considered in the development of this final certification.

4.2 Water Quality Control Plans and Related Authorities

The State Water Board's certification for the Project must ensure compliance with applicable water quality standards in the San Francisco Bay Regional Water Board's *Water Quality Control Plan (Basin Plan) for the San Francisco Bay Basin* (SF Bay Basin Plan) (San Francisco Bay Regional Water Board 2024), and any amendments thereto.

Water quality control plans designate the beneficial uses of water to be protected (such as municipal and domestic supply, industry, 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 nine 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).

Periodic Review. The State Water Board has commenced the 2024 Review of State Water Quality Control Plans and State Policies for Water Quality Control (2024 Review of State Plans and Policies). State water quality control plans and policies for water quality control (State Plans and Policies) contain water quality standards and other provisions established by the State Water Board to preserve and enhance California's waters to safeguard human health, support aquatic ecosystems, improve the quality of water resources, and protect beneficial uses of waters.

Triennial reviews are conducted pursuant to the federal Clean Water Act (33 U.S.C. § 1251 et seq.) and its implementing regulations, and periodic reviews are conducted pursuant to the Porter-Cologne Water Quality Control Act (Wat. Code, § 13000 et seq.). (See 33 U.S.C. § 1313(c)(1), 40 C.F.R. § 131.20(a), Wat. Code, §§ 13143, 13170, 13170.2, subd. (b), 13240.) For the 2024 review cycle, the State Water Board will be conducting triennial review and periodic review in a single combined proceeding. In addition to reviewing State Plans and Policies, the 2024 Review of State Plans and Policies will include consideration of the federally promulgated water quality standards for California (40 C.F.R. §§ 131.36, 131.37 and 131.38) and the Clean Water Act section 304(a) recommended criteria.

The 2024 Review of State Plans and Policies will help engage the public and interested persons to identify potential changes or additions that will help to guide the State Water Board's priorities for future amendments to the State Plans and Policies, including new or revised water quality standards that are enforceable for the waterbodies for which they are established.

Comprehensive Plan. Section 10(a)(2)(A) of the Federal Power Act requires FERC to consider the extent to which a project is consistent with Federal or state comprehensive plans for improving, developing, or conserving a waterway or waterways affected by a project. In March 2019, the State Water Board submitted to FERC the plans and policies included in the state's comprehensive plan for orderly and coordinated control, protection, conservation, development, and utilization of the water resources of the state. On August 5, 2024, the State Water Board filed a comprehensive plan supplement to its March 2019 filing that included updated plans and policies for water quality protection. (State Water Board 2024a.) This submission included the SF Bay

Basin Plan and Antidegradation Policy, which are discussed below, and other applicable plans and policies for water quality control. FERC included these updates in its List of Comprehensive Plans in May 2025. (FERC 2025.)

4.3 SF Bay Basin Plan

The San Francisco Bay Regional Water Board adopted, and the State Water Board and USEPA approved, the SF Bay Basin Plan. The SF Bay Basin Plan designates the beneficial uses of water to be protected along with the water quality objectives necessary to protect those uses. The SF Bay Basin Plan specifies that the beneficial uses of any specifically identified waterbody generally apply to its tributary streams. The SF Bay Basin Plan identifies the following existing beneficial uses for waterbodies associated with the Project:

- **Anderson Reservoir and its tributaries**[2]: cold freshwater habitat (COLD); commercial and sport fishing (COMM); groundwater recharge (GWR); preservation of rare and endangered species (RARE); water contact recreation (REC1) (though water-contact recreational uses are prohibited in Anderson Reservoir due to public health restrictions imposed by Valley Water); non-contact water recreation (REC2); fish spawning habitat (SPWN); warm freshwater habitat (WARM); and wildlife habitat (WILD).

- **Coyote Creek**: COLD; COMM; GWR; fish migration (MIGR); municipal and domestic water supply (MUN); RARE; REC1; REC2; SPWN; WARM; and WILD.

- **Coyote Slough (tidal water) and South San Francisco Bay**: estuarine habitat (EST); RARE; shellfish habitat (SHELL); SPWN; and WILD.

4.4 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

[2] The SF Bay Basin Plan states: "The beneficial uses of any specifically identified waterbody generally apply to all its tributaries."

[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/rs68_016.pdf. Accessed on February 13, 2025.

the level of water quality necessary to protect the existing uses shall be maintained and protected."

4.5 Clean Water Act Section 303(d) Listing

On February 6, 2024, the State Water Board adopted the *2024 California Integrated Report (Clean Water Act Section 303(d) List/305(b) Report)* (State Water Board 2024b) and it was partially approved by USEPA on December 13, 2024. Anderson Reservoir is listed in the 2024 California Integrated Report as impaired for mercury and polychlorinated biphenyls. Coyote Creek is listed as impaired for bifenthrin, cypermethrin, diazinon, mercury, dissolved oxygen, pyrethroids, toxicity, and trash.

Section 303(d) of the Clean Water Act requires total maximum daily loads (TMDLs) to be developed for impaired waterbodies. TMDLs are written plans that define the maximum amount of a pollutant that a waterbody can receive without exceeding water quality standards and establish load allocations for point and nonpoint sources of pollution. Bifenthrin, cypermethrin, diazinon, mercury, pyrethroids, and toxicity in Coyote Creek are being addressed by TMDLs. Trash is being addressed with actions other than a TMDL and dissolved oxygen has been added on the TMDL-required list.

4.6 Construction General Permit

Valley Water will need to obtain coverage under the *General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities* (Construction General Permit)[4] (State Water Board 2022a). The Construction General Permit is required for activities that disturb one or more acres of soil or activities 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.

4.7 Stormwater Permits

Valley Water will need to comply with permits regulating post-construction stormwater runoff from impervious surfaces. The applicable permits are *San Francisco Bay Region Municipal Regional Stormwater NPDES [National Pollutant Discharge Elimination System] Permit* (Order No. R2-2022-0018, as amended by Order No. R2-2023-0019)

[4] Water Quality Order No. 2022-0057-DWQ and NPDES No. CAS000002, supersedes Orders No. 2009-0009-DWQ, 2010-0014-DWQ, and 2012-0006-DWQ, and any amendments thereto except for: (1) the requirement to submit annual reports by September 1, 2023, (2) enforcement purposes, and (3) as set forth in Section III.C of Order No. 2022-0057-DWQ.Available online at: https://www.waterboards.ca.gov/water_issues/programs/stormwater/construction.html (Accessed: February 13, 2025).

(SF Municipal Regional Permit),[5] including Provision C.3 thereof; and the *Statewide General Permit for Waste Discharge Requirements for Stormwater Discharges for Small Municipal Separate Storm Sewer Systems* (Order Water Quality (WQ) 2013-0001-DWQ, NPDES NO. CAS000004, as amended by Order WQ 2015-0133-EXEC, Order WQ 2016-0069-EXEC, Order WQ 2017- 0031-DWQ, Order WQ 2018-0001-EXEC, Order WQ 2018-0007-EXEC, and Order WQ 2019-0009-EXEC), (Phase II Small MS4 Permit),[6] including Provision E.12 thereof.

The SF Municipal Regional Permit is applicable to the Project's new or redeveloped impervious surfaces within the City of San Jose and other areas in County of Santa Clara, and the Phase II Small MS4 Permit is applicable to areas within the City of Morgan Hill.

"Post-construction stormwater control" encompasses low-impact development (LID) site design, source control, and treatment measures as well as hydromodification management measures. SF Municipal Regional Permit Provision C.3 is applicable to projects with 5,000 square feet or more[7] of new, redeveloped, or reconstructed impervious surfaces such as roads, parking lots, buildings, and other structures that result in disconnecting stormwater runoff from infiltration in the landscape before it discharges to a stormwater collection system or surface water of the state, or that cause or contribute to erosive flows in the drainage receiving waters. SF Municipal Regional Permit Provision C.3 requires a permittee to incorporate permanent features in a project to reduce stormwater pollutants and/or erosive flows during the life of a project. Phase II Small MS4 Permit Provision E.12 has similar requirements, though there are nuances to each permit that will be applicable to the Project depending on the geographic location of new or redeveloped impervious surfaces.

Guidance for how to comply with SF Municipal Regional Permit Provision C.3 is provided in the Santa Clara Valley Urban Runoff Pollution Prevention Program's (SCVURPPP) C.3 Stormwater Handbook (SCVURPPP, 2024). SCVURPPP is an association comprised of Valley Water, 13 cities and towns in Santa Clara County, and the County of Santa Clara. As a member of SCVURPPP, Valley Water helped develop the SCVURPPP's C.3 Stormwater Handbook and is familiar with SF Municipal Regional Permit Provision C.3 requirements. Guidance for how to comply with Phase II Small MS4 Provision E.12 is provided through resources available at the State Water Board's

[5] The SF Municipal Regional Permit is available at: https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/stormwater/ (Accessed: May 23, 2025).

[6] The Phase II Small MS4 Permit is available at: https://www.waterboards.ca.gov/water_issues/programs/stormwater/phase_ii_municipal.html. (Accessed: May 23, 2025.)

[7] Per Valley Water's certification application, the Project will create new or reconstruct existing impervious surfaces (about 19 acres), including, but not limited to, widening Coyote Road, reconstructing Cochrane Road and Anderson Park parking lot, and constructing bathroom facilities at Anderson Reservoir.

website (see footnote 6). These include the Phase II LID Sizing Tool[8], and the Small Project Site Design Measure Post-Construction Calculator.[9]

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

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) 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, consistent with the Water Code, sections 16200-16201. Valley Water must comply with the Dredge or Fill Procedures when conducting dredge or fill activities that may impact waters of the state, including wetlands.

4.9 Aquatic Weed Control General Permit

The *Statewide National Pollutant Discharge Elimination System Permit for Residual Aquatic Pesticide Discharges to Waters of the United States from Algae and Aquatic Weed Control Applications* (Aquatic Weed Control General Permit)[11] applies to projects that require aquatic weed management activities. The Aquatic Weed Control General Permit sets forth detailed management practices to protect water quality from pesticide and herbicide use associated with aquatic weed control.

5.0 California Environmental Quality Act

CEQA applies to discretionary projects that may cause a direct or indirect physical change in the environment. (Pub. Resources Code, §§ 21000 et seq.) When proposing to undertake or approve a discretionary project, state agencies must comply with the procedural and substantive requirements of CEQA. Valley Water is the lead agency for

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[8] The *Phase II LID Sizing Tool* is available online at: https://www.waterboards.ca.gov/water_issues/programs/stormwater/phase_ii_municipal.html. (Accessed May 28, 2025.)

[9] *The Small Project Site Design Measure Post-Construction Control Calculator* is available online at: https://www.waterboards.ca.gov/water_issues/programs/stormwater/phase_ii_municipal.html. (Accessed May 28, 2025.)

[10] The Dredge or Fill Procedures and any amendments thereto. Available online at: https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/2021/procedures.pdf. (Accessed: February 13, 2025.)

[11] Water Quality Order No. 2013-0002-DWQ and NPDES No. CAG990005, as amended by Order No. 2014-0078-DWQ, Order No. 2015-0029-DWQ, Order No. 2016-0073-EXEC, and any amendments thereto. Available online at: https://www.waterboards.ca.gov/water_issues/programs/npdes/pesticides/weed_control.html. (Accessed: February 13, 2025.)

the purposes of CEQA compliance. (Pub. Resources Code, §§ 21000 – 21177.) The State Water Board is a responsible agency under CEQA. (Id., § 15381.)

On September 1, 2023, Valley Water issued a draft EIR for the Project for public and agency review. State Water Board staff provided comments on November 8, 2023. On August 5, 2024, Valley Water issued a partially recirculated draft EIR for the Project; State Water Board staff did not provide comments on the partially recirculated draft EIR. On February 25, 2025, Valley Water certified the final EIR for the Project.

CEQA requires the lead agency to adopt a Mitigation Monitoring and Reporting Program (MMRP) for projects where mitigation measures are a condition of project approval. (Cal. Code Regs., tit. 14, § 15091, subd. (d).) Valley Water included an MMRP in its final EIR. (Attachment B: Mitigation Monitoring and Reporting Program.) Water quality protection measures and associated mitigation, monitoring, and reporting requirements are incorporated into the conditions of this certification in accordance with California Code of Regulations, title 23, section 3859, subdivision (a). Table B below identifies resource areas in the State Water Board's purview for which the final EIR identified mitigation measures for potential impacts, and associated certification conditions with water quality protection, monitoring, or reporting requirements. While these mitigation measures were developed pursuant to CEQA, additional provisions are required by this certification to ensure compliance with SF Bay Basin Plan water quality objectives and other appropriate requirements of state law.

Table B. EIR Mitigation Measures and Corresponding Certification Conditions

Mitigation Measure	Applicable Certification Condition(s)
Terrestrial (TERR)-1a(2) Implementation of Avoidance and Minimization Measures during Post-Construction Maintenance at Anderson Dam Facilities and Conservation Measures to Reduce the Potential for Introduction or Spread of *Phytophthora*	Condition 5 (Aquatic and Biological Resources)
TERR-1a(3) Special-Status Plant Survey in the Previously Unsurveyed Portions of the Seismic Retrofit Area	Condition 5 (Aquatic and Biological Resources)
TERR-1c(1) Special-Status Species Avoidance and Minimization Measures During Year 6 Reservoir Dewatering	Condition 5 (Aquatic and Biological Resources)
TERR-1c(2) Nonnative Species Management in Upper Penitencia Creek Watershed	Condition 5 (Aquatic and Biological Resources)
TERR-1e Bald Eagle and Golden Eagle	Condition 5 (Aquatic and Biological Resources)

Mitigation Measure	Applicable Certification Condition(s)
TERR-1j: Contribution to Baylands Predator Management and High Tide Refugia Enhancement for San Francisco Bay special-status species	Condition 5 (Aquatic and Biological Resources)
Geology (GEO)-1 Repair Landslides Caused by Construction Activities	Condition 3 (Construction and Post-Construction Related Measures)
Hazardous Materials (HAZ)-7 Soil Testing and Proper Disposal of Potentially Contaminated Soils	Condition 3 (Construction and Post-Construction Related Measures)
Water Quality (WQ)-1. Develop and Implement an In-Reservoir Construction Area Water Quality Monitoring and Protection Plan	Condition 3 (Construction and Post-Construction Related Measures)
Groundwater (GW)-2 Perchlorate Best Management Practices	Condition 3 (Construction and Post-Construction Related Measures)

6.0 Rationale for Water Quality Certification Conditions

This section of the certification explains that the grant of certification, as conditioned, is warranted and why the conditions in Section 8.0 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 4.0 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 8.0.

As explained in this section, the conditions in this certification are generally required pursuant to the SF Bay Basin Plan, as described in Section 4.3, SF Bay Basin Plan.

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-related beneficial uses.

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 8.0 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:

- Valley Water's June 28, 2024, certification application (Valley Water 2024a) including its appendices (Appendix A-K);
- Supplemental information submitted to Water Boards staff by Valley Water via emails on December 11, 2024 (Valley Water 2024b), February 6, 2025 (Valley Water 2025b), February 12, 2025 (Valley Water 2025c), February 27, 2025 (Valley Water 2025d), and March 11, 2025 (Valley Water 2025e);
- Valley Water's August 8, 2023, *Fisheries and Aquatic Habitat Collaborative Effort* (Valley Water 2003);
- Valley Water's Final Environmental Impact Report (Valley Water 2025a);
- Beneficial uses, water quality objectives, and implementation measures and programs described in the SF Bay Basin Plan (San Francisco Bay Regional Water Board 2024);
- H.T. Harvey & Associates' April 22, 2025, Memorandum*: Summary of Project Changes for Regulatory Permitting* (H.T. Harvey & Associates 2025);
- Applicable water quality information, permits, policies, objectives, implementation measures, and programs;
- FOCP reports, including water quality reports, suspended sediment monitoring reports, spawning habitat reports, invasive species reports, and fish and amphibian reports;
- Applicable water quality information, permits, policies, objectives, implementation measures, and programs (e.g., Construction General Permit, Clean Water Act Section 303(d) List/305(b) Report, Dredge or Fill Procedures, etc.);
- United States Fish and Wildlife Service's (USFWS) *Final Formal Consultation on the Anderson Dam Seismic Retrofit Project* issued on March 21, 2025 (USFWS 2025);
- Project-related controllable factors (e.g., stormwater capture, controllable flow releases); and

- Other information in the record.

This certification is issued pursuant to the final 2023 Clean Water Act Section 401 Water Quality Certification Rule (Fed. Reg. 66558-66666 (September 27, 2023) [amending 40 C.F.R. Parts 121, 122, 124]) that went into effect on November 27, 2023 (2023 Rule), but also complies with the previous USEPA Clean Water Act Section 401 Certification Rule, 85 Fed. Reg. 42,210 (July 13, 2020) (2020 Rule) that was in effect for portions of 2020-2023 should it reemerge as a result of litigation or any other reason. To the extent FERC or USACE considers any certification condition to include requirements outside the substantive scope of the 2020 Rule, the 2020 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. The 2023 Rule restores the scope of certification "that is consistent with not only the statutory language and congressional intent but also longstanding [USEPA] guidance and decades of Supreme Court case law." (Fed. Reg. 65591-66606 [Scope of Certification].) 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 replaced the 2020 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).) 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.

This certification is being issued as part of a USACE permit and FERC license surrender order. The USACE 404 permit will authorize construction of the Project, which is intended to result in Anderson Dam meeting safety and engineering requirements identified by FERC and DSOD, as well as implementation of conservation and mitigation measures. Following Project completion, the San Francisco Bay Regional Water Board may consider adoption of waste discharge requirements or other authorizations (e.g., waivers of waste discharge requirements, coverage under general permits, or water quality certifications) associated with ongoing operations, maintenance, mitigation, and monitoring of Anderson Dam and related facilities. The waste discharge requirements may address, but are not necessarily limited to: maintenance of Project facilities; the Ogier Ponds restoration; Sediment Augmentation Plan implementation; Habitat Mitigation Plan implementation; and Coyote Creek FAHCE implementation.

6.1 Rationale for Condition 1: Project Activities and Interim Operations

As described in Section 4.0, this certification is granted based on the application and supporting information submitted, in accordance with the State Water Board's regulations and is subject to requirements of the Clean Water Act and the Porter-Cologne Water Quality Control Act. Condition 1 requires Valley Water to implement the Project as described in its June 28, 2024, certification application, supplemental information submitted in advance of this certification's issuance, and as modified by conditions of this certification. Condition 1 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 provided to the State Water Board following the certification's issuance could impact the findings, conclusions, and conditions of the certification and may necessitate the filing of a new certification application as well as trigger additional environmental review.

Interim Flows
Minimum instream flows can support beneficial uses by helping to maintain water quality, providing for improved ecosystem function, and providing habitat for fish and wildlife. SF Bay Basin Plan beneficial uses that rely on minimum instream flows for protection include, but are not limited to: COLD; GWR; MIGR; MUN; RARE; REC1; REC2; SPWN; WARM; and WILD. 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. Ensuring instream flows do not greatly differ from naturally unimpaired instream flows provides protection of biodiversity, recreation, and water quality. Interim minimum instream flows that protect beneficial uses must be maintained by Valley Water throughout Project implementation.

Since Anderson Reservoir will be kept at deadpool or lower for the duration of the Project, releases from the reservoir will largely not be available during the dry season, and wet season flows will be based on natural precipitation events. Throughout Project implementation flow is expected to be at least 10 cubic feet per second (cfs) at Valley Water's streamflow station 5082 (Coyote Creek at Madrone), which is located approximately 1.2 miles downstream of Anderson Dam. Flow increase may occur from precipitation events or due to increased releases of imported water. Under existing conditions, percolation and evaporation can reduce winter flows from Anderson Dam to around 7-10 cfs at gauge SF07 (less than one mile upstream of the Coyote Percolation Pond and approximately 9 miles downstream of Anderson Dam). There is accretion downstream of the percolation pond and flows increase due to groundwater emergence and inflow from Lower Silver Creek and Upper Penitencia Creek.

Condition 1 requires Valley Water to maintain a minimum instream flow of 10 cfs at gauge 5082, as evaluated in the Project's EIR, and develop and implement a plan for maintaining adequate flows in Coyote Creek downstream of Anderson Dam throughout Project implementation to ensure protection of beneficial uses and water quality. This condition requires Valley Water to identify how Valley Water will ensure minimum and adequate flows throughout Project implementation, with consideration of major flow-

related components of the Project, including decommissioning of the Anderson Dam Hydroelectric Project, Coyote Reservoir, Anderson Dam Tunnel, the North and South Channel weirs, Coyote Discharge Line, Cross Valley Pipeline Extension, and Coyote Percolation Pond.

Additionally, Condition 1 requires Valley Water to consult with water and biological resources agencies and specifies the agencies that Valley Water must include in a Technical Working Group (see Section 6.1.3). The Technical Working Group is necessary to ensure that the plans required by this certification are developed to be protective of beneficial uses in consultation with agencies' experts.

Decommissioning of the Anderson Dam Hydroelectric Project
As part of the Project, Valley Water is proposing to decommission the existing hydroelectric facilities and surrender its FERC license exemption for the Anderson Dam Hydroelectric Project. Condition 1 requires Valley Water to develop and implement a plan for decommissioning the hydroelectric facilities. Decommissioning includes staging of equipment, disassembly and removal of mechanical and electrical equipment, and disposal of these items and associated hazardous materials and wastes (e.g., oils, grease) associated with the hydroelectric facilities. Additionally, decommissioned facilities that remain following the Project will require inspections and minimal maintenance and repair to ensure building materials do not pose a future risk to water quality and beneficial uses.

Beneficial uses for Anderson Reservoir and Coyote Creek that may be impacted by the decommissioning of the hydroelectric facilities include: COLD; MIGR; MUN; RARE; SPWN; WARM; and WILD.

Interim Adaptive Management
Adaptive management is critical to ensure protection of water quality throughout this multi-year project, which could impact water quality. Condition 1 requires Valley Water to develop an Interim Adaptive Management Plan (IAMP) that will cover the time period associated with implementation of the Project. The IAMP is intended to: (1) evaluate Project conditions during construction and interim operations of Project components such as the Coyote Percolation Pond which is expected to be completed by year three of the Project; (2) develop "adaptive management alternatives" that could improve operation, maintenance, and related activities conducted during the term of the Project; (3) provide detail sufficient to implement adaptive management measures, if needed; and (4) provide for monitoring and reporting sufficient to assess Project implementation and inform any additional adaptive management that may be needed during the term of this Project. Condition 1 requires Valley Water to propose and implement approved adaptive management actions, based on monitoring results and other information, and allows Valley Water to request Deputy Director approval to alter the methodologies or frequencies of monitoring. This condition also requires Valley Water to assemble and facilitate a Technical Working Group that will help evaluate and advise on monitoring and adaptive management actions with a primary purpose of assessing and ensuring progress toward achieving the goals and objectives of the IAMP.

As part of the IAMP, Valley Water will be required to evaluate water supply and other beneficial uses that may be impacted by the operation of the Coyote Percolation Pond and provide a description of how the Coyote Percolation Pond facilities will be managed to minimize impacts to steelhead and protect beneficial uses. Condition 1 requires Valley Water to submit a plan to evaluate the effects of Project-related facilities that are operated during the term of the Project (i.e., from the time of Project initiation through the term of the FERC exemption surrender order and completion of the action outlined in the USACE permit). For example, the Coyote Percolation Pond Project will be operational as early as Year 3 of the Project because construction is planned to be completed by Year 2. Therefore, operation and adaptive management of the Coyote Percolation Pond facilities will be necessary during the interim period before Project completion. The Project application states that during the term of the Project, the bladder dam would be lowered based on flow conditions (i.e., when flows are 250 cfs or greater). The impacts of the percolation pond may be temporally reduced by using ecological considerations as part of the basis for operation of the bladder dam (e.g., peak steelhead outmigration from February 1 – April 30). The IAMP requires an evaluation of water supply and other beneficial uses during different hydrologic conditions (e.g., wet and dry years) and a proposal to adaptively operate the bladder dam to minimize impacts to steelhead. This evaluation will be used to inform interim and post-Project operations to better support steelhead with consideration of associated water supply impacts.

6.2 Rationale for Condition 2: Water Quality Monitoring

Removal and reconstruction of Anderson Dam have the potential to impact water quality in Coyote Creek and Anderson Reservoir. Project activities that may impact water quality, specifically turbidity, dissolved oxygen, temperature, pH, settleable material, and suspended material, include, but are not limited to: (1) teardown and rebuild of Anderson Dam; (2) dewatering and diversions in Coyote Creek; (3) construction activities at the Coyote Percolation Pond Bladder Dam; and (4) construction activities at the Ogier Ponds restoration site.

To prevent exceedances of SF Bay Basin Plan's water quality objectives and impacts to beneficial uses, Condition 2 requires Valley Water to comply with applicable water quality objectives of the SF Bay Basin Plan and develop and implement a plan that includes: (1) water quality monitoring protocols; (2) a quality assurance/quality control project plan; and (3) schedule for reporting water quality data and any exceedances.

Water quality monitoring during Project implementation will inform corrective actions in response to Project activities, if necessary. Condition 2 requires the development and implementation of a Water Quality Monitoring Plan to identify and minimize any Project-related impacts to water quality.

Development and implementation of the Water Quality Monitoring Plan as required by this condition ensures beneficial uses are protected and activities comply with SF Bay Basin Plan's water quality objectives, and other appropriate requirements of state law. Monitoring requirements of Condition 2 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.

Beneficial uses of Anderson Reservoir and Coyote Creek below Anderson Dam that would be impacted by elevated turbidity, reduced dissolved oxygen, elevated temperatures, and pH swings include, but are not limited to: COLD; MIGR; MUN; RARE; REC 1; REC 2; SPWN; WARM; and WILD.

6.3 Rationale for Condition 3: Construction- and Post Construction-Related Measures

Condition 3 is required pursuant to Water Code section 13264, which prohibits any discharge that is not specifically authorized in this certification.

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. The Project involves deconstruction and replacement of the earthen Anderson Dam as well as other activities that will involve excavation of soils and stockpiling more than six million cubic yards of material in nine different stockpiles, including certain designated areas within Anderson Reservoir. Project activities that have the potential to cause erosion and increased turbidity in Coyote Creek include: retrofit of the dam, construction of a new auxiliary spillway, drawdown/dewatering of Anderson Reservoir and portions of Coyote Creek, construction of the Ogier Ponds mitigation project, construction of Phase 2 work at the Coyote Percolation Pond, installation and use of access roads and bridges, and the construction and use of the new outlet works. Condition 3 requires the development and implementation of a Water Quality Protection Plan (WQPP) including BMPs, AMMs, and dewatering protocols and protection measures that will be implemented to protect water quality and beneficial uses. The WQPP also requires Valley Water to implement mitigation measures identified in the final EIR for the Project pertaining to water quality, erosion control, sediment management, and pollutant control.

Increases in erosion and sedimentation can cause exceedances of water quality objectives (e.g., turbidity) and adversely impact beneficial uses. Beneficial uses of Coyote Creek and Anderson Reservoir that may be impacted by Project-related erosion and sedimentation include: COLD; GWR; MIGR; RARE; SPWN; WARM; and WILD.

Construction General Permit and Stormwater Permits
Protection of water quality and beneficial uses identified in the SF Bay Basin Plan requires compliance with effluent limitations and other limitations on pollutant discharges from point and non-point sources to Coyote Creek and Anderson Reservoir. The Project includes deconstruction and replacement of Anderson Dam and associated facilities and other activities that require construction or maintenance. The Project also includes Erosion from Project-related construction and maintenance activities has the potential to result in discharges that violate water quality standards. Condition 3 requires Valley Water to comply with the Construction General Permit and other measures to protect water quality associated with Project activities with the potential to cause erosion or result in sediment discharges.

Condition 3 also requires Valley Water to comply with the terms of the permits regulating management of stormwater runoff from new or redeveloped impervious surfaces. SF Municipal Regional Permit, Provision C.3 and Phase II Small MS4, Provision E.12, are applicable to elements of the Project that will create new or reconstruct existing impervious surfaces, such as roads (including gravel roads that lack a subsurface drainage system), parking lots, and buildings. Impervious surfaces are known to impact waters of the State by increasing erosion and sedimentation through hydromodification (i.e., changes in runoff volume and duration) and by collecting and concentrating pollutants in runoff. Stormwater discharges from urban and developing areas are significant sources of certain pollutants that may cause or contribute to water quality impairment. Further, as delineated in the Clean Water Act section 303(d) list, there is a reasonable potential that municipal stormwater discharges may cause or contribute to an excursion above water quality standards in San Francisco Bay segments for the following pollutants: mercury, polychlorinated biphenyls, furans, dieldrin, chlordane, dichlorodiphenyltrichloroethane, trash, and selenium.

To ensure the Project design will comply with Provision C.3 of the SF Municipal Regional Permit, Valley Water will need to submit a post-construction stormwater management plan for review and approval prior to constructing any impervious surfaces. An approved post-construction stormwater management plan is necessary prior to construction of impervious surfaces to ensure the design of low-impact development and landscape-based stormwater treatment measures incorporates site design and engineering considerations such as drainage patterns. Such considerations should be addressed in early stages of a site design process and developed iteratively as the design evolves to avoid the need to retrofit the site following construction.

6.4 Rationale for Condition 4: Hazardous Materials Management

Preventing the release of hazardous materials into the environment and waterways is crucial for the protection of water quality and associated beneficial uses. Condition 4 is required pursuant to Water Code section 13264, which prohibits any discharge that is not specifically authorized in this certification.

The Project involves use of heavy equipment that will require refuel, service, and storage. Appropriate site management requires implementation of best management practices 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 toxicity and floating material water quality objectives.[12] Hazardous materials could also include hazardous materials associated with structures to be removed and hazardous materials in facilities that will

[12] The SF Bay Basin Plan includes narrative water quality objectives for oil, grease, and other hazardous materials: “Waters shall not contain oils, greases, waxes, or other materials in concentrations that cause nuisance, result in a visible film or coating on the surface of the water or on objects in the water, or that otherwise adversely affect beneficial uses.” (San Francisco Bay Regional Water Board, 2024.)

be removed during Project implementation. Secondary containment around hazardous materials storage sites helps ensure that any leaks or spills of hazardous materials do not result in a discharge to waters.

Condition 4 requires Valley Water to develop and implement a Hazardous Materials Plan to ensure implementation of appropriate measures and protocols for the storage, use, and disposal of Project-related hazardous materials in a manner that avoids direct or indirect release to waters. Such measures include requiring Valley Water to ensure appropriate equipment and supplies are available and used to respond to spills and take appropriate corrective actions, including contacting appropriate agencies in the event of a spill. The condition also requires the plan to include measures to ensure proper disposal of hazardous materials associated with the Project (e.g., oil storage tanks, mechanical fluids, batteries, etc.). Condition 4 requires implementation of hazardous materials management measures to prevent hazardous material spills into waters, including containment criteria pursuant to California Code of Regulations, title 27, section 20320.

Beneficial uses for Anderson Reservoir and Coyote Creek that may be impacted by Project-related releases of hazardous materials include: COLD; MIGR; MUN; RARE; SPWN; WARM; and WILD.

6.5 Rationale for Condition 5: Aquatic and Biological Resources

Project activities have the potential to adversely affect the biological, chemical, and physical conditions of waters, including Anderson Reservoir and Coyote Creek extending from Anderson Dam to the Coyote Percolation Pond facility, approximately 10.5 miles downstream of Anderson Dam. The Project area is habitat for numerous native aquatic and wildlife species, including those listed as threatened or endangered pursuant to federal Endangered Species Act (ESA) or California ESA, as well as species of special concern. These species include, but are not limited to:

- Steelhead (*Oncorhynchus mykiss*) Central California Coast Distinct Population Segment and its designated critical habitat – threatened under federal ESA;
- Chinook salmon (*Oncorhynchus tshawytscha*), Central Valley fall-run and essential fish habitat – federal species of concern and California species of special concern;
- Pacific lamprey (*Entosphenus tridentatus)* – California species of special concern;
- California red-legged frog (*Rana draytonii*) and its designated critical habitat – threatened under federal ESA and California species of special concern;
- California tiger salamander (*Ambystoma californiense),* Central Distinct Population Segment – threatened under federal and California ESAs;
- Foothill yellow-legged frog, Central California Coast Distinct Population Segment (*Rana boylii*) – threatened under federal and California ESAs;
- Northwestern pond turtle (*Actinemys marmorata*) – proposed threatened under federal ESA and California species of special concern;
- Bald eagle (*Haliaeetus leucocephalus)* – endangered under California ESA and State fully protected; and

- Numerous other species including insects such as Crotch's bumblebee (*Bombus crotchii)* (candidate for listing pursuant to California ESA) and Monarch butterfly (*Danaus plexippus)* (proposed as threatened under federal ESA).

Condition 5 requires Valley Water to implement studies, surveys, and monitoring for fish, reptiles, and other wildlife throughout the life of the Project; if necessary, Valley Water will need to rescue and relocate fish, reptiles, or other wildlife. Additionally, Condition 5 requires implementation of several mitigation measures identified in Valley Water's Final EIR for the Project to avoid impacts to aquatic and riparian species, as noted in Table B of this certification. Implementation of these mitigation measures will minimize release of construction-related pollutants and associated impacts to water quality and beneficial uses of Coyote Creek downstream of Anderson Dam. To mitigate for impacts related to Project implementation, including habitat measures, Valley Water will implement BMPs and monitoring plans to avoid and minimize adverse effects and assess site conditions. These include standard BMPs like good housekeeping, spill prevention measures, and working during designated work windows to prevent species-specific impacts to steelhead or other biota, as described in Appendix J of the Project application. The areas disturbed by construction activities will be restored to pre-Project or improved conditions with vegetation or other surface stabilization measures.

Condition 5 will help avoid impacts to water quality and beneficial uses of Anderson Reservoir and Coyote Creek, including: COLD; RARE; SPWN; and WARM. Water quality-related impacts could affect aquatic biota and wildlife in the riparian corridor in a variety of ways including, but not limited to:

- Fish stranding;
- Loss of foraging, dispersal, nesting, and refugial habitat for wildlife;
- Impaired habitat and fish or egg mortality from high suspended sediment or siltation;
- Loss of wetlands or riparian habitat resulting from construction-related disturbance to the creek bed and banks, permanent excavation and fill discharges and hardened creek banks; and
- Ongoing loss of or impaired habitat, and impacts to associated functions and values, from the new dam, which will continue to restrict natural geomorphic functions and processes, including creek flow and sediment transport.

Dredge, excavation, or fill impacts associated with the Project are estimated as follows: 12.5 million cubic yards of soil, rock, and other materials in Anderson Reservoir (about 1,243 acres); 930,000 cubic yards of soil, rock, and other materials in the Ogier Ponds and other waters of the state (including 17.23 acres of reservoir at the Ogier Ponds); perennial stream (4.28 acres; 4,335 linear feet (LF)); intermittent stream (1.070 acres; 743 LF); seasonal wetland (0.05 acres); freshwater marsh (4.17 acres); pond (2.32 acres); and combined mixed riparian woodland and forest and willow riparian forest and scrub (21.5 acres; 6,958 LF). Condition 5 requires that Valley Water comply with the

Dredge or Fill Procedures[13], including development and implementation of a plan to address impacts to wetlands and other waters. To partially compensate for the loss and degradation of jurisdictional waters of the state, Valley Water will be required to implement actions and plans (some referred to as a "conservation measure" in the Project application), including:

- Gravel augmentation and habitat complexity improvements, which include Live Oak Park Restoration Reach maintenance of spawning gravel and large woody material (installed under the FOCP), and integration of a future Sediment Augmentation Program consisting of additional gravel augmentation at multiple sites in Live Oak Park Restoration Reach and Ogier Ponds during the Project;
- Restoration of Coyote Creek at Ogier Ponds;
- Phase 2 Coyote Percolation Pond dam replacement (discussed further below);
- A Habitat Mitigation Plan[14] for additional restoration and enhancement projects that will be implemented at additional locations along the Coyote Creek riparian corridor (including within and above Anderson Reservoir) through an in-lieu fee program and Valley Water-implemented (permittee-responsible) mitigation.

Implementation of these habitat measures has the potential to create additional impacts. Condition 5 requires Valley Water to submit detailed plans for each conservation measure and restoration and enhancement actions, as well as identify and implement additional compensatory mitigation if needed.

Habitat Mitigation Plan and In-Lieu Fee Program. The scope of the mitigation projects that will be included in the Habitat Mitigation Plan is unknown and will be developed in the coming year. Valley Water has proposed that the Habitat Mitigation Plan provide details for implementing beneficial projects through an in-lieu fee program. Condition 5

[13] Condition 5 and compliance with the Dredge or Fill Procedures 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 to waters of the state 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].)

[14] Valley Water intends to submit, and this certification requires Valley Water to submit, a Habitat Mitigation Plan by February 2026. The Habitat Mitigation Plan will provide details of the mitigation location(s); target habitats and acreages; buffers around mitigation habitats; any reasonably foreseeable impacts to the compensatory mitigation associated with climate change (and any measures necessary to avoid or minimize those potential impacts); construction and revegetation methods; ecological performance standards; monitoring methods, timing, and duration; and long-term protection and management. As proposed in the application, the Habitat Mitigation Plan proposed mitigation via an in-lieu fee program.

allows for Valley Water to provide compensatory mitigation through the Santa Clara Valley Habitat Plan (VHP) In-Lieu Fee Program (ILFP), dated April 2023, which was adopted by San Francisco Bay Regional Water Board on June 21, 2023 (Santa Clara Valley Habitat Agency, 2023), as described in the Project application. Use of the VHP ILFP would allow Valley Water to pay fees to the Santa Clara Valley Habitat Agency (Habitat Agency) and the Habitat Agency would construct beneficial projects with those fees. Condition 5 requires Valley Water to also include permittee-responsible projects (i.e., projects that Valley Water will implement) in the Habitat Mitigation Plan. This is because, in general, compensatory mitigation performed by the permittee often provides for mitigation nearer to the impact site and may be more practicable provided it can be implemented with equivalent or better environmental mitigation results than an in-lieu fee program. Additionally, the Habitat Agency has not yet started constructing projects that would generate credits for impacts to waters of the United States or impacts to fish such as steelhead, and the timing for when credits would be available as mitigation for such impacts is uncertain. Valley Water's identification of permittee-responsible compensatory mitigation that can be implemented in Coyote Creek in the Habitat Mitigation Plan will help ensure Valley Water is able to provide appropriate and timely mitigation and avoid constraints and uncertainty associated with the availability of credits through the VHP ILFP.

Condition 5 requires that the Habitat Mitigation Plan be reviewed and updated annually throughout Project implementation to address new information and assess the need for additional compensatory mitigation through the VHP ILFP or Valley Water implemented (permittee-responsible) projects. There is uncertainty about the final design, performance, or effects of some of the conservation measure projects. The annual updates to the Habitat Mitigation Plan provide a means for addressing additional discharges of dredge or fill material (e.g., need for site modification) or for addressing unanticipated impacts throughout Project implementation, if needed.

Coyote Percolation Pond Facilities. The Project includes implementation of the Phase 2 Coyote Percolation Pond Project[15], which is intended to address fish passage problems with the bladder dam constructed during the FOCP. The Coyote Percolation Pond is an artificial instream impoundment formed by a bladder dam that adversely impacts COLD, MIGR, and RARE beneficial uses. The pond causes slow-moving, deep water, which dampens salmonid migration cues, seasonally can act as a thermal salmonid migration barrier, and creates preferred habitat for non-native fish that can prey on juvenile salmonids passing through the pond. The final design for the fish lane component of the Phase 2 Coyote Percolation Pond Project is not yet complete. Condition 5 requires Valley Water to prepare and implement a Phase 2 Coyote Percolation Pond Project Plan to ensure protection of fish in the Coyote Percolation Pond that includes interim operations for the Coyote Percolation Pond once Phase 2 is completed through the end of the Project.

[15] Valley Water refers to this activity as the *Phase 2 Coyote Percolation Dam Fish Passage Enhancements*.

6.6 Rationale for Condition 6: Reporting

Condition 6 requires Valley Water to notify State Water Board and San Francisco Bay Regional Water Board staff prior to implementing Project activities, to submit Progress Reports every 12 months until Project completion, and to submit a Completion Report to document compliance with the certification requirements. The Progress Reports and Completion Report will inform the Deputy Director of compliance with water quality objectives and protection of beneficial uses during Project implementation.

Reporting requirements of Condition 6 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. The reporting requirements of Condition 6 are necessary to ensure the Project does not impact water quality and associated beneficial uses

6.7 Rationale for Condition 7: Site Specific Water Quality Monitoring and Protection Plans

The Project includes deconstruction and removal of existing facilities and other activities that require construction or maintenance. Erosion from Project-related construction and maintenance activities has the potential to result in discharges that violate water quality standards. Valley Water may need to conduct construction or maintenance activities that require ground disturbances throughout Project implementation and that are not specifically covered by other conditions of this certification. Erosion and sedimentation from Project-related activities 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. Condition 7 requires Valley Water to develop and implement water quality monitoring and protection plans for any ground disturbing activities (e.g., construction and maintenance) with the potential to cause erosion, stream sedimentation, release of hazardous materials, or otherwise impair water quality, which are not covered by another condition of this certification.

6.8 Rationale for Conditions 8 through 26

This certification imposes additional conditions regarding Project approvals, monitoring, enforcement, and potential future revisions.

Condition 8 is necessary to comply with Water Code section 13167 and Conditions 9 through 12 contain important clarifications concerning the scope and legal effect of this certification, as well as 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 8 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 9 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 10 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 9).

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 10 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 11 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 12 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 13 and 14 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 13 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 14 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 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(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 16 through 26 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 Project activities will comply with state and federal water quality requirements and other appropriate requirements of state law. Conditions 16, 17, and 18 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 19 and 20 require the applicant to comply with the SF Bay 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 21 requires such reports that are necessary to ensure compliance with water quality standards.

Condition 22, 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 23 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 ensure 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 24 requires that Valley Water 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 25 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.

In the event that any provision of this certification is found invalid, Condition 26 ensures that all other provisions will remain effective and water quality will still be protected. (Wat. Code, § 13160.)

7.0 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.

8.0 Water Quality Certification Conditions

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE STATE WATER RESOURCES CONTROL BOARD CERTIFIES that the Anderson Dam Seismic Retrofit Project (Project or ADSRP) 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. The Project is intended to result in Anderson Dam meeting safety and engineering requirements of the Federal Energy Regulatory Commission (FERC) and California Division of Safety of Dams, implementation of conservation measures, and the surrender of Anderson Dam Hydroelectric Project's FERC license exemption.

CONDITION 1: Project Activities and Interim Operations

Unless otherwise modified by conditions of this water quality certification (certification) or approved by the State Water Resources Control Board (State Water Board) Deputy Director of the Division of Water Rights (Deputy Director), Santa Clara Valley Water District (Valley Water) shall implement the Project as described in Valley Water's June 28, 2024, certification application (Valley Water 2024) and supplemental submittals via email on December 11, 2024 (Valley Water 2024b), February 6, 2025 (Valley Water 2025b), February 12, 2025 (Valley Water 2025c), February 27, 2025 (Valley Water 2025d), March 11, 2025 (Valley Water 2025e), and May 1, 2025 (H.T. Harvey & Associates, 2025).

Interim Flows

Valley Water shall submit an Interim Flows Plan to the Deputy Director for review and consideration of approval no later than four months prior to starting Project implementation. The Deputy Director may approve a shorter timeframe for plan submittal; any request to shorten the timeline for review and consideration of approval of the plan shall be submitted to the Deputy Director as soon as possible and by no later than the original deadline for the plan. The Interim Flows Plan shall be developed in consultation with representatives from the State Water Board, San Francisco Bay Regional Water Quality Control Board (San Francisco Bay Regional Water Board), United States Fish and Wildlife Service, National Marine Fisheries Service, and California Department of Fish and Wildlife (collectively, the Technical Working Group). The Deputy Director may require changes as part of any approval. Unless otherwise approved by the Deputy Director, at a minimum the Interim Flows Plan shall include implementation of the flows analyzed in Valley Water's February 25, 2025, Anderson Dam Seismic Retrofit Project Final Environmental Impact Report (EIR) (Valley Water 2025a), which are summarized below, and include contingency measures that will be implemented during situations that are beyond Valley Water's control (e.g., low water supply due to drought, power outages). Valley Water shall maintain the following minimum instream flows except as identified in the Deputy Director approved Interim Flows Plan for situations beyond Valley Water's control:

- 3 to 5 cubic feet per second (cfs) at Gage SF12 (downstream of Coyote Reservoir) through releases from Coyote Reservoir in the spring and summer, when supply is available;

- 2.5 cfs as averaged over 24 hours at streamflow station 5058, Coyote Creek at Edenvale; and
- 10 cfs at the Madrone Station Gage 5082.

At a minimum the Interim Flows Plan shall include:

- The minimum instream flows that Valley Water will implement throughout the Project as noted in this condition, including the basis for each of these flows;
- Details of how minimum instream flows described in the Project's final EIR and certification application will be maintained throughout the Project's duration with consideration of various hydrologic conditions. This includes identification of situations under which Valley Water may need a variance from the minimum instream flows required by this condition (i.e., maintaining the flows is beyond Valley Water's control) and the process by which Valley Water will seek approval from the Deputy Director for such variances to the minimum instream flows or notify the Deputy Director if provided for in the Deputy Director-approved Interim Flows Plan;
- Details on how compliance with the minimum flows will be determined and documented, including use of instantaneous (15-minute increment) or daily average flows and a list of gages and/or other monitoring locations that will be used for compliance with the minimum flows;
- Historical flow data for Coyote Creek;
- Comments received from the Technical Working Group during the consultation process and a description of how the comments were addressed; and
- How the following facilities that help regulate instream flow will be operated to maintain flows:
    - Coyote Reservoir;
    - Anderson Dam Tunnel, North Channel, and South Channel;
    - Coyote Discharge Line;
    - Cross Valley Pipeline Extension; and
    - Coyote Percolation Pond Facilities.

Valley Water shall not commence Project construction activities without receipt of Deputy Director approval of the Interim Flows Plan. Valley Water shall file the Deputy Director-approved Interim Flows Plan and any updates thereto with FERC and the United States Army Corps of Engineers (USACE). Valley Water shall implement the Interim Flows Plan upon approval of the Deputy Director and any other required approvals, in accordance with the schedule and requirements specified therein. Any changes to the Interim Flows Plan shall be submitted to the Deputy Director for review and consideration of approval and must be approved by the Deputy Director prior to implementation. The Deputy Director may require changes to the Interim Flows Plan as part of approval of the plan or approval of reports associated with the Interim Adaptive Management Plan, which is discussed below.

Decommissioning

Valley Water shall submit a plan for the decommissioning of the Anderson Dam Hydroelectric Project facilities (Decommissioning Plan) to the Deputy Director for review

and consideration of approval no later than six months prior to the desired start date for decommissioning of hydroelectric facilities and associated work. The Deputy Director may approve a shorter timeframe for plan submittal; any request to shorten the timeline for review and consideration of approval of the plan shall be submitted to the Deputy Director as soon as possible and by no later than the original deadline for the plan. The Decommissioning Plan shall be developed in consultation with the State Water Board and the San Francisco Bay Regional Water Board. The Deputy Director may require changes as part of any approval. Unless otherwise approved by the Deputy Director, at a minimum the Decommissioning Plan shall include:

- A description of activities to be performed pertaining to the decommissioning of the Anderson Dam Hydroelectric Project facilities including a list of facilities, staging locations, equipment to be used, activities to be performed, and site maps;
- A schedule for decommissioning-related activities to be performed;
- A detailed list of items and equipment to be removed from the facilities including any known hazardous materials or waste, and the plan for disposal or reuse of the materials. Hazardous materials may be covered under the Hazardous Materials Plan (Condition 4);
- A list of best management practices (BMPs), avoidance and minimization measures (AMMs), and protocols to be implemented to ensure all equipment and materials are safely removed and disposed of as applicable; and
- A description of how abandoned facilities will be maintained, if applicable;

Valley Water shall not commence decommissioning activities without receipt of Deputy Director approval of the Decommissioning Plan. Valley Water shall file the Deputy Director-approved Decommissioning Plan and any updates thereto with FERC and USACE. Valley Water shall implement the Decommissioning Plan upon receipt of Deputy Director and any other required approvals, in accordance with the schedule and requirements specified therein. Any changes to the Decommissioning Plan shall be submitted to the Deputy Director for review and consideration of approval and must be approved by the Deputy Director prior to implementation.

Interim Adaptive Management Plan

As parts of the Project will be completed in sequence, and will be operable before other parts of the Project are completed, Valley Water shall submit an Interim Adaptive Management Plan (IAMP) to the Deputy Director for review and consideration of approval no later than three months prior to starting Project implementation. The Deputy Director may approve a shorter timeframe for plan submittal; any request to shorten the timeline for review and consideration of approval of the plan shall be submitted to the Deputy Director as soon as possible and by no later than the original deadline for the plan. The IAMP shall be developed in consultation with the Technical Working Group and Santa Clara County Parks. The Deputy Director may require changes as part of any approval. Unless otherwise approved by the Deputy Director, the IAMP shall include, at a minimum:

- IAMP goals and objectives. The IAMP shall describe how Valley Water will evaluate controllable Project factors during Project construction and interim operations, and develop and implement adaptive management alternatives based upon this evaluation with the goal of minimizing the impacts to beneficial uses in Coyote Creek;
- Identification of the process and frequency Valley Water will use to review implementation of Project plans, monitoring data, and other conditions associated with Project implementation to formulate recommendations, if applicable, for adaptive management aimed at ensuring the ongoing protection of water quality and beneficial uses throughout Project implementation;
- Process to request Deputy Director approval to alter the methodologies or frequencies of monitoring;
- At facilities constructed as part of or impacted by the Project, an evaluation of water supply and potential impacts to other beneficial uses during different hydrologic conditions and a proposal to operate the facilities to minimize impacts to steelhead (see Condition 5). This includes evaluation of how the bladder dam at the Coyote Percolation Pond may be operated (e.g., lowered) to support steelhead during the juvenile outmigration season and how such operation may impact water supply during different hydrologic conditions (e.g., wet versus dry years).
- Comments received from the Technical Working Group and Santa Clara County Parks during the consultation process and a description of how comments were addressed.

Valley Water shall not commence Project construction activities without receipt of Deputy Director approval of the IAMP. Valley Water shall file the Deputy Director-approved IAMP, and any updates thereto, with FERC and USACE. Valley Water shall implement the IAMP upon receipt of approval by the Deputy Director and any other required approvals, in accordance with the schedule and requirements specified therein. Any changes to the IAMP shall be submitted for to the Deputy Director for review and consideration of approval and must be approved by the Deputy Director prior to implementation.

CONDITION 2: Water Quality Monitoring

Valley Water shall submit a Water Quality Monitoring Plan (WQMP) to the Deputy Director for review and consideration of approval no later than three months prior to starting Project implementation. The Deputy Director may approve a shorter timeframe for plan submittal; any request to shorten the timeline for review and consideration of approval of the plan shall be submitted to the Deputy Director as soon as possible and by no later than the original deadline for the plan. The WQMP shall be developed in consultation with the State Water Board and San Francisco Bay Regional Water Board. The Deputy Director may require changes as part of any approval. Unless otherwise approved by the Deputy Director, at a minimum the WQMP shall include the items bulleted below and later in this condition:

- A monitoring program to assess Project impacts to water quality, including quality assurance/quality control measures that will be implemented;

- Water quality monitoring locations for each Project activity, including background monitoring locations as applicable. Activities shall include, but are not limited to: (1) demolition and reconstruction of Anderson Dam; (2) dewatering and diversions in Coyote Creek; (3) construction activities at the Coyote Percolation Pond Bladder Dam; and (4) construction activities at the Ogier Ponds restoration site;
- A list of parameters that will be monitored, including sampling types and sampling frequency;
- A detailed description of how cold-water temperatures will be maintained (e.g., use of chillers to cool imported water prior to release via the Coyote Discharge Line into Coyote Creek within the functional cold water management zone) to support Aquatic and Biological Resources (Condition 5);
- A reporting schedule for water quality data and the response and reporting associated with any water quality objective exceedances; and
- Comments received from Technical Working Group during the consultation process and a description of how comments were addressed.

Field Sampling and Analytical Methods
Valley Water shall implement field sampling and monitoring methods consistent with the State of California's Surface Water Ambient Monitoring Program or equivalent methods approved by the Deputy Director. Valley Water shall use analytical methods that comply with Code of Federal Regulations, title 40, part 136, or methods approved by California's Environmental Laboratory Accreditation Program, where such methods are available. Samples that require laboratory analysis shall be analyzed by Environmental Laboratory Accreditation Program-certified laboratories.

Quality Assurance Project Plan
Valley Water shall develop a Quality Assurance Project Plan (QAPP) using the State Water Board's and USEPA's guidance resources to describe the Project's monitoring goals, data needs and assessment, responsible individuals, quality assurance plan, equipment maintenance, quality control measures, and reporting deadlines. The QAPP shall be submitted as part of the WQMP.

Water Quality Objectives
Valley Water shall comply with applicable water quality objectives established in the *Water Quality Control Plan for the San Francisco Bay Basin* (SF Bay Basin Plan) and any amendments thereto, including those listed below for convenience[16]:

- Turbidity:
    - Waters shall be free of changes in turbidity that cause nuisance or adversely affect beneficial uses. Increases from normal background light penetration or turbidity relatable to waste discharge shall not be greater than 10 percent in areas where natural turbidity is greater than 50 Nephelometric Turbidity Units.

[16] Valley Water shall refer to the SF Bay Basin Plan for the most-current water quality objectives.

- Temperature:
    - The natural receiving water temperature of inland surface waters shall not be altered unless it can be demonstrated to the satisfaction of the San Franscisco Bay Regional Water Quality Control Board (San Francisco Bay Regional Water Board) that such alteration in temperature does not adversely affect beneficial uses.
    - The temperature of any cold or warm freshwater habitat shall not be increased by more than 5 degrees Fahrenheit (2.8 degrees Celsius) above natural receiving water temperature.
- Percent of Hydrogen (pH):
    - The pH shall not be depressed below 6.5 nor raised above 8.5. This encompasses the pH range usually found in waters within the basin. Controllable water quality factors shall not cause changes greater than 0.5 units in normal ambient pH levels.
- Dissolved Oxygen:
    - Waters designated as:
        - Cold water habitat 7.0 milligrams per liter (mg/l) minimum
        - Warm water habitat 5.0 mg/l minimum
    - The median dissolved oxygen concentration for any three consecutive months shall not be less than 80 percent of the dissolved oxygen content at saturation.
    - Dissolved oxygen is a general index of the state of the health of receiving waters. Although minimum concentrations of 5 mg/l and 7 mg/l are frequently used as objectives to protect fish life, higher concentrations are generally desirable to protect sensitive aquatic forms. In areas unaffected by waste discharges, a level of about 85 percent of oxygen saturation exists. A three-month median objective of 80 percent of oxygen saturation allows for some degradation from this level, but still requires a consistently high oxygen content in the receiving water.
- Sediment
    - The suspended sediment load and suspended sediment discharge rate of surface waters shall not be altered in such a manner as to cause nuisance or adversely affect beneficial uses.
- Controllable water quality factors shall not cause a detrimental increase in the concentrations of toxic pollutants in sediments or aquatic life.
    - All waters shall be maintained free of toxic substances in concentrations that are lethal to or that produce significant alterations in population or community ecology or receiving water biota. In addition, the health and life history characteristics of aquatic organisms in waters affected by controllable water quality factors shall not differ significantly from those for the same waters in areas unaffected by controllable water quality factors.
- Settleable Material. Waters shall not contain substances in concentrations that result in the deposition of material that cause nuisance or adversely affect beneficial uses.
- Oil and Grease. Waters shall not contain oils, greases, waxes, or other materials in concentrations that result in a visible film or coating on the surface of the water

or on objects in the water, that cause nuisance, or that otherwise adversely affect beneficial uses.

- Suspended Material. Waters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses.

Reporting of Exceedances
The Deputy Director and the SF Bay Regional Water Board Executive Officer (Executive Officer) shall be notified promptly, and in no case more than 24 hours following an exceedance of any water quality objective, as described in the SF Bay Basin Plan. The notice shall include the cause of the violation, measures taken to correct the violation, and measures Valley Water will implement to prevent future violations. Regardless of when such notification occurs, activities associated with the SF Bay Basin Plan exceedance shall cease immediately upon detection. Work activities may resume after corrective actions have been implemented, water quality meets the SF Bay Basin Plan water quality objective(s), and the Deputy Director has provided approval to proceed. The Deputy Director may require additional actions to help prevent similar exceedances in the future.

Valley Water shall file the Deputy Director-approved WQMP and any updates thereto, with FERC and USACE. Valley Water shall implement the WQMP upon receipt of Deputy Director and any other required approvals, in accordance with the schedule and requirements specified therein. Any changes to WQMP shall be submitted to the Deputy Director for review and consideration of approval and must be approved by the Deputy Director prior to implementation.

CONDITION 3: Construction- and Post-Construction-Related Measures

Valley Water shall submit a Water Quality Protection Plan (WQPP) to the Deputy Director for review and consideration of approval no later than three months prior to starting Project implementation. The Deputy Director may approve a shorter timeframe for plan submittal; any request to shorten the timeline for review and consideration of approval of the plan shall be submitted to the Deputy Director as soon as possible and by no later than the original deadline for the plan. The WQPP shall be developed in consultation with Technical Working Group. The Deputy Director may require changes as part of any approval. Unless otherwise approved by the Deputy Director, at a minimum the WQPP shall include:

- A description and map of all waterbodies that may be impacted by Project activities, and structures related to the Project including all roads, bridges, staging areas, dewatering areas, diversions, stockpiles, excavation areas, and construction sites;
- BMPs and AMMs that will be implemented to protect water quality and beneficial uses, which may refer to other plans required by the certification (e.g., Decommissioning Plan);
- A description and the purpose of each stockpile (location, stockpiled material, maximum stockpile dimensions, and volume) including, but not limited to, the following stockpiles: dam reconstruction; spillway construction; Basalt borrow area; Packwood gravel borrow pit; Reservoir Disposal Area; and at least nine stockpile sites around Anderson Reservoir;
- ;

- BMPs to protect each stockpile and haul roads from erosion, sedimentation, and wind erosion of stockpiled materials;
- Details of how construction materials will be stored so that they will not pose a risk to surface waters;
- Description of dewatering and diversion activities, including a schedule, equipment that will be used, barriers that will be used, dewatering protocols, and protection measures that will be implemented by Valley Water throughout the Project. Dewatering Plans associated with the Ogier Ponds Restoration Project and Phase 2 Coyote Percolation Pond Project may be included in the Ogier Ponds Plan and Phase 2 Coyote Percolation Pond Project Plan, required as part of Condition 5, respectively, if desired and should be referenced as such in this plan if applicable;
- Compliance with the State Water Board's Construction General Permit, San Francisco Regional Water Board's Municipal Regional Permit, and Phase II Small MS4 Permit which are described further below;
- Implementation of the following mitigation measures identified in Valley Water's February 25, 2025 final EIR for the Project as they pertain to the protection of water quality and beneficial uses of Anderson Reservoir and Coyote Creek:
    - Water Quality (WQ)-1: Develop and Implement an In-Reservoir Construction Area Water Quality Monitoring and Protection Plan;
    - Geology (GEO)-1: Repair Landslides Caused by Construction Activities;
    - Hazardous Materials (HAZ)-7: Soil Testing and Proper Disposal of Potentially Contaminated Soils; and
    - Groundwater (GW)-2: Perchlorate Best Management Practices; and
- Comments received from the Technical Working Group during the consultation process and a description of how comments were addressed.

Valley Water shall not commence Project activities that may impact surface waters without receipt of Deputy Director-approval of the WQPP. Valley Water shall file the Deputy Director-approved WQPP, and any updates thereto, with FERC and USACE. Valley Water shall implement the WQPP upon receipt of Deputy Director and any other required approvals, in accordance with the schedule and requirements specified therein. Any changes to the WQPP shall be submitted to the Deputy Director for review and consideration of approval and must be approved by the Deputy Director prior to implementation.

Construction General Permit
Valley Water shall comply with the terms and conditions in the State Water Board's *National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities* (Construction General Permit; State Water Board Order 2009-0009-DWQ, as amended by State Water Board Orders 2010-0014-DWQ and 2022-0057-DWQ), and ongoing amendments or reissuance during the life of the Project.

SF Municipal Regional Permit and Phase II Small MS4 Permit
Valley Water shall comply with the terms and conditions of the *San Francisco Bay Region Municipal Regional Stormwater NPDES Permit* (Order No. R2-2022-0018, as amended by Order No. R2-2023-0019) and any amendments thereto or reissuance

thereof during Project implementation (SF Municipal Regional Permit), and with conditions of the *Statewide General Permit for Waste Discharge Requirements for Stormwater Discharges for Small Municipal Separate Storm Sewer Systems Permit* (Order Water Quality (WQ) 2013-0001-DWQ, NPDES NO. CAS000004, as amended by Order WQ 2015-0133-EXEC, Order WQ 2016-0069-EXEC, Order WQ 2017- 0031-DWQ, Order WQ 2018-0001-EXEC, Order WQ 2018-0007-EXEC, and Order WQ 2019-0009-EXEC), "Phase II Small MS4 Permit"), and any amendments thereto or reissuance thereof during Project implementation. Compliance with these two permits is for post-construction stormwater management of runoff from newly constructed or redevelopment of existing impervious surfaces in the Project, pursuant to Provision C.3 of the SF Municipal Regional Permit and to Provision E.12 of the Phase II Small MS4 Permit.

Unless another deadline is approved by the Deputy Director, by no later than February 27, 2026, Valley Water shall submit a draft Post-Construction Stormwater Management Plan to the Executive Officer for review and comment. The Deputy Director may modify the deadline for the draft plan; any request to modify the deadline to submit the draft plan shall be requested at least three months prior to the deadline. The draft Post-Construction Stormwater Management Plan shall describe how the Project design complies with Provision C.3 of the SF Municipal Regional Permit. The draft Post-Construction Stormwater Management Plan shall be developed in consultation with the San Francisco Regional Water Board and State Water Board staff. The Post-Construction Stormwater Management Plan shall include details sufficient to characterize the following Project elements for each impervious surface:

- Location and type of surface (e.g., road, parking lot, building);
- Dimensions (length, width, slope);
- Purpose and materials creating the impervious surface;
- Stormwater runoff drainage route or (if applicable) multiple routes;
- Stormwater treatment measures to capture, detain, retain, infiltrate, and treat stormwater runoff, including managing its hydromodification impacts;
- Calculations for flow-based, volume-based, or a combination of flow-based and volume-based stormwater treatment measures;
- Trash capture and reduction measures for public use areas such as the Anderson Park parking lot; and
- Schedule for the construction of impervious surfaces.

No later than four months following the receipt of comments on the draft Post-Construction Stormwater Management Plan, Valley Water shall submit a final Post-Construction Stormwater Management Plan to the Deputy Director for review and consideration of approval. The Deputy Director may require changes as part of any approval.

Valley Water shall file the Deputy Director-approved Post-Construction Stormwater Management Plan, and any updates thereto, with FERC and USACE. Valley Water shall implement the Post-Construction Stormwater Management Plan upon receipt of Deputy Director and any other required approvals, in accordance with the schedule and requirements specified therein. Any changes to the Post-Construction Stormwater

Management Plan shall be submitted to the Deputy Director for review and consideration of approval and must be approved by the Deputy Director prior to implementation. Unless otherwise approved by the Deputy Director, Valley Water shall not construct any impervious surfaces prior to Deputy Director approval of the Post-Construction Stormwater Management Plan.

CONDITION 4: Hazardous Materials Management

Valley Water shall submit a Hazardous Materials Management Plan (Hazardous Materials Plan) to the Deputy Director for review and consideration of approval no later than two months prior to the start of Project implementation. The Deputy Director may approve a shorter timeframe for plan submittal; any such request shall be submitted to the Deputy Director as soon as possible and no less than two months prior to Project implementation. The Hazardous Materials Plan shall be developed in consultation with State Water Board and San Francisco Bay Regional Water Board staff. The Deputy Director may require changes as part of any approval. Unless otherwise approved by the Deputy Director, at a minimum, the Hazardous Materials Plan shall include:

- A general list the types of heavy equipment that will be used for Project activities, noting what Project activities the equipment is associated with and the general locations of where the equipment will be used and stored;
- A complete inventory of hazardous materials involved in Project activities, including decommissioning of the hydroelectric facilities;
- Details of how hazardous materials will be used, removed, transported, and disposed of throughout the Project;
- AMMs and BMPs that will be implemented to minimize the potential for oils, greases, and other hazardous materials or contaminants to enter waterways. This shall include specific measures related to refueling and maintenance of vehicles and equipment including details of secondary containment and spill prevention protocols. When applicable, containment structures shall comply with California Code of Regulations, title 27, section 20320;
- Details of overwintering preparation including storage of vehicles and construction equipment, stockpiles and spoil piles, staging areas, and construction sites;
- A description of spill response equipment and procedures to be initiated if a spill incident occurs;
- Actions to be taken in the event of a release of hazardous materials with the potential to impact surface waters that at a minimum includes the actions noted in the Release of Hazardous Materials section below; and
- Comments received from State Water Board and San Francisco Bay Regional Water Board staff during the consultation process and a description of how comments were addressed.

Valley Water shall not commence Project activities without receipt of Deputy Director approval of the Hazardous Materials Plan. Valley Water shall file the Deputy Director-approved Hazardous Materials Plan, and any updates thereto, with FERC and USACE. Valley Water shall implement the Hazardous Materials Plan upon receipt of Deputy Director and any other required approvals, in accordance with the schedule and

requirements specified therein. Any changes to the Hazardous Materials Plan shall be submitted to the Deputy Director for review and consideration of approval and must be approved by the Deputy Director prior to implementation.

Release of Hazardous Materials
If hazardous materials are released with the potential to impact surface waters, Valley Water shall immediately cease any activities related to the release and implement measures to limit and clean up the release. Valley Water shall notify the Deputy Director and Executive Officer promptly, and in no case more than 24 hours, following the release. The notice shall include the type and quantity of material released, cause of the release, corrective measures taken, and measures Valley Water will implement to prevent a future release. The Deputy Director may require additional actions to help prevent similar releases in the future. Valley Water shall not resume work related to the release of hazardous materials until approved by the Deputy Director.

CONDITION 5: Aquatic and Biological Resources

Valley Water shall implement the fish, reptile, wildlife, wetlands, and creek studies, surveys, and monitoring measures as described in Appendix A: *Complete Project Description* of its Project certification application*,* including:

- Migration Flow Monitoring;
- Juvenile Rearing Studies;
- Migration Study;
- Growth Comparative Study;
- Environmental DNA (e-DNA) Monitoring;
- VAKI Riverwatcher Adult Escapement Monitoring;
- Fish Rescue and Relocation;
- Spawning Surveys;
- Western Pond Turtle Monitoring;
- Invasive Species Monitoring;
- Terrestrial Animal Monitoring;
- Wetland and Vegetation Dryback Monitoring; and
- *Phytophthora* several species (spp.) Management and Monitoring.

Any changes to the monitoring, surveys, and studies listed above and/or in Appendix A of the Project certification application, except for terrestrial animal monitoring, shall be submitted to the Deputy Director for review and consideration of approval and must be approved by the Deputy Director prior to implementation. The Deputy Director may require changes as part of any approval.

Protection and Mitigation Measures
No later than one month prior to the start of the Project, Valley Water shall provide a comprehensive list of federal and state protected species that may occur within the Project area and include BMPs and AMMs that will be implemented to ensure protection of these species. Updates to this information shall be provided as necessary throughout

the Project term and may be included as part of progress reports required in Condition 6 (Reporting).

Valley Water shall implement the following mitigation measures identified in its final EIR for the Project:

- Terrestrial (TERR)-1a(2): Implementation of AMMs during Post-Construction Maintenance at Anderson Dam and Conservation Measures Facilities to Reduce the Potential for Introduction or Spread of Phytophthora;
- TERR-1a(3): Special-Status Plant Survey in the Previously Unsurveyed Portions of the Seismic Retrofit Area;
- TERR-1c(1): Special-Status Species Avoidance and Minimization Measures During Year 6 Reservoir Dewatering;
- TERR-1c(2): Nonnative Species Management in Upper Penitencia Creek Watershed;
- TERR- 1e: Bald Eagle and Golden Eagle; and
- TERR-1j: Contribution to Baylands Predator Management and High Tide Refugia Enhancement for San Francisco Bay Special-Status Species.

Any changes to the mitigation measures listed above shall be submitted to the Deputy Director for review and consideration of approval and must be approved by the Deputy Director prior to implementation. The Deputy Director may require changes as part of any approval.

Gravel Augmentation and Habitat Complexity Improvements
Valley Water shall submit a Gravel Augmentation and Habitat Complexity Improvements Plan (Gravel Augmentation and Habitat Improvements Plan) to the Deputy Director for review and consideration of approval no later than three months prior to the start of Project construction. The Deputy Director may approve a shorter timeframe for plan submittal; any request to shorten the timeline for review and consideration of approval of the plan shall be submitted to the Deputy Director as soon as possible and by no later than the original deadline for the plan. The Gravel Augmentation and Habitat Improvements Plan shall include the following components as described in Valley Water's application for certification:

- Maintenance Activities at the Live Oak Park Restoration Reach, which consists of maintaining gravel and large woody debris constructed under the FOCP; and
- Sediment Augmentation Program, which consists of planning and implementing spawning gravel augmentation in multiple sites in the Live Oak Park Restoration Reach and Ogier Ponds during the Project.

The Gravel Augmentation and Habitat Improvements Plan shall be developed in consultation with the Technical Working Group. The Deputy Director may require changes as part of any approval. Unless otherwise approved by the Deputy Director, at a minimum, the Gravel Augmentation and Habitat Improvements Plan shall include:

- A description of the spawning gravel and large woody debris augmentation that has taken place as part of the FOCP;

- Detailed plans including site maps, drawings, and/or pictures of additional gravel and large woody debris augmentation that will be performed at Live Oak Park Restoration Reach and/or Ogier Ponds as part of the Project;
- A schedule for implementation of the Gravel Augmentation and Habitat Improvements Plan that includes initial gravels placement for spawning and rearing habitat, monitoring of the gravel augmentation site(s), and subsequent gravels placement;
- Information on the gravel particle size(s) to be used;
- A quantitative breakdown of how much gravel will be placed at each location(s) or reach(es) and/or how monitoring will determine the volumes of gravel to be placed at a later date as part of maintenance efforts;
- Monitoring procedures that will be implemented to track gravel mobilization and effects of gravel on beneficial uses, and to track stability of habitat complexity structures placed as part of the FOCP in the Live Oak Park Restoration Reach;
- A description of how placement of gravels in the reach will benefit steelhead habitat, how success criteria will be defined, and adaptive management;
- Evaluation of the feasibility of extending the gravel augmentation program's 20-year timeframe, due to Anderson Dam's long-term effects on sediment transport;
- Reporting schedule to document plan implementation and effectiveness relative to success criteria; and
- Documentation of consultation with Technical Working Group in development of the Gravel Augmentation and Habitat Improvements Plan.

Valley Water shall not commence habitat complexity improvement-related construction activities without receipt of Deputy Director approval of the Gravel Augmentation and Habitat Improvements Plan. Valley Water shall file the Deputy Director-approved Gravel Augmentation and Habitat Improvements Plan, and any updates thereto, with FERC and USACE. Valley Water shall implement the Gravel Augmentation and Habitat Improvements Plan upon receipt of Deputy Director and any other required approvals, in accordance with the schedule and requirements specified therein. Any changes to the Gravel Augmentation and Habitat Improvements Plan shall be submitted to the Deputy Director for review and consideration of approval and must be approved by the Deputy Director prior to implementation.

Ogier Ponds Restoration Project

Valley Water shall submit an Ogier Ponds Construction Plan (Ogier Ponds Plan) to the Deputy Director for review and consideration for approval no later than March 1, 2032, or one year prior to the commencement of Ogier Ponds construction, whichever is first. The Deputy Director may approve a shorter timeframe for plan submittal; any request to shorten the timeline for review and consideration of approval of the plan shall be submitted to the Deputy Director as soon as possible and by no later than the original deadline for the plan. The Ogier Ponds Plan shall be developed in consultation with the Technical Working Group. The Deputy Director may require changes as part of any approval. Unless otherwise approved by the Deputy Director, at a minimum, the Ogier Ponds Plan shall include:

- A detailed description of construction activities to be performed;
- A schedule for construction activities;

- A description of how the restoration project will result in improvements to ecological and geomorphic functions within this reach of Coyote Creek, as well as upstream and downstream of this reach;
- A detailed summary of water quality and biological monitoring that will be performed during Ogier Ponds construction;
- A description of dewatering methods;
- A list of BMPs and AMMs that will be implemented throughout construction to ensure protection of water quality and beneficial uses;
- Success criteria that will be used to assess the outcome of this conservation measure;
- A description of proposed operations of Ogier Ponds during Project implementation and interim adaptive management process, which is included in the Interim Adaptive Management Plan required under Condition 1;
- A detailed description of post-construction monitoring, including monitoring of herbaceous vegetation and water quality parameters for a minimum five years following completion of Ogier Ponds, and monitoring of woody vegetation, geomorphic stability, and sediment transport conditions for a minimum of 10 years following completion of Ogier Ponds;
- A description of how Valley Water plans to continue to comply with water quality standards following conclusion of the Project; and
- A schedule for reporting construction progress and the monitoring and evaluation of success criteria.

Valley Water shall not commence Ogier Ponds construction activities without receipt of Deputy Director approval of the Ogier Ponds Plan. Valley Water shall file the Deputy Director-approved Ogier Ponds Plan, and any updates thereto, with FERC and USACE. Valley Water shall implement the Ogier Ponds Plan upon receipt of Deputy Director and any other required approvals, in accordance with the schedule and requirements specified therein. Any changes to the Ogier Ponds Plan shall submitted to the Deputy Director for review and consideration of approval and must be approved by the Deputy Director prior to implementation.

Phase 2 Coyote Percolation Pond Project Plan

Valley Water shall submit a Phase 2 Coyote Percolation Pond Project Plan to the Deputy Director for review and consideration of approval no later than March 1, 2027, or one year prior to the start of construction activities for the Phase 2 Coyote Percolation Pond Project, whichever is first. The Deputy Director may approve a shorter timeframe for plan submittal; any such request shall be submitted to the Deputy Director as soon as possible and no less than one year prior to commencement of Phase 2 Coyote Percolation Pond Project construction or March 1, 2026, whichever is first. The Phase 2 Coyote Percolation Pond Project Plan shall be developed in consultation with the Technical Working Group. The Deputy Director may require changes as part of any approval. Unless otherwise approved by the Deputy Director, at a minimum, the Phase 2 Coyote Percolation Pond Project Plan shall include:

- Detailed plans including site maps, drawings, and/or photos for construction of the Phase 2 activities for the Coyote Percolation Bladder Dam;

- A list of BMPs and AMMs that will be implemented to prevent direct and indirect adverse impacts to beneficial uses of Coyote Creek, including dredge or fill discharges;
- A schedule for implementation of construction activities;
- A description of dewatering activities;
- A description of equipment and materials to be used;
- A detailed water quality monitoring plan that includes the following constituents: temperature, pH, turbidity, total dissolved solids, and dissolved oxygen consistent with water quality monitoring procedures and methods required as part of Condition 2 (Water Quality Monitoring);
- A description of proposed interim bladder dam operations during Project implementation, triggers for raising or lowering the dam, and mechanical and electrical equipment to manage the dam;
- A description of proposed flow and water surface elevations for the range of flows that will occur at the Coyote Percolation Pond facility, including flows at the fish ladder, fish lane, and the dam. The description shall include how the flow conditions account for safe fish passage in both directions;
- A description of routine maintenance that may be necessary (e.g., sediment removal, vegetation management) in advance of Project completion; and
- Documentation of consultation with the Technical Working Group, including comments received as part of consultation and how such comments were addressed.

Valley Water shall not commence the Phase 2 Coyote Percolation Pond Project Plan construction activities without receipt of Deputy Director approval of the Phase 2 Coyote Percolation Pond Project Plan. Valley Water shall file the Deputy Director-approved Phase 2 Coyote Percolation Pond Project Plan and any updates thereto, with FERC and USACE. Valley Water shall implement the Phase 2 Coyote Percolation Pond Project Plan upon receipt of Deputy Director and any other required approvals, in accordance with the schedule and requirements specified therein. Any changes to the Phase 2 Coyote Percolation Pond Project Plan shall be submitted to the Deputy Director for review and consideration of approval and must be approved by the Deputy Director prior to implementation.

Habitat Mitigation Plan
Unless an alternate deadline is approved by the Deputy Director, Valley Water shall submit a Habitat Mitigation Plan to the Deputy Director for review and consideration of approval no later than February 27, 2026. The Habitat Mitigation Plan shall be developed in consultation with the Technical Working Group. The Deputy Director may require changes as part of any approval. Unless otherwise approved by the Deputy Director, at a minimum, the Habitat Mitigation Plan shall include:

- The amount of jurisdictional wetlands and other waters of the State that will be impacted by Project activities or that will serve as compensatory mitigation for the Project. Upland forest, scrub, and other upland categories shall be excluded from the calculation;
- A list of projects that Valley Water will implement in the Coyote Creek watershed to improve ecological, hydrologic, and geomorphic functions and values in

Coyote Creek, and a description of the restoration that will be performed as part of the Project;

- A list of any mitigation that will be implemented under the Valley Habitat Plan (VHP) In-Lieu Fee Program (ILFP);
- For each compensatory project or action, provide interim performance and final success criteria and how such performance and success will be measured and monitored (e.g., photographs) to document each project's success;
- How Valley Water will comply with the *State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State* (Dredge or Fill Procedures)[17] and the wetland protection policy in the SF Bay Basin Plan;
- Annual updates to the Habitat Mitigation Plan that track the amount of compensatory mitigation of wetlands and other waters of the State performed relative to Project impacts, evaluate the success of mitigation efforts using monitoring results, and incorporate the findings of any relevant studies or surveys related to mitigation efforts;
- Documentation of consultation with the Technical Working Group, including comments received as part of consultation and how such comments were addressed; and
- Additional compensatory mitigation, as needed, to address impacts from the Project or projects included in the Habitat Mitigation Plan.

The amount of mitigation shall be commensurate with the impact. Compensatory mitigation via VHP ILFP shall be implemented by projects that provide in-kind mitigation of Project impacts and shall be within the Coyote Creek watershed whenever feasible. Compensatory mitigation performed by Valley Water (i.e., not covered under the VHP ILFP) shall be in-kind to the extent feasible and shall be in the Coyote Creek watershed as close to the impacted area as possible. The amount of mitigation required shall increase with the distance from the impacted area(s), and shall increase for out-of-kind mitigation of Project impacts (e.g., use of riparian vegetation to mitigate for wetland impacts would require a greater amount than replacement of lost wetlands with wetlands). Other factors that may impact the amount of mitigation required include the degree of improvement associated with the mitigation (i.e., the improvement to the functions and values of Coyote Creek's beneficial uses), the timing of the mitigation's completion and the associated improvement relative to the impact, and certainty of success.

Valley Water shall not commence implementation of the Habitat Mitigation Plan without receipt of Deputy Director approval of the Habitat Mitigation Plan. Valley Water shall file the Deputy Director-approved Habitat Mitigation Plan, and any updates thereto, with FERC and USACE. Valley Water shall implement the Habitat Mitigation Plan upon receipt of Deputy Director and any other required approvals, in accordance with the schedule and requirements specified therein. Any changes to the Habitat Mitigation

[17] The Dredge or Fill Procedures and any amendments thereto. Available online at: https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/2021/procedures.pdf. (Accessed: February 13, 2025).

Plan shall be submitted to the Deputy Director for review and consideration of approval and must be approved by the Deputy Director prior to implementation.

CONDITION 6: Reporting

Initial Notification and Updates to Project Schedule. At least five days prior to starting Project activities, Valley Water shall notify the San Francisco Bay Regional Water Board and State Water Board staff that Project activities are anticipated to begin and provide the anticipated schedule for the Project. The notification shall include a summary of pre-construction surveys for aquatic resources, including any relocated or fenced-off aquatic species or sensitive habitat. Throughout Project implementation Valley Water shall provide State Water Board staff with updates to any major changes to the Project schedule within five days of the schedule change. Any changes to Project activities that may impact water quality shall be submitted to the Deputy Director for review and consideration for approval and must be approved by the Deputy Director prior to implementation. The Deputy Director may require changes as part of any approval. Valley Water shall not implement such changes without receipt of Deputy Director and other required approvals.

Progress Reports. Every 12 months following initiation of Project activities and throughout Project implementation, Valley Water shall submit Progress Report to the Division of Water Rights Water Quality Certification Project Manager. At a minimum, the Progress Reports shall include:

- Identification of the reporting period and a summary of Project activities performed in the reporting period;
- Documentation of compliance with each condition of this certification and details of any failure to meet the certification requirements;
- Water quality monitoring results, including:
    - Raw data;
    - A description of monitoring methods, including equipment, frequency of data collection, quality assurance/quality control protocols; and
    - Description of any water quality exceedances or information necessary to understand to results;
- Details of Project-related adverse impacts to beneficial uses, if applicable; and
- Any anticipated Project implementation activities (e.g., construction, dewatering, or diversion) differing from those described in the Project certification application or required by this certification. (As described in this certification, Valley Water must receive Deputy Director approval of such changes independent of the progress reports.)

If determined necessary by the Deputy Director, Valley Water shall consult with State Water Board staff regarding the need for additional site-specific measures to protect water quality and implement any measures determined necessary by the Deputy Director.

Valley Water may request consultation regarding the need for development and implementation of additional BMPs for water quality protection or approval of additional

site-specific construction measures as part of a Progress Report or as part of a separate request if more immediate action is needed to protect water quality.

Completion Report. Unless the timeline is otherwise modified by the Deputy Director, within two years of Project completion, Valley Water shall provide the Deputy Director with a Project Completion Report that includes the following:

- A summary of all Project activities performed;
- Documentation of compliance with each condition of this certification and details of any failure to meet the certification requirements;
- Site photos taken at a variety of locations and flow conditions including high winter flows and summer low flows. The photo locations shall be determined in consultation with State Water Board and San Francisco Regional Water Board staff;
- Effectiveness of post-construction restoration effectiveness that documents:
    - Revegetation efforts and final revegetation site conditions;
    - Success of mitigation projects including Ogier Ponds, Phase 2 Coyote Percolation Pond Project, and sediment augmentation; and
    - River channel conditions to ensure the Project area reflects a natural condition and is not contributing to excess erosion or adverse impacts to water quality.
- Identification of any additional actions that Valley Water plans to perform to ensure mitigation and restoration efforts are successful or address other items associated with the Project's construction activities that are impacting water quality or beneficial uses.

Valley Water shall file the progress reports and Project Completion Report with FERC and USACE.

Upon request from State Water Board staff, Valley Water shall meet with staff to discuss a progress report or the Project Completion Report.

The Deputy Director may require Valley Water to implement corrective actions or approve additional measures proposed by Valley Water in response to the information provided in a Progress Report, a request for consultation, new information in the record, or approval of additional measures to protect water quality and beneficial uses.

CONDITION 7: Site Specific Water Quality Monitoring and Protection Plans

For any ground-disturbing activities that could impact water quality (including beneficial uses) that are not addressed in other conditions of this certification, site-specific water quality monitoring and protection plans shall be prepared and implemented following Deputy Director approval. Such activities may include restoration projects completed under the Habitat Mitigation Plan. No later than two months prior to construction or other activity that could impact water quality or beneficial uses, Valley Water shall submit the water quality monitoring and protection plan to the Deputy Director for review and approval. The Deputy Director may approve a shorter timeframe for plan submittal; any such request shall be submitted to the Deputy Director as soon as possible and no less

than two months prior to implementation of the activity. The Deputy Director may require changes as part of any approval. Unless otherwise approved by the Deputy Director, at a minimum, water quality monitoring and protection plans shall:

- Describe the proposed activity and site conditions, including any maps or figures;
- Construction schedule for the proposed activity;
- Identify the measures that Valley Water will implement to ensure protection of water quality and beneficial uses, and specific topographic locations of all control measures in relation to the proposed activity;
- Describe any applicable water quality monitoring that will be implemented for the proposed activity in accordance with Condition 2 of this certification; and
- Include a monitoring, maintenance, and reporting schedule

To address this requirement, Valley Water may use resources such as Valley Water's Appendix J of its application for certification, Water Quality Management for Forest System Lands in California –Best Management Practices (USFS 2012), California Department of Transportation's March 2024 Construction Site Best Management Practices (BMP) Manual (Caltrans BMP Manual) (Caltrans 2024), or other appropriate documents.

Valley Water shall not commence implementation of a water quality monitoring and protection plan without receipt of Deputy Director approval of the plan. Valley Water shall file any Deputy Director-approved water quality monitoring and protection plans, and any updates thereto, with FERC and USACE. Valley Water shall implement water quality monitoring and protection plans upon receipt of Deputy Director and any other required approvals, in accordance with the schedule and requirements specified therein. Any changes to water quality monitoring and protection plan shall be submitted to the Deputy Director for review and consideration of approval and must be approved by the Deputy Director prior to implementation.

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CONDITION 8. 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 9. 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 Endangered Species Act (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 Valley Water, Valley Water must obtain authorization for the take prior to any construction or operation of the portion of the Project that may result in a take. Valley Water is responsible for meeting all requirements of the applicable ESAs for the Project authorized under this certification.

CONDITION 10. This certification shall not be construed as replacement or substitution for any necessary federal, state, and local approvals. Valley Water 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 11. Any requirement in this certification that refers to an agency whose authorities and responsibilities are transferred to or subsumed by another state or federal agency, will apply equally to the successor agency.

CONDITION 12. 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 13. 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 14. This certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent 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 15. This certification is conditioned upon total payment of any fee required under California Code of Regulations, title 23, division 3, chapter 28.

CONDITION 16. 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 Valley Water 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, Valley Water shall submit a written request for the extension, with justification, to the Deputy Director no later than 15 days prior to the deadline. Valley Water shall not implement any plan, proposal, or report until after the applicable State Water Board approval and any other necessary regulatory approvals.

CONDITION 17. In the event of any violation or threatened violation of the conditions of this certification, including if monitoring results indicate that Project activities could violate water quality objectives or impair beneficial uses, the violation or threatened violation is subject to any remedies, penalties, process, or sanctions as provided for under applicable state or federal law. For the 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 or threatened violation of the conditions of this certification, Valley Water shall, by a deadline required by the Deputy Director, submit a plan that documents why the violation occurred and steps the Valley Water will implement to address the violation. Valley Water shall implement the plan upon approval from the Deputy Director, and the Deputy Director may require changes as part of any approval.

CONDITION 18. Valley Water 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 19. This certification is contingent on compliance with all applicable requirements of the SF Bay Basin Plan.

CONDITION 20. 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. Valley Water shall take all reasonable measures to protect the beneficial uses of waters of the state, including Coyote Creek and Anderson Reservoir.

CONDITION 21. In response to a suspected violation of any condition of this certification, the State Water Board or San Francisco Bay 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, and 13383.)

CONDITION 22. Upon request, a construction schedule shall be provided to State Water Board and San Francisco Bay Regional Water Board staff. Valley Water shall provide State Water Board and San Francisco Bay Regional Water Board staff access to Project sites to document compliance with this certification.

CONDITION 23. 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. Valley Water shall be responsible for work conducted by its contractor, subcontractors, or other persons conducting Project-related work.

CONDITION 24. Valley Water 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 Laboratory Accreditation Program-certified laboratories.

CONDITION 25. 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 26. Certification that the Project will be protective of the state and federal water quality standards and other appropriate requirements of state law is dependent upon the conditions and limitations imposed by this certification; however, to ensure the validity of this certification upon any challenge that is not addressed by another condition of this certification, 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 remainder of this certification shall not be affected. Upon remand from determination on administrative or judicial review that a provision of this certification is invalid or affects the validity of the certification the State Water Board may adopt an alternative term that addresses the water quality issue while avoiding the invalidity.

Eric Oppenheimer
Executive Director

June 27, 2025
Date

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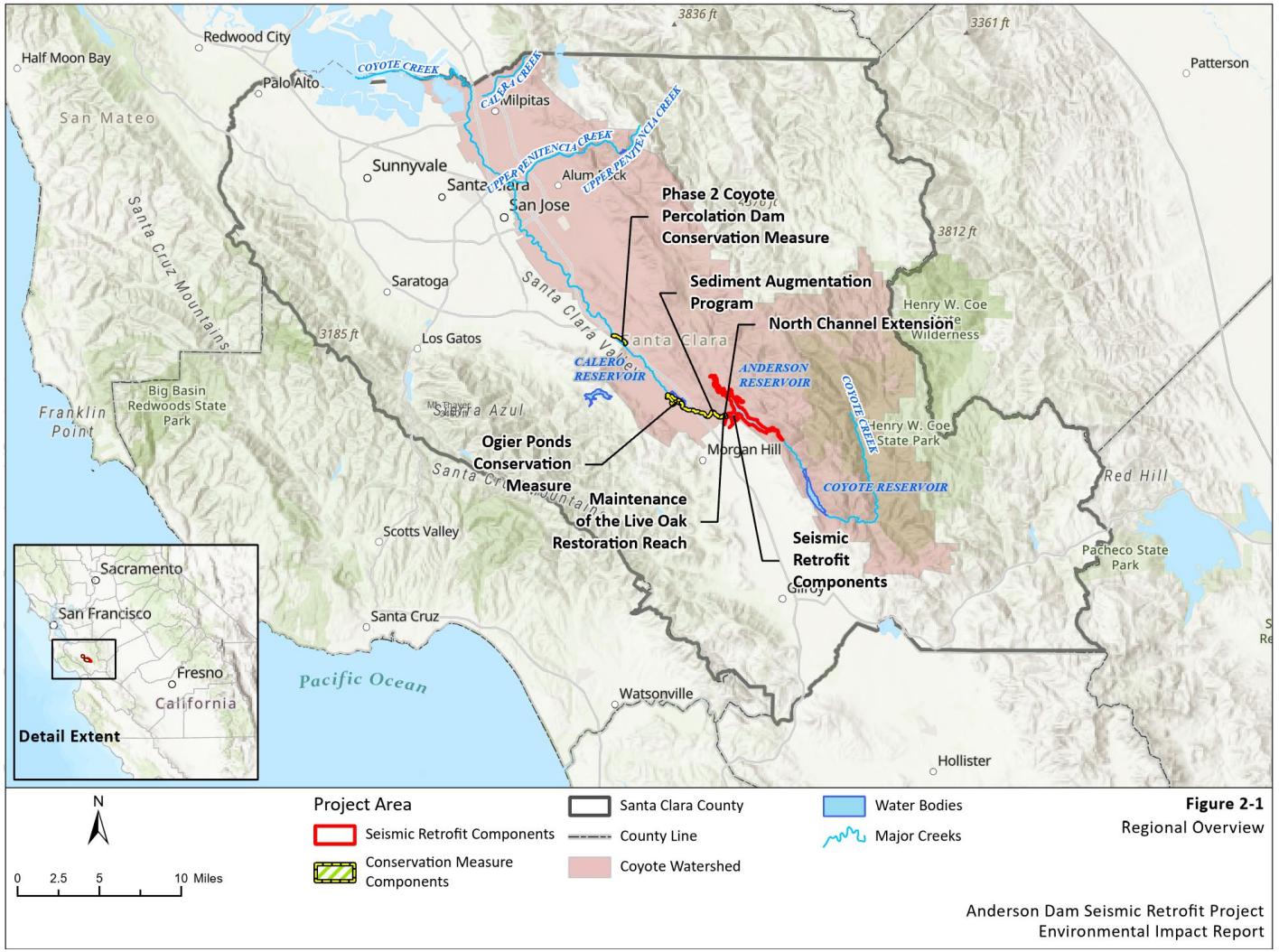
ATTACHMENT A:

PROJECT OVERVIEW MAPS

WATER QUALITY CERTIFICATION
FOR
ANDERSON DAM SEISMIC RETROFIT PROJECT AND LICENSE EXEMPTION SURRENDER

Figure A1. ADSRP Project Location Overview (Valley Water 2024)



Source: Draft Environmental Impact Report (Valley Water, 2024).

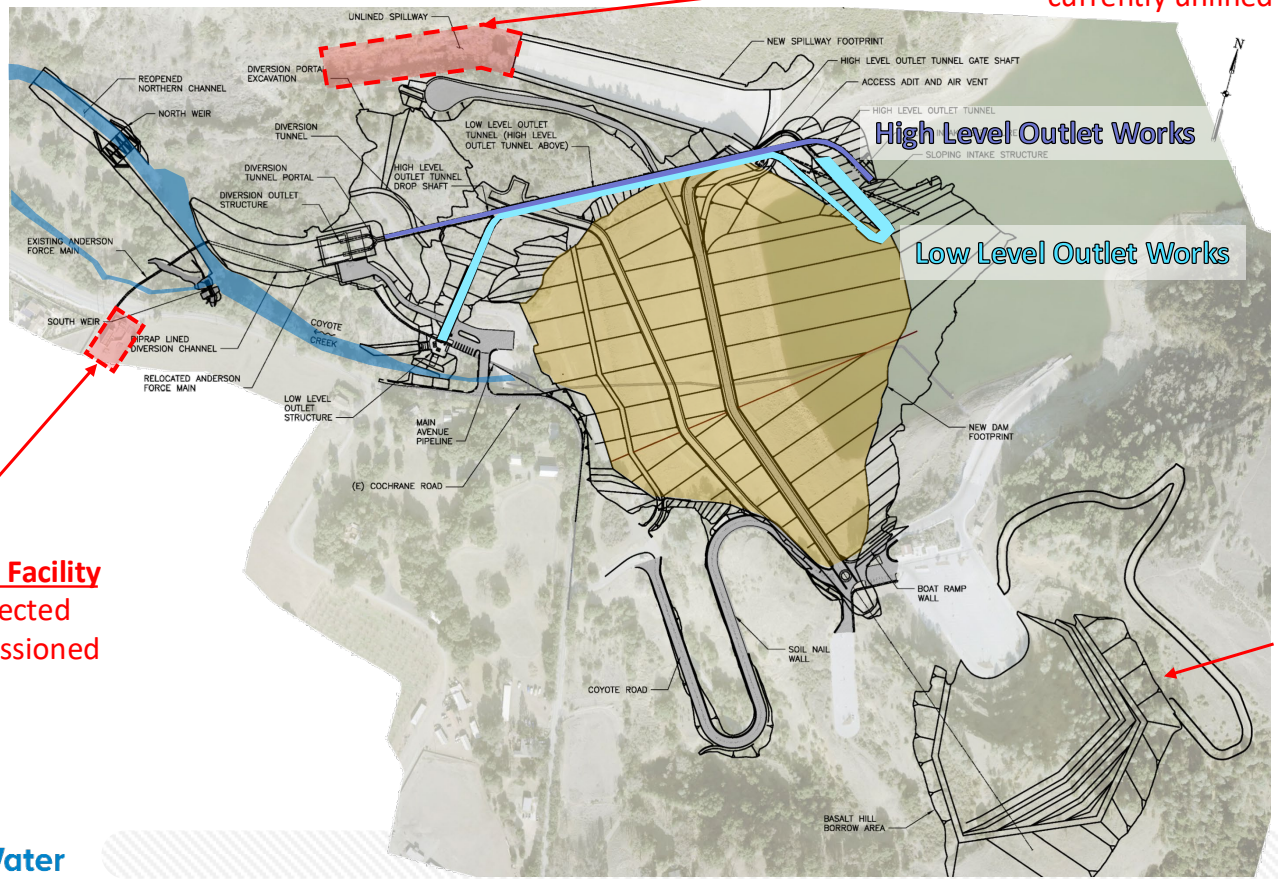
Figure A2. Overview of Construction Activities at Anderson Dam (Valley Water 2025)

Anderson Dam Seismic Retrofit Project

Unlined Spillway
Extension of concrete over currently unlined channel

Coyote Creek
North Channel

South Channel



High Level Outlet Works

Low Level Outlet Works

Hydroelectric Facility
to be disconnected and decommissioned

Basalt Hill Borrow Area
Existing stockpile and future borrow area

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Source: Valley Water's September 2024, public meeting presentation