# Central Valley Regional Water Quality Control Board

## CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND ORDER

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| Reg. Meas. ID: | 447393 |
| Place ID: | 880582 |
| WDID No.: | 5A31CR00578 |
| USACE No.: | SPK-2005-00672 NWP 29 |

**Effective Date:** 12 August 2022

**Expiration Date:** 11 August 2027

**Program Type:** Fill/Excavation

**Project Type:** Residential

**Project:** Vista Oaks/Highland Parcel A – Monument Springs Drive Project (Project)

**Applicant:** Guntert Family Real Estate Limited Partnership

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**Water Board Contact Person:** If you have any questions, please call Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) Staff listed above or (916) 464-3291 and ask to speak with the Water Quality Certification Unit Supervisor.

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## I. Order

This Clean Water Act (CWA) section 401 Water Quality Certification action and Order (Order) is issued at the request of Guntert Family Real Estate Limited Partnership (hereinafter Permittee) for the Project. This Order is for the purpose described in application and supplemental information submitted by the Permittee. The application was received on 31 March 2022. The application was deemed complete on 8 August 2022. Prior to receiving a complete application, Central Valley Water Board staff issued a notice of incomplete application and the Permittee responded to the request for application information on the following date(s):

Date of Notice of Incomplete Application: **6 May 2022**
Date all requested information was received: **6 June 2022**

## II. Public Notice

The Central Valley Water Board provided public notice of the application pursuant to California Code of Regulations, title 23, section 3858 from 1 April 2022 to 22 April 2022. The Central Valley Water Board did not receive any comments during the comment period.

## III. Project Purpose

The purpose of the Project is to mass grade for future construction of a single-family residential development in western Placer County.

## IV. Project Description

The approximately 69-acre Project consists of mass grading to prepare the area for future residential development in the Highlands Parcel A area. Access from the Vista Oaks property is required for grading activities on the Highlands Parcel A.

## V. Project Location

Address: North of Monument Springs Drive, south of China Garden Road, near Secret Ravine Creek

County: Placer

Nearest City: Rocklin

Section 30, Township 11 North, Range 7 East, MDB&M.

Latitude: 38.7741° and Longitude: -121.2335°

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

## VI. Project Impact and Receiving Waters Information

The Project is located within the jurisdiction of the Central Valley Water Board. Receiving waters and groundwater potentially impacted by this Project are protected in accordance with the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, Fifth Edition, May 2018 (Basin Plan). The plan for the region

and other plans and policies may be accessed at the State Water Resources Control Board's Plans and Policies Web page (http://www.waterboards.ca.gov/plans_policies/). The Basin Plan includes water quality standards, which consist of existing and potential beneficial uses of waters of the state, water quality objectives to protect those uses, and the state and federal antidegradation policies.

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

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

## VII. Description of Direct Impacts to Waters of the State

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

**Table 1: Total Project Fill/Excavation Quantity for Temporary Impacts[1]**

| Aquatic Resources Type | Acres | Cubic Yards | Linear Feet |
|---|---|---|---|
| Wetland | 0.16 | | |

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

| Aquatic Resources Type | Acres | Cubic Yards | Linear Feet |
|---|---|---|---|
| Stream Channel | 0.043 | | |
| Wetland | 0.421 | | |

## VIII. Description of Indirect Impacts to Waters of the State

The Central Valley Water Board recognizes the potential for indirect impacts to waters of the state associated with the Project.

[1] Includes only temporary direct impacts to waters of the state and does not include area of temporary disturbance which could result in a discharge to waters of the state. Temporary impacts, by definition, are restored to pre-project conditions and therefore do not include a physical loss of area or degradation of ecological condition.

## IX. Avoidance and Minimization

To minimize the potential effects of construction on water quality and resources, the Permittee shall implement all measures required as described in the Order. According to the Permittee, the following measures will be in place during construction activities to avoid, reduce, and minimize impacts to waters of the state:

- Footings for a proposed bridge crossing will be located outside of the ordinary high-water mark of Secret Ravine Creek;
- Work within or along the stream corridor would occur when no precipitation occurs;
- Best management practices will be utilized to minimize sedimentation of downstream reaches;
- Avoided wetlands will be fenced with high-visibility construction fencing;
- All equipment will be checked for leaks on a regular basis and not be stored in or adjacent to a wetland; and
- All project related construction will have a minimum 60-foot setback from Secret Ravine Creek.

## X. Compensatory Mitigation

The Permittee has agreed to provide compensatory mitigation for direct impacts, described in section VII for permanent impacts.

## XI. California Environmental Quality Act (CEQA)

On 14 November 2006, the City of Rocklin, as lead agency, certified an Environmental Impact Report (EIR) (State Clearinghouse (SCH) No. 2003042169) for the Project and filed a Notice of Determination (NOD) at the SCH on 16 November 2006. Pursuant to CEQA, the Central Valley Water Board has made Findings of Facts (Findings) which support the issuance of this Order and are included in Attachment C.

## XII. Petitions for Reconsideration

Any person aggrieved by this action may petition the State Water Board to reconsider this Order in accordance with California Code of Regulations, title 23, section 3867. A petition for reconsideration must be submitted in writing and received within 30 calendar days of the issuance of this Order.

## XIII. Fees Received

An application fee of $2,417.00 was received on 29 March 2022. The fee amount was determined as required by California Code of Regulations, title 23, sections 3833(b)(3) and 2200(a)(3) and was calculated as Category A - Fill & Excavation Discharges (fee code 84) with the dredge and fill fee calculator.

An additional fee of $10,940.00 based on total Project impacts was received on 6 June 2022.

Federal dischargers involved in Dredge and Fill Operations only are not subject to permit fees as required by Section 3833(b)(3)(A) and Section 2200(a)(3) of the California Code of Regulations.

## XIV. Conditions

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

### A. Authorization

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

### B. Reporting and Notification Requirements

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

The Permittee must submit all notifications, submissions, materials, data, correspondence, and reports in a searchable Portable Document Format (PDF). Documents less than 50 MB must be emailed to: centralvalleysacramento@waterboards.ca.gov.

In the subject line of the email, include the Central Valley Water Board Contact, Project Mane, and WDID No. Documents that are 50 MB or larger must be transferred to a disk and mailed to the Central Valley Water Board Contact.

#### 1. Project Reporting

a. **Monthly Reporting:** The Permittee must submit a Monthly Report to the Central Valley Water Board on the 1st day of each month beginning the month after the submittal of the Commencement of Construction Notification. Monthly reporting shall continue until the Central Valley Water Board issues a Notice of Project Complete Letter to the Permittee.

b. **Annual Reporting:** The Permittee shall submit an Annual Report each year on the 1st day of September, one year after the effective date of the Order. Annual reporting shall continue until the Central Valley Water Board issues a Notice of Project Complete Letter to the Permittee.

2. **Project Status Notifications**

   a. **Commencement of Construction:** The Permittee shall submit a Commencement of Construction Report at least seven (7) days prior to start of initial ground disturbance activities and corresponding Waste Discharge Identification Number (WDID No.) issued under the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ; NPDES No. CAS000002).

   b. **Request for Notice of Completion of Discharges Letter:** The Permittee shall submit a Request for Notice of Completion of Discharges Letter following completion of active Project construction activities, including any required restoration and permittee-responsible mitigation. This request shall be submitted to the Central Valley Water Board staff within thirty (30) days following completion of all Project construction activities. Upon acceptance of the request, Central Valley Water Board staff shall issue a Notice of Completion of Discharges Letter to the Permittee which will end the active discharge period.

   c. **Request for Notice of Project Complete Letter:** The Permittee shall submit a Request for Notice of Project Complete Letter when construction and/or any post-construction monitoring is complete, and no further Project activities will occur. Completion of post-construction monitoring shall be determined by Central Valley Water Board staff and shall be contingent on successful attainment of restoration and mitigation performance criteria. This request shall be submitted to Central Valley Water Board staff within thirty (30) days following completion of all Project activities. Upon approval of the request, the Central Valley Water Board staff shall issue a Notice of Project Complete Letter to the Permittee which will end the post discharge monitoring period.

3. **Conditional Notifications and Reports:**

   The following notifications and reports are required as appropriate.

   a. **Accidental Discharges of Hazardous Materials[2]:**

[2] "Hazardous material" means any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. "Hazardous materials" include, but are not limited to, hazardous substances, hazardous waste, and any material that a handler or the administering agency has a reasonable basis for believing that it would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment. (Health & Safety Code, Section 25501.)

Following an accidental discharge of a reportable quantity of a hazardous material, sewage, or an unknown material, the following applies (Water Code, Section 13271):

i. As soon as (A) Permittee has knowledge of the discharge or noncompliance, (B) notification is possible, and (C) notification can be provided without substantially impeding cleanup or other emergency measures then:

- first call – 911 (to notify local response agency)
- then call – Office of Emergency Services (OES) State Warning Center at:(800) 852-7550 or (916) 845-8911
- Lastly, follow the required OES, procedures as set forth in the Office of Emergency Services' Accidental Discharge Notification Web page (http://www.caloes.ca.gov/FireRescueSite/Documents/CalOES-Spill_Booklet_Feb2014_FINAL_BW_Acc.pdf).

ii. Following notification to OES, the Permittee shall notify Central Valley Water Board, as soon as practicable (ideally within 24 hours). Notification may be delivered via written notice, email, or other verifiable means.

iii. Within five (5) working days of notification to the Central Valley Water Board, the Permittee must submit an Accidental Discharge of Hazardous Material Report.

**b. Violation of Compliance with Water Quality Standards:**

The Permittee shall notify the Central Valley Water Board of any event causing a violation of compliance with water quality standards. Notification may be delivered via written notice, email, or other verifiable means.

i. This notification must be followed within three (3) working days by submission of a Violation of Compliance with Water Quality Standards Report.

**c. In-Water Work and Diversions:**

i. The Permittee shall notify the Central Valley Water Board at least forty-eight (48) hours prior to initiating work in water or stream diversions. Notification may be delivered via written notice, email, or other verifiable means.

ii. Within three (3) working days following completion of work in water or stream diversions, an In-Water Work/Diversions Water Quality Monitoring Report must be submitted to Central Valley Water Board staff.

**d. Modifications to Project:**

Project modifications may require an amendment of this Order. The Permittee shall give advance notice to Central Valley Water Board staff if Project implementation as described in the application materials is altered in any way or by the imposition of subsequent permit conditions by any local, state or federal regulatory authority by submitting a Modifications to Project Report. The Permittee shall inform Central Valley Water Board staff of any Project modifications that will interfere with the Permittee's compliance with this Order. Notification may be made in accordance with conditions in the certification deviation section of this Order.

**e. Transfer of Property Ownership:**

This Order is not transferable in its entirety or in part to any person or organization except after notice to the Central Valley Water Board in accordance with the following terms:

i. The Permittee must notify the Central Valley Water Board of any change in ownership or interest in ownership of the Project area by submitting a Transfer of Property Ownership Report. The Permittee and purchaser must sign and date the notification and provide such notification to the Central Valley Water Board at least 10 days prior to the transfer of ownership. The purchaser must also submit a written request to the Central Valley Water Board to be named as the permittee in a revised order.

ii. Until such time as this Order has been modified to name the purchaser as the permittee, the Permittee shall continue to be responsible for all requirements set forth in this Order.

**f. Transfer of Long-Term BMP Maintenance:**

If maintenance responsibility for post-construction BMPs is legally transferred, the Permittee must submit to the Central Valley Water Board a copy of such documentation and must provide the transferee with a copy of a long-term BMP maintenance plan that complies with manufacturer or designer specifications. The Permittee must provide such notification to the Central Valley Water Board with a Transfer of Long-Term BMP Maintenance Report at least 10 days prior to the transfer of BMP maintenance responsibility.

## C. Water Quality Monitoring

### 1. General:

If surface water is present continuous visual surface water monitoring shall be conducted during active construction periods to detect accidental discharge of construction related pollutants (e.g. oil and grease, turbidity plume, or uncured concrete). Sampling is not required in a wetland where the entire wetland is being permanently filled, provided there is no outflow connecting

the wetland to surface waters. The Permittee shall perform surface water sampling:

**a.** when performing any in-water work;

**b.** during the entire duration of temporary surface water diversions;

**c.** in the event that the Project activities result in any materials reaching surface waters; or

**d.** when any activities result in the creation of a visible plume in surface waters.

**2. Accidental Discharges/Noncompliance:**

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

**3. In-Water Work or Diversions:**

During planned in-water work, dewatering activities, or during the installation of removal of temporary water diversions, any discharge(s) to waters of the state shall conform to the following water quality standards:

**a.** Waters shall not contain oils, greases, waxes, or other materials in concentrations that cause nuisance, result in a visible film or coating on the surface of the water or on objects in the water, or otherwise adversely affect beneficial uses.

**b.** Activities shall not cause turbidity increases in surface water to exceed:

i. where natural turbidity is less than 1 Nephelometric Turbidity Units (NTUs), controllable factors shall not cause downstream turbidity to exceed 2 NTU;

ii. where natural turbidity is between 1 and 5 NTUs, increases shall not exceed 1 NTU;

iii. where natural turbidity is between 5 and 50 NTUs, increases shall not exceed 20 percent;

iv. where natural turbidity is between 50 and 100 NTUs, increases shall not exceed 10 NTUs;

v. where natural turbidity is greater than 100 NTUs, increases shall not exceed 10 percent.

In determining compliance with the above limits, appropriate averaging periods may be applied provided that beneficial uses will be fully protected. Averaging periods may only be used with prior permission of the Central Valley Water Board Executive Officer.

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

The sampling frequency and/or monitoring locations may be modified for certain projects with written approval from Central Valley Water Board staff. An In-Water Work and Diversion Water Quality Monitoring Report, as described in Attachment D, shall be submitted within two weeks on initiation of in-water construction, and every two weeks thereafter. An In-Water Work and Diversion Water Quality Monitoring Report, as described in Attachment D, shall be submitted within two weeks on initiation of in-water construction, and the remaining In-Water Work and Diversion Water Quality Monitoring shall be submitted with the Request for Notice of Completion of Discharges letter. In reporting the data, the Permittee shall arrange the data in tabular form so that the sampling locations, date, constituents, and concentrations are readily discernible. The data shall be summarized in such a manner to illustrate clearly whether the Project complies with Order requirements. The report shall include surface water sampling results, visual observations, and identification of the turbidity increase in the receiving water applicable to the natural turbidity conditions specified in the turbidity criteria in XIV.C.3.

If no sampling is required, the Permittee shall submit a written statement stating, “No sampling was required” within two weeks on initiation of in-water construction, and every two weeks thereafter.

**Table 3: Sample Type and Frequency Requirements**

| Parameter | Unit of Measurement | Type of Sample | Minimum Frequency |
|---|---|---|---|
| Turbidity | NTU | Grab | Every 4 hours |

[3] Pollutants shall be analyzed using the analytical methods described in 40 Code of Federal Regulations Part 136; where no methods are specified for a given pollutant, the method shall be approved by Central Valley Water Board staff. Grab samples shall be taken between the surface and mid-depth and not be collected at the same time each day to get a complete representation of variations in the receiving water. A hand-held field meter may be used, provided the meter utilizes a U.S. EPA-approved algorithm/method and is calibrated and maintained in accordance with the manufacturer’s instructions. A calibration and maintenance log for each meter used for monitoring shall be maintained onsite.

| Parameter | Unit of Measurement | Type of Sample | Minimum Frequency |
|---|---|---|---|
| Visible construction related pollutants[4] | Observations | Visual Inspections | Continuous throughout the construction period |

**4. Post-Construction:**

Visually inspect the Project site during the rainy season for one year following completion of active Project construction activities to ensure excessive erosion, stream instability, or other water quality pollution is not occurring in or downstream of the Project site. If water quality pollution is occurring, contact the Central Valley Water Board staff member overseeing the Project within three (3) working days. The Central Valley Water Board may require the submission of a Violation of Compliance with Water Quality Standards Report. Additional permits may be required to carry out any necessary site remediation.

## D. Standard

**1.** This Order is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330, and California Code of Regulations, title 23, Chapter 28, article 6 commencing with sections 3867-3869, inclusive. Additionally, the Central Valley Water Board reserves the right to suspend, cancel, or modify and reissue this Order, after providing notice to the Permittee, if the Central Valley Water Board determines that: the Project fails to comply with any of the conditions of this Order; or, when necessary to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act (Water Code, section 13000 et seq.) or federal Clean Water Act section 303 (33 U.S.C. section 1313). For purposes of Clean Water Act section 401(d), the condition constitutes a limitation necessary to assure compliance with water quality standards and appropriate requirements of state law.

**2.** This Order is not intended and shall not be construed to apply to any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license, unless the pertinent certification application was filed pursuant to subsection 3855(b) of chapter 28, title 23 of the California Code of Regulations, and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

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

3. This Order is conditioned upon total payment of any fee required under title 23 of the California Code of Regulations and owed by the Permittee.

4. In the event of any violation or threatened violation of the conditions of this Order, the violation or threatened violation shall be subject to any remedies, penalties, process, or sanctions as provided for under state and federal law. For purposes of Clean Water Act, section 401(d), the applicability of any state law authorizing remedies, penalties, processes, or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Order.

**E. General Compliance**

1. Failure to comply with any condition of this Order shall constitute a violation of the Porter-Cologne Water Quality Control Act and the Clean Water Act. The Permittee and/or discharger may then be subject to administrative and/or civil liability pursuant to Water Code section 13385.

2. Permitted actions must not cause a violation of any applicable water quality standards, including impairment of designated beneficial uses for receiving waters as adopted in the Basin Plans by any applicable Regional Water Board or any applicable State Water Board (collectively Water Boards) water quality control plan or policy. The source of any such discharge must be eliminated as soon as practicable.

3. In response to a suspected violation of any condition of this Order, the Central Valley Water Board may require the holder of this Order to furnish, under penalty of perjury, any technical or monitoring reports the Water Boards deem appropriate, provided that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. The additional monitoring requirements ensure that permitted discharges and activities comport with any applicable effluent limitations, water quality standards, and/or other appropriate requirement of state law.

4. The Permittee must, at all times, fully comply with engineering plans, specifications, and technical reports submitted to support this Order; and all subsequent submittals required as part of this Order. The conditions within this Order and Attachments supersede conflicting provisions within Permittee submittals.

5. This Order and all of its conditions contained herein continue to have full force and effect regardless of the expiration or revocation of any federal license or permit issued for the Project. For purposes of Clean Water Act, section 401(d), this condition constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements of state law.

6. The Permittee shall adhere to all requirements in the mitigation monitoring and reporting program (MMRP) (include title and date of MMRP) which is incorporated herein by reference and any additional measures as outlined in Attachment C, CEQA Findings of Fact.

7. **Construction General Permit Requirement:** The Permittee shall obtain coverage under the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ; NPDES No. CAS000002), as amended, for discharges to surface waters comprised of storm water associated with construction activity, including, but not limited to, demolition, clearing, grading, excavation, and other land disturbance activities of one or more acres, or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres.

**F. Administrative**

1. Signatory requirements for all document submittals required by this Order are presented in Attachment E of this Order.

2. This Order does not authorize any act which results in the taking of a threatened, endangered or candidate species or any act, which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & Wildlife Code, sections 2050-2097) or the federal Endangered Species Act (16 U.S.C. sections 1531-1544). If a “take” will result from any act authorized under this Order held by the Permittee, the Permittee must comply with the California Endangered Species Act and federal Endangers Species Act prior to any construction or operation of the portion of the Project that may result in a take. The Permittee is responsible for meeting all requirements of the applicable endangered species act for the Project authorized under this Order.

3. The Permittee shall grant Central Valley Water Board staff, or an authorized representative (including an authorized contractor acting as a Water Board representative), upon presentation of credentials and other documents as may be required by law, permission to:

   **a.** Enter upon the Project or compensatory mitigation site(s) premises where a regulated facility or activity is located or conducted, or where records are kept.

   **b.** Have access to and copy any records that are kept and are relevant to the Project or the requirements of this Order.

   **c.** Inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order.

**d.** Sample or monitor for the purposes of assuring Order compliance.

**4.** A copy of this Order shall be provided to any consultants, contractors, and subcontractors working on the Project. Copies of this Order shall remain at the Project site for the duration of this Order. The Permittee shall be responsible for work conducted by its consultants, contractors, and any subcontractors.

**5.** A copy of this Order must be available at the Project site(s) during construction for review by site personnel and agencies. All personnel performing work on the Project shall be familiar with the content of this Order and its posted location at the Project site.

**6. Lake or Streambed Alteration Agreement:** The Permittee shall submit a signed copy of the California Department of Fish and Wildlife's Lake or Streambed Alteration Agreement to the Central Valley Water Board immediately upon execution and prior to any discharge to waters of the state.

## G. Construction

### 1. Dewatering

**a.** The Permittee shall develop and maintain on-site a Surface Water Diversion and/or Dewatering Plan(s). The Plan(s) must be developed prior to initiation of any water diversions. The Plan(s) shall include the proposed method and duration of diversion activities and include water quality monitoring conducted, as described in section XIV.C.3, during the entire duration of dewatering and diversion activities. The Plan(s) must be consistent with this Order and must be made available to the Central Valley Water Board staff upon request.

**b.** For any temporary dam or other artificial obstruction being constructed, maintained, or placed in operation, sufficient water shall at all times be allowed to pass downstream, to maintain beneficial uses of waters of the state below the dam. Construction, dewatering, and removal of temporary cofferdams shall not violate section XIV.C.3.

**c.** The temporary dam or other artificial obstruction shall only be built from clean materials such as sandbags, gravel bags, water dams, or clean/washed gravel which will cause little or no siltation. Stream flow shall be temporarily diverted using gravity flow through temporary culverts/pipes or pumped around the work site with the use of hoses.

**d.** If water is present, the area must be dewatered prior to start of work.

**e.** Dewatering will occur within the Project area.

**f.** This Order does not allow permanent water diversion of flow from the receiving water. This Order is invalid if any water is permanently diverted as a part of the project.

**g.** The Permittee shall work with the Central Valley Water Board to obtain coverage under an NPDES permit for dewatering activities that result in discharges into surface water. The Permittee shall work with the Central Valley Water Board to obtain coverage under Waste Discharge Requirements (WDRs) for dewatering activities that result in discharges to land.

**2. Directional Drilling – Not Applicable**

**3. Dredging – Not Applicable**

**4. Fugitive Dust:**

Dust abatement activities can cause discharges of sediment to streams and uplands through application of water or other fluids. Dust abatement chemicals added to water can be hazardous to wildlife and, if allowed to enter streams, detrimental to water quality. Therefore, dust abatement activities shall be conducted so that sediment or dust abatement chemicals are not discharged into waters of the state. Dust abatement products or additives that are known to be detrimental to water quality or wildlife shall not be used, unless specific management needs are documented, and product-specific application plans are approved by Central Valley Water Board staff.

**5. Good Site Management "Housekeeping"**

**a.** The Permittee shall develop and maintain onsite a project-specific Spill Prevention, Containment and Cleanup Plan outlining the practices to prevent, minimize, and/or clean up potential spills during construction of the Project. The Plan must detail the Project elements, construction equipment types and location, access and staging and construction sequence. The Plan must be made available to the Central Valley Water Board staff upon request.

**b.** Refueling of equipment within the floodplain or within 300 feet of the waterway is prohibited. If critical equipment must be refueled within 300 feet of the waterway, spill prevention and countermeasures must be implemented to avoid spills. Refueling areas shall be provided with secondary containment including drip pans and/or placement of absorbent material. No hazardous materials, pesticides, fuels, lubricants, oils, hydraulic fluids, or other construction-related potentially hazardous substances should be stored within a floodplain or within 300 feet of a waterway. The Permittee must perform frequent inspections of construction equipment prior to utilizing it near surface waters to ensure leaks from the equipment are not occurring and are not a threat to water quality.

**c.** All materials resulting from the Project shall be removed from the site and disposed of properly.

**6. Hazardous Materials**

**a.** The discharge of petroleum products, any construction materials, hazardous materials, pesticides, fuels, lubricants, oils, hydraulic fluids, raw cement, concrete or the washing thereof, asphalt, paint, coating material, drilling fluids, or other substances potentially hazardous to fish and wildlife resulting from or disturbed by project-related activities is prohibited and shall be prevented from contaminating the soil and/or entering waters of the state. In the event of a prohibited discharge, the Permittee shall comply with notification requirements in sections XIV.B.3.a and XIV.B.3.b.

**b.** No wet concrete will be placed into wetland or stream channel habitat.

**7. Invasive Species and Soil Borne Pathogens**

Prior to arrival at the project site and prior to leaving the project site, construction equipment that may contain invasive plants and/or seeds shall be cleaned to reduce the spread of noxious weeds.

**8. Post-Construction Storm Water Management**

**a.** The Permittee must minimize the short and long-term impacts on receiving water quality from the Project by implementing the following post-construction storm water management practices and as required by local agency permitting the Project, as appropriate:

i. Minimize the amount of impervious surface;

ii. Reduce peak runoff flows;

iii. Provide treatment BMPs to reduce pollutants in runoff;

iv. Ensure existing waters of the state (e.g., wetlands, vernal pools, or creeks) are not used as pollutant source controls and/or treatment controls;

v. Preserve and where possible, create or restore areas that provide important water quality benefits, such as riparian corridors, wetlands, and buffer zones;

vi. Limit disturbances of natural water bodies and natural drainage systems caused by development (including development of roads, highways, and bridges);

vii. Use existing drainage master plans or studies to ensure incorporation of structural and non-structural BMPs to mitigate the projected pollutant load increases in surface water runoff;

viii. Identify and avoid development in areas that are particularly susceptible to erosion and sediment loss, or establish development guidance that protects areas from erosion/ sediment loss; and

ix. Control post-development peak storm water run-off discharge rates and velocities to prevent or reduce downstream erosion, and to protect stream habitat.

**b.** The Permittee shall ensure that all development within the Project provides verification of maintenance provisions for post-construction structural and treatment control BMPs as required by the local agency permitting the Project. Verification shall include one or more of the following, as applicable:

i. The developer's signed statement accepting responsibility for maintenance until the maintenance responsibility is legally transferred to another party; or

ii. Written conditions in the sales or lease agreement that require the recipient to assume responsibility for maintenance; or

iii. Written text in Project conditions, covenants and restrictions for residential properties assigning maintenance responsibilities to a homeowner's association, or other appropriate group, for maintenance of structural and treatment control BMPs; or

iv. Any other legally enforceable agreement that assigns responsibility for storm water BMPs maintenance.

**9. Roads**

**a.** The number of access routes, number and size of staging areas, and the total area of the activity must be limited to the minimum necessary to achieve the project goal. Routes and work area boundaries must be clearly demarcated.

**b.** Bridges, culverts, dip crossings, or other structures must be installed so that water and in-stream sediment flow is not impeded. Appropriate design criteria, practices and materials must be used in areas where access roads intersect waters of the state.

**c.** Temporary materials placed in any water of the state must be removed as soon as construction is completed at that location, and all temporary roads must be removed or re-contoured and restored according to approved re-vegetation and restoration plans.

**d.** Any structure, including but not limited to, culverts, pipes, piers, and coffer dams, placed within a stream where fish (as defined in California Fish and Game Code section 45) exist or may exist, must be designed, constructed, and maintained such that it does not constitute a barrier to upstream or downstream movement of aquatic life, or cause an avoidance reaction by fish due to impedance of their upstream or downstream movement. This includes, but is not limited to, maintaining the supply of water and maintaining flows at an appropriate depth, temperature, and

velocity to facilitate upstream and downstream fish migration. If any structure results in a long-term reduction in fish movement, the discharger shall be responsible for restoration of conditions as necessary (as determined by the Water Board) to secure passage of fish across the structure.

**e.** A method of containment must be used below any temporary bridge, trestle, boardwalk, and/or other stream crossing structure to prevent any debris or spills from falling into the waters of the state. Containment must be maintained and kept clean for the life of the temporary stream crossing structure.

**10. Sediment Control**

**a.** Except for activities permitted by the United States Army Corps of Engineers under Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act, soil, silt, or other organic materials shall not be placed where such materials could pass into surface water or surface water drainage courses.

**b.** Silt fencing, straw wattles, or other effective management practices must be used along the construction zone to minimize soil or sediment along the embankments from migrating into the waters of the state through the entire duration of the Project.

**c.** The use of netting material (e.g., monofilament-based erosion blankets) that could trap aquatic dependent wildlife is prohibited within the Project area.

**11. Special Status Species**

**12. Stabilization/Erosion Control**

**a.** All areas disturbed by Project activities shall be protected from washout and erosion.

**b.** Hydroseeding shall be performed with California native seed mix.

**13. Storm Water**

**a.** During the construction phase, the Permittee must employ strategies to minimize erosion and the introduction of pollutants into storm water runoff. These strategies must include the following:

i. An effective combination of erosion and sediment control Best Management Practices (BMPs) must be implemented and adequately working prior to the rainy season and during all phases of construction.

**H. Site Specific – Not Applicable**

**I. Total Maximum Daily Load (TMDL) – Not Applicable**

**J. Mitigation for Temporary Impacts**

1. The Permittee shall restore all areas of temporary impacts, including Project site upland areas, which could result in a discharge to waters of the state to pre-construction contours and conditions upon completion of construction activities.
2. The Central Valley Water Board may extend the monitoring period beyond requirements of the restoration plan upon a determination by Executive Officer that the performance standards have not been met or are not likely to be met within the monitoring period.
3. If restoration of temporary impacts to waters of the state is not completed within 90 days of the impacts, compensatory mitigation may be required to offset temporal loss of waters of the state.

**K. Compensatory Mitigation for Permanent Impacts:**

Compensatory Mitigation is for permanent physical loss and permanent ecological degradation of a water of the state.

**5. Compensatory Mitigation Plan**

**a.** The Permittee shall provide a final compensatory mitigation plan for written acceptance by Central Valley Water Board staff. Impacts to waters of the state are not authorized and shall not occur until a compensatory mitigation plan has been approved by Central Valley Water Board staff. Upon acceptance by Central Valley Water Board staff, the Permittee shall implement the approved plan.

**b.** The final compensatory mitigation plan shall include all plan elements as outlined in 40 CFR section 230.94(c)

**c.** Permittees fulfilling their compensatory mitigation obligations by securing credits from an approved mitigation bank or in-lieu fee program, need only include the items described in 40 CFR section 230.94(c)(5)-(6), and the name of the specific mitigation bank or in-lieu fee program to be used.

**6. Purchase of Mitigation Credits by Permittee for Compensatory Mitigation**

**a.** A copy of the fully executed agreement for the purchase of mitigation credits shall be provided to the Central Valley Water Board prior to the initiation of in water work.

**b.** The Permittee shall retain responsibility for providing the compensatory mitigation and long-term management until Central Valley Water Board

staff has received documentation of the credit purchase and the transfer agreement between the Permittee and the seller of credits.

7. **Total Required Compensatory Mitigation**

   **a.** The Permittee is required to provide compensatory mitigation for the authorized impact to wetland habitat by purchasing 0.464 vernal pool mitigation credits from the Locust Road Mitigation Bank.

   **b.** Total required Project compensatory mitigation information for permanent physical loss of area is summarized in Table 4. [Establishment (Est.), Re-establishment (Re-est.), Rehabilitation (Reh.), Enhancement (Enh.), Preservation (Pres.), Unknown].

**Table 4: Total Required Project Compensatory Mitigation Quantity for Permanent Physical Loss of Area**

| Aquatic Resource Type | Mitigation Type | Units | Est. | Re-est. | Reh. | Enh. | Pres. | Unknown |
|---|---|---|---|---|---|---|---|---|
| Vernal Pool | Mitigation Bank Credits | Acres | | 0.464 | | | | |

## L. Certification Deviation

1. Minor modifications of Project locations or predicted impacts may be necessary as a result of unforeseen field conditions, necessary engineering re-design, construction concerns, or similar reasons. Some of these prospective Project modifications may have impacts on water quality. Some modifications of Project locations or predicted impacts may qualify as Certification Deviations as set forth in Attachment F. For purposes of this Certification, a “Certification Deviation” is a Project locational or impact modification that does not require an immediate amendment of the Order, because the Central Valley Water Board has determined that any potential water quality impacts that may result from the change are sufficiently addressed by the Order conditions and the CEQA Findings. After the termination of construction, this Order will be formally amended to reflect all authorized Certification Deviations and any resulting adjustments to the amount of water resource impacts and required compensatory mitigation amounts.

2. A Project modification shall not be granted a Certification Deviation if it warrants or necessitates changes that are not addressed by the Order conditions or the CEQA environmental document such that the Project impacts are not addressed in the Project's environmental document or the conditions of this Order. In this case a supplemental environmental review and different Order will be required.

## XV. Water Quality Certification

I hereby issue the Order for the Vista Oaks/Highland Parcel A – Monument Springs Drive Project, WDID#5A31CR00578, certifying that as long as all of the conditions listed in this Order are met, any discharge from the referenced Project will comply with the applicable provisions of Clean Water Act sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards).

Except insofar as may be modified by any preceding conditions, all Order actions are contingent on: (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the conditions of this Order and the attachments to this Order; and, (b) compliance with all applicable requirements of Statewide Water Quality Control Plans and Policies, the Regional Water Boards' Water Quality Control Plans and Policies.

Adam Laputz Digitally signed by Adam Laputz Date: 2022.08.12 16:47:40 -07'00'

Patrick Pulupa, Executive Officer
Central Valley Regional Water Quality Control Board

**Attachment A:** Project Maps
**Attachment B:** Receiving Waters, Impacts, and Mitigation Information
**Attachment C:** CEQA Findings of Facts
**Attachment D:** Report and Notification Requirements
**Attachment E:** Signatory Requirements
**Attachment F:** Certification Deviation Procedures
**Attachment G:** Compliance with Code of Federal Regulations

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## Attachment A – Project Maps

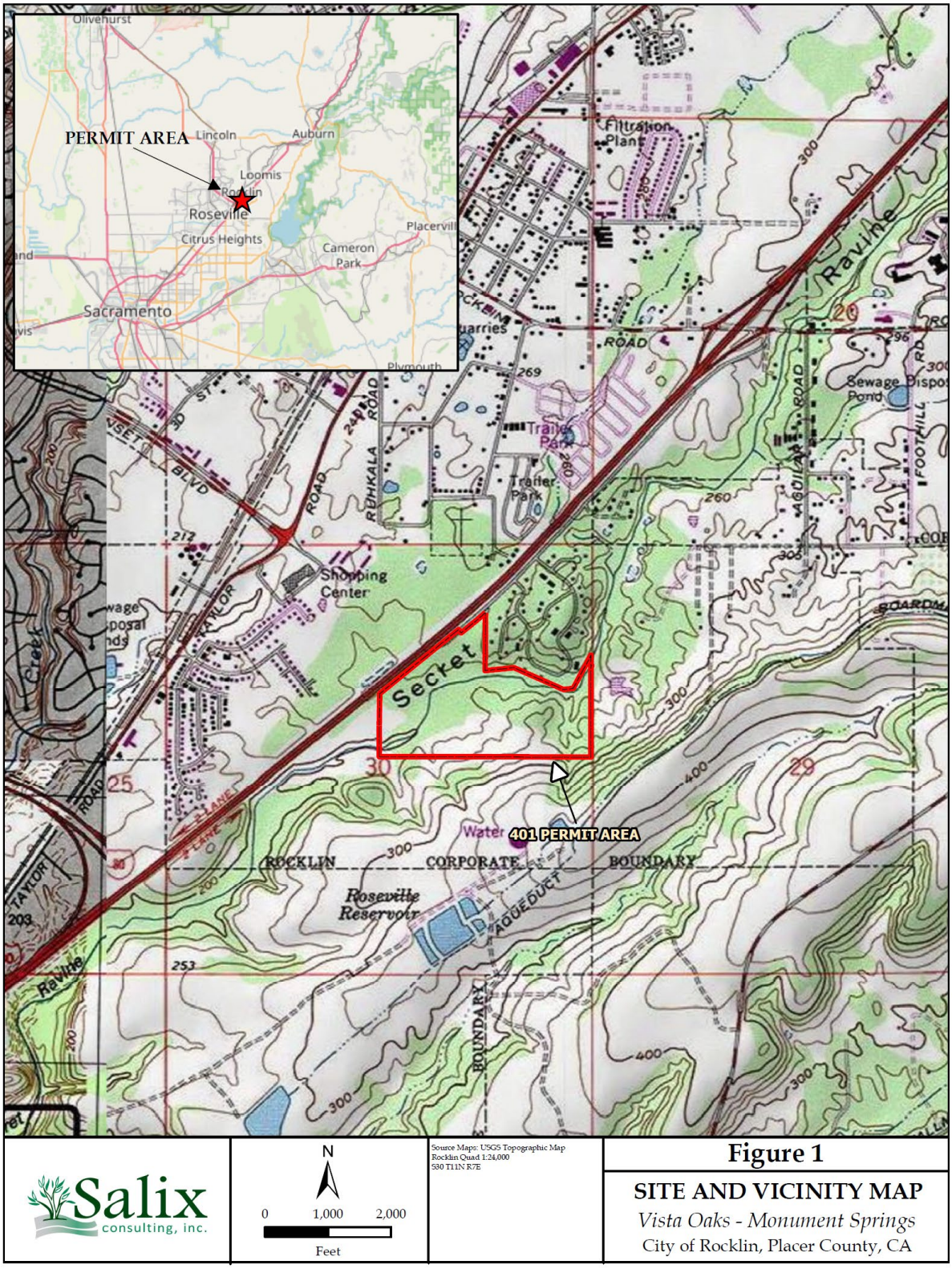



Figure 1: Project Location Map

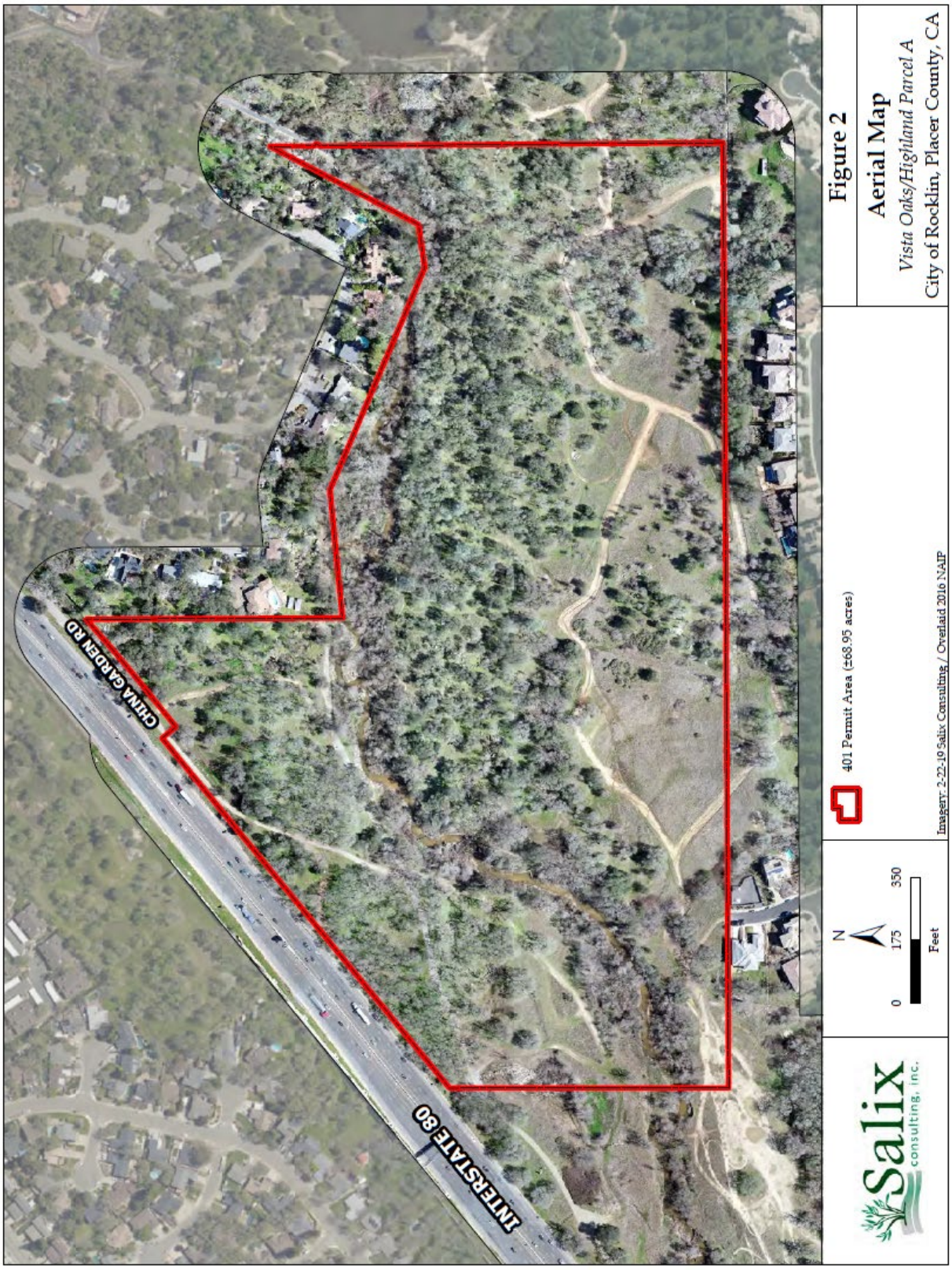



Figure 2: Site Map

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## Attachment B – Receiving Waters, Impacts and Mitigation Information

The following table shows the receiving waters associated with each impact site.

**Table 1: Receiving Water(s) Information**

| Non-Federal Waters | Impact Site ID | Waterbody Name | Impacted Aquatic Resources Type | Water Board Hydrologic Units | Receiving Waters | Receiving Waters Beneficial Uses | 303d Listing Pollutant | California Rapid Assessment Method (CRAM) ID |
|---|---|---|---|---|---|---|---|---|
| No | Unnamed Wetland | Unnamed Wetland | Wetland | 519.22 | Secret Ravine Creek | MUN, AGR, IND, POW, REC-1, REC-2, WARM, COLD, MIGR, SPWN, WILD | Ammonia, Specific Conductivity, Dissolved Oxygen, pH | N/A |
| No | Ephemeral Stream | Unnamed Wetland | Stream Channel | 519.22 | Secret Ravine Creek | MUN, AGR, IND, POW, REC-1, REC-2, WARM, COLD, MIGR, SPWN, WILD | Ammonia, Specific Conductivity, Dissolved Oxygen, pH | N/A |

**Individual Direct Impact Locations**

The following tables show individual impacts.

**Table 2: Individual Temporary Fill/Excavation Impact Information**

| Impact Site ID | Latitude | Longitude | Indirect Impact Requiring Mitigation? | Acres | Cubic Yards | Linear Feet |
|---|---|---|---|---|---|---|
| Wetland | 38.7741° | -121.2335° | No | 0.16 | | |

**Table 3: Individual Permanent Fill/Excavation Impact Information**

| Impact Site ID | Latitude | Longitude | Indirect Impact Requiring Mitigation? | Acres | Cubic Yards | Linear Feet |
|---|---|---|---|---|---|---|
| Ephemeral Stream | 38.7741° | -121.2335° | No | 0.043 | | |
| Wetland | 38.7741° | -121.2335° | No | 0.421 | | |

**Compensatory Mitigation Information**

The following table(s) show individual compensatory mitigation information and locations.

**Table 4: Mitigation Bank Compensatory Mitigation Site Information**

| | |
|---|---|
| Mitigation Bank Name: | Locust Road Mitigation Bank |
| Website: | creditsca@res.us |
| Mitigation Bank Contact Name: | Peggy Lee |
| Phone: | (916) 698-8488 |
| Mitigation Location - County: | Placer |
| Latitude: | 38°46’05.59” |
| Longitude: | -121°27’56.11” |

**Table 5: Mitigation Type Information**

| Aquatic Resource Credit Type | Acres | Linear Feet | Number of Credits Purchased |
|---|---|---|---|
| Vernal Pools | 0.464 | | |

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## Attachment C – CEQA Findings of Fact

### A. Environmental Review

On 14 November 2006, the City of Rocklin, as lead agency, adopted an Environmental Impact Report (EIR) (State Clearinghouse (SCH) No. 2003042169 for the Project and filed a Notice of Determination (NOD) at the SCH on 16 November 2006. The Central Valley Water Board is a responsible agency under CEQA (Public Resources Code, section 21069) and in making its determinations and findings, must presume that the City of Rocklin's adopted environmental document comports with the requirements of CEQA and is valid. (Public Resources Code, section 21167.3.) The Central Valley Water Board has reviewed and considered the environmental document and finds that the environmental document prepared by the City of Rocklin addresses the Project's water resource impacts. (California Code of Regulations, title 14, section 15096, subd. (f).) The environmental document includes the mitigation monitoring and reporting program (MMRP) developed by the City of Rocklin for all mitigation measures that have been adopted for the Project to reduce potential significant impacts. (Public Resources Code, section 21081.6, subd. (a)(1); California Code of Regulations, title 14, section 15074, subd. (d).)

### Incorporation by Reference

Pursuant to CEQA, these Findings of Facts (Findings) support the issuance of this Order based on the Project FEIR, the application for this Order, and other supplemental documentation.

The FEIR, which includes analyses of broad impacts and serves as a first tier document for the FEIR, is available at: the City of Rocklin, 3970 Rocklin Road, Rocklin, CA 95677.

All CEQA project impacts, including those discussed in subsection C below, are analyzed in detail in the FEIR which is incorporated herein by reference.

Requirements under the purview of the Central Valley Water Board in the MMRP are incorporated herein by reference.

The Permittee's application for this Order, including all supplemental information provided, is incorporated herein by reference.

### C. Findings

The FEIR describes the potential significant environmental effects to water resources. Having considered the whole of the record, including comments received during the public review process, the Central Valley Water Board makes the following findings

*(1)* Findings regarding impacts that will be mitigated to a less than significant level. (Public Resources Code, section 21081, subd. (a)(1); California Code of Regulations, title 14, section 15091, subd. (a)(1).)

*Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.*

a.i. Potential Significant Impact:

Construction phase erosion, degradation to water quality, cumulative impacts related to degradation of water quality, impacts to special status species, impacts to steelhead trout and Chinook salmon, operational impacts to water quality and special=status fish from stormwater runoff, short term impacts to native oak trees, long term impacts to native oak trees, impacts to freshwater emergent wetland habitat, impacts to northern volcanic mudflow vernal pools and vernal pool invertebrates, impacts to special status species, impacts to valley elderberry longhorn beetle (VELB), and impacts to nesting raptors.

a.ii. Facts in Support of Finding:

**4.4MM-3a** Prior to any grading or construction activities, the applicant shall obtain a General Construction Activity Stormwater Permit as part of the National Pollutant Discharge Elimination System (NPDES) permit process from the Regional Water Quality Control Board. The permit is required to control both construction and operation activities that may adversely affect water quality. The applicant shall also prepare a Stormwater Pollution Prevention Plan (SWPPP) that describes the site, erosion and sediment controls using Best Management Practices (BMPs) and Best Available Technologies, means of waste disposal, implementation of approved local plans, control of post-construction sediment and erosion control. Typical BMPs that could be used during construction of the proposed projects include, but are not limited to the following:

- Temporary facilities such as straw wattles and sandbags may be used during construction.
- Temporary facilities will capture a majority of the siltation resulting from construction activities prior to discharging into existing natural channels. In addition, they will trap possible fuel and oil spills from construction equipment to prohibit contamination of surface flows or groundwater.
- The construction contractor would be required to monitor and maintain all BMPs during construction to ensure they function properly.

**4.4MM-3b** Prior to any grading or construction activities, the applicant shall comply with the provisions of Attachment 4 of the City's Stormwater Permit to the satisfaction of the Public Works Director. These provisions shall also be applicable to the limited graded lots on Phase 1 of the Vista Oaks project site.

**4.4MM-3c** Work shall be scheduled to minimize construction activities in "high-risk" areas and the amount of active disturbed soil areas, during the rainy season (October 15 through May 1). "High-risk areas" include those areas within 50 feet of the USGS water courses, 100-year floodplains,

regulated wetlands, and where slopes exceed 16 percent. Unless specifically authorized by the City Engineer or his designees during the rainy season, the developer shall not schedule construction activities in the “high-risk areas” or schedule to have more area of active disturbed soil area than can be managed in conformance with the regulations of the City of Rocklin, the Water Quality Control Board, or any other agency having jurisdiction in this area.

**4.4MM-4a** Appropriate Best Management Practices (BMPs) and Best Available Technologies (BATs) shall be incorporated into project design to reduce urban pollutants in runoff, consistent with goals and standards established under federal and State non-point source discharge regulations (NPDES permit) and Basin Plan water quality objectives. Storm water runoff BMPs selected from the Storm Water Quality Task Force, the Bay Area Storm Water Management Agencies Association Start at the Source – Design Guide Manual, or equally effective measures shall be identified prior to final design approval. To maximize effectiveness, the selected BMPs shall be based on finalized site-specific hydrologic conditions, with consideration for the types and locations of development. Mechanisms to maintain the BMPs shall be identified in the conditions of approval and on improvement plans. Typical BMPs and BATs that could be used at the proposed projects include, but are not limited to, the following:

- Application of appropriate signage to all storm drain inlets indicating that they outlet to the natural drainageways;
- Installation of Educational Tributary Signs that identify waterways at street and trail locations that are visible to pedestrians. Signs should contain information such as water body name, elevation, latitude and longitude, salmon spawning habitat, and distance to Pacific Ocean in miles.
- Application of a street sweeping program to remove potential contaminants from street and roadway surfaces before they reach drainages;
- Minimize sources of concentrated flow by maximizing use of natural drainages to decelerate flows, collect pollutants and suspended sediment.
- Placement of velocity dissipaters, riprap, and/or other appropriate measures to slow runoff, promote deposition of waterborne particles, and reduce the erosive potential of storm flows;
- Prompt application of soil protection and slope stabilization practices to all disturbed areas;
- Creation of storage basins consisting of depressed areas, usually lined, that are sized to hold storm runoff and settle out material (the facility usually has a type of outlet device that is above the bottom of the basin or a small rip-rapped berm over which the treated water can flow);
- Creation of a below-ground storage basin consisting of vertical or horizontal corrugated metal or HDPE pipes sized to allow the volume of water required to be treated to percolate into the ground;

- Use of fossil filters consisting of small filters that are placed like troughs around the inside top drain inlets or at ditch outlets; and
- Use of rock-lined ditches, which are surface ditches that are lined with rock, with or without filter material, with the rock lining material designed to allow water to filter into the ground. Selected BMPs shall be noted on the Improvement Plans submitted by the applicant for the proposed projects.

- **4MM-4b** Project construction shall be restricted within 100 feet of Secret Ravine Creek or the Aguilar Road tributary to the dry months of the year (i.e., May through October).

  **4.6MM-2a** If construction is proposed by the developer during the breeding season (February-August) of special-status migratory bird species, the project applicant, in consultation with the City of Rocklin and CDFG, shall conduct a preconstruction migratory bird survey of the project site during the same calendar year that construction is planned to begin. The survey shall be conducted by a qualified biologist in order to identify active nests of any special-status bird species on the project sites. The results of the survey shall be submitted to the Community Development Department. If active nests are not found during the preconstruction survey, further mitigation is not required. If active nests are found, an adequately sized temporary non-disturbance buffer zone shall be determined based on CDFG consultation, shall be established around the active nest. Intensive new disturbances (e.g., heavy equipment activities associated with construction) that may cause nest abandonment or forced fledging shall not be initiated within this buffer zone between March 1 and September 1. Any trees containing nests that must be removed as a result of project implementation shall be removed during the non-breeding season (September to January).

  **4.6MM-2b** Although surveys are not required, if a horned lizard is observed on the site, work shall cease in the area until the lizard can be moved to a safe location consistent with CDFG regulations. The above shall be completed for the review and approval by the City Engineer.

  **4.6MM-2c** A pre-construction survey for western pond turtle shall be conducted by a qualified biologist prior to any grading or construction activity, to determine presence or absence of this species in the project site. If construction is planned after April 1st, this survey shall include looking for turtle nests within the construction area. If northwestern pond turtles are not found within the project site, no further mitigation is required. If juvenile or adult turtles are found within the proposed construction area, the individuals shall be moved out of the construction site with technical assistance from CDFG. If a nest is found within the construction area, construction shall not take place within 30 meters (100 feet) of the nest until the turtles have hatched. If a turtle is observed on the site, work shall cease in the area until

the turtle can be moved to a safe location consistent with CDFG regulations. The above shall be completed for the review and approval by the City Engineer. The survey shall be valid for one year; if construction does not take place within one year of the survey, a new survey shall be conducted.

**4.6MM-2d** Although surveys are not required, if a yellow-legged frog is observed on site during the construction phase, work shall cease in the area until the frog can be moved to a safe location consistent with CDFG regulations. The above shall be completed for the review and approval by the City Engineer.

**4.6MM-2e** A pre-construction protocol-level survey for western spadefoot toad shall be conducted by a qualified biologist prior to any grading or construction activity, to determine presence or absence of this species on the project sites. The survey shall be conducted in accordance with all applicable CDFG guidelines. If western spadefoot toads are not found within the project site, no further mitigation is required. If juvenile or adult spadefoot toads are found within the proposed construction area, the individuals shall be moved out of the construction site with technical assistance from CDFG. If spadefoot toad eggs are found within the construction area, construction shall not take place within 30 meters (100 feet) of the nest until the toads have hatched. If a spadefoot toad is observed on the site, work shall cease in the area until the frog can be moved to a safe location consistent with CDFG regulations. The above shall be completed for the review and approval of the City Engineer. The survey shall be valid for one year; if construction does not take place within one year of the survey, a new survey shall be conducted.

**4.6MM-4a** Prior to any grading or construction activities; the proposed bridge shall be designed to be consistent with Southeast Rocklin Circulation Element policies 16 through 38, 41, and 44, and in consultation with the CDFG so as to ensure year-round passage of steelhead and Chinook through the area. The bridge shall be designed so that it traverses the creek in a manner that does not in any way impede its current flow.

**4.6MM-4b** Per Southeast Rocklin Circulation Element policy 25, once the precise location of any creek crossing is determined, the construction zone (corridor) shall be flagged to allow easy identification. Heavy equipment shall be operated only within this designated corridor.

**4.6MM-4c** Per Southeast Rocklin Circulation Element policy 28, construction within or along the channel shall be restricted to the time period selected by the CDFG, typically July 1 – September 30, the period in which there is very little water in the channel and in which movement of steelhead and Chinook salmon within the project area is expected to be minimal. Steelhead or salmon downstream from the site are not likely to be adversely affected,

directly or indirectly, if construction occurs during this time. Furthermore, impacts to the movement of anadromous fishes through the project area should be minimal during this time.

**4.6MM-4d** Debris, soil, silt, sand, bark, slash, sawdust, cement, concrete, washings, petroleum products or other organic or earthen material shall not be allowed to enter into or be placed where it may be washed by rainfall or runoff into Waters of the State. Per Southeast Rocklin Circulation Element policy 20, a siltation and erosion and control program for stream crossing areas shall be designed and implemented prior to construction to the satisfaction of the City Engineer, and the Public Works inspector shall monitor ongoing construction activities to assure compliance. In addition, the project shall comply with the requirements of the Streambed Alteration Agreement and shall institute Best Management Practices (BMPs) as identified in the agreement, and in the project's stormwater management plan. The mitigation measures above shall be completed for the review and approval of the City Engineer.

**4.6MM-6a** Prior any grading or construction activities, for oak trees six inches in diameter or greater that are to be removed, the project applicant shall comply with provisions of the City of Rocklin Tree Ordinance (Chapter 17.77 of the Rocklin Municipal Code (Ordinance 676) and policy 37 of the Southeast Rocklin Circulation Element, payment of fees and/or replacement of trees. Some of the requirements include but are not limited to the replacement of trees or payment of an in-lieu fee for the removal of oak trees (The City of Rocklin Oak Tree Preservation Guidelines) and that trees to be retained near the construction alignment of any road shall be fenced in accordance with the Oak Tree Ordinance to prevent access by heavy equipment. Prior to the removal of any oak trees, the project applicant shall obtain a tree permit from the City, which will include provisions for replacing lost trees. All replacement trees shall be of a 15-gallon size and shall be planted on residential lots and open space areas. The plan shall specify monitoring requirements including required inspections for at least a five-year period. The above shall be done for the review and approval of the Community Development Director.

**4.6MM-6b** If adequate locations cannot be found to replace all removed oak trees, then the remaining mitigation requirement may be met through payment into the existing City of Rocklin Tree Preservation Fund at the rate and formula specified in the City of Rocklin Municipal Code. Such payments shall be made prior to any grading or construction activities, with the review and approval by the Community Development Director.

**4.6MM-8a** Prior to issuance of Improvement Plans, the City shall require the project applicant and/or any developers to mitigate impacts to ensure the avoidance of any net loss of seasonal wetlands and jurisdictional waters of

the United States, or the bed, channel, or bank of any stream. Such avoidance may be achieved by implementing and complying with the provisions of the Clean Water Act, as administered by the U.S. Army Corps of Engineers (ACOE), under Section 404 of the Clean Water Act, and under Sections 1600-1607 of the California Fish and Game Code, as administered by the CDFG, which includes obtaining all required permits from the ACOE and entering into a Streambed Alteration Agreement with CDFG and complying with all terms and conditions of those permits and agreements. If CDFG determines that an SAA is warranted, the SAA may include conditions such as:

- Protection and maintenance of the riparian, wetland, stream or lake systems to ensure a “no-net-loss” of habitat value and acreage. Vegetation removal shall not exceed the minimum necessary to complete operations.
- Provisions for the protection of at-risk fish and wildlife resources that consider various life stages, maintain migration and dispersal corridors, and protect essential breeding (i.e., spawning, nesting) habitats.
- Delineation of buffers along stream and wetlands to provide adequate protection to the aquatic resource. Grading or construction activities shall not be allowed within these buffers.
- Placement of construction materials, soils, or fill such that they cannot be washed into a stream or lake.
- Prevention of downstream sedimentation and pollution. Provisions may include but not be limited to oil/grit separators, detention ponds, buffering filter strips, silt barriers, etc. to prevent downstream sedimentations and pollution.
- Restoration plans shall include performance standards such as the types of vegetation to be used, the timing of implementation, and contingency plans if the replanting is not successful. Restoration of disturbed areas shall utilize native vegetation.

  In order to comply with Public Resources Code Section 21081.6, a detailed monitoring program shall be developed for all mitigation conditions within the SAA. The monitoring program shall include but not be limited to the following:

- Specific criteria to measure the effectiveness of mitigation.
- Annual monitoring for a minimum of five years. Annual written reports submitted to the lead agency and the DFG Sacramento Valley-Central Valley Sierra Region. The annual monitoring reports shall include corrective recommendations that shall be implemented in order to ensure that mitigation efforts are successful.

**4.6MM-8b** Prior to any grading or construction activities, the project proponent shall apply for and obtain a permit from the ACOE. The project proponent shall comply with the terms and conditions of the permit.

**4.6MM-8c** Prior to any grading or construction activity, the applicant shall choose from the various options available to mitigate for the loss wetlands. Various options include the following:

- Mitigation credits in the amount specified by the ACOE, the CDFG, and/or the USFWS as applicable, may be purchased from a previously approved mitigation bank in the region. Such purchase would be approved by the appropriate agencies. This mitigation measure shall be implemented prior to any grading or construction activity, with the review and approval by the City Engineer.
- Prior to any grading or construction activity, the applicant may construct replacement wetlands either on-site, or at an approved off-site location based on the mitigation ratios determined though the permitting process, with the review and approval by the City Engineer. Adequate area shall be available on-site, along Secret Ravine Creek and/or within the 100-year floodplain, for seasonal wetland mitigation. In addition, a detailed wetland restoration plan shall be prepared in consultation with a qualified restoration biologist. This detailed wetland restoration plan shall be provided for the replacement of lost wetland habitat area for replacement wetlands as well as the location of on-site restoration opportunities, complete with an analysis of the technical approach to create high quality wetlands.

In the event that on or off-site wetlands are to be constructed, the project proponent shall comply with the recommendations and conditions contained in the ACOE permit. As discussed in the Hydrology and Water Quality chapter of this EIR, water quality in the wetland areas shall be protected using approved erosion control techniques during construction on the project site (see Mitigation Measure 4.4MM-4a). Urban runoff shall also be managed to protect water quality of the wetland areas.

**4.6MM-10a** Project design shall avoid vernal pool habitat if feasible. If avoidance is not feasible, prior to any grading or construction activities, a pre-construction protocol-level survey (2 years' worth of surveying) shall be conducted on the project sites by a qualified biologist in order to identify the presence of any vernal pool-associated special-status plant or animal species on the project sites. The project applicant may choose the option of assuming the presence of vernal pool-special status plants and/or species rather than conducting a 2-year pre-construction protocol-level survey. Assuming the presence would include appropriate mitigation ratios and options. Furthermore, if the project applicant chooses to conduct surveys, the results

of the surveys shall be submitted to CDFG and the Community Development Department for review.

a. If (during the 2-year preconstruction protocol-level survey) special-status plant or animal species or both are determined not to occur on site, an off-site preservation/loss ratio of 2:1 shall be implemented.
b. If (during the 2-year preconstruction protocol-level survey) any special-status species are displaced, a 3:1 mitigation ratio will be utilized. Mitigation requirements may be met through one of the following means, with the review and approval by the Community Development Director:

    1. The purchase of vernal pool preservation credits at an approved mitigation or conservation bank in the region;
    2. The purchase and set aside of acreage within or adjacent to an existing vernal pool preserve in the region. Preserves should be sufficiently large as to ensure viability and manageability, and should include adequate natural uplands and buffer areas to prevent encroachment by adverse human activities. Preserves should be located as near as possible, have a similar hydrologic regime, and occur on the same soil type as those being lost, to conserve local genetic interactions and provide habitat for species important in these interactions; or
    3. Payment of fees into the Vernal Pool Mitigation Account established by the U.S. Fish and Wildlife Service and managed by the Center for Natural Lands Management.

The vernal pools were identified in both of the wetland delineation reports previously referenced (Gibson & Skordal 1999, ECORP Consulting 2001). The delineation of these pools has been verified by the ACOE. Should it be documented, or assumed, that vernal pool fairy shrimp occur on this site, authorization for the take of these resources could be provided through an existing programmatic Section 7 consultation between the ACOE and USFWS which would include appropriate mitigation ratios and options.

**4.6MM-11** Prior any grading or construction activities, pre-construction protocol-level surveys shall be conducted by a qualified biologist on the portions of the project sites planned for development, in order to identify the presence of any of the special-status plant species identified in Table 4.6-1. Pre-construction protocol level surveys shall be conducted during the appropriate blooming period (March- October) for all plant species to adequately ensure recognition of potentially occurring species. Because the blooming period of all potentially occurring plant species covers a wide range, a minimum of three focused rare plant surveys timed approximately one month apart are recommended from April through June to cover the peak

blooming period. The results of the surveys shall be submitted to CDFG and the Community Development Department for review.

If, as a result of the survey(s), special status plant species are determined not to occur on the sites, further action shall not be required. If special-status plant species are detected on either site, locations of these occurrences shall be mapped with GPS and consultation with CDFG shall be initiated, and a mitigation plan shall be prepared based on the consultation. The plan shall detail the various mitigation approaches to ensure no net loss of plant species.

**4.6MM-12a** The City shall require the project applicant and/or any developers filing final maps to mitigate impacts to elderberry shrubs hosting the Valley Elderberry Longhorn Beetle by avoiding any net loss of such shrubs. Such avoidance may be achieved by entering into a formal consultation with the USFWS by obtaining the necessary take permit for VELB, and by taking all necessary steps required to comply with the take permit issued by USFWS for avoidance and replacement of elderberry shrubs consistent with USFWS guidelines.

**4.6MM-12b** Prior to any grading or construction activities, elderberry shrubs on the project site shall be protected and incorporated into the landscape or open space areas, if feasible. Prior to the commencement of any grading or construction activities, the applicant shall place protective fencing around elderberry shrubs not scheduled for removal, creating a 100-foot buffer protection zone. All construction activities and equipment shall remain outside of the 100-foot buffer protection zone throughout the construction period. It should be noted that the 100-foot buffer protection zone may not be able to be provided in all instances during construction. The applicant shall consult with USFWS prior to construction to determine what measures shall be taken to reduce impacts of construction activities to the elderberry shrubs. In addition, construction activities shall be monitored by a qualified biologist.

**4.6MM-12c** If impacts to individual elderberry bushes cannot be avoided, the City will require mitigation consistent with the USFWS requirement for transplantation and/or replacement. Each elderberry stem measuring 1.0 inch or greater in diameter at ground level that is adversely effected (i.e., transplanted or destroyed) must be replaced with elderberry seedlings or cuttings at a ratio ranging from 2:1 to 5:1 (new plantings to affected stems) dependent on the presence/absence and density of beetle exit holes in the effected bush. The exact ratio and specific conditions related to the transplantation or replacement requirement would be determined through consultation with the USFWS.

**4.6MM-13a** Prior to any grading or construction activity, the project applicant, in consultation with the City of Rocklin and CDFG, shall conduct a pre-construction breeding-season survey (approximately February 15 through August 1) of the project site during the same calendar year that construction is planned to begin. The survey shall be conducted by a qualified raptor biologist to determine if any birds-of-prey are nesting on or directly adjacent to the Proposed Project site.

If phased construction procedures are planned for the proposed project, the results of the above survey shall be valid only for the season when it is conducted.

A report shall be submitted to the City of Rocklin following the completion of the survey that includes, at the minimum, the following information:

- A description of methodology including dates of field visits;
- The names of survey personnel with resume;
- A list of references cited, and persons contacted; and
- A map showing the location(s) of any raptor nests observed on the project site. If the above survey does not identify any nesting raptor species on the project site, further mitigation would not be required. However, should any raptor species be found nesting on the project site, the following mitigation measures shall be implemented.

**4.6MM-13b** Prior to any grading or construction activities, the following mitigation measures shall be completed for the review and approval by the City Engineer. The project applicant, in consultation with the City of Rocklin and CDFG, shall avoid all birds of prey nest sites located in the project site during the breeding season while the nest is occupied with adults and/or eggs or young. The occupied nest shall be monitored by a qualified raptor biologist to determine when the nest is no longer used. Avoidance shall include the establishment of a non-disturbance buffer zone around the nest site. The size of the buffer zone would be determined in consultation with the City and CDFG. Highly visible temporary construction fencing shall delineate the buffer zone.

**4.6MM-13c** If the nest of any legally protected species is located in a tree designated for removal, the removal shall be deferred until after August 30th, or until the adults and young are no longer dependent on the nest site, as determined by a qualified biologist.

## D. Statement of Overriding Considerations

The City of Rocklin FEIR identifies certain significant impacts to the environment that cannot be avoided or substantially lessened with the application of feasible mitigation measures or feasible alternatives. Because there are significant and

unavoidable impacts the Central Valley Water Board provides this Statement of Overriding Considerations in compliance with CEQA. (Public Resources Code, section 21081, subd (b); California Code of Regulations, title 14, section 15093.)

The significant and unavoidable impacts and the benefits related to implementing the Vista Oaks/Highland Parcel A – Monument Springs Drive Project are disclosed in the City of Rocklin's FEIR, CEQA Findings of Fact, and Statement of Overriding Considerations. The unavoidable impacts to water resources are discussed in subsection C above.

The Central Valley Water Board has considered the economic, legal, social, technological, and other benefits of the Project against its significant unavoidable impacts to water resources and finds that the specific economic, legal, social, and technological benefits of implementing the Project outweigh the significant and unavoidable impacts to water resources.

**E. Determination**

The Central Valley Water Board has reviewed and considered the environmental document and supplemental information provided by the City of Rocklin and has reached its own conclusion to approve this Project. The Central Valley Water Board will file a NOD with the SCH within five (5) working days from the issuance of this Order. (California Code of Regulations, title 14, section 15096.)

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## Attachment D – Reports and Notification Requirements

### I. Copies of this form

In order to identify your project, it is necessary to include a copy of the Project specific Cover Sheet below with your report; please retain for your records. If you need to obtain a copy of the Cover Sheet, you may download a copy of this Order as follows:

**A.** Central Valley Regional Water Quality Control Board's Adopted Orders Web page (https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/401_wqcerts/)

**B.** Find your Order based on the County, Permittee, WDID No., and/or Project Name.

### II. Report Submittal Instructions

**A.** Check the box on the Report and Notification Cover Sheet next to the report or notification you are submitting. **(See your Order for specific reports required for your Project)**

- **Part A (Monthly and Annual Reports):** These reports will be submitted monthly and annually until a Notice of Project Complete Letter is issued.
- **Part B (Project Status Notifications):** Used to notify the Central Valley Water Board of the status of the Project schedule that may affect Project billing.
- **Part C (Conditional Notifications and Reports):** Required on a case by case basis for accidental discharges of hazardous materials, violation of compliance with water quality standards, notification of in-water work, or other reports.

**B.** Sign the Report and Notification Cover Sheet and attach all information requested for the Report Type.

**C.** Electronic Report Submittal Instructions:

- Submit signed Report and Notification Cover Sheet and required information via email to: centralvalleysacramento@waterboards.ca.gov and cc: PeterG.Minkel@waterboards.ca.gov.
- Include in the subject line of the email:
  ATTN: Peter Minkel; Project Name; and WDID No. 5A31CR00578

## III. Definition of Reporting Terms

### A. Active Discharge Period:

The active discharge period begins with the effective date of this Order and ends on the date that the Permittee receives a Notice of Completion of Discharges Letter or, if no post-construction monitoring is required, a Notice of Project Complete Letter. The Active Discharge Period includes all elements of the Project including site construction and restoration, and any Permittee responsible compensatory mitigation construction.

### B. Request for Notice of Completion of Discharges Letter:

This request by the Permittee to the Central Valley Water Board staff pertains to projects that have post construction monitoring requirements, e.g. if site restoration was required to be monitored for 5 years following construction. Central Valley Water Board staff will review the request and send a Completion of Discharges Letter to the Permittee upon approval. This letter will initiate the post-discharge monitoring period.

### C. Request for Notice of Project Complete Letter:

This request by the Permittee to the Central Valley Water Board staff pertains to projects that either have completed post-construction monitoring and achieved performance standards or have no post-construction monitoring requirements, and no further Project activities are planned. Central Valley Water Board staff will review the request and send a Project Complete Letter to the Permittee upon approval. Termination of annual invoicing of fees will correspond with the date of this letter.

### D. Post-Discharge Monitoring Period:

The post-discharge monitoring period begins on the date of the Notice of Completion of Discharges Letter and ends on the date of the Notice of Project Complete Letter issued by the Central Valley Water Board staff. The Post-Discharge Monitoring Period includes continued water quality monitoring or compensatory mitigation monitoring.

### E. Effective Date:

12 August 2022

## IV. Map/Photo Documentation Information

When submitting maps or photos, please use the following formats.

### A. Map Format Information:

Preferred map formats of at least 1:24000 (1” = 2000’) detail (listed in order of preference):

- **GIS shapefiles**: The shapefiles must depict the boundaries of all project areas and extent of aquatic resources impacted. Each shape should be attributed with the extent/type of aquatic resources impacted. Features and boundaries should be accurate to within 33 feet (10 meters). Identify datum/projection used and if possible, provide map with a North American Datum of 1983 (NAD83) in the California Teale Albers projection in feet.
- **Google KML files** saved from Google Maps: My Maps or Google Earth Pro. Maps must show the boundaries of all project areas and extent/type of aquatic resources impacted. Include URL(s) of maps. If this format is used include a spreadsheet with the object ID and attributed with the extent/type of aquatic resources impacted.
- **Other electronic format** (CAD or illustration format) that provides a context for location (inclusion of landmarks, known structures, geographic coordinates, or USGS DRG or DOQQ). Maps must show the boundaries of all project areas and extent/type of aquatic resources impacted. If this format is used include a spreadsheet with the object ID and attributed with the extent/type of aquatic resources impacted.
- Aquatic resource maps marked on paper **USGS 7.5-minute topographic maps** or **Digital Orthophoto Quarter Quads (DOQQ)** printouts. Maps must show the boundaries of all project areas and extent/type of aquatic resources impacted. If this format is used include a spreadsheet with the object ID and attributed with the extent/type of aquatic resources impacted.

**B. <u>Photo-Documentation:</u>**

Include a unique identifier, date stamp, written description of photo details, and latitude/longitude (in decimal degrees) or map indicating location of photo. Successive photos should be taken from the same vantage point to compare pre/post construction conditions.

## V. Report and Notification Cover Sheet

| | |
|---|---|
| **Project:** | Vista Oaks/Highland Parcel A – Monument Springs Drive Project |
| **Permittee:** | Guntert Family Real Estate Limited Partnership |
| **WDID:** | 5A31CR00578 |
| **Reg. Meas. ID:** | 447393 |
| **Place ID:** | 880582 |
| **Order Effective Date:** | 12 August 2022 |
| **Order Expiration Date:** | 11 August 2027 |

## VI. Report Type Submitted

### A. Part A – Project Reporting

Report Type 1 ☐ Monthly Report
Report Type 2 ☐ Annual Report

### B. Part B – Project Status Notifications

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

### C. Part C – Conditional Notifications and Reports

Report Type 6 ☐ Accidental Discharge of Hazardous Material Report
Report Type 7 ☐ Violation of Compliance with Water Quality Standards Report
Report Type 8 ☐ In-Water Work/Diversions Water Quality Monitoring Report
Report Type 9 ☐ Modifications to Project Report
Report Type 10 ☐ Transfer of Property Ownership Report
Report Type 11 ☐ Transfer of Long-Term BMP Maintenance Report

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

| **Print Name[1]** | **Affiliation and Job Title** |
|---|---|

| **Signature** | **Date** |
|---|---|

**[1]STATEMENT OF AUTHORIZATION (include if authorization has changed since application was submitted)**

I hereby authorize _____ to act in my behalf as my representative in the submittal of this report, and to furnish upon request, supplemental information in support of this submittal.

| **Permittee's Signature** | **Date** |
|---|---|

***This Report and Notification Cover Sheet must be signed by the Permittee or a duly authorized representative and included with all written submittals.**

## A. Part A – Project Reporting

### 1. Report Type 1 - Monthly Report

**a. Report Purpose** - Notifies Central Valley Water Board staff of the Project status and environmental compliance activities on a monthly basis.

**b. When to Submit** - On the 1st day of each month after the submittal of the Commencement of Construction Notification until a Notice of Project Complete Letter is issued to the Permittee.

**c. Report Contents** -

i. Construction Summary

Describe Project progress and schedule including initial ground disturbance, site clearing and grubbing, road construction, site construction, and the implementation status of construction storm water Best Management Practices (BMPs). Best Management Practices (BMPs) is a term used to describe a type of water pollution or environmental control If construction has not started, provide estimated start date.

ii. Event Summary

Describe distinct Project activities and occurrences, including environmental monitoring, surveys, and inspections.

iii. Photo Summary

Provide photos of Project activities. For each photo, include a unique site identifier, date stamp, written description of photo details, and latitude/longitude (in decimal degrees) or map indicating location of photo. Successive photos should be taken from the same vantage point to compare pre/post construction conditions.

iv. Compliance Summary

- List name and organization of environmental surveyors, monitors, and inspectors involved with monitoring environmental compliance for the reporting period.
- List associated monitoring reports for the reporting period.
- Summarize observed incidences of non-compliance, compliance issues, minor problems, or occurrences.
- Describe each observed incidence in detail. List monitor name and organization, date, location, type of incident, corrective action taken (if any), status, and resolution.

### 2. Report Type 2 - Annual Report

**a. Report Purpose** - Notify the Central Valley Water Board staff of Project status during both the active discharge and post-discharge monitoring periods.

**b. When to Submit** - Annual reports shall be submitted each year on the 1st day of September. Annual reports shall continue until a Notice of Project Complete Letter is issued to the Permittee.

**c. Report Contents** - The contents of the annual report shall include the topics indicated below for each project period. Report contents are outlined in Annual Report Topics below.

**<u>During the Active Discharge Period</u>**

- **Topic 1: Construction Summary**
- **Topic 2: Mitigation for Temporary Impacts Status**
- **Topic 3: Compensatory Mitigation for Permanent Impacts Status**

**<u>During the Post-Discharge Monitoring Period</u>**

- **Topic 2: Mitigation for Temporary Impacts Status**
- **Topic 3: Compensatory Mitigation for Permanent Impacts Status**

i. Annual Report Topic 1 - Construction Summary

**When to Submit -** With the annual report during the Active Discharge Period.

**Report Contents -** Project progress and schedule including initial ground disturbance, site clearing and grubbing, road construction, site construction, and the implementation status of construction storm water best management practices (BMPs). If construction has not started, provide estimated start date and reasons for delay.

1) Map showing general Project progress.

2) If applicable:

   a) Summary of Conditional Notification and Report Types 6 and 7 (Part C below).

   b) Summary of Certification Deviations. See Certification Deviation Attachment for further information.

ii. Annual Report Topic 2 - Mitigation for Temporary Impacts Status

**When to Submit -** With the annual report during both the Active Discharge Period and Post-Discharge Monitoring Period.

**Report Contents -**

1) Planned date of initiation and map showing locations of mitigation for temporary impacts to waters of the state and all upland areas of temporary disturbance which could result in a discharge to waters of the state.
2) If mitigation for temporary impacts has already commenced, provide a map and information concerning attainment of performance standards contained in the restoration plan.

iii. Annual Report Topic 3 - Compensatory Mitigation for Permanent Impacts Status

**When to Submit -** With the annual report during both the Active Discharge Period and Post-Discharge Monitoring Period.

**Report Contents - *If not applicable report N/A.**

**1) Part A. Permittee Responsible**

a) Planned date of initiation of compensatory mitigation site installation.
b) If installation is in progress, a map of what has been completed to date.
c) If the compensatory mitigation site has been installed, provide a final map and information concerning attainment of performance standards contained in the compensatory mitigation plan.

**2) Part B. Mitigation Bank or In-Lieu Fee**

a) Status or proof of purchase of credit types and quantities.
b) Include the name of bank/ILF Program and contact information.
c) If ILF, location of project and type if known.

## B. <u>Part B – Project Status Notifications</u>

### 1. Report Type 3 - Commencement of Construction

**a. Report Purpose** - Notify Central Valley Water Board staff prior to the start of construction.

**b. When to Submit** - Must be received at least seven (7) days prior to start of initial ground disturbance activities.

**c. Report Contents** -

i. Date of commencement of construction.
ii. Anticipated date when discharges to waters of the state will occur.
iii. Project schedule milestones including a schedule for onsite compensatory mitigation, if applicable.

iv. Construction Storm Water General Permit WDID No.

v. Proof of purchase of compensatory mitigation for permanent impacts from the mitigation bank or in-lieu fee program.

**2. Report Type 4 - Request for Notice of Completion of Discharges Letter**

**a. Report Purpose** - Notify Central Valley Water Board staff that post-construction monitoring is required and that active Project construction, including any mitigation and permittee responsible compensatory mitigation, is complete.

**b. When to Submit** - Must be received by Central Valley Water Board staff within thirty (30) days following completion of all Project construction activities.

**c. Report Contents -**

i. Status of storm water Notice of Termination(s), if applicable.

ii. Status of post-construction storm water BMP installation.

iii. Pre- and post-photo documentation of all Project activity sites where the discharge of dredge and/or fill/excavation was authorized.

iv. Summary of Certification Deviation discharge quantities compared to initial authorized impacts to waters of the state, if applicable.

v. An updated monitoring schedule for mitigation for temporary impacts to waters of the state and permittee responsible compensatory mitigation during the post-discharge monitoring period, if applicable.

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

**a. Report Purpose** - Notify Central Valley Water Board staff that construction and/or any post-construction monitoring is complete, or is not required, and no further Project activity is planned.

**b. When to Submit** - Must be received by Central Valley Water Board staff within thirty (30) days following completion of all Project activities.

**c. Report Contents** -

i. Part A: Mitigation for Temporary Impacts

1) A report establishing that the performance standards outlined in the restoration plan have been met for Project site upland areas of temporary disturbance which could result in a discharge to waters of the state.

2) A report establishing that the performance standards outlined in the restoration plan have been met for restored areas of temporary impacts to waters of the state. Pre- and post-photo documentation of all restoration sites.

ii. Part B: Permittee Responsible Compensatory Mitigation

1) A report establishing that the performance standards outlined in the compensatory mitigation plan have been met.

2) Status on the implementation of the long-term maintenance and management plan and funding of endowment.

3) Pre- and post-photo documentation of all compensatory mitigation sites.

4) Final maps of all compensatory mitigation areas (including buffers).

iii. Part C: Post-Construction Storm Water BMPs

1) Date of storm water Notice of Termination(s), if applicable.

2) Report status and functionality of all post-construction BMPs.

3) Dates and report of visual post-construction inspection during the rainy season as indicated in XIV.C.4.

**C. <u>Part C – Conditional Notifications and Reports</u>**

**1. Report Type 6 - Accidental Discharge of Hazardous Material Report**

**a. Report Purpose** - Notifies Central Valley Water Board staff that an accidental discharge of hazardous material has occurred.

**b. When to Submit** - Within five (5) working days of notification to the Central Valley Water Board of an accidental discharge. Continue reporting as required by Central Valley Water Board staff.

**c. Report Contents** -

i. The report shall include the OES Incident/Assessment Form, a full description and map of the accidental discharge incident (i.e. location, time and date, source, discharge constituent and quantity, aerial extent, and photo documentation). If applicable, the OES Written Follow-Up Report may be substituted.

ii. If applicable, any required sampling data, a full description of the sampling methods including frequency/dates and times of sampling, equipment, locations of sampling sites.

iii. Locations and construction specifications of any barriers, including silt curtains or diverting structures, and any associated trenching or anchoring.

**2. Report Type 7 - Violation of Compliance with Water Quality Standards Report**

**a. Report Purpose** - Notifies Central Valley Water Board staff that a violation of compliance with water quality standards has occurred.

b. **When to Submit** - The Permittee shall report any event that causes a violation of water quality standards within three (3) working days of the noncompliance event notification to Central Valley Water Board staff.

c. **Report Contents** - The report shall include: the cause; the location shown on a map; and the period of the noncompliance including exact dates and times. If the noncompliance has not been corrected, include: the anticipated time it is expected to continue; the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance; and any monitoring results if required by Central Valley Water Board staff.

3. **Report Type 8 - In-Water Work and Diversions Water Quality Monitoring Report**

a. **Report Purpose** - Notifies Central Valley Water Board staff of the start and completion of in-water work. Reports the sampling results during in-water work and during the entire duration of temporary surface water diversions.

b. **When to Submit** – At least forty-eight (48) hours prior to the start of in-water work. Within three (3) working days following the completion of in-water work. Surface water monitoring reports to be submitted two (2) weeks on initiation of in-water construction and during entire duration of temporary surface water diversions. Continue reporting in accordance with the approved water quality monitoring plan or as indicated in XIV.C.3.

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

4. **Report Type 9 - Modifications to Project Report**

a. **Report Purpose** - Notifies Central Valley Water Board staff if the Project, as described in the application materials, is altered in any way or by the imposition of subsequent permit conditions by any local, state or federal regulatory authority.

b. **When to Submit** - If Project implementation as described in the application materials is altered in any way or by the imposition of subsequent permit conditions by any local, state or federal regulatory authority.

c. **Report Contents** - A description and location of any alterations to Project implementation. Identification of any Project modifications that will interfere with the Permittee's compliance with the Order.

5. **Report Type 10 - Transfer of Property Ownership Report**

a. **Report Purpose** - Notifies Central Valley Water Board staff of change in ownership of the Project or Permittee-responsible mitigation area.

**b. When to Submit** - At least 10 working days prior to the transfer of ownership.

**c. Report Contents** -

i. A statement that the Permittee has provided the purchaser with a copy of this Order and that the purchaser understands and accepts:

1) the Order's requirements and the obligation to implement them or be subject to administrative and/or civil liability for failure to do so; and

2) responsibility for compliance with any long-term BMP maintenance plan requirements in this Order. Best Management Practices (BMPs) is a term used to describe a type of water pollution or environmental control.

ii. A statement that the Permittee has informed the purchaser to submit a written request to the Central Valley Water Board to be named as the permittee in a revised order.

**6. Report Type 11 - Transfer of Long-Term BMP Maintenance Report**

**a. Report Purpose** - Notifies Central Valley Water Board staff of transfer of long-term BMP maintenance responsibility.

**b. When to Submit** - At least 10 working days prior to the transfer of BMP maintenance responsibility.

**c. Report Contents** - A copy of the legal document transferring maintenance responsibility of post-construction BMPs.

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## Attachment E – Signatory Requirements

All documents submitted in compliance with this Order shall meet the following signatory requirements:

**A.** All applications, reports, or information submitted to the Central Valley Water Quality Control Board (Central Valley Water Board) must be signed and certified as follows:

1. For a corporation, by a responsible corporate officer of at least the level of vice-president.
2. For a partnership or sole proprietorship, by a general partner or proprietor, respectively.
3. For a municipality, or a state, federal, or other public agency, by either a principal executive officer or ranking elected official.

**B.** A duly authorized representative of a person designated in items 1.a through 1.c above may sign documents if:

1. The authorization is made in writing by a person described in items 1.a through 1.c above.
2. The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity.
3. The written authorization is submitted to the Central Valley Water Board Staff Contact prior to submitting any documents listed in item 1 above.

**C.** Any person signing a document under this section shall make the following certification:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.”

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## Attachment F – Certification Deviation Procedures

### I. Introduction

These procedures are put into place to preclude the need for Order amendments for minor changes in the Project routing or location. Minor changes or modifications in project activities are often required by the Permittee following start of construction. These deviations may potentially increase or decrease impacts to waters of the state. In such cases, a Certification Deviation, as defined in Section XIV.L of the Order, may be requested by the Permittee as set forth below:

### II. Process Steps

#### A. Who may apply:

The Permittee or the Permittee's duly authorized representative or agent (hereinafter, "Permittee") for this Order.

#### B. How to apply:

By letter or email to the 401 staff designated as the contact for this Order.

#### C. Certification Deviation Request:

The Permittee will request verification from the Central Valley Water Board staff that the project change qualifies as a Certification Deviation, as opposed to requiring an amendment to the Order. The request should:

1. Describe the Project change or modification:
    a. Proposed activity description and purpose;
    b. Why the proposed activity is considered minor in terms of impacts to waters of the state;
    c. How the Project activity is currently addressed in the Order; and,
    d. Why a Certification Deviation is necessary for the Project.
2. Describe location (latitude/longitude coordinates), the date(s) it will occur, as well as associated impact information (i.e., temporary or permanent, federal or non-federal jurisdiction, water body name/type, estimated impact area, etc.) and minimization measures to be implemented.
3. Provide all updated environmental survey information for the new impact area.
4. Provide a map that includes the activity boundaries with photos of the site.
5. Provide verification of any mitigation needed according to the Order conditions.
6. Provide any other information required by Central Valley Water Board staff to determine whether the Project change or modification necessitates additional

environmental review. (California Code of Regulations, Title 14, sections 15061, 15162-15164.)

**D. Post-Discharge Certification Deviation Reporting:**

1. Within 30 calendar days of completing the approved Certification Deviation activity, the Permittee will provide a post-discharge activity report that includes the following information:
   a. Activity description and purpose;
   b. Activity location, start date, and completion date;
   c. Erosion control and pollution prevention measures applied;
   d. The net change in impact area by water body type(s) in acres, linear feet and cubic yards;
   e. Mitigation plan, if applicable; and,
   f. Map of activity location and boundaries; post-construction photos.

**E. Annual Summary Deviation Report:**

**1.** Until a Notice of Completion of Discharges Letter or Notice of Project Complete Letter is issued, include in the Annual Project Report (see Construction Notification and Reporting attachment) a compilation of all Certification Deviation activities through the reporting period with the following information:
   a. Site name(s);
   b. Date(s) of Certification Deviation approval;
   c. Location(s) of authorized activities;
   d. Impact area(s) by water body type prior to activity in acres, linear feet and cubic yards, as originally authorized in the Order;
   e. Actual impact area(s) by water body type in, acres, linear feet and cubic yards, due to Certification Deviation activity(ies);
   f. The net change in impact area by water body type(s) in acres, linear feet and cubic yards; and
   g. Mitigation to be provided (approved mitigation ratio and amount).

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## Attachment G - Compliance with Code of Federal Regulations, Title 40, Section 121.7, Subdivision (d)

The purpose of this Attachment is to comply with Code of Federal Regulations, title 40, section 121.7, subdivision (d), which requires all certification conditions to provide an explanation of why the condition is necessary to assure that any discharge authorized under the certification will comply with water quality requirements and a citation to federal, state, or tribal law that authorizes the condition. This Attachment uses the same organizational structure as Section XIV of the Order, and the statements below correspond with the conditions set forth in Section XIV. The other Order Sections are not “conditions” as used in Code of Federal Regulations, title 40, section 121.7

### I. General Justification for Section XIV Conditions

Pursuant to Clean Water Act section 401 and California Code of Regulations, title 23, section 3859, subdivision (a), the Central Valley Water Board, when issuing water quality certifications, may set forth conditions to ensure compliance with applicable water quality standards and other appropriate requirements of state law. Under California Water Code section 13160, the State Water Resources Control Board is authorized to issue water quality certifications under the Clean Water Act and has delegated this authority to the executive officers of the regional water quality controls boards for projects within the executive officer’s region of jurisdiction. (California Code of Regulations, title 23, section 3838.)

The conditions within the Order are generally required pursuant to the Central Valley Water Board’s Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, Fifth Edition, May 2018 (Basin Plan), which was adopted and is periodically revised pursuant to Water Code section 13240. The Basin Plan includes water quality standards, which consist of existing and potential beneficial uses of waters of the state, water quality objectives to protect those uses, and the state and federal antidegradation policies. For instance, the Basin Plan includes water quality objectives for chemical constituents, oil and grease, pH, sediment, suspended material, toxicity and turbidity, which ensure protection of beneficial uses.

The State Water Board’s Antidegradation Policy, “Statement of Policy with Respect to Maintaining High Quality Waters in California,” Resolution No. 68-16, requires that the quality of existing high-quality water be maintained unless any change will be consistent with the maximum benefit to the people of the state, will not unreasonably affect present or anticipated future beneficial uses of such water, and will not result in water quality less than that prescribed in water quality control plans or policies. The Antidegradation Policy further requires best practicable treatment or control of the discharge necessary to assure that pollution or nuisance will not occur and the highest water quality consistent with maximum benefit to the people of the state will be maintained. The Basin Plan incorporates this Policy. The state Antidegradation Policy incorporates the federal Antidegradation Policy (40 C.F.R. section 131.12 (a)(1)), which requires "[e]xisting instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected."

The State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State (Dredge or Fill Procedures), adopted pursuant to Water Code sections 13140 and 13170, authorize approval of dredge or fill projects only if the demonstrations set forth in Section IV.B.1 of the Dredge or Fill Procedures have been satisfied.

California Code of Regulations, title 23, sections 3830 et seq. set forth state regulations pertaining to water quality certifications. In particular, section 3856 sets forth information that must be included in water quality certification requests, and section 3860 sets forth standard conditions that shall be included in all water quality certification actions.

Finally, Water Code sections 13267 and 13383 authorize the regional and state boards to establish monitoring and reporting requirements for persons discharging or proposing to discharge waste.

## II. Specific Justification for Section XIV Conditions

### A. Authorization

Authorization under the Order is granted based on the application submitted. The Permittee is required to detail the scope of project impacts in a complete application pursuant to California Code of Regulations, title 23, section 3856, subdivision (h). Pursuant to Water Code section 13260, subdivision (c), each person discharging waste, or proposing to discharge waste shall file a report of waste discharge relative to any material change or proposed change in the character, location, or volume of the discharge. Pursuant to Water Code section 13264, subdivision (a), the Permittee is prohibited from initiating the discharge of new wastes, or making material changes to the character, volume, and timing of waste discharges authorized herein without filing a report required by Water Code section 13260 or its equivalent for certification actions under California Code of Regulations, title 23, section 3856.

### B. Reporting and Notification Requirements

#### 1. Project Reporting

#### 2. Project Status Notifications

The reporting and notification conditions under Sections B.1 and B.2 are required to provide the Central Valley Water Board necessary project information and oversight to ensure project discharges are complying with applicable Basin Plan requirements. These monitoring and reporting requirements are consistent with the Central Valley Water Board's authority to investigate the quality of any waters of the state and require necessary monitoring and reporting pursuant to Water Code sections 13267 and 13383. Water Code section 13267 authorizes the regional boards to require any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste to provide technical or

monitoring program reports required by the regional board. Water Code section 13383 authorizes the regional boards to establish monitoring, inspection, entry, reporting, and other recordkeeping requirements, as authorized by Water Code section 13160, for any person who discharges, or proposes to discharge, to navigable waters.

**3. Conditional Notifications and Reports**

**a. Accidental Discharges of Hazardous Materials**

Conditions under Section B.3.a related to notification and reporting requirements in the event of an accidental discharge of hazardous materials are required pursuant to section 13271 of the Water Code, which requires immediate notification of the Office of Emergency Services of the discharge in accordance with the spill reporting provision of the state toxic disaster contingency plan adopted pursuant to Article 3.7 (commencing with Section 8574.16) of Chapter 7 of Division 1 of Title 2 of the Government Code. “Hazardous materials” is defined under Health and Safety Code section 25501. These reports related to accidental discharges ensure that corrective actions, if any, that are necessary to minimize the impact or clean up such discharges can be taken as soon as possible.

**b. Violation of Compliance with Water Quality Standards**

**c. In-Water work and Diversions**

Conditions under Section B.3.b and B.3.c related to monitoring and reporting on water quality standard compliance and in-water work and diversions are required to provide the Central Valley Water Board necessary project information and oversight to ensure project discharges are complying with applicable water quality objectives under the Basin Plan. These monitoring and reporting requirements are consistent with the Central Valley Water Board’s authority to investigate the quality of any waters of the state and require necessary monitoring and reporting pursuant to Water Code sections 13267 and 13383. Water Code section 13267 authorizes the regional boards to require any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste to provide technical or monitoring program reports required by the regional board. Water Code section 13383 authorizes the regional boards to establish monitoring, inspection, entry, reporting, and other recordkeeping requirements, as authorized by Water Code section 13160, for any person who discharges, or proposes to discharge, to navigable waters.

**d. Modifications to Project**

Authorization under this Order is granted based on the application and supporting information submitted. Conditions under Section B.3.d are necessary to ensure that if there are modifications to the project, that the

Order requirements remain applicable. The Permittee is required to detail the scope of project impacts in a complete application pursuant to California Code of Regulations, title 23, section 3856, subdivision (h). Pursuant to Water Code section 13260, subdivision (c), each person discharging waste, or proposing to discharge waste shall file a report of waste discharge relative to any material change or proposed change in the character, location, or volume of the discharge. Pursuant to Water Code section 13264, subdivision (a), the Permittee is prohibited from initiating the discharge of new wastes, or making material changes to the character, volume, and timing of waste discharges authorized herein without filing a report required by Water Code section 13260 or its equivalent for certification actions under California Code of Regulations, title 23, section 3856.

**e. Transfer of Property Ownership**

**f. Transfer of Long-Term BMP Maintenance**

Authorization under this Order is granted based on the application information submitted, including identification of the legally responsible party. Conditions under Sections B.3.e and B.3.f are necessary to confirm whether the new owner wishes to assume legal responsibility for compliance with this Order. If not, the original discharger remains responsible for compliance with this Order. Pursuant to Water Code section 13260, subdivision (c), each person discharging waste, or proposing to discharge waste shall file a report of waste discharge relative to any material change or proposed change in the character, location, or volume of the discharge. Pursuant to Water Code section 13264, subdivision (a), the Permittee is prohibited from initiating the discharge of new wastes, or making material changes to the character, volume, and timing of waste discharges authorized herein without filing a report required by Water Code section 13260 or its equivalent for certification actions under California Code of Regulations, title 23, section 3856.

## C. Water Quality Monitoring

Conditions under Section C related to water quality monitoring are required to confirm that best management practices required under this Order are sufficient to protect beneficial uses and to comply with water quality objectives to protect those uses under the Basin Plan. Applicable water quality objectives and beneficial uses are identified in the Order. These monitoring requirements are consistent with the Central Valley Water Board's authority to investigate the quality of any waters of the state and require necessary monitoring and reporting pursuant to Water Code sections 13267 and 13383. Water Code section 13267 authorizes the regional boards to require any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste to provide technical or monitoring program reports required by the regional board. Water Code section 13383 authorizes the

regional boards to establish monitoring, inspection, entry, reporting, and other recordkeeping requirements, as authorized by Water Code section 13160, for any person who discharges, or proposes to discharge, to navigable waters.

**D. Standard**

**1. This Order is subject to modification or revocation . . . .**

This is a standard condition that "shall be included as conditions of all water quality certification actions" pursuant to California Code of Regulations, title 23, section 3860(a). This condition places the permittee on notice that the certification action may be modified or revoked following administrative or judicial review.

**2. This Order is not intended and shall not be construed to apply to any activity involving a hydroelectric facility . . . .**

This is a standard condition that "shall be included as conditions of all water quality certification actions" pursuant to California Code of Regulations, title 23, section 3860(b). This condition clarifies the scope of the certification's application.

**3. This Order is conditioned upon total payment of any fee . . . .**

This is a standard condition that "shall be included as conditions of all water quality certification actions" pursuant to California Code of Regulations, title 23, section 3860(c). This fee requirement condition is also required pursuant to California Code of Regulations, section 3833(b).

**E. General Compliance**

**1. Failure to comply with any condition of this Order . . . .**

The condition under Section E.1 places the Permittee on notice of any violations of Order requirements. Pursuant to Water Code section 13385, subdivision (a)(2), a person who violates any water quality certification issued pursuant to Water Code section 13160 shall be liable civilly.

**2. Permitted actions must not cause a violation of any applicable water quality standards . . . .**

Conditions under Section E.2 related to compliance with water quality objectives and designated beneficial uses are required pursuant to the Central Valley Water Board's Basin Plan. The Basin Plan's water quality standards consist of existing and potential beneficial uses of waters of the state, water quality objectives to protect those uses, and the state and federal antidegradation policies. The Antidegradation Policy requires that the quality of existing high-quality water be maintained unless any change will be consistent with the maximum benefit to the people of the state, will not unreasonably affect present or anticipated future beneficial uses of such water, and will not result in water quality less than that prescribed in water

quality control plans or policies. The Antidegradation Policy further requires best practicable treatment or control of the discharge necessary to assure that pollution or nuisance will not occur and the highest water quality consistent with maximum benefit to the people of the state will be maintained. Applicable beneficial uses and water quality objectives to protect those uses include the Chemical Constituents (Basin Plan, Section 3.1.3), Oil and Grease (Basin Plan, Section 3.1.10), pH (Basin Plan, Section 3.1.11), Sediment (Basin Plan, 3.1.15), Suspended Material (3.1.17), Toxicity (Basin Plan, 3.1.20), and Turbidity (Basin Plan, Section 3.1.21) water quality objectives.

3. **In response to a suspected violation of any condition of this Order, the Central Valley Water Board may require . . . .**

   Conditions under Section E.3 related to monitoring and reporting are required to provide the Central Valley Water Board necessary project information and oversight to ensure project discharges are complying with applicable Basin Plan requirements. These monitoring and reporting requirements are consistent with the Central Valley Water Board's authority to investigate the quality of any waters of the state and require necessary monitoring and reporting pursuant to Water Code sections 13267 and 13383. Water Code section 13267 authorizes the regional boards to require any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste to provide technical or monitoring program reports required by the regional board. Technical supports submitted pursuant to Water Code section 13267 are required to be submitted under penalty of perjury. Water Code section 13383 authorizes the regional boards to establish monitoring, inspection, entry, reporting, and other recordkeeping requirements, as authorized by Water Code section 13160, for any person who discharges, or proposes to discharge, to navigable waters.

4. **The Permittee must, at all times, fully comply with engineering plans, specifications, and technical reports . . . .**

   Authorization under the Order is granted based on the application and supporting information submitted. The Permittee is required to detail the project description in a complete application pursuant to California Code of Regulations, title 23, section 3856, subdivision (h). Pursuant to Water Code section 13260, subdivision (c), each person discharging waste, or proposing to discharge waste shall file a report of waste discharge relative to any material change or proposed change in the character, location, or volume of the discharge. Pursuant to Water Code section 13264, subdivision (a), the Permittee is prohibited from initiating the discharge of new wastes, or making material changes to the character, volume, and timing of waste discharges authorized herein without filing a report required by Water Code section 13260 or its equivalent for certification actions under California Code of Regulations, title 23, section 3856. Finally, compliance with conditions of the

Order ensures that the Project will comply with all water quality standards and other appropriate requirements as detailed herein. (California Code of Regulations, title 23, section 3859, subdivision (a).)

5. **This Order and all of its conditions herein continue to have full force and effect . . . .**

   This condition ensures continued compliance with applicable water quality standards and other appropriate requirements of state law. Notwithstanding any determinations by the U.S. Army Corps or other federal agency pursuant to 40 C.F.R. section 121.9, the Permittee must comply with the entirety of this certification because, pursuant to State Water Board Water Quality Order No. 2003-0017-DWQ, this Order also serves as Waste Discharge Requirements pursuant to the Porter-Cologne Water Quality Control Act.

6. **The Permittee shall adhere to all requirements in the mitigation monitoring and reporting program . . . .**

   This condition ensures mitigation measures required to lessen the significance of impacts to water quality identified pursuant to California Environmental Quality Act review are implemented and enforceable. Pursuant to California Code of Regulations, title 14, section 15097, subdivision (a), a public agency shall adopt a program for monitoring and reporting on mitigation measures imposed to mitigate or avoid significant environmental effects to ensure implementation.

7. **Construction General Permit Requirement**

   Permittees are required to obtain coverage under National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ; NPDES No. CAS000002), as amended, for discharges to surface waters comprised of storm water associated with construction activity, including, but not limited to, demolition, clearing, grading, excavation, and other land disturbance activities of one or more acres, or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres. This is required pursuant to Clean Water Act sections 301 and 402 which prohibit certain discharges of storm water containing pollutants except in compliance with an NPDES permit. (33 U.S.C. section 1311, and 1342(p); 40 C.F.R. parts 122, 123, and 124.)

**F. Administrative**

1. **Signatory requirements for all document submittals . . . .**

   The condition for signatory requirements is required pursuant to Water Code section 13267, which requires any person discharging waste that could affect the quality of waters to provide to the Central Valley Water Board, under penalty of perjury, any technical or monitoring program reports as required by

the Central Valley Water Board. The signatory requirements are consistent with 40 C.F.R. section 122.22.

2. **This Order does not authorize any act which results in the taking of a threatened, endangered, or candidate species . . . .**

   Pursuant to the California Endangered Species Act (Fish & Wildlife Code, sections 2050 et seq.) and federal Endangered Species Act (16 U.S.C. sections 1531 et set.), the Order does not authorize any act which results in the taking of a threatened, endangered, or candidate species. In the event a Permittee requires authorization from the state or federal authorities, California Code of Regulations, title 23, section 3856(e), requires that copies be provided to the Central Valley Water Board of "any final and signed federal, state, and local licenses, permits, and agreements (or copies of the draft documents, if not finalized) that will be required for any construction, operation, maintenance, or other actions associated with the activity. If no final or draft document is available, a list of all remaining agency regulatory approvals being sought shall be included."

3. **The Permittee shall grant Central Valley Water Board staff . . . .**

   The condition related to site access requirements is authorized pursuant to the Central Valley Water Board's authority to investigate the quality of any waters of the state within its region under Water Code section 13267 and 13383. Water Code section 13267, subdivision (c) provides that "the regional board may inspect the facilities of any person to ascertain whether the purposes of this division are being met and waste discharge requirements are being complied with." Water Code section 13383 authorizes the regional boards to establish monitoring, inspection, entry, reporting, and other recordkeeping requirements, as authorized by Water Code section 13160, for any person who discharges, or proposes to discharge, to navigable waters.

4. **A copy of this Order shall be provided to any consultants, contractors, and subcontractors . . . .**

   This Condition ensures any agent of the Permittee is aware of Order requirements. Such conditions within the Order are necessary to ensure that all activities will comply with applicable water quality standards and other appropriate requirements (33 U.S.C. section 1341; California Code of Regulations, title 23, section 3859, subdivision (a)) and cannot be adhered to if the Permittees' agents are unaware of applicable requirements. These conditions are necessary to ensure compliance with applicable water quality objectives and protection of beneficial uses found in the Basin Plan, adopted pursuant to Water Code section 13240, and detailed in the Order.

5. **A copy of this Order must be available at the Project site(s) during construction . . .**

   This Condition ensures any agent of the Permittee is aware of Order requirements. Such conditions within the Order are necessary to ensure that

all activities will comply with applicable water quality standards and other appropriate requirements (33 U.S.C. section 1341; California Code of Regulations, title 23, section 3859, subdivision (a)) and cannot be adhered to if the Permittees' agents are unaware of applicable requirements. These conditions are necessary to ensure compliance with applicable water quality objectives and protection of beneficial uses found in the Basin Plan, adopted pursuant to Water Code section 13240, and detailed in the Order.

**6. Lake or Streambed Alteration Agreement**

This condition is required pursuant to California Code of Regulations, title 23, section 3856, subdivision (e), which requires that copies be provided to the Central Valley Water Board of "any final and signed federal, state, and local licenses, permits, and agreements (or copies of the draft documents, if not finalized) that will be required for any construction, operation, maintenance, or other actions associated with the activity. If no final or draft document is available, a list of all remaining agency regulatory approvals being sought shall be included."

## G. Construction

**1. Dewatering**

Not Applicable

**2. Directional Drilling**

Not Applicable

**3. Dredging**

Not Applicable

**4. Fugitive Dust**

This condition is required to assure that the discharge from the Project will comply with water quality objectives established for surface waters, including for chemical constituents and toxicity. (Basin Plan, Sections 3.1.3 & 3.1.20.) Chemicals used in dust abatement activities can result in a discharge of chemical additives and treated waters to surface waters of the state. Therefore, dust abatement activities shall be conducted so that sediment or dust abatement chemicals are not discharged into waters of the state and do not adversely affect beneficial uses. (Basin Plan, Section 2.1; Dredge or Fill Procedures, Section IV.B.1.)

**5. Good Site Management "Housekeeping"**

Conditions related to site management require best practices to prevent, minimize, and/or clean up potential construction spills, including from construction equipment. For instance, fuels and lubricants associated with the use of mechanized equipment have the potential to result in toxic discharges to waters of the state in violation of water quality standards, including the

toxicity and floating material water quality objectives. (Basin Plan, Sections 3.1.7 & 3.1.20.) This condition is also required pursuant to Water Code section 13264, which prohibits any discharge that is not specifically authorized in this Order. Among other requirements, Section IV.B.1 of the Dredge or Fill Procedures requires that Project impacts will not cause or contribute to a degradation of waters; or violate water quality standards.

**6. Hazardous Materials**

Conditions related to toxic and hazardous materials are necessary to assure that discharges comply with applicable water quality objectives under the Basin Plan, adopted under section 13240 of the Water Code, including the narrative toxicity and chemical constituents water quality objectives. (Basin Plan, Sections 3.1.3, 3.1.20.) Further, conditions related to concrete/cement are required pursuant to the Basin Plan's pH water quality objective. (Basin Plan, Section 3.1.11.)

**7. Invasive Species and Soil Borne Pathogens**

Conditions related to invasive species and soil borne pathogens are required to ensure that discharges will not violate any water quality objectives under the Basin Plan, adopted under Water Code section 13240 of the Water Code. Invasive species and soil borne pathogens adversely affect beneficial uses designated in the Basin Plan, such as rare, threatened, or endangered species; wildlife habitat; and preservation of biological habitats of special significance. (See Basin Plan, Section 2.1.) Among other requirements, Section IV.B.1 of the Dredge or Fill Procedures requires that Project impacts will not contribute to a net loss of the overall abundance, diversity, and condition of aquatic resources; cause or contribute to a degradation of waters; or violate water quality standards.

**8. Post-Construction Storm Water Management**

Conditions related to post-construction stormwater management are required to comply with the Basin Plan and to assure that the discharge complies with applicable water quality objectives. Post-rain erosion and sedimentation problems can contribute to significant degradation of the waters of the state; therefore, it is necessary to take corrective action to eliminate such discharges in order to avoid or minimize such degradation. Implementation of control measures and best management practices described in the conditions will assure compliance with water quality objectives including for floating material, sediment, turbidity, temperature, suspended material, and settleable material. (Basin Plan, Sections 3.1.7, 3.1.15, 3.1.16, 3.1.17, 3.1.19, 3.1.21.) Among other requirements, Section IV.B.1 of the Dredge or Fill Procedures requires that Project impacts will not contribute to a net loss of the overall abundance, diversity, and condition of aquatic resources; cause or contribute to a degradation of waters; or violate water quality standards.

**9. Roads**

These conditions are required to assure that discharges will comply with water quality standards within the Basin Plan. Specifically, activities associated with road maintenance have the potential to exceed water quality objectives for oil and grease, pH, sediment, settleable materials, temperature, and turbidity. (Basin Plan, Sections 3.1.10, 3.1.11, 3.1.15, 3.1.16, 3.1.19, 3.1.21.) Further, these conditions are required to assure that they do not result in adverse impacts related to hydromodification or create barriers to fish passage and spawning activities. Among other requirements, Section IV.B.1 of the Dredge or Fill Procedures requires that Project impacts will not contribute to a net loss of the overall abundance, diversity, and condition of aquatic resources; cause or contribute to a degradation of waters; or violate water quality standards.

**10. Sediment Control**

Conditions related to erosion and sediment control design requirements are required to sustain fluvial geomorphic equilibrium. Improperly designed and installed BMPs result in excess sediment, which impairs surface waters, adversely affect beneficial uses, and results in exceedance of water quality objectives in the Basin Plan, including for sediment and turbidity. (Basin Plan, Sections 3.1.15 & 3.1.21.) Among other requirements, Section IV.B.1 of the Dredge or Fill Procedures requires that Project impacts will not contribute to a net loss of the overall abundance, diversity, and condition of aquatic resources; cause or contribute to a degradation of waters; or violate water quality standards.

**11. Special Status Species**

See F.2 above.

**12. Stabilization/Erosion Control**

Conditions related to erosion and sediment control design requirements are required to sustain fluvial geomorphic equilibrium. Improperly designed and installed BMPs result in excess sediment, which impairs surface waters, adversely affect beneficial uses, and results in exceedance of water quality objectives in the Basin Plan, including for sediment. (Basin Plan, Section 3.1.15.) Among other requirements, Section IV.B.1 of the Dredge or Fill Procedures requires that Project impacts will not contribute to a net loss of the overall abundance, diversity, and condition of aquatic resources; cause or contribute to a degradation of waters; or violate water quality standards.

**13. Storm Water**

Post-rain erosion and sedimentation problems can contribute to significant degradation of the waters of the state; therefore, it is necessary to take corrective action to eliminate such discharges in order to avoid or minimize such degradation. Implementation of control measures and best management practices described in the condition will assure compliance with water quality objectives including chemical constituents, floating material, sediment,

turbidity, temperature, suspended material, and settleable material within the Basin Plan. (Basin Plan, Sections 3.1.1, 3.1.7, 3.1.15, 3.1.16, 3.1.17, 3.1.19, 3.1.21.) Among other requirements, Section IV.B.1 of the Dredge or Fill Procedures requires that Project impacts will not cause or contribute to a degradation of waters or violate water quality standards.

**H. Site Specific**

Not Applicable

**I. Total Maximum Daily Load (TMDL)**

Not Applicable

**J. Mitigation for Temporary Impacts**

The conditions under Section J require restoration of temporary impacts to waters of the state. Conditions in this section related to restoration and/or mitigation of temporary impacts are consistent with the Dredge or Fill Procedures, which requires “in all cases where temporary impacts are proposed, a draft restoration plan that outlines design, implementation, assessment, and maintenance for restoring areas of temporary impacts to pre-project conditions.” (Dredge or Fill Procedures section IV. A.2(d) & B.4.) Technical reporting and monitoring requirements under this condition are consistent with the Central Valley Water Board’s authority to investigate the quality of any waters of the state and require necessary reporting and monitoring pursuant to Water Code sections 13267 and 13383.

**K. Compensatory Mitigation for Permanent Impacts**

**Mitigation Bank Development/In-Lieu Fee Project Development**

The conditions under Sections K, L, and M regarding compensatory mitigation for permanent impacts ensure permanent physical loss and permanent ecological degradation of waters of the state are adequately mitigated. These conditions are necessary to ensure compliance with state and federal anti-degradation policies and are consistent with Section IV.B.1.a of the Dredge or Fill Procedures, which requires that the Water Boards will approve a project only after it has been determined that a sequence of actions has been taken to first avoid, then to minimize, and lastly compensate for adverse impacts that cannot be practicably avoided or minimized. (See also California Code of Regulations, section 3856, subdivision (h) [requiring submittal of proposed mitigation and description of steps taken to avoid, minimize, or compensate].) These compensatory mitigation conditions are also consistent with Executive Order W-59-93 commonly referred to as California’s “No Net Loss” Policy for wetlands. The objective of the No Net Loss Policy is to ensure no overall net loss of and a long term net gain in the quantity, quality, and permanence of wetland acreage and values in California. Further, compensatory mitigation requirements must comply with subpart J of the Supplemental State Guidelines. Conditions related to financial assurances are

also required to ensure that compensatory mitigation will be provided. (Dredge or Fill Procedures, section IV.B.5.f.)

**L. Certification Deviation**

**1. Minor modifications of Project locations or predicted impacts . . . .**

**2. A Project modification shall not be granted a Certification Deviation if it warrants or necessitates . . . .**

Authorization under the Order is granted based on the application and supporting information submitted. Among other requirements, the Permittee is required to detail the project description in a complete application pursuant to California Code of Regulations, title 23, section 3856, subdivision (h). Pursuant to Water Code section 13260, subdivision (c), each person discharging waste, or proposing to discharge waste shall file a report of waste discharge relative to any material change or proposed change in the character, location, or volume of the discharge. Pursuant to Water Code section 13264, subdivision (a), the Permittee is prohibited from initiating the discharge of new wastes, or making material changes to the character, volume, and timing of waste discharges authorized herein without filing a report required by Water Code section 13260 or its equivalent for certification actions under California Code of Regulations, title 23, section 3856. Project deviations may require additional or different Order conditions as authorized by law to ensure compliance with applicable water quality standards and other appropriate requirements (33 U.S.C. section 1341; California Code of Regulations, title 23, section 3859, subdivision (a)) and may result in impacts to water quality that require additional environmental review (California Code of Regulations, title 14, sections 15062-15063).