
State Water Resources Control Board

WATER QUALITY ORDER NO. 2018-0026-EXEC CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND ORDER

Effective Date: 10-25-2018

Program Type: Fill/Excavation

Project Type: Roads and Highways

Project: Interstate Highway 5 Widening Project – Measure M2 Project C
(Project)

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I. Order

This Clean Water Act (CWA) section 401 Water Quality Certification action and Order (Order) and attachments A through F is issued at the request of the California Department of Transportation – District 12 (herein after Permittee, or Caltrans) for the Interstate Highway 5 (I-5) Widening Project – Measure M2 Project C (Project). This Order is for the purpose described in application and supplemental information submitted by the Permittee. The application was received on September 5, 2018. The application was deemed complete on September 6, 2018.

State Water Board staff requested additional information necessary to supplement the contents of the complete application and the Permittee responded to the request for supplemental information on the following dates (Table 1).

Table 1 Record of Supplemental Application Information	
Date of Request for Supplemental Information	Date all requested information was received.
9/6/2018	9/21/2018

II. Public Notice

The State Water Board provided public notice of the application pursuant to California Code of Regulations, title 23, section 3858 from September 17, 2018 to October 8, 2018. The State Water Board did not receive any comments during the comment period. Public notice regarding the IS/ND is described in Attachment A, CEQA Findings of Facts.

III. Project Purpose

The purpose of the Project is to improve both existing and forecasted mainline congestion on I-5 from SR-73 to El Toro Road, and to improve interchange operations.

IV. Project Description

Caltrans, in cooperation with Orange County Transportation Authority (OCTA) proposes to widen I-5 in Orange County, along an approximate 6.5-mile segment which would add one additional general purpose lane from Avery Parkway to Alicia Parkway and would extend the second High Occupancy Vehicle (HOV) lane from Alicia Parkway to El Toro Road. The Project also includes construction and re-construction of auxiliary lanes, interchanges, ramps, and other structures.

V. Project Location

The Project is located along approximately 6.5 miles of I-5, extending from 0.5 miles south of State Route 73 (SR-73) to 0.2 miles north of El Toro Road within the city of Mission Viejo, Orange County, California (approx. centroid Latitude/Longitude 33.5744°, -117.6722°). Maps showing the Project location are found in Attachment B of this Order.

The Project is also known as “Project C” of the Orange County Measure M2 (M2) Freeway Program. The Project lies within the jurisdiction of the San Diego Regional Water Quality Control Board. However, because the overall M2 Freeway Program includes thirteen freeway improvement projects throughout Orange County that occur within the jurisdictions of the Santa

Ana and San Diego Regional Water Quality Control Boards, the State Water Board is issuing this Order as one part of a multi-regional program of action. The M2 Freeway Program's projects are to be regulated under a single CWA section 404 permit through Letters of Permission (LOP) Procedures administered by the Los Angeles District of the U.S. Army Corps of Engineers (Corps).

VI. Project Impact and Receiving Waters Information

Receiving waters and groundwater potentially impacted by this Project are protected in accordance with the applicable water quality control plans (Basin Plan) for the regions and other plans and policies which may be accessed online at: http://www.waterboards.ca.gov/plans_policies/. The Basin Plans include 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 C. Table 1 of Attachment C 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 C.

VII. Description of Direct Impacts to Waters of the State

Project activities will cause temporary and permanent impacts to waters of the state.

At Aliso Creek, bridge construction, construction of pier walls, bike trail sections, and in-channel modifications will require the discharge of approximately 907 cubic yards of concrete to waters of the state. Construction of the bridge will require the excavation of existing rip-rap to a depth of 10 feet. Relocation of a 42-inch diameter water pipeline and dewatering will also be necessary. A creek diversion basin within Caltrans' right-of-way and upstream of the bridge will be created. Permanent impacts consist of placing new concrete in areas that currently contain earthen bottom. The Project at Aliso Creek would result in permanent and temporary impacts to stream channels (in-channel non-wetland and in-channel wetland waters of the U.S. and state).

At Oso Creek, including La Paz channel which drains into Oso Creek within the Oso Creek Project area, permanent impacts include construction of pier walls and a new headwall for expansion of the existing bridge will require the discharge of approximately 80 cubic yards of concrete within the streambed. Temporary impacts include approximately 1,232 cubic yards of riprap to be placed in waters of the state at Oso Creek that are already concrete-lined and/or contain grouted riprap. Additionally, construction site dewatering is expected. The Project at Oso Creek will result in permanent and temporary impacts to streams and wetland areas (in-channel wetlands below the Ordinary High Water Mark (OHWM) and non-wetland waters of the state), and to adjacent riparian areas.

Additional permanent and temporary impacts to streams would occur at three anthropogenic channels that are waters of the state. These currently serve as drainage for the existing

freeway. Existing stormwater channels will be removed and replaced with new channels and basins designed to meet current Caltrans stormwater treatment standards.

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

Aquatic Resource Type	Temporary Impact ²			Permanent Impact					
				Physical Loss of Area			Degradation of Ecological Condition Only		
	Acres	CY	LF	Acres	CY	LF	Acres	CY	LF
Lake									
Ocean/bay/estuary									
Riparian Zone	0.452		1205				0.112		1341
Stream Channel	0.811		809				0.112		174
Vernal Pool									
Wetland									

VIII. Description of Indirect Impacts to Waters of the State

No significant indirect impacts to waters of the state are reported or expected to be associated with the Project.

IX. Avoidance and Minimization

Avoidance and minimization measures and best management practices (BMPs) are based on the provisions of the OCTA M2 Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP). In addition, the Project shall be conducted in compliance with the Caltrans' Storm Water Management Plan (SWMP), which details the BMP categories that are used to meet the Maximum Extent Practicable (MEP) requirements for the Project. Measures include pre- and post-construction stormwater management measures, spill prevention and response plans, "housekeeping" requirements, invasive plant management measures, and wildlife protection measures. Season of operation limits are in place to avoid specified activities, including dewatering and construction diversions in wetlands, during the rainy season (October 15 through June 1). In addition, worker training will be required, and qualified monitors will be assigned to observe and document compliance with all Project environmental protection measures.

¹ Cubic Yards (CY); Linear Feet (LF)

² Includes only temporary direct impacts to waters of the state and does not include upland areas of temporary disturbance which could result in a discharge to waters of the state.

X. Compensatory Mitigation

The Permittee has agreed to provide compensatory mitigation described in section XIV.J for temporary impacts that have temporal loss and/or degradation of ecological condition. Compensatory mitigation for temporary impacts that cause temporal loss and/or degradation of ecological condition is provided through restoration and revegetation of temporary impact sites.

The Permittee has agreed to provide compensatory mitigation for direct impacts, described in section XIV.J for permanent impacts. All compensatory mitigation for the Project will be provided through the Orange County Measure M2 Environmental Mitigation Program (M2 EMP).

The Permittee is proposing to implement permittee-responsible mitigation at the Aliso Creek Mitigation Site within the Aliso and Wood Canyons Wilderness Park (AWCWP) for impacts at Aliso Creek, under the Aliso Creek Habitat Mitigation and Monitoring Plan (HMMP).

The Permittee is proposing to implement permittee-responsible mitigation at the Trabuco Rose Preserve for non-wetland and in-channel-wetland stream impacts at Oso Creek. Mitigation at Trabuco Rose Reserve is required for impacts within the US Army Corps of Engineers Special Aquatic Management Plan, and is to be implemented under the Ferber Ranch Resource Management Plan (RMP). Ferber Ranch was renamed Trabuco Rose Reserve since RMP finalization in September, 2017.

The rehabilitation and enhancement mitigation at the Aliso Creek Mitigation Site has been approved in advance through issuance of the Corps CWA section 404 permit that established the Corps LOP Procedures. Work was authorized under Regional General Permit No. 41. This mitigation activity has been initiated and is currently on-going.

The preservation mitigation at Trabuco Rose has been approved in advance through issuance of the Corps 404 permit that established the Corps LOP Procedures. Site monitoring has been initiated and is ongoing.

XI. California Environmental Quality Act (CEQA)

On May 6, 2014, the Permittee, as lead agency, adopted an initial study/mitigated negative declaration (IS/MND) (State Clearinghouse (SCH) No. 2013091026) for the Project and filed a Notice of Determination (NOD) at the SCH on August 27, 2014. Pursuant to CEQA, the State Water Board has made Findings of Facts (Findings) which support the issuance of this Order and are included in Attachment A.

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 \$1,500.00 was received on February 22, 2018. 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 \$10,746.00 based on total Project impacts was received on September 21, 2018.

XIV. Conditions

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

A. Authorization

Impacts to waters of the state shall not exceed quantities shown in Table 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.

1. Project Reporting

- a. Monthly Reporting:** The Permittee must submit a Monthly Report to the State Water Board on the 15th day of the month following each reporting period. Monthly reporting shall continue until the State Water Board issues a Notice of Project Complete Letter to the Permittee.
- b. Annual Reporting:** The Permittee shall submit an Annual Report each year on or before January 18 each year. Annual reporting shall continue until a Notice of Project Complete Letter is issued to the Permittee.

2. Project Status Notifications

- a. Commencement of Construction:** The Permittee shall submit a Commencement of Construction Report at least seven (7) days prior to start of initial ground disturbance activities.
- 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 State Water Board staff within thirty (30) days following completion of all Project construction activities. Upon acceptance of the request, State Water Board staff shall issue a Notice of Completion of Discharges Letter to the Permittee which will end the active discharge period and associated annual fees.

- 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,³ and no further Project activities will occur. This request shall be submitted to State Water Board staff within thirty (30) days following completion of all Project activities. Upon approval of the request, the State Water Board staff shall issue a Notice of Project Complete Letter to the Permittee which will end the post discharge monitoring period and associated annual fees.

3. Conditional Notifications and Reports

The following notifications and reports are required as appropriate.

a. Accidental Discharges of Hazardous Materials⁴

Following an accidental discharge of a reportable quantity of a hazardous material, sewage, or an unknown material, the following applies (Wat. Code, § 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:
[http://www.caloes.ca.gov/FireRescueSite/Documents/CalOES-Spill Booklet Feb2014 FINAL BW Acc.pdf](http://www.caloes.ca.gov/FireRescueSite/Documents/CalOES-Spill%20Booklet%20Feb2014%20FINAL%20BW%20Acc.pdf)
- ii. Following notification to OES, the Permittee shall notify State Water Board, as soon as practicable (ideally within 24 hours). Notification may be via telephone, e-mail, delivered written notice, or other verifiable means.
- iii. Within five (5) working days of notification to the State 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 State Water Board of any event causing a violation of compliance with water quality standards. Notification may be via telephone, e-mail, delivered written notice, or other verifiable means.

³ Completion of post-construction monitoring shall be determined by State Water Board staff and shall be contingent on successful attainment of restoration and mitigation performance criteria.

⁴ "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 & Saf. Code, § 25501.)

- i. Examples of noncompliance events include: lack of storm water treatment following a rain event, discharges causing a visible plume in a water of the state, and water contact with uncured concrete.
- ii. 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

- i. The Permittee shall notify the State Water Board at least forty-eight (48) hours prior to initiating work in water or stream diversions. Notification may be via telephone, e-mail, delivered written notice, 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 State Water Board staff.

d. Modifications to Project

Project modifications may require an amendment of this Order. The Permittee shall give advance notice to State 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 State 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 State Water Board in accordance with the following terms:

- i. The Permittee must notify the State 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 State Water Board at least 10 days prior to the transfer of ownership. The purchaser must also submit a written request to the State 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 State 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 State 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:** When active construction is in progress in or immediately adjacent to delineated waters of the state, and when flowing, ponded or standing water is present in the permitted work area, all Project personnel shall (a) be trained to be aware of any apparent changes to water quality, and (b) immediately report any observed sediment plumes, surface sheen, uncured concrete, odors or similar indicators of water pollution to Project supervisors or environmental monitors.
2. **Accidental Discharges/Noncompliance:** Upon occurrence of an accidental discharge of hazardous materials or a violation of compliance with a water quality standard, State 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:** For projects involving planned work in water or stream diversions, a water quality monitoring plan shall be submitted to State Water Board staff for acceptance at least 30 days in advance of any discharge to the affected water body. Water quality monitoring shall be conducted in accordance with the approved plan.
4. **Post-Construction:** Visually inspect the work areas permitted by this Order that are in or immediately adjacent to delineated waters during the rainy season following completion of all construction activities for two years or, for fully paved impact sites, until all disturbed areas are returned to a paved or hardened state, to ensure that erosion, stream instability, or other water quality pollution is not occurring in or downstream of the Project site. If a discharge is occurring, the Permittee shall immediately commence remedial actions, and shall contact the State Water Board designated staff contact person within three (3) working days. The State 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 section 3867. Additionally, the State Water Board reserves the right to suspend, cancel, or modify and reissue this Order, after providing notice to the Permittee, if the State 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 (Wat. Code, § 13000 et seq.) or federal Clean Water Act section 303 (33 U.S.C. § 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.

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 State 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, provide 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 presented as Appendix F to the IS/MND, *Minimization and/or Mitigation Summary/Environmental Commitment Record*, which is incorporated herein by reference and any additional measures as outlined in Attachment A, CEQA Findings of Fact.
7. **Construction General Permit Requirement:** The Permittee shall maintain compliance with conditions described in, and required by, NPDES General Permit for Storm Water

Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ; NPDES No. CAS000002).

The Project shall also be conducted in compliance with the Caltrans' SWMP, which details the BMP categories that are used to meet the MEP requirements for the Project.

8. The Permittee shall oversee the work of the contractor during implementation of the Project, to ensure that the work is being done in accordance with the plans, and with conditions of this Order.
9. **Clean Water Act Section 408 Compliance:** The Permittee shall provide documentation that a CWA section 408 determination has been obtained from the Corps before commencement of work in or adjacent to any streams subject to section 408 restrictions.

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 & G. Code, §§ 2050-2097) or the federal Endangered Species Act (16 U.S.C. §§ 1531-1544). If a "take" will result from any act authorized under this Order held by the Permittee, the Permittee must obtain authorization for the take prior to any construction or operation of the portion of the Project that may result in a take. The Permittee is responsible for meeting all requirements of the applicable endangered species act for the Project authorized under this Order.
3. The Permittee shall grant State Water Board staff, San Diego Regional Water Quality Control Board staff, or an authorized representative (including an authorized contractor acting as a Water Board representative), upon presentation of credentials and other documents as may be required by law, permission to:
 - a. Enter upon the Project or compensatory mitigation site(s) premises where a regulated facility or activity is located or conducted, or where records are kept.
 - b. Have access to and copy any records that are kept and are relevant to the Project or the requirements of this Order.
 - c. Inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order.
 - d. Sample or monitor for the purposes of assuring Order compliance.
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 and Streambed Alteration Agreement – The Permittee shall submit a signed copy of the Department of Fish and Wildlife’s lake and streambed alteration agreement to the State Water Board immediately upon execution and prior to any discharge to waters of the state.

G. Construction

In-Water Work Conditions

1. In-water work activities must not cause water quality objectives of the receiving waters to be exceeded. The term "in-water work" means any ground disturbing activities in any delineated waters of the state that are authorized under this Order, regardless of the presence of flowing or standing water. Work in water commences at the onset of the regulated activity and continues until the activity is finished and all restoration of the affected work area is complete.
2. Areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity in or adjacent to delineated waters of the state which may result in a discharge to surface waters of the state, including ponded water, shall be dewatered and/or isolated from surface waters before the activity starts. Appropriate BMPs shall be used for placement, operation and removal of diversion or isolation structures (e.g. diversion weirs, cofferdams). If a General Order regulating these activities is promulgated by the Regional Water Quality Control Board, the Permittee shall comply with this condition through enrollment in that General Order, and through notification to the State Water Board of that enrollment.
3. Any structure or material, including, but not limited to, culverts, pipes, piers, and coffer dams, placed within a stream where fish (as defined in 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 water supply 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 Permittee shall be responsible for restoration of conditions as necessary (as determined by the State Water Boards) to allow passage of fish past the structure.
4. Disturbed in-water work areas must be temporarily stabilized to prevent erosion at least 48 hours prior to the predicted commencement of a rainfall event that is forecast to bring greater than one-half inch of precipitation with a greater than a 50 percent probability of occurrence, as predicted by the National Oceanic and Atmospheric Administration (NOAA) - National Weather Service. If the predicted commencement of such a rainfall event is less than 48 hours after the prediction is issued, temporary stabilization of the disturbed in-water work areas must begin immediately.

5. All construction activities must be effectively isolated from water flows to the greatest extent possible. This may be accomplished by working in the dry season or dewatering the work area in the wet season.
6. Except for the following conditions, equipment must not be operated in standing or flowing waters without site-specific approval from the State Water Board:
 - a. When work in standing or flowing water is required, structures used to isolate the in-water work area and/or diverting the water flow (e.g., coffer dam, geotextile silt curtain) must not be removed until all disturbed areas are stabilized, whether that removal is for seasonal work cessation or for permanent removal at the end of the Project.
 - b. The diverted water flow must not be contaminated by construction activities.
 - c. All open flow temporary diversion channels must be lined with filter fabric or other appropriate liner material to prevent erosion.
 - d. Cofferdams and water barrier construction must be adequate to prevent seepage into or from the work area to the greatest extent feasible.
 - e. Flow diversions must be conducted in a manner that prevents pollution and/or siltation and in a manner that restores pre-project flows (except for variation in flows due to seasonality, upstream diversions, etc.) upon completion of the activity. Diverted flows must be of sufficient quality and quantity, and of appropriate temperature, to support existing fish and other aquatic life both above and below the diversion. Diversions must be designed, installed, and maintained to reduce erosion. Pre-project flows must be restored to the affected surface water body upon completion of work at that location.
7. If groundwater dewatering is required for the Project, the Permittee shall enroll in the San Diego Regional Water Quality Control Board's Order R9-2015-0013, NPDES No. CAG919003 General Waste Discharge Requirements for Groundwater Extraction Discharges to Surface Waters within the San Diego Region. If additional Regional Water Board permits relating to dewatering are required, the designated State Water Board contact person identified in this Order must be notified and copied on pertinent correspondence pertaining to those other required permits.
8. All temporary dewatering activities are subject to the work-in-water reporting and monitoring conditions presented in sections XIV.B.3 above.

Directional Drilling

9. Horizontal Directional Drilling (HDD) and similar drilling operations may affect water quality; therefore, the following conditions shall apply to all drilling operations under waters of the state:
 - a. The discharge of bentonite, drilling muds, lubricants or any drilling compounds into waters of the state is prohibited.

- b. A draft HDD or drilling plan shall be prepared and shall be subject to review by the State Water Board at least 30 days before drilling activities under waters of the state. No HDD or other drilling operations under waters of the state shall commence until the HDD plan is approved by the State Water Board.
- c. Release of bentonite, drilling muds, lubricants or any drilling compounds through fractures in the streambed or bank substrate during drilling is referred to as a "frac-out." Because of the potential for frac-outs to occur, the HDD or drilling plan shall include a frac-out response plan. The frac-out response plan shall specify all measures to be initiated if frac-outs should occur during HDD operations.
- d. For all HDD and other drilling sites, a means of containment (e.g., damming, fluming) or screening capable of capturing all of the potential discharge shall be described in the HDD plan. The downstream end of any such containment structure shall be capable of containing all bentonite or other drilling muds or debris that may be released during boring or drilling. Any drilling mud, spoils, etc. must be completely removed from the streambed prior to removal of the containment structures (e.g., dam, flume, and screen).
- e. An environmental monitor shall provide monitoring for compliance with the HDD or drilling plan throughout drilling operations under waters of the state.
- f. Any HDD or other drilling operation shall be designed and directed in such a way as to minimize the risk of spills and discharges of all types including the frac-outs. In substrates where frac-outs are likely to occur, HDD contractors shall employ all reasonable means and methods available to minimize potential of frac-outs.
- g. All drilling muds or compounds will be contained and properly disposed of after drilling activities are completed.

Hazardous Materials, Waste and Petroleum Products

- 10.** Stationary equipment (motors, pumps, generators, etc.) and vehicles or equipment parked or in use in delineated waters shall be used only when unavoidable and shall be managed to ensure that no discharge of materials (oils, fuels, etc.) into waters of the state can occur.
- 11.** Equipment working in delineated waters, including in areas protected by diversions, shall be removed from the delineated waters for fueling or service including maintenance whenever feasible. When use of stationary equipment that would require refueling or service in delineated waters is planned, BMPs for managing the additional risk posed by that refueling and service shall be developed and presented to the State Water Board staff for approval. Such BMPs should include any precautions as necessary to ensure potential spills and leaks do not result in a discharge into waters of the state.
- 12.** All waste materials resulting from the Project shall be removed from the site and disposed of properly.
- 13.** No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other organic or earthen material from any construction or

associated activity of whatever nature, other than that authorized by this Order, shall be allowed to enter into or be placed where it may be washed by rainfall, or otherwise discharged into waters of the state. When operations are completed, any excess material or debris shall be removed from the work area.

14. Raw cement, concrete (or washing thereof), asphalt, drilling fluids, lubricants, paints, coating material, oil, petroleum products, or any other substances which could be hazardous to fish and wildlife resulting from or disturbed by Project-related activities, shall be prevented from contaminating fill material and/or entering waters of the state.
15. Operation and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the state. All equipment using gas, oil, hydraulic fluid or other petroleum products shall be inspected for leaks prior to use and shall be monitored for leakage. At no time shall the Permittee use any vehicle or equipment that leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of waters of the state.
16. Any maintenance or refueling of vehicles or equipment occurring on-site will be done in a designated area with secondary containment, located away from drainage courses to prevent the runoff of storm water and the runoff of spills.
17. The Permittee shall retain a spill plan and appropriate spill control and clean up materials onsite in case spills occur. Construction personnel must be familiar with the plan and how to use the cleanup materials or kits.
18. On-site containment for storage of chemicals classified as hazardous shall include secondary containment and appropriate management as specified in California Code of Regulations, title 27, section 20320.

Good Site Management “Housekeeping”

19. Except for temporary stockpiling of waste or spoils generated during construction operations (“temporary” in this instance means generated and removed during the same working day), waste materials shall not be placed in a manner where the materials may be washed by rainfall, or otherwise discharged into waters of the state.
20. All work performed within waters of the state shall be completed in a manner that minimizes impacts to beneficial uses and habitat; measures shall be employed to minimize disturbances along the channel that will adversely impact the water quality of waters of the state. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete Project implementation.
21. Where temporary impacts have not been approved, construction equipment, vehicles, and personnel must not enter waters of the state.
22. The Permittee must implement proposed BMPs as well as other applicable BMPs following the procedures in the current version, as of the effective date of this Order, of the Caltrans’ “Construction Site Best Management Practices (BMPs) Manual” and/or “Standard Specifications.” Revisions amendments, or updates of these manuals may be adopted for use by the Project, subject to State Water Board approval.

23. All construction-related equipment, materials, and any temporary BMPs no longer needed, shall be removed and cleaned from the site upon completion of the Project.
24. All imported riprap, rocks, and gravels used for construction shall be pre-washed.

Invasive Species and Soil Borne Pathogens

25. Imported fill material must be free of weed and invasive species seeds and live plants.
26. Equipment and machinery used for Project construction shall be inspected and cleaned of non-native invasive vegetation prior to on-site use.
27. The Permittee shall survey for the presence of invasive species within any disturbed work areas or access routes that are used for the Project and mitigation work and evaluate whether eradication efforts are necessary during the mitigation monitoring period. If invasive species are present on more than 5% of the overall disturbed areas during any given year of the mitigation monitoring period, then eradication measures shall be proposed in the annual report and follow-up monitoring shall be performed to ensure that any invasive species are limited to less than 5% of the disturbed area.

Special Status Species

28. The Permittee shall follow all conditions of other state and federal permits pertaining to special status species that may be affected by the Project.

H. Mitigation for Temporary Impacts

1. The Permittee shall restore all areas of temporary impacts to waters of the state.

To avoid erosion and invasive plant colonization, temporary impacts to concrete covered or paved areas that are to remain in a hardened state will be repaired in a timely manner so that unprotected bare soil will not remain exposed.

For impacts to unpaved, earthen areas within or adjacent to waters of the state, restoration methods and materials shall be described in a restoration plan. The restoration plan shall be submitted for written acceptance by State Water Board staff within 180 days of issuance of this Order, unless an extension is requested by the Permittee and approved by State Water Board staff. The restoration plan shall provide the following: a schedule; plans for grading of disturbed areas to pre-project contours; planting palette with plant species native to the Project area; seed collection location; invasive species management; performance standards; maintenance requirements (e.g. watering, weeding, and replanting) and a monitoring plan. Amount of mitigation for temporary impacts is shown in Section XIV.H, Table 3 (data in Table 3 combines impacts to earthen and lined channels).

2. The State Water Board may extend the monitoring period beyond requirements of the restoration plan upon a determination by State Water Board Executive Director that the performance standards have not been met or are not likely to be met within the monitoring period.

3. Compensatory mitigation may be required for any permitted impact site (as listed in Attachment C, Table 2) where first-year restoration work for disturbed areas in, or immediately adjacent to, waters of the state is not completed within one year of completion of ground-disturbing activity at that permitted impact site (i.e., to offset temporal loss of aquatic resource functions or beneficial uses).
4. Temporary impacts to anthropogenic stormwater channels are expected to improve overall water quality of discharges to the receiving waters. Therefore, these temporary impacts are documented as being mitigated on-site/in-kind through installation of the new stormwater drainage channels and basins.

Table 3: Required Project Mitigation Quantity for Temporary Impacts								
Aquatic Resource Type	Mit. Type ⁵	Units	Method ⁶					
			Est.	Re-est.	Reh.	Enh.	Pres.	Unknown
Riparian Zone	PR	Acres			0.452			
Stream Channel	PR	Acres			0.811			

I. Compensatory Mitigation for Permanent Impacts⁷

1. Final Compensatory Mitigation Plan The Permittee shall provide compensatory mitigation for impacts to waters of the state in accordance with M2 EMP. The M2 EMP was developed to provide a comprehensive, watershed-based compensatory mitigation approach for all of the Measure M2 Projects for all resources. Mitigation will be provided at the Aliso Creek Mitigation Site (within the Aliso and Wood Canyons Wilderness Park) and the Trabuco Rose Preserve (previously known as Ferber Ranch Reserve) as described in the HMMP for the Aliso Creek site and the Ferber Ranch RMP for the the Trabuco Rose mitigation site. Any deviations from, or revisions to, the M2 EMP, HMMP or RMP must be pre-approved by State Water Board staff. The monitoring periods prescribed in the HMMP shall continue until the State Water Board staff determines that performance standards have been met. This may require the monitoring period to be extended. Trabuco Rose will be monitored as outlined in the RMP.

2. Permittee-Responsible Compensatory Mitigation Responsibility

- a. Permittee responsible compensatory mitigation installation was completed in advance of authorized impacts.

⁵ Mitigation type for on-site restoration of temporary impacts is Permittee Responsible (PR).

⁶ Methods: establishment (Est.), reestablishment (Re-est.), rehabilitation (Reh.), enhancement (Enh.), preservation (Pres.). Unknown applies to advance credits with an unknown method and or location.

⁷ Compensatory Mitigation is for permanent physical loss and permanent ecological degradation of a water of the state.

- b. The Permittee is responsible for the required compensatory mitigation in perpetuity. However, the Permittee may transfer the compensatory mitigation requirements associated with long-term management when the following conditions have been met:
 - i. Performance standards are met.
 - ii. A Transfer Agreement to a third party has been approved by State Water Board staff.
 - iii. An endowment fund has been provided by the Permittee to a third party for management in perpetuity of the mitigation site.
 - iv. A conservation easement, deed restriction, or other appropriate restrictive covenant for the mitigation site has been recorded and approved by State Water Board staff.
- c. Transfer of Long-Term Permittee-Responsible Compensatory Mitigation and Management Responsibility
 - i. A transfer agreement shall be submitted from an authorized representative of the new party (transferee) for acceptance by State Water Board staff. This agreement shall demonstrate acceptance and understanding of the responsibility to comply with and fully satisfy the required compensatory mitigation and long-term management conditions. Failure to comply with the mitigation conditions and associated requirements may subject the transferee to enforcement by the State Water Board under Water Code section 13385, subdivision (a).
 - ii. Notification of transfer of responsibilities meeting the above condition must be provided to the State Water Board staff. A draft transfer agreement is due to State Water Board staff no less than thirty (30) days prior to the transfer of the mitigation responsibility. A final transfer agreement is due to State Water Board staff within 30 days of the completion of the transfer.

3. Total Required Compensatory Mitigation

- a. The Permittee is required to provide compensatory mitigation for the ecological degradation to streams, including in-channel wetlands, and riparian areas by allocation of mitigation capacity at the Aliso Creek Mitigation Site and the Trabuco Rose site as described in the Aliso Creek HMMP and the Ferber Ranch RMP, respectively.
- b. Permanent impacts to anthropogenic stormwater channels are expected to improve overall water quality of discharges to the receiving waters. Therefore, these permanent impacts are documented as being mitigated on-site/in-kind through installation of the new stormwater drainage channels and basins.
- c. Total required Project compensatory mitigation information for permanent degradation of ecological condition is summarized in Table 4.

Table 4: Required Project Compensatory Mitigation Quantity for Permanent Degradation of Ecological Condition ⁸								
Aquatic Resource Type	Comp Mit. Type ⁹	Units	Method ¹⁰					
			Est.	Re-est.	Reh.	Enh.	Pres.	Unknown
Stream Channel	PR	Acres			0.150	0.110	0.170	

J. 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 resources. 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 State Water Board has determined that any potential water resource 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.

⁸ For Staff use only: Record quantities in CIWQS mitigation/restoration table side B for mitigation for temporary impacts and for permanent degradation of ecological condition; ecological restoration/enhancement projects.

⁹ Compensatory mitigation type may be: In-Lieu-Fee (ILF); Mitigation Bank (MB); Permittee-Responsible (PR)

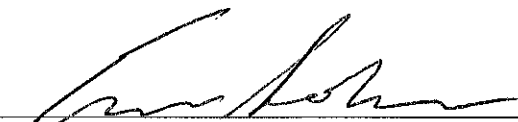
¹⁰ Methods: establishment (Est.), reestablishment (Re-est.), rehabilitation (Reh.), enhancement (Enh.), preservation (Pres.). Unknown applies to advance credits with an unknown method and or location.

XV. Water Quality Certification

I hereby issue the Order for the I-5 Widening Project – Measure M2 Project C, SB18018IN 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).

The State Water Board will file a Notice of Determination (NOD) at the SCH within five (5) working days of issuance of this Order.

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.



Eileen Sobeck
Executive Director
State Water Resources Control Board

10/25/18
Date

- Attachment A** CEQA Findings of Facts
- Attachment B** Project Maps
- Attachment C** Receiving Waters, Impact and Mitigation Information
- Attachment D** Report and Notification Requirements
- Attachment E** Signatory Requirements
- Attachment F** Certification Deviation Procedures

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Environmental Review

On May 6, 2014, the California Department of Transportation, District 12 (Caltrans), as lead agency, adopted an initial study/mitigated negative declaration (IS/MND) (State Clearinghouse (SCH) No. 2013091026) for the Project and filed a Notice of Determination (NOD) at the SCH on August 27, 2014. The State Water Board is a responsible agency under CEQA (Pub. Resources Code, § 21069) and in making its determinations and findings, must presume that Caltrans' adopted environmental document comports with the requirements of CEQA and is valid. (Pub. Resources Code, § 21167.3.) The State Water Board has reviewed and considered the environmental document and finds that the environmental document prepared by Caltrans addresses the Project's water resource impacts. (Cal. Code Regs., tit. 14, § 15096, subd. (f).) The environmental document includes the mitigation monitoring and reporting program (MMRP) developed by Caltrans for all mitigation measures that have been adopted for the Project to reduce potential significant impacts. (Pub. Resources Code, § 21081.6, subd. (a)(1); Cal. Code Regs., tit. 14, § 15074, subd. (d).)

B. Incorporation by Reference

Pursuant to CEQA, these Findings of Facts (Findings) support the issuance of this Order based on the Project IS/MND, the application for this Order, and other supplemental documentation, including all appendices to the IS/MND and the following documents:

- U.S. Army Corps of Engineers, Los Angeles District, Request for Agency Comments on Application for Measure 2 Freeway Program Project Level Letter of Permission within San Juan Creek/Western San Mateo Creek SAMP (September 10, 2018)
- Orange County Transportation Authority (OCTA) Measure 2 Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP)
- OCTA Measure 2 Environmental Mitigation Plan

All CEQA project impacts, including those discussed in subsection C below, are analyzed in detail in the Project Final IS/MND which is incorporated herein by reference. The Project IS/MND is available at: <http://www.dot.ca.gov/dist12/DEA/5widening/>.

Requirements under the purview of the State 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

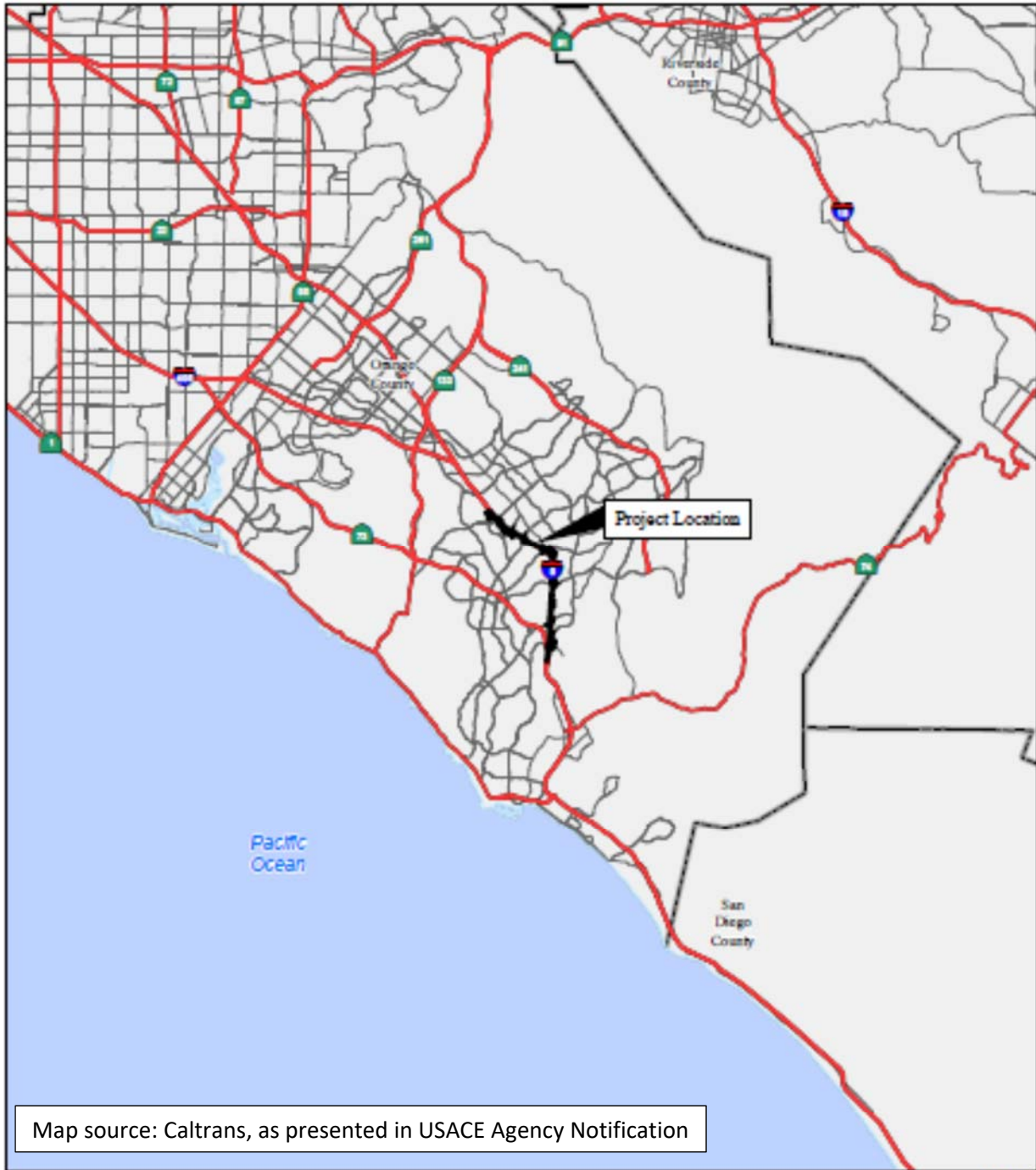
The IS/MND describes potentially significant environmental effects to water resources and relies on the Water Boards to mitigate those effects. Considering the whole of the record, the State Water Board makes the following findings:

- (1) Revisions in the project plans or proposals made by, or agreed to by the applicant before a proposed mitigated negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and*
- (2) There is no substantial evidence, in light of the whole record before the agency, that the project as revised may have a significant effect on the environment. (Cal. Code Regs., tit. 14, § 15070.)*

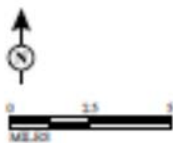
D. Determination

The State Water Board has determined that the Project, when implemented in accordance with the MMRP and the conditions in this Order, will not result in any significant adverse water resource impacts. (Cal. Code Regs., tit. 14, § 15096, subd (h).) The State Water Board will file a NOD with the SCH within five (5) working days from the issuance of this Order. (Cal. Code Regs., tit. 14, § 15096, subd. (i).)

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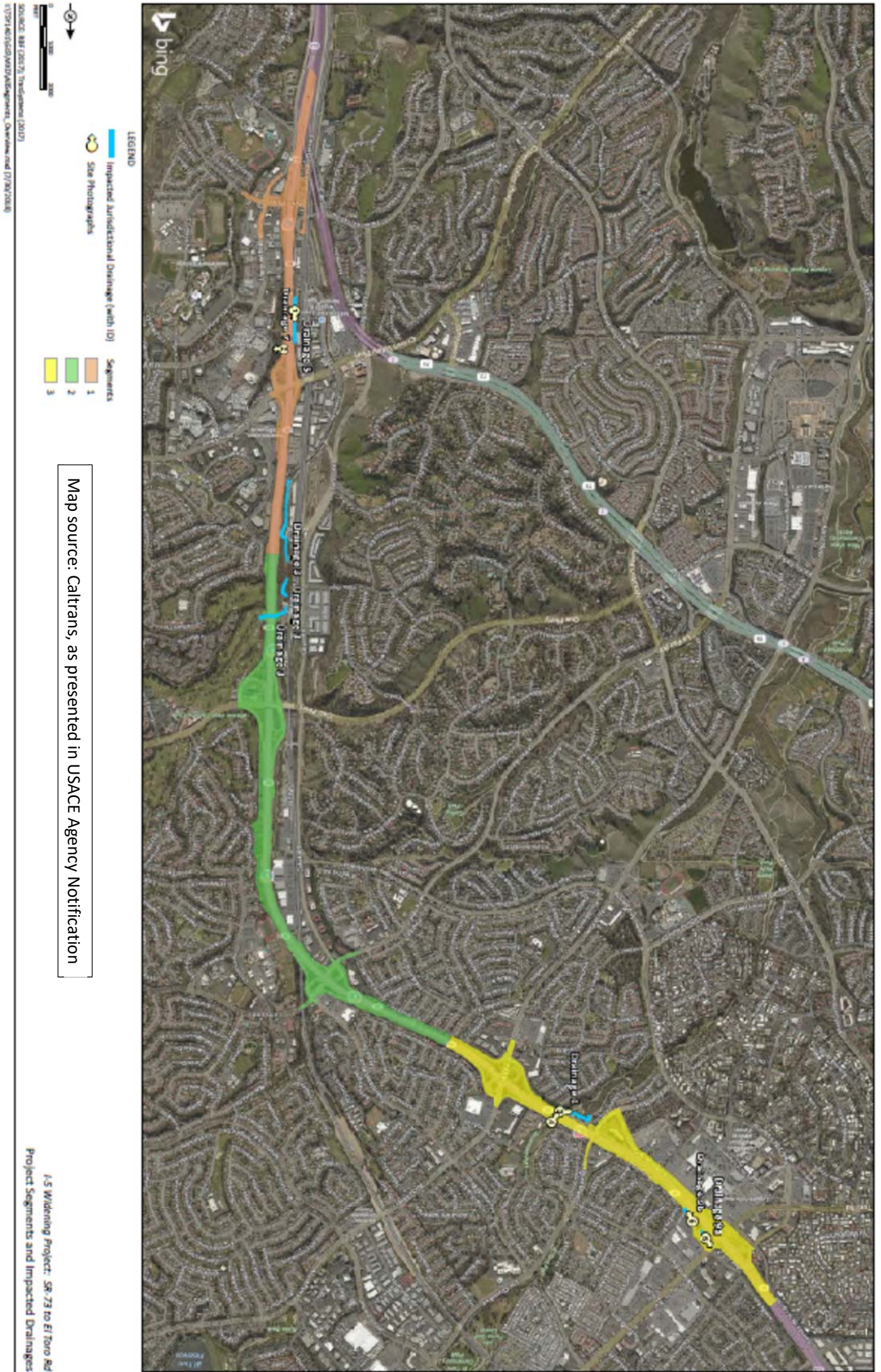
MAP 1



SOURCE: TBM (2008)
I:\TSY\1102\GIS\Map1_Proj_Vicinity.mxd (9/6/2012)

*I-5 Widening Project:
SR-73 to El Toro Road*
Project Vicinity Map

12-ORA-5 PM 12/4/18.9
EA# 0K0200



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Receiving Waters

The following table shows the receiving waters associated with each impact and Permittee responsible mitigation site.

Table 1: Receiving Water(s) Information

Impact Site ID	Waterbody Name	Impacted Aquatic Resource Type	Water Board Hydrologic Units	Receiving Waters	Receiving Waters Beneficial Uses	303d Listing Pollutant	eCRAM ID ¹
1	Aliso Creek (concrete banks, earthen bottom)	Stream	901.13	Aliso Creek	AGR, REC2, WARM, WILD	Benthic Community Effects, Indicator Bacteria, Malathion, Nitrogen, Phosphorus, Selenium, Toxicity	None
1	Aliso Creek (concrete banks, earthen bottom)	Riparian	901.13	Aliso Creek	AGR, REC2, WARM, WILD	Benthic Community Effects, Indicator Bacteria, Malathion, Nitrogen, Phosphorus, Selenium, Toxicity	None
2	La Paz Channel	Riparian	901.21	Oso Creek	AGR, IND, REC1, REC2, WARM, COLD, WILD	Sulfates, Chloride, Total Dissolved Solids	None
3	Oso Creek	Stream	901.21	Oso Creek	AGR, IND, REC1, REC2, WARM, COLD, WILD	Sulfates, Chloride, Total Dissolved Solids	None

¹ California Rapid Assessment Method (CRAM) score of impacted sites provided by the Permittee.

Table 1: Receiving Water(s) Information

Impact Site ID	Waterbody Name	Impacted Aquatic Resource Type	Water Board Hydrologic Units	Receiving Waters	Receiving Waters Beneficial Uses	303d Listing Pollutant	eCRAM ID ¹
3	Oso Creek	Riparian	901.21	Oso Creek	AGR, IND, REC1, REC2, WARM, COLD, WILD	Sulfates, Chloride, Total Dissolved Solids	None
7	Un-named channel	Stream (concrete lined)	901.21	Oso Creek	AGR, IND, REC1, REC2, WARM, COLD, WILD	Sulfates, Chloride, Total Dissolved Solids	None
9a	Un-named channel	Stream (concrete lined)	901.13	Aliso Creek	AGR, REC2, WARM, WILD	Benthic Community Effects, Indicator Bacteria, Malathion, Nitrogen, Phosphorus, Selenium, Toxicity	None
9b	Un-named channel	Stream (concrete lined)	901.13	Aliso Creek	AGR, REC2, WARM, WILD	Benthic Community Effects, Indicator Bacteria, Malathion, Nitrogen, Phosphorus, Selenium, Toxicity	None

Individual Direct Impact Locations

The following table shows individual impact locations.

Table 2: Individual Direct Impact Information											
Impact Site ID	Latitude	Longitude	Indirect Impact Requiring Mitigation		Direct Impact Duration	Dredge			Fill/Excavation		
			Yes	No		Acres	Cubic Yards	Linear Feet	Acres	Cubic Yards	Linear Feet
1 Aliso Creek	35.5853	-117.6718	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Temporary				0.446		670
					Permanent				0.088		158
3 Oso Creek	33.5741	-114.6721	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Temporary				0.099		139
					Permanent				0.058		16
7 Un-named channel	33.5568	-117.6724	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Temporary				0.003		15
					Permanent						
9a Un-named channel	33.6147	-117.7066	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Temporary				0.023		334
					Permanent				0.026		
9b Un-named channel	33.6138	-117.7059	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Temporary				0.049		363
					Permanent						

RIPARIAN IMPACTS – ABOVE OHWM

1 Aliso Creek	35.5853	-117.6718	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Temporary						
					Permanent				0.001		28
2 La Paz Channel	33.5760	-117.6721	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Temporary				0.099		51
					Permanent				0.057		870
3 Oso Creek	33.5741	-114.6721	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Temporary				0.353		1154
					Permanent				0.054		443

Compensatory Mitigation Information

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

Permittee Responsible Compensatory Mitigation Site Information

Table 3: On-site Permittee Responsible Compensatory Mitigation²						
Impact Site ID	Lat.	Long.	Aquatic Resource Type	Mitigation Method	Mitigation Quantity	
					Acres	Linear Feet
1 Aliso Creek	35.5853	-117.6718	Stream	Rehabilitation	0.446	
3 Oso Creek	33.5741	-117.6721	Stream	Rehabilitation	0.099	
7 Un-named channel	33.6147	-117.6724	Stream	Rehabilitation	0.003	
9a Un-named channel	33.6147	-117.7066	Stream	Rehabilitation	0.023	
9b Un-named channel	33.6138	-117.7059	Stream	Rehabilitation	0.049	

Table 4: Off-site Permittee Responsible Compensatory Mitigation³						
Impact Site ID	Lat.	Long.	Aquatic Resource Type	Mitigation Method	Mitigation Quantity	
					Acres	Linear Feet
1 Aliso Creek	33.5854	-117.6718	Stream	Rehabilitation	0.150	
1 Aliso Creek	33.5854	-117.6718	Wetland	Enhancement	0.110	
3 Oso Creek	33.5741	-117.6721	Stream	Preservation	0.150	
3 Oso Creek	33.5741	-117.6721	Wetland	Preservation	0.220	

² Mitigation site is analyzed in the Project CEQA document.

³ Mitigation site is analyzed in the Measure 2 NCCP/HCP EIR/EIS.

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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:

1. Go to: http://www.waterboards.ca.gov/water_issues/programs/cwa401/certifications.shtml
2. Find your Order in the table based on Applicant, Date, and Subject headers.

Report Submittal Instructions

1. Check the box on the Report and Notification Cover Sheet next to the report or notification you are submitting.
 - **Part A (Annual Report):** This report will be submitted annually from the anniversary of Project effective date until a Notice of Project Complete Letter is issued.
 - **Part B (Project Status Notifications):** Used to notify the State 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.
2. Sign the Report and Notification Cover Sheet and attach all information requested for the Report Type.
3. **Electronic Report Submittal Instructions:**
 - Submit signed Report and Notification Cover Sheet and required information via email to: stateboard401@waterboards.ca.gov and cc: [Staff email]
 - Include in the subject line of the email:
Subject: ATTN: Cliff Harvey; Reg. Measure ID: 420420_Report

Definition of Reporting Terms

1. **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.
2. **Request for Notice of Completion of Discharges Letter:** This request by the Permittee to the State 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. State 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 and a change in fees from the annual active discharge fee to the annual post-discharge monitoring fee.

3. **Request for Notice of Project Complete Letter:** This request by the Permittee to the State 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. State 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.
4. **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 State Water Board staff. The Post-Discharge Monitoring Period includes continued water quality monitoring or compensatory mitigation monitoring.
5. **Effective Date:** Date of Order issuance.

Map/Photo Documentation Information

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

1. **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 (NAD38) 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.

2. **Photo-Documentation:** 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.

REPORT AND NOTIFICATION COVER SHEET

Project:	I-5 Widening Project – Measure 2 Project C		
Permittee:	California Department of Transportation – District 12		
Reg. Meas. ID:	420420	Place ID:	846098
Order Effective Date:	Click here to enter a date		

Report Type Submitted

Part A – Project Reporting

- Report Type 1 Monthly Report
- Report Type 2 Annual Report

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

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

¹STATEMENT 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.**

Part A – Project Reporting

Report Type 1	Monthly Report
Report Purpose	Notifies State Water Board staff of the Project status and environmental compliance activities on a monthly basis.
When to Submit	On [Date] until a Notice of Project Complete Letter is issued to the Permittee.
Report Contents	<ol style="list-style-type: none"> 1. 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 (BMPs¹). If construction has not started, provide estimated start date. 2. Event Summary Describe distinct Project activities and occurrences, including environmental monitoring, surveys, and inspections. 3. 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. 4. Compliance Summary <ol style="list-style-type: none"> a) List name and organization of environmental surveyors, monitors, and inspectors involved with monitoring environmental compliance for the reporting period. b) List associated monitoring reports for the reporting period. c) Summarize observed incidences of non-compliance, compliance issues, minor problems, or occurrences. d) Describe each observed incidence in detail. List monitor name and organization, date, location, type of incident, corrective action taken (if any), status, and resolution.

¹ Best Management Practices (BMPs) is a term used to describe a type of water pollution or environmental control.

Report Type 2	Annual Report
Report Purpose	Notify the State Water Board staff of Project status during both the active discharge and post-discharge monitoring periods.
When to Submit	Annual reports shall be submitted each year on [Date]. Annual reports shall continue until a Notice of Project Complete Letter is issued to the Permittee.
Report Contents	<p>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.</p> <p><u>During the Active Discharge Period</u></p> <ul style="list-style-type: none"> • Topic 1: Construction Summary • Topic 2: Mitigation for Temporary Impacts Status • Topic 3: Compensatory Mitigation for Permanent Impacts Status <p><u>During the Post-Discharge Monitoring Period</u></p> <ul style="list-style-type: none"> • Topic 2: Mitigation for Temporary Impacts Status • Topic 3: Compensatory Mitigation for Permanent Impacts Status
Annual Report Topics (1-3)	
Annual Report Topic 1	Construction Summary
When to Submit	With the annual report during the Active Discharge Period.
Report Contents	<ol style="list-style-type: none"> 1. 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. 2. Map showing general Project progress. 3. If applicable: <ol style="list-style-type: none"> 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.
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	<ol style="list-style-type: none"> 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.

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	<p>*If not applicable report N/A.</p> <p>Part A. Permittee Responsible</p> <ol style="list-style-type: none">1. Planned date of initiation of compensatory mitigation site installation.2. If installation is in progress, a map of what has been completed to date.3. 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. <p>Part B. Mitigation Bank or In-Lieu Fee</p> <ol style="list-style-type: none">1. Status or proof of purchase of credit types and quantities.2. Include the name of bank/ILF Program and contact information.3. If ILF, location of project and type if known.

Part B – Project Status Notifications
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Report Type 3	Commencement of Construction
Report Purpose	Notify State Water Board staff prior to the start of construction.
When to Submit	Must be received at least seven (7) days prior to start of initial ground disturbance activities.
Report Contents	<ol style="list-style-type: none"> 1. Date of commencement of construction. 2. Anticipated date when discharges to waters of the state will occur. 3. Project schedule milestones including a schedule for onsite compensatory mitigation, if applicable.

Report Type 4	Request for Notice of Completion of Discharges Letter
Report Purpose	Notify State Water Board staff that post-construction monitoring is required and that active Project construction, including any mitigation and permittee responsible compensatory mitigation, is complete.
When to Submit	Must be received by State Water Board staff within thirty (30) days following completion of all Project construction activities.
Report Contents	<ol style="list-style-type: none"> 1. Status of storm water Notice of Termination(s), if applicable. 2. Status of post-construction storm water BMP installation. 3. Pre- and post-photo documentation of all Project activity sites where the discharge of dredge and/or fill/excavation was authorized. 4. Summary of Certification Deviation discharge quantities compared to initial authorized impacts to waters of the state, if applicable. 5. 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.

Report Type 5	Request for Notice of Project Complete Letter
Report Purpose	Notify State Water Board staff that construction and/or any post-construction monitoring is complete, or is not required, and no further Project activity is planned.
When to Submit	Must be received by State Water Board staff within thirty (30) days following completion of all Project activities.
Report Contents	<p>Part A: Mitigation for Temporary Impacts</p> <ol style="list-style-type: none"> 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.

	<p>Part B: Permittee Responsible Compensatory Mitigation</p> <ol style="list-style-type: none">3. A report establishing that the performance standards outlined in the compensatory mitigation plan have been met.4. Status on the implementation of the long-term maintenance and management plan and funding of endowment.5. Pre- and post-photo documentation of all compensatory mitigation sites.6. Final maps of all compensatory mitigation areas (including buffers). <p>Part C: Post-Construction Storm Water BMPs</p> <ol style="list-style-type: none">7. Date of storm water Notice of Termination(s), if applicable.8. Report status and functionality of all post-construction BMPs.
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Part C – Conditional Notifications and Reports

Report Type 6	Accidental Discharge of Hazardous Material Report
Report Purpose	Notifies State Water Board staff that an accidental discharge of hazardous material has occurred.
When to Submit	Within five (5) working days following the date of an accidental discharge. Continue reporting as required by State Water Board staff.
Report Contents	<ol style="list-style-type: none"> 1. 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. 2. 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. 3. Locations and construction specifications of any barriers, including silt curtains or diverting structures, and any associated trenching or anchoring.

Report Type 7	Violation of Compliance with Water Quality Standards Report
Report Purpose	Notifies State Water Board staff that a violation of compliance with water quality standards has occurred.
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 State Water Board staff.
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 State Water Board staff.

Report Type 8	In-Water Work and Diversions Water Quality Monitoring Report
Report Purpose	Notifies State Water Board staff of the completion of in-water work.
When to Submit	Within three (3) working days following the completion of in-water work. Continue reporting in accordance with the approved water quality monitoring plan.
Report Contents	As required by the approved water quality monitoring plan.

Report Type 9	Modifications to Project Report
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Report Purpose	Notifies State 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.
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.
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.

Report Type 10	Transfer of Property Ownership Report
Report Purpose	Notifies State Water Board staff of change in ownership of the Project or Permittee-responsible mitigation area.
When to Submit	At least 10 working days prior to the transfer of ownership.
Report Contents	<ol style="list-style-type: none"> 1. A statement that the Permittee has provided the purchaser with a copy of this Order and that the purchaser understands and accepts: <ol style="list-style-type: none"> a. 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 b. responsibility for compliance with any long-term BMP² maintenance plan requirements in this Order. 2. A statement that the Permittee has informed the purchaser to submit a written request to the State Water Board to be named as the permittee in a revised order.

Report Type 11	Transfer of Long-Term BMP Maintenance Report
Report Purpose	Notifies State Water Board staff of transfer of long-term BMP maintenance responsibility.
When to Submit	At least 10 working days prior to the transfer of BMP maintenance responsibility.
Report Contents	A copy of the legal document transferring maintenance responsibility of post-construction BMPs.

² Best Management Practices (BMPs) is a term used to describe a type of water pollution or environmental control.

Attachment E
Signatory Requirements

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SIGNATORY REQUIREMENTS

*All Documents Submitted In Compliance With This Order
Shall Meet The Following Signatory Requirements:*

1. All applications, reports, or information submitted to the State Water Resources Control Board (State Water Board) must be signed and certified as follows:
 - a) For a corporation, by a responsible corporate officer of at least the level of vice-president.
 - b) For a partnership or sole proprietorship, by a general partner or proprietor, respectively.
 - c) For a municipality, or a state, federal, or other public agency, by either a principal executive officer or ranking elected official.
2. A duly authorized representative of a person designated in items 1.a through 1.c above may sign documents if:
 - a) The authorization is made in writing by a person described in items 1.a through 1.c above.
 - b) The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity.
 - c) The written authorization is submitted to the State Water Board Staff Contact prior to submitting any documents listed in item 1 above.
3. 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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Certification Deviation Procedures

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 K of the Order, may be requested by the Permittee as set forth below:

Process Steps

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

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

Certification Deviation Request: The Permittee will request verification from the State 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 verification from the CEQA Lead Agency that the proposed changes or modifications do not trigger the need for a subsequent environmental document, an addendum to the environmental document, or a supplemental EIR. (Cal. Code Regs., tit. 14, §§ 15162-15164.)

Action by State Water Board on Request: State Water Board staff will make a determination on the Certification Deviation request within 10 working days from receipt of a complete request and notify the Permittee via email of the staff determination. Determination of whether a Certification Deviation request is complete is at the discretion of State Water Board staff.

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.

Action by Water Board on Post-Discharge Activity Report: State Water Board staff will review the post-discharge Certification Deviation Report within 15 working days from receipt of a complete report. State Water Board staff will determine, in consultation with the Permittee and other regulatory agencies, if applicable, whether additional mitigation will be required. If additional mitigation is required, State Water Board staff will inform the Permittee within the 15-day review period. Determination of whether a post-discharge activity report is complete is at the discretion of State Water Board staff.

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;
 - g. Mitigation to be provided (approved mitigation ratio and amount).

Action by State Water Board on Annual Certification Deviation Report: Following issuance of a Notice of Completion of Discharges Letter or Notice of Project Complete Letter, the State Water Board will amend the Order to reflect all approved Certification Deviations and the amended Order will serve as a record of actual Project activities.