



## Central Valley Regional Water Quality Control Board

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

**Effective Date:** 23 May 2024

**Expiration Date:** 22 May 2029

**Program Type:** Fill/Excavation

**Project Type:** Mixed Use

**Project:** Mather South Project (Project)

**Applicant:** Mather South, LLC

**Applicant Contact:** Phil Rodriguez  
Mather South, LLC  
2916 Kiefer Boulevard, Suite 4  
Sacramento, CA 95862  
Phone: (916) 403-1703  
Email: [Phil.Rodriguez@lewismc.com](mailto:Phil.Rodriguez@lewismc.com)

**Applicant's Agent:** Todd Wood & Stephanie Castle  
ECORP Consulting, Inc.  
2525 Warren Drive  
Rocklin, CA 95677  
Phone: (916) 782-9100  
Email: [TWood@ecorpconsulting.com](mailto:TWood@ecorpconsulting.com);  
[SCastle@ecorpconsulting.com](mailto:SCastle@ecorpconsulting.com)

**Water Board Staff:** Jenna Yang  
Water Resource Control Engineer  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670  
Phone: (916) 464-4764  
Email: [Jenna.Yang@waterboards.ca.gov](mailto:Jenna.Yang@waterboards.ca.gov)

**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.

MARK BRADFORD, CHAIR | PATRICK PULUPA, ESQ., EXECUTIVE OFFICER

Reg. Meas. ID:	455428
Place ID:	891789
WDID No.:	5A34CR00886
USACE No.:	SPK-2009-00529
	Individual

**Table of Contents**

I. Order ..... 3

II. Public Notice..... 3

III. Project Purpose ..... 3

IV. Project Description ..... 3

V. Project Location..... 4

VI. Project Impact and Receiving Waters Information..... 4

VII. Description of Direct Impacts to Waters of the State ..... 5

VIII. Avoidance and Minimization..... 5

IX. Compensatory Mitigation..... 6

X. California Environmental Quality Act (CEQA)..... 6

XI. Petitions for Reconsideration..... 6

XII. Fees Received..... 7

XIII. Conditions ..... 7

XIV. Water Quality Certification ..... 22

Attachment A – Project Maps .....A-1

Attachment B – Receiving Waters, Impacts and Mitigation Information .....B-1

Attachment C – CEQA Findings of Fact ..... C-1

Attachment D – Reports and Notification Requirements ..... D-1

Attachment E – Signatory Requirements.....E-1

Attachment F – Certification Deviation Procedures ..... F-1

Attachment G - Compliance with Code of Federal Regulations, Title 40, Section 121.7, Subdivision (d)..... G-1

## I. Order

This Clean Water Act (CWA) section 401 Water Quality Certification action and Order (Order) is issued at the request of Mather South, LLC (hereinafter Permittee) for the Project. This Order is for the purpose described in the application and supplemental information submitted by the Permittee. The application was received on 22 December 2023. The application was deemed complete on 7 February 2024. 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: **8 January 2024**  
Date all requested information was received: **6 February 2024**

Central Valley 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:

Date of Request for Supplemental Information: **29 March 2024**  
Date all requested information was received: **2 May 2024**

## 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 5 January 2024 to 26 January 2024. The Central Valley Water Board did not receive any comments during the comment period.

## III. Project Purpose

The purpose of the Project is to develop a new mixed-use, master-planned community within Sacramento County. The Project will improve the balance between jobs and housing units and improve the financial means to support the physical and biological infrastructure of the Mather Air Force Base (AFB) reuse plan. Additionally, the Project will provide the opportunity for the development of an environmental education campus and technological research and development campus to provide environmental education and research proximate to the Mather Preserve. This will create employment opportunities and general economic activity to fulfill the goals of the reuse of the former Mather AFB.

## IV. Project Description

The 856.35-acre Project is a mixed-use development within the Urban Development Area, a component of the Mather Specific Plan (MSP), and will include a variety of residential densities, research and development park, commercial development, and establishment of parks and open space. Primary elements of the Project include:

- 3,522 single- and multi-family dwelling units,
- 28-acre environmental education campus including 200 multi-family affordable dwelling units,

- 21-acre research and development park,
- Two elementary schools,
- 6-acre community center,
- 21 acres of commercial retail,
- 44 acres of parkland including 26 acres of neighborhood parks and a 17-acre community park, and
- 210 acres of open space areas that include a 53-acre portion of the Mather Preserve west of Zinfandel Drive, as well as drainage corridors, landscape buffers, public utility corridors, and pedestrian and bicycle corridors.

## V. Project Location

Address: West of Sunrise Boulevard, East of Zinfandel Drive, South of the Mather Golf Course, and North of Kiefer Boulevard in the Cordova community

County: Sacramento

Assessor's Parcel Number(s): 067-0030-072, 067-0030-074, 067-0030-076,  
067-0030-077, 067-0030-036, 067-0090-034,  
067-0050-057

Nearest City: Mather

Section 18 and 19, Township 8 North, Range 7 East, MDB&M.

Latitude: 38.538276° and Longitude: -121.251368°

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, February 2019 (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/) ([http://www.waterboards.ca.gov/plans\\_policies/](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**

Implementation of the 856.35-acre Project will include excavation, grading and require the fill of 15.39 acres of waters of the state.

Total Project fill/excavation quantities for all impacts are summarized in Table 1. 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 Permanent Physical Loss of Area Impacts**

Aquatic Resources Type	Acres	Cubic Yards	Linear Feet
Stream Channel	0.9		
Vernal Pool	3.21		
Wetland	11.28		

**VIII. 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:

- The Project contains approximately 99 acres of avoided area, which includes 6.715 acres of waters of the U.S. The Project also contains approximately 53 acres of the Mather preserve within the Project Area, including 3.089 acres of waters of the U.S. The portion of the Mather Preserve within the Project Area has been placed under a conservation easement and will be managed in perpetuity according to an Operations and Management Plan. The Project will preserve approximately 12.4 percent and avoid 27.9 percent of the waters of the U.S. that have been mapped within the Project Area. Additionally, buffers were placed around avoided drainages within the Project Area. These avoidance corridors surrounding the drainages onsite will contain bikeways/trails, add to the protection of the avoidance of the waters of the U.S., and help to maintain functions and values of the drainages.
- Indirect impacts such as erosion and sedimentation will be minimized or eliminated with implementation of appropriate Best Management Practices (BMPs), preparation of an erosion control plan and Stormwater Pollution Prevention Plan (SWPPP). The SWPPP and BMPs will be developed in compliance with the County’s Stormwater Ordinance and the National Pollution Discharge Elimination System Program.

- Project activities will be timed to avoid in-water work and will occur during the late spring or summer 2024 when the ephemeral drainage and creek are experiencing low- or no-flow conditions. Similarly, work will occur during dry or low rainfall conditions. Standard BMPs for erosion control and sediment retention will be implemented and maintained during Project activities. These practices include, but are not limited to, the use of biodegradable straw wattles, silt fencing, temporary gravel bags around drain inlets, and stabilization of disturbed soils with revegetation.
- The Project will use Low Impact Development (LID) to minimize development-related impacts to Waters of the U.S. and State. LID utilizes principles that maintain pre-development hydrologic characteristics, minimize pollutants in storm water through natural processes, implement and promote infiltration, and preserve and recreate natural drainage paths and areas. Onsite stormwater will be managed in a way that reduces the impact of the proposed development on the preserved/avoided areas and promotes the natural movement of water through the Project. With this LID methodology and approach the Project will mitigate the volume and velocity of storm water discharge from impervious surfaces to maintain predevelopment watershed conditions and therefore will minimize the negative impacts to the environment and aquatic resources.

The Project will add approximately 359.7 acres of new impervious surfaces. Impervious surfaces cause reduced base flows through decreased groundwater recharge; increased erosion and sedimentation via hydro-modification (i.e., any activity that increases the velocity and volume (flow rate) affecting residence time, and alters the natural timing of runoff); and accumulation of pollutants that are subsequently discharged in storm water after construction. With the implementation of LID treatments, the effects of impervious surfaces will be minimized to the following waters of the state: Morrison Creek.

#### **IX. Compensatory Mitigation**

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

#### **X. California Environmental Quality Act (CEQA)**

On 28 January 2020, the County of Sacramento, as lead agency, certified an environmental impact report (EIR) (State Clearinghouse (SCH) No. 2014062087) for the Project and filed a Notice of Determination (NOD) at the SCH on 31 January 2020. 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.

#### **XI. 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.

## **XII. Fees Received**

An application fee of \$2,734.00 and \$251.00 was received on 27 December 2023 and 6 February 2024, respectively. 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 \$259,011.00 based on total Project impacts was received on 27 February 2024.

## **XIII. 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 Table 1.

### **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](mailto:centralvalleysacramento@waterboards.ca.gov).

In the subject line of the email, include the Central Valley Water Board Contact, Project Name, 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 June, 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. 2022-0057-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<sup>1</sup>**

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](https://www.caloes.ca.gov/wp-content/uploads/Fire-Rescue/Documents/CalOES-Spill_Booklet_Feb2014_FINAL_BW_Acc.pdf) ([https://www.caloes.ca.gov/wp-content/uploads/Fire-Rescue/Documents/CalOES-Spill\\_Booklet\\_Feb2014\\_FINAL\\_BW\\_Acc.pdf](https://www.caloes.ca.gov/wp-content/uploads/Fire-Rescue/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.

---

<sup>1</sup> "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.)

**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.

For Folsom Lake and American River (Folsom Dam to Sacramento River), except for periods of storm runoff, the turbidity shall be less than or equal to 10 NTUs. To the extent of any conflict with the general turbidity objective, the more stringent applies.

Sampling during in-water work or during the entire duration of temporary water diversions shall be conducted in accordance with Table 2 sampling parameters.<sup>2</sup> The sampling requirements in Table 2 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. 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 XIII.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.

---

<sup>2</sup> 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.

**Table 2: Sample Type and Frequency Requirements**

Parameter	Unit of Measurement	Type of Sample	Minimum Frequency
Turbidity	NTU	Grab	Every 4 hours
Visible construction related pollutants <sup>3</sup>	Observations	Visual Inspections	Continuous throughout the construction period

**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.
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

---

<sup>3</sup> Visible construction-related pollutants include oil, grease, foam, fuel, petroleum products, and construction-related, excavated, organic or earthen materials.

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) 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. 2022-0057-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 Endangered 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. If water is present, the area must be dewatered prior to start of work.
- b. No dewatering will occur within the Project area.
- c. 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.

### 2. Directional Drilling

- a. If installation or relocation of dry and/or wet utility lines is anticipated, the Permittee shall develop and implement a Dry and Wet Utility Work Plan prior to commencement of dry and wet utility construction. The Dry and Wet Utility Plan must cover all phases of the certified project that will impact waters of the state and shall be consistent with this Certification.

The Dry and Wet Utility Plan shall include the types of dry and wet utilities to be removed and installed, method and duration of activities, structure configuration, construction materials, equipment, erosion and sediment controls, and a map or drawing indicating the location(s) of dry and wet utility work, as related to any water of the state in the Project area.

Should the methodology for dry and wet utility work include directional drilling, the Dry and Wet Utility Plan shall incorporate a Directional Drilling Plan to address potential frac-outs. The Directional Drilling Plan shall include, but not be limited to, a description of directional drilling activities, dry and wet utility routes, crossing locations and methods, and other geotechnical considerations (i.e., surficial overburden deposits, clays and shales, bedrock formations, hydrogeology), and a reporting procedure should any level of discharge from a frac-out occur, regardless of the discharge size.

The Directional Drilling Plan must be stamped by a California Registered Geologist or Engineer.

The Utility Work Plan and Direction Drilling Plan must be submitted to the Central Valley Water Board staff upon request.



### **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 XIII.B.3.a and XIII.B.3.b.

- b. Wet concrete will be placed into wetland, vernal pool, and stream channel habitat when the work area is naturally dry.
- c. Concrete must be completely cured before coming into contact with waters of the United States and waters of the state. Surface water that contacts wet concrete must be pumped out and disposed of at an appropriate off-site commercial facility, which is authorized to accept concrete wastes.

## **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 – Not Applicable**

## **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**

The following Special Status Species have the potential to occur within the Project: Vernal pool tadpole shrimp, Vernal pool fairy shrimp, Sacramento Orcutt grass, Slender Orcutt grass, Valley elderberry longhorn beetle, Dwarf downingia, Boggs Lake hedge gyssop, Tricolored blackbird, Swainson's hawk.

#### **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 – Not Applicable**

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

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

### **1. Final Compensatory Mitigation Plan**

The Permittee shall provide compensatory mitigation for impacts to waters of the state in accordance with the Clean Water Act Section 401 Water Quality Certification Application Additional Pages (Compensatory Mitigation Plan) dated 21 December 2023 and incorporated herein by reference. Any deviations from, or revisions to, the Compensatory Mitigation Plan must be pre-approved by Central Valley Water Board staff. The monitoring period shall continue until the Central Valley Water Board staff determines that performance standards have been met. This may require the monitoring period to be extended.

### **2. Permittee-Responsible Compensatory Mitigation Responsibility – Not Applicable**

### **3. 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.

### **4. Total Required Compensatory Mitigation**

- a. The Permittee is required to provide compensatory mitigation for the authorized impact to 0.9 acre of stream channel and 11.28 acres of wetland by purchasing 12.18 Aquatic Resource Credits in the Consumnes/Mokelumne Aquatic Resource Watershed Service Area.
- b. The Permittee is required to provide compensatory mitigation for the authorized impact to 3.21 acres of vernal pool by purchasing 3.21 Vernal Pool Credits in the Southeastern Sacramento Valley Vernal Pool Service Area. Required credits shall be purchased from the National Fish and Wildlife Foundation (NFWF)'s Sacramento District California In-Lieu Fee Program.
- c. Total required Project compensatory mitigation information for permanent physical loss of area is summarized in Table 3. [Establishment (Est.), Re-establishment (Re-est.), Rehabilitation (Reh.), Enhancement (Enh.), Preservation (Pres.), Unknown].

**Table 3: 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
Stream Channel	In-Lieu Fee Credits	Acres						0.9
Vernal Pool	In-Lieu Fee Credits	Acres						3.21
Wetland	In-Lieu Fee Credits	Acres						11.28

**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.

#### **XIV. Water Quality Certification**

I hereby issue the Order for the Mather South Project, WDID # 5A34CR00886, 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).

This discharge is also regulated pursuant to State Water Board Water Quality Order No. 2003-0017-DWQ which authorizes this Order to serve as Waste Discharge Requirements pursuant to the Porter-Cologne Water Quality Control Act (Water Code, section 13000 et seq.).

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.

Original Signed by Anne Walters for: \_\_\_\_\_

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

**(This page intentionally left blank)**



### Attachment A – Project Maps

Figure 1: Map of Project Impacts (Phase 2 & Phase 1 – northern portion)

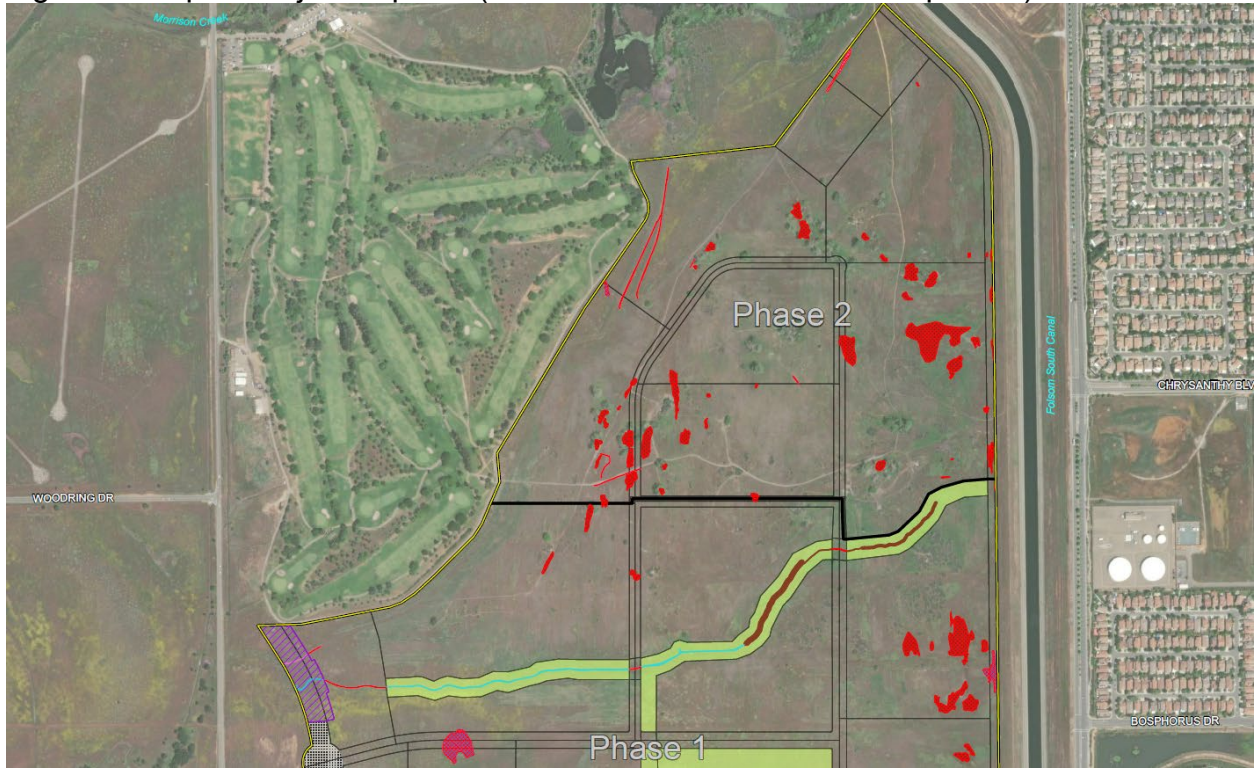


Figure 2: Map of Project Impacts (Phase 1 & Phase 3 – middle portion)

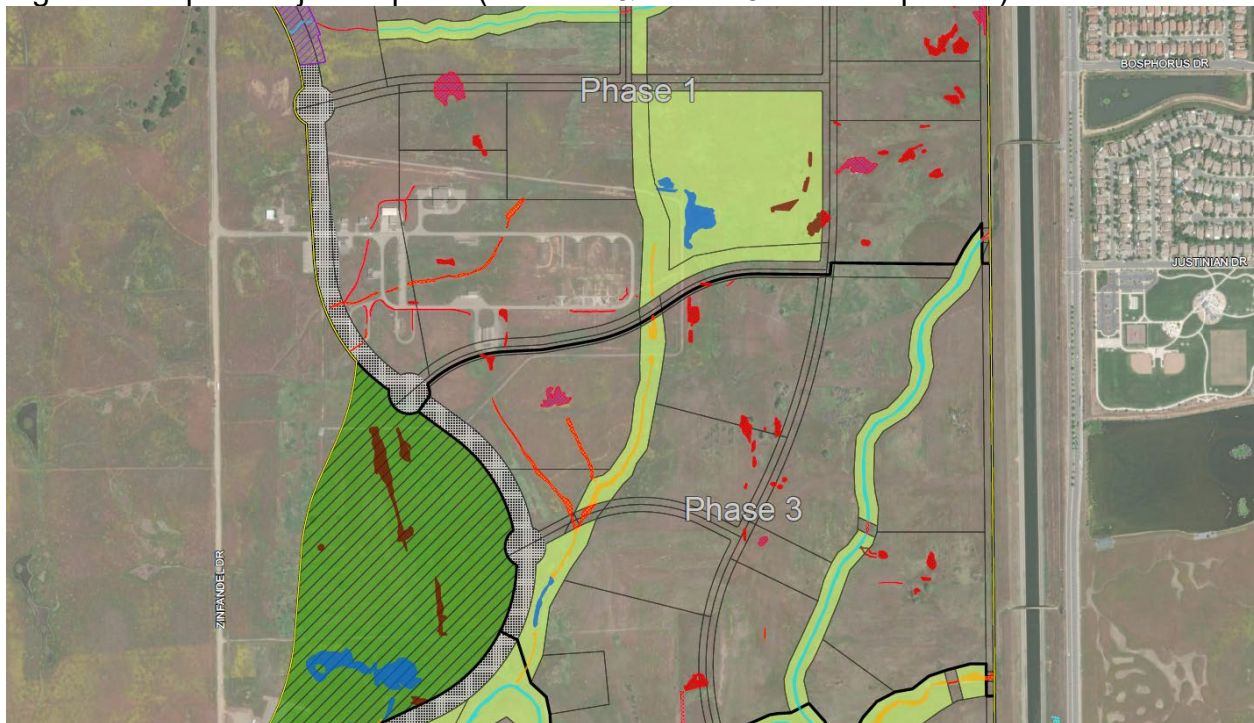
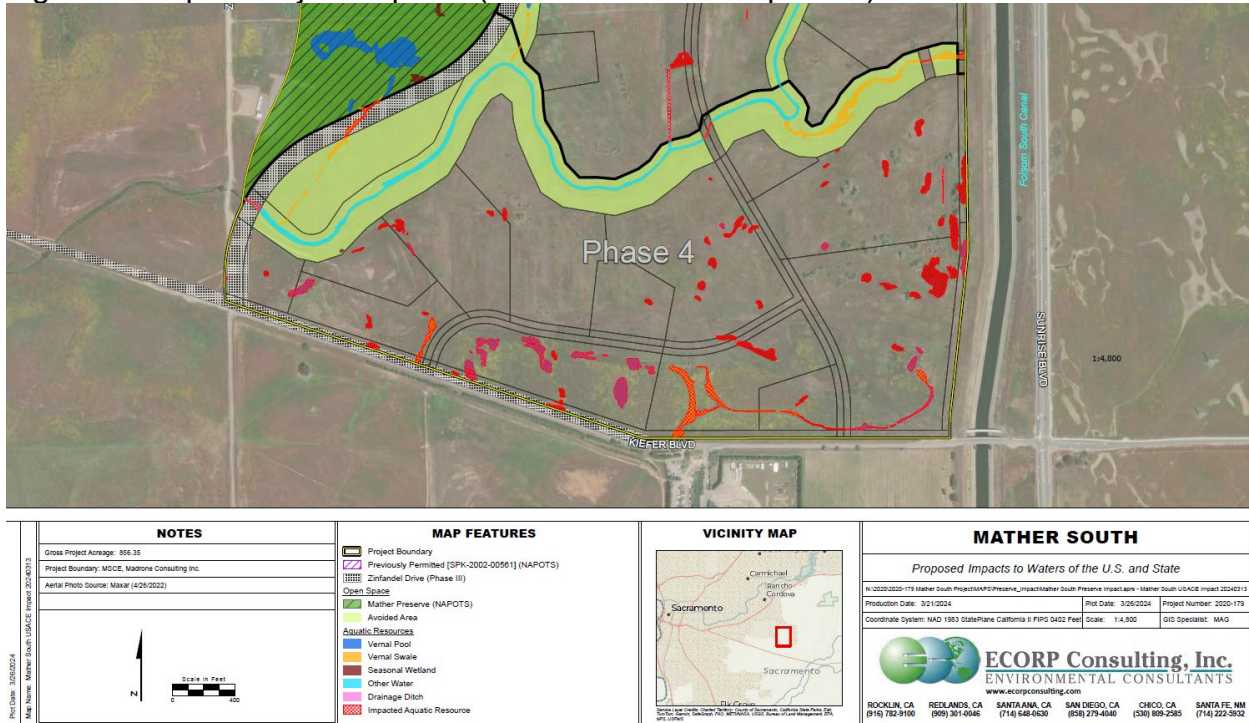




Figure 3: Map of Project Impacts (Phase 4 - southern portion)



**(This page intentionally left blank)**

**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**

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
Mather South	Unnamed tributary to Morrison Creek	Stream channel, vernal pool, wetland	519.11	Morrison Creek	MUN, AGR, IND, POW, REC-1, REC-2, WARM, COLD, MIGR, SPWN, WILD	Benthic Community Effects, Diazinon, Pentachlorophenol, Pyrethroids, Toxicity	

**Individual Direct Impact Locations**

The following tables show individual impacts.

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

Impact Site ID	Latitude	Longitude	Indirect Impact Requiring Mitigation?	Acres	Cubic Yards	Linear Feet
Mather South	38.538276	-121.251368	No	15.39	8,288.77	

**Compensatory Mitigation Information**

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

**In-Lieu Fee Compensatory Mitigation Information**

**Table 3: In-Lieu Fee Program**

In-Lieu Fee Program Name:	Sacramento District California In-Lieu Fee Program
Website:	<a href="https://www.nfwf.org/mitigating-impacts/sacramento-district-california-lieu-fee-program">Sacramento District California In-Lieu Fee Program   NFWF</a> (https://www.nfwf.org/mitigating-impacts/sacramento-district-california-lieu-fee-program)
In-Lieu Fee Program Contact Name:	Chris Gurney
Phone:	(415) 593-7627
Email:	<a href="mailto:Christopher.Gurney@nfwf.org">Christopher.Gurney@nfwf.org</a>
In-Lieu Fee Program Location - County:	Sacramento

**Table 4: Mitigation Type Information**

Aquatic Resource Credit Type	Acres	Linear Feet	Number of Credits Purchased
Stream Channel	0.90		TBD
Vernal Pool	3.21		TBD
Wetland	11.28		TBD

**(This page is intentionally left blank)**

## **Attachment C – CEQA Findings of Fact**

### **A. Environmental Review**

On 28 January 2020, the County of Sacramento, as lead agency, certified a Final Environmental Impact Report (FEIR)) (State Clearinghouse (SCH) No. 2014062087) for the Project and filed a Notice of Determination (NOD) at the SCH on 31 January 2020. 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 County of Sacramento's certified 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 County of Sacramento 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 County of Sacramento 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 15091, subd. (d).)

### **B. 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.

All CEQA project impacts, including those discussed in subsection C below, are analyzed in detail in the Project FEIR which is incorporated herein by reference. The Project FEIR is available at: [Mather South Community Master Plan \(saccounty.gov\)](https://planning.saccounty.gov/PlansandProjectsIn-Progress/Pages/SouthMatherSpecificPlan.aspx) (<https://planning.saccounty.gov/PlansandProjectsIn-Progress/Pages/SouthMatherSpecificPlan.aspx>).

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:

- Loss of Vernal Pool Species
- Special Status Plants
- Loss of Western Spadefoot Habitat
- Loss of Valley Elderberry Longhorn Beetle Habitat
- Loss of Western Pond Turtle
- Loss of Tricolored Blackbird Nesting Colonies
- Loss of Burrowing Owl
- Disturbance of Loss of Grasshopper Sparrow, Shore-eared Owl, Northern Harrier, White-tailed Kite, Cooper's Hawk, and Loggerhead Shrike Nests
- Loss of American Badger Habitat
- Have Substantial Adverse Effect on Riparian Habitat or Sensitive Natural Communities
- Loss of Wetlands and Waters
- Interfere with the Movement of any Native Resident or Migratory Fish or Wildlife Species or Impede Use of Wildlife Nursery Sites
- Conflict with the Sacramento Tree Ordinance
- Special Status Bats
- South Sacramento Habitat Conservation Plan
- Biological Impacts Related to Offsite Improvements
- Contribution of Polluted Runoff or Violation of a Water Quality Standard
- Hydromodification
- Dam Failure/Levee
- Effects of Climate Change on Project

a.ii. Facts in Support of Finding:

• **BR-1. Open Space Preserve and Open Space Drain Conservation Easements**

Before issuance of grading permits, approval of improvement plans, or building permits, whichever occurs first, the Open Space Mather Preserve and Nature Preserve land use areas identified on the proposed land use plan shall be placed within a permanent conservation easement granted to a registered 501 (c)(3) conservation organization and incorporated into the existing Mather Preserve network as approved by the County, United States Army Corps of Engineers (USACE), and United States Fish and Wildlife Service (USFWS). The County shall be the owner of preserved lands and shall establish an endowment to fund management of the wetland preserves

and easement compliance monitoring. All wetland preserve areas shall be managed to maintain habitat suitability for vernal pool invertebrates, particularly vernal pool fairy shrimp and vernal pool tadpole shrimp, benefit plants and animals native to California, as well as to protect and enhance hydrologic functions and processes consistent with the final wetlands management plan. Habitat management of the preserve shall include managing invasive plant species by reducing existing infestations and preventing establishment of new infestations consistent with the final wetlands management plan. Fencing and signage shall be installed at the boundary between the developed portions of the Plan Area and the Mather Preserve to identify the preserve as a protected sensitive resource area and prevent unauthorized trespassing into the preserve.

- **BR-1a. Prepare a Hardpan Restoration Plan**

Prior to the start of construction activity for the sewer trunk line and the water transmission main line (within Zinfandel Drive), a hardpan restoration plan shall be developed by a qualified hydrogeologist and geotechnical expert and implemented for sewer trunk line and water transmission mail line construction adjacent to the Mather Preserve. The detailed plan shall include identification and documentation of the hardpan depths during excavation of the sewer and water line trench, and appropriate backfill material to restore the hardpan functionality. The detailed hardpan restoration plan shall be included in the construction specifications for the proposed sewer trunk line.

- **BR-2. Compensate for Loss of Vernal Pool Invertebrate Habitat and Take of Federally Listed Vernal Pool Invertebrates**

Before any groundbreaking activity within 250 feet (or lesser distance deemed sufficiently protective through site-specific watershed analysis with approval from USFWS) of vernal pool invertebrate habitat, project applicants for each distinct project phase shall purchase habitat creation credits at a USACE and USFWS approved mitigation bank, record a conservation easement over lands that include created/restored/rehabilitated vernal pool habitat and implement a final preserve management plan approved by the County, USACE, and USFWS, and or restore vernal pool habitat within the designated preserve areas, upon USFWS approval, to fully compensate for the project's direct and indirect impacts to habitat for federally listed vernal pool species. The combination of habitat creation credits and restoration shall be equivalent to 14.53 acres, at a minimum, to compensate for the direct loss of vernal pool habitat within the Plan Area. Additional preservation credits shall be purchased to compensate for indirect impacts if it is determined during Endangered Species Act (ESA) Section 7 consultation that onsite preservation and



preservation within the Mather Preserve is not sufficient to satisfy the 2:1 preservation ratio necessary to compensate for direct and indirect impacts. The acreage and function of all wetlands that would be removed as a result of project implementation shall be replaced and restored on a “no-net-loss” basis.

If restoration within the Mather Preserve is implemented as part of compensatory mitigation, the restoration goal shall be to restore and enhance habitat for vernal pool species such that their ultimate functions and services are equal to or greater than the wetland features directly or indirectly affected by project implementation. This effort could include restoring vernal pools and/or other suitable aquatic features that have been damaged by prior activities such that a functional lift is achieved. If restoration is proposed as part of mitigation, the project applicant shall submit a vernal pool habitat restoration plan to the County, USACE, and USFWS for review and approval before any ground disturbance within 250 feet (or lesser distance deemed sufficiently protective through site-specific watershed analysis with approval from USFWS) of vernal pool invertebrate habitat. The restoration plan must demonstrate how the aquatic functions that would be lost through project implementation will be replaced. The plan shall identify in-kind reference wetland habitats for comparison with restored wetlands (using performance standards and success criteria) to document success. The restoration plan shall include the following elements:

- monitoring protocol, including responsible parties, schedule, and annual report requirements;
- ecological performance standards, based on the best available science, that can be assessed in a practicable manner (e.g., performance standards proposed by Barbour et al. 2007). Performance standards must be based on attributes that are objective and verifiable;
- monitoring of plant communities as performance criteria (annual measure of success, during monitoring period) and success criteria (indicative of achievement of mitigation habitat requirement at end of monitoring period) for hydrologic function have become established and the creation site “matures” over time;
- GIS analysis of compensatory wetlands to demonstrate actual acreage of functioning wetland habitat;
- adaptive management measures or corrective measures to be applied if performance standards and acreage requirements are not being met;

- responsible parties for receiving and reviewing reports and for verifying success or prescribing implementation or corrective actions.

The restoration plan shall be approved by USFWS and USACE before completion of Section 7 consultation under ESA and issuance of any permits under Section 404 of the CWA for fill of wetlands.

Final mitigation ratios will be determined by USACE using their mitigation ratio checklist process and will be coordinated with USFWS during the ESA Section 7 consultation between USACE and USFWS; however, the minimum compensation ratios for impacts on federally listed vernal pool invertebrate habitat shall be as follows:

- 2 acres of preservation and 1 acre of creation/restoration/rehabilitation for each acre of direct impact
  - 2 acres of preservation for each acre of indirect impact
- **BR-3. Secure Take Authorization for Federally Listed Vernal Pool Invertebrates and Implement All Conditions in the Biological Opinion**

Before any groundbreaking activity within 250 feet (or lesser distance deemed sufficiently protective through site-specific watershed analysis with approval from USFWS) of vernal pool invertebrate habitat, project applicants for each distinct project phase shall secure take authorization from USFWS through ESA section 7 consultation between USACE and USFWS as part of the CWA Section 404 permit process. The applicant shall implement all conditions of the Section 404 permit and the biological opinion issued for the project, including compensatory mitigation at the ratios described under Mitigation Measure BR-2 or as required in the biological opinion, whichever is greater.

- **BR-4. Implement Worker Environmental Awareness Program**

Project applicants shall retain a qualified biologist to conduct a worker environmental awareness program (WEAP) for construction crews before each phase of project construction. The WEAP training will be provided to all construction personnel regarding the need to avoid effects on sensitive biological resources (i.e., wetlands, non-wetland waters, special-status species habitats in and adjacent to the construction area, and active bird nests). The WEAP will include a brief review of the special-status species with the potential to occur on the project site (including their life history, habitat requirements, and photographs of the species). The training shall identify the portions of the project site in which the species may occur, as well as their legal status and protection. The program shall also cover the relevant permit conditions, BMPs, and mitigation measures that must be followed by

all construction personnel to reduce or avoid effects on these resources during project construction. During WEAP training, construction personnel shall be informed of the importance of avoiding ground-disturbing activities outside of designated work areas. Training shall identify the steps to be taken if a special-status species is found within the construction area (i.e., notifying the crew foreman, who will inform the designated biologist). In addition, construction employees shall be educated about the importance of controlling and preventing the spread of invasive plants. An environmental awareness handout that describes and illustrates sensitive resources to be avoided during project construction and identifies all relevant permit conditions shall be provided to each crew member. The crew foreman will be responsible for ensuring that crew members adhere to the guidelines and restrictions. Education programs will be conducted for appropriate new personnel as they are brought on the job during the construction period.

- **BR-5. Protect Habitat in Preserve Areas and Avoided Habitats During Construction**

Avoided and protected habitat in the Mather Preserve, Nature Preserves, and Open Space Drain areas shall be protected during construction activities through implementation of the following measures:

- A biological monitor approved by USFWS and California Department of Fish and Wildlife (CDFW) shall be onsite during construction within 250 feet of vernal pool invertebrate habitat to be preserved to ensure no unauthorized take of listed species or destruction of habitat to be preserved occurs. The biologist shall have the authority to stop any activities that may result in such take or destruction until appropriate corrective measures have been completed. The biologist also shall be required to report immediately any unauthorized impacts to the USFWS or CDFW, as appropriate depending on agency jurisdiction over the affected resource.
- The project applicant shall install fencing, stakes/flagging, or other appropriate barrier between the active construction work area and adjacent sensitive biological resource areas outside the work area, including in the Mather Preserve area and any sensitive resources that are to be retained onsite, to prevent inadvertent encroachment into these sensitive areas. The location of barrier installation shall be directed by the onsite biological monitor.

- **BR-6. Implement BR-1 through BR-5**

- **BR-7: Conduct Floristic Surveys and Compensate for Loss of Special-Status Plants**

The County shall require project applicants, as a condition of project approval, before any groundbreaking activity within 250 feet of vernal pools, swales, and seasonal wetlands, to retain a qualified biologist familiar with the vernal pool flora of the region to conduct floristic surveys of wetland habitats on the entire Mather South project site with potential to support slender orcutt grass, Sacramento orcutt grass, Ahart's dwarf rush, Bogg's Lake hedge-hyssop, dwarf downingia, pincushion navarretia and legenera. The surveys shall be carried out during the time of year when the target species are easily identified (generally, the blooming period) and at least two survey rounds, one in spring and one in summer, shall be conducted. Nearby reference populations shall be visited before surveys, if available, to confirm the target species have emerged and are in an identifiable state. All plants encountered during surveys shall be identified to the taxonomic level necessary to determine rarity status. Floristic surveys shall be conducted no more than 5 years prior and no later than the blooming period immediately preceding the approval of a grading or improvement plan or any ground disturbing activities, including grubbing or clearing in areas that could directly or indirectly affect potential habitat for target special-status plants.

If special-status plants are identified on the project site, the project applicants shall be required to implement the following measures to mitigate the potential loss of special-status plant species:

- Avoid special-status plant occurrences through project design to the extent technically feasible and appropriate. Avoidance shall be deemed technically feasible and appropriate if the habitat occupied by special-status plants may be preserved onsite while still obtaining the project purpose and objectives and if the preserved habitat features could reasonably be expected to continue to function as suitable habitat for special-status plants following project implementation.
- If after examining all feasible means to avoid impacts to potential special-status plant species habitat through project site planning and design, adverse effects cannot be avoided, then impacts shall be mitigated in accordance with guidance from the appropriate state or federal agency charged with the protection of the subject species (USFWS or CDFW). Wetlands that have been previously documented to support legenera and Ahart's dwarf rush have been identified for removal in the southern portion of the Plan Area and mitigation for loss of these plant occurrences shall be mitigated.

- Notify CDFW, as required by the California Native Plant Protection Act, of any special-status plants found on the project site. Notify the USFWS if any plant species listed under the Endangered Species Act are found.
- Develop a mitigation and monitoring plan to compensate for the loss of known legenere and Ahart's dwarf rush, and any additional special-status plant species found during preconstruction surveys. The mitigation and monitoring plan shall be submitted to CDFW or USFWS, as appropriate depending on species status, for review and comment. The County shall consult with these entities, as appropriate depending on species status, before approval of the plan to determine the appropriate mitigation measures for impacts on any special-status plant population. Mitigation measures may include preserving and enhancing existing onsite populations, creation of off-site populations on project mitigation sites through seed collection or transplantation, and/or preserving occupied habitat off-site in sufficient quantities to offset loss of occupied habitat or individuals. The preservation of existing occurrences of legenere and Ahart's dwarf rush in the Mather Preserve may be used as compensation for loss of habitat occupied by these species within the Plan Area; however, additional mitigation may be required, including transplantation of the plants to be removed, if the County, in consultation with CDFW determines that preservation of the Mather Preserve occurrences is not sufficient to fully compensate for losses resulting from project implementation.
- If transplantation is part of the mitigation plan, the plan shall include a description and map of mitigation sites, details on the methods to be used, including collection, storage, propagation, receptor site preparation, installation, long-term protection and management, monitoring and reporting requirements, remedial action responsibilities should the initial effort fail to meet long-term monitoring requirements, and sources of funding to purchase, manage, and preserve the sites. Transplantation to suitable wetland habitats within the Mather Preserve may be used as part of the mitigation plan for legenere and Ahart's dwarf rush, as well as any other special-status plants found in the Plan Area, if a qualified restoration ecologist determines through site-specific analysis, in consultation with CDFW or USFWS, depending on species status, that currently unoccupied wetlands in the preserve are suitable to support the affected species. The following performance standards shall be applied:

- The extent of occupied area and the flower density in compensatory re-established populations shall be equal to or greater than the affected occupied habitat and shall be self-producing. Re-established populations shall be considered self-producing when:
  - plants re-establish annually for a minimum of 5 years with no human intervention, such as supplemental seeding; and
  - re-established populations contain an occupied area and flower density comparable to existing occupied habitat areas in similar reference habitat types.
- **BR-9. Minimize Take of Western Spadefoot**

As a condition of project approval and before ground disturbing activities, the County shall require future project proponents to retain a qualified biologist to conduct surveys for western spadefoot in areas of potential habitat that would be eliminated by the project. The surveys shall be conducted at the appropriate time of year to detect western spadefoot, generally the breeding season, according to methods approved by CDFW. If western spadefoot is found in habitat that will be eliminated or made unsuitable for western spadefoot, then adult and larval western spadefoot and egg masses shall be collected and relocated to suitable habitat in the Mather Preserve by a qualified biologist in coordination with CDFW.
- **BR-10. Compensate for Loss of Valley Elderberry Longhorn Beetle Habitat**

As a condition of project approval, a qualified biologist shall determine whether future project sites contain valley elderberry longhorn beetle habitat (i.e., elderberry shrubs). If so, a preconstruction survey shall be conducted by a qualified biologist within 165 feet of project disturbance areas before any construction activity. The surveys shall be conducted according to the protocol outlined in USFWS Framework for Assessing Impacts to the Valley Elderberry Longhorn Beetle (USFWS 2017b) (Framework).

If elderberry shrubs are located 165 feet or more from project activities, direct or indirect impacts are not expected. Shrubs 165 feet or more away shall be protected during construction by establishing and maintaining a high visibility fence at least 165 feet from the drip line of each elderberry shrub to prevent inadvertent encroachment into valley elderberry longhorn beetle habitat.

If elderberry shrubs located within 165 feet of project activities can be retained, project activities may occur up to 20 feet from the dripline of

elderberry shrubs if precautions are implemented to minimize the potential for indirect impacts. An avoidance area shall be established at least 20 feet from the drip line of an elderberry shrub for any activities that may damage or kill the elderberry shrub (e.g., trenching, paving, etc.). The project applicant shall implement avoidance and minimization measures specified in the USFWS Framework (USFWS 2017b).

To the extent feasible, all activities that could occur within 165 feet of an elderberry shrub, shall be conducted outside of the flight season of the valley elderberry longhorn beetle (March - July).

Herbicides shall not be used within the drip line of shrubs to be retained. Insecticides shall not be used within 100 feet of elderberry shrubs. All chemicals shall be applied using a backpack sprayer or similar direct application method.

If trimming elderberry shrubs is proposed for shrubs to be retained, trimming shall be conducted between November and February and shall not result in the removal of elderberry branches that are  $\geq 1$  inch in diameter. If trimming results in removing branches that are  $\geq 1$  inch in diameter, the project proponent shall mitigate for the loss of the valley elderberry beetle habitat according to the USFWS 2017 Framework.

The project applicant shall comply with ESA and consult with USFWS and will compensate for the unavoidable loss of elderberry shrubs according to the USFWS 2017 Framework. The Framework uses presence or absence of exit holes, and whether the affected elderberry shrubs are in riparian habitat to determine the number of elderberry seedlings or cuttings and associated riparian vegetation that would need to be planted as compensatory mitigation for affected valley elderberry longhorn beetle habitat. Compensatory mitigation may include purchasing credits at a USFWS-approved conservation bank, providing onsite mitigation, or establishing and protecting habitat for valley elderberry longhorn beetle as follows:

- For elderberry shrubs in riparian habitat:
  - For each shrub that is trimmed, the project proponent shall purchase two credits at a USFWS-approved bank.
  - For each shrub removed, the entire shrub may be transplanted to a USFWS-approved location in addition to the purchase of two credits.
- For elderberry shrubs in non-riparian habitat:
  - The project proponent shall purchase one credit at a USFWS-approved bank for each shrub that will be

trimmed if exit holes have been found in any shrub on or within 165 feet of the project area.

- If no exit holes are present and the shrub is not in riparian habitat, no further action is required.
- If the shrub will be completely removed by the activity, the entire shrub shall be transplanted to a USFWS-approved location in addition to the purchase of one credit.

- **BR-11. Conduct Preconstruction Surveys For Western Pond Turtle and Avoid Individuals and Nests**

Before any ground disturbing activities within 1,650 feet of Mather Lake, the project applicant shall consult with CDFW to establish appropriate avoidance procedures and procedures to apply if a western pond turtle, or active nest, is found within the construction area. The developer shall submit written evidence of the consultation and its conclusions to the County Environmental Coordinator. Unless CDFW recommends alternative mitigation through the consultation, the following measures shall apply:

- Twenty-four hours before the commencement of ground-disturbing activity (i.e. clearing, grubbing, or grading) within 1,650 feet of Mather Lake, a qualified biologist shall perform a survey for western pond turtle. The survey shall include all suitable upland and aquatic habitat which is within 1,650 feet of all proposed construction areas. The biologist shall supply a brief written report (including date, time of survey, survey method, name of surveyor and survey results) to the County before ground disturbing activity.
- If western pond turtles are found during the survey, activities shall not commence until the animal has moved out of the construction area on its own or CDFW grants permission for a qualified biologist to move the animal out of the construction area and into a suitable habitat area.
- If a western pond turtle is encountered during active construction, all construction shall cease until the animal has moved out of the construction area on its own or CDFW grants permission for a qualified biologist to move the animal out of the construction area and into a suitable habitat area. California Fish and Wildlife and the County Environmental Coordinator shall be notified within 24-hours that a turtle was encountered.
- If a nest with eggs or hatchlings is found during surveys or construction, all activity shall cease until appropriate procedures for avoidance or handling established during consultation with



CDFW can be implemented. CDFW and the County Environmental Coordinator shall be notified within 24 hours of nest discovery.

- **BR-13. Avoid Tricolored Blackbird Nesting Colonies**

- Implement Mitigation Measure BR-4: Worker Environmental Awareness Program
- For any construction activities proposed within 0.25 mile of Mather Lake during the tricolored blackbird nesting season (March 15 to August 31), a qualified biologist shall survey Mather Lake and a 0.25-mile buffer no more than 48 hours before the onset of activities for signs of tricolored blackbird individuals or nesting/colonial activity.
- If construction activities are delayed or suspended for more than 15 days, an additional preconstruction tricolored blackbird survey will be conducted. If active tricolored blackbird nests are found within 0.25 mile of the project footprint during the nesting season (March 15 to August 31), then no construction activities shall proceed within 0.25 mile of the nest site until the end of the breeding season or until a qualified biologist, in consultation with CDFW, has determined that the young have fledged and moved out of the disturbance area. The buffer distance may be reduced if a qualified biologist, in consultation with CDFW, determines that such an adjustment would not be likely to affect the nesting colony.
- Monitoring of the nesting colony by a qualified biologist during construction activities shall be required if the biologist determines a particular activity has the potential to adversely affect the nest, particularly if the buffer has been reduced below 0.25 mile. If construction activities cause nesting birds to vocalize, make defensive flights at intruders, get up from a brooding position, or fly off the nest, then the no-disturbance buffer shall be increased until the agitated behavior ceases.

- **BR-14. Conduct Burrowing Owl Surveys and Develop an Exclusion and Relocation Plan**

Before any ground disturbing activities within 500 feet of potential burrowing owl habitat (i.e., annual grassland containing ground squirrels or debris piles, banks of streams/creeks) the project proponent shall hire a qualified biologist to conduct surveys in accordance with Appendix D of CDFW's Staff Report on Burrowing Owl Mitigation (2012). Survey methods shall include the following:

- An initial survey for burrows, owls, or their sign shall be conducted by walking transects through the entire project site

and surrounding areas of potential habitat within 500 feet of the project footprint.

- Survey transects shall be spaced to allow 100 percent visual coverage of the ground surface. The distance between transect center lines should be no more than 70 feet and should be reduced as needed to account for differences in terrain, vegetation density, and ground surface visibility. To efficiently survey projects larger than 100 acres, it is recommended that two or more surveyors conduct concurrent surveys. Surveyors should maintain a minimum distance of 160 feet from any owls or occupied burrows. It is important to minimize disturbance near occupied burrows during all seasons.
- If no occupied burrows or burrowing owls are found in the survey area, a letter report documenting survey methods and findings shall be submitted to the County Environmental Coordinator and no further mitigation is necessary.
- If occupied burrows, burrowing owls, or their sign are found, then a complete burrowing owl survey is required. This consists of a minimum of four site visits conducted on four separate days, which must also be consistent with the Survey Method, Weather Conditions, and Time of Day sections of Appendix D of CDFW's Staff Report on Burrowing Owl Mitigation (2012). Submit a survey report to the County Environmental Coordinator which is consistent with the Survey Report section of Appendix D of CDFW's Staff Report.
- If an active burrow is identified near a proposed work area and work cannot be conducted outside of the nesting season (February 1 to August 31), a qualified biologist will establish a no-activity zone that extends 150 to 1,500 feet around the burrow, depending on nesting stage and level of disturbance. If burrowing owls are present at the site during the non-breeding season (September 1 through January 31), a qualified biologist will establish a no-activity zone that extends a minimum of 150 feet around the burrow.
- If the designated no-activity zone for breeding or non-breeding burrowing owls cannot be established because an active burrow is located within the project work area, a wildlife biologist experienced in burrowing owl behavior will evaluate site-specific conditions and, in coordination with CDFW, recommend a smaller buffer (if possible) that still minimizes the potential to disturb the owls (and is deemed to still allow reproductive success during the breeding season). The site-specific buffer will consider the type and extent of the proposed activity

occurring near the occupied burrow, the duration and timing of the activity, the sensitivity and habituation of the owls, and the dissimilarity of the proposed activity to background activities. Additional measures may be identified by the designated biologist or CDFW including regular monitoring of the owls by a qualified biologist, modified construction activity schedule in proximity to the owls, or establishment of a barrier between construction and the occupied burrow.

- If burrowing owls are present within the construction area and cannot be avoided during the non-breeding season (generally September 1 through January 31), owls will be relocated to suitable habitat outside of the project site using passive or active methodologies developed in consultation with CDFW and may include active relocation to the Mather Preserve if approved by CDFW and the County Environmental Coordinator. No burrowing owls shall be excluded from occupied burrows until a burrowing owl exclusion and relocation plan is developed by the project proponent and approved by the County and CDFW. Typically, owls maintain multiple burrows and refuge areas within their foraging area during the non-breeding season.
- Passive or active relocation also may be used during the breeding season (February 1 through August 30) if a qualified biologist, coordinating with CDFW, determines through site surveillance that the burrow is no longer occupied by burrowing owl adults, young, or eggs. Once the fledglings are capable of independent survival, the owls shall be relocated to suitable habitat outside the project site in accordance with a burrowing owl exclusion and relocation plan developed in consultation with CDFW, and the burrow shall be destroyed to prevent owls from reoccupying it. No burrowing owls shall be excluded from occupied burrows until a burrowing owl exclusion and relocation plan is approved by CDFW and the County Environmental Coordinator. Passive relocation shall be accomplished by installing one-way doors (e.g., modified dryer vents or other CDFW-approved method). The one-way doors shall be left in place for a minimum of 3 days and will be monitored daily to verify that the one-way door stays in place and that at the end of the 3 days, the owls have left the burrow. The burrow shall be excavated using hand tools, and a section of flexible plastic pipe (at least 3 inches in diameter) will be inserted into the burrow tunnel to maintain an escape route for any animals that may be inside the burrow.

- **BR-15. Compensate for Loss of Occupied Burrowing Owl Habitat**

If active burrowing owl burrows, or burrow surrogates (e.g., debris piles, culvert pipes) are found on the site and are destroyed by project implementation, the project proponent shall mitigate the loss of occupied habitat in accordance with guidance provided in the CDFW 2012 Staff Report or the most recent CDFW protocols, which states that permanent impacts to nesting, occupied and satellite burrows, and burrowing owl habitat shall be mitigated such that habitat acreage, number of burrows, and burrowing owls impacted are replaced through permanent conservation of comparable or better habitat with similar vegetation communities and burrowing mammals (e.g., ground squirrels) present to provide for nesting, foraging, wintering, and dispersal. The project proponent shall retain a qualified biologist to develop a burrowing owl mitigation and management plan that incorporates the following goals and standards:

- Mitigation lands shall be selected based on comparison of the habitat lost to the compensatory habitat, including type and structure of habitat, disturbance levels, potential for conflicts with humans, pets, and other wildlife, density of burrowing owls, and relative importance of the habitat to the species range wide. The Mather Preserve may be used as mitigation habitat if it is demonstrated to support comparable habitat values and functions for burrowing owl as the habitat lost as a result of the project.
- If feasible, mitigation lands shall be provided adjacent or proximate to the site so that displaced owls can relocate with reduced risk of take. Feasibility of providing mitigation adjacent or proximate to the project site depends on availability of sufficient suitable habitat to support displaced owls that may be preserved in perpetuity. The Mather Preserve may be used as mitigation habitat if it is demonstrated to support comparable habitat values and functions for burrowing owl as the habitat lost as a result of the project and is sufficient to support owls displaced from the project site.
- If suitable habitat is not available in the Mather Preserve, or is not sufficient to fully compensate for the loss of habitat from the project site, additional mitigation may be accomplished through purchase of mitigation credits at a CDFW-approved mitigation bank, if available. If mitigation credits are not available from an approved bank, alternative mitigation sites and acreage shall be determined in consultation with CDFW.

- **BR-16. Conduct Preconstruction Surveys for Nesting Birds**
  - Implement Mitigation Measure BR-4: Worker Environmental Awareness Program
  - Vegetation removal shall be carried out during the non-breeding season for birds and raptors (February 1 to August 31) to the extent feasible.
  - Before initiating any ground disturbing during the nesting season for these species in the Sacramento area (generally February 1 to August 31), the project applicant shall retain a qualified wildlife biologist with knowledge of the relevant species to conduct nesting surveys within 14 days before the start of construction or vegetation removal.
  - Surveys shall include a search of all trees, shrubs, wetlands, and grassland vegetation that provide suitable nesting habitat in the construction area and within 500 feet of the construction area.
  - If an active nest is found in the survey area, a buffer shall be established around the nest site to avoid disturbance or destruction of the nest until the end of the breeding season (August 31) or until after a qualified wildlife biologist determines that the young have fledged and moved out of the project site (this date varies by species). The extent of these buffers shall be determined by the biologist and shall depend on the bird species, level of construction disturbance, line-of-sight between the nest and the disturbance, ambient levels of noise and other disturbances, and other topographical or artificial barriers. Suitable buffer distances may vary between species. No project activity shall commence within the buffer areas until a qualified biologist has determined, in coordination with CDFW, the young have fledged, the nest is no longer active, or reducing the buffer would not result in nest abandonment.
  - Monitoring of active nests by a qualified biologist during construction activities shall be required if the biologist determines a particular activity has the potential to adversely affect the nest. If construction activities cause the nesting bird to vocalize, make defensive flights at intruders, get up from a brooding position, or fly off the nest, then the no-disturbance buffer shall be increased until the agitated behavior ceases.
- **BR-17. Protect Active American Badger Den Sites**
  - Implement Mitigation Measure BR-4: Worker Environmental Awareness Program

- Before construction activities within suitable habitat for American badger, a qualified biologist shall conduct surveys to identify any American badger burrows/dens. These surveys shall be conducted not more than 15 days before the start of construction. If occupied burrows are not found, further mitigation will be not required. If occupied burrows are found, CDFW shall be notified and impacts to active badger dens shall be avoided by establishing exclusion zones around all active badger dens, within which construction-related activities shall be prohibited until denning activities are complete or the den is abandoned. A qualified biologist shall monitor each den once per week to track the status of the den and to determine when a den area has been cleared for construction.

- **BR-19. Compensate for Loss of Wetlands/Waters not Compensated under BR-2**

All necessary permits under Section 1602 of the California Fish and Game Code (Lake and Streambed Alteration Agreement) and Sections 401 and 404 of the CWA or the state's Porter-Cologne Act shall be obtained and all permit conditions implemented as will the conditions and requirements of all other state and federal permits obtained for the project.

The project applicant of any project that would result in removal of drainage ditches shall compensate for the permanent fill of waters of the United States and waters of the state. The minimum compensation ratio to achieve no net loss of functions and values for will be 1:1 (1 acre of wetland credit for every 1 acre of permanent impact). Compensation may be achieved through one or a combination of the following options:

- Purchase credits for created riparian stream channel at a locally approved mitigation bank. Written evidence will be provided to the resource agencies that compensation has been established through the purchase of mitigation credits.
- Compensate out-of-kind for loss of drainage ditch by implementing other compensatory mitigation for wetlands, as described in Mitigation Measure BR-2. The acreage required for compensation for loss of drainage ditches will be added to the acreage for mitigation of loss of vernal pool invertebrate habitat.

- **BR-21. Compensate for Native Tree Removal**

Before initiating development projects, project applicants shall submit an arborist report for the project impact areas when appropriate habitat exists. The report shall include the species, diameter, dripline, and health of all trees 6 inches in diameter at breast height or larger and

shall be prepared by an ISA certified arborist. The report shall include an exhibit that shows the trees and their driplines in proximity to the project improvements. The report shall identify any tree proposed for removal and shall quantify any encroachment from project equipment or facilities within driplines of native trees.

A. With the exception of the native trees removed and compensated for through Part B below, all healthy native trees that are 6 inches diameter at breast height (DBH) or larger on the project site, all portions of adjacent off-site healthy native trees that are 6 inches DBH or larger which have driplines that extend onto the project site, and all off-site healthy native trees that are 6 inches DBH or larger which may be impacted by utility installation and/or improvements associated with this project, shall be preserved and protected as follows:

1. A circle with a radius measurement from the trunk of the tree to the tip of its longest limb shall constitute the dripline protection area of the tree. Limbs must not be cut back to change the dripline. The area beneath the dripline is a critical portion of the root zone and defines the minimum protected area of the tree. Removing limbs which make up the dripline does not change the protected area.
2. Chain link fencing or a similar protective barrier shall be installed one foot outside the driplines of the native trees before initiating project construction, to avoid damage to the trees and their root systems.
3. Any removal of paving or structures (i.e. demolition) that occurs within the dripline of a protected native tree shall be done under the direct supervision of a certified arborist. To the maximum extent feasible, demolition work within the dripline protection area of the native tree shall be performed by hand. If the certified arborist determines that it is not feasible to perform some portion(s) of this work by hand, then the smallest/lightest weight equipment that will adequately perform the demolition work shall be used.
4. No signs, ropes, cables (except cables which may be installed by a certified arborist to provide limb support) or any other items shall be attached to the native trees.
5. No vehicles, construction equipment, mobile home/office, supplies, materials or facilities shall be driven, parked, stockpiled or located within the dripline of the native trees.

6. Any soil disturbance (scraping, grading, trenching, and excavation) is to be avoided within the dripline of the native trees. Where this is necessary, an International Society of Arboriculture (ISA) Certified Arborist will provide specifications for this work, including methods for root pruning, backfill specifications and irrigation management guidelines.
7. Before grading, excavation or trenching within five feet outside the driplines of protected native trees, root pruning shall be required at the limits of grading or excavation to cut roots cleanly to a depth of the excavation or 36 inches (whichever is less). Roots shall be cut by manually digging a trench and cutting exposed roots with a saw, vibrating knife, rock saw, narrow trencher with sharp blades or other approved root-pruning equipment under the supervision of an ISA Certified Arborist.
8. All underground utilities and drain or irrigation lines shall be routed outside the driplines of native trees. If lines must encroach upon the dripline, they should be tunneled or bored under the tree under the supervision of a certified arborist.
9. Any herbicides placed under paving materials must be safe for use around trees and labeled for that use. Any pesticides used on site must be tree-safe and not easily transported by water.
10. Drainage patterns on the site shall not be modified so that water collects or stands within, or is diverted across, the dripline of the native tree.
11. No sprinkler or irrigation system shall be installed in such a manner that it sprays water within the dripline of the native tree.
12. Tree pruning required for clearance during construction must be performed by an ISA Certified Arborist or Tree Worker.
13. Landscaping beneath the native tree may include non-plant materials such as boulders, decorative rock, wood chips, organic mulch, non-compacted decomposed granite, etc. Landscape materials shall be kept two (2) feet away from the base of the trunk. The only plant species which shall be planted within the dripline of the native tree are those which are tolerant of the natural



semi-arid environs of the trees. Limited drip irrigation approximately twice per summer is recommended for the understory plants.

- B. To the maximum extent feasible, all onsite healthy native trees shall be protected and preserved. Any substantial (>20 percent) encroachment and/or removal of native trees shall be compensated by planting native trees equivalent to the DBH inches lost, based on the ratios listed below, at locations that are authorized by the Environmental Coordinator. On-site preservation of native trees that are less than 6 inches (<6 inches) DBH, may also be used to meet this compensation requirement. Encroachment of over 20 percent within the dripline radius of native trees will require compensatory mitigation based on the percentage of encroachment multiplied by the DBH. Encroachment over 50 percent will require compensation for the entire tree.

Equivalent compensation based on the following ratio is required:

- one preserved native tree < 6 inches DBH on-site = 1 inch DBH (subject to the approval of the Environmental Coordinator)
- one D-pot seedling (40 cubic inches or larger) = 1 inch DBH
- one 15-gallon tree = 1 inch DBH
- one 24-inch box tree = 2 inches DBH
- one 36-inch box tree = 3 inches DBH

Replacement tree planting shall be completed before the issuance of building permits or a bond shall be posted by the applicant to provide funding for purchase, planting, irrigation, and 3-year maintenance period, should the applicant default on replacement tree mitigation. The bond shall be in an amount equal to the prevailing rate of the County Tree Preservation Fund.

Before the approval of Improvement Plans or building permits, a Replacement Native Tree Planting Plan shall be prepared by a certified arborist or licensed landscape architect and shall be submitted to the Environmental Coordinator for approval. The Replacement Native Tree Planting Plan(s) shall include the following minimum elements:

1. Species, size and locations of all replacement plantings and < 6-inch DBH trees to be preserved;

2. Method of irrigation;
3. The Sacramento County Standard Tree Planting Detail L-1, including the 10-foot deep boring hole to provide for adequate drainage;
4. Planting, irrigation, and maintenance schedules;
5. Identification of the maintenance entity and a written agreement with that entity to provide care and irrigation of the trees for a 3-year establishment period, and to replace any of the replacement oak trees which do not survive during that period.
6. Designation of 20-foot root zone radius and landscaping to occur within the radius of oak trees < 6-inches DBH to be preserved on-site.

No replacement tree shall be planted within 15 feet of the driplines of existing native trees or landmark size trees that are retained on-site, or within 15 feet of a building foundation or swimming pool excavation. The minimum spacing for replacement native trees shall be 20 feet on-center. Examples of acceptable planting locations are publicly owned lands, common areas, and landscaped frontages (with adequate spacing). Generally unacceptable locations are utility easements (PUE, sewer, storm drains), under overhead utility lines, private yards of single family lots (including front yards), and roadway medians.

Native trees <6 inches DBH to be retained on-site shall have at least a 20-foot radius suitable root zone. The suitable root zone shall not have impermeable surfaces, turf/lawn, dense plantings, soil compaction, drainage conditions that create ponding, utility easements, or other overstory tree(s) within 20 feet of the tree to be preserved. Trees to be retained shall be determined to be healthy and structurally sound for future growth, by an ISA Certified Arborist subject to the approval of the Environmental Coordinator.

If native tree replacement plantings are demonstrated to the satisfaction of the Environmental Coordinator to be infeasible for any or all trees removed, then compensation shall be through payment into the County Tree Preservation Fund. Payment shall be made at a rate of \$325.00 per DBH inch removed but not otherwise compensated, or at the prevailing rate at the time payment into the fund is made.

- **BR-22. Replace Nonnative Tree Canopy**

The removal of nonnative tree canopy shall be mitigated for with the creation of new tree canopy equivalent to the acreage of non-native tree canopy removed. New tree canopy acreage shall be calculated using the Sacramento County Department of Transportation 15-year shade cover values for tree species. Preference is given to on-site mitigation, but if this is infeasible, then funding shall be contributed to the Sacramento Tree Foundation's Greenprint program in an amount proportional to the tree canopy lost (as determined by the 15-year shade cover calculations for the tree species to be planted through the funding, with the cost to be determined by the Sacramento County Tree Foundation).

- **BR-23. Bat Roost and Colony Impact Minimization**

The Applicant shall implement the following measures to minimize bat mortality due to roost disturbance or destruction.

- If suitable roosting habitat for special-status bats will be affected by Project construction (e.g., removal of trees or buildings, modification of bridges/box culverts), a qualified wildlife biologist will conduct surveys for special-status bats during the appropriate time of year to maximize detectability to determine if bat species are roosting near the work area no less than 7 days and no more than 14 days before beginning vegetation removal, ground disturbance, and/or construction. Survey methodology may include visual surveys of bats (e.g., observation of bats during foraging period), inspection for suitable habitat, bat sign (e.g., guano), or use of ultrasonic detectors (e.g., Anabat, etc.). Visual surveys will include trees within 0.25 mile of Project construction activities if the potential roost could be disturbed by construction activity. If the potential roost is separated from the construction site by topographic, vegetation, structural, or other visual barriers or by areas of routine human disturbances that are greater than the project construction disturbances, surveys of those potential roosts will not be necessary. The type of survey will depend on the condition of the potential roosting habitat. If no bat roosts are found, then no further study is required.
- If evidence of bat use is observed, the number and species of bats using the roost will be determined. Bat detectors may be used to supplement survey efforts.
- If roosts are determined to be present and must be removed, the bats will be excluded from the roosting site before the facility is removed. A mitigation program addressing compensation, exclusion methods, and roost removal procedures will be

developed and submitted to CDFW for approval, before implementation. Exclusion methods may include use of one-way doors at roost entrances (bats may leave, but not reenter), or sealing roost entrances when the site can be confirmed to contain no bats. Exclusion efforts may be restricted during periods of sensitive activity (e.g., during hibernation or while females in maternity colonies are nursing young). Loss of roosting habitat may be compensated with permanent, elevated bat houses or condos installed outside of, but near the construction area. Placement and height shall be determined based on species evicted or as determined by a qualified biologist in consultation with CDFW. Bat houses will be multi-chambered and be purchased or constructed in accordance with CDFW standards. The number of bat houses required will be dependent upon the size and number of colonies found, but at least one bat house will be installed for each pair of bats (if occurring individually), or of sufficient number to accommodate each colony of bats to be relocated.

- **BR-24. Implement Applicable South Sacramento Habitat Conservation Plan (SSHCP) Avoidance and Minimization Measures.**

The Project Applicant shall implement SSHCP avoidance and minimization measures (AMMs) EDGE-8 (Outdoor Lighting), EDGE-10 (Prevent Invasive Species Spread), and BMP-2 (Erosion Control). If equivalent or more effect mitigation is required as part of the Project's State and federal permits, those mitigation measures may be implemented subject to the final determination of the Sacramento County Environmental Coordinator.

- **HY-1.** Before Improvement Plan approval, applicants shall submit a drainage study in accordance with the requirements outlined in the "Drainage Study Requirements" document dated June 12, 2008 (or subsequent updates). The study shall describe permanent stormwater quality treatment facilities capable of treating stormwater to the satisfaction of the State Water Board for injection into the Mehrten formation in the infiltration trenches in the basins. Alternate solutions to percolations trenches shall be discussed in the study such as reuse of the collected summer nuisance flows for irrigation of public spaces, or rigorous LID measures, etc.
- **HY-3:** At the time of submittal of backbone infrastructure plans, the project applicant shall submit a hydrologic analysis that is based upon adopted County guidance regarding a reasonably foreseeable climate change scenario. Based on the results of the hydrologic analysis and if impacts are identified, the project applicant shall implement all feasible

design measures within the project's drainage system to adequately maintain pre-project flows with consideration of climate change effects. Potential improvements could include deepening the existing basin(s) within the Plan Area that would be subject to over-topping. Basin deepening would require minimal construction-related impacts including excavation and hauling of an additional increment of soil from the site. These construction-related impacts have been evaluated throughout this EIR.

Alternatively, if the County has adopted a regional solution for flooding related to climate-change, the project applicant shall contribute its fair share towards funding the construction of the regional solution.

If the County has not developed a regional solution or has not adopted guidance for evaluating hydrologic climate-related impacts, the project applicant shall prepare submit a hydrologic analysis that is based on the best available technical information at that time, in consultation with the County's Department of Water Resources and the Office of Planning and Environmental Review.

- (2) Findings regarding significant water quality or supply impacts being authorized due to specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers that cannot feasibly be mitigated to a less than significant level. (Public Resources Code, section 21081, subd. (a)(3); California Code of Regulations, title 14, section 15091, subd. (a)(3).)

*Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the FEIR.*

a.i. Significant Effects:

- Loss of Swainson's Hawk and Habitat
- Flooding

a.ii. Facts in Support of Finding:

- **BR-12. Avoid Swainson's Hawk Nests**
  - Implement Mitigation Measure BR-4: Worker Environmental Awareness Program
  - Tree removal shall be conducted during the non-breeding season for Swainson's hawk (generally between September 1 and February 28)
  - Before initiating any construction activities during the Swainson's hawk breeding season (March 1 through August 31), project proponents shall retain a qualified wildlife biologist

with knowledge of Swainson's hawk to conduct nesting surveys to identify active nests on and within 0.5 mile of the Plan Area.

- Surveys shall be conducted in accordance with the Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (Swainson's Hawk Technical Advisory Committee 2000) or according to updated methodologies issued by CDFW. According to current guidelines, the biologist will use binoculars during the survey to inspect all large trees and document any Swainson's hawk nests that occur in the Plan Area or within 0.5 mile. If surveys conclude that Swainson's hawk nests occur onsite, and are occupied, the following minimization measures shall be implemented:
  - A no disturbance buffer shall be established around active nest sites. Project activity shall not commence within the buffer areas until a qualified biologist has determined, in coordination with CDFW, that the young have fledged, the nest is no longer active, or reducing the buffer would not likely result in nest abandonment. CDFW guidelines recommend implementation of 0.5-mile-wide buffer for Swainson's hawk, but the size of the buffer may be adjusted if a qualified biologist and the County, in consultation with CDFW, determine that such an adjustment would not be likely to adversely affect the nest. Monitoring of the nest by a qualified biologist during and after construction activities shall be required if the activity has potential to adversely affect the nest.
  - Active nests shall be monitored by a qualified biologist during construction activities that have potential to adversely affect nesting. If construction activities cause the nesting bird to vocalize, make defensive flights at intruders, get up from a brooding position, or fly off the nest, then the no-disturbance buffer shall be increased until the agitated behavior ceases. The exclusionary buffer will remain in place until the chicks have fledged or as otherwise determined appropriate by a qualified biologist. Once the young have fledged, project activities may proceed normally.
- **HY-2.** The Mather South Project shall mitigate its downstream impacts by either of the following options:
  - a) Payment of the Beach Stone Lakes Mitigation Fee (Sacramento County Water Agency Zone 11A).

- b) Ensuring no net project-related increase in volume in Beach Stone Lakes by metering outflow from the Plan Area, increasing storage capacity of onsite facilities, directing drainage into downstream facilities offsite, or other regional drainage solutions as determined by the County Department of Water Resources.

#### **D. Statement of Overriding Considerations**

The County of Sacramento 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 Mather South Project are disclosed in the County of Sacramento 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 County of Sacramento 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.)

**(This page intentionally left blank)**



## 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/)  
([https://www.waterboards.ca.gov/centralvalley/board\\_decisions/adopted\\_orders/401\\_wqcerts/](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](mailto:centralvalleysacramento@waterboards.ca.gov) and cc: [Jenna.Yang@waterboards.ca.gov](mailto:Jenna.Yang@waterboards.ca.gov).
  - Include in the subject line of the email:  
ATTN: Jenna Yang; Project Name; and WDID No. 5A34CR00886.

### 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:

23 May 2024

### 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 Digital Raster Graphics (DRG) or Digital Orthophoto Quarter Quads (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. 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.

**V. Report and Notification Cover Sheet**

**Project:** Mather South Project  
**Permittee:** Mather South, LLC  
**WDID:** 5A34CR00886  
**Reg. Meas. ID:** 455428  
**Place ID:** 891789  
**Order Effective Date:** 23 May 2024  
**Order Expiration Date:** 22 May 2029

**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.”

---

<b>Print Name<sup>1</sup></b>	<b>Affiliation and Job Title</b>
-------------------------------	----------------------------------

---

<b>Signature</b>	<b>Date</b>
------------------	-------------

**<sup>1</sup>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.

---

<b>Permittee's Signature</b>	<b>Date</b>
------------------------------	-------------

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

**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 June beginning one year after the effective date of the Order. 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.

### During the Active Discharge Period

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

### During the Post-Discharge Monitoring Period

- **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. Part B – Project Status Notifications**

**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.

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

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

**(This page intentionally left blank)**

### **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.”

**(This page intentionally left blank)**

## **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 XIII.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 Water Quality Certification 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 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.)

**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).

**(This page is intentionally left blank)**

**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 XIII of the Order, and the statements below correspond with the conditions set forth in Section XIII. The other Order Sections are not “conditions” as used in Code of Federal Regulations, title 40, section 121.7.

**I. General Justification for Section XIII 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, February 2019 (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 XIII 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. 2022-0057-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 seq.), 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**

The conditions related to directional drilling are necessary given the risks posed by an inadvertent return of drilling fluids to waters. Given the likely toxicity of the discharge and the proximity to the impacted water, significant adverse impacts to waters would be expected and remediation would be difficult. 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.) Horizontal directional drilling, and similar drilling operations, may result in the unintentional discharge of drilling fluids to waters of the state. These conditions are necessary to ensure that 1) the discharge shall not adversely affect the beneficial uses of the receiving water or cause a condition of nuisance; 2) the discharge shall comply with all applicable water quality objectives; and 3) treatment and control of the discharge shall be implemented to assure that pollution and nuisance will not occur and the

highest water quality is maintained. (Dredge or Fill Procedures, Section IV.B.1.)

**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 – Not Applicable**

## **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 – Not Applicable**

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

The conditions under Sections K 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).