Central Valley Regional Water Quality Control Board

CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND ORDER

Reg. Meas. ID:	458341
Place ID:	896392
WDID No.:	5A34CR00897
USACE No.:	SPK-2024-00674 NWP 14

Effective Date: 1 November 2024

Expiration Date: 31 October 2029

Program Type: Fill/Excavation

Project Type: Roads and Highways

Project: Laguna Creek and Whitehouse Creek Multi-Functional Corridor Project (Project)

Applicant: City of Elk Grove Public Works Department

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Table of Contents

I. Order

This Clean Water Act (CWA) section 401 Water Quality Certification action and Order (Order) is issued at the request of The City of Elk Grove Public Works Department (hereinafter Permittee) for the Project. This Order is for the purpose described in application submitted by the Permittee. The application was received on 6 September 2024. The application was deemed complete on 13 September 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 13 September 2024 to 4 October 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 provide access along Laguna Creek and Whitehouse Creek to city maintenance crews for performing regular maintenance work along the multi-function corridor.

IV. Project Description

The Project will create a multi-functional corridor along Laguna Creek and Whitehouse Creek in the City of Elk Grove, Sacramento County, California. The proposed Project will involve construction of an approximately half-mile (2,666 feet) long multi-functional corridor parallel to and crossing Laguna Creek, located between East Stockton Boulevard and Camden Park. The multi-functional corridor will provide maintenance access to Laguna Creek and Whitehouse Creek and will also act as a future pedestrian and bicycle trail.

The multi-functional corridor will be elevated above existing ground surface elevation by approximately 2 feet. Imported fill material (soil) will be obtained from a commercial suppler. The surface of the corridor will include a 10-foot-wide paved surface with 2-feet wide decomposed granite shoulders. Post-and-cable fencing will be installed at the edges of the unpaved shoulders. Two prefabricated steel truss bridges with concrete decks will provide necessary access across Laguna Creek.

Additional Project features include construction of two floodway excavation areas to offset the floodplain encroachments from the elevated multi-functional corridor. Rock slope protection will also be installed along the face of the creek embankments adjacent to the abutments of both bridge crossings to prevent future scouring.

The Project will be constructed in two phases. Phase I includes construction of the elevated maintenance access road, the 10-foot-wide paved surface (no pavement striping) with 2-feet of unpaved shoulders, two bridge crossings, and two floodway excavation areas. Phase II of the Project consists of converting the paved maintenance access road into a Class 1 multi-functional trail corridor connection through pavement striping and trail amenities, such as benches and trash containers.

V. Project Location

Address: East of E Stockton Boulevard and California State Route 99.

County: Sacramento

Assessor's Parcel Number(s): 116-003-008-400-00, 116-003-008-600-00, 116-003-007-600- 00, 116-003-006-600-00, 116-003-005-500-00, 116-003-005-800-00, 116-003-007-500-00, 116-003-002-500-00, 116-002- 200-100-00, 116-003-004-300-00, 116-003-004-200-00, 116- 002-200-200-00, 116-004-100-100-00

Nearest City: Elk Grove

Section 26, Township 7 North, Range 5 East, MDB&M.

Start: Latitude: 38.430333° and Longitude: -121.385278°

End: Latitude: 38.430497° and Longitude: -121.397994°

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/). 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.

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

The Project is anticipated to impact Laguna Creek, emergent marsh, seasonal wetland habitat, and seasonal wetland swale.

Laguna Creek

Temporary Impacts

The Project will temporarily impact approximately 1.08 acres of Laguna Creek to allow access for large construction equipment and personnel to construct two single-span bridges over Laguna Creek. Additionally, de-watering and/or a temporary water diversion will likely be required during bridge construction in order to maintain a dry

work area during construction. Temporary impacts within Laguna Creek may include but are not limited to, de-watering, installation of a temporary diversion system, and access. Furthermore, temporary fill, up to approximately 500 cubic yards, including clean dirt/gravel may be established in the de-watered area of Laguna Creek to allow equipment/personnel access over the creek during construction of the proposed bridge. Following the completion of construction, all materials and equipment would be removed from Laguna Creek.

Permanent Impacts

The construction of the multi-functional corridor will permanently impact approximately 0.28 acres of Laguna Creek, as a result of two permanent drainage excavation areas adjacent to the proposed multi-functional corridor. These areas will be excavated in order to offset the floodplain encroachments due to the increase of impervious surface area. A total of approximately 21,928 cubic yards of excavation will be required to create Excavation Area #2, and a total of approximately 4,912 cubic yards of excavation will be required to create Excavation Area #1. Of this total amount, approximately 881 cubic yards of excavation is anticipated within Laguna Creek.

Emergent Marsh

Temporary Impacts

The Project will temporarily impact approximately 0.05 acres of emergent marsh habitat as a result of construction access, which may include clearing/grubbing, access for equipment, soil compaction, and disturbance of topsoil. Use of a wetland mat during construction to facilitate equipment access within the Project area may also cause temporary impacts to emergent marsh habitat.

Permanent Impacts

Minor permanent impacts, approximately 0.003 acres, are anticipated to emergent marsh habitat as a result of cut limits to accommodate new bridge abutments adjacent to Laguna Creek.

Seasonal Wetland Habitat

Temporary Impacts

The Project will temporarily impact approximately 0.28 acres of seasonal wetland habitat as a result of construction access, which may include clearing/grubbing, access for equipment, soil compaction, and disturbance of topsoil. Use of a wetland mat during construction to facilitate equipment access within the Project area may also cause temporary impacts to seasonal wetland habitat.

Permanent Impacts

The Project will permanently impact a total of approximately 0.005 acres of seasonal wetland habitat. The seasonal wetland in the eastern portion of the Project area, near the new bridge abutments, will be permanently impacted as a result of installation of rock slope protection above the OHWM of Laguna Creek to protect the

new bridge abutments from scour and erosion. A total of approximately 7 cubic yards of rock slope protection will be placed within seasonal wetland habitat.

Seasonal Wetland Swale

Temporary Impacts

The Project would temporarily impact one seasonal wetland swale within the Project area. No permanent fill will be placed within seasonal wetland swale habitat. However, the boundary of the swale is within close proximity to the proposed Excavation Area #2. Therefore, construction access will be required along the outer margin of the seasonal wetland swale. Approximately 0.002 acres of temporary impacts are anticipated, and are likely to consist of clearing/grubbing, soil compaction, and disturbance of topsoil. Use of a wetland mat during construction to facilitate equipment access within the Project area may also cause temporary impacts to seasonal wetland swale habitat. However, the impacts are on the edge of the seasonal wetland swale, and the majority of the aquatic feature will remain intact; and therefore, will retain its value and function as a seasonal wetland swale upon completion of the Project.

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

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

Aquatic Resources Type	Acres	Cubic Yards	Linear Feet
Stream Channel	1.08	500	1,200
Wetland	0.33	0	163

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

Aquatic Resources Type	Acres	Cubic Yards	Linear Feet
Stream Channel	0.28	881	740
Wetland	0.008	7	50

VIII. Description of Indirect Impacts to Waters of the State

The Central Valley Water Board recognizes the potential for indirect impacts to waters of the state associated with the Project. The Project may indirectly result in a

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

potential influx of surface water and sediment by adding additional impervious surfaces to surrounding areas, and therefore reducing wetland size. This could also result in changes in the local hydrology and vegetation cover over time. Excavation of the two floodway excavation areas within the project area will permanently modify the micro-watershed which will indirectly affect its long-term hydrology. With more water flowing into these new floodway areas, this may change the volume of water that reaches the wetland habitat via infiltration or surface runoff. This may also change the ability of the wetland to receive flood flow from surrounding uplands within the project area. In addition, excavation occurring immediately adjacent to the wetland habitat during project implementation may increase the input of sediments or toxicants to the wetlands.

Furthermore, an increase in impervious surface area within the project vicinity may cause an increase in stormwater runoff which will be redirect to the new floodway excavation areas. This may decrease the amount of water that flows within Laguna Creek which could impact the habitat quality for plants and wildlife that utilize the stream channel habitat, as well as the adjacent wetlands. Indirect habitat impacts due to construction may include decreased water flow within Laguna Creek, increased sedimentation from dust movement and/or introduction of invasive plant species.

IX. Avoidance and Minimization

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

Direct Avoidance and Minimization

The following measures will be implemented:

- WQ-1: The construction contractor shall adhere to the SWRCB Order No. 2013-0001-DWQ as National Pollutant Discharge Elimination System (NPDES) Permit pursuant to Section 402 of the CWA. The City is designated within the NPDES Phase II General Permit. This General Permit applies to the discharge of stormwater from small municipal separate storm sewer systems (MS4s). Under this permit, stormwater discharges must not cause or contribute to an exceedance of water quality standards contained in the California Toxics Rule or the Water Quality Control Plan for the Sacramento and San Joaquin Basin (Basin Plan).
- WQ-2: To conform to water quality requirements, the SWPPP must include the following:
    - Vehicle maintenance, staging and storing equipment, materials, fuels, lubricants, solvents, and other possible contaminants must be a minimum of 100 feet from surface waters. Any necessary equipment washing must occur where the water cannot flow into surface waters.

The Project specifications will require the contractor to operate under an approved spill prevention and clean-up plan;

- Construction equipment will not be operated in flowing water;
- Construction work must be conducted according to site-specific construction plans that minimize the potential for sediment input to surface waters;
- Raw cement, concrete or concrete washings, asphalt, paint or other coating material, oil or other petroleum products, or any other substances that could be hazardous to aquatic life shall be prevented from contaminating the soil or entering surface waters;
- Equipment used in and around surface waters must be in good working order and free of dripping or leaking contaminants; and
- Any concrete rubble, asphalt, or other debris from construction must be taken to an approved disposal site.

- WQ-4: Contract specifications shall include the following best management practices (BMPs), where applicable, to reduce erosion during construction:
  - Implementation of the Project shall require approval of a site-specific SWPPP that would implement effective measures to protect water quality, which may include a hazardous spill prevention plan and additional erosion prevention techniques;
  - Existing vegetation shall be protected in place where feasible to provide an effective form of erosion and sediment control. In locations where this is not feasible, the remaining BMPs listed below shall be implemented;
  - Stabilizing materials shall be applied to the soil surface to prevent the movement of dust from exposed soil surfaces on construction sites as a result of wind, traffic, and grading activities;
  - Roughening and terracing shall be implemented to create unevenness on bare soil through the construction of furrows running across a slope, creation of stair steps, or by utilization of construction equipment to track the soil surface. Surface roughening or terracing reduces erosion potential by decreasing runoff velocities, trapping sediment, and increasing infiltration of water into the soil, and aiding in the establishment of vegetative cover from seed.
- BIO-1: Every individual working on the Project must attend a biological awareness training session delivered by the Project biologist. This training program will include information regarding the sensitive habitats and special-status species that may occur within the Project area, and the importance of avoiding impacts to these species and their habitat.
- BIO-2: Prior to the start of construction activities, the Project limits within

environmentally sensitive areas (Laguna Creek, Whitehouse Creek, annual grasslands, seasonal wetland, seasonal wetland swale, vernal pool, vernal swale, and emergent marsh), will be marked with temporary high visibility fencing or staking to ensure construction will not further encroach into sensitive resources.

- BIO-3: BMPs will be incorporated into Project construction to minimize impacts on the environment including erosion and the release of pollutants (e.g. oils, fuels):
    - Exposed soils and material stockpiles would be stabilized, through watering or other measures, to prevent the movement of dust at the Project site caused by wind and construction;
    - Implementation of the Project shall require approval of a site-specific SWPPP or Water Pollution Control Program that would implement effective measures to protect water quality, which may include a hazardous spill prevention plan and additional erosion prevention techniques;
    - All construction roadway areas would be properly protected to prevent excess erosion, sedimentation, and water pollution;
    - All vehicle and equipment fueling/maintenance would be conducted outside of any surface waters;
    - Equipment used in and around jurisdictional waters must be in good working order and free of dripping or leaking contaminants;
    - Raw cement, concrete or concrete washings, asphalt, paint or other coating material, oil or other petroleum products, or any other substances that could be hazardous to aquatic life shall be prevented from contaminating the soil or entering jurisdictional waters;
    - All erosion control measures, and storm water control measures would be properly maintained until the site has returned to a pre-construction state;
    - All construction materials would be hauled off-site after completion of construction;
    - Upon completion of construction activities, any temporary barriers to surface water flow must be removed in a manner that would allow flow to resume with the least disturbance to the substrate.
- BIO-4: Vegetation removal will not exceed what is shown on the plans without prior approval from the Project biologist. If trees will be trimmed rather than removed, trimming must comply with ANSI A300 pruning standards and must not:
    - leave branch stubs
    - make unnecessary heading cuts

  - cut off the branch collar (not make a flush cut)
  - top or lion's tail trees (stripping a branch from the inside leaving foliage just at the ends)
  - remove more than 25 percent of the foliage of a single branch
  - remove more than 25 percent of the total tree foliage in a single year
  - damage other parts of the tree during pruning
  - use wound paint
  - climb the tree with climbing spikes

- BIO-7: The City of Elk Grove will fulfill all compensatory mitigation required by permitting agencies (California Department of Fish and Wildlife (CDFW), USACE, Central Valley Water Board) as outlined in the final environmental permits acquired for the Project. Compensatory mitigation will be developed during the permitting phase and is anticipated to be required for all aquatic resources impacted by the Project including, Laguna Creek, Whitehouse Creek, seasonal wetland, seasonal wetland swale, vernal pool, vernal swale, and emergent marsh. The mitigation may consist of credit purchases, in lieu fee payments, or on/offsite habitat enhancement or restoration. All permanent impacts will be mitigated at a minimum of 2:1 ratio.
- BIO-8: Following the completion of construction, soils that have been temporarily disturbed within sensitive upland/aquatic habitat (annual grasslands, emergent marsh, seasonal wetland, and seasonal wetland swale) will be decompacted and seeded with California native plant species. At least two seed mixes will be developed, one for upland habitats and one for wetland habitats. The native seed mix must be approved by the Project biologist and seeds must be sourced within 50 miles of the Project site from within the Central Valley region. Seed mixes will be developed to kick start vegetation growth, stabilize soils, and reestablish plant diversity. The final post-construction seed mix must be applied between October-February.
- BIO-9: A focused rare plant survey will be conducted within the Project area prior to the start of construction. Surveys will be conducted during the appropriate blooming period for the following species: Alkali-sink goldfields, Boggs Lake hedge-hyssop, dwarf downingia, legenere, Sanford's arrowhead, and wooly rose-mallow. If rare plants are discovered during pre-construction surveys but can be reasonably avoided, ESA fence will be installed to protect the specimens in place.
- If a special-status plant specimen is present within the Project area and cannot be fully avoided, the Project biologist will relocate individual(s) and/or collect seeds to ensure the continued existence of the local population. Area of relocation or re-seeding will be at the discretion of the Project biologist but will be located within suitable habitat and within the same watershed of the Project, preferably at a location that is protected in perpetuity. If relocation or

seed collection of Boggs Lake hedge-hyssop is required a CDFW 2081 Incidental Take Permit must first be obtained.

- BIO-10: No Project activity will be completed from March 1 through August 31 unless the Project biologist conducts Swainson's hawk nesting surveys within the work area and a ½ mile buffer, following survey methodology developed by the Swainson's Hawk Technical Advisory Committee prior to commencing Project activities. Should a nesting Swainson's hawk pair be found within ½ mile of the Project, the Project biologist will provide a no-work buffer recommendation to CDFW, as well as a plan to avoid take of the species. Project activities will not proceed until the appropriate no-work buffer is established, and the appropriate take avoidance strategies are implemented, as determined by the Project biologist.
- BIO-11: Annual grassland habitat within the Project area is considered Swainson's hawk foraging habitat and is protected under Chapter 16.130 of the City Municipal Code, Swainson's Hawk Impact Mitigation Fees. The City will mitigate for the permanent loss of Swainson's hawk foraging habitat at a 1:1 ratio. Mitigation can be accomplished through participation in the City of Elk Grove Swainson's Hawk Impact Mitigation Fees Ordinance, other method acceptable to the California Department of Fish and Wildlife, or other method acceptable to the Elk Grove City Council pursuant to Section 16.130.110.
- BIO-12: Prior to the start of Project-related activities the Project biologist will conduct pre-construction surveys for burrowing owl within the Project area plus a 500-foot buffer. Surveys will follow CDFW's Staff Report on Burrowing Owl Mitigation, which includes four surveys at least 3 weeks apart prior to the start of Project activities. The final survey must not be conducted within 14 days prior to the start of Project activities. If burrowing owls are identified within the survey area the Project biologist will consult with CDFW to determine appropriate no-work buffer distances, avoidance strategies and/or mitigation for impacted nest sites.
- BIO-13: If vegetation removal or ground disturbance is planned to occur during the nesting season (February 1st – August 31st), the Project biologist will conduct a pre-construction nesting bird survey within 7 days prior to vegetation removal or ground disturbance. Within 2 weeks of the nesting bird survey, all vegetation cleared by the Project biologist will be removed from the Project site.
- A minimum 100-foot no-disturbance buffer will be established around any active nest of migratory birds and a minimum 300-foot no-disturbance buffer will be established around any nesting raptor species. Upon receiving notification of an active nest, the contractor will immediately stop work until the appropriate buffer is established. Work within the buffer zone will only proceed once the Project biologists has determined that the young have fledge. A reduced buffer may be considered at the discretion of the Project biologist and wildlife agencies.

- If tricolored blackbird is discovered nesting within the Project area during the pre-construction nesting bird survey, the Project biologists will notify CDFW, and no Project related activities will proceed until CDFW has issued an Incidental Take Permit for tricolored blackbird or has provided written approval to start work.
- BIO-14: To avoid impacts to western pond turtles, the Project biologist will conduct a pre-construction survey of the Laguna Creek, Whitehouse Creek, and adjacent banks and upland habitats within the Project area. Surveys will be conducted no more than 24 hours prior to onset of construction. In addition, the Project biologists will monitor initial in-water work and de-watering activities, including clearing/grubbing of aquatic vegetation.
- If a turtle is located within the construction area, the Project biologist will temporarily halt work in the vicinity of the discovery and capture the turtle(s) and relocate the species to appropriate aquatic habitat a safe distance from the construction site. The relocation site must be within the same water body found at the Project site (Laguna Creek or Whitehouse Creek).
- BIO-15: If water pumps are used to dewater the Project area, pump intakes will be screened and equipped with an energy dissipater to protect aquatic species. Intake pumps will include a mesh screen with openings that do not exceed 3.96 millimeters (5/32 inches) measured diagonally.
- BIO-16: Prior to ground disturbing activities or in-water work, animal exclusion fencing will be installed on the edge of the Project boundary within natural habitat communities. The fencing will consist of silt fencing, or a similar material, and will be buried a minimum of 6 inches below ground and will extend 12-18 inches above the ground. At any access opening in the fence, the fence will be installed to turn 180 degrees away from the access point for a length of approximately 10 feet and at a minimum width of one foot from the original fence. The on-site personnel, provided the environmental awareness training by the Project biologist, will inspect the exclusion fencing daily to ensure the fence is kept in good working order. The fence will be maintained and repaired as necessary throughout construction.
- BIO-17: Ground disturbing activities within suitable GGS habitat (includes all aquatic habitat and upland habitat) will be conducted between May 1st and October 1st. This is the active period for giant garter snakes and the risk of direct mortality is lessened because snakes are expected to actively react and avoid danger. Ground disturbing activities may occur outside of this period if written approval is received by the U.S. Fish and Wildlife Service Sacramento Office prior to starting any work.
- BIO-18: A USFWS approved biologist will conduct a clearance survey for giant garter snake within 24-hours prior to commencing any Project related activity. A clearance survey will be repeated if a lapse in construction activity of two weeks or greater has occurred. If a snake is encountered during

construction, activities shall cease until appropriate corrective measures have been completed, as determined by the Project biologists, or it has been determined that the snake will not be harmed.

- BIO-19: The proposed Project shall mitigate for potential impacts to vernal pool crustaceans by conducting USFWS protocol-level surveys, or assuming presence of the species in the Project area. Protocol-level surveys for the vernal pool fairy shrimp and vernal pool tadpole shrimp shall occur in suitable habitats occurring in the proposed Project area and within 250 feet of adjacent suitable habitat. If vernal pool fairy shrimp or vernal pool tadpole shrimp are not detected during the protocol-level surveys and if the USFWS concurs that neither species is present, no further mitigation is required. If either of the species is detected during protocol-level surveys or the presence of the species is assumed in lieu of conducting surveys, and proposed activities will result in direct or indirect impacts to potential habitat, the following measures shall be implemented:
    1. Consultation with the USFWS shall be initiated under Section 7 of the Endangered Species Act. No direct or indirect impacts to suitable habitat for these species shall occur until Incidental Take authorization has been obtained from the USFWS.
    2. For every acre of habitat directly or indirectly affected, at least two vernal pool preservation credits shall be dedicated in a USFWS-approved ecosystem preservation bank (2:1 ratio). With USFWS approval, appropriate payment into an in-lieu fee fund or on-site preservation may be used to satisfy this measure.
    3. For every acre of habitat directly affected, at least one vernal pool creation credit will be dedicated in a USFWS-approved habitat mitigation bank (1:1 ratio). With USFWS approval, appropriate payment into an in-lieu fee fund, on-site creation, or off-site creation may be used to satisfy this measure.
- BIO-23: If any wildlife is encountered during the course of construction, said wildlife will be allowed to leave the construction area unharmed.

Indirect Avoidance and Minimization

The following measures will be implemented:

- BIO-5: Vehicle maintenance, staging and storing equipment, materials, fuels, lubricants, solvents, and other possible contaminants must remain outside of jurisdictional waters. Any necessary equipment washing must occur where the water cannot flow into water bodies.
- BIO-6: A chemical spill kit must be kept onsite and available for use in the event of a spill.
- BIO-20: Prior to arrival at the Project site and prior to leaving the Project site, construction equipment that may contain invasive plants and/or seeds will be cleaned to reduce the spreading of noxious weeds.

- BIO-21: All food-related trash must be disposed into closed containers and must be removed from the Project area daily. Construction personnel must not feed or otherwise attract wildlife to the Project area.
- BIO-22: The contractor must not apply rodenticide or herbicide within the Project area.

X. Compensatory Mitigation

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

XI. California Environmental Quality Act (CEQA)

On July 26, 2023, the City of Elk Grove, as lead agency, adopted an initial study/mitigated negative declaration (IS/MND) (State Clearinghouse (SCH) No. 2022110059) for the Project and filed a Notice of Determination (NOD) at the SCH on August 30, 2023. Pursuant to CEQA, the Central Valley Water Board has made Findings of Facts (Findings) which support the issuance of this Order and are included in Attachment C.

XII. Petitions for Reconsideration

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

XIII. Fees Received

An application fee of $2,985.00 was received on 26 August 2024. 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 $42,249.00 based on total Project impacts was received on 21 October 2024.

XIV. Conditions

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

A. Authorization

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

B. Reporting and Notification Requirements

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

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

In the subject line of the email, include the Central Valley Water Board Contact, Project 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** – Not Applicable

2. Project Status Notifications

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

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

acceptance of the request, Central Valley Water Board staff shall issue a Notice of Completion of Discharges Letter to the Permittee which will end the active discharge period.

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

3. Conditional Notifications and Reports:

The following notifications and reports are required as appropriate.

a. Accidental Discharges of Hazardous Materials[2]:

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

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

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

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

Spill_Booklet_Feb2014_FINAL_BW_Acc.pdf).

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

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

b. Violation of Compliance with Water Quality Standards:

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

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

c. In-Water Work and Diversions:

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

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

d. Modifications to Project:

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

e. Transfer of Property Ownership:

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

i. The Permittee must notify the Central Valley Water Board of any change in ownership or interest in ownership of the Project area by

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

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

f. Transfer of Long-Term BMP Maintenance:

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

C. Water Quality Monitoring

1. General:

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

a. when performing any in-water work;

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

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

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

2. Accidental Discharges/Noncompliance:

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

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

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

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

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

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

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

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

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

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

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

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

The sampling frequency and/or monitoring locations may be modified for

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

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 XIV.C.3.

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

Table 3: Sample Type and Frequency Requirements

Parameter	Unit of Measurement	Type of Sample	Minimum Frequency
Turbidity	NTU	Grab	Every 4 hours
Visible construction related pollutants[4]	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

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

involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license, unless the pertinent certification application was filed pursuant to subsection 3855(b) of chapter 28, title 23 of the California Code of Regulations, and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

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

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

E. General Compliance

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

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

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

F. Administrative

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

2. This Order does not authorize any act which results in the taking of a threatened, endangered or candidate species or any act, which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & Wildlife Code, sections 2050-2097) or the federal Endangered Species Act (16 U.S.C. sections 1531-1544). If a “take” will result from any act authorized under this Order held by the Permittee, the Permittee must comply with the California Endangered Species Act and federal 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. The Permittee shall develop and maintain on-site a Surface Water Diversion and/or Dewatering Plan(s). The Plan(s) must be developed prior to initiation of any water diversions. The Plan(s) shall include the proposed method and duration of diversion activities and include water quality monitoring conducted, as described in section XIV.C.3, during the entire duration of dewatering and diversion activities. The Plan(s) must be consistent with this Order and must be made available to the Central Valley Water Board staff upon request.

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

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

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

e. Dewatering will occur within the Project area.

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

g. The Permittee shall work with the Central Valley Water Board to obtain coverage under an NPDES permit for dewatering activities that result in discharges into surface water.

2. Directional Drilling- Not Applicable

3. Dredging- Not Applicable

4. Fugitive Dust

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

5. Good Site Management "Housekeeping"

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

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

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

6. Hazardous Materials

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

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

7. Invasive Species and Soil Borne Pathogens

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

8. Post-Construction Storm Water Management

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

i. Minimize the amount of impervious surface;

ii. Reduce peak runoff flows;

iii. Provide treatment BMPs to reduce pollutants in runoff;

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

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

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

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

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

ix. Control post-development peak storm water run-off discharge rates

and velocities to prevent or reduce downstream erosion, and to protect stream habitat.

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

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

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

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

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

9. Roads

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

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

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

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

shall be responsible for restoration of conditions as necessary (as determined by the Water Board) to secure passage of fish across the structure.

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

10. Sediment Control

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

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

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

11. Special Status Species

The following Special Status Species have the potential to occur near or within the Project: Boggs Lake Hedge-Hyssop, Dwarf Dowingia, Legenere, Sanford's Arrowhead, Wooly Rose-Mallow, Swainson's Hawk, White-Tailed Kite, Burrowing Owl, Song Sparrow, Tricolored Blackbird, Yellow-Headed Blackbird, Vernal Pool Fairy Shrimp, Vernal Pool Tadpole Shrimp, Giant Garter Snake, Western Pond Turtle, and Western Spadefoot.

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. Mitigation for Temporary Impacts

1. The Permittee shall restore all areas of temporary impacts, including Project site upland areas, which could result in a discharge to waters of the state to pre-construction contours and conditions upon completion of construction activities in accordance with the 401 Application and the Draft Restoration and Compensatory Mitigation Plan dated 6 September 2024 and incorporated herein by reference.

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

3. If restoration of temporary impacts to waters of the state is not completed within 90 days of the impacts, compensatory mitigation may be required to offset temporal loss of waters of the state.

J. 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 401 Application and the Draft Restoration and Compensatory Mitigation Plan (Compensatory Mitigation Plan) dated 6 September 2024 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. Irrevocable Letter of Credit

a. The Permittee shall establish in favor of the Central Valley Water Board, an irrevocable letter of credit in an amount sufficient to pay for the cost of

the Permittee's required compensatory mitigation under this Order within 90 days of issuance of this Order. The Permittee shall prepare a draft letter of credit and submit it to the Central Valley Water Board staff for written acceptance. The letter of credit shall allow the Central Valley Water Board to immediately draw on the letter of credit if the Central Valley Water Board staff determines in its sole discretion that the Permittee has failed to meet its mitigation obligations.

b. If the Permittee is unable to establish a letter of credit, it shall arrange a different security instrument with Central Valley Water Board staff within 90 days of issuance of this Order.

c. The Permittee shall finalize and execute the security instrument within sixty (60) days after the Central Valley Water Board staff approves the draft security instrument. The Permittee shall have a security instrument in place until the Permittee has completed the required compensatory mitigation and achieved all performance standards.

d. If the Permittee has not completed the required compensatory mitigation and achieved all performance standards within sixty (60) days prior to the security instrument's expiration date, the Permittee shall obtain an extension or a new security instrument. The new security instrument shall be subject to Central Valley Water Board staff acceptance following the same procedure described in the conditions above.

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 0.28 acres of stream channel by purchasing 0.56 Aquatic Resource Credits in the Cosumnes/Mokelumne Rivers Aquatic Resource Watershed Service Area. Required credits shall be purchased from the National Fish and Wildlife Foundation (NFWF)'s Sacramento District California In-Lieu Fee Program.

b. The Permittee is required to provide compensatory mitigation for the authorized impact to 0.008 acres of wetlands by purchasing 0.02 Aquatic Resource Credits in the Cosumnes/Mokelumne Rivers Aquatic Resource Watershed 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 4. [Establishment (Est.), Re-establishment (Re-est.), Rehabilitation (Reh.), Enhancement (Enh.), Preservation (Pres.), Unknown].

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

Aquatic Resource Type	Mitigation Type	Units	Est.	Re-est.	Reh.	Enh.	Pres.	Unknown
Stream Channel	In-Lieu Fee Credits	Acres						0.56
Wetland	In-Lieu Fee Credits	Acres						0.02

K. Certification Deviation

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

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

XV. Water Quality Certification

I hereby issue the Order for the Laguna Creek and Whitehouse Creek Multi-

Functional Corridor Project, WDID # 5A34CR00897, 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

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Attachment A – Project Maps

Figure 1: Project Vicinity

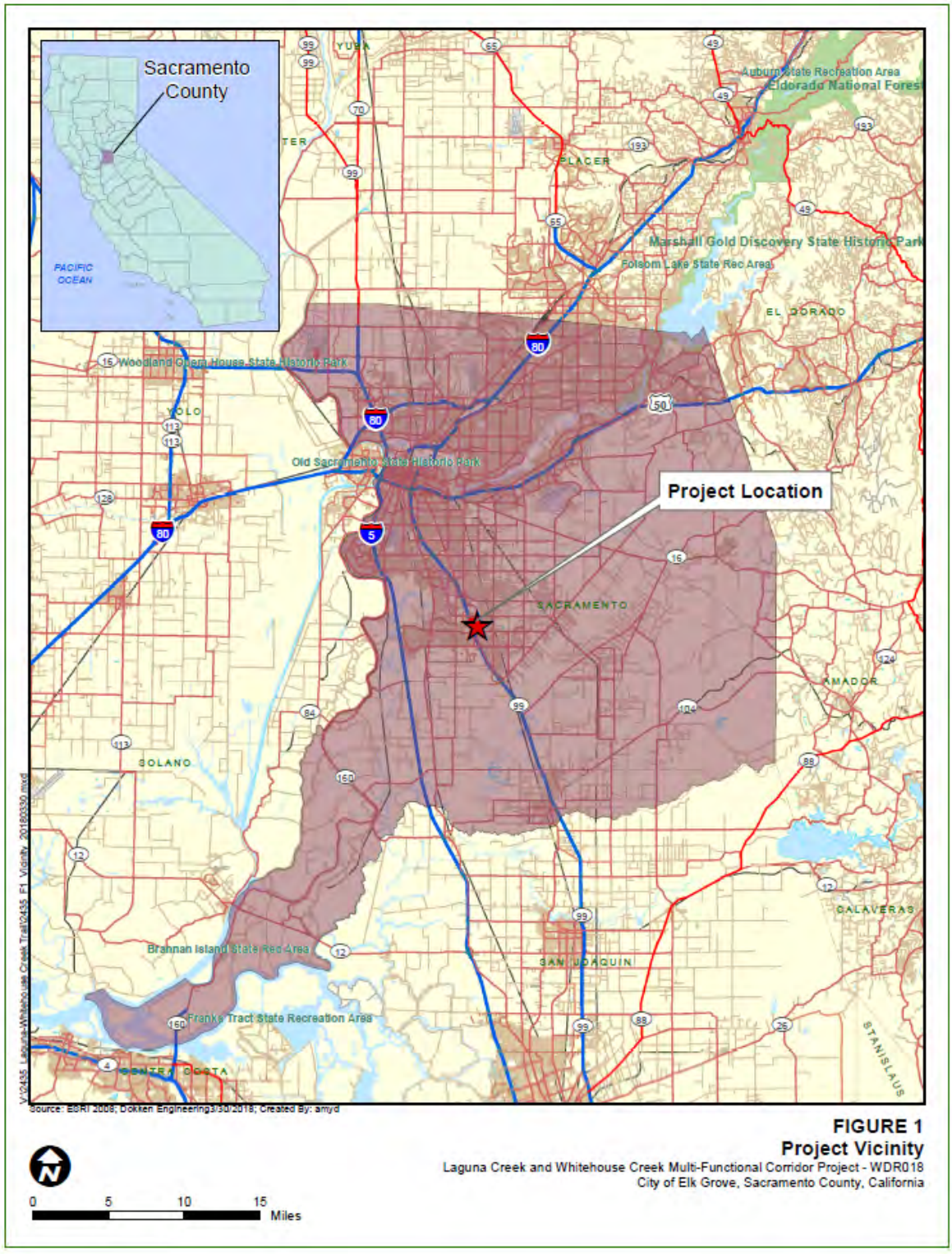

FIGURE 1
Project Vicinity
Laguna Creek and Whitehouse Creek Multi-Functional Corridor Project - WDR018
City of Elk Grove, Sacramento County, California

Figure 2: Project Location

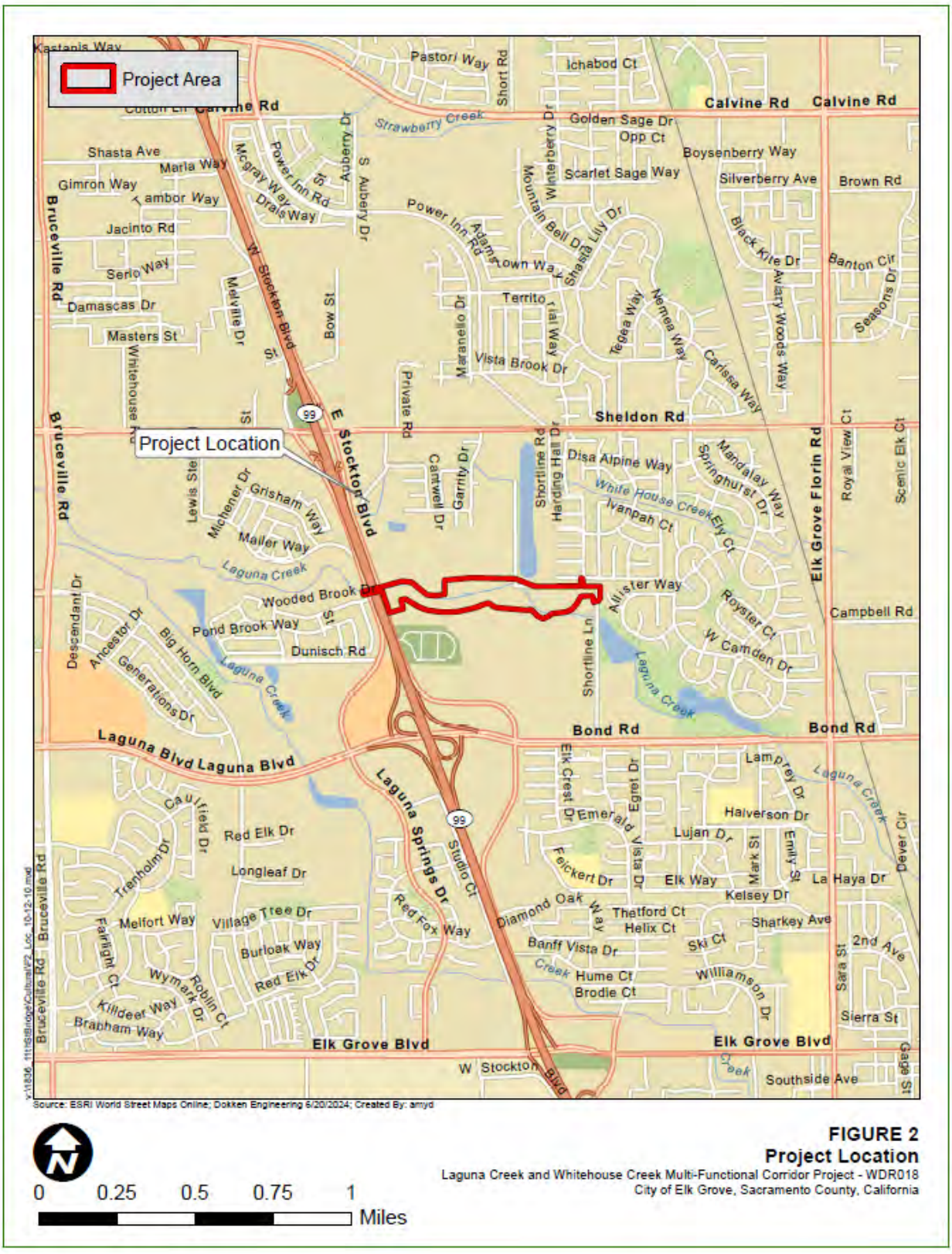

FIGURE 2
Project Location
Laguna Creek and Whitehouse Creek Multi-Functional Corridor Project - WDR018
City of Elk Grove, Sacramento County, California

Figure 3: Project Features Page 1 of 4

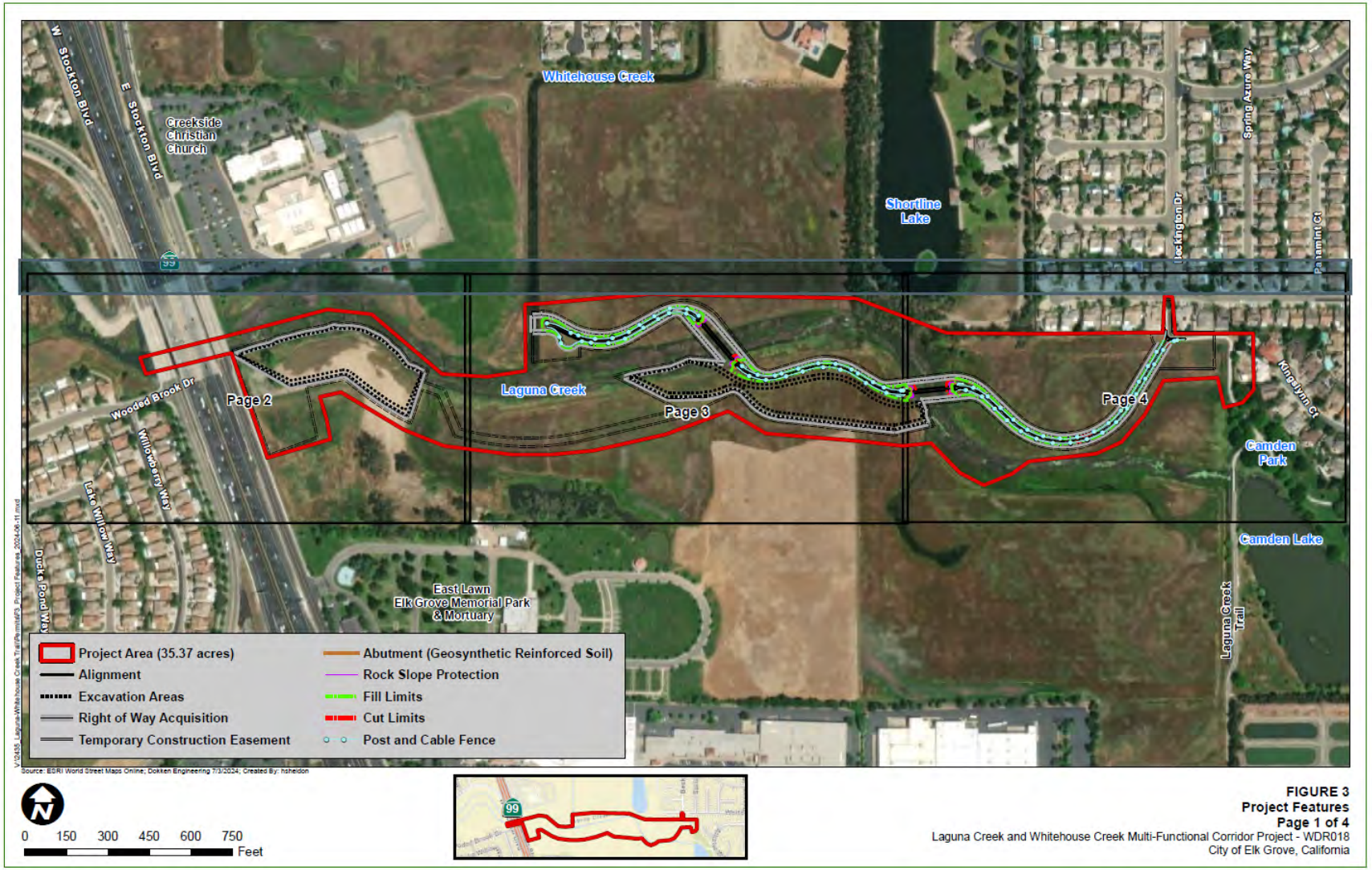

Figure 4: Project Features Page 2 of 4

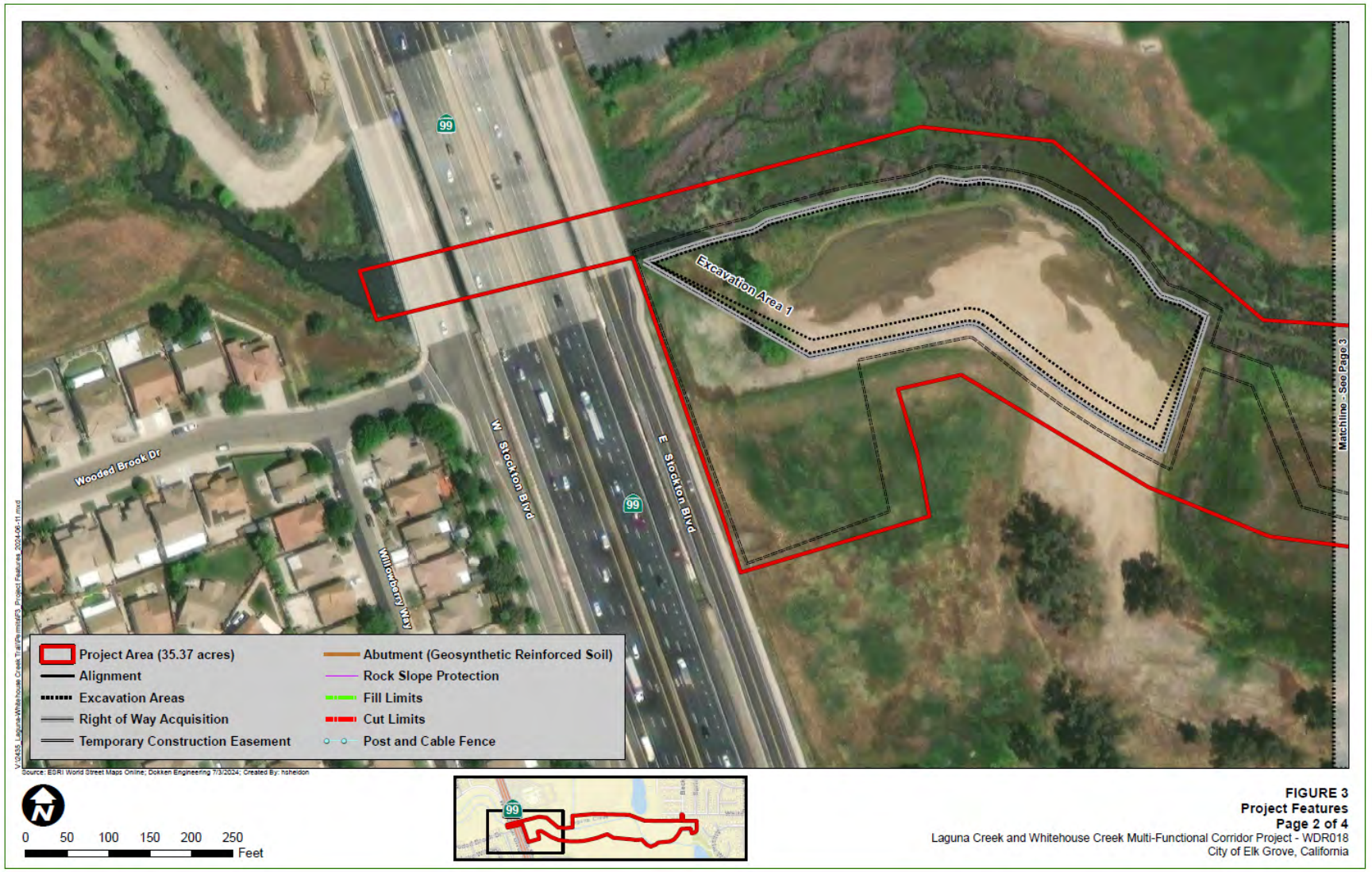

Figure 5: Project Features Page 3 of 4

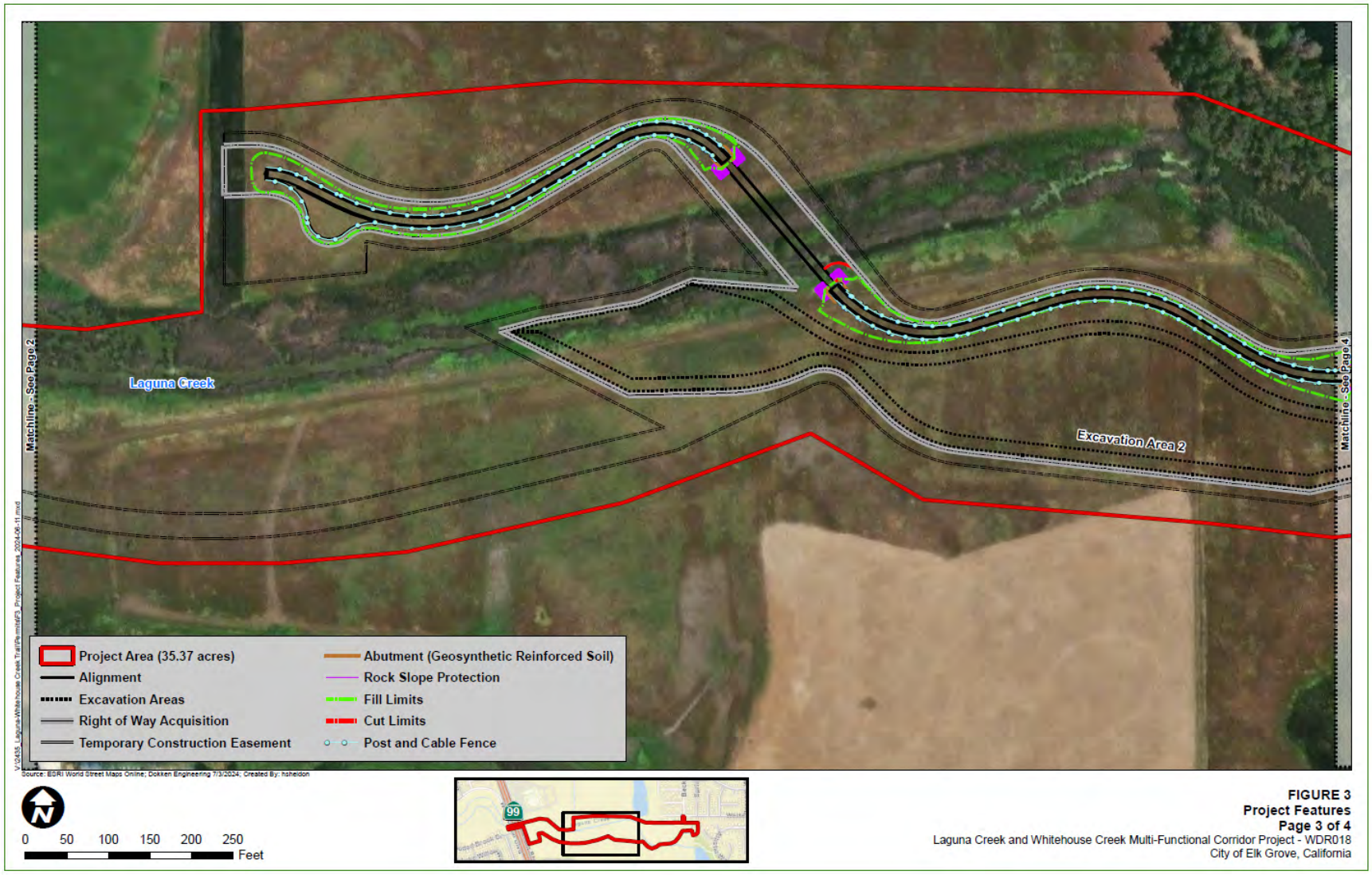

Figure 6: Project Features Page 4 of 4

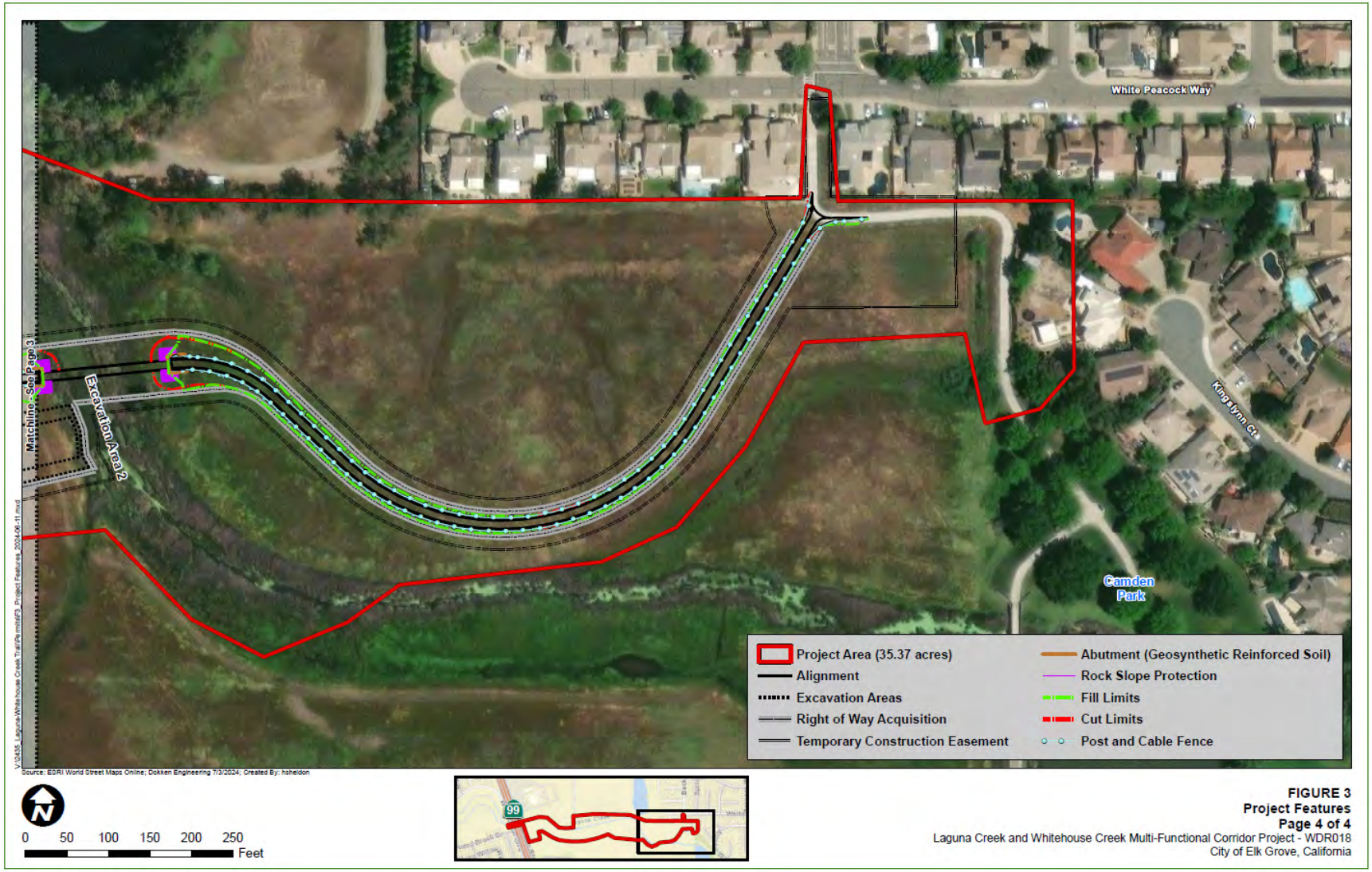

Figure 7: Vegetation Communities Page 1 of 4

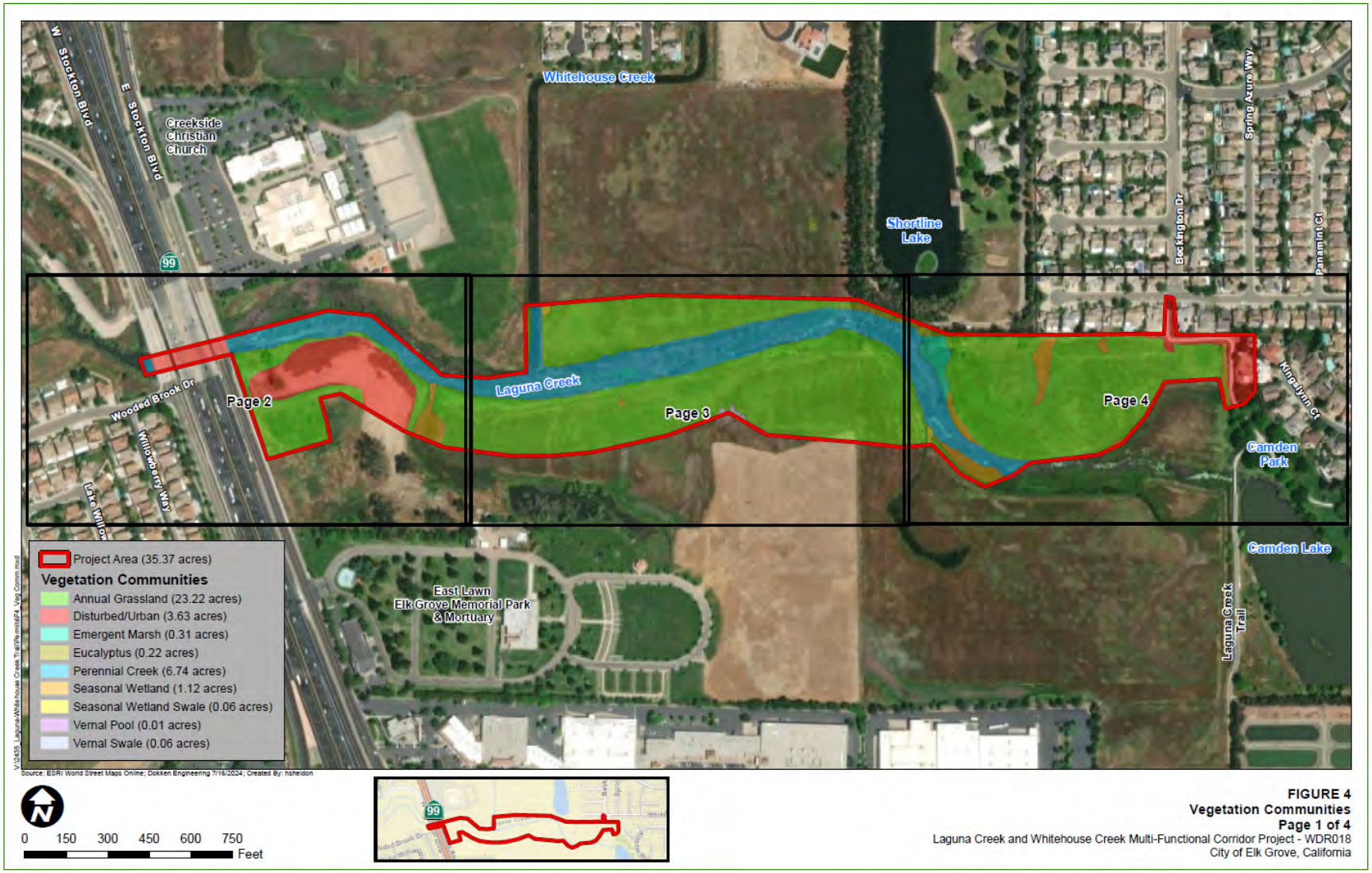

Figure 8: Vegetation Communities Page 2 of 4

Figure 9: Vegetation Communities Page 3 of 4

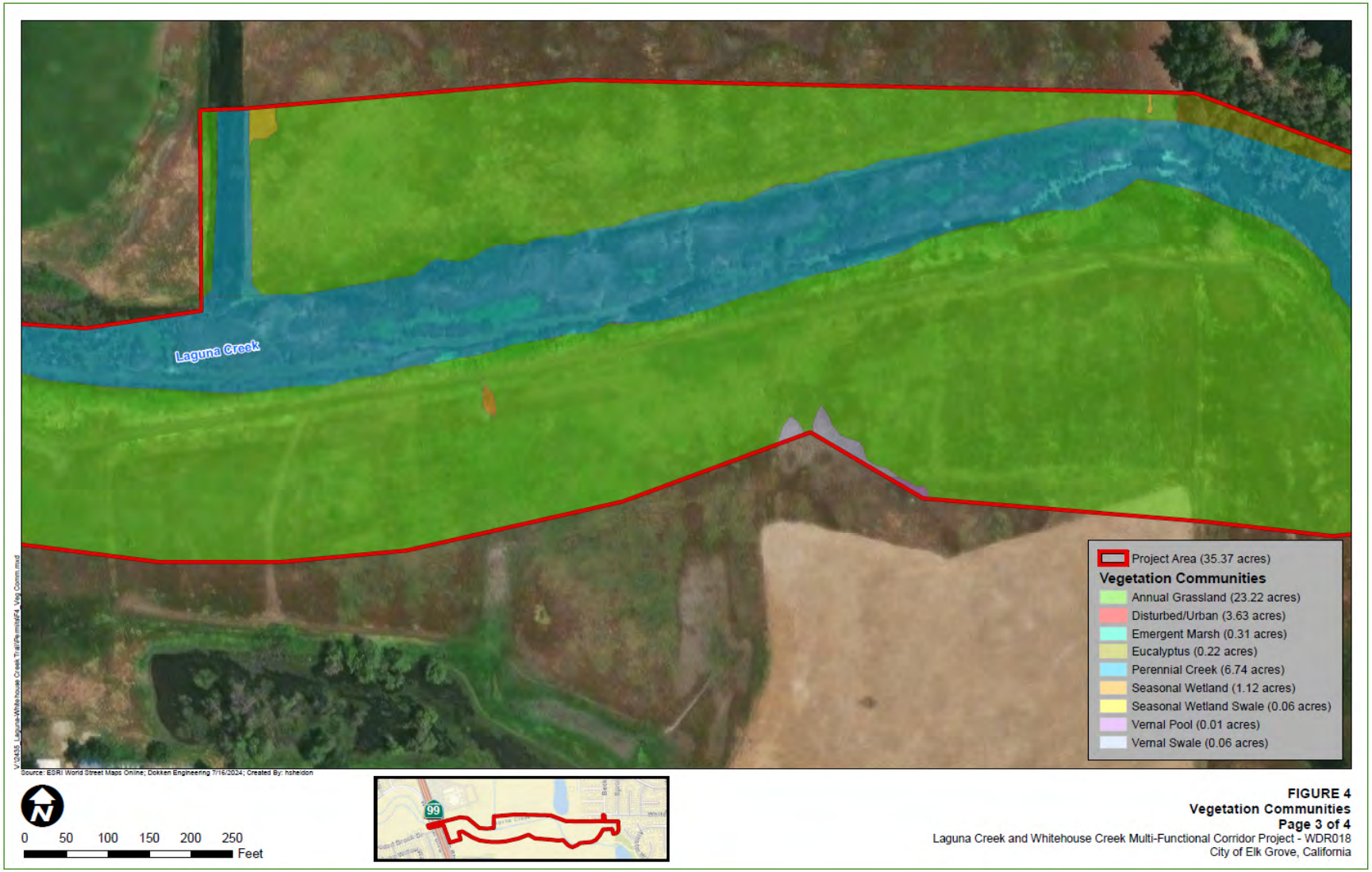

Figure 10: Vegetation Communities Page 4 of 4

Figure 11: Project Impacts to Jurisdictional Waters Page 1 of 4

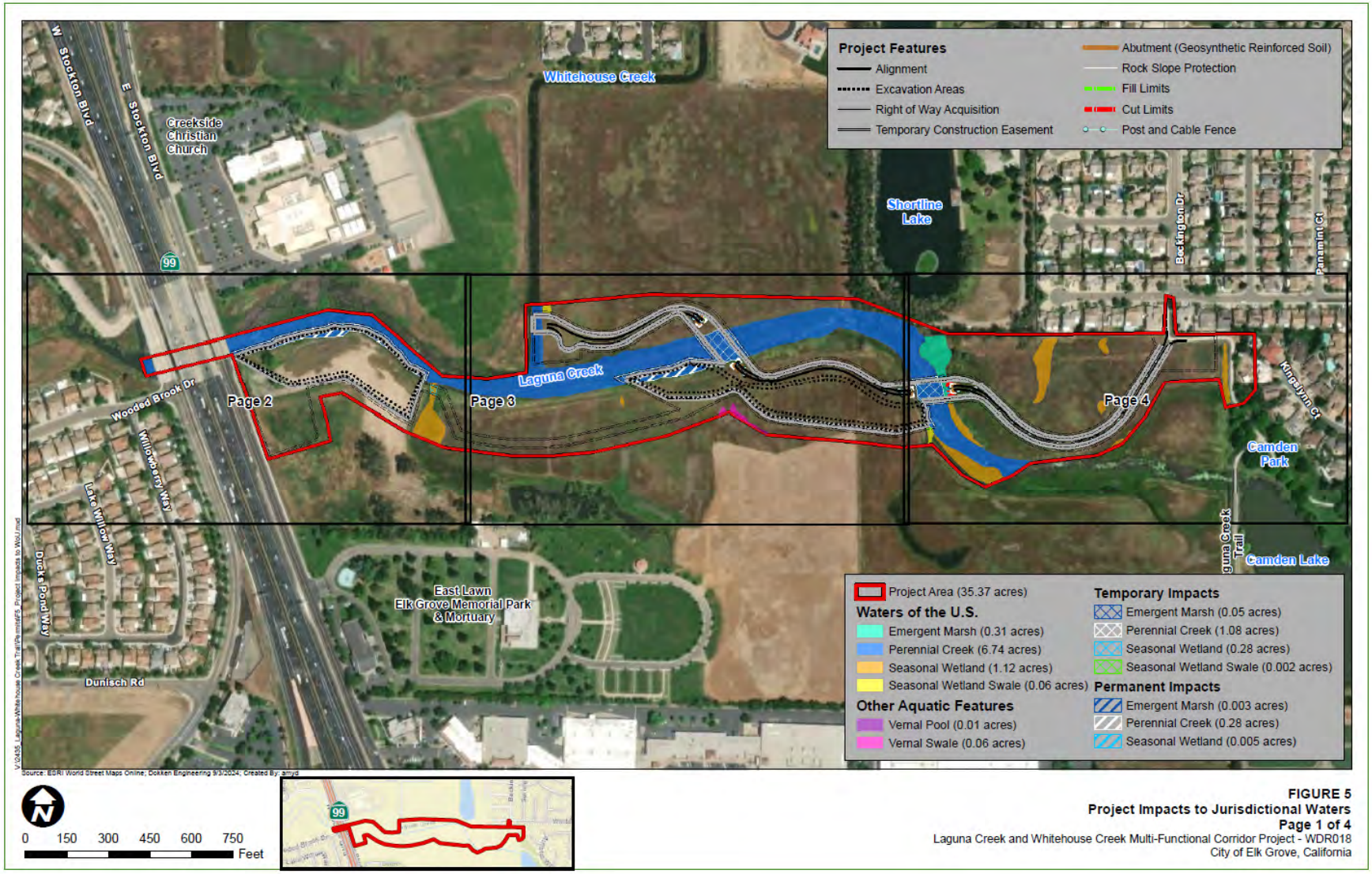

Figure 12: Project Impacts to Jurisdictional Waters Page 2 of 4

Figure 13: Project Impacts to Jurisdictional Waters Page 3 of 4

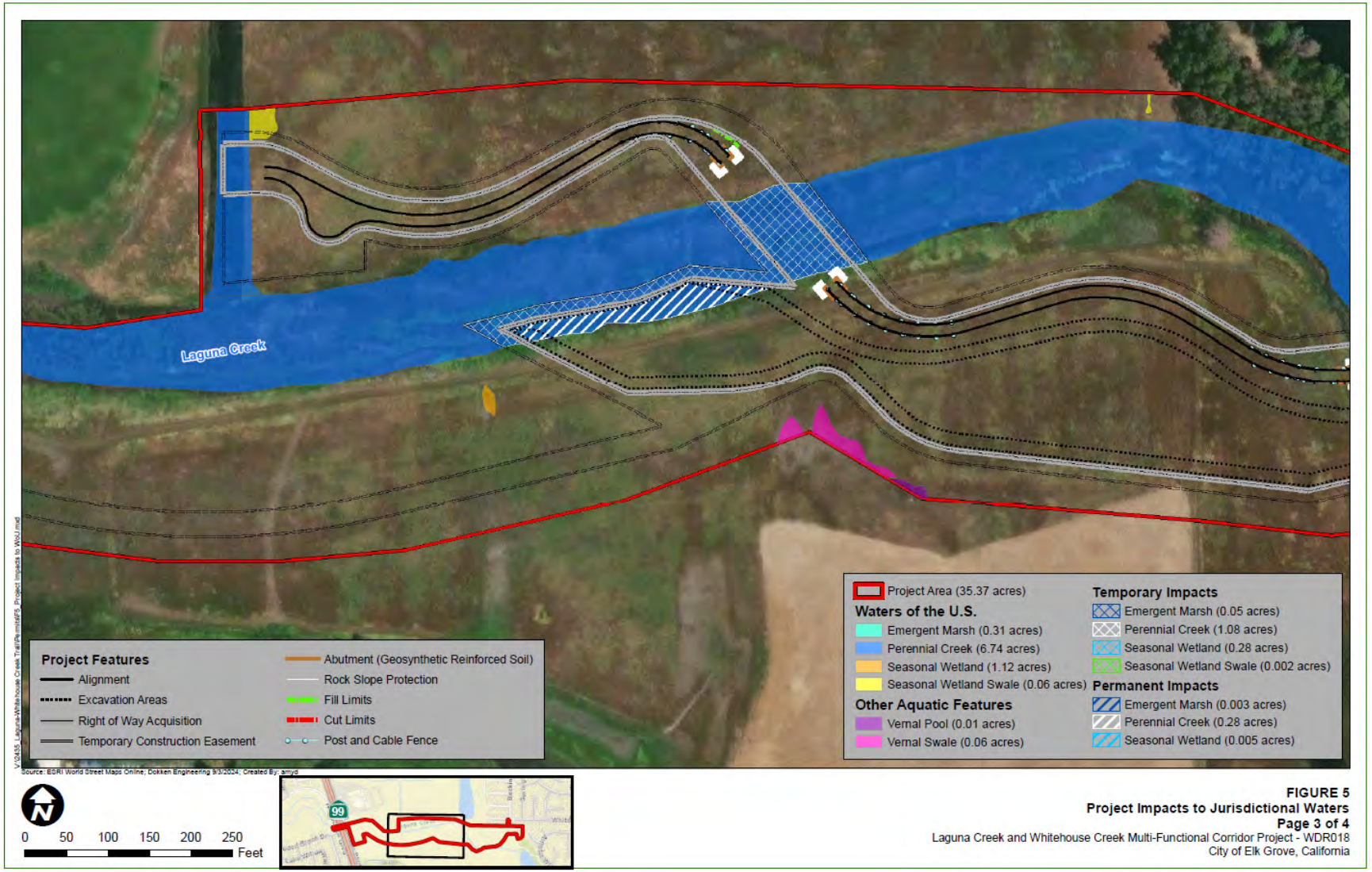

Figure 14: Project Impacts to Jurisdictional Waters Page 4 of 4

FIGURE 5
Project Impacts to Jurisdictional Waters
Page 4 of 4
Laguna Creek and Whitehouse Creek Multi-Functional Corridor Project - WDR018
City of Elk Grove, California

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Attachment B – Receiving Waters, Impacts and Mitigation Information

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

Table 1: Receiving Water(s) Information

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
Stream Channel Impacts	Laguna Creek	Stream	519.11	Laguna Creek	N/A	Benthic Community Effects, Toxicity	N/A
Wetland Impacts	Laguna Creek	Wetland	519.11	Laguna Creek	N/A	Benthic Community Effects, Toxicity	N/A

Individual Direct Impact Locations

The following tables show individual impacts.

Table 2: Individual Temporary Fill/Excavation Impact Information

Impact Site ID	Latitude	Longitude	Indirect Impact Requiring Mitigation?	Acres	Cubic Yards	Linear Feet
Stream Channel Impacts	38.430869°	-121.39694°	No	1.08	500	1,200
Wetland Impacts	38.430869°	-121.39694°	No	0.33	0	163

Table 3: Individual Permanent Fill/Excavation Impact Information

Impact Site ID	Latitude	Longitude	Indirect Impact Requiring Mitigation?	Acres	Cubic Yards	Linear Feet
Stream Channel Impacts	38.430869°	-121.39694°	No	0.28	881	740
Wetland Impacts	38.430869°	-121.39694°	No	0.008	7	50

Compensatory Mitigation Information

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

In-Lieu Fee Compensatory Mitigation Information

Table 4: In-Lieu Fee Program

In-Lieu Fee Program Name:	National Fish and Wildlife Foundation Sacramento District California In-Lieu Fee Program
Website:	Sacramento District California In-Lieu Fee Program | NFWF (https://www.nfwf.org/mitigating-impacts/sacramento-district-california-lieu-fee-program?activeTab=tab-1)
In-Lieu Fee Program Contact Name:	Heather Broda
Phone:	(415) 243-3105
Email:	Heather.Broda@NFWF.org
In-Lieu Fee Program Location - County:	Sacramento County
Latitude:	38.430568°
Longitude:	-121.396268°

Table 5: Mitigation Type Information

Aquatic Resource Credit Type	Acres	Linear Feet	Number of Credits Purchased
Stream Channel	0.28	740	TBD
Wetland	0.008	50	TBD

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Attachment C – CEQA Findings of Fact

A. Environmental Review

On 26 July 2023, the City of Elk Grove, as lead agency, adopted an Initial Study/Mitigated Negative Declaration (IS/MND) (State Clearinghouse (SCH) No. 2022110059) for the Project and filed a Notice of Determination (NOD) at the SCH on 30 August 2023. 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 City of Elk Grove's adopted environmental document comports with the requirements of CEQA and is valid. (Public Resources Code, section 21167.3.) The Central Valley Water Board has reviewed and considered the environmental document and finds that the environmental document prepared by City of Elk Grove 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 City of Elk Grove for all mitigation measures that have been adopted for the Project to reduce potential significant impacts. (Public Resources Code, section 21081.6, subd. (a)(1); California Code of Regulations, title 14, section 15074, subd. (d).)

B. Incorporation by Reference

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

All CEQA project impacts, including those discussed in subsection C below, are analyzed in detail in the Project Final IS/MND which is incorporated herein by reference. The Project IS/MND is available at: Laguna Creek and Whitehouse Creek Multi-Functional Corridor Project (WDR018) (ca.gov) (https://ceqanet.opr.ca.gov/2022110059).

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, are incorporated herein by reference.

C. Findings

The IS/MND describes the potential significant environmental effects to water resources that were mitigated in the IS/MND. Having considered the whole of the record, including comments received during the public review process, the Central Valley Water Board makes the following findings:

> *Mitigation measures have been required in the Project which avoid or mitigate to a less than significant level the potentially significant environmental effect as described in the IS/MND.*

a.i. Less than Significant with Mitigation Incorporated:

With proposed mitigation measures, the project is unlikely to have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service.

a.ii. Facts in Support of Finding:

USFWS, CDFW CNDDB, CNPS, and NMFS database queries identified 51 species of special-status plant and wildlife species with potential to occur within the Project vicinity, 3 of which were identified as present within the Project area: Swainson's hawk (Buteo swainsoni), white-tailed kite (Elanus leucurus), and western pond turtle (Emys marmorata). Two species, burrowing owl (Athena cunicularia) and Sanford's arrowhead (Sagittaria sanfordii) were determined to have a high potential to occur with the BSA; while song sparrow "Modesto population" (Melospiza melodia), tricolored blackbird (Agelaius tricolor), yellow-headed blackbird (Xanthocephalus xanthocephalus), vernal pool fairy shrimp (Branchinecta lynchi), vernal pool tadpole shrimp (Lepidurus packardi), Boggs Lake hedge-hyssop (Gratiola heterosepala), dwarf downingia (Downingia pusilla), legenere (Legenere limosa), wolly rose-mallow (Hibiscus lasiocarpos var. occidentalis), giant garter snake (Thamnophis gigas), and western spadefoot (Spea hammondii) were determine to have a low to moderate potential of occurring within the BSA.

Special Status Plants

Rare plant surveys were conducted, including habitat assessments and focused surveys for special status plant species. No special status plant species were identified during the survey efforts.

Implementation of the following mitigation measures would reduce potential impacts to a less-than-significant level:

> BIO-5: A focused rare plant survey shall be conducted during the blooming season of each special status plant species with potential to occur within the Project area prior to the start of construction (Boggs Lake hedge-hyssop, dwarf downingia, legenere, Sanford's arrowhead, and wooly rose-mallow). If rare plants are discovered during these surveys, additional Environmentally Sensitive Area (ESA) fencing or relocation shall be implemented to avoid and minimize impact to the species. Consultation with CDFW may be required to determine appropriate buffer distances and/or relocation of species populations.
>
> BIO-25: 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 spreading of noxious weeds.

BIO-26: All hydro seed and plant mixes shall consist of a biologist approved seed mix.

Special Status Wildlife

Preliminary literature research was conducted to determine the special status wildlife species with the potential to occur in the vicinity of the Project. A review of CNDDB, USFWS, and NOAA Fisheries online databases concluded that 28 special status wildlife species had the potential to occur within the Project vicinity. Analysis of specific habitat requirements and current and historical occurrences determined the BSA was potentially suitable for following species:

- Swainson's hawk (Buteo swainsoni),
- white-tailed kite (Elanus leucurus),
- burrowing owl (Athena cunicularia),
- song sparrow "Modesto population" (Melospiza melodia),
- tricolored blackbird (Agelaius tricolor), • yellow-headed blackbird (Xanthocephalus xanthocephalus),
- vernal pool fairy shrimp (Branchinecta lynchi),
- vernal pool tadpole shrimp (Lepidurus packardi),
- giant garter snake (Thamnophis gigas),
- western pond turtle (Emys marmorata), and
- western spadefoot (Spea hammondii).

Field surveys included habitat assessments, and focused surveys for special status wildlife species. Swainson's hawk, white-tailed kite, and western pond turtle were observed during the field surveys and are considered present within the BSA. No other special status species were observed during the field surveys but are still considered to have the potential of occurring within the BSA based on the presence of potentially suitable habitat and recently documented regional occurrences.

Implementation of the following mitigation measures would reduce potential impacts to a less-than-significant level:

BIO-6: Should work occur within the Swainson's hawk nesting season (February 1st-August 31st), the Project biologist must conduct a pre-construction nesting survey consistent with survey methods recommended by the Swainson's Hawk Technical Advisory Committee within ¼ mile of the Project and two weeks prior to construction clearing and grubbing activities. Should a nesting Swainson's hawk pair be found within ¼ mile of the Project, the Project biologist will consult with the wildlife agencies for appropriate buffers. The contractor shall not work within the 1/2-mile

nesting area until the appropriate buffer is established and is prohibited from conducting work that could disturb the birds (as determined by the Project biologist and in consultation with wildlife agencies) in the buffer area until the Project biologist determines the young have fledged.

BIO-7: Valley grasslands in the Project area are considered Swainson's hawk foraging habitat and are protected under Chapter 16.130 of the City Municipal Code, Swainson's Hawk Impact Mitigation Fees. The City shall mitigate for the permanent loss of Swainson's hawk foraging habitat at a 1:1 ratio. Mitigation can be accomplished through participation in the City of Elk Grove Swainson's Hawk Impact Mitigation Fees Ordinance, other method acceptable to the California Department of Fish and Wildlife, or other method acceptable to the Elk Grove City Council pursuant to section 16.130.110.

BIO-8: Vegetation removal or earthwork shall be minimized during the nesting season (February 1st – August 31st). If vegetation removal is required during the nesting season (February 1st – August 31st), a pre-construction nesting bird survey must be conducted within 7 days prior to vegetation removal. Within 2 weeks of the nesting bird survey, all vegetation cleared by the biologist will be removed by the contractor.

A minimum 100-foot no-disturbance buffer shall be established around any active nest of migratory birds and a minimum 300-foot no-disturbance buffer shall be established around any nesting raptor species. The contractor must immediately stop work in the buffer area until the appropriate buffer is established and is prohibited from conducting work that could disturb the birds (as determined by the Project biologist and in consultation with wildlife agencies) in the buffer area until a qualified biologist determines the young have fledged. A reduced buffer can be established if determined appropriate by the Project biologist and approved by CDFW.

BIO-9: The Project biologist must conduct preconstruction surveys consistent with the 2012 CDFW Staff Report on Burrowing Owl Mitigation. If no burrowing owls are detected, no further action for burrowing owl will be required. If burrowing owls are observed during the preconstruction surveys, consultation with CDFW shall be required to determine appropriate no-work buffer distances, avoidance strategies and/or mitigation for impacted nest sites.

BIO-1: Prior to the start of construction activities, the Project limits in proximity to jurisdictional waters shall be marked with high visibility Environmentally Sensitive Area (ESA) fencing or staking to ensure construction will not further encroach into waters. The Project biologist will periodically inspect the ESA to ensure sensitive locations remain undisturbed.

BIO-2: Contract specifications will include the following BMPs, where

applicable, to reduce erosion during construction:

- Implementation of the Project shall require approval of a site-specific Storm Water Pollution Prevention Plan (SWPPP) or Water Pollution Control Program (WPCP) that would implement effective measures to protect water quality, which may include a hazardous spill prevention plan and additional erosion prevention techniques;
- Existing vegetation shall be protected in place where feasible to provide an effective form of erosion and sediment control. In locations where this is not feasible, the remaining BMPs listed below shall be implemented;
- Stabilizing materials shall be applied to the soil surface to prevent the movement of dust from exposed soil surfaces on construction sites as a result of wind, traffic, and grading activities;
- Roughening and/or terracing shall be implemented to create unevenness on bare soil through the construction of furrows running across a slope, creation of stair steps, or by utilization of construction equipment to track the soil surface. Surface roughening or terracing reduces erosion potential by decreasing runoff velocities, trapping sediment, and increasing infiltration of water into the soil, and aiding in the establishment of vegetative cover from seed.
- Soil exposure shall be minimized through the use of temporary BMPs, groundcover, and stabilization measures;
- The contractor shall conduct periodic maintenance of erosion- and sediment-control measures.

BIO-3: To conform to water quality requirements, the Project shall implement the following:

- Vehicle maintenance, staging and storing equipment, materials, fuels, lubricants, solvents, and other possible contaminants shall be a minimum of 100 feet from surface waters. Any necessary equipment washing shall occur where the water cannot flow into surface waters. The Project specifications shall require the contractor to operate under an approved spill prevention and clean-up plan;
- Construction equipment shall not be operated in flowing water;
- Construction work shall be conducted according to site-specific construction plans that minimize the potential for sediment input to waters of the U.S. and State;
- Raw cement, concrete or concrete washings, asphalt, paint or other coating material, oil or other petroleum products, or any other

substances that could be hazardous to aquatic life shall be prevented from contaminating the soil or entering surface waters;

- Equipment used in and around surface waters shall be in good working order and free of dripping or leaking contaminants; and,
- Any surplus concrete rubble, asphalt, or other debris from construction shall be taken to an approved disposal site.

BIO-4: All temporarily disturbed areas shall be restored onsite to pre-Project conditions or better prior to Project completion. Where possible, vegetation shall be trimmed rather than fully removed with the guidance of the Project biologist.

BIO-10: Protective silt fencing shall be installed between the adjacent vernal pool habitat and the construction area limits to prevent accidental disturbance during construction and to protect water quality within the aquatic habitat during construction.

BIO-11: A Worker Environmental Awareness Program (WEAP) shall be implemented to educate construction workers about the presence of sensitive habitat and special status plant and wildlife species near the Project area and to instruct them on proper avoidance measures.

BIO-12: The proposed Project shall mitigate for potential impacts to vernal pool crustaceans by conducting USFWS protocol-level surveys, or assuming presence of the species in the Project area. Protocol-level surveys for the vernal pool fairy shrimp and vernal pool tadpole shrimp shall occur in suitable habitats occurring in the proposed Project area and within 250 feet of adjacent suitable habitat. If vernal pool fairy shrimp or vernal pool tadpole shrimp are not detected during the protocol-level surveys and if the USFWS concurs that neither species is present, no further mitigation is required. If either of the species is detected during protocol-level surveys or the presence of the species is assumed in lieu of conducting surveys, and proposed activities will result in direct or indirect impacts to potential habitat, the following measures shall be implemented:

1. Formal consultation with the USFWS shall be initiated under Section 7 of the Endangered Species Act. No direct or indirect impacts to suitable habitat for these species shall occur until Incidental Take authorization has been obtained from the USFWS.
2. For every acre of habitat directly or indirectly affected, at least two vernal pool preservation credits shall be dedicated in a USFWS-approved ecosystem preservation bank (2:1 ratio). With USFWS approval, appropriate payment into an in-lieu fee fund or on-site preservation may be used to satisfy this measure.
3. For every acre of habitat directly affected, at least one vernal pool creation credit will be dedicated in a USFWS-approved habitat

mitigation bank (1:1 ratio). With USFWS approval, appropriate payment into an in-lieu fee fund, on-site creation, or off-site creation may be used to satisfy this measure.

BIO-13: To avoid impacts to western pond turtles, the Project biologist will conduct a pre-construction survey of the Laguna Creek, Whitehouse Creek, and adjacent banks and upland habitats within the Project area. Surveys shall be conducted no more than 24 hours prior to onset of construction. If a turtle is located within the construction area, a qualified biologist will capture the turtle and relocate it to an appropriate habitat a safe distance from the construction site.

BIO-14: If water pumps are used to dewater the Project Area, pump intakes shall be screened and equipped with an energy dissipater to protect aquatic species. The energy dissipater should be large enough to reduce approach velocity to 0.33 feet per second or less and be enclosed with ½ inch metal screen. The surface area of the energy dissipater shall be determined by dividing the maximum diverted flow, by the allowable approach velocity (example: 1.0 ft^3 per second/ 0.33 feet per second = 3.0 ft^2 surface area).

BIO-15: If suitable habitat for western spadefoot toad is to be removed from October through April, a qualified biologist shall conduct a preconstruction survey for this species within 50 feet of suitable habitat that is proposed to be impacted. The survey shall be conducted a maximum of one week prior to removal of suitable breeding habitat.

If no spadefoot toads are detected during the survey, no further measures are required. If this species is observed on-site, the biologist shall move it to suitable habitat in a safe location outside of the construction zone.

If western spadefoot toads are detected during the preconstruction survey, a qualified biologist shall be on-site during initiation of construction activities within 50 feet of suitable habitats and shall provide WEAP training to all personnel working within 50 feet of suitable habitats.

In the event that a western spadefoot toad is observed within an active construction zone, the contractor shall temporarily halt construction activities until a biologist has moved the toad to a safe location, within similar habitat, outside of the construction zone.

BIO-16: To allow western spadefoot and other subterranean wildlife enough time to escape initial clearing and grubbing activities, equipment used during initial clearing and grubbing in annual grassland or wetland habitats shall be operated at speeds no greater than 3 miles per hour.

BIO-17: Construction activity within giant garter snake habitat should be conducted between May 1st and October 1st. This is the active period for giant garter snakes and direct mortality is lessened, because snakes are expected to actively move and avoid danger. Between October 2 and April

30 contact the U.S. Fish and Wildlife Service Sacramento Office to determine if additional measures are necessary to minimize and avoid take.

BIO-18: Confine clearing to the minimal area necessary to facilitate construction activities. Flag and designate avoided giant garter snake habitat within or adjacent to the Project area as Environmentally Sensitive Areas. The area should be avoided by all construction personnel.

BIO-19: Tightly woven erosion control matting (mesh size less than 0.25 inch) or similar material shall be used for erosion control and other purposes at the Project site to ensure that snakes are not trapped or become entangled by the erosion control material. The edge of the material shall be buried in the ground to prevent snakes from crawling underneath the material. The use of plastic, monofilament, jute, or similar erosion control netting with mesh sizes larger than 0.25 inch that could entangle snakes will be prohibited.

BIO-20: Construction personnel must receive worker environmental awareness training. Awareness training shall be given by the Project biologist(s) who have experience in giant garter snake natural history. This training instructs workers to recognize giant garter snake and their habitat(s).

BIO-21: 24-hours prior to construction activities, the Project area should be surveyed for giant garter snakes. Survey of the Project area should be repeated if a lapse in construction activity of two weeks or greater has occurred. If a snake is encountered during construction, activities shall cease until appropriate corrective measures have been completed or it has been determined that the snake will not be harmed. Report any sightings and any incidental take to the U.S. Fish and Wildlife Service Sacramento Office immediately by telephone at (916) 414-6600.

BIO-22: Any dewatered habitat must remain dry for at least 15 consecutive days after April 15 and prior to excavating or filling of the dewatered habitat.

BIO-23: After completion of construction activities, remove any temporary fill and construction debris and, wherever feasible, restore disturbed areas to pre-Project conditions. Restoration work includes, as applicable, activities such as replanting species removed from banks or replanting emergent vegetation in the active channel.

BIO-24: The proposed Project shall mitigate for potential impacts to giant garter snake by one of the following compensatory mitigation strategies:

1. The City shall provide all necessary compensatory mitigation requirements pursuant Section 7 consultation with the USFWS through federal nexus with United States Army Corps of Engineers (USACE) during Clean Water Act Section 404 permitting process.

2. The City will compensate for the loss of giant garter snake habitat with purchase of required mitigation credits at a USFWS and CDFW approved mitigation bank to offset permanent and temporary impacts. Temporary impacts shall be compensated at 1:1 ratio, and permanent impacts to upland and aquatic GGS habitat shall be compensated at 3:1. Acreages may be adjusted during final design, which would change the total acres of mitigation, but the ratios must stay the same.

BIO-27: The contractor shall not use herbicides to control invasive, exotic plants or apply rodenticides during construction.

BIO-28: The contractor shall dispose of all food-related trash in closed containers, and must remove it from the Project area each day during construction. Construction personnel shall not feed or attract wildlife to the Project area.

b.i. Less than Significant with Mitigation Incorporated:

With proposed mitigation measures, the project is unlikely to have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service.

b.ii. Facts in Support of Finding:

The proposed Project will include construction of a maintenance access road along Laguna Creek and Whitehouse Creek. The maintenance access road will consist of approximately 10 feet of pavement with unpaved shoulders ranging from 2 to 3 feet, and where determined feasible, single span pre-fab steel or concrete bridges to provide necessary access across Laguna and Whitehouse Creeks.

Field surveys and habitat assessments within the BSA determined no riparian habitat exists along the banks of Laguna and Whitehouse Creeks. However, Laguna and Whitehouse Creeks are considered non-wetland sensitive natural habitats, as perennial creeks. A small permanent impact area will occur to Laguna Creek for fill material necessary for the Project alignment adjacent to East Stockton Boulevard at the southwestern terminus of the Project near the church parking lot. No permanent impacts are anticipated for Whitehouse Creek. Temporary impacts include areas in addition to permanent impacts that would be temporarily disturbed during construction to facilitate construction such as access routes, and potential dewatering activities. The Project is not anticipated to affect creek habitat. The Project will minimize impacts to sensitive natural creek habitats with the use of avoidance and minimization measures BIO-1 through BIO-4; therefore, this impact is less than significant with mitigation incorporated.

BIO-1, BIO-2, BIO-3, BIO-4- See Attachment C, Section C.(1)a.ii. above.

c.i. Less than Significant with Mitigation Incorporated:

With proposed mitigation measures, the project is unlikely to have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.

c.ii. Facts in Support of Finding:

Potential jurisdictional wetlands within the BSA were assessed and potential wetland features were evaluated for presence of the following wetland indicators: hydrophytic vegetation, hydric soils and wetland hydrology. Surveys of potential jurisdictional waters were confirmed using aerial imagery and field verification, and followed the guidelines provided in the USACE Wetland Delineation Manual (USACE 1987), Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region (USACE 2008a), and A Field Guide to the Identification of the Ordinary High Water Mark (OHWM) in the Arid West Region of the Western United States (USACE 2008b). Wetlands that exhibit all three wetland indicators are considered waters of the U.S. if they are hydraulically connected to another water of the U.S. Waters of the state can include wetlands that are not hydraulically connected to another water body if they provide habitat for wildlife or special status plant species. Prior to the current 2018 survey efforts, ECORP Consulting Inc. had performed a wetland delineation for the East Lawn Cemetery Expansion (2006-2007). These delineation results have since expired; however, the mapping efforts from the ECORP delineation were used as reference for aquatic feature locations.

Jurisdictional delineations were conducted to identify jurisdictional resources present within the BSA. Observed OHWM and wetland features were mapped in the field.

Implementation of the following mitigation measures would reduce potential impacts to a less-than-significant level:

BIO-1, BIO-2, BIO-3, BIO-4- See Attachment C, Section C.(1)a.ii. above.

d.i. Less than Significant with Mitigation Incorporated:

With proposed mitigation measures, the project is unlikely to conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.

d.ii. Facts in Support of Finding:

In 2003, the City established and adopted Chapter 16.130 (Swainson’s Hawk Impact Mitigation Fees) of the Elk Grove Municipal Code, which establishes mitigation policies tailored for projects in Elk Grove that have been determined through the CEQA process to result in a “potential significant impact” on Swainson’s hawk foraging habitat (City of Elk Grove, 2018).

Chapter 16.130, often referred as the “Swainson’s Hawk Code,” serves as a conservation strategy that is achieved through the selection of appropriate replacement lands and through management of suitable habitat value on those lands in perpetuity.

The Project will permanently remove approximately 6.2 acres of Swainson’s hawk valley grassland foraging habitat. Mitigation measure BIO-7 shall be implemented to compensate for permanent impacts to Swainson’s hawk foraging habitat pursuant the City’s “Swainson’s Hawk Code.” With the implementation of mitigation measure BIO-7, Project impacts regarding local policies or codes protecting biological resources would be less than significant with mitigation.

BIO-7- See Attachment C, Section C.(1)a.ii. above.

e.i. Less than Significant with Mitigation Incorporated:

With proposed mitigation measures, the project is unlikely to cause a substantial adverse change in the significance of a historical resource as defined in §15064.5.

e.ii. Facts in Support of Finding:

The records search, consultation with Native American organizations and governments, and the field survey did not identify any historical resources, as defined in §15064.5; however, with any project, there is always the possibility that unknown cultural resources may be encountered during construction. With the implementation of Mitigation Measure CR-1 potential impacts from the Project would be less than significant with mitigation incorporated.

CR-1: If previously unidentified cultural materials are unearthed during construction, work shall be halted in that area until a qualified archaeologist can assess the significance of the find and develop a plan for documentation and removal of resources if necessary. Additional archaeological survey will be needed if Project limits are extended beyond the present survey limits.

f.i. Less than Significant with Mitigation Incorporated:

With proposed mitigation measures, the project is unlikely to cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5.

f.ii. Facts in Support of Finding:

The records search, consultation with Native American organizations and governments, and the field survey did not identify any cultural resources within or immediately adjacent the APE. The buried cultural resource analysis concluded that given the extensive ground disturbances which have occurred throughout the APE, the potential for the APE to have buried cultural resources is considered low; however, with any project, there is always the possibility that unknown cultural resources may be encountered during

construction. With the implementation of Mitigation Measure CR-1 potential impacts from the Project would be less than significant with mitigation incorporated.

CR-1- See Attachment C, Section C.(1)e.ii. above.

g.i. Less than Significant with Mitigation Incorporated:

With proposed mitigation measures, the project is unlikely to disturb any human remains, including those interred outside of dedicated cemeteries.

g.ii. Facts in Support of Finding:

The records search, consultation with Native American organizations and governments, and the field survey did not identify any cultural resources within or immediately adjacent the APE. The buried cultural resource analysis concluded that given the extensive ground disturbances which have occurred throughout the APE, the potential for the APE to have buried cultural resources is considered low. Further, no indications of buried cultural resources were noted during the field survey or during review of historic maps; however, with any Project requiring ground disturbance, there is always the possibility that unmarked burials may be unearthed during construction. This impact is considered potentially significant. Implementation of Mitigation Measure CR-2 would reduce this impact to a less-than significant level.

CR-2: Section 5097.94 of the Public Resources Code and Section 7050.5 of the California Health and Safety Code protect Native American burials, skeletal remains and grave goods, regardless of age and provide method and means for the appropriate handling of such remains. If human remains are encountered, work shall halt in that vicinity and the county coroner should be notified immediately. At the same time, an archaeologist shall be contacted to evaluate the situation. If the human remains are of Native American origin, the coroner must notify the Native American Heritage Commission within twentyfour hours of such identification. CEQA details steps to be taken if human burials are of Native American origin.

h.i. Less than Significant with Mitigation Incorporated:

With proposed mitigation measures, the project is unlikely to violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality.

h.ii. Facts in Support of Finding:

Construction Water Quality Impacts

The Project will disturb greater than one acre of soil, therefore a Construction Storm Water General Permit is required, issued by the State Water Resources Control Board to address storm water runoff. The permit will address clearing, grading, grubbing, and disturbances to the ground, such as

stockpiling, or excavation. This permit will also require the City to prepare and implement a SWPPP with the intent of keeping all products of erosion from moving off site into receiving waters. The SWPPP includes BMPs to prevent construction pollutants from entering storm water runoff. Mitigation Measure WQ-1 through WQ-4 are required to ensure the Project grading will conform to State Water Resources Control Board standards and in doing so will ensure the Project impacts will be less than significant with mitigation.

Operational Water Quality Impacts

The Project consists of construction of a maintenance access road which would be developed into a multi-use trail as part of Phase II, with minor improvements to provide trail amenities. Impervious surfaces would be increased within the Project footprint; however, the addition of impervious surfaces would not occur within the entire Project footprint and would be limited to the maintenance access road.

WQ-1: The construction contractor shall adhere to the SWRCB Order No. 2013-0001- DWQ as National Pollutant Discharge Elimination System (NPDES) Permit pursuant to Section 402 of the CWA. The City is designated within the NPDES Phase II General Permit. This General Permit applies to the discharge of stormwater from small municipal separate storm sewer systems (MS4s). Under this permit, stormwater discharges must not cause or contribute to an exceedance of water quality standards contained in the California Toxics Rule or the Water Quality Control Plan for the Sacramento and San Joaquin Basin (Basin Plan).

WQ-2: To conform to water quality requirements, the SWPPP must include the following:

- Vehicle maintenance, staging and storing equipment, materials, fuels, lubricants, solvents, and other possible contaminants must be a minimum of 100 feet from surface waters. Any necessary equipment washing must occur where the water cannot flow into surface waters. The Project specifications will require the contractor to operate under an approved spill prevention and clean-up plan;
- Construction equipment will not be operated in flowing water;
- Construction work must be conducted according to site-specific construction plans that minimize the potential for sediment input to surface waters;
- Raw cement, concrete or concrete washings, asphalt, paint or other coating material, oil or other petroleum products, or any other substances that could be hazardous to aquatic life shall be prevented from contaminating the soil or entering surface waters;
- Equipment used in and around surface waters must be in good working order and free of dripping or leaking contaminants; and

- Any concrete rubble, asphalt, or other debris from construction must be taken to an approved disposal site.

WQ-3: (same as BIO-1)- See Attachment C, Section C.(1)a.ii. above.

WQ-4: (same as BIO-2)- See Attachment C, Section C.(1)a.ii. above.

i.i. Less than Significant with Mitigation Incorporated:

With proposed mitigation measures, the project is unlikely to substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would: (i) result in substantial erosion or siltation on- or off-site; (ii) substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite; (iii) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or (iv) impede or redirect flood flows.

i.ii. Facts in Support of Finding:

(i) The proposed Project consists of construction of a multi-functional access path. Minor loss of vegetation and general disturbance to the soil for construction of the proposed Project will occur within the Project footprint. Removal of vegetation and soil can accelerate erosion processes within the Project area and increase the potential for sediment to enter into Laguna Creek and/or Whitehouse Creek. The Project will also be subject to Chapter 16.44 of the Elk Grove Municipal Code, which establishes administrative procedures, minimum standards for review, and implementation and enforcement procedures for controlling erosion, sedimentation, disruption of existing drainage and related environmental damage caused by land clearing activities, grading, filling, and land excavation. Compliance with Chapter 16.44 of the Municipal Code will reduce impacts associated with erosion and siltation. Implementation of WQ-1 through WQ-4 will ensure the Project will conform with current regulations and therefore ensure the Project impacts will be less than significant with mitigation.

(ii) and (iii) The proposed Project is currently designed to add a net impervious surface of approximately 1 acre to the area due to the addition of pavement for multi-functional access path. The Project is located in the proximity of Laguna Creek and Whitehouse Creek but will not alter the course of either creek or any other stream or river. Any additional stormwater runoff due to a localized increase in impervious surfaces will flow onto adjacent natural or landscaped areas for absorption by vegetation and/or percolation into the ground and will not result in flooding on- or off-site. The existing drainage patterns of the area will not be altered. Compliance with Chapter 16.44 of the Municipal Code would reduce impacts associated with erosion and siltation. Implementation of WQ-1 through WQ-4 will ensure the Project will conform with current regulations and in doing so will ensure the Project

impacts will be less than significant with mitigation.

(iv) The Project will add a net impervious surface of approximately 1 acre to the area due to the addition of pavement for the construction of the multi-functional access path, which will result in an increase in the quantity of runoff generated in a storm event. However, the Project may consider using pervious pavement during final design. The quantity of additional runoff generated from the proposed Project would not be substantial and is not expected to contribute to runoff water that would exceed the capacity of existing or planned stormwater drainage systems in the Project vicinity. Compliance with Chapter 16.44 of the Municipal Code will reduce impacts associated with erosion and siltation. Implementation of WQ-1 through WQ-4 will ensure the Project shall conform with current regulations and in doing so shall ensure the Project impacts will be less than significant with mitigation.

WQ-1 and WQ-2, - See Attachment C, Section C.(1)h.ii. above.

WQ-3 and WQ-4 (same as BIO-1 and BIO-2)- See Attachment C, Section C.(1)a.ii. above.

j.i. Less than Significant with Mitigation Incorporated:

With proposed mitigation measures, the project is unlikely to risk release of pollutants due to project inundation in flood hazard, tsunami, or seiche zones.

j.ii. Facts in Support of Finding:

The majority of the Project location lies within the FEMA 100-year Flood Zone. The Project will construct a multi-functional access path adjacent Laguna and Whitehouse Creeks and include single span concrete bridges where necessary to provide access across Laguna and Whitehouse Creeks. The Project may have short-term impacts associated with potential sediment and/or pollutant runoff during grading and construction. As noted above, the Project is subject to NPDES regulations since these improvements will exceed one acre. The Project is located in the proximity of Laguna Creek and Whitehouse Creek but is not anticipated to substantially degrade water quality within the creeks, and is not anticipated to substantially degrade water quality of groundwater beneath the site. Compliance with Chapter 16.44 of the Municipal Code would reduce impacts associated with erosion and siltation. Implementation of WQ-1 through WQ-4 will ensure the Project will conform with current

WQ-1 and WQ-2, - See Attachment C, Section C.(1)h.ii. above.

WQ-3 and WQ-4 (same as BIO-1 and BIO-2)- See Attachment C, Section C.(1)a.ii. above.

k.i. Less than Significant with Mitigation Incorporated:

With proposed mitigation measures, the project is unlikely to conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan.

k.ii. Facts in Support of Finding:

The Project must adhere to the MS4 and NPDES permit which includes water quality and watershed protection measures necessary for proper storm water management. The Project would not obstruct implementation of the mS4 or any groundwater management plan. Further, implementation of WQ-1 through WQ-4 will ensure the Project will conform with current regulations and therefore ensure the Project impacts will be less than significant with mitigation.

WQ-1 and WQ-2, - See Attachment C, Section C.(1)h.ii. above.

WQ-3 and WQ-4 (same as BIO-1 and BIO-2)- See Attachment C, Section C.(1)a.ii. above.

D. Determination

The Central Valley Water Board has determined that the Project, when implemented in accordance with the MMRP and the conditions in this Order, will not result in any significant adverse water resource impacts. (California Code of Regulations, title 14, section 15096, subd (h).)

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Attachment D – Reports and Notification Requirements

I. Copies of this form

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

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

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

II. Report Submittal Instructions

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

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

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

C. Electronic Report Submittal Instructions:

- Submit signed Report and Notification Cover Sheet and required information via email to: centralvalleysacramento@waterboards.ca.gov and cc: Carter.Cook@waterboards.ca.gov.
- Include in the subject line of the email:
ATTN: Carter Cook; Project Name; and WDID No. 5A34CR00897.

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:

1 November 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 DRG or DOQQ). Maps must show the boundaries of all project areas and extent/type of aquatic resources impacted. If this format is used include a spreadsheet with the object ID and attributed with the extent/type of aquatic resources impacted.
- Aquatic resource maps marked on paper **USGS 7.5 minute topographic maps** or **Digital Orthophoto Quarter Quads (DOQQ)** printouts. Maps must show the boundaries of all project areas and extent/type of aquatic resources impacted. If this format is used include a spreadsheet with the object ID and attributed with the extent/type of aquatic resources impacted.

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

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

V. Report and Notification Cover Sheet

Project:	Laguna Creek and Whitehouse Creek Multi-Functional Corridor Project
Permittee:	City of Elk Grove Public Works Department
WDID:	5A34CR00897
Reg. Meas. ID:	458341
Place ID:	896392
Order Effective Date:	1 November 2024
Order Expiration Date:	31 October 2029

VI. Report Type Submitted

A. Part A – Project Reporting

Report Type 1 ☐ Monthly Report

Report Type 2 ☐ Annual Report- Not Applicable

B. Part B – Project Status Notifications

Report Type 3 ☐ Commencement of Construction

Report Type 4 ☐ Request for Notice of Completion of Discharges Letter

Report Type 5 ☐ Request for Notice of Project Complete Letter

C. Part C – Conditional Notifications and Reports

Report Type 6 ☐ Accidental Discharge of Hazardous Material Report

Report Type 7 ☐ Violation of Compliance with Water Quality Standards Report

Report Type 8 ☐ In-Water Work/Diversions Water Quality Monitoring Report

Report Type 9 ☐ Modifications to Project Report

Report Type 10 ☐ Transfer of Property Ownership Report

Report Type 11 ☐ Transfer of Long-Term BMP Maintenance Report

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

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

Signature **Date**

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

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

Permittee's Signature **Date**

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

A. Part A – Project Reporting

1. Report Type 1 - Monthly Report

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

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

c. Report Contents -

i. Construction Summary

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

ii. Event Summary

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

iii. Photo Summary

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

iv. Compliance Summary

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

2. Report Type 2 - Annual Report – Not Applicable

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.

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

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 XIV.C.3.

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

4. Report Type 9 - Modifications to Project Report

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

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

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

5. Report Type 10 - Transfer of Property Ownership Report

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

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

c. Report Contents -

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

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

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

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

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

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

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

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

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Attachment E – Signatory Requirements

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

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

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

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

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

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

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

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Attachment F – Certification Deviation Procedures

I. Introduction

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

II. Process Steps

A. Who may apply:

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

B. How to apply:

By letter or email to the 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. <u>Post-Discharge Certification Deviation Reporting:</u>

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. <u>Annual Summary Deviation Report:</u>

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

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

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

I. General Justification for Section XIV Conditions

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

The conditions within the Order are generally required pursuant to the Central Valley Water Board’s Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, Fifth Edition, 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 XIV Conditions

A. Authorization

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

B. Reporting and Notification Requirements

1. Project Reporting

2. Project Status Notifications

The reporting and notification conditions under Sections B.1 and B.2 are required to provide the Central Valley Water Board necessary project information and oversight to ensure project discharges are complying with applicable Basin Plan requirements. These monitoring and reporting requirements are consistent with the Central Valley Water Board’s authority to investigate the quality of any waters of the state and require necessary monitoring and reporting pursuant to Water Code sections 13267 and 13383. Water Code section 13267 authorizes the regional boards to require any

person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste to provide technical or monitoring program reports required by the regional board. Water Code section 13383 authorizes the regional boards to establish monitoring, inspection, entry, reporting, and other recordkeeping requirements, as authorized by Water Code section 13160, for any person who discharges, or proposes to discharge, to navigable waters.

3. Conditional Notifications and Reports

a. Accidental Discharges of Hazardous Materials

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

b. Violation of Compliance with Water Quality Standards

c. In-Water work and Diversions

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

d. Modifications to Project

Authorization under this Order is granted based on the application and supporting information submitted. Conditions under Section B.3.d are necessary to ensure that if there are modifications to the project, that the Order requirements remain applicable. The Permittee is required to detail the scope of project impacts in a complete application pursuant to California Code of Regulations, title 23, section 3856, subdivision (h). Pursuant to Water Code section 13260, subdivision (c), each person discharging waste, or proposing to discharge waste shall file a report of waste discharge relative to any material change or proposed change in the character, location, or volume of the discharge. Pursuant to Water Code section 13264, subdivision (a), the Permittee is prohibited from initiating the discharge of new wastes, or making material changes to the character, volume, and timing of waste discharges authorized herein without filing a report required by Water Code section 13260 or its equivalent for certification actions under California Code of Regulations, title 23, section 3856.

e. Transfer of Property Ownership

f. Transfer of Long-Term BMP Maintenance

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

C. Water Quality Monitoring

Conditions under Section C related to water quality monitoring are required to confirm that best management practices required under this Order are sufficient to protect beneficial uses and to comply with water quality objectives to protect those uses under the Basin Plan. Applicable water quality objectives and beneficial uses are identified in the Order. These monitoring requirements are consistent with the Central Valley Water Board’s authority to investigate the

quality of any waters of the state and require necessary monitoring and reporting pursuant to Water Code sections 13267 and 13383. Water Code section 13267 authorizes the regional boards to require any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste to provide technical or monitoring program reports required by the regional board. Water Code section 13383 authorizes the regional boards to establish monitoring, inspection, entry, reporting, and other recordkeeping requirements, as authorized by Water Code section 13160, for any person who discharges, or proposes to discharge, to navigable waters.

D. Standard

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

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

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

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

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

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

E. General Compliance

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

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

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

Conditions under Section E.2 related to compliance with water quality objectives and designated beneficial uses are required pursuant to the Central Valley Water Board's Basin Plan. The Basin Plan's water quality

standards consist of existing and potential beneficial uses of waters of the state, water quality objectives to protect those uses, and the state and federal antidegradation policies. The Antidegradation Policy requires that the quality of existing high-quality water be maintained unless any change will be consistent with the maximum benefit to the people of the state, will not unreasonably affect present or anticipated future beneficial uses of such water, and will not result in water quality less than that prescribed in water quality control plans or policies. The Antidegradation Policy further requires best practicable treatment or control of the discharge necessary to assure that pollution or nuisance will not occur and the highest water quality consistent with maximum benefit to the people of the state will be maintained. Applicable beneficial uses and water quality objectives to protect those uses include the Chemical Constituents (Basin Plan, Section 3.1.3), Oil and Grease (Basin Plan, Section 3.1.10), pH (Basin Plan, Section 3.1.11), Sediment (Basin Plan, 3.1.15), Suspended Material (3.1.17), Toxicity (Basin Plan, 3.1.20), and Turbidity (Basin Plan, Section 3.1.21) water quality objectives.

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

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

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

   Authorization under the Order is granted based on the application and supporting information submitted. The Permittee is required to detail the project description in a complete application pursuant to California Code of Regulations, title 23, section 3856, subdivision (h). Pursuant to Water Code section 13260, subdivision (c), each person discharging waste, or proposing to discharge waste shall file a report of waste discharge relative to any

material change or proposed change in the character, location, or volume of the discharge. Pursuant to Water Code section 13264, subdivision (a), the Permittee is prohibited from initiating the discharge of new wastes, or making material changes to the character, volume, and timing of waste discharges authorized herein without filing a report required by Water Code section 13260 or its equivalent for certification actions under California Code of Regulations, title 23, section 3856. Finally, compliance with conditions of the Order ensures that the Project will comply with all water quality standards and other appropriate requirements as detailed herein. (California Code of Regulations, title 23, section 3859, subdivision (a).)

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

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

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

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

7. **Construction General Permit Requirement**

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

F. Administrative

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

The condition for signatory requirements is required pursuant to Water Code section 13267, which requires any person discharging waste that could affect the quality of waters to provide to the Central Valley Water Board, under penalty of perjury, any technical or monitoring program reports as required by the Central Valley Water Board. The signatory requirements are consistent with 40 C.F.R. section 122.22.

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

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

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

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

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

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

conditions are necessary to ensure compliance with applicable water quality objectives and protection of beneficial uses found in the Basin Plan, adopted pursuant to Water Code section 13240, and detailed in the Order.

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

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

6. Lake or Streambed Alteration Agreement

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

G. Construction

1. Dewatering

Conditions related to dewatering and diversions ensure protection of beneficial uses during construction activities. Work in waters of the state and temporary diversions must not cause exceedances of water quality objectives; accordingly, these conditions require implementation of best practicable treatments and controls to prevent pollution and nuisance, and to maintain water quality consistent with the Basin Plan and Antidegradation Policy. Further and consistent with the Dredge or Fill Procedures, section IV.A.2.c, water quality monitoring plans are required for any in-water work. Finally, dewatering activities may require a Clean Water Act section 402 permit or separate Waste Discharge Requirements under Water Code section 13263 for dewatering activities that result in discharges to land.

Conditions related to water rights permits are required pursuant to California Code of Regs, title 23, section 3856(e), which requires complete copies of any final and signed federal, state, or local licenses, permits, and agreements (or copies of drafts if not finalized) that will be required for any construction,

operation, maintenance, or other actions associated with the activity.

Conditions 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. 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.

2. **Directional Drilling- Not Applicable**

3. **Dredging- Not Applicable**

4. **Fugitive Dust**

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

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

   Conditions related to site management require best practices to prevent, minimize, and/or clean up potential construction spills, including from construction equipment. For instance, fuels and lubricants associated with the use of mechanized equipment have the potential to result in toxic discharges to waters of the state in violation of water quality standards, including the toxicity and floating material water quality objectives. (Basin Plan, Sections 3.1.7 & 3.1.20.) This condition is also required pursuant to Water Code section 13264, which prohibits any discharge that is not specifically authorized in this Order. Among other requirements, Section IV.B.1 of the Dredge or Fill Procedures requires that Project impacts will not cause or contribute to a degradation of waters; or violate water quality standards.

6. Hazardous Materials

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

7. Invasive Species and Soil Borne Pathogens

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

8. Post-Construction Storm Water Management

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

9. Roads

These conditions are required to assure that discharges will comply with water quality standards within the Basin Plan. Specifically, activities associated with road maintenance have the potential to exceed water quality objectives for oil and grease, pH, sediment, settleable materials, temperature, and turbidity. (Basin Plan, Sections 3.1.10, 3.1.11, 3.1.15, 3.1.16, 3.1.19,

3.1.21.) Further, these conditions are required to assure that they do not result in adverse impacts related to hydromodification or create barriers to fish passage and spawning activities. Among other requirements, Section IV.B.1 of the Dredge or Fill Procedures requires that Project impacts will not contribute to a net loss of the overall abundance, diversity, and condition of aquatic resources; cause or contribute to a degradation of waters; or violate water quality standards.

10. Sediment Control

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

11. Special Status Species

See F.2 above.

12. Stabilization/Erosion Control

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

13. Storm Water

Post-rain erosion and sedimentation problems can contribute to significant degradation of the waters of the state; therefore, it is necessary to take corrective action to eliminate such discharges in order to avoid or minimize such degradation. Implementation of control measures and best management practices described in the condition will assure compliance with water quality objectives including chemical constituents, floating material, sediment, turbidity, temperature, suspended material, and settleable material within the Basin Plan. (Basin Plan, Sections 3.1.1, 3.1.7, 3.1.15, 3.1.16, 3.1.17, 3.1.19, 3.1.21.) Among other requirements, Section IV.B.1 of the Dredge or Fill Procedures requires that Project impacts will not cause or contribute to a

degradation of waters or violate water quality standards.

H. Site Specific- Not Applicable

I. Total Maximum Daily Load (TMDL)

Total Maximum Daily Loads (TMDLs) are action plans to restore clean water. Section 303(d) of the federal Clean Water Act requires that states identify water bodies -- bays, rivers, streams, creeks, and coastal areas -- that do not meet water quality standards, and the pollutants that impair them. TMDLs examine water quality problems, identify sources of pollutants, and specify actions that create solutions. They are adopted by the Regional Water Board as amendments to our Region's Basin Plan. 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.

J. Mitigation for Temporary Impacts

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

K. Compensatory Mitigation for Permanent Impacts

Mitigation Bank Development/In-Lieu Fee Project Development

The conditions under Section 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).