



Central Valley Regional Water Quality Control Board

28 February 2023

Edward Brown
P.O. Box 1191
Empire, CA 95319

NOTICE OF APPLICABILITY; GENERAL SECTION 401 WATER QUALITY CERTIFICATION ORDER REQUIREMENTS FOR THE EDWARD BROWN, BIRD RANCH DOCKET NO. CWA-309(A)-22-001 PROJECT, (WDID# 5B24CR00104), MERCED COUNTY

On 24 January 2023, Edward Brown (Permittee) filed a notification requesting coverage under the 12 October 2021 State Water Resources Control Board Clean Water Act Section 401 General Water Quality Certification of the United States Army Corps of Engineers (USACE) Nationwide Permits (Order No. WQ 2021-0048-DWQ) for the Bird Ranch Docket No. CWA-309(a)-22-001 Project (Project). After review of the notification and the supplemental material submitted by the Permittee, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has determined that the Project qualifies for enrollment under this General Certification Order. The proposed activity will take place within less than 0.135 acre of waters of the United States.

The Central Valley Water Board is certifying this Project under United States Army Corps of Engineers Nationwide Permit 32, Completed Enforcement Actions, subject to the conditions and the notification requirements described in the Nationwide Permit ("Special Conditions"). This Notice of Applicability is being issued under the General Certification Order pursuant to Section 3838 of the California Code of Regulations.

A copy of the [General Certification Order](https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/2021/certification-denial-corps-nationwide-permit-project-general-order-10122021.pdf) (https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/2021/certification-denial-corps-nationwide-permit-project-general-order-10122021.pdf) can be found on the State Water Resources Control Board's General Orders webpage.

The Project must proceed in accordance with the requirements contained in this Notice of Applicability and General Certification Order. The Project is described in the notification form requesting coverage under the General Certification Order, dated 24 January 2023, and supplementary information (Application Package). Coverage under the General Certification Order is no longer valid if the Project (as described) is modified.

PROJECT DESCRIPTION:

The 15.30-acre Project consists of the preservation and restoration activities required pursuant to the EPA issued Administrative Order on Consent (AOC) Docket No. CWA-309(a)-22-001, Section V.30 on the Bird Ranch Property. A total of 2.81 acres of wetlands will be restored, re-established, and enhanced and 12.94 acres of wetlands will be preserved as specified in the application document, *Restoration and Preservation Mitigation Plan for Bird Ranch*.

The Project will permanently impact 0.135 acre of waters of the United States.

ADDITIONAL CONDITION:

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

The Annual Report shall include the information specified in Attachment B, Part A of Order No. WQ 2021-0048-DWQ. The Permittee shall submit the report in accordance with the report submittal instructions in Attachment B of Order No. WQ 2021-0048-DWQ and email it to centralvalleyfresno@waterboards.ca.gov with a cc to Brandon Salazar at brandon.salazar@waterboards.ca.gov. The Reg Measure ID for this Project is 451019.

PROJECT LOCATION:

The Project is located at Bird Ranch in Merced County.

Assessor Parcel Numbers: 170-070-012, 170-070-024, 170-100-001, 175-070-011

Latitude: 37.387500 Degrees and Longitude: -120.481692 Degrees

PROJECT SCHEDULE:

The approximate timeframe of Project construction is 1 June 2023 through 31 October 2023. Restoration monitoring will be performed for several years after completion of construction.

APPLICATION FEE RECEIVED:

An application fee of \$ 2,734.00 was received on 6 February 2023. The remaining application fee balance of \$677.0.00 based on total Project impacts was received on 17 February 2023.

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 and Excavation Discharges (fee code 84) with the dredge and fill fee calculator.

If you have any questions regarding this Notice of Applicability, please contact Brandon Salazar at (559) 445-6287 or at brandon.salazar@waterboards.ca.gov.

Original Signed by Clay L. Rodgers for:
Patrick Pulupa
Executive Officer

cc: U.S. Environmental Protection Agency (Electronic Copy Only)
Region 9
R9cwa401@epa.gov

United States Army Corps of Engineers (Electronic Copy Only)
Sacramento District Headquarters
SPKRegulatoryMailbox@usace.army.mil

Patricia Cole (Electronic Copy Only)
United States Fish & Wildlife Service
patricia_cole@fws.gov

Department of Fish and Wildlife (Electronic Copy Only)
Region 4
R4LSA@wildlife.ca.gov

CWA Section 401 WQC Program (Electronic Copy Only)
Division of Water Quality
State Water Resources Control Board
Stateboard401@waterboards.ca.gov

Elena Gregg
Gallaway Enterprises
Elena@gallawayenterprises.com