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## Central Valley Regional Water Quality Control Board

31 July 2024

Carlos Gonzalez  
Tulare County Resource Management  
Agency Public Works  
5961 South Mooney Boulevard  
Visalia, CA 93277

### **ORDER AMENDING CLEAN WATER ACT SECTION 401 TECHNICALLY CONDITIONED WATER QUALITY CERTIFICATION; TULARE COUNTY RESOURCE MANAGEMENT AGENCY PUBLIC WORKS, M109 OVER WHITE RIVER BRIDGE REPLACEMENT PROJECT (WDID NO. 5C54CR00130A1), TULARE COUNTY**

This Order responds to the 30 May 2024 request for an amendment of the M109 Over White River Bridge Replacement (Project) Section 401 Water Quality Certification (WDID No. 5C54CR00130A1). The original Water Quality Certification (Certification) was issued on 22 March 2023. The requested amendment is hereby approved. The original Certification is therefore amended as described below. Please attach this document to the original Certification.

This amendment is not valid until and unless an amendment to the Section 404 Permit with equivalent modifications is approved by the United States Army Corps of Engineers (USACE) or it is otherwise determined by USACE that an amendment of the 404 Permit is unnecessary.

#### **AMENDMENT:**

Tulare County Resource Management Agency Public Works (hereinafter Permittee or Tulare County) is requesting an amendment to the Section 401 Water Quality Certification and Order for a change in allocation of compensatory mitigation efforts for both temporary and permanent impacts to waters of the state. Therefore, Section XIV.J and Section XIV.K. are amended as shown in the underlined format below. In addition, the Compensatory Mitigation Information in Attachment B has been replaced in its entirety since the compensatory mitigation for temporary and permanent impacts have been changed for the Riparian Zone aquatic resource type.

#### **Section XIV.J. Mitigation for Temporary Impacts**

1. The Permittee shall restore all areas of temporary impacts, including Project site upland areas, which could result in a discharge to waters of the state to pre-construction contours and conditions upon completion of construction activities,

except as described in the M109 White River Bridge Replacement Restoration Plan (March 2024).

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.
4. **Purchase of Mitigation Credits by Permittee for Compensatory Mitigation**
  - a. Reserved
  - b. Reserved
5. **Total Required Compensatory Mitigation**
  - a. The Permittee is required to provide compensatory mitigation for the authorized impacts to 0.33 acres of riparian habitat by implementing the M109 White River Bridge Replacement Restoration Plan (March 2024) which proposes a 22-acre off-site Riparian Restoration Plan at the Pixley National Wildlife Refuge. The proposed planting to offset 0.33 acres of impact to riparian habitat trees includes 234 trees and 130 shrub/perennial herb species over a 22-acre riparian area along Center Ditch at the Pixley National Wildlife Refuge. The plantings must be completed by the end of February 2026.
  - b. Total required Project compensatory mitigation information for permanent physical loss of area is summarized in Table 4. [Establishment (Est.), Re-establishment (Re-est.), Rehabilitation (Reh.), Enhancement (Enh.), Preservation (Pres.), Unknown].

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

| <b>Aquatic Resource Type</b> | <b>Mitigation Type</b>       | <b>Units</b> | <b>Est.</b> | <b>Re-est.</b> | <b>Reh.</b> | <b>Enh.</b> | <b>Pres.</b> | <b>Unknown</b> |
|------------------------------|------------------------------|--------------|-------------|----------------|-------------|-------------|--------------|----------------|
| Riparian Zone                | <u>Permittee Responsible</u> | Acres        |             | <u>22</u>      |             |             |              | <u>---</u>     |

**Section XIV. K. Compensatory Mitigation for Permanent Impacts**

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

**1. 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 within 120 days after initiation of impacts to waters of the state.
- 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.

**2. Total Required Compensatory Mitigation**

- a. The Permittee is required to provide compensatory mitigation for the authorized impacts to 0.01 acres of wetland habitat by purchasing 0.02 Aquatic Resource Credits in the Kaweah/Tule River 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 impacts to 0.19 acres of riparian habitat by implementing the M109 White River Bridge Replacement Restoration Plan (March 2024) which proposes a 22-acre off-site Riparian Restoration Plan at the Pixley National Wildlife Refuge. Implementation of the restoration plan, which includes planting 234 trees and 130 shrub/perennial herb species over a 22-acre riparian area along Center Ditch at the Pixley National Wildlife Refuge, will offset 0.19 net acres of impacted riparian habitat at the Project site. The plantings must be completed by the end of February 2026.
- c. Total required Project compensatory mitigation information for permanent physical loss of area is summarized in Table 5. [Establishment (Est.), Re-establishment (Re-est.), Rehabilitation (Reh.), Enhancement (Enh.), Preservation (Pres.), Unknown].

**Table 5: Total Required Project Compensatory Mitigation Quantity for Permanent Physical Loss of Area**

| <b>Aquatic Resource Type</b> | <b>Mitigation Type</b>       | <b>Units</b> | <b>Est.</b> | <b>Re-est.</b> | <b>Reh.</b> | <b>Enh.</b> | <b>Pres.</b> | <b>Unknown</b> |
|------------------------------|------------------------------|--------------|-------------|----------------|-------------|-------------|--------------|----------------|
| Riparian Zone                | <u>Permittee Responsible</u> | Acres        |             | <u>22</u>      |             |             |              | <u>---</u>     |

|         |                     |       |  |  |  |  |  |      |
|---------|---------------------|-------|--|--|--|--|--|------|
| Wetland | In-Lieu Fee Credits | Acres |  |  |  |  |  | 0.02 |
|---------|---------------------|-------|--|--|--|--|--|------|

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

**Compensatory Mitigation Information**

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

Permittee Responsible Compensatory Mitigation Site Information

**Table 4: Offsite Permittee Responsible Compensatory Mitigation Site Information**

|  |   |
|--|---|
| <u>Restoration Plan Name:</u>              | <u>Pixley National Wildlife Refuge Riparian Restoration Plan</u>                  |
| <u>Website:</u>                            | <a href="https://www.fws.gov/refuge/pixley">https://www.fws.gov/refuge/pixley</a> |
| <u>Restoration Plan Site Contact Name:</u> | <u>Miguel Jimenez</u>   |
| <u>Phone:</u>                              | <u>(661)725-2767</u>  |
| <u>Email:</u>                              | <a href="mailto:miguel_jimenez@fws.gov">miguel_jimenez@fws.gov</a>                |
| <u>Restoration Plan Location - County:</u> | <u>Tulare</u>   |
| <u>Latitude:</u>                           | <u>35.913328</u>  |
| <u>Longitude:</u>                          | <u>-119.393299</u>  |

**Table 5. Mitigation Type Information**

| <b><u>Aquatic Resource Credit Type</u></b> | <b><u>Impacts (acres)</u></b> | <b><u>Reestablishment via Planting (acres)</u></b> |
|--|-------------------------------|--|
| <u>Riparian Zone</u>                       | <u>0.52</u>                   | <u>22</u>  |

In-lieu Fee Compensatory Mitigation Information

**Table 6: In-Lieu Fee Program**

|                                  |   |
|----------------------------------|---|
| <u>In-Lieu Fee Program Name:</u> | <u>National Fish and Wildlife Foundation’s Sacramento District California</u>   |
| <u>Website:</u>                  | <a href="https://www.nfwf.org/mitigating-impacts/sacramento-district-california-lieu-fee-program">https://www.nfwf.org/mitigating-impacts/sacramento-district-california-lieu-fee-program</a> |

|   |                                    |
|---|------------------------------------|
| <u>In-Lieu Fee Program Contact Name:</u>      | <u>Chris Gurney</u>                |
| <u>Phone:</u>                                 | <u>(415) 593-7627</u>              |
| <u>Email:</u>                                 | <u>Christopher.Gurney@nfwf.org</u> |
| <u>In-Lieu Fee Program Location - County:</u> | <u>Tulare</u>                      |
| <u>Latitude:</u>                              | <u>TBD</u>                         |
| <u>Longitude:</u>                             | <u>TBD</u>                         |

**Table 7. Mitigation Type Information**

| <u>Aquatic Resource Credit Type</u> | <u>Acres</u> | <u>Linear Feet</u> | <u>Number of In-Lieu Fee Credits to be Purchased</u> |
|-------------------------------------|--------------|--------------------|--|
| <u>Wetlands</u>                     | <u>0.01</u>  | <u>145</u>         | <u>0.02</u>  |

**APPLICATION FEE RECEIVED:**

No fee was required for this amendment.

**CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD CONTACT:**

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**WATER QUALITY CERTIFICATION:**

I hereby issue an Order amending the existing Clean Water Act, Section 401 Technically Conditioned Water Quality Certification for the M109 Over White River Bridge Replacement Project (WDID# 5C54CR00130A1). All other conditions and provisions of the original Water Quality Certification and any previously approved amendments remain in full force and effect, except as modified based on the conditions of this Order. Failure to comply with the terms and conditions of the original Water Quality Certification, previously approved amendments, or of this Order may result in suspension or revocation of the Water Quality Certification.

*Original signed by Alex S. Mushegan*

For Patrick Pulupa  
Executive Officer

cc: [Via email only]

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