

## State Water Resources Control Board

### WATER QUALITY ORDER WQ 2024-0047-DWQ CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND ORDER

**Effective Date:** Upon Deputy Director's Signature  
**Expiration Date:** Five Years from Effective Date  
**Project:** 1K690 RIV 74 Lake Elsinore Median Buffer & Widen Shoulders  
(EA 08-1K690; Project)  
**Project Type:** Roads and Highways  
**Program Type:** Fill/Excavation  
**Identifiers:**  
    **WDID No:** SB24002IN  
    **Federal Lic:** Nationwide Permit 14  
    **Place ID:** 891965  
    **Reg. Meas. ID:** 455498  
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## I. Summary

This grant of Clean Water Act (CWA) section 401 certification with conditions (Order) is issued at the request of the California Department of Transportation (Caltrans), District 8 (hereinafter Permittee) for the Project. The application was received on January 9, 2024. Water Board staff issued a notice of incomplete application on January 26 and March 15, 2024, and the Permittee responded to requests for application information between February 9 and March 26, 2024. The State Water Board verified that the Permittee submitted a complete application on March 27, 2024.

Pursuant to Section IV.D., the Project is subject to the requirements set forth in sections IV.A and IV.B of the State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State.

## II. Findings

- A. This Order is adopted pursuant to section 401 of the Clean Water Act and the California Porter-Cologne Water Quality Control Act (Wat. Code § 13000, et seq.). Notwithstanding any determinations made by the U.S. Army Corps of Engineers or other federal agency, dischargers must comply with the entirety of this Order because the Order also serves as waste discharge requirements in accordance with State Water Board Water Quality General Order No. 2003-0017-DWQ. Discharges to waters of the state are prohibited except when in accordance with Water Code section 13264.
- B. 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, including the Clean Water Act and the Porter-Cologne Water Quality Control Act.
- C. In response to a suspected violation of any condition of this Order, the 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.
- D. This Order and all 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.
- E. This Order does not provide coverage under the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order WQ 2022-0057-DWQ; NPDES No. CAS000002) (Construction General Permit).
- F. This Order does not authorize any act which results in the take of a threatened, endangered or candidate species, which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code, §§ 2050-2097) or the federal Endangered Species Act

(16 U.S.C. sections 1531-1544). If a “take” will result from any act authorized under this Order held by the Permittee, the Permittee must obtain authorization for the take prior to any construction or operation of the portion of the Project that may result in a take. The Permittee is responsible for meeting all requirements of the applicable endangered species act for the Project authorized under this Order.

### III. Project Description

**Project Purpose:** The purpose of the project is to improve safety and reduce collisions occurring along State Route 74 (SR-74) from post mile 5.7 to 11.8 in Riverside County.

**Project Description:** The Permittee proposes to widen the existing lanes to provide 12-foot standard lanes, widen outside shoulders to four feet and add median and shoulder ground-in rumble strips on SR-74 near the City of Lake Elsinore. The four feet shoulder widening will require the construction of culvert extensions and end treatments.

#### Project Location:

County: Riverside

Start: Latitude: 33.645° and Longitude: -117.419°

End: Latitude: 33.658° and Longitude: -117.375°

Maps showing the Project location are found in Attachment A of this Order.

### IV. Project Impact and Receiving Waters Information

The Project is located within the jurisdiction of the Santa Ana Regional Water Quality Control Board and San Diego Regional Water Quality Control Board (collectively Regional Water Boards). Receiving waters and groundwater potentially impacted by this Project are protected in accordance with the applicable water quality control plans (Basin Plans). The plan for the region and other plans and policies may be accessed at the [State Water Resources Control Board's Plans and Policies Web page](http://www.waterboards.ca.gov/plans_policies/) ([http://www.waterboards.ca.gov/plans\\_policies/](http://www.waterboards.ca.gov/plans_policies/)). The Basin Plans include water quality standards, which consist of existing and potential beneficial uses of waters of the state, water quality objectives to protect those uses, and the state and federal antidegradation policies.

It is the policy of the State of California that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. This Order promotes that policy by requiring discharges to meet maximum contaminant levels designed to protect human health and ensure that water is safe for domestic use.

Project impact and receiving waters information can be found in Attachment B. Table 1 of Attachment B shows the receiving waters and beneficial uses of waters of the state impacted by the Project. Tables 2 and 3 of Attachment B include individual impact locations and quantities.

**V. Description of Direct Impacts to Waters of the State**

Direct impacts to waters of the state include placement of fill, including rock slope protection and culvert end treatments, and grading from construction associated with the road improvements.

Total Project fill/excavation quantities for all impacts are summarized in Tables 1 and 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<sup>1</sup>**

<b>Aquatic Resources Type</b>	<b>Acres</b>	<b>Linear Feet</b>
<b>Stream Channel</b>	1.265	3610

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

<b>Aquatic Resources Type</b>	<b>Acres</b>	<b>Linear Feet</b>
<b>Stream Channel</b>	0.221	1165

**VI. Description of Indirect Impacts to Waters of the State**

The Water Board recognizes the potential for indirect impacts to waters of the state associated with the Project including siltation of receiving waters during construction, introduction of pollutants to receiving waters during construction, and an increase of impervious surfaces resulting in a reduction in water quality for receiving waters.

The conditions set forth in section IX will avoid and minimize the indirect impacts to waters of the state.

**VII. Avoidance and Mitigation**

The Permittee will lessen or avoid direct and indirect impacts to waters of the state by limiting construction activities to the Project footprint and designated access routes, clearly delineating Project work areas and environmentally sensitive areas with exclusion fencing, and implementing mitigation measures found in the Project's

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<sup>1</sup> 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.

Initial Study/Mitigated Negative Declaration (IS/MND), specifically mitigation measures:

*Bio-General-1: Equipment Staging, Storing & Borrow Sites*

*Bio-General-2: Temporary Artificial Lighting Restrictions*

*Bio-General-7: Worker Environmental Awareness Program (WEAP)*

*Bio-General-9: Environmentally Sensitive Area (ESA)*

*Bio-General-10: Environmentally Sensitive Area (ESA) Fence Monitoring*

*Bio-General-PSM-17: Restoration of Vegetation*

The Project qualified as a tier 2 Project and the Project is the least environmentally damaging practicable alternative (State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State, section IV.A.1.h).

### **VIII. Compensatory Mitigation**

The Permittee is required to provide compensatory mitigation for direct impacts, described in section IX.I, compensatory mitigation for permanent impacts.

### **IX. Conditions**

The Water Board has independently reviewed the record of the Project to analyze impacts to water quality and designated beneficial uses within the watersheds of the Project. This Order provides reasonable assurance that the Project authorized under this Order will comply with state and federally approved water quality requirements, provided that the following conditions are adhered to:

#### **A. Impacts to Waters of the State**

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 C, 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 C, which must be signed by the Permittee or an authorized representative.

##### **1. Project Reporting**

- a. **Monthly Reporting:** The Permittee must submit a Monthly Report to the Water Board on or before the 1<sup>st</sup> of each month during construction. Monthly reporting shall continue until the Water Board issues a Notice of Project Complete Letter to the Permittee.
- b. **Annual Reporting:** The Permittee shall submit an Annual Report each year on the anniversary of the Effective Date. Annual reporting shall

continue until the Water Board issues a Notice of Project Complete Letter to the Permittee.

## 2. Project Status Notifications

- a. **Commencement of Construction:** The Permittee shall submit a Commencement of Construction Report at least 7 days prior to start of initial ground disturbance activities and, if applicable, corresponding Waste Discharge Identification Number (WDID#) issued under the Construction General Permit.
- b. **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. This request shall be submitted to Water Board staff within 30 days following completion of all Project activities. Upon approval of the request, the Water Board staff shall issue a Notice of Project Complete Letter to the Permittee which will end the post discharge monitoring period and associated annual fees. Completion of post-construction monitoring shall be determined by Water Board staff and shall be contingent on successful attainment of restoration and mitigation performance criteria.

## 3. Conditional Notifications and Reports:

The following notifications and reports are required as appropriate.

### a. Accidental Discharges of Hazardous Materials<sup>2</sup>:

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

- i. As soon as (A) Permittee has knowledge of the discharge or noncompliance, (B) notification is possible, and (C) notification can be provided without substantially impeding cleanup or other emergency measures then:
  - a. First call – 911 (to notify local response agency)

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

- b. Then call – Office of Emergency Services (OES) State Warning Center at: (800) 852-7550 or (916) 845-8911
- c. Lastly, follow the required OES procedures as set forth in the [Office of Emergency Services' Accidental Discharge Notification Web Page](https://www.caloes.ca.gov/office-of-the-director/operations/response-operations/fire-rescue/hazardous-materials/spill-release-reporting/) (https://www.caloes.ca.gov/office-of-the-director/operations/response-operations/fire-rescue/hazardous-materials/spill-release-reporting/)
  - ii. Following notification to OES, the Permittee shall notify the Water Board, as soon as practicable (ideally within 24 hours). Notification may be delivered via written notice, email, or other verifiable means.
  - iii. Within 5 business days of notification to the Water Board, the Permittee must submit an Accidental Discharge of Hazardous Material Report.
- b. Violation of Water Quality Standards**
  - i. The Permittee shall notify the Water Board of any event causing a violation of water quality standards. Notification may be delivered via written notice, email, or other verifiable means.
  - ii. This notification must be followed within 3 business days by submission of a Violation of Water Quality Standards Report.
- c. In-Water Work and Diversions**
  - i. The Permittee shall notify the Water Board at least 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 3 business days following completion of work in water or stream diversions, an In-Water Work/Diversions Water Quality Monitoring Report must be submitted to Water Board staff.
- d. Modifications to Project**

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



- i. The Permittee must notify the 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 Water Board at least 10 days prior to the transfer of ownership. The purchaser must also submit a written request to the 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 Best Management Practices (BMP) Maintenance**

If maintenance responsibility for post-construction BMPs is legally transferred, the Permittee must submit to the 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 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 monitoring shall be conducted during active construction to detect accidental discharge of construction related pollutants (e.g., oil and grease, turbidity plume, uncured concrete).

#### 2. **In-Water Work or Diversions**

No work in standing or flowing water is proposed in the application. If Project activities involving work in water or stream diversions become necessary, a water quality monitoring plan shall be submitted to Water Board staff for approval at least 30 days in advance of any discharge to the affected water body. Water quality monitoring shall be conducted in accordance with the approved plan. If water quality sampling shows an exceedance of water quality objectives notify the Water Boards in accordance with section IX.B.3.

#### 3. **Accidental Discharges/Noncompliance**

Upon occurrence of an accidental discharge, the Permittee shall determine whether the discharge includes hazardous materials or will cause or contribute to an exceedance of water quality objectives, and if so, notify the Water Board in accordance with section IX.B.3. Water Board staff may

require additional water quality monitoring based on the discharge constituents and/or related water quality objectives and beneficial uses.

**4. Post-Construction**

For two years after Project construction is complete, the Permittee shall visually inspect the Project site between October 30 and April 15 following each rain event that results in 0.5 inch or more of rainfall in 48 hours to ensure excessive erosion, stream instability, or water quality pollution is not occurring in or downstream of the Project site. If erosion control measures have failed or water quality pollution is occurring, contact the Water Board staff member overseeing the Project within 3 business days. The Water Board may require the submission of a Violation of Water Quality Standards Report. Additional permits may be required to carry out any necessary site remediation.

**D. Standard Conditions**

1. This action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330, and California Code of Regulations, Title 23, chapter 28, Article 6 commencing with section 3867.
2. This Order is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and 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.

**E. General Compliance**

1. 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 Water Board water quality control plan or policy. The source of any such discharge must be eliminated as soon as practicable.
2. The Project must conform to the engineering plans, specifications, and technical reports submitted with the application materials. Water Code

section 13264 prohibits any discharge that is not specifically authorized in this Order.

3. The Permittee shall adhere to all requirements in the adopted IS/MND for the Project, including the Environmental Commitments Record (Appendix B of the IS/MND), which is incorporated herein by reference.

#### **F. Administrative**

1. Signatory requirements for all document submittals required by this Order are presented in Attachment E.
2. **Site Access:** The Permittee shall grant Water Board staff, including State Water Board, Santa Ana Regional Water Board, and San Diego Regional 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 purpose of assuring Order compliance.
3. The Permittee shall be responsible for work conducted by its consultants, contractors, and any subcontractors. A copy of this Order shall be provided to any consultants, contractors, and subcontractors working on this Project. Copies of this Order shall remain at the Project site for the duration of this Order. All personnel performing work on the Project shall be familiar with the content of this Order and its posted location at the Project site.

#### **G. Construction Conditions**

1. All materials and supplies necessary for implementing these construction conditions must be on site and ready for use at the start of the construction activity and must remain in supply and ready for implementation throughout the construction process. All non-structural BMP materials (e.g., training documents, compliance tracking procedures) must be ready for use at the start of construction.
2. Construction material, debris, rubbish, spoils, soil, silt, sawdust, steel, welding slag, welding rods, waste material, waste containers, other organic or earthen material, or any other substances which could be detrimental to water quality or hazardous to aquatic life if discharged as a result of Project related

activities shall be prevented from entering waters of the state. Spoils from excavations shall not be stored in waters of the state.

3. Environmentally sensitive areas and environmentally restricted areas, including any avoided waters of the state, must be clearly identified in the field for exclusion prior to the start of construction. Such identification must be properly maintained until construction is completed and the soils are stabilized. Equipment, materials, or any other substances or activities that may impact waters of the state outside of the limits of Project disturbance are prohibited.
4. 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.
5. 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 roads intersect waters of the state.
6. 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 or access must be removed or re-contoured and restored according to approved re-vegetation and restoration plans.
7. Unless authorized for restoration, material excavated to prepare a site for placement of the permitted fill material must be properly disposed of in an upland area. The disposal site must be located at a sufficient distance away from flowing or standing water such that the excavated material does not erode or move in any way into any water of the state.
8. **Topsoil:** For any excavation, including utility line trenches, the top six to 12 inches of topsoil shall be removed and stockpiled separately during construction. Following installation, the topsoil shall be replaced and seeded with native vegetation.
9. Any structure, including but not limited to, culverts, pipes, and coffer dams, placed within a stream where fish (as defined in Fish and Game Code section 45) exist or may exist, must be designated, 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 Permittee shall be responsible for restoration of conditions as necessary (as determined by the Water Board) to secure passage of fish across the structure.

10. **Dust Abatement:** 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 Water Board staff.

11. **Use of Mechanized Equipment:** Activities permitted under this Order shall be conducted in a manner that minimizes ground disturbance, soil compaction, rutting and other mechanical impacts. Equipment shall be operated and maintained in a manner that reduces the risk of spills or the accidental exposure of fuels or hazardous materials to water bodies or wetlands. Appropriate Project specific BMPs shall be specified by the Permittee and shall be approved by Water Board staff prior to Project discharges.

**12. Culvert Construction or Maintenance**

- a. Cured in Place Pipe is prohibited where it could cause detrimental physiological responses to human, plant, animal, or aquatic life, or cause discharges to waters of the state that do not comply with water quality objectives or goals.
- b. Replacement of culverts acting as grade control structures is prohibited. A vertical gap between the outlet of the culvert and the immediate downstream invert of the stream channel indicates that the culvert likely functions as a grade control structure.
- c. Projects proposing to replace culverts must repair any existing scour or headcutting actively discharging sediment, caused by prior culvert design.
- d. The replaced or maintained culvert shall be in alignment with the stream channel upstream and downstream of the culvert.
- e. Any replacement culvert or culvert that is to be left in place by a repair or maintenance Project must be placed at a gradient and orientation that will not result in erosional scour at the outlet.
- f. Replacement of a culvert with a similarly sized culvert is allowable only where there is no visual indication that the existing culvert is undersized. Visual indications of undersized culverts include but are not limited to: sediment aggradation upstream of the culvert; evidence of flow over the top of the culvert (e.g., erosional rills in dirt road surfaces or erosion of shoulders adjacent to paved road surfaces), erosion of the fill cell between the culvert and the road surface, scour pools at the culvert outlet, or erosion of creek banks immediately downstream of the culvert.

- g. Culverts with solid bottoms (e.g., cylindrical culverts or box culverts) may be replaced with arch culverts or free-span bridges, if the existing culvert is not acting as a grade control structure.
- h. The culvert may not be located in a meander bend of the stream channel.
- i. Replacement culverts must be sized to convey a 100-year flow event with debris, without pressurizing flow passing through the culvert. The 100-year flow event should be modeled under climate change projections, if available.

### **13. Toxic and Hazardous Materials**

- a. Activities permitted under this Order shall not discharge toxic substances in concentrations that produce detrimental physiological responses to human, plant, animal, or aquatic life.
- b. Discharge of unset cement, concrete, grout, damaged concrete spoils, or water that has contacted uncured concrete or cement, or related washout to surface waters, ground waters, or land is prohibited. If concrete washout is necessary at the site, washout containment shall be used to prevent any discharge. Wastewater may only be disposed by delivery to a sanitary wastewater collection system/facility (with authorization from the facility's owner or operator) or a properly licensed disposal or reuse facility.
- c. Appropriate BMPs must be implemented throughout Project activities to prevent and control potential leaks/spills/drainage of potentially hazardous materials such as: non-petroleum hydraulic fluid; epoxies; paints and other protective coating materials; cement concrete or asphalt concrete; and washings and cuttings thereof.
- d. Activities permitted under this Order shall not discharge waste classified as "hazardous" as defined in California Code of Regulations title 22, section 66261 and Water Code section 13173. Appropriate BMPs for hazardous substances shall be specified by the Permittee and shall be approved by Water Board staff prior to Project discharges. These BMPs shall include, at a minimum:
  - i. All personnel handling fuels and other hazardous materials shall be properly trained.
  - ii. Adequate spill prevention and cleanup equipment and materials shall be present on site at all times during Project implementation.
  - iii. All mechanized equipment shall be maintained in good operating order and inspected on a regular basis.
  - iv. All on site fuel trucks or fuel containers shall be stored in an area where risk of contamination of water bodies by leaks or spills is minimized.

- v. All equipment shall be fueled, maintained, and/or parked overnight in an upland area at least 100 feet from any delineated waters of the state.
  - vi. Hazardous materials, including chemicals, fuels, and lubricating oils, shall not be stored within 100 feet of any delineated waters of the state, and shall be stored in appropriate containers with appropriate secondary containment.
  - vii. Pumps or other stationary equipment operating within 100 feet of a waterbody or wetland shall utilize appropriate secondary containment systems to prevent spills.
  - viii. Any spills or leaks of hazardous materials, chemicals, fuels, lubricants, or any other potential pollutants shall be promptly and completely treated using appropriate materials and equipment.
  - ix. Spill containment supplies shall be on site in all work areas in sufficient quantities to allow immediate remediation of fuel, oil, hydraulic fluid or similar leaks and spills.
  - x. A staging area for equipment and vehicle fueling and storage shall be designated at least 100 feet away from waters of the state, in a location where fluids or accidental discharges cannot flow into waters of the state.
- e. Projects that create new or affect existing wetland areas shall be designed to include features or management measures to reduce the production of methylmercury in the wetland, including minimizing the wetting and drying of soils by keeping wetlands flooded and sediment control measures to reduce the transport of total mercury or methylmercury out of the wetland.

#### **14. Invasive Species and Soil Borne Pathogens**

- a. The Permittee is responsible for ensuring that all Project personnel follow proper weed control practices, and that appropriate weed prevention measures are included in Project plans.
- b. Any straw, hay or other unprocessed plant material used for any purpose must be certified or documented as being weed free.
- c. Soil borne pathogens are any nematodes, or any bacterial, protozoan, viral or fungal pathogens that can cause disease or death to native plants, agricultural crops, or ornamental plants (e.g., *Phytophthora ramorum*, the cause of sudden oak syndrome, and *Phytophthora lateralis*, the cause of Port Orford cedar root disease). Any equipment entering or leaving the Project area from an area of known soil borne pathogen infestation shall be thoroughly cleaned using methods appropriate for the known pathogen before entering or leaving the Project area. The fungus that causes Valley Fever, *Coccidioides spp.*, is not considered a soil borne pathogen in this certification.

### **15. Work in Delineated Waters of the State**

- a. Work in waters of the state must not cause or contribute to an exceedance of water quality objectives in the receiving waters. Work in delineated waters commences at the onset of the regulated activity and continues until the activity is finished and all restoration of the affected work area is complete. The term “work” means any ground disturbing activities in any delineated waters of the state that are permitted under this Order, regardless of the presence or absence of flowing or standing water.
- b. Temporary diversions or impoundments of water, cofferdams, or similar structures installed for the purpose of temporary dewatering work areas shall be performed according to a dewatering plan to be provided by the Permittee (and approved by the Water Board) prior to implementation. Include appropriate monitoring for water quality upstream and downstream of diversion structures as required in the Monitoring section of this Order.
- c. All surface waters, including ponded waters, shall be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to waters of the state.
- d. Except for the following conditions, equipment must not be operated in standing or flowing waters without site specific approval from Water Board staff:
  - i. All construction activities must be effectively isolated from water flows to the greatest extent possible. This may be accomplished by working in the dry season or dewatering the work area in the wet season. When work in standing or flowing water is required, structures for isolating the in-water work area and/or diverting the water flow must not be contaminated by construction activities. All open flow temporary diversion channels must be lined with filter fabric or other appropriate liner material to prevent erosion. Structures used to isolate the in-water work area and/or diverting the water (e.g., coffer dam, geotextile silt curtain) must not be removed until all disturbed areas are stabilized.
  - ii. Cofferdams and water barrier construction must be adequate to prevent seepage into or from the work area to the greatest extent feasible.
  - iii. Flow diversions must be conducted in a manner that prevents pollution and/or siltation and in a manner that restores pre-project flows (accounting for variation in flows due to seasonality, upstream diversions, etc.) upon completion of the activity. Diverted flows must be of sufficient quality and quantity, and of appropriate temperature, to support existing fish and other aquatic life both above and below the diversion. Diversions must be designed, installed, and maintained to



reduce erosion. Pre-project flows must be restored to the affected surface water body upon completion of work at that location.

- e. If groundwater dewatering is required for the Project, the Permittee shall consult with the Water Board to determine if additional permits are required. If additional Water Board permits relating to dewatering are required, the designated Water Board staff contact must be notified and copied on pertinent correspondence pertaining to those other required permits.
- f. All temporary dewatering methods shall be designed to have the minimum necessary impacts to waters of the state. All dewatering methods shall be installed such that natural flow is maintained upstream and downstream of the diversion area. Any temporary dams or diversions shall be installed such that the diversion does not cause sedimentation, siltation, or erosion upstream or downstream of the diversion area. All dewatering methods shall be removed immediately upon completion of activities for which diversions are needed.
- g. All temporary dewatering activities are subject to the work-in-water reporting and monitoring conditions presented in the Monitoring Section of this Order.

#### **16. Stormwater**

If the Project is required to obtain coverage under the Construction General Permit, the Permittee shall comply with the requirements in the Construction General Permit. Generally, coverage under the Construction General Permit is required for construction activity resulting in a land disturbance of one acre or more, or less than one acre but is part of a larger common plan of development or sale that results in a land disturbance of one acre or more. Covered activities are described with additional detail in the Construction General Permit.

#### **H. Temporary Impact Restoration**

1. The Permittee submitted a draft landscape plan dated January 16, 2024, as part of a complete application. The Permittee shall provide a final landscape/restoration plan for review and approval by Water Board staff. Impacts to waters of the state are not authorized and shall not occur until a final plan has been approved by Water Board staff. Upon approval (in writing) by Water Board staff, the Permittee shall implement the approved plan to restore all areas of temporary impacts to waters of the state and all Project site upland areas of temporary disturbance which could result in a discharge to waters of the state.
2. Total required Project restoration information for temporary impacts is summarized in Table 3.

**Table 3: Required Project Restoration Quantity for Temporary Impacts**

Aquatic Resource Type	Units	Quantity to be Restored
Stream Channel	Acres	1.265

**I. Compensatory Mitigation for Permanent Impacts:**

Compensatory mitigation is for permanent physical loss and permanent ecological degradation of a water of the state, and may include mitigation for temporary impacts that result in temporal loss of function.

**1. Required Compensatory Mitigation**

- a. The Permittee is required to provide compensatory mitigation for the authorized impact to 0.221 acre of stream channel by purchasing at least 0.663 acre of stream channel aquatic resource credits from the San Luis Rey Mitigation Bank or by purchasing equivalent credits (e.g., from the Riverpark Mitigation Bank) approved by Water Board staff in the final compensatory mitigation plan.
- b. Total required Project compensatory mitigation information is summarized in Table 4. The type of credit (e.g. establishment, re-establishment, rehabilitation, enhancement, etc.) is unknown pending review of the final compensatory mitigation plan.
- c. The Permittee submitted a draft compensatory mitigation plan as part of a complete application. The Permittee shall provide a final compensatory mitigation plan for review and approval by Water Board staff. The final compensatory mitigation plan shall include all plan elements as outlined in the State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State and the State Supplemental Dredge or Fill Guidelines, Subpart J – Compensatory Mitigation for Losses of Aquatic Resources. Impacts to waters of the state are not authorized and shall not occur until a final compensatory mitigation plan has been approved by Water Board staff. Upon approval (in writing) by Water Board staff, the Permittee shall implement the approved plan.

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

Aquatic Resource Type	Mitigation Type	Units	Minimum Quantity to be Restored
Stream Channel	Mitigation Bank Credits	Acres	0.663

**2. 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 Water Board within 90 days of authorized impacts.
- b. The Permittee shall retain responsibility for providing the compensatory mitigation and long-term management until Water Board staff has received documentation of the credit purchase and the transfer agreement between the Permittee and the seller of credits.

**J. Certification Deviation**

- 1. Minor modifications of Project locations or predicted impacts may be necessary as a result of unforeseen field conditions, necessary engineering re-design, construction concerns, or similar reasons. Some of these prospective Project modifications may have impacts on water 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 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 would require changes to 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 an Order may be required.

**X. Public Notice**

The Water Board complied with its applicable public notice requirements. The State Water Board provided public notice of the application pursuant to California Code of Regulations, title 23, section 3858 from January 13, 2024, to February 6, 2024. The State Water Board did not receive any comments during the comment period.

**XI. California Environmental Quality Act (CEQA)**

Caltrans, District 8, as lead agency, adopted an IS/MND for the Project on December 29, 2022, and filed a Notice of Determination (NOD) at the State Clearinghouse (No. 2022060548) on February 2, 2023. Pursuant to CEQA, the Water Board has made Findings of Fact (Findings) which support the issuance of this Order and are included in Attachment D.

The Water Board will file a NOD at the State Clearinghouse within 5 business days of issuance of this Order.

**XII. Petitions for Reconsideration**

Any person aggrieved by this action may petition the 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**

An application fee of \$28,471.00 was received on February 2, 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 payment of \$11,175.00 for total Project impacts must be received by the Water Board within 30 days of issuance of the Order.

**XIV. Water Quality Certification**

I hereby issue the Order for the 1K690 RIV 74 Lake Elsinore Median Buffer & Widen Shoulders Project, SB24002IN, 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).

Authorization is contingent on: (a) 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, and the Regional Water Boards' Water Quality Control Plans.

\_\_\_\_\_  
Date

 Phillip Crader  
Digitally signed by Phillip Crader  
Date: 2024.05.07 09:50:40 -07'00'

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Phillip Crader, Acting Deputy Director  
Division of Water Quality