Central Valley Regional Water Quality Control Board

WATER QUALITY ORDER NO. R5-2023-0056
WASTE DISCHARGE REQUIREMENTS

Reg. Meas. ID:	453588
Place ID:	889576
WDID No.:	5B39CR00387

Effective Date: 14 December 2023

Expiration Date: 13 December 2028

Program Type: Fill/Excavation

Project Type: Residential

Project: Tracy Hills Phase 2B Project (Project)

Applicant: Tracy Phase 2, LLC and Tracy Phase 3, LLC

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Table of Contents

FINDINGS

The California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) finds the following:

1. **Application**

   The Central Valley Water Board received an application from Tracy Phase 2, LLC and Tracy Phase 3, LLC (Permittee) on 27 June 2023. These Waste Discharge Requirements (Order) are for the purpose described in the application and supplemental information submitted by the Permittee. The application was deemed complete on 26 July 2023.

2. **Project Description**

   The 185.3-acre Project in the City of Tracy is a component of the overall Tracy Hills Specific Plan (THSP). The purpose of the Project is to implement the development of the next economically viable phase of the THSP which includes residential development within four THSP Phase 2 villages (Villages 15-18), as well as infrastructure improvements. The Project is estimated to take 5 years to complete starting April 2025 through October 2030. The Project includes mass grading and earthwork to support residential development within Villages 15-18. Key infrastructure improvements include construction of storm drain inlets conveying flows from onsite ephemeral drainages to piped storm drain infrastructure varying in diameters of 30- to 36-inch storm drainpipes, as well as piped conveyance of ephemeral flows through a 24-inch storm drainpipe around the Phase 2B development footprint.

   Residential development proposed within Villages 15-18 requires the import of fill; therefore, the Project includes a borrow area and access road to allow access to and facilitate the import of fill from the future Phase 3 and Phase 4 development areas within the overall THSP. A 24-inch storm drainpipe will be installed to convey ephemeral flows under the borrow pit access road.

3. **Project Location**

   Address: North of South Corral Hollow Road and west of Interstate 580

   County: San Joaquin

   Assessor’s Parcel Number(s): 251-06-024-000 and 251-06-025-000

   Nearest City: Tracy

   Section 12 and 13, Township 3 South, Range 4 East, MDB&M and Section 18, Township 3 South, Range 5 East, MDB&M.

   Latitude: 37.673876° and Longitude: -121.475546°

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

4. **Project Impact, Receiving Waters, and Beneficial Uses**

   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. The Project will permanently impact three ephemeral drainages that terminate on the Project site and therefore are not tributary to offsite, downstream waterbodies. 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.

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

   Mass grading and Project-related drainage improvements necessitate the fill of 0.13 acre/2,346 linear feet of waters of the state. Non-point source surface water from impervious surfaces may contain contaminants or increase sediment loads in the storm drain system. A combination of terminal retention/percolation basins, open channels, and underground storm drains are proposed in the Storm Drain Infrastructure Plan for the THSP Project Area. Each proposed storm drain backbone system within the Project will terminate at a proposed retention basin. The retention basins will capture and retain contaminants contained in the runoff; thus, reducing contaminants discharged from the Project Area.

   The retention basins are designed to store and percolate runoff generated during a very large and rare storm scenario. The percolation rates of the soil on the site are very beneficial to this type of design and the conservative approach to sizing the basins also makes it unlikely that one of these basins would ever be overtopped. If unforeseeable factors cause a retention basin to overtop, the stormwater runoff will drain directly to open space along the Interstate 580, California Aqueduct and/or Delta-Mendota Canal. There are conveyance systems in place in these facilities to convey the runoff downstream or intercept the runoff. There are also areas in the open space where water can pond and reduce the amount of runoff entering those conveyance systems. Retention basins also provide attenuation storage and opportunities for pollutants to settle and be retained within the basin and provide opportunities for recharge. These facilities will be utilized to satisfy the requirements set forth in the city’s Manual of Stormwater Quality Control Standards for New

Development and Redevelopment (SWQC Manual) and NPDES for new development areas.

In addition, proposed open channels and existing drainage swales will be used for conveyance of storm runoff from some of the upslope offsite sub-basins to downstream terminal retention/percolation basins or other facilities. These facilities will also assist in providing additional flow attenuation and storm water quality treatment. Impacts to water quality would be less-than-significant with the implementation of the terminal retention/percolation basins, open channels and drainage swales.

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

Table 1: Total Project Fill/Excavation Quantity for Permanent Physical Loss of Area Impacts

Aquatic Resources Type	Acres	Cubic Yards	Linear Feet
Stream Channel	0.13	3,775	2,346

6. **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. Project-related grading activities and improvements will be constructed, monitored, and maintained consistent with current federal, State and local regulatory requirements as overseen and enforced by multiple regulatory agencies with jurisdiction and enforcement authority over project-related activities, including: The City of Tracy; San Joaquin County; Central Valley Regional Water Quality Control Board; California Department of Fish and Wildlife (CDFW); and U.S Fish and Wildlife Service (USFWS). Project-related indirect impacts to water quality are therefore not anticipated.

7. **Fees Received:** An application fee of $3,168.00 was received on 27 June 2023. The fee amount was determined as required by California Code of Regulations, title 23, section 2200(a)(3) and was calculated as Category A – Fill & Excavation Discharges (Fee Code 84) with the dredge and fill fee calculator.

8. **Avoidance and Minimization**: No alternatives analysis is required because the Project was conducted in accordance with a watershed plan that has been approved by the Central Valley Water Board and analyzed in an environmental document that includes a sufficient alternatives analysis, monitoring provisions, and guidance on compensatory mitigation opportunities.

   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:

   San Joaquin Kit Fox

The following measures will be incorporated during construction to avoid and minimize effects on San Joaquin kit fox, consistent with USFWS 2011 guidelines. As described in the guidelines, the preconstruction survey will be conducted no less than 14 days and no more than 30 days before the beginning of ground disturbance, or any activity likely to affect San Joaquin kit fox. A qualified biologist will conduct den searches by systematically walking transects through the Project site and a buffer area to be determined in coordination with USFWS. Transect distance will be based on the height of vegetation such that 100% visual coverage of the Project site is achieved. If a potential or known den is found during the survey, the biologist will measure the size of the den, evaluate the shape of the den entrances, and note tracks, scat, prey remains, and recent excavations at the den site. Dens will be classified into the den status categories defined by USFWS (U.S. Fish and Wildlife Service 2011).

- If a natal/pupping den is discovered within the Project area or within 200-feet of the Project boundary, the Service will be immediately notified and under no circumstances should the den be disturbed or destroyed without prior authorization.
- A report of the preconstruction survey will be submitted to the USFWS for review.
- If potential den sites are located, they will be monitored by a biologist approved by the Wildlife Agencies. The biologist will use an infrared beam camera and track plates or powder, to determine if the den is currently being used. The camera and track plates will be placed at the burrow for a minimum of 5 consecutive nights. Other signs of occupancy (e.g., scat, fur) will be searched for in and around the burrow and, if found, documented with photographs.
- San Joaquin kit fox are attracted to den-like structures such as stored pipes. All construction pipes, culverts, or similar structures with a 4-inch or greater diameter that are stored at the construction site for one or more overnight periods should be closed off at both ends, if possible, and shall be thoroughly inspected before they are buried, capped, or otherwise used or moved in any way. If a kit fox is discovered in a pipe, that section of pipe will not be moved until the kit fox is allowed to leave unimpeded or the Wildlife Agencies have been consulted.
- All materials staged on the Project site, and especially in staging areas, will be spaced to not provide areas suitable for Covered Species to seek shelter. At no time will materials be haphazardly piled on the Project sites. All materials will be inspected thoroughly by the biological monitor prior to being moved.
- Construction activities will be prohibited within exclusion zones around suitable burrows, based on their type. If any San Joaquin kit fox dens or potential dens are found during preconstruction surveys, the status of the

dens will be evaluated prior to Project ground disturbance. The configuration of exclusion zones around San Joaquin kit fox dens should have the radius measured outward from the entrance or cluster of entrances, as follows.

  - Potential den: a 50-foot avoidance buffer will be used when kit fox occupation is expected but not confirmed.
  - Known den: a 100-foot avoidance buffer will be used if kit fox activity is observed.
  - Natal/pupping den: the USFWS must be contacted.

- Limited destruction of kit fox dens will be allowed, if avoidance is not a reasonable alternative, provided the following procedures are observed. The value to kit foxes of potential, known, and natal/pupping dens differ and therefore, each den type needs a different level of protection.
  - For active dens that exhibit signs of San Joaquin kit fox use or burrows with characteristics suggestive of San Joaquin kit fox dens as determined by a qualified biologist (see glossary) including burrows in natural substrate or in/under man-made structures (potential dens) that cannot be avoided and if, after five consecutive days of monitoring with tracking media and infrared cameras, the biological monitor has determined that San Joaquin kit fox is not currently present, the den may be excavated or blocked temporarily under the supervision of the biological monitor, the latter situation (blocking, as opposed to destruction) being required when the den will not be directly affected by construction activities.
  - Burrows without any signs of San Joaquin kit fox use after 5 nights of monitoring, or characteristics suggesting they may be San Joaquin kit fox dens, may be excavated (destroyed) under the supervision of the biological monitor without advance tracking or camera monitoring.
  - Natal dens will not be excavated until the pups and adults have vacated and then only after consultation with the USFWS.
  - San Joaquin kit fox dens to be excavated under the conditions described above will be carefully excavated until it is certain no individuals of San Joaquin kit fox are inside.
  - Dens to be destroyed will be fully excavated, filled with dirt, and compacted to ensure that San Joaquin kit fox cannot reenter or use the den during covered activities.
  - Dens to be blocked (not within the footprint of a covered activity, but within the no disturbance buffer) will be blocked with sandbags or other USFWS-approved material that ensures that San Joaquin kit fox cannot reenter or use the den during the activity, but that can be easily removed at the cessation of the covered activity.

- Only when the den is determined to be unoccupied and non-natal will the den be excavated under the direction of the biological monitor. If the fox is still present within a non-natal den after five consecutive nights of monitoring or three consecutive nights after one-way doors have been installed on the den entrances, the den will be excavated when, in the judgment of the biological monitor, it is temporarily vacant, for example during the fox's normal foraging activities. Hand excavation will be used if conditions allow, but soil conditions may necessitate the use of excavating equipment. Such excavation work will be conducted with extreme caution so as to not harm the San Joaquin kit fox.

California Red-Legged Frog

The following measures will be incorporated during construction to avoid and minimize effects on California red-legged frogs.

- Prior to ground disturbance, [temporary] exclusion fencing will be placed between disturbance areas and adjacent California red-legged frog habitat along Corral Hollow Creek to prevent individuals from entering the disturbance area from adjacent habitat. Exclusionary fencing will consist of taut silt fabric (non-monofilament), 36 inches high, staked at 10-foot intervals, with the bottom buried 6 inches below grade. Fence stakes will face toward the work area (on the opposite side of adjacent habitat) to prevent wildlife from using stakes to climb over the exclusionary fencing. Exclusionary fencing will be maintained such that it is intact during rain events. Fencing will be checked by the qualified biologist or construction foreman periodically throughout each workday. If fencing becomes damaged, it will be immediately repaired upon detection and the qualified biologist will stop work in the vicinity of the fencing as needed to ensure that no California red-legged frogs have entered (see below for relocation process if frogs are encountered).
- Initial ground-disturbing activities will not be conducted between November 1 and March 31 in suitable California red-legged frog habitat, to avoid the period when they are most likely to be moving through upland areas. No initial clearing activities will occur during rain events or within 24-hours following a rain event, prior to clearing a site and installing exclusionary fencing. Once the initial ground disturbance has occurred, the area has been cleared, and exclusionary fencing has been placed between the construction area and suitable habitat, work within the disturbed area can occur outside the construction window.
- Prior to commencement of ground disturbing activities in all areas of potentially suitable habitat for California red-legged frog, pre-activity clearance surveys will be conducted by a qualified biologist.
    - Surveys will occur during the wet season (generally October 15 to April 15), no more than 48 hours before new ground disturbance.

- If a California red-legged frog is found, the biological monitor will halt work immediately within a buffer area of 50 feet of any discovered California red-legged frog. The construction supervisor will also contact the Project biologist and will suspend all construction activities in the immediate construction zone (50-foot radius) until the animal leaves the site voluntarily or is relocated by the qualified biologist consistent with the relocation plan provided in Appendix 5B. California red-legged frogs that are at risk of being injured or killed will be relocated and released by the qualified biologist outside the construction area within the same watershed, preferably within 300 feet of where it was found, in protected suitable habitat in the Conservation Easement Area. Under no circumstances will a California red-legged frog be released on a site other than the Conservation Easement Area unless the written permission of the landowner has been obtained prior to the start of construction of each phase.
- The qualified biologist will limit the duration of the handling and captivity of the California red-legged frog to the minimum amount of time necessary to complete the task. If the animal must be held in captivity, it will be kept in a cool, dark, moist, aerated environment, such as a clean and disinfected bucket or plastic container with a damp sponge. The container used for holding or transporting the individual will not contain any standing water.
- The USFWS will be notified of any relocated California red-legged frogs in the annual report.
- To prevent entrapment of California red-legged frogs during construction, any trenches, holes, or other excavations into which California red-legged frogs could fall and become trapped will be covered. The opening will be completely covered at the end of each workday. All covered excavations will be inspected daily until the excavation is filled, and if a California red-legged frog is detected, a qualified biologist will relocate the frog as described above.

California Tiger Salamander

The following measures will be incorporated during construction to avoid and minimize effects on California tiger salamanders (CTS).

- Prior to commencement of ground disturbing activities in all areas of potentially suitable habitat to support California tiger salamander, [temporary] exclusion fencing will be placed between the disturbance area and adjacent habitat along Corral Hollow Creek as described above for California red-legged frog. The biologist will be responsible for ensuring that the exclusion fence installed around occupied California tiger salamander habitat is inspected before the start of each day and remains intact until Project construction is complete. The biologist will inspect fencing immediately after every rain event to ensure it maintains structural integrity. Holes or burrows

which appear to extend under the fencing will be blocked inside the fence line to prevent California tiger salamander from accessing work areas. The fence will be inspected every morning for trapped California tiger salamanders during periods when they are likely to be migrating above-ground. These daily-inspection periods include the period from May 1 through August 31 when metamorphs are likely to be migrating away from their natal ponds, and all year on mornings following any rain event greater than 0.1 inches, when adults may be migrating to their breeding ponds. If a California tiger salamander is encountered during these inspections, and is in danger of being harmed, as defined in the Act, the supervisory project biologist will temporarily stop all activities that threaten harm, remove the animal from the area, and relocate it to the preapproved relocation location as described in Appendix 5B. California tiger salamanders that will be relocated and released by the qualified biologist outside the construction area within, preferably within 300 feet of where it was found, in protected suitable habitat in the Conservation Easement Area. Under no circumstances will a California tiger salamander be released on a site other than the Conservation Easement Area unless the written permission of the landowner has been obtained prior to the start of construction of each phase.

- All mammal burrows within the worksite limits that cannot be avoided will be hand-excavated and collapsed so that they do not attract California tiger salamanders during construction.
- Disturbances to California tiger salamander habitat will be minimized by restricting project related vehicles to established roads and construction areas.
- A qualified biologist will be on site during all activities that may result in the take of CTS.
- Plastic monofilament netting (erosion control matting) or similar material will not be used for erosion control or other purposes around occupied CTS habitat because CTS may become entangled or trapped in it. Acceptable substitutes include coconut coir matting or tackified hydroseeding.
    - To prevent sediment from entering suitable CTS aquatic habitat along Corral Hollow Creek, the Applicant will install silt fencing and sterile hay bales between the disturbance area and any drainages that flow toward the creek.
    - A speed limit of 10 (mph) will be observed within construction areas, particularly on rainy or humid nights when CTS are most likely to be moving between their breeding ponds and upland habitat. To the extent possible, nighttime construction will be minimized.

- To prevent entrapment of CTS during construction, any trenches, holes, or other excavations into which CTS could fall and become trapped will be covered. The opening will be completely covered at the end of each workday.

Habitat Protection

The Habitat Conservation Plan (HCP) mitigates permanent habitat loss by preserving habitat for each of the Covered Species, as follows. Land protection will occur as permanent conservation easement.

- To mitigate the permanent loss of 1,112 acres of San Joaquin Kit Fox habitat, the HCP preserves 2,687 of habitat for this species in the Conservation Easement Area. The preserved area consists of a large habitat block that is contiguous with habitat to the east at Lawrence Livermore Lab, and that provides north-south connectivity through San Joaquin County along the swath of San Joaquin kit fox suitable habitat that is situated between agricultural and developed lands to the east, and hilly, wooded terrain to the west.
- To mitigate the permanent loss of 6 acres of California red-legged frog upland habitat, the HCP preserves 62 acres of upland habitat and 12 acres of aquatic habitat for this species in the Conservation Easement Area. The habitat to be preserved includes occupied aquatic habitat surrounded by undisturbed grasslands, providing high habitat value for the California red-legged frog.
- To offset the permanent loss of 1,089 acres of California tiger salamander upland habitat, the HCP preserves 2,008 acres of upland habitat and 8 acres of aquatic habitat for this species in the Conservation Easement Area. The protected habitat consists of aquatic and adjacent upland habitat, including a large, continuous upland area surrounding aquatic habitat that is subject to little disturbance and provides high value for the species.

Mitigation Measure 4.4-1e

Prior to commencement of ground disturbing activities in all areas of potentially suitable habitat to support Swainson's hawk, pre-activity clearance surveys shall be initialed by a qualified biologist to reinforce positive or negative findings with substantial evidence. If Swainson's hawk is detected within portions of the Project Site proposed for development, then avoidance and minimization measures specific to Swainson's hawk will be incorporated into the Project as described in the CDFW "Staff Report on Mitigation for Impacts to Swainson's Hawk (2012)" to reduce impacts to Swainson's hawk to less-than significant. This measure is applicable to Areas A, B and C of the Project.

- If an active nest site is found, the Project will allow sufficient foraging and fledging area to maintain the nest.

- The Project will not remove historic or known Swainson's hawk nest trees unless avoidance measures are determined to be infeasible. Removal of such trees should occur only during the timeframe of October 1 and the last day in February.

Mitigation Measure 4.4-1f

Prior to commencement of ground disturbing activities in all areas of potentially suitable habitat to support California Tiger Salamander, pre-activity clearance surveys shall be initialed by a qualified biologist in accordance with published guidelines and protocols. Survey methods shall be derived from published protocols, and to reinforce positive or negative findings with substantial evidence. If CTS individuals or eggs are discovered, all work within the vicinity of the discovery shall halt and not continue until CDFW has been consulted and appropriate authorization obtained. This measure is specific to Areas A, B and C of the Project.

- Temporary construction disturbances to CTS habitat will be minimized to the extent practicable. All Project-related vehicle traffic will be restricted to established roads, and construction areas.
- A qualified biologist will be on site during all activities that may result in the take of CTS. The biologist will be given the authority to stop any work that may result in the take of this listed species.
- The biologist will be responsible for ensuring that the exclusion fence installed around occupied CTS habitat is inspected before the start of each day and remains intact until project construction is complete.
- Plastic monofilament netting (erosion control matting) or similar material will not be used for erosion control or other purposes around occupied CTS habitat because CTS may become entangled or trapped in it. Acceptable substitutes include coconut coir matting or tackified hydroseeding.
- The project proponent or its contractor will implement BMPs to prevent sediment from entering suitable CTS habitat using silt fencing and sterile hay bales.
- A worker training program that includes the CTS will be conducted for construction personnel before groundbreaking at individual redevelopment project sites.
- A speed limit of 20 miles per hour will be observed within construction areas, particularly on rainy nights when CTS are most likely to be moving between their breeding ponds and upland habitat. To the extent possible, nighttime construction will be minimized. Off-road traffic outside designated construction areas will be prohibited.
- To prevent entrapment of CTS during construction, any trenches, holes, or other excavations into which CTS could fall and become trapped will be covered. The opening will be completely covered at the end of each workday.

Mitigation Measure 4.4-1g

Prior to commencement of ground disturbing activities in all areas of potentially suitable habitat to support California red-legged frog (CRLF), pre-activity clearance surveys shall be initialed by a qualified biologist to reinforce positive or negative findings with substantial evidence. This measure is specific to Areas B and C of the Project.

- Surveys will occur during the wet season (generally October 15 to April 15), no more than 48 hours before new ground disturbance.
- A worker training program that includes the CRLF will be conducted for construction personnel before groundbreaking at individual redevelopment project sites.
- If a CRLF is found, the construction supervisor shall halt work immediately within a buffer area of 50 feet of any discovered CRLF. The construction supervisor will also contact the project biologist and will suspend all construction activities in the immediate construction zone (50-foot radius) until the animal leaves the site voluntarily or is removed by the biologist to a release site using USFWS-approved transportation techniques.
- To prevent entrapment of CRLF during construction, any trenches, holes, or other excavations into which CRLF could fall and become trapped will be covered. The opening will be completely covered at the end of each workday.

Mitigation Measure 4.4-1n

Prior to commencement of ground disturbing activities in areas of potentially suitable habitat to support Western spadefoot toad, pre-activity clearance surveys shall be initialed by a qualified biologist to reinforce positive or negative findings with substantial evidence.

- For work conducted within suitable habitat and during the western spadefoot toad migration and breeding season (November 1 to May 31), a qualified biologist will survey the active work areas (including access roads) in mornings following measurable precipitation events. Construction may commence once the biologist has confirmed that no spadefoot toads are in the work area.
- If western spadefoot toad is found within the construction footprint, it will be allowed to move out of harm’s way of its own volition, or a qualified biologist will relocate the organism to the nearest burrow that is outside of the construction impact area.

Mitigation Measure 4.4-1o

Prior to commencement of ground disturbing activities in areas of potentially suitable habitat to support American Badger, pre-activity clearance surveys shall be initialed by a qualified biologist to reinforce positive or negative findings with substantial evidence. If American badger is located within the Project Site, potential loss of

individual animals must be mitigated through one of the following: (1) an onsite passive relocation program, through which badgers are excluded from occupied burrows by installation of a one-way door in burrow entrances, monitoring of the burrow for one week to confirm badger usage has been discontinued, and hand excavation and collapse of the burrow to prevent reoccupation; or (2) active trapping and relocation of badgers to suitable off-site habitat by a qualified biologist.

Mitigation Measures 4.4-3c

A RWQCB Report of Waste Discharge (ROWD) pursuant to the California Water Code Section 13260 would need to be acquired for impacts to “waters of the State” under the jurisdictional authority of the RWQCB.

Mitigation Measure 4.4-3d

A CDFW Streambed Alteration Agreement shall also be obtained, where necessary under applicable laws and regulations, for any proposed Project activities that would affect State waters regulated by the CDFW within the Project Site.

Mitigation Measure 4.4-4a

A 100-foot setback from the California Aqueduct shall be required to allow wildlife movement to persist throughout the Project Site without any significant barriers or blockades. Prior to development of properties adjacent to I-580 or the south side of the California Aqueduct that do not have a 100-foot-wide conservation easement placed adjacent to these facilities, a 100-foot-wide conservation easement shall be recorded along the I-580 and the Aqueduct. This measure ensures that known wildlife movement corridors remain intact and allow for an appropriate number and size of permeable wildlife passages through Project boundaries, ensuring connectively to areas that already are subject to conservation easements.

4.1 No Impacts to Covered Species Aquatic Breeding Habitat

No direct impacts to Covered Species aquatic breeding habitat within the Development Area from construction-related activities (e.g., stormwater outfalls, road improvements) are authorized under this Incidental Take Permit (ITP). The Permittee shall apply for an amendment to this ITP and provide specific designs or other plans for these types of impacts when designs are able to be provided. Upon receipt of an amendment request CDFW shall evaluate any additional impacts and provide additional Conditions of Approval if necessary and require compensatory mitigation to meet the full mitigation standard.

6.12 Covered Species Relocation

If a California tiger salamander is encountered during these inspections, and is in danger of being harmed, the Designated Biologist shall temporarily stop all activities that threaten harm, remove the animal from the area, and relocate it to the pre-approved relocation location as described in Attachment 5 [of the CDFW ITP]. California tiger salamanders will be relocated and released by the Designated Biologist outside the construction area, preferably within 300 feet of where it was

found, in protected suitable habitat in the Conservation Easement Area. Under no circumstances will a California tiger salamander be released on a site other than the Conservation Easement Area unless the written permission of the landowner has been obtained prior to the start of construction of each phase.

6.16 Notification of Mortality or Injury

The Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (707) 428-2002. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within three calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible, provide a photograph, explanation as to cause of take or injury, and any other pertinent information.

6.17 Handling of California Tiger Salamanders

California tiger salamanders shall be handled and assessed according to The Declining Amphibian Task Force Fieldwork Code of Practice available online at: https://www.fws.gov/sites/default/files/documents/declining-amphibian-task-force-fieldwork-code-of-practice.PDF.

6.18 Injured or Dead California Tiger Salamanders

If an injured California tiger salamander is found during the term of this ITP, the individual shall be evaluated by the Lead Designated Biologist who shall then immediately contact the CDFW Regional Representative, via email and telephone, to discuss the next steps. If the CDFW Regional Representative cannot be contacted immediately, the injured salamander shall be placed in a shaded container and kept moist. If the CDFW Regional Representative is not available or has not responded within 15 minutes of initial attempts, then the following steps shall be taken:

- If the injury is minor or healing and the salamander is likely to survive as determined by the Designated Biologist, the salamander shall be released immediately in accordance with the Condition of Approval 6.21.
- If it is determined that the California tiger salamander has major or serious injuries as a result of Project-related activities, the Designated Biologist shall immediately take it to the Lindsay Wildlife Museum or another CDFW-approved wildlife rehabilitation or veterinary facility. If taken into captivity, the individual shall remain in captivity and not be released into the wild unless it has been kept in quarantine and the release is authorized by CDFW and the USFWS. The Permittee shall bear any costs associated with the care or treatment of such injured California tiger salamander. The circumstances of the injury, the procedure followed, and the final disposition of the injured

animal shall be documented in a written incident report as described in Condition of Approval 6.18.

- If the California tiger salamander is found recently deceased (as evidenced by lack of odor or decomposition), a 0.5-inch portion of the tail tip shall be removed and placed in a labeled tissue tube with 95% ethanol. The remaining carcass shall be immediately bagged, labeled, and preserved in a freezer. The label shall include time and date, GPS location, circumstances surrounding death (if known), and ITP tracking number. CDFW shall be consulted on specimen disposal.

6.19 California Tiger Salamander Relocation During Project Construction

The Designated Biologist shall relocate any California tiger salamander found within the Development Area to an active rodent burrow system nearest to aquatic habitat within the Conservation Easement Area. The California tiger salamander shall be monitored until it is determined that it is not imperiled by predators or other dangers. Relocation areas shall be identified by the Designated Biologist based upon best suitable habitat available and approved by CDFW prior to the start of Covered Activities. The Designated Biologist shall document both locations by photographs and GPS positions. The California tiger salamander shall be photographed and measured (Snout-Vent) for identification purposes prior to relocation. All documentation shall be provided to the CDFW Representative within 24 hours of Covered Species Relocation.

6.20 San Joaquin Kit Fox Sightings

Any sightings of San Joaquin kit fox within or surrounding the Project Area shall be immediately reported to CDFW's Regional Contact. Any San Joaquin kit fox found within the Project Area shall be allowed to disperse on their own unless otherwise approved in writing by CDFW for specific individuals.

6.21 San Joaquin Kit Fox Injury

If a San Joaquin kit fox is injured due to Project-related activities, the Designated Biologist shall immediately take it to a CDFW-approved wildlife rehabilitation or veterinary facility. The Permittee shall identify the facility before starting Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured San Joaquin kit fox. The Permittee shall notify CDFW of the injury to the San Joaquin kit fox immediately by telephone and e-mail followed by a written incident report. Notification shall include the name of the facility where the animal was taken.

6.22 Clearance Surveys

The Designated Biologist shall survey potential habitat features, such as aquatic and upland areas, and beneath woody debris, for California tiger salamander and for previously unidentified potential San Joaquin kit fox dens during clearing, grubbing and initial site grading. If vegetation or fossorial mammal burrows become reestablished in a previously disturbed area, then the Designated Biologist shall

resurvey these areas to ensure Covered Species are not in harm's way. If the Designated Biologist(s) or anyone else discovers California tiger salamander, the Designated Biologist(s) shall move the animal to a safe location nearby (see Condition of Approval 6.20). If the Designated Biologist(s) or anyone else discovers a potential San Joaquin kit fox den, then the status of the den shall be determined per methods outlined in Condition of Approval 6.26.

6.23 Auguring and Excavation Surveys

The Designated Biologist shall survey all auguring and excavation soils material originating from up to 6-feet below grade in potential California tiger salamander habitat. The Permittee shall ensure auger bits are cleaned by shaking the soil loose and not cleaned by spinning. The Permittee shall ensure excavation is coordinated with the Designated Biologist to allow sufficient time to survey the excavated soil.

6.24 San Joaquin Kit Fox Den Surveys

No less than 14 days and no more than 30 days before Covered Activities begin the Designated Biologist shall conduct and direct walking transect surveys to detect potential San Joaquin kit fox dens in the Project Area. The Designated Biologist shall ensure that walking transects are conducted such that 100% visual coverage of the Project Area is achieved. The Designated Biologist shall adjust the transect width based upon vegetation height, topography, and other factors to facilitate the detection of dens and other signs. The Designated Biologist shall use the walking transects to detect and map known dens, potential dens, and sign (tracks, scat, prey remains). Detection dogs may be used if practicable. The status of all dens shall be determined and mapped within the Project Area (including the Conservation Easement Area). Potential dens will be any subterranean hole on the site that has entrances of appropriate dimensions for which available evidence is insufficient to conclude that it is being used or has been used by a San Joaquin kit fox. For areas within the Development Area that are either vegetated, become vegetated, or where mammal burrows become established or remain undisturbed by Covered Activities, den surveys shall be performed prior to initiating Covered Activities or re-initiating Covered Activities if dormant in sections of the Project Area.

6.25 Potential San Joaquin Kit Fox Dens

If potential kit fox den sites are located either during surveys or opportunistically then the Designated Biologist will use an infrared beam camera and track plates or powder, to determine if the den is currently being used. Other signs of occupancy (e.g., scat, fur) will be searched for in and around the burrow and, if found, documented with photographs. The camera and track plates will be placed at the burrow for a minimum of 5 consecutive days and then visually inspected by the Designated Biologist for sign of kit fox on a quarterly basis thereafter either for the term of the ITP or until the den has been permanently impacted by Covered Activities. A 50-foot avoidance buffer shall be used when kit fox occupation is expected but not confirmed.

6.26 Confirmed San Joaquin Kit Fox Dens

If a den has been confirmed to be utilized in any way by San Joaquin kit fox then all Covered Activities shall be immediately halted and the area shall be isolated from human disturbance with a minimum of a 100 foot buffer surrounding the den. Permittee shall provide a written proposal to CDFW for written approval on specific avoidance and minimization of impacts to the den and its occupants. CDFW must approve the proposal in writing prior to resumption of Covered Activities and entry of personnel or equipment within the 100-foot buffer area.

7. Habitat Management Land Acquisition and Restoration

CDFW has determined that permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result with implementation of the Covered Activities. This determination is based on factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation.

To meet this requirement, the Permittee shall provide for the permanent protection, enhancement and management of the lands known as the "Conservation Easement Area" dependent upon CDFW acceptance pursuant to Condition of Approval 7.2 below and the calculation and deposit of the management funds pursuant to Condition of Approval 7.3 below. The Conservation Easement Area is approximately 2,730. The Conservation Easement Area contains approximately 2,687 acres of potential habitat for San Joaquin kit fox and 2,008 acres of potential upland and 8 acres of potential aquatic habitat for California tiger salamander. If CDFW finds these lands are unacceptable, then Permittee shall provide a minimum of 2,700 acres of occupied suitable habitats for Covered Species pursuant to Condition of Approval 7.2 below and the calculation and deposit of the management funds pursuant to Condition of Approval 7.3 below. These lands are hereafter referred to as Habitat Management (HM) lands. Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities, or within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 8 below for all uncompleted obligations.

7.1 Cost Estimate

CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands and restoration of temporarily disturbed habitat as follows:

- 7.1.1: Land acquisition costs for HM lands identified in Condition of Approval 7.2 below, estimated at $5,000/acre for 2730 acres: $13,650,00. Land acquisitions costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirement.
- 7.1.2: Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 7.2.5 below, estimated at $423,000;

- 7.1.3: Interim management period funding as described in Condition of Approval 7.2.6 below, estimated at $201,198;
- 7.1.4: Long-term management funding as described in Condition of Approval 7.3 below, estimated at $702/acre for 2730 acres: $1,916,460. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.
- 7.1.5: Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 7.4, estimated at $4,500.

Mitigation Measure 4.9-1a

Prior to issuance of a grading or building permit, whichever occurs first, all Project Applicants shall demonstrate to the City of Tracy compliance with NPDES General Construction Activities Storm Water Permit Requirements established by the Clean Water Act (CWA), including the preparation of a Storm Water Pollution Prevention Plan (SWPPP). The SWPPP shall identify specific types and sources of stormwater pollutants, determine the location and nature of potential impacts, and specify appropriate control measures to eliminate any potentially significant impacts on receiving water quality from stormwater runoff. The SWPPP shall comply with the most current standards established by the Central Valley Water Board. Best Management Practices shall be selected from a menu according to site requirements and shall be subject to approval by the City Engineer and Central Valley Water Board.

Mitigation Measure 4.9-1b

Prior to issuance of a grading or building permit, whichever occurs first, all Project Applicants shall submit to the City Engineer for review a draft copy of the Notice of Intent (NOI) and SWPPP. After approval by the City, the NOI and SWPPP shall be sent to the State Water Resources Control Board for approval.

Mitigation Measure 4.9-2

All Project Applicants shall submit and obtain City approval of a drainage plan to the City of Tracy for onsite post-construction BMP drainage improvements consistent with the Tracy Hills Storm Drain Master Plan. Once City approval is received, all Project Applicants shall construct the drainage improvements as necessary and in accordance with the timing described in the Tracy Hills Storm Drain Master Plan.

Mitigation Measure 4.9-3

All Project Applicants shall implement the following measures:

- Shall implement sound Integrated Pest Management (IPM) principles and practices in an effort to minimize the use of pesticides in common landscaped areas, open space areas, or park areas. These programs shall include setting

acceptable thresholds of infestations and a process for determining the best prevention or treatment method for a given pest. Pest problems in common landscaped areas, open space areas, or park maintenance shall be managed through prevention and treatment using physical, mechanical and biological controls. The use of toxic pesticides will be implemented only after other non-toxic approaches or products have been determined infeasible. Fertilizers shall be applied sparingly, and shall be derived from natural sources, such as fish emulsion or manure.

- Shall cooperate with the City to create a public education program for future business owners to increase their understanding of water quality protection, which should include but not be limited to: hazardous material use controls; hazardous materials exposure controls; and hazardous material disposal and recycling.
- Encourage the use of alternative methods to avoid hazardous materials to the extent feasible and prohibit the dumping of hazardous materials in open space areas or the storm drain system.

Mitigation Measure 4.4-3a

The project area includes numerous small episodic drainage features. If adverse effects to them cannot be avoided, then the Project shall notify the appropriate regulatory agency (i.e., USACE, CDFW and RWQCB) prior to impacting the feature, to comply with the requisite permitting requirements.

- Section 401 of the CWA requires a water quality certification for discharges and/or adverse impacts to regulated waterways and aquatic environments. The RWQCB is empowered to enforce this regulation through the Water Quality Certification Program. For this Project, activities may require a CWA Section 401 Water Quality Certification (WQC).
- Section 1600 of the California Fish and Game Code (CFGC) regulates substantial alteration of waters and their adjacent riparian lands within the State. For this Project, activities may require Lake and Streambed Alteration Notification.
- If impacts to special aquatic resource areas are ultimately unavoidable within the Project Site, then the applicant should develop an informal plan to offset or compensate for adverse effects to these resources to ensure rapid and favorable action during any warranted permitting processes. Regarding waters of the state, the Project has voluntarily elected to offset locales associated with permanent losses, at a mitigation to impact ratio of 3:1, and 1:1 for temporary disturbances to regulated waters, riparian habitats or other sensitive natural communities in all areas where Project related activities would be expected to adversely affect watercourses, streams, drainages, and their tributaries. The offset associated with permanent losses would occur by purchasing conservation credits from an approved mitigation bank, in-lieu fee program, or equivalent resource agency-approved process.

- Avoidance measures being utilized by the Project include but are not be limited to the following: 1) complete avoidance of wetlands and other water features; 2) construction of structures to maintain natural floodplains; 3) installation of open channel drainages, swales or bottomless culvert systems to maintain the integrity of natural water features; 4) installation of culverts for wildlife crossings in sensitive and unique habitats to allow connectivity among water features or natural lands; 5) use natural/biological materials in armoring of structures (i.e. bridges, culverts, etc.) to the greatest extent practical; 6) when feasible, install exclusionary fencing to guide wildlife away from roadways and into water features or sensitive habitats; and 7) consult with regulatory agencies to determine the most environmentally sound methods and alternatives prior to Project implementation.

Mitigation Measure 4.4-3b

A Jurisdictional Determination would be required from the USACE documenting isolated conditions and lack of jurisdictional authority on the Project site.

6.1 Seasonal Work Window Restriction

It is anticipated that the initial ground disturbance (such as excavation, clearing and grubbing) for Phase I will take place during the rainy season (October 15, 2021, through April 1, 2022, and that Covered activities shall be subject to Condition of Approval 6.4 below. After April 1, 2022, Permittee shall limit Covered Activities that will result in either initial ground disturbance (such as excavation, grading, trenching, contouring, or clearing and grubbing) from April 1 through October 31. Once habitat has been removed and exclusion fencing is in place, activities within the exclusion fencing may occur year-round. If areas have become fallow after initial disturbance and grasses, shrubs have become reestablished, then Covered Activities shall only resume during the period from April 1 through October 31, within California tiger salamander habitat areas delineated in Figure 6 and shall only occur outside this work window after habitat (including ground squirrel and gopher burrows) is removed and exclusion fencing is in place.

6.3 Seasonal Work Window Extensions

The Permittee shall adhere to the seasonal work window required in Condition of Approval 6.1 unless an expanded work window is approved by CDFW. The Permittee shall submit any requests for extensions in writing at least 14 days prior to the desired date of construction or 14 days prior to the expiration of the seasonal work window. If work is approved the following conditions shall apply:

- 6.3.1: Any work site located within 0.5 miles of Covered Species habitat, including where equipment will be stored overnight, shall be completely fenced with a temporary wildlife exclusion barrier with coverboards (see Measure 6.11 [of ITP]). All construction work shall take place within the fenced area. Installation of exclusion fencing does not apply to graveled or well-traveled roads.

- 6.3.2: All construction vehicles and heavy equipment travel shall be limited to the daylight hours from 30 minutes after sunrise until 30 minutes before sunset, to the maximum extent feasible.
- 6.3.3: The temporary exclusion barrier shall be installed around any areas within the Project Area that could become ponded (for more than 24-hours) and provide breeding habitat during rain events. Coverboards shall be placed around the inside and outside perimeter of the temporary exclusion barrier as described in Condition of Approval 6.11.

6.4 Wet Season Work Restriction

If CDFW has approved a seasonal work window extension per Condition of Approval 6.3, then, during the wet season between October 15 through April 30, Covered Activities shall cease 24 hours prior to a 30 percent or greater forecast of rain. Construction may continue 24 hours after the rain ceases and there is less than a 30 percent chance of precipitation in the 24-hour forecast. CDFW may approve work when there is a 30 percent or more chance of precipitation in the 24-hour forecast subject to full implementation of Condition of Approval 6.6 and the following condition:

- 6.4.1: If work is approved when a greater than 30 percent chance of rain is forecast, the Designated Biologist(s) shall survey the Project Area where Covered Activities are planned before they begin each day rain is forecast. If rain exceeds 0.50 inches during a 24-hour period, work shall cease until there is a less than 30 percent change of precipitation in the 24-hour forecast. All night-time work and construction-related traffic shall be suspended during rain events.

6.5 Erosion Control

All erosion and sediment control measures shall be installed prior to earth moving Covered Activities. Permittee shall utilize erosion control measures throughout each Project Phase where sediment runoff from exposed slopes could leave the Project Area and/or enter a stream or pond. Permittee, Designated Representative or other trained staff shall monitor erosion control measures before, during, and after each storm event and repair and/or replace ineffective measures immediately.

6.6 No Project Phase without Erosion Control

No Project Phase may be started if that phase and its associated erosion control measures cannot be completed prior to the onset of a storm event if that construction phase may cause the introduction of sediments into a drainage, stream, or pond. The Permittee shall consult 72-hour weather forecasts from the National Weather Service prior to startup of any phase of the project that may result in sediment runoff to the stream.

6.7 Geo-Textile and Monofilament Netting Restriction

To minimize the risk of ensnaring and strangling wildlife, Permittee shall not place erosion control materials containing synthetic (e.g., plastic or nylon) monofilament

netting. Any geo-textile material or filter fabric used within the Project boundary shall not any contain petroleum-based products. Geotextiles, fiber rolls, and other erosion control measures shall be made of loose-weave mesh, such as jute, coconut (coir) fiber, or other products without welded weaves. No geotextile fabrics shall be placed where they may be exposed to stream flows.

6.8 Location of Spoil Sites

Spoil sites shall not be located where it may be washed back into a watercourse or within any potential Covered Species habitat throughout the Project Area.

6.9 Cover Spoil Piles

Prior to construction of a Project Phase, Permittee shall submit the Project's Stormwater Pollution and Prevention Plan and Dust Control Permit Plan for that Project Phase and comply with each plan's requirements. The Permittee shall take any necessary precautions to prevent loose soils or dust from entering streams or stormwater infrastructure that discharges into streams.

Mitigation Measure 4.4-1a

Construction operations will be overseen by an appropriately credentialed biologist (biological monitor), and the Project will implement a worker environmental awareness training program to reduce the Project's potential adverse effects to special status species. This measure is specific to Areas A, B and C of the Project.

Mitigation Measure 4.4-1b

Prior to commencement of ground disturbing activities in any areas of potentially suitable habitat to support special status plant species, pre-activity clearance surveys shall be initiated by a qualified botanist. This measure is specific to Area A, B and C.

- Surveys shall be floristic in nature and timed during appropriate blooming periods.
- Surveys shall target those locales within the Project Site of direct and indirect effects. The results of these surveys shall be submitted to CDFW and USFWS for review.
- In the event special-status plant species are detected within portions of the Project Site proposed for development, individual plant(s) or populations shall plant be avoided whenever possible by delineation and observing a no disturbance buffer of at least 50 feet from the outer edge of the plant population(s) or specific habitat type(s) required by special-status plant species.
- If buffers cannot be maintained, then consultation with CDFW and USFWS is warranted to determine appropriate minimization measures for impacts to special-status plant species.

Mitigation Measure 4.4-1c

Prior to commencement of ground disturbing activities in any areas of potentially suitable habitat to support San Joaquin Kit Fox (SJKF), no less than sixty (60) days prior to any ground disturbing activates or grading, pre-construction clearance surveys shall be initialed by a qualified biologist to reinforce negative findings (the continued absence of SJKF) on the Project Site with substantial evidence. A second SJKF survey shall be conducted no more than thirty (30) days prior to the onset of construction or ground disturbing activities. If SJKF are detected within portions of the Project Site proposed for development the developer shall immediately contact the USFWS telephonically and in writing, and following consultation with the USFWS, avoidance and minimization measures specific to SJKF will be incorporated into the Project as described in the USFWS "Standard Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbing Activities (1999)" and the USFWS "San Joaquin Kit Fox Habitat Evaluation Forms (2001)" to reduce impacts to this species to a less-than-significant level. These SJKF avoidance and minimization measures shall include the following:

- No later than forty-five (45) days prior to any ground disturbing activities or grading, the developer shall contact a qualified biologist holding proper permits and provide approval to that biologist to relocate known SJKF located on site to the 3,500-acre open space preserve or another relocation preserve approved by the USFWS or covered by the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP).
- No later than fourteen (14) days prior to any ground disturbing activities or grading, all known dens shall be monitored for at least three (3) consecutive days to ensure that SJKF dens, to the extent they exist on the Project Site, are unoccupied prior to den excavation.
- The relocation of SJKF would require an ITP per Section 2081 of the Fish and Game Code. If SJKF individuals or dens are discovered, all work within Area C in the vicinity of the discovery shall halt and not continue until CDFW has been consulted and appropriate authorization obtained.

Mitigation Measure 4.4-1d

During construction, temporary disturbances and Project-related vehicle traffic will be restricted to established roads, construction areas, and other designated lands. Also, during construction:

- Project-related construction vehicles will observe a daytime speed limit of 20-mph, except on County roads and State and Federal highways.
- Night-time construction will be minimized to the greatest extent feasible. However, if it does occur, then the speed limit will be reduced to 10-mph.
- Project-related, non-ranch operations off-road traffic outside of designated Project areas that are undergoing construction will be prohibited.
- To prevent inadvertent entrapment of small mammals, including SJKF, during construction, excavated, steep-walled holes or trenches more than 2-feet

deep will be covered at the close of each working day by plywood or similar materials. Each excavation shall contain at least one ramp, with long trenches at least one ramp shall be placed every 0.25 mile. Slope of ramps shall be now steeper than 1:1. If the trenches cannot be closed, one or more escape ramps constructed of earthen-fill or wooden planks will be installed. Before such holes or trenches are filled, they will be thoroughly inspected for trapped wildlife. If at any time a trapped or injured SJKF is discovered, the USFWS and the CDFW will be contacted immediately to attempt to relocate and/or collar the SJKF. Escape ramps shall also be installed immediately to allow trapped animals to escape.

- Construction pipes, culverts, or similar structures with a diameter of 4-inches or greater that are stored within Project limits for one or more overnight periods will be thoroughly inspected for any SJKF before the pipe is subsequently buried, capped, or otherwise used or moved. If a kit fox is discovered inside a pipe, that section of pipe should not be moved until the USFWS and CDFW has been consulted. If necessary, and under the direct supervision of a biologist, the pipe may be moved only once to remove it from the path of construction activity, until the fox has escaped.
- All food, garbage in plastic shall be disposed of in closed containers and regularly removed from the site to minimize attracting SJKF and other sensitive species to the site.
- Use of rodenticides and herbicides within Project limits will be restricted. Uses of such compounds will observe label and other restrictions mandated by the U.S. Environmental Protection Agency, California Department of Food and Agriculture, and other State and Federal legislation, as well as additional project related restrictions deemed necessary by the USFWS and CDFW. If rodent control must be conducted, zinc phosphide or an equivalent material will be used because of a lower adverse health risk to kit fox.
- No dogs, cats or other animals shall be permitted on the Project Site.
- Developer shall provide a sensitive species identification and avoidance education program for all construction employees that consists of a consultation in which persons knowledgeable in kit fox biology and legislative protection to explain endangered species protocols, habitat needs, and the measures and conditions of approval being taken to reduce impacts to the species during project construction and implementation. A fact sheet conveying this information shall be prepared for distribution to all contractors, their employees, and any and all other personnel who are working on the construction site.

Mitigation Measure 4.4-1h

All applicants who conduct Projects within Areas A and B of the Project Site shall adhere to the terms of the SJMSCP. Participation in the SJMSCP includes compliance with all incidental take measures as required in the SJMSCP, including

but not limited to preconstruction surveys to determine presence for special status flora and fauna. Notwithstanding this biological resource section's less-than-significant impact conclusions, if required by applicable law, projects being implemented within Area C shall voluntarily secure Section 7 and/or Section 10 permits in consultation with the appropriate wildlife agencies.

Mitigation Measure 4.4-1i

Pre-construction surveys shall include a survey for burrowing owl and raptor nests, which will be conducted prior to grading. Pre-construction surveys for burrowing owls will be conducted weekly, beginning no later than thirty (30) days and ending no earlier than three (3) days prior to the commencement of disturbance. If burrowing owls are found during the pre-construction survey, then replacement burrows and habitat shall be provided prior to the commencement of construction within the 3,500-acre preserve area. The Project applicant shall provide artificial replacement burrows if owls are detected, either as wintering or breeding within Project boundaries.

Construction activities associated with project features that occur within portions of the Project Site containing occupied or suitable habitat for the burrowing owl and raptor nests shall be restriction to periods outside the breeding season for this species. The breed season for burring owl runs from February 15 through August 31.

If construction or operation activities occur during the breeding season for burrowing owls, surveys are required prior to such construction to determine the presence or absence of this species within the impact area. Focused surveys shall be conducted under CDFW and Burrowing Owl Consortium protocol by a qualified biologist from February 15 to August 31. If this species is determined to occupy any portion of the Project Site, consultation with the CDFW and USFWS is required and no construction activity shall take place within 500 feet of an active nest/burrow until it has been determined that the nest/burrow is no longer active, and all juveniles have fledged the nest/burrow. No disturbance to active burrows shall occur without appropriate permitting through the SJMSCP or CDFW.

If active burrows are detected outside the breeding season, passive and/or active relocation may be approved following consultation with the CDFW and USFWS. The installation of one-way doors may be installed as part of a passive relocation program. Wintering individuals may be evicted with the use of exclusion devices followed by a period of seven days to ensure that animals have left their burrows. Burrowing owl burros shall be excavated with hand tools by a qualified biologist when determined to be unoccupied and backfilled to ensure that animals do not reenter.

Mitigation Measure 4.4-1j

To avoid the potential for disturbance of nesting birds on or near the Project Site, schedule the initiation of any vegetation removal and grading for the period of September 1 through February 15. If construction work cannot be scheduled during

this period, a qualified biologist shall conduct pre-construction surveys for nesting birds according to the following guidelines:

- The preconstruction surveys shall be conducted by a qualified biologist no later than 14 days prior to the start of vegetation removal or initiating project grading.
- If birds protected under the Migratory Bird Treaty Act are found nesting, then appropriate construction buffers shall be established to avoid disturbance of the nests until such time that the young have fledged. The size of the nest buffer shall be determined by the biologist in consultation with CDFW, and shall be based on the nesting species, its sensitivity to disturbance, and expected types of disturbance. Typically, these buffers range from 75 to 250 feet from the nest location.
- Nesting activities shall be monitored periodically by a qualified biologist to determine when construction activities in the buffer area can resume.
- Once the qualified biologist has determined that young birds have successfully fledged, a monitoring report shall be prepared and submitted to the City of Tracy Development Services for review and approval prior to initiating construction activities within the buffer area. The monitoring report shall summarize the results of the nest monitoring, describe construction restrictions currently in place, and confirm that construction activities can proceed within the buffer area without jeopardizing the survival of the young birds. Construction within the designated buffer area shall not proceed until the written authorization is received by the applicant from the Development Services Director. The above provisions are in addition to the preconstruction surveys to confirm presence or absence of nesting Swainson's hawk, burrowing owl, and other special-status species as required under the Incidental Take Minimization Measures of the SJMSCP.

Mitigation Measure 4.4-1k

To comply with Section 10 of the Migratory Bird Treaty Act and relevant sections of the California Fish and Game Code, any vegetation clearing within the Project Site shall take place outside of the typical avian nesting season (e.g., February 1st until September 1st) to the maximum extent practical. If work needs to take place between February 1st and September 1st, a pre-construction survey for nesting birds should be completed prior to the onset of Project activities. If a lapse in Project activity occurs for 7 days or more during the bird nesting season, then initial avian clearance surveys shall be repeated. A buffer zone from occupied nests should be maintained during physical ground disturbing activities. Once nesting has ended, the buffer may be removed.

Mitigation Measure 4.4-1l

Prior to construction, the Project applicant will stake, flag, fence or otherwise conspicuously delineate all environmentally sensitive areas that are to be protected in place and remain undisturbed during construction. Environmentally sensitive

areas would include wetland, riparian habitat, aquatic habitat, raptor nesting locations, etc. The construction materials used to delineate environmentally sensitive areas would be removed no later than 30 days following physical completion of construction.

Mitigation Measure 4.4-1m

The discovery of any previously unidentified protected species that are not covered by the SJMSCP, including those protected under the Migratory Bird Treaty Act (MBTA) and the Fish and Game Code, shall be avoided and evaluated by a qualified biologist during surveys. The USFWS and CDFG shall be notified of the presence of any previously unreported protected species. Any unanticipated take of protected wildlife shall be reported immediately to the USFWS and CDFG.

Mitigation Measure 4.4-1p

The Project applicant shall execute a management and funding agreement for the managing and monitoring of one hundred percent of the approximately 3,500-acre open space preserve subject to the three conversation easements discussed in this Section, which shall occur before the commencement of any ground disturbing activities in Area C. (Note Areas A and B are already subject to a management and funding agreement and therefore this Measure applies to Area C.)

Section 5.3.1 Construction Related Avoidance and Minimization Measures

All employees, consultants, and contractors will receive environmental training prior to the commencement of construction activities. If construction extends through multiple years, training will be held annually for all long-term personnel. All new personnel will receive training prior to working on the Project site. The avoidance and minimization measures will be outlined in the training. All personnel on the construction site will follow these measures to avoid or reduce effects on Covered Species. The training will include a printed handout (printed in both English and Spanish) that will be handed to all personnel. All employees and contractors will be required to sign a sign-in sheet indicating that they attended the training and understand the material presented. The training and handout will contain the following information.

- Descriptions of the Covered Species (including photographs) and their habitat needs.
- A current report of the occurrences of the Covered Species in the Permit Area.
- An explanation of the protected status of each Covered Species under the federal and state endangered species acts and legal obligations.
- Avoidance and minimization measures that will be followed to reduce impacts on the Covered Species during all Project activities: construction, O&M, and decommissioning, and the penalties for not following the avoidance and mitigation measures.

- Instructions on the procedures that will be implemented if a Covered Species is found onsite, including contact information of a biological monitor and USFWS personnel.

Biological Monitor

- Construction operations will be overseen by a biological monitor who is a qualified biologist (see Glossary, Appendix 1A) approved by USFWS, and the biologists' contact information will be provided to USFWS. Timing and location of monitoring are described for each of the covered species below in the species-specific avoidance and minimization measures.
- At least 30 days prior to the onset of ground-disturbing activities, the names and credentials of a supervisory Project biologist responsible for approving and overseeing all Project biological monitors and other biologists performing biological work, will be submitted to USFWS for approval.
- Approved biological monitor(s) will be required onsite as long as construction crews and associated vehicles are accessing the site. Monitoring will cease once construction traffic and activity has ceased.
- The biological monitor will have the authority to order a halt to construction activities, and will order halts to construction activities in the following instances: 1) the monitor observes activities that may result in mortality or harm to covered or listed species; 2) the monitor observes any of the avoidance and minimization measures described in this HCP are not being implemented; or 3) if at any time a Covered Species or non-covered federally-listed species is in danger of injury or mortality. Work will not resume until the situation has been rectified to the satisfaction of the biological monitor.

Designated Work Areas

- During construction project-related vehicle traffic will be restricted to established roads, areas already developed, construction areas, and other lands designated for construction of the specific development phase.
- Project-related off-road traffic outside of designated Project areas that are undergoing construction will be prohibited.

Preconstruction Measures

- Prior to construction, the Project applicant will stake, flag, fence or otherwise conspicuously delineate all environmentally sensitive areas that are to be protected in place and remain undisturbed during construction, including the boundaries between the Development Area and the Conservation Easement Area. The Project applicant will also delineate the boundary of the work area (i.e., the development phase). Environmentally sensitive areas are defined as wetland, riparian areas, aquatic areas, and raptor nesting locations. The materials used to delineate environmentally sensitive areas will be removed no later than 30 days following completion of construction.

Speed Limits

- Project-related construction vehicles will observe a daytime speed limit of 20-mph, except on County roads and State and Federal highways. All Project traffic will observe a night-time speed limit of 10-mph during construction.
- Night-time construction will be minimized to the greatest extent feasible. However, if night-time construction does occur, then the speed limit within the construction area will be reduced to 10-mph.

Trash

- All food waste, plastic, and other trash will be disposed of in closed containers and regularly removed from the site.

Other Measures

- Within 1 working day of finding a dead, sick, or injured Covered Species on the Project site, the biologist will notify USFWS orally and within 3 working days in writing. Notification in writing will include the date, time, and location where the specimen was found and information about the conditions under which it was found.

5.4.2 Habitat Management and Enhancement

The USFWS-approved management plan describes measures to be employed for long-term management and protection of Easements 2 and 3. Habitat management and enhancement activities will be implemented on Easements 2 and 3 and include grazing, fencing aquatic habitat, and installation and maintenance of kit fox escape dens.

- 5.4.2.1 Grazing: Easements 2 and 3 will be grazed according to the guidelines for Southwest Zone Grassland and Riparian Preserve types as outlined in the SJMSCP, which covers the same species as this HCP. These guidelines state that best range management practices be implemented to avoid overgrazing and to maintain cover for rodents that provide a food and burrow source for Covered Species. Grazing management practices for conservation and management of grassland habitats will be based primarily on maintaining appropriate grass height and vegetation density through livestock grazing and cessation of rodent control. The grazing element of the USFWS-approved preserve management plan is designed to use grazing as a management tool primarily to maintain grass height within an optimum range for Covered Species. Cattle grazing will be used to maintain the grassland in optimum condition and maximize habitat values for Covered Species. Section 5.5.2 [of the HCP], Effectiveness Monitoring, describes the success criteria for determining whether grazing activities are sufficient to maintain the grassland habitat. Grazing should be conducted primarily between [October 15] and May 31, a period of [8] months. This grazing period coincides with rapid herbaceous plant growth in fall after the first rains, slow

winter growth, and rapid growth again in spring, ending as plants die or become dormant in summer.

- 5.4.2.2 Aquatic Habitat Fencing: Other enhancement activities on Easements 2 and 3 include the use of fencing around Covered Species aquatic habitat to prevent degradation by cattle. A standard cattle exclusion fence constructed of barbed wire and T-posts will be installed to keep cattle out of the riparian area along Corral Hollow Creek. The pond that supports California red-legged frogs is already fenced, but this fencing will be inspected at least annually and maintained to ensure cattle do not disturb the habitat. This fencing will be installed prior to initiation of Covered Activities in the Permit Area.

5.4.2.3 Kit Fox Escape Dens

San Joaquin kit fox escape dens, designed to provide escape cover for kit fox if pursued by a predator, will be constructed and placed strategically, within the areas of rugged terrain in the Conservation Easement Area. The escape dens will be placed, in coordination with a biologist specializing in kit fox management, in areas that allow kit foxes to escape from predators where they may be the most vulnerable. Appendix 5C shows the den design. The escape dens will consist of pipes constructed of high-density polyethylene or corrugated polyvinyl chloride plastic pipe that is six inches in diameter and approximately 10 to 20 feet long. Pipes will be placed flush with the ground surface and covered (except the ends) with a minimum of six inches of dirt to provide thermal insulation. Strips, holes, or other openings will be cut along the bottom of the pipes to facilitate drainage. The Preserve Manager will inspect and verify proper conditions and functionality of installed escape dens on an annual basis.

6.2 Daily Work Window Restriction

All Covered Activities shall terminate 30 minutes before sunset and shall not resume until 30 minutes after sunrise unless otherwise approved by the Designated Biologist. Permittee shall use sunrise and sunset times established by the U.S. Naval Observatory Astronomical Applications Department for the geographic area (http://aa.usno.navy.mil/data/docs/RS_OneYear.php).

6.10 Temporary Exclusion Barrier

At least 30 days prior to the initiation of Covered Activities on each Project Phase, the Permittee shall submit to CDFW for written approval plans for an exclusion fencing system for the upcoming active phase, and access routes as appropriate. CDFW has 30 days to respond to each submission of plans, including resubmission of plans that are revised at the request of CDFW. The plans shall include a map indicating location of exclusion fencing in relation to Project Areas, location of special-status wildlife habitat features, dimension specifications and a description of fencing materials. The Permittee shall be responsible for the implementation and upkeep of the fencing system. In addition, the following criteria for the exclusion fencing system shall be met:

- 6.10.1: The exclusion fencing shall consist of material appropriate for exclusion of Covered Species.
- 6.10.2: There shall be a section of exclusion fencing placed between disturbance areas and aquatic habitat for California tiger salamander along Corral Hollow Creek to prevent individuals from entering any slated ground disturbance areas from the creek.
- 6.10.3: The exclusion fencing shall either measure at least 36 inches tall above the soil surface or be of an appropriate height for exclusion of the Covered Species.
- 6.10.4: The Designated Biologist shall inspect the fencing immediately after every rain event to ensure it maintains structural integrity. Holes or burrows which appear to extend under the fencing will be blocked inside the fence line to prevent California tiger salamander from accessing work areas.
- 6.10.5: The bottom of the exclusion fencing shall not allow wildlife to pass through gaps or holes with the bottom of the fencing buried six inches below grade.
- 6.10.6: The exclusion fencing shall be taut between the supporting stakes and shall have the supporting stakes oriented on the inside edge towards the development areas.
- 6.10.7: The exclusion fencing shall feature coverboards inside and outside the perimeter placed at 100-foot intervals and one-way escape doors or an appropriate design for preventing special-status species and other wildlife from being trapped within a Project Phase that is under active construction.
- 6.10.8: The fencing and coverboards shall be inspected every morning for trapped California tiger salamanders during periods when they are likely to be migrating above-ground. These daily-inspection periods include the period from May 1 through August 31 when salamander metamorphose are likely to be migrating away from their natal ponds, and all year on mornings following any rain event greater than 0.1 inches, when adults may be migrating to their breeding ponds. If a California tiger salamander is encountered during these inspections, and is in danger of being harmed, then the Designated Biologist shall temporarily stop all activities that threaten harm, remove the animal from the area, and relocate it to the pre-approved location as described in the Covered Species Relocation Plan (Condition of Approval 6.12).
- 6.10.9: If fencing becomes damaged, it will be immediately repaired upon detection and the Designated Biologist shall stop work in the vicinity of the fencing as needed to ensure that no California tiger salamanders have entered the construction area.
- 6.10.10: Fencing system entry/exit points for vehicular and pedestrian traffic shall be constructed so wildlife cannot access the area within a Project Phase during non-work hours.

- 6.10.11: The Designated Biologist shall inspect the Project Area prior to installation of the exclusion fencing. The exclusion fencing system shall remain in place until all construction activities have been completed in the corresponding Project Phase. All components of the exclusion fencing will be removed for storage or disposal off-site immediately upon completion of construction activities. All vegetation slated for removal in the exclusion fencing buffer area shall be inspected by a Designated Biologist prior to the initiation of removal. Exclusion fencing shall be inspected daily by the Designated Biologist and repaired as necessary, including inspection of coverboards and replacement of wetted sponges as necessary to minimize wildlife distress.

6.11 Covered Species/Conservation Easement Area Permanent Fencing

Permittee shall provide a Covered Species/Conservation Easement Area Fencing Plan a minimum of 30 days prior to commencing any Covered Activities for approval in writing by CDFW. Fencing structures identified in the plan shall be installed either according to the approved plan or prior to commencement of Covered Activities for each phase. The Permittee shall ensure any permanent fencing is maintained. Permittee shall ensure that permanent barriers or fencing installed between fully developed areas and Covered Species habitat are maintained in perpetuity.

6.13 Avoidance or Treatment of Burrows

All mammal burrows within the Development Area that cannot be avoided shall be hand-excavated and collapsed so that they do not attract California tiger salamanders or San Joaquin kit fox during Covered Activities. This shall occur prior to and during the clearing and grubbing phase of each Project Phase.

6.14 Open Trenches, Pits or Holes

Any open trenches, pits, holes or other excavations into which Covered Species may fall or become trapped shall either be covered if feasible or have wildlife escape ramps installed as determined by the Designated Biologist at the end of each workday. Prior to the initiation of construction each day and prior to the covering of trenches, holes or pits, the Designated Biologist or Biological Monitor shall inspect them for wildlife for movement out of harm’s way.

6.15 Open Pipes Restriction

All pipes, culverts, or similar structures with a 4-inch or greater diameter that are stored on site for one or more overnight periods shall be securely capped on both ends prior to storage when feasible and thoroughly inspected for wildlife by the Designated Biologist or Construction Monitor prior to utilization. All hollow pipes or posts after they are installed as part of the Project and exposed to the environment shall be capped, screened, or filled with material by the Permittee prior to the end of the day in which installation occurs.

9. **Compensatory Mitigation:** The Permittee is required to provide compensatory mitigation for direct impacts, described in section 5 for permanent impacts.

10. **Basin Plan**: Receiving waters 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*, rev. 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 (State Water Board) 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.

11. **Waste Discharge Requirements:** This Order is adopted pursuant to Water Code section 13263, subdivision (a), which provides, in pertinent part, the following:

    The regional board, after any necessary hearing, shall prescribe requirements as to the nature of any proposed discharge, existing discharge, or material change in an existing discharge…, with relation to the conditions existing in the disposal area or receiving waters upon, or into which, the discharge is made or proposed. The requirements shall implement any relevant water quality control plans that have been adopted, and shall take into consideration the beneficial uses to be protected, the water quality objectives reasonably required for that purpose, other waste discharges, the need to prevent nuisance, and the provisions of Section 13241.

    Compliance with section 13263, subdivision (a), including implementation of the Basin Plan, is discussed below. The Central Valley Water Board has considered the factors in section 13241 in establishing the requirements in this Order.

12. **Antidegradation Policy**: State Water Resources Control Board Resolution No. 68-16, "Statement of Policy with Respect to Maintaining High Quality of Waters in California" (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.

13. **No Net Loss Policy**: Executive Order W-59-93, dated 23 August 1993, establishes a California Wetlands Conservation Policy including an objective 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 (No Net Loss Policy). The State Water Resources Control Board and Regional Water Quality Control Boards are committed to increasing the quantity, quality, and diversity of wetlands that qualify as waters of the state.

14. **Compliance with Antidegradation and No Net Loss Policies**: Filling wetlands and other waters causes partial or complete loss of the beneficial uses provided by those waters. To reconcile such losses with the State's No Net Loss and Antidegradation Policies, this Order requires adherence to the requirements in the mitigation monitoring and reporting program, including compensatory mitigation for impacts that cannot be feasibly avoided or minimized; implementation of the approved compensatory mitigation plan; and other requirements to minimize the potential effects of construction on water quality and resources. Regarding compensatory mitigation, this Order requires aquatic resource impacts be mitigated at a 1:1 ratio (credits to impacted aquatic resources) by permittee-responsible mitigation. These measures ensure impacts are mitigated through avoidance and minimization and that unavoidable loss of beneficial uses is offset with appropriate compensatory mitigation. Accordingly, Order requirements are consistent with the provisions of the No Net Loss and Antidegradation Policies.

15. **Monitoring and Reporting Requirements**: The monitoring and technical reporting provisions in this Order are adopted pursuant to Water Code section 13267, subdivision (b)(1), which provides, in pertinent part, the following:

    [T]he regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste … shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.

    The reports required under this Order are necessary to verify and ensure compliance with permitting requirements and protect waters of the state. The burden associated with such reports is reasonable relative to the need for their submission.

16. **California Environmental Quality Act (CEQA)**: On 5 April 2016, the City of Tracy, as lead agency, certified an environmental impact report/environmental impact statement (EIR/EIS) (State Clearinghouse (SCH) No. 2013102053) for the Project and filed a Notice of Determination (NOD) at the SCH on 26 April 2016. 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.

17. **Liability for Noncompliance**: Failure to comply with this Order shall constitute a violation of the Porter-Cologne Water Quality Control Act. The Permittee may then be subject to administrative and/or civil liability pursuant to Water Code sections 13268 and/or 13350. The Central Valley Water Board reserves its right to take any enforcement actions authorized by law.

18. **Additional Monitoring and Reporting**: 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.

19. **Construction General Permit**: This Order does not provide coverage under the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities Order No. 2022-0057-DWQ, as amended.

20. **Endangered Species Act**: 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.

21. **Public Notice**: This Order was publicly noticed with an opportunity to submit written comments pursuant to Water Code section 13167.5.

22. **Public Hearing**: At a public meeting, the Central Valley Water Board heard and considered all comments pertaining to the discharges regulated under this Order.

23. **Petitions for Reconsideration**: Any person aggrieved by this action may petition the State Water Board to reconsider this Order in accordance with Water Code section 13320 and California Code of Regulations, title 23, section 2050 et seq. The State Water Board must receive the petition by 5:00 p.m. on the 30th day after the date of this Order; if the 30th day falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions are available on the Internet (at the address below) and will be provided upon request. State Water Resources Control Board Law and Regulations for Filing Petitions (http://www.waterboards.ca.gov/public_notices/petitions/water_quality)

REQUIREMENTS

IT IS HEREBY ORDERED, pursuant to Water Code sections 13263 and 13267, that the Permittee shall comply with the following:

A. Scope

Impacts to waters of the state shall not exceed quantities shown in Table 1.

B. Reporting and Notification Requirements

1. Requirements for the content of the below reporting and notification types are detailed in Attachment D, including specifications for photo and map documentation during the Project, which is incorporated herein by reference.
2. 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 may be uploaded to an approved database or transferred to a disk and mailed to the Central Valley Water Board Contact.
3. **Project Reporting**
   a. **Monthly Reporting:** The Permittee must submit a Monthly Report to the Central Valley Water Board on the **1st day of each month** beginning the month after the submittal of the Commencement of Construction Notification. Monthly reporting shall continue until the Central Valley Water Board issues a Notice of Project Complete Letter to the Permittee.
   b. **Annual Reporting:** The Permittee shall submit an Annual Report each year on the **1st day of January beginning one year after the effective date of the Order.** Annual reporting shall continue until the Central Valley Water Board issues a Notice of Project Complete Letter to the Permittee.
4. **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, if applicable, corresponding Waste Discharge Identification Number (WDID#) issued under the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2022-0057-DWQ; NPDES No. CAS000002).
   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.

5. Conditional Notifications and Reports

a. Accidental Discharges of Hazardous Materials[1]

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-Spill_Booklet_Feb2014_FINAL_BW_Acc.pdf)

[1] "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.)

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. 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. Project Modifications: 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 Project Deviation section of this Order.

e. Transfer of Property Ownership and Long-Term Best Management Practices (BMPs) Maintenance: 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. 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.

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

C. Water Quality Monitoring

1. General:

a. 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).

b. The Permittee shall perform surface water sampling:

i. when performing any in-water work;

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

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

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

c. 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.

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:

a. During planned in-water work or during the entire duration of temporary water diversions, any discharge(s) to waters of the state shall conform to the following water quality objectives:

i. 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.

ii. Activities shall not cause turbidity increases in surface water to exceed the following:

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

(b) where natural turbidity is between 1 and 5 NTUs, increases shall not exceed 1 NTU;

(c) where natural turbidity is between 5 and 50 NTUs, increases shall not exceed 20 percent;

(d) where natural turbidity is between 50 and 100 NTUs, increases shall not exceed 10 NTUs;

(e) 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.

b. Sampling during in-water work or during the entire duration of temporary water diversions shall be conducted in accordance with Table 2 sampling parameters.[2] The sampling requirements in Table 2 shall be conducted upstream out of the influence of the Project, and approximately 300 feet downstream of the work area. The sampling frequency may be modified for certain projects with written approval from Central Valley Water Board staff.

c. 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.

d. In reporting the data, the Permittee shall arrange the data in tabular form so that the sampling locations, date, constituents, and concentrations are readily

[2] 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.

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 Section C.3.

e. 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 2: Sample Type and Frequency Requirements

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

4. Post-Construction: The Permittee is required to visually inspect the Project site during the rainy season for one year following completion of active Project construction activities to ensure excessive erosion, stream instability, or other water quality pollution is not occurring in or downstream of the Project site. If water quality pollution is occurring, contact the Central Valley Water Board staff member overseeing the Project within three (3) working days. The Central Valley Water Board may require the submission of a Violation of Compliance with Water Quality Standards Report. Additional permits may be required to carry out any necessary site remediation.

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 6 commencing with sections 2050-2068, inclusive. Additionally, the Central Valley Water Board may review and revise the requirements in this Order as necessary. (Water Code, section 13263, subdivision I.)

2. 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.

3. 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 Plan of the Central Valley Water Board or any

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

State Water Board water quality control plan or policy. The source of any such discharge must be eliminated as soon as practicable.

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. **Mitigation Monitoring and Reporting Program (MMRP):** The Permittee shall adhere to all requirements in the Mitigation Monitoring and Reporting Program (MMRP) which is incorporated herein by reference and any additional measures as outlined in Attachment C, CEQA Findings of Fact.

E. Administrative

1. Signatory requirements for all document submittals required by this Order are presented in Attachment E of this Order.
2. 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.

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 the 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.

4. **Lake or Streambed Alteration Agreement:** If applicable, the Permittee shall submit a signed copy of the California Department of Fish and Wildlife's (CDFW) Lake or Streambed Alteration Agreement to the Central Valley Water Board immediately upon execution and prior to any discharge to waters of the state.

F. Construction

1. **Dewatering – Not Applicable**
2. **Directional Drilling – Not Applicable**
3. **Dredging – Not Applicable**
4. **Dust Abatement:** 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. **Spill Prevention, Containment, and Cleanup Plan:** 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.
   c. 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.
   d. All materials resulting from the Project shall be removed from the site and disposed of properly.
6. **Toxic and 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 B.5.a and B.5.b.

b. No wet concrete will be placed into 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 the 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 Permittee 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. 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.
    b. The use of netting material (e.g., monofilament-based erosion blankets) that could trap aquatic dependent wildlife is prohibited within the Project area.

11. **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.

12. **Storm Water:** 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 an effective combination of erosion and sediment control BMPs that are implemented and adequately working prior to the rainy season and during all phases of construction.

G. Site Specific – Not Applicable

H. Total Maximum Daily Load (TMDL) – Not Applicable

I. Mitigation for Temporary Impacts – Not Applicable

J. Compensatory Mitigation for Permanent Impacts

1. **Final Compensatory Mitigation Plan:** The Permittee shall provide compensatory mitigation for impacts to waters of the state in accordance with the Final Tracy Hills Habitat Conservation Plan (Compensatory Mitigation Plan) dated December 2020 and incorporated herein by reference.

2. **Permittee-Responsible Compensatory Mitigation Responsibility**
    a. Permittee responsible compensatory mitigation installation was completed on 17 December 2021.
    b. The Permittee is responsible for the required compensatory mitigation in perpetuity. However, the Permittee may transfer the compensatory mitigation requirements associated with long-term management when the following conditions have been met:
        i. Performance standards are met.
        ii. A Transfer Agreement to a third party, demonstrating the transferee's acceptance and understanding of the responsibility to comply with and fully satisfy the required compensatory mitigation and long-term management conditions, has been submitted to the Central Valley Water Board."

iii. An endowment fund has been provided by the Permittee to a third party for management in perpetuity of the mitigation site.

iv. A conservation easement, deed restriction, or other appropriate restrictive covenant for the mitigation site has been recorded and approved by Central Valley Water Board staff.

3. Total Required Compensatory Mitigation

a. The Permittee is required to provide compensatory mitigation for the authorized impact to stream channel by preserving 0.8 acre of ephemeral drainages, 0.1 acre of perennial spring, and 2.3 acres of wetlands that include seasonal wetlands, swales, and vegetated drainage channels as part of the Tracy Hills Habitat Conservation Plan (THHCP). Additionally, the THHCP preserves approximately 8 acres of suitable aquatic habitat that support California tiger salamander breeding. The conservation easement was recorded 17 December 2021 and the endowment was funded. The California Waterfowl Association is the easement holder and Wildlands, Inc. is the Preserve Manager for the conservation easement area.

b. Total required Project compensatory mitigation information for permanent physical loss of area is summarized in Table 3. [Establishment (Est.), Re-establishment (Re-est.), Rehabilitation (Reh.), Enhancement (Enh.), Preservation (Pres.), Unknown].

Table 3: Total Required Project Compensatory Mitigation Quantity for Permanent Physical Loss of Area

Aquatic Resource Type	Mitigation Type	Units	Est.	Re-est.	Reh.	Enh.	Pres.	Unknown
Stream Channel	Permittee-Responsible	Acres					0.9	
Wetland	Permittee-Responsible	Acres					2.3	

K. Project 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 Project Deviations as set forth in Attachment F. For purposes of this Order, a “Project Deviation” is a Project locational or impact modification that does not require an 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 requirements and the CEQA Findings.

2. A Project modification shall not be granted a Project Deviation if it warrants or necessitates changes that are not addressed by this Order or the CEQA environmental document. In this case a supplemental environmental review and/or revised Order will be required.

CERTIFICATION

I, Patrick Pulupa, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the Central Valley Regional Water Quality Control Board, on 14 December 2023.

Date: 2024.01.02 11:36:26 -08'00'

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: Project Deviation Procedures

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Figure 1: Project Location Map

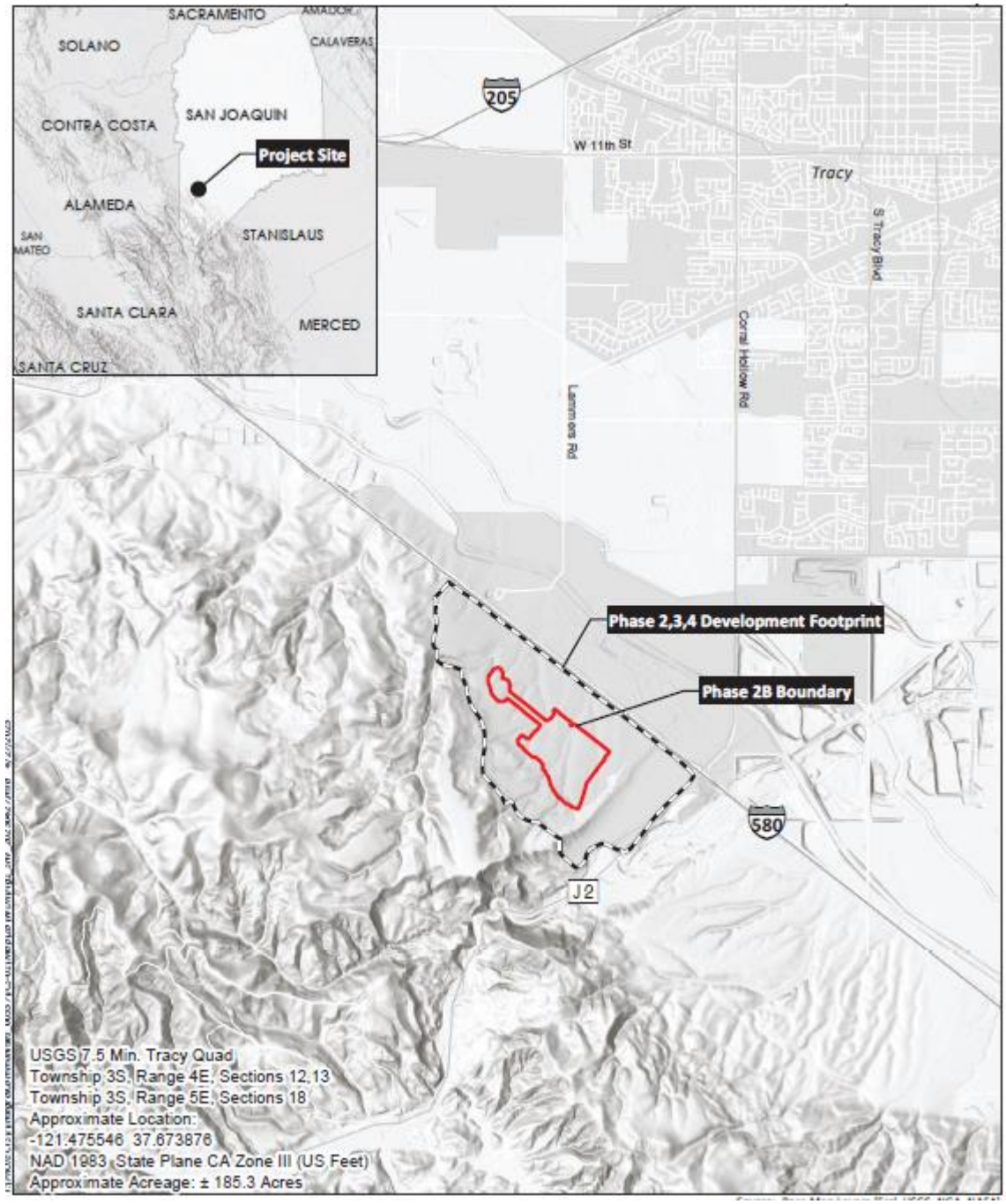
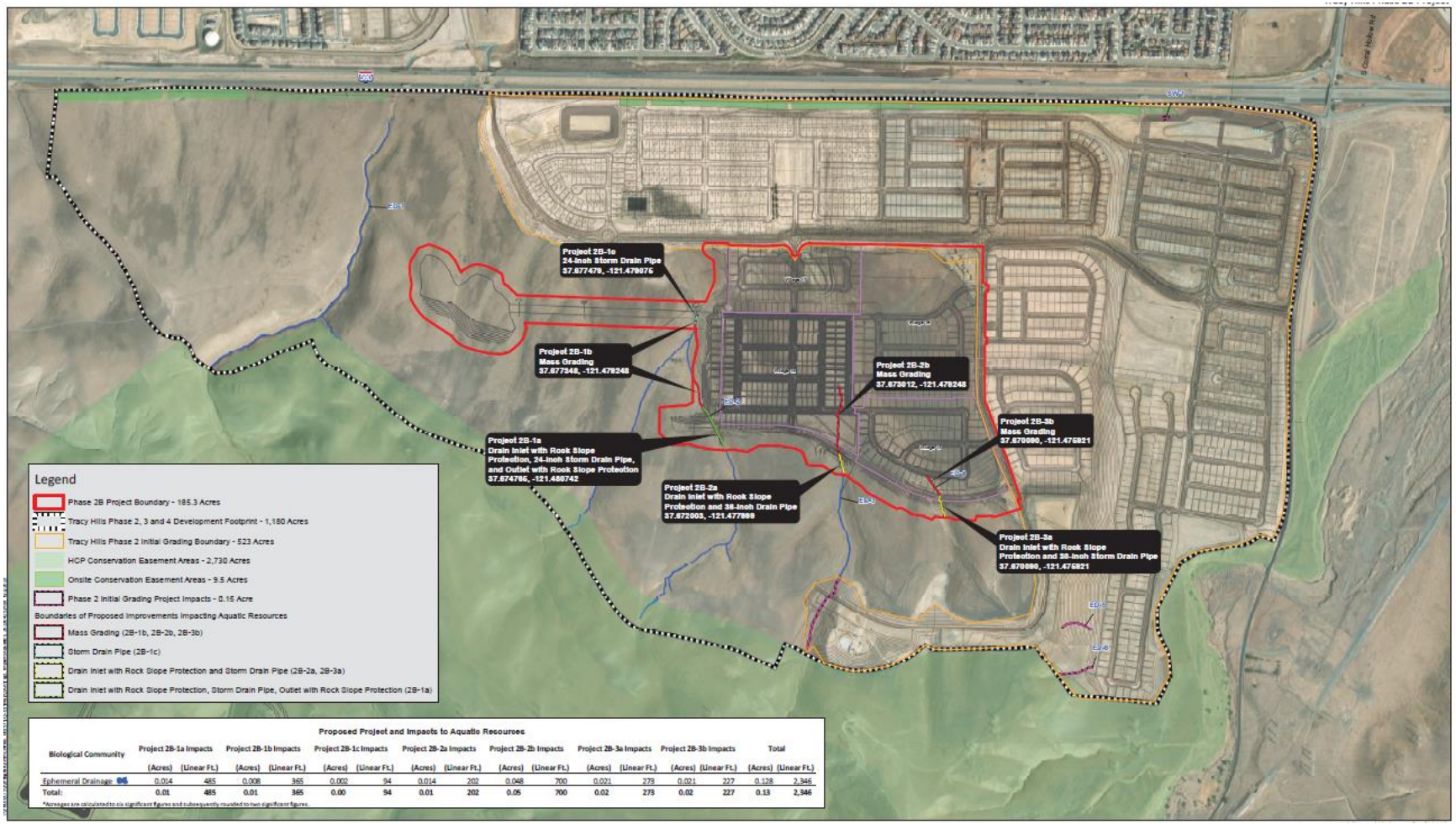


Figure 2: Project Impacts Map

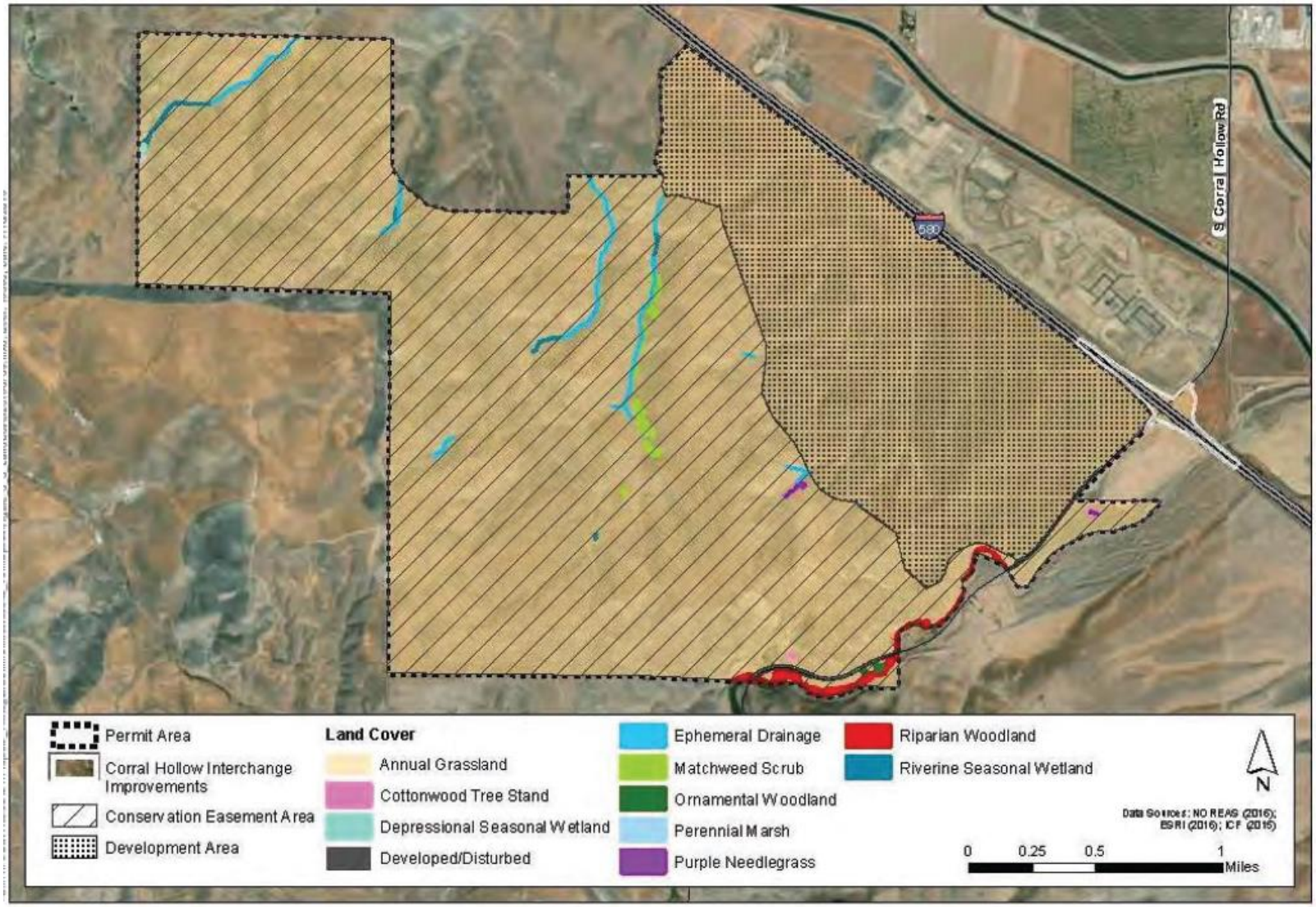


Proposed Project and Impacts to Aquatic Resources

Biological Community	Project 2B-1a Impacts		Project 2B-1b Impacts		Project 2B-1c Impacts		Project 2B-2a Impacts		Project 2B-2b Impacts		Project 2B-3a Impacts		Project 2B-3b Impacts		Total	
	(Acres)	(Linear Ft.)	(Acres)	(Linear Ft.)	(Acres)	(Linear Ft.)	(Acres)	(Linear Ft.)	(Acres)	(Linear Ft.)	(Acres)	(Linear Ft.)	(Acres)	(Linear Ft.)	(Acres)	(Linear Ft.)
Ephemeral Drainage [1]	0.014	485	0.008	365	0.002	94	0.014	202	0.048	700	0.021	273	0.021	227	0.128	2,346
Total:	0.01	485	0.01	365	0.00	94	0.01	202	0.05	700	0.02	273	0.02	227	0.13	2,346

*Acreages are calculated to six significant figures and subsequently rounded to two significant figures.

Figure 3: Permittee-Responsible Mitigation Map



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Receiving Waters, Impacts and Mitigation Information

The following table shows the receiving waters associated with each impact and Permittee responsible mitigation site.

Table 1: Receiving Water(s) Information

Non-Federal Waters	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
Yes	ED-2	Unnamed ephemeral drainages terminate on site and not tributary to downstream receiving waters	Stream Channel	543.00	N/A	N/A	N/A	N/A
Yes	ED-3	Unnamed ephemeral drainages terminate on site and not tributary to downstream receiving waters	Stream Channel	543.00	N/A	N/A	N/A	N/A
Yes	ED-4	Unnamed ephemeral drainages terminate on site and not tributary to downstream receiving waters	Stream Channel	543.00	N/A	N/A	N/A	N/A

Individual Direct Impact Locations

The following tables show individual impacts.

Table 2: Individual Permanent Fill/Excavation Impact Information

Impact Site ID	Latitude	Longitude	Indirect Impact Requiring Mitigation?	Acres	Cubic Yards	Linear Feet
ED-2	37.674584	-121.483268	No	0.024		944
ED-3	37.670705	-121.479511	No	0.062		902
ED-4	37.669791	-121.476020	No	0.042		500

Compensatory Mitigation Information

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

Permittee Responsible Compensatory Mitigation Site Information

Table 3: Offsite Permittee Responsible Compensatory Mitigation Site Information

Program Name:	Tracy Hills Habitat Conservation Plan
Program Contact Name:	Wildlands, Inc.
Phone:	(916) 435-3555
Email:	wildlands@heronpacific.com
Location - County:	San Joaquin
Latitude:	37.676366
Longitude:	-121.520071

Table 4: Mitigation Type Information

Aquatic Resource Credit Type	Acres
Stream Channel	0.9
Wetland	2.3

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Attachment C – CEQA Findings of Fact

A. Environmental Review

On 6 April 2016, the City of Tracy, as lead agency, certified a Final Environmental Impact Report (FEIR) (State Clearinghouse (SCH) No. 2013102053) for the Project and filed a Notice of Determination (NOD) at the SCH on 26 April 2016. The Central Valley Water Board is a responsible agency under CEQA (Public Resources Code, section 21069) and in making its determinations and findings, must presume that the City of Tracy's certified environmental document comports with the requirements of CEQA and is valid. (Public Resources Code, section 21167.3). The Central Valley Water Board has reviewed and considered the environmental document and finds that the environmental document prepared by the City of Tracy addresses the Project's water resource impacts. (California Code of Regulations, title 14, section 15096, subd. (f).) The environmental document includes the mitigation monitoring and reporting program (MMRP) developed by the City of Tracy for all mitigation measures that have been adopted for the Project to reduce potential significant impacts. (Public Resources Code, section 21081.6, subd. (a)(1); California Code of Regulations, title 14, section 15091, subd. (d).)

B. Incorporation by Reference

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

The Program Environmental Impact Report (EIR), which includes analyses of broad impacts and serves as a first tier document for the FEIR, is available at: 333 Civic Center Plaza, Tracy, CA 95376.

All CEQA project impacts, including those discussed in subsection C below, are analyzed in detail in the Project FEIR which is incorporated herein by reference. The Project FEIR is available at: 333 Civic Center Plaza, Tracy CA 95376.

Requirements under the purview of the Central Valley Water Board in the MMRP are incorporated herein by reference.

The Permittee's application for this Order, including all supplemental information provided, is incorporated herein by reference.

C. Findings

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

(1) Findings regarding impacts that will be mitigated to a less than significant level. (Public Resources Code, section 21081, subd. (a)(1); California Code of Regulations, title 14, section 15091, subd. (a)(1).)

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.

a.i. Potential Significant Impact:

- Impact 4.4-1: Implementation of the Project would result in a significant impact on special-status plant species known or with potential to utilize the existing habitat on the Tracy Hills Specific Plan.
- Impact 4.4-2: Implementation of the Project would result in a significant impact on special-status animal species known or with potential to utilize the existing habitat on the Tracy Hills Specific Plan.
- Impact 4.4-3: Implementation of the Project could result in inadvertent loss of bird nests in active use, which would be a violation of the Migratory Bird Treaty Act and CDFW Code.
- Impact 4.4-4: Implementation of the Project would result in a significant impact on federally protected “wetlands” or Waters of the U.S. and State.
- Impact 4.4-5: The Project may interfere with the movement of wildlife species through an established wildlife corridor.
- Impact 4.9-1: Implementation of the Project would result in a significant impact to downstream surface water quality during construction.
- Impact 4.9-2: Implementation of the Project would result in substantial erosion or sedimentation on- and off- site with the alteration of existing drainage patterns.
- Impact 4.2-3: Implementation of the Project would provide substantial additional sources of polluted runoff during operation of the Project.
- Impact 4.9-4: Implementation of the Project could place structures within a 100-Year Flood Hazard Area.

a.ii. Facts in Support of Finding:

- 4.4-1: Prior to commencement of ground disturbing activities, communication with USFWS and CDFW should be initiated to determine if sensitive plant surveys would be required. If required, the applicant shall hire a qualified biologist to conduct sensitive plant surveys in accordance with the CDFW 2009 and USFWS 1996 protocols.

- 4.4-2a: Prior to construction activities within Areas A and B of the THSP, the following pre-construction surveys listed in the SJMSCP need to be implemented:

1. Surveys to verify vegetation types proposed to be impacted to determine the suitability for SJMSCP Covered Species;

2. Surveys prior to ground disturbing activities to determine success of relocated and/or implementation of Incidental Take Minimization Measures as specified in conditions of project approval;

3. Surveys conducted in compliance with USFWS protocols to determine presence/absence of Conservancy and/or longhorn fairy shrimp within vernal pools or other wetlands in the Southwest Zone, unless no vernal pools or wetlands occur onsite or will be avoided; and

4. Surveys conducted pursuant to the protocol established in Section 5.2.2.5(AC) of the SJMSCP for specific sensitive plant species. Sensitive plant species that have the potential to occur within the Central/Southwest Transition Zone and/or Southwest Zone are larger-flowered fiddleneck, showy madia, Hospital canyon larkspur, diamond-petaled poppy, and slough thistle; and if necessary comply with USFWS and CDFW requirements.

- 4.4-2b: Area C of the THSP is not currently covered by the SJMSCP and would need to apply independently for coverage. However, coverage under the SJMSCP may not be available for Area C. If a Project Applicant within Area C opts for coverage through participation in the SJMSCP, then the applicant shall either: 1) participate in the SJMSCP and comply with all required Incidental Take Minimization Measures or 2) secure incidental take authorizations for State and/or federally listed species directly from the CDFW and USFWS, respectively. Participation in the SJMSCP shall include compliance with all relevant Incidental Take Minimization Measures pertinent to the THSP area, including pre-construction surveys for covered species to confirm presence or absence and provide for their relocation, if necessary. Issuance of grading and construction permits shall be contingent on providing evidence of either 1) compliance with the SJMSCP or 2) a 2081 Permit from the CDFW and Biological Opinion from the USFWS to the City of Tracy Development Services Director to ensure compliance with applicable regulations and ensure adequate compensatory mitigation has been provided.

- 4.4-3: To avoid the potential for disturbance of nesting birds on or near the Project Area, schedule the initiation of any vegetation removal and grading for the period of September 1 through February 15. If construction work cannot be scheduled during this period, a qualified

biologist shall conduct pre-construction surveys for nesting birds according to the following guidelines:

1. The preconstruction surveys shall be conducted by the qualified biologist no later than 14 days prior to the start of vegetation removal or initiating project grading.

2. If birds protected under the Migratory Bird Treaty Act are found nesting, then appropriate construction buffers shall be established to avoid disturbance of the nests until such time that the young have fledged. The size of the nest buffer shall be determined by the biologist in consultation with CDFW, and shall be based on the nesting species, its sensitivity to disturbance, and expected types of disturbance. Typically, these buffers range from 75 to 250 feet from the nest location.

3. Nesting activities shall be monitored periodically by a qualified biologist to determine when construction activities in the buffer area can resume.

Once the qualified biologist has determined that young birds have successfully fledged, a monitoring report shall be prepared and submitted to the City of Tracy Development Services for review and approval prior to initiating construction activities within the buffer area. The monitoring report shall summarize the results of the nest monitoring, describe construction restrictions currently in place, and confirm that construction activities can proceed within the buffer area without jeopardizing the survival of the young birds. Construction within the designated buffer area shall not proceed until the written authorization is received by the applicant from the Development Services Director. The above provisions are in addition to the preconstruction surveys to confirm presence or absence of nesting Swainson's hawk, burrowing owl, and other special-status species as required under the Incidental Take Minimization Measures of the SJMSCP.

- 4.4-4: To mitigate the potential impacts on jurisdictional wetlands and other waters, the following measures shall be implemented.

1. A Jurisdictional Determination would be required from the Corps documenting isolated conditions and lack of jurisdictional authority on the project site.

2. A RWQCB Report of Waste Discharge (ROWD) pursuant to the California Water Code Section 13260 would need to be

acquired for impacts to “waters of the State” under the jurisdictional authority of the RWQCB.

3. A CDFW Streambed Alteration Agreement shall also be obtained where necessary under applicable laws and regulations, for any proposed Project activities that would affect State waters regulated by the CDFW in the THSP area.

- 4.4-5: To mitigate potential impacts to the movement of wildlife, the following measures shall be implemented.

    1. Prior to development of non-integral owned properties that do not have a 100-foot-wide conservation easement placed on their boundary, a 100-foot-wide conservation easement shall be placed on them to ensure that movement of wildlife will not be impeded. The 100-foot-wide conservation easement will ensure connectivity to areas that already have the conservation easement placed on them.

- 4.9-1a: Prior to issuance of a grading or building permit, whichever occurs first, all Project Applicants shall demonstrate to the City of Tracy compliance with NPDES General Construction Activities Storm Water Permit Requirements established by the Clean Water Act (CWA), including the preparation of a Storm Water Pollution Prevention Plan (SWPPP). The SWPPP shall identify specific types and sources of stormwater pollutants, determine the location and nature of potential impacts, and specify appropriate control measures to eliminate any potentially significant impacts on receiving water quality from stormwater runoff. The SWPPP shall comply with the most current standards established by the Central Valley RWQCB. Best Management Practices shall be selected from a menu according to site requirements and shall be subject to approval by the City Engineer and Central Valley RWQCB.

- 4.9-1b: Prior to issuance of a grading or building permit, whichever occurs first, all Project Applicants shall submit to the City Engineer for review a draft copy of the Notice of Intent (NOI) and SWPPP. After approval by the City, the NOI and SWPPP shall be sent to the State Water Resources Control Board for approval.

- 4.9-2: All Project Applicants shall submit and obtain City approval of a drainage plan to the City of Tracy for on-site post-construction BMP drainage improvements consistent with the Tracy Hills Storm Drain Master Plan. Once City approval is received, all Project Applicants shall construct the drainage improvements as necessary and in

accordance with the timing described in the Tracy Hills Storm Drain Master Plan.

- 4.9-3: All Project Applicants shall implement the following measures:

    1. Shall implement sound Integrated Pest Management (IPM) principles and practices in an effort to minimize the use of pesticides in common landscaped areas, open space areas, or park areas. These programs shall include setting acceptable thresholds of infestations and a process for determining the best prevention or treatment method for a given pest. Pest problems in common landscaped areas, open space areas, or park maintenance shall be managed through prevention and treatment using physical, mechanical and biological controls. The use of toxic pesticides will be implemented only after other non-toxic approaches or products have been determined infeasible. Fertilizers shall be applied sparingly, and shall be derived from natural sources, such as fish emulsion or manure.

    2. Shall cooperate with the City to create a public education program for future business owners to increase their understanding of water quality protection, which should include but not be limited to:

        - Hazardous material use controls;
        - Hazardous materials exposure controls;
        - Hazardous material disposal and recycling.

    3. Encourage the use of alternative methods to avoid hazardous materials to the extent feasible, and prohibit the dumping of hazardous materials in open space areas or the storm drain system.

    4. To the extent feasible, direct stormwater runoff to percolation swale and basin areas rather than directing stormwater to storm drain pipes.

    5. Use biotreatment (natural pollutant filtering) where stormwater runs off paved surfaces onto pervious surfaces.

    6. Utilize sediment traps, evaporation basins, flow dissipaters, and other methods to reduce the volume and speed of stormwater runoff and reduce pollutant loads.

- 4.9-4: All Project Applicants within the 100-year floodplain shall submit and obtain approval of grading and building plans that demonstrate that the building's finished floor elevations are a minimum of 1 foot above the 100-year flood elevation for Corral Hollow Creek, and meet the requirements to withstand a 200-year flood per the ULOP Criteria.

D. Determination

The Central Valley Water Board has reviewed and considered the environmental document and supplemental information provided by the City of Tracy and has reached its own conclusion to approve this Project. The Central Valley Water Board will file a NOD with the SCH within five (5) working days from the issuance of this Order. (California Code of Regulations, title 14, section 15096.)

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

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

C. Electronic Report Submittal Instructions:

- Submit signed Report and Notification Cover Sheet and required information via email to: centralvalleysacramento@waterboards.ca.gov and cc: Jenna.Yang@waterboards.ca.gov
- Include in the subject line of the email:
  ATTN: Jenna Yang; Project Name; and WDID No. 5B39CR00387

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: 14 December 2023

IV. Map/Photo Documentation Information

When submitting maps or photos, please use the following formats.

A. Map Format Information:

Preferred map formats of at least 1:24000 (1” = 2000’) detail (listed in order of preference):

- **GIS shapefiles**: The shapefiles must depict the boundaries of all project areas and extent of aquatic resources impacted. Each shape should be attributed with the extent/type of aquatic resources impacted. Features and boundaries should be accurate to within 33 feet (10 meters). Identify datum/projection used and if possible, provide map with a North American Datum of 1983 (NAD83) in the California Teale Albers projection in feet.

- **Google KML files** saved from Google Maps: My Maps or Google Earth Pro. Maps must show the boundaries of all project areas and extent/type of aquatic resources impacted. Include URL(s) of maps. If this format is used include a spreadsheet with the object ID and attributed with the extent/type of aquatic resources impacted.
- **Other electronic format** (CAD or illustration format) that provides a context for location (inclusion of landmarks, known structures, geographic coordinates, or USGS Digital Raster Graphics (DRG) or Digital Orthophoto Quarter Quads (DOQQ)). Maps must show the boundaries of all project areas and extent/type of aquatic resources impacted. If this format is used include a spreadsheet with the object ID and attributed with the extent/type of aquatic resources impacted.
- Aquatic resource maps marked on paper **USGS 7.5-minute topographic maps** or **DOQQ** printouts. Maps must show the boundaries of all project areas and extent/type of aquatic resources impacted. If this format is used include a spreadsheet with the object ID and attributed with the extent/type of aquatic resources impacted.

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

V. Report and Notification Cover Sheet

Project: Tracy Hills Phase 2B Project

Permittee: Tracy Phase 2, LLC and Tracy Phase 3, LLC

WDID: 5B39CR00387/R5-2023-0056

Reg. Meas. ID: 453588

Place ID: 889579

Order Effective Date: 14 December 2023

Order Expiration Date: 13 December 2028

VI. Report Type Submitted

A. Part A – Project Reporting

Report Type 1 ☐ Monthly Report

Report Type 2 ☐ Annual Report

B. Part B – Project Status Notifications

Report Type 3 ☐ Commencement of Construction

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

Report Type 5 ☐ Request for Notice of Project Complete Letter

C. Part C – Conditional Notifications and Reports

Report Type 6 ☐ Accidental Discharge of Hazardous Material Report

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

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

Report Type 9 ☐ Modifications to Project Report

Report Type 10 ☐ Transfer of Property Ownership Report

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

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

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 until a Notice of Project Complete Letter is issued to the Permittee.

c. Report Contents -

i. Construction Summary

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

ii. Event Summary

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

iii. Photo Summary

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

iv. Compliance Summary

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

2. Report Type 2 - Annual Report

a. Report Purpose - Notify the Central Valley Water Board staff of Project status during both the active discharge and post-discharge monitoring periods.

b. When to Submit - Annual reports shall be submitted each year on the 1st day of January beginning one year following the effective date of the Order. Annual reports shall continue until a Notice of Project Complete Letter is issued to the Permittee.

c. Report Contents - The contents of the annual report shall include the topics indicated below for each project period. Report contents are outlined in Annual Report Topics below.

During the Active Discharge Period

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

During the Post-Discharge Monitoring Period

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

i. Annual Report Topic 1 - Construction Summary

When to Submit - With the annual report during the Active Discharge Period.

Report Contents - Project progress and schedule including initial ground disturbance, site clearing and grubbing, road construction, site construction, and the implementation status of construction storm water best management practices (BMPs). If construction has not started, provide estimated start date and reasons for delay.

1) Map showing general Project progress.

2) If applicable:

a) Summary of Conditional Notification and Report Types 6 and 7 (Part C below).

b) Summary of Project Deviations. See Project Deviation Attachment for further information.

ii. Annual Report Topic 2 - Mitigation for Temporary Impacts Status

When to Submit - With the annual report during both the Active Discharge Period and Post-Discharge Monitoring Period.

Report Contents -

1) Planned date of initiation and map showing locations of mitigation for temporary impacts to waters of the state and all upland areas of temporary disturbance which could result in a discharge to waters of the state.
2) If mitigation for temporary impacts has already commenced, provide a map and information concerning attainment of performance standards contained in the restoration plan.

iii. Annual Report Topic 3 - Compensatory Mitigation for Permanent Impacts Status

When to Submit - With the annual report during both the Active Discharge Period and Post-Discharge Monitoring Period.

Report Contents - *If not applicable report N/A.

1) Part A. Permittee Responsible

a) Planned date of initiation of compensatory mitigation site installation.
b) If installation is in progress, a map of what has been completed to date.
c) If the compensatory mitigation site has been installed, provide a final map and information concerning attainment of performance standards contained in the compensatory mitigation plan.

2) Part B. Mitigation Bank or In-Lieu Fee

a) Status or proof of purchase of credit types and quantities.
b) Include the name of bank/ILF Program and contact information.
c) If ILF, location of project and type if known.

B. Part B – Project Status Notifications

1. Report Type 3 - Commencement of Construction

a. Report Purpose - Notify Central Valley Water Board staff prior to the start of construction.

b. When to Submit - Must be received at least seven (7) days prior to start of initial ground disturbance activities.

c. Report Contents -

i. Date of commencement of construction.
ii. Anticipated date when discharges to waters of the state will occur.
iii. Project schedule milestones including a schedule for onsite compensatory mitigation, if applicable.

iv. Construction Storm Water General Permit WDID No.

v. Proof of purchase of compensatory mitigation for permanent impacts from the mitigation bank or in-lieu fee program.

2. Report Type 4 - Request for Notice of Completion of Discharges Letter

a. Report Purpose - Notify Central Valley Water Board staff that post-construction monitoring is required and that active Project construction, including any mitigation and permittee responsible compensatory mitigation, is complete.

b. When to Submit - Must be received by Central Valley Water Board staff within thirty (30) days following completion of all Project construction activities.

c. Report Contents -

i. Status of storm water Notice of Termination(s), if applicable.

ii. Status of post-construction storm water BMP installation.

iii. Pre- and post-photo documentation of all Project activity sites where the discharge of dredge and/or fill/excavation was authorized.

iv. Summary of Project 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 Section C.4.

C. <u>Part C – Conditional Notifications and Reports</u>

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 Section C.3.

   c. **Report Contents** - As required by the approved water quality monitoring plan or as indicated in Section 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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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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PROJECT 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 the start of construction. These deviations may potentially increase or decrease impacts to waters of the state. In such cases, a Project Deviation, as defined in Section K 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 Unit staff designated as the contact for this Order.

C. Project Deviation Request: The Permittee will request verification from the Central Valley Water Board staff that the project change qualifies as a Project 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 Project Deviation is necessary for the Project.
2. Describe location (latitude/longitude coordinates), the date(s) it will occur, as well as associated impact information (i.e., temporary or permanent, federal or non-federal jurisdiction, water body name/type, estimated impact area, etc.) and minimization measures to be implemented.
3. Provide all updated environmental survey information for the new impact area.
4. Provide a map that includes the activity boundaries with photos of the site.
5. Provide verification of any mitigation needed according to the Order conditions.
6. Provide verification from the CEQA Lead Agency that the proposed changes or modifications do not trigger the need for a subsequent environmental document, an addendum to the environmental document, or a supplemental EIR. (Cal. Code Regs., tit. 14, §§ 15162-15164.).

D. Post-Discharge Project Deviation Reporting:

1. Within 30 calendar days of completing the approved Project Deviation activity, the Permittee will provide a post-discharge activity report that includes the following information:
   a. Activity description and purpose;
   b. Activity location, start date, and completion date;
   c. Erosion control and pollution prevention measures applied;
   d. The net change in impact area by water body type(s) in acres, linear feet and cubic yards;
   e. Mitigation plan, if applicable; and,
   f. Map of activity location and boundaries; post-construction photos.

E. Annual Summary Deviation Report:

1. Until a Notice of Completion of Discharges Letter or Notice of Project Complete Letter is issued, include in the Annual Project Report (see Construction Notification and Reporting attachment) a compilation of all Project Deviation activities through the reporting period with the following information:
   a. Site name(s);
   b. Date(s) of Project 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 Project 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).