

# **INFORMATION HANDOUT**

**For Contract No. 01-488604  
At 01-Lak-20, 29-8.2/8.6, 52.3/52.5**

**Identified by  
Project ID 0100000438**

## **PERMITS**

California Department Fish and Wildlife - 1602

Notification No. 1600-2013-0288-R2

United States Army Corps of Engineers

Non-Reporting Nationwide 404

## **WATER QUALITY PERMIT**

California Regional Water Quality Control Board - Section 401 Water Quality Certification

Central Valley Region  
WDID #5A17CR00128

## **MATERIALS INFORMATION**

Water Source Information



**MAR 19 2014**

Date

Sebastian Cohen  
California Department of Transportation  
1565 Union Street  
Eureka, CA 95501  
[sebastian\\_coen@dot.ca.gov](mailto:sebastian_coen@dot.ca.gov)

Subject: Final Lake or Streambed Alteration Agreement  
Notification No. 1600-2013-0288-R2  
LAK 20/29 Intersection Project

Dear Mr. Cohen:

Enclosed is the final Streambed Alteration Agreement (Agreement) for the LAK 20/29 Intersection Project (Project). Before the Department of Fish and Wildlife (Department) may issue an Agreement, it must comply with the California Environmental Quality Act (CEQA). In this case, the Department, acting as a responsible agency, filed a notice of determination (NOD) on the same date it signed the Agreement. The NOD was based on information contained in the Mitigated Negative Declaration the lead agency prepared for the Project.

Under CEQA, filing a NOD starts a 30-day period within which a party may challenge the filing agency's approval of the project. You may begin your project before the 30-day period expires if you have obtained all necessary local, state, and federal permits or other authorizations. However, if you elect to do so, it will be at your own risk.

If you have any questions regarding this matter, please contact Tim Nosal at (916) 358-2853 or [tim.nosal@wildlife.ca.gov](mailto:tim.nosal@wildlife.ca.gov).

Sincerely,

Tina Bartlett  
Regional Manager

cc: Tim Nosal, [tim.nosal@wildlife.ca.gov](mailto:tim.nosal@wildlife.ca.gov)  
Jennifer Osmondson, [jennifer\\_osmondson@dot.ca.gov](mailto:jennifer_osmondson@dot.ca.gov)

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE**  
NORTH CENTRAL REGION  
1701 NIMBUS ROAD, SUITE A  
RANCHO CORDOVA, CA 95670



**STREAMBED ALTERATION AGREEMENT**  
NOTIFICATION NO. 1600-2013-0288-R2  
Unnamed Tributaries to Middle Creek and Scott Creek

CALIFORNIA DEPARTMENT OF TRANSPORTATION  
LAK 20/29 INTERSECTION PROJECT

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Wildlife (DFW) and California Department of Transportation (Caltrans) (Permittee) as represented by Sebastian Cohen.

#### **RECITALS**

WHEREAS, pursuant to Fish and Game Code (FGC) section 1602, Permittee notified DFW on December 16, 2013 that Permittee intends to complete the project described herein.

WHEREAS, pursuant to FGC section 1603, DFW has determined that the project could substantially adversely affect existing fish or wildlife resources and has included measures in the Agreement necessary to protect those resources.

WHEREAS, Permittee has reviewed the Agreement and accepts its terms and conditions, including the measures to protect fish and wildlife resources.

NOW THEREFORE, Permittee agrees to complete the project in accordance with the Agreement.

#### **PROJECT LOCATION**

The project is located at unnamed tributaries found at the intersection of State Route (SR) 20 and SR 29, just west of the town of Upper Lake in Lake County, State of California; Latitude 39.1634 Longitude -122.9207, U.S. Geological Survey (USGS) map Upper Lake (Attachment A: Project Maps).

<b>Site</b>	<b>Project ID</b>	<b>Post Mile</b>	<b>Activity</b>
1	OW-7	State Route 20 PM 8.27-8.52	Agriculture ditch that leads to Middle Creek and existing culvert under SR 20. The ditch will be relocated to the north

			of its current location and three portions will be culverted. The existing culvert under SR 20 at Post Mile 8.48 will be replaced with a new flared end section at the inlet and a new headwall at the outlet.
2	OW-6	State Route 29 PM 52.47-52.53	Agriculture ditch that leads to Scott Creek. This ditch will be relocated to the west of its current location. A portion of the ditch will be culverted in order to cross a private driveway.
3	OW-6	State Route 29 PM 52.4	Agriculture ditch that leads to Scott Creek. A portion of the ditch will be culverted in order to cross a private driveway.
4	OW-6	State Route 29 PM 52.4	Existing culvert for agriculture ditch that leads to Scott Creek. A total of 10 feet of 36" reinforced concrete pipe will be added to the ends of the existing culver. New concrete flared end sections will be added to each end of the culvert.

## PROJECT DESCRIPTION

Caltrans is proposing a project to construct a roundabout with a raised central island that has a mounded height of six feet. The roundabout will have three legs. State Route (SR) 20 will enter from the east and from the west while SR 29 will enter from the south. Existing lighting will be replaced, sidewalks and crosswalks will be installed, and drainage will be improved.

Drainage will be improved within other waters of the U. S. at four different sites. Permanent impacts to other waters of the U. S. will be offset through onsite replacement (relocation) of drainage ditches. Other waters of the U. S. temporarily disturbed during construction would be restored to pre-project conditions. The disturbed soil of areas impacted by construction will be treated with an erosion control seed mixture.

All figures and minimization measures included in the Notification of Streambed Alteration No. 1600-2013-0288-R2 shall be implemented.

## PROJECT IMPACTS

Existing fish or wildlife resources the project could substantially adversely affect include: riparian vegetation, nesting raptors and migratory birds, amphibians, reptiles, and various aquatic and terrestrial plant and wildlife species.

The adverse effects the project could have on the fish or wildlife resources identified above include: temporary diversion of flow water from, or around, activity site; short-term increased turbidity; increased sedimentation from adjacent construction; short-term release of sediment (e.g. incidental from construction; disturbance from project activity; direct take of terrestrial species and of non-fish aquatic species; loss of natural bed or bank; change in contour of bed, channel or bank; soil compaction or other disturbance; decline of vegetative diversity; disruption to nesting birds and other wildlife; and direct (seasonal) loss of resources for aquatic organisms.

## **MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES**

### **1. Administrative Measures**

Permittee shall meet each administrative requirement described below.

- 1.1 Documentation at Project Site. Permittee shall make the Agreement, any extensions and amendments to the Agreement, and all related notification materials and California Environmental Quality Act (CEQA) documents, readily available at the project site at all times and shall be presented to DFW personnel, or personnel from another state, federal, or local agency upon request.
- 1.2 Providing Agreement to Persons at Project Site. Permittee shall provide copies of the Agreement and any extensions and amendments to the Agreement to all persons who will be working on the project at the project site on behalf of Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.
- 1.3 Notification of Conflicting Provisions. Permittee shall notify DFW if Permittee determines or learns that a provision in the Agreement might conflict with a provision imposed on the project by another local, state, or federal agency. In that event, DFW shall contact Permittee to resolve any conflict.
- 1.4 Project Site Entry. Permittee agrees that DFW personnel may enter the project site at any time to verify compliance with the Agreement.
- 1.5 Does Not Authorize "Take." This Agreement does not authorize "take" of any listed species. Take is defined as hunt, pursue, catch, capture or kill or attempt to hunt, pursue, catch, capture, or kill. If there is potential for take of any listed species to occur, the Permittee shall consult with DFW as outlined in FGC Section 2081 and shall obtain the required state and federal threatened and endangered species permits.

- 1.6 Notification of Project Modification. Permittee agrees to notify DFW of any modifications made to the project plans submitted to DFW.

## **2. Avoidance and Minimization Measures**

To avoid or minimize adverse impacts to fish and wildlife resources identified above, Permittee shall implement each measure listed below.

- 2.1 CEQA Compliance. Permittee shall implement and adhere to the mitigation measures in the Biological Resources section of the Mitigated Negative Declaration (SCH Number: 2012022015) adopted by the lead agency, Caltrans, for the Project pursuant to the California Environmental Quality Act (CEQA) on April 12, 2012 unless those mitigation measures are less protective of fish and wildlife or conflict with the conditions of this Agreement.
- 2.2 Work Period. The time period for completing the work within the active channel shall be restricted to periods of low stream flow and dry weather and shall be confined to the period of June 15 to October 15. Construction activities shall be timed with awareness of precipitation forecasts and likely increases in stream flow. Construction activities within the project area shall cease until all reasonable erosion control measures, inside and outside of the project area, have been implemented prior to all storm events. Revegetation, restoration and erosion control work is not confined to this time period.
- 2.3 Work Period Modification. If Permittee needs more time to complete the project activity, the work may be permitted outside of the work period and extended on a day-to-day basis (or for some other set period of time) by DFW representative who reviewed the project, or if unavailable, through contact with the Regional office. Permittee shall submit a written request for a work period variance to DFW. The work period variance request shall: 1) describe the extent of work already completed; 2) detail the activities that remain to be completed; 3) detail the time required to complete each of the remaining activities; and 4) provide photographs of both the current work completed and the proposed site for continued work. The work period variance request should consider the effects of increased stream flows and rain delays. Work period variances are issued at the discretion of DFW. DFW will review the written request to work outside of the established work period. DFW reserves the right to require additional measures to protect fish and wildlife resources as a condition for granting the variance. DFW will have ten (10) calendar days to review the proposed work period variance.
- 2.4 Work Period in Dry Weather Only. Work within the watercourses shall be restricted to periods of low stream flow and dry weather. Precipitation forecasts and potential increases in stream flow shall be considered when

planning construction activities. Construction activities shall cease and all necessary erosion control measures shall be implemented prior to the onset of precipitation. Construction activities halted due to precipitation may resume when precipitation ceases and the National Weather Service 72 hour weather forecast indicates a 20% or less chance of precipitation, provided no work occurs in the stream bed if water is flowing. If a construction phase may cause the introduction of sediments into the stream: 1) no phase of the project shall be started in May or November of any year, unless all work for that phase and all associated erosion control measures are completed prior to the onset of precipitation; and 2) no phase of the project shall commence unless all equipment and materials are removed from the channel at least 12 hours prior to the onset of precipitation and all associated erosion control measures are in place prior to the onset of precipitation. No work that might cause the introduction of sediments into a watercourse shall occur during a dry-out period of 24 hours after the above referenced wet weather. Weather forecasts shall be documented upon request by DFW.

- 2.5 Stream Diversions / Dewatering. If work in the flowing portion of the stream is unavoidable, the entire stream flow shall be diverted around or through the work area during the excavation and/or construction operations. Stream flow shall be diverted using gravity flow through temporary culverts/pipes or pumped around the work site with the use of hoses. When any dam or other artificial obstruction is being constructed, maintained, or placed in operation, sufficient water shall at all times be allowed to pass downstream to maintain aquatic life below the dam pursuant to Fish and Game Code section 5937. Any temporary dam or other artificial obstruction constructed shall only be built from clean materials such as sandbags, gravel bags, water dams, or clean/washed gravel which will cause little or no siltation. DFW will review the proposed water diversion method, to approve the plan or provide the requirements for that approval. The Permittee may not commence the diversion of water without the explicit approval from DFW.
- 2.6 Bird Nests. It is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird except as otherwise provided by the Fish and Game Code. No trees that contain active nests of birds shall be disturbed until all eggs have hatched and young birds have fledged without prior consultation and approval of a DFW representative.
- 2.7 Removal of Trees/Shrubs During Fall/Winter Months. To avoid potential impact to tree nesting birds, trees and shrubs designated for removal may be cut down during the time period of November 1 to February 15. Trees and shrubs may be removed outside this period of time provided the Permittee has a qualified biologist survey the proposed work area. The survey shall take place within 2 weeks of commencement of activities in order to verify the presence or absence of nesting birds. The detailed

survey shall be submitted to the DFW for review and comment prior to commencement of tree/shrub removal.

- 2.8 Special Status Plants Should a special status plant species [as per CEQA sections 15380 and 15125 (c)] be discovered before or during the life of the project, a 25-foot no-operations buffer shall be flagged around the area and DFW shall be immediately notified. Consultation with DFW and/or USFWS shall ensure that potential impacts are avoided or minimized, and that project activities do not inhibit long-term conservation efforts for the survival of special status plant species.
- 2.9 Vegetation Removal. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete operations. Except for the trees specifically identified for removal in the notification, no native trees with a trunk diameter at breast height (DBH) in excess of four (4) inches shall be removed or damaged without prior consultation and approval of a DFW representative. Using hand tools (clippers, chain saw, etc.), trees may be trimmed to the extent necessary to gain access to the work sites. All cleared material/vegetation shall be removed out of the riparian/stream zone.
- 2.10 Sediment Control. Precautions to minimize turbidity/siltation shall be taken into account during project planning and implementation. This may require the placement of silt fencing, coir logs, coir rolls, straw bale dikes, or other siltation barriers so that silt and/or other deleterious materials are not allowed to pass to downstream reaches. Materials composing the silt barrier shall not pose an entanglement risk to fish or wildlife such as monofilament mesh and non-biodegradable synthetic erosion blankets. Passage of sediment beyond the sediment barrier(s) is prohibited. If any sediment barrier fails to retain sediment, corrective measures shall be taken. The sediment barrier(s) shall be maintained in good operating condition throughout the construction period and the following rainy season. Maintenance includes, but is not limited to, removal of accumulated silt and/or replacement of damaged siltation barriers. The Permittee is responsible for the removal of non-biodegradable silt barriers (such as plastic silt fencing) after the disturbed areas have been stabilized with erosion control vegetation (usually after the first growing season). Upon DFW determination that turbidity/siltation levels resulting from project related activities constitute a threat to aquatic life, activities associated with the turbidity/siltation shall be halted until effective DFW approved control devices are installed or abatement procedures are initiated.
- 2.11 Seeding Requirement. Permittee shall restore all exposed areas, temporarily disturbed areas and access points within the work area, by seeding with a locally native seed mix, unless otherwise agreed upon by DFW. Seed mix shall be pre-approved by DFW. Revegetation shall be

- completed as soon as possible after construction activities in those areas cease. Seeding shall be broadcast straw, jute netting coconut fiber blanket or similar erosion control material.
- 2.12 Pollution Control. Utilize Best Management Practices (BMPs) to prevent spills and leaks into water bodies. If maintenance or refueling of vehicles or equipment must occur on-site, use a designated area and/or a secondary containment, located away from drainage courses to prevent the runoff of storm water and the runoff of spills. Ensure that all vehicles and equipment are in good working order (no leaks). Place drip pans or absorbent materials under vehicles and equipment when not in use. Ensure that all construction areas have proper spill clean-up materials (absorbent pads, sealed containers, booms, etc.) to contain the movement of any spilled substances. Any other substances which could be hazardous to aquatic life, resulting from project related activities, shall be prevented from contaminating the soil and/or entering the waters of the state. Any of these materials, placed within or where they may enter a stream or lake by the Applicant or any party working under contract or with the permission of the Permittee, shall be removed immediately. DFW shall be notified immediately by the Permittee of any spills and shall be consulted regarding clean-up procedures.
- 2.13 Designated Representative. Before initiating ground- or vegetation-disturbing project activities, Permittee shall designate a representative (Designated Representative) responsible for communications with the CDFW and overseeing compliance with this Agreement. The Permittee shall notify the CDFW in writing thirty (30) days prior to commencement of ground- or vegetation-disturbing activities of the Designated Representative's name, business address, and contact information. Permittee shall notify the CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this Agreement.
- 2.14 Designated Biologist. At least thirty (30) days before initiating ground- or vegetation-disturbing activities, Permittee shall submit to the CDFW in writing the name, qualifications, business address, and contact information for a biological monitor (Designated Biologist). Permittee shall obtain the CDFW's written approval of the Designated Biologist prior to the commencement of project activities in the stream. The Designated Biologist shall be knowledgeable and experienced in the biology and natural history of local fish and wildlife resources present at the project site. The Designated Biologist shall be responsible for monitoring all project activities, including construction and any ground- or vegetation-disturbing activities in areas subject to this Agreement.

- 2.15 Designated Biologist Authority. The Designated Biologist shall have authority to immediately stop any activity that is not in compliance with this Agreement, and/or to order any reasonable measure to avoid or minimize impacts to fish and wildlife resources. Neither the Designated Biologist nor the CDFW shall be liable for any costs incurred as a result of compliance with this measure. This includes cease-work orders issued by the CDFW.

### 3. Reporting Measures

Permittee shall meet each reporting requirement described below.

- 3.1 The Permittee shall notify DFW within two working days of beginning work within the stream zone. Notification shall be submitted as instructed in Contact Information section below. Email notification is preferred.
- 3.2 Upon completion of the project activities described in this agreement, the project area shall be digitally photographed. Photographs shall be submitted to DFW within fifteen (15) days of project completion. Photographs and notification of project completion shall be submitted as instructed in Contact Information section below. Email submittal is preferred.

### CONTACT INFORMATION

Any communication that Permittee or DFW submits to the other shall be in writing and any communication or documentation shall be delivered to the address below by U.S. mail, fax, or email, or to such other address as Permittee or DFW specifies by written notice to the other.

To Permittee:

Sebastian Cohen  
California Department of Transportation  
1565 Union Street  
Eureka, CA 95501  
Email – Sebastian\_Cohen@dot.ca.gov

To DFW:

Department of Fish and Wildlife  
North Central Region  
1701 Nimbus Road, Suite A  
Rancho Cordova, CA 95670  
Attn: Lake and Streambed Alteration Program – Tim Nosal  
Notification #1600-2013-0288 R2

Fax: 916-358-2912  
Email: r2lsa@wildlife.ca.gov

## **LIABILITY**

Permittee shall be solely liable for any violations of the Agreement, whether committed by Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents or contractors and subcontractors, to complete the project or any activity related to it that the Agreement authorizes.

This Agreement does not constitute DFW's endorsement of, or require Permittee to proceed with the project. The decision to proceed with the project is Permittee's alone.

## **SUSPENSION AND REVOCATION**

DFW may suspend or revoke in its entirety the Agreement if it determines that Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, is not in compliance with the Agreement.

Before DFW suspends or revokes the Agreement, it shall provide Permittee written notice by certified or registered mail that it intends to suspend or revoke. The notice shall state the reason(s) for the proposed suspension or revocation, provide Permittee an opportunity to correct any deficiency before DFW suspends or revokes the Agreement, and include instructions to Permittee, if necessary, including but not limited to a directive to immediately cease the specific activity or activities that caused DFW to issue the notice.

## **ENFORCEMENT**

Nothing in the Agreement precludes DFW from pursuing an enforcement action against Permittee instead of, or in addition to, suspending or revoking the Agreement.

Nothing in the Agreement limits or otherwise affects DFW's enforcement authority or that of its enforcement personnel.

## **OTHER LEGAL OBLIGATIONS**

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from obtaining any other permits or authorizations that might be required under other federal, state, or local laws or regulations before beginning the project or an activity related to it.

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from complying with other applicable statutes in the FGC including, but not limited to, FGC sections 2050 *et seq.* (threatened and endangered species), 3503 (bird nests and eggs), 3503.5 (birds of prey), 5650 (water pollution), 5652 (refuse disposal into water), 5901 (fish passage), 5937 (sufficient water for fish), and 5948 (obstruction of stream).

Nothing in the Agreement authorizes Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, to trespass.

### **AMENDMENT**

DFW may amend the Agreement at any time during its term if DFW determines the amendment is necessary to protect an existing fish or wildlife resource.

Permittee may amend the Agreement at any time during its term, provided the amendment is mutually agreed to in writing by DFW and Permittee. To request an amendment, Permittee shall submit to DFW a completed DFW "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the corresponding amendment fee identified in DFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

### **TRANSFER AND ASSIGNMENT**

This Agreement may not be transferred or assigned to another entity, and any purported transfer or assignment of the Agreement to another entity shall not be valid or effective, unless the transfer or assignment is requested by Permittee in writing, as specified below, and thereafter DFW approves the transfer or assignment in writing.

The transfer or assignment of the Agreement to another entity shall constitute a minor amendment, and therefore to request a transfer or assignment, Permittee shall submit to DFW a completed DFW "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the minor amendment fee identified in DFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

### **EXTENSIONS**

In accordance with FGC section 1605(b), Permittee may request one extension of the Agreement, provided the request is made prior to the expiration of the Agreement's term. To request an extension, Permittee shall submit to DFW a completed DFW "Request to Extend Lake or Streambed Alteration" form and include with the completed form payment of the extension fee identified in DFW's

current fee schedule (see Cal. Code Regs., tit. 14, § 699.5). DFW shall process the extension request in accordance with FGC 1605(b) through (e).

If Permittee fails to submit a request to extend the Agreement prior to its expiration, Permittee must submit a new notification and notification fee before beginning or continuing the project the Agreement covers (Fish & G. Code, § 1605, subd. (f)).

### **EFFECTIVE DATE**

The Agreement becomes effective on the date of DFW's signature, which shall be: 1) after Permittee's signature; 2) after DFW complies with all applicable requirements under the California Environmental Quality Act (CEQA); and 3) after payment of the applicable FGC section 711.4 filing fee listed at [http://www.wildlife.ca.gov/habcon/ceqa/ceqa\\_changes.html](http://www.wildlife.ca.gov/habcon/ceqa/ceqa_changes.html).

### **TERM**

This Agreement shall expire within five (5) years of DFW's signature, unless it is terminated or extended before then. All provisions in the Agreement shall remain in force throughout its term. Permittee shall remain responsible for implementing any provisions specified herein to protect fish and wildlife resources after the Agreement expires or is terminated, as FGC section 1605(a)(2) requires.

### **EXHIBIT**

The document listed below is included as an exhibit to the Agreement.

Attachment A: Project Maps

### AUTHORITY

If the person signing the Agreement (signatory) is doing so as a representative of Permittee, the signatory hereby acknowledges that he or she is doing so on Permittee's behalf and represents and warrants that he or she has the authority to legally bind Permittee to the provisions herein.

### AUTHORIZATION

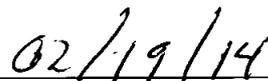
This Agreement authorizes only the project described herein. If Permittee begins or completes a project different from the project the Agreement authorizes, Permittee may be subject to civil or criminal prosecution for failing to notify DFW in accordance with FGC section 1602.

### CONCURRENCE

The undersigned accepts and agrees to comply with all provisions contained herein.

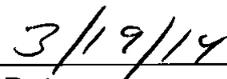
### FOR CALTRANS

  
\_\_\_\_\_  
Sebastian Cohen  
Project Manager

  
\_\_\_\_\_  
Date

### FOR DEPARTMENT OF FISH AND WILDLIFE

  
\_\_\_\_\_  
Tina Bartlett  
Regional Manager

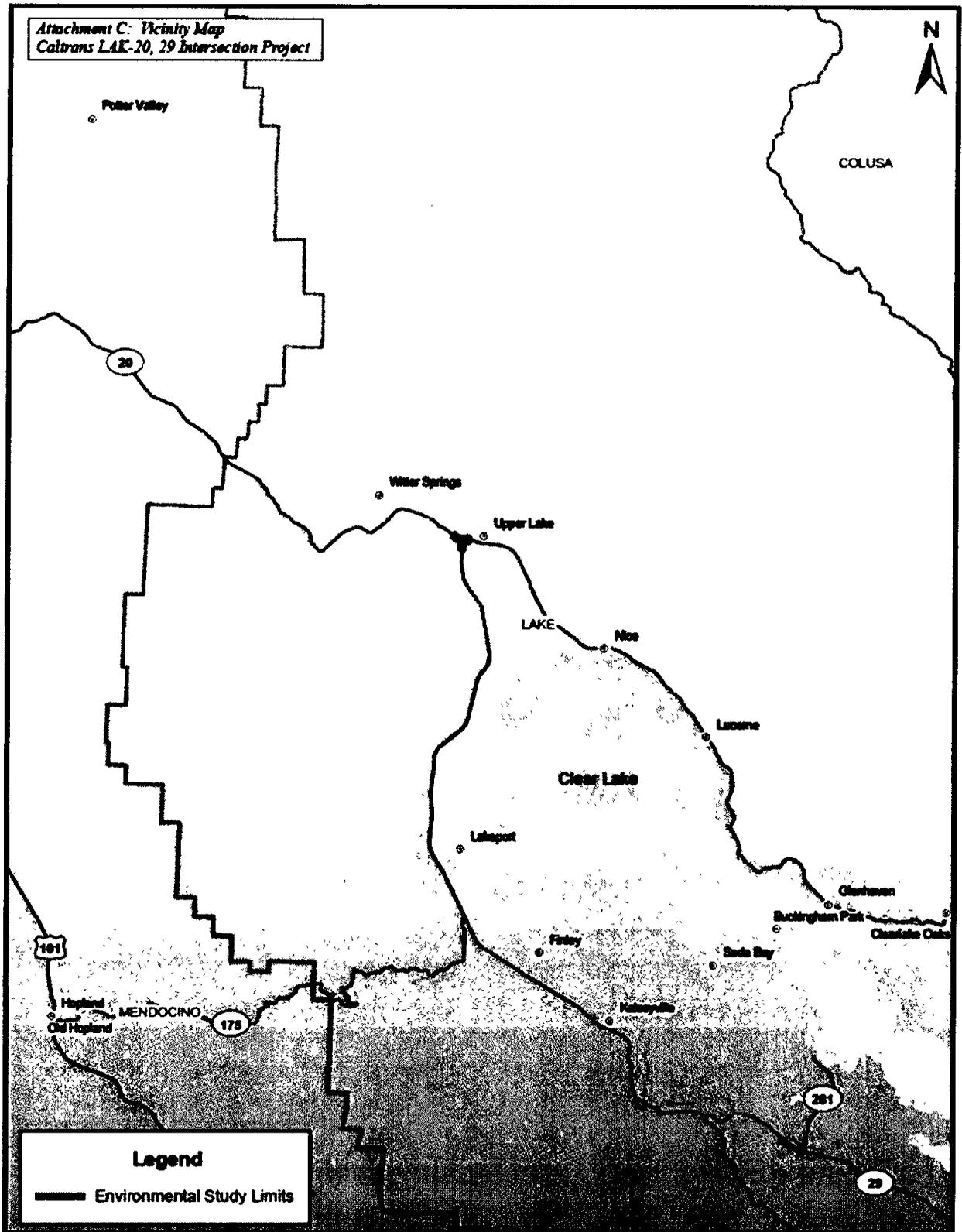
  
\_\_\_\_\_  
Date

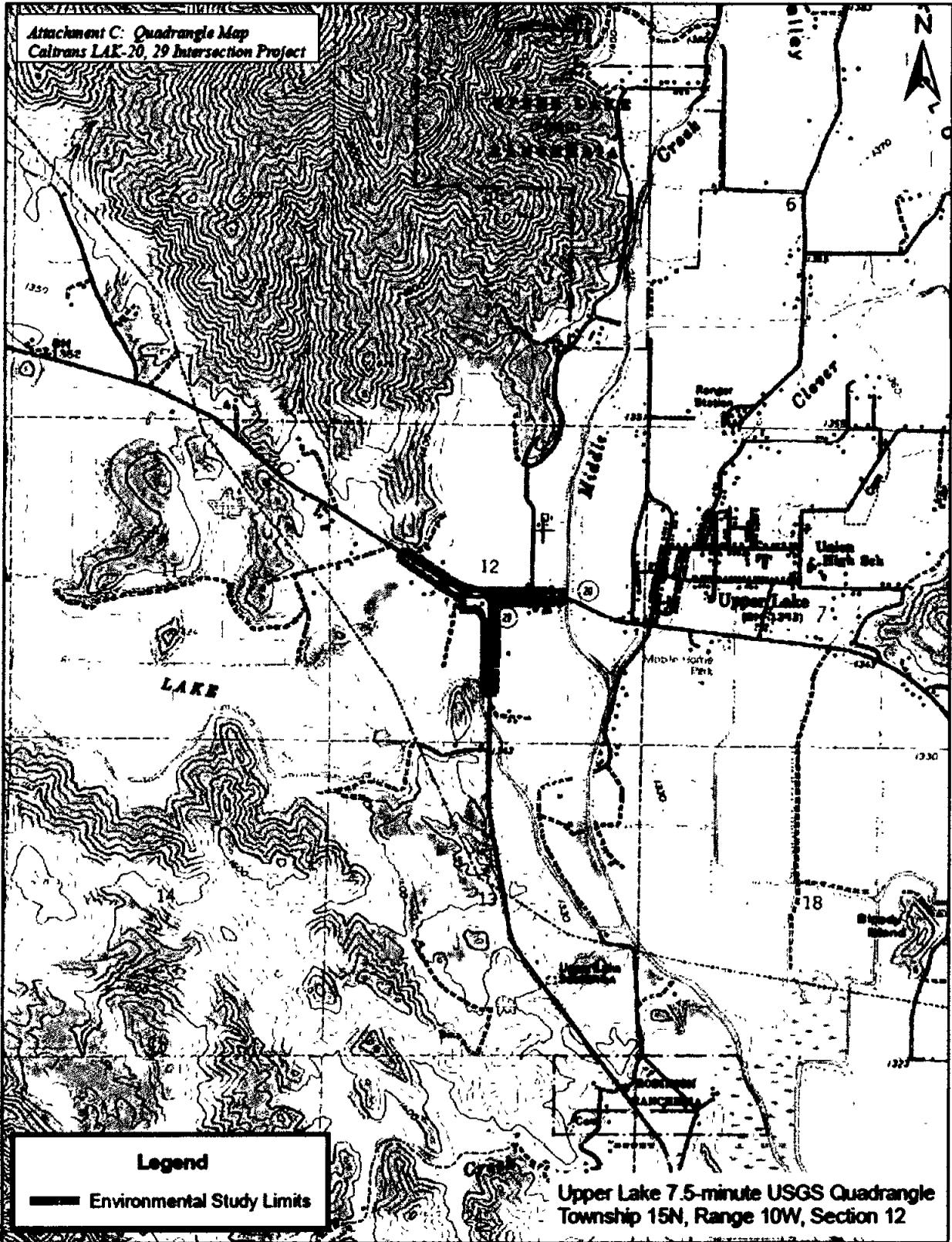
Prepared by: Tim Nosal  
Environmental Scientist

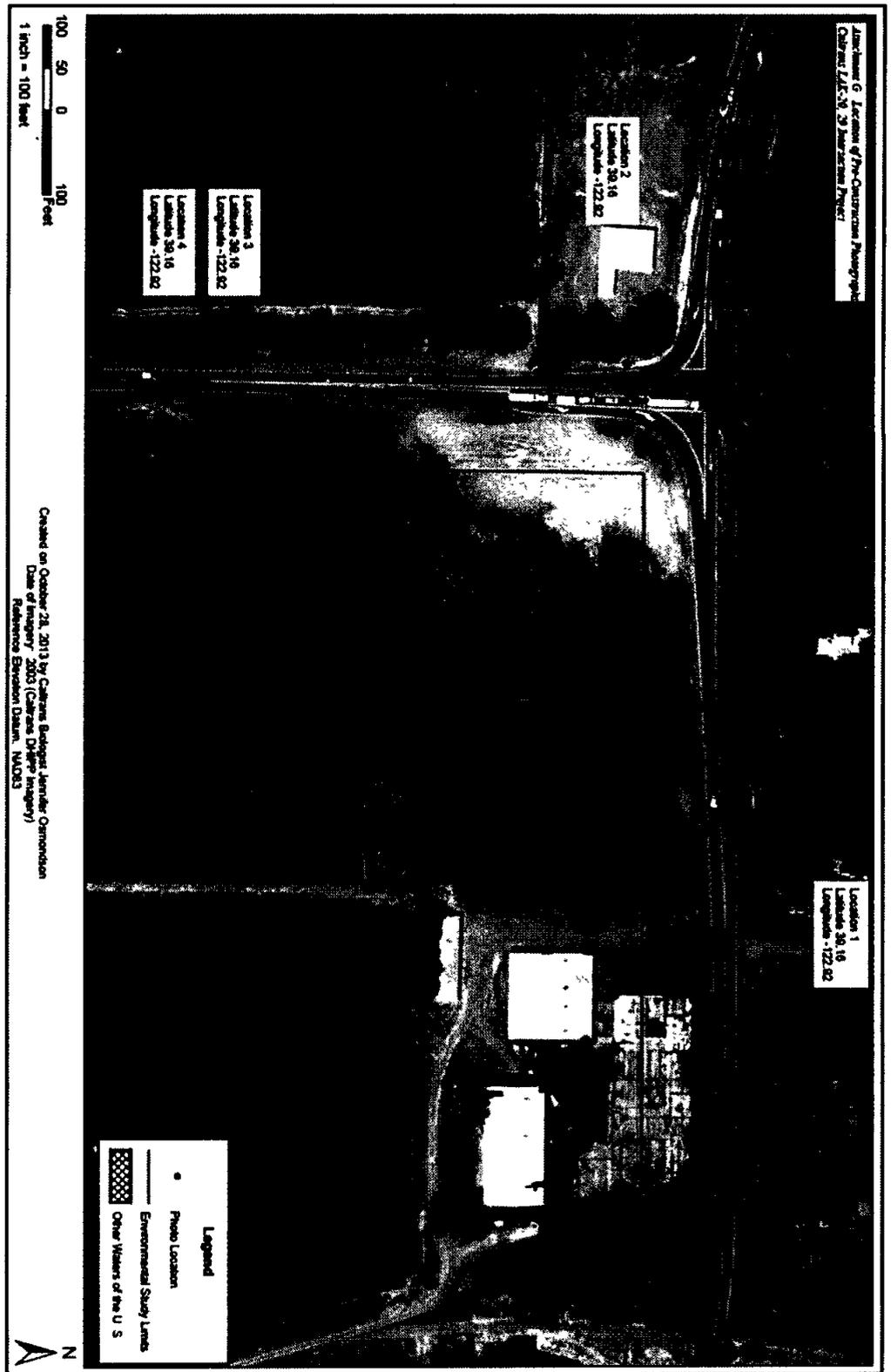
**Attachment A:  
Project Maps**

Caltrans: LAK 20/29 Intersection Project  
Lake County

LSA#1600-2013-0288-R2







# Non-reporting NWP No.14

Attachment B  
Caltrans LAK-20, 29 Intersection Project

## U. S. Army Corps of Engineers South Pacific Division



### Nationwide Permit Pre-Construction Notification (PCN) Form

This form integrates requirements of the U. S. Army Corps of Engineers Nationwide Permit Program within the South Pacific Division (SPD), including General and Regional Conditions. You MUST fill out all boxes related to the work being done. Fillable boxes in this form expand if additional space is needed.

<b>Box 1 Project Name</b> LAK-20, 29 Intersection Project			
<b>Applicant Name</b> Sebastian Cohen		<b>Applicant Title</b> Project Manager	
<b>Applicant Company, Agency, etc.</b> California Department of Transportation		<b>Applicant's internal tracking number (if any)</b> EA 01-48860; EFIS Number 0100000438	
<b>Mailing Address</b> 1656 Union Street, Eureka, CA 95501			
<b>Work Phone with area code</b> (707) 441-3979	<b>Mobile Phone with area code</b>	<b>Home Phone with area code</b>	<b>Fax # with area code</b>
<b>E-mail Address</b> Sebastian_Cohen@dot.ca.gov	<b>Relationship of applicant to property:</b> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Purchaser <input type="checkbox"/> Lessee <input type="checkbox"/> Other:		
Application is hereby made for verification that subject regulated activities associated with subject project qualify for authorization under a U.S. Army Corps of Engineers Nationwide Permit or Permits as described herein. I certify that I am familiar with the information contained in this application and, that to the best of my knowledge and belief, such information is true, complete, and accurate. I further certify that I possess the authority to undertake the proposed activities. I hereby grant to the agency to which this application is made the right to enter the above-described location to inspect the proposed, in-progress, or completed work. I agree to start work <u>only</u> after all necessary permits have been received and to comply with all terms and conditions of the authorization.			
<b>Signature of applicant</b> <i>Sebastian Cohen</i>			<b>Date (m/d/yyyy)</b> 12/11/2013

If anyone other than the person named as the Applicant will be in contact with the U. S. Army Corps of Engineers representing the Applicant regarding this project during the permit process, Box 2 MUST be filled out.

<b>Box 2 Authorized Agent/Operator Name</b> Jennifer Osmondson		<b>Agent/Operator Title</b> Biologist	
<b>Agent/Operator Company, Agency, etc.</b> California Department of Transportation		<b>E-mail Address</b> Jennifer_Osmondson@dot.ca.gov	
<b>Mailing Address</b> 703 B Street, Marysville, CA 95901			
<b>Work Phone with area code</b> (530) 740-4807	<b>Mobile Phone with area code</b>	<b>Home Phone with area code</b>	<b>Fax # with area code</b> (530) 741-4457
I hereby authorize the above named authorized agent to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application. I understand that I am bound by the actions of my agent and I understand that if a federal or state permit is issued, I, or my agent, must sign the permit.			
<b>Signature of applicant</b> <i>Sebastian Cohen</i>			<b>Date (m/d/yyyy)</b> 12/11/2013
I certify that I am familiar with the information contained in this application, and that to the best of my knowledge and belief, such information is true, complete, and accurate.			
<b>Signature of authorized agent</b>			<b>Date (m/d/yyyy)</b>

<b>Box 3 Name of property owners(s), if other than applicant:</b> Several areas outside Caltrans right-of-way will be acquired, both permanently and as Temporary Construction Easements (TCEs), for the construction of this project. Please see attachment entitled "Property Owners" for a list of these property owners.(ATTACHMENT C)		
<b>Owner Title</b>	<b>Owner Company, Agency etc.</b>	
<b>Mailing Address</b>		
<b>Work Phone</b> with area code	<b>Mobile Phone</b> with area code	<b>Home Phone</b> with area code

<b>Box 4 Name of contractor(s) (if known):</b> The contractor is unknown at this time.		
<b>Contractor Title</b>	<b>Contractor Company, Agency, etc.</b>	
<b>Mailing Address</b>		
<b>Work Phone</b> with area code	<b>Mobile Phone</b> with area code	<b>Home Phone</b> with area code

<b>Box 5 Site Number <u>1</u> of <u>1</u>. Project location(s), including street address, city, county, state, zip code where proposed activity will occur:</b> State Route (SR) 20, Post Mile (PM) 8.1 to 8.6; SR 29, PM 52.35 to 52.53; Lake County	
<b>Waterbody</b> (if known, otherwise enter "an unnamed tributary to"): Unnamed agricultural drainage ditch, located north and parallel to SR 20 (connected to Middle Creek via a culvert, east of the project limits); unnamed agricultural drainage ditch, located west and parallel to SR 29 (connected to Scotts Creek via a culvert, south of the project limits).	
<b>Latitude &amp; Longitude</b> (D/M/S, DD, or UTM with Zone): 39.16, -122.92	<b>Section, Township, Range:</b> Section 12, Township 15N, Range 10W
<b>County Assessor parcel number</b> (include county name): Caltrans' right-of-way; APN 003-033-049, 003-034-007, 003-034-054 (Lake County)	<b>USGS Quadrangle map name:</b> Upper Lake
<b>Watershed</b> (HUC and watershed name <sup>1</sup> ): 18020116 (Upper Cache)	<b>Size of permit area or project boundary:</b> <u>20.1</u> <sup>1</sup> acres _____ linear feet <sup>1</sup> size of the Environmental Study Limits)
<sup>1</sup> <a href="http://water.usgs.gov/GIS/regions.html">http://water.usgs.gov/GIS/regions.html</a>	

<b>Directions to the project location and other location descriptions, if known:</b> From the Sacramento USACE office (1325 J Street, Sacramento): -Interstate 5/State Route 99 north for approximately 6 miles -Interstate 5 north for approximately 52 miles -SR 20 west for approximately 60 miles to PM 8.6 (eastern end of project limits on SR 20)
<b>Nature of Activity</b> (Description of project, include all features): The project is currently scheduled to begin in the fall of 2014, and be complete in the fall of 2015. It is anticipated that the work would take 175 working days to complete.

Location 1 (SR 20, PM 8.27 to 8.52; Drainage System 2, 3, 20; Drainage Plans D-1 and D-2):

- An agricultural drainage ditch, located north and parallel to SR 20, will be relocated to the north of its current location. A portion of the ditch will be culverted in order to protect a private residence, and to pass through two driveways.
  - New flared end sections (FES), and new alternative pipe culverts (APC) or reinforced concrete pipe (RCP) culverts, added for each of these three culvert sections
- Remove headwall from both inlet and outlet from culvert at PM 8.48
- New FES at inlet, new headwall at outlet from culvert at PM 8.48
- Replace existing 24-inch RCP culvert with new 24-inch RCP culvert at PM 8.48
- Add headwall to end of relocated agricultural drainage ditch

Location 2 (SR 29, PM 52.47 to 52.53; Drainage Plan D-1):

- An agricultural drainage ditch, located west and parallel to SR 29, will be relocated to the west of its current location. A portion of the ditch will be culverted in order to pass through a private driveway.

Location 3 (SR 29, PM 52.4; Drainage System 2; Drainage Plan D-1):

- A portion of the agricultural drainage ditch, located west and parallel to SR 29, will be culverted for the installation of a private driveway.

Location 4 (SR 29, PM 52.4; Drainage System 4 and 5; Drainage Plan D-2):

- Remove headwalls from both inlet and outlet
- New reinforced concrete (RC) flared end sections (FES) at both inlet and outlet
- Add a total of 10 feet of 36-inch reinforced concrete pipe (RCP) culvert to both inlet and outlet, to extend existing culvert to new highway width
- At the outlet the existing headwall will be replaced with the new FES and culvert extension, resulting in minimal permanent impacts (less than 0.001 acres) to other waters of the U. S.

**Project Purpose** (Description of the reason or purpose of the project):

The purpose of this project is to reduce the frequency and severity of collisions at the intersection. The project is needed because the collision rate at the intersection is 3.7 times greater than the statewide average.

**BoxSite Number 1 of 1.** (Description of why dredged and/or fill material needs to be placed in Waters of the United States):

In order to construct the roundabout and achieve the purpose of the project, this work must occur. An upland alternative does not exist.

**Proposed discharge of dredge and/or fill material.** Indicate total surface area in **acres** and **linear feet** (where appropriate) of the proposed impacts to Waters of the United States, indicate water body type (tidal wetland, non-tidal wetland, riparian wetland, ephemeral stream/river, intermittent stream/river, perennial stream/river, pond/lake, vegetated shallows, bay/harbor, lagoon, ocean, etc.), and identify the impact(s) as permanent and/or temporary for each requested Nationwide Permit<sup>1</sup>:

<sup>1</sup>Enter the intended permit number(s). See Nationwide Permit regulations for permit numbers and qualification information: <http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/NationwidePermits.aspx>

Water Body Type	Requested NWP Number: 14				Requested NWP Number:				Requested NWP Number:			
	Permanent		Temporary		Permanent		Temporary		Permanent		Temporary	
	Area	Length	Area	Length	Area	Length	Area	Length	Area	Length	Area	Length
Agricultural drainage ditches	0.061	800	0.014	82								
<b>Total:</b>	<b>0.061</b>	<b>800</b>	<b>0.014</b>	<b>82</b>								

Total volume (in cubic yards) and type(s) of material proposed to be dredged from or discharged into Waters of the United States:

Material Type	Total Volume Dredged	Total Volume Discharged
Rock Slope Protection (RSP)		
Clean spawning gravel		
River rock		
Soil/Dirt/Silt/Sand/Mud		
Concrete		
Structure		
Stumps/Root wads		
Other:		
Total:		

Activity requires a written waiver to exceed specified limits of the Nationwide Permit?  YES  NO

Not applicable.

Activity will result in the loss of greater than 1/2-acre of Waters of the United States?  YES  NO  
 If yes, provide an electronic copy (compact disc) or multiple hard copies (7) of the complete PCN for appropriate Federal and State Pre-discharge Notification (See General Condition #31, Pre-construction Notification, Agency Coordination, Section 2 and 4).

Describe direct and indirect effects caused by the activity and how the activity has been designed (or modified) to have minimal adverse effects on the aquatic environment (See General Condition #31, Pre-construction Notification, District Engineer's Decision, Section 1):

Permanent impacts to other waters of the U. S. within the project limits could result from the placement of fill associated with drainage improvements, which would include culvert extensions and flared end sections. Temporary impacts to other waters of the U. S. within the project limits would result from disturbance to these resources from equipment and personnel during construction.

A potential indirect impact to waters of the U. S. associated with the project could include a temporary degradation of water quality. In order to avoid potential impacts to water quality, erosion control and soil stabilization measures will be implemented in accordance with Caltrans' Best Management Practices (BMPs). These BMPs could include, but are not limited to, the use of silt fences, fiber rolls, and the application of fiber matrix on unfinished slopes. Disturbed soils will also be treated with an erosion control seed mixture.

Potential cumulative impacts of proposed activity (if any): The project will have no cumulative impacts.

Required drawings and figures (see each U. S. Army Corps of Engineers District's Minimum Standards Guidance):

Vicinity map:  Attached (or mail copy separately if applying electronically) **ATTACHMENT D**  
 To-scale Plan view drawing(s):  Attached (or mail copy separately if applying electronically) **ATTACHMENT E**  
 To-scale elevation and/or Cross Section Drawings(s):  Attached (or mail copy separately if applying electronically)  
 Numbered and dated pre-project color photographs:  Attached (or mail copy separately if applying electronically) **ATTACHMENT F**  
 Sketch drawing(s) or map(s):  Attached (or mail copy separately if applying electronically) **ATTACHMENT G**

Has a wetland/waters of the U.S. delineation been completed?

Yes, Attached<sup>2</sup> (or mail copy separately if applying electronically)  No

If a delineation has been completed, has it been verified in writing by the Corps?

Yes, Date of approved jurisdictional determination (m/d/yyyy): Corps file number:  No

<sup>2</sup>If available, provide ESRI shapefiles (NAD83) for delineated waters

For proposed discharges of dredged material resulting from navigation dredging into inland or near-shore waters of the U.S. (including beach nourishment), please attach<sup>3</sup> a proposed Sampling and Analysis Plan (SAP) prepared according to Inland Testing Manual (ITM) guidelines (including Tier I information, if available), or if disposed offshore, a proposed SAP prepared according to the Ocean Disposal Manual.

<sup>3</sup>Or mail copy separately if applying electronically

Is any portion of the work already complete?  YES  NO

If yes, describe the work:

Not applicable.

### Box 7 Authority

Is Section 10 of the Rivers and Harbors Act applicable?:  YES  NO

Is Section 404 of the Clean Water Act applicable?:  YES  NO

Is the project located in U. S. Army Corps of Engineers property or easement?:  YES  NO

If yes, has Section 408 process been initiated?:  YES  NO

Would the project affect a U. S. Army Corps of Engineers structure?:  YES  NO

If yes, has Section 408 process been initiated?:  YES  NO

Is the project located on other Federal Lands (USFS, BLM, etc.)?:  YES  NO

Is the project located on Tribal Lands?:  YES  NO

**Box 8** Is the discharge of fill or dredged material for which Section 10/404 authorization is sought part of a larger plan of development?:  YES  NO

If discharge of fill or dredged material is part of development, name and proposed schedule for that larger development (start-up, duration, and completion dates):

Not applicable.

Location of larger development (if discharge of fill or dredged material is part of a plan of development, a map of suitable quality and detail of the entire project site should be included):

Not applicable.

### Box 9 Measures taken to avoid and minimize impacts to waters of the United States:

The following measures would be incorporated into the project to minimize impacts to wetlands and other waters of the U. S. during construction:

- Other waters of the U. S. adjacent to the construction zone that would not be filled as a result of the proposed project would be designated as Environmentally Sensitive Areas (ESAs), and would be fenced to protect the area from inadvertent damage.
- Standard water quality Best Management Practices (BMPs) would be implemented to minimize erosion into waterbodies present within the project limits.
- Spills of hazardous materials would be prevented.
- prior to onset of construction, a Storm Water Pollution Prevention Plan (SWPPP) would be prepared. The SWPPP would prescribe BMPs, appropriate for each culvert, in keeping with the BMPs described in Caltrans' Water Quality Handbook.
- Work would be limited to the dry/low-flow season (generally June 15 through October 15).

Mitigation to offset permanent impacts to other waters of the U. S. will occur through onsite replacement (relocation) of the existing agricultural drainage ditches (as shown on Attachment E: Project Plans). Other waters of the U. S. temporarily disturbed during construction will be restored to pre-project conditions. The agricultural drainage ditches impacted by this project are frequently maintained and are unvegetated, and serve to carry water that is used for agricultural purposes. Because these ditches are currently unvegetated and in order to retain their water carrying capacities, these ditches will not be planted with vegetation. The disturbed soil of areas impacted by construction will be treated with an erosion control seed mixture. Upon completion of construction the function and value of the relocated agricultural drainage ditches will remain the same as they were prior to construction of this project.

**Box 10 Proposed Compensatory Mitigation** related to fill/excavation and dredge activities. Indicate in **acres** and **linear feet** (where appropriate) the total quantity of Waters of the United States proposed to be created, restored, enhanced and/or preserved for purposes of providing compensatory mitigation. Indicate water body type (tidal wetland, non-tidal wetland, riparian wetland, ephemeral stream/river, intermittent stream/river, perennial stream/river, pond/lake, vegetated shallows, bay/harbor, lagoon, ocean, etc.) or non-jurisdictional (uplands<sup>1</sup>). Indicate mitigation type (permittee-responsible on-site/off-site, mitigation bank, or in-lieu fee program). If the mitigation is purchase of credits from a mitigation bank, indicate the bank to be used, if known:

<sup>1</sup> For uplands, please indicate if designed as an upland buffer.

Site Number	Water Body Type	Created		Restored		Enhanced		Preserved		Mitigation Type
		Area	Length	Area	Length	Area	Length	Area	Length	
1	Agricultural drainage ditches	0.061		0.014						Onsite
<b>Total:</b>		<b>0.061</b>		<b>0.014</b>						

If no mitigation is proposed, provide detailed explanation of why no mitigation would be necessary:  
Not applicable.

If permittee-responsible mitigation is proposed, provide justification for not utilizing a Corps-approved mitigation bank or in-lieu fee program:  
The project is not within the service area of any Corps-approved mitigation bank, and the in-lieu fee program is currently not available for use.

Has a draft/conceptual mitigation plan been prepared in accordance with the April 10, 2008 Final Mitigation Rule<sup>2</sup> and District Guidelines?

<sup>2</sup>[http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/mitig\\_info.aspx](http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/mitig_info.aspx)

<sup>3</sup>**Sacramento and San Francisco Districts**-[http://www.spk.usace.army.mil/organizations/cespk-co/regulatory/pdf/Mitigation\\_Monitoring\\_Guidelines.pdf](http://www.spk.usace.army.mil/organizations/cespk-co/regulatory/pdf/Mitigation_Monitoring_Guidelines.pdf)

<sup>4</sup>**Los Angeles District**-[http://www.spl.usace.army.mil/regulatory/mmg\\_2004.pdf](http://www.spl.usace.army.mil/regulatory/mmg_2004.pdf)

<sup>5</sup>**Albuquerque District**-[http://www.spa.usace.army.mil/reg/mitigation/SPA%20Final%20Mitigation%20Guidelines\\_OLD.pdf](http://www.spa.usace.army.mil/reg/mitigation/SPA%20Final%20Mitigation%20Guidelines_OLD.pdf)

Yes, Attached (or mail copy separately if applying electronically)  No

If no, a mitigation plan must be prepared and submitted, if applicable.

Mitigation site(s) Latitude & Longitude (D/M/S, DD, or UTM with Zone): 39.16, -122.92	USGS Quadrangle map name(s): Upper Lake
Assessor Parcel Number(s): Caltrans' right-of-way; APN 003-033-049, 003-034-007, 003-034-054 (Lake County)	Section(s), Township(s), Range(s): Section 12, Township 15N, Range 10W

Other location descriptions, if known:

Directions to the mitigation location(s):

- Interstate 5/State Route 99 north for approximately 6 miles
- Interstate 5 north for approximately 52 miles
- SR 20 west for approximately 60 miles to PM 8.6 (eastern end of project limits on SR 20)

**Box 11 Threatened or Endangered Species**

Please list any federally-listed (or proposed) threatened or endangered species or critical habitat (or proposed critical habitat) within the project area (include scientific names (e.g., Genus species), if known):

- a. None
- b.
- c.
- d.
- e.
- f.

Have surveys, using U.S. Fish and Wildlife Service/NOAA Fisheries protocols, been conducted?

Yes, Report attached (or mail copy separately if applying electronically)  No **ATTACHMENT H**

If a federal-listed species would be impacted, please provide a description of the impact and a biological evaluation, if available

Yes, Report attached (or mail copy separately if applying electronically)  No

Has Section 7 consultation been initiated by another federal agency?

Yes, Initiation letter attached (or mail copy separately if applying electronically)  No

Has Section 10 consultation been initiated for the proposed project?

Yes, Initiation letter attached (or mail copy separately if applying electronically)  No

Has the USFWS/NOAA Fisheries issued a Biological Opinion?

Yes, Attached (or mail copy separately if applying electronically)  No

If yes, list date Opinion was issued (m/d/yyyy):

**Box 12 Historic properties and cultural resources**

Are any cultural resources of any type known to exist on-site?  YES  NO

Please list any historic properties listed (or eligible to be listed) on the National Register of Historic Places:

- a. Clear Lake Cannery (CA-LAK-2197H)
- b.
- c.
- d.
- e.
- f.

Has a cultural resource records search been conducted?

Yes, Report attached (or mail copy separately if applying electronically)  No **ATTACHMENT I**

Has a cultural resource pedestrian survey been conducted for the site?

Yes, Report attached (or mail copy separately if applying electronically)  No **ATTACHMENT I**

Has another federal agency been designated the lead federal agency for Section 106 consultation?

Yes, Designation letter/email attached (or mail copy separately if applying electronically)  No

Has Section 106 consultation been initiated by another federal agency?

Yes, Initiation letter attached (or mail copy separately if applying electronically)  No

Has a Section 106 MOA or PA been signed by another federal agency and the SHPO?

Yes, Attached (or mail copy separately if applying electronically)  No

If yes, list date MOA or PA was signed (m/d/yyyy):

**Box 13 Section 401 Water Quality Certification:**

Applying for certification?  Yes, Attached (or mail copy separately if applying electronically)  No

**ATTACHMENT J**

Certification issued?  Yes, Attached (or mail copy separately if applying electronically)  No

Certification waived?  Yes, Attached (or mail copy separately if applying electronically)  No

Certification denied?  Yes, Attached (or mail copy separately if applying electronically)  No

Exempted Activity?  Yes  No

Agency concurrence?  Yes, Attached  No

If exempt, state why: Not applicable.

**Box 14 Coastal Zone Management Act**

Is the project located within the Coastal Zone?  Yes  No

If yes, applying for a coastal commission-approved Coastal Development Permit?

Yes, Attached (or mail copy separately if applying electronically)  No

If no, applying for separate CZMA-consistency certification?

Yes, Attached (or mail copy separately if applying electronically)  No

Permit/Consistency issued?  Yes, Attached (or mail copy separately if applying electronically)  No

Exempt?  Yes  No

Agency concurrence?  Yes, Attached  No

If exempt, state why:

**Box 15** List of other certification or approval/denials received from other federal, state, or local agencies for work described in this application:

Agency	Type Approval <sup>4</sup>	Identification Number	Date Applied	Dated Approved	Date Denied
CA Dept. of Fish and Wildlife	1602 Streambed Alteration Agreement		November 2013		

<sup>4</sup>Would include but is not restricted to zoning, building, and flood plain permits

## Nationwide Permit General Conditions (GC) checklist:

(<http://www.gpo.gov/fdsys/pkg/FR-2012-02-21/pdf/2012-3687.pdf>)

Check	General Condition	Rationale for compliance with General Condition
<input checked="" type="checkbox"/>	1. Navigation	The proposed project will not have an adverse effect on navigation.
<input checked="" type="checkbox"/>	2. Aquatic Life Movements	The proposed project will not disrupt the necessary life cycle movements of aquatic life.
<input checked="" type="checkbox"/>	3. Spawning Areas	Spawning or juvenile-rearing fish habitat and native wildlife nursery sites are not present in the immediate project area.
<input checked="" type="checkbox"/>	4. Migratory Bird Breeding Areas	The proposed project will not affect migratory bird breeding areas.
<input checked="" type="checkbox"/>	5. Shellfish Beds	The proposed project is not located in areas of concentrated shellfish populations.
<input checked="" type="checkbox"/>	6. Suitable Material	Unsuitable materials will not be used for the construction of the proposed project. All materials used for the construction of the proposed project will comply with Caltrans' materials standards, and will be free from toxic pollutants in toxic amounts.
<input checked="" type="checkbox"/>	7. Water Supply Intakes	The proposed project does not occur in the proximity of a public water supply intake.
<input checked="" type="checkbox"/>	8. Adverse Effects from Impoundments	The proposed project will not result in the impoundment of water. If dewatering is necessary to construct the proposed project, accelerating the passage of water and/or restricting water flow would be minimized to the maximum extent practicable.
<input checked="" type="checkbox"/>	9. Management of Water Flows	The proposed project will maintain pre-construction flow conditions. The project will not permanently restrict or impede the passage of normal or expected high flows, and will withstand expected high flows.
<input checked="" type="checkbox"/>	10. Fills Within 100-Year Floodplains	The proposed project will comply with applicable FEMA-approved state or local floodplain management requirements.
<input checked="" type="checkbox"/>	11. Equipment	The proposed project is not located in wetlands or mudflats.
<input checked="" type="checkbox"/>	12. Soil Erosion and Sediment Controls	Appropriate soil erosion and sediment controls will be used and maintained during construction of the proposed project. Exposed soils and areas of work below the ordinary high water mark will be stabilized at the earliest possible date.
<input checked="" type="checkbox"/>	13. Removal of Temporary Fills	Temporary fills, if necessary for dewatering activities, will be removed in their entirety upon project completion. The affected areas will be returned to their preexisting elevation and reseeded with native species as appropriate.
<input checked="" type="checkbox"/>	14. Proper Maintenance	The proposed project will be constructed in accordance with Caltrans codes and standards, and will be properly maintained by Caltrans Maintenance to ensure public safety and compliance with any applicable permit conditions.
<input checked="" type="checkbox"/>	15. Single and Complete Project	Caltrans will comply with this condition. The project is a single and complete project.
<input checked="" type="checkbox"/>	16. Wild and Scenic Rivers	The proposed project will not take place in or near a river designated as a Wild and Scenic River, or in a river officially designated by Congress as a "study river."
<input checked="" type="checkbox"/>	17. Tribal Rights	Construction of the proposed project will not impair reserved tribal rights.
<input checked="" type="checkbox"/>	18. Endangered Species	Please see Box 11 above.

<input checked="" type="checkbox"/>	19. Migratory Bird and Bald and Golden Eagle Permits	The proposed project will be in compliance with the federal Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act.
<input checked="" type="checkbox"/>	20. Historic Properties	Please see Box 12 above. The proposed project will be in compliance with Section 106 of the National Historic Preservation Act.
<input checked="" type="checkbox"/>	21. Discovery of Previously Unknown Remains and Artifacts	USACE will be notified if any previously unknown historic, cultural, or archaeological remains or artifacts that are discovered during construction of the proposed project.
<input checked="" type="checkbox"/>	22. Designated Critical Resource Waters	The proposed project does not contain any designated Critical Resource Waters.
<input checked="" type="checkbox"/>	23. Mitigation	Please see Box 10 above.
<input checked="" type="checkbox"/>	24. Safety of Impoundment Structures	The proposed project does not include water impoundment structures.
<input checked="" type="checkbox"/>	25. Water Quality	Please see Box 13 above.
<input checked="" type="checkbox"/>	26. Coastal Zone Management	Please see Box 14 above.
<input checked="" type="checkbox"/>	27. Regional and Case-by-Case Conditions	Caltrans will comply with any Regional or case-by-case conditions added by USACE.
<input checked="" type="checkbox"/>	28. Use of Multiple Nationwide Permits	Only one Nationwide Permit is being requested, therefore this condition is not applicable.
<input checked="" type="checkbox"/>	29. Transfer of Nationwide Permit Verifications	Caltrans will retain ownership of the property on which the proposed project will be built.
<input checked="" type="checkbox"/>	30. Compliance Certification	Caltrans will submit a signed compliance certification upon completion of the project and any compensatory mitigation.
<input checked="" type="checkbox"/>	31. Pre-Construction Notification	This PCN complies with General Condition 31.

## Final Sacramento District NWP Regional Conditions (RC) for CA checklist:

([http://www.spk.usace.army.mil/Portals/12/documents/regulatory/nwp/2012\\_nwps/2012-NWP-RC-CA.pdf](http://www.spk.usace.army.mil/Portals/12/documents/regulatory/nwp/2012_nwps/2012-NWP-RC-CA.pdf))

Check	Regional Condition	Rationale for compliance with Regional Condition
☒	<p>1. <u>Pre-construction Notification</u>: The PCN shall also include:</p> <ul style="list-style-type: none"> <li>☒ a. Written statement regarding avoidance and minimization;</li> <li>☒ b. Drawings which include delineated WOTUS and OHWM, in accordance with the August 6, 2012 Special Public Notice: Final Map and Drawing Standards for the South Pacific Division Regulatory Program; and</li> <li>☒ c. Pre-project photos on a plan-view drawing.</li> </ul>	<p>This PCN contains a written statement regarding avoidance and minimization (please see Box 9 above), drawings completed in accordance with the Final Map and Drawing Standards for the South Pacific Division Regulatory Program, and pre-project photos with a corresponding location drawing.</p>
☒	<p>2. <u>Pre-construction Notification</u>: A PCN shall be submitted for;</p> <ul style="list-style-type: none"> <li>☒ a. All activities in a vernal pool</li> <li>☒ b. All activities in the Primary and Secondary Zones of the Legal Delta, Sacramento River, and San Joaquin River, and immediate tributaries of these waters.</li> <li>☒ c. All crossings of perennial and/or intermittent waters.</li> <li>☒ d. All activities proposed within 100 feet of a known natural spring.</li> <li>☒ e. All activities located in areas designated as EFH.</li> </ul>	<p>A PCN is being submitted for this project, because activities will take place near intermittent waters.</p>
☒	<p>3. <u>Recordation</u>: The permittee shall record the NWP verification with the Register of Deeds.</p>	<p>The project does not contain any areas to be designated to be preserved as part of compensatory mitigation for authorized impacts or any boat ramps, docks, marinas, piers, or permanently moored vessels.</p>
☒	<p>4. <u>Avoided Waters</u>: *Unless determined impracticable by the Corps, the permittee shall:</p> <ul style="list-style-type: none"> <li>☒ a. Establish and maintain, in perpetuity, a preserve containing all avoided waters of the U.S.;</li> <li>☒ b. Place all avoided waters of the U.S. and upland buffers into a separate parcel; and</li> <li>☒ c. Establish permanent legal protection for all preserve parcels.</li> </ul> <p>*If the Corps determines that it is impracticable to require permanent preservation of the avoided waters, additional mitigation may be required.</p>	<p>All avoided waters of the U. S. will be protect by establishing Environmentally Sensitive Areas and will be appropriately fenced.</p>
☒	<p>5. <u>Temporary Fill</u>: The PCN shall include:</p> <ul style="list-style-type: none"> <li>☒ Why avoidance of temporary impacts is not practicable;</li> <li>☒ A description of the proposed temporary fill; ☐ A proposed plan for restoration, including a plan for the revegetation, if necessary.</li> </ul> <p>For all activities resulting in temporary fill within waters of the U.S., the permittee</p>	<p>Temporary impacts will be avoided to the extent practicable, while providing Construction staff with the appropriate amount of room in order to conduct project activities. Resources that are temporarily impacted during construction will be restored to pre-project conditions.</p>

	<p>shall:</p> <p><input checked="" type="checkbox"/> a. Utilize material consisting of clean and washed gravel;</p> <p><input checked="" type="checkbox"/> b. Place a horizontal marker; and</p> <p><input checked="" type="checkbox"/> c. Remove all temporary fill within 30 days.</p>	
<input checked="" type="checkbox"/>	<p>6. <u>Stream Crossings</u>: Unless determined to be impracticable by the Corps, the following criteria shall apply:</p> <p><input checked="" type="checkbox"/> a. Employ bridge designs that span the stream or river, or designs that use a bottomless arch culvert with a natural stream bed;</p> <p><input checked="" type="checkbox"/> b. Ensure that no more than minor impacts would occur to fish and wildlife passage or expected high flows;</p> <p><input checked="" type="checkbox"/> c. No construction activities shall occur within standing or flowing waters. Any proposed dewatering plans must be approved, in writing, by the Corps; and</p> <p><input checked="" type="checkbox"/> d. All bank stabilization activities associated with a road crossing shall comply with Regional Condition 19.</p>	It is expected that the agricultural drainage ditches will be dry during construction.
<input checked="" type="checkbox"/>	<p>7. <u>Lead Federal Agency</u>: The lead Federal agency shall provide all documentation demonstrating previous consultation efforts.</p>	Federal consultations under Section 7 of the Endangered Species Act and Section 106 of the National Historic Preservation Act were not needed for this project. Resources protected under these regulations would not be impacted by the proposed project.
<input checked="" type="checkbox"/>	<p>8. <u>Compliance Certificate</u>: The permittee shall submit the following additional information:</p> <p><input checked="" type="checkbox"/> a. As-built drawings.</p> <p><input checked="" type="checkbox"/> b. Post-construction photos on a plan-view drawing.</p>	As-built drawings and post-construction photos (with a corresponding location drawing) will be submitted to the Corps.
<input checked="" type="checkbox"/>	<p>9. <u>Permittee Responsible Mitigation</u>: Permittee shall submit a final comprehensive mitigation and monitoring plan prior to commencement of construction activities.</p>	Not applicable.
<input checked="" type="checkbox"/>	<p>10. <u>Mitigation</u>: Permittee shall complete construction of mitigation before or concurrent with commencement of project construction. Permittee shall submit proof of mitigation bank or ILF payment to the Corps prior to commencement of project construction.</p>	Mitigation will be completed concurrently with project construction.
<input checked="" type="checkbox"/>	<p>11. <u>Contractor Awareness</u>: Permittee is responsible for contractor/worker awareness and shall ensure that a copy of the permit authorization and associated drawings are available and visible at the site until completion of construction.</p>	Caltrans will ensure that the contractor is given a copy of the permit authorization and associated drawings.
<input checked="" type="checkbox"/>	<p>12. <u>Limits of Disturbance</u>: Permittee shall clearly identify the limits of disturbance in the field with highly visible markers.</p>	Caltrans will ensure that the limits of disturbance are visibly defined.
<input checked="" type="checkbox"/>	<p>13. <u>Notification</u>: Permittee shall notify the</p>	Caltrans will notify the Corps 10 days prior to the initiation of

	Corps 10 days prior to initiation of project construction.	project construction.
<input checked="" type="checkbox"/>	14. <u>Inspections</u> : Permittee shall allow the Corps to inspect the authorized activity(s).	Caltrans will allow the Corps to inspect the authorized activities.
<input checked="" type="checkbox"/>	15. <u>Mather Core Recovery Area (Sacramento County)</u> : NWP's (see list) revoked from use in vernal pools.	The proposed project is not located within the Mather Core Recovery Area.
<input checked="" type="checkbox"/>	16. <u>Legal Delta</u> : NWP's (see list) revoked.	The proposed project is not located with the Legal Delta.
<input checked="" type="checkbox"/>	17. <u>Secondary Zone</u> : Mitigation required in Secondary Zone of the Legal Delta.	The proposed project is not located with the Secondary Zone of the Legal Delta.
<input checked="" type="checkbox"/>	18. <u>NWP 12</u> : <input checked="" type="checkbox"/> Shall not result in the draining of any wetland or WOTUS. <input checked="" type="checkbox"/> Permittee shall remove and stockpile top 6-12" of topsoil. <input checked="" type="checkbox"/> Permittee shall replace the topsoil and seed w/native vegetation. <input checked="" type="checkbox"/> A PCN shall be submitted when: <input checked="" type="checkbox"/> a. result in a discharge of fill into perennial or intermittent waters, wetlands, mudflats, vegetated shallows, riffle & pool complexes, sanctuaries, refuges, or coral reefs; <input checked="" type="checkbox"/> b. result in a discharge of fill into greater than 100 linear feet of ephemeral WOTUS; <input checked="" type="checkbox"/> c. includes the construction of a temporary or permanent access road, substation or foundation within WOTUS; or <input checked="" type="checkbox"/> d. activity would not involve the restoration of all utility line trenches to pre-project contours and conditions.	The activity does not involve the use of NWP 12.
<input checked="" type="checkbox"/>	19. <u>NWP's 13 and 14</u> : <input checked="" type="checkbox"/> Shall involve either the sole use of native vegetation or other bioengineering design techniques, or a combination of. <u>PCN shall be submitted when</u> : <input checked="" type="checkbox"/> Bank stabilization involves hard-armoring or non-vegetated/non-bioengineered technique below the OHWM.	The activity does not involve the use of NWP 13. The project will not include bank stabilization.
<input checked="" type="checkbox"/>	20. <u>NWP 23</u> : Permittee shall submit a PCN for all activities, and must include a copy of the CE document and final agency determinations regarding compliance with ESA, EFH, and NHPA.	The activity does not involve the use of NWP 23.
<input checked="" type="checkbox"/>	21. <u>NWP 27</u> : Permittee shall submit it a PCN when: <input checked="" type="checkbox"/> Activity would result in a discharge of fill into perennial or intermittent waters, wetlands, mudflats, vegetated shallows, riffle & pool complexes, sanctuaries, refuges, or coral reefs; or <input checked="" type="checkbox"/> Activity would result in a discharge of fill into greater than 100 linear feet of ephemeral WOTUS.	The activity does not involve the use of NWP 27.
<input checked="" type="checkbox"/>	22. <u>NWP's 29 and 39</u> : Channelization or relocation of intermittent or perennial drainages is not authorized, except when	The activity does not involve the use of NWP 29 or 39.

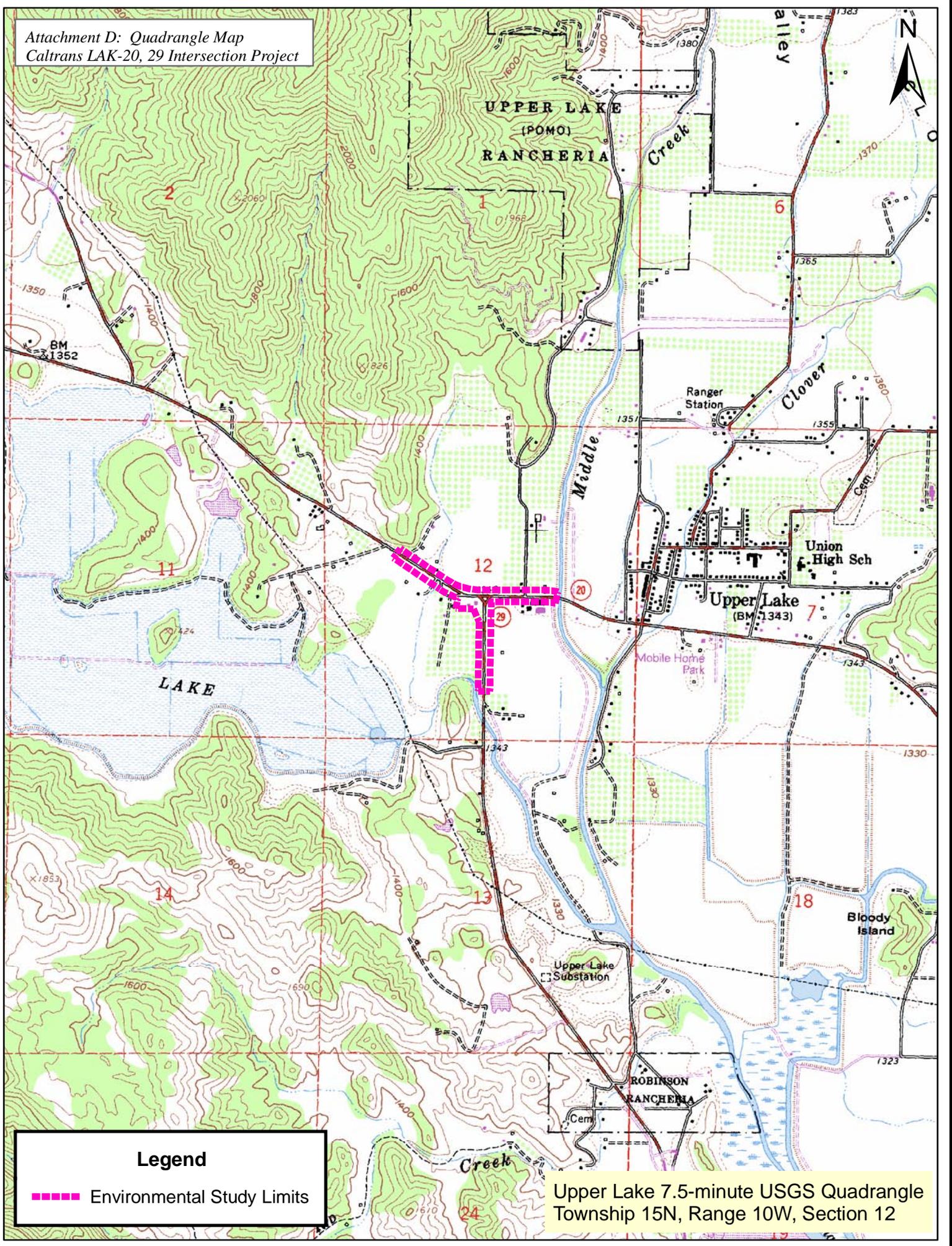
	relocation would result in a net increase in functions.	
<input checked="" type="checkbox"/>	23. <u>Waivers</u> : 300 and 500 linear foot waivers must include: <input checked="" type="checkbox"/> a. A narrative description of the stream describing adjacent vegetation community, wetland status, surrounding land use, water quality, cumulative impacts in the watershed, etc.; <input checked="" type="checkbox"/> b. An analysis of the proposed impacts to the waterbody; <input checked="" type="checkbox"/> c. Measures taken to avoid and minimize losses to WOTUS; and <input checked="" type="checkbox"/> d. A compensatory mitigation plan.	The activity does not require a 300 or 500 linear foot waiver.
<input checked="" type="checkbox"/>	24. <u>NWP's 29, 39, 40, 42, and 43</u> : The permittee shall establish and maintain upland vegetated buffers, at least 50' in width, in perpetuity.	The activity does not involve the use of NWP 29, 39, 40, 42, or 43.
<input checked="" type="checkbox"/>	25. <u>NWP 46</u> : Discharge shall not cause the loss of greater than 0.5 acres of WOTUS or the loss of more than 300 linear feet of ditch.	The activity does not involve the use of NWP 46.
<input checked="" type="checkbox"/>	26. All NWP's: All NWP's except (see list) are revoked for activities in histosols, fens, bogs and peatlands, and in wetlands contiguous with fens.	The proposed project will not occur in histosols, fens, bogs and peatlands, and in wetlands contiguous with fens.

*Attachment C (PCN Box 3: Property Owners)  
Caltrans LAK-20, 29 Intersection Project*

The following is a list of property owners that Caltrans will be acquiring new right of way, or a temporary construction easement (TCE), for construction of this project:

<b>APN</b>	<b>OWNER NAME</b>	<b>ADDRESS</b>
003-033-051	Edward and Frances Seely	Seely Farms, PO Box 218, Upper Lake, CA 95485
003-033-052	Edward and Frances Seely	Seely Farms, PO Box 218, Upper Lake, CA 95485
003-033-049	Edward and Frances Seely	Seely Farms, PO Box 218, Upper Lake, CA 95485
003-034-054	Dick and Dina Romberg	4740 Lakeshore Blvd, Lakeport, CA 95453
003-034-007	Carpenter Orchard	200 N. Main Street, Suite C, Lakeport, CA 95453

Attachment D: Quadrangle Map  
Caltrans LAK-20, 29 Intersection Project



**Legend**

Environmental Study Limits

Upper Lake 7.5-minute USGS Quadrangle  
Township 15N, Range 10W, Section 12

Attachment D: Vicinity Map  
Caltrans LAK-20, 29 Intersection Project



**Legend**

Environmental Study Limits







Photo Point 1 – Location 1, facing northeast (photo taken March 30, 2009)



Photo Point 2 – Location 1, facing northeast (photo taken March 30, 2009)



Photo Point 3 – Location 1, facing northwest (photo taken March 30, 2011)



Photo Point 4 – Location 1, facing west (photo taken March 30, 2011)



Photo Point 5 – Location 1, facing west (photo taken March 30, 2011)



Photo Point 6 – Location 2, facing northwest (photo taken March 30, 2009)



Photo Point 7 – Location 2, facing northwest (photo taken March 30, 2009)



Photo Point 8 – Location 2, facing south (photo taken March 30, 2009)



Photo Point 9 – Location 4, facing southeast (photo taken March 30, 2009)

Attachment F: Location of Pre-Construction Photographs  
Caltrans LAK-20, 29 Intersection Project

Location 1  
Latitude 39.16  
Longitude -122.92

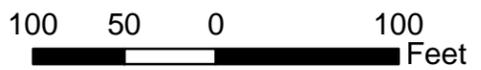
Location 2  
Latitude 39.16  
Longitude -122.92

Location 3  
Latitude 39.16  
Longitude -122.92

Location 4  
Latitude 39.16  
Longitude -122.92

**Legend**

- Photo Location
- Environmental Study Limits
- ▨ Other Waters of the U. S.

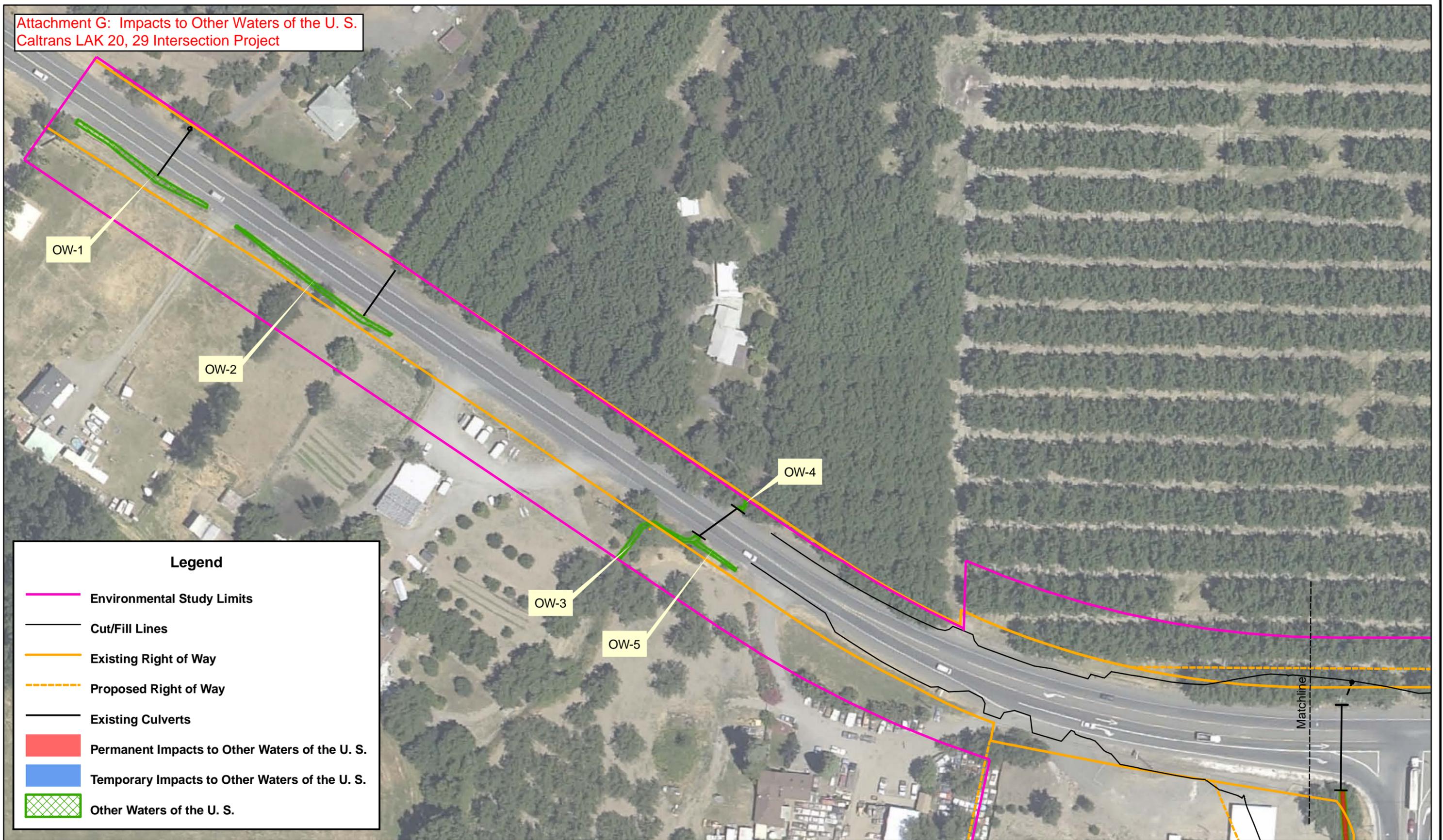


1 inch = 100 feet

Created on October 28, 2013 by Caltrans Biologist Jennifer Osmondson  
Date of Imagery: 2003 (Caltrans DHIPP Imagery)  
Reference Elevation Datum: NAD83



Attachment G: Impacts to Other Waters of the U. S.  
Caltrans LAK 20, 29 Intersection Project



**Legend**

-  Environmental Study Limits
-  Cut/Fill Lines
-  Existing Right of Way
-  Proposed Right of Way
-  Existing Culverts
-  Permanent Impacts to Other Waters of the U. S.
-  Temporary Impacts to Other Waters of the U. S.
-  Other Waters of the U. S.

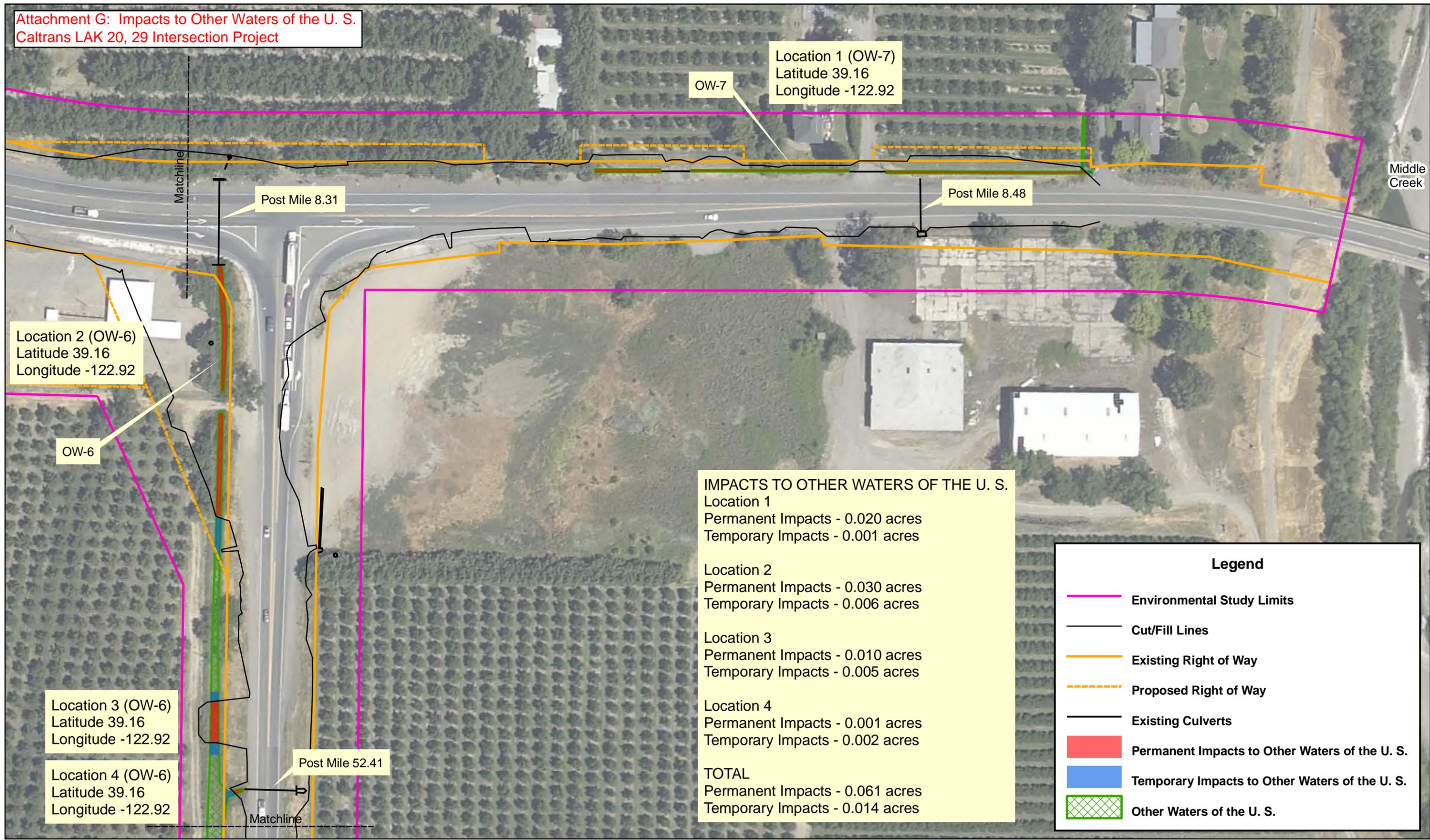
100 50 0 100  
Feet

1 inch = 100 feet

Created on December 10, 2013 by Caltrans Biologist Jennifer Osmondson  
Date of Imagery: 2003 (Caltrans DHIPP Imagery)  
Reference Elevation Datum: NAD83



**Attachment G: Impacts to Other Waters of the U. S.  
Caltrans LAK 20, 29 Intersection Project**

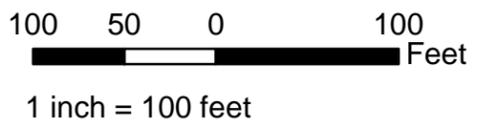


**IMPACTS TO OTHER WATERS OF THE U. S.**

Location 1	Permanent Impacts - 0.020 acres	Temporary Impacts - 0.001 acres
Location 2	Permanent Impacts - 0.030 acres	Temporary Impacts - 0.006 acres
Location 3	Permanent Impacts - 0.010 acres	Temporary Impacts - 0.005 acres
Location 4	Permanent Impacts - 0.001 acres	Temporary Impacts - 0.002 acres
<b>TOTAL</b>	<b>Permanent Impacts - 0.061 acres</b>	<b>Temporary Impacts - 0.014 acres</b>

**Legend**

- Environmental Study Limits
- Cut/Fill Lines
- Existing Right of Way
- Proposed Right of Way
- Existing Culverts
- Permanent Impacts to Other Waters of the U. S.
- Temporary Impacts to Other Waters of the U. S.
- Other Waters of the U. S.



Longitude 122.52

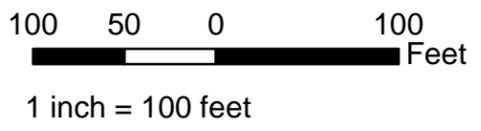
Matchline

Temporary Impacts to Other Waters

**Legend**

- Environmental Study Limits
- Cut/Fill Lines
- Existing Right of Way
- Proposed Right of Way
- Existing Culverts
- Permanent Impacts to Other Waters of the U. S.
- Temporary Impacts to Other Waters of the U. S.
- Other Waters of the U. S.

OW-8





U S Army Corps of  
Engineers  
Sacramento District

# Nationwide Permit Summary

33 CFR Part 330; Issuance of Nationwide  
Permits – March 19, 2012

**14. Linear Transportation Projects.** Activities required for the construction, expansion, modification, or improvement of linear transportation projects (e.g., roads, highways, railways, trails, airport runways, and taxiways) in waters of the United States. For linear transportation projects in non-tidal waters, the discharge cannot cause the loss of greater than 1/2-acre of waters of the United States. For linear transportation projects in tidal waters, the discharge cannot cause the loss of greater than 1/3-acre of waters of the United States. Any stream channel modification, including bank stabilization, is limited to the minimum necessary to construct or protect the linear transportation project; such modifications must be in the immediate vicinity of the project.

This NWP also authorizes temporary structures, fills, and work necessary to construct the linear transportation project. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

This NWP cannot be used to authorize non-linear features commonly associated with transportation projects, such as vehicle maintenance or storage buildings, parking lots, train stations, or aircraft hangars.

**Notification:** The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if: (1) the loss of waters of the United States exceeds 1/10-acre; or (2) there is a discharge in a special aquatic site, including wetlands. (See general condition 31.) (Sections 10 and 404)

**Note:** Some discharges for the construction of farm roads or forest roads, or temporary roads for moving mining equipment, may qualify for an exemption under Section 404(f) of the Clean Water Act (see 33 CFR 323.4).

## A. Regional Conditions

### 1. Regional Conditions for California, excluding the Tahoe Basin

[http://www.spk.usace.army.mil/Portals/12/documents/regulatory/nwp/2012\\_nwps/2012-NWP-RC-CA.pdf](http://www.spk.usace.army.mil/Portals/12/documents/regulatory/nwp/2012_nwps/2012-NWP-RC-CA.pdf)

### 2. Regional Conditions for Nevada, including the Tahoe Basin

[http://www.spk.usace.army.mil/Portals/12/documents/regulatory/nwp/2012\\_nwps/2012-NWP-RC-NV.pdf](http://www.spk.usace.army.mil/Portals/12/documents/regulatory/nwp/2012_nwps/2012-NWP-RC-NV.pdf)

### 3. Regional Conditions for Utah

[http://www.spk.usace.army.mil/Portals/12/documents/regulatory/nwp/2012\\_nwps/2012-NWP-RC-UT.pdf](http://www.spk.usace.army.mil/Portals/12/documents/regulatory/nwp/2012_nwps/2012-NWP-RC-UT.pdf)

### 4. Regional Conditions for Colorado.

[http://www.spk.usace.army.mil/Portals/12/documents/regulatory/nwp/2012\\_nwps/2012-NWP-RC-CO.pdf](http://www.spk.usace.army.mil/Portals/12/documents/regulatory/nwp/2012_nwps/2012-NWP-RC-CO.pdf)

## B. Nationwide Permit General Conditions

**Note:** To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer.

Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR §§ 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR § 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

### 1. Navigation.

(a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters,

**BUILDING STRONG®**

**U.S. ARMY CORPS OF ENGINEERS – SACRAMENTO DISTRICT**

1325 J ST. – SACRAMENTO, CA 95814

[www.spk.usace.army.mil](http://www.spk.usace.army.mil)

[www.facebook.com/sacramentodistrict](http://www.facebook.com/sacramentodistrict)

[www.youtube.com/sacramentodistrict](http://www.youtube.com/sacramentodistrict)

[www.twitter.com/USACESacramento](http://www.twitter.com/USACESacramento)

[www.flickr.com/photos/sacramentodistrict](http://www.flickr.com/photos/sacramentodistrict)

the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

- 2. **Aquatic Life Movements.** No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species.
- 3. **Spawning Areas.** Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.
- 4. **Migratory Bird Breeding Areas.** Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.
- 5. **Shellfish Beds.** No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.
- 6. **Suitable Material.** No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).
- 7. **Water Supply Intakes.** No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.
- 8. **Adverse Effects From Impoundments.** If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.
- 9. **Management of Water Flows.** To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).
- 10. **Fills Within 100-Year Floodplains.** The activity must comply with applicable FEMA-approved state or local floodplain management requirements.
- 11. **Equipment.** Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.
- 12. **Soil Erosion and Sediment Controls.** Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.
- 13. **Removal of Temporary Fills.** Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.
- 14. **Proper Maintenance.** Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.
- 15. **Single and Complete Project.** The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.
- 16. **Wild and Scenic Rivers.** No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).
- 17. **Tribal Rights.** No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
- 18. **Endangered Species.**
  - (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.
  - (b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the district engineer with the appropriate documentation to

demonstrate compliance with those requirements. The district engineer will review the documentation and determine whether it is sufficient to address ESA compliance for the NWP activity, or whether additional ESA consultation is necessary.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that might be affected by the proposed work or that utilize the designated critical habitat that might be affected by the proposed work. The district engineer will determine whether the proposed activity “may affect” or will have “no effect” to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps’ determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have “no effect” on listed species or critical habitat, or until Section 7 consultation has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific regional endangered species conditions to the NWPs.

(e) Authorization of an activity by a NWP does not authorize the “take” of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with “incidental take” provisions, etc.) from the U.S. FWS or the NMFS, The Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word “harm” in the definition of “take” means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. FWS and NMFS or their world wide web pages at <http://www.fws.gov/> or <http://www.fws.gov/ipac> and <http://www.noaa.gov/fisheries.html> respectively.

19. **Migratory Birds and Bald and Golden Eagles.** The permittee is responsible for obtaining any “take” permits required under the U.S. Fish and Wildlife Service’s regulations governing compliance with the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act. The permittee should contact the appropriate local office of the U.S. Fish and Wildlife Service to determine if such “take” permits are required for a particular activity.

20. **Historic Properties.**

(a) In cases where the district engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will review the documentation and determine whether it is sufficient to address section 106 compliance for the NWP activity, or whether additional section 106 consultation is necessary.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of Section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified

historic properties on which the activity may have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

(d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR §800.3(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

**21. Discovery of Previously Unknown Remains and Artifacts.** If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

**22. Designated Critical Resource Waters.** Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or

ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWP 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, and 52 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with general condition 31, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

**23. Mitigation.** The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse effects of the proposed activity are minimal, and provides a project-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in minimal adverse effects on the aquatic environment.

(2) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered.

- (3) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) – (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)).
- (4) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan only needs to address the baseline conditions at the impact site and the number of credits to be provided.
- (5) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan.
- (d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation, such as stream rehabilitation, enhancement, or preservation, to ensure that the activity results in minimal adverse effects on the aquatic environment.
- (e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any project resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWPs.
- (f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the restoration or establishment, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required. Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to establish a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or establishing a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.
- (g) Permittees may propose the use of mitigation banks, in-lieu fee programs, or separate permittee-responsible mitigation. For activities resulting in the loss of marine or estuarine resources, permittee-responsible compensatory mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.
- (h) Where certain functions and services of waters of the United States are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.
- 24. Safety of Impoundment Structures.** To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.
- 25. Water Quality.** Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA Section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.
- 26. Coastal Zone Management.** In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.
- 27. Regional and Case-By-Case Conditions.** The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

**28. Use of Multiple Nationwide Permits.** The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

**29. Transfer of Nationwide Permit Verifications.** If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

“When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.”

-----  
(Transferee)

-----  
(Date)

**30. Compliance Certification.** Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and any required compensatory mitigation. The success of any required permittee responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

- (a) A statement that the authorized work was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;
- (b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and
- (c) The signature of the permittee certifying the completion of the work and mitigation.

**31. Pre-Construction Notification.**

(a) **Timing.** Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification

(PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

- (1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or
- (2) 45 calendar days have passed from the district engineer’s receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or in the vicinity of the project, or to notify the Corps pursuant to general condition 20 that the activity may have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is “no effect” on listed species or “no potential to cause effects” on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or Section 106 of the National Historic Preservation (see 33 CFR 330.4(g)) has been completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee’s right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2)..

(b) Contents of Pre-Construction Notification: The PCN must be in writing and include the following information:

- (1) Name, address and telephone numbers of the prospective permittee;
- (2) Location of the proposed project;

- (3) A description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause, including the anticipated amount of loss of water of the United States expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the project and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);
- (4) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;
- (5) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse effects are minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.
- (6) If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, for non-Federal applicants the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act; and
- (7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants the PCN must state which historic property

may be affected by the proposed work or include a vicinity map indicating the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

- (c) Form of Pre-Construction Notification: the standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is a PCN and must include all of the information required in paragraphs (b)(1) through (7) of this general condition. A letter containing the required information may also be used.
- (d) Agency Coordination:
  - (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the project's adverse environmental effects to a minimal level.
  - (2) For all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States, for NWP 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52 activities that require pre-construction notification and will result in the loss of greater than 300 linear feet of intermittent and ephemeral stream bed, and for all NWP 48 activities that require pre-construction notification, the district engineer will immediately provide (e.g., via email, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (U.S. FWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Office (THPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to telephone or fax the district engineer notice that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure the net adverse environmental effects to the aquatic environment of the proposed activity are minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where

there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(3) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(4) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

### C. District Engineer's Decision

1. In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. For a linear project, this determination will include an evaluation of the individual crossings to determine whether they individually satisfy the terms and conditions of the NWP(s), as well as the cumulative effects caused by all of the crossings authorized by NWP. If an applicant requests a waiver of the 300 linear foot limit on impacts to intermittent or ephemeral streams or of an otherwise applicable limit, as provided for in NWPs 13, 21, 29, 36, 39, 40, 42, 43, 44, 50, 51 or 52, the district engineer will only grant the waiver upon a written determination that the NWP activity will result in minimal adverse effects. When making minimal effects determinations the district engineer will consider the direct and indirect effects caused by the NWP activity. The district engineer will also consider site specific factors, such as the environmental setting in the vicinity of the NWP activity, the type of resource that will be affected by the NWP activity, the functions provided by the aquatic resources that will be affected by the NWP activity, the degree or magnitude to which the aquatic resources perform those functions, the extent that aquatic resource functions will be lost as a result of the NWP activity (e.g., partial or complete loss), the duration of the adverse effects (temporary or permanent), the importance of the aquatic resource functions to the region (e.g., watershed or ecoregion), and mitigation required by the district engineer. If an appropriate functional assessment method is available and practicable to use, that assessment method may be used by the district engineer to assist in the minimal adverse effects determination. The district engineer may add case-specific special conditions to the NWP authorization to address site-specific environmental concerns.

2. If the proposed activity requires a PCN and will result in a loss of greater than 1/10- acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for projects with smaller impacts. The district engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining

whether the net adverse environmental effects to the aquatic environment of the proposed activity are minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the district engineer will notify the permittee and include any activity-specific conditions in the NWP verification the district engineer deems necessary. Conditions for compensatory mitigation requirements must comply with the appropriate provisions at 33 CFR 332.3(k). The district engineer must approve the final mitigation plan before the permittee commences work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the proposed compensatory mitigation plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the district engineer to be minimal, the district engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP, including any activity-specific conditions added to the NWP authorization by the district engineer.

3. If the district engineer determines that the adverse effects of the proposed work are more than minimal, then the district engineer will notify the applicant either: (a) That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (b) that the project is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level; or (c) that the project is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period, with activity-specific conditions that state the mitigation requirements. The authorization will include the necessary conceptual or detailed mitigation or a requirement that the applicant submit a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level. When mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan or has determined that prior approval of a final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation.

### D. Further Information

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.

2. NWP's do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.
3. NWP's do not grant any property rights or exclusive privileges.
4. NWP's do not authorize any injury to the property or rights of others.
5. NWP's do not authorize interference with any existing or proposed Federal project.

#### E. Definitions

**Best management practices (BMPs):** Policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural.

**Compensatory mitigation:** The restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

**Currently serviceable:** Useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.

**Direct effects:** Effects that are caused by the activity and occur at the same time and place.

**Discharge:** The term "discharge" means any discharge of dredged or fill material.

**Enhancement:** The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

**Ephemeral stream:** An ephemeral stream has flowing water only during, and for a short duration after, precipitation events in a typical year. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.

**Establishment (creation):** The manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area.

**High Tide Line:** The line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in

which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

**Historic Property:** Any prehistoric or historic district, site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria (36 CFR part 60).

**Independent utility:** A test to determine what constitutes a single and complete non-linear project in the Corps regulatory program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

**Indirect effects:** Effects that are caused by the activity and are later in time or farther removed in distance, but are still reasonably foreseeable.

**Intermittent stream:** An intermittent stream has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.

**Loss of waters of the United States:** Waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the United States is a threshold measurement of the impact to jurisdictional waters for determining whether a project may qualify for an NWP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and services. The loss of stream bed includes the linear feet of stream bed that is filled or excavated. Waters of the United States temporarily filled, flooded, excavated, or drained, but restored to pre-construction contours and elevations after construction, are not included in the measurement of loss of waters of the United States. Impacts resulting from activities eligible for exemptions under Section 404(f) of the Clean Water Act are not considered when calculating the loss of waters of the United States.

**Non-tidal wetland:** A non-tidal wetland is a wetland that is not subject to the ebb and flow of tidal waters. The definition of a wetland can be found at 33 CFR 328.3(b). Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line).

**Open water:** For purposes of the NWP, an open water is any area that in a year with normal patterns of precipitation has water flowing or standing above ground to the extent that an ordinary high water mark can be determined. Aquatic vegetation within the area of standing or flowing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. Examples of “open waters” include rivers, streams, lakes, and ponds.

**Ordinary High Water Mark:** An ordinary high water mark is a line on the shore established by the fluctuations of water and indicated by physical characteristics, or by other appropriate means that consider the characteristics of the surrounding areas (see 33 CFR 328.3(e)).

**Perennial stream:** A perennial stream has flowing water year-round during a typical year. The water table is located above the stream bed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow.

**Practicable:** Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

**Pre-construction notification:** A request submitted by the project proponent to the Corps for confirmation that a particular activity is authorized by nationwide permit. The request may be a permit application, letter, or similar document that includes information about the proposed work and its anticipated environmental effects. Pre-construction notification may be required by the terms and conditions of a nationwide permit, or by regional conditions. A pre-construction notification may be voluntarily submitted in cases where pre-construction notification is not required and the project proponent wants confirmation that the activity is authorized by nationwide permit.

**Preservation:** The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

**Re-establishment:** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions.

**Rehabilitation:** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

**Restoration:** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: re-establishment and rehabilitation.

**Riffle and pool complex:** Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a coarse substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.

**Riparian areas:** Riparian areas are lands adjacent to streams, lakes, and estuarine-marine shorelines. Riparian areas are transitional between terrestrial and aquatic ecosystems, through which surface and subsurface hydrology connects riverine, lacustrine, estuarine, and marine waters with their adjacent wetlands, non-wetland waters, or uplands. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality. (See general condition 23.)

**Shellfish seeding:** The placement of shellfish seed and/or suitable substrate to increase shellfish production. Shellfish seed consists of immature individual shellfish or individual shellfish attached to shells or shell fragments (i.e., spat on shell). Suitable substrate may consist of shellfish shells, shell fragments, or other appropriate materials placed into waters for shellfish habitat.

**Single and complete linear project:** A linear project is a project constructed for the purpose of getting people, goods, or services from a point of origin to a terminal point, which often involves multiple crossings of one or more waterbodies at separate and distant locations. The term “single and complete project” is defined as that portion of the total linear project proposed or accomplished by one owner/developer or partnership or other association of owners/developers that includes all crossings of a single water of the United States (i.e., a single waterbody) at a specific location. For linear projects crossing a single or multiple waterbodies several times at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies, and crossings of such features cannot be considered separately.

**Single and complete non-linear project:** For non-linear projects, the term “single and complete project” is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers. A single and complete non-linear project must have independent utility (see definition of “independent utility”). Single and complete non-linear projects may not be “piecemealed” to avoid the limits in an NWP authorization.

**Stormwater management:** Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.

**Stormwater management facilities:** Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and best management practices, which retain water for a period of time to control runoff and/or improve the quality (i.e., by reducing the concentration of nutrients, sediments, hazardous substances and other pollutants) of stormwater runoff.

**Stream bed:** The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed.

**Stream channelization:** The manipulation of a stream's course, condition, capacity, or location that causes more than minimal interruption of normal stream processes. A channelized stream remains a water of the United States.

**Structure:** An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.

**Tidal wetland:** A tidal wetland is a wetland (i.e., water of the United States) that is inundated by tidal waters. The definitions of a wetland and tidal waters can be found at 33 CFR 328.3(b) and 33 CFR 328.3(f), respectively. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line, which is defined at 33 CFR 328.3(d).

**Vegetated shallows:** Vegetated shallows are special aquatic sites under the 404(b)(1) Guidelines. They are areas that are permanently inundated and under normal circumstances have rooted aquatic vegetation, such as seagrasses in marine and estuarine systems and a variety of vascular rooted plants in freshwater systems.

**Waterbody:** For purposes of the NWP, a waterbody is a jurisdictional water of the United States. If a jurisdictional wetland is adjacent – meaning bordering, contiguous, or neighboring – to a waterbody determined to be a water of the United States under 33 CFR 328.3(a)(1)-(6), that waterbody and its adjacent wetlands are considered together as a single aquatic unit (see 33 CFR 328.4(c)(2)). Examples of “waterbodies” include streams, rivers, lakes, ponds, and wetlands.

**Final Sacramento District Nationwide Permit**  
**Regional Conditions for California, excluding the Lake Tahoe Basin**  
*(Effective March 19, 2012 until March 18, 2017)*

**1.\*** When pre-construction notification (PCN) is required, the permittee shall notify the U.S. Army Corps of Engineers, Sacramento District (Corps) in accordance with General Condition 31 using either the South Pacific Division Preconstruction Notification (PCN) Checklist or a signed application form (ENG Form 4345) with an attachment providing information on compliance with all of the General and Regional Conditions. In addition, the PCN shall include:

a. A written statement describing how the activity has been designed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States;

b. Drawings, including plan and cross-section views, clearly depicting the location, size and dimensions of the proposed activity, as well as the location of delineated waters of the U.S. on the site. The drawings shall contain a title block, legend and scale, amount (in cubic yards) and area (in acres) of fill in Corps jurisdiction, including both permanent and temporary fills/structures. The ordinary high water mark or, if tidal waters, the mean high water mark and high tide line, should be shown (in feet), based on National Geodetic Vertical Datum (NGVD) or other appropriate referenced elevation. All drawings for activities located within the boundaries of the Los Angeles District shall comply with the September 15, 2010 Special Public Notice: *Map and Drawing Standards for the Los Angeles District Regulatory Division*, (available on the Los Angeles District Regulatory Division website at: [www.spl.usace.army.mil/regulatory/](http://www.spl.usace.army.mil/regulatory/)); and

c. Numbered and dated pre-project color photographs showing a representative sample of waters proposed to be impacted on the site, and all waters of the U.S. proposed to be avoided on and immediately adjacent to the project site. The compass angle and position of each photograph shall be identified on the plan-view drawing(s) required in subpart b of this Regional Condition.

**2.** For all Nationwide Permits (NWP), the permittee shall submit a PCN in accordance with General Condition 31 and Regional Condition 1, in the following circumstances:

a. For all activities that would result in the discharge of fill material into any vernal pool;

b. For any activity in the Primary and Secondary Zones of the Legal Delta, the Sacramento River, the San Joaquin River, and the immediate tributaries of these waters;

c. For all crossings of perennial waters and intermittent waters;

d. For all activities proposed within 100 feet of the point of discharge of a known natural spring source, which is any location where ground water emanates from a point in the ground excluding seeps or other discharges which lack a defined channel; and

e.\* For all activities located in areas designated as Essential Fish Habitat (EFH) by the Pacific Fishery Management Council (i.e., all tidally influenced areas - Federal Register dated March 12, 2007 (72 FR 11092)), in which case the PCN shall include an EFH assessment and extent of proposed impacts to EFH. Examples of EFH habitat assessments can be found at: <http://www.swr.noaa.gov/efh.htm>.

**3.** The permittee shall record the NWP verification with the Registrar of Deeds or other appropriate official charged with the responsibility for maintaining records of title to or interest in real property for areas (1) designated to be preserved as part of compensatory mitigation for authorized impacts, including any associated covenants or restrictions, or (2) where boat ramps or docks, marinas, piers, and permanently moored vessels will be constructed or placed in or adjacent to navigable waters. The recordation shall also include a map showing the surveyed location of the preserved area or authorized structure.

\* Regional Condition developed jointly between Sacramento District, Los Angeles District, and San Francisco District.

**4.** For all waters of the U.S. proposed to be avoided on a site, unless determined to be impracticable by the Corps, the permittee shall:

a. Establish and maintain, in perpetuity, a preserve containing all avoided waters of the U.S. to ensure that the functions of the aquatic environment are protected;

b. Place all avoided waters of the U.S. and any upland buffers into a separate parcel prior to discharging dredge or fill material into waters of the U.S., and

c. Establish permanent legal protection for all preserve parcels, following Corps approval of the legal instrument;

If the Corps determines that it is impracticable to require permanent preservation of the avoided waters, additional mitigation may be required in order to compensate for indirect impacts to the waters of the U.S.

**5.** For all temporary fills, the PCN shall include a description of the proposed temporary fill, including the type and amount of material to be placed, the area proposed to be impacted, and the proposed plan for restoration of the temporary fill area to pre-project contours and conditions, including a plan for the re-vegetation of the temporary fill area, if necessary. In addition, the PCN shall include the reason(s) why avoidance of temporary impacts is not practicable.

In addition, for all activities resulting in temporary fill within waters of the U.S., the permittee shall:

a. Utilize material consisting of clean and washed gravel. For temporary fills within waters of the U.S. supporting anadromous fisheries, spawning quality gravel shall be used, where practicable, as determined by the Corps, after consultation with appropriate Federal and state fish and wildlife agencies;

b. Place a horizontal marker (e.g. fabric, certified weed free straw, etc.) to delineate the existing ground elevation of the waters temporarily filled during construction; and

c. Remove all temporary fill within 30 days following completion of construction activities.

**6.** In addition to the requirements of General Condition 2, unless determined to be impracticable by the Corps, the following criteria shall apply to all road crossings:

a.\* For all activities in waters of the U.S. that are suitable habitat for Federally-listed fish species, the permittee shall design all road crossings to ensure that the passage and/or spawning of fish is not hindered. In these areas, the permittee shall employ bridge designs that span the stream or river, including pier- or pile-supported spans, or designs that use a bottomless arch culvert with a natural stream bed;

b. Road crossings shall be designed to ensure that no more than minor impacts would occur to fish and wildlife passage or expected high flows, following the criteria listed in Regional Condition 6(a). Culverted crossings that do not utilize a bottomless arch culvert with a natural stream bed may be authorized for waters that do not contain suitable habitat for Federally listed fish species, if it can be demonstrated and is specifically determined by the Corps, that such crossing will result in no more than minor impacts to fish and wildlife passage or expected high flows;

c. No construction activities shall occur within standing or flowing waters. For ephemeral or intermittent streams, this may be accomplished through construction during the dry season. In perennial streams, this may be accomplished through dewatering of the work area. Any proposed dewatering plans must be approved, in writing, by the Corps prior to commencement of construction activities; and

\* Regional Condition developed jointly between Sacramento District, Los Angeles District, and San Francisco District.

d. All bank stabilization activities associated with a road crossing shall comply with Regional Condition 19.

In no case shall stream crossings result in a reduction in the pre-construction bankfull width or depth of perennial streams or negatively alter the flood control capacity of perennial streams.

**7.\*** For activities in which the Corps designates another Federal agency as the lead for compliance with Section 7 of the Endangered Species Act (ESA) of 1973 as amended, pursuant to 50 CFR Part 402.07, Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act (EFH), pursuant to 50 CFR 600.920(b) and/or Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended, pursuant to 36 CFR 800.2(a)(2), the lead Federal agency shall provide all relevant documentation to the Corps demonstrating any previous consultation efforts, as it pertains to the Corps Regulatory permit area (for Section 7 and EFH compliance) and the Corps Regulatory area of potential effect (APE) (for Section 106 compliance). For activities requiring a PCN, this information shall be submitted with the PCN. If the Corps does not designate another Federal agency as the lead for ESA, EFH and/or NHPA, the Corps will initiate consultation for compliance, as appropriate.

**8.** For all NWP's which require a PCN, the permittee shall submit the following additional information with the compliance certificate required under General Condition 30:

a. As-built drawings of the work conducted on the project site and any on-site and/or off-site compensatory mitigation, preservation, and/or avoidance area(s). The as-builts shall include a plan-view drawing of the location of the authorized work footprint (as shown on the permit drawings), with an overlay of the work as constructed in the same scale as the permit drawings. The drawing shall show all areas of ground disturbance, wetland impacts, structures, and the boundaries of any on-site and/or off-site mitigation or avoidance areas. Please note that any deviations from the work as authorized, which result in additional impacts to waters of the U.S., must be coordinated with the appropriate Corps office prior to impacts; and

b. Numbered and dated post-construction color photographs of the work conducted within a representative sample of the impacted waters of the U.S., and within all avoided waters of the U.S. on and immediately adjacent to the proposed project area. The compass angle and position of all photographs shall be similar to the pre-construction color photographs required in Regional Condition 1(c) and shall be identified on the plan-view drawing(s) required in subpart a of this Regional Condition.

**9.** For all activities requiring permittee responsible mitigation, the permittee shall develop and submit to the Corps for review and approval, a final comprehensive mitigation and monitoring plan for all permittee responsible mitigation prior to commencement of construction activities within waters of the U.S. The plan shall include the mitigation location and design drawings, vegetation plans, including target species to be planted, and final success criteria, presented in the format of the *Sacramento District's Habitat Mitigation and Monitoring Proposal Guidelines*, dated December 30, 2004, and in compliance with the requirements of 33 CFR 332.

**10.\*** The permittee shall complete the construction of any compensatory mitigation required by special condition(s) of the NWP verification before or concurrent with commencement of construction of the authorized activity, except when specifically determined to be impracticable by the Corps. When mitigation involves use of a mitigation bank or in-lieu fee program, the permittee shall submit proof of payment to the Corps prior to commencement of construction of the authorized activity.

**11.** The permittee is responsible for all authorized work and ensuring that all contractors and workers are made aware and adhere to the terms and conditions of the permit authorization. The permittee shall ensure

that a copy of the permit authorization and associated drawings are available and visible for quick reference at the site until all construction activities are completed.

**12.** The permittee shall clearly identify the limits of disturbance in the field with highly visible markers (e.g. construction fencing, flagging, silt barriers, etc.) prior to commencement of construction activities within waters of the U.S. The permittee shall maintain such identification properly until construction is completed and the soils have been stabilized. The permittee is prohibited from any activity (e.g. equipment usage or materials storage) that impacts waters of the U.S. outside of the permit limits (as shown on the permit drawings).

**13.** For all activities in which a PCN is required, the permittee shall notify the appropriate district office of the start date for the authorized work within 10 days prior to initiation of construction activities.

**14.** The permittee shall allow Corps representatives to inspect the authorized activity and any mitigation areas at any time deemed necessary to determine compliance with the terms and conditions of the NWP verification. The permittee will be notified in advance of an inspection.

**15.** For all activities located in the Mather Core Recovery Area in Sacramento County, as identified in the U.S. Fish and Wildlife Service's *Recovery Plan for Vernal Pool Ecosystems of California and Southern Oregon* dated December 15, 2005, NWPs 14, 18, 23, 29, 39, 40, 42, 43 and 44 are revoked from use in vernal pools that may contain habitat for Federally-listed threatened and/or endangered vernal pool species.

**16.** For activities located in the Primary or Secondary Zone of the Legal Delta, NWPs 29 and 39 are revoked.

**17.** For all activities within the Secondary Zone of the Legal Delta, the permittee shall conduct compensatory mitigation for unavoidable impacts within the Secondary Zone of the Legal Delta.

**18.** For NWP 12: Permittees shall ensure the construction of utility lines does not result in the draining of any water of the U.S., including wetlands. This may be accomplished through the use of clay blocks, bentonite, or other suitable material (as approved by the Corps) to seal the trench. For utility line trenches, during construction, the permittee shall remove and stockpile, separately, the top 6 – 12 inches of topsoil. Following installation of the utility line(s), the permittee shall replace the stockpiled topsoil on top and seed the area with native vegetation. The permittee shall submit a PCN for utility line activities in the following circumstances:

a. The utility line crossing would result in a discharge of dredged and/or fill material into perennial waters, intermittent waters, wetlands, mudflats, vegetated shallows, riffle and pool complexes, sanctuaries and refuges or coral reefs;

b. The utility line activity would result in a discharge of dredged and/or fill material into greater than 100 linear feet of ephemeral waters of the U.S.;

c. The utility line installation would include the construction of a temporary or permanent access road, substation or foundation within waters of the U.S.; or

d. The proposed activity would not involve the restoration of all utility line trenches to pre-project contours and conditions within 30 days following completion of construction activities.

**19.** For NWP 13 and 14: All bank stabilization activities shall involve either the sole use of native vegetation or other bioengineered design techniques (e.g. willow plantings, root wads, large woody debris, etc.), or a combination of hard-armoring (e.g. rip-rap) and native vegetation or bioengineered design

techniques, unless specifically determined to be impracticable by the Corps. The permittee shall submit a PCN for any bank stabilization activity that involves hard-armoring or the placement of any non-vegetated or non-bioengineered technique below the ordinary high water mark or, if tidal waters, the high tide line of waters of the U.S. The request to utilize non-vegetated techniques must include information on why the sole use of vegetated techniques is not practicable.

**20.** For NWP 23: The permittee shall submit a PCN for all activities proposed for this NWP, in accordance with General Condition 31 and Regional Condition 1. The PCN shall include a copy of the signed Categorical Exclusion document and final agency determinations regarding compliance with ESA, EFH and NHPA, in accordance with General Conditions 18 and 20 and Regional Condition 7.

**21.** For NWP 27: The permittee shall submit a PCN for aquatic habitat restoration, establishment, and enhancement activities in the following circumstances:

a. The restoration, establishment or enhancement activity would result in a discharge of dredged and/or fill material into perennial waters, intermittent waters, wetlands, mudflats, vegetated shallows, riffle and pool complexes, sanctuaries and refuges or coral reefs; or

b. The restoration, establishment or enhancement activity would result in a discharge of dredged and/or fill material into greater than 100 linear feet of ephemeral waters of the U.S.

**22.** For NWPs 29 and 39: The channelization or relocation of intermittent or perennial drainages is not authorized, except when, as determined by the Corps, the relocation would result in a net increase in functions of the aquatic ecosystem within the watershed.

**23.\*** Any requests to waive the 300 linear foot limitation for intermittent and ephemeral streams for NWPs 21, 29, 39, 40, 42, 43, 44, 50, 51 and 52, or to waive the 500 linear foot limitation along the bank for NWP 13, must include the following:

a. A narrative description of the stream. This should include known information on: volume and duration of flow; the approximate length, width, and depth of the waterbody and characteristics observed associated with an Ordinary High Water Mark (e.g. bed and bank, wrack line or scour marks); a description of the adjacent vegetation community and a statement regarding the wetland status of the adjacent areas (i.e. wetland, non-wetland); surrounding land use; water quality; issues related to cumulative impacts in the watershed, and; any other relevant information;

b. An analysis of the proposed impacts to the waterbody, in accordance with General Condition 31 and Regional Condition 1;

c. Measures taken to avoid and minimize losses to waters of the U.S., including other methods of constructing the proposed activity(s); and

d. A compensatory mitigation plan describing how the unavoidable losses are proposed to be offset, in accordance with 33 CFR 332.

**24.** For NWPs 29, 39, 40, 42, and 43: The permittee shall establish and maintain upland vegetated buffers in perpetuity, unless specifically determined to be impracticable by the Corps, next to all preserved open waters, streams and wetlands including created, restored, enhanced or preserved waters of the U.S., consistent with General Condition 23(f). Except in unusual circumstances, as determined by the Corps, vegetated buffers shall be at least 50 feet in width.

**25.** For NWP 46: The discharge shall not cause the loss of greater than 0.5 acres of waters of the United States or the loss of more than 300 linear feet of ditch, unless specifically waived in writing by the Corps.

**26.** All NWPs except 3, 6, 20, 27, 32, and 38 are revoked for activities in histosols, fens, bogs and peatlands and in wetlands contiguous with fens. Fens are defined as slope wetlands with a histic epipedon that are hydrologically supported by groundwater. Fens are normally saturated throughout the growing season, although they may not be during drought conditions. For NWPs 3, 6, 20, 27, 32, and 38, the permittee shall submit a PCN to the Corps in accordance with General Condition 31 and Regional Condition 1. This condition does not apply to NWPs 1, 2, 8, 9, 10, 11, 24, 28, 35 or 36, as these NWPs either apply to Section 10 only activities or do not authorize impacts to special aquatic sites.

mvd



EDMUND G. BROWN JR.  
GOVERNOR



MATTHEW RODRIQUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

**Central Valley Regional Water Quality Control Board**

30 May 2014

Sebastian Cohen  
California Department of Transportation  
1656 Union Street  
Eureka, CA 95501

CERTIFIED MAIL  
7012 2210 0002 1419 6370

**CLEAN WATER ACT §401 TECHNICALLY CONDITIONED WATER QUALITY  
CERTIFICATION; CALIFORNIA DEPARTMENT OF TRANSPORTATION, LAK-20, 29  
INTERSECTION PROJECT (WDID#5A17CR00128), LAKE COUNTY**

This Order responds to the 16 December 2013 application submitted by California Department of Transportation (Applicant) for the Water Quality Certification of a linear transportation project permanently impacting 0.061 acre/800 linear feet and temporarily impacting 0.014 acre/82 linear feet of waters of the United States.

This Order serves as certification of the United States Army Corps of Engineers' Nationwide Permit# 14 (SPK# 2013-00497 (Non-Reporting)) under § 401 of the Clean Water Act, and a Waste Discharge Requirement under the Porter-Cologne Water Quality Control Act and State Water Board Order 2003-0017-DWQ.

**WATER QUALITY CERTIFICATION STANDARD CONDITIONS:**

1. This Order serves as a Water Quality Certification (Certification) action that is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to § 13330 of the California Water Code and § 3867 of the California Code of Regulations.
2. This Certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent Certification application was filed pursuant to § 3855(b) of the California Code of Regulations, and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. The validity of any non-denial Certification action shall be conditioned upon total payment of the full fee required under § 3860(c) of the California Code of Regulations.

KARL E. LONGLEY ScD, P.E., CHAIR | PAMELA C. CREEDON P.E., BCEE, EXECUTIVE OFFICER

11020 Sun Center Drive #200, Rancho Cordova, CA 95670 | [www.waterboards.ca.gov/centralvalley](http://www.waterboards.ca.gov/centralvalley)

4. This Certification is no longer valid if the project (as described) is modified, or coverage under § 404 of the Clean Water Act has expired.
5. All reports, notices, or other documents required by this Certification or requested by the Central Valley Regional Water Quality Control Board (Central Valley Water Board) shall be signed by a person described below or by a duly authorized representative of that person.
  - (a) For a corporation: by a responsible corporate officer such as (1) a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function; (2) any other person who performs similar policy or decision-making functions for the corporation; or (3) the manager of one or more manufacturing, production, or operating facilities if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
  - (b) For a partnership or sole proprietorship: by a general partner or the proprietor.
  - (c) For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official.
6. Any person signing a document under Standard Condition number 5 shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

#### **TECHNICAL CERTIFICATION CONDITIONS:**

In addition to the above standard conditions, the Applicant shall satisfy the following:

1. The Applicant shall notify the Central Valley Water Board in writing seven (7) days in advance of the start of any work within waters of the United States. The notification shall include the name of the project and the WDID number, and shall be sent to the Central Valley Water Board Contact indicated in this Certification.
2. Except for activities permitted by the United States Army Corps of Engineers under § 404 of the Clean Water Act, soil, silt, or other organic materials shall not be placed where such materials could pass into surface water or surface water drainage courses.

3. The Applicant shall maintain a copy of this Certification and supporting documentation (Project Information Sheet) at the Project site during construction for review by site personnel and agencies. All personnel (employees, contractors, and subcontractors) performing work on the proposed project shall be adequately informed and trained regarding the conditions of this Certification.
4. The Applicant shall perform surface water sampling:
  - a) when performing any in-water work;
  - b) in the event that project activities result in any materials reaching surface waters; or
  - c) when any activities result in the creation of a visible plume in surface waters.

The monitoring requirements in Table 1 shall be conducted by taking a sample of the ambient conditions before work begins in the work area, and sampling during work in the work area. The sampling frequency may be modified for certain projects with written approval from Central Valley Water Board staff.

**Table 1:**

Parameter	Unit	Type of Sample	Minimum Sampling Frequency	Required Analytical Test Method
Turbidity	NTU	Grab <sup>(1)</sup>	Every 4 hours during in-water work	(2, 4)
Settleable Material	mL/L	Grab <sup>(1)</sup>	Every 4 hours during in-water work	(2)
Visible construction related pollutants <sup>(3)</sup>	Observations	Visual Inspections	Continuous throughout the construction period	—
pH	Standard Units	Grab <sup>(1)</sup>	Every 4 hours during in-water work	(2, 4)

<sup>(1)</sup> Grab samples shall not be collected at the same time each day to get a complete representation of variations in the receiving water.

<sup>(2)</sup> 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.

<sup>(3)</sup> Visible construction-related pollutants include oil, grease, foam, fuel, petroleum products, and construction-related, excavated, organic or earthen materials.

<sup>(4)</sup> A hand-held field meter may be used, provided the meter utilizes a USEPA-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.

Surface water monitoring shall occur at mid-depth. A surface water monitoring report shall be submitted to the Central Valley Water Board Contact indicated in this Certification within two weeks of initiation of sampling and every two weeks thereafter. In reporting the monitoring data, the Applicant shall arrange the data in tabular form so that the sampling locations, date, constituents, and concentrations are readily discernible. The data shall be summarized in such a manner to illustrate clearly whether the project complies with Certification 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 below.

If no monitoring is conducted, the Applicant shall submit a written statement to the Central Valley Water Board Contact indicated in the Certification stating, "No monitoring was required." with the Notice of Completion.

5. The Central Valley Water Board adopted a *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins*, Fourth Edition, revised October 2011 (Basin Plan) that designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives for all waters addressed through the plan. Turbidity, settleable matter, and pH limits are based on water quality objectives contained in the Basin Plan and are part of this Certification as follows:

- a) Activities shall not cause turbidity increases in surface water to exceed:
  - i. where natural turbidity is less than 1 Nephelometric Turbidity Units (NTUs), controllable factors shall not cause downstream turbidity to exceed 2 NTUs;
  - ii. where natural turbidity is between 1 and 5 NTUs, increases shall not exceed 1 NTU;
  - iii. where natural turbidity is between 5 and 50 NTUs, increases shall not exceed 20 percent;
  - iv. where natural turbidity is between 50 and 100 NTUs, increases shall not exceed 10 NTUs; and
  - v. where natural turbidity is greater than 100 NTUs, increases shall not exceed 10 percent.

Except that these limits will be eased during in-water working periods to allow a turbidity increase of 15 NTUs over background turbidity. 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 approval of the Central Valley Water Board staff.

- b) Activities shall not cause settleable matter to exceed 0.1 mL/L in surface waters.
  - c) Activities shall not cause pH to be depressed below 6.5 nor raised above 8.5 in surface water.
6. The Applicant shall notify the Central Valley Water Board immediately if the above criteria for turbidity, settleable matter, pH or other water quality objectives are exceeded.

7. In-water work shall occur during periods of low flow and no precipitation.
8. Refueling of equipment within the floodplain or within 300 feet of the waterway is prohibited. If critical equipment must be refueled within 300 feet of the waterway, spill prevention and countermeasures must be implemented to avoid spills. Refueling areas shall be provided with secondary containment including drip pans and/or placement of absorbent material. No hazardous materials, pesticides, fuels, lubricants, oils, hydraulic fluids, or other construction-related potentially hazardous substances should be stored within a floodplain or within 300 feet of a waterway. The Applicant 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.
9. The Applicant 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 also address spill response and prevention measures for potential spills that may occur within the project site.
10. Raw cement, concrete (or washing thereof), asphalt, drilling fluids, lubricants, paints, coating material, oil, petroleum products, or any other substances which could be hazardous to fish and wildlife resulting from or disturbed by project-related activities, shall be prevented from contaminating the soil and/or entering waters of the United States.
11. Concrete must completely be cured before coming into contact with waters of the United States. Surface water that contacts wet concrete must be pumped out and disposed of at an appropriate off-site commercial facility, which is authorized to accept concrete wastes.
12. 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 United States through the entire duration of the project.
13. The use of netting material (e.g., monofilament-based erosion blankets) that could trap aquatic dependent wildlife is prohibited within the project area, as indicated in the attached map (Figure 1).
14. All areas disturbed by project activities shall be protected from washout and erosion.
15. All temporarily affected areas shall be restored to pre-construction contours and conditions upon completion of construction activities.
16. Hydroseeding shall be performed with California native seed mix.
17. All materials resulting from the project shall be removed from the site and disposed of properly.

18. This Certification does not allow permanent water diversion of flow from the receiving water. This Certification is invalid if any water is permanently diverted as a part of the project.
19. If temporary surface water diversions and/or dewatering are anticipated, the Applicant shall develop and maintain on-site a Surface Water Diversion and/or Dewatering Plan(s). The Plan(s) shall include the proposed method and duration of diversion activities. The Surface Water Diversion and/or Dewatering Plan(s) must be consistent with this Certification.
20. When work in a flowing stream is unavoidable and any dam or other artificial obstruction is being constructed, maintained, or placed in operation, sufficient water shall at all times be allowed to pass downstream, to maintain beneficial uses of waters of the State below the dam. Construction, dewatering, and removal of temporary cofferdams shall not violate Technical Certification Condition 5 of this Certification.
21. Any temporary dam or other artificial obstruction constructed shall only be built from clean materials such as sandbags, gravel bags, water dams, or clean/washed gravel which will cause little or no siltation. Stream flow shall be temporarily diverted using gravity flow through temporary culverts/pipes or pumped around the work site with the use of hoses.
22. The discharge of petroleum products, any construction materials, hazardous materials, pesticides, fuels, lubricants, oils, hydraulic fluids, raw cement, concrete, asphalt, paint, coating material, drilling fluids, or other construction-related potentially hazardous substances to surface water and/or soil is prohibited. In the event of a prohibited discharge, the Applicant shall notify the Central Valley Water Board Contact within 24-hours of the discharge. Activities shall not cause visible oil, grease, or foam in the receiving water.
23. The Applicant shall apply for a name change or amendment to this Certification should any of the following occur: (a) a change in the ownership of all or any portion of the LAK-20, 29 Intersection Project; (b) any change in the project description; (c) any change involving discharge amounts, temporary impacts, and/or permanent impacts; and/or (d) amendments, modifications, revisions, extensions, and/or changes to the United States Army Corps of Engineers' Nationwide Permit#14 or the California Department of Fish and Wildlife Streambed Alteration Agreement.
24. The Applicant shall submit a copy of the final, signed and dated Lake or Streambed Alteration Agreement issued by the California Department of Fish and Wildlife within 14 days of issuance to the Central Valley Water Board Contact indicated in this Certification.
25. The Applicant shall comply with all California Department of Fish and Wildlife requirements, including, but not limited to, those requirements described in the Lake or Streambed Alteration Agreement.

26. The Applicant shall obtain coverage under the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities Order No. 2009-0009-DWQ for discharges to surface waters comprised of storm water associated with construction activity, including, but not limited to, demolition, clearing, grading, excavation, and other land disturbance activities of one or more acres, or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres.
27. The Applicant shall work with the Central Valley Water to obtain coverage under an NPDES permit if dewatering activities may result in discharges into surface water and/or shall obtain Waste Discharge Requirements (WDRs) if dewatering activities may result in discharges to land.
28. The Conditions in this Certification are based on the information in the attached "Project Information Sheet." If the actual project, as described in the attached Project Information Sheet, is modified or changed, this Certification is no longer valid until amended by the Central Valley Water Board.
29. The Applicant shall implement each of the mitigation measures specified in the approved Mitigated Negative Declaration for the project, as they pertain to biology, hydrology and water quality impacts as required by § 21081.6 of the Public Resource Code and § 15097 of the California Code of Regulations.
30. In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation shall be subject to any remedies, penalties, process, or sanctions as provided for under state and federal law. The applicability of any state law authorizing remedies, penalties, process, or sanctions for the violation or threatened violation constitutes a limitation necessary to ensure compliance with this Certification.
  - (a) If the Applicant or a duly authorized representative of the project fails or refuses to furnish technical or monitoring reports, as required under this Certification, or falsifies any information provided in the monitoring reports, the applicant is subject to civil liability, for each day of violation, and/or criminal liability.
  - (b) In response to a suspected violation of any condition of this Certification, the Central Valley Water Board may require the Applicant to furnish, under penalty of perjury, any technical or monitoring reports the Central Valley Water Board deems appropriate, provided that the burden, including cost of the reports, shall be in reasonable relationship to the need for the reports and the benefits to be obtained from the reports.

- (c) The Applicant shall allow the staff of the Central Valley Water Board, or an authorized representative(s), upon the presentation of credentials and other documents, as may be required by law, to enter the project premises for inspection, including taking photographs and securing copies of project-related records, for the purpose of assuring compliance with this Certification and determining the ecological success of the project.

31. The Applicant shall provide a Notice of Completion (NOC) no later than 30 days after the project completion. The NOC shall demonstrate that the project has been carried out in accordance with the project description in the Certification and in any approved amendments. The NOC shall include a map of the project location(s), including final boundaries of any on-site restoration area(s), and representative pre and post construction photographs. Each photograph shall include a descriptive title, date taken, photographic site, and photographic orientation. For linear projects, these photographs shall be taken from the alignment, in both directions and taken every 50 feet within waters of the United States for the length of the temporary impact area(s).

#### **CENTRAL VALLEY WATER BOARD CONTACT:**

Marisa Van Dyke, Environmental Scientist  
Central Valley Regional Water Quality Control Board  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670-8114  
marisa.vandyke@waterboards.ca.gov  
(916) 464-4644

#### **CALIFORNIA ENVIRONMENTAL QUALITY ACT:**

The California Department of Transportation is the Lead Agency responsible for compliance with the California Environmental Quality Act for the LAK-20, 29 Intersection Project pursuant to § 21000 et seq. of the Public Resources Code. The California Department of Transportation approved a Mitigated Negative Declaration on 5 April 2012. The California Department of Transportation filed a Notice of Determination with the State Clearinghouse on 12 April 2012 (State Clearinghouse Number 2012022015).

The Central Valley Water Board is a responsible agency for the project. The Central Valley Water Board has determined that the Mitigated Negative Declaration is in accordance with the requirements of the California Environmental Quality Act.

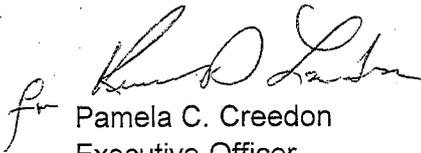
The Central Valley Water Board has reviewed and evaluated the impacts to water quality identified in the Mitigated Negative Declaration. The mitigation measures discussed in the Mitigated Negative Declaration to minimize project impacts to State waters are required by this Certification.

With regard to the remaining impacts identified in the Mitigated Negative Declaration, the corresponding mitigation measures proposed are within the responsibility and jurisdiction of other public agencies.

**WATER QUALITY CERTIFICATION:**

I hereby issue an Order certifying that any discharge from the California Department of Transportation, LAK-20, 29 Intersection Project (WDID#5A17CR00128) will comply with the applicable provisions of § 301 ("Effluent Limitations"), § 302 ("Water Quality Related Effluent Limitations"), § 303 ("Water Quality Standards and Implementation Plans"), § 306 ("National Standards of Performance"), and § 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act. This discharge is also regulated under State Water Resources Control Board Water Quality Order No. 2003-0017 DWQ "Statewide General Waste Discharge Requirements For Dredged Or Fill Discharges That Have Received State Water Quality Certification (General WDRs)".

Except insofar as may be modified by any preceding conditions, all Certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in compliance with the conditions of this Certification, the California Department of Transportation's application package, and the attached Project Information Sheet, and (b) compliance with all applicable requirements of the *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins*, Fourth Edition, revised October 2011.

  
Pamela C. Creedon  
Executive Officer

Enclosure: Project Information Sheet

Attachment: Figure 1 – Project Vicinity Map

cc: Distribution List, page 14

## PROJECT INFORMATION SHEET

**Application Date:** 16 December 2013

**Applicant:** Sebastian Cohen  
California Department of Transportation  
1656 Union Street  
Eureka, CA 95501

**Applicant Representative:** Jennifer Osmondson  
California Department of Transportation  
703 B Street  
Marysville, CA 95901

**Project Name:** LAK-20, 29 Intersection Project

**Application Number:** WDID#5A17CR00128

**Date Application Deemed Complete:** 27 May 2014

**Type of Project:** Linear transportation project

**Approved Months of Project Implementation:** The Project will be constructed 15 April through 15 October or as required by the California Department of Fish and Wildlife.

**Project Location:** Section 12, Township 15 North, Range 10 West, MDB&M.  
Latitude: 39°09'48.31"N and Longitude: 122°55'14.63" W

**County:** Lake County

**Receiving Water(s) (hydrologic unit):** Unnamed drainage channels tributary of Scotts Creek, Sacramento Hydrologic Basin, Cache Creek Hydrologic Unit #513.52, Clear Lake HSA

**Water Body Type:** Streambed

**Designated Beneficial Uses:** The *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins*, Fourth Edition, revised October 2011 (Basin Plan) has designated beneficial uses for surface and ground waters within the region. Beneficial uses that could be impacted by the project include, but are not limited to: Municipal and Domestic Water Supply (MUN); Agricultural Supply (AGR); Industrial Supply (IND); Hydropower Generation (POW); Groundwater Recharge (GWR); Water Contact Recreation (REC-1); Non-Contact Water Recreation (REC-2); Warm Freshwater Habitat (WARM); Cold Freshwater Habitat (COLD); Preservation of Biological Habitats of Special Significance (BIOL); Rare, Threatened, or Endangered Species (RARE); Migration of Aquatic Organisms (MIGR); Spawning, Reproduction, and/or Early Development (SPWN); and Wildlife Habitat (WILD). A

comprehensive and specific list of the beneficial uses applicable for the project area can be found at [http://www.waterboards.ca.gov/centralvalley/water\\_issues/basin\\_plans/index.shtml](http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/index.shtml).

**303(d) List of Water Quality Limited Segments:** Unnamed drainage channels are the receiving waters for the LAK-20, 29 Intersection Project. The unnamed drainage channels are not listed on the 303(d) list; therefore, this project will not impact an impaired water body. The most recent list of approved water quality limited segments is found at: [http://www.waterboards.ca.gov/water\\_issues/programs/tmdl/integrated2010.shtml](http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2010.shtml)

**Project Description:** The LAK-20, 29 Intersection Project (Project) is located at the intersection of State Route 20 (SR) and SR 29, west of the town of Upper Lake. The Project involves construction of a roundabout, with a raised central island, which will provide connections to SR20 and SR 29. The Project also includes construction of new sidewalks and crosswalks, as well as drainage improvements.

The Project activities will impact waters of the United States at four different sites, as described in Table 2. The impacted roadside drainage channels, located parallel and perpendicular to the highways have been identified as OW-7 and OW-6.

**Table 2: Site Specific Impacts to Water Bodies**

Site No.	Water Body	Impacts (Acre/Linear feet)		Activities
		Permanent	Temporary	
1	OW-7 (SR 20, MP 8.27/8.52)	0.02 ac/470 lf	0.001 ac/20 lf	Roadside drainage channel will be filled and realigned to maintain stream flow connectivity. Installation of 3, 24-inch diameter culvert sections for existing driveway crossings. Installation of new concrete flared end sections at culvert inlets/outlets. Replacement of a 24-inch diameter culvert.
2	OW-6 (SR 20, MP 52.47/52.53)	0.03 ac/260 lf	0.006 ac/40 lf	Roadside drainage channel will be filled and realigned to maintain stream flow connectivity. Installation of 30-inch diameter culvert for existing driveway crossings. Placement of wet concrete backfill over culvert.
3	OW-6 (SR 29, MP 52.4)	0.01 ac/60 lf	0.005 ac/10 lf	Roadside drainage channel will be filled and realigned to maintain stream flow connectivity. Installation of 24-inch diameter culvert for existing driveway crossings. Placement of wet concrete backfill over culvert.
4	OW-6 (SR 29, MP 52.4)	0.001 ac/10 lf	0.002 ac/12 lf	Replacement of headwalls with concrete flared end sections at the inlet/outlet of existing culvert. Installation of 10-foot culvert extension to 36-inch diameter culvert.
Total		0.061 ac/800 lf	0.014 ac/82 lf	

Notes:

Mileposts abbreviated as "MP"

Linear feet abbreviated as "lf"

Acre abbreviated as "ac"

As part of the Project, the Applicant will restore and realign the permanently filled roadside drainage channels to maintain flow connectivity of the roadside drainages. The Applicant anticipates the impacted water bodies to be dry during Project activities and if surface water is present, temporary water diversions will be installed in accordance with the conditions of this Certification.

The project will permanently impact 0.061 acre/800 linear feet and temporarily impact 0.014 acre/82 linear feet of waters of the United States.

**Preliminary Water Quality Concerns:** Construction activities may impact surface waters with increased turbidity, settleable matter, and pH.

**Proposed Mitigation to Address Concerns:** The Applicant will implement Best Management Practices to control sedimentation and erosion. The Applicant will conduct turbidity, settleable matter, and pH testing during in-water work, stopping work if Basin Plan criteria are exceeded or observations indicate an exceedance of a water quality objective. All temporary affected areas will be restored to pre-construction contours and conditions upon completion of construction activities to provide 1:1 mitigation for temporary impacts.

**Excavation/Fill Area:** The Applicant did not report measurable amounts of excavation activities.

Approximately 298.3 cubic yards of clean soil, culverts, and concrete will be placed into 0.061 acre of waters of the United States.

**Dredge Volume:** None

**California Integrated Water Quality System Impact Data:** The Project will impact stream beds from fill and excavation activities, as described in Table 3.

**Table 3: Impacts from Fill and Excavation Activities**

Water Feature Type	Permanent			Temporary		
	Acre(s)	Linear Feet	Cubic Yards	Acre(s)	Linear Feet	Cubic Yards
Stream Channel						
Unnamed drainage channel (OW-6)	0.041	330	130.3	0.013	62	-
Unnamed drainage channel (OW-7)	0.02	470	168	0.001	20	-
<b>Total Impacts</b>	<b>0.061</b>	<b>800</b>	<b>298.3</b>	<b>0.014</b>	<b>82</b>	<b>-</b>

**United States Army Corps of Engineers File Number:** SPK-2013-00497 (Non-Reporting)

**United States Army Corps of Engineers Permit Type:** Nationwide Permit #14

**California Department of Fish and Wildlife Lake or Streambed Alteration Agreement:**

Applicant applied for a Lake or Streambed Alteration Agreement on 20 November 2013.

**Possible Listed Species:** Valley elderberry longhorn beetle, Western pond turtle, Great blue heron, Tricolored blackbird, and Grasshopper sparrow.

**Status of CEQA Compliance:** The California Department of Transportation approved a Mitigated Negative Declaration on 5 April 2012. The California Department of Transportation filed a Notice of Determination with the State Clearinghouse on 12 April 2012 (State Clearinghouse Number 2012022015).

The Central Valley Water Board will file a Notice of Determination with the State Clearinghouse as a responsible agency within five (5) days of the date of this Certification.

**Compensatory Mitigation:** The Central Valley Water Board is not requesting compensatory mitigation for the LAK-20, 29 Intersection Project.

**Application Fee Provided:** Total fees of \$1,516.00 have been submitted to the Central Valley Water Board as required by § 3833(b)(3)(A) and § 2200(a)(3) of the California Code of Regulations.

## DISTRIBUTION LIST

Leah Fisher  
United States Army Corps of Engineers  
Sacramento District Office  
Regulatory Division  
1325 J Street, Suite 1350  
Sacramento, CA 95814-2922

United States Fish & Wildlife Service  
Sacramento Fish & Wildlife Office  
2800 Cottage Way, Room W-2605  
Sacramento, CA 95825-1846

Department of Fish and Wildlife  
North Central Region  
LSAA Program  
1701 Nimbus Road, Suite A  
Rancho Cordova, CA 95670-4599

Bill Jennings  
CA Sportfishing Protection Alliance  
3536 Rainier Avenue  
Stockton, CA 95204

Bill Orme (Electronic copy only)  
401 Certification and Wetlands Unit Chief  
State Water Resources Control Board

Jason A. Brush (Electronic copy only)  
Wetlands Office Supervisor (WTR-8)  
United States Environmental Protection Agency

Jennifer Osmondson  
California Department of Transportation  
703 B Street  
Marysville, CA 95901

## **MATERIALS INFORMATION**

Water Source Information:

Larry Henry

10770 Elk Mountain Road

Upper Lake, CA 95485