

**Environmental Assessment** 

# Natomas Central Mutual Water Company's R-Drain Check Structure Automation Project Mid-Pacific Region

EA-16-02-NCAO



U.S. Department of the Interior Bureau of Reclamation Mid-Pacific Region

# **Mission Statements**

The mission of the Department of the Interior is to protect and manage the Nation's natural and cultural heritage; provide scientific and other information about those resources; and honor its trust responsibilities or special commitments to American Indians, Alaska Natives, and affiliated island communities.

The mission of the Bureau of Reclamation is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public.

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# List of Acronyms and Abbreviations

af	Acre-feet
APE	Area of Potential Effect
BMP	Best Management Plan
CFR	Code of Federal Regulations
cfs	cubic feet per second
CMP	Corrugated Metal Pipes
CNDDB	California Natural Diversity Database
CWA	Clean Water Act
Delta	Sacramento San Joaquin Delta
EA	Environmental Assessment
ESA	Endangered Species Act
GGS	Giant Garter Snake
ITA	Indian Trust Assets
NBC	Natomas Basin Conservancy
NCAO	Northern California Area Office
NHPA	National Historic Preservation Act
NRHP	National Register of Historic Places
NMC	Northern Main Canal
NPDES	National Pollution Discharge Elimination System
RD 1000	Reclamation District No. 1000
Reclamation	Bureau of Reclamation
Regional Board	Regional Water Quality Control Board
SCADA	Supervisory Control and Data Acquisition
Service	U.S. Fish and Wildlife Service
SF	Square Feet
SHPO	State Historic Preservation Officer
SWPPP	Stormwater Pollution Prevention Plan
THPO	Tribal Historic Preservation Office
USACE	U.S. Army Corps of Engineers
USGS	U.S. Geological Survey

# **Section 1 Introduction**

In conformance with the National Environmental Protection Act of 1969 (NEPA), as amended, the Bureau of Reclamation (Reclamation) has prepared this Environmental Assessment (EA) to evaluate and disclose any potential impacts associated with Reclamation's decision to provide grant funding to the Natomas Central Mutual Water Company's (Company) R-Drain Check Structure Automation Project (Project). The proposed Project is located along the Northern Main Canal (NMC) in Sutter County, California (Figure 1.1).

Reclamation proposes to provide a Department of the Interior CALFED Bay-Delta Water Use Efficiency grant to the Company to support implementation of the Project. The CALFED Bay-Delta Program is a 30-year Program (2000 – 2030) among 25 Federal and State agencies with responsibility in the Sacramento San Joaquin Delta (Delta). The Program is based on four major resource management objectives that guide its actions to achieving a Delta that has a healthy ecosystem and can supply Californians with a reliable water supply. Those objectives are levee system integrity, water quality, water supply reliability, and ecosystem restoration. Reclamation plays a key role as the Federal lead agency for implementation of the water supply reliability actions in coordination with our state CALFED partner agencies.

Reclamation released the Draft EA for a 30-day public comment period on October 8, 2015. No comments were received in response to the Draft EA release. This Final EA contains responses to inter-agency consultation requests that were not available at the time of the Draft EA release, as discussed in Section 4. Pertinent correspondence is included in Appendix D.

# 1.1 Need for the Proposal

The NMC is operated by the Company for irrigation deliveries to farming operations. The R-Drain Check Structure is 1.5 miles downstream of the Sankey Road Check Structure (EA-14-06-NCAO) and maintains the water level in the NMC to make deliveries to the R-Drain turnout and the NMC below. Presently, the existing check structure only has the capacity to move 10 cubic feet per second (cfs) below the NMC. Due to this restriction, over deliveries to the R-Drain Canal are often required to maintain water balance. At times this results in overtopping the banks of the lower section of the R-Drain Canal. Replacement of the existing antiquated structure with one of similar dimension and automated gate structures with increased capacity would all but eliminate these operational spills and improve water use efficiency in the Natomas Basin. The estimated volume of these uncontrolled spills is approximately 3,800 acre-feet (af) annually. In addition, implementing this action would be consistent with past and present planning efforts by the Company to improve water use efficiency.



Figure 1-1. The Natomas Central Mutual Water Company's service area and general location of the R-Drain Check Structure Project.

# 1.2 Resources Not Analyzed in Detail

Effects on several environmental resources were examined and found to be minor. Because of this, the following resource areas were eliminated from further review in this EA: Aesthetic Resources, Geology, Global Climate Change, Land Use and Agriculture, Air Quality, Noise, Socioeconomics, Population and Housing, Recreation, Transportation and Circulation; and Utilities, Public Services, and Service Systems.

# 1.2.1 Indian Sacred Sites

No impacts to Indian sacred sites would occur as the Proposed Action would not limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or adversely affect the physical integrity of such sacred sites.

# 1.2.2 Indian Trust Assets (ITA)

The proposed action does not have a potential to impact Indian Trust Assets. The nearest ITA is the Auburn Rancheria approximately 13 miles northeast of the Project location (see Attachment A).

# 1.2.3 Environmental Justice

No individuals or populations would be impacted by implementation of the Proposed Action and therefore minority or low income populations would not be adversely affected.

# Section 2 Alternatives Including Proposed Action

This EA will analyze the affected environment of the Proposed Action and No Action Alternative in order to determine the potential impacts to water resources, biological resources, and cultural resources.

# 2.1 No Action Alternative

The No Action Alternative would consist of Reclamation not providing grant funding for the Project which would result in the Company continuing to operate and maintain their distribution system under the existing conditions for several more years.

# 2.2 Proposed Action Alternative

The Proposed Action is for Reclamation to award the Company a grant in support of the Project, located approximately 13 miles north of Sacramento in Sutter County, California (Section 28, Township 11 North, Range 4 East) (Figure 1-1). The Proposed Action includes funding an administrative, management, and final design component, construction activities, and performance monitoring. Details on each are provided below.

# 2.2.1 Administration, Management, and Final Design

The grant funding supports an administration and management task to assist in project management and reporting requirements. The grant funding also supports development of the final design for the check structure from which the Company may solicit proposals for construction of the Project. Projected timelines are provided in Table 2-1.

# 2.2.2 Construction Activities

Construction activities include those related to the removal of the existing check structure and installation of the new check structure that is automated with new control gates and a Supervisory Control and Data Acquisition (SCADA) system. A summary of associated tasks and timelines for completion are provided in Table 2-1.

Work Item/Task	Timeline			
Administration/Management	Oct 2013 – Jun 2016			
Final Design	Oct 2014 – Apr 2015			
Construction				
Procurement	Oct 2014 – Feb 2015			
Electrical Service	Feb 2016 to April 2016			
Site Construction	Feb 2016 to April 2016			
Controls and SCADA Integration	April 2016 – September 2017			
Project Performance Monitoring	September 30, 2017			
Project Closeout	By Dec 2017			

# Table 2-1. Project Schedule

#### **Site Preparation**

Removal of the existing structure (Figure 2-1) would occur over a few days in the winter months when the canal is closed for typical canal maintenance activities. The process would include use of a 40-ton crane operating from the canal maintenance roads to remove large sections of the existing structure for disposal. Additionally, an excavator or backhoe working from the canal access road would clean up remaining demolition debris. The estimated 63 tons of cement and



Figure 2-1. Existing R-Drain Check Structure at full pool (photo taken looking southeast from the canal access road).

unusable miscellaneous materials expected from demolition would be hauled by semi to an appropriate landfill or recycled. The existing canal access roads accessing the R-Drain Check Structure would be used by all heavy equipment (see Figure 2-2). The site layout and demolition areas are depicted in Appendix B-1.

Following removal of the demolition debris, the site would be prepared for the replacement structure. This would include minor excavation of the canal banks and bottom for the footprint of the replacement structure (estimated at 12 by 60 feet or 720 square feet). The new structure will protrude into the canal access road banks to limit the potential for future scour around the head structure. Soil removal is anticipated to ensure adequate working space to place the cement form boards for the headwall structures at the R Drain Canal entrance and the R-Drain Check Structure that serves the NMC. Similarly, some soil removal is anticipated behind each headwall structure to make space for placement of cement form boards and connecting new corrugated metal pipes (CMP) to the existing similarly sized pipelines.

The existing rip-rap and soil/road base would be removed and stockpiled nearby for reuse following new structure completion. The Project area will be cordoned off with exclusionary fencing prior to the inactive season for giant garter snakes (GGS) to prevent them from occupying any habitat that could be temporarily affected by this action (See Section 2.2.5).

### **Check Structure Installation and Design**

Following site preparation, cement forms would be constructed to create the replacement structure. The dimensions of this structure are provided in Appendix B-1, B-2, and B-3. The base of the structure would be 15 inches thick and the vertical headwall would be 12 inches thick. Cement trucks would deliver cement to the forms from the canal access road. Portions of the new structure will be outfitted with emergency overflow weirs to accommodate rare times when excess flow may exceed outlet capacities of the new structure.

Once the cement has cured for a few weeks, the new CMPs would be reattached at the junction where they were removed during demolition. The areas around the structures would be back-filled with acquired soil and riprap attained during site preparation. Excess soil, if any, would be hauled away. Approximately 12 cubic yards of new rip-rap would be placed along each bank upstream of the new structure for approximately 5 feet. This rip-rap would serve to armor the banks from erosion. This newly acquired rip-rap would be of a dimension considered optimal for GGS use (15 to 18-inch minus angular rock).



Figure 2-2. Aerial image of the project location and project features.

The final steps in check structure completion include:

- installation of the slide and Hydra-Lopac gates on the new cement structure;
- installation of an electronic water level transducers and stilling well above the new structure, and one below in both the R-Drain Canal and the NMC;
- installation of electronic flow meters at each new gate structure;
- installation of the metal grating and guard rails on the structure for the walkway;
- installation of the SCADA system to the new structure; and
- installation of a solar power/battery back-up system to energize the Hydra-Lopac gate and SCADA system.

# 2.2.3 Stormwater Pollution Prevention Plan

The contractor selected for the construction work would be required to prepare a Stormwater Pollution Prevention Plan (SWPPP) prior to commencing work. This SWPPP will include identifying potential pollutant sources and describing the design, placement, and implementation of Best Management Practices (BMPs) to effectively prevent non-storm water discharges and reduce pollutants in storm water discharges during and following construction activities (See Section 2.2.5).

# 2.2.4 Performance Monitoring

Both pre- and post-project monitoring would occur to review Project performance and, in particular, operational spill. Comparison of operational spills before and after implementation of the Project would be documented in a final performance report.

# 2.2.5 Environmental Commitments

The Company or its representatives shall implement the following environmental commitments to reduce environmental consequences associated with the Proposed Action. These include, in addition to environmental protections from the SWPPP and associated BMPs, implementing several Standard Avoidance and Minimization Measures as recommended by the U.S. Fish and Wildlife Service (Service) (1997) for a previous, similar project, to reduce or eliminate potential impact to GGS or its habitat. These measures include:

- Movement of heavy equipment will be confined to existing roadways to minimize habitat disturbance;
- Clearing and grading will be confined to the minimum area necessary to facilitate construction activities, as determined by a qualified biologist. Habitat that will be avoided shall be cordoned off, clearly flagged, and designated as an "Environmentally Sensitive Area" by a qualified biologist. This area will be avoided by all construction personnel;
- Construction personnel will receive Service-approved worker environmental awareness training. This training instructs workers to recognize the GGS and its habitat(s), and what to do if a snake is encountered during construction activities;
- Prior to construction and before the onset of the snake's inactive season, (October 1), an exclusionary fence will be installed in order to prevent snakes from entering the proposed Project area. The interior side of the exclusionary fence will be routinely monitored for snakes stranded by the fence;
- Twenty-four-hours prior to construction activities, the Project area will be surveyed for the snake. A survey of the Project area will be repeated if a lapse in construction activity of two weeks or greater occurs. If a snake is encountered during construction, activities will cease until appropriate corrective measures have been completed or it has been determined that the snake will not be harmed. Any sightings will be reported to the Service immediately by telephone at 916-414-6600;
- After completion of construction activities, any temporary fill and construction debris will be removed and the disturbed areas will be restored to pre-project conditions wherever feasible; and
- No plastic, monofilament, jute, or similar erosion control matting that could entangle snakes will be placed on the proposed project site when working within 200 feet of snake aquatic or rice habitat. Possible substitutions include coconut coir matting, tactified hydroseeding compounds, or other material approved by the Service. All trash will be properly disposed of and removed.

BMPs would be used during all construction phases of this Project to ensure this project is completed with minimal environmental impacts:

- Disturbance of vegetation shall be kept to a minimum.
- No debris, soil, etc., other than that already present within the canal shall be allowed to enter the water.

- No intentional harassment, killing, or collection of plants or animals at or around the work sites.
- No firearms are allowed on site, except for those used by peace officers or CDFW wardens.
- No pets are allowed on site.
- No off-road travel or work is permitted; all vehicles must be confined to existing levee roads.
- All trash, including food-related trash and cigarette butts, must be properly disposed of and removed.
- Storage of hazardous materials, such as fuel, oil, etc., shall not be allowed within 150 feet of waterways. Any chemical spills must be cleaned up immediately and reported as soon as possible.

# Section 3 Affected Environment and Environmental Consequences

This section identifies the potentially affected environmental resources and the environmental consequences which could result from the Proposed Action and the No Action Alternative.

# 3.1 Surface Water Resources

# 3.1.1 Affected Environment

# **Current Water Uses**

The Company's service area is approximately 50,000 acres within the 200-square-mile basin. Currently there are approximately 24,000 irrigable acres on which the primary crops grown include rice, alfalfa, and wheat. Other row crops and low water demand crops are grown within the vicinity of the Sacramento International Airport. The majority of the fields use flood irrigation methods, either wide border checks or furrows. Water is also supplied to mitigated marshes and other environmental mitigation properties owned and maintained by the Natomas Basin Conservancy (Conservancy) as a result of development within the Natomas Basin (see Appendix C).

The average annual diversion of river water over the past 5 years is approximately 56,000 af. The Company captures approximately 37,700 af of tail water annually and blends it with the river diversions to meet the total demand. The actual amount served varies by year depending on hydrologic conditions and farming practices.

# **Description of Water Delivery System**

The water supply facilities are made up of four diversions from the Sacramento River. There is a total of approximately 100 miles of canals and laterals. Water is applied directly to fields through gated turnouts in the irrigation canals; lateral seepage losses are minimal.

The Company completed construction of a new diversion on the Sacramento River in 2012. This new diversion replaces its two diversions on the Natomas Cross Canal to improve fisheries habitat. The new diversion is connected to the heads of the two existing systems with a new supply canal.

The four river pump stations and several of the drainage canal lift pumps are equipped with variable speed drives and flow meters to maintain consistent deliveries to the NMC and other canals. These facilities are also integrated in the Company's SCADA system which includes real time monitoring/alarming and remote operation. The remaining pumps, gates, and check structures (including the R-Drain Check Structure) are operated manually by field personnel.

The Company operates a tail water recovery system within the basin during the irrigation season. A joint use agreement with Reclamation District 1000 (RD 1000) allows the Company to operate and maintain the drainage canal system during the irrigation season (April 1 to October 30). The RD 1000 is responsible for flood protection for the Natomas Basin for the public's health and

safety by operating and maintaining the levees and the District's canals and pump stations in a safe, efficient, and responsible manner. Using check structures and lift pumps in the drainage canal system, the Company re-circulates run-off from fields (tail water) and pumps it back into the irrigation canals. This operation annually captures approximately 37,700 af, a majority of the run-off that would otherwise be pumped back into the Sacramento River by RD 1000, thereby reducing the amount of water diverted from the Sacramento River.

During the winter months, the NMC is shut down for permitted maintenance activities which can include inspections, mowing, vegetation control, rodent control, erosion repairs, access road maintenance, and small capital projects. In addition, when canal cleaning occurs, the canal is isolated and all runoff is contained within the canal until it is acceptable by RD 1000 for discharge to the Sacramento River (B. Gray pers. comm).

# Northern Main Canal System Improvements

This Project will continue the effort to provide automation on the NMC system to improve water-use efficiency. The following improvements to the system have been or will be made prior to construction of this project. Their locations are shown in Figure 1.1.

- Sankey Diversion and Canal Project new river diversion and modem canal facilities that deliver desired flow into the NMC, operational in 2011
- Barnes Crossing automated control structure constructed in 2012
- Dodge Crossing automated control structure to be constructed in 2014
- Sankey Road Check automated control structure to be constructed in early 2015

These improvements have increased the capacity to carry more water down the NMC while reducing operational spills upstream of each structure. With the completion of the Sankey Road Check structure, the canal system will be able to carry and pass up to 80 cfs to the pool regulated by the R-Drain Check Structure located 1.5 miles downstream. The R-Drain Check Structure maintains the water level of this pool to make deliveries to the NMC below and/or to the R-Drain Canal through the R-Drain turnout. Presently, this check structure has the capacity to move 10 cfs to the NMC below. Due to this restriction, over-deliveries to R-Drain Canal are often required to maintain water balance to prevent overtopping the NMC canal banks. In doing so, the over-delivery to the R-Drain Canal is often spilled to the drainage canal system and lifted back into the NMC at the 30s Pump Station.

# 3.1.2 Environmental Consequences

# No Action

Under the No Action alternative, Reclamation would not provide funding to the Company to replace and automate the R-Drain Check Structure. As a consequence, this Project would not be implemented in the near term and water delivery to downstream users would continue with manual operation of the control gates at the R-Drain Check Structure. Status quo operation of the NMC would also allow uncontrolled spills of water in the lower portion of the R Drain Canal.

## **Proposed Action**

Under the Proposed Action, cost share funding would be provided to the Company to manage, plan, finalize design, and construct new facilities to automate flow regulation at the present location of the R-Drain Check Structure. Full integration of SCADA coupled with the automation of the gates would facilitate improved water management practices by maintaining a constant water level upstream of the R-Drain Check Structure to avoid uncontrolled bank overtopping in the lower portion of the R Drain Canal. In doing so, the Project would improve the Company's overall efficiency in water use. In turn, any water conserved in association with this action (estimated at 3,800 af annually) could be used for other purposes within and/or outside the Natomas Basin. Within basin needs would include ensuring the long term reliability of water supply to approximately 4,500 acres of Conservancy mitigation property for which the Company provides water each year (See Appendix C). These mitigation properties include sustained rice farming, upland habitat preservation, and managed marsh lands. Out of basin needs are extensive but could include, as an example, meeting the salinity standards in the Delta region.

In addition, the increased efficiency would result in a reduction of the need to re-lift tail water at the downstream 30s pump station for recirculation or for pumping into the Sacramento in times of excess. The effect of the reduced pumping of this water for reuse or back into the Sacramento River is lowered energy use (to operate the pumps) as well as improved water quality to the receiving water because drain water is typically of higher salinity than ambient stream or river flow.

Construction activities would not result in any impact to erosion and turbidity that could affect any natural stream systems. This is because: 1. the area impacted by the construction activities would be confined to the minimum area possible to replace the existing structure with a new structure; 2. the contractor would be required to submit and adhere to conditions of an approved SWPPP that would limit the potential for erosion; 3. the Project would not likely increase turbidity of any storm water relative to typical canal maintenance activities that could occur within several miles of the canal in the same year without the project; and 4. any discharge to the Sacramento River would be subject to conditions of the National Pollution Discharge Elimination System (NPDES) permit of RD 1000.

# 3.2 Biological Resources

# 3.2.1 Affected Environment

The Project area lies on the NMC, within the Natomas Basin but outside of the Natomas Basin Conservancy reserve areas (See Appendix C). The Project area is bordered by canal access roads on both sides and extensive drainage facilities (Figure 2-2 and Appendix B-1). Annual grasses and weedy species form a narrow band of vegetation on both sides of access roads in an otherwise heavily managed area. Rip-rap occurs mainly on the downstream sides of the existing check structure. Irrigated rice fields are found on each side of the canal access roads that parallel the NMC. No visible trees, shrubs, vernal pools, or wetlands are apparent in the area affected by the action.

The combination of rice, other agricultural crops, drainage and irrigation channels, and ruderal lands has allowed wildlife populations to persist within the Basin, most notable among these is the Swainson's hawk and the GGS (Natomas Basin Habitat Conservation Plan, 2003). A summary of Federal and State-listed species occurring in the Project area, the effects determination, and summary basis for the determination, are provided in Table 3-1. This table was generated using Reclamation's interpretation of information obtained online from the Service's database and the California Natural Diversity Database (CNDDB), maintained by the California Department of Fish and Game, as accessed in July 2014 and again in September 2015. The U.S. Geological Survey (USGS) 7.5 minute quadrangle for Verona was used to search the CNDDB. Results of the CNDDB query were refined to the Project Area using the BIOS mapping complement to the CNDDB. The US Fish and Wildlife Service (USFWS) Information for Planning and Conservation (IPaC) application was queried using a free-hand, yet conservative, outline of the site. Habitat descriptions were obtained from the USFWS Environmental Conservation Online System (ECOS), where available, and from other reputable sources (e.g. NatureServe Explorer), where unavailable in ECOS.

Reclamation's queries identified 15 species Federally- or state-listed as Rare, Threatened or Endangered (RTE) or species of concern with the potential to inhabit the Project Area (Table 3.1). Of these species, only one, the giant garter snake (GGS), has a mapped occurrence in BIOS within a one-mile radius of the Project area. No species were identified by the IPaC Resource Trust Report as having designated Critical Habitat within the Project Area.

In addition to the species listed in Table 3.1, the IPaC report identified 18 species of birds protected by the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act with the potential to inhabit the Project Area. Due to the short construction timeframe and limited area of disturbance associated with the project, these species are not anticipated to be impacted by the Proposed Action.

With the notable exception of the GGS, Reclamation has determined that the Proposed Action would have no measurable effect on reported species due to: the limited area and short timeframe of the construction-related habitat disturbance; the lack of suitable, and/or Critical Habitat for a listed species in the Project area, and/or; maintenance of existing land use practices in the Project Area, post construction.

Table 3-1. Species identified as having the potential to inhabit the Project area. So	urces:
CNDDB, BIOS, IPaC online applications.	

Species	Status <sup>1</sup>	Effect <sup>2</sup>	Habitat Description and Summary Basis for ESA Determination <sup>3</sup>
AMPHIBIANS			
California tiger salamander, central population (Ambystoma californiense)	Т	NE	streams, deep pools, backwaters within streams and creeks, ponds, marshes, sag ponds, dune ponds, and lagoons <b>Unlikely.</b> Potential habitat in Project Area limited. Area of construction-related disturbance small. No conversion of lands/habitat from existing uses.

Species	Status <sup>1</sup>	Effect <sup>2</sup>	Habitat Description and Summary Basis for ESA Determination <sup>3</sup>
California red-legged frog (Rana draytonii)	Т	NE	backwaters of ponds, marshes, springs, streams, and reservoirs <b>Unlikely.</b> Inadequate habitat in Project Area limited. Area of construction-related disturbance small. No conversion of lands/habitat from existing uses.
BIRDS			
bank Swallow ( <i>Riparia</i> <i>riparia</i> )	T (CA)	NE	unaltered (unarmored, for burrowing) high, sandy-soiled river banks <b>Possible.</b> Inadequate nesting habitat in Project Area. Area of construction-related disturbance small. No conversion of lands/habitat from existing uses.
Swainson's hawk (Buteo swainsoni)	T (CA)	NE	<ul> <li>grasslands, sage flats, agricultural fields.</li> <li>Requires singular tree at minimum for nesting,</li> <li>Absent. No nesting habitat in Project Area.</li> <li>No conversion of lands/habitat from existing uses.</li> </ul>
yellow-billed cuckoo (Coccyzus americanus occidentalis)	Т	NE	<ul> <li>wooded habitat with dense cover near water, including woodlands with low, scrubby, vegetation, overgrown orchards, abandoned farmland, and dense thickets along streams and marshes. Willows provide nesting habitat. Cottonwoods provide foraging habitat.</li> <li>Absent. No habitat in Project Area. No land use changes.</li> </ul>
INVERTEBRATES			
Valley elderberry longhorn beetle ( <i>Desmocerus</i> californicus dimorphus)	Т	NE	<ul> <li>Elderberry trees (exclusively, for entire life cycle; tree acts as food source) in riparian forests</li> <li>Absent. No habitat exists in project area. No conversion of lands/habitat from existing uses.</li> </ul>
vernal pool fairy shrimp (Branchinecta lynchi)	Т	NE	vernal pools (predominantly; 80%), alkali pools, ephemeral drainages, stock ponds, roadside ditches, vernal swales, and rock outcrop pools, ephemeral wetlands <b>Absent.</b> No habitat exists in the Project area. No land use changes.
vernal pool tadpole shrimp ( <i>Lepidurus packardi</i> )	E	NE	vernal pools, clay flats, alkaline pools, ephemeral stock tanks, and roadside ditches and ruts <b>Absent</b> . No habitat exists in the Project area. No land use changes.

Species	Status <sup>1</sup>	Effect <sup>2</sup>	Habitat Description and Summary Basis for ESA Determination <sup>3</sup>
California fairy shrimp (Linderiella occidentalis)	SC (CA)	NE	vernal pools Absent. No habitat exists in the Project area. No land use changes.
Conservancy fairy shrimp (Branchinecta conservation)	Е	NE	vernal pools Absent. No habitat exists in the Project area. No land use changes.
FISHES			
Delta smelt (Hypomesus transpacificus)	Т	NE	open, shallow waters of San Francisco Bay and Sacramento-San Joaquin Delta Estuary <b>Unlikely.</b> Sacramento believed to be northern limit of range. (USFWS Species Assessment and Listing Priority Assignment Form)
Central Valley steelhead (Oncorhynchus mykiss)	Т	NE	freshwater streams (spawning, first 3 years of life) Absent. Surface water diversion screened
REPTILES			
giant garter snake ( <i>Thamnophis gigas</i> )	Т, СА (Т)	NLAA	<b>Potential</b> . Potential upland hibernaculae within the narrow band of vegetation and rip rap that would be disturbed by the Project. The potential effects of constructing the replacement check structure on GGS is expected to be minor and minimal. This is because the area of impact to overwintering habitat is fairly small (perhaps up to 300 sq ft), and this area would not likely be using any available habitat because of the use of exclusionary fencing (i.e. silt fence), which would be verified as functional, prior to the hibernation period. In doing so, the main effect of this action is limited to a temporary disturbance of potential overwintering GGS habitat rather than direct harm to the species. In addition, additional avoidance and minimization measures as described in Section 2.2.5 would be used to ensure that no snakes are harmed and any adverse modifications to their habitat are minimized.

FLOWERING PLANTS			
Hartweg's golden sunburst (Pseudobahia babiifolia)	Е, СА (Е)	NE	clay soils of woodlands and grasslands <b>Possible.</b> Potential habitat in Project Area limited. Area of construction-related disturbance small. No conversion of lands/habitat from existing uses. No land use changes.
palmate-bracted bird's beak (Cordylanthus palmatus)	Е	NE	seasonally-flooded alkaline soils along edges of channels and drainage and in seasonal depressions of lowland plains and basins <b>Possible.</b> Area of construction-related disturbance small. No conversion of lands/habitat from existing uses. No land use changes.

Key:

 1 - Status= Listing of Federal status species, unless otherwise indicated. C - Candidate species; E - Listed as Endangered; T - Listed as Threatened; X – Critical habitat designated in site vicinity; CA - State listed species; SS – Special Status species.

- 2 Effects: NE No Effect determination; NLAA- " not likely to adversely affect"
- 3 Definition of Occurrence Indicators in Proposed Action Area: Present Species observed and suitable habitat present; Possible -Species reported in area but suitable habitat suboptimal or entirely lacking; Unlikely Species recorded in vicinity over 10-years ago but habitat suboptimal or entirely lacking.

Reclamation has determined through this review of species, in addition to conversations with the Service, that the GGS is the species of primary concern with this Project.

**Giant Garter Snake** The GGS is listed as a threatened species under the Federal Endangered Species Act (ESA) and the California ESA. This snake is an endemic species of wetlands in the Central Valley of California. Historically, they were found from the vicinity of Butte County southward to Bakersfield in Kern County. Today, populations of the GGS are found in the Sacramento Valley and in isolated pockets of the San Joaquin Valley.

Loss or degradation of aquatic habitat resulting from agricultural and urban development is the primary cause of these declines. Other factors contributing to the decline of this species include predation of juvenile GGS by introduced predators, elimination of prey species by pesticides, road mortality, and maintenance and modification of agricultural water conveyance and infrastructure (Natomas Basin Conservancy [NBC] (2005).

Optimal or suitable habitat for the GGS requires the presence of the following attributes (Service 1999):

- Adequate water during the active season early spring through mid-fall (late March/Early April-October) to provide ample supply of food (e.g. tadpoles, frogs, small fish, small vertebrates);
- Emergent, herbaceous wetland vegetation providing cover during the active season and often found in rice fields, irrigation canals or drainage ditches, freshwater marshes, sloughs, and ponds;

- Upland habitat with grassy cover and openings in waterside vegetation for basking; and
- Higher elevation upland habitats for cover and refuge (e.g. rodent burrows) from flood waters during the snake's inactive season in the winter (October April).

The area affected by the Proposed Action is adjacent to rice fields that represent potentially suitable habitat for the GGS during the active season. Reclamation accessed the CNNDB database in July 2014, and again in September 2015, to obtain information relative to sitings of GGS in the Project area, as reported by CNDDB users. According to the CNNDB, and its complement, the Biogeographic Information and Observation System (BIOS), which provides a conservative map output of each reported siting (accurate to the level of detail included at reporting) the most recent documented sighting of GGS within a one-mile radius of the Project area occurred in 1986. However in a subsequent conversation initiated by Reclamation on October 21, 2014, for the purpose of identifying any new data relative to local GGS sitings, Mr. Eric Hansen, a consulting expert on GGS working in the area, stated that GGS sitings are commonplace in the vicinity of the Project. Mr. Hansen added that the Project area is suitable habitat for GGS; In particular, the upland portions of the canal banks, including the rip-rap, could provide upland, overwintering habitat for this species. Mr. Hansen suggested the installation of exclusionary fencing as a GGS avoidance measure.

Reclamation also contacted the Natomas Basin Conservancy (NBC) for their expertise on the subjects of local GGS observations and habitat requirements. Mr. John Roberts of NBC concurred with Mr. Hansen's conclusions but added that the GGS's range is not limited to the Project vicinity. In addition, Mr. Roberts relayed that strategic design of the Project could ultimately enhance the habitat and promote use of the Project area by GGS. Design elements suggested by Mr. Roberts for inclusion were the addition of rock, and placement of pipe to provide a "waterfall effect".

# 3.2.2 Environmental Consequences

# No Action

Under the No Action alternative, current biological resources conditions would continue.

# **Proposed Action**

Implementing the Proposed Action would allow greater flexibility to water management for lands served by the Company. In turn, this increased flexibility improves the Company's ability to balance the agricultural and environmental demands (i.e. NBC mitigation properties) of the water to the benefit of the GGS and other water-dependent species. In other words, the improvements to water management and conservation that result from this Project would be expected to increase the reliability of water deliveries to the preserves sites managed by the NBC, which is essential to their long-term sustainability. Similarly, the Proposed Action could allow for conserved water to be used for other environmental purposes outside the Natomas Basin, such as the Bay Delta region.

Presently, the capacity of the water distribution system is limited during startup in the spring such that water deliveries for rice flood-up must be staggered. Automating the check structure would provide greater flexibility and lessen this pattern of flood-up to allow earlier flood-up to a greater proportion of the land planted in rice. In turn, this would afford earlier availability of this

agricultural habitat for the GGS, which use this habitat routinely for cover and forage (Service and CDFG 2003).

The potential direct effects of constructing the replacement check structure on GGS is expected to be minor because of the following reasons:

- The total area of impact from construction activities would be less than 720 square feet (sf). Of this total, we estimate that less than half of this area would constitute overwinter habitat for GGS;
- Exclusionary fencing (i.e., silt fence) installed around the areas of impact prior to the hibernation period (October 1) would prevent GGS from seeking any available overwintering habitat before construction activities occurred. In doing so, the main effect of this action is limited to a temporary disturbance of unoccupied overwintering habitat rather than direct harm to the species;
- Avoidance and minimization measures and BMPs as described in 2.2.5 would be used to ensure that no snakes are harmed and any adverse modifications to their habitat are minimized during all aspects of project implementation.; and
- Placement of up to 12 cubic yards of 15-18-inch minus angular rip-rap to armor the banks upstream of the new structure would constitute an enhancement to the habitat for future use by the GGS.

# 3.3 Cultural Resources

Cultural resources is a broad term that includes prehistoric, historic, architectural, and traditional cultural properties. The National Historic Preservation Act (NHPA) of 1966 is the primary Federal legislation that outlines the Federal government's responsibility to cultural resources. Section 106 of the NHPA requires the Federal government to take into consideration the effects of an undertaking on cultural resources listed on, or eligible for inclusion in, the National Register of Historic Places (NRHP); such resources are referred to as historic properties.

The Section 106 process is outlined in the Federal regulations at 36 Code of Federal Regulations (CFR) Part 800. These regulations describe the process that the Federal agency (Reclamation) takes to identify cultural resources and the level of effect that the proposed undertaking will have on historic properties. In summary, Reclamation must first determine if the action is the type of action that has the potential to affect historic properties. If the action is the type of action to affect historic properties, Reclamation must: identify the Area of Potential Effects (APE); determine if historic properties are present within that APE; determine the effect that the undertaking will have on historic properties, and; consult with the State Historic Preservation Officer (SHPO), to seek concurrence on Reclamation's findings. In addition, Reclamation is required, through the Section 106 process, to consult with Indian tribes concerning the identification of sites of religious or cultural significance, and to consult with individuals or groups who are entitled to be consulting parties or have requested to be consulting parties.

# 3.3.1 Affected Environment

In an effort to identify historic properties, Reclamation reviewed its archaeological site index and project data, and researched information regarding the facilities from NCMWC, including information provided by NCMWC personnel and a previously prepared a Cultural Resources Survey Report. In addition records search for the APE and a surrounding one-half mile radius was completed by the Northeast Information Center (NIC) of the California Historical Resources Information System on September 3, 2013, a site inspection was conducted and a Cultural Resource Inventory and Evaluation Report was prepared.

The proposed undertaking is narrowly defined to the built environment of the North Main Canal and its constructed elements, therefore, pursuant to 36 CFR § 800.4(a)(4) Reclamation determined there was no potential for the presence of sites of religious and cultural significance or historic properties to be within the APE.

During the identification effort a single resource was identified within the APE; Reclamation District 1000 (RD 100). The entire NCMWC, as well as the current APE, is contained within the RD 1000 boundaries. RD 1000, elements of which were constructed as early as 1913, has been found eligible for listing in the National Register of Historic Places as a rural historic district. The RD 1000 contributing components are restricted to those related to reclamation drainage efforts, road systems, and large-scale agricultural and urban drainage (main canals, drainage canals and pumping stations), flood control, and levees. As a main canal the NMC would be one of these elements.

# 3.3.2 Environmental Consequences

### No Action

Under the No Action Alternative, existing conditions would persist and the proposed project would not be implemented. As a result, the No Action alternative would result in no impacts to cultural resources.

# **Proposed Action**

The proposed action is to grant funding to NCMWC to reconstruct the existing R Drain check structure, install automated gates and controls, and integrate it into the existing supervisory control and data acquisition (SCADA) system in Sutter County, California. Specifically, NCMWC is proposing to reconstruct the existing check structure in the Northern Main Canal at the turn out to the R Drain Canal to improve the capacity to carry flow (base and fluctuations) past the R Drain turnout. An automated control gate will be installed on the new check structure and integrated into the NCMWC's existing SCADA system to maintain the water level in the Northern Main and provide constant flow to the R Drain Canal.

Reclamation has made the determination under NHPA of no adverse effects; The Proposed Action will have no impact on properties listed, or eligible for listing, on the National Register of Historic Places. The SHPO concurred with this finding in correspondence dated November 30, 2015. (See Appendix D-2.)

# 3.4 Cumulative Effects

According to 40 CFR Parts 1500-1508, the Council on Environmental Quality regulations for implementing the procedural provisions of NEPA, a cumulative impact is defined as "the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions." Cumulative effects can result from individually minor, but collectively significant, actions taking place over a period of time.

There are no adverse impacts associated with implementing the Proposed Action. There are no implemented or planned actions identified, which, when combined with the Proposed Action, would be anticipated to result in a cumulative effect to species or resources.

# Section 4 Consultation and Coordination

# 4.1 Endangered Species Act (16 USC § 1531 et seq.)

Section 7 of the Endangered Species Act requires Federal agencies to ensure that all Federallyassociated activities within the United States do not jeopardize the continued existence of threatened or endangered species or result in the destruction of, or adverse impacts to, the critical habitat of these species. Action agencies must consult with the Service, which maintains current lists of species that have been designated as threatened or endangered, to determine the potential impacts a project may have on protected species.

Reclamation sent a memorandum to the Service on September 15, 2014 requesting concurrence with the determination that the Proposed Action may affect, but is not likely to adversely affect, the GGS. An additional memorandum was submitted in early October 2015, along with a copy of the Draft EA (as revised with updated Project renderings), as requested by Ms. Kellie Berry of the Service for use in the Service's review of the Project. The Service responded with concurrence of Reclamation's determination in correspondence dated December 11, 2015. (See Appendix D-3.)

# 4.2 Clean Water Act (CWA)(33 USC § 1311 et seq.)

# 4.2.1 Section 404

Section 404 of the CWA authorizes the US Army Corps of Engineers (USACE) to issue permits to regulate the discharge of "dredged or fill materials into waters of the United States" (33 USC § 1344). Preliminary contact with the USACE has identified this canal as a "water of the USA" which is subject to this Section of the Clean Water Act. As a consequence, Reclamation consulted with the USACE Sacramento District (the District) on the need for a 404 Permit in support of implementing the Proposed Action. In discussions following a review of plans in August 2015, Mr. William Ness of the District informed Reclamation that, based on the nature of the project and limited disturbance involved, the Proposed Action would likely be accommodated by Nationwide Permit 3 for Maintenance. Therefore, required permitting documentation is limited to a Pre-Construction Notice, which Reclamation submitted to the District on October 14, 2015. Formal documentation of the Corps' finding was submitted to Reclamation in correspondence dated January 6, 2016. (See Appendix D-4.)

# 4.2.2 Section 401

Section 401 of the CWA (33 USC § 1311) prohibits the discharge of any pollutants into navigable waters, except as allowed by permit issued under sections 402 and 404 of the CWA (33 USC § 1342 and 1344), including those associated with the construction or operation of a facility or structure. If a Federal discharge permit is required, the applicant must first obtain certification from the State agency with jurisdiction that activities will comply with applicable State effluent and water quality standards. On October 14, 2015, Reclamation submitted the application package for a water quality certification to the Regional Water Quality Board

(Regional Board). The Regional Board provided the Section 401 certification to Reclamation on November 9, 2015. (See Appendix D-5).

# **Section 5 References**

- Natomas Basin Conservancy. 2005. 2004 Annual Survey results for the giant garter snake in the Natomas Basin.
- U.S. Fish and Wildlife Service (Service). 1997. Programmatic Consultation with the U.S. Army Corps of Engineers 404 Permitted Projects with Relatively Small Effects on the Giant Garter Snake within Butte, Colusa, Glenn, Fresno, Merced, Sacramento, San Joaquin, Solano, Stanislaus, Sutter and Yolo counties, California. Appendix C Standard Avoidance and Minimization Measures During Construction Activities in Giant Garter Snake (Thamnophis gigas) Habitat. November 13, 1997 (http://www.fws.gov/sacramento/es/Survey-Protocols-Guidelines/Documents/ ggs% 20appendix% 20c.pdf
- U.S. Fish and Wildlife Service, 1999. Draft Recovery Plan for the Giant Garter Snake (*Thamnophis gigas*). Portland, Oregon, IX+192 pp.
- U.S. Fish and Wildlife Service and California Department of Fish and Game. 2003. *Natomas Basin Habitat Conservation Plan.* Prepared by City of Sacramento, Sutter County, Natomas Basin Conservancy in association with Reclamation District No. 1000, and the Natomas Central Mutual Water Company.

# **Section 6 Personal Communications**

- Gray, B. District Manager, Natomas Central Mutual Water Company, Rio Linda, CA. July 10, 2014
- Hansen, E. Consulting Environmental Biologist, Sacramento, CA. October 21, 2014.

#### Appendix A. Indian Trust Assets Review



Simon, Megan <msimon@usbr.gov>

# **R-Drain Check Structure Automation - ITA Review**

1 message

Simon, Megan <msimon@usbr.gov> To: Paul Zedonis <pzedonis@usbr.gov> Wed, Sep 9, 2015 at 2:40 PM

I have examined the proposal for the R-Drain Check Structure Automation project and have determined that this facility is approximately 13 miles from the closest Indian Trust Asset. I have determined that there is no likelihood that this facility will adversely impact Indian Trust Assets.

Megan K. Simon

Natural Resources Specialist U.S. Bureau of Reclamation Northern California Area Office 16349 Shasta Dam Blvd. Shasta Lake, CA 96019 (530) 276-2045 msimon@usbr.gov



Appendix B-1. General Plan









#### Appendix D. Responses to Inter-agency Consultation Requests – D-1: Designation of Lead Agency



DEPARTMENT OF THE ARMY U.S. ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT 1325 J STREET SACRAMENTO CA 95814-2922

January 5, 2016

Regulatory Division SPK-2015-00983

U.S. Bureau of Reclamation Attn: Ms. Megan Simon 16349 Shasta Dam Boulevard Shasta Lake, California 96019

Dear Ms. Simon:

This letter concerns our designation of lead Federal agency for the proposed R-Drain Check Structure Automation project. The approximately 0.02-acre project site is located in Section 33, Township 11 North, Range 4 East, Latitude 38.75796°, Longitude -121.53349°, Sutter County, California.

Following early coordination with your agency on October 14, 2015, we hereby designate the Bureau of Reclamation as the lead Federal agency to act on our behalf for purposes of compliance with the Section 7 of the Endangered Species Act (ESA) and Section 106 of the National Historic Preservation Act (NHPA) for Department of the Army authorization required for the R-Drain Check Structure Automation project.

Prior to initiating consultation with the appropriate agency, please coordinate your draft determinations for ESA and NHPA, as well as the information used in making that determination, with our office. Additionally, please include a statement in your consultation letters indicating that we have designated Bureau of Reclamation as the lead Federal agency for the proposed action, along with a copy of this letter.

Please refer to identification number SPK-2015-00983 in any correspondence concerning this project. If you have any questions, please contact Ms. Melissa France at our California North Branch Office, Regulatory Division, Sacramento District, U.S. Army Corps of Engineers, 1325 J Street Room 1350, Sacramento, California 95814-2922, by email at Melissa M.France@usace.army.mil, or telephone at 916-557-7759.

Sincerely,

any A. Hally

Nancy A. Haley Chief, California North Branch Regulatory Division

CC:

Mr. Brett Gray, Natomas Central Mutual Water Company, bgray@natomaswater.com

## Appendix D. Responses to Inter-agency Consultation Requests – D-2: NHPA Section 106 Consultation



# United States Department of the Interior

BUREAU OF RECLAMATION Mid-Pacific Regional Office 2800 Cottage Way Sacramenio, CA 95825-1898

IN RUPLY REFER TO,

NOV 0 2 2015

MP-153 ENV-3.00

CERTIFIED - RETURN RECEIPT REQUESTED

Ms. Julianne Polanco State Historic Preservation Officer Office of Historic Preservation 1725 23<sup>rd</sup> Street, Suite 100 Sacramento, CA 95816

#### Subject: National Historic Preservation Act (NHPA) Section 106 Consultation for the Natomas Central Mutual Water Company (NCMWC) R Drain Check Structure Automation Project (Project), Sutter County, California (14-MPRO-238)

Dear Ms. Polanco:

The Bureau of Reclamation is initiating consultation under Title 54 USC § 306108, commonly known as Section 106 of the NHPA, and its implementing regulations found at 36 CFR Part 800, for the proposed WaterSMART grant funding to NCMWC to reconstruct the existing R Drain check structure, install automated gates and controls, and integrate it into the existing supervisory control and data acquisition (SCADA) system in Sutter County, California (see Figure A-1 in enclosed report). Reclamation determined that the expenditure of Federal funds for the project is an undertaking as defined in 36 CFR § 800.16(y) and involves the type of activity that has the potential to cause effects on historic properties under 36 CFR § 800.3(a). We are entering into consultation with you on this undertaking and seeking your concurrence with a finding of no adverse effect to historic properties.

NCMWC is proposing to reconstruct the existing check structure in the Northern Main Canal (NMC) at the turn out and culvert to the R Drain Canal to improve the capacity to carry flow (base and fluctuations) past the R Drain turnout. An automated control gate will be installed on the new check structure and integrated into the NCMWC's existing SCADA system to maintain the water level in the NMC and provide constant flow to the R Drain Canal.

Reclamation has determined the area of potential effects (APE) for this undertaking consists of approximately 0.3 acres encapsulating the R Drain structure and adjacent berms. The APE is located in Section 28, T. 11 N., R. 4 E., Mount Diablo Meridian, as depicted on the Verona, California, 7.5' U.S. Geological Survey topographic quadrangle map (Figure A-2 in enclosed report). The vertical APE is located within the canal's area of previous ground disturbance and could reach a maximum depth of 3 feet for the existing R Drain check structure removal.

In an effort to identify historic properties, Reclamation reviewed its archaeological site index and project data, and researched information regarding the facilities from NCMWC, including information provided by NCMWC personnel and a previously prepared Cultural Resources Survey Report (Soule 2013). In addition, a records search covering the APE and a surrounding one-half mile radius was completed by the Northeast Information Center (NIC) of the California Historical Resources Information System. On March 3, 2015, a site inspection was conducted by Mr. Mark Carper, Reclamation Archaeologist (Cultural Resource Inventory and Evaluation Report enclosed).

The proposed undertaking is narrowly defined to the built environment of the NMC and its constructed elements. Further, recent pipeline removal that extended under, and adjacent to, the R Drain structure by Reclamation District 1000 (RD 1000) maintenance personnel has resulted in highly disturbed soils to an estimated depth of approximately 8 feet below the NMC base. As such Reclamation determined there was negligible potential within the built and disturbed environment of the APE for the presence of sites of religious and cultural significance to Indian tribes and no Indian tribes were consulted.

During the identification effort, the NMC, a component of RD 1000, was identified within the APE. RD 1000, elements of which were constructed as early as 1913, was previously found eligible for listing in the National Register of Historic Places (NRHP) as a rural historic district (June 2010 correspondence between the U.S. Army Corp of Engineers and your office, enclosed). Contributing components of RD 1000 were restricted to those related to reclamation drainage efforts, road systems, and large-scale agricultural and urban drainage (main canals, drainage canals and pumping stations), flood control, and levees. Although not specifically identified in the earlier documentation, the NMC, as a main canal, meets the original definition of a contributing element of the RD 1000 district. Individually, the NMC does not meet any of the criteria for eligibility (refer to the enclosed report for additional discussion).

As stated in the Army Corps' correspondence, adverse effects to the RD 1000 district were previously mitigated for actions regarding Pumping Plant No. 3 in the form of a Historic American Engineering Record (HAER No. CA-187) and videotaping of historic properties in 1997. In the 2010 consultation, it was determined that no future mitigation work would be required on the eligible components of RD 1000. The NMC had not been specifically identified as a contributing element of RD 1000 when that mitigation work was completed, although the earlier consultation suggests that main canals of RD 1000 were mitigated. The currently proposed project to reconstruct and automate the R Drain check structure in the NMC will not affect any of the characteristics of the NMC that make it a contributing element of RD 1000. As previously determined to be eligible, the main canals of RD 1000 are associated with reclamation drainage efforts and large-scale agricultural and urban drainage. The NMC will retain this association with RD 1000 with check structure reconstruction and automation. The check structure changes which will not change the structure of the canal and its intended function as a main canal will remain intact. Based on the above discussion and the enclosed supporting documentation, Reclamation finds that the proposed undertaking will result in no adverse effect to historic properties under 36 CFR § 800.5(b). Reclamation invites your comments on the delineation of the APE and the appropriateness of the historic properties identification efforts for the undertaking. We request your concurrence with our finding of no adverse effect to historic properties from the proposed undertaking. If you have any questions or concerns regarding this project, please contact Mr. Mark Carper, Archaeologist, at 916-978-5552 or mearper@usbr.gov.

Sincerely,

Anastasia T. Leigh Regional Environmental Officer

Enclosures -2

# Appendix D. Responses to Inter-agency Consultation Requests – D-3: Informal ESA Section 7 Consultation



IN REPLY REFER TO:

NC-312 ENV-7.00 United States Department of the Interior

BUREAU OF RECLAMATION Northern California Area Office 16349 Shasta Dam Boulevard Shasta Lake, California 96019-8400

#### MEMORANDUM

To: Kellie Berry, Supervisory Fish and Wildlife Biologist, Sacramento Fish and Wildlife Office

From: Megan Simon Natural Resource Specialist, Northern California Area Office

Subject: Request for Concurrence under Section 7 of the Endangered Species Act for the R-Drain Check Structure Replacement Project.

The Bureau of Reclamation (Reclamation) requests concurrence from the U.S. Fish and Wildlife Service that the proposed R-Drain Check Structure Automation Project (Project) is *not* likely to adversely affect the giant garter snake (Thamnophis gigas; GGS) or its critical habitat.

The proposed Project is located in Natomas Basin, Sutter County, CA. Reclamation is the lead Federal agency for this project, having awarded Natomas Central Mutual Water Company with grant funding to implement this project as part of the CALFED Water Use Efficiency Grant Program.

The Project involves replacing the existing antiquated R-Drain Check Structure on the Northern Main Canal (NMC) with a new structure of similar dimension as the existing structure to more efficiently regulate water levels in the NMC. As you may recall, Reclamation and the Service concluded informal consultation on a similar project (the Sankey Road Check Structure Automation Project) on August 22, 2014. As a geographic point of reference, the Sankey Road project is located 1.5 miles upstream of this proposed Project.

Several aspects of this Project are the same as the Sankey Road project, including the timing of demolition, site preparation, and construction, which would primarily occur during the winter, a time when the Canal is shut down for typical maintenance. For purposes of this consultation request, details of demolition, site preparation, and construction are most relevant to the effects analysis. You are referred to the Draft Environmental Assessment (EA) Natomas Central Mutual Water Company's R-Drain Check Structure Automation Project, Mid-Pacific Region (Attachment 1) for details of the Proposed Action.

As recently as September 18, 2015, Reclamation accessed your agency's online database website for a current list of species and critical habitat that "occur within or may be affected by" this Project. In addition, as recently as August 3, 2015, Reclamation accessed the State's online California Natural Diversity Database (CNDDB) for additional information on occurrences of Federally and state-listed species. The online database reviews were focused on the Verona quadrangle where the Project is located. Reported occurrences of listed species were further refined to the Project area using the BIOS mapping application complement to the CNDDB.

In our review, Reclamation identified the GGS as the primary species of concern and concluded the potential direct effects of constructing the replacement check structure on GGS to be minor, minimal and temporary. The area of impact to this species or its habitat is relatively small and conservatively estimated at up to 0.0151 acre of affected overwintering habitat, limiting the

probability of use of this area by GGS. The potential for impacts to GGS from disturbances in the Project area would be further reduced by the installation of exclusionary fencing between the development area and the Canal linear open space/buffer area prior to GGS hibernation period to lessen the potential that GGS are present in the Project area during construction. In consideration of these actions as well as a host of other avoidance and minimization measures as provided in Section 2.2.5 of the draft EA, the main effect of this action would be a temporary loss of potential overwintering GGS habitat rather than direct harm to the species. Additional discussion of the GGS's habitat requirements and preferences, and potential for occurrence at the project site is presented in Section 3.2.1 of the enclosed EA.

In seeking feedback on our findings from local biological experts, Reclamation submitted the Project description and BIOS map for the Project Area to the Natomas Basin Conservancy for review on August 3, 2015. On August 4, 2015, John Roberts, Executive Director of the Conservancy, concurred with the conclusion of Reclamation's reviews: as determined in informal consultation for Sankey Check Structure Project, the GGS is the only species of special concern relative to the R-Drain Project. Mr. Roberts indicated in his correspondence that the risk of an incidental take associated with the Project "is not high" and agreed that the installation of exclusionary fencing prior to the GGS hibernation period, proposed as a protection measure for the GGS at the Sankey Road facility, would be equally effective in protecting this species at the R-Drain location. Further, Mr. Roberts commented that, ultimately, design elements (addition of rock, placement of pipe to provide "waterfall effect") to be incorporated into the Project would likely prove effective in enhancement of GGS habitat and promotion of the site's use by GGS, post-construction.

In summary, Reclamation believes that the Project is not likely to adversely affect GGS. We request your concurrence with our determination.

Should you or your staff have questions, please feel free to contact me at 530-276-2045 or by email at msimon@usbr.gov.

Attachments - 1

CC:

Mr. Will Ness Sacramento Regulatory Division U.S. Army Corps of Engineers, Sacramento District 1325 J Street, Room 1350 Sacramento, California 95814-2922



LEC 15 293



In Reply Refer to: 08ESMF00-2016-1-0348-1 FISH AND WILDLIFE SERVICE Sacramento Fish and Wildlife Office 2800 Cottage Way, Suite W-2605

Sacramento, California 95825-1846

United States Departmen Pure the Interiorio

DEC 1 1 2015

#### Memorandum

To:	Natural Resource Specialist, Northern California Area Office U.S. Bureau of Reclamation, Shasta Lake, California
From:	Chief, Sacramento Valley Division, Sacramento Fish and Wildlife Office, Sacramento, California Keuse Demy
Subject:	Informal Consultation on the R-Drain Check Structure Replacement Project (NC-312 ENV-7.00), Sutter County, California

This memorandum is in response to the U.S. Bureau of Reclamation's (BOR) October 27, 2015, request for initiation of informal consultation with the U.S. Fish and Wildlife Service (Service) on the proposed R-Drain Check Structure Replacement Project (proposed project), in Sutter County, California. Your request, which included the October 2015, *Draft Environmental Assessment: Natomas Central Mutual Water Company's R-Drain Check Structure Automation Project Mid-Pacific Region* (draft environmental assessment), was received by the Service on October 30, 2015. The draft environmental assessment presents an evaluation of the proposed project's effects on species federally-listed under the Endangered Species Act of 1973, as amended (16 U.S.C. §1531 et seq.) (Act).

The federal action we are consulting on is the issuance of funding under the CALFED Water Use Efficiency Grant Program by the BOR to the Natomas Central Mutual Water Company (applicant) for the replacement of an existing antiquated check structure on the North Main Canal (canal). This response is provided under the authority of the Act, and in accordance with the implementing regulations pertaining to interagency cooperation (50 CFR 402).

Pursuant to 50 CFR 402.12(j), you submitted the draft environmental assessment for our review and requested concurrence with the findings presented therein, while also concurrently initiating informal consultation pursuant to 50 CFR 402.13(a). The findings presented in the draft environmental assessment conclude that the proposed project may affect, but is not likely to adversely affect the federally-listed as threatened giant garter snake (*Thamnophis gigas*) (snake). The proposed project is not within designated or proposed critical habitat for any federally-listed species.

In considering your request, we based our evaluation of your findings on the following: 1) your October 27, 2015, memorandum initiating informal consultation; 2) the October 2015, draft environmental assessment received by the Service on October 30, 2015; 3) telephone and email

#### Natural Resource Specialist

correspondence between the Service and the BOR; and 4) additional information available to the Service.

The proposed project is located within the Natomas Basin, but outside of the Natomas Basin Conservancy reserve areas, and is bordered by canal access roads and extensive drainage facilities on either side. Annual grasses and weedy species form a narrow band of vegetation on both sides of access roads. Rip-rap occurs mainly on the downstream banks near the R-Drain Check Structure, and irrigated rice fields are located on each side of the canal access roads that parallel the canal.

The applicant proposes to replace and upgrade the existing outdated R-Drain Check Structure on the canal to improve the capacity to carry water flow past the check structure. The proposed project is located approximately 0.5 mile west of Highway 99, just north of West Riego Road and south of Sankey Road. The canal is operated by the applicant for irrigation deliveries to farming operations, and also supplies water for the maintenance of approximately 4,500 acres of reserve properties owned and maintained by the Natomas Basin Conservancy.

Presently, the R-Drain Check Structure only has the capacity to move 10 cubic feet per second (cfs) below the canal. With the completion and upgrade of the Sankey Road Check Structure located approximately 1.5 miles north of the proposed project, and by implementing the proposed project, the canal system will be able to receive and deliver up to 80 cfs to the pool regulated by the R-Drain Check Structure. The R-Drain Check Structure maintains the water level of this pool to make deliveries to the canal and/or to its associated R-Drain Canal.

Due to the current water capacity restriction, over deliveries to the R-Drain Check Structure and the R-Drain Canal are often required to maintain water balance. At times this results in overtopping the banks of the lower section of the R-Drain Canal. Replacement of the existing antiquated structure with one of similar dimension and automated gate structures with increased capacity will eliminate these operational spills and improve water use efficiency in the Natomas Basin. The estimated volume of these uncontrolled spills is approximately 3,800 acre feet annually.

Construction and electrical upgrades are scheduled to occur from December 2015, through April 2016. Demolition and grading will occur during the winter months, when the canal is closed for typical maintenance activities. Construction activities will include: 1) Demolition of the existing R-Drain Check Structure and disposal of an estimated 63 tons of cement which will be hauled to an offsite landfill or recycled; 2) removal of existing rip-rap; 3) minor excavation and grading of the banks and bed of the R-Drain Canal; 4) installation of a new automated cement check structure with new control gates (approximately 720 square feet); 5) placement of approximately 12 cubic yards of new rip-rap (15 to 18-inch minus angular rock) along the banks, up to 5 feet upstream of the new structure; and 6) trenching for installation of a new electrical line. Rip-rap and soil excavated from the site will be stockpiled nearby for reuse following new structure completion; any excess will be hauled away and properly disposed. No geotechnical backing or aggregate base will be used. Staging and use of heavy equipment will occur on the two existing canal access roads.

In addition to implementing standard Best Management Practices, per a telephone conversation on November 9, 2015, between representatives from the Service and BOR, an exclusion fence was installed prior to October 1, 2015 (the onset of the snake's inactive season), in order to prevent snakes from entering the proposed project. The interior side of the exclusion fence will be routinely monitored for snakes stranded by the fence. The applicant has agreed to implement the following

additional avoidance and minimization measures in order to prevent impacts to the snake and its habitat:

- Construction personnel will receive Service-approved worker environmental awareness training. This training instructs workers to recognize the snake and its habitat(s) and what to do if the snake is encountered during construction activities;
- Clearing and grading will be confined to the minimum area necessary to facilitate construction activities as determined by a qualified biologist. Habitat that will be avoided will be cordoned off, clearly flagged, and designated as an "Environmentally Sensitive Area" by a qualified biologist. This area will be avoided by all construction personnel;
- The proposed project will be surveyed for the snake 24 hours prior to construction activities. A survey of the proposed project will be repeated if a lapse in construction activity of two weeks or greater occurs. If the snake is encountered during construction, activities will cease until appropriate corrective measures have been completed or it has been determined that the snake will not be harmed. Any sightings will be reported to the Service immediately by telephone at (916) 414-6600;
- No plastic, monofilament, jute, or similar crossion control matting that could entangle snakes
  will be placed on the proposed project site when working within 200 feet of snake aquatic or
  rice habitat. Possible substitutions include coconut coir matting, tactified hydroseeding
  compounds, or other material approved by the Service. All trash will be properly disposed of
  and removed; and
- After completion of construction activities, any temporary fill and construction debris will be removed and disturbed areas will be restored to pre-project conditions wherever feasible.

After reviewing all the available information, we concur with your determination that the proposed project is not likely to adversely affect the snake. The proposed project reached the 'may affect' level due to the fact that the proposed project occurs within the known range of the snake, and snakes may be present while hibernating within the proposed project area. Snakes exist in the Natomas Basin, where the proposed project is located (Service 2012). The proposed project will only result in temporary impacts to suitable snake habitat, and the size of rip-rap proposed may be utilized by snakes as upland refugia in the future. Due to the temporary nature of potential impacts to snake habitat, the potential improvement of upland snake habitat due to the use of appropriately-sized rip-rap (15 to 18-inch minus angular rock), and the avoidance and minimization measures that will be implemented, the Service believes that any potential indirect adverse effects to the snake are unlikely to result in take of the snake and are therefore insignificant for the purposes of this consultation.

This concludes the Service's review of the proposed project. No further action pursuant to the Act is necessary unless new information reveals effects of the proposed project that may affect listed species in a manner or to an extent not considered; the proposed project is subsequently modified in a manner that causes an effect to federally-listed species or critical habitat that was not considered in this determination; or a new species or critical habitat is designated that may be affected by the proposed project.

If you have any questions regarding the proposed project, please contact Julie Wolford, Fish and Wildlife Biologist (Julie\_Wolford@fws.gov), or myself (Kellie\_Berry@fws.gov) at (916) 414-6631.

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CC:

Megan K. Simon, U.S. Bureau of Reclamation, Shasta Lake, California William Ness, U.S. Army Corps of Engineers, Sacramento, California Tanya Sheya, California Department of Fish and Wildlife, Rancho Cordova, California

## Appendix D. Inter-agency Consultation – D-4: CWA Section 404 Consultation



IN REPLY REFER TO

NC-312 ENV-7.00 United States Department of the Interior

BUREAU OF RECLAMATION Northern California Area Office 16349 Shusra Dam Boulevard Shasta Lake, California 96109-8400

DCT 1 4 2015

Mr. Will Ness Sacramento Regulatory Division U.S. Army Corps of Engineers, Sacramento District 1325 J Street, Room 1350 Sacramento, CA 95814-2922

Subject: Pre-Construction Notification and Request to Designate the Bureau of Reclamation as the Lead Federal Agency for the Endangered Species Act (ESA) Section 7 Consultation and the National Historic Preservation Act (NHPA) Section 106 Compliance for the R-Drain Check Structure Automation Project, Northern Main Canal (NMC), Sutter County, California

Dear Mr. Ness,

Reclamation, through the Department of Interior's CALFED Bay-Delta Water Use Efficiency Grant Program, proposes to provide financial assistance to the Natomas Central Mutual Water Company (Company) to replace the R-Drain structure on the Company's NMC. The Project would improve water use efficiency by replacing the existing manually-operated structure at the R-Drain Check, which presently allows uncontrolled spills in the NMC, with a new check structure equipped with electronically operated gates. The new structure will be of similar dimensions as the existing structure. Greater detail on the new structure design and review of the anticipated impacts are provided in the attached draft Environmental Assessment (EA).

In support of your review under Section 404 of the Clean Water Act (CWA), the following information is provided in both hardcopy and electronic form.

- A completed Nationwide Permit Pre-Construction Notification (PCN) Form and associated Site Vicinity Map;
- Reclamation's draft EA for this Project, which provides greater detail on the project and its expected impacts, and is being advertised for public comment;
- 3. Supplemental photographs of the Project Area, and;
- A copy of the application to California's Central Valley Regional Water Quality Control Board for a Section 401 Water Quality Certification for the Project

In recognition that Reclamation has initiated the NHPA Section 106 and ESA Section 7 reviews, associated with item 2 above, we are hereby requesting that the USACE designate Reclamation as the lead Federal agency for these processes.

In the event that it may facilitate your CWA Section 404 review, Reclamation wishes to draw to your attention that on February 24, 2015, the USACE issued a determination that activities for Reclamation's Sankey Road Check Structure Automation Project (USACE Compliance Certification Permit File Number SPK-2014-0082) are covered by Nationwide Permit (NWP) 3: Maintenance. The R-Drain site is located approximately 1.5 miles downstream of the Sankey Road Check. The projects have similar activities, footprints and anticipated effects; therefore, Reclamation interprets, and seeks formal USACE concurrence that activities for the R-Drain project would also be covered by NWP 3.

The February 2015 USACE correspondence for the Sankey Road Check project outlined Special Conditions supplemental to the General Conditions of NWP 3. The Special Conditions are largely related to the presence of potential habitat for the Giant Garter Snake (GGS), listed as federally- and state- threatened in the Project Area and based on US Fish and Wildlife Service recommendations, as relayed in the ESA Section 7 consultation. Because of the project similarities, Reclamation anticipates the USACE's direction to institute the same avoidance and minimization measures for the protection of the GGS at the R-Drain site. As previously discussed, these measures include installation of exclusionary fencing, which was installed proactively prior to the start of the GGS inactive season on October 1, 2015.

If you have any questions, please contact me at 530-276-2045.

Sincerely,

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Megan Simon Natural Resource Specialist

Enclosures - 3

cc: Ms. Kellie J. Berry Chief U.S. Fish and Wildlife Service Sacramento Valley Division 2800 Cottage Way, Room W-2605 Sacramento, CA 95825-1846

> Ms. Elizabeth Lee Central Valley Regional Water Quality Control Board 11020 Sun Center Drive, Ste. 200 Rancho Cordova. CA 95670-6114



DEPARTMENT OF THE ARMY U.S. ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT 1325 J STREET SACRAMENTO CA 95814-2922

REPLY TO ATTENTION OF

January 6, 2016

Regulatory Division (SPK-2015-00983)

U.S. Bureau of Reclamation Attn: Ms. Megan Simon 16349 Shasta Dam Boulevard Shasta Lake, California 96019

Dear Ms. Simon:

We are responding to your October 19, 2015 request for a Department of the Army permit for the R-Drain Check Structure Automation project. The approximately 0.3-acre project site is located in Section 33, Township 11 North, Range 4 East, Mount Diablo Meridian, Latitude 38,75796°, Longitude -121,53351°, Sutter County, California.

Based on the information you provided to this office, the purpose of the proposed project is to remove the existing check structure and replace it with a new one with automated control gates and Supervisory Control and Data Acquisition (SCADA) system. The existing check structure only has the capacity to move water at 10 cubic feet per second below the Northern Main Channel which results in periodic uncontrolled spills in the lower section of the R-Drain Canal. The proposed activities would improve water use and efficiency in the Natomas Basin. The proposed replacement structure would have the same footprint as the existing structure. There would be no net change in the quantity of materials placed in the canal. The proposed activities will result in approximately 0.02 acre temporary impacts to the canal.

We have determined activities in waters of the U.S. associated with the project are authorized by Nationwide Permit Number (NWP) 3. You must comply with all terms and conditions of the NWP 3, applicable regional conditions, and project-specific special conditions. Information about the NWP and regional conditions are available on our website at

www.spk.usace.army.mil/Missions/Regulatory/Permitting/NationwidePermits.aspx. In addition, your work must comply with the following special conditions:

 The enclosed figure titled Site Plan (enclosure 1), dated January 20, 2015, prepared by Larsen Wurzel & Associates Inc., is incorporated by reference as a condition of this authorization. Any deviations from the work as proposed in this document, which result in additional impacts to waters of the U.S. must be coordinated with this office prior to impacts: 2. You shall comply with all terms and conditions of the attached November 12, 2015, WDID #5A51CR00090, Section 401 Water Quality Certification (enclosure 2).

3. To ensure your project complies with the Federal Endangered Species Act, you must implement all of the mitigating measures proposed as part of your project description, which are identified in the enclosed U.S. Fish and Wildlife Service letter of concurrence (Number 08ESMF00-2016-1-0348-1, dated December 11, 2015) (enclosure 3). If you are unable to implement any of the proposed measures, you must immediately notify the U.S. Fish and Wildlife Service, they may consult as appropriate, prior to initiating the work, in accordance with Federal law.

4. You shall conduct all work when the project area is naturally dewatered or a dewatering plan has been submitted for approval. Any dewatering plans must be approved, in writing, by this office prior to commencement of construction activities. Plans, maps and/or drawings may be submitted electronically to <u>regulatory-info@usace.army.mil</u>. No work shall be conducted in flowing water.

5. Prior to initiation any construction activities within waters of the U.S., you shall employ construction best management practices (BMPs) onsite to prevent degradation to on-site and off-site waters of the U.S. Methods shall include the use of appropriate measures to intercept and capture sediment prior to entering waters of the U.S., as well as erosion control measures along the perimeter of all work areas to prevent the displacement of fill material. All BMPs shall be in place prior to initiation of any construction activities and shall remain until construction activities are completed. You shall maintain erosion control methods until all on-site soils are stabilized. You shall submit a description of and photo-documentation of your BMPs to our office within 30 days of commencement of construction. Photos may be submitted electronically to regulatory-info@usace.army.mil.

Within 30 days after completion of the authorized work, you must sign the enclosed Compliance Certification and return it to this office.

This verification is valid until March 18, 2017, when the existing NWPs are scheduled to be modified, reissued, or revoked. Furthermore, if you commence or are under contract to commence this activity before the date the NWP is modified, reissued, or revoked, you will have 12 months from the date of the modification, reissuance or revocation to complete the activity under the present terms and conditions. Failure to comply with the general and regional conditions of this NWP, or the project-specific special conditions of this authorization, may result in the suspension or revocation of your authorization.

We would appreciate your feedback on this permit action including your interaction with our staff. At your earliest convenience, please tell us how we are doing by completing the Corps' Regulatory Program national customer service survey found on our website at www.spk.usace.army.mil/Missions/Regulatory.aspx.

Please refer to identification number SPK-2015-00983 in any correspondence concerning this project. If you have any questions, please contact Ms. Melissa France at our California North Branch Office, Regulatory Division, Sacramento District, U.S. Army Corps of Engineers, 1325 J Street Room 1350, Sacramento, California 95814-2922, by email at *Melissa*.*M.France@usace.army.mil*, or telephone at 916-557-7759.

Sincerely,

Nancy A. Haley Chief, California North Branch Regulatory Division

Enclosures

cc: (w/o encls)

- Mr. Brett Gray, Natomas Central Mutual Water Company, <u>Bgray@Natomaswater.com</u> Ms. Elizabeth Lee, Central Valley Regional Water Quality Control Board,
- Elizabeth.Lee@waterboards.ca.gov
- Ms. Tina Bartlett, California Department of Fish and Wildlife, <u>R2CEQA@wildlife.ca.gov</u> Mr. Rvan Olah, U.S. Fish and Wildlife Service, rvan olah@fws.gov
- Mr. Paul Jones, U.S. Environmental Protection Agency, Region IX,

Jones.Paul@epa.gov

# Appendix D. Inter-agency Consultation – D-5: CWA Section 401 Consultation



United States Department of the Interior

BUREAU OF RECLAMATION Northern California Area Office 16349 Shasta Dam Boulevard Shasta Lake, California 96109-8400

OCT 1 4 2015

IN REPLY REFER TO:

NC-312 ENV-7.00

VIA ELECTRONIC MAIL ONLY

Ms. Elizabeth Lee Central Valley Regional Water Quality Control Board 11020 Sun Center Drive, Ste. 200 Rancho Cordova, CA 95670-6114

### Subject: Section 401 Water Quality Certification, R-Drain Check Structure Automation Project -Northern Main Canal (NMC), Sutter County, California

Dear Ms. Lee:

The Bureau of Reclamation, through the Department of Interior's CALFED Bay-Delta Water Use Efficiency Grant Program, proposes to provide financial assistance to the Natomas Central Mutual Water Company (Company) to replace the R-Drain check structure on the Company's Northern Main Canal (NMC). The Project will improve water use efficiency by replacing the existing manually-operated structure, which presently allows uncontrolled spills in the NMC, with a new check structure equipped with electronically operated gates. The new structure will be of similar dimension to the existing structure.

In recognition of the U.S. Army Corps of Engineers' (USACE) classification of the NMC as Waters of the U.S., this Project will be subject to review under provisions of the Clean Water Act (CWA), including Sections 401 and 404. Based on preliminary consultation, it is anticipated that USACE will confirm Section 404 coverage of the project under Nationwide Permit 3 (Maintenance). In support of the State's review under Section 401, the following information is provided:

- 1. Printout of fee calculation, as required by the application instructions;
- 2. Completed Section 401 Water Quality Certification application;
- Vicinity Map indicating surface waters in the Project Area, as requested in Item 3 of the application;
- Reclamation's draft Environmental Assessment, referenced in the application, which is being advertised for public comment, and;
- 5. A copy of the Pre-Construction Notification submitted to USACE.

The initial deposit of \$200.00, based on the fee calculator, as confirmed in our conversation on October 7, is being mailed to the Water Quality Control Board today. A copy of this cover letter will be enclosed with the check. If you have questions, please contact me at 530-276-2045.

Sincerely,

Megan Simon Natural Resource Specialist

Enclosures - 3

cc: Mr. Will Ness Sacramento Regulatory Division U.S. Army Corps of Engineers, Sacramento District 1325 J Street, Room 1350 Sacramento, CA 95814-2922 (w/o encl)





Central Valley Regional Water Quality Control Board

9 November 2015

Megan Simon Bureau of Reclamation 16349 Shasta Dam Boulevard Shasta Lake, CA 96109-8400



## CLEAN WATER ACT §401 TECHNICALLY CONDITIONED WATER QUALITY CERTIFICATION; BUREAU OF RECLAMATION, R-DRAIN CHACK STRUCTURE AUTOMATION PROJECT (WDID #5A51CR00090), SUTTER

#### ACTION:

- 1. D Order for Standard Certification
- 2. E Order for Technically-conditioned Certification
- 3. 
  Order for Denial of Certification

### WATER QUALITY CERTIFICATION STANDARD CONDITIONS:

- 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 (CCR).
- 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 23 CCR § 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.
- The validity of any non-denial certification action shall be conditioned upon total payment of the full fee required § 3833 of the California Code of Regulations.

KARL E LONDLEY ScD, P.E., DIAIR | PAMELA C. CREEDIAN P.E., BCEE, EXECUTIVE OFFICER S64 Knollcreat Drive, Sulte 205, Redding, CA 96002 | www.waterboards.ca.gov/centralvalley Accycles refer

- 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. The Bureau of Reclamation shall notify the Central Valley Water Board within 7 days of the project completion.
- All reports, notices, or other documents required by this Certification or requested by the 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.
- Any person signing a document under Standard Condition No. 5 shall make the following certification, whether written or implied:

"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 Bureau of Reclamation shall satisfy the following:

- The Bureau of Reclamation shall notify the Central Valley Regional Water Quality Control Board (Central Valley Water Board) in writing at least 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.
- Except for activities permitted by the U.S. Army Corps 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 Bureau of Reclamation 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 Bureau of Reclamation 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 upstream out of the influence of the Project, and approximately 300 feet downstream of the work area. The sampling frequency may be modified for certain projects with written approval from Central Valley Water Board staff.

#### 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	(4)	
Settleable Material	mL/L	Grab <sup>(1)</sup>	Every 4 hours during in-water work	(2)	
Visible construction related pollutants (3)	Observations	Visual Inspections	Continuous throughout the construction period	-	

(11) Grab samples shall be taken at mid-depth and be collected at the same time each day to get a compete representation of variations in the receiving water.

(2) Pollutants shall be analyzed using the analytical methods described in 40 Code of Federal Regulations Part 136; where no methods are specified for a given pollutant.

<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 that 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 required by this Certification shall be maintained at the Project site.

As appropriate, 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 Bureau of Reclamation 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 Bureau of Reclamation 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 or Water Quality Control Plan for the Tulare Lake Basin, 2nd Edition (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 and settleable matter 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:
    - where natural turbidity is less than 1 Nephelometric Turbidity Units (NTUs), controllable factors shall not cause downstream turbidity to exceed 2 NTU;
    - where natural turbidity is between 1 and 5 NTUs, increases shall not exceed 1 NTU;
    - 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;
    - 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 as measured in surface waters within approximately 300 feet downstream of the Project.
- The Bureau of Reclamation shall notify the Central Valley Water Board immediately if the above criteria for turbidity, settleable matter, or other water quality objectives are exceeded.
- 7. 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 or 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 Bureau of Reclamation 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.

- 8. The Bureau of Reclamation 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 the potential of responding to a spill or prevention of spills occurring within the Project site.
- 9. 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 surface waters. Concrete must completely be cured before coming into contact with surface waters. 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.
- 10. Creosote-treated wood products or any other treated wood products that are highly flammable and/or toxic to aquatic life shall not be installed in surface waters. A method of containment must be used below the bridge(s), boardwalk(s), and/or temporary crossing(s) to prevent debris from falling into the water body as feasible.
- An effective combination of erosion and sediment control Best Management Practices (BMPs) shall be implemented and adequately working during all phases of construction.
- 12. All areas disturbed by Project activities shall be protected from washout or erosion.
- All temporarily affected areas shall be restored to pre-construction contours and conditions upon completion of construction activities.
- 14. If temporary surface water diversions and/or dewatering are anticipated, the Bureau of Reclamation 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.
- 15. 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.

- 16. 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.
- 17. The discharge of petroleum products or other excavated materials to surface water is prohibited. Activities shall not cause visible oil, grease, or foam in the receiving water. The Bureau of Reclamation shall notify the Central Valley Water Board as soon as practicable of any spill of petroleum products or other organic or earthen materials with written follow up within 5 days.
- 18. The Bureau of Reclamation shall obtain coverage under an NPDES permit for dewatering activities that result in discharges into surface water and/or shall obtain Waste Discharge Requirements (WDRs) for dewatering activities that result in discharges to land from the Central Valley Water Board.
- 19. The Conditions in this water quality certification are based on the information contained in the Bureau of Reclamation's application and in the attached "Project Information Sheet." If the Project, as described in the application and the attached Project Information Sheet, is modified or changed, this Certification is no longer valid until amended by the Central Valley Water Board.
- 20. 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 the applicable state or federal law. For the purposes of section 401(d) of the Clean Water Act, 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 water quality standards and other pertinent requirements incorporated into this certification.
  - a) If The Bureau of Reclamation or a duly authorized representative of the project fails or refuses to furnish technical or monitoring reports, as required under this Order, or falsifies any information provided in the monitoring reports, the Bureau of Reclamation is subject to civil monetary liabilities, for each day of violation, or criminal liability.
  - b) In response to a suspected violation of any condition of this certification, Central Valley Water Board may require the holder of any federal permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the Central Valley Water Board deems appropriate, provided that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. (Water Code, § 1051, 13165, 13267 and 13383) In response to any violation of the conditions of this certification, the Central Valley Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.

c) The Bureau of Reclamation 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.

- 7 -

21. Staff of the Central Valley Water Board has prepared total maximum daily load (TMDL) allocations that, once approved, would limit methylmercury in storm water discharges to the Sacramento-San Joaquin Delta. The Central Valley Water Board has scheduled these proposed allocations to be considered for adoption. When the Central Valley Water Board adopts the TMDL and once approved by the Environmental Protection Agency, the discharge of methylmercury may be limited from the proposed project. The purpose of this condition is to provide notice to the Bureau of Reclamation that methylmercury discharge limitations and monitoring requirements may apply to this project in the future and also to provide notice of the Central Valley Water Board's TMDL process and that elements of the planned construction may be subject to a TMDL allocation.

#### STORM WATER QUALITY CONDITIONS:

The Bureau of Reclamation shall also satisfy the following additional storm water quality conditions:

- During the construction phase, the Bureau of Reclamation must employ strategies to minimize erosion and the introduction of pollutants into storm water runoff. These strategies must include the following:
  - an effective combination of erosion and sediment control Best Management Practices (BMPs) must be implemented and adequately working prior to the rainy season and during all phases of construction.
- The Bureau of Reclamation must minimize the short and long-term impacts on receiving water quality from the Project by implementing the following post-construction storm water management practices:
  - a) minimize the amount of impervious surface;
  - b) reduce peak runoff flows;
  - c) provide treatment BMPs to reduce pollutants in runoff;
  - ensure existing waters of the State (e.g., wetlands, vernal pools, or creeks) are not used as pollutant source controls and/or treatment controls;
  - preserve and, where possible, create or restore areas that provide important water quality benefits, such as riparian corridors, wetlands, and buffer zones;
  - f) limit disturbances of natural water bodies and natural drainage systems caused by development (including development of roads, highways, and bridges);
  - g) use existing drainage master plans or studies to estimate increases in pollutant loads and flows resulting from projected future development and require incorporation of

structural and non-structural BMPs to mitigate the projected pollutant load increases in surface water runoff;

- h) identify and avoid development in areas that are particularly susceptible to erosion and sediment loss, or establish development guidance that protects areas from erosion/ sediment loss;
- control post-development peak storm water run-off discharge rates and velocities to prevent or reduce downstream erosion, and to protect stream habitat.
- 3. The Bureau of Reclamation shall provide the Central Valley Water Board Contact indicated in this Certification 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 amendments approved. The NOC shall include a map of the project location(s), including final boundaries of any on-site restoration area(s), if appropriate, and representative pre and post construction photographs. Each photograph shall include a descriptive title, date taken, photographic site, and photographic orientation

#### REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON:

George Day, Senior Water Resource Control Engineer Central Valley Regional Water Quality Control Board 364 Knollcrest Drive, Suite 205, Redding, California 96002 gday@waterboards.ca.gov (530) 224-4859

#### WATER QUALITY CERTIFICATION:

I hereby issue an Order certifying that any discharge from the Bureau of Reclamation, R-Drain Check Structure Automation Project (WDID# 5A51CR00090) 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 conditions of this Certification, The Bureau of Reclamation'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*, Fourth Edition, revised October 2011 (Basin Plan).

Any person aggrieved by this action may petition the State Water Quality Control Board to review the action in accordance with California Water Code § 13320 and California Code of Regulations, Title 23, § 2050 and following. The State Water Quality Control Board must receive the petition by 5:00 p.m., 30 days after the date of this action, except that if the thirtieth

day following the date of this action falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Quality Control Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: http://www.waterboards.ca.gov/public\_notices/petitions/water\_quality or will be provided upon request.

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Sr.

(for) Pamela C. Creedon Executive Officer

DLW:sjs

Enclosure: Water Quality Order No. 2003-0017 DWQ

cc w/o Ms. Mary Pakenham-Walsh, U.S. Army Corp of Engineers, Sacramento enclosures: Department of Fish and Wildlife, Region 2, Rancho Cordova U.S. Fish and Wildlife Service, Sacramento Mr. Bill Jennings, CALSPA, Stockton Brett Gray, Rio Linda

cc w/o enclosures

by email: U.S. EPA, Region 9, San Francisco Mr. Bill Orme, SWRCB, Certification Unit, Sacramento

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#### PROJECT INFORMATION

Application Date: 14 October 2015

Application Complete Date: 26 October 2015

Applicant: Bureau of Reclamation 16349 Shasta Dam Boulevard Shasta Lake, CA 96109-8400

Project Name: R-Drain Check Structure Automation Project

Application Number: WDID No. 5A51CR00090

U.S. Army Corps File Number:

Type of Project: Check Structure Automation Replacement

Project Location: Section 28, Township 11 North, Range 4 East Latitude: 38.758° and Longitude: -121.533°

County: Sutter County

Receiving Water(s) (hydrologic unit): Northern Main Canal, which is tributary to the Sacramento River. Marysville Hydrologic Unit No.515.20 - Olivehurst HA

Water Body Type: Streambed/canal

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); 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); Rare, Threatened, or Endangered Species (RARE); 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

Project Description (purpose/goal): The R-Drain Check Structure Automation Project is located 1.5 miles south of the junction of Sankey Road and the Northern Main Canal in Sutter County.

Presently, the existing check structure only has the capacity to move 10 cubic feet per second (cfs) below the NMC. Due to this restriction, over-deliveries to the R-Drain Canal are often required to maintain water balance. At times this results in overtopping the banks of the lower section of the R-Drain Canal. Replacement of the existing antiquated structure with one of similar dimension with automated gate structures and increased capacity would all but eliminate these operational spills and improve water use efficiency in the Natomas Basin. The estimated

volume of these uncontrolled spills is approximately 3,800 acre-feet (af) annually. In addition, implementing this action would be consistent with past and present planning efforts by the Company to improve water use efficiency

The project will replace an existing structure. The footprint of the new structure will be approximately the same as the old. No net change in the quantity of materials placed in the canal will occur with the exception of the addition of 24 cubic yards of rip-rap that will be used to armor the upstream banks of the canal. The rip-rap will perform a secondary function of providing habitat for the giant garter snake: a sensitive species which may be present in the vicinity of the site.

The project will temporarily impact less than 0.02 acre(s) of waters of the United States

Preliminary Water Quality Concerns: Construction activities including soil disturbance, excavation, cutting/filling, and grading activities could result in increased erosion and sedimentation and may impact surface waters with increased turbidity and settleable matter.

**Proposed Mitigation to Address Concerns:** The Bureau of Reclamation will implement Best Management Practices (BMPs) to control sedimentation and erosion. All temporary affected areas will be restored to pre-construction contours and conditions upon completion of construction activities. The Bureau of Reclamation will conduct turbidity and settleable matter testing during in-water work, stopping work if Basin Plan criteria are exceeded or are observed.

Fill/Excavation Area: Approximately 75 cubic yards of native soil or other type of material] will be excavated from <0.02 acres of waters of the United States.

Approximately 75 cubic yards of concrete and 24 cubic yards of riprap will be will be placed into <0.02 acres of waters of the United States.

Dredge Volume: N/A

California Integrated Water Quality System Impact Data: The Project will permanently impact <0.02 acres of streambed/canal from fill/excavation activities.

#### Table 1: Impacts from Fill and/or Excavation Activities

	Permanent			Temporary		
Fill Type	Acres	Linear Feet	Cubic Yards	Acres	Linear Feet	Cubic Yards
Stream Char	nnel					
Stream Total				<0.02		
Total Impacts				<0.02		

Notes

NA Not Applicable

#### United States Army Corps of Engineers Permit Type: Nationwide Permit #3

Department of Fish and Wildlife Lake or Streambed Alteration Agreement: The Bureau of Reclamation did not apply for a Lake or Streambed Alteration Agreement.

**Possible Listed Species:** Federally-threatened Giant Garter Snake (GGS; *Thamnophis gigas*).

Status of CEQA Compliance: The Central Valley Water Board has determined that this project meets the Categorical Exemption, under § 15301 of the California Code of Regulations, which exempts operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

The central Valley Water Board will file a Notice of Exemption/Determination with the State Clearinghouse within five (5) days of the date of this certification.

**Compensatory Mitigation:** The Central Valley Water Board is not requesting compensatory mitigation for the R-Drain Check Structure Automation Project.

Application Fee Provided: An application fee of \$200.00 was submitted on 19 October 2015 No additional fee is required at this time. A total fee of \$200.00 has 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.





Central Valley Regional Water Quality Control Board

# California Environmental Quality Act Notice of Exemption for Clean Water Act §401 Water Quality Certification

To:	Office of Planning and Research
	1400 Tenth Street, Room 121
	Sacramento, CA 95814

From: California Regional Water Quality Control Board Central Valley Region, Redding Office 364 Knollcrest Drive, Suite 205 Redding, CA 96002

Date: 9 November 2015

Project Title: R-Drain Check Structure Automation Project

Project Location - Specific: Section: 28, Township: 11 North, Range 4 East Latitude: 38.758° and Longitude: -121.533°

The project is located 1.5 miles south of the junction of Sankey Road and the Northern Main Canal in Sutter County.

Project Location - County: Sutter County

#### Description of Nature, Purpose, and Beneficiaries of Project:

The project will replace an existing check structure on the Natomas Central Mutual Water Company's canal system. The footprint of the new structure will be approximately the same as the old. No net change in the quantity of materials placed in the canal will occur with the exception of the addition of 24 cubic yards of rip-rap that will be used to armor the upstream banks of the canal. The rip-rap will perform a secondary function of providing habitat for the giant garter snake: a sensitive species which may be present in the vicinity of the site.

The Mechum Boat Dock Replacement Project consists of replacing the old docks, gangways, steel pilings with new docks, gangways and pilings. The new dock will expand the surface area by 970 square feet. New piling will be installed using a floating and crane with a plastic cushion and 3,000 pound hammer attachment. The project will permanently impact 0.022 acre(s) of waters of the United.

#### Name of Public Agencies Approving Project:

Federal Agencies: The project requires authorization under U.S. Army Corps of Engineers Clean Water Act Section §404, Nationwide Permit #3 (Maintenance).

State Agency approval for Clean Water Act Section §401 Water Quality Certification: California Regional Water Quality Control Board, Central Valley Region, Redding Branch Office. WDID #5A51CR00090

KARL E. LONGLEY SOD, P.E., CHAIR | PAMELA C. CREEDON P.E., BOEE, EXECUTIVE OFFICER

364 Knollcreat Drive, Suite 200, Redding, CA 96002 | www.waterboards.ca.gov/centralvalley

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#### Name of Person or Agency Carrying Out Project:

Bureau of Reclamation 16349 Shasta Dam Blvd, Shasta Lake, CA 96109

#### Exempt Status:

Categorical Exemption §15301

Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

#### Reasons why Project is Exempt:

This project is Categorically Exempt under CEQA §15301

(d) Restoration or rehabilitation of deteriorated or damaged structures, facilities, or mechanical equipment to meet current standards of public health and safety, unless it is determined that the damage was substantial and resulted from an environmental hazard such as earthquake, landslide, or flood;

#### Federal Lead Agency Contact Person:

Ms. Mary Pakenham-Walsh, US Army Corps of Engineers, Sacramento

#### State Lead Agency Contact Person:

George Day, Senior Water Resources Control Engineer Central Valley Regional Water Quality Control Board Redding Branch Office Area Code/Telephone/Extension: (916) 557-5250

Area Code/Telephone/Extension: (530) 224-4859

Signature Control Prover ate Resarie Title:

2015 9 11 Date:

cc: State Clearing House Brett Gray, Natomas Central Mutual Water Company

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#### 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)

The State Water Resources Control Board (SWRCB) finds that;

- Discharges eligible for coverage under these General WDRs are discharges of dredged or fill material that have received State Water Quality Certification (Certification) pursuant to federal Clean Water Act (CWA) section 401.
- Discharges of dredged or fill material are commonly associated with port development, stream channelization, utility crossing land development, transportation water resource, and flood control projects. Other activities, such as land clearing, may also involve discharges of dredged or fill materials (e.g., soil) into waters of the United States.
- CWA section 404 establishes a permit program under which the U.S. Army Corps of Engineers (ACOE) regulates the discharge of dredged or fill material into waters of the United States.
- 4. CWA section 401 requires every applicant for a federal permit or license for an activity that may result in a discharge of pollutants to a water of the United States (including permits under section 404) to obtain Certification that the proposed activity will comply with State water quality standards. In California, Certifications are issued by the Regional Water Quality Control Boards (RWQCB) or for multi-Region discharges, the SWRCB, in accordance with the requirements of California Code of Regulations (CCR) section 3830 et seq. The SWRCB's water quality regulations do not authorize the SWRCB or RWQCBs to waive certification, and therefore, these General WDRs do not apply to any discharge authorized by federal license or permit that was issued based on a determination by the issuing agency that certification has been waived. Certifications are issued by the RWQCB or SWRCB before the ACOE may issue CWA section 404 permits. Any conditions set forth in a Certification become conditions of the federal permit or license if and when it is ultimately issued.
- 5. Article 4, of Chapter 4 of Division 7 of the California Water Code (CWC), commencing with section 13260(a), requires that any person discharging or proposing to discharge waste, other than to a community sewer system, that could affect the quality of the waters of the State,<sup>1</sup> file a report of waste discharge (ROWD). Pursuant to Article 4, the RWQCBs are required to prescribe waste discharge requirements (WDRs) for any proposed or existing discharge unless WDRs are waived pursuant to CWC section 13269. These General WDRs fulfill the requirements of Article 4 for proposed dredge or fill discharges to waters of the United States that are regulated under the State's CWA section 401 authority.

<sup>&</sup>quot;"Waters of the State" as defined in CWC Section 13050(c)

- These General WDRs require compliance with all conditions of Certification orders to ensure that water quality standards are met.
- 7. The U.S. Supreme Court decision of Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers, 531 U.S. 159 (2001) (the SWANCC decision) called into question the extent to which certain "isolated" waters are subject to federal jurisdiction. The SWRCB believes that a Certification is a valid and enforceable order of the SWRCB or RWQCBs irrespective of whether the water body in question is subsequently determined not to be federally jurisdictional. Nonetheless, it is the intent of the SWRCB that all Certification conditions be incorporated into these General WDRs and enforceable hereunder even if the federal permit is subsequently determed invalid because the water is not deemed subject to federal jurisdiction.
- The beneficial uses for the waters of the State include, but are not limited to, domestic and municipal supply, agricultural and industrial supply, power generation, recreation, aesthetic enjoyment, navigation, and preservation and enhancement of fish, wildlife, and other aquatic resources.
- Projects covered by these General WDRs shall be assessed a fee pursuant to Title 23, CCR section 3833.
- 10. These General WDRs are exempt from the California Environmental Quality Act (CEQA) because (a) they are not a "project" within the meaning of CEQA, since a "project" results in a direct or indirect physical change in the environment (Title 14, CCR section 15378); and (b) the term "project" does not mean each separate governmental approval (Title 14, CCR section 15378(c)). These WDRs do not authorize any specific project. They recognize that dredge and fill discharges that need a federal license or permit must be regulated under CWA section 401 Certification, pursuant to CWA section 401 and Title 23, CCR section 3855, et seq. Certification and issuance of waste discharge requirements are overlapping regulatory processes, which are both administered by the SWRCB and RWQCBs. Each project subject to Certification requires independent compliance with CEQA and is regulated through the Certification process in the context of its specific characteristics. Any effects on the environment will therefore be as a result of the certification process, not from these General WDRs. (Title 14, CCR section 15061(b)(3)).
- Potential dischargers and other known interested parties have been notified of the intent to adopt these General WDRs by public hearing notice.
- All comments pertaining to the proposed discharges have been heard and considered at the November 4, 2003 SWRCB Workshop Session.
- The RWQCBs retain discretion to impose individual or general WDRs or waivers of WDRs in lieu of these General WDRs whenever they deem it appropriate. Furthermore, these General WDRs are not intended to supersede any existing WDRs or waivers of WDRs issued by a RWQCB.

IT IS HEREBY ORDERED that WDRs are issued to all persons proposing to discharge dredged or fill material to waters of the United States where such discharge is also subject to the water quality certification requirements of CWA section 401 of the federal Clean Water Act (Title 33 United States Code section 1341), and such certification has been issued by the applicable RWQCB or the SWRCB, unless the applicable RWQCB notifies the applicant that its discharge will be regulated through WDRs or waivers of WDRs issued by the RWQCB. In order to meet the provisions contained in Division 7 of CWC and regulations adopted thereunder, dischargers shall comply with the following:

- Dischargers shall implement all the terms and conditions of the applicable CWA section 401 Certification issued for the discharge. This provision shall apply irrespective of whether the federal license or permit for which the Certification was obtained is subsequently deemed invalid because the water body subject to the discharge has been deemed outside of federal jurisdiction.
- Dischargers are prohibited from discharging dredged of fill material to waters of the United States without first obtaining Certification from the applicable RWQCB or SWRCB.

#### CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on November 19, 2003.

- AYE: Arthur G. Baggett, Jr. Peter S. Silva Richard Katz Gary M. Carlton Nancy H. Sutley
- NO: None.
- ABSENT: None.
- ABSTAIN: None.

Clerk to the Board