



Central Valley Regional Water Quality Control Board

2 February 2024

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NOTICE OF APPLICABILITY FOR COVERAGE UNDER ORDER WQ 2022-0048-DWQ, ORDER FOR CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND WASTE DISCHARGE REQUIREMENTS FOR RESTORATION PROJECTS STATEWIDE, 2023 MWT LEVEE MODIFICATION AND HABITAT RESTORATION PROJECT, PHASE B (WDID#5A34CR00884), SACRAMENTO COUNTY

On 29 December 2023, Reclamation District 2110 submitted a Notice of Intent (NOI) to enroll under and comply with State Water Resources Control Board (State Water Board) Order No. WQ 2022-0048-DWQ, Order for Clean Water Act Section 401 Water Quality Certification and Waste Discharge Requirements for Restoration Projects Statewide (Order).

The Central Valley Water Quality Control Board (Central Valley Water Board) has reviewed your enrollment materials and finds the 2023 MWT Levee Modification and Habitat Restoration Project, Phase B (Project) meets the requirements of, and is hereby enrolled under, Order No. WQ 2022-0048-DWQ. You may proceed with your Project in accordance with the Order. This Notice of Applicability is being issued under the General Certification Order pursuant to Section 3838 of the California Code of Regulations.

A copy of [Order No. WQ 2022-0048-DWQ](https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2022/wqo2022-0048-dwq.pdf) (https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2022/wqo2022-0048-dwq.pdf) can be found on the State Water Resources Control Board's General Orders webpage.

Please familiarize yourself with the requirements of Order No. WQ 2022-0048-DWQ. You are responsible for complying with all applicable Order requirements. Coverage under the Order is no longer valid if the Project (as described) is modified. Failure to comply with Order No. WQ 2022-0048-DWQ constitutes a violation of the California Water Code and may result in enforcement action or termination of enrollment under the Order.

MARK BRADFORD, CHAIR | PATRICK PULUPA, ESQ., EXECUTIVE OFFICER

PROJECT DESCRIPTION:

The 36.57-acre Project consists of targeted levee degrades to the East and Southwest Levees of the McCormack-Williamson Tract (MWT) to facilitate restoration within the tract and reduce flood risk within the Delta region of Sacramento County around the town of Walnut Grove. This includes construction of a flood weir on the east levee, completing a repair to the west levee, and degrading a large section of the southwest levee to tidal elevations to improve tidal hydrology to the tract. This will increase tidal marsh restoration benefits, improve water quality via improved tidal flows, and provide associated fish and aquatic food web habitat benefits on the tract. Additionally, soil and sediment excavated from levee degrade work will be beneficially reused in the dry northwest corner of MWT inside the tower ring levee areas as substrate for riparian habitat enhancement.

The 2023 MWT Phase B Project will lower approximately 1,200 feet of the MWT East Levee, from approximately Station 435+00 to Station 447+00, from existing elevations (between 18.0 and 20.0 feet) to 11.1 feet¹. Lowering the elevation of the MWT East Levee will restore fluvial hydrology, sediment deposition processes, and regular riverine floodplain inundation to the interior of the MWT. Degrading this section of the levee will allow it to act as a weir, bringing tidal water into the tract during flow events in Lost Slough above the 11.1-foot water surface elevation.

Excavation of the East Levee within the degrade area will occur to an elevation 8.6. 2.5 feet of Light Class rock scour protection (RSP) (i.e., 6- to 15-inch diameter rock) will be placed on top of the excavated surface to bring the finish grade to elevation 11.1 feet. Flows are anticipated to reach higher velocity in an approximately 250-foot section of the degrade. In this section, the levee will be excavated to 5.1-foot elevation and then 2.5 feet of light class and 3.5 feet of ¼-ton RSP will be placed on top of the excavated surface to bring the finish grade to elevation 11.1 feet.

Within the levee degrade area, levee slopes below the target degrade elevations will be excavated and graded to a 4H:1V slope on both sides (slough and tract sides). Then light class RSP will extend approximately 10 feet beyond the slough side levee toe to protect against erosion/scour from the approaching flow and approximately 2.5 feet of light class and 3.5 feet of ¼-ton RSP will be placed on the tract side slope and for 25 feet beyond the tract side levee toe to dissipate energy and reduce the potential erosion/scour from water overtopping the degraded levee. Material excavated from the degrade activities will be disposed of as described in the following “Beneficial Material Re-use Areas” section. Approximately 36,800 cubic yards of levee material will be excavated from the East Levee degrade and approximately 21,600 cubic yards of RSP will be placed in the East Levee footprint to create the weir. Work will occur within a total of 3.59 acres of permanent disturbance for levee degrade and RSP placement and will include approximately 4.93 acres of temporary construction easement and access disturbance.

In addition, the Lowering of the MWT Southwest Levee will allow flood flows to pass out of MWT without causing a surge effect and will reintroduce tidal exchange to MWT. Portions of the MWT Southwest Levee breached during flooding in 2023 creating three

“flow channels” in the area of the southwest degrade, with small “islands” of remaining levee in between the channels. A small area at the current south end of the breach was stabilized with RSP during fall 2023 emergency repairs. Project design proposes to lower an approximately 1,000-foot-long section of the MWT Southwest Levee, from approximately Station 182+75 to Station 195+00, from existing elevation 17.0 feet to elevation 2.5 feet. There is a sediment deposit (sediment bench) located on the slough side of the levee that extends for approximately 50 feet along the levee and is approximately 1 to 2 feet deep. Levee excavation in this area will include the excavation and removal of the sediment above the target 2.5-foot elevation.

The MWT southwest levee degrade will occur in two phases. The first phase will degrade the levee from crown elevation to 6.1 feet elevation, the mean higher high water (MHHW) elevation. This work will generally be done in dry conditions, above the MHHW elevation, except for temporary placement of rock in the “flow channels” to reach the “islands” to degrade them to the MHHW. To create access to these “islands” created during the winter of 2022/23 flood events, large rocks (rip rap) would be placed across the “flow channels”, up to approximately MHHW elevation, from the north or south to allow construction equipment to access. The equipment would then be used to degrade the higher parts of the islands to the MHHW. Following removal of the islands, the large rock placed to cross the flow channels would be removed. This phase will also include the removal of the stabilization at the south end of the current breach during emergency repairs. Work in Phase 1 will be timed to occur during low tide as much as possible. Following degrade of the higher parts of the “islands” and the existing levee to MHHW., excavation will occur from 6.1-foot elevation to 2.5-foot elevation. This Phase 2 work will generally be in wet conditions. For the work below the MHHW level, excavation will start from the land side toward the water side, leaving a “notch” or berm remaining of the levee to prevent complete inundation and connection between Dead Horse Cut and the interior of the tract. The notch will then be degraded once all other excavations are completed finishing the connection. Material excavated from the degraded activities will be disposed of as described in the following “Beneficial Material Re-use Areas” section.

The levee degrade will also include re-grading the cut levee slopes (at either end of the breach) to 7H:1V slopes up to the levee tops. These slopes will then be covered with approximately 2,492 cubic yards of RSP to ensure the slopes do not erode. In addition, to support the degrade and future maintenance of this area, a turnaround area will be constructed at the north end of the breach toward the tract side of the levee. The turnaround area will be constructed with soil generated from the levee degrade deposited to shape the turnaround and build it to the target elevation above the MHHW elevation. Approximately 10,630 cubic yards of soil (0.94-acre) will be placed to create the turnaround area and approximately 26,650 cubic yards of levee material will be excavated from the Southwest Levee degrade. Work will occur within a total of 3.93 acres of permanent disturbance for levee degrade and RSP placement and will include approximately 6.36 acres of temporary construction easement and access disturbance.

An approximately 500-foot-long segment of the MWT West Levee was breached during

the 2017 flood event on MWT. Repairs of this breach sloped inward (toward the center of the levee) from both directions and filled in the breach to an elevation of approximately 10 feet (at the lowest central point). This levee breached again in early 2023 in this lowest central section. Emergency repairs in September and October 2023 once again filled in this breach area to approximately 10-foot elevation. As part of the 2023 Phase B Project, the full 500-foot segment of the West Levee will be built back up to full levee height (approximately 14-foot elevation) with 2H:1V slopes. The repair will consist of placement of approximately 2,300 cubic yards of rock scour protection to approximately 13-foot elevation, then placement of sand, gravel, and aggregate base for 1 foot at the crown surface of the levee for a drivable surface. The work will encompass a total of 0.74-acre of permanent disturbance for levee repair and an additional 1.28 acres of temporary construction easement and temporary disturbance for construction of the levee repairs.

Project elements that affect aquatic resources include the placement of riprap within waters to create the East Levee weir and stabilize the degraded levees after the full degrade along the Southwest Levee, and placement of soil fill at the Southwest Levee to create the turnaround area. The Project will temporarily impact 4.58 acres/5,474 linear feet and permanently impact 1.88 acres/3,820 linear feet of stream bed and permanently impact 4.29 acres of riparian habitat. Temporarily impacted areas will be restored to pre-Project condition.

PROJECT LOCATION:

The Project is located immediately downstream from the confluence of the Cosumnes and Mokelumne Rivers in the North Delta region. The approximate center of the Project area is located at latitude 38.259675 and longitude -121.46817.

PROJECT SCHEDULE:

Construction of the 2023 MWT Phase B Project is anticipated to start in spring or early summer of 2024 and would take approximately 1 year (one construction season) to complete. Construction would occur in the dry season, likely April through end of November. Upon approval from the California Department of Fish and Wildlife (CDFW), United States Fish and Wildlife Service (USFWS), and National Marine Fisheries Service (NMFS), all in-water work shall be limited to August 1 through November 1, a timeframe when federally listed fish are least likely to be present in the waterways surrounding the MWT. Construction equipment would be mobilized and demobilized within the same construction season. Construction would begin on the levees with work on the top of the levees and degrading down to near the MHHW elevation (dry excavation) followed by work below the MHHW (wet excavation). Work below the MHHW elevation on the levees and for the fish stranding prevention berm cuts would be timed as much as possible to occur during low tide. Work on the West Levee repair and within the Northwest corner of the MWT would not affect waters of the US and therefore would not be restricted to the in-water work window.

APPLICATION FEE RECEIVED:

\$796.00 was received on 8 December 2023.

The fee amount was determined as required by California Code of Regulations, title 23, sections 3833(b)(3) and 2200(a)(3) and was calculated as category D - Ecological Restoration and Enhancement Projects (fee code 85) with the dredge and fill fee calculator.

CALIFORNIA ENVIRONMENTAL QUALITY ACT:

On 10 February 2022, the California Department of Water Resources (DWR), as lead agency, certified a Final Environmental Impact Report (FEIR) (State Clearinghouse (SCH) No. 2003012112) for the Project and filed a Notice of Determination (NOD) at the SCH on 18 November 2022. On 29 August 2022, DWR certified a Final Supplemental EIR for the MWT Project and filed a NOD with the SCH on 2 September 2022. The Central Valley Water Board is a responsible agency under CEQA (Public Resources Code, section 21069) and in making its determinations and findings, must presume that DWR's certified environmental document comports with the requirements of CEQA and is valid. (Public Resources Code, section 21167.3). The Central Valley Water Board has reviewed and considered the environmental document and finds that the environmental document prepared by DWR addresses the Project's water resource impacts. (California Code of Regulations, title 14, section 15096, subd. (f).) The environmental document includes the mitigation monitoring and reporting program (MMRP) developed by DWR for all mitigation measures that have been adopted for the Project to reduce potential significant impacts. (Public Resources Code, section 21081.6, subd. (a)(1); California Code of Regulations, title 14, section 15091, subd. (d).)

AVOIDANCE AND MINIMIZATION MEASURES:

Avoidance and minimization measures and proposed mitigation measures that will be incorporated into the project to protect waters of the United States are provided below. These measures are copied from the Biological Assessment for the project as well as from the Supplemental Environmental Impact Report.

- During in-water work, construction equipment shall be operated from an upland berm/levee. Equipment will not be operated in water. Equipment will avoid disturbing woody material and vegetation that is outside the 2023 Phase B Project's construction footprint. Prior to excavation or rock placement, equipment operators will initiate benign disturbance such as agitating water with excavator buckets before scooping or placing material.
- Silt curtains, sediment booms, or other appropriate turbidity control methods will be installed and maintained during in-water work to prevent silt from entering surrounding waterways and downstream reaches. Siltation control devices will be inspected regularly, and any sediment removed from them shall be used as landform grading fill or disposed of in areas above the tidal inundation zone on the tract.

- A qualified inspector will perform water quality monitoring for turbidity in the project area during in-water work. If turbidity levels exceed applicable water quality objectives outlined in permit conditions for the 2023 Phase B Project, in-water work will be delayed until adequate turbidity control measures are in place.
- To minimize the amount of in-water work, landside construction will occur prior to the inundation of the MWT interior and work on the waterside levees will be timed to occur during low tide when feasible.
- The amount and spatial extent of RSP material used to protect the levee from erosion shall not exceed the minimum amount required.
- Prior to initiation of any work, a Stormwater Pollution Prevention Plan (SWPPP) including Best Management Practices (BMPs) to avoid erosion will be developed for the MWT Phase B Project. BMPs described in the SWPPP will be implemented throughout all phases of construction in areas where silt and/or earthen fill have the potential to enter waterways. The SWPPP will include, but not be limited to, the following list of BMPs to avoid and minimize potential effects from hazards and hazardous materials:
 - Equipment staging areas will be located within the MWT interior away from waterways and sensitive resources and no potentially hazardous materials will be stored in a location where there is potential to enter surrounding waterways and/or contaminate aquatic resources.
 - Routine washing and servicing of construction equipment and vehicles will occur in upland areas (e.g., designated staging or parking areas). Due to the size of the MWT Action Area, refueling and minor maintenance may take place at the work site if chemical containment equipment and cleanup materials are available at the work site.
 - On-site vehicles will be monitored for fluid leaks and receive daily inspection and as-needed maintenance to reduce the chance of leakage.
 - Bulk fuel or lubricating oil dispensers will have a valve that must be manually held open to allow the flow of fuel into construction vehicles. ○ Construction equipment used for in-water work will employ a double containment system for diesel and oil fluids. Additionally, equipment will use hydraulic fluid that does not contain organophosphate esters.
 - All construction materials with the potential to pollute runoff will be handled with care and stored under cover or otherwise contained (e.g., surrounded by berms) when rain is forecast or during wet weather.
 - Materials, fuels, liquids and lubricants, and equipment supplies will be stored in upland areas in a neat, orderly manner, in tightly sealed containers with the original manufacturer's label, and in an enclosure if possible.

- Any hazardous materials will be stored, labeled, and used according to local, state, and federal regulations.
- If drums must be stored without overhead cover, they will be stored at a slight angle to reduce corrosion and ponding of rainwater on the lids.
- Manufacturer's recommendations for proper use and disposal of a product will be followed. Substances will not be mixed with one another unless recommended by the manufacturer.
- Whenever possible, all of a product will be used before disposal of its container.
- If surplus product must be disposed of, the manufacturer or the local- and state-recommended methods for proper disposal will be followed.
- All waste that could attract predators on native aquatic or terrestrial species will be properly contained, removed from the work site, and disposed of each day.

REPORTING AND NOTIFICATION REQUIREMENTS

The Permittee shall follow notification and reporting requirements described in this Notice of Applicability (NOA), and those found in Attachment D of the Order WQ 2022-0048-DWQ, unless specified as an optional requirement and excluded from this NOA.

1. Annual Reporting

The Permittee shall submit an Annual Report each year within one month of the anniversary of the effective date of this Notice of Applicability. Annual reporting shall continue until the active discharge period is complete and the project enters the post-construction monitoring phase where upon the Permittee shall annually submit a Post-Construction Monitoring Report (Report Type 2) The Post-Construction Monitoring Report shall be submitted on the anniversary of the date that the project restoration activities were completed.

The Annual Report and Post Construction Monitoring Report shall include the information specified in Attachment D, Part A of Order No. WQ 2022-0048-DWQ. The Permittee shall submit the report in accordance with the report submittal instructions in Attachment D of Order No. WQ 2022-0048-DWQ and email it to centralvalleysacramento@waterboards.ca.gov and cc Peter Minkel at Peter.Minkel2@waterboards.ca.gov.

2. Notification for In-Water Work and Diversions

The project proponent shall notify the Water Board at least forty-eight (48) hours prior to initiating work in flowing or standing water or stream diversions. Notification may be via e-mail, delivered written notice, or other verifiable means.

3. Water Quality Monitoring Plan for In-Water Work or Diversions

A Water Quality Monitoring Plan shall be submitted to the approving Water Board for acceptance at least thirty (30) days in advance of commencement of project activity. Standards for in-water work or diversions are discussed in General In-Water Measures, specifically IWW-6, presented in Attachment A. The Permittee shall comply with the approving Water Board-specific water quality control plan water quality objectives and reporting requirements.

4. Environmental Monitoring

Per General Protection Measure 5 (GPM-5) of the Order, a resource specialist shall ensure that all applicable protective measures are implemented during project construction. The resource specialist shall have authority to stop any work if they determine that any permit requirement is not fully implemented. The resource specialist shall prepare and maintain a monitoring log of construction site conditions and observations, which will be kept on file.

NOTICE OF COMPLETION:

Upon completion of the Project, you shall submit a Notice of Completion (NOC) no later than 30 days after Project completion. The NOC shall demonstrate the Project was carried out in accordance with the Project description, include a map of the Project location with final boundaries of the restoration area, and include post-project photographs. More information on the NOC is listed in section B.6 of the Order.

If you have questions concerning this matter, please contact Peter Minkel by phone at (916) 464-4684 or by email at Peter.Minkel2@waterboards.ca.gov.

Original Signed by Anne Walters for:

Patrick Pulupa
Executive Officer

Attachments: Figure 1 – Project Location Map
Figure 2 – Project Components
Figure 3 – Impacts of East Levee Degrade
Figure 4 – Impacts of Southwest Levee Degrade
Figure 5 – Impacts of West Levee Repair

cc: Distribution List, page 9

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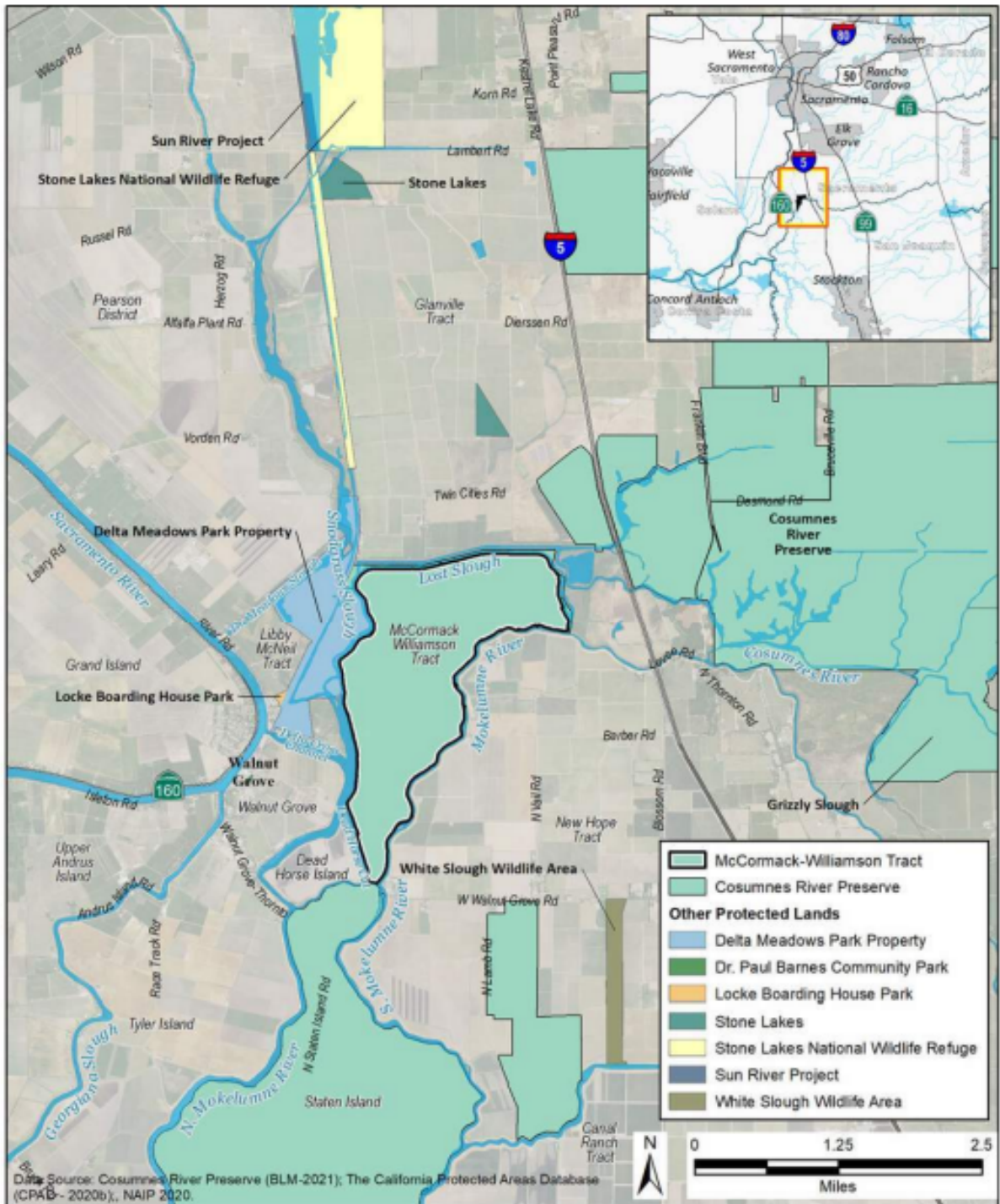


Figure Source: GEI Consultants, Inc. 2022.

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Figure 1 – Project Location Map



Figure 3 – Impacts of East Levee Degrade



Figure 4 – Impacts of Southwest Levee Degrade



Figure Source: GEI Consultants, Inc. 2023.

Figure 5 – Impacts of West Levee Repair