

INFORMATION SHEET

ORDER R5-2015-XXXX
PANOCHÉ VALLEY SOLAR, LLC
PANOCHÉ VALLEY SOLAR PROJECT
SAN BENITO COUNTY

On 4 November 2014, Panoche Valley Solar, LLC (Discharger) submitted a 401 Water Quality Certification application package and on 30 January 2015, submitted a revised application that also serves as a Report of Waste Discharge (ROWD) for proposed discharge of fill to waters of the State resulting from the construction and operation of a utility-scale solar photovoltaic energy generating facility, known as the Panoche Valley Solar Facility (the Project), on private lands in San Benito County, California. Additional ROWD information was submitted on 9 February and 5 March. The Project's footprint is approximately 2,506 acres. The Project footprint is approximately two miles north of the intersection of Panoche Road and Little Panoche Road, in eastern San Benito County. The Project is approximately two miles southwest of the Fresno County Line and the Panoche Hills, and approximately 15 miles west of Interstate 5 and the San Joaquin Valley. The property is currently used for cattle grazing and has been used for irrigated agriculture in the past.

The Project footprint is planned to avoid impacts to natural drainages and wetland areas to the greatest extent possible while achieving the Project's objectives. The Project is also designed to maintain the pre-development hydrology of the site through use of low impact development techniques including construction of specially engineered low water crossings and arched pipe culverts in drainage crossings necessary for construction of the perimeter safety road. Best management practices will also be implemented to decrease impacts to waters of the State through FEIR and SEIR approved mitigation measures and the National Pollution Discharge Elimination System Permit for construction storm water discharges.

The Project drains by sheet flow and small ephemeral drainages to Las Aguilas and Panoche Creeks. In general, a majority of drainages are formed in topography in the rolling hills to the east and west outside the Project boundary, concentrating minimal short-duration flows in small drainages. In most of the drainages, flow events do not appear to maintain the volume and/or duration required to establish an ordinary high water mark (OHWM) which was used by the U.S. Army Corps of Engineers (Corps) to identify portions of five drainages as jurisdictional for Clean Water Act Section 404 permitting purposes. Where the OHWM was no longer visible, the end of the drainage was noted and the Corps determined its jurisdiction ended. The Discharger applied to the California Department of Fish and Wildlife (CDFW) for a Lake and Streambed Alteration agreement for the Project. CDFW regulates activities that alter habitat in the channel, bed, and bank of streams, which encompasses a larger area than the Corps jurisdiction. As the State Water Resources Control Board does not have a procedure for delineating the extent of a water of the State, these WDRs base impacts to waters of the State to be consistent with the area used by CDFW. The Central Valley Regional Water Quality Control Board (Central Valley Water Board) is issuing these Waste

Discharge Requirements to ensure there is mitigation for impacts to waters of the State that are not subject to the jurisdiction of the Corps. The Central Valley Water Board will issue a separate Clean Water Act §401 Water Quality Certification for the impacts to the federal jurisdictional areas within the Project.

The prohibitions in this Order are largely based on prohibitions in the Water Quality Control Plan for the Tulare Lake Basin, Second Edition, revised January 2004 (Basin Plan) or parts of the California Code of Regulations and California Water Code that restrict discharges to those proposed by the Discharger and evaluated by and authorized by the Central Valley Water Board. Discharge specifications in this Order are largely designed to ensure discharges meet the water quality objectives listed in the Basin Plan or to ensure the Discharger implements measures it proposed and/or are necessary to protect water quality.

Avoidance of impacts to waters of the State was a primary planning consideration in establishing the location of infrastructure within the Project. Due to the effort in avoiding waters of the State, the Project avoids impacts to 6.179 acres of the 14.767 acres (29,996 linear feet), or 42% of the on-site waters within the Project footprint. To mitigate for the loss of waters of the State, and to comply with the goals of the California Wetlands Conservation Policy (Executive Order W-59-93, signed 23 August 1993), which include ensuring "no overall loss" and achieving a "...long-term net gain in the quantity, quality, and permanence of wetland acreage and values in California in a manner that fosters creativity, stewardship, and respect for private property ...," the Discharger will enhance, create, and restore a total of 11.96 acres of drainages, vernal pools, and wetlands. The Discharger is permanently protecting three off-site open space preserves (Conservation Lands) with a combined area of 24,176 acres under conservation easements and will implement long-term management for the preserves. The creation, enhancement, and restoration areas are located within the Conservation Lands. Additionally, approximately 716,853 linear feet (approximately 136 miles) of streams, drainages, and creeks within the Conservation Lands will be preserved in perpetuity. In summary, permanent impacts to 8.710 acres and 21,357 linear feet of waters of the State and waters of the United States will be mitigated by the creation, enhancement, or restoration of 11.96 acres of drainages and wetlands and permanent protection of three off-site open space preserves with 716,853 linear feet of streams, drainages, and creeks, resulting in a creation/ enhancement/ restoration ratio of 1.4 to 1, and a preservation ratio of 19.5 to 1.

The mitigation ratios applied for permanently impacted waters are consistent with the U.S. Army Corps of Engineers' and the Environmental Protection Agency's Compensatory Mitigation for Losses of Aquatic Resources, Final Rule (73 FR 19594-19705) to provide permittee-responsible compensatory mitigation of "no net loss" of wetland acreage and function. The Discharger submitted a wetland mitigation and monitoring plan which includes a functional assessment of the proposed mitigation areas and demonstrates that implementation of the plan will result in a net increase in

form and function of aquatic resources. The proposed Order will require implementation of the mitigation plan.

The Discharger has proposed many mitigation measures that are included in this Order to ensure protection of water quality during development of the Project. The measures, an antidegradation analysis, and best practicable treatment or control are discussed in detail in the Order. Maintaining compliance with this Order will result in compliance with the State Water Resources Control Board Resolution No. 68-16 (Statement of Policy with Respect to Maintaining High Quality of Waters in California).