

## Central Valley Regional Water Quality Control Board

14 August 2014

Rich Marovich  
Solano County Water Agency  
810 Vaca Valley Parkway, Suite 203  
Vacaville, CA 95688

CERTIFIED MAIL  
7013 2250 0000 3465 2657

***ORDER AMENDING CLEAN WATER ACT §401 TECHNICALLY CONDITIONED WATER QUALITY CERTIFICATION; SOLANO COUNTY WATER AGENCY, WINTERS PUTAH CREEK NATURE PARK CHANNEL REALIGNMENT PROJECT (WDID#5A48CR00105A1), SOLANO COUNTY***

This Order responds to the 1 April 2014 request for an amendment of the Winters Putah Creek Nature Park Channel Realignment Project § 401 Water Quality Certification (WDID#5A48CR00105). The original Water Quality Certification (Certification) was issued on 13 September 2011. The requested amendment is hereby approved. The original Certification is therefore amended as described below. Please attach this document to the original Certification.

### **AMENDMENT:**

The Solano County Water Agency (Applicant) requested an amendment to the original Certification to include minor changes to the project description (described below). This amendment is limited to the changes in the project description and does not alter the amount of temporary or permanent impacts to waters of the United States from that provided in the original Certification dated 13 September 2011.

The Project Information Sheet is amended as shown in underline/strikeout format below:

**Project Description:** The 90.9-acre Winters Putah Creek Nature Park Channel Realignment Project consists of rehabilitating approximately 6,000 linear feet of Putah Creek from an incised and over widened channel into a self-maintaining natural channel. The project will improve the riparian corridor through floodplain expansion and will provide a foundation of self sustaining fish and wildlife habitat. Putah Creek's current condition of slow moving water and lack of shade results in warm water temperatures and low dissolved oxygen.

The project site extends from approximately 1,000 feet above the Winters Car Bridge downstream to the Highway 505 overcrossing, as indicated in Figure 1.

The Winters Putah Creek Nature Park Channel Realignment Project consists of:

- (a) riparian vegetation removal and revegetation;
- (b) stream recontouring;
- (c) bank stabilization;
- (d) removal of percolation dam remnants along stream banks; and
- (e) construction of an approximately 10,000 linear feet, 10-foot-wide pedestrian and bicycle trail along the north and south sides of the stream bank.

The project activities were separated into three phases. Phases one and two have been completed. Phase three activities will include: (1) routing the active stream flow into the re-contoured stream channel, and (2) re-construction of an existing culvert within the floodplain.

[...]

No culverts will be installed, modified, repaired, extended, or removed as part of this project. An existing culvert, located within the southern floodplain of Putah Creek, will be modified to prevent further erosion. The 15-inch diameter culvert will be extended approximately 30 feet. The flow from the outlet will be connected to an underground drainage system (referred to as a French drain) to discharge into Putah Creek. The drainage system will consist of a shallow trench, excavated within the eroded area, to install a 130-foot long perforated pipe covered with gravel.

#### Channel Dewatering and Diversion

In-stream construction work will require dewatering and diversion of surface water. A sheet pile cofferdam will be installed upstream of the Winters Car Bridge. The sheet pile cofferdam will be vibrated into the shallow gravel material along the streambed using a hydraulic vibratory head mounted on an excavator. Silt fencing will be used to act as turbidity curtain to minimize any potential turbidity during the placement of the sheet pile cofferdam.

[...]

The final phase of project activities will require diversion of surface water flow. After the re-contoured segment of the stream is constructed, the active flow from the existing channel will be diverted into the re-contoured segment. The Applicant will install measures (i.e. gravel berms) within the re-contoured segment to dissipate energy and collect sediment within the existing channel. These measures will allow the stream flow to settle prior to continuing downstream into Putah Creek. Once the diversion is completed, the banks of the re-contoured segment will be stabilized to permanently re-route the stream flow into the re-contoured segment. The existing stream segment, located in the northern portion of the project area, will be graded to connect the area to the floodplain. Prior to grading, dewatering may be needed to remove remaining surface water.

The re-contoured segment will be constructed through an area containing a historic wastewater percolation pond. The Central Valley Water Board approved the closure of this pond along with nearby ponds, in a letter dated 24 March 2009. In this letter, Central Valley Water Board staff determined that there does not appear to be any evidence of

residual wastewater sludge or significant concentrations of the analyzed contaminants. This finding was based on the analytical results presented in a 19 January 2009 Report of Findings of Subsurface Soil Sampling and Analysis referenced in the letter.

Additional Technically Conditioned Certification Conditions are added as shown in underline format below:

31. The Applicant shall work with the Central Valley Water to obtain coverage under an NPDES permit if dewatering activities result in discharges into surface water and/or shall obtain Waste Discharge Requirements (WDRs) if dewatering activities result in discharges to land.

32. The Applicant shall provide a complete, final, signed and dated copy of any amendment, modification, revision, renewal, and/or change to the United States Army Corps of Engineers Individual Permit (SPK#2011-00371) and/or the United States Fish and Wildlife Service Biological Opinion (81420-2011-I-0801-1) to the Central Valley Water Board Contact indicated in this Certification within fourteen (14) days of issuance.

**APPLICATION FEE RECEIVED:**


Additional fees of \$1,201.00 were collected for this amendment. Total fees of \$640.00 for the original Certification were submitted to the Central Valley Regional Water Quality Control Board as required by § 3833 (b)(3)(A) and by § 2200 (a)(3) of the California Code of Regulations.

**CENTRAL VALLEY WATER BOARD CONTACT:**

Marisa Van Dyke, Environmental Scientist  
11020 Sun Center Drive #200  
Rancho Cordova, CA 95670-8114  
Marisa.VanDyke@waterboards.ca.gov  
(916) 464-4644

**WATER QUALITY CERTIFICATION:**

I hereby issue an Order amending the existing Clean Water Act, Section 401 Technically Conditioned Water Quality Certification for the Winters Putah Creek Nature Park Channel Realignment Project (WDID#5A48CR00105A1). All other conditions and provisions of the original Water Quality Certification and any previously approved amendments remain in full force and effect, except as modified based on the conditions of this Order. Failure to comply with the terms and conditions of the original Water Quality Certification, previously approved amendments, or of this Order may result in suspension or revocation of the Water Quality Certification.

  
for Pamela C. Creedon  
Executive Officer

cc: Distribution List, page 5



**DISTRIBUTION LIST**

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**California Regional Water Quality Control Board**  
**Central Valley Region**  
**Katherine Hart, Chair**



Matthew Rodriguez  
Secretary for  
Environmental Protection

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Edmund G. Brown Jr.  
Governor

13 September 2011

Rich Marovich  
Solano County Water Agency  
810 Vaca Valley Parkway, Suite 203  
Vacaville, CA 95687

CERTIFIED MAIL  
7010 3090 0000 5044 5653

**CLEAN WATER ACT §401 TECHNICALLY CONDITIONED WATER QUALITY  
CERTIFICATION FOR DISCHARGE OF DREDGED AND/OR FILL MATERIALS FOR THE  
SOLANO COUNTY WATER AGENCY, WINTERS PUTAH CREEK NATURE PARK  
CHANNEL REALIGNMENT PROJECT, (WDID#5A48CR00105), SOLANO COUNTY**

This Order responds to your 20 May 2011 application and supplemental information submitted through 12 August 2011 for the Water Quality Certification of a creek rehabilitation project permanently impacting approximately 14.32 acres/10,560 linear feet of waters of the United States and temporarily impacting approximately 1 acre/10,560 linear feet of waters of the United States.

**WATER QUALITY CERTIFICATION STANDARD CONDITIONS:**

1. This Order serves as a Water Quality Certification (Certification) action that is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and §3867 of Title 23 of the California Code of Regulations (23 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 subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. The validity of any non-denial Certification action shall be conditioned upon total payment of the full fee required under 23 CCR §3833, unless otherwise stated in writing by the certifying agency.
4. This Certification is valid for the duration of the described project. This Certification is no longer valid if the project (as currently described) is modified, or coverage under Section 404 of the Clean Water Act has expired.
5. All reports, notices, or other documents required by this Certification or requested by the Central Valley Regional Water Quality Control Board (Central Valley Water Board) shall be signed by a person described below or by a duly authorized representative of that person.

***California Environmental Protection Agency***

- (a) For a corporation: by a responsible corporate officer such as (1) a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function; (2) any other person who performs similar policy or decision-making functions for the corporation; or (3) the manager of one or more manufacturing, production, or operating facilities if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
  - (b) For a partnership or sole proprietorship: by a general partner or the proprietor.
  - (c) For a municipality, State, federal, or other public agency: by either a principal executive officer or ranking elected official.
6. Any person signing a document under Standard Condition number 5 shall make the following certification, 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."

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

In addition to the above standard conditions, the Solano County Water Agency shall satisfy the following:

1. The Solano County Water Agency shall notify the Central Valley Water Board in writing 7 days in advance of the start of any work within waters of the United States or State. The notification should include the name of the project and the WDID number, and should be sent to the Central Valley Water Board Contact shown on page 9 of this Certification.
2. Except for activities permitted by the United States Army Corps of Engineers under §404 of the Clean Water Act, soil, silt, or other organic materials shall not be placed where such materials could pass into surface water or surface water drainage courses.
3. All areas disturbed by project activities shall be protected from washout or erosion.
4. The Solano County Water Agency 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.
5. All temporarily affected areas will be restored to pre-construction contours and conditions upon completion of construction activities.

6. The Solano County Water Agency shall implement the monitoring and reporting program during in-water construction as described below:

<u>Station</u>	<u>Description</u>
----------------	--------------------

- |     |   |
|-----|---|
| R-1 | Upstream of the project location undisturbed by the dredging operation, and not to exceed 300 feet from the project location. |
| R-2 | Within 300 feet down stream of the project site.  |

All samples should be representative of the volume and nature of the discharge. The time, date, and location of each sample shall be recorded on the sample chain of custody form.

Field test instruments may be used provided that 1) the operator is trained in proper use and maintenance of the instruments; 2) the instruments are calibrated prior to each monitoring event; 3) instruments are serviced and/or calibrated by the manufacturer at the recommended frequency; and 4) field calibration reports are submitted with the monitoring data.

7. The Solano County Water Agency shall perform surface water sampling: 1) when performing any in-water work; 2) in the event that project activities result in any materials reaching surface waters or; 3) when any activities result in the creation of a visible plume in surface waters. The monitoring requirements in Table 1 below shall be conducted at stations R-1 and R-2. The sampling frequency may be modified with written approval from Central Valley Water Board staff.

**Table 1**

Parameter	Unit	Type of Sample	Minimum Sampling Frequency	Required Analytical Test Method
Turbidity	NTU	Grab <sup>(1)</sup>	Every 4 hours during in-water work	(2)
Settleable Material	ml/L	Grab <sup>(1)</sup>	Every 4 hours during in-water work	(2)
Visible construction related pollutants	Observations	Visual Inspections	Continuous throughout the construction period	—
Dissolved Oxygen	mg/L & % saturation	Grab <sup>(1)</sup>	1/Quarter	(2)

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

<sup>(2)</sup> Pollutants shall be analyzed using the analytical methods described in 40 CFR Part 136; where no methods are specified for a given pollutant, method shall be approved by Central Valley Water Board staff.



A surface water monitoring report shall be submitted to the Central Valley Water Board Contact shown on page 9 of this Certification within two weeks of initiation of sampling and every two weeks thereafter. In reporting the monitoring data, the Solano County Water Agency 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 and visual observations, and calculations of the turbidity increase in the receiving water applicable to the natural turbidity conditions specified in Condition 9.

8. The Central Valley Water Board adopted a *Water Quality Control Plan for the Sacramento River and San Joaquin River*, Fourth Edition, revised September 2009 (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 limits are based on water quality objectives contained in the Basin Plan and required as part of this Certification.
9. Activities shall not cause turbidity increases in surface water to exceed:
  - (a) where natural turbidity is less than 1 Nephelometric Turbidity Units (NTUs), controllable factors shall not cause downstream turbidity to exceed 2 NTUs;
  - (b) where natural turbidity is between 1 and 5 NTUs, increases shall not exceed 1 NTU;
  - (c) where natural turbidity is between 5 and 50 NTUs, increases shall not exceed 20 percent;
  - (d) where natural turbidity is between 50 and 100 NTUs, increases shall not exceed 10 NTUs; and
  - (e) 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 as measured in surface waters at sampling location R-2. 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 assessed by prior approval of the Central Valley Water Board staff.

10. Activities shall not cause settleable matter to exceed 0.1 ml/L in surface waters as measured in surface waters within 300 feet downstream of the project.
11. Activities shall not cause dissolved oxygen concentrations to be reduced below 5.0 mg/L for surface waters with designated WARM beneficial uses and 7.0 mg/L for surface waters with designated COLD beneficial uses.
12. The Solano County Water Agency shall notify the Central Valley Water Board immediately if the above criteria for turbidity, settleable matter, dissolved oxygen, oil/grease, or foam are exceeded.
13. 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 work area or

downstream. Solano County Water Agency shall notify the Central Valley Water Board immediately of any spill of petroleum products or other organic or earthen materials.

14. Putah Creek is listed on the Clean Water Act Section 303(d) list for impairment due to mercury. The Central Valley Water Board requests the Solano County Water Agency to coordinate with the Central Valley Water Board Contact shown on page 9 of this Certification in implementing a post-construction water quality mercury monitoring program within 9 months of the issuance of this Certification.

The post-construction water quality monitoring program would include, but not be limited to:

- (a) sampling locations, methods and frequency, laboratory analysis methods, program duration;
- (b) total mercury, methyl mercury, and total suspended sediment concentrations at a minimum; and
- (c) reporting to the Central Valley Water Board.

15. The Solano County Water Agency shall comply with all California Department of Fish and Game requirements and recommendations for the project, including, but not limited to, those requirements described in Streambed Alteration Agreement No. 1600-2011-0100-R2.
16. The Solano County Water Agency shall comply with all United States Fish and Wildlife Service requirements for the project, including but not limited to those requirements described in the Informal Endangered Species Consultation (81420-2011-I-0801-1) provided to the United States Army Corps of Engineers dated 1 September 2011.
17. The use of netting material (e.g., monofilament-based erosion blankets) that could trap aquatic dependent wildlife is prohibited within the project area, as indicated in Figure 1.
18. Construction, dewatering, and if a temporary 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. Construction, dewatering, and removal of temporary obstructions shall not violate Conditions 8 through 11 of this Certification. If water quality criteria are exceeded, the Solano County Water Agency shall notify the Central Valley Water Board immediately.
19. Any temporarily constructed artificial obstructions 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 diverted using gravity flow through temporary culverts/pipes or pumped with the use of hoses.
20. Refueling of equipment within the floodplain or within 300 feet of a waterway is prohibited. If some critical equipment must be refueled within 300 feet of the waterway, strict spill prevention and countermeasures must be implemented to avoid spills. Refueling areas

shall be provided with secondary containment including drip pans and/or placement of absorbent material. No hazardous materials, pesticides, fuels, lubricants, oils, hydraulic fluids, or other construction-related potentially hazardous substances should be stored within a floodplain or within 300 feet of a water body. The Solano County Water Agency 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.

21. Raw cement, concrete or washing thereof, asphalt, drilling fluids or lubricants, paint or other coating material, oil or other petroleum products, or any other substances which could be hazardous to fish and wildlife resulting from or disturbed by project-related activities, shall be prevented from contaminating the soil and/or entering waters of the United States or waters of the State.
22. The Solano County Water Agency shall submit a copy of 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 to the Central Valley Water Board. The Spill Prevention, Containment, and Cleanup Plan should detail the project elements, construction equipment types and location, access and staging, construction sequence, and address the potential of responding to a spill or prevention of spills occurring within the project site.
23. All disturbed areas must be seeded with native seed mix.
24. The Solano County Water Agency must obtain coverage under the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities issued by the State Water Resources Control Board for any project disturbing an area of 1 acre or greater.
25. The Solano County Water Agency shall provide a copy of a project-specific Storm Water Pollution Prevention Plan to the Central Valley Water Board.
26. The Solano County Water Agency will provide a copy of any final reports and/or documents required to fulfill the requirements of the grant awarded under the Proposition 84 California River Parkways Grant Program, Agreement Number R54125-0 to the Central Valley Water Board.
27. The Conditions in this Certification are based on the information in the attached "Project Information." If the information in the attached Project Information Sheet is modified or the project changes, this Certification is no longer valid until amended by the Central Valley Water Board.
28. The mitigation measures specified in the approved Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan for the project, as they pertain to biology, hydrology and water quality impacts, are included in this Certification, as required by California Public Resource Code Section 21081.6 and CEQA Guidelines, California Code of Regulations Section 15097.

29. In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation shall be subject to any remedies, penalties, process, or sanctions as provided for under State and Federal law. The applicability of any State law authorizing remedies, penalties, process, or sanctions for the violation or threatened violation constitutes a limitation necessary to ensure compliance with this Certification.
- (a) If the Solano County Water Agency or a duly authorized representative of the project fails or refuses to furnish technical or monitoring reports, as required under this Certification, or falsifies any information provided in the monitoring reports, the applicant is subject to civil liability, for each day of violation, or criminal liability.
  - (b) In response to a suspected violation of any condition of this Certification, the Central Valley Water Board may require the Solano County Water Agency to furnish, under penalty of perjury, any technical or monitoring reports the Central Valley Water Board deems appropriate, provided that the burden, including cost of the reports, shall be in reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
  - (c) The Solano County Water Agency shall allow the staff(s) 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.
30. The Solano County Water Agency shall provide a Notice of Completion (NOC) no later than 30 days after the project completion. The NOC shall demonstrate that the project has been carried out in accordance with the project's description (and any amendments approved). The NOC shall include a map of the project location(s), including final boundaries of any in situ 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.

#### **ADDITIONAL STORM WATER QUALITY CONDITIONS:**

The Solano County Water Agency shall also satisfy the following additional storm water quality conditions:

1. During the construction phase, the Solano County Water Agency must employ strategies to minimize erosion and the introduction of pollutants into storm water runoff. These strategies must include the following:
  - (a) the Storm Water Pollution Prevention Plan must be prepared during the project planning and design phases and implemented, as appropriate, before construction; and
  - (b) 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.

2. The Solano County Water Agency must minimize the short and long-term impacts on receiving water quality from the Winters Putah Creek Nature Park Channel Realignment Project by implementing the following post-construction storm water management practices and as required by the local agency permitting the project, as appropriate:
- (a) minimize the amount of impervious surface;
  - (b) reduce peak runoff flows;
  - (c) provide treatment BMPs to reduce pollutants in runoff;
  - (d) ensure existing waters of the State (e.g., wetlands, vernal pools, or creeks) are not used as pollutant source controls and/or treatment controls;
  - (e) 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, bridges, trails);
  - (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; and
  - (i) control post-development peak storm water run-off discharge rates and velocities to prevent or reduce downstream erosion, and to protect stream habitat.

**CENTRAL VALLEY WATER BOARD CONTACT:**

Genevieve Sparks, Environmental Scientist  
11020 Sun Center Drive #200  
Rancho Cordova, California 95670-6114  
gsparks@waterboards.ca.gov  
(916) 464-4745

**WATER QUALITY CERTIFICATION:**

I hereby issue an Order certifying that any discharge from the Solano County Water Agency, Winters Putah Creek Nature Park Channel Realignment Project (WDID#5A48CR00105) 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 strict compliance with Solano County Water Agency's project description 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 September 2009.



*for* Pamela C. Creedon  
Executive Officer

Enclosure: Project Information

Attachment: Figure 1, Project Vicinity

cc: See enclosure, page 15



## PROJECT INFORMATION

**Application Date:** 20 May 2011

**Applicant:** Rich Marovich  
Solano County Water Agency  
810 Vaca Valley Parkway, Suite 203  
Vacaville, CA 95687

**Applicant Representatives:** Erik Ringelberg  
BSK Associates  
3140 Gold Camp Drive, Suite 160  
Rancho Cordova, CA 95670

**Project Name:** Winters Putah Creek Nature Park Channel Realignment Project

**Application Number:** WDID#5A48CR00105

**Type of Project:** Stream Rehabilitation Project

**Timeframe of Project Implementation:** In accordance with California Department of Fish and Game requirements, water shall be diverted around the work area and work shall begin after the site is dry or devoid of flowing water. The time period for completing the work within the flowing or standing water of the watercourses shall be restricted to the period of 15 April to when flow is released from the Los Rios Check Dam, and not later than 15 December.

Revegetation, restoration of temporarily impacted areas, and erosion control work is not confined to this time period.

This Certification may be amended to allow in-stream work occurring after flows are released from Los Rios Check Dam, or later than 15 December. Submittal of Department of Fish and Game approval for in-stream work conducted after flow releases, or 15 December, which ever is earlier, must be submitted to the Central Valley Water Board for amendment of this Certification.

Work within the dry portion of the stream zone shall be timed with awareness of precipitation forecasts and likely increases in stream flow and river flood stages. Construction activities within the stream zone shall cease until all reasonable erosion control measures have been implemented prior to all storm events.

Construction equipment and material shall be removed from the floodplain if inundation from potential flooding may occur.

**Project Location:** Section 21 and 22, Township 8 North, Range 1 East, MDB&M.  
Latitude: 38°31'22.53" N and Longitude: 121°57'47.25"W

**County:** Solano County

**Receiving Water(s) (hydrologic unit):** Putah Creek, Sacramento Hydrologic Basin, Valley Putah-Cache Hydrologic Unit #511.00

**Water Body Type:** Streambed, Riparian

**Designated Beneficial Uses:** The *Water Quality Control Plan for the Sacramento River and San Joaquin River*, Fourth Edition, revised September 2009 (Basin Plan) has designated beneficial uses for surface and ground waters within the region. Beneficial uses that could be impacted by the project include, but are not limited to: Municipal and Domestic Water Supply (MUN); Agricultural Supply (AGR); Industrial Supply (IND); Hydropower Generation (POW); Groundwater Recharge (GWR); Water Contact Recreation (REC-1); Non-Contact Water Recreation (REC-2); Warm Freshwater Habitat (WARM); Cold Freshwater Habitat (COLD); Spawning (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/](http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/)

**303(d) List of Water Quality Limited Segments:** Putah Creek, the receiving water for this project, is listed on the 303(d) list for mercury and boron.

The project may impact an already impaired water body. As described in Condition 14 of this Certification, the Central Valley Water Board requests the Solano County Water Agency to coordinate with Central Valley Water Board Contact shown on page 9 of this Certification in implementing a post-construction water quality mercury monitoring program within 9 months of the issuance of this Certification.

The most recent list of approved water quality limited segments can be found at: [http://www.waterboards.ca.gov/water\\_issues/programs/tmdl/integrated2010.shtml](http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2010.shtml).

**Project Description:** The 90.9-acre Winters Putah Creek Nature Park Channel Realignment Project consists of rehabilitating approximately 6,000 linear feet of Putah Creek from an incised and overwidened channel into a self-maintaining natural channel. The project will improve the riparian corridor through floodplain expansion and will provide a foundation of self-sustaining fish and wildlife habitat. Putah Creek's current condition of slow moving water and lack of shade results in warm water temperatures and low dissolved oxygen.

The project site extends from approximately 1,000 feet above the Winters Car Bridge downstream to the Highway 505 overcrossing, as indicated in Figure 1.

The Winters Putah Creek Nature Park Channel Realignment Project consists of:

- (a) riparian vegetation removal and revegetation;
- (b) stream recontouring;
- (c) bank stabilization;
- (d) removal of percolation dam remnants along stream banks; and

- (e) construction of an approximately 10,000 linear feet, 10-foot-wide pedestrian and bicycle trail along the north and south sides of the stream bank.

Proposed restoration will improve the riparian corridor, water quality for aquatic life and wildlife habitat. The channel width will be reduced from approximately 60 to 150 feet to a width of approximately 27 to 28 feet. The streambed will be recontoured to an approximate depth of 1.5 feet. The project will restore form and function in and along Putah Creek, restoring floodplains and beaches to a functional elevation on both banks, maintaining low water temperatures, mobilizing gravel substrate, eliminating invasive weeds, and promoting native vegetation.

The over-widened lower-floodplain terrace will be narrowed and the channel made more shallow through mass grading of the floodplain. Grading will be accomplished with heavy equipment through a series of cut and fill operations, using the surplus overbank material to provide the local channel fill needs.

Three existing ramps historically used for the historic gravel mining and access to a closed rehabilitated wastewater treatment ponds, will be used to access construction staging areas.

No culverts will be installed, modified, repaired, extended, or removed as part of this project.

#### Channel Dewatering and Diversion

In-stream construction work will require dewatering and diversion of surface water. A sheet pile cofferdam will be installed upstream of the Winters Car Bridge. The sheet pile cofferdam will be vibrated into the shallow gravel material along the streambed using a hydraulic vibratory head mounted on an excavator. Silt fencing will be used to act as a turbidity curtain to minimize any potential turbidity during the placement of the sheet pile cofferdam.

While the sheet pile cofferdam is being constructed, water will be diverted using two twin fused 24-inch diameter, 5,400-foot long, high-density polyethylene diversion pipes. The pipes will be floated in the active channel. With the assistance of heavy equipment the diversion pipes will be positioned through the sheet pile cofferdam and anchored in place.

After the sheet pile cofferdam is completed, more flow will be directed through the diversion pipes until all flow has been blocked and Putah Creek has been fully diverted through the diversion pipes.

A dewatering 12-inch mainline will be installed along the diversion pipes to serve as the pickup point for dewatering pumps. Diesel powered dewatering pumps will be located along the edge of the streambed. Power generating equipment will be powering a number of electrical pumps to dewater scours, basins, pools and glory holes from the streambed.

All dewatered flow from the active channel will be filtered before discharging into the tailwater of Putah Creek.

A low, visqueen-covered gravel bar will be installed at the tailwater of the diversion pipes across Putah Creek to maintain a clean channel and prevent backflow into the project site.

Approximately 104,730 cubic yards of native soil will be excavated from 14.32 acres/10,560 linear feet.

Approximately 60,950 cubic yards of native soil and approximately 20,000 cubic yards of washed gravel will be placed into 14.32 acres/10,560 linear feet of waters of the United States.

Approximately 43,780 cubic yards of native soil will be used to form a low terrace outside of the ordinary high water mark. 20,000 cubic yards of washed gravel will be used to form the gravel bar at the tailwater of the diversion pipes to provide aquatic habitat enhancement.

The Winters Putah Creek Nature Preserve Park Channel Realignment Project will result in approximately 14.32 acres/10,560 linear feet or permanent impacts and temporarily impact 1 acre/10,560 linear feet of waters of the United States.

**Preliminary Water Quality Concerns:** Construction activities may impact surface waters with increased turbidity, settleable matter, visible construction related pollutants, and dissolved oxygen.

Putah Creek, the receiving water for this project, is listed on the 303(d) list for mercury and boron. The project may impact an already impaired water body by mobilizing mercury from creek sediment.

**Proposed Mitigation to Address Concerns:** The Solano County Water Agency will implement Best Management Practices to control sedimentation and erosion.

All temporary affected areas will be restored to pre-construction contours and conditions upon completion of construction activities.

The Solano County Water Agency will conduct turbidity, settleable matter, and dissolved oxygen testing during in-water work, stopping work if the Basin Plan criteria are exceeded or are observed.

To address mercury concerns, a post-construction water quality monitoring program has been requested by the Central Valley Water Board, as described in Condition 14 of this Certification.

**Fill/Excavation Area:** Approximately 104,730 cubic yards of native soil will be excavated from 14.32 acres/10,560 linear feet of waters of the United States.

Approximately 60,950 cubic yards of native soil and approximately 20,000 cubic yards of washed gravel will be placed into 14.32 acres/10,560 linear feet of waters of the United States.

Approximately 43,780 cubic yards of native soil will be used to form a low terrace outside of the ordinary high water mark.

**Dredge Volume:** None

**United States Army Corps of Engineer File Number:** SPK#2011-00371

**United States Army Corps of Engineers Permit Number:** Nationwide Permit # 27

**Department of Fish and Game Streambed Alteration Agreement:**  
1600-2011-0100-R2

**Possible Listed Species:** Valley elderberry longhorn beetle, Northwestern pond turtle, Burrowing owl, Vernal pool fairy shrimp, Swainson's hawk, Round-leaved filaree, Pacific lamprey, Brewer's naverretia, Baker's navarretia, Central Valley steelhead, Central Valley Chinook spring, winter, fall/late fall salmon

**Status of CEQA Compliance:** The City of Winters approved the Mitigated Negative Declaration and filed a Notice of Determination on 12 June 2009 (State Clearinghouse Number SCH2008042018).

As a Responsible Agency under California Environmental Quality Act, the Central Valley Water Board reviewed the Mitigated Negative Declaration and found that impacts to water quality were addressed. Mitigation for impacts to water quality is discussed in the "Proposed Mitigation to Address Concerns" section above, and the "Compensatory Mitigation" below.

With regard to the remaining impacts identified in the Mitigated Negative Declaration, the corresponding mitigation measures proposed are within the responsibility and jurisdiction of another public agency, and not within the jurisdiction of the Central Valley Water Board.

**Compensatory Mitigation:** To mitigate for the loss of 14.32 acres of waters of the United States, Solano County Water Agency shall construct, enhance and restore a minimum of 18.4 acres of seasonally flooded riparian wetlands, emergent wetlands and open water channel within the project area as shown and described in *Nationwide Permit 27 Technical Memorandum SPK 2011-00371 Winters Putah Creek Nature Park Restoration* document, dated 25 August 2011.

The Central Valley Water Board is not requesting compensatory mitigation for the Putah Creek Nature Park Channel Restoration Project.

**Application Fee Provided:** Total fees of \$640.00 have been submitted to the Central Valley Water Board as required by 23 CCR §3833b(3)(A) and by 23 CCR §2200(e).

## DISTRIBUTION LIST

United States Army Corp of Engineers  
Sacramento District Office  
Regulatory Division  
650 Capitol Mall, Suite 5-200  
Sacramento, CA 95814-4708

United States Fish & Wildlife Service  
Sacramento Fish & Wildlife Office  
2800 Cottage Way  
Sacramento, CA 95825

Jeff Drongesen  
Department of Fish and Game  
1701 Nimbus Road, Suite A  
Rancho Cordova, CA 95670

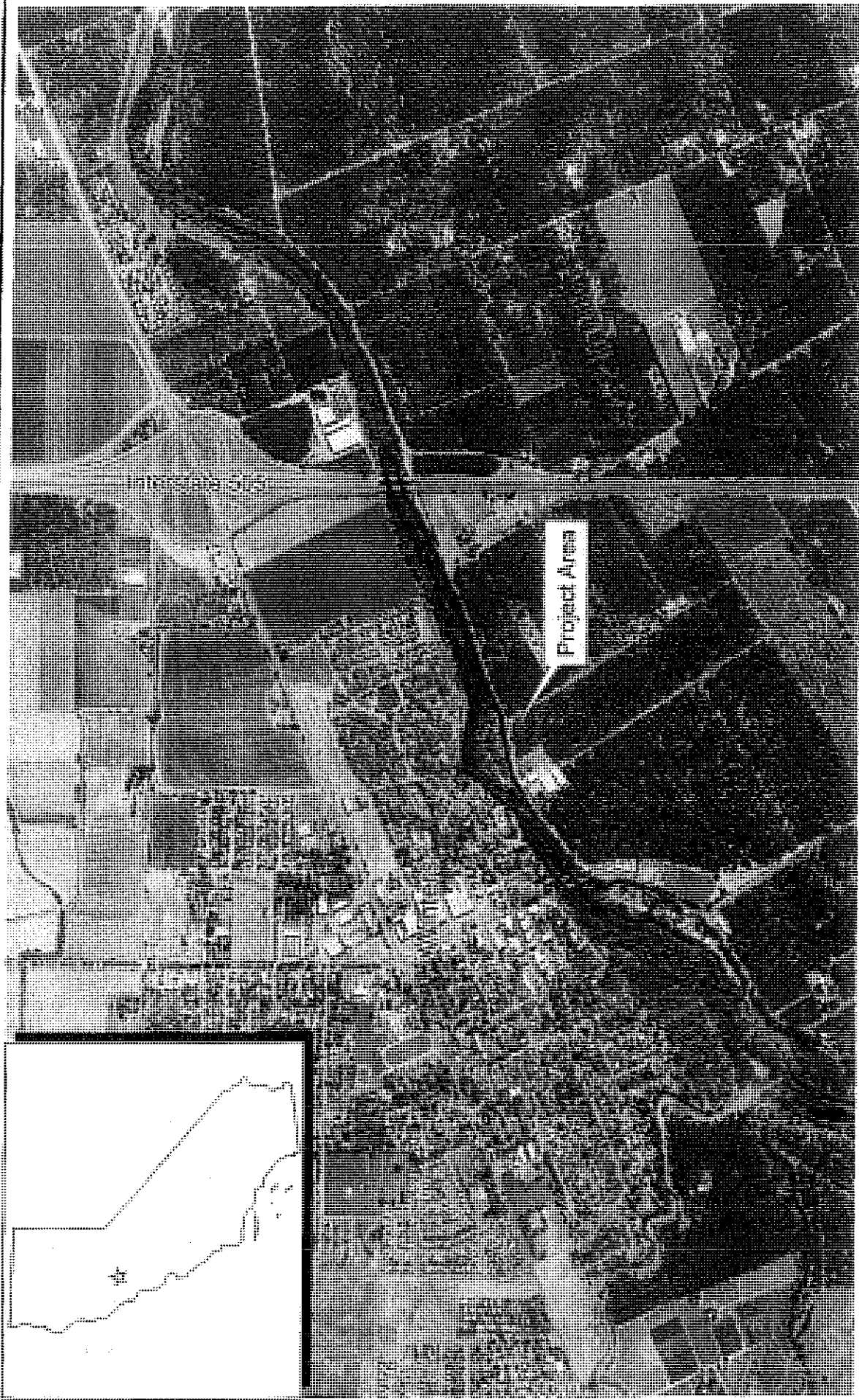
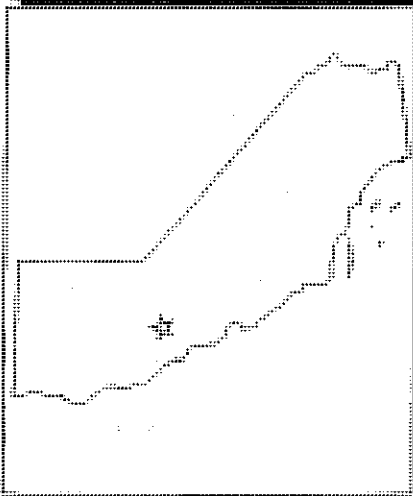
Bill Jennings  
CA Sportfishing Protection Alliance  
3536 Rainier Avenue  
Stockton, CA 95204

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

(Electronic copy only) Dave Smith  
Wetlands Section Chief (W-3)  
United States Environmental Protection Agency

Erik Ringelberg  
BSK Associates  
3140 Gold Camp Drive, Suite 160  
Rancho Cordova, CA 95670





Coordinate System: NAD 1983 California Teale Albers  
Source: Basemap, <http://atlas.ca.gov/quads/>

**BSK**  
Associates  
Engineering & Architecture

Winters Putah Creek Nature Park  
Channel Restoration  
Winters, California

Figure 1  
Project Vicinity



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

REPLY TO  
ATTENTION OF

August 12, 2014

Regulatory Division (SPK-2011-00371)

Mr. Richard Marovich  
Solano County Water Agency  
810 Vaca Valley Parkway, Suite 203  
Vacaville, California 95688

Dear Mr. Marovich:

We are responding to your request for a Department of the Army permit for the Winters Putah Creek Nature Park Channel Restoration project. This approximately 90.9-acre project involves activities, including discharges of dredged or fill material, in waters of the United States to restore and rehabilitate Putah Creek. The project is located in Section 22, Township 8 North, Range 1 West, Mount Diablo Meridian, Latitude 38.52250°, Longitude - 121.96015°, Yolo County, California.

Based on the information you provided, the proposed activity, resulting in the temporary loss of approximately 1.8 acres of waters of the United States is authorized by Nationwide Permit Number 27 Aquatic Habitat Restoration, Establishment, and Enhancement Activities. To mitigate for the loss of 1.8 acres of waters of the United States, you shall construct, enhance and restore a minimum of 2.4 acres of new channel and active flood plain as shown and described in the March 20, 2014, Nationwide Permit 27 Technical Memorandum SPK-2011-00371 *Winters Putah Creek Nature Park Channel Realignment and Restoration Project* document.

Until the Section 401 Water Quality Certification for the activity has been issued or waived, our authorization is denied without prejudice. Once you have provided us evidence of water quality certification, the activity is authorized and the work may proceed subject to the conditions of certification and the Nationwide Permit. Your work must comply with the general terms and conditions listed on the enclosed Nationwide Permit information sheets and regional conditions, and the following special conditions:

Special Conditions

1. To ensure your project complies with the Federal Endangered Species Act, you must implement all of the mitigating measures identified in the enclosed U.S. Fish and Wildlife Service letter of concurrence (Number 08ESMF00-2014-F-0471-1, dated August

6, 2014), including those ascribed to the Corps therein. If you are unable to implement any of these measures, you must immediately notify this office and the U.S. Fish and Wildlife Service Office so we may consult as appropriate, prior to initiating the work, in accordance with Federal law.

2. Within 60 days following completion of the authorized work, you shall submit as-built drawings, and a description of the work conducted on the project site, to this office for review. The drawings shall include the following:

- a. The Department of the Army Permit number.
- b. A plan view drawing of the location of the authorized work footprint (as shown on the permit drawings) with an overlay of the work as constructed at the same scale as the attached permit drawings. The drawing should show all "earth disturbance," stream impacts, structures, and the boundaries of any avoidance areas. The drawing shall contain, at a minimum, 1-foot topographic contours of the entire site.
- c. Ground and aerial photographs of the completed work. The camera positions and view-angles of the ground photographs shall be identified on a map, aerial photograph, or project drawing.
- d. A description and list of all deviations between the work as authorized by this permit and the work as constructed. Clearly indicate on the as-built drawings the location of any deviations.

3. You and your authorized contractor shall allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that work is being, or has been accomplished, in accordance with the terms and conditions of this verification.

4. You are responsible for all work authorized herein and ensuring that all contractors and workers are made aware of and adhere to the terms and conditions of this permit authorization. You shall ensure that a copy of the permit authorization and associated drawings are available for quick reference at the project site until all construction activities are completed.

5. To ensure avoidance of impacts beyond the permit limits, the project boundary shall be clearly identified in the field with highly visible markers such as construction fencing or silt barriers prior to initiation of any construction activities within waters of the U.S. Such identification shall be properly maintained until construction is completed and the soils have been stabilized. Equipment, materials, or any other substances or activities that impact waters of the U.S. outside the permit limits (as shown on Figures 3b-1 through 3b-7) are prohibited.

6. You shall use only clean and nontoxic fill material for this project. The fill material shall be free from items such as trash, debris, automotive parts, asphalt, construction

materials, concrete with exposed reinforcement bars, and soils contaminated with any toxic substance, in toxic amounts in accordance with Section 307 of the Clean Water Act.

7. Prior to initiation of 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 (or prior to the initiation of each phase of the project) and shall remain until construction activities are completed. Erosion control methods shall remain in place until all on-site soils are stabilized. You shall submit a description of and photo-documentation of your BMPs to our office within 10 days of commencement of construction.

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

This verification is valid until March 18, 2017, when the existing Nationwide Permits are scheduled to be modified, reissued, or revoked. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant NWP is modified, reissued or revoked, you will have twelve (12) months from the date of the modification, reissuance or revocation of the NWP to complete the activity under the present terms and conditions. Failure to comply with the General and Regional Conditions of this Nationwide Permit, or the project-specific Special Conditions of this authorization, may result in the suspension or revocation of your authorization.

We would appreciate your feedback. At your earliest convenience, please tell us how we are doing by completing the customer survey on our website under *Customer Service Survey*.

Please refer to identification number SPK-2011-00371 in any correspondence concerning this project. If you have any questions, please contact Stephen Willis at our California South Branch Office, 1325 J Street, Room 1350, Sacramento, California 95814-2922, by email at [Stephen.M.Willis2@usace.army.mil](mailto:Stephen.M.Willis2@usace.army.mil), or by telephone at 916-557-7355. For more information regarding our program, please visit our website at [www.spk.usace.army.mil/Missions/Regulatory.aspx](http://www.spk.usace.army.mil/Missions/Regulatory.aspx).

Sincerely,



Kathleen A. Dadey, Ph.D  
Chief, California South Branch

Enclosure

cc: (w/o encl)

Erik Ringelberg, BSK Associates, eringelberg@bskinc.com

Mr. Ken Sanchez, U.S. Fish and Wildlife Service, Endangered Species Division,  
Kenneth\_sanchez@fws.gov

Ms. Elizabeth Lee, Storm Water and Water Quality Certification Unit, Central Valley  
Regional Water Quality Control Board (5S), elizabeth.lee@waterboards.ca.gov

Mr. Jason Brush, U.S. Environmental Protection Agency, Region IX, Wetlands  
Regulatory Office (WTR-8), Brush.Jason@epa.gov

Ms. Tina Bartlett, California Department of Fish and Wildlife, Region 2,  
tina.bartlett@wildlife.ca.gov

# COMPLIANCE CERTIFICATION

**Permit File Name:** Winters Putah Creek Nature Park Restoration

**Permit File Number:** SPK-2011-00371

**Nationwide Permit Number:**

**Permittee:** Richard Marovich  
Solano County Water Agency  
810 Vaca Valley Parkway, Suite 203  
Vacaville, California 95688

**County:** Yolo

**Date of Verification:** August 12, 2014

Within 30 days after completion of the activity authorized by this permit, sign this certification and return it to the following address:

U.S. Army Corps of Engineers  
Sacramento District  
1325 J Street, Room 1350  
Sacramento, California 95814-2922  
*DLL-CESPK-RD-Compliance@usace.army.mil*

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with the terms and conditions of the permit your authorization may be suspended, modified, or revoked. If you have any questions about this certification, please contact the U.S. Army Corps of Engineers.

\*\*\*\*\*

***I hereby certify that the work authorized by the above-referenced permit, including all the required mitigation, was completed in accordance with the terms and conditions of the permit verification.***

\_\_\_\_\_  
Signature of Permittee

\_\_\_\_\_  
Date





# United States Department of the Interior



In Reply Refer to:  
08ESMF00-  
2014-F-0471-1

FISH AND WILDLIFE SERVICE  
Sacramento Fish and Wildlife Office  
2800 Cottage Way, Suite W-2605  
Sacramento, California 95825-1846

AUG 06 2014

Dr. Kathleen A. Dadey  
Chief, California South Branch  
Regulatory Division  
U.S. Army Corps of Engineers  
1325 J Street, Room 1350  
Sacramento, California 95814-2922

Subject: Consultation on the Proposed Winters Putah Creek Nature Park Restoration Project,  
Yolo County, California (Corps File Number SPK-2011-00371)

Dear Dr. Dadey:

This letter is in response to the U.S. Army Corps of Engineers' (Corps), June 25, 2014, request for initiation of consultation with the U.S. Fish and Wildlife Service (Service) on the proposed Winters Putah Creek Nature Park Restoration Project (proposed project), in Yolo County, California. Your request, which included the March 20, 2014, letter from BSK Associates and accompanying June 13, 2011, *Draft Biological Assessment, Winters Putah Creek Nature Park Channel Realignment, Solano County, California* (biological assessment), was received by the Service on June 30, 2014. On July 25, 2014, the Service requested additional information in order for consultation to be initiated. The additional information was received in our office on August 1, 2014. The biological 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 proposed restoration of a 2-mile stretch of Putah Creek from an incised and over-widened channel into a self-maintaining natural channel form. The proposed project will also restore approximately 9.8 acres of seasonally inundated floodplain. 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 biological assessment for our review and requested our concurrence with the findings presented therein, while also concurrently initiating formal consultation pursuant to 50 CFR §402.14(c). Based on the findings presented in the biological assessment, your consultation letter concludes that the proposed project may affect, and is likely to adversely affect the federally-listed as threatened valley elderberry longhorn beetle

(*Desmocerus californicus dimorphus*) (beetle). You requested that the proposed project be appended to the *Programmatic Formal Consultation Permitting Projects with Relatively Small Effects on the Valley Elderberry Longhorn Beetle within the Jurisdiction of the Sacramento Field Office, California* (beetle programmatic). 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 June 25, 2014, letter requesting consultation; (2) the March 20, 2014, letter from BSK Associates; (3) the July 16, 2014, *Elderberry Planting and Relocation Technical Memorandum, Winters Putah Creek Nature Park Channel Realignment and Restoration Project*, prepared by BSK Associates; (4) the June 13, 2011, *Draft Biological Assessment, Winters Putah Creek Nature Park Channel Realignment, Solano County, California*, prepared by BSK Associates (biological assessment); and (5) other information available to the Service.

We concur with your findings that the proposed project may affect, and is likely to adversely affect the beetle. We also find that your written request and the accompanying biological assessment fulfills the requirements for initiation of formal consultation. We have determined that it is appropriate to append the proposed project to the beetle programmatic for effects to the beetle. Therefore, this document is an agreement by the Service to append the proposed project to the beetle programmatic.

### Consultation History

<i>June 30, 2014</i>	The Service received the June 25, 2014, letter from the Corps requesting consultation, which included the March 20, 2014, letter from BSK Associates and the biological assessment.
<i>July 25, 2014</i>	The Service sent a letter to the Corps requesting clarification on whether the Corps was requesting formal or informal consultation with the Service.
<i>August 1, 2014</i>	The Service received the Corps' July 30, 2014, letter with a response to the July 25, 2014, letter and also requested formal consultation.

## BIOLOGICAL OPINION

### Description of the Proposed Action

This proposed project will convert former gravel extraction pits and a closed wastewater treatment plant into a restored stream channel and floodplain. A 9.8 acre project site will be restored to native riparian habitat as a result of the proposed project. The current channel configuration curves in an arc sharply to the north, creating the opportunity for higher velocity water to undercut the north bank. This is proposed to be filled and planted with native riparian vegetation. This channel alignment will require the relocation of seven elderberry bushes (*Sambucus* sp.), the host plant for the beetle. The elderberry shrubs will be transplanted from the middle of the proposed channel realignment area to the upper terraces of the southern bank of the proposed channel realignment area. Relocation of these seven bushes, the planting of additional elderberry shrubs, removal of invasive species, and the planting of additional native plant species will improve the habitat for riparian and aquatic species in the project area. As a component of reestablishing native riparian

cover, an irrigation system will be installed, operated, and maintained for a minimum of three years. Weed management, irrigation, and other maintenance would continue for a minimum of three years.

Once established, native plants will be expected to eventually out-compete non-native plants, limiting the potential for non-native plants to invade the site and reducing long-term maintenance efforts.

The biological assessment proposes avoidance and minimization measures to avoid effects to elderberry shrubs (pages 9-10 of the biological assessment). These measures include: (1) mandatory environmental awareness training for construction personnel; (2) implementing dust control measures; (3) transplanting the seven elderberry shrubs onsite, which will adhere to the *Conservation Guidelines for the Valley Elderberry Longhorn Beetle* (Guidelines) (Service 1999); and, (4) planting elderberry seedlings and associated native plants within the restoration site, as described in the Guidelines. The avoidance and minimization measures proposed by the Solano County Water Agency are considered part of the proposed action evaluated by the Service in this biological opinion.

### **Action Area**

The action area is defined in 50 CFR §402.02 as, “all areas to be affected directly or indirectly by the federal action and not merely the immediate area involved in the action.” For the proposed project, the Service considers the action area to include the entire 9.8 acre site, including the 7.4-acre restoration site footprint, as well as areas used for access and staging. The action area also includes all areas up to 30 feet from these areas in which dust deposition could exceed existing deposition rates and up to 500 feet from the construction footprint in which noise from construction activities is expected to exceed ambient levels.

### **Evaluation under the Programmatic Consultation**

The Service has determined that it is appropriate to append the proposed Winters Putah Creek Nature Park Restoration Project to the beetle programmatic. This letter is an agreement by the Service to append the proposed project to the beetle programmatic for effects to the beetle and represents the Service’s biological opinion on the effects of the proposed project.

### **Analytical Framework for the Jeopardy Analysis**

In accordance with policy and regulation, the jeopardy analysis in the beetle programmatic relied on four components: (1) the *Status of the Species*, which evaluated the beetle’s range-wide condition, the factors responsible for that condition, and its survival and recovery needs; (2) the *Environmental Baseline*, which evaluated the condition of the beetle in the action area, the factors responsible for that condition, and the relationship of the action area to the survival and recovery of the beetle; (3) the *Effects of the Action*, which determined the direct and indirect effects of federal actions and the effects of any interrelated or interdependent activities on the beetle; and (4) the *Cumulative Effects*, which evaluated the effects of future, non-federal activities in the action area on the beetle.

In accordance with policy and regulation, the jeopardy determination in the beetle programmatic was made by evaluating the effects of federal actions in the context of the beetle’s current status,

taking into account any cumulative effects, to determine if implementation of the actions is likely to cause an appreciable reduction in the likelihood of recovery of the beetle in the wild.

The jeopardy analysis in the beetle programmatic placed an emphasis on consideration of the range-wide survival and recovery needs of the beetle and the role of the action area in the survival and recovery of the beetle as the context for evaluating the significance of the effects of federal actions, taken together with cumulative effects, for purposes of making the jeopardy determination.

### **Status of the Species**

The status of the beetle is described in the beetle programmatic for the time the document was signed. For the most recent comprehensive assessment of the range-wide status of the beetle, please refer to the *Valley Elderberry Longhorn Beetle (Desmocerus californicus dimorphus) 5-Year Review: Summary and Evaluation* (Service 2006). Since this review was published, the beetle has been proposed for delisting through the publication of the *Removal of the Valley Elderberry Longhorn Beetle From the Federal List of Endangered and Threatened Wildlife; Proposed Rule* (Service 2012).

### **Environmental Baseline**

The majority of lands along Putah Creek are agricultural lands in private ownership. The status of the beetle and its habitat on most of these private lands is unknown (Service 2006). The beetle is now known from at least three locations along Putah Creek (California Natural Diversity Database [CNDDB] occurrences 3, 12, and 131) (CNDDB 2014). Suitable habitat for the beetle (i.e., elderberry shrubs) occurs throughout Putah Creek.

The seven elderberry shrubs in the action area represent an immeasurably small proportion of shrubs throughout the full range of the beetle. No exit holes were observed in the elderberry shrubs within the action area; however, the beetle is difficult to detect, so it is conceivable that beetles may have been present at the time of surveys and not detected. The closest known occurrence of the beetle in the CNDDB is approximately 1.2 aerial miles to the west, along Putah Creek, west of the City of Winters (occurrence number 131) (CNDDB 2014).

### **Effects of the Proposed Action**

The seven elderberry shrubs will be transplanted within the 7.8-acre restoration site. The shrubs will be transplanted as described in the Guidelines, which will maximize their chances for survival. It is possible that some shrubs will not survive the transplanting process. If some of the shrubs do not survive the transplanting process, it is possible that any beetle larvae occupying the shrubs will still be able to exit the shrub as adults and successfully breed with other beetles. The project proponent has proposed to plant additional elderberry shrubs for the beetle that will be protected and managed as native riparian habitat. The Service believes that this will more than adequately compensate for the loss of any elderberry shrubs that do not survive the transplanting process.

The project will aid in the recovery of the beetle by accomplishing the following:

1. Planting elderberry shrubs will provide new habitat for the beetle as well as connect remnant patches of riparian habitat and increase landscape connectivity for valley elderberry longhorn beetles.

2. Allowing for the passive establishment of elderberry shrubs within newly created and remnant riparian corridors.
3. Removing non-native, invasive plant species such as Himalayan blackberry (*Rubus armeniacus*), tree of heaven (*Ailanthus altissima*), and arundo (*Arundo donax*). These plant species may out-compete elderberry shrubs.

### Cumulative Effects

Cumulative effects include the effects of future state, tribal, county, local or private actions that are reasonably certain to occur in the action area considered in this biological opinion. Future federal actions that are unrelated to the proposed action are not considered in this section because they require separate consultation pursuant to section 7 of the Act. The Service is not aware of any future actions reasonably certain to occur in the action area that could result in cumulative effects.

### Conclusion

After reviewing the current status of the beetle, the environmental baseline in the beetle programmatic, the effects of the proposed project, the cumulative effects, and the proposed avoidance and minimization measures, it is the Service's biological opinion that the Winters Putah Creek Nature Park Restoration Project, as proposed, is not likely to jeopardize the continued existence of the beetle. The Service reached this conclusion because the proposed project fits within the parameters of the level of take anticipated in the beetle programmatic and the project-related effects to the species, when added to the environmental baseline and analyzed in consideration of the lack of cumulative effects, will not rise to the level of precluding recovery of the species or reducing the likelihood of survival of the species. Although there is the possibility that a few individual elderberry shrubs might not survive the transplanting process, the effects to the beetle will be small and discrete, relative to the range of the species. The proposed project will contribute to the long-term preservation and management of beetle habitat along Putah Creek.

## INCIDENTAL TAKE STATEMENT

Section 9 of the Act and federal regulation pursuant to section 4(d) of the Act prohibit the take of endangered and threatened species, respectively, without special exemption. Take is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. Harass is defined by the Service regulations at 50 CFR 17.3 as an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding, or sheltering. Harm is defined by the same regulations as an act which actually kills or injures wildlife. Harm is further defined to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavior patterns, including breeding, feeding, or sheltering. Incidental take is defined as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Under the terms of section 7(b)(4) and section 7(o)(2), taking that is incidental to and not intended as part of the agency action is not considered to be prohibited taking under the Act provided that such taking is in compliance with the terms and conditions of this Incidental Take Statement.

The measures described below are non-discretionary, and must be undertaken by the Corps so that they become binding conditions of any grant or permit issued to contractors, as appropriate, for the exemption in section 7(o)(2) to apply. The Corps has a continuing duty to regulate the activity covered by this incidental take statement. If the Corps (1) fails to assume and implement the terms and conditions or (2) fails to require contractors to adhere to the terms and conditions of the incidental take statement through enforceable terms that are added to the grant or permit, the protective coverage of section 7(o)(2) may lapse. In order to monitor the impact of incidental take, the Corps must report the progress of the action and its impact on the species to the Service as specified in the incidental take statement. [50 CFR §402.14(i)(3)]

### **Amount or Extent of Take**

The incidental take of the beetle anticipated for this project will result from the transplanting of the seven elderberry shrubs with 27 stems one inch or greater in diameter at ground level. The life stage affected by this action will be the beetle larvae living within the stems of the elderberry shrubs. The life cycle of the beetle takes one or two years to complete, during which it spends most of its life in the larval stage. Due to the fact that it is not possible to know how many beetle larvae are in the stems of any elderberry shrub, the Service cannot quantify the total number of beetles that we anticipate will be taken as a result of the proposed action. In instances in which the total number of individuals anticipated to be taken cannot be determined, the Service may use the amount of habitat impacted as a surrogate; since the take of individuals anticipated will result from the destruction of the elderberry shrubs, the quantification of suitable habitat serves as a direct surrogate for the beetles that will be lost. Therefore, the Service anticipates take incidental to this project as the seven elderberry shrubs with 27 stems one inch or greater in diameter at ground level that could potentially be destroyed.

### **Effect of the Take**

The Service has determined that this level of anticipated take is not likely to result in jeopardy to the valley elderberry longhorn beetle.

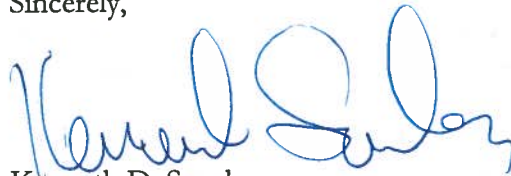
## **REINITIATION - CLOSING STATEMENT**

This concludes formal consultation on the proposed Winters Putah Creek Nature Park Restoration Project, Yolo County, California. As provided in 50 CFR §402.16, reinitiation of formal consultation is required where discretionary federal agency involvement or control over the action has been retained or is authorized by law and: (a) if the amount or extent of taking specified in the incidental take statement is exceeded; (b) if new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered; (c) if the identified action is subsequently modified in a manner that causes an effect to listed species or critical habitat that was not considered in the biological opinion; or (d) if a new species is listed or critical habitat designated that may be affected by the identified action.



If you have questions regarding the proposed Winters Putah Creek Nature Park Restoration Project, Yolo County, California, please contact Rick Kuyper, Senior Fish and Wildlife Biologist, or Kellie Berry, Chief, Sacramento Valley Division at (916) 414-6600.

Sincerely,



Kenneth D. Sanchez  
Assistant Field Supervisor

cc:

Mr. Rich Marovich, Solano County Water Agency, Vacaville, California

Mr. Erik Ringleberg, BSK Associates, Rancho Cordova, California

## LITERATURE CITED

- California Natural Diversity Database (CNDDB). 2014. Biogeographic Data Branch, Department of Fish and Wildlife. Sacramento, California. Accessed 20 June 2014.
- U.S. Fish and Wildlife Service (Service). 1999. Conservation Guidelines for the Valley Elderberry Longhorn Beetle. Sacramento Fish and Wildlife Office, Sacramento, California. 15 pp.
- \_\_\_\_\_. 2006. Valley Elderberry Longhorn Beetle (*Desmocerus californicus dimorphus*) 5-Year Review: Summary and Evaluation. Sacramento Fish and Wildlife Office, Sacramento, California. September 2006. 28 pp.
- \_\_\_\_\_. 2012. Removal of the Valley Elderberry Longhorn Beetle From the Federal List of Endangered and Threatened Wildlife; Proposed Rule. Federal Register 77:60238-60276. October 2, 2012.



State of California – The Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
North Central Region  
1701 Nimbus Road, Suite A  
Rancho Cordova, CA 95670-4599  
916-358-2900  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

EDMUND G. BROWN, Jr. Governor  
Charlton H. Bonham, Director



AUG 06 2014

Date

Richard Marovich  
Solano County Water Agency  
810 Vaca Valley Parkway, Agency Suite 203  
Vacaville, CA 95688

Subject: Amendment of Lake or Streambed Alteration Agreement  
Notification No. 1600-2011-0100-R2  
Winters Putah Creek Nature Channel Realignment

Dear Mr. Marovich:

The California Department of Fish and Wildlife (Department) has received your request to amend Lake or Streambed Alteration Agreement 1600-2011-0100-R2 (Agreement) and the required fee in the amount of \$613.75 for a major amendment. Your request to amend the Agreement includes removal of approximately 80 trees of 4 inches or greater diameter at breast height (DBH) from within the project area (these trees with individual GPS locations and species determination were included as Attachment B of the amendment request package) to allow for completion of phase 3 of the project as described in the original Streambed Alteration Agreement (1600-2011-0100-R2).

The Department hereby agrees to amend the Agreement with the addition of the following conditions:

- 1) Any tree designated for removal will be preserved if it is determined to support a Swainson's Hawk nest unless that tree is located within the direct path of the relocated channel for Putah Creek.
- 2) All other conditions in the Agreement remain in effect unless otherwise noted herein.

Please sign and return one copy of this letter to acknowledge the amendment. Copies of the Agreement and this amendment must be readily available at project worksites and must be presented when requested by a Department representative or agency with inspection authority.

If you have any questions regarding this matter, please contact Bob Hosea, Environmental Scientist at (916) 358-1124 or [bob.hosea@wildlife.ca.gov](mailto:bob.hosea@wildlife.ca.gov).

Sincerely,



/s/ Tina Bartlett  
Regional Manager

cc: Bob Hosea, bob.hosea@wildlife.ca.gov  
Erik Ringelberg, eringelberg@bskinc.com

**ACKNOWLEDGEMENT**

I hereby agree to the above-referenced amendment.

Print Name: Richard Marovich Date: \_\_\_\_\_

Signature: \_\_\_\_\_





State of California – The Natural Resources Agency  
DEPARTMENT OF FISH AND GAME  
North Central Region  
1701 Nimbus Road, Suite A  
Rancho Cordova, CA 95670-4599  
916-358-2900  
[www.dfg.ca.gov](http://www.dfg.ca.gov)

EDMUND G. BROWN, Jr. Governor  
JOHN McCAMMAN, Director



July 25, 2011

Solano County Water Agency  
Rich Marovich  
810 Vaca Valley Parkway, Agency Suite 203  
Vacaville, CA 95688  
[rmarovixh@swca2.com](mailto:rmarovixh@swca2.com)

Subject: Final Streambed Alteration Agreement  
Notification No. 1600-2011-0100 -R2  
Winters Putah Creek Nature Channel Restoration

Dear Mr. Marovich:

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

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

If you have any questions regarding this matter, please contact Sandra Jacks, Environmental Scientist at 916-358-2916 or [sjacks@dfg.ca.gov](mailto:sjacks@dfg.ca.gov).

Sincerely,

Kent Smith  
Regional Manager

ec: Sandra Jacks

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



**Streambed Alteration Agreement  
Notification No. 1600-2011-0100-R2**

Winters Putah Creek Nature Channel Restoration  
Putah Creek  
Winters

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Game (DFG) and Solano County Water Agency (Permittee) as represented by Rich Marovich.

**RECITALS**

WHEREAS, pursuant to Fish and Game Code (FGC) section 1602, Permittee notified DFG on May 20, 2011 that Permittee intends to complete the project described herein.

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

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

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

**PROJECT LOCATION**

The project is located in Winters along Putah Creek at the Winters Putah Creek Nature Park, County of Yolo, State of California; Section 21 and 22 in Township 8 North, Range 1 East, "Winters" U.S. Geological Survey 7.5-minute quadrangle; Latitude 38°31'22.53"N, Longitude 121°57'47.25"W

**PROJECT DESCRIPTION**

The Winters Putah Creek Park Channel Realignment Project proposes to restore 6,000 linear feet of channel from approximately one thousand feet above the Winters Car Bridge and extending downstream to the Highway 505 over-crossing. The project will isolate the flow of Putah Creek from construction areas, clear and grub marked vegetation on existing terraces; grade terraces to functional floodplain elevation and fill in the existing channel to provide for a narrower meandering channel. The project will also create continuous floodplains in what is now open water and create trails to improve public access. Construction staging areas will be located on the south side of



the channel upstream of the Winters Car Bridge and at a five-acre borrow site located near the midpoint of the project.

The activities listed below are expected to occur within the stream zone of Putah Creek:

- Removal of approximately 150 trees on the floodplain because they fall within the project disturbance footprint
- Harvest and use of root wads for channel revetments and in-stream habitat features
- Harvest and use of existing boulder riprap for channel revetments and informal seating.
- Transplant native vegetation up to 4-inch in diameter
- Harvest and use of native vegetation cuttings
- Convert 8 acres of open water to 10 acres of open water and wetlands.
- Use onsite native soils for the redesign of the channel (the project will cut approximately 105,000 cubic yards and fill approximately 61,000 cubic yards)
- May include up to 5,000 linear feet of meandering longitudinal maintenance/pedestrian trails on the north and south sides of the creek (10,000 linear feet combined) surfaced with crushed rock adjacent to and within the riparian forest
- May include extensions and repairs to existing culverts
- May include placement of up to 20,000 cubic yards of washed gravel for aquatic habitat enhancement.

**For project specifics, work shall be completed as presented in the supporting information included in the "Notification" packet for this Agreement.**

## **PROJECT IMPACTS**

Existing fish or wildlife resources the project could substantially adversely affect include: Central Valley Chinook salmon ESUs (spring, winter, fall/late fall), Central Valley steelhead, northwestern pond turtle, burrowing owl, vernal pool fairy shrimp, Swainson's hawk, Valley elderberry longhorn beetle, Baker's naverretia, warm water fish species, amphibians, and other aquatic and terrestrial plant and wildlife species.

The adverse effects the project could have on the fish or wildlife resources identified above include: Loss of natural bed or bank; Change in contour of bed, channel or bank; Soil compaction or other disturbance; Change in Turbidity; Increased sedimentation from adjacent construction; Short-term release (e.g. incidental from construction); Loss or decline of riparian habitat; Decline of vegetative diversity; Loss or decline of instream channel habitat; temporary Loss of or decline instream woody material; Direct impacts

from dredging on benthic organisms; construction pits and trenches that can capture terrestrial organisms; Disruption to nesting birds and other wildlife; Disturbance from project activity; Loss or impediment of terrestrial animal species travel routes due to temporary structures such as survey tape, sandbags, erosion protection materials etc.; Change in shading or insulation leading to vegetative change; Dewatering; Flow deflection; Change in fluvial geomorphology; Impediment to migration of aquatic and terrestrial species; and Direct (seasonal) loss of resources for aquatic organisms.

## **STREAM ZONE DEFINED**

All components of a stream, including the channel, bed, banks, and floodplains. The Stream Zone is the land, including vegetation, that bounds a lake or the channel of a stream and that defines the lateral extent of their waters.

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

### **1. Administrative Measures**

Permittee shall meet each administrative requirement described below.

- 1.1 Documentation at Project Site. Permittee shall make the Agreement, any extensions and amendments to the Agreement, and all related notification materials and California Environmental Quality Act (CEQA) documents, readily available at the project site at all times and shall be presented to DFG personnel, or personnel from another state, federal, or local agency upon request.
- 1.2 Providing Agreement to Persons at Project Site. Permittee shall provide copies of the Agreement and any extensions and amendments to the Agreement to all persons who will be working on the project at the project site on behalf of Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.
- 1.3 Notification of Conflicting Provisions. Permittee shall notify DFG if Permittee determines or learns that a provision in the Agreement might conflict with a provision imposed on the project by another local, state, or federal agency. In that event, DFG shall contact Permittee to resolve any conflict.
- 1.4 Project Site Entry. Permittee agrees that DFG personnel may enter the project site to verify compliance with the Agreement.
- 1.5 Authorized Work. The notification, together with all supporting documents submitted with the notification, is hereby incorporated into this agreement to describe the location and features of the proposed project. The Permittee agrees that all work shall be done as described in the notification and supporting documents, incorporating all project modifications, wildlife resource protection features, mitigation measures, and provisions as described in this agreement.



Where apparent conflicts exist between the notification and the provisions listed in this agreement, the Permittee shall comply with the provisions listed in this agreement. The Permittee further agrees to notify DFG of any modifications made to the project plans submitted to DFG. At the discretion of DFG, this agreement will be amended to accommodate modifications to the project plans submitted to DFG and/or new project activities.

- 1.6 Does Not Authorize "Take." This agreement does not authorize "take" of any listed species. Take is defined as hunt, pursue, catch, capture or kill or attempt to hunt, pursue, catch, capture, or kill. If there is potential for take of any listed species to occur, the Operator shall consult with the Department as outlined in Fish and Game Code Section 2081 and shall obtain the required state and federal threatened and endangered species permits.

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

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

- 2.1 Work Period. Work shall be timed with the driest time within the channel. If water is present at the time of construction, water shall be diverted around the work area and work shall begin after the site is dry or devoid of flowing water. The time period for completing the work within the flowing or standing water of the watercourses shall be confined to the period of April 15 to the date when boards are pulled at the Los Rios Check Dam (not later than December 15). Work within the dry portion of the stream zone shall be timed with awareness of precipitation forecasts and likely increases in stream flow and river flood stages. Construction activities within the stream zone shall cease until all reasonable erosion control measures, have been implemented prior to all storm events. Construction equipment and material shall be removed from the floodplain if inundation is likely. Revegetation, restoration and erosion control work is not confined to this time period.
- 2.2 Work Period Extensions. At DFG's discretion, the work period may be extended based on the extent of the work remaining, on site conditions and reasonably anticipated future conditions. If the Permittee finds more time is needed to complete the authorized activity, the Permittee shall submit a written request for a work period time extension to DFG. The work period extension request shall provide the following information: 1) Describe the extent of work already completed; 2) Provide specific detail of the activities that remain to be completed within the stream zone; and 3) Detail the actual time required to complete each of the remaining activities within the stream zone. The work period extension request should consider the effects of increased stream conditions, rain delays, increased erosion control measures, limited access due to saturated soil conditions, and limited growth of erosion control grasses due to cool weather. Photographs of the work completed and the proposed work areas are helpful in assisting DFG in its evaluation. Time extensions are issued at the discretion of DFG. DFG will have

ten calendar days to approve the proposed work period extension. DFG reserves the right to require additional measures designed to protect natural resources.

- 2.3 Vegetation Removal. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete operations. **Except for the trees specifically identified for removal in the Notification**, no native trees with a trunk diameter at breast height (DBH) in excess of four (4) inches shall be removed or damaged without prior consultation and approval of a DFG representative. Using hand tools (clippers, chain saw, etc.), trees may be trimmed to the extent necessary to gain access to the work sites. All cleared material/vegetation shall be removed out of the riparian/stream zone.
- 2.4 Tree Removal Timing: If construction or tree falling activities will occur during the breeding season (February 15 through September 15), a qualified wildlife biologist shall conduct two preconstruction surveys to ensure that no nests of migratory birds will be disturbed during construction. The first survey can occur as early as February 1, and the second should occur no more than one week prior to commencement of construction activities. The survey area shall include the construction zone, including all staging areas, and a 500 foot radius surrounding the construction zone to determine whether the activities taking place have the potential to disturb or otherwise harm any nesting raptors (birds of prey) or migratory birds.
- 2.5 Bird Nests. If an active nest is located within the proposed disturbance area, the wildlife biologist shall consult with DFG to establish a suitable buffer zone. If a raptor is located within 250 feet or migratory bird nest is located within the 100-feet of disturbance, and the disturbance must take place during the breeding season, a buffer zone shall be established by the biologist and confirmed by the appropriate resource agency (DFG and/or USFWS). The buffer area requirements will be 250 feet for any active raptor nest and 100 feet for any migratory bird nest or as defined by the DFG and/or USFWS. A qualified wildlife biologist shall monitor the nest to determine when the young have fledged and submit bi-weekly reports throughout the nesting season. The biological monitor shall have the authority to cease construction if there is any sign of distress to any raptor or migratory bird. Reference to this requirement and the Migratory Bird Treaty Act shall be included in the construction specifications.
- 2.6 Raptor Nests. If construction is to occur during the breeding season (March 1 – September 15), a pre-construction raptor nest survey shall be conducted within 30 days prior to the beginning of construction activities by a qualified biologist in order to identify active nests in the project site vicinity. The results of the survey shall be submitted to CDFG. If no active nests are found during the pre-construction survey, no further mitigation is required.

If active nests are found within a quarter-mile (1320 feet), an initial temporary nest disturbance buffer shall be established. If project related activities within the temporary nest disturbance buffer are determined to be necessary during the nesting season (approximately March 1 and September 1), then an on-site

biologist/monitor experienced with raptor behavior shall be retained by the project proponent to monitor the nest, and shall along with the project proponent, consult with the DFG to determine the best course of action necessary to avoid nest abandonment or take of individuals. Work may be allowed to proceed within the temporary nest disturbance buffer if raptors are not exhibiting agitated behavior such as defensive flights at intruders, getting up from a brooding position, or flying off the nest. The designated on-site biologist/monitor shall be on-site daily while construction related activities are taking place and shall have the authority to stop work if raptors are exhibiting agitated behavior.

In consultation with the DFG and depending on the behavior of the raptors, over time it may be determined that the on-site biologist/monitor may no longer be necessary due to the raptors' acclimation to construction related activities.

- 2.7 **Sediment Control.** Precautions to minimize turbidity/siltation shall be taken into account during project planning and implementation. This may require the placement of silt fencing, coir logs, coir rolls, straw bale dikes, or other siltation barriers so that silt and/or other deleterious materials are not allowed to pass to downstream reaches. Passage of sediment beyond the sediment barrier(s) is prohibited. If any sediment barrier fails to retain sediment, corrective measures shall be taken. The sediment barrier(s) shall be maintained in good operating condition throughout the construction period and the following rainy season. Maintenance includes, but is not limited to, removal of accumulated silt and/or replacement of damaged silt fencing, coir logs, coir rolls, and/or straw bale dikes. The Permittee is responsible for the removal of non-biodegradable silt barriers (such as plastic silt fencing) after the disturbed areas have been stabilized with erosion control vegetation (usually after the first growing season). Upon DFG determination that turbidity/siltation levels resulting from project related activities constitute a threat to aquatic life, activities associated with the turbidity/siltation shall be halted until effective DFG approved control devices are installed or abatement procedures are initiated.
- 2.8 **Pollution Control.** Utilize Best Management Practices (BMPs) to prevent spills and leaks into water bodies. If maintenance or refueling of vehicles or equipment must occur on-site, use a designated area and/or a secondary containment, located away from drainage courses to prevent the runoff of storm water and the runoff of spills. Ensure that all vehicles and equipment are in good working order (no leaks). Place drip pans or absorbent materials under vehicles and equipment when not in use. Ensure that all construction areas have proper spill clean up materials (absorbent pads, sealed containers, booms, etc.) to contain the movement of any spilled substances. Any other substances which could be hazardous to aquatic life, resulting from project related activities, shall be prevented from contaminating the soil and/or entering the waters of the state. Any of these materials, placed within or where they may enter a stream or lake by the Applicant or any party working under contract or with the permission of the Permittee, shall be removed immediately. DFG shall be notified immediately by the Permittee of any spills and shall be consulted regarding clean-up procedures.

### 3. Mitigation Measures

To mitigate for adverse impacts to fish and wildlife resources identified above that cannot be avoided or minimized, Permittee shall implement each measure listed below.

- 3.1 Site Restoration. All exposed/disturbed areas and access points within the stream zone left barren of vegetation as a result of the construction activities shall be restored using locally native grass seeds, locally native grass plugs and/or a mix of quick growing sterile non-native grass with locally native grass seeds. Seeded areas shall be covered with broadcast straw and/or jute netted (monofilament erosion blankets are not authorized).

### 4. Reporting Measures

Permittee shall meet each reporting requirement described below.

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

### CONTACT INFORMATION

Any communication that Permittee or DFG submits to the other shall be in writing and any communication or documentation shall be delivered to the address below by U.S. mail, fax, or email, or to such other address as Permittee or DFG specifies by written notice to the other. Refer to the project's Notification Number when submitting documents to DFG.

To Permittee:

Solano County Water Agency  
Rich Marovich  
810 Vaca Valley Parkway, Agency Suite 203  
[rmarovixh@swca2.com](mailto:rmarovixh@swca2.com)  
Office: 707-455-1107  
Cell: 530-902-1794



To DFG:

Department of Fish and Game  
North Central Region  
1701 Nimbus Road, Suite A  
Rancho Cordova, CA 95670  
Attn: Lake and Streambed Alteration Program – Sandra Jacks  
Notification #1600-2011-0100-R2  
Office: 916-358-2916  
[sjacks@dfg.ca.gov](mailto:sjacks@dfg.ca.gov)

## **LIABILITY**

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

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

## **SUSPENSION AND REVOCATION**

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

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

## **ENFORCEMENT**

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

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

## **OTHER LEGAL OBLIGATIONS**

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

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

The Permittee shall notify DFG where conflicts exist between the provisions of this agreement and those imposed by other regulatory agencies. Unless otherwise notified, the Permittee shall comply with the provision that offers the greatest protection to water quality, species of special concern and/or critical habitat.

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

## **AMENDMENT**

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

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

## **TRANSFER AND ASSIGNMENT**

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

The transfer or assignment of the Agreement to another entity shall constitute a minor amendment, and therefore to request a transfer or assignment, Permittee shall submit to DFG a completed DFG "Request to Amend Lake or Streambed Alteration" form and

include with the completed form payment of the minor amendment fee identified in DFG's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

## **EXTENSIONS**

In accordance with FGC section 1605(b), Permittee may request one extension of the Agreement, provided the request is made prior to the expiration of the Agreement's term. To request an extension, Permittee shall submit to DFG a completed DFG "Request to Extend Lake or Streambed Alteration" form and include with the completed form payment of the extension fee identified in DFG's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5). DFG shall process the extension request in accordance with FGC 1605(b) through (e).

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

## **EFFECTIVE DATE**

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

## **TERM**

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



## AUTHORITY

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

## AUTHORIZATION

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

## CONCURRENCE

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

### FOR SOLANO COUNTY WATER AGENCY



Rich Marovich

7-21-11

Date

### FOR DEPARTMENT OF FISH AND GAME



Kent Smith  
Regional Manager

7/25/11

Date

Prepared by: Sandra Jacks  
Environmental Scientist



## Central Valley Regional Water Quality Control Board

4 November 2014

Erik Ringelberg  
BSK Associates Engineers and Laboratories  
3140 Gold Camp Drive Suite 160  
Rancho Cordova, CA 95670

### WINTERS PARK RESTORATION PROJECT, BSK ASSOCIATES ENGINEERS AND LABORATORIES, YOLO COUNTY

Thank you for the e-mail received by the Central Valley Regional Water Quality Control Board on 18 August 2014, requesting further determination if the above mentioned project requires coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Based on the project description provided in the information package and as summarized below, a NPDES permit is not required for your proposed project.

The project consists of converting former gravel extraction pits into a river parkway along Putah Creek in the City of Winters. The historic channel will be isolated from the creek and small quantities of water may need to be decanted off and returned back to Putah Creek; dewatering will be achieved via small ditch pump and filtered to minimize turbidity. Chemicals will not be added to the discharge water and water will not be altered prior to discharging back into Putah Creek. This work is being done under US Army Corps of Engineers Nationwide Permit 27 (SPK-2011-000371), California Department of Fish and Game Notification #1600-2011-0100-R2 and Central Valley Water Board Section 401 Certification (WDID# 5A48CR00105A1).

The in-water work and dewatering operation is already permitted under a Section 401 Water Quality Certification. According to the information package, there are no other activities proposed that could affect the quality of waters of the United States. Therefore, a NPDES Permit is not required. Should the project change from the information provided in your 18 August 2014 e-mail or if you have any questions, you may contact Josh Palmer at (916) 464-4674 or e-mail at [Joshua.Palmer@waterboards.ca.gov](mailto:Joshua.Palmer@waterboards.ca.gov).



Adam Laputz  
Assistant Executive Officer



## Memorandum

To: Honorable Mayor and Councilmembers

Date: February 3, 2015

From: Carol Scianna, Environmental Services Manager

Subject: Waiver for Extended Work Hours as Part of River Parkway Project this Summer

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The final phase of the River Parkway Rechanneling project will begin late summer with completion expected in October. This work will consist of narrowing the remaining middle channel section of the Putah Creek and creating floodplains in the Nature Park, similar to the work that was done up and downstream of this area.

Solano County Water Agency will be the lead agency and they have requested a waiver regarding extension of work schedule which will allow the possibility of work on Saturday and/or Sunday if the need should arise for emergency or time sensitive work to be completed.

The project area will require the existing channel to be de-watered. To do so there may be the need to operate a pump and generator 24 hours a day 7 days a week for at most a two week period.

The waivers were discussed at the January meeting by the Winters Putah Creek Committee (WPCC) and there was consensus to support the waivers being requested. Per the WPCC suggestions, efforts will be made to minimize the generator noise using hay bales and placing the generator as far away from residences as possible. The neighbors that would be affected by the noise will be sent notification regarding the upcoming work.

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Phone: 530.795.4910  
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### COUNCIL MEMBERS

Harold Anderson  
Wade Cowan  
Pierre Neu

### MAYOR

Cecilia Aguiar-Curry

### MAYOR PRO TEM

Woody Fridae

### CITY CLERK

Nanci Mills

### TREASURER

Michael Sebastian

### CITY MANAGER

John W. Donlevy, Jr.



Minutes of the Winters City Council Meeting  
Held on Tuesday, February 3, 2015

Mayor Cecilia Aguiar-Curry called the meeting to order at 6:30 p.m.

Present: Council Members Harold Anderson, Wade Cowan, Woody Fridae, Pierre Neu and Mayor Cecilia Aguiar-Curry.  
Absent: None  
Staff: City Manager John Donlevy, City Attorney Ethan Walsh, City Clerk Nanci Mills, Economic Development/Housing Programs Manager Dan Maguire, Environmental Services Manager Carol Scianna, and Management Analysts Jenna Moser and Tracy Jensen.

Christine Crawford led the Pledge of Allegiance.

Approval of Agenda: Motion by Council Member Fridae, second by Council Member Neu to approve the agenda with no changes. Motion carried with the following vote:

AYES: Council Members Anderson, Cowan, Fridae, Neu, Mayor Aguiar-Curry  
NOES: None  
ABSENT: None  
ABSTAIN: None

COUNCIL/STAFF COMMENTS

PUBLIC COMMENTS: None

CONSENT CALENDAR

- A. Minutes of the Regular Meeting of the Winters City Council Held on Tuesday, January 20, 2015

- **B.** Waiver for Extended Work Hours for Creek Work Project  
**C.** Maintenance Work at Well #7

City Manager Donlevy gave an overview. Motion by Council Member Fridae, second by Council Member Neu, to approve the Consent Calendar. Motion carried with the following vote:

→ **AYES:** Council Members Anderson, Cowan, Fridae, Neu, Mayor Aguiar-Curry  
**NOES:** None  
**ABSENT:** None  
**ABSTAIN:** None

### PRESENTATIONS

Proclamation Recognizing the Accomplishments of Congressman Garamendi  
District Director Elly Fairclough **(Moved to 2/17/2015 Agenda)**

Christine Crawford, LAFCO Executive Officer, presented to Council the draft Yolo Broadband Strategic Plan, which included reasons for the importance of reliable wireless capabilities in outlying areas: economic development, commerce, agriculture, schools/homework, adult education & training, healthcare, public safety, government services, entertainment and telecommuting. Unfortunately Winters is overlooked by most big internet providers and the service that is provided is comparatively more expensive for what businesses and residents get compared to other cities in Yolo County. Christine outlined the next steps for Winters, which included meeting with Wave Broadband to find out about expansion plans, conduct a feasibility study for citywide broadband network, adopt a General Plan amendment as policy framework, and coordinate with other local agencies for joint infrastructure. LAFCO is looking for feedback/direction on recommended action items or changes for the City of Winters, which will be incorporated into the final Yolo Broadband Strategic Plan. Mayor Aguiar-Curry wants Winters to be a Broadband leader and thanked Christine for her presentation.

### DISCUSSION ITEMS

1. Second Reading and Adoption of Ordinance 2015-01, Approving the Amended and Restated Development Agreement By and Between the City of Winters and GBH-Winters Highlands, LLC, for the Winters Highlands Subdivision

City Manager Donlevy gave an overview, followed by Council's discussion regarding move-up housing and the types of housing to be included in the project. Council Member Neu wanted the record to reflect that pertaining to the Phasing of the Development, the maximum number of permits for 100 single-family homes should be based on any 12-month period, not one calendar year.