

# **APPENDIX A**

## **PERMITS**

### List of Permits

1. Clean Water Act 401 Water Quality Certification
2. CEQA Notice of Exemption
3. NEPA Categorical Exemption
4. ACOE Nationwide Permit Summary
5. Natural Environmental Study Minimal Impacts
6. Notification of Lake or Streambed Alteration

## Lahontan Regional Water Quality Control Board

July 2, 2014

Vianey White  
Mono County Public Works Department  
74 North School Street, Annex 1  
Bridgeport, CA 93517

### **R6T-2014-0055, ORDER FOR CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION FOR TOPAZ LANE BRIDGE MAINTENANCE PROJECT, MONO COUNTY, WDID 6A261406003**

The California Regional Water Quality Control Board, Lahontan Region (Water Board) has received a complete Clean Water Act Section 401 Water Quality Certification (WQC) application and application filing fee from the Mono County Public Works Department (Applicant) for the Topaz Lane Bridge Maintenance Project (Project) in Mono County. This Order for WQC hereby assigns this Project the following reference number: Waste Discharger Identification (WDID) No. 6A261406003. Please use this reference number in all future correspondence regarding this Project.

Any person aggrieved by this action of the Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: [http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

### **PROJECT DESCRIPTION**

#### **Table of Project Information:**

|              |  |
|--------------|--|
| WDID Number  | 6A261406003  |
| Applicant    | Vianey White<br>Mono County Public Works Department<br>74 North School Street, Annex 1<br>Bridgeport, CA 93517 |
| Agent        | Susanne Heim<br>Panorama Environmental, Inc<br>1 Embarcadero Center, Suite 740<br>San Francisco, CA 94111      |
| Project Name | Topaz Lane Bridge Maintenance  |

**Table of Project Information continued:**

|  |  |                  |             |             |                  |             |             |
|--|--|------------------|-------------|-------------|------------------|-------------|-------------|
| Project Purpose and Description                                      | Perform maintenance on bridge to improve structural safety and prevent further scour around abutments. Project includes rehabilitating timber railings, adding rock scour protection at the eastern abutment, and removing debris from intermediate piers.   |                  |             |             |                  |             |             |
| Project Type   | Fill/Maintenance   |                  |             |             |                  |             |             |
| Project County   | Mono   |                  |             |             |                  |             |             |
| Project Address or other Locating Information                        | State Bridge No. 47C-0005 on Topaz Lane approximately 3 miles north of Coleville and 200 meters east of Highway 395.   |                  |             |             |                  |             |             |
| Location Latitude/Longitude  | Latitude: 38.610623, Longitude: -119.517482  |                  |             |             |                  |             |             |
| Hydrologic Unit(s)   | Hydrologic Unit, 631.00 Hydrologic Area 631.40   |                  |             |             |                  |             |             |
| Overall Project Area   | 0.4 acres  |                  |             |             |                  |             |             |
| Receiving Water(s) Name  | West Walker River  |                  |             |             |                  |             |             |
| Water Body Type(s)   | River  |                  |             |             |                  |             |             |
| Designated Beneficial Uses   | MUN, AGR, GWR, FRSH, NAV, REC-1, REC-2, COMM, COLD, WILD, MIGR, SPWN   |                  |             |             |                  |             |             |
| Potential Water Quality Impacts                                      | Discharge of sediment and other construction related materials into waters.  |                  |             |             |                  |             |             |
| Area of Water(s) within the Overall Project Area                     | 0.01 acres   |                  |             |             |                  |             |             |
| Impacts of Fill to Waters of the State, including Waters of the U.S. | <b>Waterbody Type</b>  | <b>Permanent</b> |             |             | <b>Temporary</b> |             |             |
|  |  | Acres            | Linear Feet | Cubic Yards | Acres            | Linear Feet | Cubic Yards |
|  | <i>Lake</i>  |                  |             |             |                  |             |             |
|  | <i>Riparian</i>  |                  |             |             |                  |             |             |
|  | <i>Stream</i>  | 0.01             | 23          | 30          | 0.04             | 40          | 40          |
|  | <i>Wetland</i>   |                  |             |             |                  |             |             |
| Federal Permit(s)  | The Applicant has applied for U.S. Army Corps of Engineers (USACOE) authorization to proceed under Nationwide Permit 3, pursuant to Clean Water Act section 404.   |                  |             |             |                  |             |             |
| Non-Compensatory Mitigation  | Work will be conducted by hand during the low flow period in late summer/fall. All staging of materials and equipment will be located pavement, road shoulders, or previously disturbed areas. Appropriate sediment control Best Management Practices (BMPs) will be utilized to prevent sediment from entering the river. |                  |             |             |                  |             |             |
| Compensatory Mitigation  | None   |                  |             |             |                  |             |             |
| Applicable Fees  | \$1,682 (\$1,097 base fee, plus discharge fee of 40 linear feet of channel discharges x \$10.97/foot, plus ambient surcharge of 9.5% of base fee plus discharge fee = \$1,682  |                  |             |             |                  |             |             |
| Fees Received  | \$1,682  |                  |             |             |                  |             |             |

## **CEQA COMPLIANCE**

The Water Board has determined that this Project is exempt from the California Environmental Quality Act (Public Resources Code Section 21000 et seq.). In accordance with Section 15301, the basis for CEQA exemption is "Existing Facilities." A Notice of Exemption will be filed with the State Clearinghouse concurrently with issuing this Order.

## **SECTION 401 WATER QUALITY CERTIFICATION**

### **Authority**

Section 401 of the CWA (33 U.S.C., paragraph 1341) requires that any applicant for a CWA Section 404 permit, who plans to conduct any activity that may result in discharge of dredged or fill materials to waters of the United States, must provide to the permitting agency a certification that the discharge will be in compliance with applicable water quality standards of the state in which the discharge will originate. No Section 404 permit may be granted (or valid) until such certification is obtained. The Applicant submitted a complete application and the fees required for WQC under Section 401 for the Project. The Applicant has applied for USACOE authorization to proceed under Nationwide Permit No. 3 pursuant to CWA section 404.

California Code of Regulations (CCR) title 23, section 3831(e) grants the Water Board Executive Officer the authority to grant or deny WQC for projects in accordance with CWA section 401. The Project qualifies for such WQC.

### **Standard Conditions**

Pursuant to CCR title 23, section 3860, the following standard conditions are requirements of this certification:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to California Water Code section 13330 and CCR title 23, section 3867.
2. This certification action is not intended and must not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license unless the pertinent certification application was filed pursuant to CCR title 23, section 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 must be conditioned upon total payment of the full fee required under CCR title 23, section 3833, unless otherwise stated in writing by the certifying agency.
4. Neither project construction activities nor operation of the project may cause a violation of the Water Quality Control Plan for the Lahontan Region (Basin Plan), may cause a condition or threatened condition of pollution or nuisance, or cause any other violation of

the California Water Code.

5. The project must be constructed and operated in accordance with the Project described in the application for WQC that was submitted to the Water Board. Deviation from the project description constitutes a violation of the conditions upon which the certification was granted. Any significant changes to this project that would have a significant or material effect on the findings, conclusions, or conditions of this certification, including project operation, must be submitted to the Executive Officer for prior review and written approval.
6. This Water Quality Certification is subject to the acquisition of all local, regional, state, and federal permits and approvals as required by law. Failure to meet any conditions contained herein or any conditions contained in any other permit or approval issued by the State of California or any subdivision thereof may result in the revocation of this Certification and civil or criminal liability.
7. The Water Board may add to or modify the conditions of this certification as appropriate to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or Section 303 of the Clean Water Act, or as appropriate to coordinate the operations of this project with other projects where coordination of operations is reasonably necessary to achieve water quality standards or protect the beneficial uses of water. Notwithstanding any more specific conditions in this certification, the project must be constructed and operated in a manner consistent with all water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or Section 303 of the Clean Water Act.
8. This certification does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under the California Endangered Species Act (Fish and Game Code section 2050 et seq.) or the federal Endangered Species Act (16 U.S.C. sections 1531 et seq.). If a "take" will result from any act authorized under this certification, the Applicant must obtain authorization for the take prior to construction or operation of the project. The Applicant is responsible for meeting all applicable requirements of the Endangered Species Act for the project authorized under this certification.

### **Additional Conditions**

Pursuant to CCR title 23, section 3859(a), the following additional conditions are requirements of this certification:

1. No debris, cement, concrete (or wash water therefrom), oil or petroleum product must enter into, or be placed where it may be washed from the Project site by rainfall or runoff, into waters of the State. Appropriate sediment control BMPs must be used to prevent excess sediment from entering surface waters. When operations are completed, any excess material must be removed from the Project work area, and from any areas adjacent to the work area where such material may be transported into waters of the State.

2. The Applicant must immediately (within two hours) notify Water Board staff by telephone whenever an adverse condition occurs as a result of this discharge. Such a condition includes, but is not limited to, a violation of the conditions of this Order, a significant spill of petroleum products or toxic chemicals, or damage to control facilities that would cause noncompliance. A written notification of the adverse condition must be provided to the Water Board within two weeks of occurrence. The written notification must identify the adverse condition, describe the actions necessary to remedy the condition, and specify a timetable, subject to any modifications by Water Board staff, for the remedial actions.
3. The Applicant must prevent the introduction or spread of noxious/invasive weeds within the Project and staging area. Measures must include the cleaning of all equipment and gear that has been in an infested site with water heated to 120 degrees Fahrenheit or more, the use of weed-free erosion control materials (including straw), and the use of weed-free seeds and plant material for revegetation of disturbed areas.
4. Rock materials must be washed and free of adhered soil materials prior to placement into surface waters. The discharge of wastewater to surface waters from rock washing is not authorized by this Order.
5. Construction equipment must be monitored for leaks, and removed from service if necessary to protect water quality.
6. An emergency spill kit must be at the Project site at all times.
7. A copy of this Order must be maintained at the Project site so as to be available at all reasonable times to site operating personnel and Water Board staff.

### **Enforcement**

1. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation must be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of Clean Water Act section 401(d), the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.
2. In response to a suspected violation of any condition of this certification, the State Water Board or the Water Board may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring report the State Water Board or Water Board deems appropriate, provided that the burden, including costs, of the reports must be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
3. In response to any violation of the conditions of this certification, the Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.

**Section 401 Water Quality Certification Requirements Granted**

I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of Clean Water Act sections 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), and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification" which requires compliance with all conditions of this WQC.

Except insofar as may be modified by any preceding conditions, all WQC certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the Applicant's Project description and the terms specified in this WQC order, and (b) compliance with all applicable requirements of the Basin Plan.

We look forward to working with you in your efforts to protect water quality. If you have questions, please contact Bud Amorfini at (530) 542-5463 or Alan Miller, Chief, North Basin Regulatory Unit, at (530) 542-5430.



PATTY Z. KOUYOUMDJIAN  
EXECUTIVE OFFICER

cc: Susanne Heim, Panorama Environmental, Inc.  
(via email at [Susanne.heim@panoramaenv.com](mailto:Susanne.heim@panoramaenv.com))

Jason Brush, Wetlands Regulatory Office (WTR-8), US EPA, Region 9  
(via email at [R9-WTR8-Mailbox@epa.gov](mailto:R9-WTR8-Mailbox@epa.gov))

Bill Orme, State Water Resources Control Board, Division of Water Quality  
(via email at [Stateboard401@waterboards.ca.gov](mailto:Stateboard401@waterboards.ca.gov))

Bruce Henderson, U.S. Army Corps of Engineers, L.A. District,  
(via email at [Bruce.A.Henderson@usace.army.mil](mailto:Bruce.A.Henderson@usace.army.mil))

Heidi Sickler, California Department of Fish and Wildlife  
(via email at [Heidi.Sickler@wildlife.ca.gov](mailto:Heidi.Sickler@wildlife.ca.gov))

Bcc: Cheryl Hanley

BA/dk/T: R6T-2014-XXXX\_topazInbridge401\_6A261406003.docx  
[File: WDID 6A261406003/Topaz Lane Bridge Maintenance Project/Mono County]



# NOTICE OF EXEMPTION

FILED  
MAY 23 2014

DA ROBERTS  
COUNTY CLERK

MC 14-06

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



County Clerk / County of Mono  
PO Box 237  
Bridgeport, CA 93517

FROM: Mono County Community Development Department  
PO Box 347  
Mammoth Lakes, CA 93546

**Project Title:** Topaz Lane Bridge Maintenance

**Project Applicant:** Mono County Public Works

**Project Location – Specific:** The Topaz Lane Bridge (State Bridge Number 47C-0005) is located on Topaz Lane, 3 miles north of Coleville, California. The bridge crosses the West Walker River and is located in the northern half of the eastern quarter of Section 24, Township 9 North, Range 22 East, of the Coleville 7.5-minute U.S. Geological Survey (USGS) topographic map.

**Project Location - City:** north of Coleville, California

**Project Location - County:** Mono County

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

The County of Mono proposes maintenance and repairs to Topaz Lane Bridge (State Bridge Number 47C-0005). The Topaz Lane Bridge requires repair of bridge railings, repair of bridge abutment armoring, and removal of debris. The purpose of this maintenance project is to improve the structural safety of the bridge and to prevent further scour from compromising the bridge.

The Topaz Lane Bridge was constructed in 1938. The bridge is constructed of concrete reinforced with steel rebar. The existing bank material is eroding due to scour resulting from fluvial forces exerted by the West Walker River on an older bridge support from the previous generation bridge that was left in place. Destabilization and tilting of this older support has further developed a localized scour hole. The existing rip-rap rock material is no longer effective at protecting the bank against scour at this location. The County proposes to re-grade existing bank material and rearrange and add new rock material along the stream bank to restore it to the original condition. All work will be conducted by hand and staging areas will be restricted to the existing road and road shoulder within the County right-of-way.

**Name of Public Agency Approving Project:** Mono County

**Exempt Status: (check one)**

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: Cat. Ex., Class 1, Sec. 15301 (c) (d)
- Statutory Exemptions. State code number:

**Reasons why project is exempt:**

### 15301. EXISTING FACILITIES

A class 1 section 15301 exemption allows for the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. This applies to:

- (c) existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails and similar facilities and
- (d) restoration or rehabilitation of deteriorated or damaged structures, facilities, or mechanical equipment to meet current standards of public health and safety, provided the damage is not substantial and did not result from an environmental hazard such as earthquake, landslide, or flood.

The Topaz Lane Bridge Maintenance project requires repair of bridge railings, repair of bridge abutment armoring, and removal of debris. The purpose of this maintenance project is to improve the structural safety of the existing bridge and to prevent further scour from compromising the bridge.

#### Railing Rehabilitation

Rehabilitation work will include inspection and repainting as needed. All railing maintenance work will be performed from the bridge deck level. Post pockets will be restored by placing new rammed sand in post pockets, re-grouting, placing new grout caps, and removing and placing new concrete around timber rails. The entire railing system will be repainted.

#### Abutment Scour Hole Maintenance

Tilting of an old bridge support has caused a scour hole at the eastern abutment. The old abutment will be broken into pieces using small hand tools. Broken pieces may be used as rock slope protection (RSP) if their diameter / width is less than 1 foot. Old abutment pieces that will not be used as RSP will be removed. Approximately 16.6 cubic yards of granular material will be used to fill the scour hole and removed abutment. The slope will be re-graded to match the previously constructed slope. Approximately 15 square yards of RSP fabric will be laid down on the re-graded slope, and a combination of new RSP and RSP created from the old abutment will be placed to match the previously constructed RSP slope. RSP will be 2 to 4 feet thick and fill approximately 13 cubic yards. The work will not result in loss of waters of the U.S. because the work will be repairing/replacing a previous structure. No mechanized equipment or machinery will be used for this component of the project.

#### Debris Removal

River debris has caused a scour hole at intermediate piers and requires removal. All removal will be performed by hand. The scour hole is expected to backfill naturally over time. Hand tools and manual labor will be used. No mechanized equipment or machinery will be used on this component of the project.

A Natural Environmental Study was prepared by Panorama Environmental Inc. (April 2014) for the Topaz Lane Bridge Engineering Project and used as a basis for this exemption. As a result of that analysis, the project requires best management practices and project conditions. <sup>1</sup>

Additional permits have been applied for and/or approved by the following agencies:  
Streambed Alteration Permit - California Fish and Wildlife  
Section 401 Nationwide Permit 3 - Army Corps of Engineers  
Section 404 Clean Water Act – Army Corps of Engineers

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<sup>1</sup> **Natural Environment Study** Topaz Lane Bridge Mono County, California 09 – MNO –Topaz Lane – 0.1 miles east of State Route 395 at Post Mile 113, April 2014, Prepared by Panorama Environmental, Inc.

**Lead Agency: Mono County Community Development Department**

**Contact Person:** Gerry LeFrancois

**Area Code/Telephone/Extension: (760) 924-1800**

Signature: Amy LeFrancois

Date: 5/22/14 Title: Principal Planner

- Signed by Lead Agency
- Signed by Applicant

**CATEGORICAL EXEMPTION/CATEGORICAL EXCLUSION DETERMINATION FORM**

|                                  |                          |   |
|----------------------------------|--------------------------|---|
| <b>Mono County</b>               | <b>Topaz Lane Bridge</b> | <b>BP MPL-5947 (048)</b>  |
| Dist.-Co.-Rte. (or Local Agency) | P.M./P.M.                | E.A/Project No. Federal-Aid Project No. (Local Project)/Project No. |

**PROJECT DESCRIPTION:** (Briefly describe project including need, purpose, location, limits, right-of-way requirements, and activities involved in this box. Use Continuation Sheet, if necessary.)

Mono County is planning on conducting maintenance repairs on Topaz Lane Bridge (#47C-0005). Work includes the replacement of railings, old abutment, and removal of debris. Work will take place within the river channel, on the bridge deck, and adjacent roadway. The emphasized use of hand tools has been incorporated into the project scope of work to prevent impacts to wetlands and riparian habitat. The following permits will be required: 1600 Streambed Alteration, Section 401 Water Quality Certification, and a Section 404 Nationwide. No R/W or easements will be required. No known cultural resources will be impacted. To avoid impacts to cliff swallows (*Petrochelidon pyrrhonota*), work will take place between September 1st and February 15<sup>th</sup>; outside of the migratory bird season.

**CEQA COMPLIANCE** (for State Projects only)

Based on an examination of this proposal and supporting information, the following statements are true and exceptions do not apply (See 14 CCR 15300 et seq.):

- If this project falls within exempt class 3, 4, 5, 6 or 11, it does not impact an environmental resource of hazardous or critical concern where designated, precisely mapped and officially adopted pursuant to law.
- There will not be a significant cumulative effect by this project and successive projects of the same type in the same place, over time.
- There is not a reasonable possibility that the project will have a significant effect on the environment due to unusual circumstances.
- This project does not damage a scenic resource within an officially designated state scenic highway.
- This project is not located on a site included on any list compiled pursuant to Govt. Code § 65962.5 ("Cortese List").
- This project does not cause a substantial adverse change in the significance of a historical resource.

**CALTRANS CEQA DETERMINATION** (Check one)

Exempt by Statute. (PRC 21080[b]; 14 CCR 15260 et seq.)

Based on an examination of this proposal, supporting information, and the above statements, the project is:

Categorically Exempt Class (PRC 21084; 14 CCR 15300 et seq.)

Categorically Exempt. General Rule exemption. [This project does not fall within an exempt class, but it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment (CCR 15061[b][3].)]

Print Name: Environmental Branch Chief

Print Name: Project Manager/DLA Engineer

Signature

Date

Signature

Date

**NEPA COMPLIANCE**

In accordance with 23 CFR 771.117, and based on an examination of this proposal and supporting information, the State has determined that this project:

- does not individually or cumulatively have a significant impact on the environment as defined by NEPA and is excluded from the requirements to prepare an Environmental Assessment (EA) or Environmental Impact Statement (EIS), and
- has considered unusual circumstances pursuant to 23 CFR 771.117(b).

**CALTRANS NEPA DETERMINATION** (Check one)

**23 USC 326:** The State has determined that this project has no significant impacts on the environment as defined by NEPA, and that there are no unusual circumstances as described in 23 CFR 771.117(b). As such, the project is categorically excluded from the requirements to prepare an environmental assessment or environmental impact statement under the National Environmental Policy Act. The State has been assigned, and hereby certifies that it has carried out the responsibility to make this determination pursuant to Chapter 3 of Title 23, United States Code, Section 326 and a Memorandum of Understanding dated June 07, 2013, executed between the FHWA and the State. The State has determined that the project is a Categorical Exclusion under:

23 CFR 771.117(c): activity (c) ( )

23 CFR 771.117(d): activity (d) (3)

Activity listed in Appendix A of the MOU between FHWA and the State

**23 USC 327:** Based on an examination of this proposal and supporting information, the State has determined that the project is a CE under 23 USC 327.

**Ryan Dermody**

**Forest Becket**

Print Name: Environmental Branch Chief

Print Name: Project Manager/DLA Engineer

Signature

Date

Signature

Date

Date of Categorical Exclusion Checklist completion: 6/6/2014

Date of ECR or equivalent : n/a

Briefly list environmental commitments on continuation sheet. Reference additional information, as appropriate (e.g., CE checklist, additional studies and design conditions).



U S Army Corps of  
Engineers  
Sacramento District

# Nationwide Permit Summary

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

## 3. Maintenance.

(a) The repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure, or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3, provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, requirements of other regulatory agencies, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized. Any stream channel modification is limited to the minimum necessary for the repair, rehabilitation, or replacement of the structure or fill; such modifications, including the removal of material from the stream channel, must be immediately adjacent to the project or within the boundaries of the structure or fill. This NWP also authorizes the repair, rehabilitation, or replacement of those structures or fills destroyed or damaged by storms, floods, fire or other discrete events, provided the repair, rehabilitation, or replacement is commenced, or is under contract to commence, within two years of the date of their destruction or damage. In cases of catastrophic events, such as hurricanes or tornadoes, this two-year limit may be waived by the district engineer, provided the permittee can demonstrate funding, contract, or other similar delays.

(b) This NWP also authorizes the removal of accumulated sediments and debris in the vicinity of existing structures (e.g., bridges, culverted road crossings, water intake structures, etc.) and/or the placement of new or additional riprap to protect the structure. The removal of sediment is limited to the minimum necessary to restore the waterway in the vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend farther than 200 feet in any direction from the structure. This 200 foot limit does not apply to maintenance dredging to remove accumulated sediments blocking or restricting outfall and intake structures or to maintenance dredging to remove accumulated sediments from canals associated with outfall and intake structures. All dredged or excavated materials must be deposited and

retained in an area that has no waters of the United States unless otherwise specifically approved by the district engineer under separate authorization. The placement of new or additional riprap must be the minimum necessary to protect the structure or to ensure the safety of the structure. Any bank stabilization measures not directly associated with the structure will require a separate authorization from the district engineer.

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

(d) This NWP does not authorize maintenance dredging for the primary purpose of navigation. This NWP does not authorize beach restoration. This NWP does not authorize new stream channelization or stream relocation projects.

**Notification:** For activities authorized by paragraph (b) of this NWP, the permittee must submit a pre-construction notification to the district engineer prior to commencing the activity (see general condition 31). The pre-construction notification must include information regarding the original design capacities and configurations of the outfalls, intakes, small impoundments, and canals. (Sections 10 and 404)

**Note:** This NWP authorizes the repair, rehabilitation, or replacement of any previously authorized structure or fill that does not qualify for the Clean Water Act Section 404(f) exemption for maintenance.

## A. Regional Conditions

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

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

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

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

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

### 3. Regional Conditions for Utah

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

### 4. Regional Conditions for Colorado.

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

## B. Nationwide Permit General Conditions

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

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

#### 1. Navigation.

- (a) No activity may cause more than a minimal adverse effect on navigation.
- (b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.
- (c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. **Aquatic Life Movements.** No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species.

3. **Spawning Areas.** Activities in spawning areas during spawning seasons must be avoided to the maximum extent

practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

- 4. **Migratory Bird Breeding Areas.** Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.
- 5. **Shellfish Beds.** No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.
- 6. **Suitable Material.** No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).
- 7. **Water Supply Intakes.** No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.
- 8. **Adverse Effects From Impoundments.** If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.
- 9. **Management of Water Flows.** To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).
- 10. **Fills Within 100-Year Floodplains.** The activity must comply with applicable FEMA-approved state or local floodplain management requirements.
- 11. **Equipment.** Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.
- 12. **Soil Erosion and Sediment Controls.** Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.
- 13. **Removal of Temporary Fills.** Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. **Proper Maintenance.** Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. **Single and Complete Project.** The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. **Wild and Scenic Rivers.** No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).

17. **Tribal Rights.** No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

18. **Endangered Species.**

(a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which “may affect” a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.

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

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that might be affected by the proposed work or that utilize the designated critical habitat that might be affected by the proposed work. The

district engineer will determine whether the proposed activity “may affect” or will have “no effect” to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps’ determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have “no effect” on listed species or critical habitat, or until Section 7 consultation has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

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

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

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

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

20. **Historic Properties.**

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

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

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of Section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties on which the activity may have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

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

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

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

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

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

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

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

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

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

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

Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

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

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

(3) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) – (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)).

(4) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan only needs to address the baseline conditions at the impact site and the number of credits to be provided.

(5) Compensatory mitigation requirements (e.g., resource type and amount to be provided as

compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation, such as stream rehabilitation, enhancement, or preservation, to ensure that the activity results in minimal adverse effects on the aquatic environment.

(e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any project resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWPs.

(f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the restoration or establishment, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required. Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to establish a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or establishing a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(g) Permittees may propose the use of mitigation banks, in-lieu fee programs, or separate permittee-responsible mitigation. For activities resulting in the loss of marine or estuarine resources, permittee-responsible compensatory mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and

performance of the compensatory mitigation project, and, if required, its long-term management.

(h) Where certain functions and services of waters of the United States are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.

**24. Safety of Impoundment Structures.** To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

**25. Water Quality.** Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA Section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

**26. Coastal Zone Management.** In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

**27. Regional and Case-By-Case Conditions.** The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

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

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

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

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(Transferee)

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(Date)

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

(a) A statement that the authorized work was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;

(b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and

(c) The signature of the permittee certifying the completion of the work and mitigation.

**31. Pre-Construction Notification.**

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

(1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or

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

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

- (1) Name, address and telephone numbers of the prospective permittee;
- (2) Location of the proposed project;
- (3) A description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause, including the anticipated amount of loss of water of the United States expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the project and when provided results in a quicker decision. Sketches should contain

sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

(4) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;

(5) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse effects are minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(6) If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, for non-Federal applicants the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act; and

(7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

(c) Form of Pre-Construction Notification: he standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is a PCN and must include all of the information required in paragraphs (b)(1) through (7) of this general condition. A letter containing the required information may also be used.

(d) Agency Coordination:

(1) The district engineer will consider any comments from Federal and state agencies

concerning the proposed activity's compliance with the terms and conditions of the NWP and the need for mitigation to reduce the project's adverse environmental effects to a minimal level.

□ (2) For all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States, for NWP 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52 activities that require pre-construction notification and will result in the loss of greater than 300 linear feet of intermittent and ephemeral stream bed, and for all NWP 48 activities that require pre-construction notification, the district engineer will immediately provide (e.g., via email, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (U.S. FWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Office (THPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to telephone or fax the district engineer notice that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure the net adverse environmental effects to the aquatic environment of the proposed activity are minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

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

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

### C. District Engineer's Decision

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

□ 2. If the proposed activity requires a PCN and will result in a loss of greater than 1/10- acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for projects with smaller impacts. The district engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed activity are minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the district engineer will notify the permittee and include any activity-specific conditions in the NWP verification the district engineer deems necessary. Conditions for compensatory mitigation requirements must comply with the appropriate provisions at 33 CFR 332.3(k). The district engineer must approve the final mitigation plan before the permittee commences work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the

district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the proposed compensatory mitigation plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the district engineer to be minimal, the district engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP, including any activity-specific conditions added to the NWP authorization by the district engineer.

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

#### D. Further Information

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.
2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.
3. NWPs do not grant any property rights or exclusive privileges.
4. NWPs do not authorize any injury to the property or rights of others.
5. NWPs do not authorize interference with any existing or proposed Federal project.

#### E. Definitions

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

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

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

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

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

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

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

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

**High Tide Line:** The line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

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

**Independent utility:** A test to determine what constitutes a single and complete non-linear project in the Corps regulatory program. A project is considered to have independent utility if it would be constructed absent the construction of other

projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Structure:** An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty,

artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

***Topaz Lane Bridge Project***

**NES (MI)**

# **Natural Environment Study**

(Minimal Impacts)

Topaz Lane Bridge  
Mono County, California  
09-MNO-Topaz Lane

BPMP 5947 (048)



**May 2014**

STATE OF CALIFORNIA  
Department of Transportation  
MONO COUNTY



# Natural Environment Study

(Minimal Impacts)

Topaz Lane Bridge  
Mono County, California  
09-MNO-Topaz Lane  
BPMPL-5947 (048)

**May 2014**

STATE OF CALIFORNIA  
Department of Transportation  
MONO COUNTY

Recommended  
For Approval By:

*Trisha A. Meyer*

Date: *6.6.2014*

District Biologist: Trisha Meyer  
Phone Number: (760) 872-4193  
Office Name: Eastern Sierra Environmental Branch  
District/Region: District 09/Central Region

Approved By:

*[Signature]*

Date: *6/6/14*

Local Assistance Branch Chief: Forest Becket  
Phone Number: (760) 872-0681  
Office Name: Eastern Sierra Environmental Branch  
District/Region: District 09/Central Region



## **List of Abbreviated Terms**

|          |   |
|----------|---|
| BLM      | Bureau of Land Management                     |
| BMP      | Best Management Practices                     |
| BSA      | biological study area                         |
| C        | Celsius                                       |
| Cal-IPC  | California Invasive Plant Council             |
| Caltrans | California Department of Transportation       |
| CCH      | California Consortium of Herbaria             |
| CDFA     | California Department of Food and Agriculture |
| CDFW     | California Department of Fish and Wildlife    |
| CFR      | Code of Federal Regulations                   |
| cm       | centimeter(s)                                 |
| CNDDDB   | California Natural Diversity Database         |
| CNPS     | California Native Plant Society               |
| CRPR     | California Rare Plant Rank                    |
| dm       | decimeter(s)                                  |
| ESA      | Endangered Species Act                        |
| F        | Fahrenheit                                    |
| ft       | foot/feet                                     |
| g        | gram(s)                                       |
| ha       | hectare(s)                                    |
| kg       | kilogram(s)                                   |
| km       | kilometer(s)                                  |
| KP       | kilometer post                                |
| lb       | pound(s)                                      |
| LRWQCB   | Lahontan Regional Water Quality Control Board |
| m        | meter(s)                                      |
| MCAC     | Mono County Agricultural Commissioner         |
| mi       | mile(s)                                       |
| mm       | millimeter(s)                                 |
| NRCS     | Natural Resource Conservation District        |

|       |   |
|-------|---|
| NTCHS | National Technical Committee for Hydric Soils |
| NWI   | National Wetlands Inventory                   |
| PM    | post mile                                     |
| ROW   | right-of-way                                  |
| RWQCB | Regional Water Quality Control Board          |
| SR    | State Route                                   |
| SWRCB | State Water Resources Control Board           |
| USACE | U.S. Army Corps of Engineers                  |
| USC   | U.S. Code                                     |
| USFWS | U.S. Fish and Wildlife Service                |
| USGS  | U.S. Geological Survey                        |
| WOUS  | Waters of the U.S.                            |
| WRCC  | Western Regional Climate Center               |

## 1.0 Summary

### Project Description

Mono County (the County), in co-operation with the California Department of Transportation (Caltrans) is proposing repair and preventative maintenance activities on the Topaz Lane Bridge, located in the town of Topaz in Mono County, California (Figures 1 and 2). The project is located along Topaz Lane, 0.1 miles (0.16 km) east of State Route (SR) 395 at post mile (PM) 113.

The proposed project would repair bridge railing support posts and paint railings, remove debris from bridge piers, break up old bridge support, re-grade a scour hole located on the east bank, and replace rock slope protection to protect the bank from future scour. All work will be done with hand tools by crews accessing the work area on foot. Dewatering may be required to maintain a dry work area. Photos of the project area are provided in Appendix A.

The need for these repairs was identified through various Caltrans biennial bridge inspections and additional County performed inspections. The purpose of the project is to construct needed repairs and preventative maintenance.

### Habitat Effects

The Biological Study Area (BSA) was defined as the limits of the project area including all areas of temporary and permanent disturbance and the project staging area. The total size of the BSA is 0.403 acre (ac) (0.163 hectare [ha]).

Temporary and permanent impacts to vegetated habitat (big sagebrush and riparian scrub) and to open stream habitat are presented in Table 1. The remaining disturbance will be within developed/disturbed areas including the bladed road shoulder.

Table 1. Area of Disturbance by Habitat Type

|                       | <b>Temporary Disturbance</b>       | <b>Permanent Disturbance</b>       | <b>Total Disturbance</b>           |
|-----------------------|------------------------------------|------------------------------------|------------------------------------|
| <b>Big sagebrush</b>  | 0.006 ha<br>0.014 ac               | 0 ha<br>0. ac                      | <b>0.006 ha</b><br><b>0.014 ac</b> |
| <b>Riparian scrub</b> | 0.005 ha<br>0.012 ac               | 0 ha<br>0 ac                       | <b>0.005 ha</b><br><b>0.012 ac</b> |
| <b>Stream</b>         | 0.016 ha<br>0.04 ac                | 0.003 ha<br>0.008 ac               | <b>0.019 ha</b><br><b>0.048 ac</b> |
| <b>TOTAL</b>          | <b>0.027 ha</b><br><b>0.066 ac</b> | <b>0.003 ha</b><br><b>0.008 ac</b> | <b>0.03 ha</b><br><b>0.074 ac</b>  |

## Special-status Species Effects

Pre-field research included queries of California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database (CNDDDB), California Natural Plant Society's (CNPS) Electronic Inventory of Rare and Endangered Plants, United States Fish and Wildlife Service (USFWS) Official Online Species Lists, and the National Wetland Inventory (NWI) dataset. Queries were run for Mono County and for the nine U.S. Geological Survey (USGS) 7.5-minute quadrangles that contain and surround the BSA: Heenan Lake, Topaz Lake, Long Dry Canyon, Wolf Creek, Coleville, Risue Canyon, Disaster Peak, Lost Canyon Peak, and Chris Flat.

The database queries identified four special-status wildlife species with some potential to occur within the BSA:

- pallid bat (*Antrozous pallidus*)
- Townsend's big-eared bat (*Corynorhinus townsendii*)
- Lahontan cutthroat trout (*Oncorhynchus clarkii henshawi*)
- bald eagle (*Haliaeetus leucocephalus*)

A general reconnaissance-level survey for these four special-status wildlife species was conducted and ruled out the requirement for species-specific protocol-level surveys for mammals or birds because no habitat for species requiring protocol-level surveys was found within the BSA.

Protocol-level botanical surveys were required as a result of database queries that identified five special-status plant species with potential to occur within the BSA. The five species are:

- Lavin's egg milkvetch (*Astragalus oophorus* var. *lavini*)
- Lidden's sedge (*Carex petasata*)
- western valley sedge (*C. vallicola*)
- American mannagrass (*Glyceria grandis*)
- spiny milkwort (*Polygala subspinosa*)

Wildlife and protocol level botanical surveys were conducted on March 24, 2014. As a result of surveys and subsequent consultation with the CDFW and the USFWS, it was determined that the BSA provides potential habitat for two special-status species and one protected species:

- The Lahontan cutthroat trout (*Oncorhynchus clarkii henshawi*), Federally Endangered (FE)
- Cliff swallows (*Petrochelidon pyrrhonota*), Migratory Bird Treaty Act (MBTA)
- Beaver (*Castor canadensis*), California Fish and Game Code (CFGC)

Avoidance and minimization efforts for the Lahontan cutthroat trout, cliff swallows and beaver consist of the following:

- 1) Conduct pre-construction survey for Lahontan cutthroat trout no more than 48 hour prior to construction start by a qualified biologist
- 2) Restrict construction to the dry season to avoid high flows of the West Walker River
- 3) Install a gravel bag barricade around the work area to prevent fish species from entering the work area
- 4) Implement BMPs such as lining the inside of the gravel bags with silt fabric to avoid or reduce sedimentation within the West Walker River
- 5) Provide a Biological Monitor during dewatering of the work area
- 6) Discharge of shallow groundwater or creek water to uplands via a perforated pipe or a sediment filter bag to reduce the potential for sediment discharge
- 7) Install a screen around the pump intake to prevent entrapment of fish and other aquatic species during dewatering
- 8) Implement a construction window outside of the nesting period (February 15 to September 1) to avoid impacts to nesting birds
- 9) Use of hand tools to reduce noise, prevent permanent impacts to riparian vegetation and reduce impacts to the West Walker River
- 10) Conduct a pre-construction survey for beaver
- 11) Relocate any beavers within the work area according to provisions set forth in the CDFW 1600 Streambed Alteration Agreement
- 12) Install orange mesh ESA fencing around the work area to prevent impacts to riparian vegetation outside of the work area

Additional avoidance and minimization measures, as well as BMP's apply to prevent impacts to the West Walker River and may be required as part of the permits listed below.

No compensatory mitigation is required.

### **Permits Required**

The Topaz Lane Bridge project will require the following permits:

- A 1600 Streambed Alteration Agreement from CDFW
- Section 401 Water Quality Certification from the Lahontan Regional Water Quality Control Board (LRWQCB)
- Nationwide Permit 3 from the United States Army Corps of Engineers (USACE)

### **Beneficial Impacts**

Completion of the proposed project will reduce future erosion of the river banks protecting riparian vegetation and stream habitat in and downstream of the BSA. Removing debris from the West Walker River channel will restore and improve the natural flow of the West Walker River.

## **2.0 Introduction**

The Topaz Lane Bridge Project (project) is a preventative maintenance project intended to repair certain features of the Topaz Lane Bridge. The purpose of the project is to restore the bridge to the original condition and protect the integrity of the eastern bank of the West Walker River directly below the bridge footings. The project is located on Topaz Lane, 0.1 mile (0.16 km) east of the junction with Highway 395 at PM 113 in unincorporated Mono County, California (Figures 1 and 2).

### **2.1 Project History**

The Topaz Lane Bridge was constructed in 1938 and is used for access to the eastern side of Topaz Valley. The bridge is constructed of steel reinforced concrete. The Topaz Lane Bridge is routinely inspected for structural integrity every two years. Inspections have determined that existing bank material is eroding and a scour hole has developed along the eastern bank of the river directly underneath the bridge. This scour hole has developed due to destabilization and tilting of an older bridge support from the previous generation bridge that was left in place. In 2013, Mono County proposed measures to prevent further erosion and to maintain the existing bridge structure.

### **2.2 Project Description**

Mono County (the County), in co-operation with Caltrans is proposing repair and preventative maintenance activities on the Topaz Lane Bridge. The project would repair bridge railing support posts and paint railings, remove debris from bridge piers, break up old bridge support, re-grade and fill a scour hole located on the east bank, and replace rock slope protection (RSP) at the eastern bridge abutment to protect the bank from future scour.

All work will be conducted by hand and the disturbance area will be entirely within the Mono County right-of-way (ROW). No access roads will be built, no borrow areas are required, staging will occur within the disturbed ROW, and no removal of vegetation is required because all excavation and/or clear and grubbing will occur in the existing rip-rap areas that do not support vegetation. Photos of the BSA are provided in Appendix A.



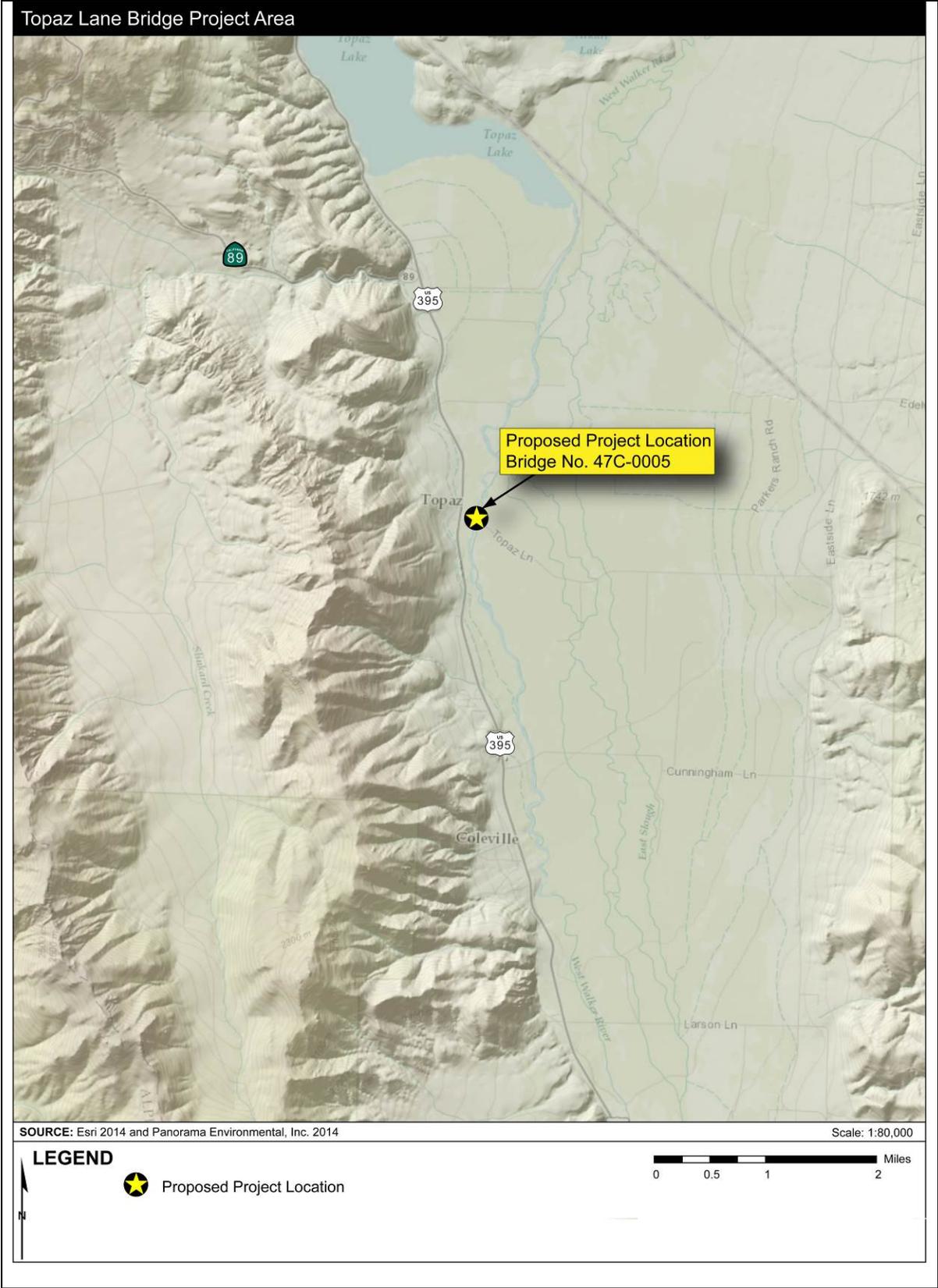


Figure 2. Project Location Map

Construction will require diverting flows within West Walker River around the work area. Gravel bags will be placed around the eastern abutment to create a rectangular work area and divert flows around the work area (Attachment D). Gravel bags will be approximately 1.5 feet (0.46 m) above the water line to ensure river flows do not enter the work area. Gravel bags will be placed a minimum of 5 feet (1.52 m) away from the easternmost edge of the work area. Gravel bags will be removed and normal flows will be restored to the river immediately upon completion of construction.

Dewatering may be required to remove shallow groundwater from the work area or if river flows. Dewatering would be conducted via a submersible pump. Shallow groundwater or river water would either be discharged to uplands via a perforated pipe or discharged through a sediment filter bag to reduce the potential for sediment discharge. If dewatering is conducted to remove river water from the work area, a biologist must be present during dewatering activities, and a screen would be installed around the pump intake to prevent entrapment of fish and other aquatic species.

### **3.0 Study Methods**

#### **3.1 Studies Required**

##### **Pre-field Research**

The BSA was defined as the limits of the project area including all areas of temporary and permanent disturbance and the project staging area (Figure 3).

Pre-field research included queries of CDFW's California Natural Diversity Database (CNDDDB 2014), CNPS's Electronic Inventory of Rare and Endangered Plants (CNPS 2014a), USFWS's Official Online Species Lists (USFWS 2014c), and the NWI dataset (USFWS 2014a). Queries were run for Mono County and for the nine U.S. Geological Survey (USGS) 7.5-minute quadrangles that contain and surround the BSA: Heenan Lake, Topaz Lake, Long Dry Canyon, Wolf Creek, Coleville, Risue Canyon, Disaster Peak, Lost Canyon Peak, and Chris Flat. A list of all species returned by these queries is presented in Appendix B.

Special-status species are defined as species listed as threatened, endangered, candidate, or of concern at the state or federal level, or species protected at the state or federal level. This list includes plant species with a California Rare Plant Rank of 1 or 2 (CNDDDB 2014, USFWS 2014c, and CNPS 2014a). A species was determined to have potential to occur within the BSA if its known or expected geographic range includes the vicinity of the project and its habitat is found within or near the BSA. Species whose known distribution, habitat, or elevation range precluded their possible occurrence in the vicinity of the BSA were generally not considered further, although some taxa with relatively low probability for occurrence were retained due to the incomplete state of knowledge of the range and/or habitat of certain species. A list of special-

status wildlife and plant species, with their status, habitat requirements, and the presence/absence of such habitat within the BSA during the field survey is presented in Table 2.

### Field Studies

The database queries did not identify any special-status wildlife species that require species-specific protocol level surveys or habitat assessments within the BSA. Also, because all construction will be conducted outside the nesting period for migratory bird species (February 15 through September 1) no surveys for nesting migratory birds were conducted.

The West Walker River is delineated as a jurisdictional Water of the US (WOUS). No potential wetlands are located within the BSA; therefore, a Jurisdictional Wetland Delineation has not been conducted.

The database queries identified four special-status wildlife species with some potential to occur within the BSA:

- pallid bat (*Antrozous pallidus*)
- Townsend's big-eared bat (*Corynorhinus townsendii*)
- Lahontan cutthroat trout (*Oncorhynchus clarkii henshawi*)
- bald eagle (*Haliaeetus leucocephalus*)

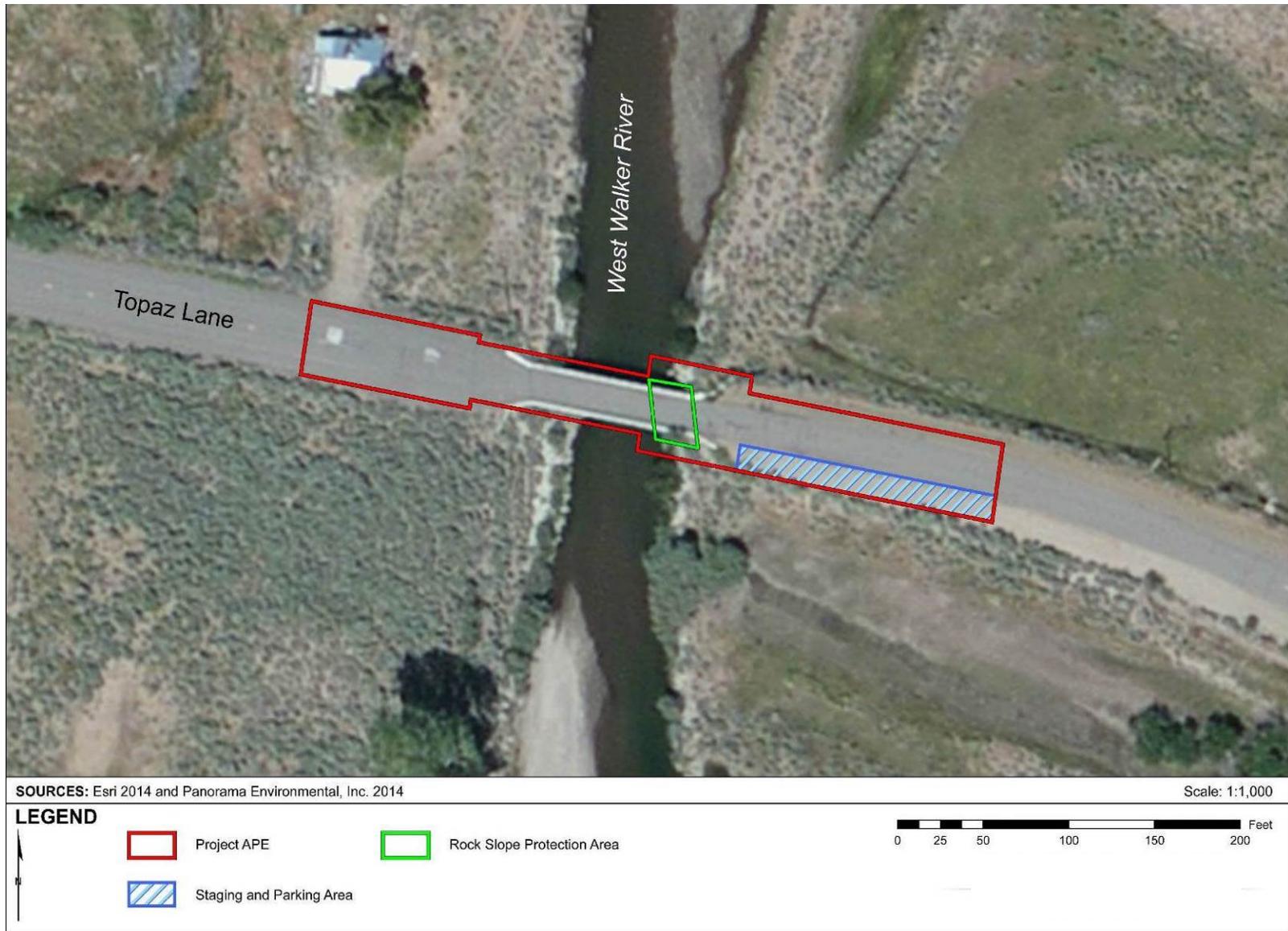
A general reconnaissance-level survey for these four special-status wildlife species was conducted to determine if these species or habitat for these species is present within the BSA. No species-specific protocol-level surveys for mammals or birds were required because no habitat for species requiring protocol-level surveys was found within the BSA. Prior to construction a survey for Lahontan cutthroat trout will be performed in accordance with conditions of the CDFW 1600 permit.

Protocol-level botanical surveys were required as a result of database queries that identified five special-status plant species with potential to occur within the BSA. The five species are:

- Lavin's egg milkvetch (*Astragalus oophorus var. lavini*)
- Lidden's sedge (*Carex petasata*)
- western valley sedge (*C. vallicola*)
- American mannagrass (*Glyceria grandis*)
- spiny milkwort (*Polygala subspinosa*)

### Botanical Surveys

Protocol-level botanical surveys were performed for these five special-status plant species. The surveys followed the guidelines published by CDFG (2009), USFWS (1996), and CNPS (2001). All plant species observed in the BSA are listed in Appendix C.



**Figure 3. Map of Biological Study Area**

When special-status plants are known to occur in the type(s) of habitat present in the BSA, reference sites (nearby accessible occurrences of the plants) are used to determine whether those species are identifiable at the time of the survey and to obtain a visual image of the target species, associated habitat, and associated natural community. American mannagrass (*Glyceria grandis*) and Lavin's egg milkvetch (*Astragalus oophorus* var. *lavinii*) were observed by Catherine Schnurrenberger, the field Botanist/Ecologist conducting the biological survey, during previous botanical surveys conducted within the Eastern Sierra Region. Therefore, reference sites of these species were not visited during the botanical survey of the BSA. Reference sites for Liddon's sedge (*Carex petasta*) and western valley sedge (*C. vallicola*) were not visited because the location information in the CNDDDB records was vague and inaccurate. CNDDDB coordinates for the one occurrence of spiny milkwort (*Polygala subspinosa*) noted to occur within 1 mile of the BSA conflicted with the habitat and location description and with location data recorded for this population in the California Consortium of Herbaria (CCH 2014). CCH data and the CNDDDB location description place this population on the far eastern side of the Antelope Valley in the foothills of the Sweet Water Mountain Range in habitat not found within the BSA; therefore, this reference site was not visited.

### **3.3 Personnel and Survey Dates**

The wildlife and botanical surveys were conducted on March 24, 2014, by Botanist/Ecologist Catherine Schnurrenberger. Ms. Schnurrenberger has over 20 years of experience conducting rare plant surveys within the Sierra Nevada and Great Basin Floristic Provinces. She has performed general wildlife surveys in the Eastern Sierra and Great Basin. She also has experience with wetland delineations and WOUS surveys within the arid west and the West Mountain and Valley Regions.

### **3.4 Agency Coordination and Professional Contacts**

#### **Federal Endangered Species Act Consultation Summary**

On September 3, 2013, Ms. Heim contacted USFWS Biologist Andy Strauss regarding the potential for Lahontan cutthroat trout, a federally threatened species, to occur in the BSA. Mr. Strauss stated that Lahontan cutthroat trout were not present in the West Walker River and that no Section 7 consultation would be necessary (Strauss 2013).

#### **Federal Fisheries and Essential Fish Habitat Consultation Summary**

Based on the aforementioned conversation with Mr. Strauss of USFWS no consultation regarding fisheries or fish habitat was pursued.

#### **California Endangered Species Act Consultation Summary**

No species listed as threatened or endangered in California were present in the BSA, nor was habitat for such species present.

In September 2013, Ms. Heim initiated communication with Region 6 CDFW Biologists Heidi Sickler and Dawne Emery to discuss Streambed Alteration Agreements (Section 1600 permits) and the potential for Lahontan cutthroat trout to occur within the West Walker River (Sickler 2013). Ms. Emery informed Ms. Heim that anglers had reported Lahontan cutthroat trout within the West Walker River at the confluence with Mill Creek, over 7 mi (11.3 km) upstream of the BSA. Based on this information Ms. Emery could not rule out the possibility that Lahontan cutthroat trout could be present in the BSA. Ms. Sickler suggested requiring preconstruction surveys for Lahontan cutthroat trout as part of the 1600 Streambed Alteration Agreement.

#### **Wetlands and Other Waters Coordination Summary**

A Section 401 Water Quality Certification application is being prepared and submitted to LRWQCB to satisfy requirements and regulations of the Federal Clean Water Act. There are no potential wetlands within the BSA because the limits of the BSA are confined to the improved roadway and the sloped streambank.

The project will require approximately 17 cubic yards of granular fill and 13 cubic yards of rock slope protection to fill the scour hole at the bridge abutment. There will be no net loss of WOUS and therefore no compensatory mitigation is required.

#### **Fur-bearing Mammals Coordination Summary**

On April 7, 2014, Ms. Schnurrenberger contacted Tim Taylor, CDFW Biologist at the Bridgeport field office of CDFW Region 6, regarding the presence of beaver within the BSA (Taylor 2014). Mr. Taylor recommended contacting Heidi Sickler regarding inclusion of beaver relocation in the 1600 Streambed Alteration Agreement requirements. Communication is ongoing with CDFW regarding beaver relocation.

### **3.5 Limitations That May Influence Results**

Botanical surveys were conducted early in the season when most species were not yet flowering; however, no species in the genera of the five special-status species were observed within the BSA. Botanical surveys may confirm the presence of a rare plant on a site, but negative results do not guarantee that a rare plant species is absent. However, the lack of suitable habitat within the BSA makes it highly unlikely that any of the special-status plant species would be found within the BSA.

## 4.0 Environmental Setting

### 4.1 Description of Existing Biological and Physical Conditions

#### Biological Study Area

The BSA is located within the Antelope Valley, in Township 9 North, Range 22 East, Section 24, at an elevation of 5,044 ft (1,537 m) (Figure 2). The Antelope Valley is bordered on the west by the Sierra Nevada Mountains and on the east by the northern terminus of the Sweet Water Mountain Range. The West Walker River receives runoff from both mountain ranges with the vast majority of the water supplied by snowmelt from the Sierra Nevada Mountains. The Antelope Valley is approximately 10 mi (16.1 km) long and between 1 mi (1.6 km) and 3 mi (4.8 km) wide. The valley is relatively flat and the low gradient river system slopes to the north eventually draining into the Walker River Basin to the northwest. Historically, the West Walker River supported multiple channels that meandered throughout the valley supporting a vast expanse of wetlands. Hydric soils are present throughout the valley and the majority of the valley is mapped as wetland (USFWS 2014a); however, water is currently controlled by the Los Angeles Department of Water and Power through hydraulic engineering controls and is used for agricultural purposes. No native wetland vegetation is found in the BSA. The BSA is confined to the County ROW, which includes the Topaz Lane Bridge, roadway, road shoulder, and the portion of the West Walker River (Figure 3). There is no buffer around the BSA because the surrounding land is privately owned and fencing prohibits entry to private land. Permits to enter onto private land were not obtained. Land use adjacent to the County ROW is private agricultural land (Figure 3). The total size of the BSA is 0.403 acre (0.163 hectare).

#### Physical Conditions

##### *Climate*

The BSA is located in an area that has a semi-arid, high-elevation desert climate characterized by hot, dry summers and cold winters with moderate precipitation. Mean annual temperature is about 50 degrees Fahrenheit (°F). Temperatures vary greatly throughout the year, with a temperature change of approximately 40 degrees between the coldest and warmest months of the year (WRCC 2014).

Mean annual precipitation reported for Topaz Lake, Nevada, approximately 5 mi (8 km) north of the BSA, is 8.46 in (214.9 mm) with a range from 1.2 in (31.5 mm) to 17.2 in (535.6 mm). The majority of precipitation is received from November through March in the form of snow and rain. Spring and summer thunder showers provide periods of brief intense rainfall. The number of frost-free days is generally between 90 and 100 (WRCC 2014).

### ***Topography***

The BSA is located within the larger stream complex of the West Walker River. The current West Walker River channel is incised and is not connected to its natural floodplain. The topography and vegetation within the BSA reflect the hydrological changes associated with incised channelized river systems. Aerial photos of the BSA show relic channels that meander across the BSA. The current river system only supports a narrow strip of riparian vegetation (Figures 3 and 6). Emergent wetland vegetation is mapped in the National Wetland Inventory (NWI) adjacent to the BSA in swales created by relic channels but field surveys determined that emergent wetland vegetation is not present within the BSA (Figure 4). Hydric soils are mapped within the BSA but because the current West Walker River channel is incised 3.28 to 6.56 ft (1 to 2 m) these soils are no longer connected to the water table and do not support wetland vegetation within the BSA (Figure 5).

### ***Soils***

Three main soils types are mapped within the BSA: Gurdgee clay loam (map unit 281), Gurdgee loamy clay sand (map unit 284), and River Wash complex (map unit 990) (Figure 5). Of these soils only the River Wash complex is considered “partially hydric.” Partially hydric indicates that components that comprise 33 to 66 percent of the map unit are rated as hydric soils (NRCS 2014). Hydric soils are defined by the National Technical Committee for Hydric Soils (NTCHS) as soils that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part (Federal Register, 1994). All three soil types are derived from mixed alluvium. A description of each soil type and a table presenting hydric soil components by soil type are presented in Appendix D.

**Biological Conditions in the BSA**

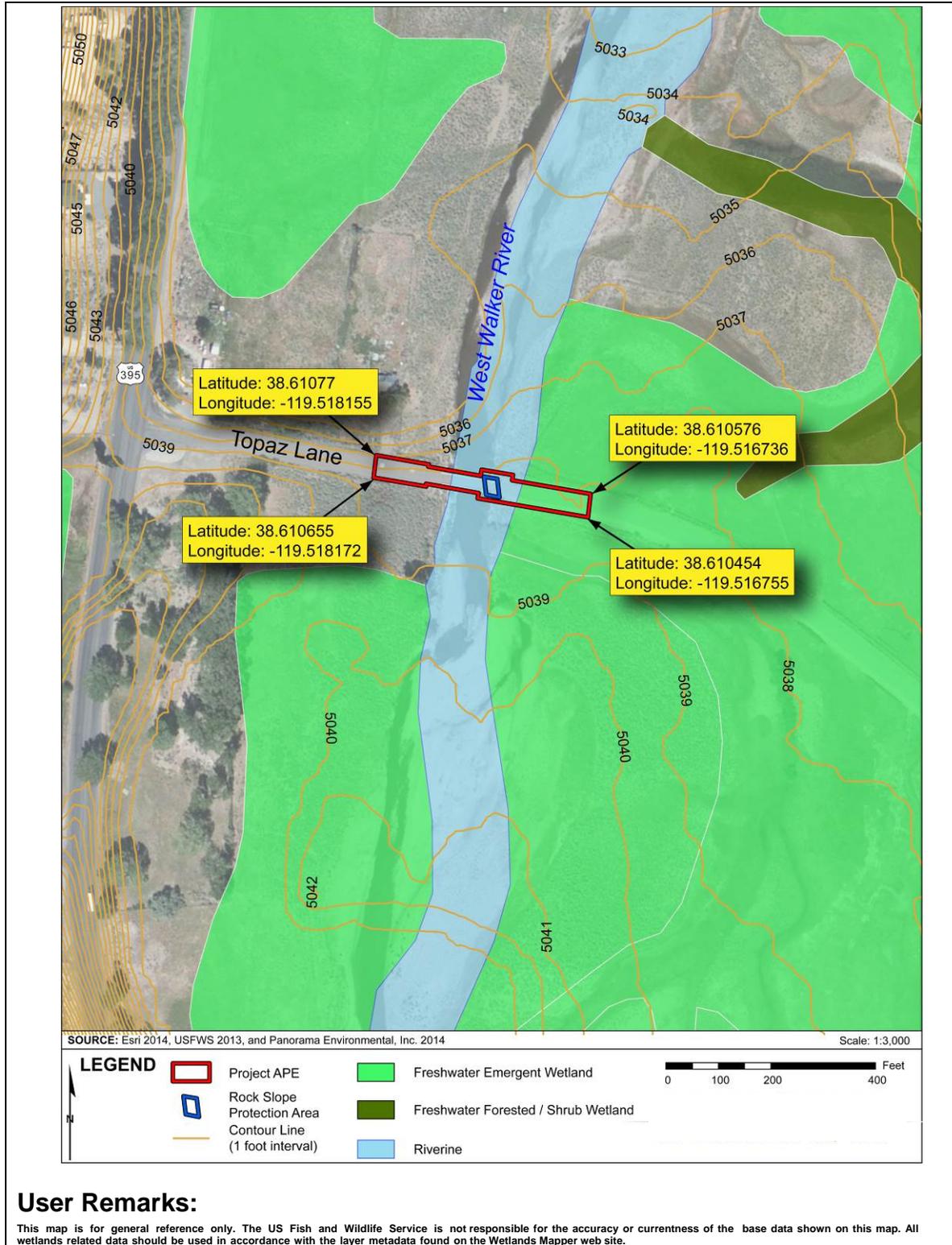
*Vegetation Communities*

Four vegetation types are present within the BSA: big sagebrush shrubland, riparian scrub, disturbed (ruderal), and stream habitat. Of these types, the disturbed road shoulder occupies the largest area: 0.037 ac (0.09 ha). Big sagebrush composes the majority of the native undisturbed vegetation within the BSA: 0.0015 ac (0.006 ha). There are 0.013 ac (0.005 ha) of riparian scrub and 0.048 ac (0.019 ha) of stream habitat located within the BSA.

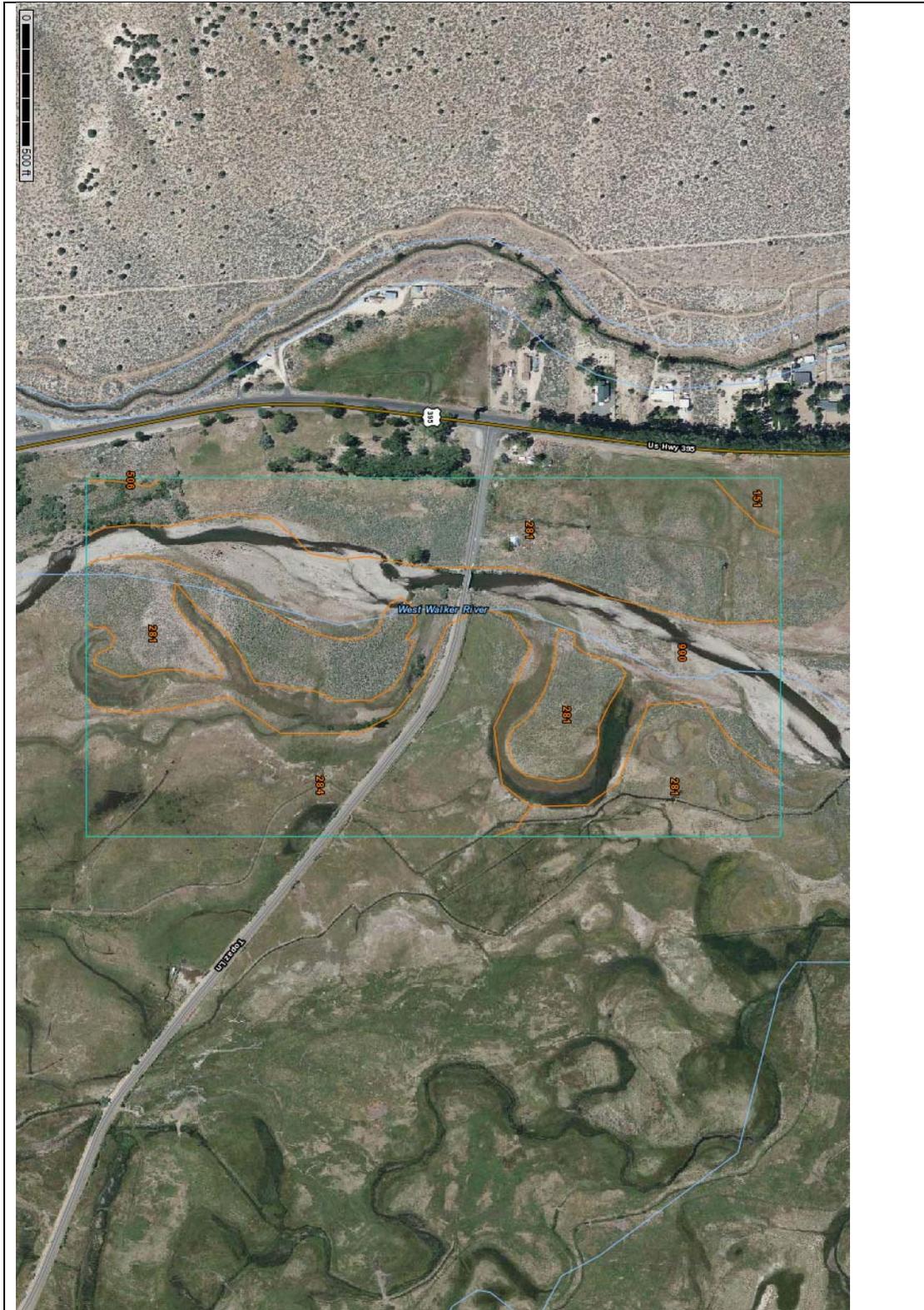
The acreages of temporary and permanent disturbance within each habitat type are listed in Table 1.

Table 2. Area of Disturbance by Habitat Type

|                       | <b>Temporary Disturbance</b>       | <b>Permanent Disturbance</b>       | <b>Total Disturbance</b>           |
|-----------------------|------------------------------------|------------------------------------|------------------------------------|
| <b>Big sagebrush</b>  | 0.006 ha<br>0.014 ac               | 0 ha<br>0. ac                      | <b>0.006 ha</b><br><b>0.014 ac</b> |
| <b>Riparian scrub</b> | 0.005 ha<br>0.012 ac               | 0 ha<br>0 ac                       | <b>0.005 ha</b><br><b>0.012 ac</b> |
| <b>Stream</b>         | 0.016 ha<br>0.04 ac                | 0.003 ha<br>0.008 ac               | <b>0.019 ha</b><br><b>0.048 ac</b> |
| <b>TOTAL</b>          | <b>0.027 ha</b><br><b>0.066 ac</b> | <b>0.003 ha</b><br><b>0.008 ac</b> | <b>0.03 ha</b><br><b>0.074 ac</b>  |



**Figure 3. NWI Map Topaz Lane Bridge**



Soil Unit Descriptions are included in section 3.1.2 and in Appendix D

**Figure 4. Soils Map Topaz Lane Bridge**

### **Big Sagebrush Shrubland**

Big sagebrush shrubland borders Topaz Lane on the north and south and is the dominant vegetation type within the BSA (Figure 6). The big sagebrush shrubland alliance is dominated by big sagebrush in the overstory. Associated shrub species include rubber rabbitbrush (*Ericameria nauseosa*) and antelope bitterbrush (*Purshia tridentata*) (Sawyer et al. 2009). In relatively undisturbed areas, the understory is dominated by perennial graminoids such as Secund's bluegrass (*Poa secunda*), squirreltail grass (*Elymus elymoides*), Indian ricegrass (*Stipa hymenoides*), Baltic rush (*Juncus balticus*), Douglas sedge (*Carex douglasii*), and Thurber's needlegrass (*Stipa thurberiana*) with a mixture of annual and perennial forb species. In degraded sites, the invasive annual species cheatgrass (*Bromus tectorum*) often dominates along with other nonnative annual forb species. Within the BSA, annual bunchgrasses were observed; however, cheatgrass and annual weed species were prevalent within the big sagebrush vegetation.

### **Riparian Scrub**

Riparian scrub vegetation is present along both banks of the West Walker River but is restricted to elevations less than 3 feet (1 meter) above the top of bank. The riparian scrub vegetation type is a composite of several shrubland alliances: Arroyo willow (*Salix lasiolepis*) thicket, sandbar willow (*Salix exigua*) thicket, and mountain alder (*Alnus incana*) thicket (Sawyer et al. 2009). The dominant overstory species are arroyo willow, sand bar willow, and shining willow (*Salix lucida*). A few mountain alders are located downstream of the BSA. The understory vegetation is mainly composed of creeping wild-rye (*Leymus triticoides*), Baltic rush, Kentucky bluegrass (*Poa pratensis*), and Wood's rose (*Rosa woodsii*). A list of plants observed is attached in Appendix C. One invasive species, curly dock (*Rumex crispus*), was found on the east bank of the West Walker River (Cal-IPC 2014).

### **Stream Habitat**

Stream habitat is present within the banks of the West Walker River (Figure 6). This habitat type is not technically a vegetation type and emergent wetland vegetation is not present within the BSA. Within the open stream habitat, the aquatic plant Canadian waterweed (*Elodea canadensis*) covers approximately 60 percent of the river bed. No nonnative or invasive aquatic plant species were observed within the channel, although free-floating filamentous algae were present.

### **Disturbed**

Disturbed ground is present along Topaz Lane within the maintained road shoulder. These road shoulders are routinely graded; therefore, they do not support much vegetation. Species observed within the road shoulder were ruderal annual species such as cheatgrass, herb Sophia (*Descurrainia sophia*), and Scotch thistle (*Onoropodium acanthium*). The latter two species are considered weeds within California (CDFA 2014a and Cal-IPC 2014).

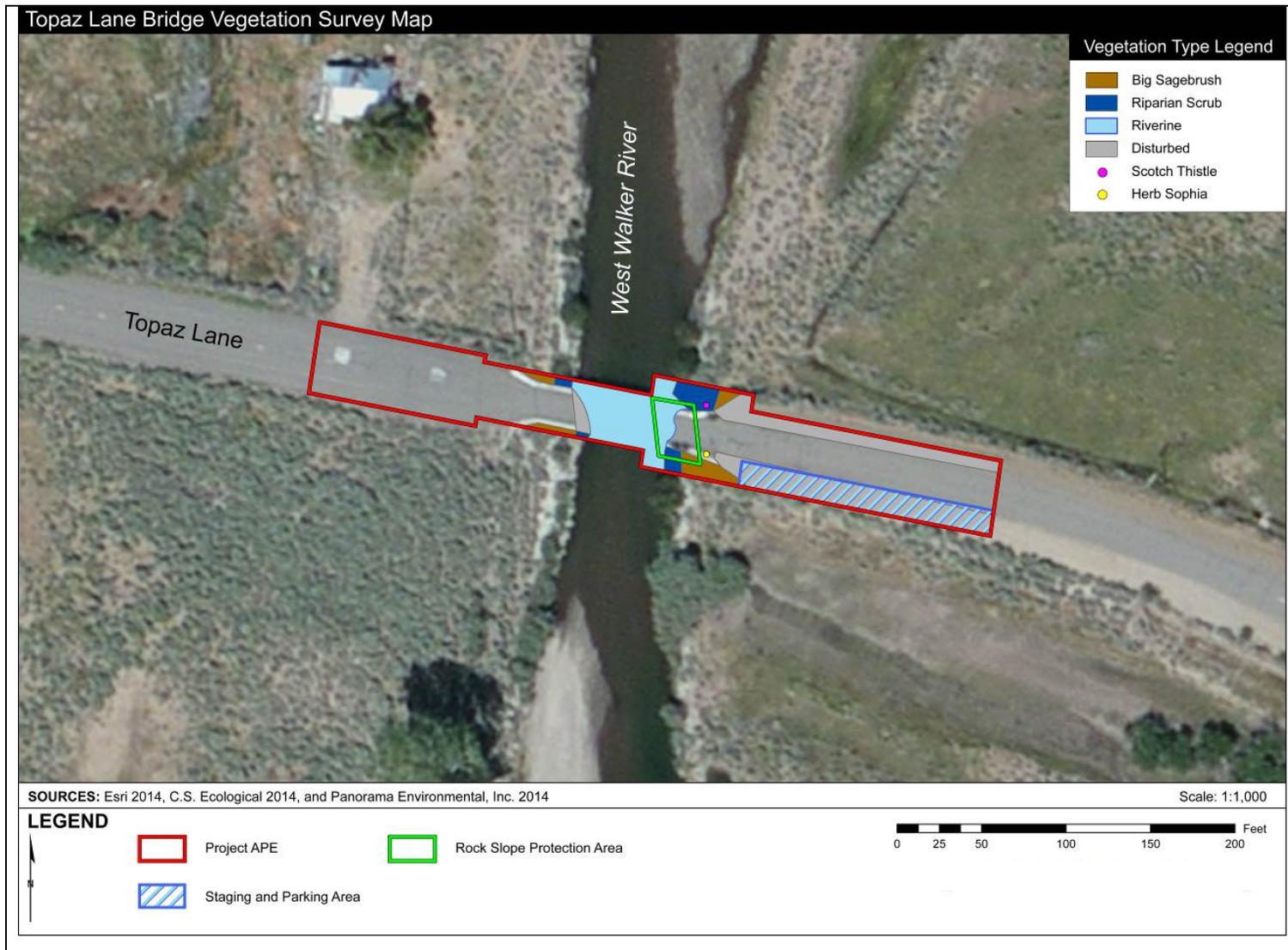
### **Common Animals**

The eastern Sierras provide habitat for a wide variety of wildlife species. Sagebrush habitat types provide important winter range for mule deer (*Odocoileus hemionus*) and antelope (*Antilocapra americana*). Other large mammals found in the region of the BSA include black bear (*Ursa americanus*) and mountain lion (*Puma concolor*), though these species would be unusual within the BSA. Medium-sized mammals include coyote (*Canus latrans*), bobcat (*Lynx rufus*), beaver, raccoon (*Procyon lotor*), porcupine (*Hystricomorph hystricidae*), and jackrabbit (*Lepus californicus*). Small mammals include cotton-tail rabbit (*Sylvilagus* sp.), a variety of mammals in the *Sciuridae* family such as ground squirrels (*Sciuridae* spp.) and chipmunks (*Tamias* spp.), as well as gophers (*Thyomomys* sps) and mice (*Heteromyidae* family).

The Antelope Valley supports several bird species that nest in sagebrush and riparian habitats. Common ravens (*Corvus corax*) and black-billed magpies (*Pica hudsonia*) were observed during biological surveys of the BSA in March 2014. The remnants of cliff swallow (*Petrochelidon pyrrhonota*) nests were observed on Topaz Lane Bridge during a field review in January 2014. Swallows are protected under the Migratory Bird Treaty Act (MBTA) which prohibits the take of migratory birds, active nests, or their eggs. Inactive swallow nests were removed prior to February 15, 2014, the beginning of the nesting season, to discourage swallows from nesting on the bridge (White 2014). No swallow nests were observed during the biological survey on March 24, 2014.

Sign (pellets) of black-tailed jackrabbit and sign (gnawing of willows and slide marks on the bank) from beaver were observed during the March 2014 survey (see photos in Appendix A).

Beavers have constructed a den on the east bank of the West Walker River within the proposed construction area (Appendix A). Currently this den is occupied. California Fish and Game Code Sections 4000 - 4005 limit the mode of taking fur-bearing mammals including beavers (e.g. trap, firearm, bow and arrow, poison under a proper permit, or with use of dogs). Pre-construction surveys will be required to determine if beaver are present prior to construction. Beaver may be relocated and a suitable den may be constructed to encourage relocation. Permitting for this action will occur under the CDFW 1600 Streambed Alteration Agreement and will follow California Fish and Game Code regulations.



**Figure 5. Vegetation Map of Topaz Lane Bridge BSA**

### ***Migration Corridors***

Rivers and adjacent riparian habitats act as migration corridors for a number of species. The work area is isolated to areas under the existing bridge and immediately adjacent to the bridge and the road and will not block migration of species as the project will not create a barrier to migration. Migratory birds can freely move through the BSA and no construction will occur during migratory bird nesting season.

### ***Aquatic Resources***

The West Walker River is a jurisdictional WOUS and protected under state and federal regulations. The West Walker River supports a number of native and nonnative fish species including rainbow trout (*Oncorhynchus mykiss*), brook trout (*Salvelinus fontinalis*), brown trout (*Salmo trutta*), and mountain whitefish (*Prosopium williamsoni*). The West Walker River also provides habitat for amphibious species, wetland birds, and wetland mammals.

## **4.2 Regional Species and Habitats of Concern**

Research on sensitive species that could occur within the BSA was conducted by querying the online databases of the CNDDDB (CNDDDB 2014), CNPS (CNPS 2014a), and USFWS (USFWS 2014c). Initial queries at the county level and of the nine USGS quadrangles that contain and surround the BSA identified 31 plant and animal species considered sensitive by USFWS, CDFW, or CNPS. Table 2 lists all of the special-status species that may potentially occur within the BSA. This table includes habitat descriptions, status, and presence or absence within the BSA, along with a brief rationale for the determination of presence/absence. These species are either known to occur or have potential to occur in the region. However, due to the broad geographic scope of these queries, many species that are listed in table 2 will not be found in the BSA due to lack of suitable habitat, the area being outside the known elevation range or distribution of the species, or other factors.

**Table 3. Special-status Species with Potential to Occur within the BSA.**

| Common Name              | Scientific Name                                | Status         | General Habitat Description  | Habitat Present/<br>Absent | Rationale  |
|--------------------------|--|----------------|--|----------------------------|--|
| <b>Mammals</b>           |  |                |  |                            |  |
| Pallid Bat               | <i>Antrozous pallidus</i>                      | SC             | Deserts, grasslands, oak woodland, coniferous forests at mid- to high-level elevations. Roosts in crevices in rocks, sometimes in trees and abandoned buildings always in enclosed areas. Roost temperature cannot exceed 40 degrees Celsius.  | A                          | No bats or sign of bats observed within the immediate vicinity of the BSA.   |
| Townsend's big-eared bat | <i>Corynorhinus townsendii</i>                 | SC             | Many habitats throughout California and the Western U.S. Roosts in caves and mine shafts and sometimes abandoned buildings, always in enclosed areas.  | A                          | No bats or sign of bats observed within the immediate vicinity of the BSA.   |
| <b>Fish</b>              |  |                |  |                            |  |
| Lahontan cutthroat trout | <i>Oncorhynchus clarki henshawi</i>            | FE             | Historically in all cold waters within the Lahontan Basin, in a wide variety of temperatures and conditions. Currently most often found in cool flowing water with available cover of well-vegetated and stable stream banks, in areas where there are stream velocity breaks, and in relatively silt-free, rocky, riffle-run areas. | A                          | Although the aquatic environment within the BSA could support this species competition with salmonids and other fish species is likely too high for Lahontan cutthroat trout and no Lahontan cutthroat trout have been reported within 7 miles of the BSA. |
| <b>Birds</b>             |  |                |  |                            |  |
| Bald Eagle               | <i>Haliaeetus leucocephalus</i>                | SE             | Roosts in large old growth living trees, often pine species, near water.   | P                          | Nest reported nearby at Topaz Lake in 1996. Low-quality nesting habitat is present in mature cottonwood trees 0.1 miles west of the BSA. Foraging habitat is present within the BSA; however, no nests or birds were observed in or near the BSA.          |
| <b>Plants</b>            |  |                |  |                            |  |
| Lavin's egg milkvetch    | <i>Astragalus oophorus</i> var. <i>lavinii</i> | CRPR List 1B.2 | Open, dry, relatively barren gravelly clay slopes, knolls, badlands, or outcrops, derived from volcanic ash or   | A                          | Habitat not present in the BSA.  |

| Common Name          | Scientific Name            | Status       | General Habitat Description  | Habitat Present/<br>Absent | Rationale  |
|----------------------|----------------------------|--------------|--|----------------------------|--|
|                      |                            |              | carbonate, usually on northeast to southeast aspects, in openings in the pinyon-juniper or sagebrush zones, at elevations between 1737 m (5,700 ft) and 2276 m (7467 ft).    |                            |  |
| Liddon's sedge       | <i>Carex petasata</i>      | CRPR<br>2B.3 | Broad-leaved upland forest, lower montane coniferous forest, meadows and seeps, pinyon and juniper woodland at elevations between 300 m (984 ft) and 3,320 m (10,890 ft).    | A                          | Not observed in the BSA. No habitat is present in the BSA.             |
| Western valley sedge | <i>Carex vallicola</i>     | CRPR<br>2B.3 | Mesic areas within Great Basin scrub and meadows and seeps at elevations between 1,525 m (5,003 ft) and 2,805 m (9,203 ft).  | A                          | Not observed in the BSA. No habitat is present in the BSA.             |
| American mannagrass  | <i>Glyceria grandis</i>    | CRPR<br>2B.3 | Bogs and fens, meadows, seeps, marshes, swamps, and along streambanks and lake margins at elevations between 15 m (45 ft) and 1,950 m (6,398 ft).                            | HP                         | Not observed in the BSA. However, marginal habitat is found in the BSA |
| Spiny milkwort       | <i>Polygala subspinosa</i> | CRPR<br>2B.2 | In gravelly, rocky substrates often of volcanic origin in Great Basin scrub and pinyon and juniper woodland at elevations between 1,330 m (4,363 ft) and 1,705 m (5,594 ft). | A                          | Habitat not present in the BSA.  |

**California Native Plant Society, California Rare Plant Rank:**  
 (1B) Rare, threatened, or endangered in California and elsewhere  
 (2) Rare, threatened, or endangered in California but common elsewhere  
 (3) More information is needed  
 .2 – Fairly endangered in California  
 .3 – Not very endangered in California  
**U.S. Fish and Wildlife Service:**  
 (FE) Federal Endangered  
 ( )  
**California Department of Fish and Wildlife:**  
 (SE) State Endangered  
  
 (SC) State Candidate  
**\*\* Habitat P/A**  
 Present [P] –species is or may be present, HP – Habitat present, Absent [A] – no habitat present and no further work needed.

## 5.0 Project Impacts

### 5.1 Special-status Species

This section provides a detailed discussion of the five rare plant species that have potential to occur within the BSA. Species information, reference site details, and survey results are discussed.

#### Special-Status Plants

##### *Lavin's egg milkvetch (Astragalus oophorus var. lavini)*

Lavin's egg milkvetch is a robust perennial herb in the pea family (*Fabaceae*). Lavin's egg milkvetch is only known to occur in California and Nevada and is restricted to the eastern slope of the Sierra Nevada Mountains and the Great Basin Floristic provinces (NNHP 2001 and CNPS 2014a). It is found at elevations ranging from 5,700 ft (1,737 m) to 9,090 ft (3,030 m) within the pinyon-juniper woodland and sagebrush zones on open, dry, relatively barren gravelly clay slopes, knolls, badlands, or outcrops, derived from volcanic ash or carbonate material. This species is most often found on northeast to southeast aspects (NNHP 2001).

Lavin's egg milkvetch is a decumbent to ascending perennial herb between 4 in (1 dm) and 12 in (3 dm) in height. It has 7 to 11 large, up to 0.8 in (2 cm) long, ovate to round, dark green leaflets (Baldwin 2012). Unlike the common variety (*A. oophorus* var. *oophorus*), which has red-purple flower, Lavin's egg milkvetch has cream-colored flowers. Both varieties of *A. oophorus* have larger inflated, bladderly fruits with one seed chamber. Lavin's egg milkvetch typically flowers in May and June (NNHP 2001 and CNPS 2014a).

Lavin's egg milkvetch has a California Rare Plant Rank (CRPR) of 1B.1, which means it is considered rare throughout its range within California and Nevada. Most of the plants that are ranked 1B have declined significantly over the last century.

##### *Survey Results*

The closest reported occurrence of Lavin's egg milkvetch is approximately 4 miles (6.44 km) east of the BSA in the foothills of the Sweet Water Mountains (CNDDDB 2014 and CCH 2014). This occurrence is from 1915 and the accuracy of the location information is questionable. Two more occurrences are reported in Nevada approximately 5 mi (8km) east of the BSA by Dean Taylor in 1998 (CCH 2014). Botanist C. Schnurrenberger was familiar with this species from previous plant surveys conducted in Nevada; therefore, none of these reference populations were visited.

Lavin's egg milkvetch prefers openings within pinyon-juniper woodland and sagebrush.

Although big sagebrush is present within the BSA there are no large openings within the BSA

and there are no “knolls, badlands or gravelly outcrops” present within the BSA. No *Astragalus* species were observed within the BSA during the botanical surveys. Due to the lack of habitat and the lack of *Astragalus* species within the BSA it was determined that Lavin’s egg milkvetch is absent from the BSA.

**Project Impacts**

The proposed project will not impact Lavin’s egg milkvetch. No Lavin’s egg milkvetch occur in the BSA.

**Liddon’s sedge (*Carex petasata*)**

Liddon’s sedge is a perennial graminoid in the sedge family (*Cyperaceae*) that occurs only in dry to wet meadows within California and the western United States (Baldwin 2012). Liddon’s sedge is found at elevations between 1,969 ft (600m) and 10,925 ft (3,330 m) in meadows, seeps, and openings within broad-leafed upland forests, lower montane coniferous forest, and pinyon and juniper woodland (CNPS 2014a).

Liddon’s sedge is a perennial sedge in the ovales group that forms distinct tufts or bunches. Its inflorescence is gold to pale brown in color and the fruiting body (perigynium) is 0.22 to 0.32 inches (5.7 to 8.1 mm) long (Baldwin 2014). The perigynium has narrow wings and a tapered beak or tip. There are relatively few sedges in ovales group that have such long perigynia.

Liddon’s sedge has a CRPR of 2B.3, which means it is common beyond the boundaries of California, but rare within California. Plants common in other states or countries are not eligible for consideration under the provisions of the California Endangered Species Act. However, the 1979 California Native Plant Protection Act allows for protection of these species without regard to their distribution outside the state (CNPS 2014b). This species flowers from May to July.

**Survey Results**

The closest reported occurrence of this species is over 8 miles (12.9 km) northwest of the BSA near Monitor Pass at an elevation of over 8,000 ft (2,438 m) (CNDDDB 2014). This occurrence was reported in 1963 and the exact location is unknown. Due to the distance from the BSA and vague location description, this site was not visited. Although wet meadow vegetation is present in the vicinity of the BSA, no sedges were observed in the BSA. The lack of suitable habitat, and the fact that no sedge species were observed in the BSA during the botanical survey indicate that this species is absent from the BSA.

**Project Impacts**

The proposed project will not impact Liddon’s sedge.

**Western Valley Sedge (*C. vallicola*)**

Western valley sedge is a perennial sedge that grows in dense tufts. It is found on dry to moist mountain slopes within Great Basin scrub vegetation and open forests at elevations between 5,003 ft (1,525 m) to 9,203 ft (2,805 m). It occurs in California and throughout the western United States (CNPS 2014a).

Western valley sedge is an androgynous sedge (male flowers above female flowers), which has small, 0.4 to 1 in (1 to 3 cm) long, unbranched, relatively dense flowering heads. This species flowers from July to August (CNPS 2014a).

Western valley sedge has a CRPR of 2B.3, which means it is common beyond the boundaries of California, but rare within California. Plants common in other states or countries are not eligible for consideration under the provisions of the ESA. However, the 1979 the California Native Plant Protection Act allows for protection of these species without regard to their distribution outside the state (CNPS 2014b).

### ***Survey Results***

The closest reported occurrence of western valley sedge is over 8 mi (12.9 km) northwest of the BSA near Monitor Pass at an elevation of over 8,000 ft (2,438 m) (CNDDDB 2014). This occurrence was reported before 1959 and the exact location is unknown. Due to the distance from the BSA and vague location description, this site was not visited. No wet meadow vegetation is present in the BSA and no sedges were observed in the BSA. The lack of suitable habitat and the fact that no sedge species were observed in the BSA during the botanical survey indicate that this species is absent from the BSA.

### ***Project Impacts***

The proposed project will not impact western valley sedge.

### ***American mannagrass (Glyceria grandis)***

American mannagrass is a robust perennial wetland grass in the grass family (*Poaceae*).

American mannagrass is found within California and throughout the western and northern United States (CNPS 2014a). American mannagrass is found in bogs, fens, meadows, seeps, marshes, and swamps and along streambanks and lake margins at elevations between 49 ft (15 m) and 6,496 ft (1,980 m) (CNPS 2014a).

American mannagrass grows up to 6.56 ft (2 m) tall and is always found within wetlands, often in saturated soils (Baldwin 2012 and CNPS 2014a). American mannagrass has an open multi-branched panicle that supports up to 100 small spiklets (groups of florets or flowers). American mannagrass differs from other mannagrass species because the lemma tip (upper petal of the floret) is flat, not boat-shaped, and each floret has three anthers rather than two. American mannagrass flowers from June to August (CNPS 2014a).

American mannagrass has a CRPR of 2B.3, which means it is common beyond the boundaries of California, but rare within California. Plants common in other states or countries are not eligible for consideration under the provisions of the ESA. However, the 1979 the California Native Plant Protection Act allows for protection of these species without regard to their distribution outside the state (CNPS 2014b).

### ***Survey Results***

The closest known location of American mannagrass is less than 2 miles to the south of the BSA along the West Walker River. This occurrence was originally reported in 1965 and is supported by a herbarium collection by H. George (CCH 2014). The original occurrence was relocated in 2010 and two plants were observed along a sparsely populated sandbar with Fremont's cottonwood (*Populus fremontii*), sand bar willow, and perennial graminoids (CNDDDB 2014). This population was not visited because project Botanist Ms. Schnurrenberger had previously observed this species within the Tahoe Basin and is familiar with the species' appearance.

The proximity of the mapped American mannagrass occurrence would suggest there is potential for this species to occur in the BSA; however, no mannagrass species were observed in the BSA and the BSA does not offer suitable habitat for American mannagrass in the form of wetlands. This is most likely due to the steeply incised banks present within the BSA. There is potential for this species to occur upstream or downstream of the BSA; however, no mannagrass species were found within the BSA. This is a perennial species and the genera can be identified without flowers. Graminoids within the BSA had sprouted prior to the March 24, 2014, survey and no leaves exhibiting the characteristics of mannagrass were observed. For these reasons Botanist it was determined that this species is not and will not be present during the 2014 growing season. Thus no pre-construction surveys for this species will be necessary and no impacts to this species will result from project activities.

### ***Project Impacts***

The proposed project will not impact American mannagrass.

### ***Spiny milkwort (Polygala subspinos)***

Spiny milkwort is a small shrub in the milkwort family (*Polygalaceae*). Spiny milkwort has been found in California, Nevada, and other western states (CNPS 2014a). Spiny milkwort occurs on gravelly, rocky soils of volcanic origin within desert scrub, Great Basin scrub, and pinyon and juniper woodland at elevations between 4,363 ft (1,330 m) and 5,593 ft (1,705 m) (CNPS 2014a). Spiny milkwort has also been reported on calcareous soils in the vicinity of the BSA (CCH 2014 and CNDDDB 2014).

Spiny milkwort is a 10 in (25 cm) tall shrub with glabrous to short, stiff, hairy branches, 0.16- to 1.22 in (4 to 31 mm) long, obovate-elliptic leaves with sparse appressed hairs and thorn-tipped inflorescences with pink flowers and uniformly hairy seeds (Baldwin 2012). Spiny milkwort flowers from June to July (Baldwin 2012).

Spiny milkwort has a CRPR of 2B.2, which means it is common beyond the boundaries of California, but endangered within California. Plants common in other states or countries are not eligible for consideration under the provisions of the ESA. However, the 1979 the California Native Plant Protection Act allows for protection of these species without regard to their distribution outside the state (CNPS 2014b).

### **Survey Results**

CNDDDB coordinates place the closest known occurrence of spiny milkwort within 330 ft (100 meters) of the BSA; however, site descriptions for that occurrence and coordinates provided by the California Consortium of Herbaria place this occurrence approximately 3 mi (4.8 km) east of the BSA in “white deflocculant soils on marble substrate in *Pinus monophylla-Cercocarpus intricatus* community” at an elevation of 5,400 ft (1,646 m) (CCH 2014). This population was not visited because the likelihood of finding spiny milkwort within the BSA is very low due to the lack of suitable habitat. This species was originally considered due to the erroneous CNDDDB location information. This species was determined to be absent within the BSA because of the lack of habitat and the absence of any species within the milkwort family.

### **Project Impacts**

The proposed project will not impact spiny milkwort.

### **Special-Status Animals**

#### ***Pallid Bat (Antrozous pallidus)***

The pallid bat is a large (forearm equals 1.78 to 3.6 in [4.5 to 6.0 cm]), long-eared bat in the *Vespertilionidae* family (Bolster 1998). Pallid bats are known from Cuba, Mexico, and Baja California, through the southwestern and western United States, north into southern British Columbia, and west to Kansas. Pallid bats occur throughout California in a variety of habitats including low desert, oak woodland, and coastal redwood forests at elevations up to 9,852 ft (3,000 m) (Bolster 1998).

Pallid bats can be distinguished from other bat species by their large size, large eyes, large ears, light tan fur color, pig-like noses, and skunk-like odor. Pallid bats are primarily a crevice roosting species. Pallid bats commonly roost in rock crevices, old buildings, bridges, caves, mines, and hollow trees (Barbour and Davis 1969, Hermanson and O'Shea 1983). Recent studies in California also identified pallid bats roosting in trees, particularly Ponderosa pine (*Pinus ponderosa*) in the Sierra Nevada Mountains. Pallid bats often feed while in flight on flightless arthropods associated with open upland. Guano often contains parts of these insects.

The pallid bat is a state candidate species within California. It is not currently listed as threatened or endangered at the federal or state level.

### **Survey Results**

The closest reported occurrence of pallid bats is approximately 6 mi (9.7 km) south of the BSA, about 1.9 mi (3 km) south-southeast of centennial bluffs in Little Antelope Valley (CNDDDB 2014). This occurrence was reported in 1997; however, the roost site was not mentioned. The record was updated in 2007 but there is no mention of a more recent siting of this species at this location. Pallid bats require cavities or crevices for roosts, which are not present within the BSA, and no sign of bats was observed within the BSA. Based on the lack of roosting habitat and bat signs it was determined that pallid bats were absent from the BSA.

### **Project Impacts**

The proposed project will not impact pallid bats.

### **Townsend's big eared bat (*Corynorhinus townsendii*)**

Townsend's big eared bat is a medium-sized (0.35 to 0.42 ounces [10 to 12 g]) vespertilionid bat with a two-pronged nose hump and large, rabbit-like ears. There are two subspecies of Townsend's bat: *C. townsendii townsendii*, which occurs in the northern half of the given range, and *C. townsendii pallescens*, which occurs in the southern half of the range. These subspecies are known to intergrade within California; therefore, all subspecies are addressed only as *C. townsendii*. This species has been recorded in Arizona, New Mexico, Texas, Colorado, California, Nevada, Oregon, Washington, Wyoming, and possibly Utah and Montana (Bolster 1998). Townsend's bats are found throughout most of California at elevations up to 5,971 ft (1,820 m). Townsend's bats require caves or other larger cavernous areas for roosting. Most populations of Townsend's bats are restricted to areas with large caves or old mine workings; however, some coastal populations have been known to roost in abandoned buildings (Barbour and Davis 1969). Townsend's bats feed mostly on nocturnal moth species. The Townsend's bat is a candidate for state protection in California.

### ***Survey Results***

The closest reported occurrence of Townsend's bats is 6 mi (9.7 km) south-southwest of the BSA near the Golden Gate Mine in Little Antelope Valley at the southwest end of Antelope Valley. This report is from a 1997 survey overseen by CDFW in which the biologists observed guano at this location. Because Townsend's bats require larger cavernous areas for roosting and no such habitat is present in the BSA this species was determined to be absent from the BSA.

### ***Project Impacts***

The proposed project will not impact Townsend's bats.

### ***Bald Eagle (*Haliaeetus leucocephalus*)***

Bald eagles are large raptors or birds of prey in the sea eagle (*Haliaeetus*) genus. Bald eagles are present throughout the United States and Canada; however, their numbers declined sharply from 1948 through 1972 due to the use of the pesticide DDT (dichloro-diphenyl-trichloroethane), which caused infertility and interfered with the development of egg shells during gestation.

Bald eagles were listed as federally endangered species 1967 but following the ban of DDT populations increased dramatically leading to federal delisting of the species in 2007. The bald eagle is still listed as endangered by the state of California (CNDDDB 2014).

Bald eagles in northern territories migrate but return to nest as early as mid-February. Eggs are often laid in late February and hatch from mid-April to early May. The young eagles will fledge by late June to early July (Travsky and Beauvais 2010). Bald eagle nests are the largest nests of any bird in North America at up to 13 ft (4 m) deep and 8 ft (2.5 m) across. Nests are usually used repeatedly over many years and with new material added each year (del Hoya et al. 1994). Nests are usually located next to water in large trees, commonly conifers in the project region. Eagles are sensitive to human disturbance during courting and nest building and again during fledging (USFWS 2014d).

### ***Survey Results***

The nearest bald eagle nest is located on the west shore of Topaz Lake in a Jeffrey pine tree (*Pinus jeffreyi*); however, the last record of this nest being occupied is from 1997 (CNDDDB 2014). No bald eagle nests were observed within 0.25 mi (0.4 km) of the BSA during the March 24, 2014, surveys.

### ***Project Impacts***

The proposed project will not impact bald eagles. No bald eagles were not observed in the area. In addition, all construction will occur outside the nesting period for this species thus avoiding any impact to all nesting bird species.

***Lahontan Cutthroat Trout (*Oncorhynchus clarkii henshawi*)***

The Lahontan cutthroat trout is a subspecies of the cutthroat trout (*O. clarkia*) in the salmonid family. Lahontan cutthroat trout were once present throughout the Lahontan Basin about 7,000 years ago when Lake Lahontan covered much of the basin. Due to the loss of habitat from the shrinking of Lake Lahontan, human alteration of local water bodies, and competition with nonnative salmonids, only remnant populations of this subspecies remain in a few streams in the Truckee, Carson, and Walker basins out of an estimated 1,020 mi (1,641.5 km) of historical habitat (Gerstung 1986).

Historically Lahontan cutthroat trout were present in stream and lacustrine habitats. Lahontan cutthroat trout, unlike some salmonid species, are tolerant of water temperature up to 81 °F (27°C) and alkaline conditions. Lahontan cutthroat trout are opportunistic stream spawners that typically spawn in riffles on well-washed gravel. They do not, however, tolerate competition with other salmonids, which limits their ability to survive in many water bodies. Lahontan cutthroat trout typically spawn from April to August. Lahontan cutthroat trout feed on other fish species and insects.

The Lahontan cutthroat trout develop a different morphology depending on their habitat. Lake dwelling fish are up to 50 in (1.27 m) long and can weigh up to 40 lbs (18 kg) with a more plain pink coloration, whereas stream dwelling fish are less than 10 in (25 cm) long and have a more speckled appearance. This may be in part because stream dwelling fish only live approximately 5 years compared to lake dwelling fish that may live up to 14 years.

The Lahontan cutthroat trout is federally listed as threatened and as such is afforded the same protection as a federally listed endangered species; however, there is more flexibility to manage threatened species (USFWS 2014b).

***Survey Results***

The closest reported occurrence of Lahontan cutthroat trout with a connection to the West Walker River is in the upper reaches of Mill Creek, 8 mi (12.9 km) south of the BSA. According to USFWS Biologist Andy Strauss Lahontan cutthroat trout were presumed to have been extirpated from the West Walker River (Strauss 2013). However, CDFW Biologist Heidi Sickler stated that anglers had reported Lahontan cutthroat trout within the West Walker River at the confluence with Mill Creek, over 7 mi (11.3 km) upstream of the BSA (Sickler 2013). Based on this information Ms. Sickler stated it was possible that Lahontan cutthroat trout could be present in the BSA. However, no Lahontan cutthroat trout were observed in the BSA during the March

24, 2014, survey. At the time of survey many fish fry were present, indicating that competition with other species is high in the waters near the BSA. Lahontan cutthroat trout are presumed to be absent from the BSA based on the results of the survey.

### ***Project Impacts***

Implementation of the avoidance and mitigation measures mentioned below will avoid any impacts to Lahontan cutthroat trout.

## **5.2 Invasive Species**

The invasive plant species curly dock, herb Sophia, and Scotch thistle were identified in the BSA. Curly dock and herb Sophia are listed as invasive species with a rating of “limited” effect by the California Invasive Plant Council (Cal-IPC). Species rated as “limited” are “invasive but their ecological impacts are minor on a statewide level or there was not enough information to justify a higher score. Their reproductive biology and other attributes result in low to moderate rates of invasiveness. Ecological amplitude and distribution are generally limited, but these species may be locally persistent and problematic” (Cal-IPC 2014). There are no state or federal requirements for control or eradication of these species; however, to prevent the spread of this species throughout the BSA and adjacent it would be best to remove this species prior to project construction by hand pulling or spraying.

Scotch thistle or cotton thistle is a noxious weed with an invasive plant rating of high (Cal-IPC 2014) and a noxious weed rating of “A” with the California Department of Food and Agriculture (CDFA 2014b). Invasive species with a “high” rating by Cal-IPC and an “A” rating by CDFA are considered to have “severe ecological impacts on physical processes, plant and animal communities, and vegetation structure. Their reproductive biology and other attributes are conducive to moderate to high rates of dispersal and establishment. Most are widely distributed ecologically” (Cal-IPC 2014). Noxious weeds with a rating of “A” are “subject to state (or commissioner when acting as a state agent) enforced action involving eradication, quarantine regulation, containment, rejection, or other holding action” (CDFA 2014a).

In addition to these species two invasive plant species, Russian thistle (*Salsola tragus*) and common mullen (*Verbascum thapsus*) were observed near the BSA and have potential to occur within the BSA. These species are also listed as invasive species of “limited” effect by Cal-IPC. Implementation of appropriate Best Management Practices (BMP) will limit the spread of these weeds within and in the vicinity of the BSA.

Cheatgrass, also listed as an invasive species, was also observed within the BSA, but this species is ubiquitous throughout the Antelope Valley and throughout the western United States. There are no measures requiring the control or containment of this species.

## 6.0 Mitigation Measures

### 6.1 Avoidance and Minimization Measures

The BSA provides potentially suitable habitat for the Lahontan cutthroat trout, cliff swallows and beaver. The trout was not found within the BSA. Sign of swallows (remnant nests on the bridge) and beaver were observed in the BSA. Avoidance and minimization efforts for these special-status species, riparian vegetation and waters of the US consist of the following:

- 13) Conduct pre-construction survey for Lahontan cutthroat trout no more than 48 hour prior to construction start by a qualified biologist
- 14) Restrict construction to the dry season to avoid high flows of the West Walker River
- 15) Install a gravel bag barricade around the work area to prevent fish species from entering the work area
- 16) Implement BMPs such as lining the inside of the gravel bags with silt fabric to avoid or reduce sedimentation within the West Walker River
- 17) Provide a Biological Monitor during dewatering of the work area
- 18) Discharge of shallow groundwater or creek water to uplands via a perforated pipe or a sediment filter bag to reduce the potential for sediment discharge
- 19) Install a screen around the pump intake to prevent entrapment of fish and other aquatic species during dewatering
- 20) Implement a construction window outside of the nesting period (February 15 to September 1) to avoid impacts to nesting birds
- 21) Use of hand tools to reduce noise, prevent permanent impacts to riparian vegetation and reduce impacts to the West Walker River
- 22) Conduct a pre-construction survey for beaver
- 23) Relocate any beavers within the work area according to provisions set forth in the CDFW 1600 Streambed Alteration Agreement
- 24) Install orange mesh ESA fencing around the work area to prevent impacts to riparian vegetation outside of the work area

#### General BMP's to avoid impacts to the West Walker River

- 1) Personnel conducting ground-distributing activities within or adjacent to the work area will be trained on avoidance and minimization measures.
- 2) No erodible materials will be deposited into watercourses. Brush, loose soils, or other debris material will not be stockpiled within stream channels or on adjacent banks.
- 3) Vehicles will be parked on pavement, existing road shoulders, and previously disturbed areas.
- 4) No construction or maintenance vehicles will be refueled in the project area.

- 5) Any spills or leaks of oil or gas will be immediately contained, and contaminated soil will be removed from the site.
- 6) Vehicles and equipment will arrive at the work area clean and no vehicle cleaning or maintenance will occur in the project area.
- 7) Trash will be kept in covered bins and removed from the site.
- 8) The staging areas will be lined with weed free straw bale or equivalent barrier to control sediment

### **Compensatory Mitigation**

No compensatory mitigation is proposed for special-status species because all impacts to such species and their habitat will be avoided.

### **Invasive Species**

Invasive and noxious weeds were identified in the BSA and in the immediate vicinity of the BSA. The following avoidance and minimization measures will be implemented to avoid the spread and introduction of additional invasive species:

- The County will contact the Eastern Sierra Weed Management Area (ESWMA) weed control unit to include the two locations of Scotch thistle in its biennial program to apply herbicide to populations of this weed.
- The populations of Scotch thistle and herb Sophia will be removed by hand and/or sprayed with herbicide prior to seeding and the area will be inspected prior to construction. Any herbicide application will be performed by a qualified or licensed applicator certified by the California Department of Pesticide Regulation.
- Following construction the site will be inspected by the County annually to ensure that weed populations have not re-sprouted or germinated. Any observed populations will be sprayed by a qualified or licensed applicator certified by the California Department of Pesticide Regulation.

In addition the BMPs listed below will be used to prevent the introduction and spread of any noxious weeds into the BSA:

- Use of certified weed-free materials,
- Washing of all equipment prior to transportation to the BSA,
- Inspection of all vehicles and equipment by a construction monitor to ensure no weed material is transported to the BSA

## **7.0 Permits Required**

Construction of the proposed project will require the following permits:

- A 1600 Streambed Alteration Agreement from CDFW: required prior to discharge of fill materials to the streambed. This permit will include mitigation measures to avoid impacts to Lahontan cutthroat trout and mitigation measures to trap, relocate, and exclude resident beavers within the BSA.
- Section 401 Water Quality Certification from LRWQCB: required prior to discharge of fill materials to WOUS and/or waters of the State.
- Section 404 Nationwide Permit 3. The permit applies to the project, but work can proceed under the general conditions without the need to apply or submit Preconstruction Notification to USACE.

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## **Appendix A      Site Photographs**

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**Appendix B**      **USFWS Quad Lists**  
**CNDDP Species Lists**  
**CNDDB Occurrence Maps**  
**CNPS List**

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## **Appendix C      List of Plant Species Observed in the BSA**

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## **Appendix D      Soil Unit and Hydric Soil Description**

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State of California – Natural Resources Agency  
**DEPARTMENT OF FISH AND WILDLIFE**  
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**EDMUND G. BROWN, Jr., Governor**  
**CHARLTON H. BONHAM, Director**



June 25, 2014

Vianey White  
Mono County Department of Public Works  
74 North School Street, Annex 1  
Bridgeport, CA 93517

Subject: Complete Notification of Streambed Alteration  
Notification No. 1600-2014-0110-R6  
Topaz Lane Bridge Maintenance

Dear Ms. White:

On June 2, 2014, the California Department of Fish and Wildlife (CDFW) received your Notification of Streambed Alteration (Notification). On June 25, 2014, your Notification was deemed complete.

CDFW is required to submit a draft Streambed Alteration Agreement (Agreement) to you within 60 calendar days from the date the Notification is complete, if CDFW determines that an Agreement is required for the project. An Agreement will be required if CDFW determines that your project could substantially adversely affect an existing fish or wildlife resource. Therefore, CDFW has until August 24, 2014 to issue you a draft Agreement or inform you that an Agreement is not required.

Please be advised that you may not proceed with any work until CDFW executes an Agreement, informs you that an Agreement is not needed, or does not provide you with a draft Agreement within 60 days of the date your notification was deemed complete.

If you have any questions regarding this matter, please contact Nick Buckmaster at (760) 872-1110 or [Nick.Buckmaster@wildlife.ca.gov](mailto:Nick.Buckmaster@wildlife.ca.gov).

Sincerely,

Heidi A. Sickler  
Senior Environmental Scientist

cc: Suanne Heim, Panorama Environmental, Inc.  
Nick Buckmaster  
Chron